

**ECHA/2012/182**

**Framework service contract**

**Provision of Medical Services for  
European Chemicals Agency  
(ECHA) in Helsinki, Finland**

**Open procurement procedure  
Specifications and model contract**

**Contract notice: 2012/S 242-397074**

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## 1. THE SERVICES

### 1.1 BACKGROUND

Established on 1 June 2007, the European Chemicals Agency (hereinafter referred to as ECHA or the Agency) located in Helsinki, Finland is the driving force among regulatory authorities in implementing the EU's groundbreaking chemicals legislation for Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) and for Classification, Labelling and Packaging of substances and mixtures (CLP) and Biocides Product Regulation (BPR) as well as the Prior Information Consent Regulation (PIC).

ECHA helps companies to comply with the legislations, advances the safe use of chemicals, provides information on chemicals and addresses chemicals of concern. More information about ECHA, its structure and activities can be found on the ECHA web site.<sup>1</sup>

The Agency is a multicultural working place with staff originating from all over Europe. The working language of the Agency is English. There are currently over 500 people working in ECHA. It is estimated that some 100 recruitments will take place in 2013-2016.

Medical care of the Agency staff is organised as follows: ECHA is responsible for the preventive health care of its employees. The staff may freely choose where to turn to for actual treatment of illnesses and the incurred costs are reimbursed under certain rules and conditions by the Joint Sickness Insurance Scheme for staff working in the Institutions and Bodies of the European Community (JSIS). Apart from the staff having the Finnish nationality, ECHA staff is not covered by the Social Insurance Institution of Finland (KELA).

**The aim of this call for tender is to seek a service provider to ensure the following medical services for the Agency:** pre-employment and annual medical examinations, medical advisor and nurse services and other occupational health care services as stipulated below.

- A certificate of aptitude following a thorough medical examination is required prior to recruitment.
- When employed by ECHA, the staff members have an obligation to undergo an annual medical examination. A certificate of aptitude will be issued on the basis of the annual medical examination.
- Other measures designed to enhance and ensure health of the ECHA staff include, among other:
  - Services of designated medical advisor(s) and nurse(s)
  - Ergonomic checks
  - Vaccinations
  - Maintaining of staff's medical records in compliance with the rules and recommendations by the European Data Protection Supervisor as instructed by the Agency.
  - Other occupational health care services.

The services shall be provided after an order form is signed by both parties..

Contrary to the Finnish occupational health care system, the Agency does neither provide nor reimburse treatment of illnesses. ECHA staff members are affiliated to the

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<sup>1</sup> <http://echa.europa.eu>

Joint Sickness Insurance Scheme (JSIS), which reimburses under certain conditions the costs incurred by ECHA staff members.

Medical doctors nominated as medical advisors for ECHA by the service provider in agreement with the Agency will have a key role in planning, development and provision of preventive health care services: among others, they will give their opinion in medical absences, approve sick leaves and authorise medically justified part time work, as well as inform and advise both staff and management in medical matters. The medical advisors shall not treat illnesses of the staff members, e.g. medical advisor is not a treating physician of ECHA staff members. Medical advisors and nurses work in close co-operation with the HR Unit of the Agency, never disclosing, however, any confidential medical data to third parties without permission by the staff member in question.

Wellbeing of staff is of great importance to the Agency. Consequently, socio-medical services designed to enhance the wellbeing by means such as advice and consultations on related action plans and presentations on stress relief will be part of the contract.

## **1.2 DESCRIPTION OF RESOURCES**

For the implementation of the framework service contract, qualified and experienced staff will be needed.

- Medical Centre staff: sufficient staff available throughout the year, including June, July and August, to execute the tasks of this contract. All medical centre staff working directly with ECHA staff must be fluent in English in relation to the tasks they are performing.
- Medical Advisors: Two Medical Advisors with a minimum of five years of working experience in the field of occupational health services. They shall both have good command of spoken and written English. They shall also have a good understanding of the public and private health care systems in Finland.
- Occupational Health Care Nurse: a nurse and his/her substitute with whom the Agency administration and staff may be in contact in daily situations such as booking of and questions on the annual medical examinations. S/he will be working in ECHA premises on the same days as the Medical Advisors. The nurses shall both have at least two years of working experience and good command of spoken and written English. They shall also have a good understanding of the public and private health care systems in Finland.
- Contract manager: a member of the medical centre staff who is the contact person for ECHA HR Unit in contract implementation and administrative matters.

### 1.3 DESCRIPTION OF TASKS AND DELIVERABLES

#### Legal background

Article 13 of the Conditions of Employment of Other Servants of the European Community (CEOS) states that before being engaged a staff member of the temporary staff shall be medically examined by one of the institutions' medical officers in order for the institution to be satisfied that he fulfils the requirements of Article 12 (2) (d). The same applies to contract staff in reference with Article 83 of the CEOS.

The legal provisions governing sick-leave related matters for ECHA staff are Articles 16 and 91 of the CEOS and the Commission Decision no. 92/2004 introducing implementing provisions on absences as a result of sickness or accident.

The documents are provided in Annex 4.1.C of the Specifications.

Comprehensive preventive medical services play an important role in ensuring the wellbeing and aptitude for work of the Agency staff. The main objective of the contract is to provide these services that may, alongside the mandatory pre-employment and annual medical examinations also include a variety of other medical services from influenza vaccinations and ergonomic check-ups to mediation when harassment is perceived by staff members.

Further the Agency requires the services of a Medical Advisor. Among others, the Medical Advisor advises the Agency management on occupational health care measures, gives his/her opinion on personnel matters of medical nature and participates in related administrative procedures e.g. issues certificates of aptitude, verifies sick leave certificates and decides on medical part times.

The occupational health nurse will have a key role as coordinator of the services, and in particular in administration of the medical personal files.

The contractors have to be able to fulfil the requirements of the pre-medical and annual medical examinations in line with the growth of the Agency. The current estimates about the staff development are described below:

April 2013: 530  
December 2013: 540  
December 2014: 560  
December 2015: 580  
December 2016: 600

#### **Role of the Medical centre**

The successful contractor is required to carry out the tasks of the medical centre in charge of pre-employment and annual medical tests and examinations as well as other services in relation to preventive occupational health care as requested by the Agency.

The medical centre should be situated within a reasonable walking distance (with a max. of 2 km) of ECHA, situated at Annankatu 18 in Helsinki.

The range of services to be provided, which is neither exhaustive nor exclusive, is outlined below:

- **Pre-employment medical examination** of candidates in accordance with the point 4.1 A;
- **Annual medical examination** of staff in accordance with the list of elements outlined in point 4.1 B. The annual medical examination of the staff members should be carried out in two phases: all laboratory and other tests and examinations, including those by ophthalmologist and gynaecologist, should take place during the first visit to the medical centre.

Clinical examinations and interviews by the occupational health nurse and doctor should be booked for the second visit that should occur when the results of the tests are available. During the second visit results of the tests and examinations will be explained to the staff member concerned by the Medical Advisor or another occupational health physician working for the Medical Centre. Advice and information on any foreseen health risk will be provided, and the staff member is instructed to turn to their treating physician, if need be.

Following pre-employment and annual medical examinations, one of the Medical Advisors shall provide dated and signed certificates on aptitude for work to be inserted in the personal file. The certificate on aptitude for work stipulates that the person is either apt or not for the type of work in question without disclosing any medical information;

- Secure and timely maintenance of the medical files of each staff member and candidate in line with the rules and recommendations of the European Data Protection Officer as communicated by the Agency;
- Ergonomic checks for the ECHA staff on the premises of the Agency;
- Seasonal influenza vaccinations for both ECHA staff and families, on the premises of the Agency and/or the Medical Centre;
- Wellbeing at work – related actions on request. These services may among others include surveys on occupational health situation, in particular risks for burn-out, and presentations and training sessions to staff promoting health and wellbeing at work;
- Occupational health care services to support the work of the Medical Advisor. This may include initial consultations of occupational health psychologist, physiotherapist and any other medical expert;
- Assistance and advice with handling health related personal problems;
- Availability for meetings with ECHA management.

In case the Agency requests the Medical Centre to provide services which have not explicitly been foreseen, the contractors shall use as a basis for his the financial offer the general annual pricelist of the service provider. This general pricelist shall be attached to the financial offer for the framework contract. Any update of the general price list shall be provided to the Agency.

## **Role of the Medical Advisor**

The medical advisor services will be performed by two doctors in order to have a sufficient continuity of service. It is foreseen that overall the medical advisor services are required for two to three days a week, including the estimated one and half days a week when the Medical Advisor's presence is required on the Agency premises. The role of the Medical Advisor is not that of a treating physician. If a staff member is a private patient of one of the doctors acting as ECHA Medical Advisor, s/he will be replaced by another doctor in cases concerning his/her patient while carrying out his/her duties as Medical Advisor.

All candidates selected by ECHA in view of recruitment are required to undergo a comprehensive pre-employment medical examination before they can be employed. The results of the pre-employment medical examination are verified by the Medical Advisor who will pronounce the aptitude or non-aptitude of the candidate for the proposed job.

All staff members are required to undergo an annual medical examination to certify their fitness for work. This medical examination includes laboratory tests and has a number of defined elements. Details are included in point 4.1 B. The Medical Advisor may exceptionally authorise additional tests, but they must be of preventive nature. In other cases, the staff member is directed to seek treatment under the JSIS coverage.

The Medical Advisor or another occupational health care doctor in the medical centre will carry out the clinical examination that is part of the annual medical, and discuss the results of the different tests with the staff member. This meeting will take place at the medical centre and it shall be an integral part of the examinations and included in the price for the annual medical examination

However, the staff member may choose to have only the laboratory and other tests carried out by the Contractor's medical centre while their own doctor will be responsible for the clinical examination and explaining of the results. In such case, where additional tests are recommended by a staff member's doctor, ECHA seeks the advice of its Medical Advisor before agreeing to reimbursement. If the annual medical examination results are not analysed by the Medical Advisor, the staff member must request for an aptitude of work certificate from his treating physician which shall then be placed in the staff member's medical file.

The Medical Advisor is also involved when staff members are experiencing work related problems (e.g. stress or repetitive strain injury) or when ECHA needs advice on how to treat cases relating to sickness and associated absence or underperformance. Following a prior authorisation by the Agency, Medical Advisor may consult occupational health care specialists.

The Medical Advisor is asked to give general recommendation and tailored advice on staff physical ergonomics (working postures, materials handling, repetitive movements, work related musculoskeletal disorders, workplace layout, safety and health). This may be through either one-to-one advice or through a general review of ergonomics with presentation to staff.

Where staff has serious performance or attendance problems, associated with illness, Medical Advisor has an important role in advising the management and HR Unit on how to proceed.

Staff members who are on sick leave may at any time be required to undergo a medical examination with the Medical Advisor, arranged by ECHA. The purpose of such an examination is to ensure that the absence is justified and that the duration of the absence is in proportion to the nature of the illness. Where necessary, this may take

place at the patient's home. In this case, the travel expenses of the Medical Advisor will be reimbursed in line with Art I.3.3 and II.16 of the Framework contract.

For medical reasons, in particular the gradual reintegration into the working routine or to prevent risks to their health, staff members may be authorized by the Medical Advisor, in the short term, to work part time under the arrangements for medical part time.

In case of persistent health problems that have resulted in long term absences, the staff member's case may be referred for a recommendation to the Invalidity Committee, which is chaired by the Medical Advisor to ECHA. The other members of the Invalidity Committee are a doctor nominated by the staff member and an independent doctor appointed by agreement between the Chair of the Committee and the employee's doctor. The Committee has the power to recommend retirement on health grounds where it is considered that the employee is suffering from permanent invalidity and is incapable of working. In such cases, where the Medical Advisor has a professional relationship with the employee under review, he or she will be required to delegate the role of Chair to another doctor approved by ECHA.

ECHA staff members may ask for special leave for travelling outside the place of employment for medical examinations or medical treatment. In such cases opinion of the Medical Advisor is required in order to establish whether the request is reasonable.

ECHA staff members on sick leave, who wish to spend this leave in a place other than their place of employment, must ask permission from the Authority Authorised to Conclude Contracts (Executive Director of ECHA) beforehand; he shall base his decision on the opinion of the Medical Advisor.

In addition to annual medical examination, staff may undergo medical screening every few years, reimbursed by the JSIS under certain conditions. The Medical Advisor's opinion may be asked in relation to any discovered health problems. If the medical screening shall replace the annual medical examination the staff member shall provide the aptitude for work to the medical advisor.

The Medical Advisor may be required from time to time to represent ECHA at the Inter-Institutional Medical College in the European Commission (CMI). This College discusses issues of common interest and makes recommendation on policy to be adopted. The price for a mission day abroad is an all included price, except for the travelling costs and daily subsistence and accommodation allowances, that ECHA reimburses in accordance with Article I.3.3 and Article II.16. In general the duration of the CMI meetings does not exceed one (1) day. Following attendance at such meetings, the Medical Advisor will be required to furnish a detailed report to ECHA and, where appropriate, be available for discussion on the implementation of new policies and practices.

Reporting: The Medical Advisor will provide quarterly reports analysing the findings of the health situation of staff on corporate level, as well as an annual report on the activities of the Medical Services and in particular the activities of the Medical Advisor.

### **Role of the Nurse**

The designated nurse will be the contact point for ECHA staff, management and administration. Among others, s/he will book appointments for pre-employment and annual medical examinations and provide advice and information as requested.

S/he will be present in the Agency at the same time as the Medical Advisor. S/he will provide support for the Medical Advisor, in particular in the administrative matters. S/he will update the medical absences database in both the ECHA system and the service provider's secured extranet. The nurse shall produce a monthly report on medical absences, including number, length, type, patterns etc. Under supervision of the HR Unit, s/he will also handle administrative paperwork concerning medical leaves such as sick leave abroad and medical part time.



The Nurse is required to maintain the administrative medical records of the ECHA staff in safe environment inside the Agency.

In addition to administrative tasks, the Nurse will be available for consultations for the staff. S/he can carry out minor medical checks such as measuring of blood pressure.

### **The use of the contractor's secure electronic reporting system**

It is foreseen that the contractor's staff will record in the contractor's own secure electronic recording system ECHA staff's sick leaves and to provide absence statistics on monthly basis. Use of the contractor's electronic reporting system shall be included in the hourly fee of the Nurse and Medical Advisor(s).

However, it shall be noted that the use of the system is for recording purposes only. If the contractor's electronic reporting system is linked to the client management system it shall be evident in the client management system that a staff member visiting the medical centre privately shall pay the invoice directly. The invoice shall by no means be sent to the Agency for payment as is the practice in the Finnish occupational health system (työterveyshuolto.)

### **Other occupational health care services**

Other occupational health care services may include among other advice and presentations on health matters (such as stress management) to staff and management, ergonomic checks, seasonal influenza vaccinations for staff and families and a variety of other psycho-social services, including harassment prevention actions, coaching, consultations, counselling and mediations. Different types of surveys in the field of staff wellbeing, such as the BBI-15 survey, may need to be facilitated by the service provider. Advice to management and HR may be required on various psycho-social issues.

### **Meetings**

It is foreseen that a kick off meeting will be organised at ECHA, Annankatu 18, Helsinki, within the two (2) weeks after the entry into force of the Framework contract. The contract manager and the two Medical Advisors and nurse should attend the meeting. There shall be no cost for the Agency for the kick off meeting.

Possible interim meetings will be organised at ECHA if deemed necessary up to four times a year to take stock of the situation and solve possible issues. If medical staff will participate in the meeting their fees will be based on the hourly fee of the Medical Advisor and Nurse, There shall be no cost for the Agency for the participation of the Contractor's administrative staff.

## **2 THE CONTRACT**

### **2.1 THE NATURE OF THE CONTRACT**

Framework service contract for provision of medical services for the European Chemicals Agency (ECHA) in Helsinki.

### **2.2 STARTING DATE OF THE CONTRACT AND DURATION**

The contract shall enter into force on the date on which it is signed by the last contracting party. It is expected to be signed in April 2013.

