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DPS TENDER SPECIFICATIONS

INTRODUCTION

This document presents DPS ITS, the procedure chosen by the European Commission for the procurement of end-user IT supplies and associated services, of infrastructure-related (managed) services and their associated products linked to a digital workplace context, as well as cybersecurity solutions. Dynamic Purchasing System¹ (DPS) is a completely electronic process. It is a form of restricted procurement procedure, and it occurs in two stages:

Stage 1: Participation in the DPS

Any economic operator (i.e. legal person) can request to participate in the DPS by filling in an Application. The number of Candidates is not limited. Economic operators can request to participate at any time throughout the duration of the DPS.

The Contracting Authority will assess the submitted Applications. The Contracting Authority admits all Candidates not subject to restrictive measures, having access to procurement, not in an exclusion situation, fulfilling the selection criteria to become Participants in the DPS and whose requests to participate are administratively compliant.

The conditions for Candidates to request participation in the DPS are detailed in section 2 *Stage one – Participation in the DPS*.

Stage 2: Tendering in Mini-Competitions

When the Contracting Authority wishes to award a Contract under the DPS, it sets up a Mini-Competition in which Participants can submit tenders for specific scope of the Mini-Competition. Only Participants previously admitted in the DPS are invited to join a Mini-Competition and submit a tender. The Contracting Authority evaluates the submitted tenders. The present DPS Specifications describe the general set-up for Mini-Competitions in the DPS. The specific scope and conditions applicable to each Mini-Competition are specified in the Tender Specifications of the respective Mini-Competition.

At the conclusion of a Mini-Competition, the Contracting Authority may award a Contract to the most economically advantageous tender on the basis of the award criteria set out in the Tender Specifications of the Mini-Competition.

The general conditions for Participants to join and submit tenders in Mini-Competitions inside the DPS are detailed in section 3 *Stage two - Tendering in Mini-Competitions*.

¹ When a term is capitalised in the text, it indicates that such expression is defined in the Definitions section of one of the procurement documents: DPS Specifications, Contract Main Conditions, General Terms and Conditions, etc.

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1. SCOPE AND DESCRIPTION OF THE DPS

1.1. Legal basis

This procedure is governed by the provisions of [Regulation \(EU, Euratom\) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union](#) (the Financial Regulation, “FR”)².

The Contracting Authority follows the rules of the restricted procedure for procurement through a dynamic purchasing system, pursuant to Article 164(1)(b) of the Financial Regulation. The dynamic purchasing system shall be open throughout its duration to any economic operator that is not subject to restrictive measures, has access to procurement, is not in an exclusion situation, satisfies the selection criteria and whose requests to participate are administratively compliant.

1.2. Contracting Authority: who is the buyer?

This procurement procedure is interinstitutional. The following EU institutions, agencies and bodies (hereafter the Participating Entities) may participate as Contracting Authorities to the Contracts resulting from this DPS:

#	Participating Entities	
1.	EC	European Commission
2.	ACER	European Union Agency for the Cooperation of Energy Regulators
3.	BEREC	Agency for Support for BEREC
4.	CA JU	Clean Aviation Joint Undertaking
5.	CBE JU	Circular Bio-based Europe Joint Undertaking
6.	CdT	Translation Centre for the Bodies of the European Union
7.	Cedefop	European Centre for the Development of Vocational Training
8.	CEPOL	European Union Agency for Law Enforcement Training

² Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193 of 30.07.2018, p.1).

9.	CFSP Entities	Common Foreign and Security Policy Entities ³
10.	CH JU	Clean Hydrogen Joint Undertaking
11.	CINEA	European Climate, Infrastructure and Environment Executive Agency
12.	CJEU	Court of Justice of the European Union
13.	CoR	European Committee of the Regions
14.	Council	General Secretariat of the Council (Council of the European Union and European Council)
15.	CPVO	Community Plant Variety Office
16.	EACEA	European Education and Culture Executive Agency
17.	EASA	European Union Aviation Safety Agency
18.	EBA	European Banking Authority
19.	ECA	European Court of Auditors
20.	ECB	European Central Bank
21.	ECDC	European Centre for Disease Prevention and Control
22.	ECHA	European Chemicals Agency
23.	EDA	European Defence Agency
24.	EDPS	European Data Protection Supervisor
25.	EEA	European Environment Agency
26.	EEAS	European External Action Service
27.	EESC	European Economic and Social Committee
28.	EFCA	European Fisheries Control Agency
29.	EFSA	European Food Safety Authority
30.	EIB	European Investment Bank
31.	EIF	European Investment Fund

³ Entities entrusted with the implementation of specific actions in the Common Foreign and Security Policy (CFSP) pursuant to Title V of the Treaty of the European Union (including in particular civilian Common and Security Defence Policy (CDSP) Missions, EU Special Representatives and other CFSP operational actions).

32.	EIGE	European Institute for Gender Equality
33.	EIOPA	European Insurance and Occupational Pensions Authority
34.	Eisimea	European Innovation Council and SMEs Executive Agency
35.	EIT	European Institute of Innovation and Technology
36.	ELA	European Labour Authority
37.	EMA	European Medicines Agency
38.	EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
39.	EMSA	European Maritime Safety Agency
40.	ENISA	European Union Agency for Cybersecurity
41.	EO	European Ombudsman
42.	EP	European Parliament
43.	EPPO	European Public Prosecutor's Office
44.	ERA	European Union Agency for Railways
45.	ERCEA	European Research Council Executive Agency
46.	ER JU	Europe's Rail Joint Undertaking
47.	ESMA	European Securities and Markets Authority
48.	ETF	European Training Foundation
49.	EUAA	European Union Agency for Asylum
50.	EUI	European University Institute
51.	EUIPO	European Union Intellectual Property Office
52.	eu-LISA	European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice
53.	EU-OSHA	European Agency for Safety and Health at Work
54.	Eurofound	European Foundation for the Improvement of Living and Working Conditions
55.	EuroHPC	European High-Performance Computing Joint Undertaking
56.	Eurojust	European Union Agency for Criminal Justice Cooperation

57.	Europol	European Union Agency for Law Enforcement Cooperation
58.	EURSC	Office of the Secretariat-General of the European Schools
59.	EUSPA	European Union Agency for the Space Programme
60.	F4E	Fusion for Energy Joint Undertaking
61.	FRA	European Union Agency for Fundamental Rights
62.	Frontex	European Border and Coast Guard Agency
63.	HADEA	European Health and Digital Executive Agency
64.	IHI	Innovative Health Initiative Joint Undertaking
65.	KDT JU	Key Digital Technologies Joint Undertaking
66.	REA	European Research Executive Agency
67.	Satcen	European Union Satellite Centre
68.	SESAR	SESAR Joint Undertaking
69.	SRB	Single Resolution Board
70.	ESA	Euratom Supply Agency
71.	SNS JU	Smart Networks and Services Joint Undertaking
72.	EUISS	European Union Institute for Security Studies
73.	ECCC	European Cybersecurity Industrial, Technology and Research Competence Centre

The list of Participating Entities may be extended to include any other institution, agency or body created on the basis of the [Treaties](#) or secondary Union law.

As Lead Contracting Authority, the European Commission, assisted by its Directorate General for Informatics (DG DIGIT) launches and publishes the DPS and acts on behalf of the Participating Entities for the purposes of this DPS.

References to the Contracting Authority in the procurement documents shall be understood, depending on the context, as referring to one of the following:

- the European Commission acting in its capacity as Lead Contracting Authority;
- all the Participating Entities, in relation to their collective rights and obligations;
- any of the Participating Entities acting in its own capacity.

1.3. Scope

The general scope of the DPS ITS, hereinafter referred to as the DPS, is sourcing of end-user IT supplies and associated services, of infrastructure-related (managed) services and their associated products linked to a digital workplace context, as well as cybersecurity solutions.

