

DRAFT
FRAMEWORK AGREEMENT
TECHNICAL ASSISTANCE: RISK MANAGEMENT AND
REPORTING INTERVENTIONS UNDER THE EFSD GUARANTEE
‘NASIRA’
(TA1)

- FRAMEWORK AGREEMENT, including the following Schedules:
 - GENERAL TERMS AND CONDITIONS FOR PURCHASE
 - DECLARATION OF CONFIDENTIALITY
 - CODE OF CONDUCT FOR SUPPLIERS
 - MODEL FURTHER AGREEMENT
 - DATA PROCESSING AGREEMENT



Please Note: This document was produced with the financial assistance of the European Union. The views expressed herein can in no way be taken to reflect the official opinion of the European Union.

**FRAMEWORK AGREEMENT
TECHNICAL ASSISTANCE: RISK MANAGEMENT AND
REPORTING INTERVENTIONS
UNDER THE EFSD GUARANTEE ‘NASIRA’**

The undersigned,

1. **Nederlandse Financierings-Maatschappij voor Ontwikkelingslanden**, a public company with limited liability, incorporated under the laws of the Netherlands, having its seat in The Hague, The Netherlands, and its registered office at Anna van Saksenlaan 71, 2593 HW The Hague, The Netherlands, registered with the Chamber of Commerce and Industry for Haaglanden under number 2707 8545, hereinafter referred to as ‘**FMO**’,

and

2. [*Contractor’s full name and legal form*], incorporated under the laws of The Netherlands, having its seat in [.....] and its registered office in ..., at [*office address*], registered with the Chamber of Commerce [.....] under number [.....], legally represented in this matter by..... [*and ...*] [*signatory’s name*], hereinafter referred to as the ‘**Contractor**’,

FMO and [*Contractor*] hereafter also collectively referred to as the ‘**Parties**’

WHEREAS

- A. FMO, the Dutch development bank, entered into an agreement in December 2018 with the European Commission for the NASIRA Risk Sharing Facility for an amount of up to 75 million euro in guarantees (the ‘**NASIRA Facility**’).
- B. The NASIRA Facility enables FMO to set up the NASIRA program and provide for a bilateral loss-sharing scheme between FMO and the certain partner Financial Institutions for unlocking lending to (3) specific target groups (migrants, women and youth aged 18-35 years) that are perceived as being high-risk, with the explicit aim of addressing the root causes of irregular migration.
- C. In addition to the NASIRA Facility, the European Union will likely provide FMO with up to 4 million euro in Technical Assistance to be used for the NASIRA program, including FMO’s Financial Institutions and end-beneficiaries of NASIRA (the ‘**TA Facility**’) to strengthen the ability of the Financial Institutions to better manage the NASIRA Facility and to enhance the potential impact of the program.
- D. FMO requires professional consultancy services to further implement the TA Facility in the operating countries in the Sub Saharan Africa and the European Neighbourhood countries and has invited parties to submit an offer to FMO’s proposal to enter into a Framework Agreement regarding Technical Assistance as required by FMO from time to time.

- E. FMO has published a public tender for this purpose in conformity with the Practical Guide to Contract Procedures for European Union External Actions 2018 ('PRAG') on [day month year].
- F. [Name of Contractor] issued a Tender on [day month year] and is one out of [5] parties that FMO is willing to contract.
- G. [Name of Contractor] has sufficiently familiarised itself with what FMO wishes to achieve as specified in the Request for Proposal, including all Annexes.
- H. The Parties now wish to lay down their contractual rights and obligations in a written contract and enter into this Framework Agreement.

HAVE AGREED AS FOLLOWS

Article 1.1 - Definitions and interpretation

In this Framework Agreement, including the schedules, the terms defined in the Request for Proposal [insert reference to date] shall have the meanings given thereto in the Request for Proposal. In addition thereto, in this Framework Agreement, the following terms shall have the meanings set out below:

Authority means any national, supranational, regional or local government or governmental, administrative, fiscal, judicial, or government-owned body, department, commission, authority, tribunal, agency or entity, or central bank (or any Person, whether or not government-owned and howsoever constituted or called, that exercises the function of a central bank).

FMO Payment means the FMO Payment, substantially in the format provided in the format according to article 18 of the General Terms and Conditions for Purchase.

Corrupt Practice means:

- (a) the promising, offering, giving, making, authorising, insisting on, receiving, accepting or soliciting, directly or indirectly, of any illegal or undue payment or advantage of any nature, to or by any person, with the intention to, or the knowledge that such payment or advantage may, directly or indirectly influence, whether as inducement or reward, the actions or decisions of any person, including causing any person to refrain from any action or decision; or
- (b) any action or omission which is prohibited in any applicable jurisdiction by law or regulation relating to bribery or corruption.

EUR means the single lawful currency unit of the member states of the European Union that adopt or have adopted the euro as their lawful currency in accordance with legislation of the European Union relating to the Economic and Monetary Union.

Further Agreement means the agreement regarding a Project entered into by the Parties under this Framework Agreement to which the terms and conditions of this Framework

Agreement apply and that is drafted in conformity with the template as attached hereto as Schedule 4.

Fraudulent Practice means any action or omission including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial benefit or to avoid an obligation.

Illicit Origin means any origin which is illicit, criminal or fraudulent, including without limitation, corruption, Terrorist Financing, and tax evasion.

Independent Complaints Mechanism means the independent grievance mechanism for investments and financings supported by FMO as may be updated from time to time, and currently made available at <https://www.fmo.nl/independent-complaints-mechanism>.

Independent Expert Panel means the independent external panel that deals with complaints lodged under the Independent Complaints Mechanism.

Independent Expert Panel's Role means (a) to respond to complaints under the Independent Complaints Mechanism by persons who have been or are likely to be affected by the impact of FMO's investments and financings (b) to review FMO's performance, particularly in relation to investments and financings, and to assess compliance with FMO's policies, guidelines, procedures and systems.

Money Laundering Activities means process of moving funds of Illicit Origin through a cycle of transformation in order to create the end appearance of legitimately earned funds. The process of moving funds consists of providing, receiving or assisting in transfer of funds.

Objectionable Practice means any Corrupt Practice, Fraudulent Practice, Money Laundering Activities, Obstructive Practice, Sanctionable Practice or Terrorist Financing.

Obstructive Practice means (i) deliberately destroying, falsifying, altering or concealing evidence material to the assessment or the making of false statements to those performing the assessment, in order to materially impede an assessment of allegations of a Corrupt Practice, Fraudulent Practice, Money Laundering Activities, or Terrorist Financing and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the assessment or from pursuing the assessment, or (ii) acts intended to materially impede the exercise of FMO's access to contractually required information in connection with an assessment of allegations of a Corrupt Practice, Fraudulent Practice, Money Laundering Activities, or Terrorist Financing.

Party means a party to this Agreement.

Person means any natural person, corporation, company, partnership, firm, voluntary association, joint venture, trust, unincorporated organisation, Authority or any other entity whether acting in an individual, fiduciary or other capacity.

Project means the project as described in a Further Agreement under this Framework Agreement.

Project plan and budget means the project plan describing the Project in detail, as set out in a Further Agreement under this Framework Agreement (The Project plan and budget).

Project Costs means the Project Costs as budgeted in the Further Agreement under this Framework Agreement.

Request for an Offer means the invitation by FMO to the Contractors to propose an Offer regarding a Project and to enter into a Further Agreement regarding such Project.

Sanctionable Practice means any business activity or transaction with any entity, individual or country which at or during the time of such business activity or transaction is included in the list of sanctioned entities, individuals or countries published and updated from time to time by the Office of the Foreign Assets Control of the US Department of Treasury (OF AC), the European Union or the United Nations.

Services means the technical assistance, support and/or training to be given by the Contractor in accordance with the Further Agreement(s) under this Framework Agreement.

Terrorist Financing means the financing of terrorists, acts and/or terrorist organisations.

Article 1.2 - Interpretation

- (i) Clause headings are for ease of reference only.
- (ii) The Schedules form an integral part of this Framework Agreement.
- (iii) A reference to a "Party" shall be construed so as to include its successors in title, permitted assigns and permitted transferees.

Article 2 - Subject

- 2.1 The subject of this Framework Agreement is for the Contractor to provide the Services to FMO in conformity with the Further Agreement(s) as entered into by the Parties from time to time under this Framework Agreement.
- 2.2 The Contractor shall execute the Services assigned to him by FMO in accordance with the terms and conditions as laid down in this Framework Agreement.
- 2.3. The General Terms and Conditions for Purchase, as attached as Schedule 1 apply to the relationship between the Contractor and FMO. By signing this Framework Agreement, the Contractor confirms receipt of a copy of the General Terms and Conditions of Purchase and is agreeing without reservation to General Terms and Conditions of Purchase.

Article 3 - Contract value

FMO agrees that it shall make the FMO Payment regarding a Project under any Further Agreement available on the terms and conditions of that Further Agreement.

In the Further Agreement will be specified whether the FMO Payment will either be:

[Option 1: Fee-based and will contain the maximum fees in euro plus incidental expenditure and a provision for the expenditure verification ; or

[Option 2: Global priced (in case of studies and other result-based contracts)

This Framework Agreement, established in [Euro] [<national currency> for indirect management only], is a global price contract. The contract value is [Euro] [<national currency> for indirect management only] <amount>.]

[Explanation: Any Further Agreement will contain the either the possibility to apply a fee based or a global priced consideration, to be further agreed upon in that Further Agreement, once the scope of the Services required will be known.]

Article 4 - Order of precedence of contract documents

The following documents shall form an integral part of this Framework Agreement, in the following order of precedence:

- (i) this Framework Agreement, including all the Schedules;
- (ii) the notification of questions and remarks dated [*date*] 2019;
- (iii) FMO's General Terms and Conditions for Purchase;
- (iv) the Contractor's Proposal dated [*date*] 2019;
- (v) the Request for Proposal, including all the Annexes issued by FMO on [*date*] 2019.

The various documents making up the Framework Agreement shall deemed to be mutually explanatory. In cases of ambiguity or divergence, the documents listed above under (i) up to and including (v) shall prevail in the order in which they appear above. Addenda shall have the order of precedence of the document they are amending. The term 'Agreement' in the General Terms and Conditions of Purchase is to be read as 'Framework Agreement' for the purpose of this Framework Agreement and to be read as 'Further Agreement' for the purpose of any Further Agreements.

Article 5 - Language of the Framework Agreement

The language of the Framework Agreement and of all written communication between the Contractor (including its project manager) and FMO shall be English.

Article 6 - Term and Duration

- 6.1 This Framework Agreement enters into force on the date on which the last party, either FMO or the Contractor, signs it and is concluded for a period of 48 months with effect from the date of its entry into force.
- 6.2 The period for the provision of the Services starts from the date on which any Further Agreement is signed by the last party, either FMO or the Contractor, as indicated in the relevant Further Agreement.
- 6.3 The Services as agreed upon in the Further Agreements must be performed by the Contractor no later than six months after the expiry of the Framework Agreement.

Article 7 - Implementation of Further Agreements

- 7.1 If FMO wishes to enter into a Further Agreement, it will circulate by e-mail an invitation to respond to its Request for an Offer to the parties ([5] in total) who entered into a NASIRA Technical Assistance Framework Agreement with FMO and by doing so FMO will request who is willing and able to propose on or more key expert(s) and perform the technical assistance as further specified in the Request for an Offer.
- 7.2 If the Contractor does not respond to the Request for an Offer or fails to observe the deadline or is in a situation conflicting interests that may negatively affect the performance of the Further Agreement, FMO is not obliged to take that Contractor's Proposal seriously into account.
- 7.3 FMO will select *at it's sole discretion* out of the Offers received the most appropriate Contractor based on the most advantageous quality and price ratio and will enter into a Further Agreement with that Contractor.
- 7.4 It is FMO's intention, but not its contractual obligation, to contract each of the Contractors that entered into a NASIRA Technical Assistance Framework Agreement on a regular basis during the term of this Framework Agreement.

Article 8 - Information

- 8.1 The Contractor shall, if so required by FMO at any time after the termination of the Services, submit to FMO a report on the impact of the Services on the Project, in conformity with the reporting guidelines provided by FMO in that respect.
- 8.2 The Contractor shall retain documents that relate to or are created as a result of or in conformity with this Framework Agreement or any related Further Agreement entered into between the Contractor and FMO until 31 December 2035 and in any case until an ongoing audit, verification, appeal, litigation or pursuit of claim or investigation by OLAF, if notified to the Contractor, has been disposed of. The Contractor will cooperate with FMO in case of a request by FMO to provide any such document and will do so without delay.

- 8.3 The Parties are obliged to comply with the Communication and Visibility Manual for EU External Actions as published by the European Commission. If disclosure in line with the Communication and Visibility Manual threatens the Contractor's safety or harms its interests, the European Commission and FMO may publish in any form and medium, including on its internet sites, the name and address of the Contractor, the purpose and amount of any EU contribution.
- 8.4 The Contractor shall act in conformity with FMO's Know Your Customer Policies during the entire term of this Framework Agreement and any subsequent Further Agreement entered into by the Contractor and FMO.
- 8.5 The Contractor shall ensure that reports, publications, press releases and updates relevant to this Framework Agreement or any of the Further Agreements are communicated upon their issuance to the addresses stated in article 13 of this Framework Agreement.
- 8.6 The Parties will consult immediately and endeavour to remedy any detected shortcomings in implementing the communication and visibility requirements set out in this article. This is without prejudice to measures FMO may take in case of a substantial breach of an obligation by the Contractor.

Article 9 - Payment and interest on late payment

- 9.1 Payments shall be made in accordance with terms as set out in the Further Agreement.
- 9.2 Payments shall be made in euro in accordance with Article 17.1 of the General Term and Conditions for Purchase into the bank account notified by the Contractor to FMO.

Article 10 - Liabilities and Indemnification

10.1 Liabilities

- a) Liability and compensation for damage

The Contractor shall assume (i) full responsibility for maintaining the integrity of the Services and (ii) the risk of loss and damage, whatever their cause.

Compensation for damage to the Services resulting from the Contractor's liability in respect of FMO is capped at an amount equal to two and a half million euro (2,500,000 euro).

However, compensation for loss or damage resulting from fraud or gross negligence of the Contractor, its staff, its subcontractors and any person for which the Contractor is answerable, can in no case be capped.

b) Contractor's liability in respect of FMO

At any time, the Contractor shall be responsible for and shall indemnify FMO for any damage caused to FMO by the Contractor, its staff, its subcontractors and any person for which the Contractor is answerable.

Compensation for damage resulting from the Contractor's liability in respect of FMO is capped at an amount equal to two and a half million euro (2,500,000 euro).

However, compensation for loss or damage resulting from the Contractor's liability in case of bodily injury, including death, can in no case be capped. The same applies to compensation for any damages of any kind resulting from fraud or gross negligence of the Contractor, its staff, its subcontractors and any person for which the Contractor is answerable.

c) Contractor's liability in respect of third parties

The Contractor shall, at its own expense, indemnify, protect and defend, FMO, its agents and employees, from and against all actions, claims, losses or damage, direct or indirect, of whatever nature (hereinafter 'claim(s)') arising from any act or omission by the Contractor, its staff, its subcontractors and/or any person for which the Contractor is answerable, in the performance of its duties. FMO must notify any third party claim to the Contractor as soon as possible after FMO becomes aware of them. If FMO chooses to challenge and defend itself against the claim(s), the Contractor shall bear the reasonable costs of defence incurred by FMO, its agents and employees.

Under this Framework Agreement, the agents and employees of FMO, as well as the Contractor's staff, its subcontractors and any person for which the Contractor is answerable are considered to be third parties.

The Contractor shall treat all claims in close consultation with FMO. Any settlement or agreement settling a claim requires the prior express consent of FMO and the Contractor.

10.2 Insurance

a) General issues

At the latest together with the return of the relevant countersigned Further Agreement(s) under this Framework Agreement, and for the period of implementation of the tasks under the relevant Further Agreement, the Contractor shall ensure that itself, its staff, its subcontractors and any person for which the Contractor is answerable, are adequately insured with insurance companies recognized on the international insurance market, unless FMO has given its express written consent on a specific insurance company.

At the latest together with the return of the relevant countersigned Further Agreement under this Framework Agreement, the Contractor shall provide FMO

with all cover notes and/or certificates of insurance showing that the Contractor's obligations relating to insurance are fully respected. The Contractor shall submit without delay, if FMO so requests, an updated version of the cover notes and/or certificates of insurance.

The Contractor shall obtain from the insurers the consent that they commit to personally and directly inform FMO of any event likely to reduce, cancel or alter in any manner whatsoever, that coverage. The insurers shall deliver this information as quickly as possible, and in any event at least thirty (30) days before the reduction, cancellation or alteration of the cover is effective. FMO reserves the right to indemnify the insurer in case the Contractor fails to pay the premium, without prejudice to FMO's right to recover the amount of the premium it paid, and to subsequently seek compensation for its possible resulting damage.

Whenever possible, the Contractor shall ensure that the subscribed insurance contracts contain a waiver of recourse in favour of FMO, its agents and employees.

The purchase of adequate insurances by the Contractor shall in no case exempt it from its statutory and/or contractual liabilities.

The Contractor shall fully bear the consequences of a total or partial lack of coverage, and to the full discharge of FMO.

The Contractor shall ensure that its staff, its subcontractors and any person for which the Contractor is answerable comply with the same insurance requirements imposed to it under this contract. In case of default of insurance or inadequate insurance of its staff, its subcontractors or any person for which the Contractor is answerable, the Contractor shall indemnify FMO from all consequences resulting therefrom.

Under its own responsibility and without prejudice to the obligation to take out all insurance covering its obligations under this Agreement, the Contractor shall ensure that all compulsory insurances are subscribed in compliance with the laws and regulations in force in the country in which the duties are to be performed. It shall also ensure that all possible statutory obligations applying to the coverage are complied with.

FMO shall not bear any liability for the assessment and adequacy of insurance policies taken out by the Contractor with its contractual and/or statutory obligations.

b) Insurance – Specific issues

The Contractor shall take out all insurance necessary to cover its liability, both with regard to its professional liability and its liability as provided under Article 10.1 'Liabilities and indemnification'.

The Parties agree to derogate from Article 16.2 of the General Terms and Conditions for Purchase, and accept that article 10 of this Framework Agreement ('Liability and indemnification') shall prevail.

Article 11 - Representations and Warranties

11.1 The Contractor represents and warrants for the benefit of FMO, both during the validity of this Framework Agreement and at the time of entering into a Further Agreement, the following:

- (a) It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and, if relevant under such laws, in good standing.
- (b) It has the power to execute this Framework Agreement and any other documentation relating to this Framework Agreement to which it is a party, to deliver this Framework Agreement and any other documentation relating to this Framework Agreement that it is required by this Framework Agreement to deliver and to perform its obligations under this Framework Agreement and has taken all necessary action to authorise such execution, delivery and performance.
- (c) The execution and delivery of this Framework Agreement and the performance of its obligations hereunder does not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets; and
- (d) its obligations under this Framework Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).
- (e) It has the professional skills, know-how and experience to perform the Services, that there are no circumstances reasonably known to it that would prevent it from performing the Services, and that no conflict of interest, financial or otherwise, exists between the Contractor and the FI's.
- (f) Its performance of the Services is not subject to any authorisations, approvals, consents, licenses, exemptions and other requirements of government, judicial and public bodies and authorities required under the applicable law of the trainees, to the extent that these might impede it in fulfilling its duties.
- (g) It has taken out and will maintain adequate life, accident, travel and any other necessary insurance coverage. It has taken out and will maintain adequate professional indemnity insurance and insurance against claims by third parties resulting from acts performed in carrying out the Services. The Contractor shall provide FMO with all cover notes and/or insurance certificates showing that the Contractor's obligations relating to insurance are fully respected on FMO's first request.

- (h) It is not designated by the EU as subject to restrictive measures in the lists provided at www.sanctionsmap.eu (“EU Restrictive Measures”).

The Contractor confirms that:

- (h) it has not violated nor breached any law to which it may be subject, which has resulted in or could reasonably be expected to have a material adverse effect on the Project;
- (i) it, nor any person acting on its behalf, has committed or is engaged in any Objectionable Practice;
- (j) promptly when an Objectionable Practice has occurred and promptly upon the Contractor or FMO becoming aware or having the reasonable suspicion that an Objectionable Practice has occurred or may occur, provide accurate and complete information with respect to such Objectionable Practice and any additional information in relation thereto in whichever form as FMO may request at its sole discretion; and
- (k) it shall not engage in (and shall not authorise or permit any person acting on its behalf to engage in) any Objectionable Practice
- (l) it shall contractually oblige any sub-contractor contracted by the Contractor to perform Services under this Framework Agreement to accept any and all contractual obligations under this Framework Agreement towards FMO. The Contractor will oblige any sub-contractor under this Framework Agreement to act in conformity with the Contractor’s obligations under this Framework Agreement towards FMO.
- (m) it shall be accountable and ultimately liable towards FMO for any damages caused by a misrepresentation or breach of contract by a sub-contractor under a Further Agreement as if the Contractor instead of the sub-contractor caused such damages towards FMO.
- (n) It shall procure that any economic resources provided by FMO under this Framework Agreement shall not be made available to, or for the benefit of, third parties - whether entities, individuals or groups of individuals - designated by the EU as subject to restrictive measures in the lists provided at www.sanctionsmap.eu (“EU Restrictive Measures”).
- (o) It shall cooperate with FMO in assessing if any third parties - whether entities, individuals or groups of individuals – that will or might receive funding as a result of this Framework Agreement fall under the scope of EU restrictive measures. In the event that such recipients would fall under the scope of EU restrictive measures, it shall promptly inform FMO.

Article 12 – Miscellaneous

12.1 FMO shall have the right to suspend or terminate any disbursement hereunder and/or to demand immediate repayment of the FMO Payment if any of the following events occurs:

- a) if the FMO Payment is not entirely used for the financing of the costs of the Services;
- b) if the Services are not carried out in accordance with this Framework Agreement and/or the Further Agreement and/or the Project plan and budget;
- c) if the Contractor is in default in the due performance of any other obligations under this Agreement or any Further Agreement with FMO;
- d) if FMO is of the opinion that any representation, warranty or information made or made available in connection with the FMO Payment is found to be incorrect and/or incomplete and/or misrepresented, or facts or circumstances change materially, to such an extent that, if such information would have been correct and complete and not misrepresented, or facts or circumstances would have been such that FMO would not have offered the FMO Payment to the Contractor as such or not on the same terms and conditions as set out in this Agreement, then FMO shall have the right to suspend or terminate any disbursement hereunder and/or to demand immediate repayment of the FMO Payment .

12.2 FMO shall in no way be responsible and/or liable for any damage, loss or injury in connection with the Services.

12.3 The Contractor shall indemnify FMO and hold FMO harmless against claims of any third party related to any act, fault or neglect of the Contractor or any of its sub-contractor in connection with the Services.

12.4 The submission to such jurisdiction shall not limit the right of FMO to take proceedings in the country of the Contractor or in any other country where the Contractor has any assets.

Article 13 - Communications in writing

13.1 The Parties’ contact persons regarding this Framework Agreement are (respectively):

FMO [insert name and contact details]

Contractor [insert name and contact details]

The contact persons named above cannot make legally binding agreement on the Parties’ behalf.

13.2 Any communication to be made under or in connection with this Framework Agreement shall be made in writing and, unless otherwise stated, may be made by letter, facsimile or electronic means of communication.

a. Address and delivery

Each Party may serve any notice or demand to be made by it to the other Party under or in connection with this Frame Agreement, a Further Agreement and/or a Project by having such notice or demand delivered by courier service, by letter posted by prepaid first-class or priority post, by facsimile or by e-mail, in each case

at the address, fax number or e-mail address identified with the other Party's name below or, as the case may be, at the address, facsimile number or e-mail address that such other Party previously may have specified to the first Party in writing.

b. Electronic means of communication

Each of the Parties acknowledges and agrees that facsimile or electronic transmission of messages cannot be guaranteed to be completely secure or error free and that messages sent by facsimile or electronic means may be intercepted, corrupted, lost destroyed, arrive late or incomplete or otherwise may be adversely affected or unsafe to use. Each of the Parties shall use commercially reasonable procedures to protect itself against such risks and to avoid the risk of any electronic messages being misdirected.

13.3 The Contractor will communicate and report promptly and in conformity with the timelines indicated by FMO in order for FMO to be able to have the relevant information available from the Contractor well before having to report to the EC.

Article 14 - Costs

Each Party shall bear the costs incurred by it in connection with negotiating this Framework Agreement or, as the case may be, any amendment, supplement or other modification to the terms of this Framework Agreement or a Further Agreement. However, any costs relating to the enforcement or preservation of rights of FMO under a Further Agreement shall be borne by the Contractor.

Article 15 - Assignment and transfer

Neither Party may assign or transfer any of its rights or obligations under this Framework Agreement or a Further Agreement without the prior written consent of the other Party.

Article 16 - Amendments

The Parties agree that they will not amend, supplement or otherwise modify this Framework Agreement except by an instrument in writing duly signed by both parties. This Framework Agreement and any Further Agreement entered into by the Parties hereunder shall not be subject to any "substantive amendment" (*wezenlijke wijziging*), i.e. change in object, scope or price.

Article 17 - Counterparts

This Framework Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

Article 18 - Governing law

This Framework Agreement and any Further Agreement(s) shall be governed by and interpreted in accordance with Dutch law.

Article 19 - Jurisdiction

Any disputes arising from or in connection with this Framework Agreement or any Further Agreement(s) shall be submitted in first instance to the competent court in The Hague, The Netherlands.

Article 20 - Power of attorney

If a Party to this Framework Agreement is represented by an attorney or attorneys in connection with the execution of this Framework Agreement or any Further Agreement or document pursuant hereto, and the relevant power of attorney is expressed to be governed by Dutch law, such choice of law is hereby accepted by the other Party, in accordance with Article 14 of the Hague Convention on the Law Applicable to Agency of 14 March 1978.

Article 21 - Conflict of Interest

The Contractor shall refrain, in accordance with its rules and regulations, from any action which may give rise to a conflict of interest. For the purposes of this article a conflict of interests shall be deemed to arise where the impartial and objective exercise of the functions of any person implementing this Framework Agreement or any Further Agreement in relation thereto is comprised.

Article 22 - Declaration of Confidentiality

22.1 By signing this Framework Agreement, the Contractor confirms that it is aware of the contents of the Declaration of Confidentiality as attached hereto as Schedule 2 and that it will arrange for any subcontractor, persons or auxiliary persons (including employees) that it engages for the Services to sign this declaration and send it to FMO.

22.2 The confidentiality obligations as described in Declaration of Confidentiality shall not apply if FMO has given Contractor prior written consent to disclose particular information.

Article 23 - Code of Conduct for Suppliers

By signing this Framework Agreement, the Contractor confirms acceptance of the contents of the Code of Conduct for Suppliers on sustainability as attached hereto as Schedule 3.

Article 24 – Accounts and archiving

The Parties shall keep accurate and regular records and accounts of the implementation of this Framework Agreement and any Further Agreements in relation thereto. The Contractor shall ensure to provide accurate, complete, reliable and timely information upon request of FMO and cooperate with the internal and external reporting and auditing procedures as prescribed by FMO.

Article 25 – Disclosure, access and independent complaints mechanism

FMO may, notwithstanding the terms of any other agreement between the Contractor and FMO, disclose any documents or records of, or information about,

this Agreement, or the assets, business or affairs of the Contractor and/or Project and any of their subsidiaries to;

- i. any person(s) to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation;
- ii. the government of the Netherlands and/or any sub-division thereof if so requested by the Dutch government;
- iii. its external counsel, auditors and rating agencies;
- iv. the Independent Expert Panel;
- v. to the European Court of Auditors, EU's European Anti-Fraud Office (“**OLAF**”), the European Parliament, the Council and other European Union institutions.

Article 26 – Audit and Access

- 26.1 The Contractor shall allow the European Commission, or any authorised representatives, to conduct desk reviews and on-the-spot checks on the performance of this Framework Agreement and any Further Agreements in relation thereto and any supporting accounting documents and any other document relating to payments under the Framework Agreement, as also agreed upon by the European Commission and FMO.
- 26.2 The Contractor acknowledges that FMO is active in a field which is supervised by regulatory authorities (such as the Authority on Financial Markets (“AFM”) and De Nederlandsche Bank (“DNB”)). The Contractor agrees that it will cooperate with these authorities, including full access to its documents and data, premises, and employees, if it receives a request thereto from these authorities directly or through FMO. If the Contractor receives such a request by the authorities, the Contractor shall notify FMO without delay and will cooperate with FMO in responding to such request at the expense of the Contractor.
- 26.2 The Contractor acknowledges the supervisor's right to examine and shall:
- (a) allow full access to all information and functions, as well as to business premises (headquarters and operational centres), including all provisions, systems, networks and data that the Contractor uses to deliver the outsourced services (access right);
 - (b) give unlimited rights for examination and verification of outsourced Services (examination right).
- 26.3 The Contractor acknowledges FMO's right to audit and shall:
- (a) allow full access to all information about outsourced activities and functions, as well as to business premises (headquarters and operational centres), including all provisions, systems, networks and data that the Contractor uses to deliver the outsourced services

(access right); (b) give unlimited rights for examination and verification of outsourced services (audit examination right).

26.4 The Contractor acknowledges that the European Commission may be involved as protection provider with respect to any Project and against that background the Parties:

- (a) agree that OLAF may carry out investigations, including on-the-spot checks and interviews, in accordance with the provisions laid down by the law of the European Union for the protection of the financial interests of the European Union against fraud, corruption, money laundering and other illegal activities;
- (b) agree that, notwithstanding the clause of Non-Confidentiality in this Agreement, OLAF may transmit any information obtained in the course of its investigations to the competent authorities of the European member states; and
- (c) undertake to provide officials of the Commission, OLAF and the European Court of Auditors and their authorised agents, upon request, information and access to any documents and computerised data concerning the technical and financial management of operations under this agreement, as well as grant them access to sites and premises at which such operations are carried out. Documents must be accessible and filed in a manner permitting checks, the Contractor being bound to inform FMO of the exact location at which they are kept. Where appropriate, the Parties may agree to send copies of such documents for a desk review.

Article 27 – Access

The Contractor shall permit FMO and/or accountants or other professional advisers of FMO free access at all reasonable times and on reasonable notice at the cost of the Contractor to (a) inspect and take copies and extracts from the books, accounts and records of the Contractor; (b) view the premises of the Contractor; (c) meet and discuss matters with senior management employees of the Contractor; and (d) carry out all other inspections and acts permitted by applicable laws, in each case to the extent reasonably necessary in relation to a Project and the calculation of the FMO Payment.

The Contractor shall permit the Independent External Panel and the accountants or other professional advisers and contractors of the Independent External Panel, unfettered access at all reasonable times and on reasonable notice to (a) inspect and take copies and extracts from the books, accounts and records of the Contractor; (b) view the premises of the Contractor; (c) meet and discuss matters with senior management employees of the Contractor; and (d) carry out all other inspections and acts permitted by applicable laws, **provided that** all of the foregoing shall be for the purpose of carrying out the Independent External Panel's Role.

Article 28 - Independent Complaints Mechanism

FMO may, in the case of an admissible complaint lodged under the Independent Complaints Mechanism in relation to this Framework Agreement and notwithstanding the term of any other agreement between the Contractor and FMO, disclose (a) to the complainant and other affected stakeholders, and (b) on its website, currently at <https://www.fmo.nl/>, the following details in relation to the subject of this Agreement or otherwise:

1. Contractor name;
2. Subcontractor name;
3. project name and description;
4. origin (region and country);
5. sector;
6. financier(s) of the Project;
7. total FMO Payment;
8. date when complaint(s) relating to this Project was lodged;
9. short description of complaint(s) relating to this Project including the identity of the complainant(s); and
10. status of complaint(s) relating to this Project.

The Independent Expert Panel may in the case of an admissible complaint lodged under the Independent Complaints Mechanism in relation to this Project, disclose to the complainant and other affected stakeholders, draft and final reports prepared further to an investigation by it of an admissible complaint filed, together with (preliminary) findings and/ or recommendations.

The Independent Expert Panel may disclose on FMO's website, currently at <https://www.fmo.nl/>:

11. in the case of an admissible complaint lodged under the Independent Complaints Mechanism in relation to this Project, final reports prepared further to an investigation by it of an admissible complaint filed, together with findings and/ or recommendations;
12. monitoring reports describing the progress on actions undertaken by FMO to address findings and recommendations of the Independent Expert Panel; and
13. an annual report prepared by the Independent Expert Panel which report may include details of any complaint

lodged under the Independent Complaints Mechanism in relation to this Project.

- vi. For the purpose of carrying out the Independent Expert Panel's Role, (i) FMO shall be entitled to disclose confidential information received by it in connection with this financing to the Independent Expert Panel, provided that the members of the Independent Expert Panel are subject to reasonable confidentiality undertakings for the benefit of FMO, and (ii) the Independent Expert Panel shall be entitled to disclose confidential information received in connection with the Independent Expert Panel's Role to its advisors, provided that such persons are subject to reasonable confidentiality undertakings for the benefit of FMO.

Article 29 Protection of personal data

29.1 The Contractor shall ensure an appropriate protection of personal data in accordance with its applicable regulations, rules and procedures.

29.2 Personal data shall be:

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

Other conditions applying to the contract?

<The following conditions to the contract shall apply:

By derogation from Article ... >

For the Contractor

Name:

Title:

Signature:

Date:

For FMO

Name:

Title:

Signature:

Date:

Schedules

- 1. General Terms and Conditions for Purchase**
- 2. Declaration of confidentiality**
- 3. Code of conduct for Suppliers**
- 4. Model Further Agreement**
- 5. Data Processing Agreement**

SCHEDULE 1 - GENERAL TERMS AND CONDITIONS FOR PURCHASE

Definitions

1. FMO:

Nederlandse Financierings Maatschappij voor Ontwikkelingslanden N.V. , with registered office in Den Haag, the Netherlands.

2. Supplier:

The party or parties that FMO has invited to make an offer, or has/have entered into an Agreement with FMO, or has/have received an offer for an Agreement from FMO, or has/have offered FMO an Agreement.

3. Parties

FMO and the Supplier.

4. Agreement:

The agreement or agreements entered into by FMO with the Supplier for the delivery of Goods and/or Services by the Supplier to FMO.

5. General Terms and Conditions of Purchase:

The provisions set out below apply to all orders for Goods and/or Services.

6. Goods

Physical objects, products, Software and electronic data.

7. Software:

All software, including new and improved versions and releases as delivered by the Supplier to FMO, and the related documentation and property rights.

8. Customized Software:

Software developed on the specific instructions of FMO or specifically for FMO.

9. Standard Software:

Software which has not been developed on the specific instructions of FMO or specifically for FMO.

10. Services:

Any service of a tangible or intellectual nature, including cloud services

11. Order:

A request for delivery of Goods and/or Services. The definition "Order" covers Pre-contractual and Contractual Orders. Pre-contractual Orders are Orders that still have to be accepted by the Supplier and/or FMO. Contractual Orders are Orders forming the Agreement.

1. Validity and amendments of the General Terms and Conditions of Purchase

- 1.1 These General Terms and Conditions of Purchase apply to all requests for information, offers, Orders and Agreements and the performance thereof.
- 1.2 In the event of a conflict between specific provisions in an Agreement and the General Terms and Conditions of Purchase, the specific provisions in the Agreement shall take precedence over the General Terms and Conditions of Purchase.
- 1.3 The applicability of any general or specific terms and conditions of the Supplier is expressly excluded. By accepting and/or executing any Order and/or Agreement from FMO, the Supplier is agreeing to these General Terms and Conditions of Purchase.

- 1.4 FMO shall be entitled to amend and/or supplement these General Terms and Conditions of Purchase at any time. The new version of these General Terms and Conditions of Purchase will be binding after the Supplier has been informed of the amendments and/or supplements in writing or electronically.

2. Entering into an Agreement

- 2.1 All offers and quotations received by FMO remain irrevocably in force for a period of 60 (sixty) days. The costs incurred by the Supplier for the preparation, drafting or detailing of an offer or quotation can never be charged.
- 2.2 If FMO provides the Supplier with information for the purpose of making an offer, the Supplier shall verify the completeness and accuracy of that information to the best of his ability and notify FMO immediately of any deficiencies in the information provided. If the Supplier requires any further information from FMO in order to make an offer, the Supplier shall immediately notify FMO.
- 2.3 If FMO and the Supplier are negotiating the conclusion of an Agreement or any supplement or follow-up to an Agreement, FMO shall not have any obligation towards the Supplier until FMO has notified the Supplier in writing of its intention to enter into any obligation with respect to the Supplier.
- 2.4 Until FMO and the Supplier have reached full agreement and executed a written instrument to that effect, FMO shall be free not to enter into an Agreement with the Supplier.
- 2.5 If FMO has requested more than one Supplier to make an offer, FMO shall be free in its selection of the Supplier.

3 Licences

- 3.1 The Supplier shall obtain all licences and permits needed for entering into and performing the Agreement. In cases where the Supplier is legally required to apply for a licence and/or permit, FMO shall provide all co-operation. In cases where FMO is legally required to apply for a licence and/or permit, the Supplier shall provide all co-operation.
- 3.2 FMO may stipulate that performance of an Agreement shall not start until the licence(s) and/or permit(s) required have been obtained. As soon as FMO has good reason to believe that a licence and/or permit will not be issued, or not be issued promptly by Supplier, FMO may terminate the Agreement with immediate effect, without prejudice to its right to claim damages.

4. Alterations to performance of the Order or Agreement

- 4.1 Any work carried out outside the agreed scope of the Order and/or Agreement should be agreed upon in advance and in writing between the Supplier and FMO. The Supplier shall not be entitled to any compensation for work carried out outside of the agreed scope of the Order and/or Agreement without prior written consent of FMO.

5. Quality, Inspection and Rejection

- 5.1 The Supplier warrants that:
 - a. the Goods and/or Services to be delivered by Supplier comply with the Order and/or Agreement and comply with FMO's security policies, good industry standards, all relevant laws and/or other regulations regarding, amongst others, the environment and working conditions;
 - b. the Goods to be delivered will comply with their specifications and shall be of satisfactory quality and are free from faults in construction and materials and are fit for their intended purpose and/or for the purpose intended by FMO as notified to the Supplier;
 - c. in the case of Software and without prejudice to the other warranties, contain no undefined functionality, diseases, or viruses and that the technical and functional qualities meet the agreed specifications;
 - d. the Services shall be executed in a professional manner and with due observance of state-of-the-art technology and that the Supplier will have available knowledge and capacity necessary for proper execution of the Order and/or Agreement;

- e. the Goods and/or Services delivered by Supplier shall not in any manner constitute an infringement of intellectual property rights of third parties.
- 5.2 FMO shall have the right to inspect and test the Goods and any deliverables associated with the Services prior to or within fourteen (14) days after their delivery.
- 5.3 If the Goods and/or Services do not comply with the Order and/or Agreement, including any statements of work, specifications, requirements or descriptions referred to in the Order and/or Agreement, FMO shall inform the Supplier in writing. The Supplier shall, at its own expense, immediately take such action as is necessary to ensure conformity to the reasonable satisfaction of FMO.
- 5.4 Notwithstanding clause 5.3, if any Goods and/or Services do not conform to the Order and/or Agreement, FMO shall be entitled to:
- a. reject the Goods (in whole or in part) and return them to the Supplier, at the risk and cost of the Supplier, on the basis that a full refund for the returned Goods shall immediately be paid by the Supplier; and
 - b. refuse to accept or pay for any further deliveries of the Goods and/or Services but without any liability to the Supplier.
- 5.5 The Supplier shall keep detailed records of all activities carried out in connection with the provision of the Goods and/or Services, including any such records as are expressly required to be kept by the Supplier under a Agreement.

6. Safety

- 6.1 The Supplier shall ensure that the performance to be executed is undertaken safely and, in doing so, observe all relevant statutory environmental, health and safety regulations. The Supplier shall ensure and promote that any auxiliary persons engaged act accordingly. Insofar as the enforcement of safety regulations requires the co-operation of FMO, the Supplier shall notify FMO of this prior to the execution of the performance.

7. Auxiliary Persons (including subcontractors)

- 7.1 If so requested by FMO, the Supplier shall immediately provide a list of the auxiliary persons engaged directly or indirectly by the Supplier for performance of the Agreement. The Supplier shall impose the obligations in clause 15 on the auxiliary persons engaged.
- 7.2 FMO may require a specific auxiliary person not or no longer to be engaged by the Supplier in the performance of the Agreement.

8. Supplier's Personnel

- 8.1 The Supplier warrants that its employees behave irreproachably. The Supplier shall at FMO's first request provide a certificate of conduct for its staff involved in the performance of the Agreement.
- 8.2 The Supplier's personnel involved in the performance of the Agreement shall have the skills necessary for the performance of the Agreement.
- 8.3 In the event that the Supplier performs the Services at the offices of FMO, the Supplier shall, before it commences performance of the Services, confirm to FMO who will perform the Services. Upon FMO's request, such staff must be identified by a valid identity document.
- 8.4 The Supplier has the obligation to verify the identity documents of its staff, to check these documents on authenticity and validity.
- 8.5 The Supplier shall ensure that, for the performance of the Agreement, it will only use personnel who are authorised to work and for this purpose have a work permit. In the event that, contrary to the aforementioned, personnel is used who are not authorised to work and/or have no work permit, FMO is entitled to claim a fixed and non-negotiable penalty from the Supplier that is immediately due and payable. This penalty shall be an amount of EUR 10.000 per breach and EUR 2.500 for each day that

the breach continues, without prejudice to any other rights that FMO may have, including the right to claim the actual damages incurred.

- 8.6 The Supplier shall indemnify FMO against all claims, including but not limited to fines and legal costs, from the labour inspectorate or supervisor in connection with compliance with the Foreign Nationals Employment Act and/or the Aliens Act. The Supplier will compensate FMO for all damage suffered by FMO as a result of such claims.
- 8.7 FMO may subject any employee engaged by the Supplier for performance of the Agreement to an approval procedure prior to granting an assignment to the Supplier. Acceptance shall be by signing the document setting out the assignment concerned. This document may include the 'External Employees Registration Form'. If requested by FMO, acceptance may require submission of the CV's of the persons involved. FMO may assess the suitability of the persons appointed by the Supplier for performance of the projected activities by means of interviews.
- 8.8 If during the term of the Agreement an employee engaged by the Supplier does not perform satisfactorily and/or not according to the expectations of FMO, FMO may require replacement of that employee. If the Supplier is unable to offer another employee acceptable to FMO within a period of five (5) working days, thus justifying the fear that the performance agreed on shall not be executed by the Supplier within the set period, FMO may immediately terminate the assignment without any right to damages accruing to the Supplier.
- 8.9 The Supplier shall impose on its employees the same obligations that the Supplier has under this Agreement. The Supplier warrants that the selection of the employees charged with delivering the Services is carried out with great care.
- 8.10 If an employee engaged by the Supplier falls ill and the illness is expected to continue for more than ten (10) working days, or if an employee engaged by the Supplier is absent for another reason that FMO regards as undesirable, such employee shall be replaced without delay at FMO's first request. In such cases, the replacement shall be entirely at the expense and risk of the Supplier, including the costs of recruitment and familiarisation. In all cases, replacement shall only be effected after the approval of FMO.
- 8.11 The Supplier may only replace employees early or withdraw employee(s) from the assignment in consultation with FMO. Any costs arising from this replacement, including but not limited to costs of recruitment and familiarisation, shall be borne by the Supplier.

9 Period of Performance

- 9.1 At FMO's first request, the Supplier shall regularly report on the progress of the performance of the Agreement.
- 9.2 The Supplier shall: i) observe the performance periods, including the performance periods for partial deliveries, ii) notify FMO immediately and proactively of any expected delays, and iii) take all measures in order to prevent or limit breaches of the performance periods. The mere breach of a performance period constitutes a default by the Supplier. The Supplier shall in any case be liable for the following:
 - failure to acquire proper or appropriate materials, tools and/or personnel on time;
 - strikes, boycotts, sit-ins and any other form of labour unrest and/or sickness in the Supplier's company and its direct or indirect auxiliary persons;
 - transport delays;
 - failure to acquire licences and permits for which the Supplier is responsible;
 - failure to take prompt measures to prevent delays in the performance of the Agreement.
- 9.3 The Supplier may request an extension of the agreed performance period if a circumstance arises or will arise that is expected to delay performance of the Agreement, which is not attributable to the Supplier. On penalty of cancellation of the right to extend the performance period, the Supplier shall submit a request to FMO in writing, including its reasons, within ten (10) days of the Supplier becoming aware of a circumstance referred to in the preceding sentence. If the request is valid, FMO and the Supplier shall determine a new performance period or a new timetable. If, for any reason, which is not attributable to

FMO, the expected delay is of such a nature that continuation of the Agreement is unreasonably onerous for FMO, FMO may terminate the Agreement, insofar as not yet executed, with immediate effect.

- 9.4 If the Supplier exceeds the contractual delivery period or any extension agreed as set out above, the Supplier shall be liable for all damages incurred by FMO by operation of law and without further notice of default.

10 Transfer of Title and Risk

10.1 Title to any Goods of which FMO is intended to acquire ownership shall transfer to FMO upon arrival at the agreed place of delivery.

10.2 Title to the Goods shall be transferred in full and the Goods shall not infringe any rights of third parties.

10.3 The risk of damage, destruction or loss of the Goods shall pass to FMO:

- a. once the Goods have been unloaded and delivered to FMO and FMO has taken control of the Goods, if performance is for delivery of the Goods without undertaking any further activities such as installation and/or commissioning;
- b. once the Goods have been accepted by FMO as being sound following complete execution of the activities and inspection, if the performance involves the delivery of Products and undertaking further activities such as installation and/or commissioning.

11 Delivery of Software

11.1 For the delivery of Customized Software, FMO shall acquire title to all intellectual property rights regarding the object code and the source code. The Supplier warrants that FMO shall acquire these rights no later than upon delivery and shall co-operate fully to that end.

11.2 The Supplier warrants that the Customized Software delivered does not infringe any third-party rights and that a third party shall not be able to obstruct or hamper the use of any part of the Customized Software by FMO. The Supplier will indemnify and hold FMO harmless from all third-party claims and against all damages and costs arising from infringement of the intellectual property rights of third parties.

11.3 Customized Software shall always be supplied with the source codes of such software and where relevant in an escrow construction. The Supplier grants FMO a non-exclusive, perpetual, worldwide, royalty-free, irrevocable right of use of Standard Software, as further specified in this clause 11.

11.4 FMO's right of use of the Standard Software comprises the right to use the entire functionality of the Standard Software in object code for all of FMO's activities regarded conducive to its business operations, in the broadest sense.

11.5 The Supplier warrants that use of the Standard Software by FMO as described in clause 11.4 and 11.5 does not infringe any third-party rights. The Supplier indemnifies FMO against any third party obstructing the aforementioned use by FMO and against all damages and costs which FMO may incur as a result of this.

11.6 The ownership of the data carriers associated to the Software as delivered by the Supplier to FMO shall pass to FMO upon delivery.

11.7 For each version and release of the Software, the Supplier shall provide two (2) complete sets of documentation in Dutch or English. The documentation shall contain an accurate and complete description of the functionality of the Software and enable users to use all functionalities of the Software in a straightforward manner. The Supplier shall ensure that the documentation is replaced within five (5) working days if it contains inaccurate or incomplete information or becomes out of date.

11.8 At FMO's first request, the Supplier shall place the source codes of the Standard Software in the custody of an escrow agent or civil-law notary, so this can be delivered to FMO when the Supplier is in breach of its contractual obligations pursuant to the Agreement, declared insolvent or ceases its business operations. The Supplier shall co-operate with the delivery of the source code of the Standard Software to FMO.

11.9 If the (co-)ownership of the source codes in the Software - that the Supplier has delivered to FMO - is not transferred to FMO, then the Supplier will be obliged to give the source codes, together with the

explanatory technical documentation belonging to the Software delivered to FMO, to a reputable, specialist third party (e.g. an escrow agent) for safekeeping.

12 Delivery of Drawings, Manuals and Know-how

- 12.1 For deliveries of drawings, manuals and know-how, whether or not in connection with the delivery of Products, the Supplier warrants that FMO has an irrevocable right to use these drawings, manuals and know-how for an indefinite period of time.
- 12.2 The Supplier shall supply FMO, on or before delivery, with all information and associated documentation in writing and/or in electronic form that FMO reasonably needs to make the best possible use of the Goods and/or Services.
- 12.3 The information and documentation referred to in clause 12.2 shall be delivered in the language(s) requested by FMO.
- 12.4 FMO is entitled to use such information and documentation, including duplication for its own use.
- 12.5 The Supplier shall also provide all supplementary Services that FMO reasonably needs to make best possible use of the Goods and/or Services. The associated costs for these supplementary Services shall be included in the Supplier's price estimate.

13 Transfer of Obligations

- 13.1 The Supplier may only transfer an obligation arising under the Agreement to a third party with the prior written consent of FMO. If the Supplier wishes to engage the services of third parties for performance of the Agreement, whether in the form of subcontracting or temporary employment of personnel, the Supplier may only do so with the prior written consent of FMO, which consent shall not be withheld unreasonably. FMO may attach conditions to such consent.
- 13.2 Notwithstanding its obligations in clause 15, if the Supplier transfers all or part of its obligations under the Agreement to a third party, the Supplier shall notify FMO of the warranties furnished for the payment of VAT, wage taxes and social security contributions to which employers are subject by law. The Supplier shall be obliged to impose the provisions of clause 15 in full on any third party engaged by the Supplier but for these obligations the Supplier shall remain jointly and severally liable with the third party engaged.

14 Intellectual property

- 14.1 All intellectual property rights in any statements of work, specifications, instructions, plans, drawings, patterns, models, designs or other material furnished to or made available to the Supplier by FMO shall, subject to the rights of third parties, remain vested solely in FMO.
- 14.2 The purchase price for the Goods and Services includes all the irrevocable, perpetual, royalty-free rights for FMO to use all intellectual property rights incorporated in the Goods for its own purpose and in its business anywhere in the world.
- 14.3 The Supplier hereby assigns to FMO, and FMO hereby accepts, all intellectual property rights generated in the course of supplying the Goods and/or Services pursuant to the Agreement.
- 14.4 The Supplier shall keep FMO indemnified in full against all liability, actions, suits, claims, demands, losses, charges, costs and expenses (including legal and other professional costs and expenses) incurred by FMO as a result of or in connection with any infringement or alleged infringement of any intellectual property rights of third parties caused by the use, manufacture or supply of the Goods and/or Services.

15 Taxes and Social Security Charges

- 15.1 The Supplier is responsible for meeting all and any obligations pursuant to tax and social insurance legislation. The Supplier shall demonstrate to FMO that any turnover and wage taxes and social security contributions due have been paid. To that end, the Supplier shall provide FMO at FMO's first request with an auditor's report or a statement to that effect from the tax authorities.
- 15.2 If FMO is held liable under the Tax Collection Act or Sequential Liability Act:
 - a. the Supplier in its capacity as subcontractor shall be liable towards FMO for the amount due. This payment shall be payable immediately and without judicial intervention being required. The Supplier

shall owe statutory interest on the amount from the day FMO is held liable until the day the penalty is paid to FMO; and

- b. the Supplier shall owe an immediately payable penalty of EUR 25.000 without prejudice to the right of FMO to claim additional damages.

15.3 FMO may, without being held to pay the Supplier any damages, terminate the Agreement with immediate effect and without judicial intervention being required, if the Supplier and/or any third party engaged by it are culpably late in paying turnover tax, wages tax and/or social security contributions, or fail to submit a tax statement as referred to in clause 15.1, without prejudice to any other rights of FMO, including the right to claim damages.

15.4 In connection with the taxes and contributions referred to in this clause 15, FMO may, at its own discretion, either pay a part of the fee payable to the Supplier into a blocked (G-)account of the Supplier, if it has such an account, or pay the relevant amounts directly to the employee insurance agency and the tax authorities. By making such payment, FMO will be discharged from its payment obligation to the Supplier in respect of these amounts.

16 Liability and Indemnification

16.1 The Supplier shall always be liable for a failure in the performance of the Agreement. The Supplier shall indemnify FMO and hold FMO harmless against any liability for damages of third parties under the Agreement, regardless of the nature, cause and extent of the damage and regardless of whether it concerns personal injury or property damage.

16.2 The Supplier shall be liable to FMO for all direct and indirect damages and costs that are caused by or directly related to a failure of the Supplier (including a failure to comply with the timetable), including but not limited to extrajudicial costs and lost profits.

16.3 Force majeure on the part of the Supplier shall refer to force majeure as defined in applicable Dutch law. The Supplier cannot invoke force majeure if a failure is due to: i) a third party engaged by the Supplier for the purpose of the Agreement, including but not limited to suppliers and transporters, ii) an event of a strike by its own employees, or iii) a machine failure or production interruption.

16.4 The Supplier may only invoke force majeure if it has informed FMO thereof in writing, as soon as possible but in any case within five (5) business days of the occurrence of the force majeure, under submission of sufficient documentary evidence.

16.5 If FMO has entered into an Agreement with several (legal) persons, then these (legal) persons will be jointly and severally liable for the proper performance of the Agreement and all claims FMO has against the Supplier.

16.6 The Supplier shall take out a sufficient liability insurance in respect of the Services and/or the Goods, including but not limited to a contractors all risks insurance. The Supplier shall submit the insurance policy to FMO in advance and maintain the insurance and pay the premiums on time. The Supplier shall submit an insurance certificate and/or proof of payment of the premiums on FMO's first request.

17 Prices and Payment

17.1 Unless expressly agreed otherwise, FMO shall pay the purchase price and any other amounts payable to the Supplier in euro.

17.2 Unless expressly agreed otherwise, the prices and rates agreed in the Agreement are fixed. The price constitutes the full charge for all costs attaching to performance of the Agreement, including but not limited to travelling, accommodation and office costs.

17.3 All prices offered by the Supplier to FMO for the purchase of Services, including the hiring of temporary staff, shall be deemed to include out-of-pocket expenses. These expenses include but are not limited to fixed and variable expenses, such as travelling, accommodation and administrative costs, incurred for the delivery of Services to FMO.

17.4 FMO shall effect payment at the agreed time or times, provided that:

- a. the full or partial performance, to which the invoices relate to, has been fully and correctly executed at such time; and
- b. the Supplier has sent FMO an invoice on time that complies with the provisions as stated in clause 18.

Any invoice that does not comply with these conditions, shall not be processed by FMO.

17.5 FMO shall pay invoices, sent by the Supplier and approved by FMO within thirty (30) calendar days of receipt, by transfer to the bank account designated by the Supplier.

17.6 Payment by FMO shall not of itself constitute acknowledgment that the Supplier has performed the Agreement fully and correctly.

18 Requirements for Invoicing

18.1 Each invoice must include the following details, in the absence of which invoices shall not be processed by FMO:

- a. the invoice date and a unique invoice number;
- b. a clear description of the Goods and/or Services supplied;
- c. cost center and buyer name at FMO;
- d. unit price excluding VAT and any discounts (if applicable);
- e. the VAT rates applied and VAT payable;
- f. FMO's VAT number NL002303905B01
- g. the Supplier's VAT number (if the supply is subject to VAT);
- h. the Supplier's complete bank details (IBAN, BIC and Intermediary bank details, if applicable).

18.2 In the event of a dispute with respect to an invoice, FMO may suspend payment of the invoice in whole or the disputed parts of the invoice.

18.3 Supplier shall send the invoices in PDF format to: APInvoices@FMO.nl. Suppliers are requested to send one invoice per PDF and only one invoice per email

18.4 All invoices must also be addressed to:

FMO
Accounts Payable
P.O. Box 93060
2509 AB Den Haag

19 Bank Guarantee

19.1 FMO may require the Supplier to provide a bank guarantee, during the term of the Agreement. if it has valid reasons to fear that Supplier shall not meet its obligations under the Agreement towards FMO.

20 Publicity

20.1 Supplier agrees that it will not directly or indirectly issue a press release related to FMO or its trademarks, tradenames, symbols or any abbreviations thereof or use it for the purposes of advertising, promotion, or publicity, without the prior written consent of FMO.

21 Termination of Agreement

21.1 As long as the Agreement has not yet been performed in full, FMO may terminate the Agreement. FMO shall notify the Supplier in writing of the termination. In the event of termination, the parties shall settle any amounts due on the following basis:

- a. if and insofar as a fixed price has been agreed and has not been paid, FMO shall pay that price minus the costs not incurred by the Supplier as a result of not performing the terminated part of the Agreement;
- b. if and insofar as the parties agreed on payment based on unit prices and fees, the non-terminated part of the Agreement, to the extent not yet paid, shall be settled on the basis of the agreed unit prices and unit fees. If the Supplier has already incurred costs in connection with the terminated part of the Agreement prior to actual termination, those expenses shall be refunded to the Supplier provided the Supplier is able to prove the expense and the Supplier has not derived any other benefit from these expenses, and is not able to derive benefit in any other way.

21.2 The Agreement may be terminated forthwith by written notice by FMO if Supplier commits a breach of any term of the Agreement and which in the case of a breach capable of being remedied, has not been remedied within thirty (30) days of a written request to remedy the same.

21.3 Notwithstanding the other provisions in the General Terms and Conditions of Purchase on termination of the Agreement, FMO may terminate the Agreement in whole or in part with immediate effect if the

Supplier has not performed the Agreement or parts thereof fully and adequately within the agreed performance period or subsequently agreed performance period.

21.4 FMO may at its option terminate the whole Agreement or parts thereof with immediate effect:

- a. as soon as FMO can in all reasonableness assume that full and proper performance of the Agreement by the Supplier is not or no longer possible, or shall only be possible with a delay of more than two (2) months;
- b. if the Supplier applies for or is granted suspension of payments;
- c. if bankruptcy proceedings are instituted against the Supplier or if the Supplier is declared bankrupt;
- d. if the Supplier ceases all or the major part of its business activities;
- e. if the Supplier is in default towards FMO or otherwise acts in such a manner that FMO cannot reasonably be expected to uphold the Agreement;
- f. in the event of a merger, demerger, or transfer involving the Supplier or one of its business units;
- g. in the event of a substantial change in the Supplier's management bodies;
- h. if the Supplier does not or no longer meet the admission, recognition and/or registration requirements for its profession;
- i. when termination is recommended or required by a regulatory authority.

21.5 FMO shall be entitled to terminate the Agreement at any time during the term of the Agreement for convenience with due observance of a notice period of 3 (three) months.

21.6 The right to proceed to termination shall not impair the right of FMO to claim damages.

22. Confidentiality

22.1 The Supplier undertakes towards FMO to observe strict confidentiality with regard to specifications, drawings, models and/or other business information and know-how provided to the Supplier in connection with (the performance of) the Order and/or Agreement.

22.2 The Supplier also undertakes to observe confidentiality with regard to all other information it receives within the framework of the performance of the Agreement, to the extent that such information is not generally known, such as the fact that FMO and Supplier have entered into an Agreement, the contents of the Agreement, etc. At FMO's first request, the Supplier shall return the information it received.

22.3 The obligations for the Supplier arising from this clause 22 will remain in force for a period of three (3) years after termination of the Agreement.

22.4 If the Supplier fails to comply with one or more of the obligations set out in this clause 22, it will forfeit to FMO a penalty of EUR 20.000, without prejudice to any other right of FMO, including the right to claim its further damage.

23 Inspection

23.1 FMO and/or its regulatory authorities, including but not limited to the Dutch Central Bank and the Financial Markets Authority, shall be entitled to perform audits and access the Supplier's premises, after prior written announcement and during normal working hours, to inspect, and be provided with copies of, all relevant books and records of Supplier to ascertain compliance with the Agreement and whether the Supplier is meeting and shall continue to meet its obligations towards FMO with respect to the quality and state of the Goods and/or Services to be supplied by Supplier.

23.2 If any audit or other inspection by FMO and/or a regulatory authority demonstrates any non-compliance by Supplier with the obligation pursuant to this Agreement, the Supplier shall, without prejudice to any other rights and remedies FMO may have, remedy the cause of such non-compliance as soon as reasonably practicable.

23.3 At FMO's first request, Supplier will provide FMO with information and documentation that is requested by FMO's regulatory authorities.

23.4 The Supplier will inform FMO about the execution of the Agreement on a regular basis.

24 Processing Personal Data

24.1 Personal data, made available to the Supplier by FMO, must be treated by the Supplier in accordance with the Data Processing Agreement of FMO.

25 Sustainability

- 25.1 The Supplier acts in accordance with the ten principles of the UN sustainable-development-goals with regard to Human Rights, Labour, Environment and Anti-Corruption.
- 25.2 The Supplier shall work with FMO to continuously identify opportunities to improve sustainability in the delivery of Goods and/or Services.
- 25.3 FMO retains the right to cancel an Order and/or terminate an Agreement if the Goods and/or Services concerned are hazardous to people or the environment.

26 Governing Law and Jurisdiction

- 26.1 These General Terms and Conditions of Purchase and all agreements to which they apply are governed by Dutch law. The Vienna Sales Convention CISG regarding the purchase of movable goods does not apply.
- 26.2 Any dispute arising from the Agreement shall be settled exclusively by the competent court in Den Haag (The Netherlands)

SCHEDULE 2 - DECLARATION OF CONFIDENTIALITY

In consideration of us agreeing to make available to you certain information by your signature of a copy of this letter you agree as follows:

Confidentiality statement

The undersigned hereby declares to observe confidentiality both during and after the period of engagement and to refrain from disclosing any confidential information obtained during and within the context of performance of the contracted activities, in whole or part, to any third parties, unless FMO has granted its prior written approval. This obligation to observe confidentiality applies to all confidential data of FMO and each of its holding companies and subsidiaries collectively referred to as ‘FMO’.

Confidential information is in any event understood to include:

- 1.Information relating to internal FMO business matters and policies;
- 2.Information relating to clients of FMO; and
- 3.Information relating to transactions conducted by FMO.

If any employee reports contain or incorporate confidential information, you hereby declare to refrain from providing these reports, or any copy or summary thereof, to third parties, or making these available for third parties in any other way.

	:		Signature	:	
Date of signing	_____		external		_____
	—		employee		—

Schedule 3

This Code of Conduct for Suppliers (the "**Code of Conduct**") was drawn up by the FMO on 25 March 2019.

FMO and its group companies (together referred to as "**FMO**") operate on the basis of respect, appreciation and commitment and believe that all their activities must be carried out with honesty, sincerity, care and integrity, and are accountable for their actions.

This Code of Conduct outlines the basic requirements concerning working conditions that must be satisfied by all suppliers, buying agents and (sub)contractors of FMO ("**Suppliers**").

This Code of Conduct is built on internationally recognized agreements that promote companies' management of adverse effects on human rights, labour rights, environmental protection and anti-corruption practices, among other things. FMO supports the following initiatives:

- UN Global Compact
- OECD Guidelines for Multinational Enterprises
- UN Guiding Principles on Business and Human Rights
- The Universal Declaration of Human Rights
- The ILO Declaration of Fundamental Principles of Rights at Work

1. General

- 1.1. The Supplier shall adhere to this Code of Conduct and shall ensure that its subcontractors are informed of the Code and uphold the requirements.

2. Legal Compliance

- 2.1. The Supplier shall operate in full compliance with national and local laws, rules and regulations relevant to its business operations.
- 2.2. The Code applies to all FMO's suppliers that deliver goods and services to any of FMO.
- 2.3. In countries where the legal requirements fall short of internationally recognized standards, the Supplier should at least apply the minimum criteria as set forth in this Code of Conduct.
- 2.4. In the event of conflict between the terms of a supplier's contract with FMO and the provisions of this Code, the contract terms will prevail.

3. Human rights and labour

- 3.1. The supplier does not discriminate on the basis of ethnicity, religion, race, skin colour, nationality, social origin, age, disability, health status, gender, sexual orientation, membership of trade unions or political views (as described in the ILO convention no. 111).
- 3.2. The supplier ensures that working conditions, hours, rest periods, leave and wages are in accordance with local regulations and industry practice and are at a level that enables a fair standard of living according to local conditions. In addition, wages may not be withheld as a disciplinary sanction (as described in the ILO conventions no. 1, 14, 30, 95, 106, 131, 132 and 155).

- 3.3. The supplier respects its employees' right to privacy when it gathers or stores personal information (as described in the ILO Code of Practice on Protection of workers' personal data).
- 3.4. The supplier respects its employees' right to organise themselves and negotiate collective wage agreements. If independent trade unions are either discouraged or restricted, the supplier enables workers to gather independently to discuss work-related issues (as described in the ILO conventions no. 87 and 98).
- 3.5. The supplier is not associated with human trafficking or any type of forced labour. This includes work on a forced contract, slavery and other forms of work that are done against a worker's will or choice (as described in the ILO convention no. 29 and 105).
- 3.6. The supplier is not associated with exploitative forms of child labour – such as labour that damages children's physical or mental health or prevents them from going to school. When employing young workers, suppliers must act in accordance with the International Labour Organization's standards (as described in the ILO conventions no. 138 and 182).

4. Health and Safety

- 4.1. The supplier provides a healthy and safe working environment and prevents accidents and injuries related to the physical and mental environment through proper training and preventive measures.

5. Environmental Protection

- 5.1. The Supplier shall comply with all applicable laws and regulations in respect of protecting the environment and maintain procedures for notifying local authorities in the event of an environmental accident resulting from the Supplier's operation.
- 5.2. The Supplier should aim for progressive improvement in its environmental performance, not only in its own operations, but also in its relationships with partners and subcontractors. This includes:
 - a. Integrating principles of sustainability into business decisions.
 - b. Responsible use of natural resources such as land, soil, energy and water.
 - c. Reducing, minimizing and avoiding pollution and waste including solid, liquid and atmospheric conditions.
 - d. Designing and developing products, materials and technologies according to the principles of sustainability.

6. Integrity

- 6.1. FMO conducts its business with honesty and integrity, and in compliance with applicable laws. As such, FMO expects its Suppliers to maintain the highest standards of integrity, which shall include in any event:
 - a. No bribery: the Supplier shall not accept or give personal gifts, remuneration or any other favor that could affect the integrity of business decision-making.
 - b. Hospitality offered must be linked to the business purposes, must be of an appropriate value and must not be intended (or able to be perceived as such) to influence a business decision.
 - c. No gifts or hospitality may be offered during tender or contractual negotiations.

