

Europol Reference: 1709/C5/D

OJEU Reference: _____

**Annex 3
DRAFT FRAMEWORK CONTRACT**

For the Provision of move, storage and related services

between

[Contractor's name]

and

Europol

Changes introduced are highlighted in yellow

Grey highlighted text in this Draft Contract indicates areas for which final drafting may vary dependent on the winning offer.

The European Union Agency for Law Enforcement Cooperation (hereinafter referred to as “Europol”), located at Eisenhowerlaan 73, 2517 KK The Hague, The Netherlands, represented for the purpose of the signature of this Contract¹ by [insert name RAO]

of the one part,

and

[official name in full]

[official legal form]

[company registration number²]

[registered address in full]

[VAT registration number]

³[The parties identified above and hereinafter collectively referred to as “the Contractor” shall be jointly and severally liable vis-à-vis Europol for the performance of this Contract]

(hereinafter referred to as “the Contractor”), represented for the purpose of the signature of this Contract by the [insert full name and function of the authorised signatory], of the other part,

HAVE AGREED

The Special Conditions and the General Conditions below and the following Annexes:

Annex I - Tender Specifications [including any Questions & Answers]

Annex II –Contractor’s Tender [including any clarifications received from the Contractor]

Annex III- (Model) Purchase Order(s)

Annex IV – (Model) Declaration of absence of conflict of interest and of confidentiality

Annex V - Completed Legal Entity File and Bank Account Form

which form an integral part of this framework 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 Contract shall take precedence over the Purchase Orders.

¹ As defined below at page 2;

² For natural persons, please indicate the number of their identity card or passport or equivalent;

³ Please insert only in case of joint offers and provided the ITT so specifies;

The terms set out in the Tender Specifications shall take precedence over those in the Contractor's Tender.

Subject to the above, the several instruments shall be an integral part of the Contract and shall be taken as mutually explanatory. Ambiguities or discrepancies within or between such parts shall be explained or rectified by a written instruction issued by Europol, subject to the rights of the Contractor under Article II-19 ("*Applicable law and dispute settlement*"), should it dispute any such instruction.

I- Special Conditions

Article I-1

Special definitions

The following terms will be used with a capital letter in the Contract and as applicable in any Purchase Order placed under this Contract. These terms are understood to mean:

- Material(s):* moving material(s) (e.g. boxes, crates, labels, trolleys), provided together with the *Services* in accordance with the requirements set out at Annex I ("*Tender Specifications*") and as offered in the Contractor's Tender at Annex II, to be provided by the Contractor to Europol either on rental or purchase basis in accordance with Europol's needs;
- Purchase Order(s):* a written order using the model provided in Annex III, signed by both parties;
- Service (s):* the totality of services as stipulated in the requirements at Annex I ("*Tender Specifications*") and as offered by the Contractor in its Tender at Annex II.

Article I-2

Subject

1. The subject of this Contract is the provision of Services in accordance with the requirements set out at Annex I ("*Tender Specifications*") and as offered in the Contractor's Tender at Annex II. In particular, the Contractor shall provide following Services to Europol:

- (1) Regular logistic services:
 - Foreman services;
 - Handyman services;
 - Move services;
 - Conference environment and restaurant lay-out change services;
 - Asset Management registration services;
- (2) Specific logistic services:
 - Move services related to the Strategic Housing Roadmap (SHR).

(3) External storage services:

- Storage services in The Hague area.

(4) Provision of moving materials.

(5) Transport services of goods between Europol's main premises and the Satellite building(s) and vice versa.

[This paragraph shall be further developed and matched with the relevant information from the winning tender, e.g. description of the offered services]

2. The Contractor must designate a Contract Manager and his/her replacement, whose tasks are as outlined at point 5.2 of the Tender Specifications at Annex I. The Contractor's designated Contract Manager is [name] with the contact details in the Contractor's Tender at Annex II. The replacement (back-up) Contract Manager is [name].
3. The Contractor shall provide the Services for the entire duration of the Contract, including any renewal.
4. Signature of the Contract imposes no obligation on Europol to purchase Services under the Contract. Only implementation of the Contract through Purchase Orders is binding on Europol. All Purchase Orders shall conform to the terms set therein.
5. Following commencement of the Contract, the Contractor shall execute the Services in accordance with all the terms and conditions of this Contract and the specifications set out at Annex I ("Tender Specifications").
6. The Contract does not confer on the Contractor an exclusive right to provide Services described at paragraph 1 above and at Annexes I ("Tender Specifications") and II ("Contractor's Tender") to Europol.

Article I-3

Duration

1. The Contract shall enter into force on the Contract Date.
2. Under no circumstances may implementation of the Contract through the conclusion of Purchase Orders commence before the date on which the Contract enters into force. Provision of services may under no circumstances begin before the date on which the Purchase Order enters into force.
3. The Contract is concluded for a period of **twenty-four (24) months** with effect from the Contract Date. This contractual period and all other periods specified in the Contract are calculated in calendar days unless otherwise indicated.
4. The Contract may be renewed up to **two (2) times**, each time for a period of **twelve (12) months**, only before the expiry of the Contract and with the express written agreement of the parties. Renewal does not imply any modification or deferral of the existing obligations.
5. The Purchase Orders shall be returned signed before the Contract to which they refer expires. The Contract shall continue to apply to such Purchase Orders after its expiry, but no later than six (6) months.

Article I- 4

Contract Price

1. The maximum expenditure under this Contract, including all options and any renewal(s) is €1.862.000.00 (one million eight hundred sixty-two thousand Euro) excl. VAT. There is no minimum expenditure guaranteed under this Contract.
2. Price(s) shall be expressed in EURO.
3. Price(s) for *Materials and/or Services* under this Contract shall be as listed in the Contractor's tender [at Annex II]. In particular, the following prices shall apply [insert details as relevant from the Contractor's Tender].
4. In accordance with the Tender Specifications at Annex I, the Contractor shall provide contract management services free of charge.
5. Travel time of Contractor's Personnel to/from Europol's Premises and satellite building(s) is not working time and cannot be charged and/or reimbursed by Europol.
6. Price(s) shall be fixed and not subject to revision for implementation of the Contract during the first year of duration as specified at Article I-3 ("Duration") of the Contract.

Price(s) may be subject to revision by means of an annual indexation in accordance with the formula below *from the 1st of January* following the first anniversary of the Contract, where such indexation is requested by the Contractor by registered letter received by Europol *no later than 31st July of the previous year*. The other party shall acknowledge receipt within 15 days of reception of the request.

The revision of the price(s) shall be calculated as soon as the variable monthly index is available and shall be recorded in a written addendum to the Contract and shall be determined by the trend in the harmonised consumer price index EU-28 (European Union – 28 countries) published for the first time by the Office for Official Publications of the European Union in the Eurostat monthly bulletin at <http://www.ec.europa.eu/eurostat/> [Prices (HICP) - Harmonised Indices of Consumer Prices; DATA: Database, HICP –Monthly Data (2005=100) – Monthly data (index)].

Europol shall purchase on the basis of the prices in force on the date on which Europol sent the PO to the Contractor for signature.

Revision shall be calculated in accordance with the following formula:

For services:

$$Pr = Po \frac{Ir}{Io}$$

Where:

Pr= reviewed total price;

Po= total price in the original tender;

Io= index for the month in which the validity of the tender expires;

Ir= index for the month in which the reviewed prices take effect.

Article I-5

Payment periods

1. Payments under the Contract shall be made in accordance with Article II-7 (“*Reporting and payments*”). Payments shall be executed only if the Contractor has fulfilled all his contractual obligations by the date on which the invoice is submitted. Request for payment may not be made if payments for previous Purchase Orders have not been executed as result of default or negligence on the part of the Contractor.
2. **Pre-financing:** NOT APPLICABLE. The provisions on pre-financing under Article II-7 shall not apply to this contract.

Interim payment: NOT APPLICABLE. The provisions on pre-financing under Article II-7 shall not apply to this contract.

Payment of the balance: in return for satisfactory provision of the *Materials and/or Services* as ordered by Europol, and provided that the Contractor submitted a correct invoice together with the supporting documentation, Europol will pay the price stipulated in the particular *Purchase Order*.

3. The Contractor shall submit separate invoices per type of Service provided and/or Materials delivered as ordered by means of Purchase Order:
 - a. **One invoice on a monthly basis** with the following breakdown together with the supporting documentation:
 - For Foreman and regular Handyman services:
 - Signed time-sheets as supporting documentation;
 - For external storage Services:
 - [fixed price, as specified in the Purchase Order and in accordance with the Contractor’s Tender]
 - For transport of Europol’s assets to Contractor’s external storage:
 - [fixed price, as specified in the Purchase Order and in accordance with the Contractor’s Tender]
 - [Signed registration form];
 - For Transport Services of goods between Europol’s main premises and the Satellite building(s) and vice versa:
 - [fixed price, as specified in the Purchase Order and in accordance with the Contractor’s Tender]
 - [Signed registration form] specifying the usage -half-day/full-day- of the vehicle;
 - For Materials:
 - in return for satisfactory provision of the Materials and provided that the conformity of the Materials has been assessed positively by Europol, in accordance with Article II-4 below.
 - b. **An invoice on a project move basis** with the following breakdown together with the supporting documentation:
 - For handyman services upon request, all-round movers, specialised ICT movers:
 - Signed time-sheets as supporting documentation;

- For Materials:
 - in return for satisfactory provision of the Materials and provided that the conformity of the Materials has been assessed positively by Europol, in accordance with Article II-4 below.

4. The invoice(s) may be submitted to Europol only provided that:

- For *Materials*: the conformity of the *Materials* has been assessed positively by Europol, in accordance with Article II-4 below;
- For *Services*: on the basis of the timesheets, [registration forms] submitted by the Contractor to Europol together with the invoice and provided that Europol (in the person of the Contract manager named at Art. I-9 below or its designated replacement) declared the *Services* as accepted and performed in accordance with the requirements stipulated in the *Purchase Order*.

Payment shall be made within 30 (thirty) days of the receipt of the invoice and all supporting documents.

5. A Purchase Order may stipulate additional conditions and/or evidence documents with regard to the payment, taking into account the specifics of the Materials and/or Services to be performed by the Contractor.

6. **Performance guarantee**: NOT APPLICABLE

7. Invoices must state:

- the price in EURO and the total price excluding VAT;
- description of the Services and Materials provided;
- the Contractor's VAT number;
- that the amount invoiced is exempt from VAT under the Articles 3 and 4 of the Protocol on Privileges and Immunities of the European Union⁴;
- the VAT amount in EURO separately;
- the IBAN code and the BIC code as identified at Article I-8 ("*Bank Account*")⁵.

8. Any payment may be deferred by Europol if the services or the financial breakdown covered in a submitted invoice are contested, or if supporting documentation is incomplete. In the event of such deferral, the payment period shall be suspended and shall start to run again on the day the contested request for payment has been settled between the parties.

⁴ For contractors established in the Netherlands, invoices will include VAT which is paid by Europol and later reimbursed by the state (exc. Cars). For Contractors established in other EU countries, the exemption is direct. But companies cannot just submit invoices with 0% VAT, they need a VAT exemption certificate that is prepared and sent by Europol on the basis of a signed PO/SC. Please keep in mind that it is easier to send the certificate prior to the invoice. Otherwise it takes a long time (cancelling original invoice, making/receiving a credit note, risk of double invoicing);

⁵ In case of change, prior information and a new Financial Identification Form must be duly addressed to Europol before dispatch of the invoice;

9. Payments shall be made in EURO to the Contractor's bank account stated in the Financial Identification Form submitted in accordance with Article I-8 ("Bank Account").

Article I-6

Reimbursement of expenses

The price stipulated at Article I-4 above ("*Contract price*") is all –inclusive. The Contractor shall not be entitled to reimbursement of other costs and expenses incurred in the performance of this Contract.

Article I-7

Implementation of the Contract

1. The Contract will be implemented by way of Purchase Orders. The costs payable in respect of each Purchase Orders cannot exceed the prices set forth at Article I-4 [ie. in the Contractor's Tender].
2. Europol will request from Contractor an individual quotation containing the description of work and estimation of number of Contractor's Personnel required and the number of working hours prior to placing a *Purchase Order*.

Within [8] Working Days of a request for Services being sent by Europol to the Contractor, Europol shall receive [a delivery schedule and/or an estimate of the resources to be allocated for its execution].

If accepted by Europol, a Purchase Order will be created by Europol and sent for Contractor's signature.

3. Within [5] Working Days of a Purchase Order being sent by Europol to the Contractor, Europol shall receive it back, duly signed and dated.
4. The period allowed for the delivery of *Materials* and/or for the performance of *Services* shall start to run from the date on which the *Purchase Order* is signed by the last party or at a later date as specified in the *Purchase Order* itself.
5. The Contractor shall at all times allocate sufficient resources to provide the *Services* in accordance with the terms of this Contract and as specified in the relevant *Purchase Order*.
6. The Contractor shall obtain and maintain throughout the duration of this Contract all the consents, licences and permissions it may require and which are necessary for the performance of the Contract.
7. When specifically required by Europol, the Contractor must provide Europol with co-operation, information, advice and assistance to the best of its knowledge as requested in particular cases.

Article I- 8

Bank account

1. Payment of invoices is conditional upon the Contractor being listed in the European Commission's contractors database following submission of an duly filled in and signed

Legal Entity Form (LEF) and Financial Identification Form (BAF) as specified in the Tender Specifications [at Annex I] and attached to this Contract at Annex V.

2. Payments shall be made in EURO to the Contractor's bank account stated in such Financial Identification Form.
3. The Contractor is responsible for notification to Europol of any changes in the information in the Legal Entity Form and/or the Financial Identification Form by submitting new duly filled in and signed forms upon the occurrence of any such change.

Article I- 9

General administrative provisions

Any communication relating to the Contract or to its implementation shall be made in writing and shall bear the reference number of the Contract and if applicable, the reference number of the Purchase Order. Ordinary mail shall be deemed to have been received by Europol on the date on which it is registered by the responsible Europol Unit indicated below. Communications shall be sent to the following addresses:

Europol:

[Europol Project Manager - name contact person]
[e-mail and phone number]
Eisenhowerlaan 73,
2517 KK The Hague
PO Box 90850
NL-2509 LW The Hague
The Netherlands

Contractor:

Mr/Mrs/Ms [complete name]
[Function]
[Company name]
[Registered address]

Article I-10

Termination by either party

Bank account

1. Either party may, of its own volition and without being required to pay compensation, (early) terminate the Contract by serving **six (6) months** formal prior notice. Should Europol terminate the Contract, the Contractor shall only be entitled to payment corresponding to the goods ordered and delivered or services ordered and executed 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. The Contractor shall draw up the documents required for payment as specified at Article I-5 ("*Payments periods*") for the goods and/or services rendered up to the date on which termination takes effect, within a period not exceeding 30 (thirty) days from that date.

Article I-11

Exit management at the end of the Contract

1. At the expiry or termination otherwise of this Contract, the Contractor shall comply with an exit management/ hand-over procedure, allowing any potential future service provider in charge of providing the goods/Materials and Services as covered by this Contract to collect information related to the Contract. At Europol's request this may include handing over information and documents provided by Europol to the Contractor for the implementation of this Contract, as well as any other information and documents necessary for the correct and timely provision of the *Services* under this Contract. The Contractor commits itself to return it or to provide it to Europol, within the time-limits provided, whilst continuing to provide the goods and services under this Contract until the end of the Contract. This procedure is considered part of the Contractor's obligations under this Contract and must be provided free of charge.
2. This clause on exit management shall be applicable immediately and without any further notification in the following cases:
 - In case of insolvency, Europol shall have the right to invoke this clause at any time before the winding up of the Contractor or any other consequence of the occurrence of those events, including the appointment of a liquidator, receiver, manager or administrator;
 - In the event of termination of this Contract for any reason;
 - 3 (three) months prior to the expiry date of this Contract, when no renewal of the Contract is possible or when either Europol or the Contractor indicated in writing that it will not renew the Contract.
3. Further, if requested by Europol, the Contractor shall purge any copy of custom developed information or documentation related to the performance of this *Contract* from its equipments and shall take all the steps necessary to mitigate losses, costs and liabilities, including to:
 - Terminate all relevant contracts or parts of contracts with sub-contractors in connection with the provision of services to Europol;
 - Reduce labour costs by redeployment of Contractor's Personnel to the extent possible under the circumstances.

