

ECHA/2011/103

**Open Call for Tenders
for the Provision of IT services for the IT Applications of
the European Chemicals Agency (ECHA)**

Lot 1: REACH-IT, IT systems related to biocides and PIC regulations and other new IT systems

Lot 2: RIPE, DISSEMINATION, eCHEMPORTAL and other new IT systems

Lot 3: IUCLID, ODYSSEY, CHESAR and other new IT systems

**Open procedure
Contract notice: OJEU 2011/ 2011/S 219-355769**

Tender Specifications

Draft Framework Contract

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ACRONYMS

AKA	Also Known As
AW	A ward criteria (or A ward criterion)
CHESAR	C HEmical S afety A ssesment and R eporting tool
CV	C urriculum V itae
ECHA	E uropean C HEmicals A gency
EU	E uropean U nion
FTE	F ull T ime E quivalence
IUCLID	I nternational U niform C HEmical I nformation D atabase
ODYSSEY	O perations D irectorate's instructions in S upport of E valuation Implementation
PIC	P rior I nformed C onsent
REACH	R egistration, E valuation, A uthorisation and R estriction of C HEmicals
RIPE	R EACH I nformation P ortal for E nforcement
IT	I nformation T echnology
VAT	V alue A dded T ax

SUMMARY

Contracting authority	The European Chemicals Agency (ECHA) in Helsinki.
Procedure	Call for Tenders with publication in the Official Journal of the EU. Open procedure.
Purpose	Selection of a service provider for each lot (lots as described below) for the provision of IT services
Scope of services	<p>The scope includes</p> <ul style="list-style-type: none"> • The development/enhancement and support in production of some of the existing ECHA IT systems (REACH-IT, IUCLID, ODYSSEY, CHESAR, RIPE, DISSEMINATION (also called ECHA CHEM), eCHEMPORTAL) • The implementation and support in production of the new ECHA IT system(s) that will be built in order to support the processes regarding BIOCIDES regulations (the exact scope of ECHA's role under the Biocidal Products Regulation is still subject to the finalisation of the legislative process between the Commission, the Council and European Parliament) • The implementation and support in production of the new ECHA IT system(s) that will be built in order to support the processes regarding PIC regulations (the exact scope of ECHA's role is subject to the finalisation of the legislative process between the Commission, the Council and European Parliament). • The Implementation and support in production of new ECHA IT systems based on similar technology to the one used for the systems mentioned above.
Duration of framework contract	The initial duration of the framework contract shall be 2 years. The framework contract may be renewed twice for a period of 2 years each time.
Submission of offers	<p>The Call for Tenders is divided into three distinct lots, each lot consisting of a separate market:</p> <ul style="list-style-type: none"> • Lot 1: creation and/or further development and/or support of <ul style="list-style-type: none"> ○ REACH-IT ○ IT system(s) related to biocides regulations ○ IT system(s) related to PIC regulations ○ New IT systems (according to the needs of the Agency), related to the systems of this lot and based on similar technology. • Lot 2: creation and/or further development and/or support of <ul style="list-style-type: none"> ○ RIPE ○ DISSEMINATION ○ eCHEMPORTAL ○ New IT systems (according to the needs of the Agency), related to the systems of this lot and based on similar technology. • Lot 3: creation and/or further development and/or support of <ul style="list-style-type: none"> ○ IUCLID ○ ODYSSEY ○ CHESAR ○ New IT systems (according to the needs of the Agency), related to the systems of this lot and based

	<p>on similar technology.</p> <p>Each tenderer can only submit one offer. This offer may include proposals for one lot only, for any combination of lots or for all lots. Tenderers must be in a position to provide all services requested within the given lots.</p>
Volume (indicative)	<p>The maximum total value of each framework contract per lot is estimated at</p> <ul style="list-style-type: none"> • Lot 1: <ul style="list-style-type: none"> ○ 6,700,000 EUR for the initial duration of the first 2 years ○ 4,000,000 EUR for the (potential) first extension of 2 years ○ 3,400,000 EUR for the (potential) second extension of 2 years • Lot 2: <ul style="list-style-type: none"> ○ 1,700,000 EUR for the initial duration of the first 2 years ○ 800,000 EUR for the (potential) first extension of 2 years ○ 600,000 EUR for the (potential) second extension of 2 years • Lot 3: <ul style="list-style-type: none"> ○ 4,500,000 EUR for the initial duration of the first 2 years ○ 3,400,000 EUR for the (potential) first extension of 2 years ○ 3,200,000 EUR for the (potential) second extension of 2 years <p>It should be stressed that framework contracts involve no direct commitment and, in particular, do not constitute orders per se. Instead, they lay down the legal, financial, technical and administrative provisions governing the relationship between the European Chemicals Agency and the contractor during their period of validity.</p> <p>The indicated budget is a contractual budgetary ceiling. It is the potential maximum value of the framework contract over the whole duration of the contract.</p> <p>The estimate given above is purely indicative and does not bind the Agency in any way. The figure may be subject to revision.</p>
Contracts	<p>For each Lot, the European Chemicals Agency will sign a single framework service contract with the successful Tenderer offering best value for money (i.e. for each lot, a contract will be awarded to only one Tenderer - single company or consortium).</p>
Places of delivery	<p>The place of performance of the services shall be ECHA's premises and/or the Contractor's premises, and/or any other place as agreed in the specific contract or order form depending on the nature of the specific tasks.</p>
Variants	<p>Not permitted.</p>
Joint offers	<p>Permitted as described in the current document.</p>
Subcontracting	<p>Permitted as described in the current document.</p>

INTRODUCTION

This document contains all the information related to the Open Call for Tenders for the Provision of IT services for the IT applications of the European Chemicals Agency (ECHA) in Helsinki.

Tenderers are expected to examine carefully and respect all instructions and standard forms contained in this document and the Invitation to Tender. An offer which does not contain all the required information and documentation may be rejected.

Instructions about the content and structure of the tender dossier are provided in section 2

These specifications follow the publication of the contract notice in OJEU [2011/S 219-355769](#)

1 PRELIMINARY INFORMATION CONCERNING THE INVITATION TO TENDER

1.1 Nature of the contract

This Call for Tenders is launched by the European Chemicals Agency (ECHA or the Agency) for the award of three single framework service contracts (one contract per lot) related to the provision of IT services for the implementation and support of specific IT systems of ECHA. Examples of these systems are the ones related to the existing IT applications REACH-IT, IUCLID, RIPE, DISSEMINATION, eCHEMPORTAL, ODYSSEY and CHESAR, as well as to the new IT applications that will be implemented to support processes regarding the biocides and prior informed consent (PIC) Regulations.

It should be stressed that framework contracts involve no direct commitment and, in particular, do not constitute orders *per se*. Instead, they lay down the legal, financial, technical and administrative provisions governing the relationship between the Agency and the Contractor during their period of validity. Actual orders will be placed after the framework contracts are signed and in force, through “specific contracts” or “orders” concluded in performance of the framework contracts. The draft framework contract specifies the basic conditions applicable to any assignment placed under its terms. Signature of the framework contract does not place the Agency under any obligation to place an assignment. The framework contract does not preclude the Agency from assigning tasks in the areas set out above to other Contractors or from having these tasks carried out by the Agency staff.

1.2 Background

The **European Chemicals Agency (ECHA)**, located in Helsinki, Finland, manages the registration, evaluation, authorization and restriction processes for chemical substances to ensure consistency across the European Union. These REACH processes are designed to provide additional information on chemicals, to ensure their safe use, and to ensure competitiveness of the European industry.

In its decision-making the Agency takes the best available scientific and technical data and socio-economic information into account. It also provides information on chemicals and technical and scientific advice. By assessing and approving testing proposals, the Agency aims at minimizing animal testing.

More information about the Agency, its structure and activities can be found on the Agency website¹, where also the Work Programme 2011² and the Multi-Annual Work Programme³ can be found.

¹ <http://echa.europa.eu/>

² At the time of preparation of this document the ECHA Work Programme 2011 was available at the ECHA web site through this link

http://echa.europa.eu/doc/work_programme/2011/mb_63_2010_echa_work_programme_2011_en.pdf

However, during the period between the publication of this document and the deadline for the submission of offers, it is possible that the ECHA web site is updated with a new look and structure. On the updated ECHA web site the ECHA Work Programme 2011 is foreseen to be located in section “Document Library”.

The REACH Regulation⁴ sets out as one of its aims to improve the protection of human health and the environment through the better and earlier identification of the intrinsic properties of chemical substances enabling them to be adequately controlled during their manufacture and use. The main mechanism established in REACH to meet this aim is the registration requirement. Manufacturers and importers are required to gather information on the properties of their substances and to register the information to the Agency.

The Agency acts as the central point in the REACH system: its role is to manage the databases necessary to operate the system, co-ordinate the in-depth evaluation of suspicious chemicals, and run a public database in which the general public can find hazard information. In this context, the Agency develops, in cooperation with its major stakeholders (chemical industry, Member State competent authorities, enforcement authorities, etc.) a number of IT systems which underpins the requirements of the REACH regulation. Examples of these systems are:

- **REACH-IT⁵**: the central IT system that provides support for REACH. It is used by companies in registering substances, by the Agency and Member States in evaluating dossiers and to help public in accessing information on chemicals.
- **IUCLID⁶**: the IT system that is used by companies to store information on chemicals and to prepare dossiers for submission to ECHA through the REACH-IT system.
- **RIPE⁷**: the IT application that allows inspectors in Member States to access relevant data from REACH-IT, so that they can enforce the obligations of REACH, for example to check if a company has indeed registered a substance.
- **CHESAR⁸**: It is an IT tool to support industry in preparing their Chemical Safety Assessment/Report which is to be submitted as part of their registration dossiers. It also support the generation of exposure scenarios to be annexed to Safety Data Sheet.
- **ODYSSEY⁹**: It is a system supporting ECHA in dossier evaluation by providing efficient instructions, consistency and reporting tools for the assessment tasks carried out by the scientific officers.

³ At the time of preparation of this document the ECHA Multi-Annual Work Programme was available at the ECHA web site through this link

http://echa.europa.eu/doc/work_programme/2012_2014/multi_annual_wp_2012-2014.pdf

However, during the period between the publication of this document and the deadline for the submission of offers, it is possible that the ECHA web site is updated with a new look and structure. On the updated ECHA web site, the ECHA Multi-annual Work Programme is foreseen to be located in section "Document Library".

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:136:0003:0280:en:PDF>

⁵ http://echa.europa.eu/reachit_en.asp

⁶ <http://iuclid.eu/>

⁷ At the time of preparation of this document, information related to RIPE was available at the ECHA web site through the following links

Link 1: http://echa.europa.eu/news/pr/201106/pr_11_18_ripe_20110628_en.asp

Link 2: http://echa.europa.eu/doc/press/newsletter/echa_newsletter_2011_5.pdf

However, during the period between the publication of this document and the deadline for the submission of offers, it is possible that the ECHA web site is updated with a new look and structure. At the time of drafting this document, it was not decided where the information in Link 1 will be located on the new ECHA web site. If the ECHA web site is updated and a tenderer wants to be informed about the exact location of this information, the tenderer can contact the Agency using the contact details provided in section 1.6.

The information in Link 2 is foreseen to be located in section "Document Library" of the updated ECHA web site.

⁸ <http://chesar.echa.europa.eu/document>

⁹ At the time of preparation of this document, information related to ODYSSEY was available at the ECHA web site through the following links

- **DISSEMINATION (also called ECHA CHEM)**¹⁰: It is implementing the aspects of the REACH regulation pertaining to making select data freely available on the internet.
- **eCHEMPORTAL**¹¹: It is an IT tool (co-development between ECHA and the OECD) that provides free public access to information on properties of chemicals and allows simultaneous searching of reports and datasets by chemical name and number and by chemical property.

Regarding **biocides Regulation**¹², the exact scope of ECHA's role is still subject to the finalisation of the legislative process between the Commission, the Council and European Parliament. It is probable that ECHA will undertake the responsibility of receiving and checking applications for the approval of active substances and Union authorisation for biocidal products. If this happens, applications will be submitted through a (to be developed) IT portal (the Registry for Biocidal Products). The scientific evaluation will be taken care of by Member State Competent Authorities who submit an assessment report to ECHA. ECHA will have to build up a Biocidal Products Committee which will process these assessments. The European Commission will then decide on the approval of the substances and/or grant authorisation. There will also be other processes: helpdesk, data sharing and dissemination (similar to REACH), the assessment of technical equivalence and the publishing of a list of applicants who wish to continue on the market.

Regarding the **prior informed consent (PIC) Regulation**¹³, the European Commission has proposed a recast of this Regulation, covering the export and import of dangerous chemicals, which implements the Rotterdam Convention by the EU. Under the draft proposals, in 2013 ECHA will take over administrative, technical and scientific tasks currently carried out by the Commission's Joint Research Centre.

This intended service provision aims at the creation and/or enhancement and/or maintenance/support of some or all of the IT systems mentioned below:

- REACH-IT, IUCLID, RIPE, DISSEMINATION, eCHEMPORTAL, ODYSSEY and CHESAR (which are already in production and under further enhancements)
- IT systems related to biocides and PIC regulations
- Other new IT systems (according to the needs of ECHA and based on similar technologies)

This Call for Tenders concerns 3 different lots:

- Lot 1: creation and/or further development and/or support of
 - REACH-IT
 - IT system(s) related to biocides regulations
 - IT system(s) related to PIC regulations

Link 1: http://echa.europa.eu/doc/about/organisation/mb/echa_general_report_2009_en.pdf

Link 2: http://echa.europa.eu/doc/about/organisation/mb/mb_03_2011_General_report_2010_final.pdf

However, during the period between the publication of this document and the deadline for the submission of offers, it is possible that the ECHA web site is updated with a new look and structure. The information in Links 1 and 2 is foreseen to be located in section "Document Library" of the updated ECHA web site.

¹⁰ <http://apps.echa.europa.eu/registered/registered-sub.aspx>

¹¹ <http://www.echemportal.org/>

¹² <http://ec.europa.eu/environment/biocides/revision.htm>

¹³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008R0689:EN:NOT>
http://eur-lex.europa.eu/Result.do?T1=V5&T2=2011&T3=245&RechType=RECH_naturel&Submit=Search

- New IT systems (according to the needs of the Agency), related to the systems of this lot and based on similar technology (as indicated in section [4.2.4](#)).
- Lot 2: creation and/or further development and/or support of
 - RIPE
 - DISSEMINATION
 - eCHEMPORTAL
 - New IT systems (according to the needs of the Agency), related to the systems of this lot and based on similar technology (as indicated in section [4.2.4](#))
- Lot 3: creation and/or further development and/or support of
 - IUCLID
 - ODYSSEY
 - CHESAR
 - New IT systems (according to the needs of the Agency), related to the systems of this lot and based on similar technology (as indicated in section [4.2.4](#))

A single framework contract per lot is foreseen to be signed with one Tenderer (single company or consortium).

Each Tenderer can bid for one lot only, for any combination of lots, or for all lots. The Tenderer may be awarded a contract for one, two or all the lots. The Tenderer must, however, be in a position to provide all the services requested within the given lots. In this respect, it has to be noted that during the implementation of the Framework Contracts the Agency expects to implement in parallel several specific contracts under each lot.

More information about the technical aspects regarding the lots and the systems is available in section 4.

The maximum value of each framework contract per lot is estimated at

- Lot 1:
 - 6,700,000 EUR for the initial duration of the first 2 years
 - 4,000,000 EUR for the (potential) first extension of two years
 - 3,400,000 EUR for the (potential) second extension of two years
- Lot 2:
 - 1,700,000 EUR for the initial duration of the first 2 years
 - 800,000 EUR for the (potential) first extension of two years
 - 600,000 EUR for the (potential) second extension of two years
- Lot 3:
 - 4,500,000 EUR for the initial duration of the first 2 years
 - 3,400,000 EUR for the (potential) first extension of two years
 - 3,200,000 EUR for the (potential) second extension of two years

Please note that the above figures are estimations and that the total value of the contracts depends on the quantities ECHA will order. However, at this stage ECHA cannot commit itself to exact quantities to be ordered.

ECHA may exercise the option to increase the estimated market amount at a later stage via negotiated procedure with the successful tenderer(s) in accordance with Art. 126(1)(f) of the Implementing Rules of the Financial Regulation¹⁴.

¹⁴ Commission Regulation (EC, Euratom) No 1261/2005 of 20 July 2005, Commission Regulation (EC, Euratom) No 1248/2006 of 7 August 2006 and Commission Regulation (EC, Euratom) No 478/2007 of 23 April 2007, amending Regulation (EC, Euratom) No 2342/2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities.

1.3 Starting date of the contract and duration of the tasks

The framework contracts shall enter into force on the date on which they are signed by the last contracting party.

The framework contracts are expected to be signed by the end of April 2012 (this is an estimation which does not commit the Agency).

The execution of tasks may not start before the framework contract has been signed. Signature of the framework contract imposes no obligation on the Agency to purchase. Only the signature of specific contracts or order forms will be binding on the Agency.

The tasks will be determined in particular by orders or specific contracts to be signed under the framework contract. The execution of the tasks – by means of the signature of individual orders or specific contracts under the framework contract - may not start before both the framework contract and subsequent order(s) or specific contract(s) have been signed.

The framework contract will be signed for 2 years and shall be renewed automatically up to 2 times, each time for a period of 2 years under the same conditions, unless written notification to the contrary is sent by one of the contracting parties and received by the other no later than 4 months before expiry of the framework contract. Orders and specific contracts under the framework contract must be signed before the framework contract's expiry date, but they can be executed up to a maximum of 6 months after this date.

1.4 Period of validity of the Tender

The tender must remain valid for a period of 9 months following the final date for submitting tenders (see deadline in the Invitation to Tender). During this period, the Tenderer may not modify the terms of his Tender in any aspect.

1.5 Date and place of opening of the Tenders

Tenders will be opened at 13:00 on 23rd January 2011 at the following location:

Office address:

**European Chemicals Agency
Annankatu 18
00120 Helsinki
Finland**

An authorised representative of each Tenderer may attend the opening of the bids. Companies wishing to attend are requested to notify their intention by sending a fax or e-mail at least 48 hours in advance to the address given under section 1.6. This notification must be signed by a legal representative of the Tender and specify the name of the person who will attend the opening of the bids on the Tenderer's behalf.

1.6 Contacts between the Tenderer and the Agency

Contacts between the Contracting Authority and Tenderers are prohibited through the procedure save in exceptional circumstances and under the following conditions only:

- Before the final date for submission of Tenders:
 - The Agency may, on its own initiative, inform interested parties of any error, inaccuracy, omission or other clerical error in the text of the Call for Tenders.
 - The Agency may, on its own initiative, organise an information meeting session to provide clarifications on the Call for Tenders. In this case, the Agency will inform all potential tenderers at least one week before the date of the meeting with publication of an announcement on the website of ECHA. The Agency will also inform about the meeting via e-mail to all economic operators who requested the specifications or showed interest in submitting a bid. The participation of the tenderers is optional. The tenderers that are interested to participate in the meeting will be required to announce in written (using the contact details provided below) their intention to participate at least 48 hours before the date of the meeting.
 - At the request of the Tenderer, the Agency may provide additional information solely for the purpose of clarifying the nature of the contract.

The requests for additional information may be submitted to the address below by fax or e-mail.

European Chemicals Agency
Annankatu 18
P.O. Box 400
FI-00121 Helsinki
Finland
FAX: +358-9 6861 8931
Email: procurement@ECHA.europa.eu

Insofar as it has been requested in good time, the additional information will be provided to the inquirer and published on the Agency website no later than six calendar days before the final date for the submission of bids or, in case of requests for information are received less than eight calendar days before the final date for the submission of bids, as soon as possible after the request for information has been received. Requests for additional information received less than five working days before closing date for submission of tenders will not be processed.

Potential Tenderers are encouraged to formulate, at least ten days before the time limit to submit Tenders, any remark or request for clarification they would have in relation to all aspects of this Call for Tenders in order that the Agency can evaluate the need for corrective measures and implement them before the submission of Tenders.

Any additional information, or correction of errors, about the Call for Tenders, as well as the minutes of the information meeting if held, will be published on ECHA website http://echa.europa.eu/opportunities/procurement_en.asp.

- After the opening of Tenders:
 - If clarification is requested or if obvious clerical errors in the Tender need to be corrected, the Agency may contact the Tenderer provided the terms of the Tender are not modified as a result.

1.7 Terms of payment - implementation of the Contract

Payments shall be made in accordance with Articles I.3, I.5 & II.15 and II.16 of the model framework contract¹⁵. The schedule and the procedure for the approval of payments and the documents to be submitted will be defined separately for each order or specific contract (Article 4) depending on the nature of the tasks and duration of the contract.

As a rule, payments for recurring services and Time & Means contracts will be carried out on a monthly basis. For contracts creating an obligation for the Contractor to provide deliverables the payment schedule, based on prior acceptance of deliverables by the Agency, will be defined in the specific contract. Requests for payment shall be admissible only where they are based on an invoice made in good and due form. Each invoice must include a detailed list of services covered by the invoice.

ECHA reserves the right to pay less than the amount foreseen in the specific contracts according to tasks actually performed.

Where foreseen by the relevant specific contract, expenditure incurred at the request of the Agency for travel outside the normal place of performance, will be reimbursed in accordance with Article II.18 of the draft framework contract.

Services shall be provided on the basis of three different kinds of orders:

1. Fixed Price orders, which correspond to the order of a defined work.
2. Time & Means orders, which correspond to the order of a number of days performed.
3. Quoted Time & Means orders which correspond to the order of a number of days for defined subtasks.

- **Fixed price**

- ✓ The Agency specifies in the service request the work packages, deliverables, quality and security standards, delivery schedule and the place of execution.
- ✓ The work will normally be performed off-site, typically on Contractor's premises. If required by the Agency, meetings and the presentation of the deliverables, and their acceptance process, may take place at the Agency's premises.
- ✓ The contractor must present an offer meeting the requirements as specified in the service request and associated annexes, like the technical specifications. The offer must include the technical proposal and the list of staff members, and their CVs, proposed for the execution of the order. Contractor's staff must match the profile descriptions as laid down in the Technical Specifications (Annex II) of the Framework Contract.

¹⁵ See Annex 5.2

- ✓ The offer must also include the financial bid. The financial proposal must include the price and the reimbursable costs, where applicable. The unit price per person-day must be the one indicated in the financial proposal for the Framework Contract. The prices must be all-inclusive. However, travel expenses shall be reimbursed, but only in case of work performed at a location other than the normal place of performance, as indicated in the request for services.
- ✓ The deliverables must be in line with the delivery schedule, and conform to the specifications as described in the specific contract. A warranty applies to the deliverables accepted by the Agency.
- ✓ The invoicing is based on the acceptance of the deliverables by the Agency, independently of the real workload.

- **Time and means**

- ✓ The Agency specifies in the service request its needs for profiles of the framework contract, the workload (e.g. person-days) per profile, the tasks to be carried out and the expected deliverables. The Service Request can combine different profiles, with the requested individual workload. Work can be performed on the Agency's premises (intramuros). Work may also be carried out on the Contractor' premises (extramuros) if stipulated in the specific contract. In some cases, on the Agency's request travels outside the normal place of performance can be required
- ✓ The Agency has the right to decide on the project methodology to be applied (also regarding software development, quality assurance and security assurance); the same applies to the software tool set to be used.
- ✓ The Contractor must present candidates that match the requested profile description as laid down in the service request and in line with the technical specifications (Annex II) of the framework contract.
- ✓ The offer must also include the financial bid in line with the unit prices of the framework contract. The financial proposal must include the price and the reimbursable costs, where applicable. The price must be based on the fixed prices per person-day indicated in the financial proposal for the Framework Contract. The prices must be all-inclusive. However, travel expenses shall be reimbursed, but only in case of work performed at a location other than the Agency's premises by intramuros consultants, or in case of work performed at a location other than the Contractor's premises by extramuros consultants, as indicated in the request for services.
- ✓ Prior to the signature of the specific contract, the Agency will verify that the team of consultants proposed by the contractor meets the requirements of the service request of ECHA and of the profiles in the framework contract. Candidates proposed must be available for interviews. Candidates proposed must be available at the start of the assignment.
- ✓ When a person approved by ECHA is no longer available before the start of the implementation of a specific contract, the contractor is obliged to inform the Agency immediately. If the specific contract is not yet signed by both parties, the Contractor shall propose as soon as possible, and at the latest within a maximum of 5 working days from the date when the need for replacement is known, new candidates with

equivalent qualifications and experience with respect to those of the person originally approved by the Agency, and as required for the profile. If the specific contract is signed, but not yet being implemented, the Agency can either ask for a replacement with the performance of 10 working days free of charge or exercise its rights under the framework contract.

