

DRAFT CONTRACT FOR THE PERFORMANCE OF WORKS

Alberto Giovannini Programme for Data Science 2022-2023

between

The European Central Bank (the 'ECB')
Sonnemannstraße 20
60314 Frankfurt am Main
Germany

and

<insert Contractor's name> (the 'Contractor')
<insert Contractor's address>

(jointly the 'Parties')

1. Contract documents

The following documents together form this contract (the 'Contract') and, in the event of there being differences between the terms in these documents they shall take precedence over each other in the following ranking and order:

- (a) this contract document (the 'Contract sheet');
- (b) Annex 1 - the ECB's specific contract terms (SCTs) for the performance of works;
- (c) Annex 2 - the ECB's general contract terms (GCTs);
- (d) Annex 3 - restrictions on private financial transactions;
- (e) Annex 4 - declaration of compliance with standards of behaviour;
- (f) Annex 5 - terms of reference for the reimbursement of expenses incurred by Contractors appointed under the Alberto Giovannini Programme for Data Science;
- (g) Annex 6 - call for proposals for the Alberto Giovannini Programme for Data Science;

- (h) Annex 7 - declaration of prior assignments;
- (i) Annex 8 - EMIR confidentiality undertaking;
- (j) Annex 9 - the Contractor's offer.

Provisions which are preceded by a checkbox shall only apply if the checkbox is ticked. If the checkbox is not ticked they do not form part of this Contract.

2. Scope of the Contract

The Contractor shall provide the works (the 'Deliverables') to the ECB and/or the European Systemic Risk Board (ESRB) as specified in Annex 6, within the scope of the Alberto Giovannini Programme for Data Science, the aim of which is to develop novel analytical insights exploiting the wealth of information on transactions in financial derivatives which is available to the ESRB via the European Market Infrastructure Regulation (EMIR)¹.

The Contractor's contact point at the ECB/ESRB shall be the Directorate/Directorate General <insert procuring DG>. The contract manager for the Contract shall be the Head of the ESRB Secretariat, for whom the following contact details should be used:

Mailing address: Head of the Secretariat of the European Systemic Risk Board

European Central Bank
Sonnemannstrasse, 20
60314 Frankfurt am Main
Germany

Email address: EMIR-AG@esrb.europa.eu

<input checked="" type="checkbox"/> The Deliverables constitute intellectual work (reports, studies and similar deliverables) pursuant to Section 4.2 of the SCTs.
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3. Performance of the Contract

The Contract shall enter into force on dd/mm/yyyy and shall remain in force until dd/mm/yyyy. At the discretion of the ECB, the Contract may be extended for terms which do not cumulatively exceed the initial duration of the Contract (xx months). The ECB shall notify the Contractor in writing of its intent to extend the Contract at least one month prior to its expiration.

The Contractor shall provide the Deliverables , 23:59 CET.

¹ Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

A contractual penalty for delay pursuant to Section 3.2 of the SCTs shall apply.

The Contractor shall deploy a sufficient number of staff to fulfil the Contract and the conditions of Section 4.3 of the GCTs shall apply.

4. Acceptance and remuneration

Section 4 of the SCTs shall apply to the acceptance of the Deliverables.

The provision of the Deliverables shall be unremunerated. If the ECB requests the Contractor to provide the Deliverables on the ECB's premises, the ECB shall reimburse travel expenses as well as accommodation and subsistence costs, in accordance with the terms set out in Annex 5, up to a maximum amount of:

- EUR 60,000 for the entire duration of the Contract for a Contractor that has permanent residence in the Union or in the UK, Iceland, Liechtenstein, Norway or Switzerland;
- EUR 80,000 for the entire duration of the Contract for a Contractor that has permanent residence in any other country.

Note that these maximum thresholds do not apply per person but to the Contractor inclusive of her/his project team if she/he chooses to select a project team.

The Contractor shall sign and submit all claims for reimbursement on behalf of the team. Claims shall be submitted on a monthly basis, following visits to the ECB premises for working days connected to the delivery of the project. Details on the reimbursement process can be found in Annex 5.

Prices shall remain stable for the duration of the Contract.

The Contractor shall submit to the ECB invoices at the following intervals: . Section 7 of the GCTs shall apply.

The Deliverables shall be remunerated as follows:

- Price sheet: The ECB shall pay in accordance with the Price sheet contained in Annex 4.
- Fixed price: The ECB shall pay a fixed amount of EUR for the provision of the Deliverables as a one-off payment.
 - Instalments: The ECB shall pay instalments upon completion of the following milestones further described in Annex 3 and Annex 4 to this Contract:
- Rates: The ECB shall pay for the Deliverables based on the time expended at a... rate of EUR
 - Overtime pursuant to Section 6.3 of the GCTs requested or approved by the ECB shall be remunerated at the hourly rate of EUR , unless it is compensated in kind.
 - Warning ceiling: The total fee for the Contractor's Deliverables shall not exceed EUR . The Contractor shall inform the ECB without undue delay as soon as it

becomes aware that this warning ceiling may be exceeded, and it shall await the ECB's confirmation before continuing to provide the Deliverables if this would result in the warning ceiling being reached or exceeded. The ECB shall not remunerate time spent that exceeds the warning ceiling which it has not approved in writing.

5. Particular conditions

(a) Data access

Access to the data specified in the call for proposals, provided it is approved by the ECB, shall be granted by the ECB on a case-by-case basis upon prior request. The Contractor shall only access the data in the presence of an ECB staff member or be specifically authorized on a case-by-case basis to access it without an ECB staff member being present.

(b) Confidentiality

EMIR data shall be considered as Confidential Information under the Contract and include all information related to EMIR, namely facts, data and any other matters related to individual financial institutions, an individual central counterparty, trade repository or any other person (including, but not limited to, individual-specific results and methodological aspects), which have been provided to the ESRB and of which the Contractor acquires knowledge, either directly or indirectly, in the performance of the Contract. Sections 2, 9, 11 and 14 of the GCTs shall apply.

(c) Publication and intellectual property

Notwithstanding Section 5 of the SCTs and Section 14 of the GCTs, the Contractor shall have the non-exclusive right to use the Work results and any intellectual property therein for non-commercial, academic and research purposes, including publication in accordance with this paragraph.

Research papers containing the results of the collaborative research project that fall under the scope of the Contract may be co-authored by the Contractors and the ECB/ESRB staff members who contributed significantly to the joint project. Notwithstanding such co-authorship, the ECB/ESRB shall have the first right to publish such a paper at its own cost in an official ECB/ESRB publication following its submission to, and subject to acceptance for publication for, the relevant Editorial Board in line with the relevant procedures (e.g. the ECB/ESRB Working Paper Series).

Where the Contractor wishes to publish any full or partial publication of the Deliverables or of derivative works meaningfully or directly based on (e.g. contains non-negligible extracts from) the Deliverables (including on the data used in the production of the Deliverables) in other working papers and/or journals following publication of the research paper in an official ECB/ESRB publication, the Contractor shall

send the proposed publication to the ECB/ESRB for review prior to submission for publication. The ECB/ESRB may request within a reasonable time the removal of any confidential information within the meaning of Section 2 of the GCTs it may deem necessary. Should this consent be granted, the publication shall be carried out at the Contractor's own cost. Any publication by the Contractor shall include the following disclaimer: 'the views expressed in this publication are those of the authors and do not necessarily reflect the official stance of the ESRB/ECB, its member institutions or the institutions to which the authors are affiliated'.

The liability of either of the Parties for any breach of this Agreement, or arising in any other way out of the subject matter of this Agreement, will not extend to loss of business or profit, or to any indirect or consequential damages or losses.

The ECB/ESRB shall not be held liable for any loss, damage or misuse resulting from any future use of the shared intellectual property and results produced within the scope of the Contract by the Contractor. For the avoidance of doubt, future commercial use either for or not for profit is prohibited.

(d) Cancellation of programme

In accordance with Article 5.1 of the Call for Proposal, the ESRB/ECB reserve the right to postpone or cancel the programme. Should this be the case, the Contractor will be informed accordingly.

IN WITNESS WHEREOF the undersigned, being duly authorised, have signed this Contract:

European Central Bank:

Contractor:

Frankfurt am Main, date

Place, date

First Contractor's signatory

Position

European Systemic Risk Board - Secretariat:

Frankfurt am Main, date



The European Central Bank's specific contract terms for the performance of works

Section 1 - Scope of Application

These specific contract terms (SCTs) for the performance of works shall apply to all kinds of contracts for the provision of works as defined in Section 631 – 650o of the German Civil Code (*Bürgerliches Gesetzbuch*) unless the Contract sheet specifies that different conditions shall apply. The SCTs form an integral part of the contract between the ECB and the Contractor (the 'Contract').

Section 2 - Scope of the Work

2.1 The Contractor shall perform the work defined in the Contract sheet and its Annexes ('Deliverables').

2.2 The ECB may, within reasonable limits and within the limits of the scope stipulated in the Contract and its Annexes, specify the scope of the Deliverables and how they are to be performed by means of instructions in line with the ECB Procurement Rules. The Contractor shall comply with such instructions.

2.3 Unless specified otherwise, the Contractor shall provide the Deliverables in English and all communication between the ECB and the Contractor shall be in English.

Section 3 - Contractual dates, penalty for delay

3.1 The Contractor shall perform the Deliverables by the dates set out in the Contract sheet. The Contractor shall immediately notify the ECB in writing if the Deliverables cannot be performed by the agreed dates. The Contractor may request an extension of the agreed contractual dates by a reasonable period of time if the Contractor can prove that the delay is due to reasons for which it is not responsible.

3.2 If a contractual penalty for delay has been agreed in the Contract sheet, the following shall apply: If the Contractor fails to complete the Deliverables by the agreed date, the Contractor shall pay a penalty of 0.2 % of the agreed net Contract value for each Working day of delay, unless the Contractor can prove that it is not responsible for the delay. The total amount of the penalty for delay shall not exceed 5 % of the agreed net Contract value. The ECB may reserve the right to assert the contractual penalty until the final invoice falls due for payment. This penalty shall not prevent the ECB claiming further damages for delay.

3.3 A contractual penalty that has been incurred shall be deducted from a damages claim due to the same default. Section 8.4 of the GCTs applies.

