

ECHA/2011/278

**Open Call for tender
Media monitoring and media analysis**

**Open procedure
Contract notice: OJEU S/245-396820**

**Tender Specifications
Model Contract**

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1 PRELIMINARY INFORMATION CONCERNING THE INVITATION TO TENDER

These specifications follow the publication of:

- The contract notice in OJEU 2011/S 245-396820 on 21 December 2011.

1.1 Nature of the contract

This call for tenders is launched by the European Chemicals Agency (“the Agency”) for the award of a service contract related to provision of media monitoring and media analysis.

1.2 Background

The European Chemicals Agency (ECHA) is working for the safe use of chemicals across Europe. It ensures the consistent implementation of the EU chemicals regulation (REACH) and classification and labelling regulation (CLP) and provides the best possible scientific advice on chemicals to EU institutions and Member States. It also publishes information on chemicals and assists industry in complying with the legislation. The Agency was established in 2007 and it is located in Helsinki, Finland.

ECHA’s mission is to ensure the consistent implementation of the REACH regulation at Community level and provide Member States and the European Institutions with the best possible scientific advice on questions related to the safety and the socioeconomic aspects of the use of chemicals. In addition, ECHA works closely also with stakeholders such as companies, manufacturing and importing chemicals, downstream users including consumers and civil society organizations.

Following a successful start-up period, the day-to-day work of the Agency’s press office is now increasingly growing in complexity and performance requirements. Accordingly, ECHA has decided to acquire some traditional tools used by media professionals. The aim of this contract is to buy media monitoring and media analysis.

Further information on ECHA and its work can be found on our website: <http://echa.europa.eu>

1.3 Starting date of the contract and duration of the tasks

The contract shall enter into force on the date on which it is signed by the last contracting party.

It is expected to be signed in the first quarter of 2012.

The execution of tasks may not start before the contract has been signed.

The service contract will be signed for 12 months.

The Contract may be renewed up to 3 times, each time for a period of 12 months, only before payment of the balance and with the express written agreement of the parties. Renewal does not imply any modification or deferment of existing obligations.

1.4 Period of validity of the Tender

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

1.5 Date and place of opening of the Tenders

Tenders will be opened at **10:30 on 2 March 2012** at the following location:

Office address:

European Chemicals Agency
Annankatu 18
00120 Helsinki
Finland

An authorised representative of each Tenderer may attend the opening of the bids. Companies wishing to attend are requested to notify their intention by sending an e-mail at least 48 hours in advance to the address given under 1.6.

This notification must be signed by an authorised representative of the Tenderer and specify the name of the person who will attend the opening of the bids on the Tenderer's behalf.

1.6 Contacts between the Tenderer and the Agency

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

- Before the final date for submission of Tenders:
 - At the request of the Tenderer, the contracting authority may provide additional information solely for the purpose of clarifying the nature of the contract.
 - The Agency may, on its own initiative, inform interested parties of any error, inaccuracy, omission or other clerical error in the text of the call for Tenders.

- After the opening of Tenders:

If clarification is requested or if obvious clerical errors in the Tender need to be corrected, the contracting authority may contact the Tenderer provided the terms of the Tender are not modified as a result.

The requests for additional information may be made to the address below by e-mail.

European Chemicals Agency
Annankatu 18
P.O. box 400
FI-00121 Helsinki
Finland
Email: opencalls@ECHA.europa.eu

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

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

The answers to the requests for additional information can also be found at the following internet address: http://ECHA.europa.eu/opportunities/procurement_en.asp

1.7 Terms of payment - implementation of the contract

Payments shall be made every two months in accordance with Articles I.3, I.4 and II.4 of the draft Service Contract (Annex 5.2).

ECHA reserves the right to pay less than the amount foreseen in article I.3.1 and Annex II (financial bid) according to tasks actually performed.

1.8 Guarantees

Not applicable.

1.9 General terms and conditions for the submission of Tenders

The present Tender documents are drawn up in respect of the Financial Regulation applicable to the general budget of the European Union (Council Regulation (EC, Euratom) No 1605/2002

of 25 June 2002 as amended by Council Regulation (EC, Euratom) N° 1995/2006 of 13 December 2006), as well as its implementing rules (Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 as amended by i) Commission Regulation 1261/2005 of 20 July 2005, ii) Commission Regulation 1248/2006 of 7 August 2006 and iii) Commission Regulation (EC, Euratom) No 478/2007 of 23 April 2007), hereinafter referred to as the Financial Regulation.

Participation in Tendering procedures is open on equal terms to all natural and legal persons from one of the EU Member States and to all natural and legal persons in a third country which has a special agreement with the Communities in the field of public procurement on the conditions laid down in that agreement.

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

Operators in third countries which have signed a bilateral or multilateral agreement with the Union in the field of public procurement must be allowed to take part in the Tendering procedure on the conditions laid down in this agreement. The Agency refuses Tenders submitted by operators in third countries which have not signed such agreements for the services covered by the present call for Tender.

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

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

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

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

Variants are not allowed.

1.10 No obligation to award the contract

This invitation to Tender is in no way binding on the Agency. The Agency's contractual obligation commences only upon signature of the contract with the successful Tenderer.

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

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

1.11 Place of performance

The place of performance of the tasks shall be the Contractor's premises or any other place indicated in the Tender, with the exception of the Agency's premises. Project meetings will take place either at the Agency's premises or be held via teleconference.

1.12 Subcontracting

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

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

Accordingly:

- The Agency will treat all contractual matters (e.g. payments) exclusively with the Contractor, whether or not the tasks are performed by a subcontractor;
- The Agency will privilege direct contacts with the Contractor, who is responsible for executing the contract;
- Under no circumstances can the Contractor avoid liability towards the Agency on the grounds that the subcontractor is at fault.

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

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

Tenderers must inform the subcontractor(s) and include in their subcontracting documents that Article II.17 of the standard service contract (Annex 5.2) may be applied to subcontractors.

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

1.13 Joint offers

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

The Agency will not request consortia to have a given legal form in order to be allowed to submit a Tender, but reserves the right to require a consortium to adopt a given legal form

before the contract is signed if this change is necessary for proper performance of the contract. This can take the form of an entity with or without legal personality but offering sufficient protection of the Agency's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association).

Grouping of firms must nominate one party to be responsible for the receipt and processing of payments for members of the grouping, for managing the service administration, and for coordination. The documents required and listed in the present specifications must be supplied by every member of the grouping, the checklist in annex 5.6 will help verifying the level of information to be provided according to the role of each entity in the Tender.

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

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

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

Each member of the grouping assumes a joint and several liabilities towards the Agency for the performance of the contract as a whole.

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

2 FORM AND CONTENT OF THE TENDER

2.1 General

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

Tenders must be clear and concise, with continuous page numbering, and assembled in a coherent fashion (e.g. bound or stapled, etc.). Tenders must be written in one of the official languages of the European Union, preferably in English.

