

## ANNEX XVI

# PROCUREMENT

### List provided for in Article 65 (1)

## INTRODUCTION

When the acts referred to in this Annex contain notions or refer to procedures which are specific to the Community legal order, such as

- preambles,
- the addressees of the Community acts,
- references to territories or languages of the EC,
- references to rights and obligations of EC Member States, their public entities, undertakings or individuals in relation to each other, and
- references to information and notification procedures,

Protocol 1 on horizontal adaptations shall apply, unless otherwise provided for in this Annex.

## SECTORAL ADAPTATIONS

- 1.<sup>{1}</sup> For the purposes of applying Directives 2014/23/EU, 2014/24/EU and 2014/25/EU referred to in this Annex, the following shall apply :

Until such time as they apply free movement of labour in accordance with Article 28 of the Agreement, the Contracting Parties shall ensure:

- effective free access for key employees of contractors of any Contracting Parties who have obtained public works contracts;
- non-discriminatory access to work-permits for contractors from any Contracting Parties who have obtained public works contracts.

2. When the acts referred to in this Annex require the publication of notices or documents the following shall apply:

- (a) the publication of notices and other documents as required by the acts referred to in this Annex in the *Official Journal of the European Communities* and in the Tenders Electronic Daily shall be carried out by the Office for Official Publications of the European Communities;
- (b) notices from the EFTA States shall be sent in at least one of the Community languages to the Office for Official Publications of the European Communities. They shall be published in the

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<sup>{1}</sup> References to Directives 93/36/EEC, 93/37/EEC and 93/38/EEC, introduced by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994, replaced former reference, and subsequently replaced by Decision No 68/2006 (OJ L 245, 7.9.2006, p. 22 and EEA Supplement No 44, 7.9.2006, p. 18), e.i.f. 18.4.2007. The words “Directives 2004/17/EC and 2004/18/EC” replaced by the words “2014/23/EU, 2014/24/EU and 2014/25/EU” by Decision No 97/2016 (OJ L 300, 16.11.2017, p. 49 and EEA Supplement No 73, 16.11.2017, p. 53), e.i.f. 1.1.2017.

Community languages in the S-Series of the *Official Journal of the European Communities* and in the Tenders Electronic Daily. EC notices need not be translated into the languages of the EFTA States.

-<sup>{2}</sup> **32013 R 1336**: Commission Regulation (EU) No 1336/2013 of 13 December 2013 (OJ L 335, 14.12.2013, p. 17),

3. When applying Part VII, Chapter 3, of the Agreement to surveillance for the purposes of this Annex, the competence for surveillance of alleged infringements lies with the EC Commission if the alleged infringement is committed by a contracting entity in the Community and with the EFTA Surveillance Authority if it is committed by a contracting entity in an EFTA State.

## ACTS REFERRED TO

1. [ ]<sup>{3}</sup>

2.<sup>{4}</sup> **32014 L 0024**: Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65), as amended by:

-<sup>{5}</sup> **32015 R 2170**: Commission Delegated Regulation (EU) 2015/2170 of 24 November 2015 (OJ L 307, 25.11.2015, p. 5),

-<sup>{6}</sup> **32017 R 2365**: Commission Delegated Regulation (EU) 2017/2365 of 18 December 2017 (OJ L 337, 19.12.2017, p. 19).

The provisions of the Directive, shall for the purposes of this Agreement, be read with the following adaptations:

- (a) References to Article 107 TFEU shall be read as references to Article 61 of the EEA Agreement.
- (b) References to Article 346 TFEU shall be read as references to Article 123 of the EEA Agreement.
- (c) Annexes I, III and XI are supplemented by Appendices 1 to 3 to this Annex.
- (d) In Article 73 the words “the Treaties and this Directive that has been declared by the Court of Justice of the European Union in a procedure pursuant to Article 258 TFEU” shall read “the EEA Agreement and this Directive that has been declared by the EFTA Court in a procedure pursuant to Article 31 of the Agreement Between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”.
- (e) Article 25 shall not apply.

<sup>{2}</sup> Indent added by Decision No 99/2014 (OJ L 310, 30.10.2014, p. 67 and EEA Supplement No 63, 30.10.2014, p. 57), e.i.f. 17.5.2014.

<sup>{3}</sup> Text of point 1 (Council Directive 71/304/EEC) deleted by Decision No 53/2008 (OJ L 223, 21.8.2008, p. 51 and EEA Supplement No 52, 21.8.2008, p.24), e.i.f. 26.4.2008.

<sup>{4}</sup> Text of point 2 replaced by Decision No 68/2006 (OJ L 245, 7.9.2006, p. 22 and EEA Supplement No 44, 7.9.2006, p. 18), e.i.f. 18.4.2007. Text of point 2 (Directive 2004/18/EC of the European Parliament and of the Council) replaced by Decision No 97/2016 (OJ L 300, 16.11.2017, p. 49 and EEA Supplement No 73, 16.11.2017, p. 53), e.i.f. 1.1.2017.

<sup>{5}</sup> Indent and words “, as amended by:” added by Decision No 98/2016 (OJ L 300, 16.11.2017, p. 57 and EEA Supplement No 73, 16.11.2017, p. 62), e.i.f. 1.1.2017.

<sup>{6}</sup> Indent added by Decision No 26/2018 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 10.2.2018.

- (f) In Annex X the references to the ILO Conventions shall not apply to Liechtenstein. However, Liechtenstein will ensure the compliance with standards equivalent to those laid down in the ILO Conventions listed in Annex X.

2a.<sup>{7}</sup> **32016 R 0007**: Commission Implementing Regulation (EU) 2016/7 of 5 January 2016 establishing the standard form for the European Single Procurement Document (OJ L 3, 6.1.2016, p. 16).

3. [ ]<sup>{8}</sup>

4.<sup>{9}</sup> **32014 L 0025**: Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243), as amended by:

- <sup>{10}</sup> **32015 R 2171**: Commission Delegated Regulation (EU) 2015/2171 of 24 November 2015 (OJ L 307, 25.11.2015, p. 7),

- <sup>{11}</sup> **32017 R 2364**: Commission Delegated Regulation (EU) 2017/2364 of 18 December 2017 (OJ L 337, 19.12.2017, p. 17).

The provisions of the Directive, shall for the purposes of this Agreement, be read with the following adaptations:

- (a) References to Article 107 TFEU shall be read as references to Article 61 of the EEA Agreement.
- (b) Articles 43, 85 and 86 shall not apply.
- (c) References to Article 346 TFEU shall be read as references to Article 123 of the EEA Agreement.
- (d) In Article 90 the words “the Treaties and this Directive that has been declared by the Court of Justice of the European Union in a procedure pursuant to Article 258 TFEU” shall read “the EEA Agreement and this Directive that has been declared under the EFTA Court in a procedure pursuant to Article 31 of the Agreement Between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice”.
- (e) In Annex XIV the references to the ILO Conventions shall not apply to Liechtenstein. However, Liechtenstein will ensure the compliance with standards equivalent to those laid down in the ILO Conventions listed in Annex XIV.

4a.<sup>{12}</sup> **393 D 0327**: Commission Decision 93/327/EEC of 13 May 1993 defining the conditions under which contracting entities exploiting geographical areas for the purpose of exploring for or extracting oil, gas, coal or other solid fuels must communicate to the Commission information relating to the contracts they award (OJ No L 129, 27.5.1993, p. 25).

<sup>{13}</sup> The provisions of the Decision shall, for the purposes of the present Agreement, be read with the following adaptation:

<sup>{7}</sup> Point inserted by Decision No 127/2016 (OJ L 308, 23.11.2017, p. 34 and EEA Supplement No 76, 23.11.2017, p. 39), e.i.f. 1.1.2017.

<sup>{8}</sup> Text of point 3 deleted by Decision No 68/2006 (OJ L 245, 7.9.2006, p. 22 and EEA Supplement No 44, 7.9.2006, p. 18), e.i.f. 18.4.2007.

<sup>{9}</sup> Text of point 4 replaced by Decision No 68/2006 (OJ L 245, 7.9.2006, p. 22 and EEA Supplement No 44, 7.9.2006, p. 18), e.i.f. 18.4.2007. Text of point 4 (Directive 2004/17/EC of the European Parliament and of the Council) replaced by Decision No 97/2016 (OJ L 300, 16.11.2017, p. 49 and EEA Supplement No 73, 16.11.2017, p. 53), e.i.f. 1.1.2017.

<sup>{10}</sup> Indent and words “, as amended by:” added by Decision No 98/2016 (OJ L 300, 16.11.2017, p. 57 and EEA Supplement No 73, 16.11.2017, p. 62), e.i.f. 1.1.2017.

<sup>{11}</sup> Indent added by Decision No 26/2018 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 10.2.2018.

<sup>{12}</sup> Point inserted by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

<sup>{13}</sup> Adaptation added by EEA Council Decision No 1/95.

With regard to Liechtenstein, the measures necessary to comply with this Decision shall enter into force by 1 January 1996. During this transitional period the application of the Decision shall be reciprocally suspended between Liechtenstein and the other Contracting Parties.

5.{<sup>14</sup>} **389 L 0665**: Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ No L 395, 30.12.1989, p. 33), as corrected by OJ L 63, 10.3.2016, p. 44, as amended by:

-{<sup>15</sup>} **32007 L 0066**: Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 (OJ L 335, 20.12.2007, p. 31),

-{<sup>16</sup>} **32014 L 0023**: Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 (OJ L 94, 28.3.2014, p. 1), as corrected by OJ L 114, 5.5.2015, p. 24.

