

General Terms and Conditions applicable to low and middle value contracts¹**Article 1 - General Definitions and structure of the Contract**

The following terms may be used with a capital letter in the Contract. These terms are understood to mean:

- i. *Contract*: the present contract consisting of a Purchase Order, any annexes thereto (including any tender specifications or Europol's request for offer where applicable) and these General Terms and Conditions;
- ii. *Contractor's Personnel*: personnel employed by the Contractor for the execution of the Contract, who work under the Contractor's responsibility;
- iii. *Data controller*: the Europol Executive Director, Europol Deputy Executive Directors or a Europol staff member who alone or jointly with others determines the purposes and the means of the processing of *Personal data*; where the purposes and means of processing are determined by European law, the Data controller or the specific criteria for his or her nomination may be designated by such European law;
- iv. *Data processor*: a natural or legal person, public authority, agency or other body which processes *Personal data* on behalf of the *Data controller*;
- v. *Europol*: the European Union Agency for Law Enforcement Cooperation as established by Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 (OJ L 135/53 of 24.5.2016); ;
- vi. *Europol Premises*: the offices of Europol located at Eisenhowerlaan 73, 2517 KK, The Hague, The Netherlands and any other site identified in the Purchase Order and/or in the tender specifications or in Europol's request for offer linked to this purchase;
- vii. *Intellectual Property Rights (IPR)*: unless otherwise specified, IPR shall mean all industrial and intellectual property rights, such as, but not limited to, copyright, the rights of the producer of a database, patents, patent applications, utility models, any trademarks, trade names, designs and models;
- viii. *Personal data*: any information related to an identified or identifiable natural person i.e. "data subject" and where an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as name, an identification number, location data, online identifier or to one or more factors specific to the physical, psychological, genetic, mental, economic, cultural or social identity of that person;
- ix. *Personal data breach*: a breach of security leading to the accidental and/or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, *Personal data* transmitted, stored or otherwise processed under this Contract;
- x. *Working Day(s)*: calendar day(s), with the exception of weekends and public holidays recognised as such by Europol, on which the agreed work will be carried out. A Working Day consists of 8 hours of work excluding travel to and from Europol and excluding breaks. Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971, OJ EC L124/1 will be applied to all periods, dates and time limits in this Contract.

The terms set out in the Purchase Order shall take precedence over these General Conditions. If the tender specifications and the Contractor's quote are annexed to the Purchase Order, the terms set out in the tender specifications shall take precedence over the Contractor's quote and the Purchase Order shall take precedence over both.

¹ I.e. these are applicable to all contracts below EUR 139.000 (revised EU threshold with effect as of 1 January 2020)

Article 2 - Contractor`s environmental, social and labour law obligations

The Contractor shall comply with applicable obligations in the fields of environmental, social and labour law established by Union law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X of Directive 2014/24/EU.

Article 3 - Performance of the Contract and Contractor`s Personnel

1. The Contractor shall perform the Contract to the highest professional standards. The Contractor shall have sole responsibility for complying with its legal obligations, notably those resulting from employment, tax, health insurance, social legislation and protection of personal data.
2. The Contractor shall have sole responsibility for taking the necessary steps to obtain any permit or licence required for performance of the Contract under the laws and regulations in force at the place where the tasks assigned to the Contractor are to be executed.
3. The Contractor is solely responsible for complying with the applicable Dutch legislation, including specific legislation on temporary employment and collective labour agreements, as applicable. The Contractor is presumed to be familiar with all such obligations and may not rely or claim ignorance of such regulations. Europol is entitled to check and request evidence of the Contractor`s compliance with all its obligations under the applicable Dutch legislation.
4. If the Contractor is not the Personnel`s employer, Europol may request and the Contractor must provide proof of legal relationship (e.g. copy of employment contract) between the member of Personnel and his/her employer (i.e. the sub-contractor). Additionally, the Contractor must provide Europol with detailed information concerning Personnel`s employer including registered address, names of authorised persons and contact details for such authorised persons, sufficient to enable Europol to comply with its obligation to inform under Dutch law.
5. The Contractor shall neither represent Europol nor behave in any way that would give such an impression.
6. The Contractor shall be solely responsible for the Personnel executing tasks assigned to it. Each Contractor`s Personnel must carry his/her identity document while on Europol`s Premises and shall present it to Europol upon request.
7. The Contractor must ensure that the Personnel performing the Contract have the professional qualifications and experience required for the execution of the tasks assigned.
8. The Contractor shall ensure compliance with the following:
 - i. Other than foreseen by Article 10 ("Confidentiality and Security"), Personnel executing the tasks assigned to the Contractor may not be given orders directly by Europol;
 - ii. Europol may not, under any circumstances, be considered to be the employer of the Contractor`s Personnel and the said Personnel shall undertake not to invoke in respect of Europol any right arising from the contractual relationship between Europol and the Contractor.
9. Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and on its own initiative report it to Europol. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the Contractor to ensure full compliance with its obligations under the

Contract. The Contractor shall give priority to solving the problem rather than determining liability.

10. Should the Contractor fail to perform its obligations under the Contract, Europol may – without prejudice to its right to terminate the Contract – reduce or recover payments in proportion to the scale of the unperformed obligations. In addition, Europol may claim compensation or impose liquidated damages in accordance with Article 18 (“Liquidated Damages”).
11. To avoid damage to the building in which Europol’s Premises are located, the Contractor must ensure that any on-site means of transportation of goods and/or materials are equipped with soft wheels [i.e. rubber or air tires].

Article 4 – Supply of goods

This Article shall be applicable whenever Europol purchases goods under the Contract.

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

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

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

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

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

Any damaged or suspiciously packaged goods will be refused.

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

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

Conformity shall be evidenced by the signing of a certificate to this effect by Europol no later than fifteen (15) days after the date of delivery or installation (as the case may be). For goods with a total order value equal to or less than EUR 1,500, conformity shall be implied unless Europol advises the Contractor of the contrary within fifteen (15) days following delivery or installation (as the case may be).

Non-conformity shall be notified in writing.

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

The goods delivered must:

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

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

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

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

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

4. **Assembly and/or Installation:**

Where installation is included in the Purchase Order, the Contractor shall assemble the goods delivered within a period of one month unless otherwise specified in the tender specifications and/or the Purchase Order.

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

5. **Guarantee:** The goods shall be guaranteed against all defects in manufacture or materials for a minimum period of two (2) years from the date of delivery (or installation as the case may be), unless provision is made for a different period in the tender specifications and/or the Purchase Order.

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

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

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

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

Article 5 - Liability

1. The Contractor shall be solely responsible for complying with any legal obligations incumbent on it.

2. Europol shall not be held liable for any damage caused or sustained by the Contractor, including any damage caused by the Contractor to third parties during or as a consequence of performance of the Contract, except in the event of wilful misconduct or gross negligence on the part of Europol.
3. The Contractor shall be held liable for any loss or damage sustained by Europol in the performance of the Contract, including in the event of sub-contracting, and for any claim by a third party, but only to an amount not exceeding three times the total amount of the Contract. Nevertheless, if the damage or loss is caused by gross negligence or wilful misconduct of the Contractor or of its Personnel, including sub-contractors, the Contractor shall have unlimited liability for the amount of the damage or loss.
4. The Contractor shall indemnify and hold Europol harmless against all damages and cost incurred due to any action, claim or proceedings. The Contractor shall provide compensation in the event of any action, claim or proceeding brought against Europol by a third party as a result of loss to them caused by the Contractor during the performance of the Contract.
5. The Contractor shall assist Europol in defending the action.
6. The Contractor shall take out insurance against risks and damage relating to performance of the Contract if required by the relevant applicable legislation and as specified in the tender specifications (or Europol's request for offer). The Contractor shall take out supplementary insurance as reasonably expected according to standard practice in the industry. A copy of the relevant insurance contracts shall be sent to Europol if requested.

Article 6 - Professional conflicting interests

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

Article 7 - Reporting and payments

1. **The price:** The price quoted in the Purchase Order is firm, non-revisable and all-inclusive, unless otherwise specified in the Purchase Order.
2. **Address:** Request(s) for payment shall be sent to:

Europol Finance Unit
P.O. Box 90850
2509 LW - THE HAGUE
The Netherlands (NL)

3. **Date of payment:** Payments shall be deemed to be effected on the date when they are debited from Europol's account.
4. **Currency:** The currency of this Contract is the EURO unless otherwise stipulated in the Purchase Order and or tender specifications. Payments shall be executed in the currency of the Contract. Conversion between EURO and another currency shall be made according to the daily EURO exchange rate published in the *Official Journal of the European Union* or failing that, at the monthly accounting exchange rate established by the European Commission and published on its website, applicable on the day on which the payment order is issued by Europol.
5. **Costs of transfer:** The costs of the bank transfer shall be borne in the following way:
 - i. costs of dispatch charged by Europol's banking provider shall be borne by Europol;
 - ii. costs of receipt charged by the Contractor's banking provider shall be borne by the Contractor; and
 - iii. costs for a repeated transfer caused by one of the parties shall be borne by the party causing repetition of the transfer.
6. **Invoices and value added tax:** The Contractor shall have sole responsibility for compliance with tax laws applicable to the Contractor. Failure to comply shall make the relevant invoices invalid.

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

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

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

If the Contractor is a Dutch registered company, the Contractor shall ensure that all invoices issued to Europol under the Contract are including VAT, which shall be reclaimed by Europol from the Dutch Tax authorities. In the Netherlands, the exemption applies to all invoices for an amount higher than EUR 225 (excl. VAT). If required, the Contractor shall provide Europol with all necessary assistance to facilitate the procedure to reclaim VAT.

7. **Payment of the balance:** The Contractor shall submit a request for payment of the balance within 60 days after the delivery of goods or performance of services as specified in the Purchase Order.

Irrespective of the quantities of goods ordered or services requested, no request for payment shall be submitted until all goods ordered or services requested have been delivered, and the delivery of the goods or services has been confirmed in writing by Europol to the Contractor.

Upon receipt of the request for payment, Europol shall pay the amount due as final payment within the period specified in the Purchase Order provided that the goods or services and the related invoice has been approved.

8. **Suspension of the time allowed for payment:** The payment periods stipulated in the Contract may be suspended by Europol at any time by notifying the Contractor that its invoice cannot be processed, either because it does not comply with the provisions of the Contract, or because the appropriate documents have not been produced. Europol shall inform the Contractor in writing as soon as possible of any such suspension, giving the reasons for it.

Suspension shall take effect on the date the notification is sent by Europol. The remaining payment period shall start to run again from the date on which the requested information or revised documents are received or the necessary further verification, including on-the-spot checks, have been carried out. Where the suspension period exceeds two months, the Contractor may request Europol to justify the continued suspension. Where the payment periods have been suspended following rejection of a document referred to in the first paragraph and the new document produced is also rejected, Europol reserves the right to terminate the Contract in accordance with Article 17 (2) (ii) ("Termination").

9. **Interest on late payment:** Upon expiry of the payment periods specified in the Purchase Order, the Contractor is entitled to interest on late payment at the rate applied by the European Central Bank for its main refinancing operations in Euros (the reference rate), plus eight points. Such right does not materialise if Europol has suspended the period for payment as specified at paragraph (8) above. The reference rate shall be the rate in force on the first day of the month in which the payment period ends, as published in the C series of the *Official Journal of the European Union*. The suspension of the payment period in accordance with paragraph (8) above may not be considered as a late payment.

Interest on late payment shall cover the period running from the day following the due date for payment up to and including the date of actual payment as defined at paragraph (3) above. However, when the calculated interest is lower than or equal to EUR 200, it shall be paid to the Contractor only upon request submitted within two months of receiving late payment.

Article 8 - Recovery

1. If an amount is to be recovered under the terms of the Contract, the Contractor shall repay Europol the amount in question according to the terms and by the date specified in the debit note.
2. If the obligation to pay the amount due is not honoured by the date set by Europol in the debit note, the amount due shall bear interest at the rate indicated at Article 7 (9) ("Reporting and payments") above. Interest on late payments shall cover the period from the day following the due date for payment up to and including the date when Europol receives the full amount owed. Any partial payment shall first be entered against charges and interest on late payment and then against the principal amount.
3. If payment has not been made by the due date, Europol may, after informing the Contractor in writing, recover the amounts due by offsetting them against any amounts owed to the Contractor by Europol.

Article 9 – IPR

This Article shall be applicable whenever relevant in accordance with the subject of the Contract.

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

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

2. **Resulting IPR:** Unless specified otherwise in the Purchase Order and/or tender specifications, any results and/or rights thereon, including copyright and other IPR, obtained in performance of the Contract, shall be owned solely by Europol, which may use, modify, publish, assign or transfer them as it sees fit, without geographical or other limitation.
3. Unless specified otherwise in the Purchase Order and/or tender specifications, all rights are acquired by Europol from the moment the results are accepted by Europol. Acceptance constitutes an effective assignment of rights from the Contractor to Europol. The payment of the price as set out in the Purchase Order is deemed to include any fees payable to the Contractor in relation to acquisition of ownership of the rights by Europol. The acquisition of ownership of rights by Europol under this Contract covers all territories worldwide.
4. Failure to obtain prior written permission from Europol prior to registering IPR or asserting rights over the results obtained in performance of the Contract will entitle Europol to seek damages against the Contractor and will not prevent Europol from asserting or protecting the rights assigned under the Contract.
5. The Contractor declares that it is the rightful owner of the IPR to all goods and/or services delivered under the Contract (unless these are clearly identified as third party IPR) and that it is entitled to assign or licence those rights in accordance with the terms of the Contract.
6. In relation third party IPR, the Contractor guarantees that it has requested and obtained those third parties' written authorisation to grant to Europol the assignment or licence of their Intellectual and Industrial property rights to the extent required under the Contract. The Contractor shall take the necessary steps, under the laws and regulations in force at the place where the tasks assigned to the Contractor are to be performed, to ensure the opposability vis-à-vis third parties of the assignments or licences granted to Europol by the Contractor or by such third parties.
7. Each party to the Contract undertakes to inform the other party of the existence or threat of any third party action or claim alleging an infringement of its IPR resulting from Europol's use of goods and/or services delivered under the Contract.
8. **Specific provision on installed software:** Europol does not accept any on-site inspection or audit of installed software. Following a written request from the Contractor, Europol will provide written explanation regarding its compliance with agreed licensing restrictions.

Article 10 - Confidentiality and Security

1. Contractor's Personnel performing tasks and services under this Contract are required to have the following:
 - i. As a minimum and unless indicated otherwise in the tender specifications and/or the Purchase Order, a certificate of good conduct not older than 3 (three) months at the time of its submission to Europol. For EU nationals, the certificates of good conduct must be issued by the relevant authorities of the country of nationality of the member of the Contractor's Personnel. For non-EU nationals, Europol may accept, on a case-by-case basis, a certificate of good conduct issued by the country

of nationality of the member of the Contractor's Personnel or by an EU Member State in which they reside. For the avoidance of doubt, Europol expressly reserves the right, at its own discretion and without specification of reasons to the Contractor, to reject certificates of good conduct submitted for non-EU nationals and to exercise any of the options listed at paragraph (4) below, as applicable.

If accepted by Europol, for the tasks foreseen in the Purchase Order concerned or for similar tasks (where similarity is determined by Europol), the certificate of good conduct will be considered valid for the duration of 2 (two) calendar years from the date of its issuance. Europol shall have the right to reject members of Contractor's Personnel (whether EU or non-EU nationals) based on the information stipulated in the certificate of good conduct and to exercise any of the options listed at paragraph (4) below, as applicable. A list of EU Member State authorities issuing certificates of good conduct (as well as their title in the respective languages) was provided with the tender documentation.

The obligation to provide a certificate of good conduct will be lifted if the member of the Contractor's Personnel providing services has a security clearance (at any level) issued and accepted by Europol in accordance with paragraph (ii) below.

- ii. If indicated in the tender specifications and/or the Purchase Order, a security clearance at the level indicated therein. The security clearance must be granted by a competent national security authority of an EU Member State. Equivalence of a security clearance issued by an EU Member State to the required level shall be verified by Europol. Security clearances that are not issued by national security authorities of EU Member States (for example issued by third countries or international organisations) may be accepted by Europol, only on a case-by-case basis. Europol expressly reserves the right, at its own discretion and without specification of reasons to the Contractor, to reject any security clearance not issued by a national security authority of an EU Member State and to exercise any of the options listed at paragraph (4) below, as applicable. Further, Europol shall have the right to reject a member of Contractor's Personnel whose security clearance is not in line with Europol's requirements and to exercise any of the options listed at paragraph (4) below, as applicable. Where a security clearance is indicated, a certificate of good conduct for the same member of Contractor's Personnel is not required.
2. The certificate of good conduct and/or security clearance must be submitted by the Contractor for Europol's verification prior to the commencement of the services. By submitting the documents requested at 1 (i) and (ii) above for a member of its Personnel, the Contractor agrees that Europol shall retain the paper and/or electronic versions: (i) for 2 (two) years, for the certificate of good conduct or (ii) for the duration as indicated on the security clearance. If the certificate of good conduct or the security clearance expire during the provision of the services for which they were submitted, the Contractor must renew them in due time so that the Europol's verification and/or acceptance process may be completed without impacting the continuity of services provision. For certificates of good conduct, Europol reserves the right to request new ones even during the validity period of certificates previously accepted by Europol, without specification of reasons to the Contractor. The cost of obtaining and/or renewal of the certificate of good conduct or security clearance shall not be borne by Europol.
3. In addition to the requirements stipulated above at paragraph (1), the Contractor's Personnel is required to sign a declaration of confidentiality on a template provided by Europol. The Contractor must inform its Personnel of such obligation prior to its assignment at Europol. This declaration of confidentiality describes the circumstances in which Contractor's Personnel may be required to follow e-learning modules on (i) physical security and/or (ii) confidentiality and information security for contractors (estimated total completion time 60 minutes) at no additional cost.

4. If: (i) the Contractor fails to comply with the requirements stipulated at paragraphs (1) and (2) above; (ii) the Contractor's Personnel refuses to sign the declaration referred to in paragraph (3) above; (iii) Europol rejects the Contractor's Personnel on the basis of information contained in a certificate of good conduct; or (iv) a security clearance is not accepted by Europol, the performance of tasks and services ordered by Purchase Order will be suspended until such requirements are complied with and the Contractor's Personnel accepted by Europol. Europol shall formally notify the Contractor without delay of such suspension. Europol shall be entitled to impose liquidated damages under Article 18 ("Liquidated damages") below, if such failure resulted in delay in performance of the services.
5. The Contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information and/or documents which are linked to the Contract and its implementation, except with prior written permission from Europol. The Contractor shall continue to be bound by this obligation for an unlimited period after the expiry or termination of this Contract.
6. The Contractor acknowledges that a special security regime is applicable at Europol's Premises and as regards access to and use of Europol's information and/or documents. Throughout the duration of this Contract Europol may introduce changes to the security regime which may affect the Contractor's Personnel and/or the way that the goods are delivered and/or services performed. Europol will inform the Contractor accordingly and the Contractor must comply with the instructions as provided by Europol.
7. The Contractor must inform its Personnel accordingly with regard to the special security regime and the declaration mentioned at paragraph (3) above. The Contractor's Personnel involved in the performance of the Contract who - for the purpose of the execution of contractual obligations - enter Europol Premises, are obliged to apply all security instructions specified either in writing or orally by Europol security officers. The Contractor's Personnel must assume that information and/or documents at Europol's Premises are confidential in nature (even if not marked as such) and they may only take information and/or documents from Europol Premises after having obtained Europol's explicit written approval. Europol is entitled to withhold such approval without stating a reason.
8. Additional provisions applicable when services are performed off-site: For tasks and/or services not performed at Europol's Premises (or at an outside location as indicated by Europol (e.g. Europol National unit in a EU member state)), the Contractor must ensure that access to Europol's information and documents obtained in the performance of the Contract is limited to its Personnel as strictly necessary for the performance, management and monitoring of the Contract. The Contractor undertakes to ensure the effective implementation of appropriate physical, technical and organisational security measures, as to:-
 - i. Prevent any unauthorised person [i.e. personnel not working on Europol's assignment] from having access to computer systems processing Europol data and/or information and especially prevent any unauthorised reading, copying, alteration or removal of storage media;
 - ii. Record the details of its Personnel to whom the information and/or documents were provided, as well as the type of information and/or documents;
 - iii. Immediately inform Europol with regard to any security incidents and breaches involving Europol information and/or documents. The Contractor shall immediately take all reasonable steps necessary to remedy such breach and protect the integrity of all Europol's information and documents against any such potential or attempted breach or threat and prevent an equivalent breach in the future;
 - iv. If sub-contractors are used, ensure that information and documents provided by Europol to the Contractor and subsequently by the Contractor to its sub-contractor are

processed in accordance with the security and confidentiality requirements as stipulated in the Contract.

9. In addition to the above measures, the Contractor shall inform in writing its Personnel performing services for Europol with regard to their general obligation of confidentiality and discretion related to the performance of such services. The Contractor must specifically inform its Personnel that disclosure of documents and/or information (regardless whether in writing, oral or in any other form) originating from and/or related to Europol and any of its partners, to any other person (including other employees of the Contractor not involved in the delivery of services to Europol) is prohibited. References on Social Media with regard to tasks and/or services performed for Europol are also forbidden. The Contractor must also inform its Personnel that breaches of the obligation of confidentiality and discretion may result in damages to Europol and/or Europol partners. Consequently, Europol and/or the party affected by the breach will be entitled to bring a claim for equitable relief and/or criminal proceedings before a court of competent jurisdiction.
10. If the Contractor acts in conflict with a provision of this Article, the Contractor shall in each case, without any summons or notice of default being required, forfeit to Europol on demand an amount, which is not less than three (3) times the total price of the Purchase Order up to the maximum amount of 50.000 EURO (fifty thousand EURO) per event and the overall maximum of 150.000 EURO (one hundred and fifty thousand EURO) per calendar year. Penalties shall only be forfeited if justified by the nature of the violation, taking into account Europol's particular interest in confidentiality. This penalty does not affect the other rights of Europol, including the right to compensation for damages.

Article 11 - Use, Distribution and Publication of Information

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

Article 12 - Data Protection

1. In processing any Personal data included in and/or relating to the Contract, including its implementation, Europol is bound by the data protection rules imposed by the Europol Regulation and the direct application of Regulation (EU) No 2018/1725² to all administrative personal data held by Europol. Personal data shall be processed by the parties solely for the purpose of performance and management of the Contract, without prejudice to Europol's right/obligation to transmit certain data to internal audit services, to the European Court of Auditors, the Financial Irregularities Panel and to the European Anti-Fraud Office (OLAF) for the purposes of safeguarding the financial interests of the Union or other legitimate purposes. The Contractor's Personnel may,

² Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision 1247/2002/EC.

upon request, obtain information with regard to their own Personal data and rectification of any inaccurate or incomplete Personal data. Should a member of Contractor's Personnel have any queries concerning the processing of its Personal data, it shall address them to Europol's Data Protection Officer as referred to the following contact point: DPO@europol.europa.eu. With regard to the processing of Personal data, the Contractor's Personnel have the right to recourse at any time to the European Data Protection Supervisor: edps@edps.europa.eu.

2. The Contractor may not process Personal data derived from Europol [i.e. act as a data processor] except insofar as it is necessary for the performance of its contractual obligations and/or in accordance with the requirements stated in the tender specifications. Personal data relating to Europol staff obtained during the performance of this Contract shall be processed only in accordance with the requirements set by the Data controller and in accordance with the applicable data protection legislation. If requested by Europol in writing, the Contractor shall provide additional information and/or evidence with regard to processing of Europol staff Personal data at the required standards. If the Contractor is situated outside the EU those standards refer to the compliance with the relevant provisions governing the exchange of Personal data with parties outside the EU.
3. In relation to any Personal data which the Contractor requires to store and use for the performance of its contractual obligations, the Contractor agrees to provide sufficient guarantees that appropriate technical and organisational measures are implemented so that processing meets the requirements of the applicable data protection legislation and ensures the protection of the rights of the data subject. In respect of automated data processing, the Contractor shall implement measures designed to protect Personal data against accidental or unlawful destruction, accidental loss or unauthorised disclosure, alteration and access or any other unauthorised form of processing. The Contractor shall have due regard to the risks inherent to the processing and to the nature of such data, in order to:
 - i. deny unauthorised persons access to data-processing equipment used for processing Personal data (equipment access control);
 - ii. prevent the unauthorised reading, copying, modification or removal of data media (data media control);
 - iii. prevent the unauthorised input of data and the unauthorised inspection, modification or deletion of stored Personal data (storage control);
 - iv. prevent the use of automated data-processing systems by unauthorised persons using data-communication equipment (user control);
 - v. ensure that persons authorised to use an automated data-processing system have access only to data covered by their access authorisation (data access control);
 - vi. ensure that it is possible to verify and establish to which bodies Personal data may be or have been transmitted using data-communication equipment (communication control);
 - vii. ensure that it is possible to verify and establish which Personal data have been input into automated data-processing systems and when and by whom the data were input (input control);
 - viii. ensure that it is possible to verify and establish what data have been accessed by which member of personnel and at what time (access log);
 - ix. prevent the unauthorised reading, copying, modification or deletion of Personal data during transfers of Personal data or during the transportation of data media (transport control);

- x. ensure that it is possible, in the event of interruption, to restore installed systems immediately (recovery); and
 - xi. ensure that the functions of the system perform faultlessly, that the occurrence of faults in the functions is immediately reported (reliability) and that stored data cannot be corrupted by system malfunctions (integrity).
4. The Contractor shall not engage another sub-contractor without prior specific or general written authorisation of Europol, as specified in Article 14 ("Sub-contracting"). In the case of general written authorisation, the Data processor (the Contractor) shall inform Europol of any intended changes concerning the addition or replacement of other processors, thereby giving Europol the opportunity to object to such changes. The Contractor is responsible for passing on the obligations in this Article to its sub-contractors and for ensuring compliance with such obligations by its sub-contractors. If any evidence of compliance by sub-contractors with this Article is requested by Europol, the Contractor shall be responsible for obtaining it.
 5. The Contractor is not entitled to provide Personal data to other third-parties for whatever purpose without Europol's prior express written consent. Third-parties must also be subject to the conditions set up by Europol.
 6. If Personal data of Europol staff is no longer necessary for the performance of the Contract, it shall be deleted or destroyed in accordance with Europol's written instructions and such deletion or destruction shall be certified in writing to Europol.
 7. The Contractor shall immediately notify Europol in the event that it becomes aware of any breach of this Article. This obligation of immediate notification is different to the obligation of notification of Personal data breach under the national law. The Contractor must notify Europol irrespective of whether the national data protection supervisory authority is notified or not. The obligations in relation to Personal data subsist for an unlimited period after the end of this Contract.
 8. Europol or an outside body of its choice shall have the right to verify the data protection compliance of the Contractor under the Europol Regulation and Regulation (EU) No 2018/1725.

Article 13 - Force Majeure

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

Article 14 – Sub-contracting

1. The Contractor shall not sub-contract without prior written authorisation from Europol nor cause the Contract to be performed by third parties.
2. Even where Europol authorises the Contractor to sub-contract, the Contractor shall bear exclusive liability for proper performance of the Contract and full compliance with all obligations, including those related to confidentiality and security.
3. Sub-contracting does not affect rights and guarantees to which Europol is entitled by virtue of the Contract, notably Article 19 (“Checks and Audits”).

Article 15 - Assignment

The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from Europol. In the absence of such authorisation, or in the event of failure to observe the terms thereof, assignment by the Contractor shall not be enforceable against and shall have no effect on Europol.

Article 16 - Suspension of the Contract

1. The Contractor may suspend the performance of the Contract or any part thereof in case of Force Majeure. The Contractor shall inform Europol in writing about such suspension without delay, giving all reasons and details and the envisaged date for resuming the performance of the Contract. Once the circumstances allow performance to resume, the Contractor shall inform Europol immediately, unless Europol has already terminated the Contract in accordance with Article 17 (“Termination”) below.
2. Europol may suspend the performance of the Contract or any part thereof in the following cases:
 - i. if the Contract award procedure or the performance of the Contract prove to have been subject to substantial errors, irregularities or fraud (as defined in the Financial Regulation³);
 - ii. in order to verify whether presumed substantial errors, irregularities or fraud mentioned at 2 (i) above have actually occurred;
 - iii. for other reasons (e.g. alleged professional conflicting interest), which would, if established, make termination mandatory in accordance with the Financial Regulation;
 - iv. where there are reasonable grounds to believe that the Contractor’s and/or the Contractor’s Personnel are in breach of obligations of security and confidentiality or other security reasons, either related to Europol’s activity or to the Europol’s Premises;
 - v. in order to verify whether the Contractor is compliant with the applicable Dutch law, including specific legislation on temporary employment and collective labour agreements, if applicable or where Europol is not satisfied with the explanation and/or evidence provided by the Contractor for the purpose of Europol’s verification for compliance or where Europol’s verification of Contractor’s compliance revealed an actual breach; and
 - vi. Force majeure, in accordance with Article 13 (“Force Majeure”) above.

³ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, OJ L 193 of 30.7.2018, p.1
<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1544791836334&uri=CELEX:32018R1046>

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

Article 17 - Termination

1. Europol may terminate the Contract in the following circumstances:
 - i. if the Contractor or any person that assumes unlimited liability for the debts of the contractor is in one of the situations provided for in points (a) and (b) of Article 136(1) of the Financial Regulation;
 - ii. if the Contractor or any related person is in one of the situations provided for in points (c) to (h) of Article 136(1) or to Article 136(2) of the Financial Regulation;
 - iii. if the procedure for awarding the Contract or the performance of the Contract prove to have been subject to irregularities, fraud or breach of obligations as defined in the Financial Regulation;
 - iv. if the Contractor does not comply with applicable obligations under environmental, social and labour law established by Union law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X to Directive 2014/24/EU;
 - v. if the Contractor is in a situation that could constitute a professional conflicting interest as referred to in Article 7;
 - vi. if a change to the Contractor's legal, financial, technical, organisational or ownership situation is likely to substantially affect the performance of the Contract or substantially modify the conditions under which the Contract was initially awarded or there is a change regarding the exclusion situations listed in Article 136 of the Financial Regulation that calls into question the decision to award the Contract;
 - vii. in the event of Force Majeure, where either resuming implementation is impossible or the necessary ensuing amendments to the Contract would mean that the tender specifications are no longer fulfilled or result in unequal treatment of tenderers or contractors;
 - viii. if the Contractor is in breach of the data protection obligations resulting from Article 12;
 - ix. for other mandatory reasons, as specified in the Financial Regulation if modified within the duration of the Contract.
2. In addition to the reasons above, Europol may also terminate the Contract in the following circumstances:
 - i. If the Contractor does not perform the Contract in accordance with the contractual provisions and/or the requirements in the tender specifications;
 - ii. In the specific case in which Europol cannot approve or finally accept a result, report or deliverable, even after the Contractor submitted the required additional information, correction or new version of result, report or deliverable;
 - iii. If the Contractor is unable, through its own fault, to obtain any permit or license required for the satisfactory performance of the Contract, this including (without limitation) failure to obtain a certificate of good conduct or security clearance;
 - iv. For Contractor's non-compliance with the applicable Dutch law, including specific legislation on temporary employment and collective labour agreements;
 - v. Where the Contractor is in serious breach of the obligations under Article 10 ("Security and Confidentiality"). The seriousness of the breach is solely assessed by Europol.

3. The Contractor may terminate the Contract by providing formal notice if Europol fails to comply with its obligations, in particular the obligation to provide the information needed for the contractor to perform the contract as provided for in the tender specifications. The formal notice of termination must be preceded by a written notification to Europol indicating the intention to terminate, the ground(s) for termination and the proposed effective date of the termination. Europol may submit written observations within 30 (thirty) days after receipt of such notification of intention, including a reasonable deadline for performance of contractual obligations by Europol. Unless expressly agreed otherwise in writing, termination shall occur on the date provided by Europol as deadline, if Europol fails to perform its obligations by such deadline, or on the effective date of the termination proposed by the Contractor, if no deadline for performance of contractual obligations was determined by Europol.
4. Europol may terminate the Contract with immediate effect in cases specified at paragraph 1 (i) – (ix) above and paragraph 2 (iv) and (v). Unless specified otherwise in the written notification of termination, the effective date of termination shall be the day following the date on which notification of termination is received by the Contractor.
5. Prior to terminating the Contract in cases specified at paragraph 2 (i) – (iii), Europol shall formally notify the Contractor of its intention specifying the grounds thereof.
6. If termination is intended for non-satisfactory performance of contractual obligations as stipulated at paragraph 2 (i) above, the formal notification shall specify a reasonable deadline for performance of contractual obligations by the Contractor. In determining whether a deadline is reasonable, any prior attempts to resolve/escalate issues leading to formal notification shall be taken into account. Unless expressly agreed otherwise in writing, termination shall occur on the date provided as deadline, if the Contractor fails to perform its obligations by such deadline.
7. If terminating the Contract with formal notice, Europol shall invite the Contractor to make any observations within maximum 30 days from receipt of the notification (and, if applicable, to inform Europol about the measures taken to continue the fulfilment of its contractual obligations). The maximum 30 day period can be reduced if action is required to rectify the situation. If Europol does not confirm acceptance of Contractor's reasons within maximum 30 days, Europol shall formally notify the Contractor about its decision to terminate the Contract. Formal notification shall specify the date on which the termination takes effect.
8. If Europol terminates 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 its commitments. The Contractor shall draw up the documents required by the tender specifications and/or Purchase Order for the tasks executed up to the date on which termination takes effect, within a period not exceeding sixty (60) days from that date.

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

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

Article 18 - Liquidated Damages

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

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

V is the price specified in the Purchase Order

d is the duration specified the Purchase Order or failing that, the period between the Contract date of the Purchase Order and the delivery or performance date specified in the Purchase Order, expressed in days.

The Contractor may submit arguments against this decision within 30 days of receipt of the formal notification. Unless the Contractor reacts within (30) days or unless Europol withdraws in writing the decision on impositions of liquidated damages, the decision shall become enforceable. The parties expressly acknowledge and agree that any sums payable under this article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses incurred due to failure to fulfil obligations which may be reasonably anticipated.

Article 19 - Checks and Audits

1. The European Court of Auditors shall be empowered to audit the documents held by the natural or legal persons receiving payments from the budget of the European Union from signature of the Contract up to five (5) years after payment of the balance.
2. The Contractor shall keep all original documents stored on any appropriate medium, including digitised originals when they are authorised by national law and under the conditions laid down therein, for a period of five years which starts from the date of payment of the balance.
3. Europol or an outside body of its choice shall have the same rights as the European Court of Auditors for the purpose of checks and audits limited to compliance with contractual obligations from signature of the Contract up to 5 (five) years after payment of the balance of the last implementation. The Contractor shall allow access to sites and premises where the Contract is performed and to all the information, including information in electronic format, needed in order to conduct such checks and audits. The Contractor shall ensure that the information is readily available at the moment of the check or audit and, if so requested, that information be handed over in an appropriate form. No charge for such co-operation may be levied.
4. In addition, the European Anti-Fraud Office may carry out on-the-spot checks and inspections in accordance with Council regulation (Euratom, EC) No 2185/96 and Parliament and Council Regulation (EC) No 1073/1999 from signature of the Contract up to 5 (five) years after payment of the balance of the last implementation. Findings arising from an investigation may lead to criminal prosecution under national law. Investigations may be carried out at any moment within the period as specified at paragraph (1) above.
5. On the basis of the findings made during the audit, a provisional report shall be drawn up. It shall be sent to the Contractor, which shall have 30 days following the date of receipt to submit observations. The final report shall be sent to the Contractor within 60 days following the expiry of that deadline. On the basis of the final audit findings,

Europol may recover all or part of the payments made and may take any other measures which it considers necessary.

Article 20 - Amendments

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

Article 21 - Applicable law and Dispute Settlement

The Contract shall be governed by the law of the European Union, complemented when necessary by Dutch law. Any dispute between the parties resulting from the interpretation and/or application of the Contract which cannot be settled amicably shall be brought before the courts of The Hague, The Netherlands.

In addition to the court proceedings mentioned above, the Contractor may submit a complaint to the European Ombudsman (www.ombudsman.europa.eu). The European Ombudsman investigates complaints about maladministration in the EU institutions and bodies.

Article 22 - Methods of communication

1. Any communication relating to the Contract or to its performance shall be made in writing and shall bear the Contract number. Any communication is deemed to have been made when it is received by the receiving party unless otherwise provided for in this Contract.
2. Electronic communication shall be deemed to have been received by the parties on the day of dispatch of that communication provided it is sent to the addresses listed in the Purchase Order.
3. If the sending party receives a message of non-delivery it shall take all reasonable measures to ensure actual receipt of communication by the other party.
4. Electronic communication with financial consequences shall be confirmed by an original signed paper version of that communication if requested by any of the parties provided that this request is submitted without unjustified delay. The sender shall send the original signed paper version without unjustified delay.
5. Mail sent using the postal services is deemed to have been received by Europol on the date on which it is registered by the responsible Europol unit as mentioned in the Purchase Order.
6. Any formal notification shall be made by registered mail or by email provided such email is acknowledged by an authorised representative of the other party. Formal notifications are considered to have been received by the receiving party on the date of receipt indicated in the proof received by the sending party that the notification was delivered to the recipient.

Article 23 - Final Provision

1. Notifications which parties make to each other based on the Contract with Europol will be made in writing. Verbal notifications, promises or agreements have no legal power unless they are confirmed in writing.
2. The language of the Contract is English. Translations of these General terms and conditions into other languages are for convenience only. In case of any conflict between the translations, the English version will always prevail.