Section 4 - Acceptance

4.1 Except where intellectual work is the subject matter of the Contract, on completion of the Deliverables the Contractor shall request the ECB to formally accept the Deliverables. The ECB shall review the Deliverables and issue an acceptance certificate to the Contractor within 10 working days of receiving the request or reject the acceptance according to Section 4.5.

4.2 If intellectual work (reports, studies and similar Deliverables) forms the subject matter of the Contract, on completion of the Deliverables, the Contractor shall submit the Deliverables to the ECB in the agreed format. The ECB may ask the Contractor to present the Deliverables to the ECB. The ECB shall review the Deliverables within 10 Working days of its submission or presentation, as the case may be. Either the ECB shall issue an acceptance certificate for the Deliverables as submitted, or it shall request the Contractor to correct

or amend the Deliverables in response to any comments of the ECB and re-submit it within a reasonable time limit set by the ECB. The ECB shall review the revised Deliverables, and issue an acceptance certificate to the Contractor or reject the acceptance according to Section 4.5 within 10 calendar days of receiving the revised Deliverables.

4.3 Unless agreed otherwise in the Contract sheet, partial acceptances are excluded. If the Contract sheet provides for the ECB to pay instalments for the delivery of part of the work ('milestones'), such payment shall not constitute partial acceptance.

4.4 Implied acceptances are excluded. However, if the Contractor has set a reasonable deadline for the ECB to accept the Deliverables and the ECB fails to reject the acceptance specifying at least one defect within this deadline, the Deliverables shall be deemed to have been accepted.

4.5 ECB may refrain from issuing an acceptance certificate if the Deliverables do not meet the contractual requirements, unless the outstanding work or defects are minor in kind and extent and will not substantially affect the use of the Deliverables for their intended purpose. If the Contractor cannot remedy substantial defects within a reasonable time limit set by the ECB, the ECB may avail itself of remedies provided for by statutory law.

4.6 The Contractor shall remedy any minor defects listed in the acceptance certificate within the reasonable time limit set by the ECB or, if no time limit is specified, without undue delay.

Section 5 - Intellectual Property Rights

5.1 Unless otherwise agreed, the Contractor hereby transfers to the ECB, and the ECB accepts, all of its present and future transferable rights and claims in and to the Deliverables and to all documents, data, information, scripts, tools, presentations and other work results that the Contractor produces in carrying out the Deliverables, either alone or together with third parties, (together the 'Work results'), in each case as from the time when such rights are or will be created, so that the ECB becomes the owner of all such rights in the Work results. Only the ECB shall be entitled (but not obliged) to apply to register worldwide intellectual property rights for the Work results in its own name and shall become the owner of all such intellectual property right applications and all resulting intellectual property rights.

5.2 To the extent that the rights in the Work results are not transferable as such (particularly in the case of copyrights under German law), the Contractor hereby irrevocably grants to the ECB, and the ECB accepts, the exclusive right to use the Work results from the moment the Work results are protected by law. The ECB's right of use shall not be subject to any restriction in terms of time, place or application and it shall cover all forms of use known at the time of entering into this Contract.

5.3 The right to use granted in Section 5.2 shall include in particular, but not limited to, the rights to copy, distribute, process, modify, further develop and/or dispose of the Work results or create derivative works based on the Work results and use them to the same extent as the original results. The granting of rights refers also to types of use unknown at the present time, whereby the Contractor's mandatory rights provided for under the applicable law (e.g. with regard to a withdrawal or an adequate remuneration), if any, shall remain unaffected.

5.4 The ECB may transfer the rights of use or may grant rights thereon (sublicenses) to third parties in whole or in part.

5.5 The Contractor's rights (in particular moral rights), if any, shall remain unaffected.

5.6 Without prejudice to Section 5.1 above, the Contractor shall remain the owner of all rights relating to documents, tools, methodologies, processes, ideas and know-how that the Contractor developed/owned prior to entering into the Contract or develops/acquires independently of the Deliverables ('Pre-existing deliverables'). If Pre-existing deliverables are made available to the ECB under the Contract, the Contractor shall grant to the ECB the irrevocable, non-exclusive, perpetual right to use, copy and distribute such Pre-existing deliverables internally and within the European System of Central Banks to the extent that such use is necessary in order to use the Deliverables in accordance with the Contract.

5.7 The Contractor hereby transfers and assigns to the ECB its ownership of all physical items containing, embodying or representing the Work results. ECB hereby accepts such transfer and assignment.

5.8 The charge for transferring ownership rights and granting the rights of use set out in Sections 5.1 to 5.7 is included in the agreed remuneration.

5.9 The Contractor represents and warrants (i) that it is authorised to transfer and grant the rights as set out in Sections 5.1 to 5.7 and (ii) that the use of such rights, of the Work results and of the Deliverables by the ECB in accordance with this Contract does not infringe any third party rights. In the event of a dispute the Contractor shall indemnify the ECB from and hold it harmless against all third party claims in accordance with statutory law.

Section 6 - Duration and termination

In addition to Section 12 of the GCTs, the following shall apply:

6.1 The Contract shall become effective upon its signature by both Parties. Subject to the agreed warranty period and notwithstanding any specific delivery dates agreed in the Contract sheet, it shall remain in force until the Deliverables are finally accepted, including the correction of all reserved minor defects, or until the Contract is terminated in accordance with its terms or in accordance with any statutory provision.

6.2 The ECB may terminate (*kündigen*) this Contract at any time and without cause in accordance with Section 648 of the German Civil Code (*Bürgerliches Gesetzbuch*).

6.3 If the ECB terminates this Contract in accordance with Section 6.2, the Contractor may claim the agreed remuneration. However, the Contractor shall allow the ECB credit for expenses which it saves by virtue of the termination and for the income which it obtains, or maliciously fails to obtain, by using its workforce elsewhere. The saved expenses shall be determined in accordance with statutory law.

6.4 If a Party terminates the Contract in accordance with Section 12.4 of the GCTs, the Contractor may claim remuneration for the part of the Deliverables duly delivered up to the date of termination, provided however that in the event the Contractor has caused the reason for termination in accordance with Section 12.4 of the GCTs, the Contractor may only claim remuneration] to the extent that the parts of the Deliverables duly delivered up to the date of termination are of value for the ECB.

6.5 If a Party terminates the Contract in accordance with Section 12.4 of the GCTs, also a partial termination shall be possible with regard to separable (*abgrenzbare*) parts of the Deliverables. Section 648a para. 2 of the German Civil Code (*Bürgerliches Gesetzbuch*) shall apply.

6.6 If this Contract is a Framework Agreement the Contract shall become effective upon its signature by both Parties and shall remain in force for the period of time defined in the Contract sheet or, if no

fixed term is agreed, until the completion of the Deliverables, or until the Contract is terminated in accordance with its terms or in accordance with any statutory provision.

Section 7 - Warranty

7.1 The Contractor's warranty for defects shall be governed by statutory provisions.

7.2 The statutory limitation periods shall apply for claims based on defects.



The European Central Bank's general contract terms

Section 1 - Scope of application

1.1 These general contract terms (GCTs) apply to all works carried out for the European Central Bank (ECB) and to the provision of all services and products to the ECB. They form an integral part of the Contract between the ECB and the Contractor.

1.2 In the event of a conflict between the GCTs and the terms in the Contract sheet or any applicable specific contract terms (SCTs), the terms in the Contract sheet prevail over the SCTs, which shall prevail over the GCTs.

1.3 The Contractor's general terms and conditions shall not apply.

Section 2 - Definitions

The following terms have the meanings given below:

- a) 'Annex' means an annex to the Contract sheet.
- b) 'Confidential information' means any information, data or documents that the ECB has classified, orally or in writing, as 'ECB-Restricted', 'ECB-Confidential' or 'ECB-Secret', or which a reasonable contractor would consider to be confidential. Confidential information shall not include: (i) information which is or which becomes publicly available, except through a breach of confidentiality by the Contractor, any other circumstance the Contractor is responsible for; or (ii) information for which the ECB has given written authorisation for disclosure.
- c) 'Contract' means the Contract sheet and any annexes to it, including the GCTs and any SCTs.
- d) 'Contract sheet' means the individual contract document with regard to specific Deliverables signed by the Parties.
- e) 'Contract value' means the agreed remuneration under the Contract or, in the case of Framework agreements, an Order, taking into account any price adjustment according to Section 6.4 and any change in the remuneration due to Change requests according to Section 6.7.
- f) 'Contractor' means the Party or Parties identified in the Contract sheet as the 'Contractor'.
- g) 'Deliverables' means any works to be carried out or any services or products to be provided by the Contractor to the ECB or at its request in accordance with the Contract.
- h) 'ECB's house rules' means the House rules of the European Central Bank in the version in force at the time of Contractor's performance, available at:
<https://www.ecb.europa.eu/ecb/jobsproc/proc/pdf/houserulesen.pdf?4384b7c70c56faa3faad4dd5ffc1ca7a>.
- i) 'ECB premises' means any of the ECB's premises in Frankfurt am Main.
- j) 'ECB Procurement Rules' means Decision (EU) 2016/245 of the European Central Bank of 9 February 2016 laying down the rules on procurement (ECB/2016/2) (OJ L 45, 20.2.2016, p. 15), as amended, available at:
https://www.ecb.europa.eu/ecb/legal/1001/procurement/html/index_en.html
- k) 'ECB public holidays' means the public holidays defined under:
<http://www.ecb.europa.eu/home/contacts/working-hours/html/index.en.html>.
- l) 'EU' means the European Union.
- m) 'Framework agreement' means a framework agreement as defined in Article 1(9) of the ECB Procurement Rules.
- n) 'GCTs' means these general contract terms.
- o) 'Order' means any order placed by the ECB under a framework agreement.
- p) 'Parties' means jointly the parties to a Contract, each individually referred to as a 'Party'.
- q) 'Price sheet' means the detailed table of the agreed remuneration attached to the Contract sheet as an Annex.
- r) 'SCTs' means any specific contract terms applicable to a Contract.
- s) 'Staff member' or 'Contractor's staff member' means an employee or freelance collaborator of the Contractor or the Contractor's subcontractors or the subcontractor itself.
- t) 'Working day' means a working day as defined in the ECB working calendar (at <http://www.ecb.europa.eu/home/contacts/working-hours/html/index.en.html>).

