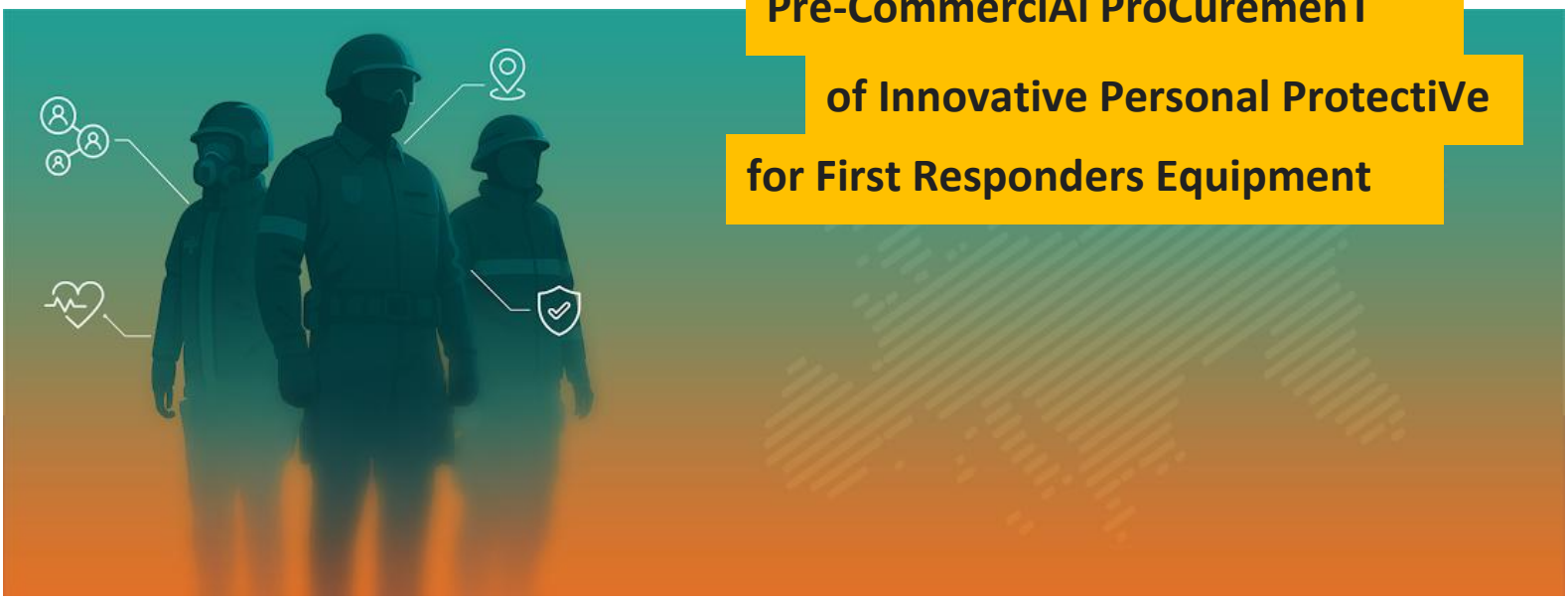
ACTIVE PCP



Pre-CommerciAl ProCuremenT of Innovative Personal ProtectiVe for First Responders Equipment

Tender Document 7 (TD 7): Framework Agreement

This project has received funding from the European Union's Horizon Europe Research and Innovation Programme under Grant Agreement No 101226110.

PCP Framework Agreement

PREAMBLE

This is a framework agreement ("Agreement" or "Framework Agreement") between the following parties:

On the one part, the "Contracting Authority", KENTRO MELETON ASFALEIAS (KEMEA), established in P. KANELLOPOULOU 4 Str., ATHINA 10177, Greece,

acting in the name and on behalf of the procurers in the buyers group (together with the Contracting Authority: "procurers"):

-……

On the other part, the "contractor", [insert details of the contractor],

[OPTION for joint tenders: acting in the name and on behalf of the other members of 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, buyers group and the contractor(s) shall be referred to together as "parties", unless otherwise specified.

By signing this Agreement the parties agree to implement the pre-commercial procurement in accordance with the Agreement and all the obligations it sets out.

The Agreement is composed of:

- Preamble

- Terms and Conditions

Annex 1 Request for tenders

Annex 2 Contractor's tender

TERMS AND CONDITIONS

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 and for the Specific Contracts that will be awarded for each of the 3 PCP phases.

Article 2 — Conditions for the execution of activities

2.1 The Contractor undertakes to fulfill the obligations under this Framework Agreement with its own means, by organizing and managing at its own risk.

2.2. The Contractor shall inform the Lead Procurer in compliance with and, in any case, promptly upon the Lead Procurer's first request, of the progress of the Project. Without prejudice to other provisions hereunder, the Contractor shall notify the Lead Procurer of any proposed deviation from the agreed scope of work or if significant developments occur as R&D work progresses as soon as possible after the Contractor becomes aware of the necessity or usefulness of such deviation.

2.3. The Contractor shall ensure full communication takes place between the Parties and such others as may be notified to the Contractor by the Lead Procurer and shall advise as required on the Project.

