

SERVICE CONTRACT

No [insert number]

on development and maintenance of a multisite platform

The EFTA Financial Mechanism Office

EFTA House, Avenue des Arts 19H,

1000 Brussels, Belgium

(“the FMO”),

represented for the purposes of the signature of this Service Contract by

Ragna FIDJESTØL, Managing Director

of the one part,

and

[official company name in full]

[official legal form]

[statutory registration number]

[official address in full]

[VAT registration number]

(“the Contractor”),

represented for the purposes of the signature of this Service Contract by

[first name, surname, function]

of the other part,

Contract for the development and maintenance of a multisite platform

together hereinafter referred to as the “Parties”

HAVE AGREED

the Special Conditions, the General Conditions and the following Annexes:

- Annex I** Terms of Reference for Development and maintenance of a multisite platform (Invitation to tender of 25/02/2025 and list of Customer Requirements);
- Annex II** Contractor’s Tender of [insert date];
- Annex III** EFTA Instructions on invoicing of travel related expenses;
- Annex IV** Daily Subsistence Allowances, valid as of 12 January 2024;
- Annex V** Use of subcontractors
- Annex VI** Data processor agreement DPA

which form an integral part of this Service Contract (“the Contract”).

The terms set out in the Special Conditions shall take precedence over those in the other parts of the Contract. The terms set out in the General Conditions shall take precedence over those in the Annexes. The terms set out in the Terms of Reference (Annex I) shall take precedence over those in the Contractor’s Tender (Annex II).

Subject to the above, the several instruments forming part of the Contract are to be taken as mutually explanatory. Ambiguities or discrepancies within or between such parts shall be explained or rectified by a written instruction issued by the FMO, subject to the rights of the Contractor under Article II.16, should he dispute any such instruction.

Contract for the development and maintenance of a multisite platform

## I - SPECIAL CONDITIONS

### **ARTICLE I.1 – SUBJECT**

- I.1.1.** The subject of the Contract is the development, launch, maintenance and support of a centralized multisite platform (the “Services”).
- I.1.2.** The Contractor shall execute the tasks assigned to it in accordance with the Terms of Reference annexed to the Contract.
- I.1.3.** The Contractor shall act according to good industry practice and as specified in agreements between the parties to rules, regulations, guidelines and procedures that are applicable to the EEA and Norwegian Financial Mechanisms 2021-2028 and published on the web site [www.eeagrants.org](http://www.eeagrants.org). The web site will be the only place where the latest official documents are displayed.
- I.1.4.** The Contractor has no authority or authorization to represent or commit the FMO.
- I.1.5.** The Contractor is responsible for providing and maintaining all necessary equipment and infrastructure required to perform the Services, including but not limited to: computer equipment, communication devices, data storage, hosting services, and any specialized tools or software.
- I.1.6.** In the event the FMO deems it appropriate, it may request that the Contractor provides any additional or new services, related to the Services. Unless otherwise described in this Contract, such additional or new services must be agreed upon in writing and signed by both Parties in accordance with Article II.14.

### **ARTICLE I.2 –ENTRY INTO FORCE AND DURATION**

- I.2.1.** The Contract shall enter into force on the date on which it is signed by the last Contracting Party.

The Contract has two main phases – The development phase and the maintenance phase. The development phase will last until the multisite platform is launched. When the multisite platform is approved by the FMO, the maintenance phase begins. This means that there will be some overlap between the development phase and the maintenance phase. The maintenance phase lasts for the remainder of the contractual period.

- I.2.2.** The Contract is concluded with effect from the date on which it enters into force. The maintenance phase starts at the FMO’s acceptance of the multisite platform as described in Article I.4.1, and lasts until 31 December 2028, after which it automatically renews by 4 one-year extensions until 31 December 2032, unless notice is given by the FMO about the non-renewal of the contract at least three months before the renewal date. After 2032 the contract may be extended on the same terms, by mutual consent between the Contracting Parties.

This contractual period and all other periods specified in the Contract are calculated in calendar days unless otherwise indicated. The period of execution of the tasks may be extended only with the express written agreement of the Contracting Parties.

### **ARTICLE I.3 –PRICE**

**I.3.1.** The Contractor's compensation for all Services rendered under this Contract shall be as set forth in the price form in Annex II which includes all fees, charges, and expenses. The prices specified in the price form in Annex II are inclusive of all costs associated with the performance of the Services. Except as expressly provided in this Contract or the price form in Annex II, no other costs or expenses shall be payable by the FMO to the Contractor.

The Contractor's compensation for the planning, development, and launch of the multisite platform shall be determined using a target price system. The target price covers all parts of the Services until the multisite platform is launched.

The target price is based on the proposed number of hours required until the launch of the platform as following from the Contractor's offer. This number is multiplied by the hourly rate of the contractor. Fixed price items in the development phase are also included in the target price.

If the actual number of hours spent by the Contractor deviates from the estimated hours, the resulting cost difference shall be shared equally between the FMO and the Contractor. Such that 50% of the difference between the target price and the actual cost shall be added to or deducted from the Contractor's compensation.

The final price for the development and launch of the multisite platform shall not exceed 115% of the target price ("Maximum Price").

The Contractor shall maintain accurate records of hours expended and provide detailed reports to the FMO at the end of each month until the final detailed report and breakdown is provided after the successful launch of the multisite platform.

**I.3.2.** The prices for the maintenance phase are comprised of the following elements:

- Fixed yearly fee for the maintenance of the platform c.f. requirement 39 in the Specification in Annex I
- Fixed yearly fee for the SLA c.f. requirement 42 in the Specification in Annex I
- Hourly rates for technical support and helpdesk support exceeding the support hours included in the SLA according to requirements 40 and 41 in the Specification in Annex I
- Fixed yearly prices for operating the multisite platform, such as licenses, hosting fees etc.
- Prices for training for the different user categories defined by the Contractor in requirement 35 in the Specification in Annex I

If the Contractor is required by the FMO to travel to perform the services under this Contract, travel, subsistence and accommodation expenses shall be reimbursed in accordance with Annexes III and IV.

**I.3.3.** The prices in the Contract may be adjusted once every two years, up or down by an amount equivalent to (up to) to the change in the following index:

"Harmonized Index of Consumer Prices (HICP), monthly data, Euro area"

The initial reference index value is the index value for the month in which the Contract was signed.

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No price adjustment shall occur automatically. The Contractor must submit a written proposal to the FMO, including detailed calculations based on the change in the index, no later than 30 days prior to the proposed adjustment date. FMO shall review and approve or reject the proposal in writing within 30 days of receipt. No adjustments shall be applied retroactively. Only invoices regarding services not yet performed are eligible for adjustment.

### **ARTICLE I.4 – IMPLEMENTATION OF THE CONTRACT**

#### **I.4.1. Reporting/Deliverables for the development phase**

The Contractor shall comply with the following timetable (“Completion dates”):

<b>Phase #</b>	<b>Stage</b>	<b>Start</b>	<b>End</b>
Phase 1	Planning and analysis (2 weeks)	14 April	28 April
Phase 2	Design and prototyping (3 weeks)	28 April	19 May
Phase 3	Development (8 weeks)	19 May	14 July
Phase 4	Integration and testing (4 weeks)	14 July	11 August
Phase 5	FMO APPROVAL	11 August	15 August
Phase 6	Handover & initial training (1 week)	18 August	22 August
Phase 7	Launch (Week following completion)	25 August 2025	25 August 2025

The Contractor shall actively involve the FMO in the different project phases, facilitating a collaborative development process.

The FMO shall approve the deliverables for each project phase.

The Contractor is responsible for making any reasonable arrangements in order to complete the phases according to the timetable even if it means allocating more resources than planned. However, if a delay is caused by circumstances that were not foreseeable at the time of the signature and that are not attributable to the Contractor’s fault, the FMO may agree to changes in the timetable. Such changes must be made in writing. The Contractor must in any case give a reasoned notice to the FMO if the Services will be delayed before the end of a phase. Such notice must be given in writing as soon as the delay is identified by the Contractor and at the latest one week before the end of the phase.

Upon completion of Phase 4 (Integration and Testing), the Contractor shall formally submit the multisite platform to the FMO for final acceptance. The submission shall include a written notice specifying the completion of Phase 4 and the platform's readiness for review.

The FMO shall review the submitted platform to ensure that it meets all the requirements and specifications outlined in this Contract. The FMO shall have 5 business days to conduct the review.

If the FMO determines that the platform meets the acceptance criteria, it shall provide written approval to the Contractor. This written approval shall signify the FMO's acceptance of the platform.

If the FMO identifies any deficiencies or areas for improvement, it shall provide written notice to the Contractor specifying the issues to be addressed. The Contractor shall promptly address the identified issues and resubmit the platform for final acceptance within 5 business days of receiving the FMO's notice.

The platform shall not be launched before the FMO's final written approval.

**I.4.2. Liquidated damages for delay during the development phase**

Should the Contractor fail to complete its contractual obligations for Phase 4 – “Integration and Testing”, or Phase 7 – “Launch” by the respective end dates set out in Article I.4.1. then, without prejudice to the Contractor's actual or potential liability incurred in relation to the Contract or to the FMO’s right to terminate the Contract, the FMO may decide to impose liquidated damages of 1% of the maximum price for development and launch, as specified in the development and launch tab in the price form, per calendar day of delay. These liquidated damages are limited to 30% of the development and launch maximum price, and can be deducted from any payment due to the Contractor. If the Contractor manages to successfully launch the multisite platform by the end date of Phase 7, any accrued liquidated damages for Phase 4 shall be cancelled.

The FMO and the Contractor expressly acknowledge and agree that any sums payable under this Article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses that may be reasonably anticipated from such failure to perform obligations.

The Contractor may submit arguments against this decision within thirty days of notification by registered letter with acknowledgement of receipt or equivalent. In the absence of reaction on his part or of written withdrawal by the FMO within thirty days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable.

**I.4.3.** In case where a delay in completing the Deliverables mentioned in Article 1.4.1. exceeds 30 calendar days after the Completion Date set in that Article or set according to the procedure described in Article I.4.1., the Services may be considered as not performed and the FMO has no obligation to make any payment for them. In such a case the FMO has the right to terminate the Contract. Article II.13.3. shall apply.

**I.4.4. Replacement of personnel**

If it becomes necessary to replace any team member of the Contractor’s team, such replacement shall be proposed immediately to the FMO by the Contractor together with a short reasoned statement in writing. The FMO will have the possibility to refuse the proposed person(s).

**I.4.5. Changes to the contract during the development phase**

The FMO has the right to order changes, in the form of increases or reductions in the scope, nature, type, quality or delivery of the deliverables, as well as changes to the progress plan, provided that such changes fall within the scope of what the parties could have reasonably expected upon the conclusion of the Contract.

The Contractor shall, within a maximum of ten (10) working days from receipt of a written request for a change, submit a study of potential risk and change consequences, as well as a price estimate. In the event of a request for major changes, the parties shall agree an extension of the deadline with such number of days as is deemed to be reasonable. In such circumstances, the Contractor may require an extension of the time-limit of up to ten (10) working days. The request for an extension of the deadline must be submitted before the end of the ten-day deadline in the first sentence.

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At a minimum, the study shall include the following:

1. description of the change
2. description of the scope of work that needs to be carried out as a result of the change, and the time required for such work
3. implications for the requirement specification/solution specification and/or detailed specification
4. implications for the requirements applicable to the FMO's technical platform
5. implications for the contract price, with a detailed specification of the calculation basis
6. implications for the progress plan
7. changes to the FMO participation requirements
8. changes to test plans and test criteria
9. implications for the future maintenance of the standard platform/software and the developed platform/software, and the relation between these

Documented costs in connection with the preparation of change estimates are carried by the FMO in accordance with the hourly rates in the “further development” tab in the price form.

If the preparation of a change estimate does in itself necessitate changes to the progress plan, the Contractor may request that the plan be adjusted.

If the FMO accepts the study and the price submitted by the Contractor, the FMO shall inform the Contractor, by issuing a change order, that the FMO wishes the change to be implemented. The change order shall be signed by the FMO.

Thereafter, the Contractor shall, within ten (10) working days of the Contractor receiving the signed change order, ensure that the change order is incorporated into the Contract, with changes to specifications, the progress plan, the technical platform, tests, required contributions from the FMO, as well as changes to the contract price, being set out in the Contract.

The changes shall be presented to the FMO for its approval.

The terms and conditions of the Contract shall apply to the change order as well, unless otherwise explicitly stated in the change order.

- I.4.6.** If the FMO requests, in the form of written orders, specifications or otherwise from an authorised person, the performance of certain specific work that the Contractor believes to fall outside the scope of its obligations pursuant to the Contract, the Contractor shall, in writing, request the FMO issue a change order.

Together with the change order request, the Contractor shall provide the FMO with a study of relevant risk and change consequences, as well as a price estimate (change estimate) pursuant to Article I.4.5. The costs associated with the preparation of change estimates shall be paid by the FMO if the Contractor's request for a change order is accepted.

If the Contractor fails to make such request within a reasonable period of time, the work shall be deemed to form part of the Contractor's obligations pursuant to the Contract, and the Contractor waives its right to invoke such work as grounds for extending deadlines, additional consideration or damages.

- I.4.7.** If the Contractor has requested the FMO to issue a change order pursuant to Article I.4.6. the FMO shall, within a reasonable period of time, issue a change order pursuant to Article I.4.5., or issue a written waiver of the request.

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If the FMO deems the work to form part of the deliverables, it shall be explicitly stated that the change order is disputed (disputed change order). The change order shall include an explanation as to why the FMO deems the change order to be disputed.

Even if the change order is disputed, the Contractor shall perform what has been ordered in return for the FMO paying a provisional consideration corresponding to half of the amount to which the Contractor believes it is entitled. If the Contractor does not demand a decision concerning the disputed change pursuant to Article I.4.8. within three (3) months after the consideration has been paid, or if the work is deemed to fall within the scope of the Contract, the provisional consideration shall be set off against the consideration due upon the next invoice. If the work is deemed to be a change, the fixed consideration for the change, adjusted for the provisional consideration, shall be incorporated into the ordinary payment plan.

The Contractor may contest the duty to perform the work by requesting a ruling from an independent expert or mediator or institute legal proceedings or submit the dispute for arbitration in order to have its claim resolved with final effect, cf. Article II.16. Such a request must be submitted without undue delay after the FMO has provided notice that the change is disputed. The Contractor shall bear the risk associated with any delays that may occur due to the postponement of the work, if it is determined that the work falls within the scope of the Contract.

- I.4.8.** If the Contractor has received a disputed change order, the Contractor shall, within six (6) months of having received the disputed change order, either request a ruling from an independent expert or mediator in agreement with the FMO, or institute legal proceedings or submit the dispute for arbitration in order to have its claim resolved with final effect, cf. Article II.16. If the Contractor fails to do so, the work shall be deemed to fall within the scope of the Contractor's duties under the Contract.

### **I.4.9. Services in the maintenance phase**

During the maintenance phase, the Contractor shall maintain the multisite platform in accordance with the requirements in the Specification in Annex I.

During the maintenance phase, the Contractor shall offer support and maintain a helpdesk in accordance with the relevant requirements in the Specification in Annex I. All services related to support, helpdesk and maintenance during the maintenance phase are governed by the Service Level Agreement (SLA) provided by the Contractor. In case of any discrepancy between provisions in the SLA and this Contract, the provisions in this Contract shall apply.

All costs in the maintenance phase shall be covered by the price of the yearly services prices as indicated in the Price form in Annex II, unless otherwise agreed in writing.

### **I.4.10. Further development**

The FMO shall be entitled to order further development of all aspects of the multisite platform throughout the maintenance phase. The ordering of such further development projects shall follow this procedure:

1. **Specification:** The FMO shall provide a written specification detailing the requirements, timeline and scope of the further development project.
2. **Offer:** The Contractor shall submit a written offer in response to the FMO's

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specification, describing how the requirements will be fulfilled, the target price using the hourly rates for further development in the price form, and adjustments to the yearly maintenance price if necessary. The Contractor shall review the specification with the purpose of identifying any unclarities or issues, and ask for the necessary clarifications from the FMO before submitting the offer.

3. **Negotiation and agreement:** The FMO and the Contractor may negotiate regarding the Contractor's offer for the further development project. The final agreed terms shall be documented in a written agreement signed by both parties.
4. **Implementation:** The Contractor shall implement the further development project in accordance with the agreed terms and specifications. The terms and conditions for further development projects shall be the same as those regulating development in this Contract, unless otherwise agreed in writing.
5. **Payment:** Payment for further development projects will follow the standard payment terms in this Contract, unless otherwise agreed in writing. The payment may be made using converted support points, according to the predetermined conversion formula in Annex II - The Contractor's Tender. If no conversion formula is offered, 1:1 conversion of support hours to development hours will be used for conversion.

Software that is developed pursuant to this clause shall become part of the multisite platform that shall be maintained under the Contract.

### **ARTICLE I.5 - PAYMENT ARRANGEMENTS**

- I.5.1.** Following the successful launch of the multisite platform by the Contractor as described in Article I.4.1, the Contractor shall submit an invoice for the development phase.

The Contractor shall submit invoices for the annual maintenance fee and the annual Service Level Agreement (SLA) fee as follows:

- The first invoice shall cover the maintenance and SLA fees from the date of the successful launch of the multisite platform until 31 December 2025, prorated based on the number of days remaining in 2025 from the launch date. This invoice may be submitted no earlier than the date of the platform's approval by the FMO.
- Subsequent invoices shall cover the maintenance and SLA fees for each full calendar year, starting with the year 2026. These invoices shall be submitted annually in advance, no later than December 1 of the preceding year (i.e., at least 30 days before the beginning of each calendar year).

Invoices for additional support, exceeding the amount included in the SLA shall be submitted monthly.

All invoices shall be properly formatted, and must:

- Clearly indicate the reference number of the Contract.
- Include a detailed breakdown of the different items in the invoice, as well as statements of reimbursable expenses substantiated where necessary by supporting documents.

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- I.5.2.** Invoices are to be sent to the EFTA/FMO at the address shown in Article I.7. Payments shall be made to the Contractor's bank account mentioned in Article I.6, subject to approval of the invoices and the accompanying documents by the FMO.

Payments shall be executed only if the Contractor has fulfilled all his contractual obligations by the date on which the invoice is submitted.

- I.5.3.** The FMO shall have 30 working days from receipt to approve or reject the above documents and the Contractor shall have 10 working days in which to submit additional information or corrections or new documents, if requested by the FMO. The Contractor is required to review and revise the above documents in order to adequately respond to the FMO's questions and comments. Within a maximum of 30 working days of the date of the approval of the relevant invoices and documents, the FMO shall pay the amount due.

Approval of the invoice and other documents shall not imply recognition of the regularity and authenticity, completeness and correctness of the declarations and information they contain.

- I.5.4.** *For Contractors established in Belgium, the provisions of the Contract constitute a request for VAT exemption No 450, provided the Contractor includes the following statement in his invoice(s): "Exoneration de la TVA, article 42, paragraphe 3.4 du code de la TVA", or an equivalent statement in the Dutch or German language.*

- I.5.5.** The Contractor has a duty of custody in a preservation period of five years after the end of the Contract. This includes documents, notes etc. regarding all Services performed under the Contract. These documents shall be made available for audits performed by, or on behalf of the EEA EFTA States, the FMO, the EFTA Board of Auditors and the Office of the Auditor General of Norway.

### **ARTICLE I.6 – BANK ACCOUNT**

Payments shall be made in Euro to the Contractor's bank account denominated in Euro, identified by a document issued or certified by a bank as follows:

- Name of bank: [complete]
- Address of branch in full: [complete]
- Exact designation of account holder: [complete]
- Account Number: [complete]
- SWIFT: [complete]
- IBAN: [complete]

### **ARTICLE I.7 – COMMUNICATION DETAILS**

Any communication relating to the Contract shall be made in writing, and shall contain a reference to the number of the Contract. Delivery can be by hand, email or fax message against written confirmation of receipt or by registered letter. Ordinary mail shall be deemed to have been received by the FMO on the date on which it is registered by the responsible department indicated below. Communications shall be sent to the following addresses:

**FMO:**

Fredrik Mjell

## Contract for the development and maintenance of a multisite platform

Senior Communications Officer

Financial Mechanism Office

Avenue des Arts 19H, 1000 Brussels, Belgium

fmj@efta.int

**Contractor:**

[full name]

[position]

[official company name in full]

[official address in full]

[e-mail]

The Contracting Parties must ensure that incoming e-mails are redirected if the account holder is absent. The reference date of the electronic communication is the date of receiving.

## **II - GENERAL CONDITIONS**

### **ARTICLE II.1 - PERFORMANCE OF THE CONTRACT**

- II.1.1.** The Contractor shall perform the Services with best professional practice, independency, care, due diligence and efficiency, and contribute to a positive dialogue and good cooperation with FMO and any third parties involved. The Contractor shall notify the FMO immediately in writing of any circumstances that may cause delays, prevent or in any way significantly influence the implementation of the Services.
- II.1.2.** The Contractor carries all responsibility for the work performed by subcontractors, and Article II.1.1. is also applicable to any subcontractors involved in the performance of the Services.
- II.1.3.** Should the Contractor fail to perform its obligations under the Contract, the FMO may – without prejudice to its right to terminate the Contract – reduce or recover payments in proportion to the scale of the unperformed obligations. In addition, the FMO may claim compensation or impose liquidated damages in accordance with Article I.4.3.

### **ARTICLE II.2 – LIABILITY**

- II.2.1.** The FMO shall not be liable financially or in other ways to the Contractor or to companies or individuals engaged by the Contractor. Further, the FMO shall not be liable to any third parties for any harm or loss incurred as a result of acts or omissions of the Contractor or his subcontractors.
- II.2.2.** The Contractor shall obtain and maintain adequate insurance in connection with the execution of any Services under the Contract, including for any involvement of subcontractors, and against public/third party liability.

### **ARTICLE II.3 - CONFLICT OF INTERESTS**

- II.3.1.** The Contractor shall take all necessary measures to prevent any situation that could compromise the impartial and objective performance of the Contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which could arise during the performance of the Contract must be notified to the FMO in writing without delay. In the event of such conflict, the Contractor shall immediately take all necessary steps to resolve it.

The FMO reserves the right to verify that such measures are adequate and may require additional measures to be taken, if necessary, within a time limit which it shall set. The Contractor shall ensure that his staff, board and directors are not placed in a situation, which could give rise to conflict of interests. Without prejudice to Article II.1, the Contractor shall replace, immediately and without compensation from the FMO, any member of his staff exposed to such a situation. The Contractor is responsible for compliance with the provisions in this Article also of any subcontractors or other third parties involved in the performance of the Services.

- II.3.2.** The Contractor shall abstain from any contact likely to compromise his independence.
- II.3.3.** The Contractor declares:

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- that he has not made and will not make any offer of any type whatsoever from which an advantage can be derived under the Contract;
- that he has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to performance of the Contract.

**II.3.4.** The Contractor shall pass on all relevant obligations in writing to his staff, board, and directors as well as to third parties involved in the performance of the Contract. A copy of the instructions given and the undertakings made in this respect shall be sent to the FMO upon request.

### **ARTICLE II.4 - GENERAL PROVISIONS CONCERNING PAYMENTS**

**II.4.1.** Payments shall be deemed to have been made on the date on which the FMO's account is debited.

**II.4.2.** In the event of late payment the Contractor shall be entitled to interest. Interest shall be claimed within two months of receiving the payment. Interest shall be calculated at the rate applied by the European Central Bank to its most recent main refinancing operations (the "Reference Rate") plus seven percentage points. The Reference Rate in force on the first day of the month in which the payment was due shall apply.<sup>1</sup> Interest shall be payable for the period elapsing from the calendar day following expiry of the time limit for payment up to the day of payment. Suspension of payment by the FMO may not be deemed to constitute late payment, provided such is reasonably proportionate to defaults in services provided.

### **ARTICLE II.5 – RECOVERY**

**II.5.1.** If total payments made exceed the amount actually due or if recovery is justified in accordance with the terms of the Contract, the Contractor shall reimburse the appropriate amount in Euro on receipt of the debit note, in the manner and within the time limits set by the FMO.

**II.5.2.** In the event of failure to pay by the deadline specified in the request for reimbursement, the sum due shall bear interest at the rate indicated in Article II.4.2. Interest shall be payable from the calendar day following the due date up to the calendar day on which the debt is repaid in full.

**II.5.3.** In the event of failure to pay by the deadline specified in the request for reimbursement, the FMO may, after informing the Contractor, recover amounts established as certain, of a fixed amount and due by offsetting, in cases where the Contractor also has a claim on the FMO that is certain, of a fixed amount and due.

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<sup>1</sup> Such interest rate is published in the C series of the Official Journal of the European Union.

**ARTICLE II.6 - OWNERSHIP OF THE RESULTS, INTELLECTUAL AND INDUSTRIAL PROPERTY**

The FMO shall be the sole owner of all work, materials and other results generated through the assignment, including but not limited to:

- Source code of the multisite platform and any related applications.
- Documentation, including technical specifications, user manuals, and training materials.
- Design assets, such as wireframes, mockups, and graphic designs.
- Databases and data generated through the platform.
- Any other intellectual or industrial property rights and know-how related to the platform.

The FMO may use, publish, assign or transfer them as it sees fit; without geographical or other limitation.

The Contractor will not take any action that may jeopardize such proprietary rights of the FMO and shall promptly take all actions as may be necessary, if any, to formally effect vesting of all such rights with the FMO. The FMO will own all rights to any copy, translation, modification, adaptation or derivation of its operations, including any improvements thereof.

Without the prior written approval of the FMO, the Contractor is not entitled to use the results from the assignment.

The Contractor undertakes to hold the FMO harmless against any claims from third parties claiming to own all or any part of the results from the Services.

This provision shall survive the expiration and/or termination of the Contract.

**ARTICLE II.7 - CORRUPTION, COMPLIANCE WITH LAWS, CONFIDENTIALITY**

**II.7.1.** The Contractor shall refrain from any illegal or corrupt practices, hereunder, refuse any offer, gift, payment or benefit of any kind, which would or could, either directly or indirectly, be construed as an illegal or corrupt practice, as well as refrain from any misrepresentation of facts which could lead to the similar effect.

**II.7.2.** To the extent compatible with any professional standards the Contractor shall inform the FMO of any indication of corruption or misuse of funds under the EEA and/or Norwegian Financial Mechanisms that comes to his attention during the course of the Services.

**II.7.3.** The Contractor shall during the term of this Contract, and thereafter, keep secret and shall ensure that its employees, consultants and subcontractors keep secret, those matters concerning the FMO and its operations which are non-public.

The Contractor understands that any disclosure of such information to a third party may be harmful to the FMO. Accordingly, the Contractor undertakes to use the information only within the scope of the assignment and in the best interests of the FMO. The Contractor may not use the information on its own or a third party's behalf.

The Contractor recognises that any violation of the two preceding paragraphs may cause harm to the FMO not capable of being remedied by an award of damages. The FMO shall accordingly be entitled to seek injunctive relief in respect of any actual or threatened such violation by the Contractor.

Notwithstanding the foregoing, the Contractor may disclose matters in relation to the aforementioned if required by law, statute or regulation.

- II.7.4.** The Contractor shall comply with any applicable laws and regulations, and take prompt corrective action with regard to any violation thereof brought to his attention. Hereunder, the Contractor is responsible for fulfilling any applicable registration requirements, and is responsible for all payments, statements and reports required by the authorities in Norway, Iceland and Liechtenstein or other countries in connection with the Services and his operations.

## **ARTICLE II.8 - USE, DISTRIBUTION AND PUBLICATION OF INFORMATION**

- II.8.1.** The Contractor authorises the FMO to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in or relating to the Contract, in particular the identity of the Contractor, the subject matter, the duration, the amount paid and the reports. Where personal data is concerned, Article II.9 shall apply.
- II.8.2.** Unless otherwise provided by the Special Conditions, the FMO shall not be required to distribute or publish documents or information supplied in performance of the Contract. If the FMO decides not to publish the documents or information supplied, the Contractor may not have them distributed or published elsewhere without prior written authorisation from the FMO.
- II.8.3.** Any distribution or publication of information relating to the Contract by the Contractor shall require prior written authorisation by the FMO and shall mention the amount paid by the FMO. It shall state that the opinions expressed are those of the Contractor only and do not represent the FMO's official position.
- II.8.4.** The use of information obtained by the Contractor in the course of the Contract for purposes other than its performance shall be forbidden, unless the FMO has specifically given prior written authorisation to the contrary.

## **ARTICLE II.9 – DATA PROTECTION**

All personal data included in the Contract shall be processed solely for the purposes of the performance, management and monitoring of the Contract by the FMO without prejudice to possible transmission to the bodies charged with monitoring or inspection tasks at the FMO.

A data processing agreement (DPA) shall be signed between the FMO, acting as the controller, and the Contractor, acting as the processor, to define their respective responsibilities regarding the processing of personal data c.f. requirement number 37 in the Specification in Annex I.

The Parties recognize that the FMO is not legally bound by the General Data Protection Regulation (GDPR). The DPA shall reflect this.

## **ARTICLE II.10 – TAXATION**

- II.10.1.** The Contractor shall have sole responsibility for compliance with the tax laws which apply to him. Failure to comply shall make the relevant invoices invalid.

## Contract for the development and maintenance of a multisite platform

- II.10.2.** The Contractor recognises that the FMO is, as a rule, exempt from all taxes and duties, including value added tax (VAT), pursuant to the European Free Trade Association's Headquarters Agreement with the Kingdom of Belgium and the EFTA Agreement from 1960, in particular to Article 9 thereof. The FMO as part of EFTA is an international organisation and therefore benefits from a VAT exemption according to Council Directive 2006/112/CE, Article 151, subject to national tax legislation. [ *For Belgian Contractors delete the sentence above and include the following sentence: The FMO therefore benefits from a VAT exemption according to Article 42 § 3.4 of the Belgian VAT Code.*]

### **ARTICLE II. 11 - FORCE MAJEURE**

- II.11.1.** Force majeure shall mean any unforeseeable and exceptional situation or event beyond the control of the Contracting Parties, which prevents either of them from performing any of their obligations under the Contract, and that is not due to error or negligence on their part or on the part of a subcontractor, and could not have been avoided by the exercise of due diligence. Defects in equipment or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a relevant case of force majeure.
- II.11.2.** If either Contracting Party is faced with force majeure, it shall notify the other party without delay by registered letter with acknowledgment of receipt or equivalent, stating the nature, likely duration and foreseeable effects.
- II.11.3.** Neither Contracting Party shall be held in breach of its contractual obligations if it has been prevented from performing them by force majeure, and notified the other Contracting Party in accordance with Art. II.11.2. Where the Contractor is unable to perform his contractual obligations owing to force majeure, he shall have the right to remuneration only for tasks actually executed.
- II.11.4.** The Contracting Parties shall take the necessary measures to reduce damage to a minimum.

### **ARTICLE II.12 – TERMINATION BY EITHER CONTRACTING PARTY**

- II.12.1.** The FMO may terminate whole or part of the Contract with three month's formal prior notice. The Contractor shall only be entitled to payment corresponding to part-performance of the Contract before the termination date. The first paragraph of Article II.13.3. shall apply.
- II.12.2.** The Contractor may terminate the Contract with one month's formal prior notice if the FMO has grossly neglected its obligations under the Contract or otherwise committed a material breach of Contract and has not fully and effectively performed the said obligations or remedied such breach within 15 working days from receipt of a written notice given to this effect by the Contractor.
- II.12.3.** In case of force majeure, notified in accordance with Article II.11.2, either Contracting Party may terminate the Contract, where performance thereof cannot be ensured for a period of at least two months. Article II.13.3 shall apply.

### **ARTICLE II.13 – TERMINATION OF THE CONTRACT**

- II.13.1.** The FMO may also terminate the Contract in the following circumstances:
- a) where the Contractor is declared bankrupt, is being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has

suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

- b) where the Contractor has been convicted of an offence concerning his professional conduct by a judgment which has the force of *res judicata*;
- c) where the Contractor has been guilty of grave professional misconduct proven by any means which the FMO can justify;
- d) where the Contractor has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed;
- e) where the FMO seriously suspects the Contractor of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the FMO's financial interests;
- f) where the Contractor is in breach of his obligations under Article II.3 and/or II.7.
- g) where the Contractor was guilty of misrepresentation in supplying the information required by the FMO as a condition of participation in the Contract procedure or failed to supply this information;
- h) where a change in the Contractor's legal, financial, technical or organisational situation could, in the FMO's opinion, have a significant effect on the performance of the Contract;
- i) where the Contractor is unable, through his own fault, to obtain any permit or licence required for performance of this Contract;
- j) where the Contractor does not perform the Contract as established in the Terms of Reference or fails to fulfil another substantial contractual obligation.

**II.13.2.** Prior to termination under point e), h) or j) of Article II.13.1, the Contractor shall be given the opportunity to submit his observations within a set deadline. Termination shall take effect on the date on which a registered letter with acknowledgment of receipt terminating the Contract is received by the Contractor, or on any other date indicated in the letter of termination.

### **II.13.3. Consequences of termination**

In the event of termination for any cause whatsoever and without prejudice to any other measures provided for in the Contract, the Contractor shall waive any claim for consequential damages, including any loss of anticipated profits for uncompleted work. On receipt of the letter terminating the Contract, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments. He shall draw up the documents required by the Special Conditions for the tasks executed up to the date on which termination takes effect, within a period not exceeding thirty days from that date. The Contractor shall promptly forward to the FMO all information and documentation in his possession relating to the subject of the Contract. This includes accesses, keys and anything necessary to fully enable the FMO to continue the Services and work related to it. The FMO may recover any amounts paid under the Contract.

## Contract for the development and maintenance of a multisite platform

The FMO may claim compensation for any damage suffered in relation to termination of the contract pursuant to Article II.13 and termination caused by other contract breaches.

On termination the FMO may engage any other contractor to execute, complete or maintain the Services. In the event of a unilateral termination by the FMO, the FMO shall be entitled to claim from the Contractor all reasonable extra costs incurred in doing so, without prejudice to any other rights or guarantees enforceable under the Contract.

Regardless of the reason for termination, the Contractor shall cooperate fully with any new contractor appointed by the FMO, providing reasonable assistance to ensure a smooth transition of the Services, including sharing relevant operational knowledge and facilitating access to ongoing processes, providing technical support and troubleshooting assistance, participating in meetings and conference calls, as directed by the FMO. This paragraph shall also apply upon the expiry of the Contract at the end of the Contracting Period, or upon the non-extension of the Contract by the FMO.

### **ARTICLE II.14 – AMENDMENTS**

**II.14.1.** Any amendment to the Contract shall be the subject of a written agreement concluded by the Contracting Parties. An oral agreement shall not be binding on the Contracting Parties.

### **ARTICLE II.15 - SUSPENSION OF THE CONTRACT**

**II.15.1.** Without prejudice to the FMO's right to terminate the Contract, the FMO may at any time and for any reason suspend execution of the Contract or any part thereof. Suspension shall take effect on the day the Contractor receives notification by registered letter with acknowledgment of receipt or equivalent, or at a later date where the notification so provides. The FMO may at any time following suspension give notice to the Contractor to resume the Services suspended. The Contractor shall not be entitled to claim compensation on account of suspension of the Contract or of part thereof.

### **ARTICLE II.16 - APPLICABLE LAW AND JURISDICTION, SETTLEMENT OF DISPUTES**

**II.16.1.** The Contract shall be governed by the national substantive law of The Kingdom of Belgium.

**II.16.2.** Any dispute between the parties resulting from the interpretation or application of the Contract which cannot be settled amicably shall be finally settled under the CEPANI Rules of Arbitration by one arbitrator appointed in accordance with these rules. The parties expressly exclude any application for setting aside the arbitral award.

The seat of the arbitration shall be Brussels.

The language of the arbitration shall be English.

FMO may claim execution of any award, judgment or court order in any court or appropriate authority where the Contractor has assets.

## SIGNATURES

For the Contractor,

Contract for the development and maintenance of a multisite platform

Signature[s]: \_\_\_\_\_

[Company name/first name/surname/function]

Done at [location] [Date]: \_\_\_\_\_

For the FMO,

Signature: \_\_\_\_\_

Ragna FIDJESTØL

Managing Director

Done at [location] [Date]: \_\_\_\_\_

In duplicate in English.

Contract for the development and maintenance of a multisite platform

## ANNEX I

Terms of Reference for Development and maintenance of a multisite platform  
(Invitation to tender of 25/2/2025 and list of Customer Requirements);

The Terms of Reference form an integral part of the Contract. The terms set out in the Terms of Reference shall take precedence over the Contractor's Tender (Annex II).

## ANNEX II

Contractor's Tender of [date]

The tender submitted by the Contractor to the FMO and which was received on [date] forms an integral part of the Contract. In the event of conflict of interpretation, the terms of the Contract shall take precedence over those in the tender.

## Annex III

EFTA Instructions on invoicing of travel related expenses;

## Annex IV

Daily Subsistence Allowances, valid as of 12 January 2024;

## **Annex V**

Use of subcontractors

## **Annex VI**

Data processor agreement DPA

Contract for the development and maintenance of a multisite platform