Section 3 - ECB's house rules, security clearance and penalties

3.1 If Deliverables are carried out or provided on the ECB's premises, the Contractor shall comply with the ECB's house rules and ensure that Contractor's staff members also comply with the ECB's house rules. The Contractor shall inform the ECB without delay if it considers that any proposed change to the ECB's house rules will affect the performance of the Contract. The Parties shall then discuss and, if necessary, agree any necessary amendments to the Contract.

3.2 The Contractor's staff members who are assigned to work at the ECB's premises shall comply with the ECB's security clearance procedure. The security clearance procedure is laid down in the ECB's house rules. The Contractor shall be responsible for the timely submission of the documentation required for security clearance, and be liable for the consequences of delayed submission.

3.3 The Contractor shall ensure that the Staff members return all items received from the ECB when leaving the ECB's premises, including but not restricted to: security badges, keys, books and IT equipment. If, for reasons for which the Contractor is responsible, such items are not returned within a reasonable period set by the ECB, the ECB may claim from the Contractor a contractual penalty of up to EUR 500 for each unreturned item. Section 8.4 applies. The ECB shall use equitable discretion when fixing the amount of a penalty, taking into account the value of the missing item. Such penalty shall not prevent the ECB from claiming further damages, taking the contract penalty into account, and/or making further claims under other contractual terms for penalties.

Section 4 - Use of subcontractors, Contractor's staff members

4.1 Unless otherwise agreed, the Contractor shall carry out or provide the Deliverables in person or using its own staff. Subcontracting to a third party requires the ECB's prior written consent. If the Parties have stipulated the use of individually identified subcontractors in the Contract sheet or its Annexes, such consent shall be deemed to have been given with regard to the individually identified subcontractors. In all cases, the Contractor remains responsible for providing all Deliverables in accordance with the Contract.

4.2 If the Contract sheet or its Annexes states that the Contractor shall carry out or provide the Deliverables in person, and if the Contractor is prevented from doing so for reasons beyond its control (for example, in the event of sickness) and the ECB cannot reasonably be expected to wait as a delay would jeopardise the purpose of the Contract, the ECB may either terminate the contract or request the Contractor to propose a replacement in accordance with Section 4.5 below.

4.3 The Contractor shall deploy a sufficient number of staff to provide the Deliverables by the agreed date. Each Contractor's staff member shall be appropriately qualified, skilled and experienced to perform their duties under the Contract. At any time and without additional charge, the ECB may request the Contractor to replace any Contractor's staff member who does not have the necessary qualifications, skills or experience, does not obtain security clearance, or repeatedly or substantially breaches the ECB's house rules, or for any other serious reason.

4.4 If the Contractor deploys specific Contractor's staff members to carry out or provide the Deliverables, the Contractor shall not replace them unless forced to do so for reasons beyond the Contractor's control (such as sickness, or termination of the employment contract by the Contractor's staff member in question).

4.5 Where a Contractor's staff member is replaced under Sections 4.3 and 4.4, the Contractor shall propose replacement staff with at least the same level of experience, skills and qualifications within ten calendar days from the date when the Contractor becomes aware of its own or the Contractor's staff member's unavailability, or from the notification of the ECB's request. The replacement staff shall be subject to the ECB's prior approval, which shall not be unreasonably withheld. The Contractor shall ensure that the replacement is made with an appropriate transfer of knowledge and information, so as to avoid interrupting the fulfilment of the Contract and to maintain a high level of service quality at all times.

4.6 The Contractor represents and warrants its compliance with, and ensures that its subcontractors comply with, all statutory and/or collectively agreed minimum wage levels. The Contractor hereby unconditionally and irrevocably indemnifies the ECB from and holds it harmless against any third party claims against the ECB due to the Contractor's and/or subcontractor's breach of applicable minimum wage regulations, in particular the Minimum Wage Act (*Mindestlohngesetz*) and the Employee Assignment Act (*Arbeitnehmerentsendegesetz*).

4.7 The Contractor shall by means of a written contract oblige any of its subcontractors to adhere to its obligations under this Contract, in particular Section 9, 11 and 11a.

Section 5 - No employment relationship – Independent contractor

The Contractor shall perform the Contract as an independent contractor and is free to work for other clients. The Contractor is free to determine how the Contract is fulfilled within the limits set out in the Contract. The Parties agree that the Contract does not establish an employment relationship between the ECB and the Contractor or any of the Contractor's staff members. The Contractor and its subcontractors remain responsible for paying all taxes and social security contributions arising out of their activities under the Contract. The Contractor has sole responsibility for ensuring that the Staff members fulfil all the obligations required by applicable legislation concerning foreign nationals in all places of performance, including in particular the obligation to hold a valid residence permit (*Aufenthaltslaubnis*) and work permit (*Arbeitserlaubnis*) for the duration of the Contract.

Section 6 – Remuneration, value added tax and change requests

6.1 The ECB shall pay for the Deliverables specified in the Contract on receipt of the Contractor's invoice.

6.2 Unless otherwise agreed, the rates agreed (such as fixed prices and daily, hourly or other rates agreed) shall cover all costs and expenses relating to the provision of the Deliverables. This includes, but is not limited to, expenses for accommodation, travel and subsistence, production, packaging and distribution of the Deliverables and corresponding documents, licences and communication. Travel time of the Contractor shall not be remunerated.

6.3 If daily rates are agreed, parts of days shall be paid pro rata on the basis of eight working hours per day. If an hourly rate for overtime is specified, overtime shall only be paid if requested or approved by the ECB and if not compensated in kind.

6.4 If the Contract sheet provides for a price adjustment, the agreed rates shall remain stable for the first two years following signature of the Contract. Thereafter, the Contractor may claim an adjustment of the agreed rates in line with the development, since signing the Contract, of the Harmonised Index of Consumer Prices in the EU (all items) calculated by Eurostat. Further price adjustments may be made at two-year intervals.

6.5 If the Deliverables are subject to value added tax levied in an EU Member State ('EU VAT'), the agreed remuneration shall be net of such EU VAT, unless otherwise specified in the Contract. In such case, the following shall apply:

- a) If the place of supply of the goods or services under the applicable VAT law is in Germany or Portugal, the ECB shall pay the statutory VAT in addition to the agreed remuneration at the rate applicable on the day on which the respective supply has been carried out to the ECB to the Contractor, unless the Deliverables provided are subject to the German rules on reverse charge according to § 13b(2) No 1 and (5) of the German Act on VAT (*Umsatzsteuergesetz*). The payment of the statutory VAT shall be due upon receipt of an invoice which is in compliance with the provisions of Section 7.1.
- b) If the place of supply of the goods or services under applicable VAT law is in an EU Member State other than Germany or Portugal, the Deliverables are exempt from VAT in accordance with Articles 3 and 22 of the Protocol on the Privileges and Immunities of the European Union and Article 151(1)(aa) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p.1), unless the ECB informs the Contractor that the Deliverables are exceptionally not made for the official use of the ECB and therefore not exempt from VAT. The Contractor shall comply with the necessary formalities required by the competent authorities to ensure that the Deliverables are exempt from VAT and issue an invoice which is in compliance with the provisions of Section 7.1. On request, the ECB shall provide the Contractor with a VAT exemption certificate.

If the Deliverables are subject to value added tax, turnover tax, sales tax or comparable tax or duty levied in a country other than an EU Member State ('third country tax'), the agreed remuneration shall include the amounts of any such applicable third country tax. In such case, or in case the Deliverables are subject to EU VAT and the Contract specifies that the agreed rates include the amounts of applicable EU VAT, the ECB shall pay the agreed remuneration. The Contractor shall deduct the applicable third country tax or EU VAT from the agreed remuneration.

6.6 In case Orders under a Framework agreement are remunerated based on daily, hourly or other rates, the ECB may request the Contractor to offer fixed prices for specific Orders or parts thereof, which shall be calculated on the basis of the agreed rates.

6.7 The ECB may request alterations to the Deliverables and/or request additional Deliverables ('Change request') in line with the ECB

Procurement Rules. The Contractor may refuse to make alterations or provide additional Deliverables if it would be technically impossible or unreasonable to do so or if no appropriate resources are available. The Contractor shall provide the ECB with a binding offer covering at least a cost-and-time evaluation and other relevant aspects that will influence the Contract, if any, within 10 calendar days of receipt of the Change request. The Contractor shall calculate all costs in accordance with the remuneration principles agreed in the Contract. If the ECB accepts an offer prepared by the Contractor in response to a Change request, the offer shall become part of this Contract and the Contractor shall perform the Change request in accordance with the terms and conditions in the Contract. If the ECB has not expressly accepted the Contractor's offer in response to a Change request, the Contractor shall perform its duties as initially agreed between the Parties, unless and until the ECB approves the Contractor's offer.

Section 7 - Invoicing and terms of payment

7.1 All invoices shall include at least the following information: (i) the full name and address of the Contractor and of the ECB, (ii) the VAT identification number or tax number of the Contractor, (iii) the date of issue, (iv) a sequential invoice number, (v) the quantity and the nature of the goods supplied or the extent and the nature of the services rendered, (vi) the date on which the supply of goods or services was made or completed or the date on which the payment was made, in so far as that date can be determined and differs from the date of issue of the invoice, (vii) the unit price exclusive of VAT and discounts or rebates if they are not included in the unit price, (viii) the taxable amount split up per rate or per exemption applicable, (ix) the applicable VAT rate or VAT exemption, (x) the payable VAT amount, (xi) the invoice currency, (xii) a reference to the Contract, (xiii) the contract number and purchase order number, (xiv) the contracted payment terms, (xv) the Contractor's IBAN and BIC codes as well as the name of the account holder, and (xvi) a reference to the VAT exemption or where the ECB is liable for payment of VAT indicating that the supply of goods or services is exempt or subject to the reverse charge procedure. If the Contractor is remunerated on the basis of the time expended, the invoice shall also specify the number of days and hours expended, supported by a detailed record, and the applicable daily/hourly rates.

7.2 The Contractor shall submit invoices to the ECB's Accounting Division. Electronic invoices shall be sent via email to AP.invoices@ecb.europa.eu. Electronic Invoices shall be accepted in either XML or PDF format. Invoices in XML format must be generated using the XRechnung standard and submitted using the Pan-European Public Procurement Online (PEPPOL) submission protocol. Only one invoice in XML format may be submitted per email. Invoices in PDF format, including accompanying documents in attachments relating to the invoice, if any, shall be submitted in a single PDF file. In exceptional cases, and only with the prior consent of the ECB, the Contractor may submit paper invoices.

If requesting the reimbursement of accommodation or travel expenses, the Contractor shall submit an electronic reimbursement request form together with an electronic copy of the original receipts including VAT, if such receipts exist. The reimbursement request form shall be accompanied by an invoice in accordance with the requirements set out in Sections 6.5 and 7.1.

Invoices or reimbursement request forms submitted by post shall be sent by the Contractor to the European Central Bank, Accounting, 60640 Frankfurt am Main, Germany.

The Contractor shall comply with any further instructions of the ECB relating to the provisions of this Section 7.2.

7.3 Unless otherwise agreed, the ECB shall pay the amount of an invoice meeting the requirements set out in Section 7.1 and 7.2, either within 14 calendar days following its receipt less a 2% discount, or the full amount within 30 calendar days following its receipt. Where the date of the receipt of an invoice or request for payment is uncertain, the ECB shall pay within 30 calendar days after the date of receipt of the Deliverables.

7.4 All payments may be made in euro or in the currency mentioned in the invoice.

7.5 The ECB may withhold payment to the extent that an invoice does not meet the requirements set out in this Section.

7.6 Any indemnities for operating costs or interest for late payment shall be governed by statutory law.

Section 8 – Liability, maximum contractual penalties

8.1 The Contractor shall complete performance of the Contract by the agreed date and in the quality necessary to achieve its purpose. The Contractor shall use the relevant professional diligence, and shall comply with the state of the art in technology and industry practice.

8.2 All Parties shall be liable for any deliberate or negligent act or omission of their staff or subcontractors in accordance with statutory law.

8.3 Each member of a temporary grouping (*Bietergemeinschaft*) shall be jointly and severally liable (*Gesamtschuldner*) for all obligations under the Contract.

8.4 The total sum of all contractual penalties under the Contract shall not exceed 5% of the net Contract value during the term of the Contract or, in the case of a Framework agreement, the term of the Order.

Section 9 - Confidentiality, penalty for disclosure

9.1 The Contractor shall treat Confidential information in the strictest confidence, and shall not disclose it to 'Unauthorised persons'. Unauthorised persons means any persons other than those who have been explicitly authorised by the ECB to access Confidential information as well as the Contractor's staff members and the ECB's staff members, who are directly involved in the provision of the Deliverables.

9.2 The Contractor shall use Confidential information only for the purposes for which it is disclosed and shall not use it for its own or another person's benefit. The ECB may request the Contractor and the Staff members to sign individual confidentiality agreements.

9.3 The Contractor shall store properly and protect all Confidential information which the ECB makes available to the Contractor or which the Contractor receives from third parties for the performance of the Contract against unauthorised access by third parties and/or accidental disclosure. The Contractor shall employ all reasonable steps under the circumstances to keep the information secret as required by Art. 2 para. 1 lit. c of Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016. In case the Contractor passes on any Confidential information to a third party with the ECB's consent the Contractor has to ensure that such third party complies with this Section 9 and confirms this in writing. On termination of the Contract or an Order, the ECB may request the Contractor to destroy all copies (in whatever form) of Confidential information it has produced or received in connection with the Contract, or return it to the ECB without undue delay. The Contractor shall not invoke any right to retain Confidential information. However, the Contractor may keep copies of information to the extent required by statutory law. If the Contractor assumes a legal duty of retention, the Contractor shall inform the ECB and provide it with all information necessary to assess whether a legal obligation exists under the statutory law. To the extent that the Contractor cannot demonstrate to the ECB that a legal obligation exists, the Contractor shall refrain from keeping copies of the Confidential information.

9.4 The Contractor shall not use the ECB's name in promotional material without the ECB's prior written consent. Such consent shall only cover the material and time period stipulated in the Contractor's request if not stated otherwise in the ECB's consent.

9.5 The ECB may claim a contractual penalty of up to 5% of the net Contract value for each breach of confidentiality for which the Contractor is responsible, including for disclosure of Confidential information and failure to take appropriate measures to prevent unauthorised access to Confidential information. Section 8.4 applies. The ECB shall use equitable discretion when fixing the amount of a penalty, taking into account the seriousness of the breach and the damage caused to the ECB. At the Contractor's request, the amount of a penalty shall be subject to review by a competent court. The imposition of a penalty shall not prevent the ECB from claiming further damages, taking the contract penalty into account, or from terminating the Contract with immediate effect.

9.6 The Contractor shall promptly (i) notify the ECB in writing after becoming aware of any (a) break, interruption, corruption, attempt to break, interrupt, corrupt the security of the hardware, software, telecommunication systems and networks and other IT systems used by the Contractor and/or its subcontractors to provide the Services under this Contract (the 'IT Systems'); (b) unauthorized access or attempt to obtain unauthorized access to the IT System or any data processed in the IT System, or (c) introduction of harmful surreptitious code or other contaminants, including commands, instructions, devices, techniques, bugs or web bugs, computer viruses, trojans, or other malware, into the IT System, which has led or may potentially lead to an unauthorized access to and/or a destruction, loss, alteration of any data of the ECB and/or any other data which is subject to the provision of the Services under this Contract (the 'IT Security Incident') and (ii) investigate and – as far as possible - remediate the effects of such an IT Security Incident.

9.7 Upon reasonable request of the ECB, the Contractor shall provide the ECB with detailed information (i) on the nature and effects of any IT Security Incident, including information on which data has been affected or may be affected, (ii) measures taken by the Contractor to remediate the IT Security Incident reported by the Contractor, and (iii) measures the Contractor will take to prevent similar IT Security Incidents.

9.8 The Contractor's obligations relating to Confidential information, as set out in this Section, shall not apply if, and to the extent that, the Contractor is obliged by mandatory laws or enforceable orders of a court, tribunal or public authority to disclose Confidential information. The Contractor shall, as far as possible, notify the ECB without prior request

and without undue delay of i) the fact that disclosure of Confidential information is required, ii) the scope of the disclosure, and iii) all information necessary for the ECB to verify any obligations relating to Confidential information.

9.9 The Contractor consents that the ECB may disclose this contract or information relating to the contract (i) to European or national authorities upon their reasonable request or (ii) to a third party that is not a direct competitor of the Contractor for the purpose of comparing the conditions and pricing of the contract with market conditions and to provide the ECB with a respective assessment and under the condition that the third party is obliged to treat the information confidential.

9.10 The Contractor's obligations relating to Confidential information, as set out in this Section, shall survive and remain in force and effect also after the expiration of the Contract as long as the respective information qualifies as Confidential information.

Section 10 - Data protection

10.1 The ECB processes personal data in or relating to the Contract and/or the fulfilment of the Contract in accordance with 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 No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39–98).

10.2 In its capacity as (data) controller within the meaning of Regulation (EU) 2018/1725, the ECB shall process personal data in or relating to the Contract for contract awards and subsequent contract management. The ECB may process payment settlement data via SWIFT.

10.3 The Contractor or any other person whose personal data are processed in relation to this Contract has specific rights as a data subject under Chapter III (Articles 14-25) of Regulation (EU) 2018/1725, in particular the right to access, rectify any data that is inaccurate or incomplete. Data subjects also have (with some limitations) the right to delete their personal data, to restrict or object to the processing of their personal data in line with the relevant provisions of Regulation (EU) 2018/1725. For all queries relating to such data, the data subjects may address the ECB. The data subject shall have the right of recourse to the European Data Protection Supervisor (EDPS).

The ECB's Privacy Statement for the processing of personal data related to contract management is available at <https://www.ecb.europa.eu/ecb/jobsproc/tenders/html/index.en.html>

10.4 The Contractor shall comply with, and shall ensure that the Staff members comply with, applicable data protection law. In addition, if the Contractor processes personal data, the Contractor has to comply with special legal requirements as set out in the Contract (data protection annex).

10.5 Upon request of the ECB and at the latest at the end of the Contract, the Contractor shall, at the choice of the ECB, either return or delete all personal data received in or relating to the Contract and/or the fulfilment of the Contract as well as any copies of such personal data and furnish proof to the ECB that the respective personal data has been fully and properly deleted. This provision shall not apply in the case of Union or national law requiring the Contractor to store a copy of the personal data for a longer time period. In such a case, the Contractor shall inform the ECB about the statutory retention period and shall delete any remaining personal data at the end of that time period. If the Parties disagree on whether a statutory retention period applies, the ECB and the Contractor shall discuss the matter and seek to find an agreement.

Section 11 - Standards of behaviour – conflicts of interest

11.1 The Contractor shall comply with, and shall ensure that the Staff members comply with the standards of behaviour set out in this Section 11, including the Annex referred to in Section 11.9, as well as with any related specific obligations set out in the SCTs where applicable (together the 'standards of behaviour'). The ECB may ask the Contractor's staff members to sign a solemn declaration of compliance with these standards of behaviour.

11.2 Conflicts of interest

The Contractor and the Staff members shall avoid any situation where any benefit or potential benefit of a financial or non-financial nature or any commercial or other interest of the Contractor, its subcontractors or 'affiliated enterprises' as referred to in §§ 15 et seq. of the German Stock Corporation Act (*Aktiengesetz*), or any European member of the network to which the Contractor belongs and which trades under the name of the Contractor ('Affiliates'), or of the Staff members, their relatives or their close acquaintances, could influence or appear to influence the impartial and objective performance of the Contractor's contractual obligations under the Contract ('Conflict of interest').

Upon becoming aware of a potential Conflict of interest the Contractor and the Staff members shall immediately inform the ECB thereof and provide any information that the ECB reasonably requires to assess the situation. The ECB may ask the Contractor to take appropriate measures

to avoid or resolve the Conflict of interest, including, but not limited to, establishing strict non-disclosure procedures, putting in place additional safeguards to protect Confidential information, and replacing any of the Contractor's staff members exposed to such a situation. If it is not possible to avoid or resolve a Conflict of interest, the ECB may suspend the right of the Contractor to participate in a process of placing Orders under Framework Agreements in accordance with Section 13 and terminate with immediate effect either the entire Contract or, in so far as legally possible, those parts of the Contract affected by the Conflict of interest.

11.3 Gainful occupation of a spouse or recognised partner

The Contractor and the Staff members shall inform the ECB of any gainful occupational activity of the Contractor or the Staff members or Contractor's or any Staff members' spouse or recognised partner that may lead to a Conflict of interest affecting the performance of the Contract. Section 11.2 shall apply accordingly.

11.4 Gifts and hospitality

The Contractor and the Staff members shall neither solicit nor accept for itself or any other person any advantage connected with the performance of the Contract.

'Advantage' means any gift, hospitality or other benefit of a financial or non-financial nature which objectively improves the financial, legal or personal situation of the recipient or any other person and to which the recipient is not entitled by law. Minor hospitality offered during a work-related meeting, with the exception of hospitality offered by credit institutions in the context of on-site inspections or audits undertaken by the ECB, shall not be considered as an Advantage. An Advantage is considered connected with the performance of the Contract if it is offered on the basis of the Contractor's position as a contractor of the ECB, rather than on a personal basis or on the basis of other professional relationships. The Contractor and the Staff members shall inform the ECB without undue delay of any Advantage connected with the performance of the Contract.

11.5 Awards, honours and decorations

The Contractor and the Staff members shall obtain authorisation from the ECB before accepting awards, honours or decorations in connection with the performance of the Contract.

11.6 Relations with external parties

The Contractor and the Staff members shall be mindful of the ECB's independence, reputation and the need to maintain professional secrecy. In the performance of the Contract, the Contractor and the Staff members shall neither seek nor take instructions from any government, authority, organisation or person outside the ECB. The Contractor and the Staff members shall inform the ECB of any attempt by a third party to influence the ECB.

The Contractor and the Staff members shall maintain caution in their relations with interest groups and the media and shall refer all requests for information from the general public or the media connected with the performance of the Contract to the ECB.

11.7 Dignity at work

The Contractor shall in the course of the performance of the contract respect the dignity of the Staff members and the ECB's staff members and refrain from any inappropriate behaviour that demeans others. The Contractor's staff members shall respect the dignity of the ECB's staff and refrain from any inappropriate behaviour that demeans others. For the purpose of the standards of behaviour set out in this Section the following definitions shall apply:

- a) 'Dignity at work' means the absence of inappropriate behaviour. Inappropriate behaviour means any form of direct or indirect discrimination, physical violence, psychological harassment (also referred to as bullying or mobbing) and sexual harassment.
- b) 'Direct discrimination' shall be taken to occur where one person, because of their nationality, gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation, is, has been or would be treated less favourably than another person in a comparable situation.
- c) 'Indirect discrimination' shall be taken to occur where an apparently neutral provision, criterion or practice would put a person at a particular disadvantage on the grounds of nationality, gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation compared to another person, unless the provision, criterion or practice is objectively justified.
- d) 'Physical violence' means the intentional use of physical force or the threat of physical force against another person that results in physical, sexual or psychological harm.
- e) 'Psychological harassment' means any improper conduct that takes place over a period, is repetitive or systematic and involves physical behaviour, spoken or written language, gestures or other intentional acts that may undermine the personality, dignity or physical or psychological integrity of any person.
- f) 'Sexual harassment' means conduct relating to sex which is unwanted by the person to whom it is directed and which has the

purpose or effect of offending that person or creating an intimidating, hostile, offensive or disturbing environment.

11.8 Use of ECB resources

The Contractor and the Staff members shall respect and protect ECB property. ECB equipment and facilities, whatever their nature, shall not be used without the ECB's prior written authorisation for any purposes other than performing the Contract.

11.9 Private financial transactions

For the Contractor and the Staff members who have, due to the performance of their obligations under the Contract, access to information which might fulfil the criteria of 'inside information' within the meaning of Article 7 of Regulation (EU) No 596/2014 of the European Council and of the Parliament of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p.1) ('Inside information') or other Confidential information, the ECB may also request that the Contractor shall comply with, and shall ensure that the Staff members comply with special requirements regarding private financial transactions as set out in the sheet annexed to the Contract regarding restrictions on private financial transactions.

Section 11a – Auditing and cooperation duties

11a.1 The Contractor shall allow the ECB or its external auditors or consultants bound by confidentiality and professional secrecy obligations to perform audits for the purposes of assessing the compliance of the Contractor with their obligations under this Contract, including obligations in respect of confidentiality, data protection and standards of behavior. Such audits may take place once per calendar year or more often if the ECB has reasonable grounds for conducting additional audits.

11a.2 In particular, the Contractor shall:

- a) grant access to all contract documents, including invoices, accounting and other records, administrative and court decisions, regulatory actions, permits, decrees and other documents related to the Contract or the contractual performance (the 'Contract documents') as well as information, IT systems, equipment and premises which is deemed necessary to carry out an audit;
- b) submit all Contract documents and information requested without undue delay.

11a.3 The Contractor shall ensure that no statutory provision, including any data protection law, or any of its contractual obligations to others will be violated by providing the information or Contract documents.

11a.4 To the extent reasonably possible and required to fulfil the purposes of the audit, the Contractor shall allow the ECB or its external auditors or consultants to interview the Contractor's current and former Staff members.

11a.5 Audits shall be conducted during normal office hours and shall not unreasonably interfere with the normal work or services of the Contractor. The Contractor shall make best efforts to cooperate with the audit. To the extent possible, the ECB shall give the Contractor at least 10 days written notice before conducting an audit.

11a.6 The ECB and the Contractor shall meet promptly to review each audit report and to agree on an appropriate response to any deficiencies identified and changes suggested in the report. If the report indicates that the Contractor does not comply with any of the requirements set out in this Contract, the Contractor shall take prompt action to comply with the findings of the report, rectify any violation of its contractual duties and shall bear all costs of such actions. The information collected through the audit shall not be used for any purpose other than the ECB's specific use concerning the issues raised therein and the enforcement of any consequences that derive from the audit.

11a.7 The Contractor shall fully cooperate with and assist the ECB with any internal administrative inquiry being conducted by the ECB concerning any aspect related to this Contract (e.g. as witness).

11a.8 The provisions set out in this Section shall also apply to the Contractor's staff members and the Contractor shall ensure that its staff members comply with the obligations under this Section.

11.a.9 The ECB's audit rights set out in this Section shall remain in force for a period of 2 years after the termination of the Contract.

11.a.10 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Section.

Section 12 - Duration and termination of the Contract

12.1 If the Contract sheet specifies that the ECB has the option to extend the Contract, the ECB may exercise this option unilaterally and shall notify the Contractor of its request for such extension with the period of notice indicated in the Contract sheet. The ECB may exercise such option several times but not for periods shorter than one calendar month, unless stated otherwise in the Contract sheet.

12.2 If the Contract sheet specifies that the Contract shall be extended automatically, it shall be renewed for the successive periods defined in

the Contract sheet unless the ECB notifies the Contractor one month prior to the end of a contract term that the Contract will not be continued.

12.3 The ECB may terminate Contracts without cause. The period of notice of termination shall be as stipulated in the Contract sheet. If no notice period is stipulated, it shall be six months. If the Contract concerns services according to § 627 of the German Civil Code, the ECB may terminate the Contract at any time without notice and the Contractor may terminate the Contract without cause in accordance with § 627(2) of the German Civil Code, subject to it giving three months' prior notice of termination.

12.4 Any Party may terminate the Contract in extraordinary circumstances that render the continuation of the Contract intolerable, considering all the relevant aspects and the interests of the Parties. In particular, the ECB may terminate the Contract if:

- a) it becomes aware of circumstances that would have justified the exclusion of the Contractor from the procurement procedure under Article 30 (1), (4) and (5) of the ECB Procurement Rules;
- b) the Contractor has substantially or repeatedly breached its obligations under the Contract and has not remedied such breach within a reasonable period set by the ECB, or if the breach cannot be remedied or in other circumstances defined in statutory law;
- c) the Contractor ceases trading;
- d) the Contractor does not provide a suitable replacement for a Contractor's staff member within the period stated in Section 4;
- e) the Contractor has a conflict of interest that cannot be resolved by appropriate measures in accordance with Section 11.
- f) the Contractor or respectively its subcontractor does not pay to the Staff members at least the statutory and/or collectively agreed minimum wage.

12.5 The right to terminate the Contract in accordance with its terms shall not prejudice any statutory rights or remedies of the Parties.

12.6 Termination of this Contract must be made in writing, whereby it is sufficient to send a copy of the signed declaration by email or fax.

Section 13 - Orders under a Framework agreement

13.1 Where the ECB enters into a Framework agreement, this shall not impose any obligation on the ECB to place any Orders.

13.2 A Framework agreement does not give a Contractor an exclusive right to provide Deliverables. The ECB may engage other contractors at any time.

13.3 The ECB may, at any time, place Orders in accordance with the procedures laid down in Article 18 of the ECB Procurement Rules and in this Section. Such Orders must at least specify the scope, time limits, remuneration and any other relevant conditions for the Deliverables.

13.4 Where a Contract constitutes a single-supplier framework agreement with a direct order (Article 18(3), first sentence, of the ECB Procurement Rules), the following applies:

- (a) The ECB shall place an Order. The Contractor shall confirm its acceptance.
- (b) The Contractor shall provide the Deliverables specified in the Order in accordance with the provisions of the Contract and the Order.

13.5 Where a Contract constitutes a single-supplier framework agreement with a supplementary offer (Article 18(3), second sentence, of the ECB Procurement Rules), the following applies:

- (a) The ECB shall make a request specifying its requirements.
- (b) On receipt of the ECB's request, the Contractor shall prepare a binding supplementary offer and submit it by the date specified by the ECB. Remuneration shall be based on the prices set out in the Contract.
- (c) If the ECB accepts the Contractor's supplementary offer, it shall confirm its acceptance by placing an Order specifying the scope, remuneration, time limits and any other specifications in accordance with the supplementary offer.
- (d) The Contractor shall provide the Deliverables specified in the Order in accordance with the provisions of the Contract and the Order.

13.6 Where a Contract is a multiple-supplier framework agreement, without reopening of competition (Article 18(4)(a) of the ECB Procurement Rules), the following applies:

- (a) The Contractor acknowledges: (i) that the ECB has entered into Framework agreements with a number of suppliers, as defined in the Contract sheet, including the Contractor; (ii) that the ECB has ranked the suppliers on the basis of the award criteria set out in the tender documentation; (iii) that the Contractor's offer has been ranked as specified in the Contract; and (iv) that the ECB will contact the suppliers in the order of their ranking and place Orders with them according to their availability.
- (b) If so requested by the ECB, the Contractor may prepare a binding offer and submit it by the date specified by the ECB. The remuneration shall be based on the remuneration set out in the Contract sheet. If the Contractor is unable to submit an offer as requested, it shall inform the ECB without undue delay. If the Contractor does not submit an

offer by the date set by the ECB, the ECB may request the next-ranked supplier to submit an offer.

- (c) If the ECB accepts the Contractor's offer, the ECB shall place an Order.
- (d) The Contractor shall provide the Deliverables specified in the Order in accordance with the provisions of the Contract and the Order.

13.7 Where a Contract is a multiple-supplier framework agreement with reopening of competition (Article 18(4)(b) of the ECB Procurement Rules), the following applies:

- (a) The Contractor acknowledges: (i) that the ECB has entered into Framework agreements with a number of suppliers, as set out in the Contract sheet, including the Contractor; and (ii) that for each Order the ECB may reopen competition among all suppliers.
- (b) If the ECB intends to place an Order, it shall invite all suppliers to submit an offer in writing. The request for an offer shall specify at least the scope, timetable, time limit for the submission of offers, and award criteria.
- (c) On receipt of a request for a proposal, the Contractor may prepare and submit a written offer to the ECB which must be in accordance with the requirements set out in the request. If the Contractor is unable to submit an offer as requested, it shall inform the ECB without undue delay.
- (d) The ECB shall place the Order with the supplier who submits the best offer according to the award criteria.
- (e) The Contractor shall provide the Deliverables specified in the Order in accordance with the provisions of the Contract and the Order.

13.8 Unless otherwise agreed, the ECB may terminate an Order without cause by giving two weeks' written notice. Either Party may terminate an Order without notice under the conditions set out in Section 12.4.

13.9 The provisions set out in a Framework agreement and its Annexes apply to any Order under such Framework agreement, unless otherwise stated in the Order.

13.10 If a Framework agreement expires or is terminated, the Contractor shall complete any Order placed prior to the expiry or termination of the Contract, unless the Order is terminated at the same time.

Section 14 - Validity of certain provisions; severability

14.1 The legal effects of any provisions of the Contract relating to intellectual property rights and confidentiality, as well as any other contractual provision whose purpose so requires, shall continue in force after the termination of the Contract.

14.2 If any provision of the Contract is or becomes invalid, or if the Contract is incomplete, the validity of the remaining terms and provisions shall not be affected. Missing or invalid provisions shall be replaced by relevant statutory provisions.

Section 15 - Entire agreement and written form

15.1 The Contract constitutes the Parties' full and final agreement on the subject matter of the Contract. On the signing of the Contract by the Parties, all prior written or oral agreements between the Parties on the subject matter of the Contract shall be void. Any amendments or additions to the Contract, including to this clause on written form, and any other legally binding declarations shall be made in writing.

15.2 The Contractor acknowledges that, under Article 38 of the Statute of the European System of Central Banks and of the European Central Bank, any commitment made on the ECB's behalf is only binding on the ECB if it is signed by the President, two members of the Executive Board or ECB staff duly authorised by the President of the ECB.

Section 16 - Applicable law and jurisdiction

16.1 This contract shall be governed in all respects by German law, including its validity, construction and performance, and without regard to principles of conflicts of law or the United Nations Convention on Contracts for the International Sale of Goods.

16.2 Where the Contractor is a business person within the meaning of the German Commercial Code (*Handelsgesetzbuch*), a legal entity governed by public law or a local authority (*Gebietskörperschaft*) under public law, the exclusive place of jurisdiction for all disputes arising in connection with the Contract shall be Frankfurt am Main.

16.3 If the Contractor has no general venue in the Federal Republic of Germany, the exclusive place of jurisdiction for all disputes arising in connection with the Contract shall be Frankfurt am Main, Germany.



ANNEX 3

Annex on restrictions on private financial transactions**1. General principles**

1.1 The Contractor and the Contractor's staff members shall be prohibited from using or attempting to use information which pertains to the activities of the European Central Bank (ECB), national central banks, national competent authorities or the European Systemic Risk Board which has not been made public or is not accessible to the public and which fulfils the criteria for inside information laid down in Article 7 of Regulation (EU) No 596/2014 ('Inside information'). The Contractor and the Contractor's staff members are specifically prohibited from taking advantage of Inside information in any private financial transaction or in recommending or advising against such transactions.

1.2 The Contractor and the Contractor's staff members that have, due to the performance of their obligations under the Contract, access to Inside information or other Confidential information ('Relevant staff members') shall employ the utmost caution and care when making private financial transactions for their own account or for the account of a third party to safeguard the reputation and credibility of the ECB as well as public confidence in the integrity and impartiality of its staff. The ECB shall identify which of the Contractor's staff members are Relevant staff members for the purposes of this Section and notify the Contractor accordingly. If ethical rules, including a duty of confidentiality under which breach of confidentiality is a criminal offence, apply to members of the profession to which any of the Contractor's staff members belong ('Professional Rules'), the Contractor's staff members affected by these Professional Rules may be exempted from qualifying as Relevant staff members.

1.3 The private financial transactions of Relevant staff members shall be non-speculative, restrained and in reasonable proportion to their income and wealth in order not to put their financial independence at risk.

1.4 The ECB may issue binding guidelines for the interpretation and application of this Section, specifying in particular further private financial transactions which shall be subject to prior authorisation under Section 2.2 if such transactions are or may be perceived to be in conflict with the ECB's operations. The ECB shall provide the Contractor with such guidelines.

1.5 In the event of doubt as regards the interpretation of this Section, Relevant staff members shall seek the advice of the ECB before engaging in a private financial transaction.

2 Categories of private financial transactions

Without prejudice to the general obligations laid down in Sections 1 and 3, Relevant staff members shall comply with the rules applicable to the following categories:

- (a) exempt private financial transactions;
- (b) private financial transactions subject to prior authorisation;
- (c) private financial transactions subject to ex post reporting.

2.1 Exempt private financial transactions

Without prejudice to the general obligations laid down in Sections 1 and 3, Relevant staff members may make the following private financial transactions without being subject to any restrictions or notification obligations:

- (a) purchase or sale of units in a collective investment scheme in respect of which the Relevant staff member has no influence on the investment policy, except schemes whose main purpose is to invest in assets falling under Section 2.2(b), (d) and (e), as well as funds transfers and foreign exchange transactions directly connected with such purchase or sale;
- (b) purchase or redemption of insurance policies or annuities;
- (c) purchase or sale of foreign exchange for the occasional acquisition of non-financial investments or assets, for private travel purposes, or to cover current or future personal expenses in a currency other than that in which the salary of the Relevant staff member is paid;
- (d) expenditures, including purchase or sale of non-financial investments or assets including real estate;
- (e) arrangement of mortgages;
- (f) transfer of funds from a Relevant staff member's current or savings account held in any currency to another current or savings account owned by them or a third party;
- (g) other private financial transactions which are neither prohibited nor subject to prior authorisation and the value of which does not exceed EUR 10 000 within any given calendar month. Relevant staff members shall not split up private financial transactions in order to circumvent this threshold.

2.2 Private financial transactions subject to prior authorisation

Relevant staff members shall request the authorisation of the ECB before making the following financial transactions:

- (a) transactions relating to or with either a private legal entity or individuals with whom the member of staff has an ongoing professional relationship on behalf of the ECB;
- (b) transactions concerning (i) individual marketable bonds and shares issued by financial corporations (except central banks) established or having a branch in the Union, (ii) derivative instruments related to such bonds and shares, (iii) combined instruments if one of the components falls under (i) or (ii), and (iv) units in collective investment schemes whose main purpose is to invest in such bonds, shares or instruments;
- (c) short-term trading, i.e. the sale or purchase of assets with the same International Securities Identification Number (ISIN) which have been purchased or sold within the previous month. No authorisation is required if the subsequent sale is made in execution of a stop-loss order which the Relevant staff member has given to their broker;
- (d) transactions exceeding EUR 10 000 within any given calendar month in (i) government securities issued by euro area Member States, (ii) derivative instruments related to such government securities, (iii) combined instruments if one of the components falls under (i) or (ii), and (iv) units in collective investment schemes whose main purpose is to invest in such securities or instruments;
- (e) transactions exceeding EUR 10 000 within any given calendar month in (i) gold and gold-related derivative instruments (including gold-indexed securities), (ii) shares, bonds or related derivative instruments issued by companies whose principal business is mining or producing gold, (iii) combined instruments if one of the components falls under (i) or (ii), and (iv) units in collective investment schemes whose main purpose is to invest in such securities and instruments;
- (f) foreign exchange transactions other than those listed in Section 2.1(c) and exceeding EUR 10 000 within any given calendar month.

2.3 Private financial transactions subject to ex post reporting

Relevant staff members shall report to the ECB any private financial transaction exceeding EUR 10 000 within any given calendar month which does not fall under one of the previous three categories within 30 calendar days after its execution.

The obligation to report shall apply in particular to:

- (a) loans other than mortgages (including switching from a fixed to a floating arrangement, or vice versa, or extending an existing loan). Relevant staff members shall indicate whether the loan is used for the acquisition of financial instruments;
- (b) interest rate-related derivatives and derivatives based on indices;
- (c) purchases or sales of shares of corporations other than the ones set out in Section 2.3(b) and bonds issued by such corporations.