The exact scope and requirements of each Contract awarded as the result of a Mini-Competition launched throughout the duration of the DPS will be determined at the level of the respective Mini-Competition and may include, for example, the following supplies and services falling under the general scope of this DPS:

- End-point computing equipment (e.g. notebook computers, hybrid device products (e.g. convertible or detachable notebooks or other form factors), desktops, thin clients),
- Smartphones, tablets, other diverse mobile products
- IT peripherals (e.g. docking stations, keyboards, mice, headphones, unified communication peripherals (such as headsets, desktop speakers, webcams), privacy screen filters or external disks),
- Flat-panel displays (in various sizes)
- Other associated equipment (e.g. cables, adapters)
- End user cybersecurity solutions (e.g. security-related peripherals for the end user (such as hardware tokens for password-less authentication, encrypted USB keys, physical security locks etc.)),
- Printing and imaging devices (e.g. personal printers, personal multifunctional devices (MFDs), special-purpose printers and/or imaging devices, related consumables, various types of scanners and/or plotters),
- Maintenance services (extended guarantee) and other services related to end-user IT equipment.
- Infrastructure-related (managed) services with their associated products linked to a digital workplace context, in particular those related to group printing and imaging.

This DPS is not divided into categories.

The procurement documents of the respective Mini-Competition will specify the type of the resulting contract (Framework Contract or Direct Contract).

1.4. Place of performance/delivery

The supplies will be delivered, and services provided to the locations where the Participating Entities to the Contract have premises. The aforementioned locations of premises are spread across several member states of the EU. Some Participating Entities have premises in several locations and these may be subject to change.

More information and specific requirements in terms of place(s) of delivery/performance may be specified in the procurement documents of the respective Mini-Competition.

1.5. Nature of the Contracts resulting from Mini-Competitions

The procurement documents of each Mini-Competition will specify the type of the resulting Contract. The resulting Contract can take the form of either a Direct Contract or a (single or multiple) Framework Contract (FwC).

If the resulting Contract takes the form of a Direct Contract, all the terms governing the provision of the services and/or delivery of the supplies are defined at the outset. Once signed, they can be implemented directly without any further contractual procedures (e.g. award of Specific Contracts⁴).

If the resulting Contract takes the form of a Framework Contract, the Contract establishes a mechanism for future repetitive purchases by the Contracting Authority to be awarded in the form of specific contracts. The signature of a Framework Contract does not impose an obligation on the Contracting Authority to conclude specific contracts with the Contractor.

Participants submitting tenders in a Mini-Competition (Tenderers) will need to take full account of the full set of procurement documents, including the provisions of the draft Contract, as these documents will define and govern the contractual relationship(s) to be established between the Contracting Authority and the successful Tenderer(s). Once this contractual relationship is established, i.e when the Contract is signed by both parties, the successful Tenderer becomes a Contractor. Special attention is to be paid to the provisions specifying the rights and obligations of the Contractor, in particular those on payments, performance of the Contract, service level metrics including delivery times, data protection, confidentiality, and checks and audits.

⚡ If a Tenderer to whom the Contract is awarded (any of the group members in case of a joint tender) has established debt(s) owed to the Union, the European Atomic Energy Community or an executive agency when the latter implements the Union budget, such debt(s) may be offset, in line with Articles 101(1) and 102 of the Financial Regulation and the conditions set out in the draft contract, against any payment due under the Contract. The Contracting Authority will verify the existence of overdue debts of the successful Tenderer(s) (any of the group members in case of a joint tender), and, if any such debt is found, will inform the Tenderer (the group leader in case of a joint tender who will then have the obligation to inform all other group members before signing the contract) that the debt(s) may be offset against any payment due under the Contract.

1.6. Volume and value

The estimated total value of the DPS is indicated under section II.1.5 of the contract notice. It is established by combining the estimated value of the Contracts to be awarded in the DPS.

This value is only provided as an indicative estimate. It constitutes neither a commitment from the Contracting Authority nor a ceiling for the procedure.

The maximum amount for each Contract signed following a Mini-Competition shall be determined either by the Contracting Authority or by the total amount of the successful

⁴ Any reference to Specific Contracts applies also to order forms (a simplified form of Specific Contract).

Participant's financial offer for the overall estimated volume of purchases in the Mini-Competition. The method used for defining the maximum amount of each Contract will be specified in the procurement documents of the respective Mini-Competition.

1.7. Timeline and duration

1.7.1. Timeline of the DPS

The DPS is launched on the date the contract notice is published in the Tenders Electronic Daily (TED) at <https://ted.europa.eu>.

Once the DPS is launched, economic operators can apply to participate in it at any time throughout its duration, in order to be able to tender in the future Mini-Competitions. The Contracting Authority shall complete its assessment of Applications within ten (10) working days of their receipt. However, the Contracting Authority may extend the assessment period further, provided that no invitation to tender is issued in the meantime. During the 10-day review period after the submission of an Application, the Contracting Authority reserves the right to launch a new Mini-Competition without finalising the assessment of that Application.

In any case, the Contracting Authority informs the Candidates as soon as possible whether or not they have been admitted to become Participants in the DPS.

In order to allow interested economic operators a sufficient amount of time to apply for participation in the DPS, the first Mini-Competition is to be published at least 32 days after the launch of the DPS.

When launching a Mini-Competition for the award of a Contract, the Contracting Authority invites all Participants admitted to the DPS to submit a tender for this Mini-Competition within a reasonable amount of time. The time limit set by the Contracting Authority for the receipt of tenders may not be less than ten days from the day following the date on which the invitation to tender is dispatched.

1.7.2. Duration of the DPS

The DPS has a planned duration of four (4) years which starts at the date of its publication.

1.7.3. Duration of the Contracts

Each Mini-Competition determines the duration of its resulting Contract.

The time limit of the DPS does not affect the duration of the Contracts awarded thereunder – a Contract awarded throughout the duration of validity of the DPS will run for the duration specified in that Contract.

1.7.4. Termination of the DPS

The Contracting Authority may terminate the DPS at any time and for any reason. The termination of the DPS by the Contracting Authority does not affect the implementation or duration of Contracts previously awarded through the DPS.

1.8. Electronic exchange system: can exchanges under the Contracts be automated?

For all exchanges with the Contractors during the implementation of the Contracts resulting from the Mini-Competitions as well as for future possible subsequent proceedings, including, but not limited to, for the purposes of EDES ([European Union's Early Detection and Exclusion System](#)), the Contracting Authority may use an electronic exchange system meeting the requirements of Article 148 of the Financial Regulation. At the request of the Contracting Authority, the use of such a system shall become mandatory for the Contractor(s) at no additional cost for the Contracting Authority. Details on specifications, access, terms and conditions of use will be provided in advance.

The Contracting authority draws economic operators' attention to the contractual provisions on the use of electronic exchange system included in the draft Contract.

1.9. Security and Data Protection

Security will be addressed in the procurement documents of each Mini-Competition.

Data protection will be also addressed in the procurement documents of each Mini-Competition. In case of joint application (see section 2.2), the Group Members as a whole are considered as the processor.

2. STAGE ONE – PARTICIPATION IN THE DPS

Any economic operator can become a Candidate by submitting a request to participate (the “Application”) in the DPS, after having registered in the Mercell Source-to-Contract platform (hereinafter ‘MerCell StC’ or ‘MerCell’) as detailed in section 4.2 (*Electronic access*). Registration is simple and free of charge.

Economic operators can combine their efforts and organise themselves as provided for in section 2.2 (*Combined efforts of economic operators: how can economic operators organise themselves?*) to apply for participation in the DPS.

The Contracting Authority assesses the submitted Applications and admits all Candidates not subject to restrictive measures, having access to procurement, not in an exclusion situation and fulfilling the selection criteria, and whose requests to participate are administratively compliant. If admitted, the Candidate becomes a Participant in the DPS and has the possibility to tender in Mini-Competitions.

2.1. Registration in the Participant Register

Any economic operator willing to submit an Application for this DPS must be registered in the [Participant Register](#) - an online register of organisations and natural persons participating in calls for tenders or calls for proposals of the European Commission and other EU institutions, agencies and bodies. In the case of a joint Application, all Group Members must be registered and fulfil the below obligations.

On registering each economic operator obtains a Participant Identification Code (PIC, 9-digit number) which acts as its unique identifier in the Participant Register. This registration is required only once – the information provided can be further updated or re-used in other calls for tenders or calls for proposals of the European Commission and other EU institutions, agencies and bodies.

🔗 Each Candidate needs to ensure that its SME status in the Participant Register is registered and kept up to date.

At any moment during the procurement procedure, the Research Executive Agency Validation Services (the “EU Validation Services”) may contact the economic operator and ask for supporting documents on legal existence and status. The requests will be made through the register's messaging system to the e-mail address of the economic operator's contact person indicated in the register. It is the responsibility of the Candidate to provide a valid e-mail address and to check it regularly.

The documents that may be requested by the EU Validation Services are listed in the [EU Grants and Tenders Rules on Legal Entity Validation, LEAR appointment and Financial Capacity assessment](#)⁵.

⁵ https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/common/guidance/rules-lev-lear-fca_en.pdf

Please note that a request for supporting documents by the EU Validation Services in no way implies that the Application has been successful.

2.2. Combined efforts of economic operators: how can economic operators organise themselves?

Organisation

Economic operators can submit an Application in the DPS either as a sole economic operator (Sole Candidate) or as a Group of economic operators, combining their efforts in a joint Application.

In either case, subcontracting is permitted. Any restriction or limitation for subcontracting will be defined on Mini-Competition level.

Economic operators can also choose to rely on the capacity of other entities (other than Group Members or subcontractors) for the purposes of fulfilling the selection criteria set out in section 2.3.3.

Participation in Stage 1

The following rules and limitations apply to the participation of the economic operators in Stage 1:

- An economic operator may participate in the DPS (either as a Sole Participant or as a Group Member) only once;
- An economic operator may be present in the DPS as a subcontractor and/or as a reliance entity to several other Candidates/Participants;
- An economic operator may participate in the DPS as a Sole Participant or as a Group Member and may at the same time be present in the DPS as a subcontractor and/or as a reliance entity to several other Candidates/Participants.

For example, an economic operator may participate as a Sole Participant and may also be present as a subcontractor to two other Groups. An economic operator cannot, however, participate at the same time as a Sole Participant and as a Group Member or participate at the same time as a Group Member in several Applications.

Options for participation in Stage 2

In Stage 2, the Tender Specifications of a Mini-Competition could modify the rules of participation of economic operators based on the scope of the Mini-Competition.

First, Participants who were admitted in Stage 1 of the DPS may be allowed to combine their efforts in a joint tender for the purpose of tendering in a Mini-Competition in Stage 2.

Second, the Tender Specifications of a Mini-Competition may restrict the presence of an economic operator in multiple tenders. For example, an economic operator may only be able to tender once either as a Sole Tenderer, or as a Group Member or as an Identified Subcontractor.

Other rules on participation in Stage 2 may be defined in the Tender Specifications of a Mini-Competition.

In any event, tenders in a Mini-Competition must be drawn and submitted in complete independence and autonomously from the other tenders.

Roles

The role of each entity involved in an Application (“Involved Entity”) must be clearly specified in Mercell StC: Sole Candidate, Group Member or Group Leader, subcontractor or entity on whose capacities the Candidate relies to fulfil the selection criteria.

2.2.1. Joint Application

A joint Application is the situation where an Application is submitted by a Group (with or without legal form) of economic operators regardless of the link they have between them. The Group as a whole is considered a Candidate.

All Group Members assume joint and several liability towards the Contracting Authority for the performance of the Contract as a whole.⁶

Application

The joint Application must clearly indicate the role and tasks of each Group Member and designate one of them as a Group Leader acting as the Contracting Authority's contact point for the tender's and Contract's administrative or financial aspects and operational management. A cover letter to the joint Application should be drawn up in the model attached in the Mercell StC platform (document reference: “Application cover letter - Group”, see Annex 2) and signed by the authorised representatives of each Group Member (including the Group Leader).

Note

In case a joint Application takes a separate legal status (i.e. a separate company number, for example as a European Economic Interest Group), the Group should be registered in Mercell StC as a different company than any of the companies participating in the Group. It is strongly recommended to contact Mercell StC support for more information on how to properly create an account to submit a joint Application on the Mercell StC platform.

If a Group admitted to the DPS wins a Mini-Competition within the DPS, the Contracting Authority will sign the resulting Contract with the Group Leader. The Group Leader must be authorised by the other Group Members to sign the Contract on their behalf via a power

⁶ In the case of subcontracting, subcontractors are not assuming joint and several liability for performance of the Contract as a whole. Contractor (all Group Members) retains full liability towards the Contracting Authority for performance of the Contract.

of attorney drawn up in the model Application cover letter referenced above. The Group Leader will have full authority to legally bind the Group and each of its Group Members during Contract execution.

In a joint Application, each Group Member must have a Participant Identification Code as described in section 2.1. The list of Group Members and their PIC is requested in the MerCell StC platform.

Changes

Changes in the composition of the Group during the procurement procedure (after the acceptance of the Application and before the potential signature of a Contract) shall lead to the rejection of the tender and the potential termination of the participation of the Group in DPS except in the following cases:

- a) In case of a merger or takeover of a Group Member (universal succession), provided that the following cumulative conditions are fulfilled:
 - the new entity is not subject to restrictive measures, has access to procurement and is not in an exclusion situation,
 - all the tasks assigned to the former entity are taken over by the new entity,
 - the Group meets the selection criteria,
 - the change must not make the Application/tender non-compliant with the procurement documents,
 - the terms of the originally submitted tender are not altered substantially and the evaluation of award criteria of the originally submitted tender are not modified,
 - the new entity undertakes to replace the former entity for the implementation of the Contract, in case of an award.

- b) In case a Group Member is subject to restrictive measures or does not have access to procurement or is in an exclusion situation, provided the following cumulative conditions are fulfilled:
 - none of the remaining Group Members is subject to restrictive measures,
 - all the remaining Group Members have access to procurement,
 - the remaining Group Members meet the selection criteria,
 - the change must not make the Application/tender non-compliant with the procurement documents,
 - the terms of the originally submitted tender are not altered substantially and the evaluation of award criteria of the originally submitted tender are not modified,
 - the continuation of the participation of the remaining Group Members in the procurement procedure does not put the other economic operators in a competitive disadvantage,
 - the remaining Group Members undertake to implement the contract, in case of an award, without the excluded Group Member.

The replacement of the Group Member not having access to procurement or in a situation of exclusion is not allowed.

- c) In case the Tender Specifications of a Mini-Competition allow DPS Participants to combine their efforts in a joint tender for the purpose of tendering in that Mini-Competition, a Sole Participant or a Group can combine their efforts with one or more other Sole Participants and/or one or more Groups already admitted to the DPS. However, a Group Member cannot separate itself from the Group in which it participates to combine efforts with other Participants.

Outside of these exceptions, if a Candidate/Participant wants to participate in the DPS in a different composition, the Candidate/Participant needs to withdraw its participation from the DPS and submit a new Application with the new composition of the Group or as a Sole Candidate. As specified in section 2.6 (*Admittance, rejection, withdrawal*), the Candidate/Participant will not have access to any Mini-Competitions which are published prior to the Candidate/Participant being admitted to the DPS.

After the signature of a Contract, changes in the composition of the Group are governed by the terms of the Contract.

2.2.2. Subcontracting

Subcontracting is the situation where the Candidate/Participant enters into legal commitments with other economic operators who will perform part of the Contract on its behalf. For the purpose of this DPS, a subcontractor is an economic operator which delivers to the Contracting Authority a part of the supplies and/or services ordered by the Contracting Authority.

All contractual tasks may be subcontracted unless the Tender Specifications of the respective Mini-Competition expressly limit the acceptable levels of subcontracting and/or execution of certain critical tasks to the sole Candidate itself, or in case of a joint Application, to a Group Member.

In their Applications in Stage 1, Candidates are requested to identify subcontractors as defined above on whose capacities the Candidates rely to fulfil the selection criteria described in section 2.3.3.

Candidates/Tenderers can choose to add other subcontractors in their Applications in Stage 1 or in their tenders in Stage 2.

