



CPVO • OCVV

Community Plant Variety Office
Office Communautaire des Variétés Végétales

OPEN CALL FOR TENDERS N° 2013-05/IT-DEV

*

ANNEX: FRAMEWORK SERVICE CONTRACT (Draft)

FRAMEWORK CONTRACT Nr – **XXXXXX**

The Community Plant Variety Office (hereinafter referred to as "the CPVO"), which has its registered office at 3 boulevard Maréchal Foch – C.S. 10121 – FR-49101 ANGERS Cedex 2 (France), which is represented for the purposes of the signature of this framework service contract by Mr. Martin Ekvad, President of the CPVO,

on the one part,

and

the company **XXXXXX**

(hereinafter referred to as "the Contractor"), represented for the purposes of the signature of this contract by **XXXXXX**

on the other part,

HAVE AGREED

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

- Annex I** – Tender Specifications
- Annex II** – Contractor's Tender n° **XXXXXX** dated **XXXXXX**
- Annex III** – Order Form (draft)

which forms an integral part of this framework service contract (hereinafter referred to as "the Contract").

- The terms set out in the Special Conditions shall take precedence over those in the other parts of the Contract.
- The terms set out in the General Conditions shall take precedence over those in the Annexes.
- The terms set out in the Contract shall take precedence over those in the Orders.
- The terms set out in the Tender Specifications (Annex I) shall take precedence over those in the Tender (Annex II).

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

I – SPECIAL CONDITIONS

ARTICLE I.1 – SUBJECT

- I.1.1** The subject of the Contract is the assignment-based development and setting up of various services accessible via CPVO's extranet site, as well as back-office programs evolution (according to your Tender dated dd/mm/yyyy).
- I.1.2** Signature of the Contract imposes no obligation on the CPVO to purchase. Only implementation of the Contract through orders is binding on the CPVO.
- I.1.3** Once implementation of the Contract has been asked or has commenced, the Contractor shall reply and provide the services in accordance with all terms and conditions of the Contract.
- I.1.4** The Contract does not confers on the Contractor any exclusive right to provide the services described in Annex I to the CPVO.

ARTICLE I.2 – DURATION

- I.2.1** The Contract shall enter into force on the date on which it is signed by the last contracting party, and shall expire when the CPVO has made the final payment.
- I.2.2** Under no circumstances may implementation commence before the date on which the Contract enters into force. Execution of the tasks may under no circumstances begin before the date on which the order enters into force.
- I.2.3** The Contract is concluded for a period of 36 months with effect from the date on which it enters into force. This contractual period and all other periods specified in the Contract are calculated in calendar days unless otherwise indicated.
- I.2.4** The orders shall be returned signed before the Contract to which they refer expires.

The Contract shall continue to apply to such orders after its expiry, but no later than 31 December of the following year the Contract expires.
- I.2.5** The Contract may be renewed once, for a period of 12 months, only before expiry of the Contract and with the express written agreement of the parties. Renewal does not imply any modification or deferment of existing obligations.

ARTICLE I.3 – PRICES

- I.3.1** The prices of the services shall be as listed in Annex II.
- I.3.2** Prices shall be expressed in EUR.
- I.3.3** The total amount referred to in the above paragraph shall be fixed and not subject to revision for implementation during the duration of the Contract.
- I.3.4** If the Contract is renewed prices may be revised upwards or downwards with the express written agreement of the parties. Such revision shall be requested by registered letter no later than three months before the anniversary of the date on which it was signed. The CPVO shall purchase on the basis of the prices in force on the date on which orders are signed.

ARTICLE I.4 – IMPLEMENTATION OF THE CONTRACT

- I.4.1** Within 10 working days of an order form being sent by the CPVO to the Contractor, the CPVO shall receive it back, duly signed and dated. The period allowed for the execution of the tasks shall start to run on the date the Contractor signs the order form, unless a different date is indicated on the form.
- I.4.2** Within 10 working days of a request for services being sent by the CPVO to the Contractor, the CPVO shall receive an estimate of the resources to be allocated for its execution, with particulars in support.



ARTICLE I.5 – PAYMENT PERIODS

Payments under the Contract shall be made in accordance with Article II.4. Payments shall be executed only if the Contractor has fulfilled all his contractual obligations by the date on which the invoice is submitted.

ARTICLE I.6 – BANK ACCOUNT

Payments shall be made to the Contractor's bank account denominated in euro, identified as follows:

Name of bank: XXXXXX
Address of branch: XXXXXX
Exact designation of account holder: XXXXXX
Full account number including codes: XXXXXX
IBAN code: XXXXXX
BIC-ADRESSE SWIFT: XXXXXX

ARTICLE I.7 – GENERAL ADMINISTRATIVE PROVISIONS

Any communication relating to the Contract or to its implementation shall be made in writing and shall bear the Contract and order numbers. Ordinary mail shall be deemed to have been received by the CPVO on the date on which it is registered by the department responsible indicated below. Communications shall be sent to the following addresses:

CPVO: Community Plant Variety Office
Administration Unit
3 Boulevard Maréchal Foch – C.S. 10121
FR - 49101 ANGERS Cedex 2 (France)

Contractor: XXXXXX
XXXXXXXX
XXXXXXXX
XXXXXXXX

ARTICLE I.8 – APPLICABLE LAW AND SETTLEMENT OF DISPUTES

I.8.1 The Contract shall be governed by the national substantive law of France.

I.8.2 Any dispute between the parties resulting from the interpretation or application of the Contract which cannot be settled amicably shall be brought before the court of Angers.

ARTICLE I.9 – DATA PROTECTION

Any personal data included in the Contract shall be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. It shall be processed solely for the purposes of the performance, management and follow-up of the Contract by the CPVO without prejudice to possible transmission to the bodies charged with a monitoring or inspection task in conformity with Community law. The Contractor shall have the right of access to his personal data and the right to rectify any such data that is inaccurate or incomplete. Should the Contractor have any queries concerning the processing of his personal



data, he shall address them to the CPVO. The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.

ARTICLE I.10 – OTHER SPECIAL CONDITIONS

I.10.1. Assignment of Ownership

- (a) Contractor shall develop as set up in the technical and financial specifications of the CPVO and assign sole, as far as held by the Contractor, ownership of any Intellectual property rights related to the deliverables to the CPVO, including, but not limited to trademark and copyright and in accordance with the awarding Contract.
- (b) Should the CPVO need any updates, by means of any and all upgrades, revisions, additions, modifications, enhancements to the report, the Contractor agrees that the CPVO has sole right to provide and develop such updates, without prior information to Contractor and will retain the sole ownership of such updates hereof.

I.10.2. Warranty

- (a) Contractor warrants that he has sufficient rights and interest to grant the transfer of any and all Intellectual property rights to the CPVO granted under the Service Contract to the extent that this is permitted under licensing conditions of the producer.
- (b) In case those Intellectual property rights are the property of third parties, the Contractor guarantees that is has requested and obtained those third parties' written authorisation to grant to the CPVO the assignment of their Intellectual property rights to the extent provided under the Service Contract.

ARTICLE I.11 – TERMINATION BY EITHER CONTRACTING PARTY

Either contracting party may, of its own volition and without being required to pay compensation, terminate the Contract by serving a two months formal prior notice. Should the CPVO terminate the Contract, the Contractor shall only be entitled to payment corresponding to the services ordered and delivered before the termination date. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimize costs, prevent damage, and cancel or reduce his commitments. He shall draw up the documents required by the Special Conditions for the services delivered and services rendered up to the date on which termination takes effect, within a period not exceeding sixty days from that date.



II – GENERAL CONDITIONS

ARTICLE II. 1 – PERFORMANCE OF THE CONTRACT

- II.1.1** The Contractor shall perform the Contract to the highest professional standards. The Contractor shall have sole responsibility for complying with any legal obligations incumbent on him, notably those resulting from employment, tax and social legislation.
- II.1.2** The Contractor shall have sole responsibility for taking the necessary steps to obtain any permit or licence required for performance of the Contract under the laws and regulations in force at the place where the tasks assigned to him are to be executed.
- II.1.3** Without prejudice to Article II.3 any reference made to the Contractor's staff in the Contract shall relate exclusively to individuals involved in the performance of the Contract.
- II.1.4** The Contractor must ensure that any staff member performing the Contract has the professional qualifications and experience required for the execution of the tasks assigned to him.
- II.1.5** The Contractor shall neither represent the CPVO nor behave in any way that would give such an impression. The Contractor shall inform third parties that he does not belong to the European public service.
- II.1.6** The Contractor shall have sole responsibility for the staff who executes the tasks assigned to him.
The Contractor shall make provision for the following employment or service relationships with his staff:
- staff executing the tasks assigned to the Contractor may not be given orders direct by the CPVO;
 - the CPVO may not under any circumstances be considered to be the staff's employer and the said staff shall undertake not to invoke in respect of the CPVO any right arising from the contractual relationship between the CPVO and the Contractor.
- II.1.7** In the event of disruption resulting from the action of a member of the Contractor's staff working on CPVO premises or in the event of the expertise of a member of the Contractor's staff failing to correspond to the profile required by the Contract, the Contractor shall replace him without delay. The CPVO shall have the right to request the replacement of any such member of staff, stating its reasons for so doing. Replacement staff must have the necessary qualifications and be capable of performing the Contract under the same contractual conditions. The Contractor shall be responsible for any delay in the execution of the tasks assigned to him resulting from the replacement of staff in accordance with this Article.
- II.1.8** Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and on his own initiative record it and report it to the CPVO. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the Contractor to ensure full compliance with his obligations under the Contract. In such event the Contractor shall give priority to solving the problem rather than determining liability.
- II.1.9** Should the Contractor fail to perform his obligations under the Contract in accordance with the provisions laid down therein, the CPVO may - without prejudice to its right to terminate the Contract - reduce or recover payments in proportion to the scale of the failure. In addition, the CPVO may impose penalties or liquidated damages provided for in Article II.16.

ARTICLE II. 2 – LIABILITY

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



- II.2.2** The Contractor shall be liable for any loss or damage caused by himself in performance of the Contract, including in the event of subcontracting under Article II.13. The CPVO shall not be liable for any act or default on the part of the Contractor in performance of the Contract.
- II.2.3** The Contractor shall provide compensation in the event of any action, claim or proceeding brought against the CPVO by a third party as a result of damage caused by the Contractor in performance of the Contract.
- II.2.4** In the event of any action brought by a third party against the CPVO in connection with performance of the Contract, the Contractor shall assist the CPVO. Expenditure incurred by the Contractor to this end may be borne by the CPVO.
- II.2.5** The Contractor shall take out insurance against risks and damage relating to performance of the Contract if required by the relevant applicable legislation. He shall take out supplementary insurance as reasonably required by standard practice in the industry. A copy of all the relevant insurance contracts shall be sent to the CPVO should it so request.

ARTICLE II. 3 - CONFLICT OF INTERESTS

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

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

- II.3.2** The Contractor shall abstain from any contact likely to compromise his independence.
- II.3.3** The Contractor declares:
 - that he has not made and will not make any offer of any type whatsoever from which an advantage can be derived under the Contract,
 - that he has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to performance of the Contract.
- II.3.4** The Contractor shall pass on all the relevant obligations in writing to his staff, board, and directors as well as to third parties involved in performance of the Contract. A copy of the instructions given and the undertakings made in this respect shall be sent to the CPVO should it so request.

ARTICLE II. 4 – INVOICING AND PAYMENTS

- II.4.1** Pre-financing: Not Applicable
- II.4.2** Interim payment: Not Applicable
- II.4.3** Payment of the balance:



Within sixty days of completion of the tasks referred to in each order or specific contract, the Contractor shall submit to the CPVO a formal request for payment accompanied by those of the following documents, which are provided for in the Special Conditions:

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

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

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

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

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

ARTICLE II. 5 – GENERAL PROVISIONS CONCERNING PAYMENTS

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

II.5.2 The payment periods referred to in Article I.5 may be suspended by the CPVO at any time if it informs the Contractor that his payment request is not admissible, either because the amount is not due or because the necessary supporting documents have not been properly produced. In case of doubt on the eligibility of the expenditure indicated in the payment request, the CPVO may suspend the time limit for payment for the purpose of further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the expenditure is eligible.