2.4. The contractor shall implement the contract in compliance with all of the following obligations in line with the requirements of the Call for Tender (TD1): a) The 'Compliance with definition of R&D services'. b) The 'Place of performance obligation'. c) The 'Place of establishment and control'. In case of breach of any of the above contractual obligations, the contracting authority is entitled to require that the contractor transfers the ownership of the results to the contracting authority

2.5. During the execution of the Framework Agreement and without any interference in the Contractor internal processes, the Lead Procurer reserves the right to monitor periodically the progress of the contractual performance.

2.6. The Contractor undertakes not to subcontract essential parts of the contracts, nor the management of the PCP activities (these tasks will have to be performed by the Contractor or at least by full-subsidiary companies owned by the Contractor), unless deemed necessary by both Parties and agreed upon in writing between the Parties. The Lead Procurer shall terminate this agreement forthwith in case of failure by the Contractor to comply with the provisions under this article

2.7. In providing the services as required under this Framework Agreement and Phase Contract(s), the Contractor shall ensure full compliance with the requirements on R&D Services

Article 3 - Duration

3.1 The Framework Agreement becomes effective upon signing by both parties and shall remain in effect (unless terminated in accordance with Article 18) until the Completion Date (as defined below) of Phase I or of a later Phase that has been awarded to the Contractor. However, confidentiality obligations and provisions shall remain applicable for 5 years after the end of the Framework Agreement in accordance with Article 6. Please note that Contractors who are awarded contracts for the Phases 2 and 3 shall sign a formal assignment for that particular phase.

3.2 The period of execution of the tasks may be extended only with the express written agreement of the parties before the expiration of the period for execution of the tasks, in compliance with the provisions of Article 20.

Article 4 — R&D services to be provided

The contractor shall provide the R&D services (tasks, deliverables and milestones) to develop solutions to tackle the challenge set out in the tender documents and the Specific Contracts, in compliance with the rules of the state aid framework for R&D&I in its latest version[1].

Article 5-Duties of the Parties

5.1. The Contractor is entering into this Framework Agreement on the assumption that the details of the Project as provided by the Lead Procurer (on behalf of the Buyers Group) are accurate and complete.

5.2. The Contractor undertakes to perform all the activities subject of this Framework Agreement in accordance with it, in compliance with the applicable regulations and in accordance with the conditions, procedures, terms and provisions contained, in the PCP Call for Tenders (TD1), the Tender Documents and related annexes and the in the Financial offer form (TD4) and the Technical offer form (TD3). The Contractor further undertakes to allocate sufficient resources, equally, to each Phase Contract that the Contractor is awarded, in order to comply with its obligations in any such Phase. The Contractor also undertakes to ensure that each member of the Contractor's Staff engaged on the Project observes the terms and conditions of this Framework Agreement and any amendment entered into between the Parties hereto, and that the Contractor's Staff are advised of any changes in the scope of the Framework Agreement or the PCP Project.

5.3. The Contractor undertakes to:

a) Co-operate with the Lead Procurer in all matters relating to the project.

b) Obtain and at all times maintain during the collaboration all necessary Licenses and consents required for the performance of this Framework Agreement.

c) Subject to the prior written approval of the Lead Procurer, appoint or, at the written request of the Lead Procurer, holding reasonable grounds for the request, replace without delay:

i. The Contractor's Representative; and/or

ii. key staff, who shall be suitably skilled, experienced and qualified to carry out the Project

d) Ensure the availability of the Contractor's Representative and (key) staff for the purposes of the Project. I.e., the Contractor undertakes to ensure that all required key staff will be available to deliver the required services at agreed levels of quality and in a timely manner.

[1] Framework for state aid for research and development and innovation: https://ec.europa.eu/competition/state_aid/modernisation/rdi_framework_en.pdf

e) Promptly inform the Lead Procurer of the absence of the Contractor's Representative and/or key staff. If the Lead Procurer so requires, the Contractor shall provide a suitably qualified replacement.

f) Not make any changes to the Contractor´s Representative, sub-contractors or the key staff without the prior written approval of the Lead Procurer. Such approval not to be unreasonably withheld or delayed.

g) Ensure that the Contractor's team uses reasonable skill and care during the project.

h) Be responsible for the accuracy of all drawings, documentation and information supplied to the Lead Procurer in connection with delivery of this Framework Agreement. The contractor shall:

i Observe and comply, and ensure that the Contractor's team observes and complies with all rules, regulations and technical requirements and all any other reasonable requirements and safety regulations as well as those that may subsequently be enacted or issued by the Lead Procurer. For the avoidance of any doubt, the Contractor undertakes that any increased costs, resulting from the need to observe the rules and regulations referred to in the previous paragraph, even if entered into force after the signing of the Framework Agreement, will remain the exclusive responsibility of the Contractor, unless it would be unreasonable for Contractor to, in which case the Parties will consult with each other in all fairness how to deal with any of these increased costs. Therefore, the same Contractor cannot claim any payments, as such, against the Lead Procurer and/or any other third parties, to the extent of its jurisdiction, and will assume all the risks related to any subsequent amendments to the law in force, which may impose additional charges subsequent to those provided at the time of the submission of offers. The Contractor expressly agrees to indemnify and hold harmless the Lead Procurer and/or, in any case, any third party, for all the consequences arising from any breach by the Contractor of the rules and technical requirements, safety, and other related regulations.

ii. Acknowledge and adjust to any modification with respect to the specifications by the Lead Procurer as the case may be.

iii. Notify the Lead Procurer as soon as it becomes aware of any issues which arise in relation to the Project.

5.4. The Lead Procurer shall:

a) Co-operate with the Contractor in all matters relating to the project and appoint (and replace, if appropriate) the Lead Procurer's representative.

b) Provide such information as the Contractor may reasonably request and the Contractor considers reasonably necessary, in order to carry out the project, in a timely manner, and ensure that it is accurate in all material respects

5.5. The Contractor acknowledges and unconditionally accepts that the Lead Procurer's is and remains unconditionally entitled to analyse the results of

the PCP Phases and to re-use, integrate and to publish the advice (or parts thereof), in whatever form or manner the Lead Procurer's deems necessary

Article 6 — Pricing, payment and accounting

6.1 The Lead Procurer will be responsible for the payments on behalf of the buyers group.

6.2 The price for the R&D services to be implemented for each PCP phase will be set out in the Specific Contracts (TD8).

6.3 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 phase 2 or 3 offers, they shall become binding for the remaining phases
- if offered unit prices from phase 1 are changed in phase 2 and / or phase 3 offers, this should be duly notified and explained by Contractor.

6.4 The total amount to be paid by the Contracting Authority to the Contractor shall not exceed the relevant amounts detailed in Section 2.6 of the PCP Call for Tenders (TD1). Subject to these limits the Contractor is free to administer received payments within the terms of this Framework Agreement without further reference to the Contracting Authority.

6.5 Payment for the Contractor's Services for each Phase will be made according to the following provisions:

PHASE 1: payment of the Price for Phase 1 shall be made in one part. The payment of 100% shall be paid within 30 calendar Days from the date of the decision of the Procurement Evaluation Committee confirming that the Contractor has complied with the Performance Conditions as described in section 5.2 of the Call for Tenders (TD1) document applicable to such Phase and is thus considered to have completed the Phase satisfactorily.

PHASE 2: payment of the Price for Phase 2 shall be made in two parts. The Contractor shall be paid a first payment of 50% of the Price for Phase II within 30 calendar Days from the date of the decision of the Procurement Evaluation Committee to accept the successful completion of the interim deliverables of the Contractor to Phase 2 The second payment of 50% shall be paid within 30 calendar Days of the decision of the Procurement Evaluation Committee confirming that the Contractor has complied with the Performance Conditions as described in section 6.2 of the Call for Tenders (TD1) document applicable to such Phase and is thus considered to have completed the Phase satisfactorily.

PHASE 3: payment of the Price for Phase 3 shall be made in three parts. The Contractors shall be paid a first payment of 45% of the Price for Phase 3 within 30 calendar Days from the date of the decision of the Procurement Evaluation Committee to accept the successful completion of the interim deliverables of the Contractor to Phase 3. The second payment of 40% shall be paid within 30 calendar Days from the date of the decision of the Procurement Evaluation Committee confirming that the Contractor has complied with the Performance Conditions as described in section 6.2 of the Call for Tenders (TD1) document applicable to such Phase and is thus considered to have completed the Phase satisfactorily. The third payment of 15% shall be paid within 30 calendar Days form the date of the decision of the Procurement Evaluation Committee confirming that ACTIVE PCP project has successfully concluded.

In case of Default, any payment already made may be reclaimed, including for the case in which the Procurement Evaluation Committee concludes that Phase 3 was not satisfactorily completed.

6.6 The Contractor accepts, upon first request from the Procuring Entity, to provide the Procuring Entity with complete, relevant and clear information as well as documentary evidence about the allocation of monies paid by the Procuring Entity.

6.7 Payments to third parties employed or hired by the Contractor, if any, shall remain the responsibility of the Contractor who shall ensure that such payments are made promptly and shall hold the Procuring Entity harmless against any claim of such third parties.

6.8 During the Project Period, payments will be made by the Procuring Entity pursuant to invoices issued by the Contractor and addressed to the Procuring Entity. The Procuring Entity may suspend this payment at any time if, in its view, acting reasonably, satisfactory progress on the Project has not been maintained, or reports have not been submitted as required under Article 3.

6.9 Subject to the confidentiality obligations set forth in Article 8, the Contractor grants to the Procuring Entity, acting, as the case may be, through agents authorized for that purpose, and to any statutory or regulatory auditors of the Procuring Entity, a right to access (and, if necessary to copy) the relevant financial records during normal business hours.

6.10 The Contractor shall provide all reasonable assistance at all times during the term of the Agreement and during a period of five (5) years after termination or expiry of this Agreement for any reason whatsoever, for the purposes of allowing the Procuring Entity to obtain such information as is necessary to fulfil the Procuring Entity's obligations to supply information for national or supra-national parliamentary, governmental, judicial or other administrative purposes and/or to carry out an audit of the Contractor's compliance with this Agreement including all activities, performance, security and integrity in connection therewith.

6.11 If at any time an overpayment has been made to the Contractor for any reason whatsoever, the amount of such overpayment shall be considered when assessing any further payments, or shall be recovered from the Contractor at the Procuring Entity's discretion.

6.12 The Contractor shall keep and maintain, up until at least ten years after this Agreement has been completed, full and accurate records of the Project including:

6.12.1 all aspects of the Project;

6.12.2 all expenditure paid by the Procuring Entity; and

6.12.3 all payments made by the Procuring Entity, and the Contractor shall allow upon request by the Procuring Entity or the Procuring Entity's representatives such access to those records as may be required in connection with the Agreement.

6.13 Where the Contractor enters into a Sub-Contract with a supplier or Contractor for the purpose of performing the Contract, it shall cause a term to be included in such a Sub- Contract that requires payment to be made of undisputed sums by the Contractor to the Sub- Contractor within a specified period not exceeding 30 calendar Days from the receipt of a valid invoice, as defined by the Sub-Contract requirements.

6.14 Wherever, under the Contract, any sum of money is recoverable from or payable by the Contractor (including any sum that the Contractor is liable to pay to the Procuring Entity in respect of any breach of the Contract), the Procuring Entity may unilaterally deduct that sum from any sum then

due, or which at any later time may become due to the Contractor under the Contract or under any other agreement with the Procuring Entity.

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

6.16 The Procuring Entity presume that the intention is to prevent abnormal price offers, price estimation for research prices, and calculations of future market price of solutions. In case of suspicion of abnormal price offers the robustness of calculation has to be declared to the ACTIVE PCP consortium or advisory board.

Article 7 — Ownership of the results (foreground), pre-existing rights (background) and sideground (including intellectual and industrial property rights)

7.1 Rights and obligations concerning all (fore-, back- and sideground) Intellectual Property Rights.

7.1.1. Contractor shall take all appropriate and necessary measures to ensure the proper management of the Project Intellectual Property Rights.

7.1.2 Each contractor is responsible for the management (including protection) of its Intellectual Property Rights as stated in 7.1.1 and bears the costs associated with this.

7.1.3 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 Project Intellectual Property Rights, or any other proprietary right on the Results, the Contractor shall promptly notify the Procuring Entity of the infringement or violation.

7.1.4 The procurers have the right to monitor the management of the IPRs.

7.1.5 The contractor must inform the buyers group (via the Contracting Authority) of results that can be exploited, regardless of whether they can be protected or not, within 30 days from when they are generated. The information submitted to the Contracting Authority must include information about the contents of the results, the confirmation by the contractor to protect them and the planned timing for protection.

7.1.6 For Results that are not IPRs, like prototypes and first products resulting from the R&D, design, prototype and first product/service specifications, simulations, data models, drawings, source code, the same rules as for IPRs will apply.

7.1.7 The Contractor will provide each of the ACTIVE PCP consortium members an irrevocable, indefinite, worldwide, royalty-free and non-exclusive license to use all Results, including Project Intellectual Property Rights and the Pre-existing rights *that are needed to perform the Project for the purpose of executing the Project* as well as for non-commercial research purposes, including trials set up to test the validity of the Results. In case of Results that constitute software, the non-commercial research license will extend to all updates and upgrades thereof during the trials set up to test the validity of the Results.

7.2 Rights and obligations concerning foreground Intellectual Property Rights.

7.2.1 Each contractor that generates Results owns the attached (foreground) IPRs.

7.2.2 If a contractor does not seek protection for results that should be protected, the Contracting Authority may request him to transfer the results and IPR to them.

7.2.3 The contractor grants to the buyers group irrevocable, royalty-free, non-exclusive, world-wide access rights to use the results, for their own purposes (for IPRs: until their expiry date).

7.2.4 The buyers group has the right to require the contractor to grant — within a reasonable time period specified in the request — non-exclusive licences to third parties to commercially or non-commercially exploit the results under fair and reasonable conditions, without the right to sub-license.

7.2.5 The contractor may grant non-exclusive licences to third parties allowing them to exploit the results (or otherwise give the right to exploit them) — unless this impedes the access rights of the buyers group.

7.2.6 The contractor may transfer ownership of its results — unless this is prohibited (or restricted) by the security obligations and provided that it ensures that its obligations (in respect of the results) apply to the new owner and that this new owner is obliged to pass them on any subsequent transfer (e.g. by including a requirement to do so in their arrangements with the new owner).

7.2.7 The contractor is required to deposit copies of Results (e.g. the source code and design specifications) to guarantee for the buyers group a continued access to results in case of financial bankruptcy of the contractor (or any of its subcontractors).

- Under an ESCROW agreement for Software.

- As a copy to the buyers group in case of designs, drawings, reports and specifications.

- As a copy of the original in the case of hardware (and prototype).

7.2.8 If a contractor wants to transfer its IPR to another party, and the procurers in the buyers group still have rights or requests regarding the IPR, the contractor must give at least 45 days prior notice of its intention to transfer ownership of the results. Furthermore, this notification must include sufficient information on the new owner to enable the procurers to assess the effects of their access rights. A procurer can object within 30 days of receiving such a notification if it is demonstrated that the transfer would adversely affect access rights and the transfer may not take place until an agreement has been reached between the parties concerned.

7.3 Rights and obligations concerning background and sideground Intellectual Property Rights.

7.3.1 The property rights of background IPRs do not change under this Framework Agreement. All Pre-existing rights remain the property of the party introducing the same (or any third party supplier that owns it) and nothing contained in this Framework Agreement or any license contract pertaining or pursuant to the Project shall affect the ownership rights of either party (or any third party) in its Pre-existing rights.

7.3.2 Parties must inform each other about the generation of/changes in pre-existing rights and sideground within 30 days from the generation /change.

7.3.3 The contractor introducing background must, within 14 days of the signing of the PCP framework agreement, provide the Contracting Authority with a list of the pre-existing rights it holds and/or has access to (e.g. via its subcontractors) at the date of the agreement and a list of the software necessary for the operation of the prototype and first products that will be developed during the PCP, specifying

which software is closed source software. An updated list (to the extent necessary) must be provided with each bid for the next phase.

The access that the parties must grant each other to each other's pre-existing rights and sideground for carrying out the tasks assigned to them in the PCP, for exploitation of results generated in the PCP and for using the results for their own purposes (normally at least to the buyers group). The conditions for access should be fair and reasonable to all parties, i.e.:

- on a royalty-free, non-exclusive basis, access to each other's background, solely for carrying out the tasks assigned to them in the PCP.
- under fair and reasonable conditions and on non-exclusive basis, access to each other's background, for exploitation of results generated in the PCP and for using the results for their own purposes.
- under fair and reasonable conditions and on non-exclusive basis, access to each other's sideground, for carrying out the tasks assigned to them in the PCP, for exploitation of results generated in the PCP and for using the results for their own purposes.

7.3.4 The Contractor shall, within four (4) years after the end of the Framework Agreement, take measures to ensure that the Project Results are exploited commercially (directly or indirectly, in particular through licensing). Contractor will report on request of the Procuring Entity about the progress on the commercial exploitation of the results during the 4-year period aforementioned (max. once per year).

7.3.5 If the Contractor fails to commercially exploit the Results within this period, or uses the Results to the detriment of the public interest, the Contractor shall, at Procuring Entity's request, transfer the ownership of the Results to the Procuring Entity free of costs or sub-licenses IPRs to third parties indicated by the Procuring Entity. 'Failure to commercially exploit the Results' means not marketing a commercial application of the Results (directly or indirectly, through a subcontractor or licensee).

7.3.6 The contractor must ensure that it complies with its obligations under the framework agreement and specific contracts if it uses subcontractors; that it must obtain all necessary rights (transfer, licences or other) from subcontractors, as if they were generated by itself; that it should refrain from using subcontractors if obtaining those rights is impossible.

Article 8 — Confidentiality

8.1 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 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. The parties may disclose confidential information to their staff or to third parties involved in the PCP implementation 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; and

(b) they are bound by an obligation of confidentiality. The procurers may disclose confidential information to the EU 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 was already known by the recipient or is given to him without obligation of confidentiality by a third party that was not bound by any obligation of confidentiality;

(c) the recipient proves that the information was produced without the use of confidential information;

(d) the information becomes generally and publicly available, without breaching any confidentiality obligation; or

(e) the disclosure of the information is required by EU or national law.

8.2 The Lead Procurer and the members of the PBG may disclose confidential information to the EU granting authority if required under their Horizon Europe grant agreement.

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.

8.3 The Contractor is fully responsible and liable for the effective performance, by his employees, consultants and collaborators, of the confidentiality obligations herein and undertakes to impose this confidentiality obligation on all those persons who, as a result of their position, become acquainted – directly or indirectly – with any confidential information. Moreover, the Contractor must ensure that the security clearances of employees who interact in the execution are in accordance with the requirements of this contract.

8.4 The Lead Procurer undertakes to keep secret and strictly confidential trade secrets – such as business plans, R&D maps or trajectories, customer lists, etc. – received from the Contractor and ensures that all members of the buyers group will be bound by the same confidentiality obligations towards the Contractor.

Article 9 — Promotion, publicity and communication

9.1 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.

All communication activities shall comply with the applicable confidentiality and security restrictions.

During the implementation of the contract and for a period of 5 years after the end of the contract, the contractor shall inform the Contracting Authority 28 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.

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

- for communication activities: ‘This is part of the ACTIVE PCP project that has received funding from the European Union’s Horizon Europe Research and Innovation Programme’;

- for infrastructure, equipment and major results: 'This solution is part of the ACTIVE PCP project that has received funding from the European Union's Horizon Europe Research and Innovation Programme'. 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 they reflect only the author's views.

9.2 The Procuring entity and 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 procurers may, in particular, publish the names of the participating 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 8. Moreover, before publishing this information, the procurers 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.

9.3 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 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 staff working for the EU (including for the European Commission, EU executive agencies, other EU institutions, bodies, offices or agencies) or for EU Member State institutions or bodies; and copying or reproducing them in whole or in part, in unlimited numbers)*;

(b) distribution to the public *(in particular, publication as hard copies and in electronic or digital format, publication on the internet, as a downloadable or non-downloadable file, broadcasting by any channel, public display or presentation, communicating through press information services, or inclusion in widely accessible databases or indexes)*;

(c) editing or redrafting for the purposes of communication and publicity *(including shortening, summarizing, inserting other elements (such as meta-data, legends, other graphic, visual, audio or text elements), extracting parts (e.g. audio or video files), dividing into parts or using in a compilation)*;

(d) translation;

(e) giving access in response to individual requests made under EU Regulation No 1049/2001, without the right to reproduce or exploit;

(f) storage in paper, electronic or other form;

(g) archiving, in line with applicable rules on document management, and

(h) authorising third parties to act on its behalf or sub-licensing the modes of use set out in points (b), (c), (d) and (f) to third parties if needed for the purposes of communication and publicity.

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 10 — Commercial exploitation of results

10.1 The contractor shall, for at least four (4) years after the end of the Framework Agreement and the Specific Contracts, take measures to ensure that its results are exploited commercially (directly or indirectly, in particular through transfer or licensing).

10.2 If the contractor fails to commercially exploit the results within this period (or uses the results to the detriment of the public interest, *including security interests*), the buyers group has the right to require that ownership of the results be transferred to them.

'Failure to commercially exploit results' means not marketing a commercial application of the results (directly or indirectly, through a subcontractor or licensee).

The Contractor will be required, upon request and no more than once per year, to provide information and reasonable evidence on the measures undertaken towards commercial exploitation, enabling the Lead Procurer/Buyers Group to assess compliance with this obligation.

Article 11 — Conflicts of interest

11.1 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.

11.2 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. 9.3 The Contracting Authority may instruct the contractor to take specific measures to remedy the situation.

Article 12 — Ethics and research integrity

12.1 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 may not:

- carry out activities in a country outside the EU, if they are prohibited in all EU Member States or

- destroy human embryos. The contractor may not carry out activities whose aim is to:

  (a) carry out human cloning for reproductive purposes;

  (b) modify the genetic heritage of human beings in such a way as could make such changes heritable (with the exception of research relating to cancer treatment of the gonads) or

  (c) 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*.

The contractor may not carry out activities that do not focus exclusively on civil applications. The contractor shall respect the fundamental principle of research integrity — as set out in the European Code of Conduct for Research Integrity. 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;
- **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. This means that beneficiaries must ensure that persons carrying out research tasks follow the good research practices and refrain from the research integrity violations described in this Code.

12.2 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 law and

(b) any notification or authorisation for activities raising ethical issues required under national law.

Article 13 — Security-related obligations

13.1 Activities involving dual-use goods or dangerous materials and substances shall comply with applicable EU, national and international law. Before starting the activity, the contractor shall provide the Contracting Authority with a copy of any export or transfer licences required.

13.2 All information that may be used to threaten or harm any member of the buyers group or the proper management of their activities, as well as to cause acts of vandalism or terrorism may only be disclosed or disseminated if the Contractor has first obtained written approval from the Lead Procurer and all the members of the buyers group. The Contractor shall implement appropriate information classification and handling procedures to ensure that sensitive and security-relevant information is identified, protected and shared only on a need-to-know basis.

13.3 The Contractor shall carry out a compliance self-check to guarantee the level of security at the start of the PCP procedure and will have to maintain this level of security throughout the whole project.

To ensure these levels of security, the Contractor will provide and present a safety indicator scorecard formalizing the results of these self-checks on a quarterly basis.

13.4 In the event of a breach of security following an audit or inspection, the Contractor will present a remediation plan no later than fifteen (15) days after delivery of the report indicating the deviation or the breach of security.

13.5. The Contractor will remedy such deviations or failures by implementing the remediation plan within a time period mutually agreed upon by both parties. Additionally, the Contractor shall assist the members of the buyers group to:

a) Investigate and analyse the cause or origin of the incident, and how it occurred.

b) Evaluate the extent of any damage.

c) Recommend security measures/methods.

Article 14 — Processing of personal data

14.1 The Contracting Authority and the buyers group shall process personal data in compliance with the applicable EU and national law on data protection.

14.2 The contractor shall process personal data in compliance with the applicable EU and national law on data protection *(including as well information that relates to authorisations and notification requirements)*.

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

14.4 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 procurers and the EU, before transmitting their data. If explicit prior consent from the data subjects is needed, the contractor must obtain such a consent.

Article 15 — Obligation to provide information and keep records

15.1 The contractor must, at any time during the implementation of the Framework Agreement and Specific Contracts or afterwards, provide any information requested by the Contracting Authority or the buyers group in relation to the Framework Agreement or related contracts concerning the commercialisation of the Results, in a timely manner.

15.2 The contractor must keep, for a period of up to 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.

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

15.4 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 16 — EU checks, reviews, audits and investigations

16.1 Should the EU (including the European Court of Auditors 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.

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

Article 17 — EU impact evaluation

17.1 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 18 — Breach of contract / Termination

18.1 Without prejudice to any other provision of this Framework Agreement, this Framework Agreement may be terminated by either party giving three months' notice in writing to the other, unless the time remaining to the end of the relevant Phase is less than three Months, in which case the notification time shall be all the remaining time till the end of that Phase. Should the option to terminate be exercised by the Procuring Entity, it shall indemnify the Contractor from and against all and any actual loss unavoidably incurred by reason or in consequence of the termination provided that the Contractor takes all immediate and reasonable steps to minimize the loss.

18.2 With regards to Article 18.1, the Procuring Entity will not pay any amount which will exceed the total sums which otherwise should have been paid under this Framework Agreement once the Contractor had fulfilled its obligations under the Agreement.

18.3 The Procuring Entity may at any time by formal notification terminate this Framework Agreement without liability for any damage, loss or expenses arising as a result of or in connection with such termination if there is a change of control in the Contractor which the Procuring Entity can reasonably demonstrate is prejudicial. The Procuring Entity shall only be permitted to exercise its rights pursuant to this clause for 6 (six) months after any such change of control and shall not be permitted to exercise such rights where the Procuring Entity has agreed *a priori* in writing to the particular change of control and such change of control takes place as proposed. The Contractor shall notify the Procuring Entity within 2 (two) weeks if a change of control takes place.

18.4 The Procuring Entity may at any time formal notification terminate this Framework Agreement without liability for any damage, loss or expenses arising as a result of or in connection with such termination if:

- any approvals consent or licenses required under this Framework Agreement are not given unconditionally within 6 (six) months of the commencement of the Project Period;
- the Contractor is subject to an Insolvency Event;

- any provision of this Framework Agreement (other than as previously specified in the preceding provisions of this Article 18) expressly entitles the Procuring Entity to terminate this Framework Agreement;- the Contractor, or any sub-Contractor on whose resources he has relied in the procurement that has preceded this Framework Agreement, becomes subject to any exclusion criteria listed in the PCP Request for Tender document;
- the Services are not in compliance with requirements on Research and development Services as defined in the most recent version of the Frascati Manual (Proposed Standard Practice for Surveys on Research and Experimental Development OECD, 6th Edition, 2002, ISBN 978-92-64- 19903-9, pp 29-50) and, where applicable its latest annexes or in case of non-compliancy with any other requirement mentioned in the PCP Request for Tender document and declared in the signed declaration that is part of the tender.

18.5 Termination of this Framework Agreement by the Procuring Entity under the preceding provisions of this Article shall (at the option of the Procuring Entity) terminate this Framework Agreement with immediate effect as from the date of service of the notice of that termination or from the expiry of a period (not exceeding 6 (six) Months) specified in that notice.

18.6 The Contractor is in breach of an obligation under this Framework Agreement, if:

i. the breach can be remedied and the Contractor has failed to remedy the breach within thirty (30) days of written notice being sent to the Contractor specifying the breach and requiring its remedy; or

ii. the breach cannot be remedied (but does not constitute a serious or repeated breach or grave professional misconduct by the Contractor); b) failure by the Contractor to comply with the contractual obligations (including those related to the Specific Phase Contracts) in accordance with the law in force and the conditions, procedures, terms and requirements contained in this Framework Agreement, its Annexes and in the Phase Contracts, including, but not limited to:

i. Breach of any of its confidentiality obligations.

ii. A situation of Conflict of Interest according to Article 11 arises during the implementation of the contract, including subcontractors.

iii. Breach of any of its data protection obligations and c) Failure to submit a deliverable or to meet any expected outcome/result within ten (10) days of the date by which it was meant to be achieved, or repeatedly fails over a period of three consecutive months to submit a deliverable or to meet any expected outcome/result by the date(s) on which they were meant to be achieved.

18.7 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.

18.8 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.

Article 19 – Force majeure

19.1 In accordance with this Framework Agreement, neither Party may be held responsible by the other Party for circumstances beyond the Party's control and which the Party, on signing the Framework Agreement or the specific order, could not have taken into consideration or avoided or overcome. Circumstances that a diligent Contractor could have prevented by taking the customary and reasonable precautions are not considered force majeure, including those relating to internal strikes and illness, and/or any default of a service, defect in equipment or material or delays, unless they stem directly from a relevant case of force majeure.

19.2 Force majeure may only be asserted for the number of working days that the force majeure situation persists.

19.3. Insofar as a deadline for the Contractor is deferred because of force majeure, the payments relating to this deadline will be deferred correspondingly.

19.4. Any situation constituting force majeure must be formally notified to the other party without delay, stating the nature, likely duration and foreseeable effects. Force majeure may only be cited if the affected Party has given written notification thereof to the other Party no later than ten (10) working days after the commencement of the force majeure.

19.5. The parties must immediately take all the necessary steps to limit any damage due to force majeure and do their best to resume implementation of the action as soon as possible. The party prevented by force majeure from fulfilling its obligations under the Framework Agreement cannot be considered in breach of them

19.6. The Party not affected by force majeure is entitled to cancel orders if the agreed delivery time is exceeded by thirty (30) working days as a consequence of force majeure.

19.7. The Parties may terminate this Framework Agreement in writing without notice if the impediment or delay as a consequence of the force majeure situation will last or lasts longer than six (6) months.

Article 20 — Amendments

20.1 If at any time, it appears likely that any provision of the Agreement or the Project needs to be amended, the Contractor shall immediately inform the Procuring Entity requesting in writing an amendment to the Agreement, giving full details of the justification for the request and giving proposals for the Variation to the Agreement. Upon receipt of such a request, the Procuring Entity may:

a. agree to amend the Agreement provided such modification is non-discriminatory and does not amount to a substantial change of the Agreement and Specific Contracts (TD8), the scope of services or the scope of the Results, as allowed following the existing case-law of the European Court of Justice;
b. amend the Project in a manner which the Contractor agrees can be carried out within the Project Period and within the Price with regard to the relevant Phases;

c. refuse the request and require the continuation of the Project in accordance with the Framework Agreement; or
d. give notice of termination in accordance with Article 18 if it is not possible to continue with the project in accordance with the Framework Agreement.

20.2 The Lead Procurer may request an amendment to the Agreement at any time, provided such amendment does not amount to a material change to this Framework Agreement, and if parties agree that the change is not unreasonable.

20.3 Any amendment to this Framework Agreement shall be made after agreement between the Parties, and shall be set out in writing, in an addendum to it, and signed by both parties.

20.4 The Framework Agreement constitutes the entire agreement between the parties relating to its subject matter. Each party acknowledges that it has not entered into this Framework Agreement on the basis of any warranty, representation, statement, agreement or undertaking except those expressly set out in this Framework Agreement. Each party waives any claim for breach of this Framework Agreement, or any right to repeal this Framework Agreement in respect of, any representation which is not stated in this Framework Agreement. However, this Article does not exclude any liability which either party may have to the other (or any right which either party may have to repeal this Framework Agreement) in respect of any fraudulent misrepresentation or fraudulent concealment prior to the execution of this Framework Agreement. In case of discrepancy between the Framework Agreement, on the one hand, and the PCP Request for Tender Document, on the other hand, the documents shall prevail in the following order:

- Framework Agreement;
- PCP Request for Tender Document;
- Other Tender Documents; and
- Contractor's Tender in the Tendering Stage.

Article 21 — Interpretation

21.1 The terms set out in the framework agreement have precedence over those in annexes.

21.2 The terms set out in Annex 1 have precedence over those set out in Annex 2 (contractor's tender).

21.3 The same applies to the specific contracts.

Article 22 — Subcontracting

22.1 The Contractor will allow the Commission, the European Court of Auditors (ECA) and the European Anti-fraud Office (OLAF) to exercise their rights under Articles 22 and 23 Grant Agreement (*mutatis mutandis*) and will comply with Articles 17.1, 18, 34, 35, 37, 36, 38, 39 and 46 Grant Agreement (*mutatis mutandis*).

22.2 The Contractor will ensure that in all Sub-Contracts the conditions from the Grant Agreement set out in the above clause 22.1 are imposed upon the subcontractor.

22.3 A third party may replace a Contractor or a member of the Contractor in case of a consortium activity as a result of universal succession in the position of the Contractor following corporate restructuring, including takeover, merger, acquisition or in an Insolvency Event, provided that the third party meets all exclusion, selection, compliance and minimal technical criteria and the succession does not entail a substantial modification.

22.4 The Contractor is allowed to replace a subcontractor, provided that the new subcontractor meets all exclusion, selection, compliance minimal technical criteria and the replacement does not entail a substantial modification.

Article 23 — Applicable law and dispute settlement

23.1 This Framework Agreement and the specific contracts are governed by the Greek Law.

23.2 Considering that PCP is exempted from the EU Public Procurement Directives and subsequently from the national transposition laws, the Greek public procurement law will be applied on a subsidiary basis.

23.3 The place of jurisdiction shall be the competent court of Athens. Any legal claim, petition or application for judicial review, with regard to the present procurement procedure, shall be made in Greece. By submitting a tender, the Contractor accepts the exclusive jurisdiction of Greek courts.

Article 24 — Entry into force

This Framework Agreement shall enter into force between Parties on the day on which KEMEA has received a signed duplicate of this Agreement of the authorized representative of each of the Parties.

SIGNATURES

The Contracting Authority (KEMEA) signs for the buyers group and — in case of joint tenders — the lead contractor for the group of contractors (consortium).

Signed by the duly authorized signatory of the Lead Procurer:

Date:

Signature:

Full Name:

Position held:

Signed by the duly authorized signatory of the Contractor:

Date:

Signature:

Full Name:

Position held: