

**ECHA/2011/111**

**Open call for tender  
for provision of audiovisual services**

**Open procedure  
Contract notice: OJEU 2011/S 119-195438**

**Tender Specifications  
Model Contract**

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## **1 PRELIMINARY INFORMATION CONCERNING THE INVITATION TO TENDER**

These specifications follow the publication of: the contract notice in OJEU 2011/S 119-195438 June 2011.

### **1.1 Nature of the contract**

This call for tenders is launched by the European Chemicals Agency ("the Agency") for the award of a framework service contract related to provision of audiovisual services.

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

### **1.2 Background**

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

In its decision-making the Agency will take the best available scientific and technical data and socio-economic information into account. It will also provide information on chemicals and technical and scientific advice. By assessing and approving testing proposals, the Agency will minimize animal testing.

An important element of ECHA's work is to make the information it prepares known and available to current and potential user groups. ECHA runs a broad range of communication activities across various media targeting different audiences and stakeholders. ECHA works closely also with non-governmental stakeholders in the chemicals manufacturing and storage sector such as companies, retailers, downstream users, consumers, and civil society organizations. Often it will be desirable to make use of audiovisual material as supplement to or even replacement for more traditional text-based presentations so as to make it more easily understandable. In order to ensure a high professional standard, there is a need to support the Agency's own capacity for audiovisual production with the services of external service providers.

### **1.3 Starting date of the contract and duration of the tasks**

The framework 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 the fourth quarter of 2011.

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

The tasks will be determined in particular by one or more orders or specific contracts to be signed under the framework contract. The execution of the tasks – by means of the signature of individual orders or specific contracts under the framework contract - may not start before both the framework contract and subsequent order(s) or specific contract(s) have been signed. The framework contract will be signed for 12 months. The Contract shall be renewed automatically up to 3 times, each time for a period of 12 months under the same conditions, unless written notification to the contrary is sent by one of the contracting parties and received by the other contracting parties no later than three months before expiry of the framework contract. Orders and specific contracts under the framework contract must be signed before the framework contract's expiry date, but they can be executed up to a maximum of 6 months after this date.

The foreseen value of the framework service contract is between 500 000 and 1 500 000 EUR over four years.

#### **1.4 Period of validity of the Tender**

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

#### **1.5 Date and place of opening of the Tenders**

Tenders will be opened at [REDACTED] 1 at the following location:

Office address:

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

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

#### **1.6 Contacts between the Tenderer and the Agency**

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

- Before the final date for submission of Tenders:
  - At the request of the Tenderer, the contracting authority may provide additional information solely for the purpose of clarifying the nature of the contract.
  - The Agency may, on its own initiative, inform interested parties of any error, inaccuracy, omission or other clerical error in the text of the Call for Tenders.
- After the opening of Tenders:
  - If clarification is requested or if obvious clerical errors in the Tender need to be corrected, the contracting authority may contact the Tenderer provided the terms of the Tender are not modified as a result.

The requests for additional information may be made to the address below by fax or email.

European Chemicals Agency  
 Annankatu 18  
 P.O. Box 400  
 FI-00121 Helsinki  
 Finland  
 FAX: +358-9 6861 8931  
 Email: [opencalls@ECHA.europa.eu](mailto:opencalls@ECHA.europa.eu)

Insofar as it has been requested in good time, the additional information will be made available to all economic operators who requested specifications or showed interest in submitting a bid no later than six calendar days before the final date for the submission of bids or, in case of requests for information are received less than eight calendar days before the final date for the submission of bids, as soon as possible after the request for information has been received. Requests for additional information received less than five working days before closing date for submission of tenders will not be processed.

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

The answers to the requests for additional information can also be found at the following internet address: [http://echa.europa.eu/opportunities/procurement\\_en.asp](http://echa.europa.eu/opportunities/procurement_en.asp)

### 1.7 Terms of payment - implementation of the contract

Payments shall be made in accordance with Articles I.3, I.5 & II.5 of the model framework contract. The schedule and the procedure for the approval of payments and the documents to be submitted are described in Articles I.5, II.4, II.5 and II.7 of the model framework contract. Payment schedules

will be defined separately for each order or specific contract depending on the nature of the tasks and duration of the contract. ECHA reserves the right to pay less than the amount foreseen in article I.3.1 and Annex II (financial bid) to the orders and specific contracts according to tasks actually performed.

The services under the framework contracts will be provided by means of:

- **Fixed price:** These assignments will be executed either at the Agency, contractor's premises or any other place as agreed in the order or specific contract. The Agency and the contractor will agree on the deliverables, the delivery schedule, the price and the place of execution of these orders.
- **Time and means:** These orders may vary from a few man-days to substantial number of man-days. The orders under Time & Means specific contracts will be executed at the Agency premises.

The ordering process will be initiated by the Agency requesting the contractor, who has been awarded with the framework contract, to provide a bid based on the technical specifications laid down by ECHA.

The Tenderer will provide its quotation and ECHA will evaluate it. Upon agreement an Order or a Specific Contract will be signed. (See Article I.4 of the framework contract in Annex 5.2).

## 1.8 Guarantees

Not applicable.

## 1.9 General terms and conditions for the submission of Tenders

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

Participation in Tendering procedures is open on equal terms to all natural and legal persons from one of the EU Member States and to all natural and legal persons in a third country which has a special agreement with the Union in the field of public procurement on the conditions laid down in that agreement. The Agency refuses Tenders submitted by operators in third countries which have not signed such agreements.

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

Submission of a Tender implies acceptance of the terms and conditions set out in this invitation to Tender, in the Tendering specifications and in the draft contract and, where appropriate, waiver of the Tenderer's own general or specific terms and conditions. The tender is binding on the Tenderer to whom the contract is awarded for the duration of the contract.

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

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

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

Variants are not allowed.

#### **1.10 No obligation to award the contract**

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

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

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

#### **1.11 Place of performance**

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

The Contractor in order to perform certain tasks may be required to send a team and the required equipment to different countries, mainly those of the EU. The possible travel and subsistence costs, including shipment of equipment, shall be reimbursed in accordance with Article 11.7 of the framework contract (See Annex 5.2).

Project meetings will take place either at the Agency's premises or be held via teleconference.

#### **1.12 Subcontracting**

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

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

Accordingly:

- The Agency will treat all contractual matters (e.g. payments) exclusively with the Contractor, whether or not the tasks are performed by a subcontractor;



- The Agency will have direct contacts only with the Contractor, who is responsible for executing the contract;
- Under no circumstances can the Contractor avoid liability towards the Agency on the grounds that the subcontractor is at fault.

A contract which includes subcontracting is subject to certain general conditions in particular the provisions on subcontracting, checks and audits, and confidentiality. Where justified by the subject matter of the contract, a statement of confidentiality may be required to be submitted to the Agency.

The bid must define the roles, activities and responsibilities of the proposed subcontractor(s), and the reasons why subcontracting is envisaged. Consequently, the bid must clearly identify the subcontractor(s) and document their willingness to accept the tasks and their acceptance of the terms and conditions set out in 1.9 above, in particular article II.17 of the standard framework service contract, by returning the form in Annex 5.4 filled in and signed.

Tenderers must inform the subcontractor(s) and include in their subcontracting documents that Article II.17 of the standard framework service contract (Annex 5.2) may be applied to subcontractors. Once the contract has been signed, Article II.13 of the above-mentioned framework service contract shall govern the subcontracting.

### 1.13 Joint bids

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

The Agency will not request consortia to have a given legal form in order to be allowed to submit a Tender, but reserves the right to require a consortium to adopt a given legal form **before the contract is signed** if this change is necessary for proper performance of the contract. This can take the form of an entity with or without legal personality but offering sufficient protection of the Agency's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association).

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

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

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

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

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

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

## 2 FORM AND CONTENT OF THE TENDER

### 2.1 General

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

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

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

Tenders **must include** the following information:

- all the information and documents requested by the Agency in order to assess the Tenderer. In order to help Tenderers presenting a complete Tender, a **checklist of the documents to submit is provided in Annex 5.9**. This checklist does not need to be included in the Tender but we encourage to use it in order to ease the assessment of the Tenders;
- the **price in euros**;
- one **specimen signature of an authorised representative** on the legal entity form (see 2.3.1 b)), and a statement confirming the validity of the Tender (preferably in blue ink), the Tender must provide evidence of the authorisation to sign in name of the Tenderer;
- the **name and contact details (including e-mail address) of a contact person** in relation to the submission of the bid.