In any event, Tenderers will be asked to identify the subcontractors who will be involved in delivering part of the services in their tenders in Stage 2.

In case a Contract is awarded to the Participant, the Participant/Contractor retains full liability towards the Contracting Authority for performance of the Contract as a whole.

Subcontracting rules apply also when the economic operators that will perform part of the Contract on behalf of the successful Tenderer belong to the same economic/corporate group as the Tenderer (Sole Participant or Group Member).

The following shall not be considered subcontracting:

- a. Use of workers posted to the Candidate by another company owned by the same corporate group and established in a Member State.⁷
- b. Use of workers hired out to the Candidate by a temporary employment undertaking or placement agency established in a Member State.⁸
- c. Use of workers temporarily transferred to the Candidate from an undertaking established outside the territory of a Member State and that belongs to the same corporate group.⁹
- d. Use of staff without employment contract¹⁰, where the tasks of the self-employed persons are not particularly well-defined parts of the Contract. These can be either individuals (self-employed natural persons who do not employ other service providers), or service providers in one of the following situations: i) sole proprietorships in which only one person (employee or not) is active in providing services; ii) companies in which only one person (employee or not) is active in providing services and iii) companies in which maximum two persons (employees or not) with family ties are active in providing services.
- e. Use of suppliers and/or transporters by the Candidate, in order to perform the Contract at the place of performance, unless the economic activities of the suppliers and/or the transporting services are within the scope of this DPS.
- f. Performance of part of the Contract by members of a European Economic Interest Grouping (EEIG), when the EEIG is itself a Candidate or a Group Member.

The persons mentioned in points a), b), c) and d) above will be considered as “Personnel” of the Contractor as defined in the Contract.

Identified Subcontractors

Candidates are requested to list the subcontractors as defined above and referred to as “Identified Subcontractors” in the Mercell StC platform.

Identified Subcontractors must provide the Candidate with a commitment letter drawn up in the model attached in the Mercell StC platform (document reference: “Commitment letter by Identified Subcontractor”, see Annex 4) and signed by an authorised representative. The signed commitment letter must be uploaded in the Mercell StC platform and submitted with the Candidate’s Application. The overview of all the documents that need to be provided by subcontractors is provided in Annex 1.

In Stage 2, the Participant will be requested to confirm the Identified Subcontractors who will perform part of the Contract on its behalf, including the Identified Subcontractors who may have been originally included in its Application.

⁷ “Intra-group posting” as defined by Article 1, 3, (b) of [Directive 96/71/EC concerning the posting of workers in the framework of the provision of services](#).

⁸ “Hiring out of workers” as defined by Article 1, 3, (c) of [Directive 96/71/EC concerning the posting of workers in the framework of the provision of services](#).

⁹ “Intra-corporate transfer” as defined by Article 3, (b) of [Directive 2014/66/EU on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer](#).

¹⁰ “Self-employed persons working for the Contractor”.

Subcontracting to subcontractors identified in a tender that was accepted by the Contracting Authority and resulted in a signed Contract, is considered authorised under the Contract, provided all the supporting documents have been provided by the Tenderer and checked and accepted by the Contracting Authority.

Prohibition of cross-subcontracting

Cross subcontracting by subcontractors among Candidates/Tenderers is forbidden, more precisely, an economic operator A can participate as a Candidate/Tenderer (either as Sole Candidate/Tenderer or as Group Member) and as subcontractor to another Candidate/Tenderer B. However, in this case it is forbidden that Candidate/Tenderer B (or any of its Group Members in case of a Group) is at the same time subcontractor for Candidate/Tenderer A (or for the Group in which A participates as a Group Member).

Changes

Changes such as withdrawal, replacement, or addition of an Identified Subcontractor during the procurement procedure (after the submission deadline for a Mini-Competition and before the signature of a Contract) must be notified by the Tenderer to the Contracting Authority as soon as possible. The Contracting Authority's approval will be subject to the following verifications:

- the new subcontractor is not subject to restrictive measures, has access to procurement (if the rules on access to procurement apply also to subcontractors in that Mini-Competition) and is not in an exclusion situation;
- the Tenderer still fulfils the selection criteria and the new subcontractor fulfils the selection criteria applicable to it individually, if any;
- the terms of the originally submitted tender are not altered substantially, i.e. all the tasks assigned to the former subcontractor are taken over by another Involved Entity, the change does not make the tender non-compliant with the tender specifications, and the evaluation of award criteria of the originally submitted tender is not modified.

After the signature of a Contract, changes to subcontractors are governed by the terms of the Contract.

2.2.3. Entities (not subcontractors) on whose capacities the Candidate relies to fulfil the selection criteria

In order to fulfil the selection criteria, a Candidate may rely on the capacities of other entities regardless of the legal nature of the links it has with them.

In this case, the Candidate must prove that it will have at its disposal the resources necessary for the performance of the Contract by producing a commitment letter in the model attached in the MerCell StC platform (document reference: "Commitment letter by entity for reliance", see Annex 4), signed by the authorised representative of such an entity, and the supporting evidence that those other entities have the respective resources.

The signed commitment letter and its supporting evidence must be uploaded in the MerCell StC platform and submitted with the Candidate's Application.¹¹

The above rules apply also when the economic operators on whose capacities the Candidate relies to fulfil the selection criteria (but that are not identified as subcontractors) belong to the same economic/corporate group as the Candidate (Sole Candidate or Group Member).

2.2.4. Rules common to subcontractors and entities (not subcontractors) on whose capacities the Candidate relies to fulfil the selection criteria

If a Mini-Competition is awarded to a Tenderer intending to rely on another entity to meet the minimum levels of economic and financial capacity, the Contracting Authority may require the entity to sign the Contract or, alternatively, to provide a joint and several first-call financial guarantee for the performance of the Contract.

With regard to technical and professional selection criteria, a Candidate may only rely on the capacities of other entities where the latter will perform the services for which these capacities are required (i.e. the latter will assume the role of a subcontractor or falls within the exceptions listed in Section 2.2.2).

Relying on the capacity of other entities is only necessary when the capacity of the Candidate is not sufficient to fulfil the required minimum levels of capacity. Abstract commitments that other entities will put resources at the disposal of the Candidate will be disregarded.

2.3. Assessment of applications

The assessment of the Application will consist of the following elements:

- Check if the Candidate and concerned involved entities are not subject to restrictive measures and have access to procurement;
- Verification of administrative compliance: check if the Application is drawn up in one of the official EU languages and the appropriate documents are signed by duly authorised representatives of the Candidate with a qualified electronic signature (QES);
- Verification of non-exclusion on the basis of the exclusion criteria;
- Selection on the basis of the selection criteria.

The Contracting Authority assesses the abovementioned elements in the order that it considers to be the most appropriate. If the assessment of one or more elements demonstrates that there are grounds for rejection, the Application will be rejected and may not be subjected to further full assessment. The unsuccessful Candidate will be informed of the ground for rejection without being given feedback on the non-assessed content of its Application.

¹¹ If the Candidate wishes to rely on the capacity of a subcontractor for the purposes of fulfilling the selection criteria, it will suffice to submit the required documentation for subcontractors.

The assessment will be based on the information and evidence contained in the Application and, if applicable, on additional information and evidence provided at the request of the Contracting Authority during the procedure. If any of the declarations or information provided proves to be false, the Contracting Authority may impose administrative sanctions (exclusion or financial penalties) on the entity providing the false declarations/information.

For the purposes of the assessment related to exclusion and selection criteria, the Contracting Authority may also refer to publicly available information, in particular evidence that it can access on a national database free of charge.

Upon assessment of its Application, the Contracting Authority admits the Candidate for whom the verification of all elements did not reveal grounds for rejection to participate in the DPS.

2.3.1. Entities subject to restrictive measures and rules on access to procurement: who may apply to the DPS?

Candidates must ensure that no involved entities are subject to EU restrictive measures adopted under Article 29 of the Treaty on the European Union (TEU) or Article 215 of the Treaty on the Functioning of the EU (TFEU) consisting of a prohibition to make available or transfer funds or economic resources or to provide financing or financial assistance to them directly or indirectly, or of an asset freeze. The prohibition applies throughout the whole duration of the DPS and throughout the whole performance of the Contract, in case the concerned economic operator is awarded a Contract.

Participation in the DPS is open throughout the duration of the DPS on equal terms to all natural and legal persons coming within the geographical scope of the [Treaties](#), as well as to international organisations¹².

It is also open to all natural and legal persons established in a third country which has a special agreement with the European Union in the field of public procurement on the conditions laid down in that agreement.

As the [Agreement on Government Procurement](#)¹³ (the “GPA”) concluded within the World Trade Organisation applies, the participation to this DPS is open to all natural and legal persons established in the countries that have ratified the GPA, on the conditions laid down therein.

The rules on access to procurement apply also to subcontractors and entities on whose capacity economic operators rely to fulfil the technical and professional capacity selection criteria, i.e. only economic operators with access to procurement may be subcontractors or entities on whose technical and professional capacity economic operators rely.

At Stage 2 of the DPS, the Contracting Authority may define in the procurement documents of the Mini-Competition different rules regarding access to procurement for subcontractors.

¹² If this involves the transfer of personal data outside the European Economic Area (EEA), such transfer needs to comply with the requirement of Regulation 2016/679 (“GDPR”) and with Regulation (EU) 2018/1725.

¹³ https://www.wto.org/english/tratop_e/gp_gpa_e.htm

To enable the Contracting Authority to verify the access, each Candidate must indicate in Mercell StC platform its country of establishment (and in case of joint Application – the country of establishment of each Group Member) as well as country of establishment of subcontractors and entities on whose capacity economic operators rely.

2.3.2. Exclusion criteria

The objective of the exclusion criteria is to assess whether the Candidate or any of the Involved Entities is in any of the exclusion situations listed in article 136 (1) of the Financial Regulation.

As evidence of non-exclusion, each Involved Entity needs to submit with their Application a completed Declaration on Honour as provided in the Mercell StC platform (see section 4.2 - *Electronic access*)¹⁴. The Declaration must be signed by an authorised representative of the entity providing the Declaration.

The documents mentioned in the Declaration on Honour as supporting evidence on non-exclusion of the economic operator (the documentary evidence) **must be provided with the Application**.¹⁵

The checklist detailed in Annex 1 specifies which of the Involved Entities need to provide with the Application the Declaration on Honour and the supporting evidence.

At any time during the procedure, the Contracting Authority may request information on natural or legal persons that are members of the administrative, management or supervisory body or that have powers of representation, decision or control, including legal and natural persons within the ownership and control structure and beneficial owners, and appropriate evidence that none of those persons are in one of the exclusion situations referred to in Section A point (1) (c) to (f) of the Declaration on Honour.

The full verification of non-exclusion of Candidates will be done on the basis of the submitted declarations, consultation of the [Early Detection and Exclusion System \(EDES\)](#) and the verification of the documentary evidence.

The Contracting Authority reserves the right to admit the Candidates to DPS only on the basis of the submitted declarations and consultation of the EDES and to verify the documentary evidence at any later point in time during the procedure, but in any case before the award of the first contract with a given Candidate resulting from a mini-competition. If the supporting documents do not confirm the statements made by the

¹⁴ Unless the same declaration has already been submitted for the purposes of another award procedure of DIGIT, the situation has not changed, and the time elapsed since the issuing date of the declaration does not exceed one year.

¹⁵ The obligation to provide the supporting evidence will be waived in the following situations:

- a) if the same documents have already been provided in a previous award procedure of the European Commission, have been issued no more than one year before the date of their request by the Contracting Authority and are still valid at that date;
- b) if such evidence can be accessed by the Contracting Authority on a national database free of charge, in which case the economic operator shall provide the Contracting Authority with the internet address of the database and, if needed, the necessary identification data to retrieve the document;
- c) if there is a material impossibility to provide such evidence.

Participant in the Declaration on Honour, this may lead to the rejection of the tender and to termination of the participation of the Candidate/Participant in the DPS.

The Contracting Authority reserves the right to request and to verify up-to-date versions of the supporting documents at any time throughout the duration of the DPS and the resulting contracts.

⚡ In case of Candidate's/Participants' failure to provide valid documentary evidence, the Contracting Authority reserves the right to reject their Application, tender and/or terminate the participation of the Participant in the DPS, unless the Candidate/Participant can justify the failure on the grounds of material impossibility to provide such evidence.

Involved Entities established to be in an exclusion situation in accordance with Article 136 or any other situation referred to in Article 141 of the Financial Regulation, will be rejected.

2.3.3. Selection criteria

The objective of the selection criteria is to assess whether the Candidate has the legal, regulatory, economic, financial, technical and professional capacity to perform the Contracts resulting from the Mini-Competitions.

The selection criteria for this DPS, including the minimum level of capacity, the basis for assessment and the requested evidence, are specified in the following subsections.

A Candidate's Application must pass all selection criteria in order to be admitted in the DPS. Applications submitted by Candidates not meeting the minimum levels of capacity will be rejected. For the avoidance of doubt, the Candidate must fulfil all minimum requirements on the date of submission of its Application and must continue to fulfil them throughout the duration of the DPS and resulting Contract(s).

When applying, each Candidate shall declare on honour that it fulfils the selection criteria for this DPS. The model Declaration on Honour to be completed is available in the MerCell StC platform (see Annex 3).

The subsections below specify which selection criteria evidence must be provided with the Application to join the DPS¹⁶.

The evidence must be provided in accordance with the applicable basis for assessment of each criterion: in case of a consolidated assessment – only by the entities who contribute to the fulfilment of the criterion, and in case of individual assessment – by each entity to whom the criterion applies individually.

¹⁶ The obligation to provide the supporting evidence will be waived in the following situations:

- if the same documents have already been provided in a previous award procedure of the European Commission and are still valid at that date;
- if such evidence can be accessed by the *contracting authority* on a national database free of charge, in which case the economic operator shall provide the *contracting authority* with the internet address of the database and, if needed, the necessary identification data to retrieve the document.

The full verification of selection criteria will be done on the basis of the submitted declarations, the information provided in Merzell StC and the verification of the documentary evidence.

The Contracting Authority reserves the right to admit the Candidates to DPS only on the basis of the submitted declarations and to verify the documentary evidence at any later point in time during the procedure, but in any case before the award of the first contract with a given Candidate resulting from a mini-competition. If the supporting documents do not confirm the statements made by the Participant in the Declaration on Honour, this may lead to the rejection of the tender and termination of the participation of the Participant in the DPS.

The Contracting Authority reserves the right to request and to verify up-to-date versions of the supporting documents at any time throughout the duration of the DPS.

⚡ In case of Candidate's/Participants' failure to provide valid documentary evidence, the Contracting Authority reserves the right to reject their Application in Stage 1 or tender in Stage 2, and/or terminate the participation of the Participant in the DPS, unless there is a ground for a waiver.

2.3.3.1. *Legal and regulatory capacity*

Candidates can be natural or legal persons. Candidates are not obliged to take a specific legal form in order to submit their Applications.

Where Candidates submit an Application through an entity, which lacks legal personality (e.g., a branch), the compliance with the exclusion criteria, selection criteria, the rules on access to procurement as well as the absence of restrictive measures shall be assessed at the level of the Candidates.

Involved entities and subcontractors must not be subject to [EU restrictive measures](#) adopted under Article 29 of the Treaty on the European Union (TEU) or Article 215 of the Treaty on the Functioning of the EU (TFEU)¹⁷ that constitute a legal impediment to perform the contract. This requirement will be assessed by reference to the EU restrictive measures in force. Therefore, the Candidate is not required to submit any evidence of not being subject to EU restrictive measures.

2.3.3.2. *Economic and financial capacity*

Candidates must comply with the following selection criterion in order to prove that they have the necessary economic and financial capacity to perform the Contract(s) under this DPS.

Criterion F1

¹⁷ Please note that the EU Official Journal contains the official list and, in case of conflict, its content prevails over that of the [EU Sanctions Map](#).

Minimum level of capacity	Average yearly turnover of at least 2 million euro for the past two financial years for which accounts have been closed
Basis for assessment	This criterion applies to the Candidate as a whole, i.e. a consolidated assessment of the combined capacities of all involved entities will be carried out.
Evidence	<p>Copy of the profit and loss accounts for the last two financial years for which accounts have been closed. The most recent year must have been closed within the last eighteen (18) months.</p> <p><i>If, for any valid reason, an economic operator is unable to provide the copies of the profit and loss accounts, it may prove its economic and financial capacity by any other document, which the Contracting Authority considers appropriate. The Contracting Authority must at least be notified of the reason and its justification.</i></p> <p><i>The Contracting Authority reserves the right to request any other document enabling it to verify the economic operator's economic and financial capacity.</i></p>

2.3.3.3. Technical and professional capacity criteria and evidence

Candidates must comply with the following selection criteria in order to prove that they have the necessary technical and professional capacity to perform the Contract(s) under this DPS.

Criterion T1	
The Candidate must prove capacity to deliver equipment from IT hardware Original Equipment Manufacturers (OEMs) or to provide infrastructure-related (managed) services using devices provided by OEM, in particular those linked to group printing and imaging.	
Minimum level of capacity	The Candidate must either be an Original Equipment Manufacturer (OEM) or have access to (re)sell IT hardware or to provide infrastructure-related services using IT hardware from OEMs
Basis for assessment	This criterion applies to the Candidate as a whole, i.e. the consolidated assessment of combined capacities of all involved entities will be carried out.
Evidence	<ul style="list-style-type: none"> - A statement in Merccell StC - Documentation providing evidence of being OEM of relevant IT hardware equipment, or a copy of certificate of partnership agreement with OEM or with

	an authorized distributor of OEM.
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Criterion T2	
The Candidate must prove capacity to supply IT equipment and/or infrastructure-related (managed) services with their associated products, in particular those linked to group printing and imaging, in the scope of the procedure.	
Minimum level of capacity	<p>Minimum of 3 references of contracts which have been successfully implemented in B2B (business to business) markets (including to public sector) and during the last 4 years before application to the DPS (i.e. the reference period).</p> <p>Contract references must meet the following minimum requirements:</p> <ul style="list-style-type: none"> - Each contract reference must cover at least one of the domains listed in the table below. Several contract references may cover the same domain (i.e. there is no obligation for each reference to cover a different domain from the list below). - At least one contract reference must meet or exceed the corresponding minimum volumes as indicated below per customer. - The other references must exceed at least 30% of the minimum volumes as indicated below per customer. - Each reference must be for a period covering one year out of the last four years before application to the DPS. - All references must cover deliveries of IT supplies and/or infrastructure related services to one or more EU Member State(s).
Basis for assessment	This criterion applies to the Candidate as a whole, i.e. the consolidated assessment of combined capacities of all involved entities will be carried out.
Evidence	<ul style="list-style-type: none"> - A list of contract references meeting the minimum level of capacity. <i>The contract references shall include details of start and end date, total project amount and scope, role and amount invoiced, contact person for the client. In case of projects still ongoing, only the portion completed during the reference period will be taken into consideration.</i> - Statements of client's references by the respective customers

Criterion T3	
The Candidate must prove capacity to deliver services to the highest quality standard.	
Minimum level of capacity	Availability of standard processes by which the Candidate evaluates the quality of the services delivered to its customers.
Basis for assessment	Individual assessment (this criterion will be checked against the Sole Candidate or each group member in case of a joint Application, each involved entity on whose capacity Candidate relies to fulfil technical selection criteria and each identified subcontractor)
Evidence	<p>An audit certification valid at the time of the Candidate's application to participate in the DPS in accordance with an internationally recognised quality assurance standard (e.g. ISO9001:2011, ISO20000, CMMI).</p> <p>In the absence of such certification, an up-to-date, valid at the time of application, copy or abstract of an internal quality methodology (e.g. quality manual) or any other standard processes by which the Candidate sets out a quality assurance system equivalent to one of the aforementioned standards.</p>

With regard to **criterion T2**, the references supplied must cover deliveries to B2B markets and cover at least one of the domains listed in the below table. The relevant minimum volumes for each reference could be expressed either as a quantity of devices supplied or managed per year, or as a minimum revenue achieved per year.

Delivery in B2B of...	Volume (min)	Description
Business-range Windows-based laptops	300 laptops	Windows-based business notebooks featuring enterprise-grade specifications.
MacBooks and accessories	100 devices	Apple MacBook
Smartphones and tablets	200 smartphones	Apple devices (on iOS/iPadOS), or Android smartphones and tablets

Delivery in B2B of...	Volume (min)	Description
IT peripherals	50 k€	non-exhaustive list: (universal) docking stations, keyboards, mice, unified communication peripherals (e.g. headsets, desktop speakers, webcams), privacy screen filters or external disks.
Flat-panel displays	300 displays	Flat-panel displays suitable for deployment in enterprise environments
Cables, adapters and related accessories	50 k€	All sorts of cables, adapters and other accessories related to Windows-based business notebooks and/or Apple MacBook
Security-related peripherals for the end user	20 k€	Hardware tokens for password-less authentication, encrypted USB keys, physical security locks etc
Printing and imaging devices	100 k€	Personal printers, personal MFDs, special-purpose printers and/or imaging devices, various types of scanners and/or plotters
Infrastructure-related (managed) services with their associated products, in particular those linked to a digital workplace context	250 managed devices (group printers and/or multi-functional (MFD) devices)	Infrastructure-related (managed) services with their associated products in the area of group printing and imaging.

☞ Involved Entities must not be subject to professional conflicting interests which may negatively affect the performance of the Contracts resulting from the DPS. Where the Contracting Authority has established such conflicting interests, it may conclude that the concerned entity does not possess the required professional capacity to perform the Contracts to an appropriate quality standard.

Each Involved Entity shall declare on its honour (see Annex 3) that it is not subject to conflicting interests which may negatively affect the performance of the Contracts resulting from the DPS.

The presence of conflicting interests shall be examined based on the statements made through the Declarations on Honour and, where applicable, the commitment letters.

When evaluating the Applications submitted in the present procedure, the Contracting Authority may consider the risk of professional conflicting interests with reference to the nature and subject of the Contracts that will result from the mini-competitions to be organized under this DPS. The risk of whether professional conflicting interests will in fact arise could be considered where there are material circumstances placing the Candidate in a

position where it is unable to avoid the risk of bias in the performance of the majority of the tasks under the Contracts resulting from the DPS.

Further details and obligations concerning professional conflicting interests are set out in the Contract.

2.4. Submission of Application

Candidates must submit their Application electronically via the Merzell StC platform.

The information contained in the Application must be accurate and honest. Incorrect information may lead to the exclusion of the Candidate.

2.5. Confidentiality of Application

Once a Candidate applies to the DPS, its Application becomes the property of the Contracting Authority and shall be treated confidentially, subject to the following points.

For the purposes of evaluating the Application and, if applicable, implementing a subsequent Contract awarded following a Mini-Competition, performing audits, benchmarking, etc., the Contracting Authority is entitled to make available (any part of) the Application to its staff and the staff of other Union institutions, agencies and bodies, as well to other persons and entities working for the Contracting Authority or cooperating with it, including contractors or subcontractors and their staff provided that they are bound by an obligation of confidentiality.

The Contracting Authority may disclose the submitted Application in the context of a request for public access to documents, or in other cases where the applicable law requires its disclosure. Unless there is an overriding public interest in disclosure, the Contracting Authority may refuse to provide full access to the submitted Application, redacting where applicable parts that contain confidential information, the disclosure of which would undermine the protection of commercial interests of the Candidate, including intellectual property.

The Contracting Authority will disregard general statements that the whole Application or substantial parts of it contain confidential information. Candidates need to mark clearly the information they consider confidential and explain why it may not be disclosed. The Contracting Authority reserves the right to make its own assessment of the confidential nature of any information contained in the Application.