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

(a) With regard to Liechtenstein, the measures necessary to comply with this Directive shall enter into force by 1 January 1996{<sup>17</sup>},

[ ]{<sup>18</sup>}

during this transition period{<sup>19</sup>} the application of the Directive will be reciprocally suspended between Liechtenstein and the other Contracting Parties;

(b) {<sup>20</sup>} in Article 2 (8), the reference to "Article 177 of the EEC Treaty" shall be read as by a reference to the "criteria laid down by the Court of Justice in its interpretation of Article 177 of the EEC Treaty" (<sup>1</sup>).

(1) Examples: Case 61/65 Vaassen v. Beambtenfonds Mijnbedrijf [1966] E.C.R. 261; [1966] C.M.L.R. 508; Case 36/73 Nederlandse Spoorwegen v. Minister van Verkeer en Waterstaat [1973] E.C.R. 1299; [1974] 2 C.M..L.R. 148; Case 246/80 Broekmeulen v. Huisarts Registratie Commissie [1981] E.C.R. 2311; [1982] 1 C.M.L.R. 91.

5a.{<sup>21</sup>} **392 L 0013**: Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ No L 76, 23.3.1992, p. 14), as amended by:

-{<sup>22</sup>} **194 N**: Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded (OJ C 241, 29.8.1994, p. 21 as adjusted by OJ L 1, 1.1.1995, p. 1),

-{<sup>23</sup>} **1 03 T**: Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the

{<sup>14</sup>} Corrigendum to the EU act subsequently taken note of by the EEA Joint Committee on 8.7.2016.

{<sup>15</sup>} Indent and words “, as amended by:” added by Decision No 83/2011 (OJ L 262, 6.10.2011, p. 54 and EEA Supplement No 54, 6.10.2011, p. 68), e.i.f.1.11.2012.

{<sup>16</sup>} Indent added by Decision No 97/2016 (OJ L 300, 16.11.2017, p. 49 and EEA Supplement No 73, 16.11.2017, p. 53), e.i.f. 1.1.2017.

{<sup>17</sup>} The words "1 January 1996", introduced by EEA Council Decision No 1/95, replace former words "1 January 1995".

{<sup>18</sup>} Subparagraph deleted by the Adjusting Protocol.

{<sup>19</sup>} Subparagraph as amended by the Adjusting Protocol.

{<sup>20</sup>} Adaptation text (b) will be replaced by Decision No 83/2011 (OJ L 262, 6.10.2011, p. 54 and EEA Supplement No 54, 6.10.2011, p. 68), e.i.f. 1.11.2012.

{<sup>21</sup>} Point inserted by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

{<sup>22</sup>} Indent and words “, as amended by:” above, added by Decision No 96/1999 (OJ L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

{<sup>23</sup>} Indent added by the 2004 EEA Enlargement Agreement (OJ L 130, 29.4.2004, p. 3 and EEA Supplement No 23, 29.4.2004, p. 1), e.i.f. 1.5.2004.

Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded adopted on 16 April 2003 (OJ L 236, 23.9.2003, p. 33),

- {<sup>24</sup>} **32006 L 0097**: Council Directive 2006/97/EC of 20 November 2006 (OJ L 363, 20.12.2006, p. 107),
- {<sup>25</sup>} **32007 L 0066**: Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007 (OJ L 335, 20.12.2007, p. 31),
- {<sup>26</sup>} **32014 L 0023**: Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 (OJ L 94, 28.3.2014, p. 1), as corrected by OJ L 114, 5.5.2015, p. 24.

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptations:

- (a){<sup>27</sup>} With regard to Liechtenstein and Norway, the measures necessary to comply with this Directive shall enter into force at the same time as Council Directive 93/38/EEC, in accordance with Annex XVI to the EEA Agreement. During these transitional periods, the application of the Directive shall be reciprocally suspended between these States and other Contracting Parties;
- (b){<sup>28</sup>} in Article 2 (9), the reference to "Article 177 of the Treaty" shall be read as a reference to the "criteria laid down by the Court of Justice in its interpretation of Article 177 of the EEC Treaty" (<sup>2</sup>);
- (<sup>c</sup>) See EEA Agreement adaptation (b) to Council Directive 89/665/EEC under point 5, footnote 1.
- (c) {<sup>29</sup>} in Article 11 (2) (a), the reference to "Articles 169 or 170 of the Treaty" shall read "Articles 169 or 170 of the EEC Treaty and the corresponding procedures set out in the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice";
- (d){<sup>30</sup>} the Annex to the Directive is supplemented by Appendix 13 to this Annex.

5b.{<sup>31</sup>} **392 L 0050**: Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts (OJ No L 209, 24.7.1992, p. 1), as amended by:

- {<sup>32</sup>} **194 N**: Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded (OJ C 241, 29.8.1994, p. 21 as adjusted by OJ L 1, 1.1.1995, p. 1),

<sup>{24}</sup> Indent added by Decision No 132/2007 (OJ L 100, 10.4.2008, p. 1 and EEA Supplement No 19, 10.4.2008, p.1), e.i.f. 9.11.2011.

<sup>{25}</sup> Indent added by Decision No 83/2011 (OJ L 262, 6.10.2011, p. 54 and EEA Supplement No 54, 6.10.2011, p. 68 ), e.i.f.1.11.2012.

<sup>{26}</sup> Indent added by Decision No 97/2016 (OJ L 300, 16.11.2017, p. 49 and EEA Supplement No 73, 16.11.2017, p. 53), e.i.f. 1.1.2017.

<sup>{27}</sup> This adaptation, introduced by EEA Council Decision No 1/95, replaces former adaptation (a).

<sup>{28}</sup> Adaptation text (b) will be replaced by Decision No 83/2011 (OJ L 262, 6.10.2011, p. 54 and EEA Supplement No 54, 6.10.2011, p. 68), e.i.f. 1.11.2012.

<sup>{29}</sup> Adaptation text (c) will be deleted by Decision No 83/2011 (OJ L 262, 6.10.2011, p. 54 and EEA Supplement No 54, 6.10.2011, p. 68), e.i.f.1.11.2012.

<sup>{30}</sup> Text of adaptation (d) replaced by Decision No 96/1999 (OJ L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000 subsequently Adaptation text (d) will be deleted by Decision No 83/2011 (OJ L 262, 6.10.2011, p. 54 and EEA Supplement No 54, 6.10.2011, p. 68), e.i.f.1.11.2012.

<sup>{31}</sup> Point inserted by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

<sup>{32}</sup> Indents and words “, as amended by:” above, added by Decision No 96/1999 (OJ L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

- **397 L 0052:** European Parliament and Council Directive 97/52/EC of 13 October 1997 (OJ L 328, 28.11.1997, p. 1),
- <sup>{33}</sup> **32001 L 0078:** Commission Directive 2001/78/EC of 13 September 2001 (OJ L 285, 29.10.2001, p. 1), as corrected by OJ L 214, 9.8.2002, p. 1,
- <sup>{34}</sup> **1 03 T:** Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded adopted on 16 April 2003 (OJ L 236, 23.9.2003, p. 33),
- <sup>{35}</sup> **32004 L 0018:** Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 (OJ L 134, 30.4.2004, p. 1), as corrected by OJ L 351, 26.11.2004, p. 44.

The provisions of the Directive shall, for the purpose of the present Agreement, be read with the following adaptations:

- (a) In Article 4 (1), the reference to "Article 223 of the Treaty" shall be replaced by a reference to "Article 123 of the EEA Agreement";
  - (b)<sup>{36}</sup> Article 30(3) shall be supplemented as follows:
    - “- in Iceland, Firmaskrá, Hlutafélagaskrá,
    - in Liechtenstein, Handelsregister, Gewerberegister,
    - in Norway, Foretaksregisteret.”.
  - (c)<sup>{37}</sup> With regard to Liechtenstein, the measures necessary to comply with this Directive shall enter into force by 1 January 1996. During this transitional period the application of the Directive shall be reciprocally suspended between Liechtenstein and the other Contracting Parties.
  - (d)<sup>{38}</sup> in Article 1 of Directive 97/52/EC the word "Community" shall be replaced by the following "Community and the EFTA States which are signatory to the Agreement".
- 5c.<sup>{39}</sup> **32009 L 0081:** Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76), as amended by:
- **32011 R 1251:** Commission Regulation (EU) No 1251/2011 of 30 November 2011 (OJ L 319, 2.12.2011, p. 43),
  - <sup>{40}</sup> **32013 R 1336:** Commission Regulation (EU) No 1336/2013 of 13 December 2013 (OJ L 335, 14.12.2013, p. 17),

<sup>{33}</sup> Indent added by Decision No 143/2002 (OJ L 19, 23.1.2003, p. 11 and EEA Supplement No 4, 23.1.2003, p. 9), e.i.f. 9.11.2002.

<sup>{34}</sup> Indent added by the 2004 EEA Enlargement Agreement (OJ L 130, 29.4.2004, p. 3 and EEA Supplement No 23, 29.4.2004, p. 1), e.i.f. 1.5.2004.

<sup>{35}</sup> Indent added by Decision No 68/2006 (OJ L 245, 7.9.2006, p. 22 and EEA Supplement No 44, 7.9.2006, p. 18), e.i.f. 18.4.2007.

<sup>{36}</sup> Adaptation (b) replaced by Decision No 96/1999 (OJ L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

<sup>{37}</sup> Adaptation added by EEA Council Decision No 1/95.

<sup>{38}</sup> Adaptation added by Decision No 96/1999 (OJ L 296, 23.11.2000, p. 62 and EEA Supplement No 55, 23.11.2000, p. 172), e.i.f. 1.7.2000.

<sup>{39}</sup> Point, indent and adaptation text inserted by Decision No 129/2013 (OJ L 318, 28.11.2013, p. 31 and EEA Supplement No 67, 28.11.2013, p. 36), e.i.f. 1.2.2014.

<sup>{40}</sup> Indent added by Decision No 99/2014 (OJ L 310, 30.10.2014, p. 67 and EEA Supplement No 63, 30.10.2014, p. 57), e.i.f. 17.5.2014.

- {41} **32013 L 0016**: Council Directive 2013/16/EU of 13 May 2013 (OJ L 158, 10.6.2013, p. 184),
- {42} **32015 R 2340**: Commission Regulation (EU) 2015/2340 of 15 December 2015 (OJ L 330, 16.12.2015, p. 14),
- {43} **32017 R 2367**: Commission Regulation (EU) 2017/2367 of 18 December 2017 (OJ L 337, 19.12.2017, p. 22).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptation:

The act shall not apply to Liechtenstein.

6. **371 R 1182**: Regulation (EEC/Euratom) No 1182 of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ No L 124, 8.6.1971, p. 1)<sup>(1)</sup>

The provisions of the Regulation shall, for the purposes of the present Agreement, be read with the following adaptations :

- (a) with regard to Liechtenstein, the measures necessary to comply with this Regulation shall enter into force by 1 January 1996<sup>{44}</sup>,

[ ]<sup>{45}</sup>

During this transition period<sup>{46}</sup> the application of the Regulation will be reciprocally suspended between Liechtenstein and the other Contracting Parties;

- (b) The words "Council and Commission acts" shall mean acts referred to in this Annex.

- (1) Article 30 of Directive 71/305/EEC and Article 28 of Directive 77/62/EEC refer to this Regulation which needs therefore to be part of the 'acquis'.

- 6a.<sup>{47}</sup> **32002 R 2195**: Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV) (OJ L 340, 16.12.2002, p. 1), as amended by:

- {48} **32003 R 2151**: Commission Regulation (EC) No 2151/2003 of 16 December 2003 amending Regulation (EC) No 2195/2002 of the European Parliament and of the Council (OJ L 329, 17.12.2003, p. 1), as corrected by OJ L 330, 18.12.2003, p. 34,

- {49} **32008 R 0213**: Commission Regulation (EC) No 213/2008 of 28 November 2007 (OJ L 74, 15.3.2008, p. 1).

- 6b. [ ]<sup>{50}</sup>

<sup>{41}</sup> Indent added by Decision No 159/2014 (OJ L 15, 22.1.2015, p. 87 and EEA Supplement No 5, 22.1.2015, p. 10), e.i.f. pending; it shall apply from 9.7.2014.

<sup>{42}</sup> Indent added by Decision No 29/2016 (OJ L 189, 20.7.2017, p. 46 and EEA Supplement No 45, 20.7.2017, p. 49), e.i.f. 6.2.2016.

<sup>{43}</sup> Indent added by Decision No 26/2018 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 10.2.2018.

<sup>{44}</sup> The words "1 January 1996", introduced by EEA Council Decision No 1/95, replace former words "1 January 1995".

<sup>{45}</sup> Subparagraph deleted by the Adjusting Protocol.

<sup>{46}</sup> Subparagraph as amended by the Adjusting Protocol.

<sup>{47}</sup> Point inserted by Decision No 180/2003 (OJ L 88, 25.3.2004, p. 61 and EEA Supplement No 15, 25.3.2004, p. 18), e.i.f. 6.12.2003.

<sup>{48}</sup> Indents and words “, as amended by:” above, added by Decision No 81/2004 (OJ L 349, 25.11.2004, p. 39 and EEA Supplement No 59, 25.11.2004, p. 14), e.i.f. 9.6.2004.

<sup>{49}</sup> Indent added by Decision No 14/2010 (OJ L 101, 22.4.2010, p. 24 and EEA Supplement No 19, 22.4.2010, p. 26), e.i.f. 30.1.2010.

6c. [ ] {<sup>51</sup>}

6d. [ ] {<sup>52</sup>}

6e.{<sup>53</sup>} **32014 L 0055**: Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement (OJ L 133, 6.5.2014, p. 1).

6f.{<sup>54</sup>} **32014 L 0023**: Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1), as corrected by OJ L 114, 5.5.2015, p. 24, as amended by:

-{<sup>55</sup>} **32015 R 2172**: Commission Delegated Regulation (EU) 2015/2172 of 24 November 2015 (OJ L 307, 25.11.2015, p. 9),

- {<sup>56</sup>} **32017 R 2366**: Commission Delegated Regulation (EU) 2017/2366 of 18 December 2017 (OJ L 337, 19.12.2017, p. 21).

The provisions of the Directive, shall for the purposes of this Agreement, be read with the following adaptations:

(a) References to Article 346 TFEU shall be read as references to Article 123 of the EEA Agreement.