Article I-12

Security and confidentiality

1. This Article shall replace Article II-10 ("Confidentiality and Security") of the General Conditions. References in the Contract to Article II-10 shall be understood as references to this Article I-12.
2. In accordance with the Tender Specifications at Annex I, all Contractor's Personnel performing the Services under this Contract will be required to have:
 - (i) a security clearance at the level CONFIDENTIEL UE / EU CONFIDENTIAL (or equivalent), issued by the national security authorities of EU Member States. The security clearance must be submitted by the Contractor in accordance with the

requirements in the relevant request for Services, but in any case prior to the commencement of the execution of the Services under the relevant Purchase Order.

Europol will be at liberty to take all reasonable steps to assure itself of the validity of the certification provided. Europol shall have the right to reject the proposed Contractor's Personnel as a result of the security screening or based on the information stipulated in the certification provided.

Security clearances that are not issued by national security authorities of EU Member States (for example issued by third countries or international organisations) may be accepted by Europol on a case-by-case basis. Europol expressly reserves the right to reject any security clearance which was not issued by a national security authority of an EU Member State.

4. Europol shall specify its security requirements with regard to the Contractor's Personnel in the request for Services. Failure to provide an acceptable security clearance in accordance with the requirements of the request for Services, will be treated as breach of this Contract as well as, if applicable, of the relevant Purchase Order. Europol shall be entitled to take the appropriate measures as stipulated herein, including application of liquidated damages which shall become due from the date stipulated in Europol's decision communicated in writing to the Contractor. The actual amounts shall be automatically deducted from any invoice sent by the Contractor to Europol.

5. Before starting the provision of Services to Europol, each proposed Contractor's Personnel must sign and submit to Europol a declaration of absence of conflict of interest and of confidentiality in accordance with the requirements of the relevant Purchase Order. A model of Declaration of confidentiality and absence of conflict of interests is attached as [Annex IV] hereto.

6. The Contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information and/or documents which are linked to performance of the Contract, except with prior written permission from Europol. The Contractor shall continue to be bound by this undertaking for an unlimited period after the expiry or termination of this Contract. The Contractor undertakes to cause its Personnel to abide by the same obligations.

7. The Contractor acknowledges that a special security regime is applicable on Europol Premises, on other locations where the Contractor may be requested to perform the Services under this Contract and as regards access to and use of Europol's information and/or documents. The Contractor's Personnel performing the Services under the Contract who must enter Europol Premises or other locations where the Services need to be performed are obliged to apply all security instructions specified either in writing or orally by Europol security officers.

8. The Contractor or its Personnel may only take information and/or documents from Europol Premises or other locations only if such information and/or documents are related to the performance of the Contract and only after having obtained Europol's explicit written approval. Europol is entitled to withhold such approval without stating a reason. If working at Europol Premises, the Contractor's Personnel must ensure that all provided information and/or documents remain within the offices where work is performed and within the secured areas of the Europol Premises.

9. The Contractor must ensure that access to Europol's information, documents and if applicable, personal data obtained in the performance of the Contract is limited to Personnel as strictly necessary for the performance, management and monitoring of the Contract.

10. The Contractor undertakes to ensure the effective implementation of appropriate security measures as to:-

- (i) inform its Personnel performing the Services under the Contract with regard to the specific security regime applicable to all Europol information, documents and if applicable, personal data;
- (ii) prevent any unauthorised person [e.g. not working on Europol's assignment] from having access to computer systems processing Europol data and/or information and especially prevent any unauthorised reading, copying, alteration or removal of storage media;
- (iii) record the details of its Personnel to whom the information and/or documents were provided, as well as the type of information and/or documents;
- (iv) immediately inform Europol with regard to any security incidents and breaches involving Europol information and/or documents;
- (v) upon becoming aware of any security incident or breach, immediately take all reasonable steps necessary to remedy such breach and protect the integrity of all Europol's information and documents against any such potential or attempted breach or threat and prevent an equivalent breach in the future;
- (vi) if subcontractors are used, ensure that information and/or data provided by Europol to the Contractor and subsequently by the Contractor to its subcontractor is processed in accordance with the security and confidentiality requirements as stipulated in this Contract.

11. The Contractor acknowledges and agrees that:

- (i) irreparable injury and damage to Europol may result from disclosure of information and documents related to the performance of the Contract;
- (ii) monetary damages may not be sufficient remedy for such unauthorised disclosure of information and documents related to or obtained in the performance of the Contract; and
- (iii) Europol will be entitled, without waiving any additional rights or remedies that may be available to it by law, to such equitable relief as may be deemed proper by a court of competent jurisdiction.

12. If the Contractor, including its Personnel acts in conflict with this Article, the Contractor shall in each of these cases, without any summons or notice of default being required, forfeit to Europol on demand a penalty that is not subject to compensation, an amount which is not less than three (3) times the total price of the Contract up to the maximum amount of EUR 50.000,00 (fifty thousand EURO) per event and the overall maximum of EUR 150.000,00 (one hundred and fifty thousand EURO) per calendar year. Penalties shall only be forfeited if justified by the nature of the violation, taking into account Europol's particular interest in security and confidentiality. This penalty does not affect the other rights of Europol, including the right to compensation for damages.

Article I-13

Contractor's Personnel

1. The Contractor must provide Europol in advance with a list of the Personnel assigned to work at Europol Premises and satellite building(s) under a Purchase Order, either directly, or as back-up or part of a pool.
2. The Contractor shall be solely responsible for the *Personnel* executing tasks assigned to the Contractor.

3. The Contractor must ensure that any *Personnel* performing *Services* under this Contract have the professional qualifications and experience required for the execution of the tasks/services in accordance with the Tender Specifications at Annex I to and as specified in the Purchase Order.
4. Europol's requirements with regard to the security screening levels of Contractor's Personnel as well the various security requirements for performing services on-site are set out in the Tender Specifications (Annex I). Throughout the duration of the Contract, the Contractor must ensure that all Contractor's Personnel performing services on-site comply with the security requirements set out at Article I-12 of the Contract and Annex I (point 6).
5. The Contractor shall make provision for the following employment or service relationships with the *Contractor's Personnel*:
 - other than as identified at Article I-12 ("Confidentiality and Security"), Personnel executing the tasks assigned to the Contractor may not be given orders directly by Europol;
 - Contractor's Personnel involved in the implementation of this Contract and of any underlying Purchase Order shall under no circumstances be considered or treated as Europol staff i.e. having the status of Europol staff and subject to the Staff Regulations of Officials and/or Conditions of Employment of Other Servants of the European Communities applicable to Europol, or Seconded National experts (national or international civil servants who are working temporarily for Europol under the rules applicable to such experts). There shall be no subordinate link between Europol and the Contractor's Personnel. Europol may under no circumstances be considered to be the Contractor's Personnel employer and the said Personnel shall undertake not to invoke in respect of Europol any right arising from the working relationship between Europol and the Contractor. If applicable, Contractor's Personnel shall be instructed by the Contractor to inform third parties that they are not an employee of Europol and do not belong to the European public service;
 - the Contractor shall guarantee that its Personnel are employed according to the local legislation governing social security, national health insurance and unemployment insurance etc. The Contractor shall provide evidencing documents to Europol upon request.
6. The Contractor must ensure that all of the *Contractor's Personnel* performing services under a particular Purchase Order are aware at least of the following details:
 - The terms and conditions of the Purchase Order to be implemented;
 - The specific security requirements imposed by Europol with regard to Services to be performed at Europol's Premises and satellite building(s) as listed in the Tender Specifications (Annex I) and as may be updated by Europol after communication to the Contractor;
7. The number of *Contractor's Personnel* put forward by the Contractor for the performance of services under a particular Purchase Order must remain available for the entire duration of such Purchase Order.
8. Europol reserves the right to demand the withdrawal and/or the replacement of the *Contractor's Personnel* assigned to the execution of this Contract (and any Purchase Order) without compensating the Contractor where, for whatever reason, a member of the Contractor's Personnel:
 - a. is unable to start/execute or to continue its tasks in accordance with the relevant *Purchase Order*; or

- b. has breached the Europol security and confidentiality requirements and/or policy; or
 - c. where Europol considers the Contractor's Personnel is inefficient or unable to perform its tasks as assigned under a *Purchase Order* and has conclusive and objective evidence to substantiate such a claim.
9. In case of replacement of a member of *Contractor's Personnel*, the Contractor shall be entirely responsible for maintaining continuity of the services as specified in the relevant *Purchase Order*. It is the Contractor's responsibility to ensure that the replacement process has no negative impact on the performance of this Contract, that knowledge and information is transferred from one member of the *Contractor's Personnel* to another without any interruption of services and that a high level of quality is maintained at all times.
10. Replacement of Personnel must not result in any additional costs to Europol. All and any additional costs related to the replacement of *Contractor's Personnel* for whatever reason are the responsibility of the Contractor.

Article I-14

Liability

1. The Contractor shall be solely responsible for complying with any legal obligations incumbent on it.
2. Europol shall not be held liable for any damage caused or sustained by the Contractor, including any damage caused by the Contractor to third parties during or as a consequence of performance of the Contract, except in the event of wilful misconduct or gross negligence on the part of Europol.
3. The Contractor shall be held liable for any loss or damage sustained by Europol in the performance of the Contract, including in the event of sub-contracting, and for any claim by a third party, as follows:
 - For damage and destruction of real property belonging to or occupied by Europol up to a maximum amount of EUR 3,000.000 (three million Euro) per event and per calendar year, whereby a series of linked events constitute one event;
 - for direct damages in all other cases, the liability shall be limited to EUR 2.500.000, 00 (two million five hundred thousand Euro) per event and per calendar year;
 - for loss incurred by Europol as a result of the Contractor's damage to equipment provided by Europol or Europol access cards up to a maximum amount of EUR 50,000 per event. Such loss may be off-set against a contractor's pending invoice. In such case, the Contractor is obliged to mark clearly on the invoice the original amount(s) due and the amount(s) that is(are) deducted;
 - for indirect damages, the Contractor shall be liable up to the maximum sum allowed by the Contractor's professional risk insurance provided that such sum is no less than three times the total amount of the *Purchase Order* the execution of which is relevant for the damage.

Nothing in this Contract shall exclude or restrict a party's liability for death or personal injury caused by negligence or fraud.

4. The Contractor shall indemnify and hold Europol harmless against all damages and cost incurred due to any claim. The Contractor shall provide compensation in the event of any

action, claim or proceeding brought against Europol by a third party as a result of loss to them caused by the Contractor during the performance of the Contract. In the event of any action brought by a third party against Europol in connection with the performance of the Contract, including any alleged breach of IPR, the Contractor shall assist Europol. Such expenditure incurred by the Contractor may be borne by Europol.

5. The Contractor shall assist Europol in defending the action.
6. The Contractor shall take out insurance against risks and damage relating to performance of the Contract if required by the relevant applicable legislation and as specified in the tender specifications. The Contractor shall take out supplementary insurance as reasonably expected according to standard practice in the industry. An insurance policy, covering at least risks for loss, damages, destruction, flood and fire, is required for the delivery and/or transport of goods to Europol's Premises and/or in case of the (temporary) external storage of goods to the Contractor's warehouse/storage facilities. A copy of the relevant insurance contracts shall be sent to Europol if requested. The Contractor shall bear all the risk of loss or damages, theft and/or destruction in case of transport of goods to the warehouse/storage facilities and/or to Europol's Premises as well as in case of external storage of the goods to the Contractor's warehouse/storage facilities as indicated in the applicable Purchase Order.

Article I-15

External Storage and transport of Goods

1. In case of (temporary) external storage of goods (i.e. Europol's assets) in any Contractor's (including sub-contractors) locations and/or in warehouse/storage facilities, the Contractor shall produce a 'consignment note listing all the goods to be stored at its location.
2. By signing the consignment note:
 - a. The Contractor shall temporarily hold and store the goods until Europol provides the Contractor with further written instructions;
 - b. The goods shall be held as Europol's property and labeled accordingly;
 - c. Europol shall have full right to check the goods and access the Contractor's warehouse/storage facilities upon reasonable request;
3. In case Europol requests transport services, the Contractor shall arrange safe delivery of the goods to Europol's Premises or to a warehouse/storage facility;
4. Costs for transport of goods shall be as listed in Annex II of the Contract and shall include all costs and expenses directly and indirectly related to delivery, transport, packaging costs and all ancillary costs, such as insurance costs.
5. Costs for (temporary) external storage of goods, included related insurance, shall be as listed in Annex II of the Contract. The goods listed in the consignment note shall be insured by the Contractor in accordance with Article I.14 of the Contract until end delivery at Europol's Premises.

II-General Conditions

Article II-1

General Definitions

The following terms will be used with a capital letter in the Contract and as applicable, any Specific Contract concluded and/or Purchase Order placed under a Contract. These terms are understood to mean:

<i>Annex(es):</i>	attachment(s) to the Contract which form part of the Contract after being initialled by both parties;
<i>Contract:</i>	the present framework contract and its Annexes;
<i>Contract Date:</i>	unless otherwise specified in the Special Conditions, the date on which the last party signs the Contract or, with regard to the Specific Contracts, the date on which the last party signs the Specific Contract;
<i>Contractor's Personnel:</i>	personnel employed or used by the Contractor for the execution of the Contract, who work under the Contractor's responsibility;
<i>Europol:</i>	the European Union Agency for Law Enforcement Cooperation, as established as of 1 May 2017 by the Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 (OJ L 135/53 of 24.5.2016) (the "Europol Regulation");
<i>Europol Premises:</i>	the offices of Europol, located at Eisenhowerlaan 73, 2517 KK, The Hague The Netherlands and any other site identified in the Tender Specifications such as the Satellite building(s);
<i>Intellectual and Industrial property rights (IPR):</i>	unless otherwise specified in the Special Conditions, IPR shall mean all industrial and intellectual property rights, such as, but not limited to, copyright, the rights of the producer of a database, patents, patent applications, utility models, any trademarks, trade names, designs and models; ⁶
<i>Working Day(s):</i>	calendar day(s), with the exception of weekends and public holidays recognised as such by Europol, on which the agreed work will be carried out. A Working Day consists of 8 hours of work excluding travel to and from Europol and excluding breaks. Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971, OJ EC L124/1 will be applied to all periods, dates and time limits in this Contract.

⁶ Any change in the scope of the IP rights will need to be recorded in the Special Conditions;

In addition to the General Definitions used in this Article, Special Definitions may be defined at Article I-1 ("*Special Definitions*").

Article II-2

General Performance of the Contract

1. The Contractor shall perform the Contract with due care, efficiency and diligence in accordance with the highest professional standards. The Contractor shall have sole responsibility for complying with its legal obligations, notably those resulting from employment, tax, health insurances and social legislation.
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 the Contractor are to be executed.
3. The Contractor shall neither represent Europol nor behave in any way that would give such an impression. The Contractor shall inform third parties that it does not belong to the European public service.
4. 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 its own initiative record it and report it to Europol. 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 the obligations under the Contract. In such event the Contractor shall give priority to solving the problem rather than determining liability.
5. Should the Contractor fail to perform the obligations under the Contract in accordance with the provisions laid down therein, Europol may - without prejudice to its right to terminate the Contract - reduce or recover payments in proportion to the scale of the failure. In addition, Europol may impose penalties or liquidated damages provided for in Article II-17 ("*Liquidated damages*").
6. To avoid damage to the building in which Europol's Premises are located, the Contractor must ensure that any on-site means of transportation of goods and/or materials are equipped with soft wheels [i.e. rubber or air tires].

Article II-3

Contractor's Personnel

NOT APPLICABLE, REPLACED BY ARTICLE I-13

Article II-4

Supply of goods

This Article shall be applicable whenever Europol purchases goods under the Contract. If applicable in accordance with Article I-7 ("*Implementation of the Contract*"), whenever Europol wishes to be supplied pursuant to the Contract, it shall send a Specific Contract or Purchase Order to the Contractor in duplicate, on a model as provided during the tender award procedure. Within the period indicated in the Special Conditions, the Contractor shall return the original (s)

of the Specific Contract or Purchase Order, duly signed and dated, thereby acknowledging receipt of the order and acceptance of the terms.

1. **Delivery of goods:** Europol shall be notified in writing of the exact date of delivery within the period indicated in the relevant Specific Contract or Purchase Order. All deliveries shall be made at the agreed place of delivery and during the hours indicated in the relevant Specific Contract or Purchase Order or otherwise agreed in writing with Europol.

The Contractor shall bear all costs and risks involved in delivering the goods to the place of delivery indicated in the relevant Specific Contract or Purchase Order.

Each delivery shall be accompanied by a delivery note in duplicate, dated by the Contractor or the Contractor's carrier, giving the Contract number, relevant Specific Contract or Purchase Order number and particulars of the goods delivered. Each party shall retain a copy.

All goods delivered to Europol Premises will be inspected and scanned prior to acceptance by Europol. The goods shall be packaged according to the usual method for goods of the same type or, failing this, in a way designed to preserve and protect that the contents remain intact and to prevent damage or deterioration. Each box shall be clearly labelled with the following information:

- name (Europol) and address for delivery;
- name of the Contractor;
- description of contents;
- date of delivery;
- Contract and Specific Contract or Purchase Order reference.

Any damaged or suspiciously packaged goods will be refused.

2. **Conformity:** Conformity shall be declared only where the conditions laid down in the Contract are satisfied and the goods conform to the specifications and quantity specified in the relevant Specific Contract or Purchase Order.

The delivery note simply acknowledges the fact that the delivery took place and in no way implies conformity.

Conformity shall be evidenced by the signing of a certificate to this effect by Europol no later than fifteen (15) days after the date of delivery. Non-conformity shall be notified in writing.

The certification of conformity in no way implies acceptance by Europol of latent defects (see paragraph 5 of this Article).

The goods delivered must:

- be fit for any specific purpose required of them by Europol and made known to the Contractor in any Tender Specifications;
- be fit for the purposes for which goods of the same type are normally used;
- if applicable, correspond to any sample or model provided; and
- be of the quality which is normal in goods of the same type and which Europol can reasonably expect, taking into account any public statements in this regard made by the Contractor, the manufacturer or its representative, particularly in advertising or on labelling.

3. **Remedy:** The Contractor is liable for any non-conformity. Where goods are not in conformity, Europol shall be entitled to:

- have the goods brought into conformity, free of charge, by repair or replacement within a reasonable time; or
- have an appropriate reduction made in the price.

Reasonable time shall be assessed based on the nature of the goods and the purpose for which they are required by Europol.

The term ‘free of charge’ covers all costs incurred to bring the goods into conformity, including the cost of delivery, postage, labour and materials.

4. **Assembly and/or Installation (where ordered):**

The Contractor shall assemble the goods delivered within a period of one (1) month unless otherwise specified in the relevant Specific Contract or Purchase Order.

Non-conformity resulting from incorrect installation of the goods shall be deemed to be equivalent to non-conformity of the goods if installation forms part of the Contract and was ordered by means of a Specific Contract or Purchase Order. This shall apply equally if the goods were installed by Europol incorrectly due to a shortcoming in the installation instructions.

5. **Guarantee:** The goods shall be guaranteed against all defects in manufacture or materials for a minimum period of two (2) years from the date of delivery, unless provision is made for a different period in the Special Conditions and/or the Tender Specifications.

The Contractor shall guarantee that any permits and licenses required for manufacturing and selling the goods have been obtained.

The Contractor shall replace at its own expense, within a reasonable time limit to be determined by written agreement between the parties, any goods and/or parts of goods which become damaged or defective in the course of normal use during the guarantee period. The Contractor is responsible for any conformity defect which existed at the time of delivery, even if this defect does not appear until a later date (latent defect).

If part of an item is replaced, the replacement part shall be guaranteed under the same terms and conditions for a further period of the same duration as that specified above.

If a defect is found to originate in a systematic flaw in design, the Contractor must replace or modify all identical parts incorporated in the other goods that are part of the Contract, even though they may not have been the cause of any incident. In this case the guarantee period shall be extended as stated above.

Article II-5

Liability

NOT APPLICABLE, REPLACED BY ARTICLE I-14.

Article II-6

Conflicts of Interest

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

Article II-7

Reporting and payments

1. **Address:** Request(s) for payment shall be sent to:
Europol Finance Unit
P.O. Box 90850
2509 LW - THE HAGUE – The Netherlands (NL)
2. **Date of payment:** Payments shall be deemed to be effected on the date when they are debited to Europol's account.
3. **Currency:** The currency of this Contract is the EURO unless otherwise stipulated in the Special Conditions and/ or Tender Specifications. Payments shall be executed in the currency of the Contract. Conversion between EURO and another currency shall be made according to the daily EURO exchange rate published in the *Official Journal of the European Union* or failing that, at the monthly accounting exchange rate established by the European Commission and published on its website, applicable on the day on which the payment order is issued by Europol.
4. **Costs of transfer:** The costs of the bank transfer shall be borne in the following way:
 - costs of dispatch charged by Europol's banking provider shall be borne by Europol;
 - costs of receipt charged by the Contractor's banking provider shall be borne by the Contractor; and
 - costs for a repeated transfer caused by one of the parties shall be borne by the party causing repetition of the transfer.

5. **Invoices and value added tax (VAT):** The Contractor shall have sole responsibility for compliance with the tax laws applicable to the Contractor. Failure to comply shall make the relevant invoices invalid.

Invoices shall contain the Contractor's identification, the amount, the currency and the date, as well as the Contract reference.

Invoices shall indicate the place of taxation of the Contractor for value added tax (VAT) purposes, the VAT number and shall specify separately the amounts not including VAT and the amounts including VAT. Europol is, as a rule, exempt from all taxes and duties, including VAT, pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union.

The Contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the supplies and services required for performance of the Contract are exempt from taxes and duties, including VAT exemption. In order to ensure correct invoicing, Europol will provide the Contractor with a VAT exemption certificate on the basis of a signed Specific Contract or Purchase Order, prior to any invoice being issued by the Contractor.

If the Contractor is a Dutch registered company, the Contractor shall ensure that all invoices issued to Europol under the Contract are including VAT, which shall be reclaimed by Europol from the Dutch Tax authorities. If required, the Contractor shall provide Europol with all necessary assistance to facilitate the procedure to reclaim VAT.

6. **Pre-financing and performance guarantees:** Pre-financing guarantees shall remain in force until the pre-financing is cleared against interim payments or payment of the balance and, if the latter takes the form of a debit note, 3 (three) months after the debit note is notified to the Contractor. Europol shall release the guarantee within the following month.

Performance guarantees shall cover performance of the Contract in accordance with the terms set out in the Contract and the Tender Specifications until its final acceptance by Europol. The amount of the performance guarantee shall not exceed the total price of the relevant Specific Contract or Purchase Order. The guarantee shall provide that it remains in force until final acceptance. Europol shall release the guarantee within a month following the date of final acceptance.

Where, in accordance with Article I-5 ("*Payment periods*") a financial guarantee is required for the payment of pre-financing, or as performance guarantee, it shall fulfil the following conditions:

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

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

7. **Interim payments and payment of the balance:** The Contractor shall submit an invoice for interim payment upon delivery of intermediary results, accompanied by a progress report or any other documents, as foreseen in Article I-5 ("*Payment periods*") and/or in the Tender Specifications.

The Contractor shall submit an invoice for payment of the balance within sixty (60) days following completion of the tasks referred to in the Special Conditions and/or Tender

Specifications, accompanied by a final progress report or any other documents provided for in Article I-5 ("*Payment periods*") and/or in the Tender Specifications.

Upon receipt, Europol shall pay the amount due [as interim or final payment], within the periods specified in Article I-5 ("*Payment periods*"), provided the invoice and documents have been approved and without prejudice to Europol's possibility to suspend the payment as stipulated at paragraph (8) below.

Payment of the balance may take the form of recovery.

8. **Suspension of the time allowed for payment:** Europol may suspend the payment periods specified in Article I-5 ("*Payment periods*") at any time by notifying the Contractor that its invoice cannot be processed, either because it does not comply with the provisions of the Contract, or because the appropriate documents have not been produced.

Europol shall inform the Contractor in writing as soon as possible of any such suspension, giving the reasons for it.

Suspension shall take effect on the date the notification is sent by Europol. The remaining payment period shall start to run again from the date on which the requested information or revised documents are received or the necessary further verification, including on-the-spot checks, is carried out. Where the suspension period exceeds two (2) months, the Contractor may request Europol to justify the continued suspension.

Where the payment periods have been suspended following rejection of a document referred to in the first paragraph and the new document produced is also rejected, Europol reserves the right to terminate the Contract in accordance with Article II-16 (1)(k) ("*Termination of the Contract*").

9. **Interest on late payment:** Upon expiry of the payment periods specified in Article I-5 ("*Payment periods*"), and without prejudice to contractual provisions on suspension of the time allowed for payment, the Contractor is entitled to interest on late payment at the rate applied by the European Central Bank for its main refinancing operations in Euros (the reference rate) plus eight points. The reference rate shall be the rate in force on the first day of the month in which the payment period ends, as published in the C series of the *Official Journal of the European Union*.

The suspension of the payment period in accordance with paragraph (8) above may not be considered as a late payment.

