

FRAMEWORK CONTRACT for the selection and the performance of services by external staff for the Myrrha project.

"Framework Contract external Staff MYRRHA "

Between:

further called "the Contractor",
on the one part,

and

The Studiecentrum voor Kernenergie/Centre d'Etude de l'Energie Nucléaire [also known as The Belgian Nuclear Research Centre], SCK•CEN), Foundation of Public Utility, whose registered office is situated at Avenue Hermann Debroux 40, BE-1160, BRUSSELS, and laboratories at Boeretang 200, BE-2400 MOL, represented for the purpose of the signature of this Agreement by Prof. Frank DECONINCK, Chairman of the Board of Governors and Prof. Dr. Eric VAN WALLE, Director-General,

further called "SCK•CEN" or "the Customer",
on the other part,

HAVE AGREED

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

Annex 1 – Staff profiles of External Staff MYRRHA;

Annex 2 – Financial conditions and payment schedule

which form an integral part of this Contract (hereinafter referred to as “the Contract”).

The terms set out in the Special Conditions shall take precedence over those in the other parts of the Contract. The terms set out in the General Conditions shall take precedence over those in the Annexes.

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

The present Contract is subjected to the Belgian legislation on public tenders, notably the stipulations contained in the Royal Decree of 26 September 1996 establishing the general contractual terms for the public procurements of works, deliveries and services and its Annex. This Contract only deviates from the General Conditions set out in the Annex to the Royal Decree of 26 September 1996 if and insofar this has been explicitly stipulated in the present Contract. More specifically, the present Contract contains the following deviation of the General Conditions set out in the Annex to the Royal Decree of 26 September 1996:

- Article 5 of the General Conditions set out in the Annex to the Royal Decree of 26 September 1996: the Contractor is not required to provide a guarantee.

I – SPECIAL CONDITIONS

ARTICLE I.1 - SUBJECT

- I.1.1.** The subject of the Contract is to agree on a framework for the selection of External Staff and the performance of such services in the frame of the MYRRHA Project.
- I.1.2.** By signing this Contract, the Customer accepts to give the Contractor the opportunity to submit an offer for every relevant new task available for external staffing companies, such as-but not limited to-engineering and consultancy services.
- I.1.3** By signing this Contract, the Contractor accepts to provide on request of the Customer the profile of the competent staff available to execute the requested task.
- I.1.4** Selection of the External Staff will be made by a jury set up by the Customer.
Decisions will be taken using a scoring table.
The scoring table will refer to the relevant criteria of the call for tender but weighting factors will be reviewed in function of the required profile
The Customer will notify the Contractor the decision, positive or negative, after the selection for a task or certain tasks.
Motivation of the decision will be available at first request of the Contractor, but there is no right of recall available for the Contractor.
- I.1.5.** In case of selection of staff, the Contractor shall assign the performance of the tasks to the selected Staff Member(s).
The agreement will be formalised by the Customer sending a signed copy of Annex 1 and 2, corresponding to the conditions set forth in the offer, in twofold to the Contractor, who will send a fully signed copy back to the Customer.
- I.1.6** The selected External Staff will execute the tasks assigned to them by the appointed representative of the Contractor/Employer, in accordance with the detailed working-instructions elaborated by the Myrrha Management Team (MMT) and in accordance with the SCK•CEN standard working practices and procedures applicable at the SCK•CEN-sites.
- I.1.7** SCK•CEN explicitly retains the right to have recourse to other service providers or in-house-expertise for the tasks that are subject to the present Contract.

ARTICLE I.2 - DURATION

- I.2.1.** The Contract shall enter into force on the date on which it is signed by the contracting Party and will be in force till the 31th Decembre 2014.
- I.2.2.** Execution of the tasks may under no circumstances begin before the date on which the Contract enters into force.
- I.2.3.** The duration of the individual tasks granted in execution of this Contract shall not exceed 12 months. This period and all other periods specified in the Contract are calculated in calendar days.
The period of execution of the tasks may be extended only with the express written agreement of the Parties before such period elapses.
- I.2.4.** Extensions are authorised up to 4 times, each time for a period of execution of tasks of 12 months with the express written agreement of the Parties, indicating the date on which extension of the tasks shall start.

Renewal does not imply any modification or deferment of existing obligations, unless it is agreed between the Parties in newly established Annexes 1 and 2, adapted by Amendment and signed by both Parties.