(b) Article 44(c) shall be replaced by the following:

“the EFTA Court finds, in a procedure pursuant to Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, that an EFTA State has failed to fulfil its obligations under the EEA Agreement by the fact that a contracting authority or contracting entity belonging to that EFTA State has awarded the concession in question without complying with its obligations under the EEA Agreement and this Directive.”

(c) In Annex X the references to the ILO Conventions shall not apply to Liechtenstein. However, Liechtenstein will ensure the compliance with standards equivalent to those laid down in the ILO Conventions listed in Annex X.

6g.{<sup>57</sup>} **32015 R 1986**: Commission Implementing Regulation (EU) 2015/1986 of 11 November 2015 establishing standard forms for the publication of notices in the field of public procurement and repealing Implementing Regulation (EU) No 842/2011 (OJ L 296, 12.11.2015, p. 1) as corrected by OJ L 172, 5.7.2017, p. 36.

6h.{<sup>58</sup>} **32016 D 1804**: Commission Implementing Decision (EU) 2016/1804 of 10 October 2016 on the detailed rules for the application of Articles 34 and 35 of Directive 2014/25/EU of the European Parliament and of the Council on procurement by entities operating in the water, energy, transport and postal services sectors (OJ L 275, 12.10.2016, p. 39).

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{<sup>50</sup>} Point 6b (Commission Decision 2005/15/EC) inserted by Decision No 68/2006 (OJ L 245, 7.9.2006, p. 22 and EEA Supplement No 44, 7.9.2006, p. 18), e.i.f. 18.4.2007 and subsequently deleted by Decision No 41/2017 (OJ L 297, 22.11.2018, p. 52 and EEA Supplement No 78, 22.11.2018, p. 61), e.i.f. 1.9.2017.

{<sup>51</sup>} Point 6c (Commission Regulation (EC) No 1564/2005) inserted by Decision No 68/2006 (OJ L 245, 7.9.2006, p. 22 and EEA Supplement No 44, 7.9.2006, p. 18), e.i.f. 18.4.2007, deleted by Decision No 226/2012 (OJ L 81, 21.3.2013, p. 28 and EEA Supplement No 18, 21.3.2013, p. 34), e.i.f. 8.12.2012.

{<sup>52</sup>} Point inserted by Decision No 226/2012 (OJ L 81, 21.3.2013, p. 28 and EEA Supplement No 18, 21.3.2013, p. 34), e.i.f. 8.12.2012. Text of point 6d (Implementing Regulation (EU) No 842/2011) deleted by Decision No 99/2016 (OJ L 300, 16.11.2017, p. 59 and EEA Supplement No 73, 16.11.2017, p. 64), e.i.f. 1.1.2017.

{<sup>53</sup>} Point inserted by Decision No 166/2015 (OJ L 341, 15.12.2016, p. 65 and EEA Supplement No 69, 15.12.2016, p. 66), e.i.f. 1.1.2016.

{<sup>54</sup>} Point inserted by Decision No 97/2016 (OJ L 300, 16.11.2017, p. 49 and EEA Supplement No 73, 16.11.2017, p. 53), e.i.f. 1.1.2017 and subsequently corrected [before publication] by Corrigendum of 3.2.2017.

{<sup>55</sup>} Indent and words “, as amended by:” added by Decision No 98/2016 (OJ L 300, 16.11.2017, p. 57 and EEA Supplement No 73, 16.11.2017, p. 62), e.i.f. 1.1.2017.

{<sup>56</sup>} Indent added by Decision No 26/2018 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 10.2.2018.

{<sup>57</sup>} Point inserted by Decision No 99/2016 (OJ L 300, 16.11.2017, p. 59 and EEA Supplement No 73, 16.11.2017, p. 64), e.i.f. 1.1.2017. Corrigendum to the EU act subsequently taken note of by the EEA Joint Committee on 27.10.2017.

{<sup>58</sup>} Point inserted by Decision No 41/2017 (OJ L 297, 22.11.2018, p. 52 and EEA Supplement No 78, 22.11.2018, p. 61), e.i.f. 1.9.2017.



## ACTS OF WHICH THE CONTRACTING PARTIES SHALL TAKE NOTE

In the application of the provisions of this Annex, the Contracting Parties shall take note of the contents of the following acts:

7. Guide to the Community rules on open public procurement (OJ No C 358, 21.12.1987, p. 1)
8. Commission communication (COM (89) 400 of 27.7.1989) on regional and social aspects (OJ C 311, 12.12.1989, p. 7).
- 9.{<sup>59</sup>} **391 X 0561:** Commission recommendation 91/561/EEC of 24 October 1991 on the standardization of notices of public contracts (OJ No L 305, 6.11.1991, p. 19).
- 10.{<sup>60</sup>} **592 DC 0722s:** Commission communication to the Council of 1 June 1992 on SME participation in public procurement in the Community (SEC(92) 722 final of 1 June 1992).
- 11.{<sup>61</sup>} Commission communication of 30 December 1992 on the forms to be used by contracting entities concerned by the entry into force of Directive 90/531/EEC (OJ No S 252 A, 30.12.1992, p. 1).