2.6. Admittance, rejection, withdrawal and termination

2.6.1. Admittance for participation in the DPS

The Contracting Authority assesses the submitted Applications and admits all Candidates not subject to restrictive measures, having access to procurement, not in an exclusion situation and fulfilling the selection criteria, and whose requests to participate are administratively compliant.

The Contracting Authority sends an electronic notification to the Candidate whose Application in the DPS has been admitted.

Once admitted, a successful Candidate becomes a Participant to the DPS and has access to the Mini-Competitions which are organised in the DPS after its admission. Past and on-going Mini-Competitions are not available to a new Participant.

It is the Participant's responsibility to maintain the information provided in its Application up-to-date in the Mercell StC platform and notify the Contracting Authority of any changes immediately. All information must be up-to-date before the Participant submits a tender in a Mini-Competition.

The Contracting Authority may request the Participant to provide updated information regarding their Application on a regular basis.

2.6.2. Rejection of request to participate in the DPS

An Application to the DPS is rejected in any of the following cases: the Candidate is subject to restrictive measures or is in an exclusion situation, does not have access to procurement or does not fulfil the selection criteria, or the request to participate is not administratively compliant.

The Contracting Authority sends an electronic notification to the Candidate whose Application in the DPS has been rejected.

Economic operators whose Application was rejected, have the right to resubmit a new revised Application at any time, within the DPS duration.

2.6.3. Withdrawal from participation in the DPS

The Participant in the DPS can withdraw from it at any time by sending a Notification via Mercell StC to the Contracting Authority.

Withdrawal is effective immediately upon receipt by the Contracting authority and is applicable to the DPS and any on-going Mini-Competition.

Withdrawal from the DPS does not impact existing Contracts signed between the Participant and the Contracting Authority.

If an economic operator who withdrew from the DPS applies again in the DPS (as a sole Candidate or as a Group Member), the subsequent Application will be considered a new Application, subject to a new assessment by the Contracting Authority, and all conditions for admission will be reviewed. If the new subsequent Application is successful, the economic operator will be admitted as a new Participant in the DPS.

In accordance with section 2.6.1 (*Admittance for participation in the DPS*) above, a new Participant will only be invited to Mini-Competitions which are published in the DPS after its admission. Past and on-going Mini-Competitions are not available to a new Participant. In practice, an economic operator cannot withdraw from the DPS after the publication of a Mini-Competition and later submit a new Application for the purpose of submitting a tender for the still on-going Mini-Competition, as even if its new

Application is successful, the Candidate will be admitted as a new Participant in the DPS and will thus not be invited to that Mini-Competition.

2.6.4. Termination of the participation in the DPS

The Contracting Authority may terminate the participation of a Participant in the DPS via Notification in any of the following cases:

- if the Participant has misrepresented the information required as a condition for participating in the procedure when applying to the DPS or has failed to supply that information;
- if the Participant does not provide updated information or updated documents supporting its Application;
- if the procedure for admitting the Participant in the DPS proves to have been subject to errors, irregularities or fraud;
- if the Participant is found not to meet the conditions for participation in the DPS anymore;
- in case of changes in the composition of the Group as outlined in section 2.2.1 (*Joint Application*) above.

Termination of the participation in the DPS is effective immediately upon receipt by the Participant of the termination Notification and applicable to the DPS and any on-going Mini-Competition.

3. STAGE TWO - TENDERING IN MINI-COMPETITIONS

When the Contracting Authority identifies a need, it will organise a Mini-Competition through the DPS. Only economic operators who have already been admitted to participate in the DPS (the Participants) are invited to tender in this Mini-Competition. The Participants may choose to respond to this invitation by submitting a tender electronically in the MerCell StC platform. The Contracting Authority will evaluate the tenders and select the most economically advantageous tender on the basis of the award criteria set out in the Tender Specifications of the Mini-Competition. The Contracting Authority awards the Contract to the Tenderer presenting the most economically advantageous tender.

The award of a Mini-Competition will either be based on the lowest price, lowest cost or on the best price/quality ratio in accordance with the formula detailed in the Tender Specifications for each Mini-Competition.

The tenders will be ranked in accordance with the Tender Specifications of each Mini-Competition. The Contract(s) is/are awarded to the tender(s) ranked first, which complies with the minimum requirements specified in the procurement documents and is submitted by a Tenderer not subject to restrictive measures, having access to procurement, not in an exclusion situation and fulfilling the selection criteria. A Participant who is awarded a Contract is referred to as a Contractor.

The Contracting Authority may also conduct Mini-Competitions via electronic catalogue (e-catalogue) in the sense of point 27 of Annex I of the Financial Regulation. In such case, the Contracting Authority shall indicate in the procurement documents all the necessary information concerning the format, the electronic equipment used and the technical connection arrangements and specifications for the catalogue.

The procurement document of the respective Mini-Competition will provide additional and more detailed information on the different aspects of organization of the Mini-Competition, including on the form and content of the tenders, the submission modalities, validity of the tenders, their confidentiality etc.

4. GENERAL INFORMATION AND RULES ABOUT THE DPS

This section details how the DPS functions.

4.1. Information in the DPS

All the information related to this procedure is available on the Mercell StC platform at:

<https://s2c.mercell.com/today/31298>

In case of conflict between the various sources of information available through the platform, the following order of priority prevails:

- Statements from the Contracting Authority published on the platform or sent via the platform (e.g. answer to a question clarifying information in the procurement documents, or message sent by the Contracting Authority to a Candidate/Participant).
- Procurement documents published by the Contracting Authority on the platform and available for download.
- Other information displayed in the platform by the Contracting Authority (e.g. instructions from the Contracting Authority on how to complete a step).
- Other information displayed or sent automatically by the platform (e.g. content published by Mercell StC or automatic reminders sent by the platform).

4.2. Electronic access

From the date of publication, all information and documents related to the procedure are freely available on the platform hosted by Mercell Nederland BV, a software company established in Utrecht, Netherlands. Mercell is independent from the Contracting Authority. The Contracting Authority cannot be held responsible for any information independently provided by Mercell.

The platform is accessible at <https://s2c.mercell.com/today/31298> . Technical connection to the platform is established via Hypertext Transfer Protocol Secure (HTTPS), a network protocol relying on Secure Sockets Layer (SSL) and Transport Layer Security (TLS) to encrypt communication between clients and servers.

Access to the platform requires the creation of a free account secured by username and password.

The Candidate/Participant is responsible for his electronic access to the Mercell platform.

Specifically, the Candidate/Participant is solely responsible to ensure his ability to submit an Application or a tender on time and according to the conditions detailed in the

procurement documents. Technical issues with the platform must be resolved by the Candidate/Participant, with the support of Mercell as needed. Additionally, the Candidate/Participant is responsible for retrieving and receiving all information related to the procedure from the Mercell platform.

Failure by the Candidate/Participant to receive or retrieve information from the Mercell platform cannot be used as the basis for challenging decisions made by the Contracting Authority on the validity of the Candidate/Participant's Application or tender.

It is the responsibility of the signatories designated to act on behalf of the Candidate/Participant to ensure that the Mercell accounts established for the purpose of this DPS are only accessed by the person(s) properly authorised to do so.

4.3. Modifications of documents

General information and documents for this procedure such as these DPS Specifications, the draft Contract template and the Tender Specifications of a Mini-Competition and related annexes are subject to modifications for the purposes of corrections, clarifications, improvements or in order to conform with new regulations and other obligations.

Each version of a document is clearly labelled (e.g. "v1", "v2", etc.) and major changes are identified in accompanying release notes and/or in the Question and Answer module of the DPS or of the Mini-Competition.

Economic operators are responsible for keeping themselves informed in the Mercell StC platform on the status of the documents and the version applicable to their Application or to the Mini-Competition of their interest. Consequently, Candidates/Tenderers must always use the most up-to-date versions of the procurement documents as the basis for the submission of their Application to the DPS or of their tender in a Mini-Competition.

4.4. Electronic submission

The DPS is a wholly electronic procedure. Only authorised representatives of an economic operator may submit information in the Mercell StC platform.

Data sent or received through such a system shall have the legal presumption of the integrity of the data and the accuracy of the date and time of sending or receiving the data indicated by the system.

A document sent or notified through such a system shall be considered as equivalent to a paper document, shall be admissible as evidence in legal proceedings, shall be deemed original and shall enjoy legal presumption of its authenticity and integrity, provided that the document does not contain any dynamic features capable of automatically changing it.

4.5. Signature policy: how can documents be signed?

4.5.1. *Qualified Electronic Signature (QES)*

Where a document needs to be signed, the signature must be a Qualified Electronic Signature (QES) as defined in [Regulation \(EU\) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market \(eIDAS Regulation\)](#).

Under the eIDAS Regulation QES is the only type of electronic signature recognised to have equivalent legal effect to a handwritten signature in all EU Member States. Documents signed with a QES benefit from the highest level of security and legal certainty.

You can find more background information about QES on this [e-signature wiki](#). Check also the video and documentation on [this page](#) as well as this [FAQ document](#) for useful information about how to sign documents with a QES.

The Contracting Authority will recognise QES in at least the formats or using methods defined in Commission Implementing Decision (EU) 2015/1506¹⁸. While signatures in any of these formats will be accepted¹⁹, submissions of electronically signed documents are preferred in PDF format, electronically signed in the 'PAdES' format. Widely available electronic signature tools (including Adobe Reader) are capable of producing QES in this format.

The qualified certificate used for the creation of a QES must be obtained from a qualified trust service provider as defined in the eIDAS Regulation. The national lists of qualified trust service providers can be consulted using the European Commission's tool to browse the eIDAS Trusted Lists and the EU List of eIDAS Trusted Lists (the 'Trusted List Browser') at²⁰ <https://eidas.ec.europa.eu/efda/tl-browser/#/screen/home>.

The providers tagged with the mention "QCert for ESig" can provide qualified certificates for electronic signature which are necessary to sign documents with QES. It is important to request the specific service which will allow a natural person to sign a document with a QES. In addition, a secure device must be used to create a QES but not all aforementioned providers provide such secure devices. It is therefore important, when contacting a qualified certificate provider, to request explicitly a qualified certificate that allows a natural person to sign documents with a valid QES according to the [eIDAS Regulation](#).

¹⁸ [Commission Implementing Decision \(EU\) 2015/1506 of 8 September 2015 laying down specifications relating to formats of advanced electronic signatures and advanced seals to be recognised by public sector bodies pursuant to Articles 27\(5\) and 37\(5\) of Regulation \(EU\) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market.](#)

¹⁹ The Contracting Authority will accept formats of electronic signatures other than those referred to here only if the requirements set in Article 2 of Commission Implementing Decision (EU) 2015/1506 are satisfied and signature validation possibilities are offered that allow to validate the electronic signatures online, free of charge and in a way that is understandable for non-native speakers.

²⁰ Tool maintained by the European Commission to browse the national Trusted Lists and the European List of Trusted Lists. The information in the tool is based on the national lists of qualified trust service providers, maintained by the Member States pursuant to Article 22 of the eIDAS Regulation.

The Contracting Authority will check the validity of the QES on the submitted documents and, if documents are not found to be validly signed with a QES, the Application will be rejected. It is the responsibility of each Candidate to ensure that a valid QES is used.

Important

It is strongly recommended to **check the validity of the QES** with which documents are electronically signed **before submitting them**.

The Commission provides a demonstration tool, the DSS Demonstration WebApp that can help check the validity of a QES²¹

<https://ec.europa.eu/cefdigital/DSS/webapp-demo/validation>

The tool indicates the number and type of certificates in a document. For valid QES, the expected results of the DSS Demonstration WebApp are the following:

- The field “Qualification” indicates “QESig”
- The field “Indication” indicates “TOTAL_PASSED”
- The field “Certificate Chain” indicates the full name(s) of the person(s) who signed the document
- The field “Signatures status: 1 valid signatures, out of 1” (or plural, depending on the amount of signatories)

If the name of the signatory/ies and the indication QESig do not appear in the test result, then the document was not signed with a valid QES.

4.5.2. Signatories

Only the signature of the duly authorised representatives of the legal entities shall be accepted as valid signatures of the requested documents.

In order to prove their legal capacity and their status, Sole Candidates and all the Group Members in case of a joint Application must provide copies of official supporting documents which demonstrate the persons’ authority to represent the legal entity in signing contracts (together or individually) on behalf of the legal entity.

The delegation of the authorisation to sign on behalf of the signatories (including, in the case of proxy(-ies), the chain of authorisations) must be evidenced by appropriate written evidence (copy of the notice of appointment of the persons authorised to represent the legal entity in signing contracts indicating also whether they are authorised represent the legal entity together or individually, or a copy of the publication of such appointment if the legislation which applies to signatory requires such publication or a power of attorney). In all cases, the documents shall make clear if the persons signing on behalf of a legal entity (or who have further delegated the power to represent the entity) are

²¹ Please note however that the DSS demonstration WebApp is not a signature validation service offered by the Commission, but a tool aiming to demonstrate the features of the underlying DSS java library. Full-fledged qualified signature validation services can be consulted on the Trusted List Browser on the eIDAS Dashboard: <https://esignature.ec.europa.eu/efda/tl-browser/#/screen/search/type/1>

authorised to represent the same entity together or individually. A document that the Contracting Authority can access on a national database free of charge does not need to be submitted if the Contracting Authority is provided with the exact internet link and, if applicable, the necessary identification data to retrieve the document.

4.6. Questions about the DPS

Requests for further information regarding an Application to this DPS or other substantive and procedural aspects of this DPS must be made in a timely manner via the “Question & Answer” module in the Mercell StC platform. Questions made in Tenders Electronic Daily (TED) and questions by telephone or e-mail will not be processed.

The Contracting Authority’s answers to new questions are published in Mercell StC. Candidates/Participants may elect to receive notifications from Mercell StC when answers are published.

For questions regarding the technical aspects of the Mercell StC platform itself, Candidates/Participants must contact the Mercell StC help-desk via its e-mail (support-nl@mercell.com) or via the telephone number listed on the Mercell StC website.

5. DEFINITIONS

For the purpose of this procedure, the following definitions (capitalized in in the text) apply:

TERM	DEFINITION
Application	Request to participate submitted by a Candidate in Stage 1 of the DPS
Contract	Contract signed between the Contracting Authority and the Contractor, following the award of a Mini-Competition, which contains all the details and annexes necessary to implement it. A Contract awarded in the DPS can take the form of either a direct contract or a framework contract.
Candidate	An economic operator that has applied to take part in a DPS. This could also refer to several economic operators who are applying to take part with a joint Application.
Contractor	A Participant who is awarded a Contract at the conclusion of a Mini-Competition.
DPS Specifications / DPS Tender Specifications	Set of documents describing the general set-up for the Dynamic Purchasing System.
Group	A combination of economic operators that submits a joint Application or tender, regardless of the link they have between them and irrespective of whether they have legal form.
Group Member	An economic operator pertaining to a Group.
Involved Entity	Each economic operator involved in an Application, tender, or in the execution of a Contract. This includes Group Members, subcontractors and entities on whose capacity is being relied, but excludes subprocessors.
Mini-Competition (MC)	Procurement procedure launched by the Contracting Authority open to all the Participants in a DPS.
Notification	A form of communication between the parties made in writing.
Participant	A successful Candidate who was admitted to the DPS by the Contracting Authority to access Mini-Competitions in a DPS.
Tenderer	Participant who submits a tender in a Mini-Competition
Tender Specifications of the Mini-Competition	Set of documents giving full details of the subject matter, conditions and organisation of a Mini-Competition including the technical specifications and criteria.

6. LIST OF ANNEXES

1. Checklist of documents to be submitted with the Application or during the procedure
2. Application cover letter
 - a. Cover letter for sole Candidate [template]
 - b. Cover letter / Agreement and Power of Attorney for a joint Application [template]
3. Declaration on honour on exclusion and selection criteria [form]
4. Commitment letter
 - a. Commitment letter by an Identified Subcontractor [template]
 - b. Commitment letter by an entity for reliance [template]
5. Merrell StC Questionnaire export