ARTICLE I.3 – CONTRACT PRICE

- I.3.1.** The daily maximum price for the services per staff category is fixed in Annex 2 (excl. VAT) and includes labour, travel, living expenses and overheads.
- I.3.2.** The prices are valid for the first period of one year.
For the following years of the Contract, a revision of the price is possible with mutual agreement taking into account inflation, cost base and eventually currency fluctuation.

ARTICLE I.4 – PAYMENT PERIODS AND FORMALITIES

Payments under the Contract shall be made against a monthly invoice and on the basis of a timesheet duly approved by the Customer.

The Customer will assign an internal Task Manager who is mandated to approve the timesheets, filled out properly by the External Staff.

Payments will be made at 30 days after receipt of the invoice.

ARTICLE I.5 – BANK ACCOUNT

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

<i>Bank</i>	
<i>Account Holder</i>	
<i>Account Number</i>	
<i>BIC CODE</i>	
<i>SWIFT CODE</i>	
<i>IBAN CODE</i>	

The same bank account reference must be mentioned on each invoice.
All invoices shall indicate the Contractor's VAT number.

ARTICLE I.6 – GENERAL ADMINISTRATIVE PROVISIONS

I.6.1. Any communication relating to the Contract shall be made in writing and shall bear the Contract number. Ordinary mail shall be deemed to have been received by the Customer on the date on which it is registered by the department responsible indicated below. Communications shall be sent to the following addresses:

Contractor :

Customer:

SCK•CEN
Boeretang 200
BE-2400 Mol
Belgium

For administrative questions, contact Mr Dirk CEUTERICK

For technical questions, contact Mr Paul LEYSEN

1.6.2. For all communication regarding employment and social law matters, the Contractor appoints as his representative:

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The appointed representative of the Contractor will be the only point of contact between the Customer and the Contractor for matters such as absence, days of leave, holidays, functional evaluation, personal evaluation, complaints... and all matters related to social- and employment law.

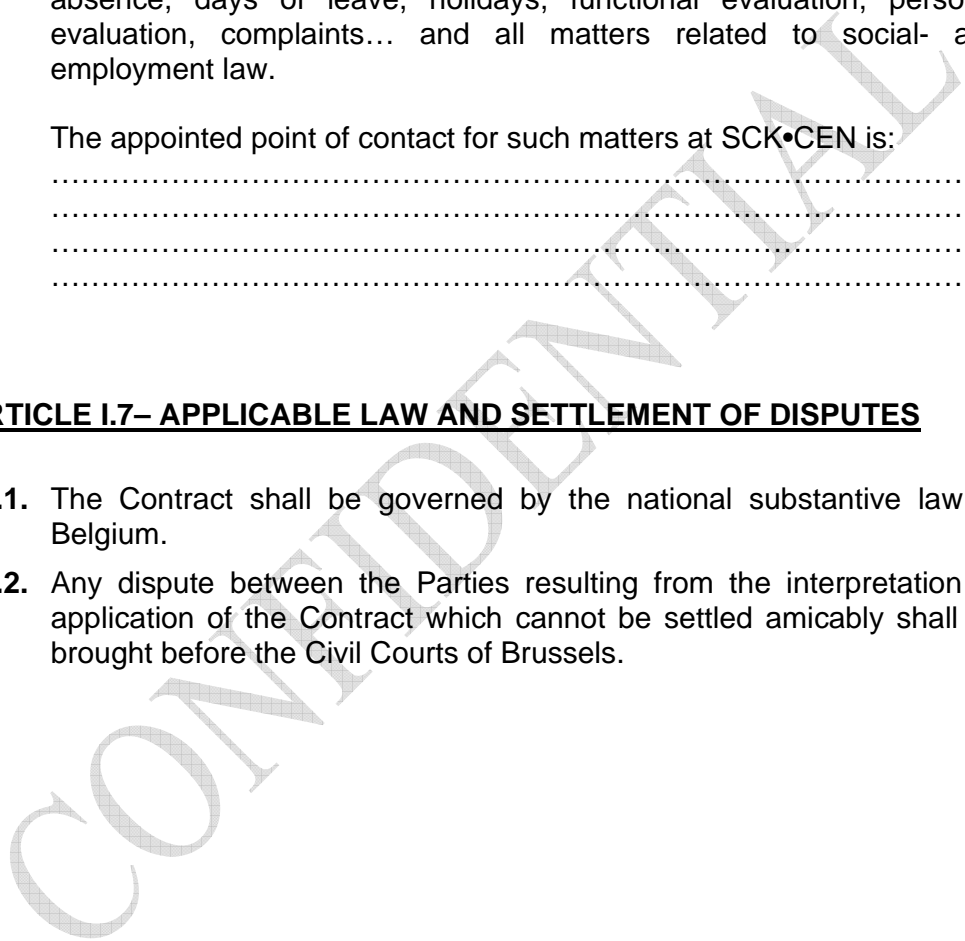
The appointed point of contact for such matters at SCK•CEN is:

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ARTICLE I.7– APPLICABLE LAW AND SETTLEMENT OF DISPUTES

1.7.1. The Contract shall be governed by the national substantive law of Belgium.

1.7.2. Any dispute between the Parties resulting from the interpretation or application of the Contract which cannot be settled amicably shall be brought before the Civil Courts of Brussels.



II – GENERAL CONDITIONS

ARTICLE II.1 – PERFORMANCE OF THE CONTRACT

- II.1.1.** The Contractor shall perform the Contract to the highest professional standards. The Contractor shall have sole responsibility for complying with any legal obligations incumbent on him, notably those resulting from employment, tax and social legislation.
- II.1.2.** The Customer shall have the responsibility for taking the necessary steps to obtain any permit or licence required for performance of the Contract under the laws and regulations in force at the place where the tasks assigned to the Contractor are to be executed.
The Contractor shall have the responsibility to comply with all laws and regulations concerning the secondment of its staff to the Contractor.
- II.1.3.** Any reference made to the Contractor's staff in the Contract shall relate exclusively to individuals involved in the performance of the Contract.
- II.1.4.** The Contractor must ensure that any staff performing the Contract have the professional qualifications and experience required for the execution of the tasks assigned to him.
- II.1.5.** The Contractor shall neither represent the Customer nor behave in any way that would give such an impression.
- II.1.6.** The Contractor shall have sole responsibility for the staff who execute the tasks assigned to him.

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

- staff executing the tasks assigned to the Contractor may not be given orders direct by the Customer, for matters under employment law. Exception is made for all orders which only relate to the technical execution of the work, or to all internal procedures applicable at the site of the Customer.
 - the Customer may not under any circumstances be considered to be the staff's employer and the said staff shall undertake not to invoke in respect of the Customer any right arising from the contractual relationship between the Customer and the Contractor.
- II.1.7.** In the event of disruption resulting from the action of a member of the Contractor's staff working on Customer premises or in the event of the expertise of a member of the Contractor's staff failing to correspond to the profile required by the Contract, the Contractor shall replace him without delay.

The Customer shall have the right to request the replacement of any such member of staff, stating its reasons for so doing. Replacement staff must have the necessary qualifications and be capable of performing the Contract under the same contractual conditions. The Contractor shall be responsible for any delay in the execution of the tasks assigned to him resulting from the replacement of staff in accordance with this Article.

- II.1.8.** Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and on his own initiative record it and report it to the Customer. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the Contractor to ensure full compliance with his obligations under the Contract. In such event the Contractor shall give priority to solving the problem rather than determining liability.

ARTICLE II.2 – LIABILITY

- II.2.1.** The Operator of the nuclear installation where the Programme will be carried out shall be solely liable for damage caused by a nuclear incident, occurring in their installations, according to the provisions of the Paris Convention on “Third-Party Liability in the Field of Nuclear Energy” of July 29, 1960, the Complementary Brussels Convention of January 31, 1963, and their Additional Protocols or the provisions of the “Vienna Convention on civil liability for nuclear damage” of May 21, 1963 and its additional protocol, as implemented by the law of the country where the nuclear installation is located. The operator of the nuclear installation shall not be liable for nuclear damage caused to any property of the other Parties, located on the site of the nuclear installation where the nuclear incident occurred and which is used or to be used in connection with that installation.
- II.2.2.** The Customer shall not be liable for damage sustained by the Contractor in performance of the Contract except in the event of wilful misconduct or gross negligence on the part of the Customer.
- II.2.3.** The Contractor shall be liable for any loss or damage caused by himself in performance of the Contract, including in the event of subcontracting under Article II.10. The Customer shall not be liable for any act or default on the part of the Contractor in performance of the Contract.
- II.2.4.** The Contractor shall provide compensation in the event of any action, claim or proceeding brought against the Customer by a third party as a result of damage caused by the Contractor in performance of the Contract.

- II.2.5.** In the event of any action brought by a third party against the Customer in connection with performance of the Contract, the Contractor shall assist the Customer. Expenditure incurred by the Contractor to this end may be borne by the Customer.
- II.2.6.** The Contractor shall take out insurance against risks and damage relating to performance of the Contract if required by the relevant applicable legislation. He shall take out supplementary insurance as reasonably required by standard practice in the industry. A copy of all the relevant insurance contracts shall be sent to the Customer should he so request.
- II.2.7** The Contractor and the Customer agree not to actively approach each other's key-personnel in order to engage them in their own workforce. This restriction of not hiring staff from the other Party, without written consent of both Parties, survives the end of the Contract for 5 years. A penalty of EUR 50,000 shall be forfeited for each violation of this provision.

ARTICLE II.3 – GENERAL PROVISIONS CONCERNING PAYMENTS

- II.3.1.** Payments shall be deemed to have been made on the date on which the Customer's account is debited.
- II.3.2.** The payment periods referred to in Article I.4 may be suspended by the Customer at any time if it informs the Contractor that his payment request is not admissible, either because the amount is not due or because the necessary supporting documents have not been properly produced. In case of doubt on the eligibility of the expenditure indicated in the payment request, the Customer may suspend the time limit for payment for the purpose of further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the expenditure is eligible.

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

- II.3.3.** In the event of late payment the Contractor may claim interest within two months of receiving the payment. Interest shall be calculated at the rate applied by the European Central Bank to its most recent main refinancing operations ("*the reference rate*") plus seven percentage points ("*the margin*"). The reference rate in force on the first day of the month in which the payment is due shall apply. Such interest rate is published in the C series of the Official Journal of the European Union. Interest shall be payable for the period elapsing from the calendar day following expiry of the time limit for payment up to the day of payment.

Suspension of payment by the Customer may not be deemed to constitute late payment.

ARTICLE II.4 – RECOVERY

- II.4.1.** If total payments made exceed the amount actually due under the Contract or if recovery is justified in accordance with the terms of the Contract, the Contractor shall reimburse the appropriate amount in euro on receipt of the debit note, in the manner and within the time limits set by the Customer.
- II.4.2.** In the event of failure to pay by the deadline specified in the request for reimbursement, the sum due shall bear interest at the rate indicated in Article II.5.3. Interest shall be payable from the calendar day following the due date up to the calendar day on which the debt is repaid in full.

ARTICLE II.5 – OWNERSHIP OF THE RESULTS - INTELLECTUAL AND INDUSTRIAL PROPERTY

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

ARTICLE II.6 – CONFIDENTIALITY

- II.6.1.** The Contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to performance of the Contract. The Contractor shall continue to be bound by this undertaking after completion of the tasks.
- II.6.2.** The Contractor shall obtain from each member of his staff, board and directors an undertaking that they will respect the confidentiality of any information which is linked, directly or indirectly, to execution of the tasks and that they will not divulge to third parties or use for their own benefit or that of any third party any document or information not available publicly, even after completion of the tasks.

- II.6.3.** Moreover, the Contractor agrees to reveal the Information only to those of its personnel who are directly concerned with the performance of the tasks, and only to the extent their knowledge of (any part of) the Information is essential for these purposes. Said persons shall be informed by the Contractor in advance of the confidential nature of the Information: they shall agree to be bound by the terms and conditions of this agreement. The Contractor shall, without prejudice to the right of SCK-CEN to undertake any direct course of action against such persons as a result of their undertaking, be liable for any breach of this agreement by any of these persons.
- II.6.4.** The Information will be returned to the SCK-CEN immediately upon its request, including all physical or electronic copies made of the Information.
- II.6.5.** The Contractor hereby undertakes to promptly notify SCK-CEN in writing of any breach by the Contractor or his personnel of their obligations under this agreement of which the Contractor become aware.

ARTICLE II.7 - USE, DISTRIBUTION AND PUBLICATION OF INFORMATION

- II.7.1.** The Contractor shall authorise the Customer to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in or relating to the Contract, in particular the identity of the Contractor, the subject matter, the duration, the amount paid and the reports. Where personal data is concerned, Article I.8 shall apply.
- II.7.2.** Unless otherwise provided by the Special Conditions, the Customer shall not be required to distribute or publish documents or information supplied in performance of the Contract. If it decides not to publish the documents or information supplied, the Contractor may not have them distributed or published elsewhere without prior written authorisation from the Customer.
- II.7.3.** Any distribution or publication of information relating to the Contract by the Contractor shall require prior written authorisation from the Customer and shall mention the amount paid by the Customer. It shall state that the opinions expressed are those of the Contractor only and do not represent the Customer's official position.
- II.7.4.** The use of information obtained by the Contractor in the course of the Contract for purposes other than its performance shall be forbidden, unless the Customer has specifically given prior written authorisation to the contrary.

ARTICLE II.8 – TAXATION

- II.8.1.** The Contractor shall have sole responsibility for compliance with the tax laws which apply to him. Failure to comply shall make the relevant invoices invalid.
- II.8.2.** Invoices presented by the Contractor shall indicate his place of taxation for VAT purposes and shall specify separately the amounts not including VAT and the amounts including VAT.

ARTICLE II.9 – FORCE MAJEURE

- II.9.1.** Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the contracting parties which prevents either of them from performing any of their obligations under the Contract, was not due to error or negligence on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a relevant case of force majeure.
- II.9.2.** Without prejudice to the provisions of Article II.1.8, if either contracting party is faced with force majeure, it shall notify the other party without delay by registered letter with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.
- II.9.3.** Neither contracting party shall be held in breach of its contractual obligations if it has been prevented from performing them by force majeure. Where the Contractor is unable to perform his contractual obligations owing to force majeure, he shall have the right to remuneration only for tasks actually executed.
- II.9.4.** The contracting parties shall take the necessary measures to reduce damage to a minimum.

ARTICLE II.10 – SUBCONTRACTING

- II.10.1.** The Contractor shall not subcontract without prior written authorisation from the Customer nor cause the Contract to be performed in fact by third parties.
- II.10.2.** Even where the Customer authorises the Contractor to subcontract to third parties, he shall none the less remain bound by his obligations to the Customer under the Contract and shall bear exclusive liability for proper performance of the Contract.

II.10.3. The Contractor shall make sure that the subcontract does not affect rights and guarantees to which the Customer is entitled by virtue of the Contract, notably Article II.17.

ARTICLE II.11 – ASSIGNMENT

II.11.1. The Contractor shall not assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from the Customer.

II.11.2. In the absence of the authorisation referred to in 1 above, or in the event of failure to observe the terms thereof, assignment by the Contractor shall not be enforceable against and shall have no effect on the Customer.

ARTICLE II.12 – TERMINATION BY THE CUSTOMER

II.12.1. The Customer may terminate the Contract in the following circumstances:

- (a) where the Contractor is being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) where the Contractor has been convicted of an offence concerning his professional conduct by a judgment which has the force of *res judicata*;
- (c) where the Contractor has been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- (d) where a change in the Contractor's legal, financial, technical or organisational situation could, in the Customer's opinion, have a significant effect on the performance of the Contract;
- (e) where execution of the tasks has not actually commenced within three months of the date foreseen, and the new date proposed, if any, is considered unacceptable by the Customer;
- (f) where the Contractor, after receiving formal notice in writing to comply, specifying the nature of the alleged failure, and after being given the opportunity to remedy the failure within a reasonable period following receipt of the formal notice, remains in serious breach of his contractual obligations.

II.12.2. In case of force majeure, notified in accordance with Article II.9, either contracting party may terminate the Contract, where performance thereof cannot be ensured for a period corresponding to at least to one fifth of the period laid down in Article I.2.3.

II.12.3. Prior to termination under Article II.12, the Contractor shall be given the opportunity to submit his observations.

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

II.12.4. Consequences of termination:

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

ARTICLE II.13 – AMENDMENTS

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

ARTICLE II.14 – SIGNATORIES

Done in duplicate, one original copy for each Party.

For SCK•CEN:

Prof. Dr. Eric VAN WALLE
Director-General

Date:

Place:

Signature:

For.....

.....
Managing Director

Date:

Place:

Signature:

For SCK•CEN:

Prof. Frank DECONINCK
Chairman of the Board of Governors

Date:

Place:

Signature:

