

IT FRAMEWORK CONTRACT

CONTRACT NUMBER – 2016/EMSA/OP/25/2015 Lot [...]

The European Maritime Safety Agency (hereinafter referred to as "EMSA"), with its seat at Praça Europa 4, 1249-206 Lisbon, Portugal, VAT registration no.: 507 685 326, represented by Markku Mylly, Executive Director,
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 – Templates
Annex IV	Tender Specifications (Invitation to Tender No [complete] of [complete])
Annex V	Contractor's Tender (No [complete] of [complete])
Annex VI	IPR Identification Form

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.
- The terms set out in the Framework Contract shall take precedence over those in the Specific Contracts.
- 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.

SPECIAL CONDITIONS

ARTICLE 1 - SUBJECT

- 1.1** The subject of the Contract is the Provision of Services for the Earth Observation Data Centre.
The Services covered by this Contract are listed in Annex IV and will concern one [or several] of the following categories: [...]¹.
- 1.2** Upon implementation of the Contract, the Contractor shall provide the Services in accordance to Annexes IV and V.
- 1.3** The Contract does not confer on the Contractor any exclusive right to provide Services referred to in the above paragraph.
- 1.4** Signature of the Contract imposes no obligation on EMSA to purchase. Only the implementation of the Contract through Specific Contracts is binding on EMSA.
- 1.5** All Specific Contracts implementing the Contract shall be in conformity with to 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 may under no circumstances be placed before the date on which the Contract enters into force.
- 2.3** For the Services stated in Art 1.1 related thereto, the Contract is concluded for a period of 48 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.
- 2.4** The Specific Contracts pursuant to the Contract shall be signed before the Contract which it refers expires. The Contract shall continue to apply to Specific Contracts executed after the Contract expires. Such Specific Contracts shall be executed no later than six (6) months after expiry of the Contract.

ARTICLE 3 - PRICES

- 3.1** The prices of this contract shall be as listed in Annex V.
- 3.2** The maximum amount of this Framework Contract shall be [complete]...
- 3.3** Prices shall be expressed in Euro.

¹ To be completed depending on the lot, as follows:

- Lot 1: EO – processing (Data Ingestion, Transformation and Delivery).
- Lot 2: EO - provisioning, Earth Observation, Data provisioning (Satellite data sourcing and EO products distribution).

Type of prices

3.4 Prices shall be fixed and not subject to revision.

ARTICLE 4 –PERFORMANCE OF THE CONTRACT

Performance of the Contract for Module 1 (Lots 1 and 2) – Design, develop, configure and integrate

4.1 Within 10 (ten) working days of a specific contract being sent by EMSA to the contractor, EMSA shall receive it back, duly signed and dated.

The period allowed for the execution of the tasks shall start to run on the date the contract is signed by the last party, unless a different date is indicated in the specific contract.

Performance of the Contract for Module 2 (Lots 1 and 2) – Corrective maintenance and Operational Support

4.2 Within 10 (ten) working days of a specific contract being sent by EMSA to the contractor, EMSA shall receive it back, duly signed and dated.

The period allowed for the execution of the tasks shall start to run on the date the contract is signed by the last party, unless a different date is indicated in the specific contract.

Performance of the Contract for Module 3 (Lots 1 and 2) – Upgrade and integrate

4.3 Within 15 working days of a request for services being sent by EMSA, the Contractor shall return an estimate of the resources to be allocated for its execution, with particulars in support.

Within 10 working days of a demand for conclusion of a Specific Contract being sent by EMSA, the Contractor shall return the Specific Contract, duly signed and dated.

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.

Interim or balance payments will only be made after the site acceptance of the software release and all deliverables (including documentation and source code) have been provided to EMSA.

Payment requests may not be made if payments for previous Specific Contracts have not been executed as a result of default or negligence on the part of the Contractor.

Payment modality for Module 1 – Design, develop, configure and upgrade

5.1.1 Interim payments

Various interim payments shall be executed, upon acceptance of the services delivered. Each payment will correspond to the value agreed for a specific set of requirements defined in each Specific Contract

The Contractor shall submit to EMSA an invoice, accompanied by a Module 1 interim report corresponding to

the software services completed. EMSA shall make the payment within 60 (sixty) days from receipt of the invoice. The contractor shall have 20 (twenty) days in which to submit additional information or corrections, a new progress report or other documents if it is required by EMSA.

5.1.2 Payment of the balance

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

The invoice shall be accompanied by the final Module 1 report or any other document in accordance with the relevant specific contract. EMSA shall make the payment within 60 (sixty) days from receipt of the invoice. The contractor shall have 20 (twenty) days in which to submit additional information or corrections, a new final Module 1 report or other documents if it is required by the contracting authority.

Payment modality for Module 2 - Corrective maintenance and operational support

5.2.1 Interim payment

After six-months from the entry into force of the relevant specific contract, the contractor shall submit an invoice for an interim payment equal to 50% (fifty) of the total price referred to in the relevant specific contract.

Invoices for interim payment shall be accompanied by a Module 2 bi-annual maintenance progress report or any other document in accordance with the relevant specific contract. EMSA shall make the payment within 30 (thirty) days from receipt of the invoice. The contractor shall have 20 (twenty) days in which to submit additional information or corrections, a new maintenance progress report or other documents if it is required by EMSA.

5.2.2 Payment of the Balance

Upon completion of the services the contractor shall submit an invoice for payment of the balance.

The invoice shall be accompanied by the final Module 2 maintenance report or any other document in accordance with the relevant specific contract. EMSA shall make the payment within 30 (thirty) days from receipt of the invoice. The contractor shall have 20 (twenty) days in which to submit additional information or corrections, a new final maintenance progress report or other documents if it is required by EMSA.

Payment modality for Module 3 – Upgrade and Integrate

The payment modalities will be determined in the relevant specific contract(s).

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
Markku Mylly
Executive Director
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 Leendert Bal, Acting Head of Unit Information Services – Technical Management, 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 - INTELLECTUAL PROPERTY RIGHTS

10.1 Ownership of the results and the pre-existing rights

The ownership of the results as defined in the tender specifications (Annex V), and of all pre-existing rights defined in the *IPR Identification Form* in accordance with Article I.8.2 shall be fully and irrevocably transferred by the contractor to EMSA in accordance with Article I.8.

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 contractor shall also warrant that any creators and/or other right holders have agreed except when a creator or other right holder refuses the intended modification expressly on the grounds that it may harm his honour, reputation or distort integrity of the work only.

10.2 Intellectual property rights identification

The contractor shall provide to EMSA at the same time with the delivery of the results (and pre-existing rights) a duly completed and signed *Annex VI – IPR Identification Form*, with an exhaustive list of intellectual property rights applicable to the results and pre-existing rights, including incorporated trade secrets and third parties' rights as provided for in Article II.10.5.

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). 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 (60) days from that date.

ARTICLE I.12 – E-PROCUREMENT

The execution of the contract between EMSA and the contractor may be automated by the use of one or more of the following applications: e-Request, e-Catalogue, e-Ordering and e-Fulfilment and e-Invoicing.

At the request of EMSA, the use of the above applications may be mandatory during the lifetime of the contract.

ARTICLE 13 – OTHER SPECIAL CONDITIONS-REDUCTION OF PAYMENT FOR SERVICE NON-COMPLIANCE

According to the terms included in the FWC contract the following price reductions shall be applied in case of service non-compliance, for service provided under a corrective maintenance and help-desk services contract (Module 2 of Lot1 and Lot2):

- For non-compliances related to “Urgent” issues: A reduction to the contracted value equivalent to (for each day of breaching the SLA) the price of two person days of a senior programmer rate, up to a maximum 10% reduction to the contractual value.
- For non-compliances related to “Critical” issues: A reduction to the contracted value equivalent to (for each day of breaching the SLA) the price of one person day of a senior programmer rate, up to a maximum a 7% reduction to the contractual value.
- For non-compliances related to “Standard” issues: A 5% reduction to the contracted value if, during the course of the contract, at least 10 breaches of the SLA for “Standard” issues are recorded.

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]

Done at Lisbon [date]

In duplicate in English.