



Pre-Commercial Procurement (PCP)

BroadWay

Innovation activity to enable a pan-European interoperable broadband mobile system for PPDR

TENDER DOCUMENT 3:

PCP FRAMEWORK AGREEMENT

(the “Framework Agreement”)

Version dated 15 February 2019

SUBMISSION TO EC AS D2.2

This PCP Framework Agreement, designated as Tender Document 3, should be read in conjunction with other documents related to this Pre-Commercial Procurement (PCP), listed hereunder:

- Tender Document 1: Request for Tenders (TD 1)
- Tender Document 2: PCP Challenge (TD 2)
- Tender Document 4: Specific Contract for Phase 1 (TD 4)

All documents are to be downloaded from the BroadWay website broadway-info.eu

WAIVER: Contractors must be informed that the Framework Agreement will be signed in its English version. With the submission of their Tenders, Contractors accept this fact.

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This Framework Agreement (the "Framework Agreement") is made on the [insert date] day of [month] [year] between:

(1) On the one hand,

A.S.T.R.I.D. SA, is a public limited company of Belgian Public Law , with a registered office at Boulevard du Regent 54, Brussels 1000, Belgium and registered with the Belgian Crossroads Bank for Enterprises under the number 0263.893.151,

(The "Lead Procurer"),

Acting in its own name and on behalf of the entities listed in section B of the Preamble below,

And,

(2) On the other hand,

[Contractor's full legal name], with registered office at [address]

(The "Contractor")

IN CASE OF CONSORTIUM: acting in the name and on behalf of the other members of a group of tenderers:

1. [insert the details of the members of the group of tenderers]
2. ...

The members of the group of tenderers will be jointly and severally liable vis-à-vis the Lead Procurer, the Group of Procurers and each individual GOP Member for the performance of this Framework Agreement and the Specific Contracts.

(all together, the "Contractor")

The Lead Procurer and the Contractor being together called "the Parties" and individually a "Party".

PREAMBLE

- A. This Framework Agreement is entered into to define the rights and obligations of the Parties in the context of the pre-commercial procurement concerning the provision by the Contractor of R&D services to develop technologies to enable a pan-European interoperable broadband mobile system for Public Protection and Disaster Relief ("PPDR").
- B. The Lead Procurer acts on the basis of a power-of-attorney provided for this purpose by means of the Group of Procurers Agreement dated 26 March 2018 in its own name and on behalf of the other members of the Group of Procurers under the Consortium Agreement for the project "Broadway" dated 26 March 2018. The members of the Group of Procurers, which are collectively referred to as the "Group of Procurers" and each individually referred to as a "GOP Member", are the following at the date of this Framework Agreement:
1. A.S.T.R.I.D. SA, with registered office at Boulevard du Regent 54, Brussels 1000, Belgium,
 2. Narodni agentura pro komunikacni a informacni technologie (CZNAK), with registered office at Kodanska 1441/46, 101 00 Praha 10 – Vrsovice, Czech Republic,
 3. Riigi Infokommunikatsiooni Sihtasutus (EERIKS), with registered office at Ädala 29, 10614 Tallinn, Estonia,
 4. Ministerio del Interior (ESMIR), with registered office at Calle Amador de los Rios 7, 28071, Madrid, Spain,
 5. Suomen Virveverkko Oy (FIVIR), with registered office at Tekniikantie 4 B, 02151 Espoo, Finland,
 6. Ministère de l'Intérieur (FRMOI), with registered office at Place Beauveau, 75800, Paris, France,
 7. Kentro Meleton Asfaleias (GRMOI), with registered office at P Kanellopoulou 4 ST, 10177, Athens, Greece,
 8. An Garda Síochána (IEAGS), with registered office at Garda Headquarters, Phoenix Park, Dublin 8, Ireland,
 9. Ministero dell'Interno (ITMOI), with registered office at Piazza del Viminale 1, 00184 Rome, Italy,
 10. The National Police of the Netherlands (NLPOL), with registered office at Nieuwe Uitleg 1, 2595 CC The Hague, Netherlands, and
 11. Serviciul de Telecomunicatii Speciale (ROSTS), with registered office at Splaiul Independentei 323 A Sector 6, 060044 Bucharest, Romania,
- C. By Request for Tender entitled "**BroadWay - Innovation activity to develop technologies to enable a pan-European interoperable broadband mobile system for PPDR**" (the "Project"), advertised by way of a Contract Notice in the supplement of the Official Journal of the European Union, OJEU Notice Number of dated (the "RFT") the Lead Procurer, in its own name and on behalf of the Group of Procurers, invited tenders from economic operators ("Tenderers") for the provision of R&D activities as described in TD1-Request for Tender and TD 2- PCP Challenge, collectively referred to as the "R&D Services". References to the RFT shall include any clarifications issued by the Lead Procurer via the messaging facility on (the

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“RFT Clarifications”). The RFT (including the RFT Clarifications) is hereby incorporated by reference into this Framework Agreement.

- D. The Contractor submitted a response to the RFT dated [...] (the "Submission"). References to the Submission shall include any clarifications issued by the Contractor to the Lead Procurer between [...] and [...] (the "Submission Clarifications"). The Submission (including the Submission Clarifications) is hereby incorporated by reference into this Framework Agreement.

- E. The Contractor was appointed to the Framework Agreement as a result of the evaluation of its Submission in accordance with the RFT.

DEFINITIONS

"Affiliated Entity" - means (i) the Parties and/or any legal entity that is under the direct or indirect control of a Party, or under the same direct or indirect control as the Party, control taking any of the following forms:

- (a) the direct or indirect holding of more than 50% of the nominal value of the issued share capital in the legal entity concerned, or of a majority of the voting rights of the shareholders or associates of that entity;
- (b) the direct or indirect holding, in fact or in law, of decision-making powers in the legal entity concerned.

"Applicable Laws" - all rules and regulations and the "Specific requirements for innovation procurement (PCP/PPI) supported by Horizon 2020 grants" (hereinafter the "Specific PCP Requirements") relevant for the execution of the Framework Agreement and all laws, treaties, rules, regulations and orders of any local, national or other authority having jurisdiction over the Contractor.

"Award Criteria" means the criteria used to identify the most advantageous tender as detailed in the RFT.

"Background" means any data, know-how, information or technology — whatever its form or nature (tangible or intangible), including any attached rights such as Intellectual Property Rights and Trade Secrets relating to such data, know-how, information or technology, that is owned, developed or controlled by either of the Parties at the date of signing of the Framework Agreement or that shall at any time during the PCP become so owned, developed or controlled otherwise than as a result of the PCP or under this Agreement and that is identified by the Parties involved in the PCP as background and that is needed to implement the PCP or exploit the Results of the PCP.

"Control" has the meaning provided in articles 5 to 9 of the Belgian Companies Code.

"Call-off" means the procedure organised by the Lead Procurer to select the successful Contractor(s) who will participate in the next Phase of the Project under the Framework Agreement.

"Commencement Date" means the date in which the Framework Agreement and Specific Contract is signed and executed.

"Data" means all Trade Secrets, whether in oral or written (including electronic) form, created by or in any way originating with the Lead Procurer (on behalf of the Group of Procurers) and all information that is the output of any computer processing, or other electronic manipulation of any information that was created by or in any way originating with the Lead Procurer provided under this Framework Agreement and includes personal data under Data Protection Laws.

"Data Protection Laws" means all applicable and national EU data protection laws, regulations and guidelines, including but not limited to Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the "General Data Protection Regulation"), and any guidelines and codes of practice issued by a national supervisory authority.

"End of Phase Report" means a report in written form to be submitted by the Contractor, which was awarded a work order for that particular Phase, to the Lead Procurer after each completed Phase of the Project, containing all information that is required in the End of Phase Report-form.

"End of the PCP" means the occasion of the Lead Procurer declaring the results of Phase 3 End of Phase Reports.

"Fair and Reasonable Conditions" means appropriate conditions, including possible financial terms or royalty - free conditions, taking into account the specific circumstances of the request for access, including in particular the actual or potential value of the Results or Background to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged.

"Grant Agreement" means the agreement, Number - 786912 – Broadway, that regulates the terms and conditions of the relation between the European Union, represented by the European Commission and a consortium

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composed by amongst others the Group of Procurers for the action entitled 'Innovation activity to develop technologies to enable a pan-European interoperable broadband mobile system for PPDR, validated by sustainable testing facilities — BroadWay' ('action').

"Intellectual Property Rights" shall mean any and all patent rights (including but not limited to divisionals, extensions, improvement patents, supplementary protection certificates), inventions (whether or not patentable or capable of registration), trademarks, copyrights (including moral rights), topography rights, design rights, rights in and to software and databases (including the right to prevent the extraction or reutilisation of information from a database), trade or business names, domain names, whether or not any of them are registered or registerable and including applications for registration, renewal or extension of any of them, and any other rights or forms of protection of a similar nature which have an equivalent or similar effect to any of them which may now or in the future exist anywhere in the world, and licenses or contractual rights on any of the aforementioned rights.

"Offer" means the proposal of the Contractor for the following Phase.

"PCP" means Pre-Commercial Procurement, which is procurement of R&D services involving risk-benefit sharing under market conditions, and competitive development in phases, where there is a clear separation between the procurement of the R&D services procured from the deployment of commercial volumes of end-products.

"Phase" means an individual and separate part of the Project, where Phase 1 comprises feasibility study ("Phase 1"), Phase 2 comprises prototyping ("Phase 2"), and Phase 3 comprises original development of a limited volume of R&D Services in the form of a test series ("Phase 3").

"Price" means the total price (excluding VAT) agreed between the Parties for each Phase of the Project, to be paid by the Lead Procurer to the Contractor for each such Phase, subject to the terms and conditions of this Framework Agreement.