2.4 Assets giving rise to a conflict of interest

Relevant staff members shall inform the ECB of their holdings in any assets resulting from transactions within the meaning of Section 2.2 (a) and (b) if holding these assets could create a conflict of interest. In such a case, the ECB may request that the Relevant staff members dispose of such assets within a reasonable period of time, if such disposal is necessary to avoid a conflict of interest.

2.5 Request for authorisation

Any request for authorisation in accordance with Section 2.2 shall be submitted to the ECB at least five working days prior to the envisaged order date in the format specified by the ECB. The ECB shall decide on the request within five working days, considering in particular and where relevant: (a) the professional duties of the Relevant staff members and their access to Inside information; (b) the speculative/non-speculative nature of the transaction; (c) the amounts involved, if indicated; (d) the reputational risk for the ECB; (e) the timing, in particular the proximity to a meeting of the ECB's decision-making bodies. The ECB may make an authorisation subject to certain conditions. If the ECB does not react to a request for authorisation within five working days, the transaction shall be deemed to be authorised.

2.6 Discretionary asset management by a third party

Financial transactions shall be exempted from the restrictions laid down in Sections 2.2 to 2.5 to the extent that they are made by a third party to whom the Relevant staff member has entrusted the management of their private financial transactions under a written asset management agreement. This exemption is subject to the authorisation by the ECB. The authorisation shall be granted if evidence is provided that the terms and conditions ensure that the Relevant staff member cannot directly or indirectly influence any management decision to be taken by the third

party. The Relevant staff member shall inform the ECB about any change to the terms and conditions of the asset management agreement.

3 Compliance monitoring

3.1 Relevant staff members shall provide the ECB with a current list of:

- (a) their bank accounts, including shared accounts, custody accounts, credit card accounts and accounts with stockbrokers; and
 - (b) any powers of attorney which third parties have conferred on them in connection with their bank accounts, including custody accounts.
- Relevant staff members may only hold and use powers of attorney for third party bank accounts where they are allowed to make available to the ECB the relevant records in line with Section 3.2.

Relevant staff members shall keep this list up to date.

3.2 In view of their reporting obligations under Section 3, Relevant staff members shall keep records for the previous and current calendar years of all of the following:

- (a) account statements for all accounts listed in Section 3.1;
- (b) any sale or purchase of financial assets or rights made by Relevant staff members or third parties at the risk and for the account of Relevant staff members or made by Relevant staff members at the risk and for the account of third parties;
- (c) the conclusion or the amendment of mortgages or other loans at their own risk and for their own account, or by them at the risk and for the account of others;
- (d) their dealings in relation to retirement plans, including the ECB's Pension Scheme and Retirement Plan;
- (e) any powers of attorney which third parties have conferred on them in connection with their bank accounts, including custody accounts;
- (f) the terms and conditions of any written asset management agreement as defined in Section 2.6 and of amendments to such agreement.

3.3 The ECB may request an external service provider to carry out:

- (a) regular compliance checks covering a certain percentage of Relevant staff members as determined by the ECB having given due consideration to the actual risk of non-compliance with legal requirements; and
- (b) ad hoc compliance checks focusing either on a specific group of Relevant staff members or on specific types of transactions having given due consideration to the actual risk of non-compliance with legal requirements.

For the purpose of such compliance checks, the ECB may request the Contractor to ensure that the Relevant staff members concerned provide, for a period of time to be specified, the records listed in Section 3.2 in a sealed envelope for onward transmission to the external service provider. Relevant staff members shall provide such records within the time limit set by the ECB.

3.4 Without prejudice to Section 3.5, the ECB will ensure that the external service provider treats all information and documentation received in strictest confidence and uses it only for the purpose of carrying out compliance checks.

3.5 The Contractor is aware that if the external service provider identifies evidence giving rise to a suspicion of breach of contractual duties by a Relevant staff member subject to the restrictions laid down in this Annex, the external service provider is under an obligation to report such a potential breach together with the supporting documentation to the ECB. The ECB will assess the potential breach and, if the suspicion is substantiated, may request the Contractor to replace the Relevant staff member. If such replacement is not possible or if the breach is a material breach, the ECB may suspend or terminate the entire Contract with immediate effect. If and to the extent that the compliance checks carried out pursuant to Section 3.3 give rise to a suspicion of a criminal offence, the ECB may report the incident to the competent authority.

3.6 The obligations of Relevant staff members under Section 3 shall continue to apply until the end of the calendar year following the year in which their contribution to the performance of the Contract ended. The prohibition on the use of Inside information laid down in Section 1 shall continue to apply as long as the information has not been made public.

ANNEX 4

DECLARATION OF COMPLIANCE WITH STANDARDS OF BEHAVIOUR

<i>Name of the contractor's staff member/subcontractor/subcontractor's staff member (if relevant):</i>	
<i>Name of the contractor:</i>	
<i>Name of the project/contract:</i>	

Whereas:

- The ECB as an independent Union institution is committed to acting in accordance with the principle of independence from any external influence and in accordance with the principles of neutrality and impartiality vis-à-vis third parties.
- The ECB has adopted standards of behaviour as set forth in Section 11 of the General Contract Terms and the Annex "Restrictions private financial transactions" attached hereto for contractors, the contractors' staff members and subcontractors and the subcontractors' staff members performing work or providing services to the ECB.
- The special responsibilities conferred upon the [*contractor/contractor's staff member/subcontractor/subcontractor's staff member*] require compliance with the standards of behaviour as set out in the standards of behaviour.

The [*contractor/contractor's staff member/subcontractor/subcontractor's staff member*] hereby agrees to comply with the standards of behaviour set out in Section 11 of the General Contract Terms. The special requirements regarding private financial transactions as referred to in Section 11.9 of the General Contract Terms and set out in Annex "Restrictions private financial transactions" shall apply to the [*contractor/contractor's staff member/subcontractor/subcontractor's staff member*] if the [*contractor/contractor's staff member/subcontractor/subcontractor's staff member*] is a "Relevant staff member" as referred to in Section 1.3 of Annex "Restrictions private financial transactions".

In particular, the [*contractor/contractor's staff member/subcontractor/subcontractor's staff member*] shall ensure that the performance of the Contract does not give rise to any "Conflicts of interests" as referred to in Section 11.2 of the General Contract Terms. The [*contractor/contractor's staff member/subcontractor/subcontractor's staff member*] shall immediately inform the ECB of such Conflict of interest and provide all information the ECB needs for its assessment.

The [*contractor/contractor's staff member/subcontractor/subcontractor's staff member*] shall inform the ECB of any gainful occupational activity of the [*contractor's/contractor's staff members'/subcontractors'/subcontractors' staff members*] spouse or recognised partner as referred to in Section 11.3 that may lead to a Conflict of interest affecting the performance of the Contract.

The [*contractor/contractor's staff member/subcontractor/subcontractor's staff member*] shall neither solicit nor accept for itself or any other person any Advantage connected with the performance of the Contract, as referred to in Section 11.4 of the General Contract Terms. The



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[contractor/contractor's staff member/subcontractor/subcontractor's staff member] shall inform the ECB without undue delay about any Advantage connected with the performance of the Contract.

The [contractor/contractor's staff member/subcontractor/subcontractor's staff member] is aware that any failure to comply with the standards of behaviour regarding the acceptance of gifts (see Section 11.4 of the General Contract Terms), may be prosecuted in accordance with § 332 on taking a bribe (*Bestechlichkeit*) of the German Criminal Code (*Strafgesetzbuch*).

When performing the Contract, the [contractor/contractor's staff member/subcontractor/subcontractor's staff member] shall inform the ECB of any attempt by a third party to influence the ECB in of which the [contractor/contractor's staff member/subcontractor/subcontractor's staff member] becomes aware (see Section 11.6 of the General Contract Terms).

The [contractor/contractor's staff member/subcontractor/subcontractor's staff member] declares that he/she has read the standards of behaviour set out in Section 11 of the General Contract Terms including Annex "Restrictions private financial transactions" referred to in Section 11.9 of the General Contract Terms and that the consequences of any failure to comply with them have been explained orally to him/her.

This declaration shall be governed by and interpreted under German law.

Frankfurt am Main, [date].

.....

Signature of [contractor/contractor's staff member/subcontractor/subcontractor's staff member]

ANNEX 5

Terms of reference for the reimbursement of expenses incurred by Contractors appointed under the Alberto Giovannini Programme for Data Science

1. General rule

The ECB reimburses, up to the applicable maximum amount stated in the Contract Sheet, the expenses listed below related to costs incurred from travel pertinent to the Contractor's participation in the Alberto Giovannini Programme for Data Science provided that they are not covered by a third party. If the Contractor is entitled to reimbursement of expenses by a third party, which would otherwise be covered by the ECB in connection with the Contractor's participation in the Alberto Giovannini Programme (e.g. the reimbursement of a return flight from another event at the same time as an inbound flight to participate in the Alberto Giovannini Programme), the Contractor must notify the ECB to this effect and the ECB will make a decision as to whether to cover such expenses.

The maximum threshold stated in the Contract Sheet applies to the Contractor inclusive of her/his project team. A purchase order will be created under the name of the Contractor. All requests for the reimbursement of expenses incurred by the Contractor and her/his team must be submitted and signed solely by the Contractor.

Based on the progress assessments, the reimbursement of expenses may be paid up to the maximum threshold as follows:

- Reimbursement of main travel to/from Frankfurt (flights, non-local trains) paid against actual cost and supporting documentation.
- Fixed amount of EUR 140 per night for accommodation per person. Evidence of payment for accommodation must be provided to receive the fixed amount per night.
- Fixed per diem allowance of EUR 40 per overnight stay per person to cover meals, breakfast, drinks, snacks, local transport and taxis.

2. Travel costs

2.1 General

The ECB reimburses the cost of return travel between the Contractor's place of residence and Frankfurt am Main in accordance with the following rules.

2.2 Travel by rail

The ECB reimburses the cost of first-class rail travel, including, where necessary, any surcharges for using special trains (ICE, IC, EC, etc.) on the basis of the most convenient, direct and fastest route and provided that the rail tickets actually used (which may be printouts of electronic tickets) are submitted. The Contractor should endeavour to take advantage of early booking fares.

