



Negotiated procedure without prior publication  
“Purchase of enrolment software” (297559)  
Annex to the procurement documentation

## CONTRACT NO

Having regard to the ‘PRÜM II’ project of the Internal Security Fund measure ‘Improving and facilitating the exchange of information’, according to which the beneficiary of the corresponding project is the Estonian Forensic Science Institute through the Ministry of Justice and Digital Affairs:

**Estonian Forensic Science Institute** (registry code 70003572), located at Tervise 20, 13419 TALLINN, represented by Director Ivar Prits on the basis of the statutes, hereinafter referred to as the ‘Contracting Entity’,

and

..... (registry code .....), with its registered office at ....., represented by ....., Member of the Management Board, hereinafter referred to as the ‘Contractor’,

hereinafter referred to as the ‘Party’ or the ‘Parties’, awarded this contract (hereinafter referred to as the ‘Contract’) as follows:

### 1. Object of the Contract

- 1.1 Under the Contract, pursuant to the tender submitted in the negotiated procedure without prior publication “Purchase of enrolment software” (297559), the Contracting Entity acquires the right to use enrolment software for 60 months, and during the period of validity of the Contract, the provision of support services and the performance of additional development works, in accordance with the terms and conditions set out in the Contract and the annexes thereto (hereinafter collectively also referred to as ‘Work’ in the respective case).
- 1.2 The Parties declare that they will do everything in their power to achieve the objectives of the Contract under the conditions and to the extent set out in this Contract and related legislation.

### 2. Contract price and payment

- 2.1 The Contract price consists of the cost of the right to use the enrolment software and the support service, as well as additional developments carried out during the period of validity of the Contract.
- 2.2 The cost of the right to use the enrolment software is EUR..... (net of VAT). The cost of the right to use the enrolment software includes the fees related to the training, installation, settings and other instruction specified in the technical specifications, including the travel expenses of the Contractor’s representatives. The right to submit an invoice arises for the Contractor after the Contracting Entity has accepted the aforementioned works. The cost of the right of use includes the right of the Contracting Entity to increase the number of workstation installations from 27 to 54 during the term of validity of the Contract.

- 2.3 The hourly fee for additional developments is EUR .... and the maximum price for ordering additional developments during the term of validity of the contract is EUR 100,000 (net of VAT).
- 2.4 The cost of the support service is EUR ..... (net of VAT). The cost of the support service includes all the activities related to the provision of the support service as reflected in the technical specifications, including the travel expenses of the representatives of the Contractor. The total cost of the support service shall be divided into interim payments over the period of validity of the Contract in such a way that the support service fee is paid as an annual fee in five (5) instalments. The Contractor shall be entitled to issue an invoice for the first instalment immediately after the conclusion of the Contract.
- 2.5 The amounts indicated in the contract price include all expenses and remuneration for copyrights incurred by the Contractor within the framework of the Contract. VAT will be added to the contract price.

### **3. Entry into force of the Contract and documents**

- 3.1 The Contract shall enter into force upon signature by both Parties and shall remain in force for a period of 60 (sixty) months.
- 3.2 The Contract Documents shall consist of the text of the Contract, the Annexes to the Contract attached at the time of signature of the Contract, and the Annexes which may be agreed upon after signature of the Contract.
- 3.3 At the time of signature of the Contract, the Annexes to the Contract are as follows:
- 3.3.1 Annex 1 General Terms and Conditions of the Public Contract;
  - 3.3.2 Annex 2 Staff and Contact Details;
  - 3.3.3 Annex 3 Technical Specifications;
  - 3.3.4 Annex 4 Tender.

By signing this Contract, the Parties certify that they have read and accepted the Contract and its Annexes and that they have a full understanding of the content of their obligations and the consequences thereof.

Contracting Entity:

Contractor:

*/signed digitally/*

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Ivar Prits

Director

Estonian Forensic Science Institute

Public Contract No.

Annex 1

## **GENERAL TERMS AND CONDITIONS OF THE PUBLIC CONTRACT**

Unless otherwise provided in the Special Conditions than in the General Terms and Conditions, the provisions of the Special Conditions shall apply.

### **1. Definitions and explanations**

The following definitions and the specific explanations given in relation to those definitions apply both to the contract and to the documents forming part of it.

#### **1.1 Software**

'Software' means primarily computer programs, telecommunications, databases, applications and other software in object code, source code, or any other form or adaptation thereof, together with related documentation.

#### **1.2 Location**

Location means the place or places, other than the location of the Contractor, where the equipment, telecommunications or software is supplied or installed, or where the services are provided (e.g. the Contracting Entity's testing, development, and production environment).

#### **1.3 Deficiency and error**

A defect or error occurs when the software fails to perform the functions set out in the Contract, gives false results when its proper functioning is interrupted or (otherwise) disrupted so that the intended use of the software is prevented or significantly disrupted.

#### **1.4 Error priorities**

- 'Critical/high' means a fault that severely disrupts the availability of the capture software, resulting in the software not working or working with major errors.

- Medium/low – an error that partially disrupts the use of the software but does not interfere with the use of the software.