"Results" means any data, knowledge, information or technology, whatever its form or nature (tangible or intangible), whether or not it can be protected, including any attached rights such as Intellectual Property Rights and Trade Secrets relating to data, know-how, information or technology, that is generated in the framework of the PCP.

"Specific Contract" means the specific contract for each Phase of the R&D Services under the Framework Agreement, to be concluded between the Lead Procurer and the Contractor in addition to the Framework Agreement.

"Sub-contract" means any contract or agreement between the Contractor and any Third Party whereby that Third Party (the "Subcontractor") agrees to provide services to the Contractor to enable or assist the Contractor to provide the R&D Services or any part thereof to the Lead Procurer (on behalf of the Group of Procurers).

"Tender" means the formal and commercial bid/offer submitted by the Tenderer for the Framework Agreement, for Phase 1,2 and 3, as well as any documents and/or information submitted by the Contractor on the basis of the Tender Documents. When used to indicate a bid for Phase 1, 2 or 3, it shall have the same meaning as "Offer".

"Third Party" means any person or legal entity that is not a Party.

"Trade Secrets" means information which (a) is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question, (b) has commercial value because it is secret and (c) has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret, but excluding information whose acquisition, use or disclosure is deemed lawful in accordance with article 3 of Directive (EU) 2016/943 of 8 June 2016 (trade secrets).

"TVC", or "Technical Validation Committee", means the general coordinating and representative body of the Group of Procurers, which will provide the technical skill base for the procurement decision-making.

SCHEDULE A – GENERAL FRAMEWORK

IT IS HEREBY AGREED AS FOLLOWS:

1. The Framework Agreement consists of the following documents, and in the case of discrepancy between the Framework Agreement and/or a Specific Contract, on the one hand, and the tender documents on the other hand, the documents shall prevail in the following order:
 - i. TD1- RFT and TD2- PCP Challenge;
 - ii. Framework Agreement and other tender documents;
 - iii. Specific Contract;
 - iv. Contractor's Tender.
2. This Framework Agreement is entered into to define the rights and obligations of the Parties and further, the Framework Agreement's terms and conditions (the "Terms and Conditions") in the context of the pre-commercial procurement concerning the provision by the Contractor of R&D Services.
3. The Contractor agrees to provide R&D Services to the Lead Procurer described in the Contractor's Tender to the Lead Procurer in accordance with this Framework Agreement, covering PCP Phases 1 through 3:
Phase 1: Solution Design
Phase 2: Solution Prototype
Phase 3: Pilot
4. Subject to the Terms and Conditions of this Framework Agreement, the Lead Procurer agrees to pay the Contractor as stipulated in clause 2. The prices are exclusive of VAT which shall be due at the rate applicable on the date of the VAT invoice.
5. For the purposes of this Framework Agreement, the Lead Procurer's contact is Luc Dermine of A.S.T.R.I.D. SA, Boulevard du Regent 54, Brussels 1000, Belgium; the Contractor's contact is (insert contact name) of (insert Contractor contact's address).
6. This Framework Agreement shall take effect on the date of this Agreement ("the Commencement Date") and shall remain in effect until the end of the last Phase that has been awarded to the Contractor), unless it is otherwise terminated in accordance with the provisions of this Framework Agreement or otherwise lawfully terminated or otherwise lawfully extended as agreed between the Parties ("the Project Period").
7. After the Commencement Date of the Framework Agreement and a Specific Contract for Phase 1, the Contractor shall perform the R&D Services falling thereunder and acknowledges that the Lead Procurer simultaneously enters into similar arrangements with other Tenderers.
8. The provision by the Contractor of R&D Services under subsequent Phases is subject to the award by the Lead Procurer of a Specific Contract for such Phases, as set out hereunder.
9. The Lead Procurer will require the Contractor to whom it has decided to award a Specific Contract for Phases 2 and 3 to supply up-to-date evidence as regards sections 5.1-5.4 of the RFT. Where the Contractor cannot provide up-to-date evidence, then the Lead Procurer may proceed to offer the Specific Contract to the next highest-ranked Tenderer.
10. The Lead Procurer reserves the right to extend the Project Period for a period or periods of up to (insert number) such extensions permitted subject to its obligations at law and the terms of the grant agreement (the "Grant Agreement").
11. Unless otherwise specified herein, a defined term used in this Framework Agreement shall have the same meaning as assigned to it in TD 1-Request for Tender and TD 2- PCP Challenge.

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12. The Parties expressly acknowledge that the GOP as a whole and the GOP Members individually, shall have certain rights on the Intellectual Property Rights and Trade Secrets and on the Results as a third party beneficiary in accordance with the Terms and Conditions below.
13. Headings are included for ease of reference only and shall not affect the construction of this Framework Agreement.
14. Unless the context requires otherwise, words in the singular may include the plural and vice versa.
15. References to any statute, enactment, order, regulation or other legislative instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended, unless specifically indicated otherwise.
16. In the event that any ambiguity or question of intent or interpretation arises in relation to this Framework Agreement, this Framework Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favouring or disfavouring any Party by virtue of the authorship of any of the provisions of this Framework Agreement.

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Subject to the foregoing, any amendment to the Framework Agreement shall only enter into force upon signature by the authorized representative(s) of each Party.

Signed in [redacted] original copies [one for each Party] on [redacted]

SIGNED for and on behalf of the Group of Procurers <hr/> (being a duly authorized officer of the Lead Procurer	SIGNED for and on behalf of the Contractor <hr/>
Date:	Date:

SCHEDULE B: TERMS AND CONDITIONS

1 CONTRACTOR'S OBLIGATIONS

- 1.1 The Contractor shall be deemed to have satisfied himself as to the correctness and sufficiency of the Framework Agreement and entered into it on the basis that it has full knowledge and understanding of the Project. The Framework Agreement, including the Specific Contracts, shall cover all matters necessary for the delivery of the R&D Services.
- 1.2 The Contractor undertakes to act with due care, skill and diligence in the provision of the R&D Services and generally in the carrying out of its obligations under this Framework Agreement, the TD1- RFT and TD2- PCP Challenge, Specific Contracts and in the appointment, monitoring, retention and allocation of sufficient resources to enable it to comply with its obligations under the Framework Agreement. The Contractor shall require its agents and Subcontractors to exercise due care, skill and diligence in the provision of the R&D Services and generally in the carrying out of obligations allocated by the Contractor to its agents and Subcontractors under this Framework Agreement.
- 1.3 In consideration of the payment of the Price and subject to clause 2 the Contractor shall:
- 1.3.1 provide the R&D Services in the framework of the Project, which is divided into three different Phases:

Phase 1 – Solution Design: A maximum of 5 Contractors awarded with the Phase 1 shall be entitled to submit a design for a final innovative solution, for which each Contractor shall receive a maximum payment of 73,687.99 EUR (VAT excluded). This Phase shall approximately last 6 calendar months, being regulated by the TD 1- RFT, TD 2- PCP Challenge, the Submission and, in addition, by two additional contractual documents to be signed by the Contractors when awarded with the Phase 1: this Framework Agreement, with provisions related to the remaining Phases, and a Specific Contract governing Phase 1. The provision by the Contractor of R&D Services under subsequent Phases is subject to the award by the Lead Procurer of a Specific Contract for such Phases as set out immediately hereunder.

Phase 2 – Solution Prototype: Upon completion of Phase 1, the Lead Procurer will issue a Call-off to the Contractors who successfully completed Phase 1, for the performance of Phase 2, whereupon the successful Contractors shall submit an Offer for Phase 2. A maximum of 3 Tenderers awarded with the Phase 2 shall be entitled to develop, install and technically test and validate TRL7 prototypes on the basis of the final innovative solution designs selected at the end of Phase 1, for which each Contractor shall receive an indicative maximum payment of 1,407,921.73 EUR (VAT excluded), which could be increased if there is remaining budget from Phase 1 and/or decreased subject to the global VAT regime applicable on the global project covered by the Grant Agreement N° 786912 – Broadway . This Phase shall approximately last up to 12 calendar months, being regulated by TD 1- RFT, TD 2– PCP Challenge and, in addition, by the Framework Agreement signed by the Contractors when awarded with Phase 1 and by a Specific Contract governing Phase 2, to be signed by the Contractors when awarded with Phase 2. If the Contractor is not selected for Phase 2, this Framework Agreement shall, without prejudice to any surviving clauses, cease to have any effect upon the date announced by the Lead Procurer of the non-award decision for Phase 2.

Phase 3: Pilot: - Upon completion of Phase 2, the Lead Procurer will make a Call-off to the Contractors who successfully completed Phase 2, for the performance of Phase 3, whereupon the successful Contractors shall submit an Offer for Phase 3. A maximum of 2 Contractors awarded with the Phase 3 shall be entitled to extend Phase 2 prototypes to TRL8 pilot, including technical test

and validation and availability of the pilot for practitioner evaluation, on the basis of the prototypes selected at the end of Phase 2, for which each such Contractor shall receive an indicative maximum payment of 1,502,247.43 EUR (VAT excluded), which could be increased if there is a remaining budget from Phase 2 and/or decreased subject to the global VAT regime applicable on the global project covered by the Grant Agreement N° 786912 – Broadway. This Phase shall approximately last up to 11 calendar months, being regulated by TD-1 RFT, TD 2 – PCP Challenge and, in addition, by the Framework Agreement signed by the Contractors when awarded with Phase 1 and by a Specific Contract governing Phase 3, to be signed by the Contractors when awarded with Phase 3. If the Contractor is not selected for Phase 3, this Framework Agreement shall, without prejudice to any surviving clauses, cease to have any effect upon the date announced by the Lead Procurer of the non-award decision of Phase 3.

1.3.2 co-operate with the Lead Procurer in all matters relating to the Project and comply with and implement any policies, guidelines and/or any project governance protocols issued by the Lead Procurer from time to time and notified to the Contractor in writing.

1.3.3 provide the R&D Services in accordance with good industry practice and comply with all Applicable Laws including but not limited to all obligations in the field of environmental, social and labour law that apply at the place where the R&D Services are provided, that have been established by EU law, national law, collective agreements and by international, environmental, social and labour law. The Contractor shall be responsible for compliance with all statutory requirements of an employer and without prejudice to the generality of the foregoing shall be solely responsible in law for the employment, remuneration, taxes, immigration and work permits of all personnel retained for the purposes of complying with this Framework Agreement.

1.3.4 The Contractor is deemed to be the lead contractor (the “Lead Contractor”) under this Framework Agreement and the Contractor assumes full responsibility for the discharge of all obligations under this Framework Agreement and shall assume all the duties, responsibilities and obligations associated with the position of lead contractor. The Contractor as Lead Contractor under the Submission hereby assumes liability for its Subcontractors and shall ensure that its Subcontractors shall comply in all respects with the relevant Terms of this Framework Agreement, including but not limited to clause 1.3.3 above, to the extent that it or they are retained by the Contractor. Subject to clauses 13 and 14 the Contractor shall notify the Lead Procurer as soon as possible of any changes to the name, contact details and legal representatives of its Subcontractors.

1.4 The Contractor shall, subject to the prior written approval of the Lead Procurer, appoint or, at the written request of the Lead Procurer, replace without delay:

1.4.1. the Lead Contractor; and

1.4.2 Key personnel (the “Key Personnel”) or any member of the Contractor’s team, who shall be suitably skilled, experienced and qualified to carry out the Project.

1.5 Without prejudice to clause 1.3 above, where the Lead Procurer becomes aware that any of the exclusion grounds outlined in section 5.2 of TD1- RFT, apply to any Subcontractor, the Lead Procurer reserves the right to require the Contractor to immediately replace such Subcontractor and the Contractor shall comply with such requirement. The Contractor shall include in every Sub-contract a right for the Contractor to terminate the Sub-contract where any of the exclusion grounds apply to the Subcontractor and a requirement that the Subcontractor, in turn, includes a provision having the same effect in any Sub-contract which it awards.

1.6 During the Framework Agreement the Contractor shall be an independent Contractor and not the employee of the Lead Procurer. Neither Party shall have any authority to bind or commit the other. Nothing herein shall be deemed or construed to create a joint venture, partnership and/or fiduciary or other

relationship between the Parties for any purpose. The officers, employees or agents of the Contractor are not and shall not hold themselves out to be (and shall not be held out by the Contractor as being) servants or agents of the Lead Procurer for any purposes whatsoever.

- 1.7 The Lead Procurer acknowledges that the Contractor may from time to time be dependent on the Lead Procurer to facilitate the Contractor in the carrying out of the R&D Services under this Framework Agreement. The Lead Procurer agrees to use its reasonable endeavours to so facilitate the Contractor within the timescales of the Project, in accordance with clause 12.
- 1.8 The Contractor shall comply with all applicable obligations arising pursuant to the European Communities (Protection of Employees' Rights on Transfer of Undertakings) Regulations 2003 and Council Directive 2001/23/EC (together the "TUPE Regulations") and failure to so comply shall constitute a serious breach of this Agreement. The Contractor shall indemnify, save harmless and keep the Lead Procurer indemnified from and against any claim, arising or loss or costs incurred as a result of its failure or incapacity to fulfil its obligations under the said TUPE Regulations.

2 ACCOUNTING AND PAYMENT

- 2.1 Subject to the Terms and Conditions of this Framework Agreement, the Lead Procurer shall pay to the Contractor the Price for Phase 1 and, where applicable, the Price for Phase 2 and the Price for Phase 3, subject to the Lead Procurer awarding the Specific Contracts for one or both of these Phases 2 and 3 to the Contractor, which Price shall include the whole and sole consideration for:
 - 2.1.1 the development of the Project; and
 - 2.1.2 any license on or, as the case may be, assignment of any Intellectual Property Rights and Trade Secrets granted to each GOP Member pursuant to clause 7.4 or any assignment of any Results (such as prototypes and pilot systems) to each GOP Member;
- 2.2 The Parties expressly acknowledge that each GOP Member shall have the rights on the Intellectual Property Rights and Trade Secrets and on the Results as a third party beneficiary in accordance with the Terms and Conditions of clauses 7.4 and 7.5 below.
- 2.3 Payment for the Contractor's services for each Phase will be made according to the following provisions:
 - (i) Payment schedule for Phase 1 will be:
 - 100% of the Price offered by the Contractor shall be paid to the bank account provided by the Contractor within 30 days from the date of receipt by the Lead Procurer, of a correct and approved invoice, after the Lead Procurer declares the satisfactory completion of Phase 1,
 - (ii) Payment schedule for Phase 2 will be:
 - 40% of the Price offered by the Contractor shall be paid to the bank account provided by the Contractor, within 30 days from the date of receipt by the Lead Procurer, of a correct and approved invoice, after the Commencement Date of Phase 2,
 - 60% of the Price offered by the Contractor shall be paid to the bank account provided by the Contractor within 30 days from the date of receipt by the Lead Procurer, of a correct and approved invoice, after the date in which the Lead Procurer declares the satisfactory completion of Phase 2,
 - (iii) Payment schedule for Phase 3 will be:

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- 40% of the Price offered by the Contractor shall be paid to the bank account provided by the Contractor, within 30 days from the date of receipt by the Lead Procurer, of a correct and approved invoice, after the Commencement Date of Phase 3,
 - 37% of the Price offered by the Contractor shall be paid to the bank account provided by the Contractor 30 days from the date of receipt by the Lead Procurer, of a correct and approved invoice, after the date in which the Lead Procurer declares the satisfactory completion of Phase 3,
 - 23% of the Price offered by the Contractor shall be paid to the bank account provided by the Contractor within 30 days from the date of receipt by the Lead Procurer, of a correct and approved invoice, after the date in which the European Commission officially authorizes the final grant payment, notification of which shall be communicated by the Lead Procurer to the Contractor without delay.
- 2.4 The Contractor accepts, upon first request from the Lead Procurer, to provide the Lead Procurer with complete, relevant and clear information as well as documentary evidence about the allocation of monies paid by the Lead Procurer.
- 2.5 Payments to Third Parties employed or hired by the Contractor, if any, shall remain the responsibility of the Contractor who shall ensure that such payments are made promptly and shall hold the Lead Procurer harmless against any claim of such Third Parties.
- 2.6 During the Project Period, payments will be made by the Lead Procurer pursuant to invoices issued by the Contractor; the Lead Procurer may suspend this payment at any time if, in the view of the Lead Procurer, acting reasonably, the Contractor failed with the satisfactory progress of the Project, or reports have not been submitted as required.
- 2.7 The Lead Procurer may request at any time and in each Phase to which the Contractor participates such evidence that the Contractor has used the amounts paid exclusively in connection with the Project.
- 2.8 Without prejudice to clause 25 below, the Parties expressly agree that the Contractor shall not make any changes to its contribution to the Project, or to the amount agreed under the Framework Agreement, without the prior written approval of the Lead Procurer.
- 2.9 Subject to the confidentiality obligations set forth in clause 8, the Contractor grants to the Lead Procurer, acting, as the case may be, through agents authorised for that purpose, and to any statutory or regulatory auditors of the Lead Procurer, the right to access (and, if necessary to copy) the relevant financial records during normal working hours.
- 2.10 The Contractor shall provide at all times, during the term of the Framework Agreement and during a period of six (6) years after termination or expiry of this Framework Agreement for any reason whatsoever, the Lead Procurer with the necessary information to fulfil the Lead Procurer's obligations to supply information for national or supra-national parliamentary, governmental, regulatory, judicial or other administrative purposes and/or to carry out an audit of the Contractor's compliance with this Framework Agreement. This audit can include all activities, performance, security and integrity according to the applicable regulation.
- 2.11 If at any time an overpayment has been made to the Contractor for any reason whatsoever, the amount of such overpayment shall be reimbursed or shall be taken into account in the assessing of any further payments, at the Lead Procurer's sole discretion.
- 2.12 The Contractor shall keep and maintain, in accordance with and for the duration specified in clause 2.10 above, full and accurate records of the Project including:
- (i) all the documentation of the Project;

(ii) all accounting documents and invoices paid by the Lead Procurer.

2.13 Where the Contractor enters into a Sub-contract for one of the Phases of the Project, it shall cause a condition to be included in such a Sub-contract that requires payment to be made of undisputed sums by the Contractor to the Subcontractor within a specified period not exceeding 30 calendar days from the receipt of a valid invoice.

2.14 Wherever, under the Framework Agreement, any sum of money is recoverable from or payable by the Contractor (including any sum that the Contractor is liable to pay to the Lead Procurer in respect of any breach of the Framework Agreement), the Lead Procurer may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Framework Agreement or under any other agreement or contract with the Lead Procurer in the framework of the Project.

2.15 The Contractor shall make any payments due to the Lead Procurer without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise, unless the Contractor has a final and enforceable court order requiring an amount equal to such deduction to be paid by the Lead Procurer to the Contractor.

3. ASSESSMENT OF PERFORMANCE OF PHASES AND AWARD OF NEXT PHASE

3.1. ASSESSMENT OF PHASE 1 AND AWARD OF PHASE 2 CONTRACT

3.1.1 On the completion date of Phase 1, the Contractor shall submit to the Lead Procurer an End of Phase Report regarding such Phase together with the deliverables set forth in the Phase I Contract, which shall be reviewed and assessed by the Technical Validation Committee (the "TVC") in order to determine whether the Contractor has suitably addressed the BroadWay objectives. Such assessment shall be performed during the four (4) week period after the deadline for submission of the End of Phase Reports. All Contractors who are assessed as completing Phase 1 'satisfactorily' will receive payment in line with clause 2 above. 'Satisfactory' completion will be assessed in accordance with section 8.4 of TD1-RFT.

3..1.2 No later than one week after notification of the End of Phase Report results, the Lead Procurer will issue a Call-off to the Contractors who 'successfully' completed Phase 1, for the performance of R&D Services within the scope of Phase 2. The said Call-off shall set forth the Award Criteria of the Phase 2 Specific Contract. The successful Contractors shall be required to submit its Offer at the latest, four (4) weeks after issuing the Call-off.

3..1.3 The Lead Procurer shall issue its decision as to the award of the Phase 2 Specific Contract, at the latest four (4) weeks after the deadline for submission of Offers to the Call-off. The Phase 2 Specific Contracts shall only be awarded if the TVC has determined that the Contractors have demonstrated that the BroadWay objectives have been suitably addressed using the Award Criteria for Phase 2. A maximum of three (3) Contractors among those awarded Framework Agreements for the Project shall be awarded Phase 2 Specific Contracts (TD4).

3..1.4 If the Contractor is awarded a Specific Contract for Phase 2, the Framework Agreement shall continue for the duration of Phase 2 and a separate Specific Contract for Phase 2, in the format set out in Specific Contract will be executed by the Parties. If the Contractor is not awarded a Specific Contract for Phase 2, the Framework Agreement shall, without prejudice to any surviving clauses, expire automatically upon notification by the Lead Procurer of this decision.

3.2 ASSESSMENT OF PHASE 2 AND AWARD OF PHASE 3 CONTRACT

TD3 BroadWay PCP Framework Agreement

- 3.2.1 On the completion date of Phase 2, the Contractor shall submit to the Lead Procurer an End of Phase Report regarding such Phase together with the deliverables set forth in the Phase 2 Contract, which shall be reviewed and assessed by the TVC in order to determine whether the Contractor has suitably addressed the BroadWay objectives. Such assessment shall be performed during the four (4) week period after the deadline for submission of the End of Phase Reports. All Contractors who are assessed as completing Phase 2 'satisfactorily' will receive payment in line with clause 2 above.
- 3.2.2 No later than one week after notification of the End of Phase Report results, the Lead Procurer will issue a Call-off to the Contractors who 'successfully' completed Phase 2, for the performance of R&D Services within the scope of Phase 3. The said Call-off shall set forth the Award Criteria of the Phase 3 Specific Contract. The successful Contractors shall be required to submit its Offer at the latest, four (4) weeks after issuing the Call-off.
- 3.2.3 The Lead Procurer shall issue its decision as to the award of the Phase 3 Specific Contract, at the latest four (4) weeks after the deadline for submission of offers to the Call-Off. The Phase 3 Specific Contracts shall only be awarded if the TVC has determined that Contractors have demonstrated that the BroadWay objectives have been suitably addressed using the Award Criteria for Phase 3. A maximum of two (2) Contractors among those awarded Framework Agreements for the Project shall be awarded Phase 3 Specific Contracts (TD4).
- 3.2.4 If the Contractor is awarded a Specific Contract for Phase 3, the Framework Agreement shall continue for the duration of Phase 3 and a separate Specific Contract for Phase 3, in the format set out in Specific Contract will be executed by the Parties. If the Contractor is not awarded a Specific Contract for Phase 3, the Agreement shall, without prejudice to any surviving clauses, expire automatically upon notification by the Lead Procurer of this decision.

3.3 PROVISIONS APPLICABLE TO SEVERAL PHASES

- 3.3.1. In this Framework Agreement, "successful completion" of a Phase shall be assessed by the TVC against the End of Phase Report (including all deliverables) according to an objective scoring mechanism.
- 3.3.2. Any award of Phase Contracts for Phases 2 and 3 will be communicated in writing by the Lead Procurer to the Contractor. Any non-award for Phase 2 and 3 will be communicated in writing to the unsuccessful Contractor. A Standstill Period of **five (5) working days** shall be provided after notification of any decision with regard to the award of the Framework Agreement (incl. Phase 1), as well as the award of Phases 2 and 3, during which unsuccessful Tenderers can make an extreme urgency application before the Council of State to suspend the contract award procedure and/or an application for annulment before the Council of State.
- 3.3.3. Neither 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 nor the Council Directive 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 are applicable.
- 3.3.4. The Lead Procurer reserves the right not to award any Contracts at the end of the Tender procedure for Phase 2 and 3. The Lead Procurer may also decide, after an award decision, not to sign the Specific Contract for Phase 2 and 3, for instance (but not only) in case of litigation initiated during the Standstill Period. The Lead Procurer is not liable for any expense or loss the Tenderers may have incurred in preparing their Offer.

4 KEY PERSONNEL

4.1 The Contractor undertakes and acknowledges that it is responsible for ensuring that all Key Personnel are specified in the Submission, assigned by it to provide the R&D Services for the Project Period. This includes the requirement relating to key personnel in section 5.4 C TD1-RFT, in that 100% of the key personnel shall be based in Member States or in a H2020 Associated Countries. The Contractor acknowledges that the Key Personnel are essential to the proper provision of the R&D Services to the Lead Procurer. In the event that any of the Key Personnel assigned by the Contractor to provide the R&D Services under this Framework Agreement becomes unavailable to provide the R&D Services for whatever reason then, the Contractor acknowledges and undertakes that it shall immediately notify the Lead Procurer in writing of the inability of any Key Personnel and replace that person with a person of equivalent experience and expertise ("Replacement Personnel"). The Contractor shall provide to the Lead Procurer such details in writing and ESPD documents in accordance with section 5.1 of the RFT (TD1) regarding any Replacement Personnel. The Contractor shall have absolute discretion as to the suitability of any proposed Replacement Personnel.

5 WARRANTIES AND INDEMNITIES

5.1 The Contractor acknowledges, warrants, represents and undertakes that:

1. it has full capacity and authority and all necessary licenses, permits and consents to enter into and perform this Framework Agreement;
2. this Framework Agreement will be executed by a duly authorized representative of the Contractor (Lead Contractor);
3. there are no actions, suits or proceedings pending or, to the Contractor's knowledge, threatened against or affecting the Contractor before any court or administrative body or tribunal that might affect the ability of the Contractor to meet and carry out its obligations under this Framework Agreement;
4. the Project will be carried out by appropriately experienced, qualified and trained Key Personnel with all due skill, care and diligence;
5. it will discharge its obligations under this Framework Agreement with all due skill, care and diligence including, but not limited to, good industry practice and (without limiting the generality of the foregoing) in accordance with its own established internal procedures;
6. it will attribute (for each Phase for which it is awarded a Specific Contract) the monies paid by the Lead Procurer entirely to the Project;
7. the R&D Services, the Results and the related Intellectual Property Rights and Trade Secrets, as well as the Lead Procurer's or a GOP Member's use of the Results and the related Intellectual Property Rights and Trade Secrets or of the Contractor's Background (including third parties' Background) in accordance with clause 7 shall not infringe any Intellectual Property Rights or Trade Secrets of any Third Party.

5.2 The Contractor shall indemnify the Lead Procurer (as well as each GOP Member), its employees, officers, directors and agents against any and all liabilities, claims, actions, suits or proceedings whatsoever in respect of:

1. any damage to property, including any infringement of Third Party Intellectual Property Rights or Trade Secrets;

2. any injury to persons, including injury resulting in death; resulting from or in the course of, or in connection with the performance of the R&D Services, except in so far as such damages or injury shall be due to any act or negligence of the Lead Procurer.
- 5.3 The Contractor shall promptly notify the Lead Procurer in writing of any such liabilities, claims, actions, suits or proceedings, and in particular of any action brought against the Contractor for infringement or alleged infringement of Intellectual Property Rights and Trade Secrets which might affect the Project, within ten (10) calendar days after receipt of notice of any complaint, claim or injury opening an indemnification right as provided for in clause 7.3.2.
- 5.4 The Contractor shall effect and maintain, with a reputable insurance company, a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of the Framework Agreement. The Contractor shall ensure that the same applies to its Subcontractors involved in activities under the Framework Agreement. Any such insurance shall be maintained for the duration of the Framework Agreement and for a minimum of four (4) years thereafter.
- 5.5 The Contractor shall hold employer's liability insurance in respect of staff appointed to the Project in accordance with any legal requirement for the time being in force.
- 5.6 The Contractor shall produce to the Lead Procurer, on request, copies of all insurance policies in relation to the Project or other evidence confirming the existence and extent of the cover given by those policies, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 5.7 The terms of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Framework Agreement. It shall be the responsibility of the Contractor to determine the amount of insurance cover that will be adequate to enable the Contractor to satisfy any liability referred to in this clause.
- 5.8 The Contractor undertakes to notify the Lead Procurer forthwith of any material change to the status of the Contractor with regard to the warranties, acknowledgements, representations and undertakings as set out in this clause and to comply with all reasonable directions of the Lead Procurer with regard thereto which may include termination of this Framework Agreement.

6 LIABILITY

- 6.1 The Contractor's indemnity obligations under this clause shall be without prejudice to any other rights and remedies available to the Lead Procurer, including the right to terminate the Framework Agreement or any Specific Contract.
- 6.2 If the Contractor fails to deliver Results or other deliverables in accordance with the Framework Agreement and its Schedules, the Lead Procurer shall give the Contractor the opportunity to remedy this within an appropriate period. If the Lead Procurer is still not satisfied after the expiry of such cure period it may (at its discretion):
- a) withhold payments until satisfactory delivery;
 - b) cancel payments;
 - c) exclude the Contractor from any subsequent Phases on the basis that the Contractor has not successfully completed the present Phase; and/or
 - d) terminate the Framework Agreement and/or any Specific Contract (see hereunder).

- 6.3 Acceptance by the Lead Procurer of any deliverable or Result shall not limit the Contractor from liability in respect of such deliverable or Result subsequently being discovered to be non-compliant with the requirements of the Framework Agreement, nor for any loss or damage which may arise as a result.
- 6.4 Except in case of infringement of Applicable Laws, gross negligence or willful misconduct on its part, the Lead Procurer shall not be liable to the Contractor for loss of the Framework Agreement, loss of income or revenue, loss of customers or reputation or any other indirect or consequential loss or damage.
- 6.5 The Lead Procurer's (and the Group of Procurer's) total liability in relation to the Framework Agreement shall be limited to the total value of the Specific Contract under the application of which the act or omission giving rise to the liability took place.

7 INTELLECTUAL PROPERTY RIGHTS

7.1 Ownership: general

- 7.1.1 Risks and benefits of the Intellectual Property Rights and Trade Secrets shall be shared between the Contractors and the Group of Procurers, according to market conditions and the principles of the Treaties of the European Union (free movement of goods, the free movement of workers, the freedom to provide services, the freedom of establishment and the free movement of capital, as well as the principles deriving therefrom, such as the principles of non-discrimination, transparency and equal treatment) and pursuant to the provisions of this Framework Agreement.
- 7.1.2 According to the principles established by the European Commission in the Communication on Pre-commercial Procurement, according to which "in pre-commercial procurement the contracting authority does not assume all the results and benefits of the R&D services performed in the contract exclusively for itself for use in the conduct of its own affairs, but shares them with others" the regulation of the Intellectual Property Rights and Trade Secrets generated in the framework of this Project will be as follows:

7.2 Ownership of the Background and the Results

- 7.2.1 Under this PCP, all **Background** shall remain the property of the Party that is providing it (or, where applicable, the Third Party from whom rights of use have been acquired).
- 7.2.2 The Contractor shall upon submission of the bid provide the Lead Procurer with a complete written list of its Intellectual Property Rights and Trade Secrets relating to the **Background**, including but not limited to, a list of the software (specifying which software is closed source software), hardware, services and means necessary for the operation of the prototype and pilot systems that will be developed as part of the PCP, and a list of prior obligations or encumbrances related thereto. For each component, Contractors shall specify the country of origination and ownership. The Contractor shall regularly update this list, including whenever there is a variation with respect to the notification which shall be done by the Contractors as mentioned in clauses 7.3.1 and 7.3.2 and at least within 30 days from the beginning of each Phase and on the completion of each Phase.
- 7.2.3 Subject to the Terms and Conditions of this Framework Agreement, the **Results** shall be the sole property of the Contractor. The Group of Procurers has reserved the right to have access to and make use of the Results in accordance with clauses 7.4 and 7.5 below.
- 7.2.4 By contrast, any prototypes or pilot systems developed in the context of the PCP shall be the joint property of the Group of Procurers and shall remain with them after the End of the PCP. The Intellectual Property

Rights on such prototypes or pilot systems shall remain with the Contractor. The Group of Procurers has reserved the right to have access to and make use of the Results in accordance with clauses 7.4 and 7.5 below.

7.2.5 The Contractor may assign its rights to the Results or grant a non-exclusive license to a Third Party, provided that at least ninety (90) days advance notice is given to the Lead Procurer and that the notification must include sufficient information on the new owner to enable the GOP Members to assess the effects on their access rights. Any GOP Member may object with forty-five (45) days of receiving notification, if it can show that the transfer would adversely affect its access rights. Should an objection be raised, the transfer may not take place until agreement has been reached between the Parties concerned. The new owner will be bound by the Framework Agreement and must explicitly undertake to perform all of the obligations of the Contractor under the Framework Agreement (including respecting the Group of Procurers' rights under this Framework Agreement) and to include an identical obligation in any subsequent assignment of rights or grant of licenses.

7.3 Notification and Protection of the Results

7.3.1 The Contractor shall notify the Group of Procurers via the Lead Procurer of any and all Results at the end of the Phase during which they are generated. The information submitted to the Lead Procurer shall describe:

- the nature, content, and functioning of the Results;
- all Intellectual Property Rights and Trade Secrets relating to Background;

all other self- or third party-owned Intellectual Property Rights and Trade Secrets in relation to the Results, and in particular any Intellectual Property Rights and Trade Secrets that may affect the Group of Procurers rights of property or access and use under the PCP; These notifications shall be provided by the Contractor with the necessary authorisations at no cost for the Group of Procurers and, if necessary, the latter will be reinstated as legitimate users according to the terms below, including as the case may be, the substitution of equivalent solutions or products that do not infringe third party Intellectual Property Rights or Trade Secrets.

7.3.2 The Contractor shall take all appropriate and necessary measures to ensure the proper protection of the Intellectual Property Rights and Trade Secrets in relation to the Results. It shall at its own costs be responsible for the application, examination, grant, maintenance, management and defence of such Intellectual Property Rights and Trade Secrets and in particular, but without limitation, it shall ensure that:

- the Results of the PCP are identified, recorded and carefully distinguished from the results of other research and development activities not covered by the PCP;
- prior to any publication on the PCP, patentable inventions and other rights arising from the Results are identified, duly considered for patentability or other registration and, where it is reasonable to do so, applications in respect thereof are filed at the relevant offices; and
- all such applications and other rights are diligently executed, prosecuted and maintained having regard to all relevant circumstances. Should the Contractor not wish to execute, prosecute or maintain such Intellectual Property Rights or Trade Secrets, it has to inform the Lead Procurer at least six (6) months prior to any expiration or other loss of rights and, upon first request by the Lead Procurer, perform all

steps required to transfer the Intellectual Property Rights and and Trade Secrets in question to the Lead Procurer.

If the Contractor becomes aware of any product or activity of any Third Party that involves or may involve infringement or other violation of Intellectual Property Rights or and Trade Secrets on the Results or Background, the Contractor shall promptly notify the Lead Procurer of the infringement or violation.

Unless otherwise provided in this Framework Agreement, the Contractor shall take all appropriate measures to protect or defend said Intellectual Property Rights and Trade Secrets on the Results. The Contractor shall have the conduct and bear the costs of such proceedings. The Lead Procurer shall however:

- have a monitoring/audit right on the conduct of the proceedings and the Contractor agrees to take the Lead Procurer's comments on the conduct of the proceedings in due consideration, and
- shall provide reasonable assistance (non-financial) to the Contractor with respect to bringing any action.
- shall request that the Results are transferred to the GOP Members in the event that the Contractor does not seek to protect Intellectual Property Rights and Trade Secrets .

The Contractor shall permit the Lead Procurer to monitor the operation and effectiveness of the Contractor's procedures for the management of Intellectual Property Rights and Trade Secrets in such a way as the Group of Procurers considers reasonably necessary.

7.4 Access Rights

7.4.1 The Contractor hereby on an individual basis grants to each GOP Member, an irrevocable, unlimited, worldwide, fully paid-up, royalty-free, non-exclusive licence and right to use the Results, including prototypes or pilot systems, and the Background for all uses by the BroadWay Group of Procurers of the Results for the purpose of setting up, using, managing and maintaining a European broadband mobile system, interconnecting new and existing public safety broadband mobile communication systems during and after the termination of the Framework Agreement until the expiry of the last of the respective Intellectual Property Rights. Whenever such licence covers a software, it shall convey a right to immediate access to its up-to-date source code and to the development, modification, transformation or adaptation thereof.

7.4.2 In addition, upon request of any GOP Member, the Contractor shall grant to this GOP Member, a non-exclusive licence to use or exploit the Results, including prototypes or pilot systems, and the Background for **any purpose** (including commercial purposes) on significantly better terms and conditions than those prevailing on the market, reflecting the fact that such GOP Member partly funded the research having led to the Results.

7.4.3 (...)

7.4.4 Any assignment or licence of rights under this Framework Agreement in favour of the Group of Procurers shall be deemed to have been granted to (and automatically vest in – without any consent by the Contractors) any other entity that would in the future carry out the objectives and functions of the Group of Procurers as the result of a merger, split, or other restructuring measure affecting the Group of Procurers.

7.4.5 The Contractors undertake that they have procured or shall continue to procure from any Third Party-owner of Background all necessary rights and licences in order to allow the Group of Procurers to access and use the Background and Results in accordance with the Terms of this Framework Agreement. The

Contractors shall disclose to the Group of Procurers an overview of all requests the Contractor has made for procuring such rights and licenses.

- 7.4.6 The Group of Procurers shall be indemnified and held harmless by the Contractor from and against any Third Party claim relating to any access and use of the Background and Results by the GOP Members in accordance with the Terms of this Framework Agreement.

7.5 Commercial Exploitation of Results

- 7.5.1 Consistent with the good management of Intellectual Property Rights and Trade Secrets and the Terms of Conditions of this Framework Agreement, the Contractor shall use its best efforts to promote the dissemination of the Results and where they are capable of exploitation, exploit commercially the Intellectual Property Rights as well as the other Results (even if they cannot be protected by Intellectual Property Rights) to generate revenue by marketing commercial applications thereof. They shall work with other contracting or public authorities that show interest in making any use of the Results of this PCP thereby guaranteeing a European-wide exploitability or the expansion of the knowledge in PCPs.
- 7.5.2 If, within three (3) years of the end of the PCP, the Contractor has not commercially exploited certain Intellectual Property Rights and Trade Secrets on the Results by marketing a commercial application thereof (directly or by any potential Subcontractors or licensee), and the circumstances show that the Contractor has not even used its best endeavours to do so, or if the Contractor (and/or any Contractor or licensee) is using the Intellectual Property Rights or Trade Secrets on the Results to the detriment of a public interest, the Contractor shall upon request of the Group of Procurers assign all such Intellectual Property Rights and Trade Secrets on the Results to the Group of Procurers and/or grant upon request of the Group of Procurers non-exclusive licences to Third Parties to exploit the Results under fair and reasonable conditions (without the right to sub-license). In this regard, the Group of Procurers may request information from Contractors in order to confirm the effective and adequate exploitation of the Intellectual Property Rights and Trade Secrets on the Results by Contractors. The Contractor shall inform the Group of Procurers of any Results which are suitable for the exploitation within one (1) month from its obtaining.
- 7.5.3 In case of commercial exploitation of products or services arising from the Results by a Contractor (or any entity affiliated to it, acting with its permission or succeeding it in the ownership or development of the Results), the Contractor shall (or shall procure to) offer to the Group of Procurers the best price it would offer to any Third Party for such products or services, it being understood that no additional cost shall be charged and included within the offered price for any license of Intellectual Property Rights and Trade Secrets.

8 CONFIDENTIALITY AND DATA PROTECTION

8.1 Protection of Data by the Contractor

- 8.1.1 The Contractor shall keep Data confidential and shall not without prior written permission from the Lead Procurer disclose Data to any Third Party, or use Data for any purpose other than the performance of its obligations under the Framework Agreement. The Contractor shall limit the circle of recipients of Data on a need-to-know basis and shall ensure that the recipients are aware of and comply with the obligations defined in this clause. The Contractor shall continue to comply with these obligations without any restriction in time, except as agreed in writing by the Lead Procurer. The Contractor shall use industry best practices and technology, to protect and guard the availability and security of Data.

- 8.1.2 Where the Lead Procurer or any GOP Member has designated Data as being of personal nature, the Contractor's duty to ensure compliance with Applicable Laws shall include the compliance with Data Protection Laws, European directives and regulations on data protection. The Contractor shall use industry standard security measures, including standard encryption protocols, to protect such personal data.
- 8.1.3 The Contractor shall promptly notify the Lead Procurer of any security breach that may affect or be likely to affect any Data processed by the Contractor pursuant to the Framework Agreement.

8.2 Confidentiality/Trade Secrets

8.2.1 In respect of any Trade Secrets such as business plans, R&D maps or trajectories, customer lists etc. that it may receive from the Contractor, the Lead Procurer undertakes to keep secret and strictly confidential and shall not disclose any such Trade Secrets to any Third Party, except:

- when expressly permitted in writing by the Contractor;
- to the employees, representatives or advisors of the Group of Procurers who are actively and directly participating in the PCP or who otherwise need to know about the PCP and the Trade Secrets for the purpose of the PCP;
- to the European Commission, if necessary to allow any verification of compliance of this Framework Agreement and its performance with the terms and conditions of the Grant Agreement;
- as set out in clause 8.2.3 here below.

The Lead Procurer will ensure that all members of the Group of Procurers will be bound by the same confidentiality obligations towards the Contractor.

8.2.2 Contractors must keep confidential any information obtained in the context of the tender procedure (including EU-classified information). All documentation, data, statistics, drawings, information, samples or material disclosed or furnished by the Lead Procurer to Tenderers during the course of this Competition:

- (a) are furnished for the sole purpose of replying to this PCP only;
- (b) may not be used, communicated, reproduced or published for any other purpose without the prior written permission of the Lead Procurer;
- (c) shall be treated as confidential by the Tenderer and by any third parties (including Subcontractors) engaged or consulted by the Tenderer; and
- (d) must be returned immediately to the Lead Procurer upon cancellation or completion of this PCP if so required by the Lead Procurer.

8.2.3 The obligations contained in this clause shall continue until five (5) years after termination of this Agreement.

Nothing in this clause shall be deemed to prevent the Lead Procurer and Group of Procurers from disclosing, publishing or otherwise using the Results. The Contractor also specifically and expressly authorizes the Lead Procurer and Group of Procurers to publish and disclose best practices in relation to the conduct of a pre-commercial procurement process. In addition, by submitting its bid(s), the Contractor exceptionally allows the Lead Procurer and Group of Procurers to let Third Party public authorities / contracting authorities gain access to the Results, also after the closure of the Project, in order to educate them for future procurements. The Lead Procurer shall give the Contractor prior notice of the information one intends to share with other contracting authorities.

9 FORCE MAJEURE

- 9.1 A "Force Majeure" means an event or circumstance or combination of events and/or circumstances not within the reasonable control of the Affected Party (as defined in clause 9.2 below) which has the effect of delaying or preventing the Party from complying with its obligations under this Framework Agreement, including but not limited to acts of God, war, out-break of disease, insurrection, riot, civil disturbance, rebellion, acts of terrorism, war, government regulations, embargoes, explosions, fires, floods, tempests, or failures of supply of electrical power, or public telecommunications equipment or lines, excluding industrial action of whatever nature or cause (strikes, lockouts and similar) occurring at the Contractor (or Subcontractor or agent) places of business.
- 9.2 In the event of any failure, interruption or delay in the performance of either Party's obligations (or of any of them) resulting from any Force Majeure Event, that Party ("the Affected Party") shall promptly notify the other Party in writing specifying:
1. the nature of the Force Majeure Event,
 2. the anticipated delay in the performance of obligations,
 3. the action proposed to minimise the impact of the Force Majeure Event,
- and the Affected Party shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the other Party, provided always that the Affected Party shall use all reasonable efforts to minimise the effects of the same and shall resume the performance of its obligations as soon as reasonably possible after the removal of the cause.
- 9.3 If a Party is subject to Force Majeure, it shall immediately notify the other Party in writing thereof, giving details, including the expected duration of the Force Majeure. It shall immediately notify the other Party in writing when the Force Majeure ceases.
- 9.4 In circumstances where the Contractor is the Affected Party, the Lead Procurer shall be relieved from any obligation to make payments under this Framework Agreement save to the extent that payments are properly due and payable for obligations actually fulfilled by the Contractor in accordance with the Terms and Conditions of this Framework Agreement.

10 TERMINATION

- 10.1 The Framework Agreement shall terminate automatically in the event that the Contractor is not awarded a Specific Contract for the next Phase, as set out in clause 1.3.1.
- 10.2 In addition to the entitlement to terminate the Framework Agreement and/or any Specific Contract pursuant to clause 9, either Party may terminate the Framework Agreement and/or any Specific Contract hereunder with immediate effect in the event of
- i. gross negligence or willful misconduct by the other Party in relation to the Framework Agreement, or
 - ii. any breach of the Framework Agreement by the other Party which has not been remedied within a reasonable period stipulated by the Party notifying the breach and requiring remedial action to be taken, or
 - iii. the other Party making a composition or arrangement with its creditors, or becoming bankrupt or insolvent, or having an administrator or receiver appointed, or in the event of any circumstance similar or analogous to any of these events, including the situation where any of these events is threatening to occur.
- 10.3 The Lead Procurer may also terminate the Framework Agreement and/or any Specific Contract hereunder in whole or in part with immediate effect on the happening of any of the following:

- i. the Contractor Sub-contracts the performance of any part of its obligations under the Framework Agreement without the Lead Procurer's permission or fails to comply with any of the conditions attached to any permission granted by the Lead Procurer, or
 - ii. in case of infringement of Applicable Laws by the Contractor, or
 - iii. if the Lead Procurer receives information from the Contractor that it will not be able to deliver the R&D Services in conformity with the Framework Agreement or if the date of delivery of the R&D Services and/or any deliverables thereunder is not in conformity with the Framework Agreement and leaves insufficient time to carry out the acceptance procedure set out in the relevant Specific Contract, provided that, as a result, the delivery of the R&D Services loses its purpose for the Lead Procurer, or
 - iv. If the Lead Procurer becomes aware that any of the exclusion grounds apply to the Contractor,
- 10.4 The Lead Procurer may terminate the Framework Agreement and/or any Specific Contract with immediate effect (i) in the event the EU terminates the Grant Agreement or (ii) in the event the EU reduces the funding to a level insufficient to cover the payment by the Lead Procurer of the monies due under the applicable Specific Contract.

11 CONSEQUENCES OF TERMINATION

- 11.1 In the event that the Framework Agreement and/or any Specific Contract is terminated by the Contractor pursuant to clause 10.2 or by the Lead Procurer pursuant to clause 10.4 above, the Lead Procurer shall pay to the Contractor all costs wholly and necessarily incurred by it in the performance of its obligations under the Framework Agreement prior to the date on which the termination takes effect. The total amount of such payment shall be limited to the amount made available by the EU and shall never exceed the unpaid amount at the date of termination as specified in the applicable Specific Contract.
- 11.2 In the event that the Framework Agreement and/or any Specific Contract is terminated by the Lead Procurer pursuant to clause 10.2 or 10.3 above, the Contractor shall compensate the Lead Procurer for all costs wholly and necessarily incurred by it as a result of such termination. Such costs shall include the additional costs of having any contractual obligation performed by a third party of the Lead Procurer's choice.
- 11.3 Subject always to clause 6 above, the liability defined in this clause shall be without prejudice to any other liability that may arise pursuant to the Framework Agreement, which shall be calculated independently.
- 11.4 Following expiry or termination of the Framework Agreement for any reason, the Contractor shall, if requested by the Lead Procurer, promptly delete any data of the Lead Procurer or other members of the Group of Procurers which the Contractor is holding in connection with the R&D Services.

12 MONITORING AND REPORTING

- 12.1 During each Phase, the implementation by the Contractor of the R&D Services will be monitored periodically and reviewed against the expected deliverables for that Phase.
- 12.2 The Contractor agrees to liaise with the Lead Procurer as outlined in this clause and keep the Lead Procurer informed of any matter which might affect the observance and performance of the Contractor's obligations under this Agreement.
- 12.3 Progress of the Project will be reviewed periodically against the objectives and deliverables for each Phase Contract. The Lead Procurer will put in place a monitoring team to that effect. Monitoring will be held either in person or on-line and shall be mutually agreed between the Contractor and the monitoring team. The

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meetings are provisionally scheduled every two (2) months (in all Phases) after the start of the Commencement Date of the PCP (whereby, for the avoidance of doubt, month 1 commences upon signing of the Framework Agreement).

- 12.4 These meetings will not change in any way the contractual obligations of the Contractor. However, based on the information gathered in this context, the Lead Procurer may conclude that the conditions enabling it to terminate the Framework Agreement apply.
- 12.5 During these bi-monthly meetings, the Contractor will present to the monitoring team the Results achieved during the previous period for all objectives and, if necessary, provide an update to the work plan.
- 12.6 Such report shall be in a brief form appended to Appendix 10 of RFT (TD1) Bi-Monthly Reporting and otherwise in compliance with the information issued by the Lead Procurer as amended from time to time.
- 12.7 The Contractor will allow its facilities, procedures and documentation to be submitted for scrutiny by the Lead Procurer or its auditors in order to ascertain compliance with the relevant applicable laws and the Terms of this Framework Agreement.
- 12.8 The Contractor shall retain and maintain all assets necessary to ensure continued compliance with legislation that may apply from time to time.

13 SUBCONTRACTING

13.1 General Subcontracting

- 13.1.1 Subcontracting is permitted in each Phase, subject to the constraints and conditions set out in the sections 2.9 and 2.10 of the RFT (TD1).
- 13.1.2 The Contractor shall ensure that the Subcontract shall contain obligations for the Subcontractor that are no less onerous than those set out in this Framework Agreement.
- 13.1.3 Notwithstanding the grant of any Subcontract, the Contractor remains responsible to the Lead Procurer for the performance and observance of all its obligations under this Framework Agreement and for the consequences of any negligent acts of the subcontractors arising in connection with this Framework Agreement.
- 13.1.4 All staff of subcontractors providing services in connection with this Framework Agreement shall be bound by the same terms and conditions of service which are applicable to the Contractor's staff.
- 13.1.5 The Contractor will ensure that the employment or hiring of staff to provide services in connection with his Project is governed by provisions, in respect of intellectual property rights and Trade Secrets, compatible with the Terms of this Framework Agreement.
- 13.1.6 The Contractor shall ensure that any individuals employed by or having a contract for services with the Contractor relating to this Framework Agreement comply with any of the Lead Procurer's rules, regulations, guidelines and instructions with respect to this Project.

13.2 Subcontracting for PCP-specific objectives

- 13.1 In line with section 2.10 and 5.3(4) of the RFT (TD1) and description of R&D Services in TD2-PCP Challenge, Contractors shall engage Subcontractors in order to fulfil the following objectives in all Phases of the Project in an impartial and independent manner;
 - 1) Testing and validation including security assurance
 - 2) Practitioner evaluation support

- 13.2. Contractors shall ensure that Declaration of Impartiality and Independence submitted as part of section 5.3(4) of RFT (TD1) is updated for each Phase and submitted to the Lead Procurer.

14 ASSIGNMENT

The Contractor shall not assign any part of his obligations under the Framework Agreement without prior permission in writing by the Lead Procurer. Any such permission may be subject to conditions.

15 ENTIRE AGREEMENT

The Framework Agreement constitutes the entire agreement between the Parties relating to its subject matter. Each Party acknowledges that it has not entered into this Framework Agreement on the basis of any warranty, representation, statement, agreement or undertaking except those expressly set out in this Framework Agreement. Each Party waives any claim for breach of this Framework Agreement, or any right to rescind this Framework Agreement in respect of, any representation which is not an express provision of this Framework Agreement. However, this clause does not exclude any liability which either Party may have to the other (or any right which either Party may have to rescind this Framework Agreement) in respect of any fraudulent misrepresentation or fraudulent concealment prior to the execution of this Framework Agreement.

16 SEVERABILITY

If any term or provision herein is found to be illegal or unenforceable for any reason, then such term or provision shall be deemed severed and all other terms and provisions shall remain in full force and effect.

17 WAIVER

No failure or delay by either Party to exercise any right, power or remedy shall operate as a waiver of it, nor shall any partial exercise preclude further exercise of same or some other right, power or remedy.

18 OBLIGATIONS ORIGINATING FROM THE EU

- 18.1 The Contractor shall undertake communication activities to create publicity about its participation in the Project, and to promote the objectives and the results of the R&D Services carried out under the Framework Agreement, in particular to other potential customers beyond the Group of Procurers with the objective to achieve commercial exploitation of the Results.
- 18.2 All communication activities shall comply with clause 8.
- 18.3 During the implementation of the Framework Agreement and for a period of eight (8) years after the end of the Project, the Contractor shall inform the Lead Procurer thirty (30) days in advance of any (written or oral) publication or any other type of communication (in any media or form) relating to the R&D Services or Results. Information on communication activities expected to have a major media impact shall be provided sufficiently in advance to allow the Lead Procurer to inform the EU. The Contractor will recognise and acknowledge any trademarks of the Group of Procurers and/or GOP Member, as appropriate and not use these in a manner which would risk infringement of such trademarks.

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- 18.4 All communication activities (including in electronic form and via social media) and infrastructure, equipment and major results financed under the Framework Agreement shall display the EU emblem and include the following text:
- a) for communication activities: ‘This is part of the BroadWay Project that has received funding from the European Union’s Horizon 2020 Research and Innovation Programme’;
 - b) for infrastructure, equipment and major results: ‘This [infrastructure][equipment][insert type of result] is part of the BroadWay Project that has received funding from the European Union’s Horizon 2020 Research and Innovation Programme’.
- 18.5 The Lead Procurer and the other GOP Members may use, for the purposes of communication and publicity, all information relating to the Project, documents (notably summaries) and deliverables, and any other material (such as pictures or audio-visual material) from the Contractor (including in electronic form).
- 18.6 This does not change the confidentiality obligations under clause 8. Before publishing this information, the Lead Procurer and the other shall consult the Contractor, in order to avoid harm to legitimate business interests or distortion of competition.
- 18.7 The EU may use, for the purposes of communication and publicity, information relating to the Project, documents (notably summaries) and deliverables, and any other material (such as pictures or audio-visual material) from the Contractor (including in electronic form), except where the Contractor has marked such information, documents or any other material as “confidential” in which case the Contractor may ask the Lead Procurer to request the EU not to use it.
- 18.8 The right of the EU to use the Contractor’s materials, documents and information set out in clause 18.7 includes:
- a) Use for its own purposes (in particular, making them available to staff working for the EU or for EU Member State institutions or bodies; and copying or reproducing them in whole or in part, in unlimited numbers);
 - b) Distribution to the public (in particular, publication as hard copies and in electronic or digital format, publication on the internet, as a downloadable or non-downloadable file, broadcasting by any channel, public display or presentation, communicating through press information services, or inclusion in widely accessible databases or indexes);
 - c) Editing or redrafting for the purposes of communication and publicity (including shortening, summarising, inserting other elements (such as meta- data, legends, other graphic, visual, audio or text elements), extracting parts (including in particular audio or video files), dividing into parts or using in a compilation);
 - d) Translation;
 - e) Giving access in response to individual requests made under Regulation EC No 1049/2001, without the right to reproduce or exploit;
 - f) Storage in paper, electronic or other form;
 - g) Archiving, in line with applicable rules on document management, and
 - h) Authorising third parties to act on its behalf or sub-licensing the modes of use set out in points b), c), d) and f) to third parties if needed for the purposes of communication and publicity.
- 18.9 If the right of use is subject to rights of a third party (including the Contractor's staff), the Contractor shall ensure that it obtains the necessary approval from the third parties concerned.

19 LOCALISATION OF SERVICES AND SECURITY REQUIREMENTS

- 19.1 The Contractor, including its Subcontractors, shall perform at least 75% of the R&D Services in each Phase within the EU Member States or H2020 Associated Countries, and the principal R&D personnel employed by the Contractor and working on each Phase must be located within the EU Member States or the H2020 Associated Countries. The percentage shall be measured in terms of the total price of each Specific Contract allocated to the R&D Services that are performed in the EU Member States or H2020 Associated Countries. The total amount of activities shall include all activities covered by each Specific Contract, including those performed by subcontractors. As regards the development of security components in section 5.4 C RFT (TD1), 100% of the total value of activities covered for each PCP Phase shall be performed in the EU Member States or in H2020 associated countries
- 19.2 The Contractor shall at all times during or after the performance of this Framework Agreement and any Specific Contract have its registered office(s) in a Member State and be under the ultimate Control of (i) entities having their registered office in a Member State and/or (ii) natural persons having the nationality of a Member State. In case the Contractor does not comply with these requirements anymore, it shall notify this to the Lead Procurer and any other Contractor (i.e. the other entities having submitted a joint tender or the other members of the consortium) and, whether or not such notification has happened, this Framework Agreement and any relevant Specific Contract shall terminate in its respect as provided for in Clause 27.2, with immediate effect and without further notice. In case said Contractor has derived assets or rights as a result of performing this Framework Agreement or any Specific Contract, and in particular all Intellectual Property Rights and Trade Secrets on the Results, then the ownership or benefit thereof shall be deemed transferred to all the other Contractors, if any, in equal parts or in any other agreed proportion, with immediate effect and without further notice and without any other consideration than the benefits already derived by said Contractor from the activities conducted under this Framework Agreement and any Specific Contract. In case there is no other Contractor (left), then the ownership or benefit thereof shall be transferred to an entity designated by the Lead Procurer, within fifteen (15) calendar days as from such designation, without further notice and for a consideration either negotiated between such Contractor and the assignee or, barring agreement between such Contractor and the assignee within thirty (30) calendar days from designation, at the fair market value thereof, as determined by the Lead Procurer in its full discretion.