2.3 Travel by air

The cost of air travel is in principle only reimbursed on the basis of the most convenient, direct and fastest route. The ECB reimburses the cost of return tickets for a direct flight, provided that the boarding passes and the ticket are submitted. Unless agreed otherwise in a specific case, economy class tickets are reimbursed for flights within the Union and premium economy class tickets are reimbursed for flights on other routes. The Contractor should endeavour to take advantage of early booking fares.

2.4 Travel by car

If the Contractor travels by private car, the ECB will reimburse the equivalent of the cost of a return first-class rail ticket between the railway station closest to the Contractor's place of residence and the ECB's premises in Frankfurt. This payment shall cover all expenses relating to the use of the car. The Contractor must attach evidence of the rail ticket price to the claim. The ECB is not liable for any damage, injury or loss arising from the trip. Furthermore, the ECB declines liability for any costs arising as a result of alleged or actual offences committed in breach of road traffic laws and regulations. The ECB does not reimburse car rental expenses.

2.5 Taxis and public transport

The ECB covers the cost of local transport to/from the airport/railway station and between the hotel/place of residence and the ECB's premises in Frankfurt as part of the fixed per diem allowance described under Article 1.

2.6 Missed connections

If the Contractor fails to board the train or flight through no fault of the railway or airline operator, she/he shall not be entitled to reimbursement in respect of the unused tickets.

3. Accommodation costs

The ECB reimburses reasonable expenses for accommodation, i.e. a hotel room (single occupancy with en-suite bathroom and breakfast), residence or rental apartment, for the number of nights required in the working period agreed upon and specified in the contract. Additional sundry expenses, e.g. mini-bar, telephone calls, internet use, laundry, or any other service offered by the hotel, the residence or the rental apartment, are not reimbursed. Tips are also not reimbursed. The Contractor must make payment for her/his accommodation and include the receipt in the claim for reimbursement. On the basis of such evidence, a fixed amount of EUR 140 per night per person shall be reimbursed.

4. Subsistence

For each overnight stay in Frankfurt for working days connected to the on-site assignment, the Contractor may claim a fixed per diem allowance of EUR 40 per person. This amount shall cover expenses such as meals, breakfast, drinks, snacks, local transport and taxis. The per diem allowance shall be paid on the basis of a

timesheet signed by the hosting Business Area and the Contractor as evidence. If the Contractor works multiple consecutive weeks on-site, the per diem allowance may also be claimed for weekends between working weeks.

5. Reimbursement procedure

5.1 Settlement of expenses

The Contractor must pay travel and accommodation expenses upfront and subsequently seek reimbursement from the ECB. The Contractor must submit a claim for reimbursement on a monthly basis, following any visits to the ECB's premises, in the form required by the ECB. The Contractor shall attach the original invoices/receipts (e.g. airtickets, boarding passes, train tickets or evidence of rail ticket cost in the case of travel by car and hotel invoices). The claim and attachments must clearly show the nature of the expenses, the date on which they were incurred and the amounts claimed. Credit card slips are not accepted. Expenses that are not supported by an invoice or receipt are, in principle, not reimbursed. The Contractor must indicate the relevant bank details and purchase order number (PO number).

Reimbursement of travel, accommodation and subsistence expenses shall be made by the ECB after the approval of the hosting Business Area.

5.2 Exchange rates

Claims in currencies other than euro will be paid at the equivalent of the euro amount. When converting amounts in a foreign currency into euro, the ECB applies the exchange rate in force at the time when the Contractor paid the expense in question. Eligible expenses that have been incurred during a weekend shall be converted using the exchange rate applicable on the next business day (i.e. usually Monday).

5.3 Missing invoices

If, exceptionally, it is not possible to obtain an invoice, or if the original invoice has been lost, the Contractor must submit a signed personal declaration to that effect. On receipt of this declaration, the ECB shall decide whether or not to reimburse these expenses.



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Declaration of prior assignments to and employment with the European Central Bank

Name and address of the signatory:

Name and address of the company:

With a view to the envisaged provision of services to the European Central Bank (the 'ECB'), the ECB requests confirmation of the following:

1. During the last five years, have you provided services directly to the ECB as an individual contractor?

Yes

No

Name of the ECB's directorate(s) and division(s):

Please indicate the respective dates of the assignment(s) indicating in each case the start and end dates:

Do you have a registered business?

Yes

No

If yes, where is your business registered? Do you have a tax number? Please also provide a copy of your registration.

Is the ECB your only client?

- Yes No

If no, approximately what proportion of your turnover will be earned from the ECB?

2. During the last five years, have you been deployed to the ECB by a company, a staff agency or similar?

- Yes No

Name and address of the company/name of the project/directorate/division of the ECB:

Please indicate the respective dates of the deployment(s) indicating each time the start and end dates:

3. Are you bound by any contractual or similar obligation laid down in your current, or any previous, employment or consultancy contract with a third party which prevents you from rendering services to the ECB or which makes rendering services subject to a placement or transfer fee?

- Yes No

Name and address of the company:

Please describe the type of obligation: _____

4. During the last five years, have you been:

- Yes No employed by the ECB on a short-term contract (including ESCB/IO secondment),
- Yes No employed by the ECB on a fixed-term contract (including Graduate Programme assignments) and/or
- Yes No employed indefinite contract, or
- Yes No a trainee or intern at the ECB?

ECB directorate(s)/division(s):

Please indicate the respective dates of the employment(s) or traineeship(s) indicating each time the start and end dates:

5. Are you a national of an EU Member State?

- Yes No

If no, do you possess a work permit? If yes, please provide a copy of it.

- Yes No

I warrant that the information given above is correct and complete. Moreover, I undertake to inform the ECB immediately of any changes to the above information. I understand that errors and omissions constitute a material breach of contractual obligations to the ECB and may lead to the termination of the relevant contract with the ECB. Moreover, I understand that I may be held liable and indemnify the ECB against any consequences that could result from wrong or incomplete information, in particular claims against the ECB from third parties.

Place, Date and Signature



CONFIDENTIALITY UNDERTAKING

Having regard to Article 8 of Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macroprudential oversight of the financial system and establishing a European Systemic Risk Board (hereinafter the 'ESRB Regulation'),

Having regard to Article 6 of Regulation (EU) No 1096/2010 of 17 November 2010 conferring specific tasks upon the European Central Bank concerning the functioning of the European Systemic Risk Board (hereinafter 'Regulation (EU) No 1096/2010'),

Having regard to Article 83 of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (hereinafter 'EMIR'),

Whereas:

- (1) According to Article 81(3) of EMIR, the European Systemic Risk Board (ESRB) may access necessary information from trade repositories in order to fulfil its mandate and within its responsibilities.
- (2) On the basis of Article 3(2)(a), Article 4(2) and Article 8(2) of the ESRB Regulation, the General Board of the ESRB has authorised staff from the ESRB Secretariat, in addition to certain staff from ESRB member institutions that have active membership of relevant ESRB expert groups and are working on ESRB-related projects, to use these data only for the common purpose of furthering the ESRB's objective of preventing and mitigating systemic risk by advising the General Board of the ESRB on its decisions on the appropriate design and calibration of macroprudential policy.¹
- (3) According to Article 8(1) of the ESRB Regulation, Article 6(1) of Regulation (EU) No 1096/2010 and Article 83 of EMIR, ESRB Secretariat staff, who work with confidential information and/or data subject to EMIR (hereinafter 'EMIR data'), are subject to professional secrecy obligations and shall not disclose such data and information, even after their duties have ceased.
- (4) According to Article 8(2) of the ESRB Regulation, Article 6(4) of Regulation (EU) No 1096/2010 and Article 83(3) of EMIR, ESRB Secretariat staff members may only use the EMIR data and the Confidential Information (as defined below) in the course of their duties and in the performance of the ESRB's mandate and responsibilities.
- (5) According to Article 8(3) of the ESRB Regulation, Article 6(1) of Regulation

¹ Decision of the ESRB of 4 November 2015 on access to data of trade repositories (ESRB/2015/NP6).

(EU) No 1096/2010 and, in particular, Article 83(1) of EMIR, no Confidential Information that those persons receive in the course of their duties shall be divulged to any person or authority, except in summary or aggregate form such that individual financial institutions, an individual CCP, trade repository or any other person cannot be identified,

It is important to keep in mind the abovementioned mandatory provisions in the light of the signature of this binding confidentiality undertaking with respect to the EMIR data.

I, [name, surname], being of legal age, holding [indicate] nationality and a valid identity card/passport [number], and whose business address is [indicate address],

Hereby

A) DECLARE

- that I have full legal capacity to sign this confidentiality undertaking.

B) UNDERTAKE

- not to use the EMIR data and/or any Confidential Information for purposes which do not contribute to the ESRB's mandate and responsibilities;
- not to disclose the EMIR data and/or any Confidential Information to any institution, entity or other legal or natural person whatsoever;
- to put in place appropriate procedures for the protection, both logical and physical, of confidential statistical information, as required by the Guideline of the European Central Bank of 22 December 1998 (ECB/1998/NP28);
- not to publish and/or disclose any results connected to any Confidential Information until the ESRB has first published a working paper and/or occasional paper with the relevant results;
- not to publish and/or disclose any outcome of any analytical process using EMIR data without the prior express written consent of the ESRB Secretariat or until the ESRB has first published a working paper and/or occasional paper with the relevant results.

C) ACKNOWLEDGE

- that for the purposes of this confidential undertaking, 'Confidential Information' means all information related to EMIR, namely facts, data and any other matters related to individual financial institutions, an individual CCP, trade repository or any other person (including, but not limited to, individual-specific results and methodological aspects), which have been provided to the ESRB

and of which I acquire knowledge, either directly or indirectly, as a result of my activities within the ESRB Secretariat;

- that I have familiarised myself with the confidentiality rules applicable to the EMIR data framework;
- that I have received a signed copy of this confidentiality undertaking.

This confidentiality undertaking shall not be limited in time, but shall not apply to any information that I can reasonably prove was known to me before the date of the start of my activity within the data collection exercise or which has become public knowledge otherwise than as a result of a breach of any of the above obligations and rules.

In witness whereof, upon being read, this confidentiality undertaking is signed at the date and place mentioned below.

Done at Frankfurt am Main, dd/mm/yyyy

Signature: