



European Maritime Safety Agency

FRAMEWORK CONTRACT (IT)

CONTRACT NUMBER – **Year/EMSA/OP/09/2014**

The European Maritime Safety Agency represented Markku Mylly, Executive Director,
hereinafter referred to as "EMSA",
of the one part,

and

[full official name]
[official legal form]
[statutory registration number]
[official address in full]
[VAT registration number]

(hereinafter referred to as "the Contractor"), represented by [name in full and
function,]

of the other part,

HAVE AGREED

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

Annex I	General Conditions
Annex II	General Terms and Conditions for Information Technologies Contracts
Annex III	Specific Contract – Template – <i>Order Form</i> – Template
Annex IV	Tender Specifications (Invitation to Tender No EMSA/OP/09/2014 of [complete])
Annex V	Contractor's Tender (No [complete] of [complete])
Annex VI	Appendix 3 – Pricelist for services - consultancy
Annex VII	Statement of Contractor concerning right to delivered result
Annex VIII	Statement of creator / intermediary in delivery

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 General Terms and Conditions for Information Technologies Contracts.
- The terms set out in the General Terms and Conditions for Information Technologies Contracts shall take precedence over those in the Annexes of the Contract (except for the Service Level Agreement).
- The terms set out in the Framework Contract shall take precedence over those in the Specific Contracts and *Order Forms*.
- The terms set out in the Tender Specifications (Annex IV) shall take precedence over those in the Tender (Annex V).

Subject to the above, the several instruments forming part of this 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 EMSA; subject to the rights of the Contractor under Article 8 should he dispute any such instruction.

PREAMBLE

The Contractor was selected, as one of the contractors of a multiple contract with reopening of competition, at the conclusion of the evaluation process, on the basis of its bid submitted on [insert date] in response to the invitation to tender.

SPECIAL CONDITIONS

ARTICLE 1 - SUBJECT

- 1.1** The subject of the Contract is to establish an acquisition channel for data centre equipment, software and associated services namely servers, storage systems, network and security technologies and operational services, virtualisation software and base operating systems and software, cloud-based datacentre services.

The *Products* and *Services* covered by this Contract are listed in Annex IV and Annex V and Annex VI.

- 1.2** Upon implementation of the Contract, the Contractor shall supply the *Products* and shall provide the *Services* related to them in accordance with Annex IV and Annex V.
- 1.3** Signature of the Contract imposes no obligation on EMSA to purchase. Only the implementation of the Contract through Specific Contracts and *Order Forms* is binding on EMSA.
- 1.4** All Specific Contracts and *Order Forms* implementing the Contract shall be in conformity with the terms set out therein.

ARTICLE 2 - DURATION

- 2.1** The Contract shall enter into force on the date on which it is signed by the last contracting party.
- 2.2** Under no circumstances implementation may take place before the date on which the Contract enters into force. Specific Contracts and Order Forms may under no circumstances be placed before the date on which the Contract enters into force.
- 2.3** The Contract is concluded for a period of 6 years 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.

ARTICLE 3 - PRICES

- 3.1** The prices of this contract shall be: as listed in Annex V and Annex VI.
- 3.2** The maximum amount of this Framework Contract shall be three million five hundred thousand (3,500,000 EUR).
- 3.3** Prices shall be expressed in Euro.

ARTICLE 4 –PERFORMANCE OF THE CONTRACT

For supplies and maintenance, services with fixed price

- 4.1** Within ten working days of a request for quotation being sent by EMSA, the Contractor shall return its offer and/or price, with particulars in support.

Within ten working days of a demand for conclusion of a Specific Contract or *Order Form* being sent by EMSA, the Contractor shall return it, duly signed and dated. In the event of failure to observe this deadline, the Contractor shall be considered unavailable.

4.2 Delivery

The supplies shall be delivered at Lisbon and Incoterm.
Deliveries may be made on any working day during normal working hours, at the agreed place of delivery.

ARTICLE 5 – PAYMENT ARRANGEMENTS

Payments under the Contract shall be made in accordance with Article I.6. 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 *Order Forms* or Specific Contracts have not been executed as a result of default or negligence on the part of the Contractor.

EMSA may refuse to make payments where the award procedure or performance of the *Order Form* proves to have been subject to substantial errors, irregularities or fraud attributable to the contractor.