- ✓ During the implementation of a specific contract, in case of replacement at the initiative of the contractor, this one must immediately inform the Agency and propose as soon as possible, and at the latest within a maximum of 5 working days from the date when the need for replacement is known, candidates(s) with qualifications and experience equivalent to those of the replaced staff. Prior agreement of the Agency with the replacement must also be obtained. In case of such a replacement, the handover period must be between 10 and 20 working days (depending on the complexity of the relevant work), free of charge for the Agency. If no handover is possible and additional training is needed for the replacement person approved by ECHA, at least 15 working days (free of charge for the Agency) must be performed by the replacement person. Any such replacement will be effected at no additional cost to the Agency.
- ✓ During the implementation of a specific contract, upon written request from the Agency the contractor must present as soon as possible and within a maximum of 5 working days the CV of candidate(s) with equivalent qualifications and experience to immediately replace the personnel who has proved incapable of carrying out the tasks to the required standards and according to the requirements described in the specific contract. The replacement candidate selected by the Agency will be given sufficient training during an adequate handover period between 10 and 20 working days depending on the complexity of the relevant work (free of charge for ECHA) so that s/he may be immediately operational when the initial person is withdrawn. If no handover is possible and additional training is needed for the replacement person approved by ECHA, at least 15 working days free of charge for the Agency must be performed by the replacement person. Any such replacement will be effected at no additional cost to the Agency.
- ✓ In case of *force majeure*, if Contractor's personnel is no longer able to carry out the assignment, the contractor is obliged to inform the Agency and immediately provide a competent replacement person and arrange sufficient training (during an adequate handover period when possible) to guarantee continuity of the service provided to the Agency. Any such replacement will be effected at no additional cost to the Agency. This interim replacement may ultimately be replaced by personnel having the same qualifications and experience as the person replaced due to *force majeure*.
- ✓ In case of replacement, with the exception of the immediate reaction to a situation of force majeure, the Contractor must propose a minimum of two candidates with the equivalent qualifications and experience with respect to those of the replaced person and as required for the relevant profile. If the Contractor does not propose suitable replacement staff, the Agency may exercise its rights under the framework contract.
- ✓ The holidays or other long periods of planned absence of the Contractor's team are expected to be agreed in advance with the Agency. On the Agency's demand, during holidays or other periods of planned absence, the Contractor may be required to provide an adequate replacement. The replacement will be given sufficient training and provided with all information necessary to guarantee continuity of the service provided to the Agency. All such training and handover work will be carried out at the Contractor's expense.
- ✓ The invoicing will be based on the number of days performed.

- ✓ The request for payment of the Contractor shall be admissible if accompanied by a report (according to the template provided in Annex [5.13](#)) specifying the tasks, related deliverables, worked days and hours per resource; and, for the work having been carried out on ECHA premises, after the Agency has verified the alleged worked time against the Flexitime follow-up system which is in use in ECHA.

- **Quoted time and means**

- ✓ In a Quoted Time & Means order the Agency specifies in the service request the different services to be provided, namely the different sub-tasks to be executed in a project, the total number of person-days as well as the duration of the specific contract. The Agency may also specify the required profiles.
- ✓ Unless otherwise agreed in the specific contract, the work will be normally performed off site, typically on the Contractor's premises. If required meetings and the physical delivery of a sub-task – including acceptance process -, have to be done at the Agency's premises. In principle, these activities will not exceed an average of one day per week.
- ✓ The Contractor must present a proposal meeting the requirements as specified in the service request and associated documents (e.g. technical annex with description of sub-tasks). The offer must include a technical proposal based on the requirements, the profiles and workload (person-days). The financial proposal has to be based on the profiles and their workload and be in line with the unit prices of the framework contract.
- ✓ The offer must include the list of staff members and their CVs proposed for the execution of the order. Contractor's staff must match the requested profile description as laid down in the framework contract.
- ✓ The work is divided into various sub-tasks performed during the execution of the specific contract. The Agency will provide the Contractor with a detailed description of each sub-task. The Contractor will send the Agency a proposal for the execution of each sub-task (including the workload and time schedule) on the basis of a number of person days with the requested profile(s). When agreement with the Agency has been reached, a Quoted Time and Means form must be signed by both parties. Only agreed costs for the specified sub-tasks are chargeable, after acceptance by the Agency.
- ✓ The contractual warranty applies to the sub-tasks accepted by the Agency.
- ✓ On the Agency's demand, the Contractor must replace personnel who prove incapable of carrying out the specified tasks to the required standards. The replacement candidate will be given sufficient training during an adequate handover period, so that he/she may be immediately operational when the original candidate is withdrawn. Any such replacement and training, if required, will be carried out at no additional cost to the Agency.
- ✓ The Contractor shall give a month notice to the Agency of any personnel changes in the team. The prior agreement of the Agency must be obtained.
- ✓ In case of '*force majeure*', if the original person is no longer able to carry out the work, the Contractor is obliged to inform the Agency, immediately provide a competent replacement person and arrange sufficient training (during an adequate handover

period where possible) to guarantee continuity of the service provided to the Agency. Any such replacement will be effected at no additional cost to the Agency.

- ✓ In case of replacement, the Contractor must propose a minimum of two replacement persons with the equivalent qualifications and experience and as required for the profile. If the Contractor does not propose suitable replacement staff, the Agency may immediately terminate the specific contract.
 - ✓ On the Agency's demand, during holidays or other periods of planned absence by the person employed, the Contractor will be required to provide an adequate replacement. The replacement person will be given sufficient training and provided with all information necessary to guarantee continuity of the service provided to the Agency. All such training and handover work will be carried out at the Contractor's expense.
 - ✓ When a person is no more available before the start of a new specific contract, the Contractor is obliged to inform the Agency immediately and provide adequate replacement as indicated above.
 - ✓ The invoicing requires the acceptance of the deliverables by the Agency, and is based on real workload of the profiles used in the specific contract. The request for payment of the Contractor shall be admissible if accompanied by a report specifying the tasks, deliverables accepted by the Agency, as well as the worked days per resource.
- **Conditions applicable to all three kinds of orders** (fixed price, time and means, quoted time and means)
 - ✓ ECHA reserves the right to ask for additional proof in the form of diplomas, certificates and references of studies, training, technical competence and work experience alleged in the CV of candidates proposed for a specific contract. ECHA reserves the right to take into account only the studies, training, technical competence and work experience, for which sufficient evidence has been provided, as evaluated by ECHA.
 - ✓ All infrastructure of the Contractor containing ECHA related information and connections to it must be properly secured.
 - ✓ If the work is performed off site on the contractor's premises, the Contractor shall provide all necessary infrastructures on his premises (hardware and software¹⁶) for the successful execution of the work. In many cases this will mean at least three functional testing systems, of which one is suitable for performance testing, in addition to all other development / unit testing systems.

The security and confidentiality issues will be addressed as described on section [1.14](#). On request of the Agency, during the execution of the specific contract, the Contractor will provide ECHA remote access to the off site infrastructure for Quality Assurance purposes. This includes access to the actively used test environments and the systems reporting the quality metrics and the systems used for test planning and test follow-up.

- ✓ The Contractor is responsible for all software and hardware required to set up the infrastructure at his premises for the implementation of the specific contracts. In case of intellectual property rights infringements occurred, the Contractor undertakes full liability.

¹⁶ See section 4.2.4 for details regarding the licences for the software tools.

- ✓ The Agency will take into consideration and discuss with the Contractor in the context of the governance model of the framework contract described in section 4.2.6.1, the particular circumstances of the case in which the timely and appropriate completion of a deliverable or the provision of a service by the Contractor depends on the timely and appropriate completion of a deliverable or the provision of a service to ECHA by a third party, which is not able to meet the planned and agreed schedule.

1.8 Guarantees

In the context of the implementation of a specific contract a **performance guarantee**, for an amount of 10% of the value of the specific contract and for its whole duration, may be required¹⁷ to cover the performance of the specific contract in accordance with the terms set out in Annex A to the Specific Contract. In the event of default, defective performance or delay in the execution of the specific contract, the guarantee shall be forfeited in proportion to the extent of the damages caused to the Agency.

Where required by the specific contract the Contractor shall provide a **pre-financing guarantee** in the form of a bank guarantee or equivalent supplied by a bank or an authorised financial institution (guarantor) equal to the amount indicated in the specific contract to cover pre-financing under the contract¹⁸. Such guarantee may be replaced by a joint and several guarantee by a Third Party. A pre-financing guarantee is obligatory when pre-financing amounts to EUR 150,000 or more.

The Tenderer shall describe in his offer the arrangements (e.g. professional risk **indemnity insurance**), already existing or taken specifically for this contract, which he will have in place in order to cover liability, which he could incur during the implementation of the contract, as laid down in Article I.17 of the draft framework contract.

1.9 General terms and conditions for the submission of Tenders

The present Tender documents are drawn up in respect of the Financial Regulation applicable to the general budget of the European Union (Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 as amended by Council Regulation (EC, Euratom) N° 1995/2006 of 13 December 2006), as well as its implementing rules (Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 as amended by i) Commission Regulation 1261/2005 of 20 July 2005, ii) Commission Regulation 1248/2006 of 7 August 2006 and iii) Commission Regulation (EC, Euratom) No 478/2007 of 23 April 2007), hereinafter referred to as the Financial Regulation.

Tenderers must indicate clearly in which country they have their headquarters (legal person) or domicile (natural person).

Participation in Tender procedures is open on equal terms to all natural and legal persons from one of the EU Member States and to all natural and legal persons in a third country which has a special agreement with the European Union in the field of public procurement on the conditions laid down in that agreement. In the present Call for Tenders the Agency will reject offers submitted by operators from third countries which have not signed such an agreement.

¹⁷ See Article I.6 of the draft Framework Contract. Performance guarantees shall be provided in accordance with the model available in Annex V of the draft Framework Contract.

¹⁸ Pre-financing guarantees shall be provided in accordance with the model available in Annex VI of the draft Framework Contract.

Submission of a Tender implies acceptance of the terms and conditions set out in this Invitation to Tender, in the Tendering specifications and in the draft contract and, where appropriate, waiver of the Tenderer's own general or specific terms and conditions in respect to this framework contract. The submission of a tender under any other terms than those set up by the Agency, or including a disclaimer with respect to that essential requirement of the procurement procedure, will determine the rejection of the tender.

The tender is binding on the Tenderer to whom the contract is awarded for the duration of the contract.

Once the Agency has accepted the Tender, it shall become the property of the Agency and the Agency shall treat it confidentially.

The Agency shall not reimburse expenses incurred in preparing and submitting Tenders.

The Protocol on the Privileges and Immunities or, where appropriate, the Vienna Convention of 24 April 1963 on Consular Relations shall apply to this invitation to Tender.

Variants are not allowed.

1.10 No obligation to award the contract

This Invitation to Tender is in no way binding on the Agency. The signature of the framework contract imposes no obligations on the Agency to purchase. Only the implementation of the framework contract through specific contracts or orders is binding on the Agency.

Up to the point of signature, the contracting authority may either abandon the procurement or cancel the award procedure. This decision must be substantiated and the Tenderers notified.

No compensation may be claimed by Tenderers whose tender has not been accepted, including when the Agency decides not to award the contract.

1.11 Place of performance

The place of performance of the tasks shall be the Contractor's premises and/or ECHA premises and/or any other place as agreed in the specific contract or order depending on the nature of the specific tasks.

The meetings will generally take place either at the Agency's premises or be held via teleconference (by phone or video), or exceptionally take place in any other place as agreed in the specific contract.

As a rule the Agency requires that when implementing off site specific contracts the Contractor shall provide the service from a single location/site (i.e. not from different sites geographically scattered). If exceptionally this were not possible, the contractual parties will enter into negotiation in the steering group (as described in section [4.2.6.1](#)) to identify the best alternative organisation of the work and for the location of the Contractor's resources. The decision making on this matter will ultimately lie with the Agency

The Agency requires that Contractor's staff involved in the implementation of a specific contract shall be reachable via telephone and e-mail during normal working hours. All Contractor's personnel required for the implementation of a specific contract (the "project team"), shall have an

individual telephone number and an individual e-mail address. When required by the tasks to be performed, the usage of mobile phone should be possible during normal working hours.

1.12 Subcontracting

Subcontracting is defined as the situation where a contract has been or is to be established between the Agency and a Contractor and where the Contractor, in order to carry out that contract, enters into legal commitments with other legal entities for performing part of the service. However, the Agency has no direct legal commitment with the subcontractor(s).

At the level of the liability towards the Agency, tasks provided for in the contract may be entrusted to subcontractors, but the Contractor retains full liability towards the Agency for performance of the contract as a whole.

Accordingly:

- The Agency will treat all contractual matters (e.g. payments) exclusively with the Contractor, whether or not the tasks are performed by a subcontractor;
- The Agency will have direct contacts only with the Contractor, who is responsible for executing the contract;
- Under no circumstances can the Contractor avoid liability towards the Agency on the grounds that the subcontractor is at fault.

A contract which includes subcontracting is subject to certain general conditions in particular the provisions on subcontracting, checks and audits, and confidentiality. Where justified by the subject matter of the contract, a statement of confidentiality signed by the sub-contractor(s) may have to be submitted to the Agency.

The tender must define the roles, activities and responsibilities of the proposed subcontractor(s), and the reasons why subcontracting is envisaged. Consequently, the bid must clearly identify the subcontractor(s) and document their willingness to accept the tasks and their acceptance of the terms and conditions set out in section 1.9 above, in particular Article II.20 of the draft framework service contract, by returning the form in Annex [5.4](#), filled in and signed.

Once the contract has been signed, Article II.6 of the draft framework service contract shall govern the subcontracting. During the execution of the Contract, the Contractor will need the Agency's express authorisation to replace a subcontractor with another and /or to subcontract tasks for which subcontracting was not envisaged in the original tender.

Subcontracting to companies established in ineligible countries, i.e. economic operators who are not eligible to directly submit offers (see section 1.9), is limited to 20% of the framework contract value. The same principle applies to each specific contract.

1.13 Joint bids

A joint bid is a situation where a bid is submitted by a group of Tenderers. If awarded the contract, the Tenderers of the group will have an equal standing towards the Agency in executing a framework service contract.

The Agency will not request consortia to have a given legal form in order to be allowed to submit a Tender, but reserves the right to require a consortium to adopt a given legal form **before the contract is signed** if this change is necessary for proper performance of the contract. This can

take the form of an entity with or without legal personality but offering sufficient protection of the Agency's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association).

Groups of firms must nominate one party to be responsible for the receipt and processing of payments for members of the group, for managing the service administration, and for coordination. The documents required and listed in the present specifications must be supplied by every member of the group; the checklist in Annex [5.9](#) will help verifying the level of information to be provided according to the role of each entity in the Tender.

Each member of the group assumes a joint and several liabilities towards the Agency.

The tender has to be signed by all members of the group. However, if the members of the group so desire they may grant an authorisation to one of the members of the group. In this case they should attach to the tender a power of attorney (see model in Annex [5.5](#)). For groups not having formed a common legal entity, model 1 should be used; and model 2 for groups with a legal entity in place.

The contract will have to be signed by all members of the group. If the members of the group so desire, they may grant authorisation to one of the members of the group by signing a power of attorney. The same model as above duly signed and returned together with the tender (see Annex [5.5](#)) is valid also for signature of the contract.

Partners in a joint bid assume joint and several liabilities towards the Agency for the performance of the contract as a whole.

Statements, saying for instance: "that one of the partners of the joint bid will be responsible for part of the contract and another one for the rest", or "that more than one contract should be signed if the joint bid is successful", are thus incompatible with the principle of joint and several liability. The Agency will disregard any such statement contained in a joint bid, and reserves the right to reject such bids without further evaluation, on the grounds that they do not comply with the Tender specifications.

If several service providers are involved in a joint bid, their consolidated economic and financial, technical and professional capacity will be taken into consideration in order to assess the selection criteria.

1.14 Security clearance

When required by the Agency's services for security reasons, the Agency may ask from the Contractor in a specific request that they agree to a security clearance of the staff involved for the provision of certain services.

The Agency may also request the contractor that consultants working under the contract sign a confidentiality and non-disclosure agreement, as indicated in Article II.4 of the draft framework contract.

These will be considered specific requirements for a specific project, and not influence the other conditions.

1.15 Language

The working language of the Agency is English. The English language shall be used throughout the execution of this framework contract for all communication, reports and other documentation.

1.16 Work time

This section concerns Time and Means contracts.

One full year normally corresponds to an effective workload of 220 days.

An FTE-day is equivalent to 7.5 hours of work. Deviations of more than 20% per day of service shall be agreed upfront.

Work on site (at ECHA premises):

The work that shall be carried out at ECHA premises should be within the normal working hours, from 8 a.m. to 8 p.m., and on normal working days.

The days and hours worked per resource at the premises of the Agency will be verified by ECHA against the Agency's electronic time-recording system and time/activity logging system, which consultants shall be obliged to use regularly and properly to facilitate the verification of service hours in conjunction with invoicing.

Work at any place (on site or off site):

Normal working days are Monday to Friday, except for ECHA holidays (as defined in Annex [5.12](#) for 2012 and for the next years as they will be published in ECHA website¹⁹). Such holidays may differ from national ones and will be notified every year in advance for the upcoming year.

Work outside of normal working hours and normal working days:

In exceptional cases and only on written demand by the Agency, the necessity to deliver services outside of normal working days and/or hours may occur.

For these exceptional situations, the following surcharges will be applied:

- on normal working days before 8.a.m. and after 8 p.m.: 50 % of the corresponding hourly price during normal working hours.
- during weekends and ECHA holidays: 100 % of the corresponding hourly price during normal working hours.

The surcharges will only apply if at least 50% of a person-day is provided in the timeframe that allows a surcharge. Surcharges do not apply during travel.

The Agency may exceptionally also request the delivery of "on-call" (aka "stand-by-duty") intended to ensure the ability of a resource, i.e. to be reachable by phone – during the relevant period of time and to be present at the working place within 75 minutes of being alerted. Such "on-call"-services are chargeable by 25% (during normal working days) or 50% (during week-ends and ECHA holidays) of the rate applicable for the time-window during which these services are delivered, *pro-rata*. The service should be delivered by the same profile(s) providing the duties during normal working hours.

¹⁹ <http://echa.europa.eu/>

ECHA may define for off site specific contracts, which profiles of the Contractor personnel required for the execution of a specific contract (the “project team”), including subcontractors, must be working so that the time difference between the work hours at the place of performance and the ECHA normal working hours does not exceed two hours. This is required in order to facilitate efficient operative management of the specific contract by ECHA and in view of the potential high amount of interaction between ECHA and the Contractor personnel during the implementation of the contract.

1.17 Training

As a rule, the Agency will not take charge of the training of the Contractor’s staff. Hence, it is the Contractor’s obligation to make sure that its staff members working for the Agency have the relevant knowledge and experience relevant for the tasks.

In principle, the Contractor is requested to plan at least five (5) training days per year for its staff working for the Agency.

In exceptional cases and on special request of the Agency, staff of the Contractor may follow an informatics training course organized by the Agency. However, the time spent on training will not be paid to the Contractor by the Agency. The same applies for any other related costs (e.g. travel cost).

If the Agency asks the Contractor’s staff to follow a non-informatics training necessary for the work (e.g. business procedures or application functionalities), it is considered as a normal working day paid by the Agency.

2 FORM AND CONTENT OF THE TENDER

2.1 General

Tenders must be **signed** by the Tenderer or his duly authorised representative. Tenders must be **perfectly legible** so that there can be **no doubt as to words and figures**.

Tenders must be clear and concise, with continuous page numbering, and assembled in a coherent fashion (e.g. bound or stapled, etc.).

Tenders must be written in one of the official languages of the European Union, preferably in English.

Tenders **must include** the following information:

- all the information and documents requested by the Agency in order to assess the Tenderer. In order to help Tenderers presenting a complete Tender, a **checklist of the documents to submit is provided in Annex 5.9**. This checklist does not need to be included in the Tender but we encourage to use it in order to ease the assessment of the Tenders;
- the **price in Euros**;
- one **specimen signature of an authorised representative** on the legal entity form (see section b), and a statement confirming the validity of the Tender (preferably in blue ink), the Tender must provide evidence of the authorisation to sign in name of the Tenderer;
- the **name and contact details (including e-mail address) of a contact person** in relation to the submission of the bid.

2.2 How to submit a Tender

Tenderers shall observe precisely the indications in point 3 and 4 of the Invitation to Tender in order to ensure their Tenders are admissible.

Evidence of timely submission by post or courier service will be constituted by the date of dispatch, the postmark or the date of the deposit slip. In the case of hand-delivery, the signed and dated receipt will serve as evidence.

Late submission will lead to the non admissibility of the Tender and its rejection from the award procedure for this contract. Tenders sent by e-mail or by fax will also be non admissible. Envelopes found open at the opening session may also lead to non admissibility of the Tender. Consequently, Tenderers must ensure that their tenders are packed in such a way as to prevent any accidental opening during its mailing.

2.3 Structure of the Tender

Tenders must be presented in five sections:

Section one: Administrative information – Presentation of the Tender (see section [2.3.1](#))

Section two: Evidence relating to the exclusion criteria (see section [3.1](#))

Section three: Evidence relating to the selection criteria (see sections [3.2.2](#) & [3.2.3](#))

Section four: Technical bid – Addressing technical specifications and award criteria (see sections [2.3.2](#), [3.3](#) & [4](#))

Section five: Financial bid (see sections [2.3.3](#) & [3.3.2.4](#))

If a tenderer bids for several lots one single tender dossier may be submitted for all the lots. In this case, sections one, two and three may be common for all lots for which the tenderer is bidding, whereas sections four and five shall be lot specific.

2.3.1 Section one: Administrative bid

- a) Tenderers** may choose between presenting a **joint bid** (see section [1.13](#)) and introducing a bid as a sole **contractor**, in both cases with the possibility of having one or several subcontractors (see section [1.12](#)).

Whichever type of bid is chosen, the Tender must stipulate the legal status and role of each legal entity in the Tender proposed and the monitoring arrangements that exist between them and, failing this, the arrangement they foresee to establish if they are awarded the contract (see sections [1.12](#) & [1.13](#)).

b) To identify himself the Tenderer must fill in a Legal Entity Form and a Financial Identification Form:

- The Legal Entity Form is to be signed by a representative of the Tenderer authorised to sign contracts with third parties. There is one form for individuals, one for private entities and one for public entities. Specific forms in all official EU languages are available at :
http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm
- The **Financial identification form** shall be duly filled in and signed by an authorised representative of the Tenderer and his or her banker. A specific form for each Member State is available at the following Internet address:
http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm
- The above forms must be accompanied by the evidence as indicated at the bottom of each form.

All Tenderers must provide their legal entity forms as well as the necessary evidence. Only sub-contractors are requested to provide solely the legal entity form without evidence.

Economic operators already registered as a legal entity in the Agency's files (i.e. they are or have been Contractors of the Agency) are not obliged to provide the evidence requested in

the form, on condition they indicate in their Tender the references of the procedure and the Agency's unit for which this evidence was already provided.

In case of a joint bid or a bid presenting subcontracting, only the co-ordinator is obliged to return the financial identification form.

2.3.2 Section four: technical offer

Tenderers must include in their tenders the technical offer addressing all aspects detailed in the specifications set out in section [4](#) below.

The technical offer must respond to these technical specifications and provide, as a minimum, all the information needed for the purpose of awarding the contract (more information can be found in section [3.3](#) and especially in sections [3.3.2.1](#), [3.3.2.2](#) and [3.3.2.3](#)).

Please note that, to grant equal treatment of all Tenderers, it is not possible to modify Tenders after their submission in relation to the technical and financial bids. As a consequence, incompleteness in this section can only result in negative impact for the evaluation of award criteria. Please note also, that offers deviating from the technical specifications may be rejected for non-conformity.

The technical specifications (section [4](#) to these tender specifications) and the Tenderer's offer shall be integral parts of the framework contract and will constitute Annexes to the framework contract.

2.3.3 Section five: financial bid

The Tenderer's attention is drawn to the following points:

- Prices must be expressed in Euros.
- Prices should be quoted free of all duties, taxes and other charges, i.e. also free of VAT, as the Union are exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union of 8 April 1965 (OJ L 152 of 13 July 1967). Exemption is granted to the Agency by the governments of the Member States, either through refunds upon presentation of documentary evidence or by direct exemption.
- For those countries where national legislation provides an exemption by means of a reimbursement, the amount of VAT is to be shown separately. In case of doubt about the applicable VAT system, it is the Tenderer's responsibility to contact his or her national authorities to clarify the way in which the European Union is exempt from VAT;
- Prices shall not be conditional and shall be directly applicable by following the technical specifications.
- The categories of prices shall be fixed and not subject to revision for the first period of 12 months laid down in the contract. From the second period of execution of the tasks, as at each renewal, the amount may be revised upwards or downwards. This revision will be made only if one of the contracting parties requests it by registered mail received by the other party not later than three months before the anniversary of the date on which the contract was signed.

This revision shall be determined by the trend in the harmonised consumer price index (MUICP) published by the Office for Official Publications of the European Union in the Eurostat monthly bulletin at <http://www.ec.europa.eu/eurostat>. Revision shall be calculated in accordance with the following formula:

$Pr = Po \left(0,2 + 0,8 \frac{Ir}{Io} \right)$	<p>where:</p> <p>Pr = revised price; Po = price in the original tender; Io = index for the month corresponding to the final date for submission of tenders; Ir = index for the month corresponding to the date of receipt of the letter requesting a revision of prices.</p>
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Tenderers must use the price catalogue format presented in Annex [5.6](#) to formulate their financial bid. This price catalogue will be annexed to the framework contract and shall constitute an integral part of it. Unit prices of the list will apply to orders and specific contracts signed under the framework contract.

The Agency will reject Tenders where no technical offers or financial bids are proposed. Non conformity with the technical specifications in section [4](#) will also lead to rejection. The Agency reserves the right, however, to request additional evidence after the opening within a time-limit stipulated in its request, in the conditions explained in section [1.6](#).

3 ASSESSMENT AND AWARD OF CONTRACT

The assessment will be based on the information provided in the Tender. The Agency reserves the right to use any other information from public or specialist sources. This assessment will be performed by applying the criteria set out in these specifications. In order to award the contract, the assessment of admissible bids (see section [2.2](#)) will be carried out in three successive stages. Only bids meeting the requirements of one stage will be examined in the next stage.

The aim of each of these stages is:

1. to check, in the first stage (exclusion criteria), whether Tenderers can take part in the Tendering procedure and, where applicable, be awarded the contract;
2. to check, in the second stage (selection criteria), the technical and professional capacity and economic and financial capacity of each Tender who has passed the exclusion stage;
3. to assess on the basis of the award criteria the technical and financial bids and establish a ranking list, by order of merit, of all Tenders having passed the exclusion and selection stages.

Notwithstanding of the above, when bidding for several lots the Tenderer is to be aware that, to be awarded more than one framework contract, he must demonstrate in the offer the aggregated financial and economic, professional and technical capacity defined in the selection criteria for all the relevant lots together.

The Agency will therefore verify, before awarding more than one lot to the same Tenderer, whether the Tenderer sufficiently meets the aggregated capacity required by the selection criteria for the given contracts.

Should the Tenderer not be able to meet the cumulative capacity required in the selection criteria for all contracts for which he is bidding, the Tenderer is requested to express in the Tender his order of preference in view of potential contract award. In such a case, the Agency will decide on the award of the lots following the order of preference expressed by the Tenderer.

3.1 Stage 1 – Application of exclusion criteria and exclusion of Tenders

3.1.1 Declaration

Tenderers or their representatives shall provide a declaration on their honour, duly signed and dated in which they:

- state whether or not they are in one or more of the situations referred to in Articles 93 and 94 of the Financial Regulation and detailed in the form;

- undertake to submit to the Agency any additional document relating to the exclusion criteria, that the Agency considers necessary to perform its checks, within seven calendar days following the receipt of the Agency's request.

To this end, Tenderers must fill in and sign the form in Annex 5.1 to these Specifications. Where the bid involves more than one legal entity (including subcontractors), each entity must provide the form.

Any total or partial omission for which one or more legal entities involved in the Tender are responsible may lead the Agency to exclude the Tender from the procedure, in accordance with Articles 93 and 94 of the Financial Regulation.

3.1.2 Grounds of disqualification

In accordance with Articles 93 and 94 of the Financial Regulation, Tenders shall be excluded from the selection and award procedures if they do not satisfy criteria a) to f) specified in the standard form in Annex [5.1](#).

In addition, contracts may not be awarded to Tenderers who, during the procurement procedure are subject to a conflict of interest (criteria g) or are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information (criteria h) or fall into one of the situations as specified under criteria a) to f).

If a member of a consortium is subject to exclusion, the rest of the consortium shall be excluded.

If a subcontractor is subject to exclusion, the Tenderer may be excluded.

3.1.3 Evidence

The Tenderer to whom the contract is to be awarded shall provide, within the 15 days following the receipt of the letter informing him of the proposed award of the contract and preceding the signature of the contract, the following evidence confirming the declaration referred to in section [3.1.1](#).

1. The Agency shall accept as satisfactory evidence that the Tenderer to whom the contract is to be awarded is not in one of the situations described in point (a), (b) or (e) of Article 93(1) of the Financial Regulation, a recent extract from the judicial record or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied;
2. The Agency shall accept, as satisfactory evidence that the Tenderer is not in the situation described in point (d) of Article 93(1) of the Financial Regulation, a recent certificate issued by the competent authority of the State.
3. Where the document or certificate referred to in paragraph 1 & 2 is not issued in the country concerned and for the other cases of exclusion referred to in Article 93 of the Financial Regulation, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

4. Depending on the national legislation of the country in which the Tenderer is established, the documents referred to in paragraphs 1, 2, 3 and 3.1.1 shall relate to legal persons and/or natural persons including, where necessary, company directors or any person with power of representation, decision-making or control in relation to the candidate or Tenderer. This would be the case when the national legislation concerned gives juridical responsibility of the acts committed by a legal entity (moral persons) to their legal representatives. The Tenderer shall provide information on the ownership or on the management, control and power of representation of the legal entity whenever necessary for the proper understanding of the evidence submitted or whenever the Agency requests it.
5. Where they have doubts as to whether Tenderers are in one of the situations of exclusion, the Agency may itself apply to the competent authorities referred to in paragraph 3 to obtain any information they consider necessary about that situation.
6. The Agency may waive the obligation of a Tenderer to submit the documentary evidence referred to in paragraphs 1 and 2 if such evidence has already been submitted to it for the purposes of another procurement procedure and provided that the issuing date of the documents does not exceed one year and that they are still valid. In such a case, the Tenderer shall declare on his honour that the documentary evidence has already been provided to the Agency in a previous procurement procedure and confirm that no changes in his situation have occurred. He shall indicate in its Tender all the references necessary to allow the Agency services to check this evidence.

3.1.4 Administrative and financial penalties

By returning the form in Annex [5.1](#), duly signed, Tenderers confirm that they have been notified of the following points.

Administrative or financial penalties may be imposed by the Agency on Tenderers who are in one of the cases of exclusion provided for in section [3.1.2](#) above after they have been given the opportunity to present their observations.

These penalties are detailed in Article 96 of the Financial Regulation and Articles 133a and 134b of the Regulation laying down the rules for the implementation of the Financial Regulation.

3.2 Stage 2- Application of selection criteria (selection of Tenders)

This part of the tender concerns the criteria and evidence relating to the technical and professional capacity and economic and financial capacity of the service provider(s) involved in the bid. It should also contain any other document that the tenderer(s) wish(es) to include by way of clarification.

An economic operator may rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. In that case, evidence must be provided that it will have at its disposal the resources necessary for performance of the contract, for example by producing a clear undertaking on the part of those entities to place those resources at its disposal.

In addition, all tenderers are informed that they may be asked to prove that they are authorised to perform the contract under national law, as evidenced by inclusion in a professional or trade register or a sworn declaration or certificate, membership of a specific organisation, express authorisation, or entry in the VAT register.

In case of joint offer or sub-contracting, the Tenderer must stipulate the role, qualifications and experience of each service provider and, where relevant, the monitoring arrangements that exist between them.

In case of joint offer, or sub-contracting for which the total amount envisaged is above 30% of the total contract value, evidence of the ability of the entity involved in the joint offer or the potential subcontractor(s) to perform the tasks entrusted to him/them shall be included in the offer. Such evidence is limited, however, to the percentage of participation of the entity involved in the joint offer or subcontractor in the implementation of the contract.

3.2.1 Selection criteria

SELECTION CRITERIA
1. Financial and economic capacity
1.1 for Lot 1
<p>1.1.1 Sufficient economic and financial capacity to guarantee continuous and satisfactory performance throughout the envisaged lifetime of the contract.</p> <p>1.1.2 Average annual turnover of the Tenderer must be minimum 20.000.000€ over the past three years.</p>
1.2 for Lot 2
<p>1.2.1 Sufficient economic and financial capacity to guarantee continuous and satisfactory performance throughout the envisaged lifetime of the contract.</p> <p>1.2.2 Average annual turnover of the Tenderer must be minimum 5.000.000€ over the past three years.</p>
1.3 for Lot 3
<p>1.3.1 Sufficient economic and financial capacity to guarantee continuous and satisfactory performance throughout the envisaged lifetime of the contract.</p> <p>1.3.2 Average annual turnover of the Tenderer must be minimum 15.000.000€ over the past three years.</p>
2. Technical and professional capacity
2.1 for Lot 1
<p>2.1.1 The tenderer must have on average per year during 2009, 2010 and 2011 minimum a total number of 180 staff members corresponding to the profiles listed in section 4.3.</p> <p>2.1.2 The Tenderer must (at the time the tender is submitted) have a minimum of 3 years experience in IT services relevant to the type of services covered by this call, with at least 5 completed projects</p> <ul style="list-style-type: none"> - of minimum 6 months duration - related to software development and involving technology falling into the scope of this framework contract - that have closed during the period 2009-2011 - of minimum 500.000€ value corresponding to the value undertaken by the tenderer. - during which the working language was English (i.e. contractual documents, documentation and deliverables were written in English). <p>Out of these 5 projects, at least 2 of them should have resulted to a software product being used in production by the date of the tender submission deadline.</p>
2.2 for Lot 2

2.2.1 The tenderer must have on average per year during 2009, 2010 and 2011 minimum a total number of 50 staff members corresponding to the profiles listed in section [4.3](#).

2.2.2 The Tenderer must (at the time the tender is submitted) have a minimum of 3 years experience in IT services relevant to the type of services covered by this call, with at least 5 completed projects

- of minimum 6 months duration
- related to software development and involving technology falling into the scope of this framework contract
- that have closed during the period 2009-2011
- of minimum 200.000€ value corresponding to the value undertaken by the tenderer.
- during which the working language was English (i.e. contractual documents, documentation and deliverables were written in English).

Out of these 5 projects, at least 2 of them should have resulted to a software product being used in production by the date of the tender submission deadline.

2.3 for Lot 3

2.3.1 The tenderer must have on average per year during 2009, 2010 and 2011 minimum a total number of 120 staff members corresponding to the profiles listed in section [4.3](#).

2.3.2 The Tenderer must (at the time the tender is submitted) have a minimum of 3 years experience in IT services relevant to the type of services covered by this call, with at least 5 completed projects

- of minimum 6 months duration
- related to software development and involving technology falling into the scope of this framework contract
- that have closed during the period 2009-2011
- of minimum 400.000€ value corresponding to the value undertaken by the tenderer.
- during which the working language was English (i.e. contractual documents, documentation and deliverables were written in English).

Out of these 5 projects, at least 2 of them should have resulted to a software product being used in production by the date of the tender submission deadline.

These criteria will be assessed on the basis of the documents referred to in sections [3.2.2](#) and [3.2.3](#).

3.2.2 Evidence of the economic and financial capacity

All the Tenderers must provide proof of their economic and financial capacity by submitting the following documents:

- a) a full copy of the concerned legal entities' annual accounts (balance sheet, profit and loss account, notes on the accounts and auditors' remarks when applicable) of the last three years, as approved by the general assembly of the company and, when applicable, audited and /or published. These documents must be signed by the authorised representative of the Tenderer;
- b) as alternative to a) above, by filling the Annex [5.3](#), consisting of an extract of the concerned legal entities' annual accounts (balance sheet, profit and loss account, notes on the accounts and auditors' remarks when applicable) of the last two years, as approved by the general assembly of the company and, where applicable, audited and/or published. These documents must be signed by the authorised representative of the Tenderer;

If, for some exceptional reason which the Agency considers justified, a Tenderer is unable to provide one or other of the above documents, he or she may prove his or her economic and financial capacity by any other document which the Agency considers appropriate. In any case, the Agency must at least be notified of the exceptional reason and its justification in the Tender. The Agency reserves the right to request any other document enabling it to verify the Tenderer's economic and financial capacity.

Please note that, to grant equal treatment of all Tenderers, it is not possible to modify bids after their submission in relation to the selection criteria. As a consequence, incompleteness in this section can only result in negative impact in the evaluation process.

3.2.3 Evidence of the technical and professional capacity

The ability of service providers to perform services will be assessed in particular with regard to their know-how, efficiency, experience, and reliability. Evidence of the technical and professional capacity of the Providers involved in the Tender should be provided by the following document:

- a) Statement of the average number of staff members corresponding to the profiles listed in section [4.3](#) during 2009, 2010 and 2011. The statement must be provided by using the template in Annex [5.11](#).
- b) Customer references, in accordance to the selection criteria 2 above. The customer references must be provided by using the template in Annex [5.8](#).

By submitting a Tender, each legal entity involved therein accepts the possibility of a check being carried out by the Agency on its technical capacities and, if necessary, on its facilities and quality control measures. In addition, all Tenderers are informed that they may be asked to prove that they are authorised to perform the contract under national law, as evidenced by inclusion in a professional or trade register or a sworn declaration or certificate, membership of a specific organisation, express authorisation, or entry in the VAT register.

3.3 Stage 3 – Application of Award criteria (assessment of Tenders)

3.3.1 Award criteria

The following award criteria will be applied to the evaluation:

Qualitative award criteria	Weighting (maximum points)
AW1: Quality and completeness of the project plan suggested for the scenario, according to section 3.3.2.1	50
AW2: Quality of the proposal for the delivery of the services in terms of service, staff and contract management in view of the objectives of the Call for Tenders (see section 3.3.2.2)	30
AW3: Readability and comprehensiveness of the tender, according to section 3.3.2.3	20
Total number of points	100

The selected Tender is assessed according to the above qualitative award criteria and the weighting applicable to each criterion.

Tenders scoring less than 70% in the total quality points or less than 50% in the points awarded for a single criterion will be excluded from the rest of the assessment procedure

Financial Award criterion

Overall weighted price of the financial bid, according to section [3.3.2.4](#)

The contract will be awarded to the tender which is the most cost-effective (offers the best value for money) on the basis of the ratio between the total points scored and the price.

Final evaluation

Total quality points / Overall weighted price

3.3.2 Basis for Assessment of Award Criteria (AW)

3.3.2.1 AW1. Quality and completeness of the suggested project plan for the scenario (50 points)

Lot 1:

For the purpose of the evaluation of the offers, Tenderers must submit a proposal for the **project plan** for the completion of the tasks of the scenario described below.

The project plan should include:

1.1 Description of the chosen project management methodology (addressing also quality assurance), giving special attention to tailoring the methodology to the needs of a large scale project. Additionally, a proposal on how to monitor the productivity rate should be provided (e.g. tools, processes).

1.2 For each task (tasks as mentioned in the scenario) a description of the deliverables, as well as the approach to implement each deliverable.

1.3 Description of the timing of the tasks (e.g. definition of iterations, etc.).

1.4 Description of the project organization (i.e. description of the structure of the different teams participating in the project) and approach to ensure effective interaction and collaboration among the teams (including both the teams of the Contractor and of the Agency). Special attention should be given to tailor the project organization and collaboration approach to factor in the size of the teams.

1.5 Description of the resource plan²⁰. The resource plan should include the estimation of person days of the contractor's resources per profile (as listed in section [4.3](#)) per work package. The sum of all person days of the contractor's resources should be equal to the number of the person days as indicated in the section "Effort of contractor" of the scenario below.

1.6 The infrastructure plan (regarding the IT environments to be built both at the Agency and at the Contractor's premises), including also information about

- what environments will be built and for which purpose
- how the transfer of components among different environments (e.g. from a test to the production environment) will be achieved
- infrastructure implementation schedule

1.7 Description of the approach to define a solid architectural solution according to TOGAF Architecture development methodology.

The structure/layout of the project plan document is to be defined by the Tenderer.

The proposed project plan must not be more than 25 A4 pages long (a paper sheet filled in with content in both sides is considered as 2 pages and not one page), written with Arial font, font size of 10.

Lot 2:

For the purpose of the evaluation of the offers, Tenderers must submit a proposal for the **project plan** for the completion of the tasks of the scenario described below.

The project plan should include:

1.1 Description of the chosen project management methodology (addressing also quality assurance). Additionally, a proposal on how to monitor the productivity rate should be provided (e.g. tools, processes).

²⁰ The resource plan is requested in order to assess the understanding of the Tenderer about the resources needed to implement a project of the proposed characteristics. During the implementation of the framework contract when issuing Time and Means orders the Agency will define the number of person days per profile.

1.2 For each task (tasks as mentioned in the scenario) a description of the deliverables, as well as the approach to implement each deliverable. Special attention should be given to ensure high quality web design that will result to good usability of the final product.

1.3 Description of the timing of the tasks (e.g. definition of iterations, etc.)

1.4 Description of the project organization, i.e. description of the structure of the different teams participating in the project, approach to ensure effective interaction and collaboration among the teams (including both the teams of the Contractor and of the Agency). Special attention should be given to tailor the project organization and collaboration approach to factor in the size of the teams.

1.5 Description of the resource plan²¹. The resource plan should include the estimation of person days of the contractor's resources per profile (as listed in section 4.3) per work package. The sum of all person days of the contractor's resources should be equal to the number of the person days as indicated in the section "Effort of contractor" of the scenario below. Special attention should be given to ensure the project team is properly skilled to ensure high quality web design that will result to good usability of the final product.

1.6 The infrastructure plan (regarding the IT environments to be built both at the Agency and at the Contractor's premises), including also information about

- what environments will be built and for which purpose
- how the transfer of components among different environments (e.g. from a test to the production environment) will be achieved
- infrastructure implementation schedule

The structure/layout of the project plan document is to be defined by the Tenderer.

The proposed project plan must not be more than 25 A4 pages long (a paper sheet filled in with content in both sides is considered as 2 pages and not as one page), written with Arial font, font size of 10.

Lot 3:

For the purpose of the evaluation of the offers, Tenderers must submit a proposal for the **project plan** for the completion of the tasks of the scenario described below.

The project plan should include:

1.1 Description of the chosen project management methodology (addressing also quality assurance). Special attention should be given to tailor the approach to ensure effective support in production in parallel to the effective execution of the other project activities. Additionally, a proposal on how to monitor the productivity rate should be provided (e.g. tools, processes).

1.2 For each task (tasks as mentioned in the scenario) a description of the deliverables, as well as the approach to implement each deliverable. Special attention should be given to ensure the quality and portability of the plug-in of eCHEM (as described in the scenario below).

1.3 Description of the timing of the tasks (e.g. definition of iterations, etc.).

²¹ See footnote 20

1.4 Description of the project organization, i.e. description of the structure of the different teams participating in the project, approach to ensure effective interaction and collaboration among the teams (including both the teams of the Contractor and of the Agency).

1.5 Description of the resource plan²². The resource plan should include the estimation of person days of the contractor's resources per profile (as listed in section 4.3) per work package. The sum of all person days of the contractor's resources should be equal to the number of the person days as indicated in the section "Effort of contractor" of the scenario below.

Special attention should be given to ensure that the project team will have the necessary skills to successfully implement the requirements related to the portability of the plug-in of eCHEM (as described in the scenario below).

1.6 The infrastructure plan (regarding the IT environments to be built both at the Agency and at the Contractor's premises), including also information about

- what environments will be built and for which purpose
- how the transfer of components among different environments (e.g. from a test to the production environment) will be achieved
- infrastructure implementation schedule

Special attention should be given to tailor the infrastructure plan to ensure effective support in production in parallel to the effective execution of the other project activities.

The structure/layout of the project plan document is to be defined by the Tenderer.

The proposed project plan must not be more than 25 A4 pages long (a paper sheet filled in with content in both sides is considered as 2 pages and not as one page), written with Arial font, font size of 10.

Scenario

This section contains a scenario that the Tenderer is required to consider and provide a proposal for a project plan. This scenario will be used to assess the tenders during the evaluation. It does not necessarily mean that the tasks mentioned in the scenario will be requested by the Agency in one of the specific contracts. The scenario is imaginary and the assumptions made do not necessarily reflect the reality.

It is noted that the scenario concerns all three lots, except where it is explicitly clarified that it refers to a specific lot.

Objective

The objective is to implement the version 2.0 of the IT system eCHEM, while in parallel supporting in production the existing version of eCHEM (v1.0).

Background information

eCHEM is a web-based IT system that allows the companies in the Member States to issue to ECHA their dossiers describing the process they follow to assess the properties of the chemical substances they use in their products.

The companies are obliged to comply with specific rules imposed by the related EU regulations.

²² See footnote 20

The implementation of the first version of eCHEM (v1.0) was assigned to Contractor X, who developed the system at his premises.

eCHEM v1.0 was released in production in January 2011. Since then, the system is supported in production by Contractor X, who provides services remotely from his premises (e.g. to deliver patches that correct bugs identified in production).

Now there is a need to implement the next version of eCHEM (v2.0), which

a. (for all lots) will allow the companies to submit their dossiers according to the updated related EU regulations (which require the companies to submit additional information)

b. **for lot 3 only**: will include a new plug-in component that the companies will be able to download and install locally in order to preview and check their dossier before it is submitted to ECHA (through the main eCHEM system). This plug-in is foreseen to operate on different user environments: Win32, Win64, Oracle DB and PostgreSQL).

The data submitted by the companies using eCHEM are highly confidential and as such ensuring high security of eCHEM is critical.

The Contractor who will undertake the development of eCHEM v2.0 is required to follow the principles of an agile methodology for the execution of the project.

ECHA is a dynamic environment; priorities and requirements are adjusted frequently in order to respond to shifts in the external and internal priorities and requirements; As such, the project management methodology needs to be able to respond to emergencies, changes in requirements and shifts in short term (1 to 3 months) development priorities.

Tasks

The contractor is required to provide services for the completion of the following tasks:

- **Task 1:** Collaborating with the Agency and Contractor X in order to build up the necessary knowledge and technical capacity and infrastructure to ensure smooth continuation of the work after Contractor X shifts out of the project (concerning both the implementation for eCHEM v2.0 and the support of eCHEM v1.0 in production).
- **Task 2:** Performing business analysis and specifying the business requirements that will be implemented in eCHEM v2.0.
- **Task 3:** Designing and developing the software components required for eCHEM v2.0 and integrating them into the existing versions of eCHEM v1.0.
- **Task 4:** Performing necessary testing to ensure delivery of results at the expected quality (and in accordance with the specified functional and non functional specifications).
- **Task 5:** Deploying eCHEM v2.0 in production.
- **Task 6:** Supporting eCHEM v1.0 in production during the whole duration of the project for implementing eCHEM v2.0.

Project Management methodology

The methodology to be used for project management should be based on Agile principles.

Duration of project

12 months (from 02/2012 until 02/2013)

Size and composition of the team of the Agency

Lot 1:

The team of the Agency that will participate in the project consists of 12 persons. This team includes the following profiles: Project Manager, Business Analysts, Quality Manager, Information System Testers.

Lot 2:

The team of the Agency that will participate in the project consists of 3 persons. This team includes the following profiles: Project Manager, Business Analyst, Information System Tester.

Lot 3:

The team of the Agency that will participate in the project consists of 6 persons. This team includes the following profiles: Project Manager, Business Analysts, Quality Manager, Information System Testers.

Effort of contractor

Lot 1: 4400 person days

Lot 2: 1500 person days

Lot 3: 2200 person days

Form of contract

Time and means at contractor's premises

3.3.2.2 AW2. Quality of the proposal for the delivery of the services in terms service, staff and contract management in view of the objectives of the Call for Tenders (30 points)

For the purpose of the evaluation of the offers, tenderers must provide a document describing their understanding of the context of this Call for Tenders and their approach to ensure a successful execution of the framework contract. Particular attention should be paid in the description of:

(a) how the quality and continuity of services will be achieved over the duration of the framework contract, e.g.

- how competence will be maintained?
- how will the Tenderer cope with the human resources turnover?
- how will the Tenderer complement own resources with third party resources in case of unavailability of own staff?
- how relevant is the Tenderer's existing competence (based on the section 4) and how possible lack of competence will be dealt with?
- which operational and performance criteria the Tenderer establishes for the level and quality of the services provided and to which penalties he commits to for failures in fulfilling the committed level of service
- how will the Tenderer manage exceptions and issues, raised during a specific contract, which put in risk the successful delivery of services and/or successful completion of the deliverables?

(b) how will the framework contract management be executed to ensure close monitoring, high level of interaction (as necessary) and successful execution of the specific contracts, e.g.

- what will the relevant organisation be like?
- how good communication at all levels will be achieved?
- what controls will be established to ensure successful execution of the framework contract?
- what will be the approach for risk management?

The Tenderers should observe that proposals submitted for this Tender will be binding in the subsequent delivery of services by the selected contractor.

3.3.2.3 AW3. Readability and comprehensiveness (20 points)

The submitted Tender should be clear, concise and well structured in accordance with the section 2.3

3.3.2.4 Financial Award criterion

Tenderers must use the template in Annex [5.6](#) to submit the financial bid. The financial award criterion considers the overall weighted price, which is calculated factoring in the price per profile and per place of performance. Annex [5.7](#) contains the details about how the overall weighted price is calculated.

3.4 Information for Tenderers

The Agency will inform Tenderers of decisions reached concerning the award of the contract, including the grounds for any decision not to award a contract or to recommence the procedure. If a written request is received, the Agency will inform all rejected Tenderers of the reasons for their rejection and all Tenderers submitting an admissible tender of the characteristics and relative advantages of the selected Tender and the name of the successful Tenderer.

However, certain information may be withheld where its release would impede law enforcement or otherwise be contrary to the public interest, or would prejudice the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.

3.5 Award of the contract

The procurement procedure is concluded by a contract signed by the parties. In this case, the General Terms and Conditions applicable to framework service contracts referred to above shall apply. After the period of validity of the Tender has expired, conclusion of the contract shall be subject to the Tender's agreement in writing.

The Agency shall not sign framework contract with the successful Tenderer until a standstill period of 14 calendar days has elapsed, running from the day after the simultaneous dispatch of the award decision and decisions to reject.

After the award, during standstill period, the Agency will request to the Tenderer proposed for award the evidence on exclusion criteria defined in section [3.1.3](#). If this evidence was not provided or proved to be unsatisfactory the Agency reserves the right to cancel the award procedure or to change the award decision to the benefit of the next best ranked Tender on condition that he satisfies with the provision of the evidence on exclusion.

3.6 Data protection

Any personal data included in the Contract shall be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Such data shall be processed solely for the purposes of the performance, management and monitoring of the Contract by the entity referred to in Article 1.6 acting as data controller without prejudice to possible transmission to the bodies charged with monitoring or inspection task in application of Union law.

4 TECHNICAL SPECIFICATIONS

4.1 Objectives

The objective of the contract is to provide services to

- a. develop further and support in production the existing ECHA IT systems REACH-IT, IUCLID, DISSEMINATION, eCHEMPORTAL, RIPE, ODYSSEY, CHESAR
- b. implement and support in production the new ECHA IT systems that will be built in order to support the processes regarding PIC and BIOCIDES regulations.
- c. implement, enhance and support in production new IT systems (based on the needs of the Agency)

Services will be provided for the following 3 lots:

- Lot 1: creation and/or further development and/or support of
 - REACH-IT
 - IT system(s) related to biocides regulations
 - IT system(s) related to PIC regulations
 - New IT systems (based on the needs of ECHA), related to the systems of this lot
- Lot 2: creation and/or further development and/or support of
 - RIPE
 - DISSEMINATION
 - eCHEMPORTAL
 - Other IT systems (based on the needs of ECHA), related to the systems of this lot
- Lot 3: creation and/or further development and/or support of
 - IUCLID
 - CHESAR
 - ODYSSEY
 - Other IT systems (based on the needs of ECHA), related to the systems of this lot

The following sections of these technical specification apply to all three lots (unless stated otherwise below).

4.2 Description of services/tasks

4.2.1 Introduction and background

Background information regarding the related IT systems can be found in section 1.2.

The selected tenderer will be required to provide a number of services related to

- quality assurance
- quality control
- project management
- business analysis
- requirements specification
- software design
- software development

- testing
- support of operation in production
- information security tasks as interwoven part of the above services

The above list of services is not exhaustive. Other services may be requested provided they are in the scope of the framework contract.

4.2.2 Current status of the related IT systems

A short description of the status of the systems for which the services will be provided follows:

REACH-IT (LOT 1)

It is the Agency's central IT system that provides support for REACH. It is used by companies in registering substances, by the Agency and Member States in evaluating dossiers and to help public in accessing information on chemicals. The REACH-IT system has been in operational use for a number of years, and is currently under active development. During the coming years, the foreseen tasks focus mostly on implementation of new submission type and processes, integration with other systems and improving user experience; in addition maintenance activities will continue to be vital for the quality of the service to the users of the system.

The development of the REACH-IT was assigned to the first Contractor on early 2007 to be performed at the Contractor's premises. After the completion of the contract in April 2011 the work for the continuation of the project was assigned to the second Contractor (based on the results of the relevant procurement process), who is currently working on further developing and maintaining the system. During the execution of the project and until now, the development and the testing regarding unit, integration, performance, security and functional testing has been performed at the Contractor's site, while the acceptance testing, final production and security testing are being performed at ECHA premises by ECHA personnel and intra muros consultants.

BIOCIDES (LOT 1)

Regarding biocides regulation, the exact scope of ECHA's role is still subject to the finalisation of the legislative process between the Commission, the Council and European Parliament. It is probable that ECHA will undertake the responsibility of receiving and checking applications for the approval of active substances and Union authorisation for biocidal products. Applications will be submitted through an IT portal (the Registry for Biocidal Products - R4BP).

The scientific evaluation will be taken care of by Member State Competent Authorities who submit an assessment report to ECHA. ECHA will have to build up a Biocidal Products Committee which will process these assessments. The Commission will then decide on the approval of the substances and/or grant authorisation. There will also be other processes: helpdesk, data sharing and dissemination (similar to REACH), the assessment of technical equivalence and the publishing of a list of applicants who wish to continue on the market.

R4BP is currently hosted and maintained by the Commission to serve the current Biocidal Products Directive (98/8/EEC). In preparation for its role under the new Biocidal Products Regulation, ECHA has started business analysis work in Q3 2011 to implement a new version of R4BP. The development of the new R4BP is planned to start in Q2 2012 and will be outsourced to an external Contractor. The target for ECHA site acceptance test and completion of the new R4BP is Q2 2013.

PIC (LOT 1)

Regarding the prior informed consent (PIC) regulation, the European Commission has set up a software tool, the EDEXIM database (European Database for the Export and Import of dangerous chemicals). EDEXIM database is currently hosted and maintained by the Commission to serve the current Regulation (EC) No 689/2008 of the European Parliament and the Council concerning the export and import of dangerous chemicals (EDEXIM is used by industry and national authorities for

submitting and processing notifications on the export of all chemicals listed in Annex I to the Regulation). In preparation for the changes including ECHA's involvement which will be introduced by the ongoing recast of the Regulation, the Commission has procured a contract to carry out business analysis work on the recast proposal of the PIC regulation (COM (2011) 245 final) and EDEXIM. The results are to support the development of a new version of EDEXIM (to support the administrative and operational parts of the regulation), which is to be hosted and maintained by ECHA. ECHA plans to outsource the development to an external Contractor in 2012.

RIPE (LOT 2)

It is an IT system that allows inspectors in the Member States to access selected data submitted to ECHA. It helps the inspectors to enforce the obligations of REACH, for example to check if a company has indeed registered a substance.

The design and requirements specification were driven by a team of internal staff during the second half of 2009 and first quarter of 2010. The implementation was assigned to a team of intra-muros consultants in autumn 2010. The first version of RIPE (v1.0) was released in production at the end of June 2011.

Currently the system is both supported in production since June 2011 and being further developed by a team of intra-muros consultants whose composition is being updated based on the needs and the running contracts. Work is planned until Q2/2012 to integrate additional functionality (e.g. additional reports) and revamp the user interface. The extension of the scope and the further development of the system beyond Q2/1012 will be discussed in Q1/2012.

DISSEMINATION (also called ECHA CHEM) (LOT 2)

It is implementing the aspects of the REACH regulation pertaining to making select data freely available on the internet. The project started in 2009, and launched the first release of its portal in December 2009, containing registration dossier data covering a few hundred substances. Now past the 1st REACH deadline in 2010, the portal currently contains information on most registered phase-in substances gathered from lead and individual submissions. Information from member dossiers will come to complete the picture in mid Q4 2011. In late 2010, preparation of a public Classification and Labelling inventory went underway, with a forecast launch Q4 2011. More REACH processes will be covered in the future in order to lay the groundwork for a unique point of access for substance information.

When the implementation started in January 2009 the project team was composed of internal staff and an off site contractor. Later on the team got reinforced with intra-muros and off site consultants. Currently, the system is operated in production and maintained by internal staff. In the near future, the internal support team is foreseen to be reinforced with intra-muros and offsite consultants for maintenance.

eCHEMPORTAL (LOT 2)

It is an IT tool that provides free public access to information on properties of chemicals and allows simultaneous searching of reports and datasets by chemical name and number and by chemical property.

The development of the systems was assigned to a Contractor in November 2008 to perform the work at the Contractor's premises. The contract was completed in November 2010. During the execution of the project, the testing has been solely performed at the Contractor's premises by a team of ECHA. eCHEMPORTAL has been deployed in production in December 2010.

The hosting of the system has been outsourced (outside ECHA premises) since the beginning of its lifetime in production (December 2010). Currently the application is in maintenance phase, but further development may be required in the future (e.g. to improve the search functionalities of the application).

IUCLID (LOT 3)

IUCLID 5 plays a central role in the IT environments of all organisations that have to cope with data submission requirements of REACH and other programmes (OECD HPV, EU Biocides and others). Industry stakeholders, EU Member States, the European Chemicals Agency (ECHA), and any other interested party obtain the IUCLID installation kit from the IUCLID 5 website; once installed, the local IUCLIDs are the essential tool to capture & store, submit, and exchange data on chemical substances stored according to the format of the OECD Harmonized Templates. IUCLID 5 was first released in June 2007. Maintenance and further development of IUCLID 5 are foreseen to happen in the coming years, as well as a revision of the software architecture leading to a new version release i.e. IUCLID 6.

The implementation of IUCLID 5 was first assigned to a Contractor in November 2004 to perform the development at the Contractor's premises. After the completion of the release of IUCLID 5.0 in June 2007, the progressive maintenance of the application was performed by the same Contractor until February 2011 with the release of IUCLID 5.3. Work for the continuation of the project (progressive maintenance) was then assigned to another Contractor, who is currently working on further developing the system at his own premises. During the execution of the project and until now, the testing is being performed both at JRC/ECHA premises by the business team units and by the main representatives of industry through the OECD IUCLID working group.

CHESAR (LOT 3)

It is an IT tool to support industry in preparing their Chemical Safety Assessment/Report which is to be submitted as part of their registration dossiers. It also supports the generation of exposure scenarios to be annexed to Safety Data Sheet. The requirements underpinning CHESAR were specified by internal staff of the Agency working in close collaboration with industry stakeholders. A team of intra-muros consultants began software development in 2009 and produced Chesar 1.0 and 1.1 in 2010 and Chesar 1.2 in 2011. Chesar 2 is now being developed (again by a team of intra-muros consultants) to better support the needs of registrants and to facilitate the extension of the application in the future. This version will then be expanded to provide additional functionalities. In particular the link with additional exposure estimation tools will have to be developed in the future.

At the start of 2012 it is foreseen that a new Contractor will take over responsibility for the development, testing and subsequent maintenance of Chesar 2. During the first part of 2012 the new Contractor will work on site at ECHA. They will then continue working off site. It is currently envisaged that at the beginning of 2013 another transition period will take place in which a new Contractor (based on the results of the relevant procurement process) will take over and continue development, testing and maintenance activities.

ODYSSEY (LOT 3)

It is a system supporting ECHA in dossier evaluation by providing efficient instructions, consistency and reporting tools for the assessment tasks carried out by the scientific officers.

The design and requirements specification were driven by a team mixing internal staff and intra-muros consultants during 2009 and first half of 2010. The proof of concept was made available in July 2009. The implementation was assigned to a team of intra-muros consultants in Spring 2010. Currently the system is both supported in production since February 2011 and being further developed by a team of intra-muros consultants whose composition is being updated based on the needs and the running contracts.

A number of new versions have been deployed in production. The release plan of the subsequent versions has been set until Q1/2013. Beyond this, there will be a need to support the system in production and any potential further development.

DATA INTEGRATION PROJECT (impacting systems of all lots)

In principle, the data being used by the existing afore mentioned systems, are currently largely organised based on the needs of the specific systems storing the information locally and not always providing ways to access it outside of their scope. However, the data hosted by the systems are interrelated in many ways and it should be possible to query and retrieve these data based on the internal relationships they possess within the REACH regulation. This process supposes the integration of data into a single “Enterprise Data Model” proposing a structure reflecting the main components used by the REACH regulation as well as their interaction.

To address this need, the Agency (in parallel to the ongoing work for supporting and/or enhancing the systems described in the previous paragraphs) has started the ECHA Data Integration project, whose objectives include:

- The definition and implementation of a new Enterprise Data Model (to address the issue described above)
- The definition and implementation of a Service Oriented Architecture (SOA) to provide an environment where data and functionalities are shared between systems.

This work will imply the revision of the afore mentioned systems in order to align their respective data models to the consolidated enterprise data model, including possible restructuring of their own data models and enhancing them to what is envisioned to be “the next generation” of these systems.

For each lot, the services to be provided by the Contractor will also cover the enhancements to move the systems (included in each lot) to this next generation.

4.2.3 Overview of current infrastructure situation

An indicative list of currently used products and infrastructure in the Agency is described hereafter²³. This list is not exhaustive and may evolve over time.

- Desktop-PC’s and Laptops: Microsoft Windows XP with Office 2003
- some Apple/Mac systems
- LAN: Cisco network equipment
- Perimeter defence: corporate-class firewall & reverse-proxy, IDS and VPN-systems
- Servers (Intel x86) with Microsoft Windows 2003 & 2008
- Servers (Intel x86): VMware ESX versions 3.5+4.0 running Windows 2003 & 2008
- Servers (Intel x86): VMware ESX running Linux (RedHat-EL, Ubuntu), Solaris 10
- Servers (SPARC): Solaris 10 on Sun Microsystems hardware
- SAN: Fibre Channel-based EMC CX4 SAN disk array systems
- SAN: Brocade 4100 and 5300 SAN switches

The present software infrastructure at the Agency includes:

- Messaging & Calendar: Microsoft Exchange 2007
- Microsoft Active Directory, with FIM in preparation
- Domain Controllers with DNS
- DHCP
- Ticket-system: BMC Remedy
- Databases: Oracle 10g & 11g
- Databases: Microsoft SQL-server 2005, 2008, 2008r2
- Data warehouse: Oracle Warehouse Builder 11g
- Front-office: MS Office 2003, MS Outlook 2003, MS Internet Explorer, Firefox
- Document, content management and workflows based on MOSS 2007

²³ Whenever a specific product name or trademark is mentioned and a sufficiently precise and fully intelligible description is not possible, such mention should be understood as referring to that product or its equivalent

- Document and workflow-applications based on EMC Documentum
- Web Content Management System (WCMS): *Liferay Enterprise Edition* (in prep.)
- Intranet: Microsoft SharePoint 2007 (MOSS)
- Web-server software: Apache, Oracle WebLogic 11g, Microsoft IIS
- (JEE)-Application-server software: Oracle WebLogic 11g, (Tomcat, JBOSS)
- Reporting: (SAP) Business Objects
- Software Distribution: LANdesk
- Service & system monitoring: NAGIOS, SunMC, Zenoss, PRTG, SNMP, Splunk,
- Financial system: ABAC²⁴ (Eur.Commission system built around SAP-core)
- Inventory system: ABAC-Assets (Eur.Commission system)
- HR application: “e-HR” (Sharepoint-based custom-development)

Programming languages, development methods and tools:

- C#, ASP.NET, Java, JSP, some Delphi
- UML, MSF, Agile Methods, SCRUM, RUP, TFS
- Jira, Confluence, Grinder, Selenium, Ant, Eclipse, Subversion
- HP QuickTestPro, HP Quality Center and related tools

Project methodology and tools:

- PRINCE2
- MS-Project

Architecture Development methodology:

- TOGAF (Enterprise Architecture Framework)

The production environments of the ECHA IT systems are (or will be) hosted by ECHA or by an external dedicated hosting contractor.

4.2.4 Software tools

For the implementation of this framework contract it is expected that some or all of the following software tools will be used:

Operating systems: Linux Red Hat, Windows XP, Windows 7, Windows Server 2003, Windows Server 2008

Data base: Oracle database Enterprise Edition, PostgreSQL,

Integration tools: Confluence, JIRA, Subversion, Fish Eye, Crucible, Bamboo, Maven, Jenkins/Hudson

Integrated Development Environment: Netbeans, Eclipse, Greenhopper

Application server: Tomcat, Weblogic

Quality related tools: HP QTP, FindBugs, JavaNCSS, Cobertura, Sonar, JUnit, PMD, CheckStyle,

Security related tools: Nikto2, OWASP LAPSE+, Burp Suite, WebScarab, Acunetix, OWASP ZAP

²⁴<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/05/94&format=HTML&aged=1&language=EN&guiLanguage=en>

Other tools: XML editors (e.g. XML Mind), JMeter, Ulbinder, jReport, PrimeFaces

During the execution of a specific contract, it is the Contractor's responsibility

- (a) to make available the licences for the afore-mentioned tools that may be required to be used for setting up the development and test IT environments in the Contractor's premises and
- (b) to install and configure the hardware and software needed in order to timely prepare the IT environments that must be setup at the Contractor's premises during the implementation of the specific contracts.

The Agency has the right to ask from the Contractor to use the latest version of any of the afore-mentioned tools.

The Agency has the right to ask from the Contractor to use any other Open Source software or other free software tools.

The Tenderers are required to provide a list of additional software tools that, if they are awarded a contract, they will make available free of charge for use in the IT environments built in their premises for the implementation of a specific contract.

For this purpose, the Tenderers are requested to use the template of annex [5.14](#)

4.2.5 Tasks/activities

The tasks/activities to be carried out by the Contractor as well as the relevant deliverables are described in the following sections. The description is indicative and non-exhaustive. The detailed list of the deliverables will be defined in the specific contracts.

In most cases, the implementation of a specific contract will be organised in three work streams (which can be partly overlapping):

- The takeover work stream
- The support, maintenance and development work stream
- The handover work stream

ECHA will also define the extent to which these work streams will be followed (e.g. if a new specific contract starts to continue the work of a previous specific contract of this framework contract, ECHA may decide to skip the takeover work stream if the project team of the Contractor is the same in both specific contracts).

During the execution of all work streams, the Contractor will ensure resource availability to cover the role of a Senior Architect (with skills of a Senior Architect, according to section [4.3.7](#)) that will work with ECHA staff to ensure the work being executed by the Contractor is in alignment with the overall enterprise architecture of the Agency. The details of the work of this Architect will be defined in a specific contract.

4.2.5.1 The takeover work stream

Some or all of the following aspects of the work will be provided by ECHA during this work stream

- Guidance to set up the development and testing environments
- Decisions on the development tool chain and development related repositories

- Existing documentation related to the services to be provided, if any (e.g. existing business specification requirements)
- Access to the ECHA's test system(s)
- Presentations and introductory sessions (subject to availability)
- The overall frame for quality and development methods, including security assurance

Some or all of the following tasks/activities are foreseen for the Contractor for this work stream

- Setting up and maintaining the development and testing environments, including a full tool chain
- Knowledge build-up regarding the system(s) for which services will be provided
- Planning

4.2.5.2 The support, maintenance and development work stream

This work stream will consist mostly of consecutive stages. Under T&M contracts, ECHA will constantly monitor the productivity rate of the Contractor. The start of a new stage is dependent on whether the productivity rate of the previous stage(s) was satisfactory.

Some or all of the following activities are foreseen for this work stream

- Project Management
 - Planning
 - Day-to-day management of the project team
 - Reporting
- Information systems studies in areas like
 - Architecture analysis
 - Requirements analysis
 - Information Systems quality
 - Information Systems hosting
 - Information Systems implementation and deployment study
 - Technical study and evaluation,
 - Software architecture study (also for future evolutions of the system(s)) and architecture design);
 - Information security studies and threat analysis activities
- Implementation of the system(s):
 - Architecture design
 - Business analysis
 - Specification of business requirements
 - Database model analysis, design, documentation and implementation.
 - Software development
 - Functional and non-functional tests (including also unit test, integration iest, security test and performance test) and other necessary tests to ensure adequate quality of the deliverables
 - Corrections to software faults
 - Software releasing and deployment activities
 - Any relevant documentation

All these tasks refer to creating new functionality and/or changing the existing functionality.

- Support and maintenance
 - Support for ECHA's specification work regarding software technical issues
 - Support for ECHA's testing efforts
 - Operational support for ECHA
 - Support for configuring the application and related software tools
 - Support for fine tuning different aspects of the application

- Support for resolving problems detected in production version of the REACH-IT; root cause analysis; fault correction; implementing, testing and releasing software fixes
- Documentation
 - Functional and technical documentation of the system
 - Documentation on the operations of the system

4.2.5.3 The handover work stream

Some or all of the following activities are foreseen for this work stream

- Preparing presentation and training material and giving presentations and training as needed.
- Transfer of the contents of any development time repositories to ECHA, such as issue tracking and Contractor test case repositories.
- Set-up of a fully working development and/or testing environment(s) at ECHA premises
- Any other activities that are related to knowledge transfer and handover of the development work, covering not only the software related assets, but also the development tool chain and the development time repositories.

4.2.6 Framework Management and Project Management principles

The Contractor shall provide the necessary manpower and support for the management and administration of the contract, the management of the resources in particular.

Regarding the project management principles, this section contains illustrative examples that are typical to ECHA projects. The actual project management principles will be defined in the level of the specific contracts.

4.2.6.1 Framework Management Organisation

A **steering group** shall be established for the duration of the framework contract. The steering group is responsible for overseeing the overall implementation of the framework contract and for addressing escalated issues regarding the framework contract and the specific contracts.

The steering group is represented by both parties and consists of the:

- ECHA ICT Executive:
- ECHA Framework Contract Manager:
- Contractor Executive:
- Contractor Framework Contract Manager:

When it is not possible for the steering group to agree unanimously on a specific issue, then the Agency will decide on the approach to be followed for addressing the issue.

A steering group will be created for each framework contract awarded.

For each specific contract, each party (ECHA and the Contractor) will appoint

- a Contract Manager and
- a Project Manager and/or a Service Manager (depending on the nature of the contract, i.e. a Project Manager is required for the execution of a project and a Service Manager is required for the provision of services for the maintenance and support of a system in production).

The roles of the Contract Manager, Project Manager, Service Manager may be combined and allocated to a single resource.

4.2.6.2 Meetings and travels

The work will include on site meetings (at ECHA) as necessary during the implementation of the framework contract, including

- Meetings related to introductions, knowledge build-up and the tool chain during the takeover period
- Meetings with ECHA business analysts and end users concerning business analysis and definition of the functionality to be developed
- Project management meetings, especially concerning the stages, for example selection of the stage content, and stage entry and stage meetings
- Quality assurance related meetings, including security assurance
- Meetings required for onsite support of production related operations
- Meetings to give training and facilitate knowledge build-up of the next project team during the handover period
- Other meetings to address technical issues

The chairmanship of the meetings lies with the Agency, and the responsibility for keeping the minutes for meetings between the Contractor and the Agency will be defined by the Agency.

ECHA foresees that in order to ensure efficient overall management of the specific contract a high level of interaction between the project manager, the project team and ECHA personnel may be required. To facilitate this, the project's key personnel (e.g. Analysts) and sufficient proportion of the other than key personnel in the project have to be able to travel frequently to ECHA premises, including extended stays of up to a few weeks at a time if required.

4.2.6.3 Deliverables

The Contractor will provide the required deliverables as they will be defined in the specific contracts implementing this framework contract and/or during the execution of these contracts.

This section provides an indicative, non-exhaustive list of the possible deliverables per work stream that may be requested from the Contractor.

4.2.6.3.1 Deliverables for the takeover work stream

- Development and testing environments
- Full implementation of those parts of tool chain and repositories for software development and quality assurance (which includes security assurance) that the Contractor is responsible of
- Overall planning of how to run the project in compliance with ECHA requirements
- When Time & Means or Quoted Time and Means contracting mode is used, activity reports showing the amount of time worked per task for each day for each person. The activity report is to be delivered weekly.
- Weekly progress reports showing the overall situation of the completed and remaining work
- Any other documentation related to the tasks of this work stream

4.2.6.3.2 Deliverables for support, maintenance and development work stream

- Software code and scripts developed in all architectural tiers (e.g. presentation tier, business tier, database tier)
- Test cases and test scripts
- Threat modelling and analysis reports as decided by ECHA
- Documentation showing the selected deliverables for a stage (with jointly agreed estimates of work amounts)
- Documentation showing the overall situation of the completed and remaining work for the stage.
- The installable, testable development software release (this covers not only the source code but also other related software and documentation assets, for example release documentation, performance testing tools and other testing, deployment and configuration related tools, fixes-patches to the production software.
- Test plans, test cases and the documented test results (with test coverage). Security assurance is part of the standard testing scope, and security test plans, test cases and the documented test results will be reported as a separate sub area of the testing.
- Quality report referring to source code quality, source code documentation, unit tests success rate, unit test source code coverage, functional testing coverage and success rates.
- Up-to-date product log showing the functionality that is ready for implementation
- Functional and technical software documentation of the system updated with the changes resulting from the work in the stage.
- When T&M contracting mode is used, activity reports showing the amount of time worked per task for each day for each person. The activity report is to be delivered weekly.
- Any other documentation related to the tasks of this work stream

4.2.6.3.3 Deliverables for handover work stream

- Up-to-date version of all documentation produced in the previous work streams.
- Up-to-date training material
- Training sessions
- Fully working development environment at ECHA premises
- Fully transferred software assets to ECHA
- Fully transferred contents of the repositories used during development time to ECHA (including test plans, test cases, defect reports and test reports)
- When Time & Means or Quoted Time and Means contracting mode is used, activity reports showing the amount of time worked per task for each day for each person. The activity report is to be delivered weekly.
- When Time & Means or Quoted Time and Means contracting mode is used, weekly progress reports showing the overall situation of the completed and remaining work
- Any other documentation related to the tasks of this work stream

4.2.6.3.4 Acceptance procedure

If not specified otherwise in a specific contract or Order Form, the following acceptance procedures will be applicable for **software deliverables**.

1. Acceptance Testing

Acceptance Testing activities: the Agency will run the test cases specified for the Acceptance Testing. The Contractor shall support and provide assistance to the Agency's personnel for the execution of the tests.

Acceptance Testing closure: The Acceptance Testing is under the responsibility of the Agency and may be repeated until the software attains the acceptance criteria. A technical meeting where the results are presented and discussed marks the end of each Acceptance Testing. Based on the

outcome of the tests, the Agency will draft a Acceptance Testing report and decide whether the software under test can be accepted as is or can be accepted with reservations (which will be implemented in future releases of the application) or cannot be accepted. In the latter case, the changes will need to be implemented and a new Acceptance Testing cycle will be planned.

2. Acceptance test pass / fail criteria

Each test shall only have been deemed to be successful if the actual result matches exactly the expected result specified in the acceptance test script document. If this is not the case, the tester will raise an issue and report that the test failed. Unless specified otherwise in the specific contracts or order forms, the following number of defects that can be accepted and their criticality shall apply:

- When one critical issue is raised during the Acceptance Testing, the Acceptance Testing may be interrupted and the software may be rejected.
- When more than three major issues are raised during the Acceptance Testing, the Acceptance Testing may be interrupted and the software may be rejected.
- When more than 7 minor issues are raised during the Acceptance Testing, the Acceptance Testing may be interrupted and the software may be rejected.

A **critical issue** is: a defect that prevents the user to use the software for its purpose.

A **major issue** is: a defect that will prevent the user to use one or more functionalities of the software.

A **minor issue** is: a defect that will not prevent the user to use any functionality. However the implementation of the functionality is considered faulty and requires a modification.

3. Decision on Acceptance

The decision of the Agency on acceptance of software is based on the Acceptance Testing report produced by the Agency.

4. Acceptance phases

Provisional acceptance procedure:

During this phase, the procedure defined in points 1 and 2 above is applicable during the course of the project for deliverables under each specific contract and order form.

Final acceptance:

Although some deliverables may be accepted within a specific contract to allow project subsequent steps to be executed, the Agency's aim is to perform a final acceptance of all deliverables as a whole at the end of the project, the rationale being alignment and consistency of all deliverables resulting from further development in subsequent specific contracts. While there may be a final subtask acceptance, which would relate to the acceptance of the "beta-version", there would be a subsequent final acceptance at the end of the project. A provisionally accepted deliverable may be rejected during final acceptance of all deliverables. In such case, the "provisional" acceptance procedure must reapply to the deliverable and if satisfactory, another final acceptance procedure must be called. If after three attempts at acceptance, the software still fails to meet the terms of the specific contract, the Agency shall have the following options:

- To require the Contractor to supply, without charge, a replacement or additional set of software;
- To accept and retain part of the software, at a reduced price agreed between the Agency and the Contractor;
- To refuse the software and cancel the specific contract on reimbursement of sums unduly paid.

In the case the tests have been satisfactory, the Agency shall deliver a certificate of acceptance that shows the acceptance date and mentions any reservations it may have regarding the services.

After final acceptance a warranty²⁵ as specified in section [4.2.6.4](#) applies.

If not specified otherwise in a specific contract or order form, the **procedure for accepting the non-software deliverables** will be as follows.

A review cycle of T1/T2/T3/T4 will apply, where:

- T1 refers to the number of working days needed by the Agency to review the deliverable and provide the Contractor with comments on the deliverable.
- T2 refers to the number of working days allocated to the Contractor to provide its position to the comments raised by the Agency. This position will be flagged by the Agency using the following status:
 - "To be implemented"
 - "To be discussed"
 - "No action" with the appropriate justification. "No action" refers to comments that do not impose any action to be taken by the Contractor.

Comments for which the position of Contractor is "To be discussed" or for which the Agency does not agree with the given position will be discussed during a review meeting. A meeting decision ("No Action" or "To be implemented") will be made and recorded in the meeting minutes.

- T3 refers to the number of working days allocated to the Contractor to implement the meeting decisions and release an updated version of the deliverable.
- T4 refers to the number of working days needed by the Agency to verify the correct implementation of the reviewers' remarks.

The Contractor must take into account the expected acceptance time when planning the project deliverables.

The Agency can reject a document by interrupting the review cycle when there is evidence that the quality of the deliverable is too low or when there is evidence that the objective of the document is missed.

No document is accepted by default. When the responsibility of a delay in the review process is clearly identified on the Agency side, the Contractor must alert the Agency.

After T4, the Agency will accept the deliverable only when all meeting decisions have been implemented successfully. In any other situation the Agency may reject the deliverable or ask the Contractor to resume from T3.

The default review cycle for a non software related deliverable is as follows:

- T1: 10 working days
- T2: 5 working days
- T3: 5 working days
- T4: 5 working days

Following final acceptance, the Agency will issue a Certificate of Acceptance.

The Contractor shall be responsible to maintain the relevant system documentation up-to-date after their acceptance. This is particularly important during the maintenance and operation of the delivered products (the latter stands in case the Contractor is assigned through a specific contract work related to maintenance and operation support of a system).

4.2.6.4 Warranty

The Contractor shall guarantee:

²⁵ See also Article I.14 of the draft Framework Service Contract in section [5.2](#)

(i) To deliver services in a professional way a reasonable person would do in similar circumstances and in accordance with generally accepted standards and practices for similar services, as provided by Art. I.15 of the Framework Contract;

(ii) The results of deliverables from services provided will continue to meet the Technical Specifications;

(iii) The software deliverables will be materially error free for a period of six (6) months after acceptance and after each installation of an upgrade. The warranty period is extended by the sum of the recovery times for all critical and major issues, where ECHA cannot use the software deliverable during the warranty period. After the warranty period, the Contractor is obliged to provide software maintenance for the period of execution of tasks under the Framework Contract. Such service shall be subject to one or several specific contract(s) under this Framework Contract;

(iv) The staff will continue to meet the agreed qualification with respect to training, expertise and experience for the duration of the Framework Contract;

(v) The services and deliverables provided on the basis of this Framework Contract and their use by ECHA shall not infringe the intellectual property rights of others.

4.3 Profiles

For the implementation of the specific contracts under this framework contract, a part or all of the following roles will be required:

- a. Project Manager (Senior and Junior)
- b. Quality Consultant
- c. Security Consultant (Senior and Junior)
- d. Analyst (Senior and Junior)
- e. Developer (Senior and Junior)
- f. Information System Tester
- g. Architect (Senior and Junior)
- h. Web Designer-Developer
- i. Technical Writer

The minimum requirements for the profile of each role are described below.

For all profiles, a B2 level (according to Annex [5.10](#)) on the knowledge of the English language is required.

4.3.1 Project Manager (Senior and Junior)

<i>Education</i>	<ul style="list-style-type: none">○ University degree, in a relevant subject.
<i>Knowledge and skills</i>	<ul style="list-style-type: none">○ Project management.○ Usage of project management tool(s) and methodology(-ies).○ Good English language skills (at least of level C1 in understanding and in speaking and in writing – level as described in Annex 5.10)○ Capability of integration in an international/multi-cultural environment
<i>Experience</i>	<ul style="list-style-type: none">○ Senior: Minimum 7 years in IT of which minimum 5 years experience in project management of computer software

<i>Nature of the tasks</i>	<ul style="list-style-type: none"> construction. ○ Junior: Minimum 5 years in IT of which minimum 3 years experience in project management of computer software construction. ○ Practical hands-on experience with most stages of the system development life-cycle is desirable. ○ Senior: Minimum 2 years of experience working in project(s) following the agile methodology for software development. ○ Junior: Minimum 1 year of experience working in project(s) following the agile methodology for software development. ○ Experience with quality procedures. ○ Project management including proposals for project strategies, planning, definition of tasks and deliverables, review of project deliverables, quality control, risk analysis and management, status reports, problem reporting and management systems, follow up and organisation. ○ Guide sub-contractors in charge of project activities and review their deliverables. ○ Participate in functional and technical working groups and progress meetings. ○ Estimate costs, timescales and resource requirements for the successful completion of each project to agreed terms of reference. ○ Prepare and maintain project and quality plans and tracks activities against the plan, provide regular and accurate reports. ○ Monitor costs, timescales and resources used, and take action where these deviate from agreed tolerances. Ensure that delivered systems are implemented within these criteria. ○ Manage the change control procedure gaining agreement for revisions to the project from project sponsors. ○ Provide effective leadership for the project team ensuring that team members are motivated and constantly developing their skills and experience. ○ Any other task related to project management
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4.3.2 Quality Consultant

<i>Education</i>	<ul style="list-style-type: none"> ○ University degree, in a relevant subject.
<i>Knowledge and skills</i>	<ul style="list-style-type: none"> ○ Capability of integration in an international/multi-cultural environment ○ Capability of applying formal quality standards in the IT environment. ○ Quality management ○ Quality assurance of IT projects. ○ Good English language skills (at least of level B2 in understanding and in speaking and in writing – level as described in Annex 5.10)
<i>Experience</i>	<ul style="list-style-type: none"> ○ Minimum 5 years experience in IT Quality Assurance.
<i>Nature of the tasks</i>	<ul style="list-style-type: none"> ○ Applying software quality assurance principles throughout the project life cycle. ○ Preparing necessary quality plans, establishing quality indicators for measuring product and process quality ○ Performing necessary reviews to monitor key quality indicators ○ Providing necessary quality reports in a timely manner ○ Supporting ECHA's overall IT Quality Improvement efforts as needed ○ Assistance and support on service level agreements or other quality documents associated with information system projects.

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- Coaching on quality assurance regarding information systems and IT processes.
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4.3.3 Security Consultant (Senior and Junior)

<i>Education</i>	○ University degree, in a relevant subject.
<i>Knowledge and skills</i>	○ Good English language skills (at least of level B2 in understanding and in speaking and in writing – level as described in Annex 5.10) ○ Capability of integration in an international/multi-cultural environment
<i>Experience</i>	○ IT security including security of web applications ○ Senior: Minimum 8 years in IT, of which minimum 5 years experience in technical consulting in security aspects for large scale IT systems, including web applications, preferably within a high security environment. ○ Junior: Minimum 5 years in IT, of which minimum 3 years experience in technical consulting in security aspects for large scale IT systems, including web applications, preferably within a high security environment.
<i>Nature of the tasks</i>	○ Consultancy studies in the analysis and application of security regarding information systems. ○ Provide expertise in the security of information systems. ○ Organise and perform IT security testing ○ Technical evaluations of security requirements and measures. ○ Carrying out security audits and IT processes security assessments.

4.3.4 Analyst (Senior and Junior)

<i>Education</i>	○ University degree, in a relevant subject.
<i>Knowledge and skills</i>	○ Ability to analyse document management and workflow requirements. ○ Good English language skills (at least of level B2 in understanding and in speaking and in writing – level as described in Annex 5.10) ○ Capability of integration in an international/multi-cultural environment
<i>Experience</i>	○ Senior: Minimum 5 years in IT, including 4 years working as an analyst in business and process analysis ○ Junior: Minimum 3 years in IT, including 2 years working as an analyst in business and process analysis
<i>Nature of the tasks</i>	○ Interview staff, management team and other stakeholders. ○ Carrying out research and data collection and conduct analysis. ○ Running focus groups and facilitating workshops. ○ Preparing proposals/presentations. ○ Preparing and documenting requirements specifications ○ Analysis and authoring of requirements and design of new information systems. ○ Data analysis, data modelling, document management workflow analysis, business analysis ○ Cost/benefit analyses.

4.3.5 Developer (Senior and Junior)

<i>Education</i>	<ul style="list-style-type: none"> ○ Successful training in informatics by a competent institute
<i>Knowledge and skills</i>	<ul style="list-style-type: none"> ○ Capability of integration in an international/multi-cultural environment ○ Good English language skills (at least of level B2 in understanding and in speaking and in writing – level as described in Annex 5.10)
<i>Experience</i>	<ul style="list-style-type: none"> ○ Senior: Minimum 5 years experience in software development. ○ Junior: Minimum 2 years experience in software development. ○ For Senior role, at least 3 years of programming falling into the following range: <ul style="list-style-type: none"> ● Databases: Oracle, Microsoft SQL server ● Programming languages, methods and tools: Java (J2EE), PHP, UML, MSF, Agile, Jira, Confluence, JSP, Grinder, Selenium, Ant, Eclipse, Subversion ● Web servers: Apache Tomcat, Oracle WebLogic, Microsoft IIS ● Collaborative platform, Intranet: Microsoft SharePoint ○ For Junior role, practical knowledge into the range specified above is required. ○ At least 1 years of experience with multi-user SQL-based databases. ○ Experience in business analysis is desirable.
<i>Nature of the tasks</i>	<ul style="list-style-type: none"> ○ Prototyping. ○ Develop/maintain programs that reflect the specifications based on user requirements. ○ Configuration of workflows. ○ Assist with the testing of such programs together with the other programs making up the system. ○ Produce the relevant technical documentation and documentation for the support team. ○ Assist with training the users of the system. ○ Assist with evaluating and testing products delivered by external system suppliers to ensure that they conform to the Agency requirements. ○ Participation in meetings with the users. ○ Support the work for installing/configuring the software required in the environments of the project ○ Support troubleshooting activities in production environment

4.3.6 Information System Tester

<i>Education</i>	<ul style="list-style-type: none"> ○ Successful training in informatics by a competent institute
<i>Knowledge and skills</i>	<ul style="list-style-type: none"> ○ Capability of integration in an international/multicultural environment ○ Strong knowledge of testing technologies and tools and test automation.. ○ Ability to grasp business scenarios related to complex software applications quickly ○ Some familiarity with test planning and coordination ○ Good English language skills (at least of level B2 in understanding and in speaking and in writing – level as described in Annex 5.10)
<i>Experience</i>	<ul style="list-style-type: none"> ○ Minimum 3 years of IT system testing experience.
<i>Nature of the tasks</i>	<ul style="list-style-type: none"> ○ Creation and execution of test cases

-
- Development and execution of test automation scripts
 - Test and defect reporting
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4.3.7 Architect (Senior and Junior)

<i>Education</i>	<ul style="list-style-type: none"> ○ Senior: University degree with minimum 6 years experience in IT OR non university degree with minimum 12 years experience in IT. ○ Junior: University degree with minimum 4 years experience in IT OR non university degree with minimum 8 years experience in IT.
<i>Knowledge and skills</i>	<ul style="list-style-type: none"> ○ In depth knowledge of enterprise architecture. ○ Good English language skills (at least of level B2 in understanding and in speaking and in writing – level as described in Annex 5.10) ○ Capability of working in an international/multicultural environment.
<i>Experience</i>	<ul style="list-style-type: none"> ○ Senior: Minimum 5 years in IT architecture consulting. ○ Junior: Minimum 2 years in IT architecture consulting. ○ Senior: Minimum 5 years in enterprise architecture models and tools. ○ Junior: Minimum 2 years in enterprise architecture models and tools.
<i>Nature of the tasks</i>	<ul style="list-style-type: none"> ○ IS costs/benefits analysis. ○ Analysis, Development and enhancement of enterprise architecture ○ Analysis of business processes. ○ Analysis of IT systems portfolio. ○ Analysis of data flow analysis. ○ Participating into the implementation of the enterprise architecture.

4.3.8 Web Designer-Developer

Requirements as a senior analyst-programmer and in addition:

<i>Education</i>	<ul style="list-style-type: none"> ○ Successful training in informatics by a competent institute
<i>Knowledge and skills</i>	<ul style="list-style-type: none"> ○ Good English language skills (at least of level B2 in understanding and in speaking and in writing – level as described in Annex 5.10). ○ Capability of integration in an international/multi-cultural environment.
<i>Experience</i>	<ul style="list-style-type: none"> ○ Minimum 2 years of web development experience. ○ Minimum 1 year of programming experience falling into the following range: <ul style="list-style-type: none"> ● Databases: Oracle, Microsoft SQL server ● Programming languages, methods and tools: Java (J2EE), PHP, UML, MSF, Agile, TFS, Jira, Confluence, JSP, Grinder, Selenium, Ant, Eclipse, Subversion ● Web servers: Apache Tomcat, Oracle WebLogic, Microsoft IIS ● Collaborative platform, Intranet: Microsoft SharePoint
<i>Nature of the tasks</i>	<ul style="list-style-type: none"> ○ Definition of the logical and physical structure of websites and web pages. ○ Definition of navigation methods. ○ Definition and integration of the various required technological

-
- components.
 - Development of complex web-enabled applications, from front-end to back-end systems.
 - Creation of distributed applications for internet/intranet environments.
-

4.3.9 Technical Writer

<i>Education</i>	<ul style="list-style-type: none">○ University degree, in a relevant subject.
<i>Knowledge and skills</i>	<ul style="list-style-type: none">○ Capability of integration in an international/multi-cultural environment.○ Able to use the office automation tools used in the Agency (MS Office).○ Good English language skills (at least of level C1 in understanding and in speaking and in writing – level as described in Annex 5.10)
<i>Experience</i>	<ul style="list-style-type: none">○ Minimum 2 years experience in IT.○ Minimum 2 years of documentation authoring experience, of which 1 year of technical documentation authoring.○ Minimum 2 years of experience with the office automation tools used in the Agency (MS Office).
<i>Nature of the tasks</i>	<ul style="list-style-type: none">○ Writing technical documentation regarding information systems.○ Preparation of end user training material and user manuals.

5 ANNEXES

5.1 Exclusion criteria form

Exclusion criteria form (Invitation to Tender No ECHA/2011/103). *This form is mandatory.*

The undersigned [*name of the signatory of this form, to be completed*]:

- in his/her own name (*if the economic operator is a natural person or in case of own declaration of a director or person with powers of representation, decision making or control over the economic operator²⁶*)
or
- representing (*if the economic operator is a legal person*)

official name in full (*only for legal person*):

official legal form (*only for legal person*):

official address in full:

VAT registration number:

declares that the company or organisation that he/she represents / he/she:

- a) is not bankrupt or being wound up, is not having its affairs administered by the courts, has not entered into an arrangement with creditors, has not suspended business activities, is not the subject of proceedings concerning those matters, and is not in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) has not been convicted of an offence concerning professional conduct by a judgment which has the force of *res judicata*;
- c) has not been guilty of grave professional misconduct proven by any means which the contracting authorities can justify;
- d) has fulfilled all its obligations relating to the payment of social security contributions and the payment of taxes in accordance with the legal provisions of the country in which it is established, with those of the country of the contracting authority and those of the country where the contract is to be carried out;
- e) has not been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
- f) is not a subject of the administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or failing to supply an information, or being declared to be in serious breach of his obligation under contract covered by the budget.

In addition, the undersigned declares on their honour:

- g) they have no conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties or any other relevant connection or shared interest;
- h) they will inform the contracting authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;
- i) they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;

²⁶ To be used depending on the national legislation of the country in which the candidate or Tender is established and where considered necessary by the contracting authority (see art. 134(4) of the Implementing Rules).

- j) they have not granted and will not grant, have not sought and will not seek, have not attempted and will not attempt to obtain, and have not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to award of the contract.
- k) that the information provided to the Agency within the context of this Invitation to Tender is accurate, sincere and complete.
- l) that in case of award of contract, they shall provide the evidence that they are not in any of the situations described in points a, b, d, e above.

For situations described in (a), (b) and (e), production of a recent extract from the judicial record is required or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. Where the Tenderer is a legal person and the national legislation of the country in which the Tenderer is established does not allow the provision of such documents for legal persons, the documents should be provided for natural persons, such as the company directors or any person with powers of representation, decision making or control in relation to the Tender.

For the situation described in point (d) above, recent certificates or letters issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the Tender is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions.

For any of the situations (a), (b), (d) or (e), where any document described in two paragraphs above is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.]

By signing this form, the undersigned acknowledges that they have been acquainted with the administrative and financial penalties described under art 133 and 134 b of the Implementing Rules (Commission Regulation 2342/2002 of 23/12/02), which may be applied if any of the declarations or information provided prove to be false.

Full name

Date

Signature

5.2 Draft Framework service contract



DRAFT FRAMEWORK SERVICE CONTRACT

CONTRACT NUMBER – ECHA/2011/103

The European Chemicals Agency (hereinafter referred to as “Agency”), represented for the purposes of the signature of this contract by Mr Geert Dancet, Executive Director,

of the one part,

and

[official name in full]

[official legal form]

[statutory registration number]

[official address in full]

[VAT registration number]

(hereinafter referred to as “the Contractor”²⁷), [represented for the purposes of the signature of this contract by [name in full and function,]]

of the other part,

HAVE AGREED

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

- Annex I**
- (a) General Conditions
 - (b) [Model Specific Contract] and [Model Order Form]

²⁷ In the case of a joint offer and provided the invitation to tender so specifies, the following clause should be added below the identification of the parties: “The parties identified above and hereinafter collectively referred to as ‘the Contractor’ shall be jointly and severally liable vis-à-vis the Agency for the performance of this contract”.

- Annex II** – Tender Specifications (Invitation to Tender No [complete] of [insert date])
- Annex III** – Contractor's Tender (No [complete] of [insert date])
- Annex IV** – Reimbursement of daily subsistence allowances
- Annex V** – Contract performance guarantee – Model performance guarantee
- Annex VI** – Contract pre-financing guarantee – Model pre-financing guarantee

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

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

Subject to the above, the several instruments forming part of the Contract are to be taken as mutually explanatory. Ambiguities or discrepancies within or between such parts shall be explained or rectified by a written instruction issued by the Agency, subject to the rights of the Contractor under Article I.9 should he dispute any such instruction.

I – Special Conditions

ARTICLE I.1 – SUBJECT

- I.1.1** The subject of the Contract is provision of IT services and of their related deliverables in accordance to Annex II.
- I.1.2** Signature of the Contract imposes no obligation on the Agency to purchase. Only implementation of the Contract through orders and specific contracts is binding on the Agency.
- I.1.3** Once implementation of the Contract has been asked or has commenced, the Contractor shall reply and execute the tasks in accordance with all terms and conditions of the Contract.
- I.1.4** The Contract does not confer on the Contractor any exclusive right to provide the services described in Annex II to the Agency.

ARTICLE I.2 – DURATION

- I.2.1** The Contract shall enter into force on the date on which it is signed by the last contracting party.
- I.2.2** Under no circumstances may implementation commence before the date on which the Contract enters into force. Provision of the services may under no circumstances begin before the date on which the order or specific contract enters into force.
- I.2.3** The Contract is concluded for a period of 24 (twenty four) months with effect from the date on which the Contract enters into force. This contractual period and all other periods specified in the Contract are calculated in calendar days unless otherwise indicated.
- I.2.4** The orders or specific contracts shall be returned signed before the Contract to which they refer expires.

The Contract shall continue to apply to such orders and specific contracts after its expiry, but no later than 6 (six) months.
- I.2.5** The Contract shall be renewed automatically up to two times, each time for a period of 24 (twenty four) months under the same conditions, unless written notification to the contrary is sent by one of the contracting parties and received by the other no later than 4 (four) months before the expiry date of the relevant contractual period. Renewal does not imply any modification or deferment of existing obligations.

ARTICLE I.3 –PRICES

- I.3.1** The prices of the services shall be as listed in Annex III.
- I.3.2** Prices shall be expressed in EUR.
- I.3.3** Prices shall be fixed and not subject to revision for implementation during the first year of duration of the Contract.

From the beginning of the second year of duration of the Contract, prices may be revised upwards or downwards each year, where such revision is requested by one of the contracting parties by registered letter no later than three months before the anniversary of the date on which it was signed. The Agency shall purchase on the basis of the prices in force on the date on which orders or specific contracts are signed. Such prices shall not be subject to revision.

This revision shall be determined by the trend in the harmonised consumer price index (MUICP) published by the Publications Office of the European Union in the Eurostat monthly bulletin at <http://www.ec.europa.eu/eurostat/>.

Revision shall be calculated in accordance with the following formula:

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

where:

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

- I.3.4.** In addition to the total price specified in each order form or specific contract, travel, subsistence and shipment expenses shall be reimbursed in accordance with Article II.18 up to a maximum amount determined in each Order Form or Specific Contract. The daily subsistence allowance referred to in Article II.18.4 (d) shall be determined in accordance with Annex IV.

ARTICLE I.4 – IMPLEMENTATION OF THE CONTRACT

Within a maximum of 20 calendar days of an order form or request for services being sent by the Agency to the Contractor, the Agency shall receive the completed order form or a specific tender, including an estimate of the resources to be allocated for its execution with particulars in support, duly signed and dated.

Within a maximum of 10 calendar days of a Specific Contract being sent by the Agency to the Contractor, the Agency shall receive it back, duly signed and dated.

The period allowed for the execution of the tasks shall start to run on the date indicated in the specific contract.

ARTICLE I.5 – PAYMENT PERIODS

- I.5.1** Payments under the Contract shall be made in accordance with Articles II.15 and II.16. Payments shall be executed only if the Contractor has fulfilled all his contractual obligations by the date on which the invoice is submitted.
- I.5.2** The terms of payment shall be specified for each specific contract or order form as indicated by the Agency in its request for offer for the respective specific Contract or order form.

ARTICLE I.6 – PERFORMANCE GUARANTEE

For a specific contract the Agency may request a performance guarantee for an amount not exceeding 10% of the total value of that specific contract. The guarantee shall be issued by a bank, an authorised financial institution or a third party in favour of the Agency at the time of signature of the specific contract.

In the event of default, defective performance or delay in the execution of the specific contract, the guarantee shall be forfeited in proportion to the extent of the damages caused to the Agency.

The performance guarantee shall be released after final acceptance of the services.

The performance guarantee shall cover performance of the specific contract in accordance with the terms set out in the specific contract, and in Annex II to this Contract.

ARTICLE I.7 – BANK ACCOUNT

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

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

ARTICLE I.8 – GENERAL ADMINISTRATIVE PROVISIONS

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

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

Communications shall be sent to the following addresses

Agency:

European Chemicals Agency
Directorate I – Information Systems
P.O. Box 400
FI-00121 Helsinki
Fax: +358 9 68618210
Email: [complete]

Contractor:

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

ARTICLE I.9 – APPLICABLE LAW AND SETTLEMENT OF DISPUTES

1.9.1 The Contract shall be governed by Union law, complemented, where necessary, by the national laws of Finland.

I.9.2 Any dispute between the parties resulting from the interpretation or application of the Contract which cannot be settled amicably shall be brought before the Helsinki district court.

ARTICLE I.10 – DATA PROTECTION

Any personal data included in the Contract shall be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Such data shall be processed solely for the purposes of the performance, management and monitoring of the Contract by the entity referred to in Article I.8 acting as data controller without prejudice to possible transmission to the bodies charged with monitoring or inspection task in application of Union law.

ARTICLE I.11 –USE OF PROPRIETARY SOFTWARE

I.11.1. Unless otherwise specified in Annex II or in the specific contracts, the Contractor is responsible for acquiring all software licences needed in connection with the provision of the services.

I.11.2 In order to provide the services, the Contractor may, subject to Annex II, use proprietary software of the Contractor or of a third party provided that the Contractor informs the Agency of any use of such software.

I.11.3.The Contractor shall inform the Agency of any use intellectual and industrial property rights of a third party, including IT-applications or code snippets, to be used in the performance of the Contract.

Prior permission from the Agency must be sought by the Contractor before such third party work will be incorporated with the deliverables.

The Contractor shall provide the Agency with the relevant legal documents demonstrating the scope of user rights granted to the Contractor by the third party right holder.

The Contractor shall not use in the performance of the Contract any software components so that any part of the deliverable becomes subject to an excluded license. An excluded license is one that requires, as a condition of use, modification or distribution, that

- a) the code be disclosed or distributed in source code form; or
- b) other third parties have the right to modify it.

ARTICLE I.12 - PATENTS, LICENCES AND INTELLECTUAL PROPERTY

I.12.1 The Contractor undertakes:

- not to allow any other party than the Contractor to copy any software owned by or licensed to the Agency, without prior written authorisation from the Agency;
- to use such software exclusively in the context of this Contract.
- to protect the Agency against all third-party actions for breach of copyright or other intellectual property rights which might arise out of this Contract, as set out in Article I.12.3.

I.12.2 The Contractor declares that it is the rightful owner of the intellectual rights to all deliverables supplied by virtue of this Contract, and that it is entitled to sell or transfer those rights to the Agency in accordance with the terms of Article II.10 of this Contract.

I.12.3 The Contractor shall at its own cost defend, indemnify and hold the Agency harmless against all claims, suits, actions and proceedings which are attributable to or based on the infringement or alleged infringement of intellectual property right or other right of a third party by the Agency's use of the services or utilization of any license, intellectual property right or other rights relating to the services under the Contract ("Claims"). The Contractor shall pay a) any and all compensation, liabilities, damages, costs and expenses relating to the Claims, as well as b) compensate to the Agency reasonable legal costs and other reasonable out-of-the-pocket expenses incurred by the Agency as a result of such Claims; c) undertake measures to make the software legally available to the Agency.

I.12.4 The Agency and the Contractor shall exchange all information on any industrial property right, copyright or other intellectual property right that could impede the performance of the Contract.

ARTICLE I.13 – OWNERSHIP AND TRANSFER OF THE INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS

In case of software developed on its behalf under this Contract, the Agency shall become the owner of its specifications, sources, documentation and test results.

Where industrial or intellectual property rights exist prior to the specific contract or order form being entered into, the Contractor shall establish a listing of such rights and communicate it to the Agency at the latest prior to the provision of the services.

Special conditions related to the ownership of the Deliverables and their transfer to the Agency

I.13.1 The "Deliverables" shall mean all the rights, results and related goods subject of this Framework Contract as specified in the Tender Specifications, in Annex II to this Framework Contract, including but not limited to video materials (such as interviews, documentaries, reportages, animations, coverage of live events), graphic designs and animations, web-based audiovisual content, multimedia formats, generic reports and documents.

I.13.2 The Contractor shall provide the Agency with the Deliverables as specified in the Annex II to this Framework Contract.

I.13.3 Any results or rights thereon, including copyright and other intellectual or industrial property rights, obtained in performance of the Contract, shall be owned solely by the Agency, which may use, publish, assign or transfer them as it sees fit, without geographical or other limitation, except where industrial or intellectual property rights exist prior to the Contract being entered into.

I.13.4. The Contractor warrants that he is the author of the Deliverables and/or that he has obtained all legal, valid and existing rights and permissions on the Deliverables from the original author, if the Contractor is not the author, the translator, the person inserting data, texts or other elements in the Deliverables, the graphic designer, the publisher, the editor, the developer, the photographer or any other rights holder necessary to assign all the rights to the Agency that are necessary for the Agency to use the Deliverables as described in the present Service Contract and its Annexes.

I.13.5. The Contractor shall transfer to the Agency all said rights on the Deliverables and shall warrants that the Agency has the rights, including but not expressly limited to the rights mentioned below, to

- use, re-use and edit the Deliverables, as a whole or parts of them
- translate and re-write the Deliverables in a different language or into a different form
- exploit the Deliverables

- modify the Deliverables, and in particular to cut, dub, insert meta data, subtitles, legends or other graphic, visual, audio or word elements
- license and sub-license the Deliverables
- distribute the Deliverables with or without modifications to them,
- distribute copies of the Deliverables
- display the Deliverables publicly
- put the Deliverables on the Internet
- broadcast (online or otherwise) the Deliverables
- communicate the Deliverables to the public by telecommunication, by electronic publication, by press information services, by downloadable and non-downloadable files, by communication with computer terminals, by sending of telegrams, messages and wire service, by electronic and non-electronic publications, or by any other media of expression now known or later developed
- reproduce the Deliverables by any technical procedure into paper, digital, electronic or non-electronic format
- prepare derivative works of the Deliverables
- store the Deliverables
- include the Deliverables in the indexes and databases worldwide
- extract audio files from the Deliverables
- compile or decompile the Deliverables
- as well as any other rights that are necessary for the Agency to use the Deliverables as described in the present Contract and its Annexes.

I.13.6. The Contractor grants to the Agency itself or on its behalf to its contractor and subcontractor (and to any EU-Institution, Agency and Body themselves or on their behalf to their contractors and subcontractors) the right to use name, likeness and biographical information of the Contractor in connection with the Deliverables and waives all rights generally known as moral rights in the Deliverables to the extent they can be waived, under any existing or future law or any jurisdiction.

I.13.7. The transfer of the rights and ownership becomes effective upon payment of the Deliverables by the Agency. The Deliverables remain the property of the Contractor until the payment is received. Until full payment of the amounts due, the Agency (and its contractor) is granted a non-exclusive, worldwide, royalty-free license related to the use of the Deliverables as described in Annex II to

- use and reuse the Deliverables, as a whole or parts of it;
- create derivative works based on the Deliverables
- copy, reproduce, translate, rewrite the Deliverables in a different language or into a different form, but has no right to distribute or publish the Deliverables publicly;
- modify, and in particular cut, dub, insert meta data, subtitles, legends or other graphic, visual, audio or word elements, but has no right to distribute or publish the Deliverables publicly;
- access to the source code and create derivative works based on the Deliverables, but has no right to distribute or publish the Deliverables or the derivative works publicly;
- copy, reproduce, distribute, display and perform the Deliverables, parts of them or derivative works based on the Deliverables in print format internally within the Agency and any European Union Institution, Agency and Body or electronically via a restricted-access internal website (e.g. intranet or non-publicly accessible LAN/WAN).

ARTICLE I.14 - DOCUMENTATION

I.14.1 The Contractor shall provide the Agency with all documentation, including the user manuals and documentation concerning the services and deliverables provided, necessary for the planning and the control by the Agency of the operations connected with the tasks referred to in Article I.1 of the Contract, and for the purpose of fulfilling the Contractor's obligations under Articles I.18.2 and I.19.

I.14.2 Thereafter, the Contractor shall provide to the Agency any update of the documentation provided.

I.14.3 The Contractor may, upon agreement of both parties, permit the Agency to reproduce all or part of the documentation provided, involving intellectual or industrial property rights not transferred to the Agency under I.13, for its internal needs directly connected with use by its personnel. The Agency shall ensure that any indication concerning the intellectual property rights appearing on the original copies is reproduced.

ARTICLE I.15 - QUALITY AND STANDARDS

I.15.1 The Contractor shall provide the services in accordance with technical norms, standards and procedures based on best professional practice in the informatics field. With respect to contract management, the Contractor shall provide the services in accordance with ISO 9001 or equivalent. Quality standards may be revised in line with market developments.

I.15.2 The Contractor warrants that software supplied or developed under the Contract will not fail to execute its programming instructions due to defects in materials and workmanship when properly installed and used on the device designated by the Contractor. It shall be devoid of any deliberate mechanism which leaves it under the Contractor's control after supply to the Agency. It shall meet the operating requirements, specifications and characteristics specified in the Contractor's documents or laid down in the Contract or specific contracts.

I.15.3 The software deliverables will be error free for a period of six (6) months after acceptance and after each installation of an upgrade or update. The warranty period is extended by the sum of the recovery times for all critical and major issues, where the Agency cannot use the software deliverable during the warranty period. After the warranty period, the Contractor is obliged to provide software maintenance for the period of execution of tasks under the Framework Contract. Such service shall be subject to one or several specific contracts under this Framework Contract;

I.15.4 Any deliverable provided by the Contractor under the Contract will be quality controlled by the Contractor, in the place of performance, before delivery. On the request of the Agency, the Contractor has to be in a position to show that the outcome of the quality control was positive.

I.15.5 The Contractor undertakes to comply with the above quality standards. Compliance with the standards shall be monitored by the Agency. In the event of non compliance with one or more of the standards over a sliding period of three (3) months, the Contractor shall submit an improvement plan. In the event of non compliance with one or more of the standards for six (6) months, consecutive or not, over a sliding period of twelve (12) months, a service whose quality has proved substandard may be withdrawn from the Contract, or the Contract may be terminated where service quality is substandard.

ARTICLE I.16 – CONFIDENTIALITY AND SECURITY

I.16.1 The Contractor may only utilise the information contained in the material encountered during the duration of the Contract and any specific contract (including any data on any Agency network)

for the purposes identified in the Contract. The Contractor shall take all practical steps to keep the material confidential and shall restrict access to the material to the Contractor's staff only.

The Contractor shall obtain from each member of his staff, in respect of Article II.4, a written undertaking that they will respect the confidentiality of any information brought to their attention in the performance of the tasks referred to in Article I.1. A copy of the undertaking shall be sent to the Agency.

I.16.2 Without prejudice to Articles I.12 and I.13 the Agency shall respect the confidentiality of documents and data when so requested by the Contractor.

I.16.3 The Contractor shall take all appropriate steps for each product to ensure that the data and the media upon which they are stored are safely preserved. The deliverables provided shall not contain any mechanism (for example viruses) which could compromise their proper operation and that of other products. The cost of repairing the damage caused by such a mechanism shall be borne by the Contractor.

I.16.4 The Contractor undertakes to inform the Agency in writing as soon as he has any knowledge of faults in his products that endanger the security of the configurations of which they form a part. The Contractor shall immediately take any measures necessary to restore the security of the configurations and correct the faults.

ARTICLE I.17 – INSURANCE OF CONTRACTOR'S LIABILITY

I.17.1 The Contractor shall be insured against all claims relating to its liabilities and activities under the Contract with a reputable insurance company. This insurance cover should be for a sum not less than 1 million EUR. In accordance with the terms of the insurance policy, compensation shall be paid to the Agency directly or to the Contractor that shall have an obligation to forward the compensation to the Agency in full. The Contractor's insurance obligations shall in no way limit or diminish its indemnification obligations or liability under the Contract.

I.17.2 The Contractor shall provide the required insurance coverage either by utilising its existing insurance policies or by acquiring new insurance policies for the purposes of this Contract only. The Contractor shall provide proof of insurance cover upon request by the Agency, within thirty (30) days of the signature of the Contract. A copy of the contract of insurance shall be given to the Agency without charge. Should the Contractor fail to provide this proof of insurance, the Agency shall be entitled, in conformity with article II.14.1(k), to terminate the Contract at the Contractor's expense and be entitled to damages and interest thereof.

I.17.3 Before the implementation of any change in the terms of the insurance contract referred to in paragraph 2 of this article, of its termination by the insurer, of its replacement by a new contract, of a change in insurer, or of any other change materially affecting the contract referred to in paragraph 2 of this article, the Contractor shall notify the Agency in advance in writing and request its consent. The Agency may offer its comments and may withhold its consent should it find that the change may result in the absence of the necessary insurance cover. In the event of the Contractor's failing to find insurance cover meeting the criteria of paragraph 1 of this article, the Agency shall be entitled to terminate the Contract, in conformity with Article II.14.1.(k).

I.17.4 In the event of the contract of insurance being terminated by the insurer, or the terms of the insurance being changed, such that the sum of the insurance cover referred to in paragraph 1 of this article is materially affected, the Contractor shall immediately notify the Agency of the fact. The Contractor shall then seek new insurance meeting the requirements of this article. Before accepting the new insurance policy, the Contractor shall advise the Agency and obtain its consent.

I.17.5 Should the Contractor fail to notify the Agency of any change in accordance with paragraphs 3 and 4 of this article, the Agency shall be entitled to terminate the Contract, in conformity with Article II.14.1(k), at the Contractor's expense. The Agency shall also be entitled to seek damages and interest thereof from the Contractor.

ARTICLE I.18 - OBLIGATION OF THE CONTRACTOR IN CASE OF TERMINATION OF THE CONTRACT

In case of termination of the Contract, the Contractor shall hand over the following items:

(1) Where the Agency is the rightful owner of the developed software, the Contractor shall hand over the specifications, sources and documentation, including access keys.

(2) Where the Agency has paid for maintenance of developed software, the Contractor shall hand over (immediately and without charge) the specifications, sources and documentation, including access keys, required by the Agency for the proper operation of the software, insofar as the Contractor has a legal right to do so.

ARTICLE I.19 – SPECIFIC PROVISION ON COLLABORATION WITH OTHER PARTIES DURING THE PHASE-OUT

At the end of the contractual period, and as an integral part of the services provision, the contractor shall, actively collaborate, by providing complete information and documentation on the services, with the future service provider and with the Agency, in order to minimise the costs and to guarantee the continuity of the services.

ARTICLE I.20 – TERMINATION BY EITHER CONTRACTING PARTY

Either contracting party may, of its own volition and without being required to pay compensation, terminate the Contract by serving a four-month formal prior notice. Should the Agency terminate the Contract, the Contractor shall only be entitled to payment corresponding to the services ordered before the termination date. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments. He shall draw up the documents required by the Special Conditions for the services rendered up to the date on which termination takes effect, within a period not exceeding sixty days from that date.

ARTICLE I.21 – CONTRACT CONCLUDED DURING STANDSTILL PERIOD

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

SIGNATURES

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

For the Agency,
[forename/surname/function]

signature[s]: _____

signature[s]: _____

Done at [.....], [date]

Done at [Helsinki], [date]

In duplicate in English.

I

ANNEX I A

II – GENERAL CONDITIONS FOR SERVICE FRAMEWORK CONTRACTS

ARTICLE II. 1 – PERFORMANCE OF THE CONTRACT

- II.1.1** The Contractor shall perform the Contract to the highest professional standards. The Contractor shall have sole responsibility for complying with any legal obligations incumbent on him, notably those resulting from employment, tax and social legislation.
- II.1.2** The Contractor shall have sole responsibility for taking the necessary steps to obtain any permit or licence required for performance of the Contract under the laws and regulations in force at the place where the tasks assigned to him are to be executed.
- II.1.3** Without prejudice to Article II.3 any reference made to the Contractor's staff in the Contract shall relate exclusively to individuals involved in the performance of the Contract.
- II.1.4** The Contractor must ensure that any staff performing the Contract has the professional qualifications and experience required for the execution of the tasks assigned to him.
- II.1.5** The Contractor shall neither represent the Agency nor behave in any way that would give such an impression. The Contractor shall inform third parties that he does not belong to the European public service.
- II.1.6** The Contractor shall have sole responsibility for the staff who execute the tasks assigned to him.

The Contractor shall make provision for the following employment or service relationships with his staff:

- staff executing the tasks assigned to the Contractor may not be given orders direct by the Agency;
 - the Agency may not under any circumstances be considered to be the staff's employer and the said staff shall undertake not to invoke in respect of the Agency any right arising from the contractual relationship between the Agency and the Contractor.
- II.1.7** In the event of disruption resulting from the action of a member of the Contractor's staff working on Agency premises or in the event of the expertise of a member of the Contractor's staff failing to correspond to the profile required by the Contract, the Contractor shall replace him without delay. The Agency shall have the right to request the replacement of any such member of staff, stating its reasons for so doing. Replacement staff must have the necessary qualifications and be capable of performing the Contract under the same contractual conditions. The Contractor shall be responsible for any delay in the execution of the tasks assigned to him resulting from the replacement of staff.
- II.1.8** Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and at his own initiative record it and report it to the Agency. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the Contractor to ensure full compliance with his obligations under the Contract. In such event the Contractor shall give priority to solving the problem rather than determining liability.

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

ARTICLE II. 2 – LIABILITY

II.2.1 The Agency shall not be liable for damage sustained by the Contractor in performance of the Contract except in the event of wilful misconduct or gross negligence on the part of the Agency.

II.2.2 The Contractor shall be liable for any loss or damage sustained by the Agency in performance of the Contract, including in the event of subcontracting under Article II.6 but only up to three times the total amount of the Contract. Nevertheless, if the damage or loss is caused by the gross negligence or wilful misconduct of the Contractor or by its employees, the Contractor shall remain liable without any limitation as to the amount of the damage or loss.

II.2.3 The Contractor shall provide compensation in the event of any action, claim or proceeding brought against the Agency by a third party as a result of damage caused by the Contractor in performance of the Contract.

II.2.4 In the event of any action brought by a third party against the Agency in connection with performance of the Contract, the Contractor shall assist the Agency. Expenditure incurred by the Contractor to this end may be borne by the Agency.

II.2.5 The Contractor shall take out insurance against risks and damage relating to performance of the Contract if required by the relevant applicable legislation. He shall take out supplementary insurance as reasonably required by standard practice in the industry. A copy of all the relevant insurance contracts shall be sent to the Agency should it so request.

ARTICLE II. 3 - CONFLICT OF INTERESTS

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

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

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

II.3.3 The Contractor declares:

- that he has not made and will not make any offer of any type whatsoever from which an unjustified advantage can be derived under the Contract,
- that he has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, where such

advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to performance of the Contract.

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

ARTICLE II. 4 – CONFIDENTIALITY

- II.4.1.** The Contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to performance of the Contract. The Contractor shall continue to be bound by this undertaking after completion of the tasks.
- II.4.2.** The Contractor shall obtain from each member of his staff, board and directors an undertaking that they will respect the confidentiality of any information which is linked, directly or indirectly, to execution of the tasks and that they will not divulge to third parties or use for their own benefit or that of any third party any document or information not available publicly, even after completion of the tasks.

ARTICLE II.5 - DATA PROTECTION

- II.5.1** The Contractor shall have the right of access to his/her personal data and the right to rectify any such data. Should the Contractor have any queries concerning the processing of his/her personal data, s/he shall address them to the entity acting as data controller provided for in Article I.8.
- II.5.2** The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.
- II.5.3** Where the Contract requires the processing of personal data by the Contractor, the Contractor may act only under the supervision of the data controller, in particular with regard to the purposes of the processing, the categories of data which may be processed, the recipients of the data, and the means by which the data subject may exercise his/her rights.
- II.5.4** The Contractor shall limit access to the data to the staff strictly necessary for the performance, management and monitoring of the Contract.
- II.5.5** The Contractor undertakes to adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned in order to:
- a) prevent any unauthorised person from having access to computer systems processing personal data, and especially:
 - aa) unauthorised reading, copying, alteration or removal of storage media;
 - ab) unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored personal data;
 - ac) unauthorised use of data-processing systems by means of data transmission facilities;
 - b) ensure that authorised users of a data-processing system can access only the personal data to which their access right refers;
 - c) record which personal data have been communicated, when and to whom;
 - d) ensure that personal data being processed on behalf of third parties can be processed only in the manner prescribed by the contracting institution or body;

- e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;
- f) design its organisational structure in such a way that it meets data protection requirements.

ARTICLE II. 6 – SUBCONTRACTING

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

ARTICLE II. 7 – AMENDMENTS

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

ARTICLE II. 8 – ASSIGNMENT

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

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

- II.9.1** The Contractor shall authorise the Agency to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in the Contract, in particular the identity of the Contractor, the subject matter, the duration and the amount paid. Where personal data is concerned, Article I.10 and II.5 shall apply.
- II.9.2** Unless otherwise provided by the Special Conditions, the Agency shall not be required to distribute or publish documents or information supplied in performance of the Contract. If it decides not to distribute or publish the documents or information supplied, the Contractor may not have them distributed or published elsewhere without prior written authorisation from the Agency.
- II.9.3** Any distribution or publication of information relating to the Contract or use of outcome of the implementation of the Contract and provided as such by the Contractor shall require prior written authorisation from the Agency and, if so requested, shall mention that it was produced within a contract with the Agency. It shall state that the opinions expressed are those of the Contractor only and do not represent the Agency's official position.

- II.9.4** The use of information obtained by the Contractor in the course of the Contract for purposes other than its performance shall be forbidden, unless the Agency has specifically given prior written authorisation to the contrary.

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

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

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

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

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

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

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

The payment of the fee under Article I.3 is deemed to include all forms of use by the Union of the results as set out in Article I.13.

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

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

- II.10.4** The Contractor retains all right, title and interest in pre-existing rights not fully vested into the Union in line with Article I.13, and hereby grants the Agency for the requested period a licence to use the pre-existing rights to the extent necessary to use the delivered results.

- II.10.5** The Contractor shall ensure that delivered results are free of rights or claims from third parties including in relation to pre-existing rights, for any use envisaged by the Agency. This does not concern the moral rights of natural persons and rights referred to in Article II.10.4.

- II.10.6** The Contractor shall clearly point out all quotations of existing textual works made by the Contractor. The complete reference should include as appropriate: name of the author, title of the work, date of publishing, date of creation, place of publication, address of publication on internet, number, volume and other information allowing to identify the origin easily.

- II.10.7** The Contractor shall clearly indicate all parts to which there are pre-existing rights and all parts of the result originating from external sources: parts of other documents, images, graphs, tables, data, software, technical inventions, know-how etc. (delivered in paper, electronic or other form).

For non-textual results or results provided in electronic form only, the description, instruction or information document shall list all parts coming from external sources: IT development tools, routines, subroutines and/or other programs ("background technology"), concepts, designs, installations or pieces of art, data, source or background materials or any other parts of external origin.

- II.10.8** If the Agency so requires, the Contractor shall provide proof of ownership or rights to use all necessary rights to the materials referred to in Article II.10.7.
- II.10.9.** By delivering the results the Contractor confirms that the creators undertake not to oppose their names being recalled when the results are presented to the public and confirms that the results can be divulged.
- The Contractor shall possess all relevant agreements of the creator and provide proof by way of documentary evidence.
- II.10.10.** By delivering the results the Contractor warrants that the above transfer of rights does not violate any law or infringe any rights of others and that he possesses the relevant rights or powers to execute the transfer. He also warrants that he has paid or has verified payment of all fees including fees to collecting societies, related to the final results.
- II.10.11.** The Contractor shall indemnify and hold the Agency harmless for all damages and cost incurred due to any claim brought by any third party including creators and intermediaries for any alleged breach of any intellectual, industrial or other property right based on the Agency's use of the works and in relation to which the Contractor has granted the Agency user rights.

ARTICLE II. 11 – FORCE MAJEURE

- II.11.1** Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the contracting parties which prevents either of them from performing any of their obligations under the Contract, was not due to error or negligence on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a relevant case of force majeure.
- II.11.2** Without prejudice to Article II.1.8, if either contracting party is faced with force majeure, it shall notify the other party without delay by registered letter with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.
- II.11.3** Neither contracting party shall be held in breach of its contractual obligations if it has been prevented from performing them by force majeure. Where the Contractor is unable to perform his contractual obligations owing to force majeure, he shall have the right to remuneration only for tasks actually executed.
- II.11.4** The contracting parties shall take the necessary measures to reduce damage to a minimum.

ARTICLE II. 12 – LIQUIDATED DAMAGES

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

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

V is the price of the relevant purchase;

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

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

ARTICLE II. 13 – SUSPENSION OF THE CONTRACT

Without prejudice to the Agency's right to terminate the Contract, where the Contract is subject to substantial error, irregularity or fraud the Agency may suspend execution of the Contract, pending order forms or specific contracts or any part thereof. Suspension shall take effect on the day the Contractor receives notification by registered letter with acknowledgment of receipt or equivalent, or at a later date where the notification so provides. The Agency shall as soon as possible give notice to the Contractor to resume the service suspended or inform that it is proceeding with contract termination. The Contractor shall not be entitled to claim compensation on account of suspension of the Contract, of the order forms or specific contracts, or of part thereof.

ARTICLE II. 14 – TERMINATION BY THE AGENCY

- II.14.1** The Agency may terminate the Contract, a pending order form or a specific contract in the following circumstances:
- (a) where the Contractor is being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
 - (b) where the Contractor has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed;
 - (c) where the Agency has evidence or seriously suspects the Contractor or any related entity or person, of professional misconduct;
 - (d) where the Agency has evidence or seriously suspects the Contractor or any related entity or person, of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
 - (e) where the Agency has evidence or seriously suspects the Contractor or any related entity or person, of substantial errors, irregularities or fraud in the award procedure or the performance of the Contract;
 - (f) where the Contractor is in breach of his obligations under Article II.3;
 - (g) where the Contractor was guilty of misrepresentation in supplying the information required by the Agency as a condition of participation in the Contract procedure or failed to supply this information;
 - (h) where a change in the Contractor's legal, financial, technical or organisational situation could, in the Agency's opinion, have a significant effect on the performance of the Contract;

- (i) where execution of the tasks under a pending order form or a specific contract has not actually commenced within fifteen days²⁸ of the date foreseen, and the new date proposed, if any, is considered unacceptable by the Agency;
- (j) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of the Contract;
- (k) where the Contractor, after receiving formal notice in writing to comply, specifying the nature of the alleged failure, and after being given the opportunity to remedy the failure within a reasonable period following receipt of the formal notice, remains in serious breach of his contractual obligations;
- (l) when due to the termination of the contract with one or more of the contractors there is no minimum required competition within the multiple framework contract with reopening of competition.

II.14.2 In case of force majeure, notified in accordance with Article II.11, either contracting party may terminate the Contract, where performance thereof cannot be ensured for a period corresponding to at least to one fifth of the period laid down in Article I.2.3.

II.14.3 Prior to termination under point c), d), e), h) or k), the Contractor shall be given the opportunity to submit his observations.