20 CONFLICTS OF INTEREST

- 20.1 The Contractor shall take all measures necessary to prevent a situation arising where the impartial and objective implementation of the Framework Agreement is compromised for reasons involving economic interests, political or national affinity, family, personal life or any other shared interest.
- 20.2 The Contractor shall notify the Lead Procurer without delay of any situation constituting or likely to lead to a conflict of interest (including changes of ownership) and shall immediately take all steps necessary to rectify this situation. The Lead Procurer may instruct the Contractor to take specific measures to remedy the situation.

21 ETHICS AND RESEARCH INTEGRITY

- 21.1 The Contractor shall carry out the tasks assigned to it in the Framework Agreement in compliance with ethical principles (including the highest standards of research integrity).

- 21.2 The Contractor shall carry out the activities under the Framework Agreement for non-military purposes only.
- 21.3 The Contractor shall comply with the highest standards of research integrity —as set out, for instance, in the European Code of Conduct for Research Integrity. This implies notably compliance with the following essential principles:
- a) Honesty;
 - b) Reliability;
 - c) Objectivity;
 - d) Impartiality;
 - e) Open communication;
 - f) Duty of care;
 - g) Fairness and
 - h) Responsibility for future science generations.

This means that the Contractor shall ensure that persons carrying out research tasks:

- a) Present their research goals and intentions in an honest and transparent manner;
 - b) Design their research carefully and conduct it in a reliable fashion, taking their impact on society into account;
 - c) Use techniques and methodologies (including for data collection and management) that are appropriate for the field(s) concerned;
 - d) Exercise due care for the subjects of research —be they human beings, animals, the environment or cultural objects;
 - e) Ensure objectivity, accuracy and impartiality when disseminating the results;
 - f) Allow -as much as possible and taking into account the legitimate interest of the Contractor -access to research data, in order to enable research to be reproduced;
 - g) Make the necessary references to their work and that of other researchers;
 - h) Refrain from practicing any form of plagiarism, data falsification or fabrication;
 - i) Avoid conflicts of interest and misrepresentation of credentials or other research misconduct.
- 21.4 Before starting any activity that raises an ethical issue, the Contractor shall submit to the Lead Procurer a copy of:
- a) any ethics committee opinion required under Applicable Laws, and
 - b) any notification or authorisation for activities raising ethical issues required under Applicable Laws.

- 21.5 The Lead Procurer shall comply with the applicable legal provisions regarding equal opportunities which the Contractor must adhere to. The Contractor shall not discriminate on the grounds of gender, race, disability, sexuality, age or religion or otherwise allow any applicable legislation to be breached.

22 OBLIGATIONS TO PROVIDE INFORMATION AND KEEP RECORDS

- 22.1 The Contractor shall, at any time during the implementation of the Framework Agreement, provide any information requested by the Lead Procurer in relation to the Framework Agreement.
- 22.2 The Contractor shall keep, for a period of up to 5 (five) years after the end of the Framework Agreement, records and other supporting documentation relating to the implementation of the Framework Agreement.
- 22.3 This obligation includes records and other supporting documentation on scientific and technical implementation and on the price charged and the costs incurred by the Contractor. The Contractor shall keep the original documents. Digital and digitalised documents are considered originals if so authorized under Belgian law. Should there be on-going checks, reviews, audits, investigations, litigation or other pursuits of claims (including involving the Lead Procurer or the other members of the Group of Procurers),

the Contractor shall keep the records and other supporting documentation relating to the implementation of the Framework Agreement until the end of these procedures.

23 EU CHECKS, REVIEWS, AUDITS AND INVESTIGATIONS

23.1 Should the EU, including as represented by the European Court of Auditors or the European Anti-Fraud Office (OLAF), decide to carry out a check, review, audit or investigation, the Contractor shall make available all information, records and other supporting documents relating to the implementation of the Framework Agreement. Should there be an on-the-spot visit, the Contractor shall allow access to its premises and shall ensure that the information requested is readily available.

24 EU IMPACT EVALUATION

24.1 Should the EU carry out an impact evaluation of its grant to the Group of Procurers, the Contractor shall make available all information, records and other supporting documents relating to the implementation of the Framework Agreement.

25 FRAMEWORK AGREEMENT AND SPECIFIC CONTRACTS AMENDMENTS

25.1 If at any time a Party considers that any provision of the Framework Agreement or the Specific Contract(s) needs to be amended, the other Party shall be immediately informed in writing, being provided with full details of the amendment scope and justification.

25.2 Upon receipt of such a request the receiving Party may:

- (i) agree to vary the Framework Agreement or the Specific Contract(s) provided such variation is non-discriminatory and does not amount to a substantial change of the Framework Agreement or the Specific Contract(s), the scope of the Project or the scope of the Results, as allowed under the prevailing case law of the European Court of Justice or mandatory rule;
- (ii) refuse the request, requiring the continuation of the Project in accordance with the initial Framework Agreement or the Specific Contract(s);
- (iii) give notice of termination in accordance with clauses 10 and 11.

26 PUBLICATION

26.1 During the execution of the Project and for a period of five (5) years after its expiry (for Phase 1, 2 or 3 as appropriate), any and all written or oral publication and/or communication or any other type of disclosure whatever the media or form relating to the Services or Results ("Publication") by the Contractor shall have to be notified to the Lead Procurer in advance.

26.2 A copy of any draft Publication by the Contractor shall be submitted to the Lead Procurer: - for a written Publication, at the same time as the submission to the editor for publication or at least twenty-eight (28) calendar days before the date intended for publication whichever is earlier; - for an oral communication or any other type of disclosure, and twenty (20) calendar days before the forecasted date of submission to the organiser of a scientific meeting or of said other type of disclosure.

26.3 The Contractor shall, on request of the Lead Procurer, remove any Trade Secret before any disclosure.

26.4 In the event that the Contractor fails to comply with clauses 26.1, 26.2 and 26.3, the Lead Procurer is entitled to terminate the Framework Agreement by notice in writing with immediate effect.

26.5 Subject to the provisions of clauses 8, the members of the Group of Procurers may at any time freely disclose, publish or otherwise share with the public the Results and any lessons learned of the Project, subject to prior written notification to the Contractor of the intent to publish or share with the public at

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the latest three (3) months prior to publication and as the case may be, seek protection of any Intellectual Property Rights and Trade Secrets.

- 26.6 Any Publication resulting from work carried out under this Framework Agreement shall acknowledge financial support of the Consortium Members and of the European Commission's Seventh Framework Programme (FP7) and shall include a disclaimer as the Procuring Entity may require or, in the absence of directions from the Lead Procurer, a notice as follows: *"This report is a co-financed by the European Commission's Seventh Framework Programme (FP7) and commissioned by A.S.T.R.I.D. acting on its own behalf and on behalf of Narodni agentura pro komunikacni a informacni technologie (Czech Republic), Riigi Infokommunikatsiooni Sihtasutus (Estonia), Ministerio del Interior (Spain), Suomen Virveverkko Oy (Finland), Ministere de l'Interieur (France), Kentro Meleton Asfaleias (Greece), An Garda Siochana (Ireland), Ministerio dell'Interno (Italy), The National Police of the Netherlands (the Netherlands), Serviciul de Telecomunicatii Speciale (Romania). The opinions expressed in this publication are those of the author(s) and not necessarily those of the co-financing entity and aforementioned entities."*.

27 ENTRY INTO FORCE, DURATION, SURVIVAL OF CLAUSES

- 27.1 The Framework Agreement shall enter into force on the date of this Framework Agreement and shall remain valid for as long as necessary to give effect to its provisions.
- 27.2 Notwithstanding termination of the Framework Agreement, its provisions shall continue to bind the Parties in so far and for as long as may be necessary to give effect to their respective rights and obligations accrued prior to Termination. Clauses 2, 5, 7, 8, 10, 11, 18, 19.2, 26 shall in any event survive the expiry or Termination of the Framework Agreement.

28 GOVERNING LAW AND DISPUTE RESOLUTION

- 28.1 The Terms and Conditions of the Framework Agreement shall be interpreted in accordance with their true meaning and effect and independently of any national, local or other law. Provided that if, and insofar as the Framework Agreement does not stipulate, or any of the Terms and Conditions are ambiguous or unclear, then, in those circumstances only and solely in respect of those circumstances and not in respect of the Framework Agreement as a whole, reference shall be made to Belgian law.
- 28.2 If any dispute under the Framework Agreement fails to be settled amicably, this dispute shall be brought before the Tribunal of First Instance of Brussels. Notwithstanding reference of any dispute to the Tribunal of First Instance of Brussels, the Parties shall continue to perform their obligations under the Framework Agreement.

29 CO-ORDINATION AND NOTIFICATIONS

- 29.1 All communications under the Framework Agreement shall be in writing and bear the reference: **"Agreement No. (insert agreement number)"**
- 29.2 In all technical, commercial or contractual matters, the Lead Procurer shall be represented exclusively by, and all correspondence of technical nature shall be addressed to:

**A.S.T.R.I.D SA,
Département Fin & Adm
Boulevard du Regent 54
1000 Brussels
Belgium
broadway@astrid.be**

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Invoices or credit notes are preferably sent in PDF by email to **broadway@astrid.be**

29.3 Invoices or credit notes must -except any legal formalities- be provided with the following additional information:

- Reference to the Specific Contract;
- Reference to the Lead Procurer's purchase order number;
- For each shipment or service supplied: date and place of the shipment/service; description of the shipment/service; quantity; unit price; total price.

29.4 Correspondence with the Contractor shall be addressed to:

[insert address details]