5.1 Payment of the balance:

For *Order Forms*, the contractor shall submit an invoice for payment of the balance upon delivery of the ordered *Products* and *Services*.

5.2 For Specific Contracts, the payment scheme shall be determined in the Specific Contract.

ARTICLE 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 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 EMSA on the date on which it is registered by the department responsible indicated below. Communications shall be sent to the following addresses:

EMSA:

European Maritime Safety Agency
Simone Balboni
Project Officer for IT Operations

Praça Europa 4
1249-206 Lisbon
Portugal

Contractor:

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

Invoices shall be sent to the following address:

EMSA:

European Maritime Safety Agency
Invoice Registration (IR)
Unit A.2 – Legal and Financial Affairs
Praça Europa 4
1249-206 Lisbon
Portugal

ARTICLE 8 – APPLICABLE LAW AND SETTLEMENT OF DISPUTES

- 8.1** The Contract shall be governed by Union law, complemented, where necessary, by the national substantive law of Portugal.
- 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 courts of Lisbon, Portugal.

ARTICLE 9 – DATA PROTECTION

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

ARTICLE 10 – EXPLOITATION OF THE RESULTS OF THE CONTRACT

10.1 Modes of exploitation

In accordance with Article I.18.2 whereby the EMSA acquires ownership of the results as defined in the tender specifications, these results may be used for any of the following purposes:

- (a) use for its own purposes:
- (i) making available to the staff of EMSA
 - (ii) making available to the persons and entities working for EMSA or cooperating with it, including contractors, subcontractors whether

- legal or natural persons, Union institutions, agencies and bodies, Member States' institutions
 - (iii) installing, uploading, processing
 - (iv) arranging, compiling, combining, retrieving
 - (v) copying, reproducing in whole or in part and in unlimited number of copies
- (b) distribution to the public:
 - (i) publishing in hard copies
 - (ii) publishing in electronic or digital format
 - (iii) publishing on the internet as a downloadable/non-downloadable file
 - (iv) broadcasting by any kind of technique of transmission
 - (v) public presentation or display
 - (vi) communication through press information services
 - (vii) inclusion in widely accessible databases or indexes
 - (viii) otherwise in any form and by any method]
- (c) modifications by EMSA or by a third party in the name of EMSA:
 - (i) shortening
 - (ii) summarizing
 - (iii) modifying of the content
 - (iv) making technical changes to the content:
 - necessary correction of technical errors
 - adding new parts or functionalities
 - changing functionalities
 - providing third parties with additional information concerning the result (e.g. source code) with a view of making modifications
 - (v) addition of new elements, paragraphs titles, leads, bolds, legend, table of content, summary, graphics, subtitles, sound, etc.
 - (vi) preparation in audio form, preparation as a presentation, animation, pictograms story, slide-show, public presentation etc.
 - (vii) extracting a part or dividing into parts
 - (viii) use of a concept or preparation of a derivate work
 - (ix) digitisation or converting the format for storage or usage purposes
 - (x) modifying dimensions
 - (xi) languages used within EU
 - languages of candidate countries
- (d) the modes of exploitation listed in article II.10.4
- (e) rights to authorise, license, or sub-license in case of licensed pre-existing rights, the modes of exploitation set out in any of the points (a) to (c) to third parties.

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

10.2 Pre-existing rights and transmission of rights

Pre-existing rights shall be specified in the Specific Orders.

ARTICLE 11 – 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 six (6) months formal prior notice. Should EMSA terminate the Contract, the Contractor shall only be entitled to payment corresponding to the goods and services ordered before the termination date, provided that they have duly delivered in conformity with the Contract and the relative Specific Contract(s) and *Order Form(s)*. 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 goods delivered and *Services* rendered up to the date on which termination takes effect, within a period not exceeding sixty (60) days from that date.

ARTICLE 12 – VPN REMOTE ACCESS

Should the contractor be granted remote access, the Condition of Use shall be signed between the contractor and EMSA.

SIGNATURES

For the Contractor,
[Insert name and title of the Authorising
Officer]

For EMSA,
Markku Mylly
Executive Director

signature[s]: _____

signature: _____

Done at [place], [date]
In duplicate in English.

Done at Lisbon [date]