The CPVO shall notify the Contractor accordingly by registered letter with acknowledgment of receipt or equivalent. Suspension shall take effect from the date of dispatch of the letter. The remainder of the period referred to in Article I.5 shall begin to run again once the suspension has been lifted.

II.5.3 In the event of late payment the Contractor may claim interest within two months of receiving the payment. Interest shall be calculated at the rate applied by the European Central Bank to its most recent main refinancing operations (*"the reference rate"*) plus seven percentage points (*"the margin"*). The reference rate in force on the first day of the month in which the payment is due shall apply. Such interest rate is published in the C series of the Official Journal of the European Union. Interest shall be payable for the period elapsing from the calendar day following expiry of the time limit for payment up to the day of payment. Suspension of payment by the CPVO may not be deemed to constitute late payment.

ARTICLE II. 6 – RECOVERY

II.6.1 If total payments made exceed the amount actually due or if recovery is justified in accordance with the terms of the Contract, the Contractor shall reimburse the appropriate amount in euro on receipt of the debit note, in the manner and within the time limits set by the CPVO.

II.6.2 In the event of failure to pay by the deadline specified in the request for reimbursement, the sum due shall bear interest at the rate indicated in Article II.5.3. Interest shall be payable from the calendar day following the due date up to the calendar day on which the debt is repaid in full.

II.6.3 In the event of failure to pay by the deadline specified in the request for reimbursement, the CPVO may, after informing the Contractor, recover amounts established as certain, of a fixed amount and



due by offsetting, in cases where the Contractor also has a claim on the Communities that is certain, of a fixed amount and due. The CPVO may also claim against the guarantee, where provided for.

ARTICLE II. 7 - REIMBURSEMENTS

- II.7.1** Where provided by the Special Conditions or by Annex I, the CPVO shall reimburse the expenses that are directly connected with execution of the tasks on production of original supporting documents, including receipts and used tickets.
- II.7.2** Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary.
- II.7.3** Travel expenses shall be reimbursed as follows:
- a) travel by air shall be reimbursed up to the maximum cost of an economy class ticket at the time of the reservation;
 - b) travel by boat or rail shall be reimbursed up to the maximum cost of a first class ticket;
 - c) travel by car shall be reimbursed at the rate of one first class rail ticket for the same journey and on the same day;
 - d) travel outside Community territory shall be reimbursed under the general conditions stated above provided the CPVO has given its prior written agreement.
- II.7.4** Subsistence expenses shall be reimbursed on the basis of a daily allowance as follows:
- a) for journeys of less than 200 km (return trip) no subsistence allowance shall be payable;
 - b) daily subsistence allowance shall be payable only on receipt of a supporting document proving that the person concerned was present at the place of destination;
 - c) daily subsistence allowance shall take the form of a flat-rate payment to cover all subsistence expenses, including accommodation, meals, local transport, insurance and sundries;
 - d) daily subsistence allowance, where applicable, shall be reimbursed at the rate specified in Article I.3.
- II.7.5** The cost of shipment of equipment or unaccompanied luggage shall be reimbursed provided the CPVO has given prior written authorisation.

ARTICLE II. 8 – OWNERSHIP OF THE RESULTS - INTELLECTUAL AND INDUSTRIAL PROPERTY

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

ARTICLE II. 9 – CONFIDENTIALITY

- II.9.1.** The Contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to performance of the Contract. The Contractor shall continue to be bound by this undertaking after completion of the tasks.
- II.9.2.** The Contractor shall obtain from each member of his staff, board and directors an undertaking that they will respect the confidentiality of any information which is linked, directly or indirectly, to execution of the tasks and that they will not divulge to third parties or use for their own benefit or that of any third party any document or information not available publicly, even after completion of the tasks.

ARTICLE II.10 - USE, DISTRIBUTION AND PUBLICATION OF INFORMATION



- II.10.1** The Contractor shall authorise the CPVO to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in or relating to the Contract, in particular the identity of the Contractor, the subject matter, the duration, the amount paid and the reports. Where personal data is concerned, Article 1.9 shall apply.
- II.10.2** Unless otherwise provided by the Special Conditions, the CPVO shall not be required to distribute or publish documents or information supplied in performance of the Contract. If it decides not to publish the documents or information supplied, the Contractor may not have them distributed or published elsewhere without prior written authorisation from the CPVO.
- II.10.3** Any distribution or publication of information relating to the Contract by the Contractor shall require prior written authorisation from the CPVO and shall mention the amount paid by the Community. It shall state that the opinions expressed are those of the Contractor only and do not represent the CPVO's official position.
- II.10.4** The use of information obtained by the Contractor in the course of the Contract for purposes other than its performance shall be forbidden, unless the CPVO has specifically given prior written authorisation to the contrary.

ARTICLE II. 11 – TAXATION

- II.11.1** The Contractor shall have sole responsibility for compliance with the tax laws which apply to him. Failure to comply shall make the relevant invoices invalid.
- II.11.2** The Contractor recognises that the CPVO is, as a rule, exempt from all taxes and duties, including value added tax (VAT), pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities.
- II.11.3** The Contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that the goods and services required for performance of the Contract are exempt from taxes and duties, including VAT.
- II.11.4** Invoices presented by the Contractor shall indicate his place of taxation for VAT purposes and shall specify separately the amounts not including VAT and the amounts including VAT.

ARTICLE II. 12 – FORCE MAJEURE

- II.12.1** Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the contracting parties which prevents either of them from performing any of their obligations under the Contract, was not due to error or negligence on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a relevant case of force majeure.
- II.12.2** Without prejudice to the provisions of Article II.1.8, if either contracting party is faced with force majeure, it shall notify the other party without delay by registered letter with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.
- II.12.3** Neither contracting party shall be held in breach of its contractual obligations if it has been prevented from performing them by force majeure. Where the Contractor is unable to perform his contractual obligations owing to force majeure, he shall have the right to remuneration only for tasks actually executed.
- II.12.4** The contracting parties shall take the necessary measures to reduce damage to a minimum.

ARTICLE II. 13 – SUBCONTRACTING



- II.13.1** The Contractor shall not subcontract without prior written authorisation from the CPVO nor cause the Contract to be performed in fact by third parties.
- II.13.2** Even where the CPVO authorises the Contractor to subcontract to third parties, he shall none the less remain bound by his obligations to the CPVO under the Contract and shall bear exclusive liability for proper performance of the Contract.
- II.13.3** The Contractor shall make sure that the subcontract does not affect rights and guarantees to which the CPVO is entitled by virtue of the Contract, notably Article II.17.

ARTICLE II. 14 – ASSIGNMENT

- II.14.1** The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from the CPVO.
- II.14.2** In the absence of the authorisation referred to in 1 above, or in the event of failure to observe the terms thereof, assignment by the Contractor shall not be enforceable against and shall have no effect on the CPVO.

ARTICLE II. 15 – TERMINATION BY THE CPVO

- II.15.1** The CPVO may terminate the Contract, a pending order or a specific contract in the following circumstances:
- (a) where the Contractor is being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
 - (b) where the Contractor has been convicted of an offence concerning his professional conduct by a judgment which has the force of *res judicata*;
 - (c) where the Contractor has been guilty of grave professional misconduct proven by any means which the CPVO can justify;
 - (d) where the Contractor has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed;
 - (e) where the CPVO seriously suspects the Contractor of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
 - (f) where the Contractor is in breach of his obligations under Article II.3;
 - (g) where the Contractor was guilty of misrepresentation in supplying the information required by the CPVO as a condition of participation in the Contract procedure or failed to supply this information;
 - (h) where a change in the Contractor's legal, financial, technical or organisational situation could, in the CPVO's opinion, have a significant effect on the performance of the Contract;
 - (i) where execution of the tasks under a pending order or a specific contract has not actually commenced within fifteen days¹ of the date foreseen, and the new date proposed, if any, is considered unacceptable by the CPVO;
 - (j) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of the Contract;

¹ This period can be modified in the Special Conditions depending on the nature of the contract.



(k) where the Contractor, after receiving formal notice in writing to comply, specifying the nature of the alleged failure, and after being given the opportunity to remedy the failure within a reasonable period following receipt of the formal notice, remains in serious breach of his contractual obligations.

II.15.2 In case of force majeure, notified in accordance with Article II.12, either contracting party may terminate the Contract, where performance thereof cannot be ensured for a period corresponding to at least to one fifth of the period laid down in Article I.2.3.

II.15.3 Prior to termination under point e), h) or k), the Contractor shall be given the opportunity to submit his observations.

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

II.15.4 Consequences of termination:

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

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

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

ARTICLE II. 16 – LIQUIDATED DAMAGES

Should the Contractor fail to perform his obligations under the Contract within the time limits set by the Contract, then, without prejudice to the Contractor's actual or potential liability incurred in relation to the Contract or to the CPVO's right to terminate the Contract, the CPVO may decide to impose liquidated damages of 0.2%¹ of the amount of the relevant purchase per calendar day of delay. The Contractor may submit arguments against this decision within thirty days of notification by registered letter with acknowledgement of receipt or equivalent. In the absence of reaction on his part or of written withdrawal by the CPVO within thirty days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable. These liquidated damages shall not be imposed where there is provision for interest for late completion. The CPVO and the Contractor expressly acknowledge and agree that any sums payable under this Article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses that may be reasonably anticipated from such failure to perform obligations.

ARTICLE II. 17 – CHECKS AND AUDITS

II.17.1 Pursuant to Article 142 of the Financial Regulation applicable to the general budget of the European Communities, 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 Communities from signature of the Contract up to five years after payment of the balance of the last implementation.

¹ The daily rate for liquidated damages may be modified in the Special Conditions where the subject of the contract so justifies.



II.17.2 The CPVO 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 five years after payment of the balance of the last implementation.

II.17.3 In addition, the European Anti-Fraud Office may carry out on-the-spot checks and inspections in accordance with Council Regulation (Euratom, EC) No 2185/96 and Parliament and Council Regulation (EC) No 1073/1999 from signature of the Contract up to five years after payment of the balance of the last implementation.

ARTICLE II. 18 – AMENDMENTS

Any amendment to the Contract shall be the subject of a written agreement concluded by the contracting parties. An oral agreement shall not be binding on the contracting parties. An order or a specific contract may not be deemed to constitute an amendment to the Contract.

ARTICLE II. 19 – SUSPENSION OF THE CONTRACT

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

SIGNATURES

For the Contractor,

XXXXXX
XXXXXX

For the CPVO,

Martin Ekvad, President

signature: _____

signature: _____

Done at Angers, date XXXXXX

In duplicate in English



ANNEX I

Tender Specifications



ANNEX II

Contractor's Tender n° *XXXXXX* dated *XXXXXX*



ANNEX III

Order Form (draft)





CPVO • OCVV

Community Plant Variety Office
Office Communautaire des Variétés Végétales

3, Bd. Maréchal Foch • BP 10121
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COMPANY Name
Address

Document : **ORDER FORM**

Your Ref. :

N° :
Date :
Budget :
EPM :

Post	Heading	Quantity	Total Price (EUR)	Total Price (EUR)

DELIVERY DATE :

PAIEMENT TERMS : 30 days after reception of invoice

Total :	0,00
V.A.T : X %	0,00
Total due :	0,00

DELIVERY PLACE :
Community Plant Variety Office
Administration Unit
3, Bd. Maréchal Foch - C.S. 10121
49101 ANGERS Cedex 2 - France

INVOICING ADDRESS :
Community Plant Variety Office
Administration Unit
3, Bd. Maréchal Foch - C.S. 10121
49101 ANGERS Cedex 2 - France

- La présente commande est régie par les dispositions du contrat cadre n°
- Elle implique toute renonciation à toutes autres conditions de vente ou travaux.
- Les Communautés Européennes sont exonérées de tous droits de taxes et toutes interdictions sur les importations et exportations de marchandises destinées à leur usage officiel (art 3 et 4 du chapitre 1 du Protocole sur les privilèges et immunités des Communautés européennes).

James MORAN
Head of Administration Unit

Signature