### 2.2 How to submit a Tender

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

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

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

### 2.3 Structure of the Tender

Tenders must be presented in five sections:

**Section one:** Administrative information – Presentation of the Tender (see 2.1 & 2.3.1)

**Section two:** Evidence relating to the exclusion criteria (see 3.1)

**Section three:** Evidence relating to the selection criteria (see 3.2.2 & 3.2.3)

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

**Section five:** Financial bid (see 2.3.3)

### **2.3.1 Section one: Administrative bid**

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

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

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

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

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

**Economic operators already registered as a legal entity in the Agency's files (i.e. they have been awarded contract(s) by the Agency) are not obliged to provide the evidence requested in the form, on condition they indicate in their tender the references of the procedure and the Agency's unit for which this evidence was already provided.**

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

### 2.3.2 Section four: technical offer

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

The technical offer must respond to these technical specifications and provide, as a minimum, all the information needed for the purpose of awarding the contract.

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

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

### 2.3.3 Section five: financial bid

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

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

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

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

**Only the items listed in the price catalogue (with the corresponding unit prices) shall be quoted in future orders and will be eligible for the payment of future invoices. Technical equipment with the respective unit prices shall be presented separately from the profiles and the respective unit prices. Reimbursable expenses (travel, per diem and shipment costs) shall be presented separately.**

For the scenario in section 3.4.1.1, tenderers must use the price list format presented in Annex 5.7 to formulate their financial bid. Unit prices in the financial bid for the scenario must correspond to the prices given in Annex 5.6 (price catalogue) both for the use of the technical equipment and for the profiles and for the travel expenses. All these three categories and their respective unit prices shall be presented separately.

**The Agency will reject Tenders where technical offers or financial bids are proposed not in line with instructions.**

**Non conformity with the technical specifications in section 4 will also lead to rejection.**

**The Agency reserves the right, however, to request additional evidence after the opening within a time-limit stipulated in its request, in the conditions explained in section 1.6.**

### **3 ASSESSMENT AND AWARD OF CONTRACT**

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

The aim of each of these stages is:

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

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

##### **3.1.1 Declaration**

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

- state whether or not they are in one or more of the situations referred to in Articles 93 and 94 of the Financial Regulation and detailed in the form;
- undertake to submit to the Agency any additional document relating to the exclusion criteria, that the Agency considers necessary to perform its checks, within seven calendar days following the receipt of the Agency's request.

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

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

### 3.1.2 Grounds of disqualification

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

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

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

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

### 3.1.3 Evidence

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

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

interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

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

### **3.1.4 Administrative and financial penalties**

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

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

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

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

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

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

**If several Service Providers are involved in the bid**, each of them must have the professional and technical capacity to perform the tasks assigned to them in the Tender and the necessary economic and financial capacity.



This rule applies to all legal entities once they have chosen to be Tenderers. If the Tender includes subcontractors, the Agency reserves the right to request evidence of their economic and financial capacity if the tasks subcontracted represent a substantial part of the contract.

### 3.2.1 Selection criteria

<b>SELECTION CRITERIA</b>	
<b>1. Financial and economic capacity</b>	
a)	Sufficient economic and financial capacity to guarantee continuous and satisfactory performance throughout the envisaged lifetime of the contract.
b)	Average annual turnover of the Tenderer must be minimum 300.000 € over past three years.
<b>2. Technical and professional capacity</b>	
The Tenderer must (at the time the tender is submitted) have at a minimum three year experience in audiovisual services, with at least 5 projects over the past three years in the following area:	
•	Video production (e.g. reportage, promotional video, etc.) including filming, scriptwriting and animations.

These criteria will be assessed on the basis of the documents referred to in 3.2.2 and 3.2.3.

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

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

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

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

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

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

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

- a) Customer references, in accordance to the selection criteria 2 above. The customer references must be provided by using the template in Annex 5.8. The references shall confirm that the tenderer performed at least 70% of the project covered by the contract and that the main objective of the project directly related to the audiovisual work.

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

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

The following award criteria will be applied to the evaluation:

Qualitative award criteria (AW)	Weighting (maximum points)
1. Originality and creativeness of the approach to provide informative, attractive, original and technically high quality video as described in the scenario, according to section 3.4.1.1	40 points
2. Composition of the team and distribution of the tasks amongst team members assigned to the scenario, according to section 3.4.1.2.	20 points
3. Overall understanding of the objectives of this call for tender and of the subject matter concerned to result in a valid approach, according to section 3.4.2.	30 points
4. Readability and comprehensiveness of the tender, according to section 3.4.3.	10 points
	100 points

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

Tenders scoring less than 70% 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>
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Total price of the financial bid (as from Annex 5.7)
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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>
-------------------------

Total quality points / Total price of the financial bid (as from Annex 5.7).
--

### 3.4 Basis for Assessment of Award Criteria (AW)

#### 3.4.1 Scenario

For the purpose of the evaluation of the offers, tenderers must submit a tailor made proposal of their approach to deliver services and products in accordance with the scenario described below.

##### 3.4.1.1 Creative approach (AW 1)

This section contains a scenario that the Tenderer is required to consider and provide a detailed offer including description of the chosen approach to carry out the tasks described below and a price quotation. This scenario will be solely used to assess the tenders during the evaluation (see section 3.3 - Award Criteria 1). It does not necessarily mean that the tasks mentioned in the scenario will be requested by the Agency in one of the specific contracts.

Tenderers must use the template in Annex 5.7 to submit the financial bid for the scenario.

See section 3.3 for the criteria to be used when assessing the tenders.

#### **Objective**

To produce a promotional video including animations.

#### **Background information**

ECHA will use video productions to deliver key messages to current and potential user groups. They will be made available in streaming format on the ECHA website, and 50 copies of the video on DVD will be distributed to media and selected stakeholders. One of ECHA's objectives is to help avoid unnecessary animal testing.

[http://echa.europa.eu/doc/press/na\\_09\\_29\\_second\\_testing\\_proposal\\_20091119.pdf](http://echa.europa.eu/doc/press/na_09_29_second_testing_proposal_20091119.pdf)  
[http://echa.europa.eu/consultations/test\\_proposals\\_en.asp](http://echa.europa.eu/consultations/test_proposals_en.asp)

#### **Tasks**

The contractor will produce a two-minute informative video about ECHA's efforts on the reduction of animal testing. The video will show how ECHA gathers and evaluates information from manufacturers to avoid unnecessary animal testing. The video will be targeted to the general public and key ECHA stakeholders (EU Institutions, NGOs, industry associations, etc).

Filmed in 16/9 format and HD, the video must include a title sequence, a short animation, an interview with a key ECHA spokesperson, voice-over commentary along with original filmed footage. The language will be English, but the video includes options for subtitles in French, German and Spanish. ECHA will provide the translation of the subtitles, however the contractor will need to include the subtitles for each language version and consolidate each final product.

The contractor will also design the menus for the DVD and produce the required number of DVD copies.

The filming will take place in Helsinki.

The total amount of mandays for the project is 60, with a timeline of one month. The Tenderer is free to decide how to best allocate the proposed profiles within the total amount of 60 mandays.

For the purpose of evaluation, the Tenderer shall include:

- A detailed description of the creative approach taken to carry out the task, including the development of written stories and the production and editing of the audiovisual material.
- A storyboard of maximum 5 pages (with some photos, graphics and/or videos), detailing the content and visual style of the video.

On the basis of the standard price catalogue (see Annex 5.6), Tenderers are asked to indicate prices for the scenario in accordance with the details provided in Annex 5.7. Unit prices must correspond to the prices given in Annex 5.6.

#### **3.4.1.2 Composition of the team (AW2)**

The tenderer shall describe the project team as well as the production team for the scenario above. All relevant profiles shall be included; the tasks of each profile shall be described in detail as well as how these tasks relate to the achievement of the scenario proposed. No CVs are needed.

For the purpose of evaluation, the Tenderer shall include:

- Description of allocation of the tasks between different profiles (in coherence with Annex 5.7 for financial bid).

#### **3.4.2 Overall understanding of the objectives (AW 3)**

The services described in section 4.2 of the Technical Specifications represent the minimum requirements of ECHA for the Contract implementation. Tenderers must describe in the tender how they will provide all the services under the scope of this call for tender by explaining their approach, taking into account the specificities of ECHA's activities as well as its stakeholders.

For the purpose of the evaluation of the offers, tenderers must prepare:

A document of a maximum of five pages long describing their understanding of the context of this call for tender and their approach to ensure a successful execution of the framework contract.

#### **3.4.3 Readability and comprehensiveness (AW 4)**

Submitted tender should be clear, concise and well structured in accordance with section 2.3 to these specifications.

### **3.4.4 Financial Criterion (AW 5)**

The total price for the scenario submitted by the Tenderer in accordance with Annex 5.7.

**Tenderers are reminded that the submitted technical and financial offers are binding the Tenderer to whom the contract is awarded for the whole duration of the framework contract.**

### **3.5 Information for Tenderers**

The Agency will inform Tenderers of decisions reached concerning the award of the contract, including the grounds for any decision not to award a contract or to recommence the procedure.

If a written request is received, the Agency will inform all rejected Tenderers of the reasons for their rejection and all Tenderers submitting an admissible Tender of the characteristics and relative advantages of the selected Tender and the name of the successful Tenderer.

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

### **3.6 Award of the contract**

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

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

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

### **3.7 Data protection**

Any personal data included in or relating to the Contract, including its execution shall be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. The data shall be processed solely for the purposes of the performance, management and monitoring of the Contract by The European Chemicals Agency without prejudice to possible transmission to the bodies charged with a monitoring or inspection task in application of Union law. The Contractor shall have the right of access to his/her personal data and the right to rectify any such data. Should the Contractor have any queries concerning the processing of his/her personal data, s/he shall address them to The European Chemicals Agency. The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.

Where the Contract requires the processing of personal data, the Contractor may act only under the supervision of the data controller, in particular with regard to the purposes of the processing, the categories of data which may be processed, the recipients of the data, and the means by which the data subject may exercise his/her rights.

The data shall be confidential within the meaning of Regulation (EC) No 45/2001 of the European Parliament and of the Council 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. The Contractor shall limit access to the data to the staff strictly necessary for the performance, management and monitoring of the Contract.

The Contractor undertakes to adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned in order to:

- a) prevent any unauthorised person from having access to computer systems processing personal data, and especially:
  - aa) unauthorised reading, copying, alteration or removal of storage media;
  - ab) unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored personal data;
  - ac) unauthorised persons from using data-processing systems by means of data transmission facilities;
- b) ensure that authorised users of a data-processing system can access only the personal data to which their access right refers;
- c) record which personal data have been communicated, when and to whom;
- d) ensure that personal data being processed on behalf of third parties can be processed only in the manner prescribed by the contracting institution or body;
- e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;
- f) design its organisational structure in such a way that it meets data protection requirements.

## **4 TECHNICAL SPECIFICATIONS**

### **4.1 Contract objectives**

ECHA delivers information to the chemical industry, a variety of stakeholders and the general public. It does so through different channels and especially through its website. The objective of this call for tender is to conclude a framework contract to deliver audiovisual services by creating and managing original video materials and web-based audiovisual content, or other radio, TV and mobile-based products. The selected contractor will undertake all necessary tasks relating to the planning, preparation and production of audiovisual material.

This audiovisual content may take the form of informative and promotional videos, such as interviews, documentaries, reportages, animations, and coverage of live events, among others.

The contractor will also provide a creative input to design and produce this wide array of audiovisual materials in order to create a unique and consistent visual style, according to ECHA's requirements, values and corporate identity.

### **4.2 Description of services**

ECHA will provide the contractor with guidelines on graphic design, visual identity and writing style. The Agency will also specify the format and the medium of the required outputs.

The contractor shall have the necessary equipment and devices to fulfil the tasks ECHA requires. The equipment should be in line with the latest industry standards and broadcast quality and should be upgraded if deemed necessary. No purchase of equipment shall be financed under the framework contract.

In exceptional cases where specialist equipment would be needed due to the nature of the assignment, the Agency shall reimburse the expenses relating to the rent of equipment provided

that they are directly connected with execution of the tasks and provided that the Agency has given its prior approval on the rental. In these exceptional cases reimbursement will be based on original supporting documents, including receipts. (See Article II.7.1 of the draft framework service contract in Annex II.)

In line with Article II.7.5 of the draft framework service contract, the cost of shipment of equipment or unaccompanied luggage shall be reimbursed provided the Agency has given prior written authorisation. Reimbursement will be based on original supporting documents, including receipts.

The working language will be English. If the final product must include translations (subtitles, titles, voice-over, interpretation, etc.), ECHA will provide the translation.

#### **4.2.1 Industrial and Intellectual Property Rights (Article I.11 of the framework contract)**

When providing the audiovisual services and the related results, works and deliverables, the Contractor has to ensure compliance with the applicable Industrial and Intellectual Property legislation.

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

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

#### **4.2.2 Video production**

The contractor will be responsible for the pre-production, filming and post-production of audiovisual projects, providing the necessary crew and resources for its completion in SD and HD formats. The contractor will also be responsible of writing and developing original stories. The contractor may also edit footage provided by the Agency.

The scope of the video production will include promotional and informative clips, training videos, reportages and documentaries, among others. They may include interviews, soundtrack, voice-over narration, subtitles, motion graphics, animations, etc. Archiving services and B-roll library may be required.

Videos shall also be enhanced with music and soundtrack, either original or licensed with prior agreement with the Agency.

#### **4.2.3 Scriptwriting, reporting and development of stories**

The contractor shall develop original scripts based on the topics and ideas suggested by ECHA. In addition, the contractor shall provide expertise in audiovisual communication and broadcast journalism to report and narrate stories and conduct interviews with key actors.

#### **4.2.4 Graphic design and animations**

Enhance videos with title sequences, motion graphics and special effects. Additionally, the contractor will provide creative input, design and production of animations, storyboards, cartoons and other audiovisual art.

#### **4.2.5 Multimedia**

As ECHA uses the web as a main way to communicate with its stakeholders and target audiences, it is important that the contractor is able to transform written content and audiovisual products into interactive web based multimedia formats, according to standard web formats, like for example, flash presentations and animations.

#### **4.2.6 Other services**

- Voice-over / commentator / speaker
- Providing advice and assistance to ECHA on audiovisual projects produced in-house
- Video conversion and transcoding
- Glass mastering and optical media replication
- DVD / Blu-ray authoring
- Transcoding and digital files management
- Analogue-digital conversion

The above list of services is not exhaustive, other services may be requested provided they are within the scope of the framework contract.

### **4.3 Results to be achieved**

Timely delivery of high quality, original and professional audiovisual services and products, according to ECHA's needs.

### **4.4 Project management principles**

#### **4.4.1 Organization**

The contractor must assign a project manager to be in charge of and responsible for the implementation of the framework contract and execution of the specific contracts and orders - with respect to the contractual deadlines.

There must be back-up persons, fully aware of the project, to cover the periods when the project manager or other team members are absent (holidays, sickness, etc.).

##### **4.4.1.1 Meetings**

Meetings may be organised under the chairmanship of the Agency. Drafting of the minutes of the meetings is the responsibility of the contractor.



#### 4.4.1.2 Generic deliverables

The contractor is to provide the required deliverables in accordance with the conditions of the specific contracts or orders implementing the framework contract.

After the completion of each specific contract or order, the contractor may be requested to deliver a final report containing:

- the final status of the project
- an analysis of the experienced problems and corresponding corrective actions
- the final balance of the resources used and costs incurred

After each completed video production, the contractor must deliver to ECHA the following items:

- all the original tapes / files and edit masters
- the final clip, including the required subtitling / dubbing, in the specified format
- storyboard and screenplay
- a viewing copy on DVD in a region free format

## 5 ANNEXES

### 5.1 Exclusion criteria form

Exclusion criteria form (Invitation to Tender No ECHA/2011/111). *This form is mandatory.*

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

- in his/her own name (*if the economic operator is a natural person or in case of own declaration of a director or person with powers of representation, decision making or control over the economic operator<sup>1</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 any other illegal activity detrimental to the Union's financial interests;
- f) is not a subject of the administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or failing to supply an information, or being declared to be in serious breach of his obligation under contract covered by the budget.

In addition, the undersigned declares on their honour:

- g) they have no conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties or any other relevant connection or shared interest;
- h) they will inform the contracting authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;

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<sup>1</sup> To be used depending on the national legislation of the country in which the candidate or Tender is established and where considered necessary by the contracting authority (see art. 134(4) of the Implementing Rules).

- 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.

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

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

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

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

Full name

Date

Signature

## 5.2 Draft Framework service contract



# FRAMEWORK SERVICE CONTRACT

CONTRACT NUMBER – ECHA/2011/111

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

of the one part,

and

[official name in full]

[official legal form]

[statutory registration number]

[official address in full]

[VAT registration number]

(hereinafter referred to as "the Contractor"<sup>2</sup>), [represented for the purposes of the signature of this contract by [name in full and function,]]

of the other part,

HAVE AGREED

the **Special Conditions** and the **General Conditions** below and the following Annexes<sup>3</sup>:

**Annex I –** Tender Specifications (Invitation to Tender No ECHA/2011/111 of [complete])

**Annex II –** Contractor's Tender (No [complete] of [complete])

**Annex III –** (a) Order Form and

<sup>2</sup> In the case of a joint offer and provided the invitation to tender so specifies, the following clause should be added below the identification of the parties: "The parties identified above and hereinafter collectively referred to as 'the Contractor' shall be jointly and severally liable vis-à-vis the Agency for the performance of this contract".

<sup>3</sup> Voluminous annexes may be replaced by a reference to the documents concerned, provided the content of such documents is not subject to challenge (by virtue of their public nature).

(b) Specific Contract

**Annex IV – Reimbursement of daily subsistence allowances**

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

The terms set out in the Special Conditions shall take precedence over those in the other parts of the Contract. The terms set out in the General Conditions shall take precedence over those in the Annexes. The terms set out in the Tender Specifications (Annex I) shall take precedence over those in the Specific Contracts or orders, the latter taking precedence over the Tender (Annex II).

Subject to the above, the several instruments forming part of the Contract are to be taken as mutually explanatory. Ambiguities or discrepancies within or between such parts shall be explained or rectified by a written instruction issued by the Agency, subject to the rights of the Contractor under Article I.8 should he dispute any such instruction.

## **I – Special Conditions**

### **ARTICLE I.1 - SUBJECT**

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

### **ARTICLE I.2 - DURATION**

- I.2.1 The Contract shall enter into force on the date on which it is signed by the last contracting party.
- I.2.2 Under no circumstances may implementation commence before the date on which the Contract enters into force. Provision of the services may under no circumstances begin before the date on which the order or specific contract enters into force.
- I.2.3 The Contract is concluded for a period of 12 (twelve) months with effect from the date on which it enters into force. This contractual period and all other periods specified in the Contract are calculated in calendar days unless otherwise indicated.
- I.2.4 The orders or specific contracts shall be returned signed before the Contract to which they refer expires.  
  
The Contract shall continue to apply to such orders and specific contracts after its expiry, but no later than 6 (six) months.
- I.2.5 The Contract shall be renewed automatically up to 3 (three) times, each time for a period of 12 (twelve) months under the same conditions, unless written notification to the contrary is sent by one of the contracting parties and received by the other no later than 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 prices of the services shall be as listed in Annex II.
- I.3.2 Prices shall be expressed in EUR.
- I.3.3 Prices shall be fixed and not subject to revision for implementation during the first year of duration of the Contract.

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

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

Revision shall be calculated in accordance with the following formula:

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

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 letter requesting a revision of prices.

- 1.3.4. Travel, subsistence and shipment expenses shall be reimbursed in accordance with Article II.7 up to a maximum amount determined in each Order Form or Specific Contract. The daily substance allowance referred to in Article II.7.4 (d) shall be determined in accordance with Annex IV.

#### **ARTICLE I.4 – IMPLEMENTATION OF THE CONTRACT**

Within maximum of 20 days of a request for services being sent by the Agency to the Contractor, the Agency shall receive an estimate of the resources to be allocated for its execution, with particulars in support.

Within 5 days of an Order Form or Specific Contract being sent by the Agency to the Contractor, the Agency shall receive it back, duly signed and dated.

#### **ARTICLE I.5 – PAYMENT PERIODS**

- 1.5.1 Payments under the Contract shall be made in accordance with Article II.4. Payments shall be executed only if the Contractor has fulfilled all his contractual obligations by the date on which the invoice is submitted.
- 1.5.2 The terms of payment shall be specified for each Specific Contract or Order Form as indicated by the Agency in its request for offer for the respective Specific Contract or Order Form.

#### **ARTICLE I.6 – BANK ACCOUNT**

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

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

#### **ARTICLE I.7 – GENERAL ADMINISTRATIVE PROVISIONS**

Any communication relating to the Contract or to its implementation shall be made in writing and shall bear the Contract and order or specific contract numbers. Ordinary mail shall be deemed to have been received by the Agency on the date on which it is registered by the department responsible indicated below. Communications shall be sent to the following addresses:

Agency:

European Chemicals Agency  
Directorate A – Co-Operation  
Unit A3 - Communications  
P.O. Box 400  
FI-00121 Helsinki  
Fax: +358 9 68618210  
Email: [complete]

Contractor:

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

#### **ARTICLE I.8 – APPLICABLE LAW AND SETTLEMENT OF DISPUTES**

- 1.8.1 The Contract shall be governed by Union law, complemented, where necessary, by the national law of Finland.
- 1.8.2 Any dispute between the parties resulting from the interpretation or application of the Contract which cannot be settled amicably shall be brought before the Helsinki district court.

#### **ARTICLE I.9 – DATA PROTECTION**

Any personal data included in or relating to the Contract, including its execution shall be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. The data shall be processed solely for the purposes of the performance, management and monitoring of the Contract by The European Chemicals Agency without prejudice to possible transmission to the bodies charged with a monitoring or inspection task in application of Union law. The Contractor shall have the right of access to his/her personal data and the right to rectify any such data. Should the Contractor have any queries concerning the processing of his/her personal data, s/he shall address them to The European Chemicals Agency. The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.

Where the Contract requires the processing of personal data, the Contractor may act only under the supervision of the data controller, in particular with regard to the purposes of the processing, the categories of data which may be processed, the recipients of the data, and the means by which the data subject may exercise his/her rights.

The data shall be confidential within the meaning of Regulation (EC) No 45/2001 of the European Parliament and of the Council 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. The Contractor shall limit access to the data to the staff strictly necessary for the performance, management and monitoring of the Contract.



The Contractor undertakes to adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned in order to:

- a) prevent any unauthorised person from having access to computer systems processing personal data, and especially:
  - aa) unauthorised reading, copying, alteration or removal of storage media;
  - ab) unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored personal data;
  - ac) unauthorised persons from using data-processing systems by means of data transmission facilities;
- b) ensure that authorised users of a data-processing system can access only the personal data to which their access right refers;
- c) record which personal data have been communicated, when and to whom;
- d) ensure that personal data being processed on behalf of third parties can be processed only in the manner prescribed by the contracting institution or body;
- e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;
- f) design its organisational structure in such a way that it meets data protection requirements.

#### **ARTICLE I.10 – TERMINATION BY EITHER CONTRACTING PARTY**

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

#### **ARTICLE I.10a – CONTRACT CONCLUDED DURING STANDSTILL PERIOD**

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

#### **ARTICLE I.11 – OWNERSHIP AND TRANSFER OF THE INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS**

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

I.11.1 The "Deliverables" shall mean all the rights, results and related goods subject of this Framework Contract as specified in the Tender Specifications, in Annex I to this Framework Contract, including but not limited to video materials (such as interviews, documentaries, reportages, animations, coverages of live events), graphic designs and animations, web-based audiovisual content, multimedia formats, generic reports and documents.

I.11.2 The Contractor shall provide the Agency with the Deliverables as specified in the Annex I to this Framework Contract.

I.11.3 Any results or rights thereon, including copyright and other intellectual or industrial property rights, obtained in performance of the Contract, shall be owned solely by the Agency, which may

use, publish, assign or transfer them as it sees fit, without geographical or other limitation, except where industrial or intellectual property rights exist prior to the Contract being entered into.

Where industrial or intellectual property rights exist prior to the Contract being entered into, the Contractor shall establish a listing of such rights and communicate it to the Agency at the latest prior to the commencement of the works.

I.11.3. The Contractor warrants that he is the author of the Deliverables and/or that he has obtained all legal, valid and existing rights and permissions on the Deliverables from the original author, if the Contractor is not the author, the translator, the person inserting data, texts or other elements in the Deliverables, the graphic designer, the publisher, the editor, the developer, the photographer or any other rights holder necessary to assign all the rights to the Agency that are necessary for the Agency to use the Deliverables as described in the present Service Contract and its Annexes.

I.11.4. The Contractor shall transfer to the European Chemicals Agency all said rights on the Deliverables and shall warrants that the European Chemicals Agency has the rights, including but not expressly limited to the rights mentioned below, to

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

I.11.5. The Contractor grants to the European Chemicals Agency itself or on its behalf to its contractor and subcontractor (and to any EU-Institution, Agency and Body themselves or on their behalf to their contractors and subcontractors) the right to use name, likeness and biographical information of the Contractor in connection with the Deliverables and waives all rights generally known as moral rights in the Deliverables to the extent they can be waived, under any existing or future law or any jurisdiction.

I.11.6. The transfer of the rights and ownership becomes effective upon payment of the Deliverables by the Agency. The Deliverables remain the property of the Contractor until the

payment is received. Until full payment of the amounts due, the Agency (and its contractor) is granted a non-exclusive, worldwide, royalty-free license related to the use of the Deliverables as described in the Tender Specifications to

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

**Special conditions related to the user rights to the icon/button sets, picture elements and widgets ("Works") granted by the Contractor to the Agency**

I.11.5 Should the Contractor not be the original author of icon/button sets, picture elements and widget elements (hereinafter referred to as "Works"), the Contractor warrants that he has obtained all legal, valid and existing user rights and permissions on the Works from the original author, the translator, the person inserting data, texts or other elements in the Works, the graphic designer, the publisher, the editor, the developer, the photographer or any other rights holder so that he is entitled to grant user rights to the Agency that are necessary for the Agency to use the Works as described in the present Service Contract and its Annexes.

I.11.6. The Contractor warrants that he has obtained all the necessary user rights and permissions on the Works from all the right holders, and that the Contractor is therefore entitled to grant to the European Chemical Agency itself or on its behalf to its contractor and subcontractor(, and to any EU-Institution, Agency and Body themselves or on their behalf to their contractors and subcontractors) the below rights related to the reuse of the Works. The Contractor grants to the Agency non-exclusive, worldwide, perpetual, transferable royalty-free license related to the Works, all or parts of the Works and of their various elements, alone or with or embedded in other works to:

- use, re-use and edit the Works, as a whole or parts of them
- translate and re-write the Works in a different language or into a different form
- exploit the Works
- modify the Works, and in particular to cut, dub, insert meta data, subtitles, legends or other graphic, visual, audio or word elements
- license and sub-license the Works
- distribute the Works with or without modifications to them,
- distribute copies of the Works
- display the Works publicly
- put the Works on the Internet
- broadcast (online or otherwise) the Works
- communicate the Works to the public by telecommunication, by electronic publication, by press information services, by downloadable and non-downloadable files, by communication with computer terminals, by sending of telegrams, messages and wire service, by electronic and non-electronic publications, or by any other media of expression now known or later developed

- reproduce the Works by any technical procedure into paper, digital, electronic or non-electronic format
- prepare derivative works of the Works
- store the Works
- include the Works in the indexes and databases worldwide
- extract audio files from the Works
- compile or decompile the Works
- as well as any other rights that are necessary for the Agency to use the Works as described in the present Service Contract and its Annexes.

I.11.7. The Contractor shall inform the Agency of any use of third party IT-applications or code snippets to be used in the performance of the Contract.

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

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

The Contractor shall not use in the performance of the Contract any software components so that any part of the Agency's CSA tool or its source code becomes subject to an excluded license. An excluded license is one that requires, as a condition of use, modification or distribution, that

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

I.11.8. The Contractor shall indemnify and hold the Agency harmless for all damages and costs incurred due to any claim rightfully brought forward against the European Chemicals Agency by the rights holder or by any other person for any breach of rights (intellectual, industrial or other property rights) based on the Agency's (or its contractor's) use of the Works to which the Contractor has granted the Agency the user rights.

**Special conditions related to the logos, trade names and designs ("Names")**

I.11.9. The Contractor refrains from seeking trademark protection to the logos, trade names and designs (hereinafter referred to as "Names") resulting from the performance of the Contract.

The Contractor undertakes not to use the Names and not to propose the Names to third parties.

The Contractor undertakes that all the Names proposed by the Contractor not having been selected by the Agency shall not be proposed to third parties for a time period of three (3) years after the termination of the present Contract.

**Special conditions related to the user rights to the icon/button sets, picture elements and widgets ("Works") granted by the Contractor to the Agency**

I.11.5 Should the Contractor not be the original author of icon/button sets, picture elements and widget elements (hereinafter referred to as "Works"), the Contractor warrants that he has obtained all legal, valid and existing user rights and permissions on the Works from the original author, the translator, the person inserting data, texts or other elements in the Works, the graphic designer, the publisher, the editor, the developer, the photographer or any other rights holder so that he is entitled to grant user rights to the Agency that are necessary for the Agency to use the Works as described in the present Service Contract and its Annexes.

I.11.6. The Contractor warrants that he has obtained all the necessary user rights and permissions on the Works from all the right holders, and that the Contractor is therefore entitled to grant to the European Chemical Agency itself or on its behalf to its contractor and subcontractor(, and to any EU-Institution, Agency and Body themselves or on their behalf to their contractors and subcontractors) the below rights related to the reuse of the Works. The Contractor grants to the Agency non-exclusive, worldwide, perpetual, transferable royalty-free license related to the Works, all or parts of the Works and of their various elements, alone or with or embedded in other works to:

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

I.11.7. The Contractor shall inform the Agency of any use of third party IT-applications or code snippets to be used in the performance of the Contract.

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

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

The Contractor shall not use in the performance of the Contract any software components so that any part of the Agency's CSA tool or its source code becomes subject to an excluded license. An excluded license is one that requires, as a condition of use, modification or distribution, that

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

I.11.8. The Contractor shall indemnify and hold the Agency harmless for all damages and costs incurred due to any claim rightfully brought forward against the European Chemicals Agency by the rights holder or by any other person for any breach of rights (intellectual, industrial or other property

rights) based on the Agency's (or its contractor's) use of the Works to which the Contractor has granted the Agency the user rights.

**Special conditions related to the logos, trade names and designs ("Names")**

I.11.9. The Contractor refrains from seeking trademark protection to the logos, trade names and designs ((hereinafter referred to as "Names") resulting from the performance of the Contract.

The Contractor undertakes not to use the Names and not to propose the Names to third parties.

The Contractor undertakes that all the Names proposed by the Contractor not having been selected by the Agency shall not be proposed to third parties for a time period of three (3) years after the termination of the present Contract.

## **II – GENERAL CONDITIONS**

### **ARTICLE II. 1 – PERFORMANCE OF THE CONTRACT**

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

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

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

II.1.9 Should the Contractor fail to perform his obligations under the Contract in accordance with the provisions laid down therein, the Agency may - without prejudice to its right to terminate the Contract - reduce or recover payments in proportion to the scale of the failure. In addition, the Agency may impose penalties or liquidated damages provided for in Article II.16.

## **ARTICLE II. 2 – LIABILITY**

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

II.2.2 The Contractor shall be liable for any loss or damage caused by himself in performance of the Contract, including in the event of subcontracting under Article II.13. The Agency shall not be liable for any act or default on the part of the Contractor in performance of the Contract.

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

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

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

## **ARTICLE II. 3 - CONFLICT OF INTERESTS**

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

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

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

II.3.3 The Contractor declares:

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



- that he has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to performance of the Contract.

**II.3.4** The Contractor shall pass on all the relevant obligations in writing to his staff, board, and directors as well as to third parties involved in performance of the Contract. A copy of the instructions given and the undertakings made in this respect shall be sent to the Agency should it so request.

## **ARTICLE II. 4 – INVOICING AND PAYMENTS**

### **II.4.1 Pre-financing:**

Where required by Article I.5.1, the Contractor shall provide a financial guarantee in the form of a bank guarantee or equivalent supplied by a bank or an authorised financial institution (guarantor) equal to the amount indicated in the same Article to cover pre-financing under the Contract. Such guarantee may be replaced by a joint and several guarantee by a third party.

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

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

The guarantee shall specify that it enters into force at the latest on the date on which the Contractor receives the pre-financing. The Agency shall release the guarantor from its obligations as soon as the Contractor has demonstrated that any pre-financing has been covered by equivalent work. The guarantee shall be retained until the pre-financing has been deducted from interim payments or payment of the balance to the Contractor. It shall be released the following month. The cost of providing such guarantee shall be borne by the Contractor.

### **II.4.2 Interim payment:**

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

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

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

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

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

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

#### **II.4.3 Payment of the balance:**

Within sixty days of completion of the tasks referred to in each order or specific contract, the Contractor shall submit to the Agency a formal request for payment accompanied by those of the following documents, which are provided for in the Special Conditions:

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

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

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

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

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

### **ARTICLE II. 5 – GENERAL PROVISIONS CONCERNING PAYMENTS**

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

**II.5.2** The payment periods referred to in Article I.5 may be suspended by the Agency at any time if it informs the Contractor that his payment request is not admissible, either because the amount is not due or because the necessary supporting documents have not been properly produced. In case of doubt on the eligibility of the expenditure indicated in the payment request, the Agency may suspend the time limit for payment for the purpose of further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the expenditure is eligible.

The Agency shall notify the Contractor accordingly and set out the reasons for the suspension by registered letter with acknowledgment of receipt or equivalent. Suspension shall take effect from the date of dispatch of the letter. The remainder of the period referred to in Article I.5 shall begin to run again once the suspension has been lifted.

**II.5.3** In the event of late payment the Contractor shall be entitled to interest, provided the calculated interest exceeds EUR 200. In case interest does not exceed EUR 200, the Contractor may claim interest within two months of receiving the payment. Interest shall be calculated at the rate applied by the European Central Bank to its most recent main refinancing operations ("*the reference rate*") plus seven percentage points ("*the margin*"). The reference rate in force on the first day of the month in which the payment is due shall apply. Such interest rate is published in the C series of the Official Journal of the European Union. Interest shall be payable for the period elapsing from the calendar day following

expiry of the time limit for payment up to the day of payment. Suspension of payment by the Agency may not be deemed to constitute late payment.

## **ARTICLE II. 6 – RECOVERY**

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

## **ARTICLE II. 7 - REIMBURSEMENTS**

- II.7.1** Where provided by the Special Conditions or by Annex I, the Agency shall reimburse the expenses that are directly connected with execution of the tasks on production of original supporting documents, including receipts and used tickets.
- II.7.2** Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary.
- II.7.3** Travel expenses shall be reimbursed as follows:
  - a) travel by air shall be reimbursed up to the maximum cost of an economy class ticket at the time of the reservation;
  - b) travel by boat or rail shall be reimbursed up to the maximum cost of a first class ticket;
  - c) travel by car shall be reimbursed at the rate of one first class rail ticket for the same journey and on the same day;
  - d) travel outside Union territory shall be reimbursed under the general conditions stated above provided the Agency has given its prior written agreement.
- II.7.4** Subsistence expenses shall be reimbursed on the basis of a daily allowance as follows:
  - a) for journeys of less than 200 km (return trip) no subsistence allowance shall be payable;
  - b) daily subsistence allowance shall be payable only on receipt of a supporting document proving that the person concerned was present at the place of destination;
  - c) daily subsistence allowance shall take the form of a flat-rate payment to cover all subsistence expenses, including accommodation, meals, local transport, insurance and sundries;

d) daily subsistence allowance, where applicable, shall be reimbursed at the rate specified in Article I.3.

II.7.5 The cost of shipment of equipment or unaccompanied luggage shall be reimbursed provided the Agency has given prior written authorisation.

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

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

#### **ARTICLE II. 9 – CONFIDENTIALITY**

II.9.1. The Contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to performance of the Contract. The Contractor shall continue to be bound by this undertaking after completion of the tasks.

II.9.2. The Contractor shall obtain from each member of his staff, board and directors an undertaking that they will respect the confidentiality of any information which is linked, directly or indirectly, to execution of the tasks and that they will not divulge to third parties or use for their own benefit or that of any third party any document or information not available publicly, even after completion of the tasks.

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

II.10.1 The Contractor shall authorise the Agency to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in or relating to the Contract, in particular the identity of the Contractor, the subject matter, the duration, the amount paid and the reports. Where personal data is concerned, Article I.9 shall apply.

II.10.2 Unless otherwise provided by the Special Conditions, the Agency shall not be required to distribute or publish documents or information supplied in performance of the Contract. If it decides not to publish the documents or information supplied, the Contractor may not have them distributed or published elsewhere without prior written authorisation from the Agency.

II.10.3 Any distribution or publication of information relating to the Contract by the Contractor shall require prior written authorisation from the Agency and shall mention the amount paid by the Union. It shall state that the opinions expressed are those of the Contractor only and do not represent the Agency's official position.

II.10.4 The use of information obtained by the Contractor in the course of the Contract for purposes other than its performance shall be forbidden, unless the Agency has specifically given prior written authorisation to the contrary.

## **ARTICLE II. 11 – TAXATION**

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

## **ARTICLE II. 12 – FORCE MAJEURE**

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

## **ARTICLE II. 13 – SUBCONTRACTING**

- II.13.1 The Contractor shall not subcontract without prior written authorisation from the Agency nor cause the Contract to be performed in fact by third parties.
- II.13.2 Even where the Agency authorises the Contractor to subcontract to third parties, he shall none the less remain bound by his obligations to the Agency under the Contract and shall bear exclusive liability for proper performance of the Contract.
- II.13.3 The Contractor shall make sure that the subcontract does not affect rights and guarantees to which the Agency is entitled by virtue of the Contract, notably Article II.17.

## **ARTICLE II. 14 – ASSIGNMENT**

- II.14.1** The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from the Agency.
- II.14.2** In the absence of the authorisation referred to in 1 above, or in the event of failure to observe the terms thereof, assignment by the Contractor shall not be enforceable against and shall have no effect on the Agency.

## **ARTICLE II. 15 – TERMINATION BY THE AGENCY**

**II.15.1** The Agency may terminate the Contract, a pending order or a specific contract in the following circumstances:

- (a) where the Contractor is being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) where the Contractor has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed;
- (c) where the Agency has evidence or seriously suspects the Contractor or any related entity or person, of professional misconduct;
- (d) where the Agency has evidence or seriously suspects the Contractor or any related entity or person, of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
- (e) where the Agency has evidence or seriously suspects the Contractor or any related entity or person, of substantial errors, irregularities or fraud in the award procedure or the performance of the Contract;
- (f) where the Contractor is in breach of his obligations under Article II.3;
- (g) where the Contractor was guilty of misrepresentation in supplying the information required by the Agency as a condition of participation in the Contract procedure or failed to supply this information;
- (h) where a change in the Contractor's legal, financial, technical or organisational situation could, in the Agency's opinion, have a significant effect on the performance of the Contract;
- (i) where execution of the tasks under a pending order or a specific contract has not actually commenced within fifteen days<sup>4</sup> of the date foreseen, and the new date proposed, if any, is considered unacceptable by the Agency;
- (j) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of the Contract;
- (k) where the Contractor, after receiving formal notice in writing to comply, specifying the nature of the alleged failure, and after being given the opportunity to remedy the failure

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<sup>4</sup> This period can be modified in the Special Conditions depending on the nature of the contract.

within a reasonable period following receipt of the formal notice, remains in serious breach of his contractual obligations.

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

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

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

**II.15.4** Consequences of termination:

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

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

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

#### **ARTICLE II.15a – SUBSTANTIAL ERRORS, IRREGULARITIES AND FRAUD ATTRIBUTABLE TO THE CONTRACTOR**

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

#### **ARTICLE II. 16 – LIQUIDATED DAMAGES**

Should the Contractor fail to perform his obligations under the Contract within the time limits set by the Contract, then, without prejudice to the Contractor's actual or potential liability incurred in relation to the Contract or to the Agency's right to terminate the Contract, the Agency may decide to impose liquidated damages of 0.2%<sup>5</sup> of the amount of the relevant purchase per calendar day of delay. The Contractor may submit arguments against this decision within thirty days of notification by registered letter with acknowledgement of receipt or equivalent. In the absence of reaction on his part or of written withdrawal by the Agency within thirty days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable. These liquidated

<sup>5</sup> The daily rate for liquidated damages may be modified in the Special Conditions where the subject of the contract so justifies.

damages shall not be imposed where there is provision for interest for late completion. The Agency and the Contractor expressly acknowledge and agree that any sums payable under this Article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses that may be reasonably anticipated from such failure to perform obligations.

#### **ARTICLE II. 17 – CHECKS AND AUDITS**

- II.17.1 Pursuant to Article 142 of the Financial Regulation applicable to the general budget of the European Communities, the Court of Auditors shall be empowered to audit the documents held by the natural or legal persons receiving payments from the budget of the Union from signature of the Contract up to five years after payment of the balance of the last implementation.
- II.17.2 The Agency or an outside body of its choice shall have the same rights as the Court of Auditors for the purpose of checks and audits limited to compliance with contractual obligations from signature of the Contract up to five years after payment of the balance of the last implementation.
- II.17.3 In addition, the European Anti-Fraud Office may carry out on-the-spot checks and inspections in accordance with Council Regulation (Euratom, EC) No 2185/96 and Parliament and Council Regulation (EC) No 1073/1999 from signature of the Contract up to five years after payment of the balance of the last implementation.

#### **ARTICLE II. 18 – AMENDMENTS**

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

#### **ARTICLE II. 19 – SUSPENSION OF THE CONTRACT**

Without prejudice to the Agency's right to terminate the Contract, the Agency may at any time and for any reason suspend execution of the Contract, pending orders or specific contracts or any part thereof. Suspension shall take effect on the day the Contractor receives notification by registered letter with acknowledgment of receipt or equivalent, or at a later date where the notification so provides. The Agency may at any time following suspension give notice to the Contractor to resume the work suspended. The Contractor shall not be entitled to claim compensation on account of suspension of the Contract, of the orders or specific contracts, or of part thereof.

#### **SIGNATURES**

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

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

Done at [Helsinki], [date] Done at [Helsinki], [date]

In duplicate in English.



## **ANNEX I**

### **Technical Specifications**



ANNEX II

**ORDER FORM No [complete]**  
governed by the provisions of Framework Contract No ECHA/2011/111 signed on [complete]

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

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

For the Agency,  
[forename/surname/function]

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

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

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

Done at [Helsinki], [date]

Done at [Helsinki], [date]

## ANNEX III



### SPECIFIC CONTRACT No [complete]

implementing Framework Contract No ECHA/2011/111

The European Chemicals Agency (hereinafter referred to as "the Agency"), which is represented for the purposes of the signature of this contract by [forename, surname and function,]

of the one part,

and

[official name in full]

[official legal form]

[statutory registration number]

[official address in full]

[VAT registration number]

hereinafter referred to as "the Contractor"<sup>6</sup>, represented for the purposes of the signature of this contract by [forename, surname and function,]

of the other part,

HAVE AGREED

#### **ARTICLE III.1: SUBJECT**

III.1.1 This specific contract implements Framework Contract No [complete] signed by the Agency and the Contractor on [complete date] *[and renewed on complete date]*.

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

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

#### **ARTICLE III.2: DURATION**

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<sup>6</sup> In the case of a joint offer and provided the invitation to tender so specifies, the following clause should be added below the identification of the parties: "The parties identified above and hereinafter collectively referred to as 'the Contractor' shall be jointly and severally liable vis-à-vis the Agency for the performance of this contract".

III.2.1 This specific contract shall enter into force *[[on the date on which it is signed by the last contracting party]<sup>7</sup> [on complete if it has already been signed by both contracting parties]]*.

III.2.2 The duration of the tasks shall not exceed *[days/months]*. Execution of the tasks shall start from *[date of entry into force of this specific contract]* or *[indicate date]*. The period of execution of the tasks may be extended only with the express written agreement of the parties before such period elapses.

### **ARTICLE III.3: PRICE**

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

III.3.2 In addition to the price *[no reimbursable costs are foreseen]* *[costs up the an amount of EUR ... will be reimbursed according to the provisions of the Framework contract]*

### **ARTICLE I.4 – PAYMENT PERIODS AND FORMALITIES**

Payments under the Contract shall be made in accordance with Article II.4. Payments shall be executed only if the Contractor has fulfilled all his contractual obligations by the date on which the invoice is submitted. Payment requests may not be made if payments for previous periods have not been executed as a result of default or negligence on the part of the Contractor.

I.4.1. Pre-financing:

Not applicable.

I.4.2 Interim payment(s):

Requests for interim payment by the Contractor shall be admissible if accompanied by:

- *[an interim technical report in accordance with the instructions laid down in Annex I – if applicable]*
- the relevant invoice(s)
- statements of reimbursable expenses in accordance with Article II.7

provided the report has been approved by the Agency.

The Agency shall have twenty days from receipt to approve or reject the report, and the Contractor shall have ten days in which to submit additional information or a new report.

Within 30 days of the date on which the report is approved by the Agency, an interim payment corresponding to the relevant invoices shall be made.

I.4.3. Payment of the balance:

The request for payment of the balance of the Contractor shall be admissible if accompanied by

- *[the final technical report in accordance with the instructions laid down in Annex I – if applicable]*
- the relevant invoices

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<sup>7</sup> As a rule the Agency signs last. In this case, the Contractor should be duly informed of the date on which the specific contract enters into force.

- statements of reimbursable expenses in accordance with Article II.7

*[provided the report has been approved by the Agency.]*

*The Agency shall have twenty days from receipt to approve or reject the report, and the Contractor shall have ten days in which to submit additional information or a new report.*

*Within 30 days of the date on which the report is approved by the Commission, payment of the balance corresponding to the relevant invoice shall be made.*

#### **ARTICLE III.4: BANK ACCOUNT**

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

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

#### **ARTICLE III.5: ANNEXE[S]**

**Annex A** – Technical Annex  
**Annex B** – Contractor's offer

#### **SIGNATURES**

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

For the Agency,  
[forename/surname/function]

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

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

Done at [Helsinki], [date]

Done at [Helsinki], [date]

In duplicate in English.

## ANNEX IV

### REIMBURSEMENT OF DAILY SUBSISTENCE ALLOWANCES

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

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

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

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

#### CALCULATION

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

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

5.3 Financial and economic capacity overview form (Invitation to Tender ECHA/2011/111)

<b>Financial and Economic Capacity Overview</b>			
<b>Currency : EURO</b>		<b>Figures (000)</b>	
	<b>N* (* most recent figures available)</b>	<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.

**5.4 Subcontractor/ Letter of intent ECHA/2011/1111)**

*Audiovisual services*

The undersigned: .....

Name of the company/organisation: .....

Address: .....

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

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

**Full name**

**Date**

**Signature**

.....



## 5.5 Power of Attorney

### POWER OF ATTORNEY – MODEL 1

#### Agreement / Power of Attorney

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

We the undersigned:

- 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:

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

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

- (a) Shall be jointly and severally liable towards the European Chemicals Agency for the performance of the Contract.
- (b) Shall comply with the terms and conditions of the Contract and ensure the proper execution of their respective share of the Supplies and/or the Services.

(2) To this effect, the Group Members designate Company X as **Group Leader**.  
*[N.B.: The Group Leader has to be one of the Group Members]*

(3) Payments by the European Chemicals Agency related to the Supplies or the Services shall be made through the Group Leader's bank account .*[Provide details on bank, address, account number, etc.]*.

(4) The Group Members grant to the Group Leader all the necessary powers to act on their behalf in connection with the Supplies and/or the Services. This mandate involves in particular the following tasks:

- (a) The Group Leader shall sign any contractual documents —including the [Framework] Contract, [Specific Agreements] 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 European Chemicals Agency in connection with the Supplies and/or the Services to be provided under the Contract. It shall co-ordinate the provision of the Supplies and/or the Services by the Group Members to the European Chemicals Agency, and shall see to a proper administration of the Contract.

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

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

Signed in ..... on .....

Name  
Function  
Company

Name  
Function  
Company

Name  
Function  
Company

Name  
Function  
Company

## POWER OF ATTORNEY – MODEL 2

### Agreement / Power of Attorney

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

We the undersigned:

- 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:

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

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

- (a) Shall be jointly and severally liable towards the European Chemicals Agency for the performance of the Contract.
- (b) Shall comply with the terms and conditions of the Contract and ensure the proper execution of their respective share of the Supplies and/or the Services.

(2) To this effect, the Group Members have set up under the laws of ..... the Group ..... (« **the Group** »). The Group has the legal form of a..... [*Provide details on registration of the Group: VAT Number, Trade Register, etc.*].

(3) Payments by the European Chemicals Agency related to the Supplies or the Services shall be made through the Group's bank account. [*Provide details on bank, address, account number, etc.*].

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

(5) The Group Members grant to the Group Manager all the necessary powers to act alone on their behalf in connection with the Supplies and/or the Services. This mandate involves in particular the following tasks:

- (a) The Group Manager shall sign any contractual documents—including the [Framework] Contract, [Specific Agreements] 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 European Chemicals Agency in connection with the Supplies and/or the Services to be provided under the Contract. He/she shall co-ordinate the provision of the Supplies and/or the Services by the Group Members to the European Chemicals Agency, and shall see to a proper administration of the Contract.

Any modification to the present agreement / power of attorney shall be subject to the

European Chemicals Agency's express approval.

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

Signed in ..... on .....

Name  
Function  
Company

Name  
Function  
Company

Name  
Function  
Company

Name  
Function  
Company

## 5.6 Price catalogue

Unit prices per profiles, use of technical equipment and travel expenses, respectively. This price catalogue will be annexed to the framework contract and forms bases for the unit prices to be used in the context of orders and specific contracts. **Any item and/or unit price not listed in this price catalogue shall not be taken into account during the implementation of the framework contract and will not be eligible for the payment of future invoices.**

The identified profiles must be able to cover the following pre-production, filming, post-production, distribution services:

- Scriptwriting
- Storyboard
- Project management
- Video production SD and HD
- Animation
- Voice-over / commentator / speaker
- Video editing
- Soundtrack and sound design
- Graphic design
- Subtitling
- DVD / Blu-ray authoring
- Transcoding and digital files management
- Analogue-digital conversion
- Optical media replication (CD, DVD 5, DVD 0, Blu-ray)
- Others as deemed necessary by the Tenderer.

Profiles	man/day
Reporter	
Camera operator	
Video editor	
Sound designer	
Sound mixer / engineer	
Graphic designer / 3D artist	
Producer / Project manager	
Production director	
Scriptwriter	
Animator	
Narrator	
<i>Other(s) (Please specify)</i>	

Technical equipment	Unit (day/hour/item/other – please specify) EUR
<i>Please specify – include as many as applicable</i>	

Travel expenses	
Travel expenses for one person (including daily allowance according to Annex IV to the framework contract - Annex 5.2 to tender specifications) for one day in Helsinki	

The Tenderes are invited to include all additional profiles and equipment in the list above deemed necessary to cover the services under the framework contract.

## 5.7 Financial bid for the scenario

The Tenderer shall provide a quotation for the scenario described in section 3.4.1. To that end, the Tenderer shall fill in and complete the tables provided below. In any circumstances the unit prices used for the calculation of the total cost in the table below shall be equal to the corresponding unit prices provided by the Tenderer in the Price catalogue in Annex 5.6 (above). Please quote the unit price for the use of the technical equipment, for the use of the necessary profiles, for the travel expenses and possible shipment costs. Tenders missing one of these categories will be excluded since the scenario cannot be executed in the absence of the technical equipment, of profiles and/or of travel to Helsinki. Tenders where the profiles or the technical equipment in the price catalogue and in the financial bid are different or where the unit prices are different may be also excluded since the price catalogue shall be the reference for all orders and offers under the framework contract.

**Please note that the price comparison between offers during the evaluation will be based solely on the total price of the scenario.** The total price indicated here does not necessarily represent an amount that will correspond to the overall value of the framework contract, nor do the particular services necessarily represent the services that will be contracted through the Specific Contracts.

In accordance with the description of the scenario in section 3.4.1., tenderers must allocate the 60 mandays to the relevant profiles below in line with the approach taken in their technical offer. It is up to the tenderer to choose the used profiles and to distribute the 60 mandays amongst them.

<b>Scenario 1</b>			
Include all elements being part of the scenario, including the profiles, equipment and possible travel expenses			
Services	Effort	Unit price	Total cost
	X days	Xxx €	Xxx €
Reporter			
Camera operator			
Video editor			
Sound designer			
Sound mixer / engineer			
Graphic designer / 3D artist			
Producer / Project manager			
Production director			
Scriptwriter			
Animator			
Narrator			
<i>Other(s) (please specify)</i>			
Equipment (please specify)*			
Travel expenses (including daily allowance according to Annex IV to the framework contract - Annex 5.2 to tender specifications)			

<i>Other, shipment costs etc. (please specify)</i>	NA		
<b>Total price</b>			Xxx €

\* The Tenderer must include all equipment deemed necessary to complete the requirements of the scenario. Unit prices must be equal to the unit prices in the price catalogue (Annex 5.6)



5.8 Customer references

Name of the project:			
Description of the project:			
Name of the client:			
Client contact person & contact details:			
The proportion of the services provided by the tenderer under this contract was minimum 70% (please tick as appropriate)			
		.... YES	... NO
Start date	End date (if not ongoing)	Duration (years/months/days)	Scope of the project (please describe in what sense the project requested the performance of the audio-visual services mentioned at 3.2.1 – Selection criteria (point 2 – technical and professional capacity)
			Value of the contract

Please complete the form for each customer reference.

ECHA reserves the right to check with these companies if the contract exists. All the sections of this form must be filled in. Failing to do so may result in the exclusion of the tender.

## 5.9 Checklist of documents to be submitted

The purpose of the table below is to facilitate the preparation of the Tender by providing an overview of the documents that must be included (marked by ■) depending on the role of each economic operator in the Tender (coordinator/group leader in joint bid, partner in joint bid, single Contractor, main Contractor, subcontractor).

Some of the documents are only relevant in cases of joint bids or when subcontractors are involved. Additional documents might be necessary depending on the specific characteristics of each Tender.

Description	Section	Coordinator or group leader in joint bid	All partners in joint bid	Single or Main Contractor or	Sub-Contractor
Power of attorney of partners in joint bid indicating the group leader (see Annex 5.6)	1		■		
Letter of intent of subcontractor (see Annex 5.5)	1				■
Legal Entity Form (see section 2.3.1) 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 2.3.1) Download the form from: <a href="http://europa.eu.int/comm/budget/execution/ftiers_fr.htm">http://europa.eu.int/comm/budget/execution/ftiers_fr.htm</a> .	3	■		■	
Exclusion Criteria form (see section 3.1 and Annex 5.1)	2	■	■	■	■
Evidence of Economic and financial capacity (see section 3.2.2 and Annex 5.4)	3	■	■	■	
Evidence of Technical and professional capacity (see section 3.2.3)	3	■	■	■	■

The following sections must be provided in the bid, their absence would mean rejection of the bid for incompleteness:

Description	Section	Coordinator or single Tender
Technical offer (see section 2.3.2 and 4)	4	■
Financial bid (see section 2.3.3)	5	■