### Appendix 1{<sup>62</sup>}

#### LISTS OF CENTRAL GOVERNMENT AUTHORITIES REFERRED TO IN THE SECOND SUBPARAGRAPH OF ARTICLE 2(1) OF DIRECTIVE 2014/24/EU

##### I. In ICELAND:

Forsætisráðuneytið	Prime Minister's Office
Atvinnuvega- og nýsköpunarráðuneytið	Ministry of Industries and Innovation
Fjármála- og efnahagsráðuneytið	Ministry of Finance and Economic Affairs
Innanríkisráðuneytið	Ministry of the Interior
Mennta- og menningarmálaráðuneytið	Ministry of Education, Science and Culture
Umhverfis- og auðlindaráðuneytið	Ministry for the Environment and Natural Resources
Utánríkisráðuneytið	Ministry for Foreign Affairs
Velferðarráðuneytið	Ministry of Welfare

##### II. In LIECHTENSTEIN:

Regierung des Fürstentums Liechtenstein	Government of the Principality of Liechtenstein
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##### III. In NORWAY:

Statsministerens kontor	Office of the Prime Minister
Arbeids- og sosialdepartementet	Ministry of Labour and Social Affairs
Barne-, likestillings- og inkluderingsdepartementet	Ministry of Children, Equality and Social Inclusion
Finansdepartementet	Ministry of Finance
Forsvarsdepartementet	Ministry of Defence
Helse- og omsorgsdepartementet	Ministry of Health and Care Services
Justis- og beredskapsdepartementet	Ministry of Justice and Public Security
Klima- og miljødepartementet	Ministry of Climate and Environment

{<sup>59</sup>} Point inserted by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

{<sup>60</sup>} Point inserted by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

{<sup>61</sup>} Point inserted by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

{<sup>62</sup>} Appendices 1-14 replaced by Decision No 68/2006 (OJ L 245, 7.9.2006, p. 22 and EEA Supplement No 44, 7.9.2006, p. 18) e.i.f. 18.4.2007. Text of Appendices 1 to 14 replaced by Decision No 97/2016 (OJ L 300, 16.11.2017, p. 49 and EEA Supplement No 73, 16.11.2017, p. 53), e.i.f. 1.1.2017.

Kommunal- og moderniseringsdepartementet	Ministry of Local Government and Modernisation
Kulturdepartementet	Ministry of Culture
Kunnskapsdepartementet	Ministry of Education and Research
Landbruks- og matdepartementet	Ministry of Agriculture and Food
Nærings- og fiskeridepartementet	Ministry of Trade, Industry and Fisheries
Olje- og energidepartementet	Ministry of Petroleum and Energy
Samferdselsdepartementet	Ministry of Transport and Communication
Utenriksdepartementet	Ministry of Foreign Affairs

Agencies and Institutions subordinate to these Ministries.

## Appendix 2

### LISTS OF PRODUCTS REFERRED TO IN ARTICLE 4(b) OF DIRECTIVE 2014/24/EU WITH REGARD TO CONTRACTS AWARDED BY CONTRACTING AUTHORITIES IN THE FIELD OF DEFENCE

ICELAND

LIECHTENSTEIN

NORWAY:

The only text applicable for the purposes of this Agreement is that in Annex 4 point 2 of the GPA on which the following indicative list of products is based:

Chapter 25:	Salt; sulphur; earths and stone; plastering materials, lime and cement
Chapter 26:	Metallic ores, slag and ash
Chapter 27:	Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes, except:
ex 27.10	special engine fuels
Chapter 28:	Inorganic chemicals; organic and inorganic compounds of precious metals, of rare earth metals, of radio-active elements and of isotopes, except:
ex 28.09	explosives
ex 28.13	explosives
ex 28.14	tear gas
ex 28.28	explosives
ex 28.32	explosives
ex 28.39	explosives
ex 28.50	toxic products
ex 28.51	toxic products
ex 28.54	explosives
Chapter 29:	Organic chemicals, except:
ex 29.03	explosives
ex 29.04	explosives
ex 29.07	explosives

	ex 29.08	explosives
	ex 29.11	explosives
	ex 29.12	explosives
	ex 29.13	toxic products
	ex 29.14	toxic products
	ex 29.15	toxic products
	ex 29.21	toxic products
	ex 29.22	toxic products
	ex 29.23	toxic products
	ex 29.26	explosives
	ex 29.27	toxic products
	ex 29.29	explosives
Chapter 30:	Pharmaceutical products	
Chapter 31:	Fertilizers	
Chapter 32:	Tanning and dyeing extracts; tannins and their derivatives; dyes, colours, paints and varnishes, putty, fillers and stoppings, inks	
Chapter 33:	Essential oils and resinoids; perfumery, cosmetics and toilet preparations	
Chapter 34:	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing and scouring preparations, candles and similar articles, modelling pastes and "dental waxes"	
Chapter 35:	Albuminoidal substances; glues; enzymes	
Chapter 37:	Photographic and cinematographic goods	
Chapter 38:	Miscellaneous chemical products, except:	
	ex 38.19	toxic products
Chapter 39:	Artificial resins and plastic materials, cellulose esters and ethers, articles thereof, except:	
	ex 39.03	explosives
Chapter 40:	Rubber, synthetic rubber, factice, and articles thereof, except:	
	ex 40.11	bullet-proof tyres
Chapter 41:	Raw hides and skins (other than fur skins) and leather	
Chapter 42:	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silk-worm gut)	
Chapter 43:	Fur skins and artificial fur; manufactures thereof	
Chapter 44:	Wood and articles of wood; wood charcoal	
Chapter 45:	Cork and articles of cork	
Chapter 46:	Manufactures of straw of esparto and of other plaiting materials; basketware and wickerwork	

Chapter 47:	Paper-making material
Chapter 48:	Paper and paperboard; articles of paper pulp, of paper or of paperboard
Chapter 49:	Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans
Chapter 65:	Headgear and parts thereof
Chapter 66:	Umbrellas, sunshades, walking-sticks, whips, riding-crops and parts thereof
Chapter 67:	Prepared feathers and down and articles made of feathers or of down; artificial flowers; articles of human hair
Chapter 68:	Articles of stone, of plaster, of cement, of asbestos, of mica and of similar materials
Chapter 69:	Ceramic products
Chapter 70:	Glass and glassware
Chapter 71:	Pearls, precious and semi-precious stones, precious metals, rolled precious metals, and articles thereof; imitation jewellery
Chapter 73:	Iron and steel and articles thereof
Chapter 74:	Copper and articles thereof
Chapter 75:	Nickel and articles thereof
Chapter 76:	Aluminium and articles thereof
Chapter 77:	Magnesium and beryllium and articles thereof
Chapter 78:	Lead and articles thereof
Chapter 79:	Zinc and articles thereof
Chapter 80:	Tin and articles thereof
Chapter 81:	Other base metals employed in metallurgy and articles thereof
Chapter 82:	Tools, implements, cutlery, spoons and forks, of base metal; parts thereof, except: ex 82.05 tools ex 82.07 tools, parts
Chapter 83:	Miscellaneous articles of base metal
Chapter 84:	Boilers, machinery and mechanical appliances; parts thereof, except: ex 84.06 engines ex 84.08 other engines ex 84.45 machinery ex 84.53 automatic data-processing machines ex 84.55 parts of machines under heading 84.53 ex 84.59 nuclear reactors

- Chapter 85: Electrical machinery and equipment; parts thereof, except:
- ex 85.13 telecommunication equipment
  - ex 85.15 transmission apparatus
- Chapter 86: Railway and tramway locomotives, rolling-stock and parts thereof, except:
- ex 86.02 armoured locomotives, electric
  - ex 86.03 other armoured locomotives
  - ex 86.05 armoured wagons
  - ex 86.06 repair wagons
  - ex 86.07 wagons
- Chapter 87: Vehicles, other than railway or tramway rolling-stock, and parts thereof, except:
- ex 87.01 tractors
  - ex 87.02 military vehicles
  - ex 87.03 breakdown lorries
  - ex 87.08 tanks and other armoured vehicles
  - ex 87.09 motorcycles
  - ex 87.14 trailers
- Chapter 89: Ships, boats and floating structures, except:
- ex 89.01A warships
- Chapter 90: Optical, photographic, cinematographic, measuring, checking, precision, medical and surgical instruments and apparatus; parts thereof, except:
- ex 90.05 binoculars
  - ex 90.13 miscellaneous instruments, lasers
  - ex 90.14 telemeters
  - ex 90.28 electrical and electronic measuring instruments
  - ex 90.11 microscopes
  - ex 90.17 medical instruments
  - ex 90.18 mechano-therapy appliances
  - ex 90.19 orthopaedic appliances
  - ex 90.20 X-ray apparatus
- Chapter 91: Manufacture of watches and clocks
- Chapter 92: Musical instruments; sound recorders or reproducers; television image and sound recorders or reproducers; parts and accessories of such articles
- Chapter 94: Furniture and parts thereof; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings, except:
- ex 94.01A aircraft seats

- Chapter 95: Articles and manufactures of carving or moulding material
- Chapter 96: Brooms, brushes, powder-puffs and sieves
- Chapter 98: Miscellaneous manufactured articles

### **Appendix 3**

#### **REGISTERS REFERRED TO IN ARTICLE 58 (2) OF DIRECTIVE 2014/24/EU**

- in Iceland, the 'Ríkisskattstjóri'
- in Liechtenstein, the 'Gewerberegister' and the 'Handelsregister'
- in Norway, the 'Foretaksregisteret'