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

II.14.4 Consequences of termination

In the event of the Agency terminating the Contract or a pending order form or specific contract in accordance with this article and without prejudice to any other measures provided for in the Contract, the Contractor shall waive any claim for consequential damages, including any loss of anticipated profits for uncompleted service. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments. He shall draw up the documents required by the Special Conditions for the tasks executed up to the date on which termination takes effect, within a period not exceeding sixty days from that date.

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

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

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

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

ARTICLE II. 15 – INVOICING AND PAYMENTS

II.15.1 Pre-financing guarantee

²⁸ This period can be modified in the Special Conditions depending on the nature of the contract.

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

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

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

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

II.15.2 Interim payments and payment of the balance

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

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

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

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

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

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

II.15.3. Payment currency and costs

Payments are executed in the currency of the contract.

Costs of the transfer are borne in the following way:

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

ARTICLE II. 16 – GENERAL PROVISIONS CONCERNING PAYMENTS

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

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

The Agency shall notify the Contractor accordingly and set out the reasons for the suspension by registered letter with acknowledgment of receipt or equivalent. Suspension shall take effect from the date of dispatch of the letter. The remainder of the period referred to in the specific contract shall begin to run again once the suspension has been lifted.

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

ARTICLE II. 17 – TAXATION

- II.17.1** The Contractor shall have sole responsibility for compliance with the tax laws which apply to him. Failure to comply shall make the relevant invoices invalid.
- II.17.2** The Contractor recognises that the Agency is, as a rule, exempt from all taxes and duties, including value added tax (VAT), pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union.
- II.17.3** The Contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the goods and services required for performance of the Contract are exempt from taxes and duties, including VAT.
- II.17.4** Invoices presented by the Contractor shall indicate his place of taxation for VAT purposes and shall specify separately the amounts not including VAT and the amounts including VAT.

ARTICLE II. 18 - REIMBURSEMENTS

- II.18.1** Where provided by the Special Conditions or by Annex II, the Agency shall reimburse the expenses that are directly connected with execution of the tasks on production of original supporting documents, including receipts and used tickets.
- II.18.2** Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary.
- II.18.3** Travel expenses shall be reimbursed as follows:
- a) travel by air shall be reimbursed up to the maximum cost of an economy class ticket at the time of the reservation;
 - b) travel by boat or rail shall be reimbursed up to the maximum cost of a first class ticket;
 - c) travel by car shall be reimbursed at the rate of one first class rail ticket for the same journey and on the same day;
 - d) travel outside Union territory shall be reimbursed under the general conditions stated above provided the Agency has given its prior written agreement.
- II.18.4** Subsistence expenses shall be reimbursed on the basis of a daily allowance as follows:
- a) for journeys of less than 200 km (return trip) no subsistence allowance shall be payable;
 - b) daily subsistence allowance shall be payable only on receipt of a supporting document proving that the person concerned was present at the place of destination;

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

ARTICLE II. 19 – RECOVERY

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

ARTICLE II. 20 – CHECKS AND AUDITS

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

ANNEX I B MODEL SPECIFIC CONTRACTS AND ORDER FORM

SPECIFIC CONTRACT MODEL – FIXED PRICE

FIXED PRICE

SPECIFIC CONTRACT No [complete]²⁹
implementing Framework Contract No ECHA/2011/103

The European Chemicals Agency (hereinafter referred to as "the Agency"), which is represented for the purposes of the signature of this contract by [official name in full],

of the one part,

and

[official name in full]

[*official legal form*]

[*statutory registration number*]

[official address in full]

[*VAT registration number*]

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

of the other part,

HAVE AGREED

ARTICLE 1: SUBJECT

- 1.1 This Specific Contract implements Framework Contract No ECHA/2011/103 signed by the Agency and the Contractor on [complete date] [*and renewed on complete date*].
- 1.2 The subject of this Specific Contract is [short description of subject].
- 1.3 The Contractor undertakes, on the terms set out in the Framework Contract and in this Specific Contract and the annex[es] thereto, which form an integral part thereof, to perform the tasks as specified in Annex A of the Specific Contract.

ARTICLE 2: DURATION

- 2.1 This Specific Contract shall enter into force on the date on which it is signed by the last contracting Party.
- 2.2 The duration of the tasks shall not exceed [*days/months*]. Execution of the tasks shall start from the [*date of entry into force of this Specific Contract*] or [indicate date]. The period of

²⁹ Options [*in italics*] to be deleted where not applicable.
Options [in roman] to be completed.

execution of the tasks may be extended only with the express written agreement of the parties before such period elapses.

ARTICLE 3: PRICE

- 3.1** The maximum amount to be paid by the Agency under this Specific Contract for the provision of the deliverables specified in Annex A shall be EUR [amount in figures and in words] covering all tasks executed.
- 3.2** The maximum amount will be determined on the basis of the unit price indicated in the catalogue of prices included in the Contractor's Tender (Annex II to the Framework Contract)

[3.3 Travel and subsistence expenses shall be reimbursed for a maximum amount of [amount in figures and in words], as specified in Annex I, in line with Art. II.18 of the Framework Contract]

ARTICLE 4: PAYMENTS

Payments under this Specific Contract shall be made in accordance with Article II.15 and II.16 of the Framework Contract, as follows:

4.1 Pre-financing:

[If indicated in the request for offer that a pre-financing shall apply, the following clauses are to be inserted, otherwise it will be stated "not applicable".]

As indicated in the request for offer from the Agency for this Specific Contract, a pre-financing of XX %³⁰ equal to the amount of the Specific Contract shall be made.

Within thirty calendar days of the Specific Contract signature by the last contracting Party and the receipt by the Agency of a request for pre-financing with a relevant invoice a pre-financing payment equal to XX% of the total amount referred to in the Specific Contract shall be made.

[In case it has been stated in the request for offer that a pre-financing guarantee is required the above paragraph is to be replaced with

Within thirty calendar days of the latest of the following dates:

- *signature of the Specific Contract by the last contracting part and the receipt by the Agency of a request for pre-financing with a relevant invoice*
- *the receipt by the Agency of a duly constituted financial guarantee equal to at least XX % of the amount of the Specific Contract*

a pre-financing payment of XX% of the total amount referred to in the Specific Contract shall be made.]

³⁰ A pre-financing may not exceed 30% of the total amount as specified in Article 3.1.

4.2 Interim payment:

[If indicated in the request for offer that an interim-payment shall apply, the following clauses are to be inserted, otherwise it will be stated "not applicable".]

Requests for payment shall be admissible only where they are based on an invoice made in good and due form.

Each invoice must be accompanied by a supporting document describing the services that are subject of the invoice. This supporting document, which is subject to acceptance by the Agency, will include:

- (1) the detailed list of services subject of the invoice. For new installations and/or additional services, the supporting document shall describe in detail the invoiced amount on the basis of the request for services and the acceptance date of the services that shall be used as the starting date as from which the service can be invoiced.
- (2) the request for services related to new installations and additional services subject of the invoice.
- (3) the acceptance documents related to the services described in the invoice.
- (4) *[Statements of reimbursable expenses, in accordance with Article II.18 of the Framework Contract]*

Services shall only be invoiced after acceptance by the Agency of the above mentioned supporting document. Services must be invoiced in the month following their acceptance.

Invoices in respect of services delivered shall be submitted after the end of each calendar month. The first invoice shall cover the period from the start date indicated in the Specific Contract until the end date of the calendar month during which the services have started.

Within thirty calendar days of the date on which the documents accompanying a request for payment are approved by Agency an interim payment corresponding to the relevant invoice shall be made.

4.3. Final payment

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

- the supporting documents mentioned in Article 4.2;
- a final technical report; and
- a statement of the contractor that all services related to the Specific Contract are included in the final payment request.
- *[Statements of reimbursable expenses, in accordance with Article II.18 of the Framework Contract]*

provided the above documents have been approved by the Agency

The Agency shall have *[thirty] [forty-five] [sixty]* days to approve or reject the documents, and the Contractor shall have fourteen calendar days in which to submit additional information or a new final report.

Within thirty calendar days of the date on which the documents accompanying a request for payment are approved by the Agency, payment of the balance corresponding to the relevant invoices shall be made.

ARTICLE 5: GENERAL ADMINISTRATIVE PROVISIONS

5.1 Any communication under this Specific Contract shall be made in accordance with Article I.8 of the Framework Contract.

5.2 The persons responsible for the implementation of this Specific Contract are:

For the Agency:

European Chemicals Agency

P.O. Box 400,

00121 HELSINKI, Finland

Fax: +358 9 68618210

[Name & Office address of the contract manager]

Email: [to be completed]

For the Contractor:

Mr/Mrs

[Function]

[Company name]

[Official address in full]

ARTICLE 6: PLACE OF PERFORMANCE

The tasks shall be executed at the premises of *[the Contractor]* or *[the Agency]*.

ARTICLE 7: ANNEXES

The following annexes form an integral part of this Specific Contract:

Annex A: Technical annex

Annex B: Contractor's offer dated and accepted by the Agency

SIGNATURES

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

For the Agency,
[forename/surname/function]

signature[s]: _____

signature[s]: _____

Done in [place], [date]

Done in [Helsinki], [date]

In duplicate in [English].

Annex A

Technical Annex

1. Tasks

[As outlined in the request for offer by the Agency]

2. Deliverables

The specific deliverables, which are all the subject of acceptance unless specified otherwise, are:

- *[list of all requested deliverables as outlined in the request for offer by the Agency]*

3. Delivery schedule

The delivery schedule is as follows:

- 3.1 T0 being the date of signature of this agreement;
- 3.2 *[list of all requested deliverables with timetable]*

4. Quality standards and procedures

5. Security requirements

Annex B

Contractor's Offer

SPECIFIC CONTRACT MODEL – QUOTED TIME & MEANS

QUOTED TIME & MEANS

SPECIFIC CONTRACT No [complete]³¹
implementing Framework Contract No ECHA/2011/103

The European Chemicals Agency (hereinafter referred to as "the Agency"), which is represented for the purposes of the signature of this contract by [official name in full],

of the one part,

and

[official name in full]

[*official legal form*]

[*statutory registration number*]

[official address in full]

[*VAT registration number*]

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

of the other part,

HAVE AGREED

ARTICLE 1: SUBJECT

- 1.1 This Specific Contract implements Framework Contract No ECHA/2011/103 signed by the Agency and the Contractor on [complete date] [*and renewed on complete date*].
- 1.2 The subject of this Specific Contract is [short description of subject].
- 1.3 The Contractor undertakes, on the terms set out in the Framework Contract and in this Specific Contract and the annex[es] thereto, which form an integral part thereof, to perform the tasks as specified in Annex A of the Specific Contract.

ARTICLE 2: DURATION

- 2.1 This Specific Contract shall enter into force on the date on which it is signed by the last contracting Party.
- 2.2 The duration of the tasks shall not exceed [*days/months*]. Execution of the tasks shall start from the [*date of entry into force of this Specific Contract*] or [indicate date]. The period of execution of the tasks may be extended only with the express written agreement of the parties before such period elapses.

³¹ Options [*in italics*] to be deleted where not applicable.
Options [in roman] to be completed.

ARTICLE 3: PRICE

3.1 The Agency undertakes to pay the Contractor in consideration for the services provided in performance of this Specific Contract an amount of EUR [to be completed] per day of actual services rendered, for [to be completed] days, i.e. a total of EUR [to be completed].

Profile of service provider: _____

[profile of the Contractor and daily rate to be specified in accordance with the profiles listed in Annex I of the Framework Contract]

- an amount of EUR [to be completed] per day of actual services rendered, for [to be completed] days, i.e. a total of EUR [to be completed].

[to be repeated for as many profiles as required]

The overall maximum total amount for this Specific Contract is EUR [amount in figures and in words].

[3.2 Travel and subsistence expenses shall be reimbursed for a maximum amount of [amount in figures and in words], as specified in Annex I, in line with Art. II.18 of the Framework Contract]

ARTICLE 4: PAYMENTS

Payments under this Specific Contract shall be made in accordance with Article II.15 and II.16 of the Framework Contract.

4.1 Pre-financing:

[If indicated in the request for offer that a pre-financing shall apply, the following clauses are to be inserted, otherwise it will be stated "not applicable".]

As indicated in the request for offer from the Agency for this Specific Contract, a pre-financing of XX%, equal to the amount of each subtask agreement shall be made.

Within thirty calendar days

- Following acceptance of the work estimate by the Agency and
- The receipt by the Agency of a request for pre-financing with a relevant invoice

a pre-financing payment equal to XX% of the amount of each subtask agreement shall be made.

[In case it has been stated in the request for offer that a pre-financing guarantee is required the above paragraph is to be replaced with

Within thirty calendar days of the latest of the following dates:

- *Following acceptance of the work estimate by the Agency and the receipt by the Agency of a request for pre-financing with a relevant invoice*
- *the receipt by the Agency of a duly constituted financial guarantee equal to at least XX % of the amount of each subtask agreement*

a pre-financing payment equal to XX% of the amount of each subtask agreement shall be made.]

4.2 Interim payment:

[If indicated in the request for offer that an interim-payment shall apply, the following clauses are to be inserted; otherwise it will be stated “not applicable”.]

Requests for payment shall be admissible only where they are based on an invoice made in good and due form.

Each invoice must be accompanied by a supporting document describing the services that are subject of the invoice. This supporting document, which is subject to acceptance by the Agency, will include:

- The request for an interim payment of XX % of the total price for each subtask, as agreed by the parties shall be valid if accompanied by:
- the interim technical report and/or deliverable in another format as agreed by the parties (Expected Deliverables);
- *[Statements of reimbursable expenses, in accordance with Article II.18 of the Framework Contract]*
- the relevant invoices, indicating the reference number of the Framework Contract and the Specific Contract and subtasks to which they refer

provided the above report and/or deliverable has been approved by the Agency.

The procedure for approval of the report and/or deliverable by the Agency will be specified in Annex A to the Specific Contract. [Depending on the complexity of the project, the Agency may foresee a longer period for approval or rejection of reports and/or deliverables. However, this will be specified in the request for offer].

Within thirty calendar days of the date on which the report and/or deliverable is approved by the Agency, an interim payment corresponding to the relevant invoice shall be made.

4.3. Final payment

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

- the final technical report and/or deliverable in another format in accordance with Annex A of the Specific Contract;

- *[Statements of reimbursable expenses, in accordance with Article II.18 of the Framework Contract]*
- the relevant invoices, indicating the reference number of the Framework Contract and the Specific Contract and subtasks to which they refer

provided the above report and/or deliverable has been approved by the Agency.

The procedure for approval of the report and/or deliverable by the Agency will be specified in Annex A to the Specific Contract. [Depending on the complexity of the project, the Agency may foresee a longer period for approval or rejection of reports and/or deliverables. However, this will be specified in the request for offer].

Within thirty calendar days of the date on which the report and/or deliverable is approved by the Agency, an interim payment corresponding to the relevant invoice shall be made.

ARTICLE 5: GENERAL ADMINISTRATIVE PROVISIONS

5.1 Any communication under this Specific Contract shall be made in accordance with Article I.8 of the Framework Contract.

5.2 The persons responsible for the implementation of this Specific Contract are:

For the Agency:

Administrative matters:

European Chemicals Agency

P.O. Box 400,

00121 HELSINKI, Finland

Fax: +358 9 68618210

[Name & Office address]

Email: [to be completed]

Technical questions:

European Chemicals Agency

P.O. Box 400,

00121 HELSINKI, Finland

Fax: +358 9 68618210

[Name & Office address]

Email: [to be completed]

For the Contractor:

Mr/Mrs

[Function]

[Company name]

[Official address in full]

ARTICLE 6: PLACE OF PERFORMANCE

The tasks shall be executed at the premises of [*the Contractor*] or [*the Agency*].

ARTICLE 7: ANNEXES

The following annexes form an integral part of this Specific Contract:

Annex A: Technical annex

Annex B: Contractor's offer dated and accepted by the Agency

SIGNATURES

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

For the Agency,
[forename/surname/function]

signature[s]: _____

signature[s]: _____

Done in [place], [date]

Done in [Helsinki], [date]

In duplicate in [English].

Annex A

Technical Annex

1. Tasks

[As outlined in the request for offer by the Agency]

2. Deliverables

The specific deliverables, which are all the subject of acceptance unless specified otherwise, are:

-
- [list of all requested deliverables as outlined in the request for offer by the Agency]

3. Delivery schedule

The delivery schedule is as follows:

- 3.1 T0 being the date of signature of this agreement;
- 3.2 [list of all requested deliverables with timetable]

4. Quality standards and procedures

-

5. Security requirements

-

Annex B

Contractor's Offer

"QUOTED TIME & MEANS" FORM

FOR SPECIFIC CONTRACT No X UNDER FRAMEWORK CONTRACT No 103

Original document - duly signed - to be attached to the invoice

REQUEST AND DESCRIPTION OF WORK

To be filled in by ECHA:

Title:
Date of request:
Responsible person at ECHA:
Description of work:
Expected results:

WORK ESTIMATE

To be filled in by the Contractor:

PROFILE	PRICE/DAY	NUMBER OF DAYS	TOTAL PRICE
Planned starting date of work:			
Planned delivery date for work			
Date and Contractor's signature:			

To be filled in by ECHA:

Date and signature denoting ECHA's agreement:	
--	--

SIGNING FOR WORK

To be filled in by the Contractor and ECHA:

	Contractor	ECHA
Date of delivery/signing:		
Person responsible for checking (in block capitals):		
Comments:		
Date and signature :		

ACCEPTANCE OF WORK

To be filled in by ECHA:

Person responsible for accepting the work:	
Date and signature denoting final acceptance and invoicing:	

MODEL – TIME & MEANS

TIME & MEANS

SPECIFIC CONTRACT No [complete]³²
implementing Framework Contract No ECHA/2011/103

The European Chemicals Agency (hereinafter referred to as "the Agency"), which is represented for the purposes of the signature of this contract by [official name in full],

of the one part,

and

[official name in full]

[*official legal form*]

[*statutory registration number*]

[official address in full]

[*VAT registration number*]

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

of the other part,

HAVE AGREED

ARTICLE 1: SUBJECT

- 1.1 This Specific Contract implements Framework Contract No ECHA/2011/103 signed by the Agency and the Contractor on [complete date] [*and renewed on complete date*].
- 1.2 The subject of this Specific Contract is [short description of subject].
- 1.3 The consultant (s) shall be [name of consultant(s)].
- 1.4 The Contractor undertakes, on the terms set out in the Framework Contract and in this Specific Contract and the annex[es] thereto, which form an integral part thereof, to perform the tasks as specified in Annex A of the Specific Contract.

ARTICLE 2: DURATION

- 2.1 This Specific Contract shall enter into force on the date on which it is signed by the last contracting party.
- 2.2 Implementation of the tasks may under no circumstances begin before the date on which the Contract enters into force.
- 2.3 The duration of the tasks shall not exceed [*days/months*]. Implementation of the tasks shall start from the [*date of entry into force of this Specific Contract*] or [indicate date]. The number of man days may be extended only with the express written agreement of the parties before the original amount is consumed.

³² Options [*in italics*] to be deleted where not applicable.
Options [in roman] to be completed.

- 2.4 If the number of days agreed has not been fully taken up, the Agency shall not be obliged either to use or to pay for the days not worked and the Contractor shall not be entitled to claim damages.

ARTICLE 3: PRICE

- 3.1 The Agency undertakes to pay the Contractor, in consideration for the services rendered under this Specific Contract.

- an amount of EUR XXX per day of actual services rendered, for XX days for
(name of service provider), i.e. a total of EUR XXXXX

Profile of service provider:

(specify the profile of the service provider in accordance with the profiles listed in the Catalogue of Prices in Annex II to the Framework Contract)

- an amount of EUR XXX per day of actual services rendered, for XX days for
(name of service provider), i.e. a total of EUR XXXXX

Profile of service provider:

(specify the profile of the service provider in accordance with the profiles listed in the Catalogue of Prices in Annex II to the Framework Contract)

The total amount to be paid by the Agency under this Specific Contract shall be EUR **XXX** [amount in figures] covering all tasks executed.

- [3.2. *This amount shall cover all expenditure incurred by the Contractor in performing this Specific Contract*]

- [3.3 *Travel and subsistence expenses shall be reimbursed for a maximum amount of [amount in figures and in words], as specified in Annex I, in line with Art. II.18 of the Framework Contract*]

ARTICLE 4: PAYMENTS

Payments under the Contract shall be made in accordance with Articles II.15 and II.16 of the Framework Contract. Payments shall be executed only if the Contractor has fulfilled all his contractual obligations by the date on which the invoice is submitted.

- 4.1. Pre-financing:

Not applicable

- 4.2. Interim payments:

- Payments shall be carried out monthly.
- The request for payment shall be valid if accompanied by:

- a report specifying the tasks, related deliverables, worked days and hours per resource; and, for the work having been carried out on ECHA premises, after the Agency has verified the alleged worked time against the Flexitime follow-up system which is in use in ECHA.

- *[Statements of reimbursable expenses, in accordance with Article II.18 of the Framework Contract]*

- The relevant invoices, indicating the reference number of the Framework Contract and the Specific Contract to which they refer

Provided the above time sheet has been countersigned by the Agency for approval, following verification against its flexitime system at the end of each calendar month.

4.3 Payment of the balance:

The request for payment of the balance shall be valid if accompanied by:

- Timesheets signed by the service provider

- *[Statements of reimbursable expenses, in accordance with Article II.18 of the Framework Contract]*

- The relevant invoices, indicating the reference number of the Framework Contract and the Specific Contract to which they refer.

Provided the above time sheet has been countersigned by the Agency for approval, following verification against its flexitime system at the end of the last calendar month, during which services have been provided.

ARTICLE 5: GENERAL ADMINISTRATIVE PROVISIONS

5.1 Any communication under this Specific Contract shall be made in accordance with Article I.8 of the Framework Contract.

5.2 The persons responsible for the implementation of this Specific Contract are:

For the Agency:

Administrative matters:

European Chemicals Agency

P.O. Box 400,

00121 HELSINKI, Finland

Fax: +358 9 68618210

[Name & Office address]

Email: [to be completed]

Technical questions:
European Chemicals Agency
P.O. Box 400,
00121 HELSINKI, Finland
Fax: +358 9 68618210
[Name & Office address]
Email: [to be completed]

For the Contractor:
Mr/Mrs
[Function]
[Company name]
[Official address in full]

ARTICLE 6: PLACE OF PERFORMANCE

The tasks shall be executed at the premises of *[the Contractor]* or *[the Agency]*.

ARTICLE 7: ANNEXES

The following annexes form an integral part of this Specific Contract:

Annex A: Technical annex

Annex B: Contractor's offer dated and accepted by the Agency

SIGNATURES

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

For the Agency,
[forename/surname/function]

signature[s]: _____

signature[s]: _____

Done in [place], [date]

Done in [Helsinki], [date]

In duplicate in [English].

Annex A

Technical Annex

The European Chemicals Agency wishes to procure the services of IT consultant (s) with the profile described below:

1. Description of required IT resources:

X man days – profile of consultant– preferred start date:

Weekly availability: X days/week

Location:

Requisites

2. Tasks

[As outlined in the request for offer by the Agency]

3. Deliverables (if requested):

The specific deliverables, which are all the subject of acceptance unless specified otherwise, are:

- [list of all requested deliverables as outlined in the request for offer by the Agency]

4. Delivery schedule

The delivery schedule is as follows:

- 3.1 T0 being the date of signature of this agreement;
- 3.2 [list of all requested deliverables with timetable]

5. Quality standards and procedures

6 Security requirements

7. Reporting:

Annex B

Contractor's Offer

ORDER FORM No [complete]

governed by the provisions of Framework Contract No ECHA/2011/103 signed on [complete]

European Chemicals Agency [Directorate [complete]] [Unit [complete]] P.O. Box 400 FI-00121 Helsinki	Mr/Mrs/Ms [complete] [Function] [Company name] [Official address in full]	
Pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union, the Agency is exempt from all taxes and dues, including value added tax, on payments due in respect of this order form.		
Description of the services	Quantity	Price
TOTAL PRICE		_____
<i>[Fixed price without reimbursable costs] [Reimbursable costs up to a maximum amount of EUR ... to be added to the price according to the conditions laid down in the Contract]</i>		
<i>[The duration of the tasks shall not exceed complete].</i>	<i>Other details:</i>	
<i>[Execution of the tasks shall start from [the date of Contractor's signature of this order form] [complete date].]</i>		

Acceptance of this order implies that the Contractor waives all other terms of business or of execution of the services.

For the Agency,
[forename/surname/function]

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

signature[s]: _____

signature[s]: _____

Done at [Helsinki], [date]

Done at [Helsinki], [date]

ANNEX II

Technical Specifications

(Call for Tenders Ref. ECHA/2011/103)

ANNEX III

Contractor's Tender

(In response to Call for Tenders Ref. ECHA/2011/103)

ANNEX IV

REIMBURSEMENT OF DAILY SUBSISTENCE ALLOWANCES

Subsistence expenses incurred in connection with meetings which the Contractor is required to attend by the Agency or in connection with events organised by the Contractor, **as provided for in a specific contract**, shall be reimbursed in Euro at the Euro accounting rates in force during the month of travel.

The daily subsistence allowance is deemed to cover all expenses incurred during one day of travel, such as hotel, meals and local transport expenses (e.g. taxis and transport from the airport/station to the hotel). The expenses will be reimbursed on the basis of the following table:

Travel location	Daily allowance	Travel location	Daily allowance
Austria	225	Latvia	211
Belgium	232	Lithuania	183
Bulgaria	227	Luxembourg	237
Czech Republic	230	Malta	205
Cyprus	238	Netherlands	263
Denmark	270	Poland	217
Estonia	181	Portugal	204
Finland	244	Romania	222
France	245	Slovak Republic	205
Germany	208	Slovenia	180
Greece	222	Spain	212
Hungary	222	Sweden	257
Ireland	254	United Kingdom	276
Italy	230		

For travels outside the European territory, the Agency will inform the contractor, upon his request, of the applicable rates.

CALCULATION

Daily subsistence allowances are calculated according to the length of the trip:

- six hours or less: reimbursement of actual expenses (on production of supporting documents)
- more than six hours but not more than twelve hours: half the daily allowance;
- more than twelve hours, but not more than twenty-four hours: full daily allowance;
- each successive 12-hour period: half the daily allowance.

ANNEX V

CONTRACT PERFORMANCE GUARANTEE – MODEL PERFORMANCE GUARANTEE

<To be completed on paper bearing the letterhead of the financial institution >

[
[Place/Date]
European Chemicals Agency
Annankatu 18
00120 Helsinki
Finland

Contract performance guarantee No ECHA/2011/103

We hereby confirm that we give the European Chemicals Agency an unconditional and irrevocable joint and several guarantee for an unlimited period to the value of EUR [...] (in words: ... Euro) for performance of the Contract concluded between the European Chemicals Agency and [Firm/Name/Address – as given in the Contract (No/exact title – hereinafter “the Contract”)] (hereinafter “the Contractor”).

If the European Chemicals Agency gives notice that the Contractor has for any reason failed to fulfil his obligations under the Contract by the due date, the Bank, acting on behalf of the Contractor, undertakes to pay up to the above amount into a bank account designated by the European Chemicals Agency immediately on receipt of a first written request from the European Chemicals Agency (sent by registered post, with acknowledgement of receipt).

The Bank waives the right to require exhaustion of remedies against the principal, any right to withhold performance, any right of retention, any right of avoidance, any right to offset, and the right to assert any other claims which the Contractor may have against the European Chemicals Agency under the Contract or in connection with it or on any other grounds.

The Bank may be released from this guarantee only with the European Chemicals Agency's written consent and does not have the right of deposit without its consent.

The Bank's obligations under this guarantee are not affected by any arrangements or agreements made by the European Chemicals Agency with the Contractor which may concern his obligations under the Contract.

This guarantee shall take immediate effect. It shall expire on return of this document, which must occur within 12 months after the final payment under the Contract has been made.

This guarantee is governed by the law applicable to the Contract.

The courts having jurisdiction for matters relating to the Contract shall have sole jurisdiction in respect of matters relating to this guarantee.

[Place/Date]

[Signature/Function] [Signature/Function]

ANNEX VI

CONTRACT PRE-FINANCING GUARANTEE – MODEL PRE-FINANCING GUARANTEE

<To be completed on paper bearing the letterhead of the financial institution >

For the attention of
European Chemicals Agency (ECHA)
Finance Unit

referred to below as the “Contracting Authority”

Subject: Guarantee No...

Financing Guarantee for the repayment of pre-financing payable under Specific Agreement ECHA/2011/103/SC[...] (please quote number and title in all correspondence)

We, the undersigned, <name, and address of financial institution>, hereby irrevocably declare that we guarantee as primary obligor, and not merely as surety on behalf of <Contractor’s name and address>, hereinafter referred to as “the Contractor”, the payment to the Contracting Authority of EUR [...] ([...]), corresponding to the pre-financing as mentioned in Article 4.1 of the Specific Agreement ECHA/2011/103/SC[...] concluded between the Contractor and the Contracting Authority, hereinafter referred to as “the Contract”.

Payment shall be made without objection or legal proceedings of any kind, upon receipt of your first written claim (sent by registered letter with confirmation or receipt) stating that the Contractor has not repaid the pre-financing on request or that the Contract has been terminated.

We shall not delay the payment, nor shall we oppose it for any reason whatsoever. We shall inform you in writing as soon as payment has been made.

We accept notably that no amendment to the terms of the Contract can release us from our obligation under this guarantee. We waive the right to be informed of any change, addition or amendment of the Contract.

We note that the guarantee will be released in accordance with Article II.15 of the General Conditions of the Framework Contract [and in any case at the latest on (at the expiry of 18 months after the implementation period of the Contract)]8.

The law applicable to this guarantee shall be that of the Contract. Any dispute arising out of or in connection with this guarantee shall be referred to the courts of Finland.

The guarantee will enter into force and take effect on receipt of the pre-financing payment in the account designated by the Contractor to receive payments.

Name: Position:
Signature: Date: <Date>

5.3 Financial and economic capacity overview form (Invitation to Tender ECHA/2011/103)

Financial and Economic Capacity Overview			
Currency : EURO		Figures (000)	
	N* (* most recent figures available)	N-1	N-2
Total Balance Sheet			
TRADE DEBTORS <i>Amounts due by commercial customers</i>			
CAPITAL and RESERVES (Equity) <i>Amounts owned by the company</i>			
TRADE CREDITORS <i>Amounts due to commercial suppliers</i>			
SHORT TERM DEBT			
LONG TERM DEBT			
LIQUIDITY <i>Bank accounts, cash at hand</i>			
<u>About PROFIT & LOSS</u>			
TURNOVER			
ORDINARY RESULT			
EXTRAORDINARY RESULT			
INCOME TAX			
NET RESULT			

You may add any data that you would consider of vital relevance for your organisation and for the understanding of the above figures.

Comments: Please explain BRIEFLY important variations from one year to another if appropriate. In case of negative equity or repeated losses, please explain how the future economic stability of the company will be ensured.

5.4 Subcontractor/ Letter of intent ECHA/2011/103

The undersigned:

Name of the company/organisation:

Address:

Declares hereby the intention to collaborate in the execution of the tasks subject to the above call for Tender, in accordance with the terms of the offer to which the present form is annexed, if the contract is awarded to *(name of the Tender)*.

Declares hereby accepting the general conditions attached to the tendering specifications for this call for Tender, and in particular Article II.20 in relation with checks and audits.

Full name

Date

Signature

.....

5.5 Power of Attorney

POWER OF ATTORNEY – MODEL 1

Agreement / Power of Attorney

(DESIGNATING ONE OF THE COMPANIES OF THE GROUP AS LEADER AND GIVING A MANDATE TO IT)

We the undersigned

- (b) – Signatory 1 (Name, Function, Company, Registered address, VAT Number)
- (c) – Signatory 2 (Name, Function, Company, Registered address, VAT Number)
- (d) – ...
- (e) – Signatory N (Name, Function, Company, Registered address, VAT Number),

Each of them having the legal capacity required to act on behalf of his/her company, HEREBY AGREE AS FOLLOWS:

In case the European Chemicals Agency awards **[Framework]** Contract (« **the Contract** ») to Company 1, Company 2, ..., Company N (« **the Group Members** »), based on the joint offer submitted by them on for the supply of and/or the provision of services for ... (« **the Supplies and/or the Services** »).

- (1) As co-signatories of the Contract, all the Group Members:
 - (a) Shall be jointly and severally liable towards the European Chemicals Agency for the performance of the Contract.
 - (b) Shall comply with the terms and conditions of the Contract and ensure the proper execution of their respective share of the Supplies and/or the Services.
- (2) To this effect, the Group Members designate Company X as **Group Leader**.
[N.B.: The Group Leader has to be one of the Group Members]
- (3) Payments by the European Chemicals Agency related to the Supplies or the Services shall be made through the Group Leader's bank account.*[Provide details on bank, address, account number, etc.]*.
- (4) The Group Members grant to the Group Leader all the necessary powers to act on their behalf in connection with the Supplies and/or the Services. This mandate involves in particular the following tasks:

The Group Leader shall sign any contractual documents—including the **[Framework]** Contract, **[Specific Contracts]** and Amendments thereto—and issue any invoices related to the Supplies or the Services on behalf of the Group Members)

The Group Leader shall act as single point of contact for the European Chemicals Agency in connection with the Supplies and/or the Services to be provided under the Contract.

It shall co-ordinate the provision of the Supplies and/or the Services by the Group Members to the European Chemicals Agency, and shall see to a proper administration of the Contract.

Any modification to the present agreement / power of attorney shall be subject to the European Chemicals Agency's express approval.

This agreement / power of attorney shall expire when all the contractual obligations of the Group Members towards the European Chemicals Agency in connection with the Supplies and/or the Services to be provided under the Contract have ceased to exist. The parties cannot terminate it before that date without the Agency's consent.

Signed in on

Name
Function
Company

Name
Function
Company

Name
Function
Company

Name
Function
Company

POWER OF ATTORNEY – MODEL 2

Agreement / Power of Attorney

(CREATING THE GROUP AS SEPARATE ENTITY, APPOINTING A GROUP MANAGER AND GIVING A MANDATE TO HIM/HER)

We the undersigned

- (f) – Signatory 1 (Name, Function, Company, Registered address, VAT Number)
- (g) – Signatory 2 (Name, Function, Company, Registered address, VAT Number)
- (h) – ...
- (i) – Signatory N (Name, Function, Company, Registered address, VAT Number),

Each of them having the legal capacity required to act on behalf of his/her company, HEREBY AGREE AS FOLLOWS:

In case the European Chemicals Agency awards **[Framework]** Contract (« **the Contract** ») to Company 1, Company 2, ..., Company N (« **the Group Members** »), based on the joint offer submitted by them on for the supply of and/or the provision of services for ... (« **the Supplies and/or the Services** »).

- (1) As co-signatories of the Contract, all the Group Members:
- (a) Shall be jointly and severally liable towards the European Chemicals Agency for the performance of the Contract.
 - (b) Shall comply with the terms and conditions of the Contract and ensure the proper execution of their respective share of the Supplies and/or the Services.

(2) To this effect, the Group Members have set up under the laws of the Group (« **the Group** »). The Group has the legal form of a..... *[Provide details on registration of the Group: VAT Number, Trade Register, etc.]*.

(3) Payments by the European Chemicals Agency related to the Supplies or the Services shall be made through the Group's bank account. *[Provide details on bank, address, account number, etc.]*.

(4) The Group Members appoint Mr/Ms as **Group Manager**.

(5) The Group Members grant to the Group Manager all the necessary powers to act alone on their behalf in connection with the Supplies and/or the Services. This mandate involves in particular the following tasks:

The Group Manager shall sign any contractual documents—including the **[Framework]** Contract, **[Specific Contracts]** and Amendments thereto—and issue any invoices related to the Supplies or the Services on behalf of the Group Members)

The Group Manager shall act as single point of contact for the European Chemicals Agency in connection with the Supplies and/or the Services to be provided under the Contract.

He/she shall co-ordinate the provision of the Supplies and/or the Services by the Group Members to the European Chemicals Agency, and shall see to a proper administration of the Contract.

Any modification to the present agreement / power of attorney shall be subject to the European Chemicals Agency's express approval.

This agreement / power of attorney shall expire when all the contractual obligations of the Group Members towards the European Chemicals Agency in connection with the Supplies and/or the Services to be provided under the Contract have ceased to exist. The parties cannot terminate it before that date without the Agency's consent.

Signed in on

Name
Function
Company

Name
Function
Company

Name
Function
Company

Name
Function
Company

5.6 Price catalogue

Tenderers should fill in the table below (prices must include all costs).

The **on site price at ECHA premises** must present the unit price per person day.

The **offsite price at Contractor's premises** must present the unit price per person day.

In case of work of the Contractor's personnel outside the normal place of performance of the services defined in the specific contract (e.g. meetings involving travels, as described in these Tender Specifications), ECHA will pay the travel expenses plus the subsistence allowance (see Annex IV to the draft framework contract), as stipulated in the specific contract.

This price catalogue will be annexed to the framework contract and forms basis for the unit prices to be used in the context of orders and specific contracts.

Profile	On site price (at ECHA premises ³³) (in Euros per person day)	Off site price (at Contractor's premises) (in Euros per person day)
Senior Project Manager		
Project Assistant		
Quality Consultant		
Senior Security Consultant		
Junior Security Consultant		
Senior Analyst		
Junior Analyst		
Senior Developer		
Junior Developer		
Information System Tester		
Senior Architect		
Junior Architect		
Web Designer-Developer		
Technical Writer		

³³ including any travel costs and possible allowances.

5.7 Calculation of Overall Weighted Price

This Annex describes the way in which the overall weighted price, that constitutes basis for the assessment of the financial award criterion, is calculated in order to be evaluated as described in section [3.3.1](#).

For each profile:

- The onsite (at ECHA premises) price has a specific weight (*[weight for onsite performance]*) and its value is defined as listed in column b of the table below.
- The offsite (at Contractor's premises) price has a specific weight (*[weight for offsite performance]*) and its value is defined as listed in column d of the table of the table below.
- It is true that $[weight\ for\ onsite\ performance] + [weight\ for\ offsite\ performance] = 100\%$
- The *[price weighted per place of performance]* is defined as:
 $\{ ([weight\ for\ onsite\ performance] \times [price\ for\ onsite\ performance]) \} + \{ ([weight\ for\ offsite\ performance] \times [price\ for\ offsite\ performance]) \}$

Profiles (column a)	Weight for onsite performance (column b)	Price onsite in €/person day (column c)	Weight for offsite performance (column d)	Price offsite in €/person day (column e)	Price weighted per place of performance (in €) Result of (b x c) + (d x e) (column f)
Senior Project Manager	30%		70%		0.0
Junior Project Assistant	20%		80%		0.0
Quality Consultant	25%		75%		0.0
Senior Security Consultant	25%		75%		0.0
Junior Security Consultant	15%		85%		0.0
Senior Analyst	50%		50%		0.0
Junior Analyst	30%		70%		0.0

Senior Developer	15%		85%		0.0
Junior Developer	5%		95%		0.0
Information System Tester	10%		90%		0.0
Senior Architect	30%		70%		0.0
Junior Architect	20%		80%		0.0
Web Designer-Developer	20%		80%		0.0
Technical Writer	20%		80%		0.0

Table A

Each profile has a specific weight (*[weight of profile]*) as defined in column i of the table below (the sum of the *[weight of profile]* of all profiles is 100%).

For each profile, the *[price weighted per place of performance and profile]* is defined as *[price weighted per place of performance] x [weight of profile]*.

The **overall price weighted per place of performance and profile** is calculated by adding the *[price weighted per place of performance and profile]* of all profiles

Profiles (column g)	Price weighted per place of performance (in €) (column h) (same as column f)	Weight of profile (column i)	Price weighted per place of performance and profile (in €) Result of (h x i) (column j)
Senior Project Manager	0.0	10.0%	0.0
Project assistant	0.0	1.0%	0.0
Quality Consultant	0.0	6.0%	0.0

Senior Security Consultant	0.0	2.7%	0.0
Junior Security Consultant	0.0	0.3%	0.0
Senior Analyst	0.0	10.0%	0.0
Junior Analyst	0.0	1.0%	0.0
Senior Developer	0.0	10.0%	0.0
Junior Developer	0.0	21.0%	0.0
Information System Tester	0.0	21.0%	0.0
Senior Architect	0.0	3.6%	0.0
Junior Architect	0.0	0.4%	0.0
Web Designer-Developer	0.0	10.0%	0.0
Technical Writer	0.0	3.0%	0.0
sum:		100%	0.0
			Overall weighted price (in €)

Table B

The overall weighted price (which is the one that will be considered for the evaluation of the financial award criterion) is calculated as the sum of all cells of column j of the Table B above.

5.8 Customer references

(Evidence for section 3.2.3)

Name of the project:		
Start date:	End date:	Duration (years/months/days):
Scope of the project:		
Scope of the services (including profiles provided by the tenderer and technology used in the project):		
The date when the resulting software product started being used in production (if already deployed in production):		
Value of the project (corresponding to the value undertaken by the tenderer):		
Working language:		
Name of the client:		
Client contact person & contact details:		

Please complete one form for each customer reference.

ECHA reserves the right to check with these companies if the contract exists. All the sections of this form must be filled in. Failing to do so may result in the exclusion of the tender.

5.9 Checklist of documents to be submitted

The purpose of the table below is to facilitate the preparation of the Tender by providing an overview of the documents that must be included (marked by ■) depending on the role of each economic operator in the Tender (coordinator/group leader in joint bid, partner in joint bid, single Contractor, main Contractor, subcontractor).

Some of the documents are only relevant in cases of joint bids or when subcontractors are involved. Additional documents might be necessary depending on the specific characteristics of each Tender.

Description	Section Of Tender	Coordinator or group leader in joint bid	All partners in joint bid	Single Tenderer	Sub-Contractor
Power of attorney of partners in joint bid indicating the group leader (see Annex 5.5)	1		■		
Letter of intent of subcontractor (see Annex 5.4)	1				■
Legal Entity Form (see section) Download the form from : http://ec.europa.eu/budget/execution/legal_entities_en.htm	1	■	■	■	■
Supporting documents for the Legal Entity File Form	1	■	■	■	
Financial Identification form (see section 2.3.1) Download the form from: http://europa.eu.int/comm/budget/execution/ftiers_fr.htm .	1	■		■	
Exclusion Criteria form (see section 3.2.23.1.43.1 and Annex 5.1)	2	■	■	■	■
Evidence of Economic and financial capacity (see section 3.2.2 and Annex 5.4)	3	■	■	■	
Evidence of Technical and professional capacity (see section 3.2.3)	3	■	■	■	■
List of software tools (using the template of section 5.14) that they will be available from the Contractor free of charge for use in the IT environments to be built in the Contractor's premises for the implementation of a specific contract	4	■		■	

The following sections must be provided in the bid; their absence would mean rejection of the bid for incompleteness:

Description	Section	Coordinator or Single Tenderer
Technical offer (see sections 2.3.2 and 4)	4	■
Financial bid (see section 2.3.3)	5	■

5.10 Table for English language competence

		A1	A2	B1	B2	C1	C2
U N D E R S T A N D I N G	Listening	I can understand familiar words and very basic phrases concerning myself, my family and immediate concrete surroundings when people speak slowly and clearly.	I can understand phrases and the highest frequency vocabulary related to areas of most immediate personal relevance (e.g. very basic personal and family information, shopping, local area, employment). I can catch the main point in short, clear, simple messages and announcements.	I can understand the main points of clear standard speech on familiar matters regularly encountered in work, school, leisure, etc. I can understand the main point of many radio or TV programmes on current affairs or topics of personal or professional interest when the delivery is relatively slow and clear.	I can understand extended speech and lectures and follow even complex lines of argument provided the topic is reasonably familiar. I can understand most TV news and current affairs programmes. I can understand the majority of films in standard dialect.	I can understand extended speech even when it is not clearly structured and when relationships are only implied and not fulfilled explicitly. I can understand television programmes and films without too much effort.	I have no difficulty in understanding any kind of spoken language, whether live or broadcast, even when delivered at fast native speed, provided. I have some time to get familiar with the accent.
	Reading	I can understand familiar names, words and very simple sentences, for example on notices and posters or in catalogues.	I can read very short, simple texts. I can find specific, predictable information in simple everyday material such as advertisements, prospectuses, menus and timetables and I can understand short simple personal letters.	I can understand texts that consist mainly of high frequency everyday or job-related language. I can understand the description of events, feelings and wishes in personal letters.	I can read articles and reports concerned with contemporary problems in which the writers adopt particular attitudes or viewpoints. I can understand contemporary literary prose.	I can understand long and complex factual and literary texts, appreciating distinctions of style. I can understand technical instructions, even when they do not relate to my field.	I can read with ease virtually all forms of the written language, including abstract, structurally or linguistically complex texts such as manuals, periodicals, articles and literary works.
S P E A K I N G	Spoken Interaction	I can interact in a simple way provided the other person is prepared to repeat or rephrase things at a slower rate of speech and help me formulate what I'm trying to say. I can ask and answer simple questions in areas of immediate need or on very familiar topics.	I can communicate in simple and routine tasks requiring a simple and direct exchange of information on familiar topics and activities. I can handle very short social exchanges, even though I don't usually understand enough to keep the conversation going myself.	I can deal with most situations likely to arise while living in an area where the language is spoken. I can enter unprepared into conversation on topics that are familiar, of personal interest or pertinent to everyday life (e.g. family, hobbies, work, travel and current events).	I can interact with a degree of fluency and spontaneity that makes regular interaction with native speakers quite possible. I can take an active part in discussion in familiar contexts, accounting for and sustaining my views.	I can express myself fluently and spontaneously without much obvious searching for expressions. I can use language flexibly and effectively for social and professional purposes. I can formulate ideas and opinions with precision and relate my contribution skilfully to those of other speakers.	I can take part effortlessly in any conversation or discussion and have a good familiarity with idiomatic expressions and colloquialisms. I can express myself fluently and convey finer shades of meaning precisely. If I do have a problem I can backtrack and restructure around the difficulty so smoothly that other people are hardly aware of it.
	Spoken Production	I can use simple phrases and sentences to describe where I live and people I know.	I can use a series of phrases and sentences to describe in simple terms my family and other people, living conditions, my educational background and my present or most recent job.	I can connect phrases in a simple way in order to describe experiences and events, my dreams, hopes and ambitions. I can briefly give reasons and explanations for opinions and plans. I can narrate a story or relate the plot of a book or film and describe my reactions.	I can present clear, detailed descriptions on a wide range of subjects related to my field of interest. I can explain a viewpoint on a topical issue giving the advantages and disadvantages of various options.	I can present clear, detailed descriptions of complex subjects integrating sub-themes, developing particular points and rounding off with an appropriate conclusion.	I can present a clear, smoothly-flowing description or argument in a style appropriate to the context and with an effective logical structure which helps the recipient to notice and remember significant points.
W R I T I N G	Writing	I can write a short, simple postcard, for example sending holiday greetings. I can fill in forms with personal details, for example entering my name, nationality and address on a hotel registration form.	I can write short, simple notes and messages. I can write a very simple personal letter, for example thanking someone for something.	I can write simple connected text on topics which are familiar or of personal interest. I can write personal letters describing experiences and impressions.	I can write clear, detailed text on a wide range of subjects related to my interests. I can write an essay or report, passing on information or giving reasons in support of or against a particular point of view. I can write letters highlighting the personal significance of events and experiences.	I can express myself in clear, well-structured text, expressing points of view at some length. I can write about complex subjects in a letter, an essay or a report, underlining what I consider to be the salient issues. I can select a style appropriate to the reader in mind.	I can write clear, smoothly-flowing text in an appropriate style. I can write complex letters, reports or articles which present a case with an effective logical structure which helps the recipient to notice and remember significant points. I can write summaries and reviews of professional or literary works.

5.11 Man Power

	Number of staff members corresponding to the Profiles listed in section 4.3
2009	
2010	
2011	
Average during 2009-2011	

5.12 ECHA Public holidays 2012

	<i>(Sunday</i>	<i>January 1</i>	<i>New Year's Day)</i>
1.	Friday	January 6	Epiphany
2.	Friday	April 6	Good Friday
3.	Monday	April 9	Easter Monday
4.	Tuesday	May 1	Labour Day
5.	Wednesday	May 9	R. Schuman Day
6.	Thursday	May 17	Ascension Day
7.	Monday	May 28	Pentecost Monday (Whit Monday)
8.	Friday	June 22	Midsummer Eve
9.	Thursday	November 1	All Saints' Day
10.	Thursday	December 6	Finnish National Day
11.	Monday	December 24	Christmas Eve
12.	Tuesday	December 25	Christmas Day
13.	Wednesday	December 26	Boxing Day
14.-15.	Thu-Fri	December 27-30	End of year closure
16.	Monday	December 31	New Year's Eve

Total: 16 days

5.13 Time Sheet

The request for payment of the Contractor shall be admissible if accompanied by the following report (completed accordingly) and after the Agency has verified it against the Flexitime follow-up system which is in use in the Agency.

Time Sheet per month *	YEAR:	MONTH:
-------------------------------	--------------	---------------

Name and forename of service provider	Name of contractor	Number and date of contract	ECHA Unit

Administration address of service provider	Telephone	Definition of work time as defined in ECHA/2011/FWC103

Prior written approval required!

Day	Date	Description of the activities	1) Normal hours	2) Outside of normal hours	3) Outside of normal days	4) Stand-by normal hours	5) Stand-by outside of normal hours	6) Stand-by w-e and holidays
-	-							
-	-							
-	-	[... more lines to be added as needed ...]						
TOTAL HOURS			0.0	0.0	0.0	0.0	0.0	0.0
TOTAL DAYS (1 day = 7,5 hours)			0.00	0.00	0.00	0.00	0.00	0.00

1) Normal working hours (08:00 - 20:00)**

2) Normal working days, outside of normal working hours (20:00 - 08:00)

3) Outside of normal working days***

4) Stand-by-duty during normal working days and hours (08:00 - 20:00)

5) Stand-by-duty during normal working days, outside of normal working hours (20:00 - 08:00)

6) Stand-by-duty during week-ends or public holidays

Signature of service provider	Signature of ECHA Contract Manager
Date:	Date:
Name:	Name:
Signature:	Signature:

* Only hours and half hours are accepted (rounded to the nearest half hour)

** Working outside of normal working hours and normal working days requires written demand of the Agency.

*** Normal working days are from Mondays to Friday inclusive, excepting Agency holidays only.

5.14 Software tools

Tenderers are requested to provide a list of the software tools that, in case of framework contract award, will be used in the IT environments to be built on their premises for the implementation of specific contracts, under the conditions laid down in Section 4.2.4 of the Specifications.

The following template must be used:

Software Tool	Version	Description of the tool	Comments

... more rows to be added, if needed.