### **1.5 Right to use software**

The right to use enrolment software during the period of validity of the Contract for the period of 60 (sixty) months, as mentioned in the Contract and its annexes. The right of use includes 27 workstation installations. The Contracting Entity has the right to increase the installation volume by a maximum of 27 installations or reduce the installation volume during the period of validity of the Contract. Upon expiry of the period of validity of the Contract, the Contracting Entity retains access to the software, but the right to receive support services is lost.

### **1.6 Support services**

Support service includes a technical consultation (including consultation on the use, management and administration of the information system), remote support, error prevention and correction, delivery of new releases and versions, including security updates and related documentation.

Support service is provided both on a regular basis and on the basis of requests. Submissions shall be made in a format which can be reproduced in writing to the contact address provided by the Contractor or by telephone. Applications will be resolved according to the priority level and time set by the Contracting Entity:

- Critical/high error – resolution time 6 hours;
- Medium/low error – resolution time 48 hours.
- The resolution time is the maximum time during which the Contracting Entity must have been notified of the resolution as of the notification of the error. By agreement, it is possible to change the resolution times during the performance of the Contract. Working hours Mon–Fri 07.30–18.30.

### **1.7 Additional development works**

Additional development work is considered to be development work that is not considered to be work on resolving errors in the framework of the support service or work on setting up the solution of enrolment software. Additional development works shall be ordered from the Contractor in accordance with the ordering procedure set out in the technical specification document.

## **2. Price**

The contract price is the sole consideration of the Contractor in relation to the Contract and the Contractor itself or its employees do not charge per diems, indirect remuneration, or any other consideration related to the obligations set out in the Contract (for example, travel-related expenses necessary for the provision of training or support). Neither the Contractor nor an employee of the Contractor is entitled to additional copyright or similar remuneration in respect of a patented or otherwise protected object or process used in the performance of the Contract.

### **3. Payment**

- 3.1 The Contractor shall submit an invoice to the Contracting Entity in machine-readable form as an e-invoice if it is possible to submit an e-invoice. The right to submit an invoice arises for the Contractor after acceptance of the Work by the Contracting Entity.
- 3.2 The invoice must contain at least the following information:
- 3.2.1 information on the issuer of the invoice;
  - 3.2.2 information on the payer;
  - 3.2.3 a reference to the Contract;
  - 3.2.4 VAT number;
  - 3.2.5 the name and description of the accepted work;
  - 3.2.6 VAT;
  - 3.2.7 total amount.
- 3.3 The Contracting Entity shall pay the contract price by the date indicated on the invoice submitted by the Contractor. The time limit for payment may not be less than 30 calendar days, unless specified by the Contracting Entity in the invitation to tender.
- 3.4 Prepayments shall not be made by the Contracting Entity.
- 3.5 Payment of the final invoice presupposes fulfilment of all obligations of the Contractor under the Contract and acceptance by the Contracting Entity.
- 3.6 The Contracting Entity has the right to deduct the contractual penalties and damages calculated in case of breach of contract from the amounts payable to the Contractor under the Contract.
- 3.7 Any amount paid by the Contracting Entity in excess of the amount stipulated in the Contract shall be refunded by the Contractor to the Contracting Entity within 30 calendar days of receipt of the respective notice.
- 3.8 In the event of delay in payment of the contractual price, the Contractor shall be entitled to interest for late payment for each calendar day of delay equal to 0.15 (zero point one five) % of the unpaid amount per day.

### **4. Information and reports**

- 4.1. The Contracting Entity is deemed to be familiar with the location and the Terms and Conditions of the Contract. In particular, a Contractor's claim for additional payments or extensions of time shall not be satisfied if they could have obtained the necessary information by visiting the location in consultation with the Contracting Entity or by any other suitable means.
- 4.2. The Contracting Entity shall provide the Contractor with any information and documentation at its disposal which may be relevant for the performance of the Contract as soon as possible, but not later than within two (2) working days of receipt of the corresponding request.
- 4.3. The Contracting Entity shall assist the Contractor as much as possible in obtaining information concerning the Contract which the Contractor reasonably requests for the performance of the Contract.
- 4.4. The Contractor shall provide the Contracting Entity as soon as possible, but not later than within two (2) working days of receiving the request, with information concerning the performance of the Contract (including equipment, telecommunications, software, project progress and services).

### **5. Notifications and correspondence**

- 5.1. Communication between the Parties shall take place at the contact details and addresses of the Parties designated for that purpose. The Parties are obliged to notify each other of any changes in their contact details and addresses immediately, but not later than within two (2) working days.
- 5.2. If the notification to the other party requires a response, the reply must be provided immediately, but no later than within two (2) working days.
- 5.3. Notices between the Parties relating to the Contract must be in a format which can be reproduced in writing, except in cases where the notices are of an informational nature, the communication of which to the other Party has no legal effect. The notification shall be deemed to have been received if:
  - 5.3.1. the notification has been handed over against signature;
  - 5.3.2. the notification has been sent by registered mail to the postal address of the Party and five (5) calendar days have elapsed since the notification was posted;
  - 5.3.3. a notice has been sent by e-mail or telephone to the contact person or representative specified in the Contract.

## **6. Location**

- 6.1. In the course of performance of the contract, the Contractor must provide sufficient information in the form of instructions for use drawn up in a format which can be reproduced in writing in order to enable the Contracting Entity to prepare the location appropriately for the performance of contractual obligations. The instructions must be provided with such input that an objectively average programmer is able to prepare the site for the tests required for acceptance. The instructions must be provided in sufficient time to enable the Contracting Entity to start immediately carrying out the tests necessary for acceptance upon delivery of the work. If, at the time of delivery of the work, the instructions have not been sent or if, despite being sent, the Contracting Entity has not been able to prepare the location, the deadline for accepting the Work shall commence after the location has been prepared. If the Contractor has not provided for special environmental conditions, the Contracting Authority may assume that they are not required.
- 6.2. The Contracting Entity makes the necessary preparations and creates the conditions at its own expense. The needs of hardware and third-party commercial software shall be provided by the provider to the Contracting Entity in the tender. If the Contractor has not been able to foresee all the needs in the tender, it is considered to be a material breach of contractual obligations (clause 8.4.2), in which case the Contracting Entity has the right to submit a claim for a contractual penalty to the Contractor.
- 6.3. If the preparations made or conditions created by the Contracting Entity do not comply with those stipulate in the Contract, the Contractor shall immediately submit a list of deficiencies. If the Contracting Entity does not change the situation in such a way that it would be possible for the Contractor to adhere to the schedule, the Contractor has the right to receive the extension necessary for the performance of the contractual obligations.
- 6.4. The Contractor has the right to request access to the location during the Contracting Entity's normal working hours.
- 6.5. Expenses incurred by the Contractor in relation to access restrictions and security procedures set out in the Contract are included in the contract price and are not reimbursed.
- 6.6. The Contracting Entity may, at any time during the duration of the Contract, modify or introduce

access restrictions and security procedures. If the Contractor proves that such changes or the introduction of restrictions or procedures resulted in additional costs, they shall be entitled to reimbursement.

## **7. Modification of the Contract**

- 7.1. The Contract may be amended by a written agreement between the Parties. Amendments shall enter into force after they have been signed by both Parties or within the time limit set by the Parties. In the event of non-compliance with the written form, the amendments shall be null and void.
- 7.2. The amendments described in clause 123 (1) 1) of the Public Procurement Act shall be agreed upon by the representatives of the Contracting Entity and the Contractor in a format which can be reproduced in writing. The Contract Price shall be calculated on the basis of the total value of the invoices paid for the works performed on the basis of the Contract at the time when the amendment is necessary.

## **8. Legal remedies of the Parties**

- 8.1. This Chapter of the Contract sets out the material breaches of the Contract, the procedure for providing notification of a breach and the liability of the Parties. This Chapter does not preclude or limit the right of a Party to pursue other legal remedies for other breaches of the Contract, as well as to pursue remedies additional to those agreed upon in this Chapter.
- 8.2. Failure to exercise or a delay in exercising a contractual or statutory right or remedy shall not constitute a waiver of that right or remedy or of any other right or remedy. Any waivers in connection with the Contract shall be valid only if they are expressed clearly and in writing.
- 8.3. The Parties shall be liable for the failure to perform or the improper performance of the obligations under the Contract, pursuant to the procedure prescribed in both the legislation of the Republic of Estonia and the Contract itself.
- 8.4. The following, inter alia, shall be considered to be a fundamental breach of contract:
  - 8.4.1. A Party fails to perform any obligation arising from the Contract within the additional period of time granted by the other Party for the performance of the corresponding obligation arising from the contract;
  - 8.4.2. The environmental conditions of the location provided by the Contractor are not sufficient for the installation or regular operation of the software;
  - 8.4.3. The Contractor has repeatedly (more than twice) exceeded the deadline in resolving the requests submitted in the course of the support service;
  - 8.4.4. The Contractor violated the obligation intentionally or due to gross negligence;
  - 8.4.5. The Contractor violated the warranty terms of the additional development works;
  - 8.4.6. The Contractor fails to update the software by the due date specified by the Contracting Entity, according to the results of the E-ITS/OWASP audit.
  - 8.4.7. The Party or a third party engaged by it does not have the necessary rights (including permits, licenses, intellectual property rights) to perform the Contract;
  - 8.4.8. Bankruptcy proceedings have been initiated against the Contractor, bankruptcy has been declared, the assets of the Contractor are seized, or the financial situation of the Contractor deteriorates significantly, in the reasonable opinion of the Contracting Authority, and this

- deterioration makes it unlikely that the Contract will be properly performed;
- 8.4.9. The Party has violated the intellectual property rights and the terms and conditions of their use;
- 8.4.10. The Party has violated the confidentiality obligation;
- 8.4.11. The Party has violated the prohibition on disclosure;
- 8.4.12. The Party has breached its obligations in relation to third parties;
- 8.4.13. The Contracting Entity is in delay with the payment term agreed upon in the Contract for more than thirty (30) calendar days;
- 8.5. The Party has the right to demand the payment of a contractual penalty of up to EUR 10,000 in the event of a material breach of the Contract in each respective case.
- 8.6. The total financial liability of the Parties is limited to the total value of the Contract, but this limitation does not apply in case of intentional violation.
- 8.7. A Party shall notify the other Party of the claim for a contractual penalty within a reasonable period of time as of the time when the Party became aware of the creation of the right to demand a contractual penalty. A Party is required to pay a contractual penalty within 14 (fourteen) calendar days as of the receipt of a corresponding request from the other Party. If, in the opinion of the Party, the claim for a contractual penalty is unfounded, the Party is required to explain its position in writing within 14 (fourteen) calendar days. Claiming a contractual penalty does not affect the right of a Party to demand that the other Party satisfactorily perform the Work or a part thereof and to compensate for damage or use other legal remedies arising from law. The Contracting Entity also considers as a loss the reimbursement of the grant granted for the implementation of the PRÜM II project in a situation where the reimbursement is due to an act/omission on the part of the Contractor.
- 8.8. In addition to the claim for a contractual penalty and/or instead of a contractual penalty, the Contracting Entity has the right to require the Contractor, in the event of improper performance of the Contract, to:
- 8.8.1. The Contractor would remedy the deficiencies, including requiring the Contractor to procure the additional software and services needed to provide a better service;
- 8.8.2. in the event of failure to remedy the significant deficiencies, as well as in the event of failure to remedy the defects, require the Contractor to perform new work and supply new software or refuse acceptance and terminate the Contract;
- 8.8.3. accept the Work offered by the Contractor and reduce the price accordingly;
- 8.9. Payment of contractual penalties arising from the Contract, as well as compensation for damage caused, shall not release the Party in breach of the Contract from the performance of its obligations under the Contract.

## **9. Standards, interfaces, and compatibility**

- 9.1. The performance of the Contractor's obligations under the Contract shall not cause disruption to the operation of any of the Contracting Entity's other interfaced systems.
- 9.2. The Contractor warrants that all equipment, telecommunications, software and services are mutually compatible, function and operate satisfactorily, through standards and/or interfaces, with any other equipment, telecommunications, software and services set forth in the Contract and in the environment set forth in the Contract.
- 9.3. The Contractor shall not change any standards, interfaces, communication protocols, etc., without the prior written consent of the Contracting Entity.



## **10. Documentation**

- 10.1. The documents accompanying the performance of the Contract shall be drawn up on the basis of the terms and conditions set out in the technical specifications and the annexes thereto, or on the basis of the instructions given by the Contracting Entity.
- 10.2. The Contractor shall provide the Contracting Entity with sufficient and adequate documentation, including information on the design and functioning of the software, which is necessary for the Contracting Entity to effectively use, maintain, adapt and add additional equipment to the software and services.
- 10.3. All manuals and other documents shall be submitted in Estonian, unless otherwise agreed.
- 10.4. The documentation shall correspond to the product, include changes and be terminologically unambiguous.
- 10.5. Paper or electronic media shall be used for the production and distribution of documents.

## **11. Delivery and Receipt**

- 11.1. After completion of the Work or the Stage of Work, the Contractor shall hand it over to the Contracting Entity for acceptance.
- 11.2. The Contractor shall immediately inform the Contracting Entity in a format which can be reproduced in writing of any delay in the delivery of the Work or the Stage of Work or of the risk of and reasons for such delay. If the delay by the Contractor is caused by the Contracting Entity, the Contractor shall have the right to demand a reasonable extension and compensation for justified additional costs.
- 11.3. As regards the delivery of the Work or Stage of Work, the Contractor shall draw up an instrument of delivery, indicating, inter alia, the date of the delivery, the work carried out, a detailed list of the software supplied by the services provided and, if necessary, any deficiencies therein. At the time of delivery of each Stage of Work, the contractor shall draw up and submit the documentation drawn up for that stage, in accordance with the documentation plan or the requirements laid down by the Contracting Entity in the technical specifications.
- 11.4. The transfer of a Work or Stage of Work to the Contracting Entity shall not be deemed to be acceptance thereof by the Contracting Entity.
- 11.5. The Contractor has the right to demand and the Contracting Entity has the obligation to accept the Work if all errors with the following priority have been eliminated from the Work by the Contractor: critical and non-critical. In such a case, the person performing the Work has the obligation to correct minor and minor defects as underperformance for the period indicated in the instrument of delivery of the Work.
- 11.6. After the delivery of the Stage of Work, the Contracting Entity has the right to review the Work within 10 (ten) working days. After the delivery of the Work, the Contracting Entity has the right to review the Work within 20 (twenty) working days.
- 11.7. If the Contracting Entity finds that the Work does not comply with the Terms and Conditions of the Contract, the Contracting Entity is required to notify the Contractor of the deficiencies found in the Work, of the refusal to accept the Work before the deficiencies are eliminated and to describe the deficiencies in the Work. The Contractor is obliged to remedy the deficiencies within five (5) working days, unless the Parties have agreed on another deadline. The costs of eliminating deficiencies in

the Work shall be borne by the Contractor.

- 11.8. Before accepting the Work, the Contracting Entity carries out tests to determine the conformity of the Work to the requirements.
- 11.9. If the Work or any part of the Work fails the tests, retests shall be carried out under the same conditions immediately after the Contractor has made the necessary corrections to pass the tests.
- 11.10. At the request of the Contracting Entity, the retests shall be carried out by the Contractor.
- 11.11. The repaired Work shall be delivered as it was when delivered for the first time.
- 11.12. Works delivered with defects are not deemed to have been delivered on time and the Contracting Entity has the right to demand a contractual penalty from the Contractor in the event of such a breach of contract pursuant to the procedure and at the rate provided for in the Contract or to apply other legal remedies.
- 11.13. Work ready for acceptance must comply with the terms and conditions set forth in the Contract. Acceptance of the Stage of Work by the Contracting Entity does not require or oblige acceptance of the work as a whole by the Contracting Entity if the work does not meet the conditions. Regarding acceptance of the work, the Contracting Entity shall draw up an instrument of receipt indicating, inter alia, the date of receipt, the work carried out, and a detailed list of the software supplied for the services provided.
- 11.14. The Work or Stage of Work is deemed to have been accepted from the signing of the instrument of receipt or from its introduction into use within the production environment. If the Contracting Entity has introduced the Work or Stage of Work containing defects into use in the production environment, only work performed in accordance with the requirements is deemed to have been accepted and the Contractor has the right to issue an invoice for these. In such a situation, the Contracting Entity shall provide the Contractor with a list of deficiencies in the Work or Stage of Work and a deadline for eliminating the deficiencies, either before the Work or Stage of Work is put into service in the production environment or immediately after this has taken place.
- 11.15. The Contractor shall be liable for the accidental destruction of or damage to the Work until acceptance of the Work by the Contracting Entity.

## **12. Warranty**

- 12.1. The Contractor provides a 12-month contract guarantee for the additional development work carried out. The warranty period begins with the acceptance of the Work.
- 12.2. Any defects that occur during the warranty period will be remedied by the Contractor at the Contractor's own expense, except in the cases specified in clause 12.7. If the deficiencies revealed cannot be eliminated by way of warranty, the Contractor shall submit the reasons to the Contracting Entity in a format which can be reproduced in writing, but not later than on the next working day after becoming aware of the circumstance.
- 12.3. Unless otherwise agreed, the Contractor shall eliminate the deficiencies within 10 (ten) working days as of becoming aware of the deficiency.
- 12.4. If the defects revealed during the warranty period make some or all of the equipment, telecommunications and/or software unusable, the Contractor shall provide the Contracting Entity with additional or replacement parts and other necessary equipment to ensure the required level of performance at its own expense.
- 12.5. The Contracting Entity shall inform the Contractor of the nature and extent of the defect immediately

upon its occurrence. The Contractor is obligated to remove the defects in accordance with the Contract or at the time specified by the Contracting Entity.

12.6. The warranty does not cover:

12.6.1. defects for which the Contracting Entity is responsible;

12.6.2. time spent on diagnostics, if the case initially registered as a warranty case is found not to be a warranty case. The corresponding work shall be separately remunerated on the basis of the hourly price of the additional development of the Contract.

12.7. The warranty expires if the source code has been changed or changed without coordination with the Contractor, unless the Contracting Entity is able to distinguish the changes made to the source code.

### **13. Training**

13.1. The Contractor shall ensure adequate training of the Contracting Entity's personnel in order to ensure the effective operation of the finished solution which is the subject of the Contract, as agreed in the Contract.

13.2. The time, place and volume of the training shall be approved in advance by the Contracting Entity's contact person.

### **14. Permits and licences**

14.1. The Contractor shall be solely responsible for obtaining the permits and licences required for the performance of the Contract. The Contracting Entity shall cooperate with the Contractor in a reasonable manner in order to avoid undue delay or refusal to issue such permits or licences.

14.2. The Contracting Entity may terminate the Contract without notice if the Contractor fails to obtain the necessary authorisation or licence to perform the Contract.

14.3. The Contractor warrants that it has the right to grant the Contracting Entity the right to use the software that is the Object of the Contract and other objects protected by copyright or similar rights.

14.4. The Contractor guarantees that the transfer of this right of use does not violate the rights of third parties. If a third party brings an action against the Contracting Entity for violation of their rights and the action is satisfied, the Contractor shall pay any claims for compensation for damage, as well as legal costs and other related costs.

### **15. Transfer of risk**

15.1. The risk of accidental loss or damage is transferred to the Contracting Entity upon acceptance of the Work, as well as at the moment when the Contracting Entity is delayed in performing the act by which they must contribute to the delivery of the Work.

### **16. Intellectual property**

16.1 By signing the Contract, the Contractor confirms to the Contracting Entity that they own the proprietary copyrights, licenses, and other intellectual property rights necessary for the performance of the Contract, which are necessary for the full performance and assignment of the contractual work, and that no third parties have any claims against them.

- 16.2 The Contractor grants the Contracting Entity a worldwide non-exclusive irrevocable licence within the meaning of the Copyright Act in respect of all proprietary and personal rights to the Work for the term of validity of their copyright under the following conditions:
- 16.2.1 Use the Work for any purpose and in any way;
  - 16.2.2 Reproduction of the Work (including free distribution, making available to the public or selling);
  - 16.2.3 modify the Work itself or with the involvement of third parties and create derivative works based on the Work;
  - 16.2.4 Communicate the Work to the public, including making it available (including on the Internet) or exhibiting it, as well as performing it publicly;
  - 16.2.5 Borrowing and renting the Work;
  - 16.2.6 To grant sub-licences for the rights applicable to the Work performed or copies thereof;
  - 16.2.7 the provider shall provide the Contracting Entity with a documented source code in accordance with best practice in the field.
- 16.3 The Contracting Entity refers to the Contractor as the author of the Work, but the Contracting Entity does not guarantee that third parties (including public authorities using the Work) refer to the Contractor as the author of the Work. The Contracting Entity is not responsible for the failure of the above persons to refer to the Contractor.
- 16.4 The Contracting Entity may exercise the copyright to the Work in any existing or later created environment, support or format.
- 16.5 A licence shall be deemed to have been granted at the time of acceptance of the Work or stage of Work.
- 16.6 The Contractor shall provide the Contracting Entity with all necessary copyrights for the verification, testing, and installation in the system of the software to be created in the course of performance of the Contract until the Contracting Entity has accepted the Object of the Contract.
- 16.7 With regard to the use of third-party components (software) for the creation of the contractual software system, the Parties shall be guided by the terms of the licence for their use. The cost of the corresponding right of use is included in the price of the right of use of the software. The Contractor confirms that, when creating the software, it prefers components belonging to third parties, the use of which does not result in additional royalties or restrictions on the use of the software or the granting of sublicenses. The Contractor is obliged to inform the Contracting Entity if the Contractor intends to use such third-party components when creating the software, the use of which will result in additional license fees or restrictions on the use of the software by the Contracting Entity. Without the written consent of the Contracting Entity, the Contractor may not use these components when creating the software.
- 16.8 The fee for intellectual property rights and licenses shall be included in the value of the Contract and the Contractor shall not have the right to demand an additional fee for the transfer or licensing of these rights (including for the future authorisation of uses unknown at the time of entry into the Contract).

## **17 Third parties**

- 17.1 The Parties may assign pecuniary claims arising from the Contract to third parties. The Parties are obliged to inform each other immediately in writing of the assignment of the claim.
- 17.2 The Parties may not transfer their contractual obligations to a third party or involve a third party in

the performance of their contractual obligations without the express written consent of the other Party. The Contracting Entity has the right to forward or direct the payment of the invoice submitted by the Contractor to a Contracting Authority other than the Contracting Entity on the basis of a cooperation agreement between the Contracting Entities if the respective notification has been reflected by the Contracting Entity in the invitation to submit a tender.

- 17.3 The Parties shall be responsible for all persons whom they use in the performance of their obligations under this Contract.

## **18 Auditing**

- 18.1 Each Party shall have the right to involve an independent auditor in the audit. The involvement of the auditor does not require the permission of the other Party.
- 18.2 The identity of the auditor and other circumstances related to the audit shall be set out in a separate agreement. Problems detected during the audit must be recorded and, if necessary, entered into the problem-solving process.
- 18.3 The Contractor shall keep a precise account of the costs to be reimbursed in respect of person days and person months worked in performance of the Contract. The auditor shall be granted unrestricted access to such data.
- 18.4 The Party engaging the auditor shall ensure that the auditor treats the information received as confidential. Responsibility remains with the Party that engaged the auditor.
- 18.5 After auditing and verifying the data, the auditor issues an opinion which is final.
- 18.6 The costs of the audit shall be borne by the Party commissioning the audit, with the exception of the costs of the follow-up audit carried out following the rectification of deficiencies resulting from the actions/omissions of the Contractor revealed by the OWASP/E-ITS audit.

## **19 Waiver of rights**

- 19.1 Any delay, negligence or refusal by either Party to require the other Party to comply with the Terms and Conditions of the Contract or to make any other claim shall not constitute a waiver or cancellation of any contractual rights of that Party.

## **20 Public relations**

- 20.1 The Parties shall not engage in public relations in connection with the Contract and shall not release notices to the press, electronic media, the public or other audiences, except with the prior written consent of the other Party. Only notices which have been previously agreed upon with the other Party may be published.
- 20.2 Each Party shall also impose all of the above obligations on any third party it uses in the performance of its contractual obligations.

## **21 Confidentiality and personal data**

- 21.1 The Contractor may not transfer its contractual obligations to a third party or involve a third party in the performance of its contractual obligations without the express written consent of the Contracting Entity.
- 21.2 The Contractor is required to:
- 21.2.1 ensure the confidentiality of information received from the Contracting Entity in the course of

performance of the Contract regardless of form (data, personal data of the representatives of the Contracting Entity contained in transaction documentation and contracts, and know-how), and shall not forward to or allow access to such information by a third party without the express written consent of the Contracting Entity;

- 21.2.2 ensure the confidentiality of personal data (except the personal data of the Contracting Entity's representatives contained in transaction documentation and contracts) which have become known in any form during pre-contractual negotiations, contractual obligations, and the performance of the Contract, and shall not forward or grant access to them to any third party without the express written consent of the Contracting Entity;
- 21.2.3 not transfer the personal data referred to in clause 21.2.2 outside the territory of the Member States of the European Union and the Member States of the European Economic Community without the express written consent of the Contracting Entity;
- 21.2.4 use and process the personal data specified in clause 21.2.2. only for the performance of the Contract and on the basis of the documented instructions of the Contracting Entity, unless the Contractor is obliged to process the information on the basis of the law applicable to the Contractor. In the latter case, the Contractor shall notify the Contracting Entity of the existence of the respective obligation before processing the information, unless such notification is prohibited by the law applicable to the Contractor due to an important public interest;
- 21.2.5 grant access to the personal data referred to in clause 21.2.2. only to those persons for whom it is necessary for the performance of their duties and to ensure that such persons are aware of and comply with the requirements and laws relating to the processing of personal data, that they have received appropriate training regarding the aforementioned requirements, have undertaken a confidentiality obligation or are subject to an appropriate legal confidentiality obligation. The corresponding confidentiality obligation shall remain in force after the termination of this Contract;
- 21.2.6 undertakes to comply with all applicable requirements for the processing of personal data, legislation and other rules of the European Union and the Republic of Estonia concerning data security and the protection of personal data.
- 21.2.7 undertakes to implement the following organisational, physical, and IT security measures to protect the personal data referred to in clause 21.2.2. from accidental or intentional unauthorised alteration; accidental and deliberate destruction, and to prevent an authorised person from accessing the data, unauthorised processing, including disclosure of:
  - a) prevent unauthorised persons from gaining access to the equipment used for processing personal data;
  - b) prevent unauthorised reading, copying, and alteration of data in a data-processing system, as well as unauthorised removal of data media;
  - c) prevent the unauthorised storage, alteration or erasure of personal data, and ensure that it can be established ex post when, by whom and which personal data were stored, altered or erased or when, by whom and which personal data were accessed in the data processing system;
  - d) ensure that each user of a data processing system has access only to the personal data which they are authorised to process and to the data processing which they are authorised to perform;
  - e) ensure the existence of data on the transfer of personal data: when, to whom and what

personal data were transmitted, as well as the unaltered storage of such data;

- f) ensure that no unauthorised reading, copying, modification or deletion of personal data occurs when personal data are transmitted by data communication equipment or when data media are transported;
- g) keep records of the equipment and software under its control used for the processing of personal data, documenting the following:
  - i. the name, type, and location of the device and the name of the manufacturer of the device;
  - ii. software name, version, manufacturer name and contact details.

21.2.8 notify the Contracting Entity of any breach of the confidentiality obligations set out in clauses 21.2.1 and/or 21.2.2 of this Contract that has occurred or is reasonably suspected; a breach of the security measures set out in clause 21.2.7. and sub-clauses (a) to (g) thereof which causes, has caused or is likely to cause the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed, without delay in writing and no later than 24 (twenty-four) hours after becoming aware of it. The notice shall at least:

- a) describe the nature of the (personal data) breach, including the types and number of data subjects concerned and the types and number of records concerned;
- b) indicate the data protection officer and their contact details or any other contact point where further information can be obtained;
- c) recommend measures to mitigate the possible negative effects of the breach (relating to personal data);
- d) describe the consequences and potential risks for data subjects of the (personal data) breach;
- e) describe the measures proposed or taken by the controller/third party sub-processor to address the (Personal Data) breach; and
- f) provide other information that is reasonably required to enable the Contracting Entity to comply with applicable data protection legislation, including information and publication obligations relating to public authorities, such as information required to identify the data subject.

21.2.9 With the prior written approval of the Contracting Entity, terminate the infringement referred to in clause 21.2.8. of this Contract and apply measures to resolve the infringement (relating to personal data), including, where appropriate, to eliminate and mitigate the possible adverse effects of the infringement;

21.2.10 undertakes to delete all personal data specified in clause 21.2.2. and copies thereof within 30 (thirty) days upon termination of the Contract, unless otherwise provided by law;

21.2.11 make available to the Contracting Entity all information deemed necessary by the Contracting Entity to prove compliance with the obligations set out in the Contract;

21.2.12 enables the Contracting Entity or an auditor authorised by the Contracting Entity to carry out audits and checks and contributes to them;

21.2.13 undertakes, as far as possible, by appropriate technical and organisational measures with regard to the personal data specified in clause 21.2.2., to perform the Contracting Entity's obligation to respond to requests for the exercise of the rights of the data subject and to perform

the acts arising from the exercise of these rights (correction, closure, deletion of data).

- 21.3 The confidentiality requirement provided for in clause 21.2.1. of this Contract does not extend to the disclosure of information to the Contractor's auditor and attorney.
- 21.4 The confidentiality requirement set out in clauses 21.2.1. and 21.2.2. of this Contract shall be of indefinite duration and shall apply both during the performance of the Contract and after its expiry.
- 21.5 Due to the nature of the confidential information, the Contracting Entity has the right to set additional requirements and/or instructions for the processing of personal data.
- 21.6 The Contractor shall impose all obligations in clauses 21.2.1 – 21.4 of this Contract on any third party it uses in the performance of its contractual obligations. A third party is a natural or legal person or a state or local government agency who is neither a Contracting Entity nor a Contractor.

## **22 Suspension and termination of the Contract**

- 22.1 the Contracting Entity may suspend payment, in whole or in part, of the sums due to the Contractor under the Contract, if:
  - 22.1.1 the Contractor fails to perform the Contract;
  - 22.1.2 during receipt, testing or auditing, deficiencies or other violations of obligations by the Contractor are revealed;
  - 22.1.3 the Contracting Entity interferes or threatens to interfere with the timely and correct performance of the obligations under the contract for which the Contractor is responsible.
- 22.2 the Contractor may suspend the provision of the service, in whole or in part, to the Contracting Entity, if:
  - 22.2.1 the Contracting Entity fails to perform the Contract;
  - 22.2.2 the Contractor's timely and correct performance of its obligations under the Contract is prevented or threatened to be prevented by other circumstances for which the Contracting Entity is responsible.
- 22.3 the Contracting Entity may cancel the Contract at any time by giving one (1) month's notice. In such a case, the Contractor has the right to demand a fee for the performed obligations.
- 22.4 the Contracting Entity has the right to terminate the Contract extraordinarily without notice in the event of a material breach of the Contract by the Contractor. The works performed by the Contractor upon termination of the Contract in the cases specified in clause 8.4 shall not be remunerated. The equipment, telecommunications and software supplied by the Contractor shall be returned, or in the case of impossibility thereof or in any other case if the return is precluded due to the nature of the accepted Work, compensation shall be paid pursuant to the procedure provided for in the Law of Obligations Act.
- 22.5 the Contractor may cancel the Contract in the event of a material breach of the Contract by the Contracting Entity after sending a corresponding warning, if the breach has not been remedied within 10 (ten) working days after the submission of the warning. In the event of termination of such a Contract, the Contracting Entity shall pay the Contractor a fee for the performed obligations.
- 22.6 Upon termination of the Contract, the Contractor shall be obliged to return to the Contracting Entity everything delivered for the performance of the Contract.

## **23 Force majeure**



- 23.1 Failure to perform or improper performance of the obligations arising from the Contract shall not be deemed to be a breach of the Contract if this was caused by force majeure. The Parties regard the circumstances specified in subsection 103 (2) of the Law of Obligations Act as force majeure.
- 23.2 A Party whose performance of the obligations under the Contract is hindered due to circumstances of force majeure shall immediately notify the other Party thereof in writing, providing with the notification evidence of the occurrence of all of the following circumstances:
- 23.2.1 the existence of an impediment preventing the proper performance of the obligation;
  - 23.2.2 the location of the impediment outside the obligor's sphere of influence;
  - 23.2.3 the unforeseeable nature of the event;
  - 23.2.4 unavoidable and insurmountable.
- 23.3 Upon the occurrence of circumstances of force majeure, the term of the Contract shall be extended by the period of occurrence of such circumstances. If the circumstances of force majeure cease to exist, the Party must start performing the Contract. If, due to circumstances of force majeure, the performance of the obligations of the Party arising from the Contract is hindered for more than 60 calendar days, the other Party may cancel the Contract.

## **24 Legislation in force**

The Contract and all documents forming part of the Contract shall be governed by the legislation of the Republic of Estonia.

## **25 Settlement of disputes**

- 25.1 By signing this Contract, the Parties confirm that they have read and agree to the Contract and its annexes and fully understand the content of their obligations and the consequences thereof.
- 25.2 In case of misunderstandings or disputes related to or arising from the Contract, the Parties shall endeavour to find a solution through negotiations based on goodwill.
- 25.3 If no agreement is reached, the dispute shall be resolved in Harju County Court.

**PERSONAL AND CONTACT DETAILS****1. Contracting Entity's representative and contact persons**

1.1. The Contracting Entity's representative for signing the acts of acceptance of works, notices and other documents related to the Contract is the Estonian Forensic Science Institute.....

..... (tel. ....; by e-mail .....).

1.2. The Contracting Entity's contact person for supervising the performance of the works and specifying the source information and tasks required by the Contractor, etc., is the Centre of Registers and Information Systems

.....

..... by e-mail

.....).

**2. Contractor's representative and contact persons**

2.1 The Contractor's representative is ..... (tel. ....; by e-mail.....).

2.2 The Contractor's contact person is ..... (tel. ....; by e-mail.....).

**3. Staff list**

3.1. Contracting Entity's staff

No.	Name	Job title	Contact details

3.2. Contractor's staff

No.	Name	Job title	Contact details

**4. Contact details**

4.1. The contact details of the Contracting Entity are:

Estonian Forensic Science Institute

Reg. No. ....

Registry code

.....

.....

..... TALLINN

.....

Telephone: .....

Telephone: .....

4.2. The contact details of the Contractor are:

