



SECURITY AGREEMENT

1 Parties

The Finnish Border Guard
P.O.Box 3 (Vilhonvuorenkatu 6)
00131 Helsinki, Finland

[Name of Company], hereinafter referred to as Contractor
[Address of Company]

together referred to as Parties.

2 Definitions

Co-operation,

activities which the Contractor or Contractor's Subcontractor or the personnel of the said Contractor or Contractor's Subcontractor performs on behalf of the Finnish Border Guard, on the basis of a contract between the Parties or on the basis of any type of assignment from the Finnish Border Guard.

Main Contract,

a procurement contract between the Parties or some other co-operation contract, according to which products or services are provided to the Finnish Border Guard, or other Co-operation between the Parties.

Subcontractor,

a third party contributing to the fulfilment of obligations of Co-operation or a party in connection to it, or a rented employee or other service provider or supplier that is used by the Contractor.

Service,

as defined in the Main Contract made by the Finnish Border Guard and the Contractor. What is said in this Agreement about Service also applies *mutatis mutandis* to supplies as defined in the Main Contract and other co-operation between the Parties.

Document,

a written or visual presentation, and also as a message relating to a given topic or subject-matter and consisting of signs which, by virtue of the use to which they are put, are meant to be taken as a whole, but are decipherable only by means of a computer, an audio or video recorder or some other technical device.

Openness Act,

the Act on the Openness of Government Activities (621/1999)

Secret Information,

all such data or Document which the Finnish Border Guard has given to the Contractor or which the Contractor otherwise has the knowledge of, which is in the Openness Act or in any other Act defined to be held secret. The content of a Document which is not yet in the public domain, as referred to in the Openness Act, is also considered to be Secret Information. Furthermore, all personal information divulged by the Finnish Border Guard and the security and preparedness arrangements of the Finnish Border Guard are considered Secret Information. Business secrets of the Contractor are considered to be Secret Information. Information that is publicly available or obtained by the Contractor in a legal manner from a third part without a secrecy obligation attached to it or which has to be given up to the one that has requested the information according to a compelling law, regulation or court decision or a binding order given by a court is not considered Secret Information.

Classified Information,

information classified secret as according to Openness Act 24.1 § paragraph 2, 5, 7–11

Material,

material object, equipment, system or device

Processing (data processing),

viewing, listening, creating, collecting, saving, copying, organizing, analyzing, using, reading, transferring, forwarding, distributing, storing, modifying, changing, searching, requesting, using, connecting, protecting, deleting, removing, destroying, restricting or any other action in regards of information

Location,

territories, premises, vessels, aircraft, vehicles and other equivalent locations.

Premises,

space or segregated area of the Contractor or Subcontractor where Secret Information is processed

Security Review,

review or a self-review concerning Contractor's security arrangements.

Personal Security Clearance,

a personal background clearance to review a person's integrity and trustworthiness according to the Security Clearance Act (726/2014)

Security Agreement,

this Agreement concerning security arrangements in the mutual Co-operation of the Parties

Security Requirements,

requirements concerning administrative security, security of the premises and security of information, fulfillment of which reduce risks falling on Secret Information.

Security Practices,

courses of action and models, following of which Security Requirements are fulfilled and risks falling on Secret Information, Material and locations of the Finnish Border Guard.

3 Purpose of the Agreement

3.1 The Finnish Border Guard and the Contractor (hereinafter together 'Parties') have entered into this Agreement concerning the Security arrangements between the Parties in their Co-operation (hereinafter 'Agreement') today.

3.2

3.3 The purpose of this Agreement is to ensure that the Secret Information is processed and secured properly in all Service provided by the Contractor and in all Co-operation between the Finnish Border Guard and the Contractor that is related to the Main Contract.

3.4 The Security Requirements and Security Practices to be followed by the Parties are defined in the Agreement and its annexes, as well as the security class of the classified information, that is possibly processed in the Co-operation. The Parties undertake to follow this Agreement and its annexes in all Co-operation in which Secret Information is processed.

3.5 If necessary, more detailed Security Requirements and Security Practices, including the Security Class of all Secret Information, that is possibly processed in the Co-operation, shall be agreed for the part of every individual Co-operation that are in the scope of this Agreement.

4 Secrecy commitments

4.1 The Contractor is committed to keep secret all information that is submitted by the Finnish Border Guard to the Contractor, created by the Contractor, stored by the Contractor or received by the Contractor in Co-operation. Secret Information can be given only to persons who are individually preapproved and named.

4.2 According to Sections 22 and 24 of the Openness Act, the Finnish Border Guard is committed to keep secret all information that is in the scope of business secrets and that are submitted by the Contractor or obtained by the Finnish Border Guard by other means and that are related to the Co-operation.

4.3 If it is uncertain whether the information is secret or not, a certainty must be acquired from the other Party.

4.4 The Parties are committed to store and process the Secret Information, Documents and Material related to the Co-operation in a way that they are kept in control of only those who have the handling authorization, and will not come into possession or examination or to knowledge of any third parties.

4.5 The Contractor shall be responsible for that the security of information, Material, Locations or activities of the Finnish Border Guard are not jeopardized as a result of the activities by the personnel of the Contractor, for example, their negligence or incorrect work practices.

4.6 Regardless of a secrecy commitment, by following the processes expressed in this Agreement, the Parties shall have the right to submit Secret Information to an authority that has the legal right to obtain such information, or to other third parties that have a legal right to obtain such information. The other Party shall be informed of submitting the information unless an authority or another third party specifically forbids it on legal grounds.

4.7 After the Co-operation has ended, the Contractor shall return all Secret Information that is related to the Co-operation, to the Finnish Border Guard, or destroy it in the way the Finnish Border Guard orders.

4.8

4.9 In addition to the aforesaid, the Contractor shall follow the provisions of the Openness Act that concern document secrecy, duty of non-disclosure and prohibition of use. According to the Openness Act, information in the scope of non-disclosure shall not be disclosed even after the activity with the authority or for the authority has ended. A breach of the duty of non-disclosure and prohibition of use can be punished in accordance with the Criminal Code, according to Section 35 of the Openness Act.

5 Personnel

5.1 Personnel of the Contractor or its Subcontractor shall have the duty of non-disclosure concerning the information they obtain in the Co-operation, according to Section 23 of the Openness Act.

5.2 A person of the Contractor or its Subcontractor who has the right to process or take part in activities in the Co-operation in which the person may obtain Secret Information or have access to protected Material of the Finnish Border Guard or have access to the Locations of the Finnish Border Guard, has to be preapproved by the Finnish Border Guard before the person may take part in the Co-operation.

5.3 Primarily, the approval requires:

- a) A Personal Security Clearance which is in force and which the Finnish Border Guard has applied for in accordance with the Security Clearance Act (726/2014), based on which, for its part, the person's trustworthiness shall be assessed. A Person who doesn't approve applying for the Personal Security Clearance, cannot be approved for a duty.
- b) Performing the security training instructed by the Finnish Border Guard to contractors, and familiarizing of the Contractor with the security Practices that are annexes to this Agreement. Performing the security training shall be deemed an indication that a person has understood the duty of non-disclosure related to the Co-operation.

5.4 The approval shall remain in force unless new information concerning the trustworthiness, integrity or suitability for the duty of the persons arises which may give reason for the Finnish Border Guard to cancel the approval.

5.5 The Contractor shall take responsibility for that the persons who participate in the Co-operation shall perform the security training instructed by the Finnish Border Guard and familiarize themselves with the security Practices annexes to this Agreement.

6 Subcontractors

6.1 What has been agreed on the Contractor and the personnel of the Contractor, shall apply to a Subcontractor and the personnel of a Subcontractor. What is agreed on a Subcontractor in this Agreement, shall apply to such affiliated companies of the Contractor that participate in the Co-operation as agreed.

6.2

6.3 The Contractor must have a Subcontractor that processes or whose persons may get knowledge of Secret Information, have access to the Material of the Finnish Border Guard or get access to the premises of the Finnish Border Guard, preapproved by the Finnish Border Guard. A condition for the preapproval is that the Finnish Border Guard has had the opportunity to make sure that the Subcontractor will be able to fulfill the requirements of this Security agreement for the part they concern the Subcontractor in the Co-operation.

6.4 The Contractor shall be liable for the activities of the Subcontractors used by it as if the activities were its own, by contractually committing the Subcontractors to follow the provisions of this Agreement. The Contractor shall be liable for any possible deviations violating the provisions of this Agreement caused by its Subcontractor, as well as their consequences, and be accountable for them to the Finnish Border Guard.

6.5 The Contractor shall inform its Subcontractor that bringing the security arrangements up to the level required by this Agreement may cause expenses. The Finnish Border Guard shall not be responsible for these expenses.

6.6 In case a Subcontractor is a foreign business, it must have a Facility Security Clearance (FSC) issued by the national security authority of its country of origin. A certificate issued by a competent National Security Authority (NSA) shall be deemed a foreign Facility Security Clearance certificate. On a case-by-case basis, the Finnish Border Guard may also accept some other equivalent certificate concerning reliability, integrity and ability of the Contractor, or a Subcontractor, or their personnel, to process Secret Information, that the Finnish Border Guard assesses sufficient.

7 Prohibition right

7.1 The Finnish Border Guard shall have the right, without giving any reason or detailed justification, to forbid a Contractor's person, a Subcontractor or a Subcontractor's person to participate in the Co-operation. The Finnish Border Guard has the aforesaid prohibition right, even if a Subcontractor or a Subcontractor's person had already been preapproved for the Co-operation.

7.2 The Finnish Border Guard shall not be liable for any possible economic consequences that may happen to the Contractor or a Subcontractor when the Finnish Border Guard uses its prohibition right. However, if the Contractor is unable to perform its contractual duties as a result of the prohibition right, the case and the possible expenses related thereto shall be agreed on between the Parties on a case-by-case basis.

8. Control and notifications concerning security deviations

8.1 The Contractor shall notify the Finnish Border Guard immediately if

- a) confidentiality, integrity, or usability of the secret material is jeopardized.
- b) persons that are not approved by the Finnish Border Guard have the access to the Material or the Locations or the Secret Information meant in this Agreement, by contribution of the Contractor or a Subcontractor.

8.2 The Contractor shall, without delay, take actions to restrict or repair the aforesaid deviations so that the possible adverse effects remain as small as possible.

8.3 The Contractor shall notify the Finnish Border Guard immediately when the participation of a person of the Contractor or a Subcontractor ends.

8.4 The Contractor shall notify the Finnish Border Guard, without delay, if essential changes occur in its or a Subcontractor's ownership relations, activities related to the Finnish Border Guard or personnel or Security arrangements affecting the security.

8.5 All notifications shall be made in writing (for example, via e-mail) and, if the urgency of the situation so requires, also by phone to the contact person named in this Agreement or, in case this person is out of reach, to the official e-mail of the Finnish Border Guard (raja@raja.fi)

9. Security Requirements and practices and inspection of their fulfilment

9.1 The Contractor and the Subcontractors shall fulfill the Security Requirements (Annex 2 of this Agreement) for the whole time of the Co-operation.

9.2 The Contractor and the Subcontractors shall follow the Security Practices of the Co-operation (Annex 3 of this Agreement) for the whole time of the Co-operation.

9.3 During the Co-operation, the Finnish Border Guard shall have the right to inspect without a prior notice the fulfilment of the Security Requirements and obeying of the Security Practices on the part of the Contractor and the Subcontractors.

10 References

10.1 The Contractor and its Subcontractors are allowed to mention as their reference that they have worked for the Finnish Border Guard, if the Finnish Border Guard has given a written permission to do so.