Interest on late payment shall cover the period running from the day following the due date for payment up to and including the date of actual payment as defined at paragraph (2) above. However, when the calculated interest is lower than or equal to EUR 200, it shall be paid to the Contractor only upon request submitted within two months of receiving late payment.

Article II- 8

Recovery

1. If an amount is to be recovered under the terms of the Contract, the Contractor shall repay Europol the amount in question according to the terms and by the date specified in the debit note.

2. If the obligation to pay the amount due is not honoured by the date set by Europol in the debit note, the amount due shall bear interest at the rate indicated at Article II-7 (9). Interest on late payments shall cover the period from the day following the due date for payment up to and including the date when Europol receives the full amount owed. Any partial payment shall first be entered against charges and interest on late payment and then against the principal amount.
3. If payment has not been made by the due date, Europol may, after informing the Contractor in writing, recover the amounts due by offsetting them against any amounts owed to the Contractor by Europol or by calling in the financial guarantee, where provided for in Article I-5 (“*Payment periods*”).

Article II-9

Ownership of the results- Intellectual and Industrial property

1. **Pre-existing IPR:** Unless specified otherwise in the Special Conditions and/or Tender Specifications, Europol shall not acquire ownership of any IPR, including background technology, which exists prior to the Contract for the purpose of this Contract. The Contractor licenses pre-existing rights on a non-exclusive, non-transferrable and perpetual basis to Europol. Europol may use pre-existing IPR as foreseen in the Special Conditions and/or in the Tender Specifications.

Pre-existing Europol IPR such as but not limited to Europol produced workflows, graphics/logos, data, trademarks and know-how stay with Europol.

2. **Resulting IPR:** Unless specified otherwise in the Special Conditions and/or Tender Specifications, any results and/or rights thereon, including copyright and other IPR, obtained in performance of the Contract, shall be owned solely by Europol, which may use, modify, publish, assign or transfer them as it sees fit, without geographical or other limitation.
3. Unless specified otherwise in the Special Conditions and/or Tender Specifications, all rights are acquired by Europol from the moment the results are accepted by Europol. Acceptance constitutes an effective assignment of rights from the Contractor to Europol. The payment of the price as set out in the Special Conditions is deemed to include any fees payable to the Contractor in relation to acquisition of ownership of the rights by Europol. The acquisition of ownership of rights by Europol under this Contract covers all territories worldwide.
4. Failure to obtain prior written permission from Europol prior to registering IPR or asserting rights over the results obtained in performance of the Contract will entitle Europol to seek damages against the Contractor and will not prevent Europol from asserting or protecting the rights assigned under the Contract.
5. The Contractor declares that it is the rightful owner of the IPR to all goods and/or services delivered under the Contract (unless these are clearly identified as third party IPR) and that it is entitled to assign or licence those rights in accordance with the terms of the Contract.
6. In relation third party IPR, the Contractor guarantees that it has requested and obtained those third parties’ written authorisation to grant to Europol the assignment or licence of their Intellectual and Industrial property rights to the extent required under the Contract. The Contractor shall take the necessary steps, under the laws and regulations in force at the place where the tasks assigned to the Contractor are to be performed, to ensure the opposability vis-à-vis third parties of the assignments or licences granted to Europol by the Contractor or by such third parties.

7. Each party to the Contract undertakes to inform the other party of the existence or threat of any third party action or claim alleging an infringement of its IPR resulting from Europol's use of goods and/or services delivered under the Contract.

Article II-10

Confidentiality and Security

NOT APPLICABLE. REPLACED BY ARTICLE I-12

Article II-11

Use, distribution and publication of information

1. The Contractor shall authorise Europol to process, use, distribute and publish data contained in or relating to the Contract and implementing Specific Contract(s) or Purchase Order(s), in particular the identity of the Contractor, the subject matter, the duration, the amount paid and the reports. Where Personal Data is concerned, Article II-12 ("*Data Protection*") shall apply.
2. Any distribution and/or publication of information relating to the Contract and any Specific Contract(s) or Purchase Order (s) by the Contractor shall require prior written permission from Europol. Europol is entitled to stipulate conditions when granting permission. It shall state that the opinions expressed are those of the Contractor only and do not represent Europol's official position.
3. The use of information obtained by the Contractor in the course of the Contract for purposes other than its performance shall be forbidden, unless Europol has specifically given prior explicit written authorisation to the contrary.

Article II-12

Data protection

1. In processing any *Personal data* included in and/or relating to the *Framework Contract*, including its implementation, Europol is bound by the data protection rules imposed by the Europol Regulation and by the direct application of Regulation (EC) No 45/2001 to all administrative personal data held by Europol.
2. *Personal data* shall be processed by the parties solely for the purpose of performance and management of the *Framework Contract*, without prejudice to Europol's right of possible transmission of data to internal audit services, to the European Court of Auditors, the Financial Irregularities Panel and to the European Anti-Fraud Office (OLAF) for the purposes of safeguarding the financial interests of the Union. The *Contractor's Personnel* may, upon request, obtain communication with regard to their own *Personal data* and rectification of any inaccurate or incomplete *Personal data*. Should a member of *Contractor's Personnel* have any queries concerning the processing of its *Personal data*, it shall address them to Europol's Data Protection Function as referred to the following contact point: DPF@europol.europa.eu. With regard to the processing of the *Personal data*, the *Contractor's Personnel* have the right

to recourse at any time to Europol's Data Protection Officer and the European Data Protection Supervisor: edps@edps.europa.eu.

3. The *Contractor* may not use and/or store *Personal data* derived from Europol [i.e. act as a data processor] except insofar it is necessary for the performance of its contractual obligations and/or in accordance with the requirements stated in the Tender Specifications. *Personal data* relating to Europol staff obtained during the performance of *Framework Contract* shall be solely processed by the *Contractor* in accordance with the applicable data protection legislation. If requested by Europol in writing, the *Contractor* shall provide additional information and/or evidence with regard to processing of Europol staff *Personal data* at the required standards. If the *Contractor* is situated outside the EU those standards refer to the compliance with the relevant provisions governing the exchange of *Personal data* with parties outside the EU.
4. In relation to any *Personal data* which the *Contractor* requires to store and use for the performance of its contractual obligations, the *Contractor* agrees to implement appropriate technical, organisational and security measures to protect personal data against accidental or unlawful destruction, accidental loss or unauthorised disclosure, alteration and access or any other unauthorised form of processing by taking due regard to the risks inherent to the processing and to the nature of such data, in order to:
 - i. prevent any unauthorised person from gaining access to computer systems processing *Personal data*, and especially:
 - unauthorised reading, copying, alteration or removal of storage media;
 - unauthorised data inputting, as well as any unauthorised disclosure, alteration or erasure of stored *Personal data*;
 - unauthorised use of data processing systems by means of data transmission facilities;
 - ii. ensure that authorised users of a data-processing system can access only the *Personal data* to which their access right refers;
 - iii. record which *Personal data* have been communicated, when and to whom;
 - iv. ensure that, during communication of *Personal data* and transport of storage media, the data cannot be read, copied or erased without authorisation;
 - v. design its organisational structure in such a way that it meets data protection requirements.
5. The *Contractor* is responsible for passing on the obligations as stipulated in this Article to its sub-contractors and for ensuring compliance with such obligations by its sub-contractors. If any evidence of compliance by sub-contractors with this Article is requested by Europol, the *Contractor* shall be responsible for obtaining it.
6. The *Contractor* is not entitled to provide such *Personal data* to other third-parties for whatever purpose without Europol's prior express written consent and under the conditions set up by Europol.
7. If *Personal data* of Europol staff is no longer necessary for the performance of the *Framework Contract*, it shall be deleted or destroyed in accordance with Europol's written instructions and such deletion or destruction shall be certified in writing to Europol.

8. The *Contractor* shall immediately notify Europol in the event that it becomes aware of any breach of this Article. The obligations in relation to *Personal data* subsist for an unlimited period after the end of this *Framework Contract*.
9. Europol or an outside body of its choice shall have the right to verify the data protection compliance of the Contractor under the Europol Regulation and Regulation (EC) No 45/2001.

Article II-13

Force Majeure

1. Force Majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the parties which prevents either of them from performing any of their obligations under the Contract and the relevant Specific Contract(s) or Purchase Order(s), was not due to error or negligence on their part or on the part of a sub-contractor, 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.
2. If either party is faced with Force Majeure, it shall notify the other without delay in writing, stating the nature, likely duration and foreseeable effects.
3. Neither party shall be considered to be in breach of its contractual obligations if the performance of such obligations is prevented by any circumstances of Force Majeure which arise after the date of notification of the award of the Contract or the date when the Contract becomes effective.
4. When faced with Force Majeure, the Contractor shall continue to perform its obligations under the Contract as far as is reasonably practicable, and shall seek all reasonable alternative means for performance of its obligations which are not prevented by the Force Majeure event. The Contractor shall not put into effect such alternative means without Europol's prior written consent.
5. Where the Contractor is unable to perform its obligations owing to Force Majeure, it shall have the right to remuneration only for tasks actually executed.

Article II-14

Subcontracting

1. The Contractor shall not sub-contract without prior written authorisation from Europol nor cause the Contract to be performed by third parties.
2. Even where Europol authorises the Contractor to sub-contract, the Contractor shall bear exclusive liability for proper performance of the Contract.
3. Sub-contracting does not affect rights and guarantees to which Europol is entitled by virtue of the Contract, notably Article II-18 ("*Checks and Audits*").

Article II-15

Assignment

The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from Europol.

In the absence of such authorisation, or in the event of failure to observe the terms thereof, assignment by the Contractor shall not be enforceable against and shall have no effect on Europol.

Article II-16

Termination of the Contract

1. Europol may terminate the Contract and/or a Specific Contract or a Purchase Order in the following circumstances:
 - a. where the Contractor is being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislations or regulations;
 - b. where the Contractor has been convicted of an offence concerning its professional conduct by a judgment which has the force of *res judicata*;
 - c. where the Contractor has been guilty of grave professional misconduct proven by any means which Europol can justify;
 - d. 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 the Contractor is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed. Europol may terminate a Contract and/or a Specific Contract or Purchase Order without notice, if the Contractor is unable, through its own fault, to obtain any permit or licence required for the performance of the Contract;
 - e. where Europol has evidence that the Contractor or any natural persons with the power to represent it or take decisions on its behalf have committed fraud, corruption, or are involved in a criminal organisation, money laundering or any other illegal activity detrimental to the Union's financial interests;
 - f. where the Contractor is in breach of the obligations under Article II-6 ("*Conflicts of Interest*");
 - g. where Europol has evidence that the Contractor or any natural persons with the power to represent it or take decisions on its behalf have committed substantial errors, irregularities or fraud in the award procedure or the performance of the Contract, including in the event of submission of false information or misrepresentation;
 - h. if a change to the Contractor's legal, financial, technical or organisational or ownership situation is likely to affect the performance of the Contract substantially or call into question the decision to award the Contract;
 - i. where the implementation of the Contract, performance of obligations or execution of the tasks under the Contract has not actually commenced within the delivery or performance set in the Contract and the new date proposed, if any, is considered unacceptable by Europol;
 - j. where the Contractor is in serious breach of the obligations under Article II-10 ("*Security and Confidentiality*"). The seriousness of the breach is solely assessed by Europol;
 - k. if the Contractor does not perform the Contract, as stipulated in the Contract and/or Tender Specifications or it fails to fulfil another substantial contractual obligation;

2. In case of Force Majeure, notified in accordance with Article II-13 ("*Force Majeure*"), Europol may terminate the Contract and/or the relevant Specific Contract or Purchase Order where either resuming contractual performance is impossible, or the modifications to the Contract and/or Specific Contract or Purchase Order may call into question the decision awarding the Contract to the Contractor, or result in unequal treatment of other tenderers. In case of Force Majeure, each party may terminate the Contract and/or Specific Contract or Purchase Order where performance thereof cannot be ensured for a period corresponding to at least 1/5 (one fifth) of the total duration foreseen for delivery (of goods or service).
3. Europol may terminate the Contract and/or Specific Contract or Purchase Order without formal notice in case of points (b), (c), (d), (e) and (j) above. Termination shall take effect on the day following the date on which notification of termination is received by the Contractor.

Prior to terminating the Contract and/or Specific Contract or Purchase Order in case of points (a), (f), (g), (h), (i) and (k), Europol shall formally notify the Contractor of its intention specifying the grounds thereof. Europol shall invite the Contractor to make any observations within 30 days from receipt of the notification (and, in the case of point (j) above, to inform Europol about the measures taken to continue the fulfilment of its contractual obligations). The 30 day period can be reduced or even omitted if the termination ground is point (f) and/or (g) above. If Europol does not confirm acceptance of Contractor's reasons within 30 days, Europol shall formally notify the Contractor about its decision to terminate the Contract and/or Specific Contract or Purchase Order. Formal notification shall specify the date on which the termination takes effect.

4. If Europol terminates the Contract and/or Specific Contract or Purchase Order 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 and/or Specific Contract or Purchase Order, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce its commitments. The Contractor shall draw up the documents required by the Tender Specifications and/or as specified in the Special Conditions for the tasks executed up to the date on which termination takes effect, within a period not exceeding sixty (60) days from that date.

Europol may claim compensation for any damage suffered and recover any sums paid to the Contractor under the Contract in the event of termination.

On termination Europol may engage any other contractor to execute and/or complete the goods and/or services. Europol 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-17

Liquidated damages

Europol may impose liquidated damages should the Contractor fail to perform its obligations in accordance with the Contract and the Tender Specifications. Without prejudice to the Contractor's actual or potential liability or to the Europol's right to terminate the Contract and/or the relevant Specific Contract or Purchase Order, Europol may impose liquidated damages for each and every calendar day of delay according to the following formula:

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

V is the price of the relevant purchase;

d is the period for execution specified in the relevant Specific Contract or Purchase Order or, failing that, the period between the first implementation date specified in the Special Conditions and the date of delivery or performance specified in the relevant Specific Contract or Purchase Order, expressed in calendar days

The Contractor may submit arguments against this decision within 30 days of receipt of the formal notification. Unless the Contractor reacts within (30) days or unless Europol withdraws in writing the decision on impositions of liquidated damages, the decision shall become enforceable.

The parties expressly acknowledge and agree that any sums payable under this article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses incurred due to failure to fulfil obligations which may be reasonably anticipated.

Article II-18

Checks and audits

1. The European Court of Auditors shall be empowered to audit the documents held by the natural or legal persons receiving payments from the budget of the European Union from signature of the Contract up to five (5) years after payment of the balance.
2. The Contractor shall keep all original documents stored on any appropriate medium, including digitised originals when they are authorised by national law and under the conditions laid down therein, for a period of five years which starts from the date of payment of the balance.
3. Europol or an outside body of its choice shall have the same rights as the European Court of Auditors for the purpose of checks and audits limited to compliance with contractual obligations from signature of the Contract up to 5 (five) years after payment of the balance of the last implementation. The Contractor shall allow access to sites and premises where the Contract is performed and to all the information, including information in electronic format, needed in order to conduct such checks and audits. The Contractor shall ensure that the information is readily available at the moment of the check or audit and, if so requested, that information be handed over in an appropriate form. No charge for such co-operation may be levied.
4. 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 5 (five) years after payment of the balance of the last implementation.
5. On the basis of the findings made during the audit, a provisional report shall be drawn up. It shall be sent to the Contractor, which shall have 30 days following the date of receipt to submit observations. The final report shall be sent to the Contractor within 60 days following the expiry of that deadline. On the basis of the final audit findings, Europol may recover all or part of the payments made and may take any other measures which it considers necessary.
- 6.

Article II-19

Applicable law and Dispute Settlement

1. The Contract shall be governed by the law of the Netherlands complemented, where necessary, by Union law.
2. Any dispute between the parties resulting from the interpretation and/or application of the Contract which cannot be settled amicably shall be brought before the courts of The Hague.
3. In addition to the court proceedings mentioned in paragraph 2 above, the Contractor may submit a complaint to the European Ombudsman (www.ombudsman.europa.eu). The European Ombudsman investigates complaints about maladministration in the EU institutions and bodies.
4. Without prejudice to paragraph 1 and 2 above, in the event that any dispute arises between the parties resulting from the interpretation or application of the Contract and the dispute is not resolved by negotiation, the Contracting parties may agree to submit the dispute to mediation.

For purpose of clarification and with reference to contracts concerning or involving software, the Contractor agrees that Europol does not accept any on-site inspection or audit of the installed software. Following a written request from the Contractor, Europol will provide written explanation on its compliance with the licensing restrictions.

5. If any party to the dispute gives written notice to the other party of its desire to commence mediation, and the other party agrees in writing, the parties shall jointly appoint a mutually acceptable mediator within 2 weeks of the date of the said written agreement. If the parties are unable to agree upon the appointment of the mediator within that time period, any party may apply to a court, organisation or person agreed by the parties when signing the Contract, for the appointment of a mediator.
6. The mediator's written proposal or his written conclusion stating that no proposal can be made, shall be produced within two (2) months of the date of the written agreement by the second party to commence mediation. The mediator's proposal or conclusion shall not be binding for the parties, who reserve the right to bring the dispute before the courts, in accordance with paragraph 1 and 2 above.
7. Within two (2) weeks of the date of notification of the proposal by the mediator, the parties can conclude a written agreement, duly signed by all parties, based on the proposal. The parties further agree to share equally the costs of mediation, which will not include any other costs incurred by a party in connection with the mediation.

Article II-20

Amendments

Any amendment to the Contract shall be the subject of a written agreement concluded by the parties. An oral agreement shall not be binding on the parties. A Specific Contract is not be deemed to constitute an amendment to the Contract.

Article II-21

Suspension of the Contract

1. The Contractor may suspend the performance of the Contract or any part thereof if a case of Force Majeure [as defined at Article II-13 above] makes such performance impossible or

excessively difficult. The Contractor shall inform Europol in writing about such suspension without delay, giving all reasons and details and the envisaged date for resuming contractual performance. Once the circumstances allow performance to resume, the Contractor shall inform Europol immediately, unless Europol has already terminated the Contract in accordance with Article II-16 ("*Termination of the Contract*") above.

2. Europol may suspend the performance of the Contract and/or Specific Contract or Purchase Order or any part thereof in the following cases:
 - (i) if the Contract award procedure or the performance of the Contract prove to have been subject to substantial errors, irregularities or fraud;
 - (ii) in order to verify whether presumed substantial errors, irregularities or fraud have actually occurred;
 - (iii) where there are reasonable grounds to believe that the Contractor's and/or the Contractor's Personnel are in breach of obligations of security and confidentiality or other security reasons, either related to Europol's activity or to the Europol's Premises; and
 - (iv) Force majeure, in accordance with Article II-13 ("*Force Majeure*") above.

Suspension shall take effect on the day the Contractor receives formal notification, or at a later date where the notification so provides. As soon as possible, Europol shall either give notice to the Contractor to resume the work suspended or inform the Contractor that it is proceeding with termination of the Contract and/or the Specific Contract or Purchase Order. If the latter, reasons shall be provided. The Contractor shall not be entitled to claim compensation on account of suspension of the Contract and/or Specific Contract or Purchase Order or of any part thereof.

Article II-22

Severability

1. If any provision of the Contract is, for any reason, held to be illegal, in full or in part, or invalid, or if its legality or validity is otherwise affected, the validity of the remaining legal and valid provisions of the Contract will not be affected. In place of such illegal or invalid provisions or for the purpose of filling a contractual gap in the Contract, an appropriate provision shall be applied, which, as far as legally possible will be as close as possible to the intentions and the purpose of the parties.
2. The parties agree to negotiate in good faith in order to replace an invalid provision with a provision which comes closest to the intent and purpose of the parties.

Article II-23

Means of communication

1. Any communication relating to the Contract or to its performance shall be made in writing and shall bear the Contract number and the relevant Specific Contract or Purchase Order number. Any communication is deemed to have been made when it is received by the receiving party unless otherwise provided for in the Special Conditions.
2. Electronic communication shall be deemed to have been received by the parties on the day of dispatch of that communication provided it is sent to the addresses listed in the Special Conditions.
3. If the sending party receives a message of non-delivery it shall take all reasonable measures to ensure actual receipt of communication by the other party.

- 4. Electronic communication with financial consequences shall be confirmed by an original signed paper version of that communication if requested by any of the parties provided that this request is submitted without unjustified delay. The sender shall send the original signed paper version without unjustified delay.
- 5. Mail sent using the postal services is deemed to have been received by Europol on the date on which it is registered by the responsible Europol unit as mentioned in the Special Conditions.
- 6. Any formal notification shall be made by registered mail or by email, provided this is acknowledged by an authorised representative of the Contractor.

For the Contractor

[name]
 [function]
 [address of the company]

signature_____

Done at [city], [date]

In duplicate in English.

For Europol

[name RAO]
 [function]
 [Europol's address]

signature_____

Done at [The Hague], [date]



ANNEXES

TO

THE FRAMEWORK CONTRACT

For the Provision of move, storage and related services

between

[Contractor's name]

and

Europol

ANNEX I – TENDER SPECIFICATIONS

DRAFT

G3-897480-[name contractor] Draft Framework Contract for the provision of move, storage and related services

Europol's initials:

Contractor's initials:

ANNEX II – CONTRACTOR’S OFFER /TENDER

DRAFT

G3-897480-[name contractor] Draft Framework Contract for the provision of move, storage and related services

Europol’s initials:

Contractor’s initials:

ANNEX III – MODEL PURCHASE ORDER

	FRAMEWORK CONTRACT PURCHASE ORDER No [complete] [Budget line No [complete] POL number]		
Eisenhowerlaan 73 2517 KK The Hague PO Box 90850 NL-2509 LW The Hague The Netherlands Tel [complete] Email: [complete]	Offer: [date and reference]	NAME AND ADDRESS OF THE CONTRACTOR Contractor code:	
	Currency of payment: EURO		
	This Purchase Order is governed by the terms and conditions of the Framework Contract [complete reference]. By signing this Purchase Order, the Contractor agrees to waive all other terms of business and/or performance of services and/or delivery of goods.		
LISTING OF SUPPLIES AND/OR SERVICES	UNIT	QUANTITY	PRICE IN EURO
			Unit price Total
[description of services][deliverables][deadlines]			
Pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union, Europol is exempt from all taxes and duties, including value added tax on payments in respect of this Contract. For Contractors in the Netherlands, the amount of the VAT must appear on all invoices presented by the Contractor to Europol. For Contractors outside the Netherlands, use of this form represents a request for VAT exemption.	VAT		
	TOTAL:		
Place of performance of services:	CONTRACTOR'S SIGNATURE:		
Delivery or performance dates: [from.....to....]	Name:		
Final date of delivery or performance:	Position:		
Payment:	Date:		
Guarantee:			
Date of issue: _____ Signature relevant Authorising Officer: _____ This Purchase Order shall be governed by the law of The Netherlands, complemented when necessary by Union law. Any dispute which cannot be settled amicably shall be brought before the courts of The Hague (The Netherlands). The invoice shall be paid only if the Contractor has returned the signed Purchase Order.			

ANNEX V - Completed Legal Entity File and Bank Account Form

DRAFT

Europol's initials:

Contractor's initials:

ANNEX VI
Declaration concerning
DISCRETION and CONFIDENTIALITY

I, the undersigned,

Name :

Date of birth :

Nationality:

Function / Organisation:

hereby declare that:

1. I have been informed and I understand my obligation to refrain from any action and any expression of opinion which might be harmful to Europol or prejudice its activities.
2. I have been informed and I understand my obligation not to disclose any facts or information that come to my knowledge in the performance of my duties or the exercise of my activities at Europol to any unauthorised person or to the public. Any information (regardless whether in writing, oral or in any other form) being made available to me - with any purpose, by accident, intentional or otherwise - during carrying out of my tasks is subject to the obligation of discretion and confidentiality. Any disclosure to a third party shall require the prior explicit written consent of Europol. This shall not apply to disclosures made to my employer in accordance with my employment contract (where relevant) and to facts or information that are expressly marked or clearly recognisable as being public information or that is too insignificant to require confidentiality.
3. I am aware that I may only transmit or take information from Europol's premises after having obtained Europol's explicit prior consent. In the case of classified information such consent must be given in writing.
4. I understand that I am not allowed to disclose my relationship with Europol on Social Media, unless prior written consent from Europol has been obtained.
5. I understand that I am not allowed to use smart devices to produce, store, process or transmit Europol information unless using means authorised by Europol. Such equipment may also not be used in a way which cause harm to Europol infrastructure or has security implications. If relevant, such items shall be handed in to Europol Security for safekeeping.
6. I understand that my obligation of discretion and confidentiality is unlimited in time and continues to apply even after the termination of my activities at Europol.
7. I understand that if I breach this obligation, I shall be liable to indemnify Europol or the concerned authorities against all loss or damage including reputation caused as a result of my breach of the obligation of discretion of confidentiality. I recognise that Europol or the concerned authority will be entitled to bring a claim for equitable relief and/or criminal proceedings before a court of competent jurisdiction.

(Place and Date)

(Signature)