The overall duration of the contract shall not exceed 48 months (one renewal of 12 months included).

The initial duration of the contract shall be 36 months and it shall be renewed automatically once, for an additional period of 12 months, unless written notification to the contrary is sent by one of the contracting parties and received by the other three months before expiry of the Contract.

## **2.3 PLACE OF PERFORMANCE**

The place of performance of the tasks for the pre-medical examination and the annual medical examinations shall be the Contractor's premises (which must be at maximum two (2) km distance from the Agency). Medical Advisor and Nurse Services shall be performed in the Agency according to the agreed schedule, otherwise in the Contractor's premises. One of the medical advisors will be required to participate in the CMI meetings in Brussels, Ispra or any other European city (see Role of the Medical Advisor above).

## **2.4 TERMS OF PAYMENT - IMPLEMENTATION OF THE CONTRACT**

The services will be ordered by the Agency using the order form attached to the Framework contract (exceptionally the draft specific contract, also attached to the framework contract, will be used (see Section 4.2). This order form shall be duly signed by both parties before execution of the service in accordance with the conditions of the framework service contract.

Payments shall be made in accordance with Articles I.4 & II.15 of the draft framework service contract (Section 4.2.).

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) depending on the nature of the tasks and the duration of the contract.

As a rule, payments for services (annual medical examination of staff, pre-employment medical examination, medical advisor services and nurse services) will be carried out on a monthly basis.

Payments regarding punctual occupational health medical services will be carried out after the services have been provided and accepted. For those services there will be a balance payment only.

The Contractor is to provide the required reports and documents in accordance with the conditions of the framework service contract (see Section 4.2.). The Contractor undertakes to submit together with each request for payment a technical report containing statistical information regarding the invoicing period in question. The purchase order/specific contract number shall be mentioned in the invoice.

## **2.5 LIABILITY**

### **Joint Offers**

Partners in a joint offer 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 offer 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 offer is successful

are thus incompatible with the principle of joint and several liability. The Agency will disregard any such statement contained in a joint offer, and reserves the right to reject such offers without further evaluation on the grounds that they do not comply with the tendering specifications.

### **Subcontracting**

Certain tasks provided for in the contract may be entrusted to subcontractors, but the main 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. payment) exclusively with the main contractor, whether or not the tasks are performed by a subcontractor;
- under no circumstances can the main contractor avoid liability towards the Agency on the grounds that the subcontractor is at fault.

During execution of the contract, the contractor will need the Agency's express authorization to replace a subcontractor with another and/or to subcontract tasks for which subcontracting was not envisaged in the original offer.

Tenderers must inform the subcontractor(s) and include in their sub-contracting documents that Article II.17 of the contract may be applied to sub-contractors.

Once the contract has been signed, Article II.13 of the above-mentioned contract shall govern the subcontracting.

## **2.6 DATA PROTECTION**

Any response to the invitation to tender will require the recording and further processing of personal data (name, address, CV, for example). This data will be processed in accordance with the requirements of Regulation (EC) 45/2001 on the protection of individuals with regard to the processing of personal data by Community institutions and bodies and on the free movement of such data. Except if mentioned otherwise, replies to questions and personal data are necessary for the purpose of assessing a tender according to the specifications of the invitation to tender and will only be processed by the Agency's Data Controller for this purpose. A tenderer may, upon request, obtain the communication of personal data and rectify any inaccurate or incomplete personal data. Any queries concerning the processing of personal data should be addressed to by the Agency's Data Controller. As regards to the processing of personal data, a tenderer has the right to recourse at any time to the European Data Protection Supervisor.

### **3 THE PROCUREMENT PROCEDURE**

#### **3.1 PREPARATION AND SUBMISSION OF THE TENDER**

##### ***3.1.1 Preparation of the tender***

###### **General**

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.

Tenders must include the following information:

- all the information and documents requested by the Agency in order to assess the tender;
- the prices in euros;
- one specimen signature of an authorised agent (preferably in blue ink) on the legal entity form<sup>2</sup>, and a statement from the same agent confirming the validity of the tender;
- the name and contact details of a contact person in relation to the submission of the bid.

If this is not included, the tender may be excluded from the procedure for the award of the contract.

Since tenderers will be judged on the content of their written bids, these must make it clear that they are able to meet the requirements of the specifications.

##### ***3.1.1.1 Content of the tender***

###### **3.1.1.1.1 Section One: Administrative offer**

###### **Eligibility documentation**

The competition is open to any physical person or legal entity coming from countries within the EU and any other physical person or legal entity from a third country that has concluded with the Communities a specific agreement in the area of public contracts, under the conditions provided for in that agreement. The General Procurement Agreement (GPA) of the World Trade Organization (WTO) is not applicable to this Call for Tenders.

In practice, the participation of applicants from third countries that have concluded a bilateral agreement with the Communities in the area of public contracts must be allowed, under the conditions provided for in that agreement.

To identify himself the tenderer must fill in a Legal Entity Form and a Financial Identification Form:

The **Legal Entity Form**<sup>3</sup> is to be signed by a representative of the tenderer authorised to sign contracts with third parties.

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<sup>2</sup>See section 4.3

The **Financial identification**<sup>4</sup> form shall be duly filled in and signed by an authorised representative of the tenderer and his or her banker.

The above forms must be accompanied by the evidence as indicated at the bottom of each form.

Both joint offers and subcontracting are allowed in response to this call for tenders. Offers may even combine both approaches. In any case, the tender documents must specify very clearly by means of the appropriate forms, detailed hereafter, whether each company involved in the tender is acting as a partner in a joint offer or as a subcontractor (this also applies where the various companies involved belong to the same group, or even where one is the parent company of the others).

All tenderers must provide their legal entity form as well as the evidence indicated at the bottom of that form.

Subcontractors are only obliged to provide the legal entity form without the evidence, and are not required to present the financial identification form.

In case of a joint offer, only the co-ordinator must return the financial identification form

In case of a tenderer submitting a joint offer who has already set up a consortium or similar entity for conducting the project in case a contract will be awarded, the tenderer should mention this fact in the tender, together with any other relevant information in this connection.

In case of tenderers submitting a joint offer who have not yet set up a consortium or similar entity, the tenderers should be aware that, in case the tenderers are awarded the contract, the Agency may require the tenderer to give a formal status to this collaboration before the contract is signed. This can take the form of:

- an entity with legal personality recognized by a Member State; or
- an entity 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).

In case of tenderers submitting a joint offer, the tenderers are asked to fill in and duly sign one of the attached **powers of attorney**<sup>5</sup>, depending on the set up that has been chosen by the tenderers.

If the tenderer envisages subcontracting, the tender must include:

- a **document**<sup>6</sup> clearly stating the roles, activities and responsibilities of the proposed subcontractor(s), and the reasons why subcontracting is envisaged;
- a **letter of intent**<sup>7</sup> by each proposed subcontractor stating its intention to collaborate with the tender if the tenderer wins the contract and their willingness to accept the tasks and the terms and conditions set out above, in particular article II.17 of the draft framework contract.

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<sup>3</sup>This form is available at:

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm)

<sup>4</sup>The form is available at:

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/financial\\_id/financial\\_id\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm).

<sup>5</sup> Section 4.3.1

<sup>6</sup>To be provided in free format

<sup>7</sup> See Section 4.3.1

## **Exclusion criteria documentation**

Tenderers or their representatives shall provide a **declaration on their honour**<sup>8</sup>, 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.

Where the bid constitutes a joint offer, each entity must provide the form. Where the total amount envisaged for subcontracting is above 50% of the total contract value, the potential subcontractor(s) must also provide the form (as required from the potential contractor). The same applies regarding the requirement to present evidence of compliance with the exclusion criteria, as explained in Section 3.5.

By returning the above-mentioned form, 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 Articles 93 and 94 of the Financial Regulation 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.

## **Selection criteria documentation**

### General

This part of the tender concerns the evidence relating to the technical and professional capacity and economic and financial capacity of the service provider(s) involved in the bid. The selection criteria are defined in Section 4.3.1 of the Specifications.

The bid may also contain any other document that the tenderer(s) wish(es) to include by way of clarification.

The evidence for the selection criteria shall be assessed in the second stage of the evaluation of the tenders<sup>9</sup>.

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 case of joint offer or sub-contracting, the tenderer(s) 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 documentary evidence, as that also required from the tenderer, is described and identified below.

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<sup>8</sup> See Section 4.3.2.

<sup>9</sup> See Section 4.3.3

### Evidence of the economic and financial capacity of the service provider(s)

All tenderers must provide proof of their economic and financial capacity. This proof is to be provided by submitting the completed Financial and Economic Capacity Overview Form<sup>10</sup>, as well as a full copy of the tenderer's 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, where applicable, audited and/or published. These documents must be certified by 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.

### Evidence of the technical and professional capacity of the service provider(s)

The ability of service providers to perform services will be assessed in particular with regard to their know-how, experience and reliability.

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.

#### **Evidence for selection criterion 2.1:**

Evidence for the selection criterion 2.1 is to be provided through:

##### **For 2.1 (a)**

Evidence for the selection criterion 2.1 (a): Copy of the authorisation of the tenderer to perform the medical services under Finnish Law provided by the competent Authority, as well as an excerpt from the Registry of Commerce;

##### **For 2.1.(b)**

Evidence for the selection criterion 2.1 (b): is to be provided by submitting a minimum of four relevant contract references, by using the template "Contract Reference Form" provided under Section 4.3.3

#### **Evidence for selection criterion 2.2:**

Evidence for the selection criterion 2.2 is to be provided through the CV of each staff member meeting the requirements mentioned under this selection criterion using the Europass CV format

<http://europass.cedefop.europa.eu/europass/home/vernav/Europass+Documents/Europass+CV/navigate.action>. (and provided under Section 4.3.3)

#### **Evidence for selection criterion 2.3:**

Evidence for the selection criterion 2.3 is to be provided through a declaration (in free format) stating the address of the medical centre available within the 2 km zone around the Agency proposed for the delivery of all the services.

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<sup>10</sup> See Section 4.3.3

### **3.1.1.1.2 Section Two: Technical offer**

#### **Qualitative award criteria documentation**

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

The technical specifications and the tenderer's bid shall be integral parts of the contract and will constitute annexes to the contract.

#### **Assessment basis for the award criteria:**

The assessment basis for award criterion one (1) is the tenderer's reply to the Questionnaire part I (see section 4.3.4);

The assessment basis for award criterion two (2) is the tenderer's reply to the Questionnaire part II (see Section 4.3.4).

Tenders should elaborate on all points of the Specifications addressed in the Questionnaires in order to score as many points as possible. The mere repetition of mandatory requirements set out in these specifications, without going into details or without giving any added value, will only result in a very low score. In addition, if certain essential points of these specifications are not expressively covered by the tender, the Agency may decide to give a zero mark for the relevant qualitative award criteria.

### **3.1.1.1.3 Section Three: Financial offer**

#### **Financial award criteria documentation**

Tenderers must use the financial form<sup>11</sup> to formulate their financial offer.

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

- Prices must be expressed in Euros;
- The offered services shall be ALL-IN prices. For travelling time between the contractor's premises and the Agency no separate fee shall be added;
- Prices should be quoted free of all duties, taxes and other charges, i.e. also free of VAT, as the Communities are exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities of 8 April 1965 (OJEC 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 doubts about the applicable VAT system, it is the tenderers responsibility to contact his national authorities to clarify the way in which the European Community is exempt from VAT;
- Prices shall not be conditional and be directly applicable by following the technical specifications;
- Prices shall be fixed and not subject to revision for the first period of 24 months laid down in the contract.

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<sup>11</sup>See section 4.3.4



At the beginning of the third year of the FWC, each price may be revised upwards or downwards, if such revision is requested by one of the parties in writing no later than three months before the anniversary of the date on which it was signed. The other party shall acknowledge receipt within 15 days of reception of the request. The new prices shall be communicated as soon as the final index is available. The Agency shall purchase on the basis of the prices in force on the date on which order forms or specific contracts are signed by both parties. Such prices shall not be subject to revision.

This revision shall be determined by the trend in the harmonised indices of consumer prices MUICP published for the first time by the Eurostat monthly 'Data in Focus' publication at <http://www.ec.europa.eu/eurostat/>.

Revision shall be calculated in accordance with the following formula:

$$Pr = Po \times \left( 0.2 + 0.8 \frac{Ir}{Io} \right)$$

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 request to revise prices.

All tenders must contain all the information and all the supporting documents required by these specifications. In the absence of the required information or documents, the Agency may disqualify the bid. The Agency reserves the right, however, to request additional evidence in relation to the bid submitted for evaluation or verification purposes within a time-limit stipulated in its request.

### **3.1.1.2 Form of the tender**

The tender must be submitted under double sealed cover.

The outer envelope should bear the address as mentioned below.

The inner envelope should be addressed to the Finance Unit R1 and marked "*Invitation to tender No ECHA/2012/182*" and "*Not to be opened by the internal mail service*". If self-adhesive envelopes are used, they must be sealed with adhesive tape and the sender must sign across the tape. The inner envelope must also contain three sealed envelopes, one containing the administrative offer, the second the technical offer and the third the financial offer. Each of these envelopes must clearly indicate the content. The administrative offer, the technical offer and the financial offer must be submitted, in duplicate (one set of originals and one set of copies) and a third set in electronic format (on CD ROM).

## ***3.1.2 Submission of the tender***

### **3.1.2.1 General terms and conditions for submission**

Submission of a tender implies that the Contractor accepts all the terms and conditions set out in these specifications (including the annexes) and waives all other terms of business. The submission of a tender under any other terms than those set up by the Agency in these Specifications may determine the rejection of the tender.

Submission of a tender binds the Contractor to whom the contract is awarded during performance of the contract.

The tenderer's bid, in conjunction with the technical specifications, shall be an integral part of the contract and will constitute annexes to 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.

The offer must remain valid for a period of 6 months following the final date for submitting tenders (see below). During this period, tenderers must maintain all the conditions of their bids.

The tendering procedure shall not involve the Agency in any obligation to award the contract.

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.

### **3.1.2.2 Requirements for submission**

Tenders may be:

- a) either sent by registered mail, posted no later than **28/01/2013**, (date as postmark); to the following address:

<p><i>European Chemicals Agency (ECHA)</i> <i>Invitation to tender No: ECHA/2012/182</i> <i>Finance Unit R1</i> <i>PO Box 400</i> <i>Annankatu 18</i> <i>00121 Helsinki</i> <i>Finland</i></p>
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- b) or sent by courier services, no later than **28/01/2013** (date of deposit slip), to the following address:

<p><i>European Chemicals Agency (ECHA)</i> <i>Invitation to tender No: ECHA/2012/182</i> <i>Finance Unit R1</i> <i>Annankatu 18</i> <i>00120 Helsinki</i> <i>Finland</i></p>
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- c) or delivered by hand, in person or by an authorised representative no later than 16:00 hours Helsinki time on **28/01/2013**, (date of

acknowledgement of receipt by the Agency) to the address mentioned above.

Tenderers shall observe precisely the above indications in order that tenders reach their specified destination in due time.

Evidence of timely submission by post or courier service will be constituted by the date of 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 exclusion of the tender from the award procedure for this contract. Offers sent by e-mail or by fax will also be non admissible. Envelopes found open at the opening session will also lead to non admissibility of the tender. Consequently, tenderers must ensure that their bids are packed in such a way as to prevent any accidental opening during its mailing.

### **3.2 CONTACT BETWEEN THE TENDERER AND THE AGENCY**

In principle, no contact is permitted between the Agency and the tenderers during the contract award procedure:

However, in exceptional circumstances contact may be made on the tenderers' initiative before the final date for the receipt of bids, in order (and only for this reason) to clarify the nature of the contract.

Such requests for further information may be made only in writing with the subject indication, «ECHA/2012/182» to the following e-mail address:

<i>procurement@echa.europa.eu</i>
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The Agency is not bound to reply to requests for additional information made less than five working days before the deadline for submission of tenders.

Insofar as it has been requested in good time, the questions raised and the additional information provided by the Agency will be published on the website at:

[http://echa.europa.eu/opportunities/procurement\\_en.asp](http://echa.europa.eu/opportunities/procurement_en.asp)

All tenderers are advised to take note of the fact that no additional information will be sent (neither by post nor by e-mail) regarding new information that has become available. Therefore, all tenderers are kindly requested to visit the above-mentioned website frequently prior to submitting bids.

Similarly, contact may in exceptional circumstances be made on the Agency's initiative:

- before the final date for the receipt of bids, in order to inform interested parties of an error, a lack of precision, an omission or any other material shortcoming in the drawing up of the documents of the invitation to tender;
- or, after the opening of bids, where a bid requires clarification or in order to correct material errors made in drawing up a bid.

Please note that in any event such contact may not result in a modification of the terms of the bid. In case the Agency deems it appropriate to provide additional information it will be published on the website mentioned above.

### 3.3 OPENING OF THE TENDERS

Tenders will be opened at 10:00 on **04/02/2013** at the following location:

*Office address:*  
*European Chemicals Agency (ECHA)*  
*Annankatu 18*  
*00120 Helsinki*  
*Finland*

A representative of each tenderer may attend the opening of the bids. Tenderers wishing to attend are requested to notify their intention by sending an e-mail to the above mentioned e-mail address at least 2 working days in advance. This notification must be signed by an authorised representative of the tenderer and specify the name of the person who will attend the opening of the bids on the tenderer's behalf.

### 3.4 EVALUATION OF THE TENDERS

The evaluation will be based on each tenderer's bid. In addition, the Agency reserves the right to use any other information from public or specialist sources.

All the information will be assessed in the light of the criteria set out in these specifications. The procedure for the award of the contract, which will concern only admissible bids, 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 tenderer who has passed the exclusion stage;
3. to evaluate on the basis of the award criteria the technical and financial tenders and establish a ranking list, by order of merit, of all tenders having passed the exclusion and selection stages, as well as the quality thresholds set for the evaluation of the award criteria.

#### Stage 1 – application of exclusion criteria

In accordance with Articles 93 and 94 of the Financial Regulation, tenderers shall be excluded from the selection and award procedures if they do not satisfy criteria a) to f) specified in the exclusion criteria form<sup>12</sup>.

Furthermore, 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).

#### Stage 2 - application of selection criteria

These criteria will be assessed on the basis of the documents indicated<sup>13</sup>.

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<sup>12</sup>See section 4.3.2

<sup>13</sup>See section 4.3.3

<b><u>SELECTION CRITERIA</u></b>
<b>1. FINANCIAL AND ECONOMIC CAPACITY</b>
Sufficient economic and financial capacity to guarantee continuous and satisfactory performance throughout the envisaged lifetime of the contract, in terms of a minimum average annual turnover of at least 1.500.000 Euros over the last three (3) years in relation to medical services.
<b>2. TECHNICAL AND PROFESSIONAL CAPACITY</b>
<p>2.1</p> <p>(a) Legal capacity to provide occupational health services in compliance with the applicable legal framework;</p> <p>(b) Have at least four (4) contracts with different companies (with over 200 staff) during the last three (3) years proving that the tenderer is capable to cover the services mentioned in this tender</p>
<p>2.2 Necessary human resources to provide all the services, as described under Section 1.3, throughout the year and in particular the following staff meeting the defined requirements:</p> <ul style="list-style-type: none"> <li>• <b>Two (2) Medical Advisors:</b> <ul style="list-style-type: none"> <li>- licensed medical doctor (with specialisation in the field of occupational health) authorised to practice medicine in Finland by the competent Finnish Authorities;</li> <li>- with at least five (5) years of experience as a practitioner;</li> <li>- with good knowledge of English (written and spoken)</li> </ul> </li> <li>• <b>Two (2) Nurses</b> <ul style="list-style-type: none"> <li>- licensed nurse, authorised to practice the profession of nurse in Finland by the competent Finnish authorities;</li> <li>- with at least two (2) years of experience as a nurse;</li> <li>- experience with administrative tasks;</li> <li>- good knowledge of English (written and spoken)</li> </ul> </li> <li>• <b>One (1) Contract Manager</b> <ul style="list-style-type: none"> <li>- with at least two (2) years of relevant experience as manager of contracts for medical services of similar scope;</li> <li>- good knowledge of English (written and spoken).</li> </ul> </li> </ul>
2.3. Capacity to deliver the services within proximity of the Agency, with the medical centre located within a maximum of 2 km from the premises of ECHA.

A consolidated assessment shall be made for joint offers (all members of the consortium together) and in case of subcontracting (tenderer plus subcontractor) to the extent that those entities put their resources at the disposal of the tenderer for the

performance of the contract, as evidenced by a clear undertaking on the part of those entities.

Stage 3 - application of award criteria

The contract will be awarded to the most cost-effective tender. The following award criteria will be applied:

No	Qualitative award criteria	Weighting (maximum points)
1	The quality of the tenderer’s proposal for the overall management and delivery of the pre-employment and annual medical examinations	40
2.	The quality of the proposed services with regard to the medical advisor and nurse services	60
<b>Total number of points</b>		100

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

Tenders scoring less than 60 % in the overall points total or less than 50% in the points awarded for a single criterion will be excluded from the rest of the assessment procedure.

<b>Financial Award criterion</b>	
Total price	Overall weighted price of the financial bid

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.

<b>Final Evaluation</b>	
Score	Total Quality Points/ Overall weighted price

**3.5 AWARD OF THE CONTRACT**

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 cancel the procedure.

If a written request is received from any non successful tenderer, the Agency will inform the tenderer of the reasons for their lack of success and of 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.

The procurement procedure may be concluded by a contract signed by the parties. In this case, the General Terms and Conditions applicable to service contracts referred to below shall apply.

After the period of validity of the tender has expired, conclusion of the contract shall be subject to the tenderer's agreement in writing.

The Agency shall not sign the contract or 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 notification letters to the tenderers informing them of the award decision.

During the standstill period, the Agency will request the tenderer proposed for award to provide the evidence on exclusion criteria defined in Articles 93 and 94 of the Financial Regulation. 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 tenderer on condition that he satisfies with the provision of the evidence on exclusion.

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 of honour:

- 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 and 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, and 3 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 tenderer 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.



## **4. ANNEXES**

### **4.1 TECHNICAL DOCUMENTATION**

#### **A. Pre-medical examination – the different tests and exams to be concluded**

Pre-employment medical examination

1. Anamnesis
2. Clinical examination
3. Anthropometry
4. Blood pressure and pulse
5. Hearing
6. Lung function
7. Laboratory tests
  - a. Urine analysis
  - b. Blood: Sedimentation rate, Urea, Uric acid, Creatinine, Glycemia, Cholesterol, Triglyceride, HDL/LDL, Bilirubin, GGT, SGOT (ASAT), SGPT (ALAT), Seric protein >50 years, Electrophoresis >50 years, Cellognost sigma, Calcium, Hepatitis B, Hepatitis A, Hepatitis C, PSA man >45 years, TSH, CRP, Hematology (with formula and platelets), Iron, Ferritine, Transferrine - if Hemogl. Man < 13.0 – woman < 12,5, TPHA – if sigma +, Alkaline phosphatase, HIV – with the agreement and the signature of the candidate, Faecal Occult blood test > 45 years.
8. Further tests and exams
  - a. Vision test – exhaustive ophthalmology exam carried out by an ophthalmologist
  - b. Chest x-rays
  - c. Resting electrocardiogram

#### **B. Annual medical examination – tests and exams to be concluded by the Medical Centre**

##### **1. Clinical examination**

Clinical Analyses

##### **2. Blood**

Sedimentation rate, CRP  
Full blood count with platelets  
Blood sugar, HbA1c (if blood sugar >110 mg%)  
Creatinin, Urea  
Uric acid, Potassium  
Cholesterol Total / LDL / HDL Triglycerides  
γGT – SGPT – SGOT  
Proteines – electrophoresis (age > 45)  
TSH (if abnormal: FT3, FT4)  
Ferritin  
PSA (males > as of age 45)  
HIV (only on signed request)

### **3. Urine**

Chemistry and sediment analysis

### **4. Faeces**

Occult blood test (age > 45)

### **5. ECG at rest**

### **6. Ophthalmologic examination**

(Refraction measurement, intraocular pressure, eye ground).

Every 2 years as of 40

Every year in case of hypertension or diabetics

### **7. Women**

Clinical examination

PAP smear test

Colposcopy

HPV

Pelvic ultrasound

Mammography as of 40, if medically indicated

Breast ultrasound as of 40, if medically indicated

### **8. Mens' s health as of 45 years onwards**

Clinical examination

Rectal examination of prostate

Echography of prostate as of 50, if medically indicated

### **9. Chest X-ray**

Only if medically indicated

## **C. LEGAL BACKGROUND**

Conditions of Employment of other Servants, Article 16 (Article 91: Article 16 shall apply by analogy)

Articles 42a, 42b and 55 to 61 of the Staff Regulations, concerning leave, hours of work, overtime, shiftwork, standby duty at place of work or at home and public holidays, shall apply by analogy. Special leave and parental and family leave shall not extend beyond the term of the contract.

The paid sick-leave provided for in Article 59 of the Staff Regulations shall not, however, exceed three months or the length of time worked by the member of the temporary staff, where the latter is longer. The leave shall not extend beyond the term of his contract. On expiry of these time-limits, a servant whose contract is not terminated, notwithstanding that he is unable to resume his duties, shall be placed on unpaid leave.

However, where a servant contracts an occupational disease or sustains an accident in the performance of his duties, he shall continue to receive his full remuneration throughout the period during which he is incapable of working until such time as he is awarded an invalidity pension under Article 33.

# IMPLEMENTING PROVISIONS REGARDING ABSENCES ON GROUNDS OF HEALTH OR ACCIDENT

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### ABBREVIATIONS USED [↑top](#)

SNE	=	Seconded national expert
GECO	=	Leave Administrator in the Directorate General / department concerned
HRM	=	Human Resources Manager for the Directorate General/department concerned
JSIS	=	Joint Sickness Insurance Scheme of the European Communities
SIC CONGES	=	Joint Information System, present in every DG/department and designed to facilitate the administrative management of leave and absences

### INTRODUCTION [↑top](#)

These provisions governing absences on grounds of health or accident are aimed in particular at incorporating the amendments to the Staff Regulations applicable from 1 May 2004 and include new information designed to fill any gap in the existing rules.

On questions of leave as such (including maternity leave and the various forms of special leave), please refer to the complementary Commission Decision on the implementing provisions with regard to leave.

## I. **GENERAL** [↑top](#)

- Officials who provide sufficient evidence of incapacity to perform their duties because of sickness or accident are automatically entitled to sick leave.
- Similarly, members of the temporary staff/auxiliary staff/contract staff (within the meaning of the Conditions of Employment of Other Servants) who provide sufficient evidence of incapacity to perform their duties because of sickness or accident are entitled to sick leave.
- SNEs who provide sufficient evidence of incapacity to perform their duties because of sickness or accident are automatically entitled to sick leave; if the sick leave exceeds one month or the period already served (only the longer of the two periods is taken into account), payment of the SNE's daily allowances is automatically suspended; the period of sick leave may not extend beyond that of secondment; however, SNEs who are victims of a work related accidents during their period of secondment continue, until the end of the secondment, to receive their full daily allowances throughout the period of incapacity for work.
- This document applies only to the staff referred to above. Interim, service or contract staff under national law and other staff employed directly or otherwise by the Commission are governed by the national rules applicable at the place of work.

## II. **APPLICATION** [↑top](#)

Preamble: Officials, other servants and SNEs must, as soon as possible – in practice within the first few hours of absence and using every means at their disposal, notify or have someone notify their line manager, giving precise details as to how they can be contacted and how long they are likely to be away from work.

The official or other servant or SNE must, before the supporting documents are sent, ensure that the latter bear their personnel number and, where applicable, their status (i.e. permanent official, member of the temporary staff or SNE) and are perfectly legible and complete.

## III.

### II. a : ABSENCE NOT EXCEEDING THREE CALENDAR DAYS [↑top](#)

#### Basic principle

- A medical certificate is not required for an absence on health grounds not exceeding three (3) calendar days.
- However, if absences on health grounds of up to three (3) calendar days not covered by a medical certificate add up to more than twelve (12) days during the preceding 12 month period, the official or other servant or SNE concerned must produce a medical certificate for any further absence – however short on health grounds as long as the total continues to exceed 12 days over a 12 month period. Absences will automatically be regarded as unjustified from the

13th day of absence on health grounds which is not covered by a medical certificate.

- An absence on grounds of health which is not covered by a medical certificate may not follow a period of sick leave which is.
- An absence on health grounds without a medical certificate may not immediately precede or follow a period of annual or special leave if the total absence, including the annual or special leave, exceeds three calendar days. The absence will in such cases be regarded as irregular (see III.E below).

#### Application

- Not having a medical certificate does not dispense officials/other servants/SNEs from having to notify their line manager at the earliest opportunity (see Preamble).

#### II.b : ABSENCE EXCEEDING THREE DAYS AND ALL ABSENCES COVERED BY A MEDICAL CERTIFICATE [↑top](#)

##### Basic principle

- Officials, other servants and SNEs who are absent on health grounds for more than three (3) calendar days must be covered by a medical certificate stating clearly that they are unfit for work.
- The medical certificate must be legible and must include the following information:
  - the patient's name and first name,
  - where the patient is staying,
  - the foreseeable duration of the incapacity for work, specifying the start and end dates.
- The absence will not be treated as sick leave until the Medical Service has been in a position to establish the validity of the medical certificate (see III.E below)

##### Application

- Officials, other servants and SNEs must send the original of the medical certificate direct to the Medical Service (i.e. not via their Directorate General/department). They must do so as soon as possible after the first day of incapacity for work and in no case later than the fifth day of absence, the postmark serving as proof. Failing this, the absence will be regarded as unjustified, unless they were prevented from sending the certificate by circumstances beyond their control (proof of which will, where necessary be required). A certificate made out after they have returned to work may be rejected if the Medical Service is not in a position to establish/verify the

medical situation.

- If an official, other servant or SNE is unable to transmit the certificate promptly to the Medical Service he or she must notify or have someone notify the latter and explain why.
- Sending the medical certificate does not dispense permanent officials, other servants or SNEs from having to notify their immediate superior at the earliest opportunity (see Preamble).

## II.c : ACCIDENT [↑top](#)

### Basic principle

- In case of absence because of an accident the provisions of II.a and b. above shall apply, with any necessary changes.

### Application

- Officials, other servants and SNEs who are absent because of an accident must, as soon as possible, notify or have someone notify their line manager, stating how long they expect to be off work. The line manager or the Joint Sickness Insurance Scheme, Welfare Service or Medical Service, as the case may be, will then instruct them on how to proceed.
- Auxiliary staff and SNEs should also contact the national social security scheme with which they are affiliated.

## II.d : ABSENCE ON HEALTH GROUNDS WHILE ON ANNUAL LEAVE [↑top](#)

### Basic principle

- If, while on annual leave, officials or other servants or SNEs contract an illness which would have prevented them from performing their duties had they not been on leave, they may apply for the number of days of annual leave corresponding to the period of illness to be recredited.
- The Medical Service must be in a position to carry out a medical examination, if it sees fit, and must therefore be informed as soon as possible, failing which it may not be possible to have the days of leave recredited.

### Application

- Except in cases of force majeure (the decision as to whether force majeure is involved rests with the Medical Service), officials, other servants and SNEs must contact the Medical Service at the onset of the illness and send in a copy of the medical certificate with the following information (where necessary by telephone or fax) within 48 hours at the latest:

- surname, first name and personnel number,

- starting and end dates of the illness,
  - the exact address of the place where they are staying during the illness and the means of contacting them (landline, mobile phone, fax, address, e mail, etc.),
  - exact name and address (plus the means of contacting) the doctor treating them;
- They must also send in the original medical certificate as soon as possible;
  - Where the two conditions above are met, and providing the Medical Service declares the certificate valid, the days of leave will be recredited in "SIC CONGÉS" by the leave administrator (GECO) on the basis of a list provided by the Medical Service;
  - The Medical Service will not take into consideration, with a view to the possible recrediting of annual leave, medical certificates issued or sent at a later date, i.e. after the reported end date of the period of illness or after the period of annual leave.

#### II.e : MEDICAL EXAMINATION [↑top](#)

- Officials, other servants and SNEs on sick leave may at any time be required to undergo a medical examination arranged by the Commission. The purpose of such an examination is to ensure that the absence is justified and that the duration of the absence is in proportion to the nature of the illness. This examination will normally take place at the patient's home.
- The medical examinations are carried out by a doctor at the request of the Medical Service acting either on its own initiative or at the request of the official's HRM.
- Officials or other servants or SNEs required to undergo such a medical examination may be notified by letter, telephone or fax or by any other appropriate means. The notification will be sent, as appropriate, to their home address, leave address or the place where they have been authorised to spend their sick leave.
- If the official is unable to travel, he or she must notify the medical officer immediately. The inability to travel must at all events be mentioned in the medical certificate or in a detailed attestation from his or her doctor certifying that they are medically unfit to travel.
- If the examination cannot take place for reasons attributable to the person concerned, his or her absence will be regarded as unauthorised with effect from the date on which the examination was due to take place.
- If the medical officer concludes from the examination that the person concerned is fit to work, he or she shall immediately inform the official/other



servant/SNE in writing. The medical officer shall state in the document when the official/other servant/SNE is deemed to be fit to return to work. The medical officer of the Medical Service may request an additional expert medical examination.

- The Medical Service shall also inform the HRM of the Directorate General/department concerned.
- If the official/other servant/SNE (or a doctor acting on their behalf) considers the conclusions of the medical officer to be unjustified on medical grounds, they may within two working days submit to the Medical Service a request that the matter be referred to arbitration. Article 59 of the Staff Regulations sets out clearly the arbitration procedure. If the arbitration confirms the conclusions of the medical examination, the absence will be considered as unauthorised with effect from the date of the examination.

#### IV. **SPECIAL CASES**<sup>top</sup>

##### III.a : SICK LEAVE AWAY FROM THE PLACE OF EMPLOYMENT

###### Basic principle

- Officials or other servants or SNEs on sick leave who wish to spend this leave in a place other than their place of employment, must ask permission from their appointing authority beforehand;
- The Appointing Authority shall base its decision on the opinion of the Medical Service;
- Where the Appointing Authority takes no decision or refuses to grant authorisation, the person concerned may not leave his or her place of employment, failing which the absence may be regarded as unauthorised. Failure to observe these rules may lead to disciplinary sanctions. The Appointing Authority may ask the Medical Service to request that the person concerned come for an examination to ascertain that they are present in the place of employment.  
Application
- Wherever possible, a request to spend a period of sick leave at a place other than that of employment should be made by completing the special form entitled "Application for authorisation to be away from place of employment";
- The form must be submitted at least 10 working days before the intended departure date to the Medical Service, which will forward it, together with its opinion, to the HRM of the Directorate General/department of the person concerned. This period is necessary to allow the Medical Service to check, where appropriate, that there is no medical reason why the person concerned should not travel or, in particular, whether making the journey might aid the patient's recovery.

- The Appointing Authority will then inform the person concerned and the Medical Service of its decision. The authorisation, if any, shall be granted for a specified period.

### III.b : TRAVEL OUTSIDE THE PLACE OF EMPLOYMENT FOR MEDICAL EXAMINATIONS OR MEDICAL TREATMENT [top](#)

#### Basic principle

- Official or member of the temporary staff: three days maximum.
- Auxiliary staff or SNE: there is no provision for special leave.
- Possibly travelling time in very exceptional circumstances.

#### Application

- The Appointing Authority may only grant special leave on the advice of the Medical Service to officials or temporary staff for a medical consultation, examination or a specific treatment of short duration away from the place of employment during Commission working days and hours;
- Special leave may not cover an absence for illness or hospitalisation;
- Special leave may be combined with annual leave but may not be granted during annual leave and may not, therefore, lead to part of the latter being recredited;
- The Appointing Authority is not bound by the opinion of the Medical Service;
- Exceptional travelling time for a maximum of one day may be granted on the advice of the Medical Service if the distance, by rail, between the place of employment and the place in which the consultation/examination/treatment takes place is 200 km or more.

#### Conditions

- Officials/members of the temporary staff must, together with their application, submit an application to their Medical Service to spend time at a place other than that of employment using the form entitled "Application for authorisation to be away from place of employment";
- The Medical Service will, after delivering its opinion, forward the application, for a decision, to the Appointing Authority of the Directorate General/department of the person concerned;
- If the Appointing Authority approves the application, it will notify the person concerned, the Medical Service and the GECO, who will grant the special leave and any travelling time specified in the decision. If the application is rejected by the Appointing Authority the GECO shall notify the

official/member of the temporary staff and shall set the entire absence, if any, against the annual leave entitlement;

- Travelling time and special leave will not be confirmed until the Medical Service has been able to inform the GECO that the medical examination has effectively taken place. It is therefore for the official/member of the temporary staff to transmit to the Medical Service a medical certificate regarding the consultation or treatment.

### III. c : PART TIME WORKING ON MEDICAL GROUNDS [↑top](#)

#### Basic principle

- For medical reasons, in particular the gradual reintegration into the working routine or to prevent risks to their health, officials or other servants or SNEs may be authorised to work part time under the arrangements for medical part time. In this way they will be able to work a portion of the normal day or week, depending on the Medical Service's decision.

#### Application

- The maximum period of part time working on medical grounds is three months;
- In exceptional circumstances, an extension may be granted for a maximum of three months by the Medical Service on the basis of a detailed medical report.
- If the person concerned wishes to take extended annual leave – 10 working days or more during a period of part time working on medical grounds, the latter will be suspended during the annual leave;
- At the end of the extended annual leave, the official/other servant/SNE may be asked to report to the Medical Service for a review of whether part time working on medical grounds is still justified;
- If the person concerned is authorised to work part time on medical grounds for a period during which he or she has already been authorised to work part time, the arrangements governing the latter shall be suspended for the duration of the part time work on medical grounds;
- Officials or other servants or SNEs working part time on medical grounds shall retain all their entitlements, in particular their entitlement to annual leave;
- Consequently, any days of annual leave taken count as whole days.

#### Conditions

Part-time work on medical grounds will be granted by the Medical Service either on its own initiative or following a request by the official or other servant.

If it is the official or other servant who requests part time working on medical grounds, he must ask the Medical Service<sup>(5)</sup> for a medical examination and produce a

reasoned attestation from the doctor treating him.

Part-time working on medical grounds may not commence until the Medical Service has given its approval.

Therefore:

- The request must be made in good time in order to allow the Medical Service to reach a decision (in particular where part time working on medical grounds follows a period of sick leave);
- Officials/other servants may not pre-empt the Medical Service's decision by working part time ahead of such decision.

The Medical Service's decision shall stipulate the conditions governing part time working on medical grounds. Failing this, the person concerned may, in the case of half time work, choose whether to work mornings or afternoons, subject to the line manager's agreement. The Medical Service's decision shall be notified to the official/other servant/SNE and to the HRM.

In the event of a dispute the arbitration procedure shall be initiated, on the initiative of the Medical Service or the person concerned.

### III.d : REQUIREMENT TO TAKE LEAVE ON HEALTH GROUNDS [↑top](#)

Basic principle

Officials or other servants or SNEs may be ordered to take leave after examination by the Medical Service if their state of health so requires or if a member of their household is suffering from a contagious disease.

Application

- The decision to order someone to take leave shall be taken by the Appointing Authority on the basis of a reasoned opinion from the Medical Service. The decision may where appropriate specify that the person concerned should surrender his or her staff card.
- The decision on a return to work shall be taken by the Appointing Authority after consulting the Medical Service.
- Officials, other servants and SNEs may, if a member of their household is suffering from a contagious disease, be required to produce a certificate attesting non-contagiousness before resuming work. The certificate must be presented to the Medical Service, which will transmit its opinion to the Appointing Authority.
- In the event of a dispute, the arbitration procedure shall be initiated.

### III.e : UNAUTHORISED ABSENCE [↑top](#)

Basic principle

Except in case of sickness or accident, officials/other servants/SNEs may not be

absent without prior permission from their line manager.

#### Application

- As stated at point II. APPLICATION – Preamble, it is for the line manager (or a person empowered by the latter) to record without delay any absence in SIC CONGÉS and inform the HRM of the Directorate General/department in the following cases:
  - if the official or a third party has not notified him on the first day of absence, giving a valid reason for the absence, or
  - if the absence is not covered by a medical certificate or by an authorised request for leave, or
  - if the absence on grounds of sickness or accident has been duly established in advance by the Medical Service.
- The HRM, once informed by the line manager, shall check with the Medical Service if it has received a medical certificate or if it has been notified of the absence.
- If the Medical Service replies in the negative the HRM shall record the absence as “unauthorised”.
- Without prejudice to any disciplinary measures applicable, any duly recorded unauthorised absence shall be deducted from the annual leave of the person concerned.
- If the person concerned has used up his or her annual leave a deduction corresponding to the number of days’ leave will be made from their monthly salary on the basis of the following formula:

number of days’ absence X net monthly salary

## 4.2 CONTRACTUAL DOCUMENTATION



### FRAMEWORK SERVICE CONTRACT

FRAMEWORK CONTRACT NUMBER ECHA/2012/182

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

on the one part, and

[*full official name*]

[*official legal form*]

[**statutory registration number**]

[*full official address* ]

[*VAT registration number*]

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

[The parties identified above and hereinafter collectively referred to as the 'the contractor' shall be jointly and severally liable vis-à-vis the Agency for the performance of this framework contract.]

on the other part,

## HAVE AGREED

to the **special conditions**, the **general conditions for service framework contracts**, the model order form and model specific contract and the following annexes:

**Annex I** – Tender specifications (reference No ECHA/2012/182)

**Annex II** – Contractor's tender (reference No [complete] of [insert date])

**Annex III** – Daily subsistence allowances and accommodation flat-rates which form an integral part of this framework contract (hereinafter referred to as "the FWC").

- The terms set out in the special conditions shall take precedence over those in the other parts of the FWC.
- The terms set out in the general conditions shall take precedence over those in the model order form and model specific contract
- The terms set out in the model order form and model specific contract shall take precedence over those in the other annexes.
- The terms set out in the tender specifications (Annex I) shall take precedence over those in the tender (Annex II).
- The terms set out in the framework 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.

## **I – SPECIAL CONDITIONS**

### **Article I.1 – Subject matter**

- I.1.1** The subject matter of the FWC is the provision of medical services (pre-employment medical examinations, annual medical examinations, medical advisor services, nurse services and other occupational health care services) for ECHA.
- I.1.2** Signature of the FWC imposes no obligation on the Agency to purchase. Only performance of the FWC through order forms or specific contracts is binding on the Agency.

### **Article I.2 – Entry into force and duration**

- I.2.1** The FWC shall enter into force on the date on which it is signed by the last party.
- I.2.2** Under no circumstances may performance commence before the date on which the FWC enters into force. Execution of the tasks may under no circumstances begin before the date on which the order form or specific contract enters into force.
- I.2.3** The FWC is concluded for a period of 36 months with effect from the date on which it enters into force. Unless otherwise specified, all periods specified in the FWC are calculated in calendar days.
- I.2.4** The order forms or specific contracts shall be signed by both parties before the FWC expires.

The FWC shall continue to apply to such order forms and specific contracts after its expiry. They shall be executed no later than six months after its expiry.

- I.2.5** The FWC shall be renewed automatically one time for 12 additional months under the same conditions, unless written notification to the contrary is sent by one of the parties and received by the other three months before expiry of the period indicated in Article I.2.3. Renewal does not imply any modification or deferment of existing obligations.

### **Article I.3 –Prices**

- I.3.1** The maximum total amount of the FWC shall be EUR 3 000 000 (three million). However, this must in no way be construed as a commitment on the Agency to purchase for the maximum amount.

The prices of the services shall be as listed in Annex II.

- I.3.2** Prices shall be fixed and not subject to revision during the first two years of duration of the FWC.

At the beginning of the third year of the FWC, each price may be revised upwards or downwards, if such revision is requested by one of the parties in writing no later than three months before the anniversary of the date on which it was signed. The other party shall acknowledge receipt within 15 days of reception of the request. The new prices shall be communicated as soon as the final index is available. The Agency shall purchase on the basis of the prices in force on the date on which order forms or specific contracts are signed by both parties. Such prices shall not be subject to revision.



This revision shall be determined by the trend in the harmonised indices of consumer prices MUICP published for the first time by the Eurostat monthly 'Data in Focus' publication at <http://www.ec.europa.eu/eurostat/>.

Revision shall be calculated in accordance with the following formula:

$$Pr = Po \times \left( 0.2 + 0.8 \frac{Ir}{Io} \right)$$

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 request to revise prices.

**1.3.3** In addition to the maximum total price specified in each order form or specific contract, travel, subsistence, accommodation and shipment expenses, as laid out in the Specifications of Annex I, shall be reimbursed in accordance with Article II.16,

The daily subsistence allowance referred to in Article II.16.4 (d) and the accommodation flat-rate ceiling referred to in Article II.16.4(e) shall be as listed in Annex III.

#### **Article I.4 – Payment arrangements and performance of the framework contract**

**1.4.1** Within 5 working days of an order form or a request for services being sent by the Agency to the contractor, the Agency shall receive the completed order form or a specific tender back, duly signed and dated.

Within 5 working 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 the contractor signs the order form, unless a different date is indicated on the form or in the specific contract.

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.

#### **1.4.2 Pre-financing**

Not applicable

#### **1.4.3 Interim payment**

Payments will be carried out monthly, unless otherwise specified in the order form/specific contract.

The request for payment shall be valid if accompanied by:

- a technical report containing statistical information regarding the invoicing period in question and if applicable, the monthly presence sheet of the medical advisor and nurse including the description of the services provided.
- if applicable, statements of reimbursable expenses in accordance with Article II.16

- the relevant invoices, indicating the reference number of the Framework contract and the order form/specific contract they refer to.

The Agency shall make the payment within 30 days from receipt of the invoice in due time and form.

#### **I.4.4 Payment of the balance**

The contractor shall submit an invoice for payment of the balance.

If applicable, the invoice shall be accompanied by the final report or any other document in accordance with the relevant specific contract and statements of reimbursable expenses in accordance with Article II.16.

The Agency shall make the payment within 30 days from receipt of the invoice in due time and form. The contractor shall have 15 days in which to submit additional information or corrections, a new final progress report or other documents if it is required by the Agency.

#### **Article I.5 – Bank account**

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

Name of bank:

Full address of branch:

Exact designation of account holder:

Full account number including [bank] codes:

[IBAN code:]

#### **Article I.6 – Communication details and data controller**

For the purpose of Article II.6, the data controller shall be ECHA.

Communications shall be sent to the following addresses:

The Agency:

European Chemicals Agency

[Full name]

Annankatu 18

00120 Helsinki

Finland

Email:

Contractor:

[Full name]

[Function]

[Company name]

[Full official address]

Email: [complete]

## **Article I.7 – Applicable law and settlement of disputes**

**I.7.1** The FWC shall be governed by Union law, complemented, where necessary, by the law of Finland.

**I.7.2** Any dispute between the parties in relation to the interpretation, application or validity of the FWC which cannot be settled amicably shall be brought before the courts of Helsinki.

## **Article I.8 - Exploitation of the results of the FWC**

### *I.8.1 Modes of exploitation*

In accordance with Article II.10.2 whereby the Agency acquires ownership of the results as defined in the tender specifications (Annex I), these results may be used for any of the following purposes:

- (a) use for its own purposes:
  - (i) making available to the staff of the Agency
  - (ii) making available to the persons and entities working for the Agency or cooperating with it, including contractors, subcontractors whether legal or natural persons, Union institutions, agencies and bodies, Member States' institutions
  - (iii) installing, uploading, processing
  - (iv) arranging, compiling, combining, retrieving
  - (v) copying, reproducing in whole or in part and in unlimited number of copies
- (b) distribution to the public:
  - (i) publishing in hard copies
  - (ii) publishing in electronic or digital format
  - (iii) publishing on the internet as a downloadable/non-downloadable file
  - (iv) broadcasting by any kind of technique of transmission
  - (v) public presentation or display
  - (vi) communication through press information services
  - (vii) inclusion in widely accessible databases or indexes
  - (viii) otherwise in any form and by any method
- (c) modifications by the Agency or by a third party in the name of the Agency:
  - (i) shortening
  - (ii) summarizing
  - (iii) modifying of the content
  - (iv) making technical changes to the content:
    - necessary correction of technical errors
    - adding new parts or functionalities
    - changing functionalities
    - providing third parties with additional information concerning the result (e.g. source code) with a view of making modifications
  - (v) addition of new elements, paragraphs titles, leads, bolds, legend, table of content, summary, graphics, subtitles, sound, etc.

- (vi) preparation in audio form, preparation as a presentation, animation, pictograms story, slide-show, public presentation etc.
- (vii) extracting a part or dividing into parts
- (viii) use of a concept or preparation of a derivate work
- (ix) digitisation or converting the format for storage or usage purposes
- (x) modifying dimensions
- (xi) translating, inserting subtitles, dubbing in different language versions:
  - English, French, German
  - all official languages of EU
  - languages used within EU
  - languages of candidate countries

(d) the modes of exploitation listed in article II.10.4

Where the Agency becomes aware that the scope of modifications exceeds that envisaged in the contract, the Agency shall consult the contractor. Where necessary, the contractor shall in turn seek the agreement of any creator or other right holder. The contractor shall reply to the Agency within one month and shall provide its agreement, including any suggestions of modifications, free of charge. The creator may refuse the intended modification only when it may harm his honour, reputation or distort integrity of the work.

**I.8.2 Pre-existing rights and transmission of rights**

All pre-existing rights shall be licensed to the Agency in accordance with Article II.10.3.

The contractor shall provide to the Agency a list of pre-existing rights and third parties' rights including its personnel, creators or other right holders as provided for in Article II.10.5.

**Article I.9 – Termination by either party**

Either party may, unilaterally and without being required to pay compensation, terminate either the FWC or the FWC and order forms or specific contracts by formally notifying the other party and by giving one month's notice. Should the Agency terminate the FWC, order forms or specific contracts, the contractor shall only be entitled to payment corresponding to the part-performance of the services ordered before the termination date. The first paragraph of Article II.14.3 shall apply.

**SIGNATURES**

For the contractor,

[Company  
name/forename/surname/function]

signature[s]: \_\_\_\_\_

Done at [], [date]

For the Agency,

Geert Dancet, Executive Director

**1.1.1**

signature[s]: \_\_\_\_\_

Done at Helsinki, [date]

In duplicate in English.

## **II – GENERAL CONDITIONS FOR SERVICE FRAMEWORK CONTRACTS**

### **Article II. 1 – Performance of the FWC**

- II.1.1** The contractor shall perform the FWC to the highest professional standards.
- II.1.2** The contractor shall be solely responsible for taking the necessary steps to obtain any permit or licence required for performance of the FWC 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.4 any reference made to the contractor's personnel in the FWC shall relate exclusively to individuals involved in the performance of the FWC.
- II.1.4** The contractor must ensure that the personnel performing the FWC possesses the professional qualifications and experience required for the execution of the tasks assigned to it.
- 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 it does not belong to the European public service.
- II.1.6** The contractor shall be solely responsible for the personnel who executes the tasks assigned to him.

The contractor shall stipulate the following employment or service relationships with its personnel:

- personnel executing the tasks assigned to the contractor may not be given orders directly by the Agency;
  - the Agency may not under any circumstances be considered to be the employer of the personnel referred to in point (a) and the personnel shall undertake not to invoke against 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 one of the contractor's personnel working on the Agency's premises or in the event that the expertise of one of the contractor's personnel fails to correspond to the profile required by the FWC, the contractor shall replace him without delay. The Agency shall have the right to make a reasoned request for the replacement of any such personnel. The replacement personnel must have the necessary qualifications and be capable of performing the FWC 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 personnel.
- II.1.8** Should the execution of the tasks be directly or indirectly hampered, either partially or totally, by any unforeseen event, action or omission, the contractor shall immediately and on its 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 its obligations under this FWC. In such an event the contractor shall give priority to solving the problem rather than determining liability.
- II.1.9** Should the contractor fail to perform its obligations under the FWC or order form or specific contract, the Agency may - without prejudice to its right to terminate the FWC order form or specific contract or - reduce or recover payments in proportion to the scale of the unperformed obligations. In addition, the Agency may claim compensation or impose liquidated damages in accordance with Article II.12.

## **Article II.2 – Means of communication**

**II.2.1** Any communication relating to the FWC or to its performance shall be made in writing and shall bear the FWC number, and if applicable the order form or specific contract number. Any communication is deemed to have been made when it is received by the receiving party unless otherwise provided for in this FWC.

**II.2.2** Electronic communication shall be deemed to have been received by the parties on the day of dispatch of that communication provided it is sent to the addressees listed in Article I.6. Without prejudice to the preceding, if the sending party receives a message of non-delivery to or of absence of the addressee, it shall make every effort to ensure the actual receipt of such communication by the other party.

Electronic communication shall be confirmed by an original signed paper version of that communication if requested by any of the parties provided that this request is submitted without unjustified delay. The sender shall send the original signed paper version without unjustified delay.

**II.2.3** Mail sent using the postal services is deemed to have been received by the Agency on the date on which it is registered by the department responsible referred to in Article I.6.

Any formal notification shall be made by registered mail with return receipt or equivalent, or by equivalent electronic means.

## **Article II. 3 – Liability**

**II.3.1** The contractor shall be solely responsible for complying with any legal obligations incumbent on it.

**II.3.2** The Agency shall not be held liable for any damage caused or sustained by the contractor, including any damage caused by the contractor to third parties during or as a consequence of performance of the FWC, except in the event of wilful misconduct or gross negligence on the part of the Agency.

**II.3.3** The contractor shall be held liable for any loss or damage sustained by the Agency in performance of the FWC, including in the event of subcontracting, and for any claim by a third party, but only to an amount not exceeding three times the total amount of the relevant order form or specific contract during the implementation of which the loss or damage arises. Nevertheless, if the damage or loss is caused by the gross negligence or wilful misconduct of the contractor or of its personnel or subcontractors, the contractor shall have unlimited liability for the amount of the damage or loss.

**II.3.4** The contractor shall indemnify and hold the Agency harmless for all damages and costs incurred due to any claim. 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 during the performance of the FWC. In the event of any action brought by a third party against the Agency in connection with the performance of the FWC including any alleged breach of intellectual property rights, the contractor shall assist the Agency. Such expenditure incurred by the contractor may be borne by the Agency.

**II.3.5** The contractor shall take out an insurance policy against risks and damage relating to the performance of the FWC if required by the relevant applicable legislation. It shall take out supplementary insurance as reasonably required by standard practice in the industry. A copy of all the relevant insurance contracts shall be sent to the Agency should it so request.

## **Article II. 4 - Conflict of interests**

- II.4.1** The contractor shall take all the necessary measures to prevent any situation of conflict of interest. Such situation arises where the impartial and objective performance of the FWC is compromised for reasons involving economic interest, political or national affinity, family or emotional ties, or any other shared interest.
- II.4.2** Any situation constituting or likely to lead to a conflict of interest during the performance of the FWC shall be notified to the Agency in writing without delay. The contractor shall immediately take all the necessary steps to rectify the situation. The Agency reserves the right to verify that the steps taken are appropriate and may require that additional steps be taken within a specified deadline.
- II.4.3** The contractor declares that it has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain and has not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, when such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, in so far as it serves as an incentive or reward relating to the performance of the FWC.
- II.4.4** The contractor shall pass on all the relevant obligations in writing to its personnel and to any natural person with the power to represent it or take decisions on its behalf and ensure that it is not placed in a situation which could give rise to conflicts of interest. The contractor shall also pass on all the relevant obligations in writing to third parties involved in the performance of the FWC including subcontractors.

## **Article II.5 – Confidentiality**

- II.5.1.** The Agency and the contractor shall treat with confidentiality any information and documents, in any form, disclosed in writing or orally in relation to the performance of the FWC and identified in writing as confidential.

The contractor shall:

- (a) not use confidential information and documents for any purpose other than fulfilling its obligations under the FWC, order form or specific contract without prior written agreement of the Agency;
- (b) ensure the protection of such confidential information and documents with the same level of protection it uses to protect its own confidential information, but in no case any less than reasonable care;
- (c) not disclose directly or indirectly confidential information and documents to third parties without prior written agreement of the Agency.

- II.5.2** The confidentiality obligation set out in Article II.5.1 shall be binding on the Agency and the contractor during the performance of the FWC and for five years starting from the date of the payment of the balance unless:

- (a) the disclosing party agrees to release the other party from the confidentiality obligation earlier;
- (b) the confidential information becomes public through other means than in breach of the confidentiality obligation, through disclosure by the party bound by that obligation;
- (c) the disclosure of the confidential information is required by law.

- II.5.3** The contractor shall obtain from any natural person with the power to represent it or take decisions on its behalf, as well as from third parties involved in the performance of the FWC, order form or specific contract an undertaking that they will comply with the confidentiality obligation set out in Article II.5.1.

## **Article II.6– Processing of personal data**

- II.6.1** Any personal data included in the FWC shall be processed pursuant to Regulation (EC) 45/2001 of the European Parliament and of the Council of 18 December 2000 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 by the data controller solely for the purposes of the performance, management and monitoring of the FWC without prejudice to its possible transmission to the bodies charged with monitoring or inspection tasks in application of Union law.
- II.6.2** The contractor shall have the right to access its personal data and the right to rectify any such data. The contractor should address any queries concerning the processing of its personal data to the data controller.
- II.6.3** The contractor shall have right of recourse at any time to the European Data Protection Supervisor.
- II.6.4** Where the FWC 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 rights.
- II.6.5** The contractor shall grant personnel access to the data to the extent strictly necessary for the performance, management and monitoring of the FWC.
- II.6.6** 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 gaining access to computer systems processing personal data, and especially:
    - (i) unauthorised reading, copying, alteration or removal of storage media;
    - (ii) unauthorised data input, as well as any unauthorised disclosure, alteration or erasure of stored personal data;
    - (iii) 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 Agency;
  - (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. 7 – Subcontracting**

- II.7.1** The contractor shall not subcontract without prior written authorisation from the Agency nor cause the FWC to be de facto performed by third parties.
- II.7.2** Even where the Agency authorises the contractor to subcontract to third parties, it shall nevertheless remain bound by its contractual obligations and shall be solely responsible for the proper performance of this FWC.



**II.7.3** The contractor shall make sure that the subcontract does not affect rights and guarantees granted to the Agency by virtue of this FWC, notably by Article II.18.

#### **Article II. 8 – Amendments**

**II.8.1** Any amendment to the FWC or order form or specific contract shall be made in writing before fulfilment of all contractual obligations. An order form or a specific contract may not be deemed to constitute an amendment to the FWC.

**II.8.2** The amendment may not have the purpose or the effect of making changes to the FWC or to order forms or specific contracts which might call into question the decision awarding the FWC, order form or specific contract or result in unequal treatment of tenderers or contractors.

#### **Article II. 9 – Assignment**

**II.9.1** The contractor shall not assign the rights, including claims for payments, and obligations arising from the FWC, in whole or in part, without prior written authorisation from the Agency.

**II.9.2** In the absence of such authorisation, or in the event of failure to observe the terms thereof, the assignment of rights or obligations by the contractor shall not be enforceable against the Agency and shall have no effect on it.

#### **Article II. 10 – Ownership of the results - Intellectual and industrial property rights**

##### *II.10.1 Definitions*

In this FWC the following definitions apply:

(1) 'results' means any intended outcome of the performance of the FWC which is delivered and finally accepted by the Agency.

(2) 'creator' means any natural person who contributed to the production of the result and includes personnel of the Agency or a third party.

(3) 'pre-existing rights' means any industrial and intellectual property rights, including background technology, which exist prior to the Agency or the contractor ordering them for the purpose of the FWC performance and include rights of ownership and use by the contractor, the creator, the Agency and any other third parties.

##### *II.10.2 Ownership of the results*

The ownership of the results shall be fully and irrevocably acquired by the Agency under the FWC including any rights in any of the results listed in the FWC and order forms or specific contracts, including copyright and other intellectual or industrial property rights, and all technological solutions and information contained therein, produced in performance of the FWC. The Agency may exploit them as stipulated in this FWC or order forms or specific contracts. All the rights shall be acquired by the Union from the moment the results are delivered by the contractor and accepted by the Agency. Such delivery and acceptance are deemed to constitute an effective assignment of rights from the contractor to the Agency.

The payment of the price as set out in the order forms or specific contracts is deemed to include any fees payable to the contractor in relation to the acquisition of ownership of rights by the Agency including all forms of use of the results.

The acquisition of ownership of rights by the Agency under this FWC covers all territories worldwide.

Any intermediary sub-result, raw data, intermediary analysis made available by the contractor cannot be used by the Agency without the written consent of the contractor,

unless the FWC or specific contract or order form explicitly provides for it to be treated as a self-contained result.

#### *II.10.3 Licensing of pre-existing rights*

The Agency shall not acquire ownership of the pre-existing rights.

The contractor shall license the pre-existing rights on a royalty-free, non-exclusive and irrevocable basis to the Agency which may use the pre-existing right as foreseen in Article I.8.1 or in order forms or specific contracts. All the pre-existing rights shall be licensed to the Agency from the moment the results were delivered and accepted by the Agency.

The licensing of pre-existing rights to the Agency under this FWC covers all territories worldwide and is valid for the whole duration of intellectual property rights protection.

#### *II.10.4 Modes of exploitation*

The Agency shall acquire ownership of each of the results produced as an outcome of the FWC which may be used for any of the following purposes:

- (a) giving access upon individual requests without the right to reproduce or exploit, as provided for by Regulation 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents;
- (b) storage of the original and copies made in accordance with this FWC or specific contract or order form;
- (c) archiving in line with the document management rules applicable to the Agency

#### *II.10.5 Identification and evidence of granting of pre-existing rights and rights of third parties*

When delivering the results, the contractor shall warrant that they are free of rights or claims from creators and 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.

The contractor shall establish to that effect a list of all pre-existing rights and rights of creators and third parties on the results of this FWC or parts thereof. This list shall be provided no later than the date of delivery of the final results.

In the result the contractor shall clearly point out all quotations of existing textual works. The complete reference should include as appropriate: name of the author, title of the work, date and place of publication, date of creation, address of publication on internet, number, volume and other information which allows the origin to be easily identified.

Upon request by the Agency, the contractor shall provide evidence of ownership or rights to use all the listed pre-existing rights and rights of third parties except for the rights owned by the Union.

This evidence may refer, inter alia, to rights to: parts of other documents, images, graphs, tables, data, software, technical inventions, know-how etc. (delivered in paper, electronic or other form), 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.

The evidence shall include, as appropriate:

- (a) the name and version number of a software product;
- (b) the full identification of the work and its author, developer, creator, translator, data entry person, graphic designer, publisher, editor, photographer, producer;

- (c) a copy of the licence to use the product or of the agreement granting the relevant rights to the contractor or a reference to this licence;
- (d) a copy of the agreement or extract from the employment contract granting the relevant rights to the contractor where parts of the results were created by its personnel;
- (e) the text of the disclaimer notice if any.

Provision of evidence does not release the contractor from its responsibilities in case it is found that it does not hold the necessary rights, regardless of when and by whom this fact was revealed.

The contractor also warrants that it possesses the relevant rights or powers to execute the transfer and that it has paid or has verified payment of all due fees including fees due to collecting societies, related to the final results.

#### *II.10.6 Creators*

By delivering the results the contractor warrants that the creators undertake not to oppose that their names be recalled when the results are presented to the public and confirms that the results can be divulged. Names of authors shall be recalled on request in the manner communicated by the contractor to the Agency.

The contractor shall obtain the consent of creators regarding the granting of the relevant rights and be ready to provide documentary evidence upon request.

#### **II.10.7 Persons appearing in photographs or films**

If natural, recognisable persons appear in a result or their voice is recorded the contractor shall submit a statement of these persons (or of the persons exercising parental authority in case of minors) where they give their permission for the described use of their image or voice on request by the Agency. This does not apply to persons whose permission is not required in line with the law of the country where photographs were taken, films shot or audio records made.

#### **II.10.8 Copyright for pre-existing rights**

When the contractor retains pre-existing rights on parts of the results, reference shall be inserted to that effect when the result is used as set out in Article I.8.1 with the following disclaimer: © - year - European Union. All rights reserved. Certain parts are licensed under conditions to the EU.

#### **II.10.9 Visibility of Agency funding and disclaimer**

When making use of the results, the contractor shall declare that they have been produced within a contract with the Agency and that the opinions expressed are those of the contractor only and do not represent the Agency's official position. The Agency may waive this obligation in writing.

#### **Article II. 11 – Force majeure**

**II.11.1** 'Force majeure' means any unforeseeable and exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their obligations under the FWC, which was not attributable to error or negligence on their part or on the part of subcontractors and which proves to be inevitable in spite of exercising due diligence. Any default of a service, defect in equipment or material or delays in making them available, unless they stem directly from a relevant case of force majeure, as well as labour disputes, strikes or financial difficulties, cannot be invoked as force majeure.

**II.11.2** A party faced with force majeure shall formally notify the other party without delay, stating the nature, likely duration and foreseeable effects.

**II.11.3** The party faced with force majeure shall not be held in breach of its contractual obligations if it has been prevented from fulfilling them by force majeure. Where the contractor is unable to fulfil its contractual obligations owing to force majeure, it shall have the right to remuneration only for the tasks actually executed.

**II.11.4** The parties shall take all the necessary measures to limit any damage due to force majeure.

### **Article II. 12 – Liquidated damages**

The Agency may impose liquidated damages should the contractor fail to complete its contractual obligations, also with regard to the required quality level, according to the tender specifications.

Should the contractor fail to perform its contractual obligations within the time limits set by the FWC or the relevant order form or specific contract, then, without prejudice to the contractor's actual or potential liability or to the Agency's right to terminate the FWC or the relevant order form or specific contract, the Agency may impose liquidated damages for each and every 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 or, failing that, the period between the date specified in Article I.4.1 and the date of delivery or performance specified in the relevant order form or specific contract, expressed in calendar days

The contractor may submit arguments against this decision within 30 days of receipt of the formal notification. In the absence of a reaction on its part or of written withdrawal by the Agency within 30 days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable.

The parties 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 incurred due to failure to fulfil obligations which may be reasonably anticipated.

### **Article II. 13 – Suspension of the performance of the FWC**

#### **II.13.1 Suspension by the contractor**

The contractor may suspend the performance of the FWC or order form or specific contract or any part thereof if a case of force majeure makes such performance impossible or excessively difficult. The contractor shall inform the Agency about the suspension without delay, giving all the necessary reasons and details and the envisaged date for resuming the performance of the FWC, order form or specific contract.

Once the circumstances allow resuming performance, the contractor shall inform the Agency immediately, unless the Agency has already terminated the FWC, order form or specific contract.

#### **II.13.2 Suspension by the Agency**

The Agency may suspend the performance of the FWC or order form or specific contract or any part thereof:

(a) if the FWC or order form or specific contract award procedure or the performance of the FWC prove to have been subject to substantial errors, irregularities or fraud;

(b) in order to verify whether presumed substantial errors, irregularities or fraud have actually occurred.

Suspension shall take effect on the day the contractor receives formal notification, 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 the contractor that it is proceeding with termination of the FWC or order form or specific contract. The contractor shall not be entitled to claim compensation on account of suspension of the FWC or order form or specific contract or of part thereof.

## **Article II. 14 – Termination of the FWC**

### *II.14.1 Grounds for termination*

The Agency may terminate the FWC, an order form or a specific contract respectively in the following circumstances:

- (a) if a change to the contractor's legal, financial, technical or organisational or ownership situation is likely to affect the performance of the FWC or order form or specific contract substantially or call into question the decision to award the FWC;
- (b) if execution of the tasks under a pending order form or a specific contract has not actually commenced within 15 days of the date foreseen, and the new date proposed, if any, is considered unacceptable by the Agency, taking into account article II.8.2;
- (c) if the contractor does not perform the FWC or an order form or specific contract as established in the tender specifications or request for service or fails to fulfil another substantial contractual obligation; termination of three or more order forms or specific contracts on this ground shall constitute ground for termination of the FWC;
- (d) in the event of force majeure notified in accordance with article II.11 or if the performance of the FWC or order form or specific contract has been suspended by the contractor as a result of force majeure, notified in accordance with article II.13, where either resuming performance is impossible or the modifications to the FWC or order form or specific contract might call into question the decision awarding the FWC or order form or specific contract, or result in unequal treatment of tenderers or contractors;
- (e) if the contractor is declared bankrupt, is being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (f) if the contractor or any natural person with the power to represent it or take decisions on its behalf has been found guilty of professional misconduct proven by any means;
- (g) if the contractor is not in compliance with its obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established or with those of the country of the applicable law of this FWC or those of the country where the FWC is to be performed;
- (h) if the Agency has evidence that the contractor or any natural persons with the power to represent it or take decisions on its behalf have committed fraud, corruption, or are involved in a criminal organisation, money laundering or any other illegal activity detrimental to the Union's financial interests;
- (i) if the Agency has evidence that the contractor or any natural persons with the power to represent it or take decisions on its behalf have committed substantial

- errors, irregularities or fraud in the award procedure or the performance of the FWC, including in the event of submission of false information;
- (j) if the contractor is unable, through its own fault, to obtain any permit or licence required for performance of the FWC or order form or specific contract;
  - (k) if the needs of the Agency change and it no longer requires new services under the FWC;
  - (l) when due to the termination of the FWC 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 Procedure for termination*

When the Agency intends to terminate the FWC or order form or specific contract it shall formally notify the contractor of its intention specifying the grounds thereof. The Agency shall invite the contractor to make any observations and, in the case of point (c) of Article II.14.1, to inform the Agency about the measures taken to continue the fulfilment of its contractual obligations, within 30 days from receipt of the notification.

If the Agency does not confirm acceptance of these observations by giving written approval within 30 days of receipt, the termination procedure shall proceed. In any case of termination the Agency shall formally notify the contractor about its decision to terminate the FWC or order form or specific contract. In the cases referred to in points (a), (b), (c), (e), (g), (j), (k) and (l) of Article II.14.1 the formal notification shall specify the date on which the termination takes effect. In the cases referred to in points (d), (f), (h), and (i) of Article II.14.1 the termination shall take effect on the day following the date on which notification of termination is received by the contractor.

#### *II.14.3 Effects of termination*

In the event of termination, the contractor shall waive any claim for consequential damages, including any loss of anticipated profits for uncompleted work. On receipt of the notification of termination, the contractor shall take all the appropriate measures to minimise costs, prevent damages, and cancel or reduce its commitments. The contractor shall have 60 days from the date of termination to draw up the documents required by the special conditions or order forms or specific contracts for the tasks already executed on the date of termination and produce an invoice if necessary. The Agency may recover any amounts paid under the FWC.

The Agency may claim compensation for any damage suffered in the event of termination.

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 this regard, without prejudice to any other rights or guarantees it may have under the FWC.

### **Article II. 15 – Reporting and payments**

#### **II.15.1 Date of payment**

Payments shall be deemed to be effected on the date when they are debited to the Agency's account.

#### **II.15.2 Currency**

The FWC shall be in euros.

Payments shall be executed in euros or in the local currency as provided for in Article I.5.

Conversion between the euro and another currency shall be made according to the daily euro exchange rate published in the *Official Journal of the European Union* or, failing that, at the monthly accounting exchange rate established by the European Commission and published on its website, applicable on the day on which the payment order is issued by the Agency.

### **II.15.3 Costs of transfer**

The costs of the transfer shall be borne in the following way:

- (a) costs of dispatch charged by the bank of the Agency shall be borne by the Agency
- (b) cost of receipt charged by the bank of the contractor shall be borne by the contractor,
- (c) costs for repeated transfer caused by one of the parties shall be borne by the party causing repetition of the transfer.

### **II.15.4 Invoices and Value Added Tax**

Invoices shall contain the contractor's identification, the amount, the currency and the date, as well as the FWC reference and reference to the order form or specific contract.

Invoices shall indicate the place of taxation of the contractor for value added tax (VAT) purposes and shall specify separately the amounts not including VAT and the amounts including VAT.

The Agency is, as a rule, exempt from all taxes and duties, including VAT, pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union.

The contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the supplies and services required for performance of the FWC are exempt from taxes and duties, including VAT exemption.

### **II.15.5 Pre-financing and performance guarantees**

Pre-financing guarantees shall remain in force until the pre-financing is cleared against interim payments or payment of the balance and, in case the latter takes the form of a debit note, three months after the debit note is notified to the contractor. The Agency shall release the guarantee within the following month.

Performance guarantees shall cover performance of the service in accordance with the terms set out in the request for services until its final acceptance by the Agency. The amount of the performance guarantee shall not exceed the total price of the order form or specific contract. The guarantee shall provide that it remains in force until final acceptance. The Agency shall release the guarantee within a month following the date of final acceptance.

Where, in accordance with Article I.4, a financial guarantee is required for the payment of pre-financing, or as performance guarantee, it shall fulfil the following conditions:

- (a) the financial guarantee is provided by a bank or an approved financial institution or, at the request of the contractor and agreement by the Agency, by a third party;
- (b) the guarantor stands as first-call guarantor and does not require the Agency to have recourse against the principal debtor (the contractor).

The cost of providing such guarantee shall be borne by the contractor.

### **II.15.6 Interim payments and payment of the balance**

The contractor shall submit an invoice for interim payment upon delivery of intermediary results, accompanied by a progress report or any other documents, as provided for in Article I.4 or in the tender specifications or in the order form or specific contract.

The contractor shall submit an invoice for payment of the balance within 60 days following the end of the period referred to in Article III.2.2, accompanied by a final progress report or any other documents provided for in Article I.4 or in the tender specifications or in the order form or specific contract.

Upon receipt, the Agency shall pay the amount due as interim or final payment, within the periods specified in Article I.4, provided the invoice and documents have been approved and without prejudice to Article II.15.7. Approval of the invoice and documents shall not imply recognition of the regularity or of the authenticity, completeness and correctness of the declarations and information they contain.

Payment of the balance may take the form of recovery.

#### **II.15.7 Suspension of the time allowed for payment**

The Agency may suspend the payment periods specified in Article I.4 at any time by notifying the contractor that its invoice cannot be processed, either because it does not comply with the provisions of the FWC, or because the appropriate documents have not been produced.

The Agency shall inform the contractor in writing as soon as possible of any such suspension, giving the reasons for it.

Suspension shall take effect on the date the notification is sent by the Agency. The remaining payment period shall start to run again from the date on which the requested information or revised documents are received or the necessary further verification, including on-the-spot checks, is carried out. Where the suspension period exceeds two months, the contractor may request the Agency to justify the continued suspension.

Where the payment periods have been suspended following rejection of a document referred to in the first paragraph and the new document produced is also rejected, the Agency reserves the right to terminate the order form or specific contract in accordance with Article II.14.1(c).

#### **II.15.8 Interest on late payment**

On expiry of the payment periods specified in Article I.4, and without prejudice to Article II.15.7, the contractor is entitled to interest on late payment at the rate applied by the European Central Bank for its main refinancing operations in Euros (the reference rate) plus eight points. The reference rate shall be the rate in force on the first day of the month in which the payment period ends, as published in the C series of the *Official Journal of the European Union*.

The suspension of the payment period in accordance with Article II.15.7 may not be considered as a late payment.

Interest on late payment shall cover the period running from the day following the due date for payment up to and including the date of actual payment as defined in Article II.15.1.

However, when the calculated interest is lower than or equal to EUR 200, it shall be paid to the contractor only upon request submitted within two months of receiving late payment.

### **Article II. 16 - Reimbursements**

**II.16.1** Where provided by the special conditions or by the tender specifications, 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, or failing that, on production of copies or scanned originals, or on the basis of flat rates.

**II.16.2** Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary and the minimum number of nights necessary for overnight stay at the destination.



**II.16.3** 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;

In addition, travel outside Union territory shall be reimbursed provided the Agency has given its prior written consent.

**II.16.4** Subsistence expenses shall be reimbursed on the basis of a daily subsistence allowance as follows:

- (a) for journeys of less than 200 km for a return trip, no subsistence allowance shall be payable;
- (b) daily subsistence allowance shall be payable only on receipt of supporting documents proving that the person concerned was present at the destination;
- (c) daily subsistence allowance shall take the form of a flat-rate payment to cover all subsistence expenses, including meals, local transport which includes transport to and from the airport or station, insurance and sundries;
- (d) daily subsistence allowance shall be reimbursed at the flat rates specified in Article I.3;
- (e) accommodation shall be reimbursed on receipt of supporting documents proving the necessary overnight stay at the destination, up to the flat-rate ceilings specified in the Guidelines of ECHA Experts as stipulated in Article I.3.

**II.16.5** The cost of shipment of equipment or unaccompanied luggage shall be reimbursed provided the Agency has given prior written authorisation.

**II.16.6.** Conversion between the euro and another currency shall be made as specified in Article II.15.2.

**Article II. 17 – Recovery**

**II.17.1** If an amount is to be recovered under the terms of the FWC, the contractor shall repay the Agency the amount in question according to the terms and by the date specified in the debit note.

**II.17.2** If the obligation to pay the amount due is not honoured by the date set by the Agency in the debit note, the amount due shall bear interest at the rate indicated in Article II.15.8. Interest on late payments shall cover the period from the day following the due date for payment up to and including the date when the Agency receives the full amount owed.

Any partial payment shall first be entered against charges and interest on late payment and then against the principal amount.

**II.17.3** If payment has not been made by the due date, the Agency may, after informing the contractor in writing, recover the amounts due by offsetting them against any amounts owed to the contractor by the Union or by the European Atomic Energy Community or by calling in the financial guarantee, where provided for in Article I.4 or in the specific contract.

## **Article II. 18 – Checks and audits**

**II.18.1** The Agency and the European Anti-Fraud Office may check or have an audit on the performance of the FWC. It may be carried out either directly by its own staff or by any other outside body authorised to do so on its behalf.

Such checks and audits may be initiated during the performance of the FWC and during a period of five years which starts running from the date of expiry of the FWC.

The audit procedure shall be deemed to be initiated on the date of receipt of the relevant letter sent by the Agency. Audits shall be carried out on a confidential basis.

**II.18.2** The contractor shall keep all original documents stored on any appropriate medium, including digitised originals when they are authorised by national law and under the conditions laid down therein, for a period of five years which starts running from the date of expiry of the FWC.

**II.18.3** The contractor shall allow the Agency's staff and outside personnel authorised by the Agency the appropriate right of access to sites and premises where the FWC is performed and to all the information, including information in electronic format, needed in order to conduct such checks and audits. The contractor shall ensure that the information is readily available at the moment of the check or audit and, if so requested, that information be handed over in an appropriate form.

**II.18.4** On the basis of the findings made during the audit, a provisional report shall be drawn up. It shall be sent to the contractor, which shall have 30 days following the date of receipt to submit observations. The final report shall be sent to the contractor within 60 days following the expiry of that deadline.

On the basis of the final audit findings, the Agency may recover all or part of the payments made and may take any other measures which it considers necessary.

**II.18.5** By virtue of Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspection carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities and Regulation (EC) No 1073/1999 of the European Parliament and the Council of 25 May 1999 concerning investigation conducted by the European Anti-Fraud Office (OLAF), the OLAF may also carry out on-the-spot checks and inspections in accordance with the procedures laid down by Union law for the protection of the financial interests of the Union against fraud and other irregularities. Where appropriate, the findings may lead to recovery by the Agency.

**II.18.6** The Court of Auditors shall have the same rights as the Agency, notably right of access, for the purpose of checks and audits.

## **SPECIFIC CONTRACT No [complete]**

implementing Framework contract No [complete]

The European Chemicals Agency (hereinafter referred to as "the Agency"), represented for the purposes of the signature of this specific contract by [*forename, surname, function, directorate*]<sup>14</sup>,

on the one part,

and

[*full official name*]

[*official legal form*]<sup>15</sup>

[*statutory registration number*]<sup>16</sup>

[*full official address*]

[*VAT registration number*]

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

[The parties identified above and hereinafter collectively referred to as 'the contractor' shall be jointly and severally liable vis-à-vis the Agency for the performance of this specific contract.]

on the other part,

---

<sup>14</sup> The ECHA official must be an authorising officer (by delegation or sub-delegation) designated in accordance with the Decision by the Executive Director of 28 April 2010 on the Delegation of Financial Authority (ED/23/2010).

<sup>15</sup> Delete if contractor is a natural person or a body governed by public law.

<sup>16</sup> Delete if contractor is a body governed by public law. For natural persons, indicate the number of their identity card or, failing that, of their passport or equivalent.

HAVE AGREED

### **Article III.1: Subject matter**

**III.1.1** This specific contract implements Framework Contract (FWC) No [complete] signed by the Agency and the contractor on [complete date].

**III.1.2** The subject matter of this specific contract is [short description of subject]. [This specific contract relates to lot [complete] of the FWC.]

**III.1.3** The contractor undertakes, in accordance with the terms set out in the FWC and in this specific contract and the annex[es] thereto, which form an integral part thereof, to perform the [following tasks:] [tasks specified in Annex [complete].]

### **Article III.2: Entry into force and duration**

**III.2.1** This specific contract shall enter into force [on the date on which it is signed by the last party] [on [insert date] if it has already been signed by both parties].

**III.2.2** The duration of the execution of the tasks shall not exceed [complete] [days][months]. Execution of the tasks shall start from [the date of entry into force of this specific contract] [insert date].

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

### **Article III.3: Price**

**III.3.1** The maximum total price to be paid under this specific contract shall be EUR [amount in figures and in words] covering all tasks executed.

**III.3.2** In addition to the maximum total price [no reimbursable expenses are foreseen.] [expenses up to the amount of EUR [amount in figures and in words] shall be reimbursed according to the provisions of the FWC].

\*\*\*

[Option: for contractors for which VAT is due in Belgium]

[Where VAT is due in Belgium, the provisions of this specific contract constitute a request for VAT exemption No 450, Article 42, paragraph 3.3 of the VAT code (circular 2/1978), provided the contractor includes the following statement in the invoice(s): "Exonération de la TVA, Article 42, paragraphe 3.3 du code de la TVA (circulaire 2/1978)" or an equivalent statement in the Dutch or German language.]

[Option: for contractors for which VAT is due in Luxembourg]

[Where VAT is due in Luxembourg, the contractor shall include the following statement in the invoices: "Commande destinée à l'usage officiel de l'Union européenne. Exonération de la TVA Article 43 § 1 k 2ième tiret de la loi modifiée du 12.02.79." In case of intra-Community purchases, the statement to be included in the invoices is: "For the official use of the European Union. VAT Exemption / European Union/ Article 151 of Council Directive 2006/112/EC."]

## Article III.4: Payment terms

### Annexes

Request for service

Contractor's specific tender (No [complete] of [insert date])

### Signatures

For the contractor,

[Company  
name/forename/surname/function]

**1.1.2**

signature[s]: \_\_\_\_\_

**1.1.3**

Done at [ ], [date]

In duplicate in English.

For the Agency,

[forename/surname/function]

**1.1.4**

**1.1.5**

signature[s]: \_\_\_\_\_

Done at Helsinki, [date]



**FRAMEWORK CONTRACT**

**ORDER FORM**

Directorate  
and unit:

Order number:

(Name and address of contractor)

Currency of payment: EUR

Tel.:

Offer (date and reference):

E-mail:

This order is governed by the provisions of Framework Contract No.ECHA/2012/182 \_\_\_\_\_  
in force from \_\_\_\_\_ to \_\_\_\_\_

LISTING OF THE SUPPLIES / SERVICES  and code	UNIT	QUANTITY	PRICE in €	
			UNIT PRICE	TOTAL

Pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union, the Agency is exempt from all taxes and dues, including value added tax, on payments due in respect of this contract. For intra-community purchases, the mention "VAT Exemption / European Union / Article 151 of Council Directive 2006/112/EC" should be added on the invoice.

Packaging

Insurance

Transport

Assembly

VAT

**TOTAL :**

Place of delivery or performance and/or Incoterm:

Final date of delivery or performance:

Terms of payment:

Guarantee:

Date of issue:

Signature [name and position] [ECHA stamp]:

**Contractor's signature**

Name:

Position:

Date:

The invoice shall be paid only if the contractor has returned the signed order form.

# **ANNEX I**

## **Tender Specifications (Tender No ECHA/2012/182)**

## **ANNEX II**

### **Contractor's Tender**



### ANNEX III

<b>PLACE OF MEETING</b>	<b>DAILY SUBSISTENCE ALLOWANCE (EUR)</b>	<b>MAX. ACCOMODATION EXPENSES (EUR)</b>
<b>AUSTRIA</b>	<b>95</b>	<b>130</b>
<b>BELGIUM</b>	<b>92</b>	<b>140</b>
<b>BULGARIA</b>	<b>58</b>	<b>169</b>
<b>CYPRUS</b>	<b>93</b>	<b>145</b>
<b>CHECH REPUBLIC</b>	<b>75</b>	<b>155</b>
<b>DENMARK</b>	<b>120</b>	<b>150</b>
<b>ESTONIA</b>	<b>71</b>	<b>110</b>
<b>FINLAND</b>	<b>104</b>	<b>140</b>
<b>FRANCE</b>	<b>95</b>	<b>150</b>
<b>GERMANY</b>	<b>93</b>	<b>115</b>
<b>GREECE</b>	<b>82</b>	<b>140</b>
<b>HUNGARY</b>	<b>72</b>	<b>150</b>
<b>IRELAND</b>	<b>104</b>	<b>150</b>
<b>ITALY</b>	<b>95</b>	<b>135</b>
<b>LATVIA</b>	<b>66</b>	<b>145</b>
<b>LITHUANIA</b>	<b>68</b>	<b>115</b>
<b>LUXEMBOURG</b>	<b>92</b>	<b>145</b>
<b>MALTA</b>	<b>90</b>	<b>115</b>
<b>NETHERLANDS</b>	<b>93</b>	<b>170</b>
<b>POLAND</b>	<b>72</b>	<b>145</b>
<b>PORTUGAL</b>	<b>84</b>	<b>120</b>
<b>ROMANIA</b>	<b>52</b>	<b>170</b>
<b>SLOVAKIA</b>	<b>80</b>	<b>125</b>
<b>SLOVENIA</b>	<b>70</b>	<b>110</b>
<b>SPAIN</b>	<b>87</b>	<b>125</b>
<b>SWEDEN</b>	<b>97</b>	<b>160</b>
<b>UNITED KINGDOM</b>	<b>101</b>	<b>175</b>

## **4.3 PROCUREMENT DOCUMENTATION**

### ***4.3.1 Eligibility documentation***

#### **Identification of the Tenderer**

(to be completed by the tenderer)

**LEGAL ENTITIES**

**PRIVATE COMPANIES**

<b>TYPE OF COMPANY</b>	<input type="text"/>		
<b>NGO</b>	YES <input type="checkbox"/>	NO <input type="checkbox"/>	(Non Governmental Organisation)
<b>NAME(S)</b>	<input type="text"/>		
	<input type="text"/>		
	<input type="text"/>		
	<input type="text"/>		
<b>ABBREVIATION</b>	<input type="text"/>		
<b>ADDRESS OF THE HEAD OFFICE</b>	<input type="text"/>		
	<input type="text"/>		
	<input type="text"/>		
<b>POSTAL CODE</b>	<input type="text"/>	<b>P.O. BOX</b>	<input type="text"/>
<b>CITY</b>	<input type="text"/>		
<b>COUNTRY</b>	<input type="text"/>		
<b>VAT</b>	<input type="text"/>		
<b>PLACE OF REGISTRATION</b>	<input type="text"/>		
<b>DATE OF REGISTRATION</b>	<input type="text"/> <small>D D</small>	<input type="text"/> <small>M M</small>	<input type="text"/> <small>Y Y Y Y</small>
<b>REGISTRATION NR</b>	<input type="text"/>		
<b>PHONE</b>	<input type="text"/>	<b>FAX</b>	<input type="text"/>
<b>E-MAIL</b>	<input type="text"/>		
<b>CONTACT PERSON</b>	<input type="text"/>		

**THIS "LEGAL ENTITY" FORM SHOULD BE FILLED IN AND RETURNED TOGETHER WITH:**

- \* A COPY OF ANY OFFICIAL DOCUMENT (E.G. OFFICIAL GAZETTE, REGISTER OF COMPANIES, ETC.) SHOWING THE CONTRACTOR'S NAME AND ADDRESS AND THE REGISTRATION NUMBER GIVEN TO IT BY THE NATIONAL AUTHORITIES;**
- \* A COPY OF THE VAT REGISTRATION DOCUMENT IF APPLICABLE AND IF THE VAT NUMBER DOES NOT APPEAR ON THE OFFICIAL DOCUMENT REFERRED TO ABOVE.**

**DATE AND SIGNATURE**

# LEGAL ENTITIES

This information is to be stored in the Commission's accounting records for use in its payment procedures.  
Commission staff carrying out such procedures will be able to consult it for this purpose.

## INDIVIDUAL

TITLE	<input type="text"/>
NAME	<input type="text"/>
FIRST NAME	<input type="text"/>
(NAME 2)	<input type="text"/>
(NAME 3)	<input type="text"/>
OFFICIAL ADDRESS	<input type="text"/> <input type="text"/>
<small>(OFFICIAL Address = Your PERMANENT address; generally the one which is registered on your identity card)</small>	
POSTAL CODE	<input type="text"/>
P.O. BOX	<input type="text"/>
TOWN/ CITY	<input type="text"/>
COUNTRY	<input type="text"/>
VAT NR	<input type="text"/>
IDENTITY CARD NUMBER	<input type="radio"/> <input type="text"/>
PASSPORT NUMBER	<input type="radio"/> <input type="text"/>
DATE OF BIRTH	<input type="text"/> <sup>D</sup> <input type="text"/> <sup>D</sup> <input type="text"/> <sup>M</sup> <input type="text"/> <sup>M</sup> <input type="text"/> <sup>Y</sup> <input type="text"/> <sup>Y</sup> <input type="text"/> <sup>Y</sup> <input type="text"/> <sup>Y</sup> PLACE OF BIRTH <input type="text"/>
COUNTRY OF BIRTH	<input type="text"/>
PHONE	<input type="text"/>
FAX	<input type="text"/>
E-MAIL	<input type="text"/>

**THIS "LEGAL ENTITY" FORM SHOULD BE FILLED IN AND RETURNED  
WITH A LEGIBLE PHOTOCOPY OF YOUR ID CARD OR PASSPORT.**

DATE AND SIGNATURE

# LEGAL ENTITIES

## PUBLIC ENTITIES

TYPE OF COMPANY	<input type="text"/>																								
NGO	YES <input type="checkbox"/>	NO <input type="checkbox"/>	(Non Gouvernemental Organisation)																						
NAME(S)	<input type="text"/>																								
	<input type="text"/>																								
	<input type="text"/>																								
	<input type="text"/>																								
ABBREVIATION	<input type="text"/>																								
OFFICIAL ADDRESS	<input type="text"/>																								
	<input type="text"/>																								
	<input type="text"/>																								
POSTAL CODE	<input type="text"/>								P.O. BOX	<input type="text"/>															
CITY	<input type="text"/>																								
COUNTRY	<input type="text"/>																								
VAT	<input type="text"/>																								
PLACE OF REGISTRATION	<input type="text"/>																								
DATE OF REGISTRATION	<input type="text"/>		<input type="text"/>		<input type="text"/>		<input type="text"/>		<input type="text"/>		<input type="text"/>		<input type="text"/>		<input type="text"/>		<input type="text"/>		<input type="text"/>		<input type="text"/>		<input type="text"/>		
	D D		M M		Y Y		Y Y																		
REGISTRATION NR	<input type="text"/>																								
PHONE	<input type="text"/>												FAX	<input type="text"/>											
E-MAIL	<input type="text"/>																								
CONTACT PERSON	<input type="text"/>																								

***This "Legal entity" form should be filled in and returned together with:  
\* a copy of the resolution, law, decree or decision establishing the entity in question;  
\* or, failing that, any other official document attesting to the establishment of the entity.***

DATE :

NAME AND FUNCTION OF THE AUTHORISED REPRESENTATIVE

SIGNATURE

STAMP

# Model financial identification form

(to be completed by the tenderer and his or her financial institution)

The tenderer's attention is drawn to the fact that this document is a model, and a specific form for each Member State is available at the following Internet address:

[http://ec.europa.eu/budget/execution/ftiers\\_en.htm](http://ec.europa.eu/budget/execution/ftiers_en.htm)

## SIGNALETIQUE FINANCIER

TITULAIRE DU COMPTE BANCAIRE	
NOM	<input type="text"/>
ADRESSE	<input type="text"/>
COMMUNE/VILLE	<input type="text"/>
CODE POSTAL	<input type="text"/>
PAYS	<input type="text"/>
NUMERO TVA	<input type="text"/>
CONTACT	<input type="text"/>
TELEPHONE	<input type="text"/>
TELEFAX	<input type="text"/>
E - MAIL	<input type="text"/>

BANQUE	
NOM DE LA BANQUE	<input type="text"/>
ADRESSE (DE L'AGENCE)	<input type="text"/>
COMMUNE/VILLE	<input type="text"/>
CODE POSTAL	<input type="text"/>
PAYS	<input type="text"/>
NUMERO DE COMPTE	<input type="text"/>
IBAN (optionnel)	<input type="text"/>

REMARQUES:

<b>CACHET de la BANQUE + SIGNATURE du REPRESENTANT DE LA BANQUE</b> (Les deux obligatoires)

<b>DATE + SIGNATURE DU TITULAIRE DU COMPTE :</b> (Obligatoire)

**SUBCONTRACTOR / LETTER OF INTENT**

*Insert reference of this call*

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 tenderer]*.

Declares hereby accepting the general conditions attached to the tendering specifications for this call for tender, and in particular art. II.17 in relation with checks and audits.

<b>Full name</b>	<b>Date</b>	<b>Signature</b>
.....		
.....		

**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:

- Signatory 1 (Name, Function, Company, Registered address, VAT Number)
- Signatory 2 (Name, Function, Company, Registered address, VAT Number)
- .....
- 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:

(1) In case the European Chemicals Agency awards 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** »).

(2) As co-signatories of the Contract, all the Group Members:

- (a) Shall be jointly and severally liable towards the 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.

(3) 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*]

(4) Payments by the 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.*].

(5) 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:

- (a) The Group Leader shall sign any contractual documents —including the Contract, and Amendments thereto— and issue any invoices



related to the Supplies or the Services on behalf of the Group Members.

- (b) The Group Leader shall act as single point of contact for the 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 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 Agency's express approval.

This agreement / power of attorney shall expire when all the contractual obligations of the Group Members towards the 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:

- Signatory 1 (Name, Function, Company, Registered address, VAT Number)
- Signatory 2 (Name, Function, Company, Registered address, VAT Number)
- .....
- 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:

(1) In case the European Chemicals Agency awards 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** »).

- (2) As co-signatories of the Contract, all the Group Members:
- (a) Shall be jointly and severally liable towards the 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.

(3) 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.*].

(4) Payments by the 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.*].

(5) The Group Members appoint Mr/Ms .....as**Group Manager**.

(6) 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:

- (a) The Group Manager shall sign any contractual documents —including the Contract, and Amendments thereto— and issue any invoices related to the Supplies or the Services on behalf of the Group Members.

- (b) The Group Manager shall act as single point of contact for the 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 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 Agency's express approval.

This agreement / power of attorney shall expire when all the contractual obligations of the Group Members towards the 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

### ***4.3.2 Exclusion criteria documentation***

## Exclusion Criteria Form

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 operator<sup>17</sup>*)
- 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

---

<sup>17</sup> To be used depending on the national legislation of the country in which the candidate or tenderer is established and where considered necessary by the contracting authority (see art. 134(4) of the Implementing Rules).

any other illegal activity detrimental to the Communities' 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;
- 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<sup>18</sup>.

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 Tenderer.

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 Tenderer 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

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<sup>18</sup>Mandatory for contracts of value above €133 000 only (see art. 134(2) of the Implementing Rules). The contracting authority can nevertheless request such evidence for contracts with a lower value.

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

### 4.3.3. Selection criteria documentation

## Financial and Economic Capacity Overview Form

<b>Financial and Economic Capacity Overview</b>			
<b>Currency :EURO</b>	<b>Figures (000)</b>		
	<b>N*</b> (* most recent figures available)	<b>N-1</b>	<b>N-2</b>
<b>Total Balance Sheet</b>			
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>			
<b><u>About PROFIT &amp; LOSS</u></b>			
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 of the organisation will be ensured.



## **CONTRACT REFERENCE FORM**

The Contract Reference Form must be used to give details about four relevant contracts the tenderer wants to present as proof for Technical and professional capacity (selection criterion 2.1 b.)

A new Contract Reference Form must be completed for each contract.

**Contract reference n° \_\_\_\_\_**

**Company name:**

**Number of staff of the  
company:**

**Start date (mm/yy):**

**Finish date (mm/yy):**

**In addition to mandatory preventive health care, did you provide medical services  
on general practitioner level ?**

**Any Other Services?**

**EUROPEAN CURRICULUM VITAE FORMAT**

**EUROPEAN  
CURRICULUM VITAE  
FORMAT**



**PERSONAL INFORMATION**

Name [ **SURNAME, other name(s)** ]  
Address [ **House number, street name, postcode, city, country** ]  
Telephone  
Fax  
E-mail  
  
Nationality  
  
Date of birth [ Day, month, year ]

**WORK EXPERIENCE**

- Dates (from – to) [ Add separate entries for each relevant post occupied, starting with the most recent. ]
- Name and address of employer
- Type of business or sector
- Occupation or position held
- Main activities and responsibilities

**EDUCATION AND TRAINING**

- Dates (from – to) [ Add separate entries for each relevant course you have completed, starting with the most recent. ]
- Name and type of organisation providing education and training
  - Principal subjects/occupational skills covered
- Title of qualification awarded
- Level in national classification (if appropriate)

**PERSONAL SKILLS  
AND COMPETENCES**

*Acquired in the course of life  
and career but not  
necessarily covered by formal  
certificates and diplomas.*

MOTHER TONGUE

[ Specify mother tongue ]

OTHER LANGUAGES

[ Specify language ]

- Reading skills
- Writing skills
- Verbal skills

[ Indicate level: excellent, good, basic. ]

[ Indicate level: excellent, good, basic. ]

[ Indicate level: excellent, good, basic. ]

**SOCIAL SKILLS  
AND COMPETENCES**

*Living and working with other  
people, in multicultural  
environments, in positions  
where communication is  
important and situations  
where teamwork is essential  
(for example culture and  
sports), etc.*

[ Describe these competences and indicate where they were  
acquired. ]

**ORGANISATIONAL SKILLS  
AND COMPETENCES**

*Coordination and  
administration of people,  
projects and budgets; at  
work, in voluntary work (for  
example culture and sports)  
and at home, etc.*

[ Describe these competences and indicate where they were  
acquired. ]

**TECHNICAL SKILLS  
AND COMPETENCES**

*With computers, specific  
kinds of equipment,  
machinery, etc.*

[ Describe these competences and indicate where they were  
acquired. ]

**ARTISTIC SKILLS  
AND COMPETENCES**

*Music, writing, design, etc.*

[ Describe these competences and indicate where they were  
acquired. ]

**OTHER SKILLS  
AND COMPETENCES**

*Competences not mentioned  
above.*

[ Describe these competences and indicate where they were  
acquired. ]

**DRIVING LICENCE(S)**

**ADDITIONAL  
INFORMATION**

[ Include here any other information that may be relevant, for example contact persons, references, etc. ]

**ANNEXES**

[ List any attached annexes. ]

### **4.3.4 Award criteria documentation**

#### **4.3.4.1. Questionnaire for the medical services call for tender**

#### **QUALITATIVE ASSESMENT**

**The tenderer is requested not to exceed thirty (30) pages (please use font 11) when replying to the questionnaire. Anything exceeding 30 pages will not be read.**

**1. Part I: Award criterion 1 - The quality of the tenderer's proposal for the overall management and delivery of the pre-employment and annual medical examinations - maximum 40 points**

- Pre-medical examination
  - a. How would your company organise the pre-employment medical examinations, also taking into account the need for pre-employment medicals during the holiday seasons?
  - b. What type of workflow would be needed between the Medical Center, Medical Advisor, Nurse and the Agency?
  - c. How would data protection be ensured in the relevant information sharing?
  - d. The working language of the Agency is English and majority of its staff doesn't speak Finnish. How will the medical centre take this into account?
- Annual medical examination
  - e. How do you foresee to plan and organise the annual medical examinations, keeping in mind the requirements of the Agency?
  - f. What kind of indicators would you use for monitoring health issues and what types of reports would you produce?
  - g. How would the medical centre proceed if an ECHA staff member's tests showed a serious illness?

**2. Part II: Award criterion 2 - The quality of the proposed services with regard to the Medical Advisor and Nurse services – maximum 60 points**

- Medical Advisor services
  - a. How would the Medical Advisors organise their work in light of the special situation of ECHA as an EU body (not falling under the scope of KELA)?
  - b. What type of follow up system do you propose for detecting repetitive sick leaves?
  - c. How could the Medical Advisors contribute to prevention of long term sick leaves?
  - d. How can conflict of interest situations between the Medical Advisor and staff members be avoided?
  - e. How would the Medical Advisor bring to the Agency managements' attention issues affecting staff member's work such as severe depression, work related

burnout and harassment?

- Nurse and administrative services
  - f. Give a detailed account on how you see the Nurse's role in the Agency in light of the specifications of this Call for tender?

4.3.4.2. Financial Offer template (see also separate excel table):

<b>ECHA/2012/182 - MEDICAL SERVICES - FINANCIAL OFFER</b>			
<p>The Financial Offer has three (3) parts:</p> <ol style="list-style-type: none"> <li>1. Reference Prices</li> <li>2. Offered Prices</li> <li>3. Valid Price List of Other Services</li> </ol> <p><b>YOU CAN FILL IN TABLES 1 AND 2 EITHER MANUALLY OR IN EXCEL FORMAT (SEPARATE TABLE).</b>  <b>If you fill in this template manually you will have to carry out the calculations yourself.</b>  <b>If you use the separate excel template, tables 1 and 2 have been pre-filled with weighting and calculation formulas (marked in grey).</b></p> <p><b>Instructions for filling in the excel table:</b></p> <ul style="list-style-type: none"> <li>- Start by inserting your prices for annual medical and pre-employment medical examinations (prices with VAT excluded) for each item in table 2/Offered Prices except for the ones marked in grey. Those are calculated automatically.</li> <li>- Then, insert the missing prices to Table 1/Reference Prices (white cells). The table will be completed automatically, resulting to reference prices for each category. Sum of the reference prices (marked in yellow) will form the overall weighted price of the bid.</li> </ul> <p><b>Enclose the valid price list of your company as Annex (3), add your company's name, date and sign the offer.</b></p>			
<b>1. Reference Prices</b>			
Description	VAT excluded	Weighting*)	Reference price
<b>A. Annual medical check</b> including medical visit, laboratory and other exams, administrative organisation and maintenance of medical files according to point 4.1.a <b>Unit price = average price of tests and examinations for men and women: sum of total prices for a full check for men, and for a full check for women as detailed in the price offer.</b>	0,00	0,7805	0
<b>B. Pre-employment check</b> including medical visit, laboratory and other exams according to point 4.1.b <b>Unit price for a full check</b>	0,00	0,0275	0
<b>C. Medical Advisor services (**)</b> in ECHA premises or in the Medical Centre or when visiting a staff member at home in Finland <b>Unit price = Price per hour of services provided, all included</b>		0,1185	0
<b>D. Medical Advisor missions:</b> - if mission in Finland the hourly rate will be used as basis for payment to cover the duration of the mission from the Medical centre to the destination. - for missions outside Finland, please indicate price for one mission day <b>Unit price = Price per one mission day abroad, all included except travel and accommodation costs and daily subsistence allowances</b>		0,011	0
<b>E. Nurse services (***)</b> in ECHA premises and in the Medical Centre <b>Unit price = Price per hour of services provided, all included</b>		0,0426	0
<b>F. Ergonomic checks</b> for staff on ECHA premises <b>Unit price = Price per hour of services provided, including travel costs</b>		0,0057	0
<b>G. Seasonal influenza vaccinations</b> <b>Unit price = Price per hour for the services provided by nurse(s) for the vaccination and administrative tasks related to this, including travel costs (excluding the price of the vaccines)</b>		0,0142	0
<b>Overall weighted price</b>			<b>0</b>
*) Weighting of the prices is based on the estimated annual consumption  (**) With regard to the prices for the services of the Medical Advisor: his/her services regarding to the clinical examinations and informing staff members regarding the results in the context of pre-employment -medical examination and the annual medical examination shall be an integral part of the costs of these examinations. Only the specific services provided by the Medical Advisor at the Agency's premises or in the Medical Centre or when visiting a staff member at home in Finland according to the service requested by ECHA shall be invoiced per worked hour. The monthly presence sheet must be attached to the invoice, including the description of the services provided.  (***) With regard to the prices for the services of the Nurse: his/her services regarding to the coordination and assistance in the context of pre-employment -medical examination and the annual medical examination shall be an integral part of the costs of these examinations. Only the specific services provided by the Nurse at the Agency's premises or in the Medical Centre requested by ECHA shall be invoiced per worked hour. The monthly presence sheet must be attached to the invoice, including the description of the services provided.			



<b>2. Offered Prices</b>	<b>Prices VAT excluded</b>
<b>A. Annual medical examination</b>	
<b>1. Clinical examination and consultation on the results (approx. 30 min)</b>	
<b>2. Blood</b>	<b>0,00</b>
Sedimentation rate, CRP	
Full blood count with platelets	
Blood sugar, HbA1c (if blood sugar >110 mg%)	
Creatinin, Urea	
Uric acid, Potassium	
Cholesterol Total / LDL / HDL Triglycerides	
γGT – SGPT – SGOT	
TSH (if abnormal: FT3, FT4)	
Ferritin	
Proteines – electrophoresis (age > 45)	
HIV (only on signed request)	
<b>3. Urine: chemistry and sediment analysis</b>	
<b>4. Faeces: occult blood test &gt; 45 years</b>	
<b>5. ECG at rest</b>	
<b>6. Ophthalmologic examination</b> (Refraction measurement, intraocular pressure, eye ground) Every 2 years as of 40 years, Every year in case of hypertension or diabetics	
<b>7. Women</b>	<b>0,00</b>
Clinical examination	
PAP smear test	
Colposcopy	
HPV	
Pelvic ultrasound	
Mammography as of 40 years	
Breast ultrasound as of 40 years	
<b>8. Mens' s health as of 45 years onwards</b>	<b>0,00</b>
PSA > 45 years	
Rectal examination of prostate > 45 years	
Echography of prostate as of 50 years, if medically indicated	
<b>9. Chest X-ray: only if medically indicated</b>	
<b>10. Administration of a medical file</b>	
<b>Total price of annual medical examination for women</b>	<b>0,00</b>
<b>Total price of annual medical examination for men</b>	<b>0,00</b>
<b>A. Total price of annual medical examination: 50% men and 50% women</b>	<b>0,00</b>
	<b>Prices VAT excluded</b>
<b>B. Pre-employment medical examination</b>	
<b>1. Anamnesis</b>	
<b>2. Clinical examination</b>	
<b>3. Anthropometry</b>	
<b>4. Blood pression and pulse</b>	
<b>5. Hearing</b>	
<b>6. Lung function</b>	
<b>7. Laboratory tests</b>	<b>0,00</b>
a. Urine analysis	
b. Blood: Sedimentation rate, Urea, Uric acid, Creatinine, Glycemia, Cholesterol, Triglyseride, HDL/LDL, Bilirubin, GGT, SGOT (ASAT), SGPT (ALAT), Cellognost sigma, Calcium, Hepatitis B, Hepatitis A, Hepatitis C, TSH, CRP, Hematology (with formula and platelets), Iron, Ferritine, Transferrine - if Hemogl. Man < 13.0 – woman < 12,5, TPHA – if sigma +, Alkaline phosphatise.	
HIV – with the agreement and the signature of the candidate	
Faecal Occult blood test > 45 years	
PSA man >45 years	
Seric protein >50 years,	
Electrophoresis >50 years	
<b>8. Further tests and exams</b>	<b>0,00</b>
a. Vision test – exhaustive ophthalmology exam carried out by an ophthalmologist	
b. Chest x-rays	
c. Resting electrocardiogram	
<b>B. Total price of pre-employment medical examination</b>	<b>0,00</b>

**3. Valid Price List of Other Services (Annex)  
- an integral part of the tender**

**Company name:**

**Date and signature:**

**PLEASE NOTE:** Only one price should be indicated per box. No comment, empty box (except the grey ones) or more than one price indicated per box will be accepted. Prices will have to be guaranteed to the staff of the European Chemicals Agency.

The price list of the company in force in January 2013 that will be used for all services not explicitly foreseen in the specifications.

### 4.3.5 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	Coordinator or group leader in joint bid	All partners in joint bid	Single or Main contractor	Sub-contractor
Power of attorney of partners in joint bid indicating the group leader (see Section 4.3.1)	1		■		
Letter of intent of subcontractor (see Section 4.3.1)	1				■
Legal Entity Form (see Section 4.3.1) Download the form from : <a href="http://ec.europa.eu/budget/execution/legal_entities_en.htm">http://ec.europa.eu/budget/execution/legal_entities_en.htm</a>	1	■	■	■	■
Supporting documents for the Legal Entity File Form	1	■	■	■	
Financial Identification form (see Section 4.3.1) Download the form from: <a href="http://europa.eu.int/comm/budget/execution/ftiers_en.htm">http://europa.eu.int/comm/budget/execution/ftiers_en.htm</a> .	1	■		■	
Exclusion Criteria form (see Section 3.1.1.2 and Section 4.3.2)	2	■	■	■	(50%)■
Evidence of Economic and financial capacity (see Section 3.1.1.2 and Section 4.3.3)	3	■	■	■	(30%)
Evidence of Technical and professional capacity (see Section 3.1.1.2.1 and Section 4.3.3) Go to the following page to fill in the CV: <a href="http://europass.cedefop.europa.eu/europass/previous.action?locale_id=1">http://europass.cedefop.europa.eu/europass/previous.action?locale_id=1</a>	3	■	■	■	(30%)■
Evidence of Technical and professional capacity: contract reference form (see Section 3.1.1.2.1 and Section 4.3.3)	3	■			(30%)

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 Section 3.1.1.2.2)	4	■
Financial offer(see Section 3.1.1.2.3)	5	■