11 Sanctions resulting from breaches of this Agreement

11.1 The Finnish Border Guard has the right to receive contractual penalty from the Contractor if the Contractor or a Subcontractor has breached the commitments of this Agreement or its annexes.

11.2 The Contractor shall be liable for the breaches of the Agreement committed by a Subcontractor as if they were its own breaches, and be accountable for them to the Finnish Border Guard.

11.3 The Finnish Border Guard shall have the right to the contractual penalty even without showing that the breach has resulted in any damage.

11.4 If it is a matter of a minor breach or omission that the Contractor or a Subcontractor has repaired without delay, the Finnish Border Guard may abstain from claiming contractual penalty. If the Contractor or a Subcontractor breaches several commitments by the same act, that will be considered one breach justifying the contractual penalty.

11.5 The amount of the contractual penalty for each breach of the secrecy commitment is the biggest of the following: 10,000 euros or 2 % of the total price of the Main Contract or the other contracts essentially related to it or, if the main subject of the Main Contract is a Product or Service that is invoiced as a recurring payment, the total price of 12 months of the Main Contract.

11.6 Before collecting the Contractual penalty, the Finnish Border Guard shall notify the Contractor of the breach of the Agreement in writing. If a Party so asks in writing, the breach will also be handled in negotiations between the Finnish Border Guard and the Contractor.

11.7 A contractual penalty shall not restrict the right of the Finnish Border Guard to get damages from the Contractor.

11.8 The Finnish Border Guard is entitled to annul the Main Contract that refers to this Agreement in case the Contractor or a Subcontractor has breached the Agreement so that the Finnish Border Guard has become entitled to claim contractual penalty. If the breach of the Agreement can be repaired, the Finnish Border Guard may annul the Main Contract only if the Contractor or a Subcontractor has not repaired the breach of the Agreement in a reasonable time from a written notification by the Finnish Border Guard of the breach and its intention to annul the Main Contract.

12. Resolution of differences

12.1 The Finnish law shall apply to this Agreement

12.2 Differences arising from this Agreement shall primarily be intended to be resolved in negotiations between the Parties.

12.3 If the Parties fail to reach unanimity, the dispute shall be resolved by the District Court of Helsinki as the first instance.

13. The term of the Agreement and termination

13.1 The Agreement shall come into force after both Parties have signed the Agreement. This Agreement shall remain in force as long as any Main Contract, in which this Agreement is referred to, remains in force.

13.2 The Finnish Border Guard shall be entitled to terminate this Agreement and the Main Contract to end immediately if, on grounds of a Facility Security Clearance that has been done, or another source of information, there is a reason to suspect the Contractor or a Subcontractor or a member of their administration or management, or a person exercising representative, managerial or regulatory authority therein, to act in a way that may harm the security of the state, national defense, Finland's international relations, public security, or some other public interest, or a particularly significant private economic interest comparable to them, or security arrangements meant to protect them.

14 Agreement documentation and the order of precedence

14.1 This Agreement consist of this Agreement document and the following annexes

Annex 1	The contact persons of the Agreement
Annex 2	The Security Requirement to be fulfilled in the Co-operation
Annex 3	The Security Practices to be followed in the Co-operation

14.2 In case the Agreement document and the annexes are in conflict, the wording of the Agreement document will be decisive. In case the annexes are in conflict among themselves, they will be applied in the ascending numerical order.

14.3 Regardless of what else has possibly been agreed in other Main Contracts between the Contracting authority and the Business, concerning issues in the scope of this Agreements, the responsibilities related to them, or the reciprocal order of application, this Agreement shall primarily be applied in cases of conflict.

14.4 Possible restrictions of liabilities in the Main Contracts shall not apply to this Agreement or liabilities that come into being on the grounds of it, but the Chapter 11 of this Agreement shall apply to the liability for any damage and the restrictions to such liability that come into being on the grounds of this Agreement.

15 Signatures

Helsinki dd.mm.2021
The Finnish Border Guard

[place] dd.mm.2021
[The Contractor]
