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Project: CircularPSP

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PCP FRAMEWORK AGREEMENT TEMPLATE

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Preamble

This is a framework agreement ("agreement') between the following Parties:

on the one part,

the "Contracting Authority" (lead procurer), ISTANBUL METROPOLITAN MUNICIPALITY [IMM], acting in the name and on behalf of the other members of the Buyers Group (together with the Contracting Authority: "procurers"):

- CIRCULAR CITY - ZIRKULARE STADT EV [CB]
- FORUM VIRIUM HELSINKI OY [FVH]
- MUNICIPIO DE GUIMARAES [CMG]
- SANDYFORD BID CLG [SBID]
- SKUPNOST OBCIN SLOVENIJE [SOS]
- SVERIGES KOMMUNER OCH REGIONER [SKR]

and

the "Contractor", [insert details of the Contractor],

OPTION for joint tenders: 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 are hereafter collectively referred to as "the Contractor" and will be jointly and severally liable vis-à-vis the Contracting Authority for the performance of this Framework Agreement and the Specific Contracts.*]*

The Contracting Authority, the Buyers Group and the Contractor(s) shall be referred to together as "the Parties", unless otherwise specified.

By signing this agreement, the Parties agree to implement the Pre-Commercial Procurement (PCP) in accordance with this agreement and all the obligations it sets out.

The agreement is composed of:

- Preamble
- Terms and conditions
  - **Schedule 1 – PCP Framework**
    - Annex 1a – Grant Agreement Contributors
    - Annex 1b – Ethical requirements for Field Testing
  - **Schedule 2 – AI-related Clauses**
    - Annex 2a – The AI System
    - Annex 2b – The Data Sets
    - Annex 2c – Technical documentation
    - Annex 2d – Instructions for use
    - Annex 2e – Measures to ensure transparency
    - Annex 2f – Measures to ensure human oversight
    - Annex 2g – Levels of accuracy
    - Annex 2h – Measures to ensure an appropriate level of robustness, safety and cybersecurity
- Signatures

Terms and conditions

Schedule 1 – PCP Framework

Article 0 — Definitions

1. Status of definitions

Without prejudice to 'Article 19 — Interpretation', the definition in this Article of words and phrases with capital first letters shall have precedence over definitions of the same words or phrases in Annexes to this agreement and over definitions in an offer for a Specific Contract.

2. List of definitions

Agreement: the entire agreement of which the Clauses, as a schedule, are an integral part.

Contractor: the natural or legal person, public authority, agency or other body that supplies the PCP and the AI System under its own trademark or name to Public Organisation pursuant to the Agreement.

Results or **Foreground** means any tangible or intangible output, such as data, knowledge or information, that is Generated in the PCP, whatever its form or nature, whether or not it can be protected, as well as any rights attached to it, including intellectual property rights ('attached IPRs' or 'IPRs attached to the results').

Rights on results: any rights, including industrial or intellectual property rights on the results. They may consist of rights on newly created materials and rights on pre-existing materials (Background rights and Sideground rights) that are included in the results. They may consist in a right of ownership, a licence right and/or right of use belonging to the Contractor, the creator, the Contracting Authority, the Buyers Group or to any other third parties, including subcontractors.

Generated in the PCP means activities described in this agreement and in the Specific Contracts.

Not generated in the PCP means not generated in the implementation of activities described in the PCP Framework Agreement or Specific Contracts.

Background means any material, document, technology, solution data, know-how or information ('Background material') —whatever its form or nature (tangible or intangible), including any attached rights such as intellectual property rights ('Background IPRs') — that (1) is held prior to the signing of this Agreement or a Specific Contract, (2) identified by the Parties involved in the PCP as Background and (3) is needed for the implementation of the PCP, or needed to exploit the Results, or needed, by any member of the Buyers Group, to use the Results.

Background rights: any rights, including industrial and intellectual property rights on Background. They may consist in a right of ownership, a licence right and/or right of use belonging to the Contractor, the creator, the Contracting Authority, the Buyers Group or to any other third parties, including subcontractors.

Sideground means any material, document, technology, solution, data, know-how or information ('Sideground material') — whatever its form or nature (tangible or intangible), regardless of whether or not it can be protected, including any attached rights such as intellectual property rights ('Sideground IPRs') — that is (1) generated during the timespan of the PCP but is not Generated in the PCP and (2) is needed for the implementation of the

PCP, or needed to exploit the Results, or needed, by any member of the Buyers Group, to use the Results.

Sideground rights: any rights, including industrial and intellectual property rights on Sideground material. They may consist in a right of ownership, a licence right and/or right of use belonging to the Contractor, the creator, the Contracting Authority, the Buyers Group or to any other third parties, including subcontractors.

Pre-existing material: any material, document, technology, solution, information, data or know-how, whatever its form or nature, tangible or intangible, regardless of whether or not it can be protected, which exists prior to the Contractor using it for the production of a result in the implementation of the Framework Agreement or a Specific Contract. It includes both the Background material and the Sideground material.

Pre-existing rights: any rights, including industrial and intellectual property rights on pre-existing material. It may consist in a right of ownership, a licence right and/or right of use belonging to the Contractor, the creator, the Contracting Authority as well as to any other third parties, including subcontractors. It includes both background rights and Sideground rights.

Fair and Reasonable Conditions means appropriate conditions, including financial terms or royalty-free conditions, taking into account the specific circumstances of the request for access (for example, the actual or potential value of the Results or Background or Sideground to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged).**Third Party** means any legal entity which is not a member of the Buyers Group, not the Contractor and not member of the Group of Tenderers.

Specific Contract means a contract, of which this agreement forms an integral part, for supply of R&D services by the Contractor offered for one of the three phases of PCP implementation.

Force Majeure means any unforeseeable and insuperable event affecting a Party fulfilling its obligations hereunder.

Article 1 — Subject of the agreement

This Framework Agreement defines the general terms and conditions for the implementation of the PCP procurement of R&D services set out in Article 3 — R&D services to be provided and for the Specific Contracts that will be awarded for each of the 3 PCP Phases.

Award of Specific Contracts will take place according to the Contracting Approach documented in the Call for Tender. The Expected Outcomes to be achieved in Specific Contracts are documented in the Call for Tender.

Article 2 — Duration

1. This agreement shall come into force as of the date of signature of the last Party and shall continue in full force and effect until terminated in accordance with 'Article 17 — Termination clauses and consequences of termination' or after complete discharge of all obligations both under this Agreement and under any Specific Contract tendered for by the Contractor.

2. Should the Contractor be awarded Phase II and/or Phase III, the Contractor shall sign a Specific Contract for each phase awarded automatically extending the duration of this Agreement. The extended final date automatically becomes the new reference date for any obligations, remedies, rights and benefits resulting from the Agreement.

3. The provisions of the following Articles shall survive the expiration or termination of this Agreement to the extent needed to enable the Parties to pursue the remedies and benefits provided for in those Articles:

- Article 5 — Rights and obligations regarding results (Foreground), pre-existing rights (Background and Sideground) and the related rights (including intellectual and industrial property rights)
- Article 6 — Equipment at demonstration sites
- Article 7 — Confidentiality
- Article 12 — Obligation to provide information and keep records
- Article 20 — Applicable law and dispute settlement

4. Execution of individual tasks in any phase may be extended only with the express written agreement of the Parties before the expiration of the period for execution of the tasks.

Article 3 — R&D services to be provided

The Contractor shall provide the R&D services (tasks, supplier deliverables and milestones) to develop solutions to tackle the challenge set out in the Call for Tender and as detailed in any Specific Contract.

Article 4 — Pricing, payment and accounting

The price for the R&D services to be implemented for each PCP phase will be set out in any Specific Contracts.

The prices shall be based on the binding unit prices in the tender and the following price conditions:

- if new units/unit prices are added to offer for Phase II or Phase III, they shall become binding for the remaining phases

Prices shall take account of the requirements specified in chapter 2.5 and chapter 4.4 of the Call for Tender.

The payment and invoicing conditions shall be as specified in chapter 5.5 of the Call for Tender.

Article 5 — Rights and obligations regarding results (Foreground), pre-existing rights (Background and Sideground) and the related rights (including intellectual and industrial property rights)

Article 5.1 IPR Definitions

Definitions on IPR are provided in Article 0 — Definitions.

The Contractor is responsible for ensuring that all third parties that it collaborates with during and after the Framework Agreement and the Specific Contracts respect all intellectual and industrial property-related obligations towards the Contracting Authority and the Buyers Group and must pass on its obligations to those entities.

The Contractor must ensure that the rights of the Contracting Authority and the Buyers Group under the Framework Agreement and the Specific Contracts are upheld under all circumstances, including in case of merger, split, takeover or other corporate restructuring.

Article 5.2 Ownership of results

Article 5.2.1 Ownership of the results

Subject to the conditions set out in:

- Article 5.2 Ownership of results

- Article 5.3 Protection of the results
- Article 5.4 Access rights to the results
- Article 5.6 Transfer and licensing of results
- Article 5.5 Commercial exploitation of results

The Contractor retains the ownership of all the rights on the Results that it generates. This includes the Rights on newly created material generated by it and the rights on Background and Sideground material that may be included in the results or that is essential for the functioning of the use of the results (see 'Article 5.7 Pre-existing materials and pre-existing rights (Background and Sideground)', 'Article 5.8 Ownership of and access to pre-existing materials and rights' and 'Article 5.9 List/evidence of pre-existing materials and pre-existing rights (Background and Sideground)' on pre-existing rights).

Notwithstanding this, the members of the Buyers Group will each become owners of at least two years of fully operational service provision of each Foreground material dedicated to their demonstration site, together with all the necessary documentation to use the Foreground material as foreseen by the Framework Agreement and Specific Contracts. This applies both where Foreground material is software, physical/hardware prototypes or first solution implementations (products or services), simulations, designs, data models, etc. In order to enable them to use and adapt these results (see Article 5.4 Access rights to the results), they also have the right to obtain a copy of the source code and of the design specifications and any other relevant technical documentation concerning the creation, construction and functioning of the results.

The Contractor will retain the ownership of all the other exemplars of the Foreground material, generated for which the members of the Buyers Group do not obtain ownership.

Article 5.2.2 Buyers group ownership in case of breach of contract to preserve public interests or to protect or commercialise the results

The members of the Buyers Group may exceptionally require transfer of the ownership of results generated under the PCP procurement to them, if the Contractor:

- does not (or no longer) comply with one of the following obligations:
  - 'compliance with definition of R&D services' obligation in section 3.4.1 of the Call for Tenders (TD1)
  - 'place of performance obligation' obligation in section 3.4.1 of the Call for Tenders
- decides not to protect the results that it generated or does not seek timely or sufficient protection to enable the Buyers Group to use the results as provided for in the Framework Agreement or a Specific Contract (see Article 5.3 Protection of the results)
- fails to commercially exploit the results within the four years time period and the circumstances of the case show that it has not used its best efforts to do so (see Article 5.5 Commercial exploitation of results)
- uses the results to the detriment of the public interest or strategic autonomy interests need safeguarding:, including EU strategic autonomy or security interests (see Article 5.5.2 Additional obligations/limitations for the exploitation of results due to public interests).
- is subject to a merger or acquisition and the impact analysis concludes that the merger or acquisition negatively impacts the access to or the commercial exploitation of the results, including the EU security interests and EU strategic autonomy objectives set out in Article 5.4 Access rights to the results (see Article 5.5.3 Obligation to notify a planned merger or acquisition).

Procedure

The members of the Buyers Group will notify the Contractor of their intention to require the transfer of ownership of results through the Contracting Authority.

Before exercising their rights, the Contracting Authority will first contact the Contractor to verify any measures that the Contractor has taken to achieve successful commercial exploitation of the results, to safeguard EU strategic autonomy and security interests and rules, to prevent use of the results to the detriment of the public interest and to comply with its contractual obligations.

Following the transfer of the ownership of the results to the members of the Buyers Group, the members of the Buyers Group may grant licenses to third parties to ensure further protection, usage and exploitation of the results (see Article 5.4 Access rights to the results).

The Contractor shall ensure that the commercial exploitation of the results by the members of the Buyers Group will not infringe any of its other obligations under this Framework Agreement or a Specific Contract, such as its obligations regarding security, confidentiality, and the protection of intellectual property or its obligations under data protection legislation.

Article 5.3 Protection of the results

The Contractor shall be responsible for the management of all the rights on the results that it holds and shall bear the associated costs, including for the protection, examination, grant, maintenance, defence and litigation of the rights on the results.

The Contracting Authority and members of the Buyers Group shall be entitled to monitor the management of all rights on the results held by the Contractor. The Contractor shall submit periodical reports, when requested by the Contracting Authority and Buyers Group, no more frequently than annually on the exploitation of the results, including the rights on the results, by the Contractor, its licensees or assignees. The Contractor shall respond at any time to requests for information from the Contracting Authority and Buyers Group about the handling of the rights on the results.

The Contractor shall ensure that the results are identified, recorded and carefully distinguished from the outputs of other research and development activities that are not covered by the Framework Agreement or a Specific Contract.

The Contractor shall inform the Contracting Authority of any results it generates that can be exploited, regardless of whether they can be protected or not, at the latest in the end-of-phase report following the generation of the result. The notification shall include information about the contents of the results, the confirmation by the Contractor of its decision to protect said results, the type of protection that will be pursued and, for registered IPRs such as patents and design rights, the planned timing and geographical scope of such protection/jurisdictions for which the Contractor will seek to obtain protection.

If the Contractor decides to protect its results, it shall ensure that an application for protection is filed to the relevant authority (national, European Patent Office (for patents) or European Union Intellectual Property Office (for trademarks and designs)) within one year after notifying the Contracting Authority, and in any case prior to any publication on them.

Where possible, the applications for protection shall include the following statement: 'These results were achieved with EU support. The European Union has certain rights in these results'.

In case of any decision not to continue an application for protection, not to pay maintenance fees, or not to defend in a re-examination or opposition proceeding, the Contractor shall notify the

Contracting Authority not less than 60 days before the deadline for responding to the procedure for protection, maintenance or litigation.

If the Contractor decides not to protect the results that it generated or does not seek timely or sufficient protection to enable the Buyers Group to use the results as provided for in the Framework Agreement or a Specific Contract, for example in terms of jurisdictions for registered IPRs, the members of the Buyers Group retain the right to require that the Contractor transfers the ownership of the result to them so that the Buyers Group can ensure that the results are protected.

ESCROW requirements

The Contractor shall put a copy of the results it generates (e.g. source codes of software and all related documentation, design specifications of prototypes, documentation about the Foreground IP etc.) under escrow with a reputable escrow agent. If requested by the Contracting Authority, a tri-party agreement shall be signed between the escrow agent, the Contractor and the Contracting Authority (on behalf of the members of the Buyers Group), duly protecting the interests of the Contracting Authority and the Buyers Group in case of bankruptcy or liquidation of the Contractor and ensuring that in such cases the members of the Buyers Group shall obtain a copy of the results.

If the Contractor becomes aware of any product or activity of any third party that involves or may involve infringement or other violation of the rights on the results, the Contractor shall promptly notify the Contracting Authority of the infringement or violation

Article 5.4 Access rights to the results

Article 5.4.1 Access rights to the results for the Contracting Authority and the Buyers Group

The Contractor grants the members of the Buyers Group, including their affiliated entities, a royalty-free, non-exclusive, worldwide, irrevocable and non-sub-licensable (except as explicitly authorised under this Framework Agreement) license to use its results for their own purposes, during and after the Framework Agreement and Specific Contracts. The Contractor also grants a royalty-free, non-exclusive, worldwide, irrevocable and non-sub-licensable license to Contractors and subcontractors of the Buyers Group to practice the results for their own purposes, during and after the Framework Agreement and Specific Contracts.

- For those results that are design specifications (including the rights on such type of results), the access rights are unlimited in duration, or at least until expiration of the attached rights if any. For the avoidance of any doubt, use for its own purposes also allows the Buyers Group (and any Contracting Authority appointed by the Buyers Group to implement a procurement on their behalf) to use the design specifications in tender specifications of future public procurements related to the results.
- For those results that are an implementation of the design specifications into simulations, prototypes, demonstrators or first products /services, the access rights are limited to a duration of two years fully operational service and a further two years to access for any logs and documentation generated after the end of the Framework Agreement and Specific Contracts, with the aim to 'enable wider validation of the results in production (e.g. across a larger set of future use cases, datasets and users)', and the license is limited to use of the results for the Buyers Group own non-commercial purposes. Except in exceptional conditions and subject to the conditions in Article 5.3 Protection of the results (i.e. the decision of the Contractor not to protect/exploit certain results), 5.4.3 (i.e. failure of the Contractor to license results to third parties) and Article 5.5 Commercial exploitation of results (i.e. failure of the Contractor to commercially exploit the results or abuse of the results against the public interest), the Contracting Authority and members of the Buyers Group do not aim to commercially exploit/sell

itself the Contractor's results. Commercial exploitation of the Contractor's results is in the first place the responsibility of the Contractor, as specified in Article 5.5 Commercial exploitation of results.

Without prejudice to above rights to access the results for various purposes, the members of the Buyers Group, their (sub)contractors, any Contracting Authority appointed by the Buyers Group to implement a procurement in their name and/or on their behalf, enjoy in particular:

- the right to make the results available to their staff and to persons and entities working for them or cooperating with them, including Contractors, subcontractors
- the right to integrate the results into the Buyers Group's infrastructure and to use the results as part of this infrastructure (including the right to load, display, transmit and run the results on the infrastructure) at least for four (4) four years after the end of the Framework Agreement and Specific Contracts,
- the right to make the necessary copies of the results for internal distribution, archiving, back-up, correcting errors, studying or testing of the functioning of the results
- the right to make compilations, translations, adaptations or other types of arrangements or alterations to the results as is necessary for their intended use, for example to ensure interoperability with other systems implemented by the Buyers Group,
- the right to publish summaries of the results, after consultation with the Contractor to ensure that no confidential information is thereby disclosed or that the publication would not interfere with the protection of intellectual or industrial property rights. These rights are in addition to the rights provided for by law, such as the unwaivable rights of, and exceptions for the benefit of lawful users of software or of databases, as foreseen under the applicable EU or national laws.

These rights do not allow, unless expressly permitted by the Contractor, the right for the Contracting Authority and the Buyers Group to make the results available to the market, neither for free or under open licence terms (open source, open data) nor under market commercial conditions, neither to the general public nor to sectors of the economy. However, the members of the Buyers Group reserve the right to make available to the public, even for free, any public service provided by them that makes use of the new functionalities enabled by the results that have been integrated in the Buyers Group's infrastructure.

The Contractor retains the right to commercial exploitation of the results, as specified in Article 5.5 Commercial exploitation of results, for any purposes of using the results beyond the scope of the current PCP. The members of the Buyers Group reserve the right to require the Contractor (see Article 5.4.3 Access rights to the results for third parties) to give access under fair and reasonable conditions to the results to third parties, for example to third parties interested in developing and commercialising their own use cases on top of the Buyers Group's infrastructure.

In case of commercial exploitation of products, services or processes arising or developed from the results by the Contractor (or by entities affiliated to it or succeeding it in the ownership or development of the results), the Contractor shall ensure that the members of the Buyers Group (or any Contracting Authority appointed by the Buyers Group to implement a procurement in their name and/or on their behalf) are offered the commercial products or services at the best price offered by the Contractor (or the entities affiliated or succeeding it) in similar situations to any other third party (in particular without charging for licenses or other rights which the Buyers Group already have under other provisions of this Framework Agreement or a Specific Contract).

Article 5.4.2 Access rights to the results for the EU

The EU has the right to use non-sensitive information relating to the PCP and materials and documents received from the Contracting Authority and Buyers Group for policy, information, communication, dissemination and publicity purposes — during the EU grant or afterwards. This concerns notably summaries for publication, as well as any other material, such as pictures or audio-visual material, and other deliverables submitted by the Contracting Authority and Buyers Group to the EU, in paper or electronic form.

The right for the EU to use these materials, documents and information is granted in the form of a royalty-free, non-exclusive and irrevocable licence, which includes the following rights:

(a) use for its own purposes (in particular, making them available to persons working for the EU granting authority or any other EU service (including institutions, bodies, offices, agencies, etc.) or EU Member State institution or body; copying or reproducing them in whole or in part, in unlimited numbers; and communication through press information services);
(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 (including shortening, summarising, inserting other elements (e.g. meta-data, legends, other graphic, visual, audio or text elements), extracting parts (e.g. audio or video files), dividing into parts, use in a compilation);
(d) translation;
(e) storage in paper, electronic or other form;
(f) archiving, in line with applicable document-management rules;
(g) the right to authorise third parties to act on its behalf or sub-license to third parties the modes of use set out in Points (b), (c), (d) and (f), if needed for the information, communication and publicity activity of the granting authority;
(h) processing, analysing, aggregating the materials, documents and information received and producing derivative works.

The rights of use are granted for the whole duration of the industrial or intellectual property rights concerned.

If materials or documents are subject to moral rights or third party rights (including intellectual property rights or rights of natural persons on their image and voice), the Contractor must ensure that they comply with their obligations under this Framework Agreement and Specific Contracts (see also Article 5.8 Ownership of and access to pre-existing materials and rights and Article 5.9 List/evidence of pre-existing materials and pre-existing rights (Background and Sideground)) in particular, by obtaining the necessary licences and authorisations from the rights holders concerned.

Where applicable, the EU granting authority will insert the following information: "© – [year] – [name of the copyright owner]. All rights reserved. Licensed to the EU under conditions."

Article 5.4.3 Access rights to the results for third parties

If requested by the Contracting Authority or Buyers Group, the Contractor shall, within a reasonable time period specified in the request, grant to the third parties specified in the request a non-exclusive and non-sub-licensable license to use and exploit the results, and any Background or Sideground which may be necessary for the use or exploitation of the results, under fair and reasonable conditions.

If the Contractor fails or refuses to grant the requested licenses, the Contracting Authority and members of the Buyers Group retain the right to grant themselves a non-exclusive and non-sub-licensable license to the third parties to use and exploit the results (or to appoint an independent third party to do so).

Article 5.5 Commercial exploitation of results

Article 5.5.1 Responsibility of the Contractor to commercially exploit results

The Contractor shall take prompt action to ensure that its results are exploited commercially (directly or indirectly through another entity, through transfer or licensing), even if they cannot be protected, in order to ensure swift availability of the developed solutions on the wider market and to generate revenue by marketing commercial applications of the results.

In particular, the Contractor must use its best efforts to exploit its results up to four years after the end of the Framework Agreement and Specific Contracts, including where they are capable of commercial exploitation, to exploit them commercially (i.e. marketing a commercial application of the results, directly or indirectly, through a subcontractor or licensee).

If, despite a Contractor's best efforts, the results are not exploited within one year after the end of the Framework Agreement and Specific Contracts, the Contractor must (unless otherwise agreed in writing with the Contracting Authority and Buyers Group) use the Horizon Europe Results Platform[1] to find interested parties to exploit the results.

If the Contractor fails to commercially exploit the results within the four years time period and the circumstances of the case show that it has not used its best efforts to do so, the members of the Buyers Group retain the right to require that the Contractor transfers the ownership of the results to them so that the Buyers Group can ensure that the results are commercially exploited.

Article 5.5.2 Additional obligations/limitations for the exploitation of results due to public interests

Strategic autonomy

In order to safeguard the security of supply of inputs critical to the functioning of the Buyers Group's infrastructure and fair competition in the supply chain compliant with EU rules and interests, the Contractor shall ensure to safeguard EU strategic autonomy in the commercial exploitation of the results. For this purpose, the Contractor shall ensure that a significant amount of the commercial exploitation of the results takes place in the EU Member States and/or countries associated with Horizon Europe[2]. In particular, the Contractor must operate the entire solution of the products, services, or processes that incorporate results or that are produced through the use of results in non-sanctioned countries and entities and preferably within EU Member States and/or countries associated with Horizon Europe.

Contractor must ensure that, in the commercial exploitation of results, any cooperation with entities established in other countries, or controlled by such countries or entities from such countries, does not affect the EU security or strategic autonomy interests and avoids potential negative effects over security of supply of inputs critical to the functioning of the Buyers Group's infrastructure.]]

Standardisation

The Contractors must promote the dissemination of their results, in particular through publications and contribution to standardisation. The Contractors and the Contracting Authority will establish at

[1] Horizon Europe Results Platform

[2] List of Horizon Europe participating countries.

the start of the Framework Agreement a list of CE Taxonomy publications and events on appropriate standards to contribute to, and will keep this list updated throughout the Framework Agreement and for each Specific Contract. The Contractors must — up to four years after the end of the Framework Contract and Specific Contracts — inform the Contracting Authority, who will inform in its turn the granting authority that is co-financing the PPI, if the results could reasonably be expected to contribute to European or international standards.

Public emergency

In case of a public emergency, the Contractor must, if requested by the Contracting Authority on behalf of the Buyers Group or the EU, commit to rapidly and broadly exploit the products and/or services resulting from the PCP at fair and reasonable conditions to address the public emergency. This provision applies up to four years after the end of the PCP.

Other

If the Contractor uses the results to the detriment of the public interest when EU security and/or strategic autonomy interests need safeguarding, the members of the Buyers Group are entitled to require that the Contractor transfers the ownership of the results to them, in order to stop use of the results against the public interest and ensure commercial exploitation of the results by another party in line with the exploitation conditions.

The Contractor must ensure that these obligations also apply to its subcontractors, affiliated entities, and other third parties it cooperates with in the commercialisation of the results, as well as to any entities succeeding them in their ownership or development of the results.

Article 5.5.3 Obligation to notify a planned merger or acquisition

In case of a merger or acquisition by an entity from a country (or controlled by a country) that is not an EU Member State or Horizon Europe associated country, the Contractor must notify the Contracting Authority at least three (3) months in advance of the decision to implement the merger or acquisition and:

- describe in detail the identity, ownership, and control structure of the potential new merged entity or the potential new owner(s);
- include a reasoned assessment of the likely impact of the possible merger/acquisition on:
  - the access to the results and to the Background and Sideground that is essential for accessing the results, as foreseen by the Framework Agreement and Specific Contracts for the Contracting Authority and for third parties;
  - the commercial exploitation of the results, including the EU security interests and EU strategic autonomy objectives above.

The Contracting Authority and Buyers Group may request the Contractor for additional information to verify the potential impact, upon which the Contractor must promptly provide the requested information.

In case the impact analysis concludes that the merger or acquisition negatively impacts the access to or the commercial exploitation of the results, including the EU security interests and EU strategic autonomy objectives set out in Article 5.5 Commercial exploitation of results, the members of the Buyers Group are entitled to require that the Contractor (both the Contractor before or after the merger or acquisition) transfers the ownership of the results to them so that the Buyers Group can ensure that the interests are preserved and protected.

Article 5.6 Transfer and licensing of results

Article 5.6.1 Non-exclusive licensing of results

The Contractor may on its own initiative without prior authorisation from the Contracting Authority, give non-exclusive licenses to third parties to exploit the results that it owns, to the extent that:

- such licenses do not affect the rights — including the access rights — of the Contracting Authority, Buyers Group or the EU related to the results;
- such licenses do not affect the obligations — including the security and ethical obligations — of the Contracting Authority and Buyers Group related to the results;
- such licenses are not granted to entities which are subject to EU restrictive measures under Article 29 of the Treaty on the European Union (TEU) and Article 215 of the Treaty on the Functioning of the EU (TFEU)[3] (sanctions).

The Contractor must ensure in the licensing agreement that all its obligations under the Framework Agreement and Specific Contracts are passed on to the third party and that the third party has the obligation to pass on these obligations in any potential subsequent licensing.]

Article 5.6.2 Exclusive licensing and transfer of ownership of results

Conditions

Exclusive licensing and transfers of ownership of the results are restricted as follows:

- the Contractor may not transfer or give exclusive licenses if this would affect the rights — including the access rights — of the Contracting Authority, Buyers Group or the EU related to the results;
- the Contractor may not transfer or give exclusive licenses if this would affect the obligations — including the security and ethical obligations — of the Contracting Authority and Buyers Group related to the results;
- the Contractor may not transfer or give exclusive licenses to entities that are subject to EU restrictive measures under Article 29 of the Treaty on the European Union (TEU) and Article 215 of the Treaty on the Functioning of the EU (TFEU)[4] (sanctions);
- The Contractor must ensure in the transfer/licensing agreement that all its obligations under the Framework Agreement and Specific Contracts are passed on to the new owner/licensee and that this new owner/licensee has the obligation to pass them on in any subsequent transfer/licensing.

Notification procedure

If the Contractor intends to transfer or grant a license to a third party in one of the notification cases listed above, they must notify the Contracting Authority who will request prior authorisation to the EU granting authority. The notification must be done at least [specify an appropriate period, e.g. three months] in advance and:

- identify the specific results concerned;
- describe in detail the intended new owner or licensee and the planned or potential exploitation of the results;
- include a reasoned assessment of the likely impact of the intended transfer or exclusive license on:

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

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

- the access rights to the results and on the Background and Sideground that is essential for accessing the results as foreseen by the Framework Agreement and Specific Contracts for the Contracting Authority, the members of the Buyers Group or for third parties;
- the commercialisation exploitation of the results in line with public interests and EU interests, in particular regarding competitiveness [OPTION when safeguarding of EU strategic autonomy interests is important for the Buyers Group, in particular when the PCP involves security-related R&D and/or when the HE call conditions impose specific additional security obligations: and EU strategic autonomy objectives as specified in Article 5.5 Commercial exploitation of results as well as consistency with ethical principles and security considerations on EU interests.

The Contracting Authority may on behalf of the EU granting authority request the Contractor for additional information to verify the potential impact, upon which the Contractor must promptly provide the requested information.

Before granting the authorisation, the EU granting authority will verify the potential impact of the intended transfer or exclusive licensing.

The EU granting authority may object to the transfer or exclusive licensing or may condition its authorisation to measures ensuring that the transfer or exclusive licensing will not have unintended or undesirable consequences.

Before the EU granting authority gives its written authorisation, the transfer may not take place and any transfer or exclusive licensing agreement concluded before or without a written authorisation will be null and void.

Article 5.7 Pre-existing materials and pre-existing rights (Background and Sideground)

The Contractor grants the Grant Agreement Contributors listed in 'Annex 1a – Grant Agreement Contributors' herewith access, at no charge, to all Background and Sideground necessary to carry out tasks assigned in the Grant Agreement.

The Contractor grants the Buyers Group herewith access, at the prices specified in the Tender or, should no specification be made and no written agreement reached, at no charge, to all Background and Sideground necessary to exploit Results whose ownership has transferred to the Buyers Group. The Contractor grants each Member of the Buyers Group herewith access, at the prices specified in the Tender or in a Specific Contract, or, should no specification be made and no written agreement reached, at no charge, to all Background and Sideground necessary to use the Results for the purposes of that Member.

The Contractor shall provide in the Tender a complete list of Background and planned Sideground for implementation, exploitation and use in accordance with Article 5.9 List/evidence of pre-existing materials and pre-existing rights (Background and Sideground).

The Contractor shall not, without the express prior written agreement of the Buyers Group, generate Results whose exploitation or use relies on access to IPR not owned by the Contractor, or requires access to other rights not owned by the Contractor.

Article 5.8 Ownership of and access to pre-existing materials and rights

Background and Sideground remain the property of the party providing it, or as the case may be, its licensor(s) and nothing contained in this Framework Agreement or a Specific Contract shall affect the rights of each party in their Background or Sideground.

Subject to pre-existing obligations that may apply to Background or Sideground, the members of the Buyers Group grant the Contractor a royalty-free, non-exclusive, irrevocable and non sub-licensable license to use their Background and Sideground for the performance of the Framework Agreement and Specific Contracts, during the period of the Framework Agreement or Specific Contract.

The Buyers Group do not hold any Background that is relevant to the PCP.

Subject to pre-existing obligations that may apply to Background or Sideground, the Contractor grants the Buyers Group and (sub)contractors that assist them in executing the Framework Agreement and Specific Contracts (including in particular in evaluation or testing of solutions) a royalty-free, nonexclusive, irrevocable and non-sub-licensable (except as explicitly authorised under this Framework Agreement) license to use its Background and Sideground for the execution of the Framework Agreement and Specific Contracts and during the period of the Framework Agreement and Specific Contracts.

The members of the Buyers Group are purchasing operational access to developed prototypes as part of this PCP. Subject to pre-existing obligations that may apply to Background or Sideground, the Contractor grants to the members of the Buyers Group — and also to (sub)contractors that practice the results for the Buyers Group's own non-commercial use — a royalty-free, non-exclusive, irrevocable and non-sub-licensable (except as explicitly authorised under this Framework Agreement) license to use its Background and Sideground to the extent needed to use the results for the Buyers Group's own non-commercial purposes, beyond the execution of the Framework Agreement and Specific Contracts and after the Framework Agreement and Specific Contracts for four (4) years and the associated Background rights after the PCP.

These licenses are in addition to rights provided for by law, such as the unwaivable rights of, and exceptions for the benefit of lawful users of software or of databases, as foreseen under the applicable EU or national laws.

Subject to pre-existing obligations that may apply to Background or Sideground, the Contractor also grants rights to use its Background and Sideground — under the same conditions as above — to entities that are under the direct or indirect control of members of the Buyers Group, or under the same direct or indirect control as members of the Buyers Group, or directly or indirectly controlling members of the Buyers Group.

Article 5.9 List/evidence of pre-existing materials and pre-existing rights (Background and Sideground)

Article 5.9.1 List of pre-existing materials and pre-existing rights

In order to be able to distinguish clearly between rights on newly created materials, and newly created rights on the one hand and pre-existing materials and pre-existing rights on the other hand, and to establish which pre-existing materials and pre-existing rights are held by whom, the Parties must establish an agreed list of all their pre-existing materials and pre-existing rights (Background and Sideground) that may be used for the performance of this Framework Agreement and Specific Contracts, including identification of the rights' owners.

The Contractor must provide the declaration listing pre-existing materials and pre-existing rights in its offer for the Framework Agreement and must provide an updated version of it to the Contracting Authority within the bid for each Specific Contract in order to have the updated list approved by the Contracting Authority at the latest 30 days after the start of each Specific Contract. If there are no pre-existing materials nor pre-existing rights, the Contractor must provide a declaration to that effect.

The list of pre-existing material and pre-existing rights shall identify, for each pre-existing material and right, the tasks, deliverables or other aspects related to the performance of the Framework Agreement and Specific Contracts contract that may be affected by pre-existing material/right, the pre-existing material/right concerned, the rights to the pre-existing material, the rights holder and any prior obligations on the pre-existing rights that may apply to the results. Such list will include, but is not limited to, a list of the software necessary for the performance of the Framework Agreement and Specific Contracts (including but not limited to software necessary for the operation of the prototypes and products or services that will be developed during the Framework Agreement or Specific Contract), specifying which software is closed source software.

The Contractor shall inform the Contracting Authority about any evolutions in any of its pre-existing material and pre-existing rights that affect the performance of the Framework Agreement or a Specific Contract. This includes any changes to the Background (including the rights on the Background) and about the generation of new Sideground (including new rights on the Sideground) within 30 days from the change or generation and at the latest by the end of the corresponding phase and with each bid for the next phase.

Article 5.9.2 Evidence of pre-existing rights

If requested by the Contracting Authority, the Contractor must, in addition to the list mentioned under Article 5.9.1, provide evidence that it has the ownership or the right to use all the listed pre-existing materials and rights, except for the rights owned or licensed by the Contracting Authority and Buyers Group.

The Contracting Authority may request this evidence even after the end of this Framework Agreement and Specific Contracts.

This evidence may refer for example to rights to: parts of other documents, images, graphs, sounds, music, tables, data, software, technical inventions, know-how, IT development tools, routines, subroutines or other programs ('Background technology'), concepts, designs, installations or pieces of art, data, source or Background materials or any other parts of external origin. This evidence must include, as appropriate:

- the name and version number of the work;
- the full identification of the work and its author, developer, creator, translator, data entry person, graphic designer, publisher, editor, photographer, producer;
- a copy of the licence to use the product or of the agreement granting the relevant rights to the Contractor or a reference to this licence;
- a copy of the agreement or extract from the employment contract granting the relevant rights to the Contractor where parts of the results were created by its personnel;

and

- the text of the disclaimer notice if any.

Provision of evidence does not release the Contractor from its responsibilities if it is found that it does not hold the necessary rights, regardless of when and by whom this fact is revealed.

Article 6 — Equipment at demonstration sites

1. Any equipment installed or to be located at the demonstration site becomes the property of the owner of the site, with the exception only of items specifically identified as remaining the property of the Contractor either in the Offer for the Phase concerned or in written agreement with the Buyers Group.

2. Any equipment installed must comply with national legislation including warranty. Only equipment specified in the offer for the phase concerned as an item of prototype equipment is considered as such. All equipment not so designated must fully comply with national legislation on delivery and installation of such equipment as a product on the market, including warranty.

3. Non-removable equipment must be specified as such by the Contractor in the offer for the Phase concerned. Equipment specified in the offer for the phase concerned as an item of prototype equipment is considered removable equipment by default.

4. No installation may be made which compromises a return to prior operation. “Return to prior operation” means removal or, in case of non-removable equipment, decommissioning, of all equipment installed in the phase by the Contractor and re-integration of legacy systems, so that the building and its facilities may be used as they were before any installation by the Contractor, with no reduction in performance or quality.

5. At the request of the Buyers Group, the Contractor must at its own expense remove any removable equipment it is requested to remove or decommission non-removable equipment it is requested to decommission or return the building to prior operation. Such a request to be made at the latest 4 weeks before the end of the Phase concerned. Removal of equipment or return to prior operation shall be completed within 2 months.

Article 7 — Confidentiality

The Parties shall keep confidential any data, documents or other material (in any form) that is identified as confidential at the time it is disclosed. This applies during the implementation of the Framework Agreement and Specific Contracts and up to five (5) years after their end.

If information has been identified as confidential only orally, it shall be considered to be confidential only if this is confirmed in writing within 15 days of the oral disclosure.

Unless otherwise agreed between the Parties, they may use confidential information only to implement the Framework Agreement and Specific Contracts.

The Parties may disclose confidential information to their staff or to third parties involved in the PCP implementation including those listed in ‘Annex 1a – Grant Agreement Contributors’ or to staff of the Buyers Group only if:

- (a) they need to be aware of this information in order to implement the PCP activities under the Framework Agreement and Specific Contracts;
- (b) they are bound by an obligation of confidentiality.

The Contracting Authority and members of the Buyers Group may disclose confidential information to the EU granting authority if required under their Horizon Europe Grant Agreement.

The confidentiality obligations cease to apply if:

- (a) the disclosing party agrees to release the other party from the obligation;
- (b) the information becomes generally and publicly available, without breaching any confidentiality obligation; or
- (c) the disclosure of the information is required by EU or national law.

This does not change the security obligations, which still apply. Stricter confidentiality obligations apply for information that is EU-classified or subject to a security recommendation.

Article 8 — Promotion, publicity and communication

Article 8.1 Dissemination obligations

The Contractor shall undertake communication activities to create publicity about its participation to the procurement, and to promote the objectives and the results of the R&D carried out under the PCP (in particular, to other potential customers with the objective to achieve commercial exploitation of the results; see Article 5.5 Commercial exploitation of results).

When undertaking these activities, the Contractor shall ensure that they do not infringe any of its other obligations under this Framework Agreement or a Specific Contract, such as its obligations regarding protection of intellectual property, confidentiality, security restrictions or its obligations under data protection legislation.

Article 8.2 Obligation of prior notification of the Contracting Authority

During the implementation of the Framework Agreement and Specific Contracts and for a period of ten (10) months after the end of the Framework Agreement and Specific Contracts, the Contractor shall inform the Contracting Authority 45 days in advance of any (written or oral) publication or any other type of communication (in any media or form) relating to the services or results. Information on communication activities expected to have a major media impact shall be provided sufficiently in advance to allow the Contracting Authority to inform the EU. The Contractor must, in particular, submit a draft copy of any publications:

- for written publications — at the same time as the submission to the editor for publication or at least one month before the date intended for publication, whichever is earlier.
- for oral communications or other types of disclosure — twenty calendar days before the forecasted date of submission to the organiser of a scientific meeting or of said other type of disclosure.

If requested by the Contracting Authority, the Contractor shall remove any confidential or security sensitive information before the disclosure.

Both Parties agree that they will balance any of their requests to remove confidentiality, security or intellectual property-sensitive aspects from a publication proposed by the other party against the other party's objective to maintain sufficient information related to the performance of the Framework Agreement and Specific Contracts or the results that is necessary for the appropriate presentation or understanding of the publication.

Article 8.3 Recognition of EU funding

All communication activities about the PCP and/or its results (including in electronic form and via social media), as well as infrastructure, equipment and major results financed by the PCP shall display the EU emblem and include the following text:

- for communication activities: 'This [publication][communication] is part of the [acronym of the HE grant] project that has received funding from the European Union's Horizon Europe Research and Innovation Programme'.
- for infrastructure, equipment and major results: 'This [infrastructure][equipment][insert type of result] is part of the [acronym of HE grant] project that has received funding from the European Union's Horizon Europe Research and Innovation Programme'.

If results are incorporated in a standard, the Contractor must — unless the Contracting Authority requests or agrees otherwise in writing or unless it is impossible — ask the standardisation body to

include the following statement in (information related to) the standard: 'Funded by the European Union'.

If results are protected through registered IPR, the Contractor must — wherever possible under the applicable rules — include in its applications for protection the following statement: 'These results were achieved with EU support. The European Union has certain rights in these results'.

When displayed together with another logo, the EU emblem shall have appropriate prominence. The Contractor may use the EU emblem without first obtaining approval from the EU. This does not, however, give the Contractor the right to exclusive use. Moreover, the Contractor may not appropriate the EU emblem or any similar trademark or logo, either by registration or by any other means.

All communication activities shall indicate that the opinions expressed reflect only the author's views and do not represent the Contracting Authority's or the EU's official position. The Contracting Authority, in agreement with the EU granting authority, may waive this obligation in writing or provide the text of the disclaimer.

Article 8.4 Communication/publication rights for the Contracting Authority and the Buyers Group

The Contracting Authority and members of the Buyers Group may use, for the purposes of communication and publicity, all information relating to the PCP, documents (notably summaries) and deliverables, and any other material (such as pictures or audio-visual material) from the Contractor (including in electronic form).

The Contracting Authority and members of the Buyers Group may, in particular, publish the name of the Contractor and its project abstracts, the summaries of the main results from the R&D and the lessons learnt during the PCP (e.g. relating to the feasibility of the different approaches to meeting the procurers' requirements that were explored, and the lessons learnt for potential future use of the solutions proposed).

This does not change the confidentiality obligations under Article 7 — Confidentiality.

Moreover, before publishing this information, the Contracting Authority shall consult the Contractor, in order to avoid harm to legitimate business interests (e.g. regarding aspects of the solutions that could be IPR-protected) or distortion of competition.

Article 8.5 Communication/publication rights for the EU

The EU may use, for the purposes of communication and publicity, information relating to the PCP, documents (notably summaries) and deliverables, and any other material (such as pictures or audiovisual material) from the Contractor (including in electronic form).

If the EU's use of these materials, documents or information would risk compromising legitimate interests, the Contractor may, however, ask the Contracting Authority to request the EU granting authority not to use it. The right to use the Contractor's materials, documents and information includes:

- (a) use for its own purposes (in particular, making them available to persons working for the EU granting authority or any other EU service (including institutions, bodies, offices, agencies, etc.) or EU Member State institution or body; copying or reproducing them in whole or in part, in unlimited numbers; and communication through press information services);
- (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 (including shortening, summarising, inserting other elements (e.g. meta-data, legends, other graphic, visual, audio or text elements), extracting parts (e.g. audio or video files), dividing into parts, use in a compilation);
- (d) translation;
- (e) storage in paper, electronic or other form;
- (f) archiving, in line with applicable document-management rules;
- (g) the right to authorise third parties to act on its behalf or sub-license to third parties the modes of use set out in Points (b), (c), (d), and (f), if needed for the information, communication, and publicity activity of the granting authority;
- (h) processing, analysing, aggregating the materials, documents and information received and producing derivative works.

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.

Article 9 — Conflicts of interest

Article 9.1.

The Contractor shall take all measures necessary to prevent a situation arising where the impartial and objective implementation of the Framework Agreement or a Specific Contract is compromised for reasons involving economic interests, political or national affinity, family, personal life or any other shared interest.

The Contractor shall also take all measures necessary to prevent a situation in which its (previous or ongoing) professional activities affect the impartial and objective implementation of the Framework Agreement or a Specific Contract.

Article 9.2.

The Contractor shall notify the Contracting Authority 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 Contracting Authority may instruct the Contractor to take specific measures to remedy the situation.

Article 10 — Ethics and research integrity

Article 10.1

Detailed principles on the ethics of AI are part of Schedule 2.

The Contractor shall carry out the tasks assigned to it in the Framework Agreement and Specific Contracts in compliance with:

- (a) ethical principles (including the highest standards of research integrity) and
- (b) applicable international, EU and national law.

The Contractor must commit to and ensure the respect of basic EU values (such as respect for human dignity, freedom, democracy, equality, the rule of law and human rights, including the rights of minorities). The Contractor must pay particular attention to the principle of proportionality, the right to privacy, the right to the protection of personal data, the right to the physical and mental

integrity of persons, the right to non-discrimination, the need to ensure protection of the environment and high levels of human health protection.

In case the development, deployment and/or use of the PCP solution involves artificial intelligence (AI), the Contractor must ensure that the artificial intelligence is trustworthy, i.e. lawful, ethical and technically robust. The artificial intelligence system must preserve and protect the following six general ethical principles based on fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union (EU Charter), and in relevant international human rights law[5]:

- respect for human agency: human beings must be respected to make their own decisions and carry out their own actions. Respect for human agency encapsulates three more specific principles, which define fundamental human rights: autonomy, dignity, and freedom.
- privacy and data governance: people have the right to privacy and data protection, and these should be respected at all times.
- fairness: people should be given equal rights and opportunities and should not be advantaged or disadvantaged undeservedly.
- individual, social, and environmental well-being: artificial intelligence systems should contribute to, and not harm, individual, social, and environmental well-being.
- transparency: the purpose, inputs, and operations of artificial intelligence programs should be knowable and understandable to its stakeholders.
- accountability and oversight: humans should be able to understand, supervise and control the design and operation of artificial intelligence-based systems, and the actors involved in their development or operation should take responsibility for the way that these applications function and for the resulting consequences.

The Contractor may not:

- carry out activities in a Member State for an activity which is forbidden in that Member State.
- carry out activities in a country inside or outside the EU, if they are prohibited in all EU Member States.

The Contractor may not carry out activities which:

- (a) aim at human cloning for reproductive purposes;
- (b) intend to modify the genetic heritage of human beings in a way which could make such changes heritable (with the exception of research relating to cancer treatment of the gonads); or
- (c) intend to create human embryos solely for the purpose of research or for the purpose of stem cell procurement, including by means of somatic cell nuclear transfer;
- (d) lead to the destruction of human embryos (for example, for obtaining stem cells).

The Contractor may not carry out activities that do not focus exclusively on civil applications.

The Contractor shall respect the highest standards of research integrity — as set out, for instance, in the European Code of Conduct for Research Integrity[6].

This implies compliance with the following essential principles:

- reliability in ensuring the quality of research reflected in the design, the methodology, the analysis, and the use of resources.

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5 For more information, see Horizon Europe guidance on ethics by design and ethics of use approaches for AI.

6 The European Code of Conduct for Research Integrity of ALLEA (All European Academies)) of March 2017.

- honesty in developing, undertaking, reviewing, reporting, and communicating research in a transparent, fair, and unbiased way.
- respect for colleagues, research participants, society, ecosystems, cultural heritage, and the environment.
- accountability for the research from idea to publication, for its management and organisation, for training, supervision, and mentoring, and for its wider impacts

and means that the Contractor must ensure that persons carrying out research tasks follow the good research practices and refrain from the research integrity violations described in this Code.

Article 10.2

Before starting any activity that raises an ethical issue, the Contractor shall submit to the Contracting Authority a copy of:

- (a) any ethics committee opinion required under national laws and
- (b) any notification or authorisation for activities raising ethical issues required under national law.

Article 10.3

In addition, the Contractor shall comply with the ethics requirements stated in the Challenge Brief (TD2) and Annex 1b – Ethical requirements for Field Testing.

Article 11 — Processing of personal data

The Contractor shall process personal data in compliance with the applicable EU and national law on data protection, in particular Regulation 2016/679[7] (including as relates to authorisations and notification requirements).

Contractors must ensure that personal data is:

- processed lawfully, fairly, and in a transparent manner in relation to the data subjects;
- collected for specified, explicit, and legitimate purposes and not further processed in a manner that is incompatible with those purposes;
- adequate, relevant, and limited to what is necessary in relation to the purposes for which they are processed;
- accurate and, where necessary, kept up to date;
- kept in a form that permits the identification of data subjects for no longer than is necessary for the purposes for which the data is processes;
- processed in a manner that ensures appropriate security of the data.

The localisation of and access to the personal data processed by the Contractor shall comply with the following:

- the personal data shall only be processed within the territory of the European Union and will not leave that territory with the exception of personal data generated in demonstration sides outside of the European Union and where localisation within such country is required.
- the data shall only be held in data centres located within the territory of the European Union with the exception of personal data generated in demonstration sides outside of the European Union and where localisation within such country is required.

[7] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 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 ('GDPR') (OJ L 119, 4.5.2016, p. 1).

- no access shall be given to such data outside of the European Union or access to data may be given on a need-to-know basis only to authorised persons established in a country that has been recognised by the European Commission as providing adequate protection to personal data.
- the Contractor may not change the location of data processing without the prior written authorisation of the Contracting Authority.
- any transfer of personal data under the Framework Agreement or a Specific Contract to third countries or international organisations shall fully comply with the requirements laid down in Chapter V of Regulation (EU) 2016/679.

The Contractor may grant its staff access to data only in so far as is strictly necessary for implementing, managing and monitoring the Framework Agreement and Specific Contracts.

The Contractor must inform the staff whose personal data are collected and processed by the procurers and/or the EU. For this purpose, the Contractor must provide them with the privacy statements of the EU, before transmitting their data. If explicit prior consent from the data subjects is needed, the Contractor must obtain such consent.

Article 12 — Obligation to provide information and keep records

12.1

The Contractor must, at any time during the implementation of the Framework Agreement and Specific Contracts or afterwards, provide any information requested by the procurers in relation to the agreement or contracts.

12.2

The Contractor must keep, for a period of up five (5) years after the end of the Framework Agreement and Specific Contracts, records and other supporting documentation relating to their implementation.

This obligation includes records and other supporting documentation on scientific and technical implementation (in line with the accepted standards in the field) and on the price charged and the costs incurred by the Contractor.

The Contractor must keep the original documents. Digital and digitalised documents are considered originals if they are authorised under national law.

Should there be ongoing checks, reviews, audits, investigations, litigation or other pursuits of claims (including claims by a third party against the procurers), the Contractor must keep all records and other supporting documentation until the end of these procedures.

Article 13 — EU checks, reviews, audits and investigations

Should the EU (*including the European Court of Auditors, the European Public Prosecutor's Office (EPPO) or the European Anti-Fraud Office (OLAF)*) decide to carry out a check, review, audit or investigation, the Contractor must make available all information, records and other supporting documents relating to the implementation of the Framework Agreement and Specific Contracts.

Should there be an on-the-spot visit, the Contractor must allow access to its premises and must ensure that the information requested is readily available.

Article 14 — EU impact evaluation

Should the EU carry out an impact evaluation (of its grant to the Procurers), the Contractor must make available all information, records and other supporting documents relating to the implementation of the Framework Agreement and Specific Contracts.

Article 15 — Monitoring and reporting

During performance of any Specific Contract, the implementation by the Contractor of the R&D Services will be monitored periodically and reviewed against the supplier deliverables agreed in the Specific Contract.

In good time before signing of a Specific Contract, a checklist will be prepared to consistently evaluate supplier deliverables in respect of their being satisfactory.

Each procurer will comment on the checklist and a unified checklist will be used by each procurer independently. Any difference in interpretation will be discussed and resolved by a majority vote. The Contracting Authority shall apply the result in accepting the supplier deliverable concerned.

The Contracting Authority may request that it or any party designated by it witnesses any tests or measurements to be performed by the Contractor or his subcontractor(s), and the Contractor shall give the Contracting Authority reasonable prior notice in writing of the date(s) and place(s) of such tests and measurements. In the event of failure by the Contractor to give such notice, the Contracting Authority shall be entitled to demand at any time that such tests and measurements be repeated at the expense of the Contractor, who shall be liable for any delay resulting therefrom.

The monitoring team will provide feedback to the Contractor after meetings or visits.

Article 16 — Breach of contract

1. The Contractor must compensate the Contracting Authority and the Buyers Group if they are held liable by the EU for damage it sustained as a result of the implementation of the Framework Agreement or a Specific Contract or because it was not implemented properly.
2. The EU cannot be held liable for any damage caused to the Contractor or caused by the Contractor in connection with the implementation of the Framework Agreement or a Specific Contract.
3. The Contractor shall indemnify and hold the Contracting Authority and the other Buyers Group members free and harmless against loss and damage, including personal injury and death and related legal costs, arising from or in connection with its acts or omissions in relation to the Framework Agreement.
4. The Contractor's indemnity obligations under Clause 3 shall be without prejudice to any other rights and remedies available to the Contracting Authority, including the right to terminate the Framework Agreement or any Specific Contract.
5. If the Contractor fails to deliver Results or other supplier deliverables compliant with the Framework Agreement, the Contracting Authority shall give the Contractor the opportunity to amend, within an appropriate period. If satisfactory completion has not been achieved after the expiry of such cure period, the Contracting Authority may (at its discretion):

   - Withhold payments until satisfactory delivery;
   - Deduct payments in case of no satisfactory delivery; (The ratio of the deduction will be determined by the Buyers' Group. The impact and importance of the supplier deliverable(s) and result(s) which have not been delivered or completed satisfactorily will be taken into account when determining the ratio of the deduction.)
   - Cancel payments;
   - Exclude the Contractor from the any subsequent Phases on the basis that the Contractor has not successfully completed the present Phase; and/or
   - Terminate the Framework Agreement and/or any Specific Contract (see hereunder).

6. Acceptance by the Contracting Authority of any supplier deliverable or Result shall not release the Contractor from liability in respect of such supplier 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.
7. Except in case of infringement of applicable laws, gross negligence or wilful misconduct on its part, a Party shall not be liable to the other 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.
8. Except in case of liability pursuant to Clause 7 (IPR), infringement of applicable laws, gross negligence or wilful misconduct on its part, each Party'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.
9. The Contractor shall take out insurance to cover its liability under the Framework Agreement and shall provide evidence of this insurance cover if so required by the Contracting Authority. 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. The sum insured shall equal or exceed the total price of the latest Specific Contract signed.

Article 17 — Termination clauses and consequences of termination

1. The Contracting Authority shall be entitled to terminate this agreement at any time, including during performance of a Specific Contract, by notice in writing to the Contractor if:
   a) the Contractor is in breach of any of its confidentiality obligations
   b) the Contractor is in breach of any of its conflicts of interest obligations
   c) the Contractor is in breach of any of its ethics and research integrity obligations
   d) the Contractor is in breach of any of its data protection obligations
   e) the Contractor or a member of the Group of Tenderers undergoes any change in legal or beneficial ownership or control;
   f) the Contractor admits a new party to the Group of Tenderers without authorisation of the Buyers Group;
   g) the Contractor is in breach of an obligation set out in the Call for Tender;
   h) any approvals, consents or licenses required under this agreement or to enable the services to be carried out lawfully are not granted, or lapse, terminate or otherwise cease to be of effect during the term of this agreement;
   i) the Contractor fails to deliver an Expected Outcome covered by a Specific Contract within ten (10) days of the date by which the relevant Expected Outcome was to be achieved, or repeatedly fails over a period of three consecutive months to achieve Expected Outcomes by the date(s) on which those Expected Outcomes were to have been achieved.
2. The assignments and/or licenses granted under the Framework Agreement by the Contractor to the Contracting Authority, any Buyers Group member, or Grant Agreement Contributor, or any Third Party shall continue notwithstanding any expiry or termination of this agreement.
3. Unless expressly stated to the contrary, the service of a notice to terminate this agreement shall operate as a notice to terminate any Specific Contract then in force.
4. Within thirty (30) days of the date of termination or expiry of this agreement, the Contractor shall return or destroy any personal data received from another Party and any Confidential Information belonging to another Party, either in its then current format or in a format nominated by the Contracting Authority.

5. Termination or expiry of this agreement shall be without prejudice to any rights, remedies or obligations of either Party accrued under this agreement before termination or expiry.

Article 18 — Amendments

The Parties may amend this agreement only in writing and only provided that the amendment does not have the purpose or the effect of making changes which might call into question the decision awarding Framework Agreements or Specific Contracts or otherwise result in unequal treatment of tenderers.

A Party desiring an amendment to this agreement shall notify the other Parties providing a duly justified request and a full new version of this agreement clearly showing all the proposed changes. Without prejudice to the right to terminate in accordance with 'Article 17 — Termination clauses and consequences of termination', the Buyers Group may notify the Party desiring the amendment of their rejection or agree with the other Parties that an amendment be executed.

Should the duration of the Grant Agreement be extended, the Contracting Authority may propose this agreement and any Specific Contract not completed be amended in respect of durations and deadlines. In such cases no Party shall not withhold agreement unless that Party can show that the proposed amendment would significantly and disproportionately harm that Party's interests. Should agreement be withheld, the Contracting Authority may invoke dispute resolution.

Article 19 — Interpretation

The interpretation and construction of this Framework Agreement and of any Specific Contract concluded under it shall be subject to the following provisions:

a) Terms defined in the Framework Agreement have precedence over those in annexes;
b) Terms set out in the Call for Tender have precedence over those in the Contractor's tender;
c) Reference to any Act, Law, statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the Act, Law, statute, enactment, order, regulation or instrument as subsequently amended or re-enacted (regardless of whether or not expressly so stipulated);
d) Headings in this Framework Agreement are for ease of reference only and shall not affect its interpretation or construction;
e) References to conditions are references to conditions in the Article of this Framework Agreement in which they appear, unless otherwise stated;
f) Where the context allows, references to any gender include the other gender and the neuter, and the singular includes the plural and vice versa;
g) "including" means "including without limitation" (with related words being construed accordingly), in particular means "in particular but without limitation" and other general words shall not be given a restrictive interpretation by reason of their being;
h) Further definitions are given in 'Article 0 — Definitions'.

Article 20 — Applicable law and dispute settlement

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 Turkish law.

2. Any dispute between the Contractor and another Party arising out of or in connection with this agreement shall in the first instance be referred to the Contractor Representative and the Contracting Authority Representative for resolution. These representatives shall work together in good faith to reach an agreed settlement of any such dispute. If, within 14 days of being referred to these representatives, the dispute has not been resolved, the Contractor and the Contracting Authority shall name a senior executive and a special representative respectively, who shall meet within 7 days and work together in good faith to resolve the dispute aiming to resolve the issue within 14 days.

3. If any dispute under the Framework Agreement fails to be settled amicably, this dispute shall be brought the competent court, administrative or civil, in Istanbul. Notwithstanding reference of any dispute to the Court of Istanbul, the Parties shall continue to perform their obligations under the Framework Agreement.

4. Decisions taken with regard to awarding a tenderer a Specific Contract for Phases I, II or III or excluding them from a Specific Contract may be challenged by means of an administrative remedy defined in the Call for Tender and if it no other remedy exists before Istanbul Courts.

Article 21 — Force Majeure

A failure in the performance of this agreement cannot be imputed or assumed to a Party to the extent it is due to Force Majeure.

Each Party will immediately notify the other Parties in writing of any Force Majeure, stating the nature of the circumstances, their likely duration and foreseeable effects.

If the Contractor is unable to fulfil its obligations owing to Force Majeure, it has the right to remuneration only for the services actually provided.

The Parties must take all necessary measures to limit any damage due to Force Majeure.

Article 22 — Notices

Notices to the Buyers Group shall be sent to the Contracting Authority Representative:

Name: insert details of the Contracting Authority

Address: insert details of the Contracting Authority

The Contracting Authority may change representative by written notification to all Parties.

Notices to the Contractor shall be sent to the Contractor Representative:

Name: insert details of the Contractor

Address: insert details of the Contractor

The Contractor may change representative by written notification to all Parties.

Article 23 — Entry into force

The Framework Agreement becomes effective upon signing by both Parties and shall remain in effect in line with ‘Article 2 — Duration’.

Annex 1a – Grant Agreement Contributors

- Circular City - Zirkuläre Stadt e.V. [CB]

- empirica Gesellschaft für Kommunikation und Technologieforschung MBH [EMP]
- Energy Efficiency in Industrial Processes ASBL [EEIP]
- Forum Virium Helsinki Oy [FVH]
- Istanbul Metropolitan Municipality [IMM]
- Municipio De Guimaraes [CMG]
- ReLondon: London Waste and Recycling Board [RL]
- RISE Research Institutes of Sweden AB [RISE]
- Sandyford BID CLG [SBID]
- Skupnost Obcin Slovenije [SOS]
- Sveriges Kommuner Och Regioner [SKR]
- Teknoloji Arastirma Gelistirme Endustriyel Urunler Bilisim Teknolojileri Sanayi Ve Ticaret Anonim Ticaret [TAGES]

Annex 1b – Ethical requirements for Field Testing

The requirements for field testing are described further below:

- During the PCP's Phase III, the solutions awarded will be verified and compared against jointly defined criteria by the Buyers Group and other concerned final end-users in real-life operational conditions to verify fitness for purpose in view of potential future procurements
- All Parties shall rigorously apply the ethical standards and guidelines of Horizon Europe, regardless of the country in which the research is carried out.
- If personal data collection is required which would imply the need for informed consent procedures, the Contractor has to provide Informed Consent Forms and Information Sheets to the Buyers Group for approval which will also be submitted to the Commission. These will be drafted in a language and terms understandable to the participants. They will follow the Directive 2001/20/EC relating to the implementation of good field test practices. Sites involved in the field testing will implement these procedures.
- Justification must be given in case of collection and/or processing of personal sensitive data: no personal sensitive data will be collected (i.e.: racial or ethnic origin of the data, political options, religious beliefs, membership of trade unions, sexual life, offences commission, sentences of any course for such offences, mental health condition). The Contractor must ensure that this requirement is respected in their solutions.
- Detailed information must be provided on the procedures that will be implemented for data collection, storage, protection, retention and destruction and confirmation that they comply with national and EU legislation.

Schedule 2 – AI-related Clauses

This section is based on the Proposal for standard contractual clauses for the procurement of artificial intelligence by public organisations in its draft version (as of 29 September 2023), concerning the non-high risk edition[8]. Should an updated version evolve between publication of tender and signature of the Framework Agreement, the following section will be updated accordingly. ***The Buyers Group aims that no documentation beyond the deliverables listed in TD1 will be required.*** *The Buyers Group will use the experience to advance the Clauses, in particular streamlining the collection of Annexes.*

Contractors may note that many aspects are required as per Call for Tender (TD1) and the Challenge Brief (TD2) whilst some is documentation to follow during the project. Information required for the initial tender and the following call-offs is or will be incorporated in Technical Application Template (TD6) content of which is used in supplier deliverables. Any remainder is to be provided, at the latest, through the final version of the supplier deliverable D3.1.

Section A – AI Clause Definitions

1 AI Clauses Definitions

1 Capitalised terms used in these Clauses will have the meaning as defined in this Article.

AI System: the AI system(s) as referred to in 'Annex 2a – The AI System', including any new versions thereof;

Public Organisation Data Sets: the Data Sets (or parts of) (i) provided by the Public Organisation to the Supplier under the Agreement or (ii) to be created or collected as part of the Agreement, including any modified or extended versions of the Data Sets referred to under (i) and (ii) (for example due to annotation, labelling, cleaning, enrichment or aggregation);

Data Sets: all data sets used in the development of the AI System, including the data set or data sets as described in 'Annex 2b – The Data Sets', including any modifications or extensions thereof, as well as any other data sets created after the conclusion of the Agreement that are used in the context of the Agreement;

Intended Purpose: the use for which an AI System is intended, including the specific context and conditions of use, as specified in 'Annex 2b – The Data Sets', the information supplied by the Contractor in the instructions for use, promotional or sales materials and statements, as well as in the technical documentation;

Reasonably Foreseeable Misuse: the use of the AI System in a way that is not in accordance with its Intended Purpose, but which may result from reasonably foreseeable human behaviour or interaction with other systems;

Substantial Modification: a change to the AI System following the Delivery which affects the compliance of the AI System with the requirements set out in these Clauses or results in a modification to the Intended Purpose;

[8] EU model contractual AI clauses to pilot in procurements of AI | Public Buyers Community (europa.eu)

Contractor Data Sets and Third-Party Data Sets: the Data Sets (or parts of) that do not qualify as Buyers Group Data Sets.

Section B – Essential requirements in relation to the AI-system

2 Risk management system

2.1. The Contractor ensures that, prior to the Delivery of the AI System, a risk management system shall be established and implemented in relation to the AI System.

2.2. The risk management system shall at least comprise the following steps:

a) Identification, estimation and evaluation of the known and reasonably foreseeable risks to health, safety and fundamental rights of the European Union that are likely to arise in the light of the Intended Purpose of the AI System and Reasonably Foreseeable Misuse;
b) evaluation of other possibly arising risks;
c) adoption of appropriate and targeted risk management measures designed to address the risks identified pursuant to points a and b of this paragraph in accordance with the provisions of the following paragraphs.

2.3. The risk management measures referred to in paragraph 2.2, point (c) shall be such that relevant residual risks associated with each hazard as well as the overall residual risk of the AI system is reasonably judged to be acceptable by the Contractor, provided that the AI System is used in accordance with the Intended Purpose or under conditions of Reasonably Foreseeable Misuse.

2.4. In identifying the most appropriate risk management measures referred to in paragraph 2.2, point (c), the following shall be ensured:

a) elimination or reduction of identified risks as far as technically feasible through adequate design and development of the AI System;
b) where appropriate, implementation of adequate mitigation and control measures in relation to risks that cannot be eliminated;
c) provision of adequate information to the Buyers Group.

2.5. The Contractor ensures that, prior to the Delivery of the AI System, the AI System is tested in order to verify whether the AI System complies with the Clauses and whether the risk management measures referred to in paragraph 2.2, point (c) are effective in light of the Intended Purpose and Reasonably Foreseeable Misuse. If requested by the Buyers Group, the Contractor is obliged to test the AI System in the environment of the Buyers Group if required by a demonstration site.

2.6. All risks identified, measures taken and tests performed in the context of compliance with this Article must be documented by the Contractor. The Contractor must make this documentation available to the Buyers Group at least at the time of the Delivery of the AI System. This documentation can be part of the technical documentation and/or instructions for use.

2.7. The risk management system shall consist of a continuous and iterative process run throughout the entire duration of the Agreement. After the Delivery of the AI System the Contractor must therefore:

a) regularly review and update the risk management process, to ensure its continuing effectiveness;
b) keep the documentation described in Article 2.6 of schedule 2 up to date; and
c) make every new version of the documentation described in Article 2.6 of schedule 2 available to the Buyers Group without delay.

2.8. If reasonably required for the proper execution of the risk management system by the Contractor, the Buyers Group will provide the Contractor, on request, with information insofar as this is not of a confidential nature.

2.9. If the Buyers Group's use of the AI System continues beyond the term of the Agreement without involvement of the Contractor, at the end of the term of the Agreement, the Contractor shall provide the Buyers Group with the information necessary to maintain the risk management system by itself.

3 Data and data governance

3.1. The Contractor ensures that the Data Sets used in the development of the AI System, including training, validation and testing, has been and shall be subject to data governance appropriate for the context of use as well as the Intended Purpose of the AI System. Those measures shall concern in particular:

a) transparency as regard the original purpose of data collection;
b) the relevant design choices;
c) data collection processes;
d) relevant data preparation for processing operations, such as annotation, labelling, cleaning, enrichment and aggregation;
e) the formulation of relevant assumptions, notably with respect to the information that the data are supposed to measure and represent;
f) examination in view of possible biases that are likely to affect health and safety of natural persons or lead to discrimination prohibited by the laws of the European Union;
g) appropriate measures to detect, prevent and mitigate possible biases;
h) the identification of relevant data gaps or shortcomings s that prevent compliance with these Clauses, and how those gaps and shortcomings can be addressed.

3.2. The Contractor ensures that the Data Sets used in the development of the AI System are relevant, representative, and to the best extent possible free of errors and be as complete as possible in view of the Intended Purpose. The Contractor ensures that Data Sets have the appropriate statistical properties, including, where applicable, as regards the persons or groups of persons on which the AI System is intended to be used. These characteristics of the Data Sets shall be met at the level of individual data sets or a combination thereof.

3.3. The Contractor ensures that the Data Sets used in the development of the AI System take into account, to the extent required by the Intended Purpose or Reasonably Foreseeable Misuse, the characteristics or elements that are particular to the specific geographical, contextual behavioural or functional setting within which the AI System is intended to be used.

3.4. The obligations under this Article apply not only to the development of the AI System prior to Delivery, but also to any use of Data Sets by the Supplier that may affect the functioning of the AI System at any other time during the term of the Agreement.

4 Technical documentation and instructions for use

4.1. The Delivery of the AI System by the Contractor includes the handover of the technical documentation and instructions for use.

4.2. The technical documentation must enable the Buyers Group or a third party to assess the compliance of the AI System with the provisions of the requirements set in these Clauses and at least satisfy the conditions described in ‘Annex 2c – Technical documentation’.

4.3. The instructions for use shall include concise, complete, correct and clear information that is relevant, accessible and comprehensible to the Buyers Group. The instructions for use must at least satisfy the conditions described in 'Annex 2d – Instructions for use'.

4.4. The Contractor must update this documentation at least with every Substantial Modification made to the AI System during the term of the Agreement, and subsequently make it available to Buyers Group through submission of the supplier deliverables (i.e. SD1.1, SD2.1 or SD3.1).

4.5. The technical documentation and instructions for use must be drawn up in English. Instructions are to be made available in all local languages to be tested at the Demonstration Sites.

5 Record-keeping

5.1. The Contractor ensures that the AI System shall be designed and developed with capabilities enabling the automatic recording of events ('logs') while the AI System is operating. Those logging capabilities shall conform to the state of the art and, if available, to recognised standards or common specifications.

5.2. The logging capabilities shall ensure a level of traceability of the AI System's functioning throughout its lifecycle that is appropriate to the Intended Purpose of the system and Reasonably Foreseeable Misuse. In particular, they shall enable the recording of events relevant for the identification of situations that may:

a) result in the AI System presenting a risk to the health or safety or to the protection of fundamental rights of persons; or
b) lead to a Substantial Modification.

5.3. The Contractor will allow the Buyers Group, respectively the relevant user groups (e.g. intermediaries), to access the logs automatically generated by the AI System on a real time or near to real-time basis where such functionality is required by the Challenge Brief (TD2).

5.4. The Contractor shall keep the logs automatically generated by the AI System, to the extent such logs are under its control based on the Agreement, for the duration of the Agreement. At the end of the term of the Agreement and at any point required as part of Specific Contractors in between, the Contractor will provide these logs to the Buyers Group without delay.

6 Transparency of the AI System

6.1. The Contractor ensures that the AI System has been and shall be designed and developed in such a way that the operation of the AI System is sufficiently transparent to enable Buyers Group to reasonably understand the system's functioning.

6.2. To ensure appropriate transparency, before the Delivery of the AI System at least the technical and organisational measures described in 'Annex 2e – Measures to ensure transparency' shall be implemented by the Contractor. These measures should result in the Buyers Group being able to understand and use the AI System appropriately by understanding how the AI System works and what data it processes, allowing the Buyers Group to explain the decisions taken by the AI System to the persons or group of persons on which the AI System is (intended to be) used.

7 Human oversight

7.1. The Contractor ensures that the AI System has been and shall be designed and developed in such a way, including with appropriate human-machine interface tools, that it can be effectively overseen by natural persons as proportionate to the risks associated with the system.

7.2. The Contractor ensures that, prior to the Delivery, appropriate measures shall be embedded in the AI System and taken to ensure human oversight. These measures, which could include inter alia training of employees of the Buyers Group, shall enable the individuals to whom human oversight is assigned to do the following, as appropriate to the circumstances:

a) Be aware of and sufficiently understand the relevant capacities and limitations of the AI System and be able to duly monitor its operation, so that signs of anomalies, dysfunctions and unexpected performance can be detected and addressed as soon as possible;
b) remain aware of the possible tendency of automatically relying or over-relying on the output produced by the AI System ('automation bias'), in particular if the AI System is used to provide information or recommendations for decisions to be taken by natural persons;
c) be able to correctly interpret the AI System's output, considering in particular the characteristics of the system and the interpretation tools and methods available;
d) be able to decide, in any particular situation, not to use the AI System or otherwise disregard, override or reverse the output of the AI System;
e) be able to intervene on the operation of the AI System or interrupt the system through a "stop" button or a similar procedure.

8 Accuracy, robustness and cybersecurity

8.1. The Contractor ensures that the AI System has been and shall be designed and developed following the principle of security by design and by default. In the light of the Intended Purpose, it should achieve an appropriate level of accuracy, robustness, safety and cybersecurity, and perform consistently in those respects throughout the lifecycle of the AI System.

8.2. The levels of accuracy and the relevant accuracy metrics of the AI System are described in 'Annex 2g – Levels of accuracy'.

8.3. In order to ensure an appropriate level of robustness, safety and cybersecurity, the Contractor shall at least implement the technical and organisational measures described in 'Annex 2h – Measures to ensure an appropriate level of robustness, safety and cybersecurity' before the Delivery of the AI System.

9 Compliance

9.1. The Contractor must ensure from the Delivery of the AI System until the end of the term of the Agreement the AI System complies with these Clauses;9.2. At first request of Buyers Group, the Contractors must make available to Buyers Group all information necessary to demonstrate compliance with these Clauses.

9.3. If during the term of the agreement the Contractor considers or has reason to consider that the AI System is not in conformity with these Clauses, whether in response to a comment by the Buyers Group or not, it shall immediately take the necessary corrective actions to bring the system into conformity. The Contractor shall inform the Buyers Group accordingly.

10 Obligation to explain the functioning of the AI System on an individual level

10.1. In addition to the obligations described in Article 6 of schedule 2, during the term of the Agreement the Contractor is obliged to assist the Buyers Group at the Buyers Group's first request to explain how the AI System arrived at a particular decision or outcome to the persons or group of persons on which the AI System is (intended to be) used. At the minimum, this assistance will include a clear indication of the key factors that led the AI System to arrive at a particular result and the changes to the input that must be made in order for it to arrive at a different outcome.

10.2. The obligation as described in Article 10.1 of schedule 2 comprises the provision to the Buyers Group of all the technical and other information required in order to explain how the AI System arrived at a particular decision or outcome and to offer the persons or group of persons on which the AI System is (intended to be) used the opportunity to verify the way in which the AI System arrived at a particular decision or outcome. The Contractor hereby grants the Buyers Group the right to use, share and disclose this information, if and to the extent necessary to inform the persons or group of persons on which the AI System is (intended to be) used about the functioning of the AI System and/or in any legal proceedings.

Section C – Rights to use the Data Sets

11 Rights to the Buyers Group Data Sets

11.1. The Contractor is not entitled to use the Publication Organisation Data Sets for any purpose other than the performance of the Agreement, except as otherwise provided in 'Annex 2b – The Data Sets'.

11.2. On first request of the Buyers Group, the Contractor must destroy the Publication Organisation Data Sets, except as otherwise provided in 'Annex 2b – The Data Sets'. If the Buyers Group so demands, the Contractor must provide feasible evidence of the destruction of the Publication Organisation Data Sets.

12 Rights to Contractor Data Sets and Third-Party Data Sets

12.1. The Contractor grants the Buyers Group a non-exclusive right to use the Contractor Data Sets and Third-Party Data Sets that is in any event sufficient for performance of the provisions of the Agreement, including the Clauses, except as otherwise provided in 'Annex 2b – The Data Sets'.

12.2. The right of use described in Article 12.1 of schedule 2 includes the right to use Contractor Data Sets and Third-Party Sets for the further development of the AI System, including any new versions thereof, by the Buyers Group or a third party.

13 Hand over of the Data Sets

13.1. On first request of the Buyers Group, the Contractor will hand over the most recent version of Public Organisation Data Sets to the Buyers Group.

13.2. On first request of the Buyers Group, the Contractor will hand over the most recent version of the Contractor Data Sets and Third Party Data Sets to Buyers Group for the Data Sets where such an obligation has been agreed.

13.3. The Data Sets must be handed over to the Buyers Group by the Contractor in a common file format to be designated by the Buyers Group.

Annex 2a – The AI System

Within the scope of these clauses are the following systems or components of systems:

- Please provide a description of the AI System(s). This can also be an algorithmic system that does not qualify as an AI System under the AI Act.
- Please provide a description of the use for which the AI System is intended.

The documentation is provided in the Technical Application section 1.2.2 and is continuously updated through the subsequent offers and supplier deliverables SD1.1, SD2.1 and SD3.1.

Annex 2b – The Data Sets

Procurer Data Sets

The documentation is provided through the publicly available CE Taxonomy and as an annex to Specific Contracts.

Supplier Data Sets and Third Party Data Sets

The documentation is provided in the Technical Application section 1.2.2 and is continuously updated through subsequent offers and supplier deliverables SD1.1, SD2.1 and SD3.1

Annex 2c – Technical documentation

The following documentation is provided in the Technical Application section 1.2.2 and is continuously updated through subsequent offers and supplier deliverables SD1.1, SD2.1 and SD3.1

The technical documentation shall contain at least the following information, as applicable to the relevant AI System:

1. a general description of the AI System including:
    a. its intended purpose, the name of the Contractor, the date and the version of the system;
    b. the nature of data likely or intended to be processed by the system and, in the case of personal data, the categories of natural persons and groups likely or intended to be affected;
    c. how the AI System can interact or can be used to interact with hardware or software that is not part of the AI System itself, where applicable;
    d. the versions of relevant software or firmware and any requirement related to version update;
    e. the description of all forms in which the AI System is placed on the market or put into service;
    f. the description of hardware on which the AI System is intended to run;
    g. where the AI System is a component of products, photographs or illustrations showing external features, marking and internal layout of those products.
    h. a detailed and easily intelligible description of the system's main optimisation goal or goals;
    i. a detailed and easily intelligible description of the system's expected output and expected output quality;
    j. detailed and easily intelligible instructions for interpreting the system's output;
    k. examples of scenarios for which the system should not be used.

2. a detailed description of the elements of the AI System and of the process for its development, including:
    a. the methods and steps performed for the development of the AI System, including, where relevant, recourse to pre-trained systems or tools provided by third parties and how these have been used, integrated or modified by the Contractor including a description of any licencing or other contractual arrangements related to such third-party inputs;
    b. the design specifications of the system, namely the general logic of the AI System and of the algorithms; the key design choices including the rationale and assumptions made, also with regard to persons or groups of persons on which the system is

intended to be used; the main classification choices; what the system is designed to optimise for and the relevance of the different parameters; the decisions about any possible trade-off made regarding the technical solutions adopted to comply with the requirements set out in these Clauses;

c. the description of the system architecture explaining how software components build on or feed into each other and integrate into the overall processing; the computational resources used to develop, train, test and validate the AI System;
d. where relevant, the data requirements in terms of datasheets describing the training methodologies and techniques and the training data sets used, including information about the provenance of those data sets, their scope and main characteristics; how the data was obtained and selected; labelling procedures (e.g. for supervised learning), data cleaning methodologies (e.g. outliers detection);
e. where applicable, a detailed description of pre-determined changes to the AI System and its performance, together with all the relevant information related to the technical solutions adopted to ensure continuous compliance of the AI System with the relevant requirements set out in these Clauses;
f. the validation and testing procedures used, including information about the validation and testing data used and their main characteristics; metrics used to measure accuracy, robustness, cybersecurity and compliance with other relevant requirements set out in these Clauses as well as potentially discriminatory impacts; test logs and all test reports dated and signed by the responsible persons, including with regard to pre-determined changes as referred to under point 2.5;
g. cybersecurity measures put in place.

Detailed information about the monitoring, functioning and control of the AI System, in particular with regard to: its capabilities and limitations in performance, including the degrees of accuracy for specific persons or groups of persons on which the system is intended to be used and the overall expected level of accuracy in relation to its intended purpose; the foreseeable unintended outcomes and sources of risks to health and safety, fundamental rights and discrimination in view of the intended purpose of the AI System.

3. a detailed description of the risk management system in accordance with Article 2 of schedule 2;
4. a description of any relevant change made by the Contractor to the system through its lifecycle.

Annex 2d – Instructions for use

The instructions are to be provided in as part of the Delivery and as a self-standing annex to supplier deliverables SD2.1 and SD3.1.

The instructions for use shall contain at least the following information, as applicable to the AI System:

1. the identity and the contact details of the Contractor and, where applicable, of its authorised representatives;
2. the characteristics, capabilities and limitations of performance of the AI System, including where appropriate:
    a. the Intended Purpose;
    b. the level of accuracy, robustness and cybersecurity referred to in Article 8 of schedule 2 against which the AI System has been tested and validated and which can be

expected, and any clearly known and foreseeable circumstances that may have an impact on that expected level of accuracy, robustness and cybersecurity;

c. any clearly known or foreseeable circumstance, related to the use of the AI System in accordance with the Intended Purpose or under conditions of Reasonably Foreseeable Misuse, which may lead to risks to the health and safety or fundamental rights;
d. the degree to which the AI System can provide an explanation for decisions it takes;
e. its performance as regards the persons or groups of persons on which the AI system is intended to be used;
f. relevant information about user actions that may influence system performance, including type or quality of input data, or any other relevant information in terms of the training, validation and testing data sets used, considering the intended purpose of the AI System.

3. the changes to the AI System and its performance which have been pre-determined by the Contractor, if any;
4. the human oversight measures referred to in Article 7, including the technical measures put in place to facilitate the interpretation of the outputs of the AI System by the Buyers Group;
5. the expected lifetime of the AI System and any necessary maintenance and care measures to ensure the proper functioning of that AI System, including as regards software updates;
6. a description of the mechanisms included within the AI System that allows users to properly collect, store and interpret the logs.

Annex 2e – Measures to ensure transparency

The documentation is provided in the Technical Application section 1.2.4 and is continuously updated through subsequent offers and supplier deliverables SD1.1, SD2.1 and SD3.1

Please provide here a description of the technical and organisational measures to be taken by the Supplier to ensure transparency in accordance with Article 6 of Schedule 2.

Annex 2f – Measures to ensure human oversight

The documentation is provided in the Technical Application section 1.2.3 as well procedures foreseen for quality assurance in section 1.3 and 1.4 continuously updated through subsequent offers and supplier deliverables SD1.1, SD2.1 and SD3.1

Please provide here a description of the technical and organisational measures to be taken by the Supplier to ensure human oversight in accordance with Article 7 of Schedule 2.

Annex 2g – Levels of accuracy

The documentation is provided in the Technical Application section 1.2 and is continuously updated through the subsequent offers and supplier deliverables SD1.1, SD2.1 and SD3.1.

Annex 2h – Measures to ensure an appropriate level of robustness, safety and cybersecurity

The documentation is provided in the Technical Application section 1.2 and is continuously updated through the subsequent offers and supplier deliverables SD1.1, SD2.1 and SD3.1.

Please provide here a description of the technical and organisational measures to be taken by the Contractor to ensure an appropriate level of robustness, safety and cybersecurity in accordance with Article 8 of schedule 2.

These measures must ensure that the AI System shall be as resilient as possible regarding errors, faults or inconsistencies that may occur within the system or the environment in which the system operates, in particular due to their interaction with natural persons or other systems.

The AI System shall be resilient as regards to attempts by unauthorised third parties to alter their use, behaviour, outputs or performance by exploiting the system's vulnerabilities. The technical solutions to address AI specific vulnerabilities may include, where appropriate, measures to prevent, detect, respond to, resolve and control for attacks trying to manipulate the training dataset ('data poisoning'), or pre-trained components used in training ('model poisoning'), inputs designed to cause the model to make a mistake ('adversarial examples' or 'model evasion'), confidentiality attacks or model flaws, which could lead to harmful decision making.

Signatures

Authorised to sign for the Buyers Group

(Full Name, Date, Place, Signature)

Authorised to sign for the Contractor

(Full Name, Date, Place, Signature)