Tenders **must include** the following information:

- all the information and documents requested by the Agency in order to assess the Tenderer. In order to help Tenderers presenting a complete Tender, a **checklist of the documents to submit is provided in Annex 5.6**. This checklist does not need to be included in the Tender but we encourage to use it in order to ease the assessment of the Tenders;
- the **price in EUR**;
- one **specimen signature of an authorised representative** on the legal entity form (see 2.3.1 b)), and a statement confirming the validity of the Tender (preferably in blue ink), the Tender must provide evidence of the authorisation to sign in name of the Tenderer;
- the **name and contact details (including e-mail address) of a contact person** in relation to the submission of the bid.

2.2 How to submit a Tender

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

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

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

2.3 Structure of the Tender

Tenders must be presented in five sections:

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

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

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

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

Section five: Financial Proposal (see 2.3.3)

2.3.1 Section one: Administrative proposal

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

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

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

- The **Legal Entity form** is to be signed by a representative of the Tenderer authorised to sign contracts with third parties. There is one form for individuals, one for private entities and one for public entities. Specific forms in each official EU language are available at : http://europa.eu/comm/budget/execution/legal_entities_fr.htm
- The **Financial identification form** shall be duly filled in and signed by an authorised representative of the Tenderer and his or her banker. A specific form for each EU Member State is available at the following Internet address: http://europa.eu/comm/budget/execution/ftiers_fr.htm .
- The above forms must be accompanied by the evidence as indicated at the bottom of each form.

All Tenders must provide their legal entity files as well as the necessary evidence. Only sub-contractors are requested to provide solely the legal entity file without evidence.

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

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

2.3.2 Section four: technical proposal

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

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

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

2.3.3 Section five: financial proposal

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

- prices must be expressed in euros;
- prices should be quoted free of all duties, taxes and other charges, i.e. also free of VAT, as the EU institutions and bodies are exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities of 8 April 1965 (OJ L 152 of 13 July 1967). Exemption is granted to the Agency by the governments of the Member States, either through refunds upon presentation of documentary evidence or by direct exemption.

For those countries where national legislation provides an exemption by means of a reimbursement, the amount of VAT is to be shown separately. In case of doubt about the applicable VAT system, it is the Tenderer's responsibility to contact his or her national authorities to clarify the way in which the EU institutions and bodies are exempt from VAT;

Prices shall not be conditional and be directly applicable by following the technical specifications.

- The categories of prices shall be fixed and not subject to revision for the first period of 12 months laid down in the contract. From the second period of execution of the tasks, as at each renewal, the amount may be revised upwards or downwards. This revision will be made only if one of the contracting parties requests it by registered mail received by the other party not later than three months before the anniversary of the date on which the contract was signed.

This revision shall be determined by the harmonised Monetary Union Index of Consumer Prices (MUICP), published by the Publications Office of the European Union in the Eurostat monthly bulletin at <http://www.ec.europa.eu/eurostat/> . Revision shall be calculated in accordance with the following formula:

$$Ar = Ao \frac{Ir}{Io}$$

where

Ar = revised total amount;

Ao = total amount in the original tender;

Io = index for the month corresponding to the final date for submission of tenders;

Ir = index for the month corresponding to the date of receipt of the letter requesting a revision of prices.

Tenderers must use the price table format presented in Annex 5.7 to formulate their financial bid.

The Agency will reject Tenders where no technical offers or financial offers are proposed.

Non conformity with the technical specifications in section 4 will also lead to rejected offers

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

3 ASSESSMENT AND AWARD OF CONTRACT

The assessment will be based on the information provided in the Tender. The Agency reserves the right to use any other information from public or specialist sources.

This assessment will be performed by applying the criteria set out in these specifications. To award of the contract, the assessment of admissible bids (see 2.2) will be carried out in three successive stages. Only bids meeting the requirements of one stage will be examined in the next stage.

The aim of each of these stages is:

1. to check, in the first stage (exclusion criteria), whether Tenderers can take part in the Tendering procedure and, where applicable, be awarded the contract;
2. to check, in the second stage (selection criteria), the technical and professional capacity and economic and financial capacity of each Tenderer who has passed the exclusion stage;

3. to assess on the basis of the award criteria the technical and financial offers and establish a ranking list, by order of merit, of all Tenders having passed the exclusion and selection stages.

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

3.1.1 Declaration

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

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

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

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

3.1.2 Grounds of disqualification

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

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

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

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

3.1.3 Evidence

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

1. The Agency shall accept as satisfactory evidence that the Tenderer to whom the contract is to be awarded is not in one of the situations described in point (a), (b) or (e) of Article 93(1) of the Financial Regulation, a recent extract from the judicial record or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied;
2. The Agency shall accept, as satisfactory evidence that the Tenderer is not in the situation described in point (d) of Article 93(1) of the Financial Regulation, a recent certificate issued by the competent authority of the State.
3. Where the document or certificate referred to in paragraph 1 & 2 is not issued in the country concerned and for the other cases of exclusion referred to in Article 93 of the Financial Regulation, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.
4. Depending on the national legislation of the country in which the Tenderer is established, the documents referred to in paragraphs 1, 2, 3 and 3.1.1 shall relate to legal persons and/or natural persons including, where necessary, company directors or any person with power of representation, decision-making or control in relation to the candidate or Tenderer. This would be the case when the national legislation concerned gives juridical responsibility of the acts committed by a legal entity (moral persons) to their legal representatives. The Tenderer shall provide information on the ownership or on the management, control and power of representation of the legal entity whenever necessary for the proper understanding of the evidence submitted or whenever the Agency requests it.
5. Where they have doubts as to whether Tenderers are in one of the situations of exclusion, the Agency may itself apply to the competent authorities referred to in paragraph 3 to obtain any information they consider necessary about that situation.
6. The Agency may waive the obligation of a Tenderer to submit the documentary evidence referred to in paragraphs 1 and 2 if such evidence has already been submitted to it for the purposes of another procurement procedure and provided that the issuing date of the documents does not exceed one year and that they are still valid. In such a case, the Tenderer shall declare on his honour that the documentary evidence has already been provided to the Agency in a previous procurement procedure and confirm that no changes in his situation have occurred. He shall indicate in its Tenderer all the references necessary to allow the Agency services to check this evidence.

3.1.4 Administrative and financial penalties

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

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

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

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

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

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

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

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

3.2.1 Selection criteria

SELECTION CRITERIA
1. Financial and economic capacity
<ul style="list-style-type: none"> • Sufficient economic and financial capacity to guarantee continuous and satisfactory performance throughout the envisaged lifetime of the contract. • Average annual turnover concerning the services covered by this call for tender must be minimum 300.000 € over the past three years.
2. Technical and professional capacity
<ul style="list-style-type: none"> • Sufficient experience, minimum of three contracts with international companies or organisations operating on European level over the past three years, in carrying out Media Monitoring and Media Analysis.

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

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

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

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

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

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

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

Customer references should include at least 3 international clients to whom the Tenderer has provided the type of services requested in this tender within last 3 years. Evidence must be provided in form of references to three recent media monitoring and media analysis contracts with an international company or organisation that operates on European level. Please use Annex 5.10 to provide this information.

Evidence of reliability in terms of human resources

Tenders must include a nominated project manager who will be working for the Agency's media monitoring. This person must have at least 3 years experience in customer management in the area of media monitoring and media analysis. As an evidence, tenderers must include this person's CV (Annex 5.9).

By submitting a Tender, each legal entity involved therein accepts the possibility of a check being carried out by the Agency on its technical capacities and, if necessary, quality control measures. In addition, all Tenderers are informed that they may be asked to prove that they are authorised to perform the contract under national law, as evidenced by conclusion in a

professional or trade register or a sworn declaration or certificate, membership of a specific organisation, express authorisation, or entry in the VAT register.

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

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

No	Qualitative award criteria (AW)	Weighting (max. points)
1.	Quality of the methodology proposed to carry out the media monitoring and media analysis services in compliance with the Technical Specifications. (Ref. 4. Technical Specifications).	50
2.	Efficiency and effectiveness of the mock-up of services assembled by the tenderers for the simulation exercise (Ref. 4.2.3)	50
Total Qualitative Points (QP)		100

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

Award criterion (AW)
Total price of the offer

The contract will be awarded to the Tender which is the most cost-effective (offers the best value for money) on the basis of the ratio between the total points scored and the total price.

Final evaluation
Total Quality Points / Total Price of the offer

3.4 Basis for Assessment of Award Criteria (AW)

3.4.1 Quality of the Methodology (AW1)

The services described in the Specifications (Ref. 4-Technical Specifications) represent the minimum requirements of ECHA for the contract implementation. The tenderer must precisely describe in the tender what services they will provide under the scope of the contract, and will be bound by the content of their offer during the contract implementation.

For the purpose of the evaluation of the offers (see award criteria 1 above), tenderers in the offer must submit:

- a list of all media services that the tenderer will provide covering all services specified in section 4 below. This list must include a brief description of their approach to carry out each requested service;

- an explanation of how this service, concerning media analysis reports, will be tailored for ECHA's needs and eventually what kind of methodological approach they intend to use in their reports. This should be clearly explained in terms of both quantitative and qualitative media analysis..

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

3.4.2 Example and mock-up of services (AW 2)

For the purpose of the evaluation of the offers (see award criteria 2 above), tenderers should submit an example of the services that they will deliver. In this respect, tenderers can provide press reviews and related media analysis reports that they have already developed for their clients during 2010 or 2011. The mock-ups will be used in the course of the evaluation to better understand the ability of the tenderer to provide high quality services.

- a PowerPoint presentation detailing the functioning of the online platform that will be made available to ECHA. The presentation should detail how press reviews are made available and in which format clippings are made available for viewing and printing.
- a compilation of press reviews covering one month on any topic chosen by the tenderer and the relevant media analysis. For the purpose of this evaluation, no more than ten press clippings per day have to be collected and analysed.

The mock up items can be delivered on paper, CD ROM or on a USB stick.

3.4.2 Financial Bid (AW 3)

The total price of the offer (Annex 5.7) will be taken into account in the evaluation process (see section 3.3 – final evaluation):

3.5 Information for Tenderers

The Agency will inform Tenderers of decisions reached concerning the award of the contract, including the grounds for any decision not to award a contract or to recommence the procedure. If a written request is received, the Agency will inform all rejected Tenderers of the reasons for their rejection and all Tenderers submitting an admissible Tender of the characteristics and relative advantages of the selected Tender and the name of the successful Tenderer.

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

3.6 Award of the contract

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

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

The Agency shall not sign the contract with the successful Tenderer until a standstill period of 14 calendar days has elapsed, running from the day after the simultaneous dispatch of the notification letters.

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

3.7 Data protection

The follow up of your response to the invitation to Tender will require the recording and further processing of personal data (name, address, CV, for example). This data will be processed in accordance with the requirements of Regulation (CE) 45/2001 on the protection of individuals with regard to the processing of personal data by Community institutions and bodies and on the free movement of such data. Except if mentioned otherwise, replies to questions and personal data are necessary for the purpose of assessing your Tender according to the specifications of the invitation to Tender and will only be processed by ECHA for this purpose. You may, upon request, obtain the communication of your personal data and rectify any inaccurate or incomplete personal data. Should you have any queries concerning the processing of your personal data, please address them to ECHA. As regards to the processing of your personal data, you have a right to recourse at any time to European Data Protection Supervisor.

4 TECHNICAL SPECIFICATIONS

4.1 Overview

The purpose of the present call for tender is to procure media monitoring and media analysis services on ECHA related media coverage. The service should monitor both the general and specialised media and provide media analysis tailored to suit ECHA's needs. In particular, it must cover print media monitoring and online media monitoring, including social media.

ECHA must remain constantly aware of any ECHA related global coverage in the media and particularly from EU member states. Issues of ECHA's interest are for example: chemicals industry; animal testing, restricted chemical substances, dangerous/hazardous chemicals and Classification and Labelling of chemical substances. These may or may not be linked explicitly to ECHA within articles. Either way they have an impact on the work ECHA carries out.

4.2 Tasks to be performed by the Contractor

4.2.1 Media monitoring services: the daily media monitoring should include: social media monitoring, print media monitoring and online media monitoring more specifically, the service should be structured according to these requirements:

- Establishment/Assistance in defining, together with the Agency, a representative list of media sources based on an in-depth understanding of the media landscape, audience reach, and overall media significance of the different sources at international, national, regional and local level. Upon request of the Agency, the list should be updated and reviewed. In addition, the Contractor will have to identify and finalise with the Agency a list of topics and keywords to monitor. These may vary from time to time.
- Daily morning (Mon-Fri) media monitoring. ECHA requires same-day monitoring of the main dailies. Media monitoring is also required for the specialised press as well as for news agencies, websites, online dailies, blogs and social media. In addition, general business magazines, industry publications and consumer magazines should be monitored. Monday's issue of media monitoring should cover the previous weekend.
- Press clippings must be available for viewing, printing and sharing within ECHA and its Committees. This service should cover seven days a week and reporting is required five days per week. The service should include public holidays throughout the year and the press review must be available before 12.00 EET.
- News agencies: alerts from all main newswires must be made available shortly after they occur.
- Daily media monitoring must be made available by the Contractor in electronic format via a secure and user friendly online media monitoring portal/platform.
- Geographical scope: comprehensive global coverage from online media outlets on all ECHA related media coverage. Written press coverage will focus mainly on the 27 EU countries.

The media monitoring daily service must be delivered via an online dashboard accessible by six ECHA staff members. In addition to that, a specific utility should allow ECHA Press Office to keep its staff members informed on ECHA and industry news with daily customized e-briefs that include coverage summaries with links to the original articles. International articles must be provided with English summaries.

4.2.2 Media analysis services

ECHA requires customised media analysis on a monthly and annual basis. Tenderers are asked to provide reports supported with quantitative and qualitative analysis.

The estimated number of articles to be analysed and processed is 200 per month, including articles of importance to ECHA even if ECHA is not mentioned and eventual social media analysis. The monthly report (in electronic format) must be delivered within five working days after the end of each month while the annual report (in electronic format) needs to be delivered by the end of January of the following year.

In addition to the monthly media analysis reports, the tenderer should also provide monthly executive e-briefings to be distributed to its executive members. Once a year, the tenderer should also organise a workshop to present in Helsinki the findings of the yearly media analysis report to the ECHA senior management.

General:

- the Contractor will operate from its own premises. The tenderer must possess the necessary infrastructure and personnel resources for the execution of these tasks and an ability to offer project management including planning, reporting and keeping minutes of meetings with ECHA;
- in order to price the services, tenderers are to assume that they will need to provide approximately 200 press clips per month mainly coming from specialised media;
- prices should always include the setting up of the services, customisation, account manager and one training. Prices should also be inclusive of all eventual travel expenses from the tenderer.
- the Agency retains the final editorial authority for the Daily Press Review and can add or remove items. Alternatively, the Agency can request that the contractor adapts and changes the Daily Press Review before publication. In instances where the Agency finds that important media items from the coverage of the day are missing, it will request the contractor to provide these as soon as possible.
- in order to implement the assignments ECHA expects the chosen tenderer to make available: one account manager providing advice on daily media monitoring and periodical media analysis (from Mon - Fri);
- monitoring of TV and radio outputs is not requested;
- ECHA's daily media work is addressed to specialised media. This amounts to fifteen media outlets mainly edited in English. Seldom, ECHA gets visibility in the main mainstream media.

4.2.3 Copyrights and intellectual property issues

Compliance with copyright law and other intellectual property legislation is of utmost importance for the Agency. When providing the services, the contractor has to ensure compliance with the applicable copyright and other intellectual property legislation and the conditions described below.

1) Media monitoring

Copyrights concerning clippings from print media: the contractor guarantees that he has obtained or will obtain, prior to providing the services, the rights and authorisations to upload into the Agency's media monitoring system and to send by all means of telecommunication (including, but not limited to electronic and ordinary mail) to the Agency one copy of the clippings from the print media as described in these tender specifications.

To the extent possible under the applicable legislation, the contractor may be requested under the specific contracts to obtain for and to transfer to the Agency the right(s) to display the clippings from the print media in an electronic media monitoring system solely accessible by Agency staff members, or alternatively to display the clippings' titles only, or still to store the clippings in electronic form.

Copyrights concerning on-line media

The contractor will be asked to guarantee that he has obtained or will obtain for and transfer to the Agency all the necessary rights and authorisations related to the use of the online media as described in this tender, including the right to display the relevant items in an electronic media monitoring system solely accessible by Agency staff, as well as the right to use deep links pointing towards online media item, to the extent that copyright rules allow for doing so.

1) Media analysis reports

The contractor shall transfer to the Agency all rights relating to the media analysis reports and guarantee that the Agency is entitled to freely use the media analysis reports for copying and distribution, either on paper or on any digital format, and to store them for an unlimited period of time. The Agency can also amend or translate the media analysis reports at its own initiative.

Liability

The contractor shall hold the Agency harmless and shall provide compensation in the event of any action, claim or proceeding brought against the Agency by a third party as a result of damage caused by the contractor in performance of the Contract, especially due to the fact that the contractor would not hold the rights and authorisations required under the specific contracts to be concluded. In the event of any action brought by a third party against the Agency in connection with performance of the contract, the contractor shall assist the Agency.

5 ANNEXES

5.1 Exclusion criteria form *[This form is mandatory]*

Exclusion criteria form (Invitation to Tender No ECHA/2011/278)

Exclusion Criteria Form

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

- in his/her own name *(if the economic operator is a natural person or in case of own declaration of a director or person with powers of representation, decision making or control over the economic operator¹)*
or
- representing *(if the economic operator is a legal person)*

official name in full *(only for legal person)*:

official legal form *(only for legal person)*:

official address in full:

VAT registration number:

declares that the company or organisation that he/she represents / he/she:

- a) is not bankrupt or being wound up, is not having its affairs administered by the courts, has not entered into an arrangement with creditors, has not suspended business activities, is not the subject of proceedings concerning those matters, and is not in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) has not been convicted of an offence concerning professional conduct by a judgment which has the force of *res judicata*;
- c) has not been guilty of grave professional misconduct proven by any means which the contracting authorities can justify;
- d) has fulfilled all its obligations relating to the payment of social security contributions and the payment of taxes in accordance with the legal provisions of the country in which it is established, with those of the country of the contracting authority and those of the country where the contract is to be carried out;
- e) has not been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- f) is not a subject of the administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or failing to supply an information, or being declared to be in serious breach of his obligation under contract covered by the budget.

In addition, the undersigned declares on their honour:

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

- g) they have no conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties or any other relevant connection or shared interest;
- h) they will inform the contracting authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;
- i) they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;
- j) they have not granted and will not grant, have not sought and will not seek, have not attempted and will not attempt to obtain, and have not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to award of the contract.
- k) that the information provided to the Agency within the context of this invitation to Tender is accurate, sincere and complete.
- l) that in case of award of contract, they shall provide the evidence that they are not in any of the situations described in points a, b, d, e above.

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

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

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

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

Full name

Date

Signature

5.2 Draft service contract



SERVICE CONTRACT No. – ECHA/2011/278

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

of the one part,

and

[official name in full]

[official legal form]

[statutory registration number]

[official address in full]

[VAT registration number]

(hereinafter referred to as "the Contractor"²), represented for the purposes of the signature of this contract by [forename, surname and function,]

of the other part,

HAVE AGREED

the **Special Conditions** and the **General Conditions** below and the following Annexes³:

Annex I Tender Specifications (Invitation to Tender No ECHA/2011/278)

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

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

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

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

the Annexes. The terms set out in the Tender Specifications (Annex I) shall take precedence over those in the Tender (Annex II).

Subject to the above, the several instruments forming part of the Contract are to be taken as mutually explanatory. Ambiguities or discrepancies within or between such parts shall be explained or rectified by a written instruction issued by the Agency, subject to the rights of the Contractor under Article I.7 should he dispute any such instruction.

I – SPECIAL CONDITIONS

ARTICLE I.1 - SUBJECT

- I.1.1.** The subject of the Contract is provision of media monitoring and media analyses services.
- I.1.2.** The Contractor shall provide the services assigned to him in accordance with the Tender Specifications annexed to the Contract (Annex I).

ARTICLE I.2 - DURATION

- I.2.1.** The Contract shall enter into force on the date on which it is signed by the last contracting party.
- I.2.2.** Provision of services may under no circumstances begin before the date on which the Contract enters into force.
- I.2.3.** The duration of the tasks shall not exceed **12 months**. This period and all other periods specified in the Contract are calculated in calendar days. Execution of the tasks shall start from date of entry into force of the Contract. The period of execution of the tasks may be extended only with the express written agreement of the parties before such period elapses.
- I.2.4.** The Contract may be renewed up to three times, each time for a period of execution of tasks of 12 months, only before payment of the balance and with the express written agreement of the parties, indicating the date on which provision of services shall start. Renewal does not imply any modification or deferment of existing obligations.

ARTICLE I.3 – CONTRACT PRICE

- I.3.1.** The maximum total amount to be paid by the Agency under the Contract shall be **XXX EUR** [amount in figures and in words] covering all tasks executed.

- I.3.2** The total amount referred to in the above paragraph shall be fixed and not subject to revision for the first year of performance of the Contract. From the beginning of the second year of performance of the Contract, the amount(s) may be revised upwards or downwards each year, where such revision is requested by one of the contracting parties by registered letter received by the other no later than three months before the anniversary of the date on which the Contract was signed.

This revision shall be determined by the trend in the [harmonised] consumer price index MUICP published by the Publications Office of the European Union in the Eurostat monthly 'Data in Focus' publication at <http://www.ec.europa.eu/eurostat/>.

Revision shall be calculated in accordance with the following formula:

$$Ar = Ao \frac{Ir}{Io}$$

where

Ar = revised total amount;

- Ao = total amount in the original tender;
Io = index for the month corresponding to the final date for submission of tenders;
Ir = index for the month corresponding to the date of receipt of the letter requesting a revision of prices.

ARTICLE I.4 – PAYMENT PERIODS AND FORMALITIES

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

I.4.1. Pre-financing:

Not applicable.

I.4.2. Interim payments:

Interim payments for daily media monitoring and monthly media analyses will be made every three months (three interim payments in total), provided that the Agency has approved the invoices which indicate the reference number of the Contract. The first interim payment will be payable three months after the signature of the contract.

Within 30 days of the receipt of the invoice, an interim payment of XXX EUR [*complete amount in figures and in words*], equal to 25 % of the total amount referred to in Article I.3.1 shall be made.

I.4.3. Payment of the balance:

Within sixty days of completion of the tasks referred to in Annex II, the Contractor shall submit an admissible invoice indicating the reference number of the Contract for payment of the balance.

Within 30 days of the reception of the invoice, a payment of the balance XXX EUR [*complete amount in figures and in words*] equal to 25 % of the total amount referred to in Article I.3.1 shall be made.

ARTICLE I.5 – 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]
[*IBAN⁴ code*: [complete]]

⁴ BIC or SWIFT code for countries with no IBAN code.

ARTICLE I.6 – GENERAL ADMINISTRATIVE PROVISIONS

Any communication relating to the Contract shall be made in writing and shall bear the Contract number. Ordinary mail shall be deemed to have been received by the Agency on the date on which it is registered by the department responsible indicated below. Communications shall be sent to the following addresses⁵:

The Agency:

European Chemicals Agency (ECHA)
Directorate A
Unit A3 - Communications
Annankatu 18 – P.O.Box 400
00121 Helsinki
Firstname.lastname@echa.europa.eu

Contractor:

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

ARTICLE I.7– APPLICABLE LAW AND SETTLEMENT OF DISPUTES

- 1.7.1.** The Contract shall be governed by Union law, complemented, where necessary, by the Finnish law.
- 1.7.2.** 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 Helsinki.

ARTICLE I.8 – 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 EU institutions and bodies and on the free movement of such data. The data shall be processed solely for the purposes of the performance, management and monitoring of the Contract by the Agency without prejudice to possible transmission to the bodies charged with monitoring or inspection task in application of Union law. The Contractor shall have the right of access to his/her personal data and the right to rectify any such data. Should the Contractor have any queries concerning the processing of his/her personal data, she/he shall address them to the Data Protection Officer of ECHA. The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.

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

The data shall be confidential within the meaning of Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by Community institutions and bodies and on the free movement of

⁵ Fax number and e-mail accounts may be added. If an e-mail account is given, incoming e-mails should be redirected if the account holder is absent and a clause should be added specifying what is considered to be the reference date of the electronic communication (date of sending, receiving or opening).

such data. The Contractor shall limit access to the data to the staff strictly necessary for the performance, management and monitoring of the Contract.

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

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

ARTICLE I.9 – 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 14 days formal prior notice. Should the Agency terminate the Contract, the Contractor shall only be entitled to payment corresponding to part-performance of the Contract. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments. He shall draw up the documents required by the Special Conditions for the tasks executed up to the date on which termination takes effect, within a period not exceeding sixty days from that date.

ARTICLE I.9a – CONTRACT CONCLUDED DURING STANDSTILL PERIOD

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

This article is not applicable for contracts not covered by Directive 2004/18/EC and in cases indicated in Article 158a(2) of the rules for the implementation of the Financial Regulation (Regulation No 2342/2002).

ARTICLE I.10 – OWNERSHIP OF THE RESULTS - INTELLECTUAL AND INDUSTRIAL PROPERTY

I.10.1 The intellectual and industrial property rights under the Contract shall be governed by Article II.8

I.10.2 Specific provisions concerning Media Items and the assignment of rights

I.10.2.1 All Media Items and related industrial or intellectual property rights obtained in performance of the Contract, shall become the exclusive property of the Agency, which

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

Where industrial or Intellectual property rights exist prior to entering into this Service Contract, the Contractor shall establish a listing of such rights and communicate it to the Agency at the latest prior to the commencement of the concerned work.

This Service Contract stipulates all the terms and conditions for the assignment of rights.

I.10.2.2 The Contractor therefore warrants that it is a rightful owner of all the Intellectual property rights to the Media Items obtained under this Contract, and that it is entitled to assign to the Agency those Intellectual property rights in accordance with the terms of this Contract.

I.10.2.3 The Contractor shall assign the ownership to the Agency all rights in all the Media Items, obtained under this Service Contract and shall warrant that the Agency has the appropriate rights, including but not expressly limited to the rights mentioned below, to:

- use, re-use and edit the media items at Agency's own initiative, as a whole or parts of them
- amend, translate and re-write the media items in a different language or into a different form;
- upload the Media Items into Agency's Intranet (Agency's internal network to share information within ECHA.)
- modify the Media Items, and in particular to cut, dub, insert meta data, subtitles, legends or other graphic, visual, audio or word elements;
- distribute copies of the media items;
- display the media items to Agency's Staff and its Committees and Forum within the meaning of Regulation 1907/2006;
- communicate the media items to Agency's Staff and its Committees by telecommunication, by electronic publication, by press information services, , or by any other media of expression now known or later developed;
- reproduce the media items by any technical procedure into paper, digital, electronic or non-electronic format;
- store the media items for an unlimited period of time;
- include the media items in the indexes and databases of Agency;
- use deep links pointing towards online media items
- any other rights that are necessary for the Agency to use the media items efficiently in its future functions and mission. If the necessary rights had not yet been obtained or cannot be obtained by the Contractor, the Agency may decide to negotiate to obtain the necessary rights directly from the respective rights holders.

I.10.2.4 The assignment of the rights and ownership becomes effective upon payment of the media items by the Agency. The Media Items remain the property of the Contractor until the payment is received. The Contractor shall provide the Agency all the necessary legal documents allowing the Agency to record the transfer of ownership into its name.

Until full payment of the amounts due, the Agency (and its contractors) is granted a non-exclusive, worldwide, royalty-free license related to the use of the Media Items for the purposes described in Article I.10.2.3. above.

II – GENERAL CONDITIONS

ARTICLE II.1 – PERFORMANCE OF THE CONTRACT

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

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

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

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

ARTICLE II.2 – LIABILITY

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

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

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

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

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

ARTICLE II.3 - CONFLICT OF INTERESTS

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

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

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

II.3.3. The Contractor declares:

- that he has not made and will not make any offer of any type whatsoever from which an unjustified advantage can be derived under the Contract,
- that he has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, where

such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to performance of the Contract.

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

ARTICLE II.4 – PAYMENTS

II.4.1. Pre-financing:

Where required by Article I.4.1, the Contractor shall provide a financial guarantee in the form of a bank guarantee or equivalent supplied by a bank or an authorised financial institution (guarantor) equal to the amount indicated in the same Article to cover pre-financing under the Contract. Such guarantee may be replaced by a joint and several guarantee by a third party.

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

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

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

II.4.2. Interim payment:

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

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

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

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

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

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

II.4.3. Payment of the balance:

Within sixty days of completion of the tasks referred to in Annex I the Contractor shall submit to the Agency a formal request for payment accompanied by those of the following documents which are provided for in the Special Conditions:

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

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

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

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

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

II.4.4. Payment currency and costs:

Payments are executed in the currency of the contract.

Costs of the transfer are borne in the following way:

- costs of dispatch charged by the bank of the Agency are borne by the Agency,
- cost of receipt charged by the bank of the Contractor are borne by the Contractor,
- all costs of repeated transfer caused by one of the parties are borne by the party who caused repetition of the transfer.

ARTICLE II.5 – GENERAL PROVISIONS CONCERNING PAYMENTS

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

II.5.2. The payment periods referred to in Article I.4 may be suspended by the Agency at any time if it informs the Contractor that his payment request is not admissible, either because the amount is not due or because the necessary supporting documents have not been properly produced. In case of doubt on the eligibility of the expenditure indicated in the payment request, the Agency may suspend the time limit for payment for the purpose of further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the expenditure is eligible.

The Agency shall notify the Contractor accordingly and set out the reasons for the suspension by registered letter with acknowledgment of receipt or equivalent. Suspension shall take effect from the date of dispatch of the letter. The remainder of the period referred to in Article I.4 shall begin to run again once the suspension has been lifted.

II.5.3. In the event of late payment the Contractor shall be entitled to interest, provided the calculated interest exceeds EUR 200. In case interest does not exceed EUR 200, the Contractor may claim interest within two months of receiving the payment. Interest shall be calculated at the rate applied by the European Central Bank to its most recent main

refinancing operations (“*the reference rate*”) plus seven percentage points (“*the margin*”). The reference rate in force on the first day of the month in which the payment is due shall apply. Such interest rate is published in the C series of the Official Journal of the European Union. Interest shall be payable for the period elapsing from the calendar day following expiry of the time limit for payment up to the day of payment. Suspension of payment by the Agency may not be deemed to constitute late payment.

ARTICLE II.6 – RECOVERY

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

ARTICLE II.7 – OWNERSHIP OF THE RESULTS - INTELLECTUAL AND INDUSTRIAL PROPERTY

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

ARTICLE II.8– CONFIDENTIALITY

- II.8.1.** The Contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to performance of the Contract. The Contractor shall continue to be bound by this undertaking after completion of the tasks.
- II.8.2.** The Contractor shall obtain from each member of his staff, board and directors an undertaking that they will respect the confidentiality of any information which is linked, directly or indirectly, to execution of the tasks and that they will not divulge to third parties or use for their own benefit or that of any third party any document or information not available publicly, even after completion of the tasks.

ARTICLE II.9 - USE, DISTRIBUTION AND PUBLICATION OF INFORMATION

- II.9.1.** The Contractor shall authorise the Agency to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in or relating to the Contract, in particular the identity of the Contractor, the subject matter, the duration, the amount paid and the reports. Where personal data is concerned, Article I.8 shall apply.

- II.9.2.** Unless otherwise provided by the Special Conditions, the Agency shall not be required to distribute or publish documents or information supplied in performance of the Contract. If it decides not to publish the documents or information supplied, the Contractor may not have them distributed or published elsewhere without prior written authorisation from the Agency.
- II.9.3.** Any distribution or publication of information relating to the Contract by the Contractor shall require prior written authorisation from the Agency and shall mention the amount paid by the Union. It shall state that the opinions expressed are those of the Contractor only and do not represent the Agency's official position.
- II.9.4.** The use of information obtained by the Contractor in the course of the Contract for purposes other than its performance shall be forbidden, unless the Agency has specifically given prior written authorisation to the contrary.

ARTICLE II. 10 – TAXATION

- II.10.1.** The Contractor shall have sole responsibility for compliance with the tax laws which apply to him. Failure to comply shall make the relevant invoices invalid.
- II.10.2.** The Contractor recognises that the Agency is, as a rule, exempt from all taxes and duties, including value added tax (VAT), pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union.
- II.10.3.** The Contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the goods and services required for performance of the Contract are exempt from taxes and duties, including VAT.
- II.10.4.** Invoices presented by the Contractor shall indicate his place of taxation for VAT purposes and shall specify separately the amounts not including VAT and the amounts including VAT.

ARTICLE II.11 – FORCE MAJEURE

- II.11.1.** Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the contracting parties which prevents either of them from performing any of their obligations under the Contract, was not due to error or negligence on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a relevant case of force majeure.
- II.11.2.** Without prejudice to the provisions of Article II.1.8, if either contracting party is faced with force majeure, it shall notify the other party without delay by registered letter with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.
- II.11.3.** Neither contracting party shall be held in breach of its contractual obligations if it has been prevented from performing them by force majeure. Where the Contractor is unable to perform his contractual obligations owing to force majeure, he shall have the right to remuneration only for tasks actually executed.
- II.11.4.** The contracting parties shall take the necessary measures to reduce damage to a minimum.

ARTICLE II.12 – SUBCONTRACTING

- II.12.1.** The Contractor shall not subcontract without prior written authorisation from the Agency nor cause the Contract to be performed in fact by third parties.
- II.12.2.** Even where the Agency authorises the Contractor to subcontract to third parties, he shall none the less remain bound by his obligations to the Agency under the Contract and shall bear exclusive liability for proper performance of the Contract.
- II.12.3.** The Contractor shall make sure that the subcontract does not affect rights and guarantees to which the Agency is entitled by virtue of the Contract, notably Article II.17.

ARTICLE II.13 – ASSIGNMENT

- II.13.1.** The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from the Agency.
- II.13.2.** In the absence of the authorisation referred to in 1 above, or in the event of failure to observe the terms thereof, assignment by the Contractor shall not be enforceable against and shall have no effect on the Agency.

ARTICLE II.14 – TERMINATION BY THE AGENCY

- II.14.1.** The Agency may terminate the Contract in the following circumstances:
- (a) where the Contractor is being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
 - (b) where the Contractor has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed;
 - (c) where the Agency has evidence or seriously suspects the Contractor or any related entity or person, of professional misconduct;
 - (d) where the Agency has evidence or seriously suspects the Contractor or any related entity or person, of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
 - (e) where the Agency has evidence or seriously suspects the Contractor or any related entity or person, of substantial errors, irregularities or fraud in the award procedure or the performance of the Contract;
 - (f) where the Contractor is in breach of his obligations under Article II.3;
 - (g) where the Contractor was guilty of misrepresentation in supplying the information required by the Agency as a condition of participation in the Contract procedure or failed to supply this information;

- (h) where a change in the Contractor's legal, financial, technical or organisational situation could, in the Agency's opinion, have a significant effect on the performance of the Contract;
- (i) where execution of the tasks has not actually commenced within three months⁶ of the date foreseen, and the new date proposed, if any, is considered unacceptable by the Agency;
- (j) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of the Contract;
- (k) where the Contractor, after receiving formal notice in writing to comply, specifying the nature of the alleged failure, and after being given the opportunity to remedy the failure within a reasonable period following receipt of the formal notice, remains in serious breach of his contractual obligations.

II.14.2. In case of force majeure, notified in accordance with Article II.12, either contracting party may terminate the Contract, where performance thereof cannot be ensured for a period corresponding to at least to one fifth of the period laid down in Article I.2.3.

II.14.3. Prior to termination under point c), d), e), h) or k), the Contractor shall be given the opportunity to submit his observations.

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

II.14.4. Consequences of termination:

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

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

On termination the Agency may engage any other contractor to complete the services. The Agency shall be entitled to claim from the Contractor all extra costs incurred in making good and completing the services, without prejudice to any other rights or guarantees it has under the Contract.

ARTICLE II.14a – SUBSTANTIAL ERRORS, IRREGULARITIES AND FRAUD ATTRIBUTABLE TO THE CONTRACTOR

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

⁶ This period can be modified in the Special Conditions depending on the nature of the contract.

ARTICLE II.15 – LIQUIDATED DAMAGES

Should the Contractor fail to perform his obligations under the Contract within the time limits set by the Contract, then, without prejudice to the Contractor's actual or potential liability incurred in relation to the Contract or to the Agency's right to terminate the Contract, the Agency may decide to impose liquidated damages of 0.2% of the amount specified in Article I.3.1 per calendar day of delay. The Contractor may submit arguments against this decision within thirty days of notification by registered letter with acknowledgement of receipt or equivalent. In the absence of reaction on his part or of written withdrawal by the Agency within thirty days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable. These liquidated damages shall not be imposed where there is provision for interest for late completion. The Agency and the Contractor expressly acknowledge and agree that any sums payable under this Article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses that may be reasonably anticipated from such failure to perform obligations.

ARTICLE II.16 – CHECKS AND AUDITS

- II.16.1.** Pursuant to Article 142 of the Financial Regulation applicable to the general budget of the European Communities, the Court of Auditors shall be empowered to audit the documents held by the natural or legal persons receiving payments from the budget of the Union from signature of the Contract up to five years after payment of the balance.
- II.16.2.** The Agency or an outside body of its choice shall have the same rights as the Court of Auditors for the purpose of checks and audits limited to compliance with contractual obligations from signature of the Contract up to five years after payment of the balance.
- II.16.3.** In addition, the European Anti Fraud Office may carry out on-the-spot checks and inspections in accordance with Council Regulation (Euratom, EC) No 2185/96 and Parliament and Council Regulation (EC) No 1073/1999 from signature of the Contract up to five years after payment of the balance.

ARTICLE II.17 – AMENDMENTS

Any amendment to the Contract shall be the subject of a written agreement concluded by the contracting parties. An oral agreement shall not be binding on the contracting parties.

ARTICLE II.18 – SUSPENSION OF THE CONTRACT

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

SIGNATURES

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

For the Agency,
Geert Dancet
Executive Director

signature[s]: _____

signature[s]: _____

Done at [], [date]

Done at [Helsinki], [date]

In duplicate in English.

5.3 Financial and economic capacity overview form (Invitation to Tender ECHA/2011/278)

Financial and Economic Capacity Overview			
Currency : EURO		Figures (000)	
	N* (* most recent figures available)	N-1	N-2
Total Balance Sheet			
TRADE DEBTORS <i>Amounts due by commercial customers</i>			
CAPITAL and RESERVES (Equity) <i>Amounts owned by the company</i>			
TRADE CREDITORS <i>Amounts due to commercial suppliers</i>			
SHORT TERM DEBT			
LONG TERM DEBT			
LIQUIDITY <i>Bank accounts, cash at hand</i>			
<u>About PROFIT & LOSS</u>			
TURNOVER			
ORDINARY RESULT			
EXTRAORDINARY RESULT			
INCOME TAX			
NET RESULT			

You may add any data that you would consider of vital relevance for your organisation and for the understanding of the above figures.

Comments: Please explain BRIEFLY important variations from one year to another if appropriate. In case of negative equity or repeated losses, please explain how the future of the organization will be ensured.

5.4 Subcontractor/ Letter of intent ECHA/2011/278)

Media monitoring services

The undersigned:

Name of the company/organisation:

Address:

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

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

Full name

Date

Signature

.....

5.5 Power of Attorney

POWER OF ATTORNEY – MODEL 1

Agreement / Power of Attorney

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

We the undersigned:

- (b) Signatory 1 (Name, Function, Company, Registered address, VAT Number)
- (c) Signatory 2 (Name, Function, Company, Registered address, VAT Number)
- (d)
- (e) Signatory N (Name, Function, Company, Registered address, VAT Number),

Each of them having the legal capacity required to act on behalf of his/her company, HEREBY AGREE AS FOLLOWS:

In case the European Chemicals Agency awards Service Contract ECHA/2011/278 – Media monitoring (« **the Contract** ») to Company 1, Company 2, ..., Company N (« **the Group Members** »), based on the joint offer submitted by them on for the supply of and/or the provision of services for ... (« **the Supplies and/or the Services** »).

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

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

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

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

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

- (a) The Group Leader shall sign any contractual documents —including the Service Contract, Orders, Specific Contracts and Amendments thereto—

and issue any invoices related to the Supplies or the Services on behalf of the Group Members.

- (f) The Group Leader shall act as single point of contact for the European Chemicals Agency in connection with the Supplies and/or the Services to be provided under the Contract. It shall co-ordinate the provision of the Supplies and/or the Services by the Group Members to the European Chemicals Agency, and shall see to a proper administration of the Contract.

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

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

Signed in on

Name
Function
Company

Name
Function
Company

Name
Function
Company

Name
Function
Company

POWER OF ATTORNEY – MODEL 2

Agreement / Power of Attorney

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

We the undersigned:

- (g) Signatory 1 (Name, Function, Company, Registered address, VAT Number)
- (h) Signatory 2 (Name, Function, Company, Registered address, VAT Number)
- (i)
- (j) Signatory N (Name, Function, Company, Registered address, VAT Number),

Each of them having the legal capacity required to act on behalf of his/her company, HEREBY AGREE AS FOLLOWS:

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

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

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

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

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

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

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

- (a) The Group Manager shall sign any contractual documents—including the Service Contract and Amendments thereto—and issue any invoices related to the Supplies or the Services on behalf of the Group Members.
- (b) The Group Manager shall act as single point of contact for the European Chemicals Agency in connection with the Supplies and/or the Services to be

provided under the Contract. He/she shall co-ordinate the provision of the Supplies and/or the Services by the Group Members to the European Chemicals Agency, and shall see to a proper administration of the Contract.

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

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

Signed in on

Name

Function

Company

Name

Function

Company

Name

Function

Company

Name

Function

Company

5.6 Checklist of documents to be submitted

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

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

Description	Section	Coordinator or group leader in joint bid	All partners in joint bid	Single or Main Contractor	Sub-Contractor
Power of attorney of partners in joint bid indicating the group leader (see annex 5.5)	1		■		
Letter of intent of subcontractor (see annex 5.4)	1				■
Legal Entity Form (see section 2.3.1) Download the form from : http://ec.europa.eu/budget/execution/legal_entities_en.htm	1	■	■	■	■
Supporting documents for the Legal Entity File Form	1	■	■	■	
Financial Identification form (see section 2.3.1) Download the form from: http://europa.eu.int/comm/budget/execution/ftiers_fr.htm .	1	■		■	
Exclusion Criteria form (see section 3.1 and annex 5.1)	2	■	■	■	■
Evidence of Economic and financial capacity (see section 3.2.2 and annex 5.3)	3	■	■	■	
Evidence of Technical and professional capacity (see section 3.2.3 and annexes 5.8 and 5.9)	3	■	■	■	■

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

Description	Section	Coordinator or single Tender
Technical Proposal (see section 2.3.2 , 3.4 and 4)	4	■
Financial Proposal (see section 2.3.3 , 3.4 and annexes 5.7)	5	■

5.7 Price table

Prices shall be all-inclusive and must take into account the subscriptions to relevant newspapers, publications, media and information sources, the costs of telephone/Internet connection, office costs, and any other cost related to the performance of the contract.

For copyrighted materials originating from third parties, the prices shall include the copyright cost related to all licence fees in relation to the transmission of one copy of each media item to the Agency and its media analysis contractor.

For copyrighted materials created by the contractor, the prices shall include the assignment of all intellectual property rights to the Agency. Prices should be quoted free of all duties, taxes and other charges, i.e. also free of VAT, as the Agency is exempt from such charges in the EU under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union.

Prices must be fixed and not subject to revision for the first year of performance of the contract. From the beginning of the second year, following a possible renewal of the contract, prices may be revised upwards or downwards when such revision is requested by one of the contracting parties by registered letter no later than three months before the anniversary of the date on which it was signed (see draft contract in Annex 5.2). This revision shall be determined by the harmonised Monetary Union Index of Consumer Prices (MUICP) published by the Publications Office of the European Union in the Eurostat monthly bulletin at <http://www.ec.europa.eu/eurostat/>.

For tenderers in countries which are not part of the euro zone, the prices being quoted in Euro may not be revised in line with exchange rate movements.

**PRICE TABLE FOR MEDIA MONITORING AND
MEDIA ANALYSIS SERVICES
(To be used for financial bid)**

Reference in the call for Tender	Service description	Price in Euros/year
4.2.1	Media monitoring services for one year*	€
4.2.2	Media analysis services for one year *	€
TOTAL PRICE OF THE OFFER		€

* Prices should always include the setting up of the services, customisation, account manager and one training. Prices should also be inclusive of all eventual travel expenses from the tenderer..

5.8 Curriculum Vitae

General information (not applicable to all the sections of the curriculum vitae template below) on how to fill it in can be found at <http://europass.cedefop.europa.eu/europass/home/hornav/Downloads/EuropassCV/CVInstructions.csp>



Europass Curriculum Vitae

Personal information

First name(s) / Surname(s)

Telephone(s)

E-mail

Nationality

Date of birth

Gender

Current job profile

First name(s) Surname(s)

Mobile:

Work experience

Dates

Occupation or position held

Main activities and responsibilities

Name and address of employer

Type of business or sector

Add separate entries for each relevant post occupied, starting from the most recent.

Education and training

Dates

Title of qualification awarded

Principal subjects/occupational skills covered

Name and type of organisation providing education and training

Level in national or international classification

Add separate entries for each relevant course you have completed, starting from the most recent.

Personal skills and competences

Mother tongue(s)

Other language(s)

Self-assessment

European level (*)

Language

Language

		Understanding		Speaking		Writing	
		Listening	Reading	Spoken interaction	Spoken production		

(*) [Common European Framework of Reference for Languages](#)

Social skills and competences

Organisational skills and competences

Technical skills and competences

Computer skills and competences

Artistic skills and competences

Other skills and competences

5.9 Customer references

Name of the project:					
Description of the project:					
Name of the client:					
Client contact person & contact details:					
Sector	International client (y/n)	Start date	End date	Duration (years/months)	Languages required in this project

Please complete the form for each customer reference.
ECHA reserves the right to check with these companies if the contract exists.