



# **EUSPA/OP/04/25**

## **“ICT SUPPORT SERVICES”**

**Annex I to the Invitation to Tender (ITT)**  
***“Tender Specifications”***

**After Corrigendum 4**

**Ref.:** Annex I – Tender Specifications

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## 1 Overview

The present Tender Specifications (TS), attached to the Invitation to Tender (ITT), complement the information contained in the Contract Notice with further information on the procurement procedure and scope.

In addition to the terms defined in the present TS, additional abbreviations and definitions are included in section 16.

### 1.1 Context of the Tender

The European Union Agency for the Space Programme (hereinafter ‘EUSPA’, ‘the Agency’ or ‘the Contracting Authority’)<sup>1</sup> is a European Union agency established by REGULATION (EU) No 2021/696 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU (hereinafter the “Space Regulation”) to accomplish specific tasks related to the European GNSS components (Galileo and EGNOS), Copernicus, GOVSATCOM, and Space Situational Awareness as set out in such Regulation.

Further information can be found on the Agency’s web site at <http://www.euspa.europa.eu/>.

### 1.2 Purpose

The purpose of this tender is to procure services for the Information and Communication Technology & Facility Management Department (ITF) of EUSPA, which is proactively contributing to the fulfilment of the Agency’s mission, particularly regarding all matters related to the management of the information and communication systems. The ITF Department ensures smooth running of the Agency’s facilities and logistics and compliance with local health and safety regulations. The department is also coordinating and managing the Information and Communications Technology (ICT) function, including planning and managing the implementation, operation, development, optimisation and maintenance of the ICT infrastructure for both unclassified systems and systems processing EU classified information up to SECRET UE and across all EUSPA sites and remote offices (currently Prague, Saint Germain-en-Laye, Toulouse, Brussels, Noordwijk and Madrid) .

The incumbent contractor has been providing ICT Services to EUSPA under EUSPA/OP/08/21 FWC, which was signed on 05/05/2022, with regular yearly renewals lasting until 04/05/2026.

The objective of this procurement procedure is to conclude a Multiple Framework Contract in cascade with maximum 3 contractors without reopening of competition (hereinafter referred to as “the Contract”, “Framework Contract”, or “FWC”) for the following ICT services:

- ICT User support
- ICT Systems and Software Training
- ICT Systems maintenance
- ICT datacentre support
- ICT Systems administration and configuration

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<sup>1</sup> REGULATION (EU) No 2021/696 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU.

- ICT Systems architecture, design, development and planning
- ICT Systems testing and evaluation
- ICT Systems analysis
- ICT Project management
- ICT Security
- ICT Systems documentation and content management
- ICT Supply chain support
- Application development (On-prem, Cloud based, Hybrid, Containerized, PowerApps, etc.)
- Application maintenance
- Security risk assessment
- Software market survey
- Information management
- and other auxiliary ICT activities (i.a., support the Agency in audits and compliance services with IT related regulatory frameworks)

### **1.3 Name and form of procurement procedure**

**Name:** EUSPA/OP/04/25 – ICT Support Services.

**Procedure:** Open procedure in accordance with Article 167(1)(a) of the Regulation 2024/2509 (hereinafter “Financial Regulation” or “FR”)<sup>2</sup>.

**Lots:** Not applicable.

### **1.4 General Conditions**

- Tenderers are required to accept all the terms and conditions set out in the ITT and the Tender Specifications. However, this is without prejudice to the possibility of declaring (duly justified) partial- or non- compliances to the contractual baseline. In this regard, the level of stated compliance and justified partial or non- compliance will be assessed by virtue of the qualitative criterion Q6 as described in section 13.6.1 below.
- The Tenders will have to fulfil the conditions of submission set out in Section 15.6.3 below.
- Any attempt by a Tenderer to obtain confidential information, enter into unlawful agreements with competitors, or influence the evaluation committee or the Contracting Authority during the process of examining, clarifying and evaluating Tenders will lead to rejection of its Tender and may result in administrative penalties.

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<sup>2</sup> Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (recast) repealing REGULATION (EU, Euratom) 2018/1046 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 July 2018 on the financial rules applicable to the general budget of the Union.

- The ITT and its annexes and any subsequent document for this activity to be issued by the Contracting Authority in the course of this procurement procedure are in no way binding on the Contracting Authority. The contractual relationship with the Contracting Authority commences only upon signature of the Contract with the successful Tenderer.
- Until the signature of the Contract, the Contracting Authority may decide to abandon the procurement or cancel the award procedure. Such actions shall not entitle the Tenderers to claim any compensation.
- By submitting a Tender, the Tenderer provides its unconditional and irrevocable consent to the Contracting Authority:
  - To use any information contained in the Tender in legal proceedings related to the procurement regardless of the parties involved to the extent necessary or appropriate for due protection of the Contracting Authority's rights. Should the Contracting Authority use the content of the Tender for this purpose, the Tenderer waives any claim for any compensation of any kind whatsoever or any claim related to confidentiality and/or data protection.
  - To make available (any part of) the Tender to its staff and the staff of other Union institutions, bodies and agencies, as well to other persons and entities working for the Contracting Authority or cooperating with it, including Contractors or subcontractors and their staff, provided that they are bound by non-disclosure obligation and for the purpose of evaluating the Tender and, if applicable, implementing the Contract, performing audits, benchmarking, etc.
- The Contracting Authority reserves the right to supplement, vary, terminate or otherwise amend the tendering process, to the extent allowed under applicable procurement rules and without any liability for financial compensation to the Tenderers.

## 1.5 Establishment of fair competition conditions

In order to ensure fair competition conditions within this procurement, the following measures are being put in place:

- i. A comprehensive description of the activities to be undertaken provided in Annex I.J Technical Terms of Reference;
- ii. The Simulation Exercise has been designed to ensure that the relevant scope has not already been performed in the same manner by the incumbent. This has been done to the maximum extent possible, taking into account the nature of the services that are the subject of the present procurement. The Simulation Exercise is part of Annex I.J.2 Technical Terms of Reference.
- iii. An indication of the needs (FTEs) provided in Annex I.J.1 Technical Terms of Reference;

## 1.6 Applicable Rules

The following rules are applicable to the present procurement. The list is provided for information purposes, it is not exhaustive, and it is without prejudice to other applicable laws.

- Regulation (EU) No 2021/696 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme

and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU (hereinafter “the Space Regulation”);

- Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission and its Implementing Rules such as COMMISSION DECISION (EU, Euratom) 2019/1961 of 17 October 2019 on implementing rules for handling CONFIDENTIEL UE/EU CONFIDENTIAL and SECRET UE/EU SECRET information, COMMISSION DECISION (EU, Euratom) 2019/1962 of 17 October 2019 on implementing rules for handling RESTREINT UE/EU RESTRICTED information, COMMISSION DECISION (EU, Euratom) 2019/1962 of 17 October 2019 on implementing rules for handling RESTREINT UE/EU RESTRICTED information;
- Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information and its Implementing Rules such as COMMISSION DECISION (EU, Euratom) 2019/1961 of 17 October 2019 on implementing rules for handling CONFIDENTIEL UE/EU CONFIDENTIAL and SECRET UE/EU SECRET information, COMMISSION DECISION (EU, Euratom) 2019/1962 of 17 October 2019 on implementing rules for handling RESTREINT UE/EU RESTRICTED information;
- Regulation (EU, EURATOM) 2023/2841 of the European Parliament and of the Council of 13 December 2023 (entered into force on 07 January 2024) laying down measures for a high common level of cybersecurity at the institutions, bodies, offices and agencies of the Union, states that each Union entity shall establish by 8 April 2025 an internal cybersecurity risk management, governance and control framework;
- EUSPA Financial Regulation: European GNSS Agency Financial Regulation 2019 adopted by its Administrative Board on 16 August 2019 (Ref.: GSA-EDA-AB-DEC-252663, version 1.0)<sup>3</sup>;
- Decision of EUSPA Administrative Board on the Security Rules for protecting EU Classified Information (Ref: EUSPA-SEC-AB-DEC-A22114, version 1.0)<sup>4</sup>;
- Commission Decision (EU, Euratom) 2019/1963 of 17 October 2019 laying down implementing rules on industrial security with regard to classified procurement contracts.

The procurement procedure will be carried out in accordance with the rules of:

- Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (recast);

**In the general implementation of its activities and for the processing of procurement procedures in particular, regarding confidentiality, personal data treatment and public access to documents, the Contracting Authority observes the following rules:**

- Regulation (EU) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC;

<sup>3</sup> [https://www.euspa.europa.eu/sites/default/files/gsa\\_financial\\_regulation\\_2019\\_signed.pdf](https://www.euspa.europa.eu/sites/default/files/gsa_financial_regulation_2019_signed.pdf)

<sup>4</sup> [https://www.euspa.europa.eu/sites/default/files/euspa-sec-ab-dec-a22114\\_security\\_rules\\_for\\_protecting\\_euci.pdf](https://www.euspa.europa.eu/sites/default/files/euspa-sec-ab-dec-a22114_security_rules_for_protecting_euci.pdf)

- ITT Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);
- Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

**Important note:** The legal acts listed above are provided to set the overall framework; however, it shall be the Contractor's duty and corresponding sole responsibility to comply and ensure full compliance with all applicable laws, regulations and legal acts of any part of performance under the Contract contemplated to be awarded as a result of the current procurement procedure.

## 1.7 Terms of reference

In accordance with the purpose of the procurement procedure as described under Section 1.2 above, the Contractor is to be requested to perform tasks in line with the terms of reference listed in Annex I.J Technical Terms of Reference.

## 2 Procurement procedure and timeline

### 2.1 Timeline

| Timetable   | Date  | Comments  |
|---|---|---|
| Launch of the procurement process – submission for publication of Contract Notice to the Supplement to the Official Journal of the EU | 21/11/2025  | All documents of the Invitation to Tender available at:<br><br>Funding & Tenders Portal <a href="https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/opportunities/tender-details/206ca5a0-820a-438d-aea9-82809c1f4908-CN#anchorDocuments">https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/opportunities/tender-details/206ca5a0-820a-438d-aea9-82809c1f4908-CN#anchorDocuments</a> and EUSPA website <a href="http://www.EUSPA.europa.eu/EUSPA/procurement">http://www.EUSPA.europa.eu/EUSPA/procurement</a> |
| Deadline for requests for clarifications  | <del>2316</del> <sup>Corr.3</sup> 01/2026   | Clarification requests to be submitted only via the Funding & Tenders Portal (see above).   |
| Last date on which clarifications may be issued by EUSPA  | <del>2620</del> <sup>Corr.3</sup> 01/2026   | All clarifications will be published at the Funding & Tenders Portal (see above).   |
| <b>Deadline for submission of tenders</b>   | <del>0326</del> <sup>Corr.3</sup> / <del>0201</del> <sup>Corr.3</sup> /2026 at 17:00 (UTC +01:00)   | <b>According to conditions of submissions set out in section 15.7 of these Tender Specifications.</b>   |
| Opening session and start of evaluation process   | <del>0327</del> <sup>Corr.3</sup> / <del>0201</del> <sup>Corr.3</sup> /2026 at <del>12:00</del> <sup>18:00</sup> <sup>Corr.3</sup> (UTC +01:00) | As per section 15.8 of the present document.  |
| <b>Completion of evaluation</b>   | <del>1740</del> <sup>Corr.3</sup> / <del>0403</del> <sup>Corr.2</sup> /2026 (estimated)   | The estimated date is only indicative, it may be changed and it is not binding on the Contracting Authority.  |
| <b>Award</b>  | <del>May April</del> <sup>Corr.2</sup> 2026 (estimated)   | The estimated date is only indicative, it may be changed and it is not binding on the Contracting Authority.  |
| Estimated start of implementation of the Contract   | 01/06/2026 (estimated)  | The estimated date is only indicative, it may be changed and it is not binding on the Contracting Authority.  |

Table 1: Procurement Timetable

## 3 Envisaged Contractual Approach

The objective of this procurement is to conclude Multiple Framework Contracts for services in cascade with maximum three (3) contractors (“FWC”) for a maximum duration of 48 months, as described in Section 3.3.4.

### 3.1 Implementation of the FWC

The FWC shall be implemented through Specific Contracts (“SCs”), in line with the essential terms established at the FWC level. EUSPA envisages to sign several such SCs during the execution of the FWC. The signature of a framework contract does not impose an obligation on EUSPA to conclude specific contracts with a framework contractor.

Specific contracts will be implemented in one of the following modes:

- Planned Deliverable Mode is meant to mean the mode where deliverables are identified and planned upfront, at the time of entering to the concerned specific contract through the modalities and requirements described in FWC, Article I.3.7, points a. and d.
- On Demand Deliverable Mode is meant to be the mode where the scope of the deliverables is identified in general terms at the time of entering the concerned specific contract, as per modalities and requirements described in FWC, Article I.3.7, points b. and d., and the specific deliverables in the execution of the concerned specific contract are identified through the process described in FWC, under Article I.3.11.
- Service Mode is meant to be the mode where the services under the concerned specific contract are rendered through the modalities and requirements described in FWC, Article I.3.7, points c. and d.

### 3.2 Evaluation of the FWC

Tenders submitted within the present procurement procedure are to be evaluated against the criteria set out in these tender specifications and based on the Simulation Exercise provided in Annex I.J Technical Terms of Reference.

The Simulation Exercise shall be considered as Evaluation Scenario for the purposes of the evaluation.

The Evaluation Scenarios will form part of the overall Total Price for Evaluation Purposes of the Tender as per Section 12.2.2 below.

The aim of each Evaluation Scenario is to provide Tenderers with an overview of the range of activities they may be asked to perform under the FWC, based on the technical terms of reference, providing that WP1 scenario shall last in total 15 months. The Scenario is furthermore a likely common scenario for the implementation of the FWC through specific contracts. Accordingly, the Evaluation Scenarios will serve as a scenario against which the quality and the price of the submitted Tenders will be evaluated. Tenderers shall

submit the input requested for the Evaluation Scenario (described in the Annex I.J.2) within their technical proposal.

Evaluation Scenarios have been designed to obtain the Tenderers' offers, and price with respect to an indicative set of activities they may be asked to perform under the FWC, based on the services described in the Invitation to Tender and its respective Annexes. Each Scenario is purely indicative and will be used mainly for evaluation purposes. Nevertheless, should at the time of placing a specific contract the assumptions, terms and conditions according to which a scenario has been developed not be subject to changes, the Tenderer's offer for the scenario shall be considered binding and enforceable.

Overall, the obligations of the Tenderer in performing activities and services mentioned or referred to in each Evaluation Scenario shall form part of the successful Tenderer's contractual obligations for performing the services under individual FWC.

### **3.3 Main Contractual provisions**

#### **3.3.1 Language of the Contract**

English shall be the working language of the Contract including all correspondence with the Contracting Authority.

#### **3.3.2 Volume and value of the Contract**

The maximum total value of all purchases under the FWC is EUR 40,000,000.00 (forty million euros), for the whole duration of the FWC including those to be performed under all the future specific contracts. Please note that financial offers exceeding the aforementioned maximum total value will lead to an automatic rejection of the tender.

Tenderers' attention is drawn to the fact that the volume of the framework contract is estimated to the best available knowledge of costs of services, but it may not be sufficiently accurate, therefore it may be over or underestimated.

This budget is indicative; it will be subject to budget allocations given to the EUSPA and the Commission in the frame of the present and next EU financial perspective.

Within three years following the signature of the FWC, EUSPA reserves the right to launch an exceptional negotiated procedure for new services with the same contractor in case of need, as foreseen in Article 167(5)(f) according to point 11.1(e) of Annex I of FR. The maximum additional value of new services would be 50% of the initial value of the FWC.

#### **3.3.3 Place of Performance**

The services shall be provided according to the requirements to be set out for each specific contract, including as regards the place of performance. The place of performance of the tasks may be the Contractor's premises, having to be located within a Member State of the EU, and EUSPA HQ in Prague, as well as other EUSPA sites such as: Saint-Germain-en-Laye, France; Toulouse, France; Madrid, Spain; Noordwijk, The Netherlands, and potentially other sites in the future (e.g., Germany, Greece, Italy, Luxembourg) having to be located within a Member State of the EU.

### **3.3.4 Duration**

The duration of the FWC is defined in the Draft Framework Contract (Annex II to the Invitation to Tender).

The duration of the FWC shall be twelve (12) months from the signature by the last party. The FWC is renewed automatically 3 (three) times for 12 (twelve) months each, unless one of the parties receives Formal Notification (as defined in the FWC) from the other party of the contrary at the latest 3 (three) months before the expiry of the ongoing duration.

The expected total duration of the FWC shall not exceed 48 (forty-eight) months.

### **3.3.5 Ownership**

The detailed terms and conditions related to the ownership of tangible and intangible assets are provided in the Draft FWC (Annex II to the Invitation to Tender).

### **3.3.6 Subcontracting requirements**

The Draft FWC contains specific provisions that the Contractor will have to comply with when concluding subcontracts.

Please note that specific provisions on the general principles of subcontracting and subcontracting standards are included in the Draft FWC. Tenderers are required to submit, as part of their Technical Proposal, a plan describing in detail how they plan to comply with the said principles / requirements. Attention is drawn to the fact that this section will be evaluated according to Qualitative Award Criterion Q5 as per section 12.1 of these Tender Specifications.

### **3.3.7 Assignment**

In accordance with Article II.8 of the draft FWC, the contract may be assigned to European Commission as provided therein.

### **3.3.8 KPIs and Liability**

The Draft FWC contains general provisions in relation to Liquidated Damages (LDs) with related LDs cap and Contractor's Liability and overall Liability cap, while the specific provisions on the Key Performance Indicators (KPIs) are provided in the Service Level Agreement (SLA) – Annex II.XII to the Draft FWC.

### **3.3.9 Handover Assets**

The Draft FWC contains specific provisions in relation to assets that will be handed over to the Contractor.

All Handover Assets are specified here below:

- Laptops and peripherals;
- VPN tokens;
- Other assets as necessary, to be defined at request for services level for the Specific Contract.

### 3.3.10 Background Intellectual Property Rights

The Draft FWC contains specific provisions in relation to Tenderers-owned and pre-existing Intellectual Property Rights (i.e. “Background IPRs” or “BIPRs”).

### 3.3.11 Foreground Intellectual Property Rights

The Draft FWC contains specific provisions in relation to Foreground Intellectual Property Rights (i.e. “Foreground IPRs” or “FIPRs”).

### 3.3.12 Cybersecurity

For the preparation of tenders to be submitted for the procurement procedure, tenderers are informed that the quality and maturity of the approach to ensure compliance with the cybersecurity requirements under Regulation 2023/2841 will be evaluated against Qualitative Award Criterion Q7 as per section 12.1 of these Tender Specifications.

To this purpose, tenderers shall provide, in a dedicated section of their technical proposal, a clear and precise description of their approach to ensure compliance with the cybersecurity requirements under Regulation 2023/2841 and in particular:

- 1) Regarding **Information security policies** – Tenderers shall provide a description of their organization for information security policy, including how the policies are approved, communicated and reviewed.
- 2) Regarding **the organization of information security** - Tenderers shall explain how information security responsibilities are assigned within their organization.
- 3) Regarding **Asset Management** - Tenderers shall describe their process for asset inventory and classification, especially for EUSPA/EC data or deliveries.
- 4) Regarding **Access control** - Tenderers shall explain how they will handle the provision, review and revoke user and privileged access to EUSPA/EC data.
- 5) Regarding **Incident Management** - Tenderers shall outline the incident management process indicating what is the typical response time for notifying clients in case of security breach.
- 6) Regarding **Risk & certification** - Tenderers shall specify which certification they hold or which equivalent internationally recognized framework and shall describe the method and regularity of formal risk assessments.
- 7) Regarding **Vulnerability & Patch Management** - Tenderers shall describe the process in place and indicate the standard process for remediating critical vulnerability.
- 8) Regarding **Business Continuity** - Tenderers shall describe business continuity measures / disaster recovery plan covering the services and the associated Recovery Time Objective (RTO) / Recovery Point Objective (RPO).

## 3.4 Transfer of undertakings

Tenderers are required to assess and undertake the risks possibly deriving from the applicable national law and EU/national case law concerning transfer of undertakings in relation or in connection with the succession in the ICT Support Contract EUSPA/OP/08/21 between the Incumbent Contractor and the Contractor to result from this procurement procedure, when different entities.

EUSPA reserves the right to further discuss aspects and risks related to the applicability of the transfer of undertakings applicable national and EU law and case law in the course of the contract execution.

EUSPA intends furthermore to neutralise, for evaluation purposes, the possible financial impact associated to this risk.

Tenderers are informed that they will be requested to address the risk and clearly identify the related envisaged financial consequences as a stand-alone amount in their financial proposal.

EUSPA shall have the right to recover **or setoff from the last payment/s under the contract<sup>Corr.3</sup>** the funds allocated to the management of this risk, should it not materialise as a result of the award and execution of the contract.

## 4 Organisation of the Tenderer

### 4.1 Introduction

Economic operators can submit a tender either as a sole economic operator (sole Tenderer) or as a group of economic operators (joint tender)<sup>5</sup>. In either case subcontracting is permitted.

The submitted Tenders and the conduct of the involved entities in the present procurement procedure must be autonomous and independent, including cases where affiliated entities<sup>6</sup> submit separate Tenders.

No more than one Tender can be submitted by the same legal entity when acting as a sole Tenderer / group Leader / group Member. In the event that a legal entity submits more than one Tender as a Tenderer / group Leader / group Member, all Tenders in which that entity has participated in such roles will be excluded.

Economic operators linked by a relationship of control or of association (e.g. belonging to the same Group) are allowed to submit different and separate Tenders provided that each tenderer is able to demonstrate that its tender was drawn independently and autonomously.

Subcontractors can participate in several Tenders as long as the tenders are drawn and submitted in complete independence and autonomously from each other and upon condition that sufficient measures to avoid collusive tendering are implemented and evidence of such implementation are provided together with the Tenders. The Contracting Authority reserves the right to request clarifications directly from subcontractors in relation to such measures and evidence. However, cross subcontracting among Tenderers is forbidden, more precisely an entity “A” may participate as Tenderer (either as sole tenderer or as member of a group of economic operators) and as subcontractor to another tenderer “B” within the same procurement procedure. However, in this case it is forbidden that Tenderer “B” (or any of its participating members in case of a group of economic operators) is at the same time subcontractor for Tenderer “A” (or for the group of economic operators in which “A” participates) within the same procurement procedure. In this case, both tenders A and B shall be rejected.

EUSPA reserves the right to reject any Tender if it is demonstrated that collusive tendering / anticompetitive behaviours were put in place by the Tenderer / subcontractors.

In order to fulfil the selection criteria, set out in Section 10, the Tenderer can rely on the capacities of subcontractors or other entities that are not subcontractors (see Section 5).

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<sup>5</sup> Each economic operator participating in the joint tender is referred to as “group member”.

<sup>6</sup> An entity shall be deemed affiliated to the tenderer or any of the members of the group acting as tenderer if it is directly or indirectly controlling, controlled by or under common control of the tenderer or any of the members of the group acting as tenderer, provided that (i) such entity shall be considered an affiliate only for the time during which such control exists, and (ii) for the purpose of this definition, “control” shall be constituted in case any of the following applies to either the legal entity on one side or the tenderer or any of the members of the group acting as tenderer on the other side in relation to each other: (a) holding, whether directly or indirectly, a majority of the voting rights, (b) holding, whether directly or indirectly, more than 50% (fifty per cent) of the share capital, (c) having the right to appoint or remove a majority of the members of the board of directors or other management body, (d) having, by agreement, the right to exercise a majority of the voting rights. Entities which are directly or indirectly controlled by the same entity (as described in points (a), (b), (c) and (d) above are also considered Affiliates.

## 4.2 Core Team

Tenderers are required to present their Core Team (i.e. the Prime Contractor, including, where relevant, all group members, and those entities/subcontractors, which are essential in order for the Tenderer to meet the selection criteria under Section 10), including the roles and responsibilities of the respective entities for the purpose of this procurement as well as a description of the Group<sup>7</sup> to which they belong.

Tenderers shall prove that they will have at their disposal the resources necessary for performance of the Contract by providing Annex I.D.1 (Subcontractor Letter of Intent) on the part of every subcontractor on whose resources it relies in order to fulfil the selection criteria (i.e. all subcontractors that are members of the Core Team), confirming the latter's irrevocable undertaking to make such resources available to the Tenderer in case of being awarded the Contract.

In order to fulfil the selection criteria a Tenderer may also rely on the capacities of other entities (that are not subcontractors), regardless of the legal nature of the links it has with them. It must in that case prove that it will have at its disposal the resources necessary for the performance of the Contract by providing Annex I.D.2 (Non-Subcontractor Letter of Intent), signed by the authorised representative of such an entity, and the supporting evidence that those other entities have the respective resources.<sup>8</sup>

The above rules apply also where the economic operators on whose capacities the tenderer relies to fulfil the selection criteria belong to the same Group as the sole Tenderer or a member of the group submitting a joint tender.

## 4.3 Joint Tenders

A joint tender may be submitted by a group (with or without legal form) of economic operators on the condition that they comply with the rules of competition. The group may be a permanent, legally-established grouping or a grouping, which has been constituted informally for a specific tender procedure.

Such group must specify the company or person heading the project (the leader). All members of the group must sign a Power of Attorney authorising the leader to submit a tender on behalf of the group, as well as to act in connection with all relevant questions, clarification requests, notifications, etc. that may be received during the evaluation, award and until the contract signature, to sign the contract should the joint tender be successful and to represent the group for any contract execution issue, including amendments of the Contract. The template of this Power of attorney is provided in Annex I.C.

All members of such group (i.e. the leader and all other members) are jointly and severally liable to the Contracting Authority for the performance of the Contract.

Each member of the group must provide the required evidence for the Access to Procurement, exclusion, non-rejection and selection criteria (see Sections 7, 8, 9, and 10 below). Concerning the selection criteria "Economic and Financial Capacity" as well as "Technical and Professional Capacity", the evidence provided by each member of the group will be assessed to ensure that the group, as a whole, fulfils the criteria.

<sup>7</sup> For definition, see Section 16, Table 10: Abbreviations

<sup>8</sup> This does not apply to subcontractors on whose capacity the tenderer relies to fulfil the selection criteria – for these the documentation required for subcontractors must be provided.

The participation of an ineligible entity (entity not meeting exclusion criteria/non-rejection criteria/selection criteria/access to procurement conditions will result in rejection of that entity from the procurement procedure. If that ineligible person belongs to a group, the whole group may be excluded, unless the composition of the group is changed as per the subsequent paragraph.

Changes in the composition of the group **during the procurement procedure** (i.e., after the deadline for submission of the tender and before contract signature) are in principle not accepted.

The Contracting Authority reserves however the right to approve such changes provided the following cumulative conditions are fulfilled:

- The remaining group members are not in an exclusion situation, ground for rejection, meet the selection criteria (see Section 10) and comply with the Access to Procurement conditions;
- The change must not make the tender non-compliant with the procurement documents;
- The terms of the originally submitted tender are not altered substantially;
- The continuation of the participation of the remaining group members in the procurement procedure does not put the other Tenderers in a competitive disadvantage;
- The remaining group members undertake to implement the Contract, in case of an award, without the excluded group member.

In cases where the proposed change depends on a group member who,

- is in an exclusion situation or ground for rejection or does not meet the selection criteria (see Section 10) or does not comply with the Participation Conditions, or
- is relied upon by the other group members for the fulfilment of selection criteria,

the Contracting Authority, subject to the above-mentioned conditions being met, reserves the right to authorise the replacement of the group member.

Changes in the composition of the group, **during the procurement procedure**, due to universal succession (e.g. merger or takeover of a group member) are in principle accepted, subject to the above-mentioned conditions being met and the authorisation of the Contracting Authority being granted.

Changes in the composition of the group **after signature of the Contract** are governed by the provisions of the Draft Framework Contract.

#### **4.4 Compliance with competition laws in case of joint bidding**

Groups of economic operators (within the meaning of section 4.3 above) may submit a Tender on the condition that their joint bid does not result in the restriction or elimination of competition. For detailed information regarding the applicable competition law principles, Tenderers are invited to consult the Commission's Horizontal Guidelines<sup>9</sup> ("Guidelines").

Restriction or elimination of competition may occur when the members of the group are (even potentially) competing on the same market and one (or more) member(s) of the group would be realistically capable to

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<sup>9</sup> Communication from the Commission – Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements, available at: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C\\_2023.259.01.0001.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_2023.259.01.0001.01.ENG)

carry out the contract individually, i.e. the group includes more members than what is strictly necessary in order to carry out the contract.<sup>10</sup>

For this reason, joint bidding by entities that could have otherwise competed for the performance of the Contract may restrict or eliminate competition on the market. Joint bidding by a group composed of potential and/or actual competitors may still be allowed if the joint bid provides significant efficiencies compared to the potential individual bids (see below).<sup>11</sup>

In case of a joint bid, the Tenderer shall therefore assess whether its bid does or does not fall within one of the situations described above, and provide a *justified* assessment in the cover letter as to the reasons why (cumulatively):

- 1) none of the group members could have performed the contractual activity individually, and
- 2) the participation of all members is necessary to perform the contractual activity.

Or, failing that, why the joint bid (cumulatively):<sup>12</sup>

- 3) increases efficiency (in particular offering a better value for money to the Contracting Authority) as compared to the potential individual bids (e.g. lower prices, better quality, greater choice, faster realisation), and
- 4) is indispensable, and
- 5) does not eliminate competition and/or is unlikely to produce anticompetitive effects.

EUSPA reserves the right to request additional information from the Tenderer to be able to conduct an internal evaluation of the submitted assessment. EUSPA reserves the right to reject any Tender that reveals not to comply with the applicable competition laws.

## 4.5 Change in the Composition of Tenderer / Core Team

Tenderers are informed that no change in the composition of the Tenderers/Core Team will be allowed for the purposes of the present procurement process and/or subsequent Contract, unless specifically authorised by EUSPA in writing.

No changes will be authorised after submission of the Tender and before award of the Contract, unless depending on exceptional circumstances beyond the control of the Tenderer and provided that they do not have a substantial impact on the terms and conditions of the Tender.

For changes of subcontractor please refer to Section 5.

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<sup>10</sup> See points 352 to 357 of the Guidelines.

<sup>11</sup> See point 358 and 359 of the Guidelines.

<sup>12</sup> See point 358 of the Guidelines.

## 5 Industrial Organisation

### 5.1 Sub-contracting

#### 5.1.1 General provisions

Subcontracting is the situation where the Contractor enters into legal commitments with other economic operators, which will perform part of the Contract on its behalf. The Contractor retains full liability towards the Contracting Authority for performance of the Contract as a whole remaining the sole entity legally and financially responsible vis-à-vis the Contracting Authority.

The following shall not be considered subcontracting:

- a) Use of workers posted or temporarily transferred to the Contractor by another company belonging to the same Group.
- b) Use of workers hired out to the Contractor by a temporary employment undertaking or placement agency.
- c) Use of staff without employment contract (“self-employed persons working for the contractor”), without the tasks of the self-employed persons being particular well-defined parts of the Contract.
- d) Use of suppliers and/or transporters by the Contractor, in order to perform the Contract at the place of performance, unless the economic activities of the suppliers and/or the transporting services are within the subject of this call for tenders (see Section 1).

The persons mentioned in points a), b), and c) above will be considered as “personnel” of the Contractor as defined in the Contract.

All contractual tasks may be subcontracted unless the procurement documents expressly reserve the execution of certain critical tasks to the sole Tenderer itself, or in case of a joint tender, to a group member.

The following shall apply to subcontracting:

- (i) When subcontracting, the Tenderer shall ensure the subcontractor’s (all levels of subcontractors: N-X) compliance with the exclusion, non-rejection and selection criteria and the Access to Procurement conditions set out in the present Tender Specifications. **Tenderers shall provide all the documents requested from subcontractors as per the relevant provisions of these Tender Specifications.** Regarding the subcontractors’ compliance with the selection criteria, attention is drawn to the Important Note at the end of Section **13.4.310.3.1<sup>Corr.2</sup>**.
- (ii) Where no subcontracting is indicated in the Tender, the activities will be assumed to be carried out directly by the Tenderer.
- (iii) Any change in subcontracting (all levels of subcontractors: N-X) during the procurement procedure (i.e., after the submission deadline and before contract signature) is not permitted unless specifically authorised in writing by EUSPA as per below.
- (iv) If the Tenderer requests a subcontractor to be removed or replaced, then the Contracting Authority must verify the following conditions:
  1. Whether the new subcontractor (if any) is not in an exclusion situation or ground for rejection;

2. Whether the new subcontractor (if any) fulfils the Access to Procurement conditions (see Section 7);
  3. Whether the Tenderer still fulfils the selection criteria with the new subcontractor, if any, (see Section 10) as compared to the Tender originally submitted and whether the new subcontractor fulfils the selection criteria applicable to it, if any;
  4. Whether the change in subcontracting does not entail a substantial change in the Tender. This condition is met as long as:
    - a) All the tasks assigned to the former subcontractor are taken over by another entity involved (a new subcontractor or a member of the group or the sole Tenderer itself, subject to relevant aforementioned conditions);
    - b) The change in subcontracting does not make the Tender non-compliant with the Tender Specifications;
    - c) The change in subcontracting does not modify the evaluation of award criteria of the Tender as originally submitted.
- (v) In the case where, during the procurement procedure, a subcontractor is affected by an exclusion situation or ground for rejection or is rejected due to failure to comply with selection criteria or with the conditions described in the Access to Procurement chapter, the Contracting Authority will:
- Notify the exclusion or rejection to the Tenderer;
  - Request whether and by whom all the tasks assigned to the excluded or rejected entity are taken over (it may be a new subcontractor or a member of the group or the sole Tenderer itself);
  - Inform about the applicable conditions, as per above.
- The Tenderer shall respond to such a request within the deadlines prescribed by the Contracting Authority. Failure to reply within such deadline may imply the rejection of the subcontractor.
- The Contracting Authority must then proceed with the same verifications, as described above in the case a change in subcontracting was to be initiated at the request of the Tenderer.
- (vi) Signature of the Contract entails acceptance of the subcontractors confirmed to having been selected as subcontractors in the Tender, unless those have been explicitly excluded or rejected during the procedure as per the foregoing process.

No changes will be authorised after submission of the Tender and before award of the Contract, unless depending on exceptional circumstances beyond the control of the Tenderer and provided that they do not have a substantial impact on the terms and conditions of the Tender.

Changes of subcontractors (all level of subcontractors: N-X) after the signature of the Contract, shall be governed by the Contract.

Please note that specific provisions on the general principles of subcontracting and subcontracting standards are included in the Draft FWC. Tenderers are required to submit, as part of their Technical Proposal, a plan describing in detail how they plan to comply with the said principles / requirements. Attention is drawn to the fact that this section **will be evaluated according to Qualitative Award Criterion Q5** as per section 12.1 of these Tender Specifications.

## 5.1.2 Use of Commercial Off-The-Shelf products

Suppliers of Commercial Off-The-Shelf (COTS) products shall not be considered subcontractors to the extent that they are engaged by the Tenderer / Contractor to perform tasks or provide services that are not specifically part of the scope of this Contract.<sup>13</sup>

For the purpose of these provisions, the term “suppliers” (of COTS) encompass:

- a. Original Equipment Manufacturers (hereinafter “OEMs”)<sup>14</sup>; and
- b. Re-Sellers.<sup>15</sup>

The Tenderer / Contractor shall submit, as part of its technical proposal, a list of COTS to be used for the purpose of the Contract, clearly identifying:

- a. Their intended use within the scope of the tender or the Contract; and
- b. Whether the suppliers thereof are OEMs or Re-Sellers.

Tenderers’ attention is drawn to the fact that should the list of COTS not be known at the moment of tender submission, it should be provided during contract execution as part of the contractor’s obligations under the contract. Equally, during contract execution, the list shall be regularly updated and any update shall be notified to the Contracting Authority for approval.

Where the use or the incorporation of specific COTS in the operational systems of the Union involves aspects or presents risks relevant to the security, integrity and resilience of such Systems (“security-relevant COTS”), the following provisions shall apply:

- (a) The Tenderer / Contractor shall submit for each of the security-relevant COTS, as identified in the list, an analysis of the aspects possibly affecting the security, integrity and resilience of the Union systems, depending on the use of the specific proposed COTS.
- (b) The Contracting Authority reserves the right to issue specific requests for clarifications in relation to such analysis.
- (c) The Contracting Authority, as part of its discretion in evaluation and in compliance with the applicable law, reserves the right to qualify a proposed COTS as security-relevant and to provide prompt notification thereof to the Tenderer.

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<sup>13</sup> In accordance with Article 2(67) of the Financial Regulation, “subcontractor” means an economic operator that is proposed by the tenderer or contractor to perform part of a contract. Please also refer to section 4.6 of these Tender Specifications.

<sup>14</sup> The term “OEMs” refers to companies that design or formulate a product (determining its essential characteristics) and produce, either through a contracted manufacturer or directly, the product which the OEM then either brands as its own or incorporates into its own branded product. The OEMs sell their branded products either directly to independent buyers, the latter being end-users or to Re-Sellers.

<sup>15</sup> The term “Re-Sellers” refers to suppliers selling the COTS to end-users or other intermediaries, typically adding a margin of profit and encompassing: (i) vendors of new products distributing or purchasing them from OEMs or other intermediaries; and (ii) second-hand market providers purchasing used products from previous end-users or other intermediaries.

The suppliers of security-relevant COTS as identified according to the above-described process, shall comply with the Participation Conditions as defined under Section 7 below (Access to Procurement). For this purpose, the Tenderer/Contractor shall submit as part of its administrative proposal the supporting evidence as required under Section 7 below.

Should the supplier of security-relevant COTS not be compliant with *any* of the Participation Conditions, it shall submit a declaration of such non-compliance, explaining the aspects of non-conformity, accompanied by a request for a waiver as provided below. Please note that, regardless of the rules applicable under Section 7 below, the possibility of requesting/granting a waiver is always open for suppliers of security-relevant COTS, on any of the Participation Conditions, i.e. on any of those under points a), b), c) (see Section 7 below).

With regards to suppliers of security-relevant COTS, the Contracting Authority may decide, upon a motivated and justified request, to waive the conditions laid down in points a) and/ or b) if no substitutes are readily available in the Member States or in a country which is a member of the EEA or EFTA and which has concluded an international agreement with the Union under Article 7 of Regulation (EU) 2021/696 and subject to the Tenderer / Contractor providing assurances regarding the protection of EU CI and the integrity, security, and resilience of the Programme's components, their operation and their services, as laid down in Article 24 of Regulation (EU) 2021/696, as confirmed by the Competent authority of the relevant EU Member State or EEA/EFTA state.

In cases where the condition under point a) is not waived and regardless of the waiver of the condition under point b), the Contracting Authority may decide, upon a motivated and justified request, to waive the condition laid down in point c). When the request for waiver refers to point c), it shall include the assessment from a competent authority of a Member State in which the entity is established guaranteeing that:

- a. control over the entity is not exercised in a manner that restrains or restricts its ability to:
  - i. carry out the procurement; and
  - ii. deliver results, in particular through reporting obligations;
- b. the controlling third country or third country entity commits to refrain from exercising any controlling rights over or imposing reporting obligations on the entity in relation to the procurement; and
- c. the entity in question has taken all the necessary measures to comply with Article 34(7) of Regulation 2021/696 in particular with regards to the protection of EU classified information.

In cases where the condition under point a) is waived and hence a competent authority of a Member State as referred to above is absent, the motivated and justified request including the proposed measures and guaranteed as described above will be assessed by the Contracting Authority.

The request for waiver shall be made at the moment of the submission of the tender.

The waiver under points a) and/or b), above, will not be automatically granted even if the assurances mentioned are met and the entity provides the assessment of a competent authority as regards its guarantees.

The waiver under point c), above, will not be automatically granted even if the conditions a), b), and c) above are met and the entity provides the assessment of a competent authority as regards its guarantees.

Compliance with the Participation Conditions of suppliers of security-relevant COTS shall be maintained throughout the execution of the Contract. During contract execution, the same information and supporting

evidence as required under paragraph (iii) above shall be provided as part of the contractual obligations of the Contractor, in all cases of inclusion of additional OEMs and/or Re-Sellers or substitution of existing ones.

## 5.2 Supply Chain

Tenderers shall clearly indicate in their Tenders which (part(s) of) activities they intend to subcontract as well as their approach for implementing such subcontracting to demonstrate compliance with the below mentioned requirements.

In accordance with Article 17(1)(a) of the Space Regulation, EUSPA intends to promote the widest and most open participation possible by economic operators, in particular start-ups, new entrants and SMEs. On this basis and for the purposes of Article 17 of the Space Regulation, as will be set out in the Draft Framework Contract, the Contractor shall have to achieve, in the course of the execution of the contract, a **minimum 30% share of sub-contracting to be awarded in competitive tendering outside the Group<sup>16</sup>**. Any derogation from this requirement shall be duly justified.

The Tenderer shall provide in its Tender a detailed plan on how to achieve the above-mentioned target and the relevant milestones and/or, if applicable, including a detailed justification for derogating from the above-mentioned target. The quality of the plan, the target percentage and the relevant commitments, or, if applicable, the completeness and robustness of the provided justification for any derogation will be subject to the assessment under award criterion Q5.

The Tenderers' attention is drawn to the fact that the participation of startups<sup>17</sup>, new entrants and Small and Medium Size Enterprises (SMEs)<sup>18</sup> represents a specific objective of the Space Programme pursuant to Article 4(1)(b) and (f) of the Space Regulation and an objective of the present procurement. A dedicated plan shall be submitted by the Tenderers to describe in detail the approach and the means undertaken to achieve the widest and most open participation of start-ups, new entrants and SMEs and to comply with this requirement. Attention is drawn to the fact that the plan to maximise participation of SMEs and start-ups from across the Union in the delivery of the scope of the Contract will be evaluated against the qualitative award criterion Q5 as per section 13.6.1 below.

The compliance with the plan shall be part of the Contractor's obligations under the Framework Contract and its breach will entitle the Agency to the remedies specified therein.

For the purpose of evaluation, the target share of subcontracting as referred above shall be considered in relation to total Tender price calculated based on the indicative evaluation scenario (for FWC and SCs to be concluded).

During the contract implementation, given the fact that the Contracting Authority cannot assume and/or guarantee that the full budget available under the Framework Contract will be consumed, the percentage of

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<sup>16</sup> For definition, see Section 16, Table 10: Abbreviations

<sup>17</sup> We define startups as young firms with high growth ambitions. Startups are a specialised subset of SMEs, which are less than ten years old, are often tech-enabled, in general combine fast growth, high reliance on innovation of product, processes and utmost attention to new technological developments and extensive use of innovative business models, and, often, collaborative platforms.

<sup>18</sup> Small or Medium Size Enterprise shall be interpreted according to Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (notified under document number C(2003) 1422) (2003/361/EC).

subcontracting will be calculated as the percentage from the actually requested services supplies under the Framework Contract and not as a percentage from the maximum nominal volume of the Framework Contract

**Competitive tendering** outside the Tenderer's group is considered to have taken place when more than one offer from an entity outside the group has been requested by the Tenderer. When subcontracting via competitive tendering is required as per this Section, the Tenderer will be responsible for organising its own competitive tendering procedure(s) aimed at finding the necessary subcontracting respecting the following procurement principles:

- Fair competition & equality of treatment;
- Transparency;
- Proportionality;
- Best value for money.

Tenderers are explicitly requested to raise to the attention of EUSPA any issues they may have in fulfilling the competitive subcontracting requirement as early as possible during the procurement process.

**Tenderers shall clearly indicate in their Tenders:**

- The tasks they intend to subcontract;
- The level of subcontracting for each task;
- The start-ups, new entrants, and SMEs (see section 5.2 above) involved and their place of establishment;
- The competitive tendering performed;
- The proportion for each subcontracted task (in %) in relation to the Total Tender Price in order to demonstrate compliance with the above-mentioned requirements.

As a proof of competitive subcontracting, tender(s), including a thorough visibility of the technical and financial offer of consulted entities outside of the Group (envisioned subcontractors), shall be provided together with the Tender. If the Tenderers do not manage to complete the competitive procurement procedure(s) necessary to achieve the required percentage by the time of tender submission, they shall submit a signed undertaking presenting a credible tendering plan that they intend to carry out to achieve compliance.

Without prejudice to the above, EUSPA may reject the proposed subcontractor(s) and ask for (an)other subcontractor(s) to be proposed as part of the Tender. Such rejection shall be justified in writing by EUSPA and may be based only on the criteria used for the selection of Tenderer for the performance of the Framework Contract.

If the competitive procurement procedures are completed only during contract execution, the concluded subcontracts shall not lead to a change of the Framework Contract unless it is in favour of the EUSPA as the Contracting Authority.

Tenderers may, at any time after Tender submission or during contract execution, be requested to submit supporting evidence of their use of competitive tendering for the selection of subcontractors and their compliance with the principles established above. In addition, the Contractor can be subject to auditing in accordance with the Contract.

## 6 Legal Terms and Reference

### 6.1 Protection of Union Budget against breach of the principle of the rule of law in Hungary

**Notice on the Council Implementing Decision (EU) 2022/2506 on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary (complementing the Participation Conditions):**

In accordance to the Council Implementing Decision (EU) 2022/2506 adopted on 15 December 2022 on measures for the protection of the Union budget against breaches of the principles of the rule of law in Hungary it's been established that, where Union budget is implemented in direct or indirect management pursuant to of Article 62(1) points (a) and (c) of the Financial Regulation, no legal commitments shall be entered into with any public interest trust established on the basis of the Hungarian Act IX of 2021 (or any other entity maintained by such a public interest trust).

Please see also the Declaration of Honour (Annex I.B) hereto applicable and to be provided completed and duly signed by each Tenderer, Core Team member and non-Core sub-contractor.

### 6.2 Applicable Law and Jurisdiction

The procurement procedure and the subsequent Contract are governed by European Union law complemented, where necessary, by the law of Belgium.

The parties shall endeavour to settle amicably any dispute or complaint relating to the interpretation, application or validity of the procurement procedure or Contract.

With regard to the procurement procedure, any dispute which cannot be settled amicably shall be submitted to the jurisdiction of the General Court or on appeal to the Court of Justice of the European Union.

With regard to the Contract, the dispute resolution clause will be provided therein.

## 7 Access to Procurement

### 7.1 Participation Conditions

#### 7.1.1 Participation conditions for tenderer (prime contractor, core team members and non-core-team subcontractors involved in security sensitive activities)

In order to protect the essential security interest of the Union and its Member States, in accordance with Article 24 of Regulation (EU) 2021/696<sup>19</sup>, the participation to this tender is open to economic operators fulfilling the following three cumulative conditions:

- a) legal entities established in a Member State with their executive management structures established in that Member State.
  - Economic operators are considered established in the EU when they are formed in accordance with the law of an EU Member State, and have their central administration, registered office and principal place of business in an EU Member State (if legal persons) or they are nationals of one of the EU Member States (if natural persons);
  - 'Executive management structure' means the body of the legal entity appointed in accordance with national law and which, where applicable, reports to the chief executive officer or any other person having comparable decisional power, and which is empowered to establish the legal entity's strategy, objectives and overall direction, and oversees and monitors management decision-making.
- b) economic operators committing to carry out all relevant activities in one or more Member States; and
- c) legal entities not being subject to control by a third country or third country entity. For the purpose of this paragraph 'control' means the ability to exercise a decisive influence over a legal entity directly or indirectly through one or more intermediate legal entities.

These participation conditions shall be met at the moment of submission of the request to participate and throughout the whole duration of the resulting contract if awarded, and will be checked by the Contracting Authority at the moment of request to participate/tender evaluation. In case of any changes related to the compliance with these participation conditions, the economic operator, which was awarded a contract, is obliged to inform the Contracting Authority about the changes without delay.

The criteria for the assessment of participation conditions has been laid out in Annex I.K (Parts 1, 2 and 3), including a dedicated Annex I.K - Part 2 to be filled by the tenderer. Please note that for the assessment of control the filling, signature and submission of the Declaration of Ownership and Control in Annex I.K – Part 2 is required.

The document "Criteria for Assessment of Participation Conditions" has been laid out in Annex I.K – Part 1 and describes the information to be provided by the Tenderer (including prime contractor, core team and

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<sup>19</sup> Regulation (EU) 2021/696 of the European Parliament and of the Council of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulation (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU, OJ L 170, 12.5.2021, p. 69–148

subcontractors involved in security-sensitive activities) which will be used to assess the criteria a), b) and c) above.

Additional guidelines on the criteria which will be applied and the circumstances which will be considered by the Contracting Authority and the competent evaluation boards to assess the situation of decisive influence are contained in Annex I.K – Part 3.

Tenderers/candidates (including the prime contractor, core team members and subcontractors) who have formally submitted the information/documents/supporting evidence requested in the Annex I.K in another procedure of the European Commission or EUSPA (notably in the frame of the EU regulations 2018/1092, 2021/697 or 2021/696), have no obligation to repeat the exercise, if the time that has elapsed since the issuing of the information/documents/supporting evidence does not exceed one year at the time of submission of the proposal and are still valid at that date.

In this case, Tenderer shall declare on its honour that the documentary evidence has already been provided in a previous procedure as per the above, provide reference to that procedure (in Annex to the Cover letter) and confirm that there has been no change in the situation.

Upon request of the Contracting Authority, the information/documents/supporting evidence already submitted as per the above, shall be resubmitted.

For the purpose of Participation Conditions, “involvement in security sensitive activities” means activities **(a)** entailing access, handling and/or creation of EUCL, **(b)** entailing access to classified systems, **(c)** entailing access to sensitive, non-classified information,<sup>20</sup> **(d)** related to security of corporate systems and/or **(e)** entailing access to classified EUSPA business data.

### **7.1.2 Participation conditions for prime contractor, core team members, subcontractors involved in security sensitive activities providing human resources or accessing classified EUSPA business data - No waiver**

Due to the security dimension and essential interests related to the activities under the Contract, the Contracting Authority will not accept requests for waiver of the conditions laid down in points a), b) and c) of paragraph 7.1.1 above for:

- prime contractor,
- core team members,

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<sup>20</sup> SNC information (Sensitive Non-Classified Information) has the meaning provided under Commission Decision 2015/443 of 13th March 2015, that is to say *“information or material the contracting authority must protect because of legal obligations laid down in the Treaties or in acts adopted in implementation thereof, and/or because of its sensitivity. Sensitive non-classified information includes, but is not limited to, information or material covered by the obligation of professional secrecy, as referred to in Article 339 TFEU, information covered by the interests protected in Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council, read in conjunction with the relevant case-law of the Court of Justice of the European Union or personal data within the scope of Regulation (EC) No 45/2001.”* For avoidance of doubt, a document shall be considered as being “SNC information” upon condition that it is explicitly labelled/mark as ‘sensitive non-classified / SNC’ by the contracting authority.

- non-core team subcontractors involved in security sensitive activities which are entrusted with the task to make available its personnel to EUSPA for working at EUSPA premises/facilities (HQ and other operational sites of EUSPA/EUSPA contractors), and
- non-core team subcontractors having access to classified EUSPA business data.

### **7.1.3 Participation conditions for subcontractors not part of the core team involved in security sensitive activities – Waiver**

In this procurement the contracting authority may decide, upon a motivated and justified request, to waive the conditions laid down under point c) of paragraph 7.1.1 above with regard to any entity, which applies as non-core team subcontractor involved in security sensitive activities, other-than (i) subcontractors entrusted with the task to make available its personnel to EUSPA and (ii) subcontractors accessing EUSPA classified business data, as per paragraph 7.1.2 above.

The contracting authority may decide, upon a motivated and justified request, to waive the condition laid down in point c) of para. 7.1.1, above.

The request for waiver on point c) of paragraph 7.1.1 shall include the assessment from a competent authority of the Member State in which the entity is established guaranteeing that:

a) control over the entity is not exercised in a manner that restrains or restricts its ability to:

(i) carry out the procurement; and

(ii) deliver results, in particular through reporting obligations;

b) the controlling third country or third country entity commits to refrain from exercising any controlling rights over or imposing reporting obligations on the entity in relation to the procurement; and

c) the entity in question has taken all the necessary measures to comply with Article 34(7) of Regulation 2021/696 in particular with regards to the protection of EU classified information.

The request for waiver shall be made at the moment of the submission of the tender.

The waiver under point c) of paragraph 7.1.1 will not be automatically granted even if the conditions a) b) and c) above under this paragraph 7.1.3 are met and the entity provides the assessment of a competent authority as regards its guarantees. The decision on the waiver shall be taken having regard to the objectives laid down in Article 24 (1) of the Regulation 2021/696.

To evidence compliance with the Participation Conditions, all economic operators specified above shall submit the same evidence as for the Selection Criterion pertaining to the Legal Entity Authorisation Requirement, i.e.:

1. Financial Identification Form (template available at: [https://ec.europa.eu/info/publications/legal-entities\\_en](https://ec.europa.eu/info/publications/legal-entities_en))<sup>21</sup>, and

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<sup>21</sup> Where a Tenderer has already signed another Contract with EUSPA, it may provide instead of the Legal Entity File and its supporting documents a copy of the legal entity file provided on that occasion, unless a change in its legal status occurred in the meantime or the legal entity file/its supporting documents are older than one year.

2. Extract of the inclusion in a trade or professional register, or certificate, membership of a specific organisation, or equivalent.

Furthermore, all economic operators specified above shall submit a duly completed Declaration of Ownership and Control in Annex I.K – Part 2 signed by an authorised representative and all evidence required in Annex I.K – Part 1 and 2.

**NOTA BENE:** In case of request of a waiver, the relevant economic operator must submit all necessary evidence to demonstrate and justify the request in accordance with the conditions indicated above.

The Agency reserves the right to request further supporting evidence demonstrating compliance to the Participation Conditions if it considers this necessary, before award.

All economic operators shall also fill-in the dedicated Section in the Declaration of Honour (Annex I.B).

## 7.2 EU Restrictive Measures

The Tenderer and its Core Team members and sub-contractors and respective relevant persons shall not be subject to EU restrictive measures described below in this Section.

The Tenderer shall provide a statement in the Cover Letter of its Tender (on its own behalf and on behalf of its Core-Team members, sub-contractors) guaranteeing that the Tenderer, and its Core Team members, sub-contractors and respective relevant persons<sup>22</sup> are not being a Restricted Person and do not fall under the scope of subject to EU Restrictive Measures in the list published at <https://www.sanctionsmap.eu>. In case of discrepancies between the website and the restrictive measures published in Official Journal of the EU, the latter prevails.

For any sub-contractors not yet known at the time of the Tender submission, the fulfilment of this criterion needs to be evidenced upon the Tenderer's proposal of the said sub-contractor.

Funds under this procurement procedure shall not be made available, directly or indirectly, to, or for the benefit of any Restricted Person.

Please see also the Declaration of Honour (Annex I.B) hereto applicable and to be provided completed and duly signed by all Tenderers, Core Team members and Sub-contractors.

To evidence compliance with the EU Restrictive Measures,

1. Tenderers shall provide the relevant statement in the Cover Letter (see above); and
2. All economic operators shall fill-in the dedicated Section in the Declaration of Honour (Annex I.B).

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<sup>22</sup> Respective relevant persons are meant the natural or legal persons indicated in section 4 of the Declaration of Honour (Annex I.B).

## 8 Exclusion Criteria

Tenderers must continue to fulfil the Exclusion Criteria throughout the entire duration of this procurement procedure and for the entire duration of the ensuing Framework Contract and specific contracts.

In case of any change in the situations regarding the below-mentioned criteria and requirements, Tenderers / Contractors shall inform the Contracting Authority without delay.

The objective of the exclusion criteria is to assess whether the Tenderer is in any of the exclusion situations listed in Article 138(1) of the Financial Regulation. The Tenderers, group members and subcontractors shall not be in any exclusion situation described in the Declaration of Honour included in Annex I.B. Tenderers found to be in an exclusion situation will be rejected.

Participation in this procedure is only open to entities (in any role, i.e. including subcontractors) who will be able to sign the Declaration of Honour (Annex I.B.). Failure to do so will lead to exclusion from the procurement procedure.

Supporting evidence requested as part of the Declaration of Honour (i.e. a recent extract from the judicial record of the entity or equivalent and recent certificates pertaining to the payment of taxes and social contributions – for further details see the Declaration of Honour) shall be submitted with the Tender (all Tenderers, Core Team members and subcontractors whose contribution at FWC level exceeds the level of 10% - without prejudice to the Contracting Authority's right to request supporting evidence from any participating entity).

At any time during the procurement procedure, the Contracting Authority may request information on natural or legal persons that are members of the administrative, management or supervisory body or that have powers of representation, decision or control, including legal and natural persons within the ownership and control structure and beneficial owners, and appropriate evidence that none of those persons are in one of the exclusion situations referred to in the Declaration on Honour.

If the Tenderer does not provide valid documentary evidence within the deadlines set by the Contracting Authority, the latter reserves the right to reject the Tender. In any event, in case a Tenderer proposed for the award of the Contract fails to comply with the above evidence requirement, its Tender will be rejected, unless the Tenderer can justify the failure on the grounds of material impossibility to provide such evidence.

If the entity already submitted the supporting evidence for the purpose of another procedure administered by the Agency (to be identified by the entity), its issuing date is not more than one (1) year before the tender submission and it is still valid, such entity may - instead of providing the evidence again - declare on its honour that the documentary evidence has already been provided and confirm that no changes have occurred in its situation.

The applicable evidence in each country can be checked on the following site: <https://ec.europa.eu/tools/ecertis/#/search>

To evidence compliance with the Exclusion Criteria, all economic operators shall fill-in the dedicated Section in the Declaration of Honour (Annex I.B) and provide the supporting evidence as detailed above.

## 9 Rejection Criteria

Tenderers must continue to fulfil the Rejection Criteria throughout the entire duration of this procurement procedure and for the entire duration of the ensuing Framework Contract and specific contracts.

In case of any change in the situations regarding the below-mentioned criteria and requirements, Tenderers / Contractors shall inform the Contracting Authority without delay.

The Tenderers, group members and subcontractors shall not be in any ground for rejection described in the Declaration of Honour included in Annex I.B. Tenderers found to be in a rejection situation will be rejected.

~~For what concerns the rejection ground related to foreign subsidies, Tenderers shall submit a declaration pursuant to Article 29(1) of Regulation (EU) 2022/2560, listing all foreign financial contributions received in the last three years prior to the declaration confirming that such contributions are not notifiable. Foreign financial contributions whose total amount per country is lower than EUR 300 000 (de minimis aid) over the preceding period of three consecutive years, need not be listed in the declaration. When no foreign financial contributions were received in the last three years prior to the declaration, a declaration is still necessary to confirm that no FFCs were received. Notifications or declarations shall be submitted by using the Form FS-PP available at Foreign Subsidies Regulation – European Commission ([europa.eu](http://europa.eu)).~~

~~The obligation to notify foreign financial contributions also applies to main subcontractors and main suppliers known at the time of submission of the complete declaration, or complete updated declaration. For the purposes of the declaration, a subcontractor or supplier shall be deemed to be main where their participation ensures key elements of the contract performance and in any case where the economic share of their contribution exceeds 20 % of the value of the submitted tender.~~

~~The tenderer shall ensure the submission of the declaration. However, for the purposes of Article 33 of the Foreign Subsidies Regulation – 2022/2560 – EN – EUR-Lex ([europa.eu](http://europa.eu)), the tenderer is responsible only for the veracity of data linked to its own foreign financial contributions.~~

~~Please find more information on how to submit the online FS-PP form at the following link: Foreign Subsidies Regulation – European Commission ([europa.eu](http://europa.eu))~~

~~To evidence compliance with the Rejection Criteria,~~

~~1. Tenderers shall provide the relevant declaration (see above); and~~ <sup>Corr.4</sup>

All economic operators shall fill-in the dedicated Section in the Declaration of Honour (Annex I.B).

## 10 Selection Criteria

Tenderers must continue to fulfil the Selection Criteria throughout the entire duration of this procurement procedure and for the entire duration of the ensuing Framework Contract and specific contracts.

In case of any change in the situations regarding the below-mentioned criteria and requirements, Tenderers / Contractors shall inform the Contracting Authority without delay.

The objective of the selection criteria is to assess whether the Tenderer has the legal, regulatory, economic, financial, technical and professional capacity to perform the Contract. The selection criteria for this call for tenders, including the minimum levels of capacity, the basis for assessment and the evidence required, are specified in the following subsections. Tenders submitted by Tenderers not meeting the minimum levels of capacity will be rejected.

In accordance with point 18.6 of Annex I of the FR, the Tenderers may, where appropriate, rely on the capacities of other entities. In such case, the Tenderer must prove that it has at its disposal the resources necessary for the performance of the Contract by producing a commitment by those entities to that effect in the form of a Subcontractor Letter of Intent (template in Annex I.D.1) or a Non-Subcontractor Letter of Intent (template in Annex I.D.2) signed by every member of the Tenderer's Core Team (see Section 4.1 above), confirming their irrevocable undertaking to make such resources available to the Tenderer in case of being awarded the Contract.

The Tenderer who intends to rely on the capacities of other entities as subcontractors, must indicate the proportion that it intends to subcontract.

Tenderers must have the capacity below to perform the tasks.

### 10.1 Legal and Regulatory Capacity

#### 10.1.1 Legal Entity Authorisation Requirement

Tenderers can be natural or legal persons. Tenderers are not obliged to take a specific legal form in order to submit their tenders.

All economic operators participating in this procurement, i.e. Prime Contractors, group coordinators, each group member and any proposed sub-contractors, must prove that they have legal capacity to perform the Contract and the regulatory capacity to pursue the professional activity necessary to carry out the work subject to this call for tenders.

The legal and regulatory capacity shall be proven by the evidence listed below, to be submitted as part of the tender for *each economic operator* participating in this procurement:

1. Financial Identification Form (template available at: [https://ec.europa.eu/info/publications/legal-entities\\_en](https://ec.europa.eu/info/publications/legal-entities_en))<sup>23</sup>, and
2. Extract of the inclusion in a trade or professional register, or certificate, membership of a specific organisation, or equivalent.

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<sup>23</sup> Where a Tenderer has already signed another Contract with EUSPA, it may provide instead of the Legal Entity File and its supporting documents a copy of the legal entity file provided on that occasion, unless a change in its legal status occurred in the meantime or the legal entity file/its supporting documents are older than one year.

3. VAT registration, or equivalent.

## 10.1.2 Management of Conflicting Interest

### 10.1.2.1 Conflicting Interest of the Contractor

At the time of submission of the Tender and during the term of the Framework Contract and of the specific contracts, the Tenderer / Contractor and the economic operators participating in this procurement and/or the contract execution, i.e. primes, each group member and any proposed sub-contractor shall not be in any situation that could compromise the independent, impartial and objective performance of the Framework Contract and of the specific contracts. For this purpose, each economic operator participating in this procurement (i.e. the Prime Tenderer / each member of the group / each subcontractor) shall at the time of the Tender:

- i. Either confirm their absence of conflicting interest; or
- ii. Substantiate the potential, perceived or actual conflicting interest, which may negatively affect the performance of the Framework Contract and describe the mitigating measures which remedy such a situation.

For the point (ii) above, each economic operator participating in this procurement (i.e. the Prime Tenderer / each member of the group / each subcontractor) must provide a comprehensive analysis and justification, with at least the following information:

- a) Previous and/or current involvement in activities which may have as a result that impartial and objective performance of the present Contract may be compromised;
- b) Where applicable, respect of rules on conflict of interest regulating the activity of the economic operator, including the professional ethics rules applicable to the economic operator;
- c) Description of specific operational structure and mechanisms for monitoring, preventing and resolving conflicting interests during the execution of the Contract which mitigate or eliminate the potential, perceived or actual professional conflicting interests. Under this requirement, the economic operator shall provide an effective and convincing concept to ensure that the respective entity/-ies, including the individuals belonging to it/them, are in a position to work independently in relation to its/their tasks performed in other projects.

All economic operators shall also fill-in the dedicated Section in the Declaration of Honour (Annex I.B).

### 10.1.2.2 Professional Conflicting Interest of the Personnel

Furthermore, the Contractor shall ensure that its personnel sign a “declaration on confidentiality and absence of professional conflicting interest” with EUSPA before commencing any service provision. The current form of such declaration is attached for information to the draft Framework Contract. The form may evolve and cover additional aspects from time to time. This shall not in any way relieve the contractor from any of its obligations. EUSPA reserves the right to ask the Contractor or its personnel performing the services to sign a declaration regarding confidentiality, non-disclosure and/or declaration regarding precise obligations of processing of personal data. The Contractor’s personnel proposed may be rejected on the basis of conflict of interest.

## 10.1.3 Security Requirements

Some of the activities under the contract shall require the handling and production of documents classified up to SECRET UE/EU SECRET. Any classified information should be treated according to the instructions set out in the Security aspects letter (referred to as "SAL" - Annex II.VI to the Draft FWC).

### 10.1.3.1 Local Security Officer

Any entity (including group members and subcontractors) expected to handle EU classified information (EUCI) **at the level of RESTREINT UE/EU RESTRICTED or above** during the tendering phase and/or during the execution of the Contract, must have appointed, **at the moment of submission of the tender**, a Local Security Officer (**LSO**), who will act as the principal point of contact for security matters related to the handling of EUCI. The entity must have an appointed LSO throughout the duration of the Framework Contract.

To this effect, Tenderers shall provide the name of their appointed LSO as part of their Tender, along with a list of all entities (including group members and subcontractors) that will handle classified information.

There is no specific format or template for the evidence of the LSO appointment. A supporting statement from the competent National Security Authority (NSA)/Designated Security Authority (DSA), or a declaration from a company representative appointed in accordance with national legislation will be accepted as a proof.

Compliance with this requirement will be assessed under selection criterion L3 (see Section 13.4.1, List of Legal and Regulatory Capacity Criteria).

### 10.1.3.2 Personal Security Clearance

Any individual (within any entity including group members and subcontractors) who is expected to carry out tasks requiring handling EU classified information **at the level of CONFIDENTIEL UE/EU CONFIDENTIAL or above, or accessing tools that have access / process such EU classified information (e.g. the so-called "GRUE laptop")**, during the execution of the Contract, must possess, **at the moment of submission of the tender**, a Personal Security Clearance (**PSC**) at the required security classification level for handling EUCI. The PSC must be issued by the competent national authority of an EU Member State and maintained throughout the entire duration of the Framework Contract, including any potential extensions.

It is important to note that, in some EU Member States, the competent national authorities may require companies to possess a Facility Security Clearance (FSC) before issuing PSCs for their staff.

**All profiles from the takeover team, i.e. at least 13 consultants within the group / Prime, Core and Non-Core team subcontractors, as further specified in the Section 8.4 of Annex I.J Technical Terms of reference, planned to handle classified information under the Contract must have, at the moment of submission of tender, a Personal Security Clearance ('PSC') at SECRET UE / EU SECRET level to be maintained throughout the duration of the Contract, which shall be evidenced as described below.**

The possession of the PSC at the required classification level for the 13 consultants stated above shall form part of the Contractor's offer and be evidenced to EUSPA as follows:

1. Submission of an **official documentation** issued by the relevant national security authority, proving that the concerned personnel possess a valid PSC at the corresponding classification level;

or

2. Submission of **duly signed and dated statement from the entity's Local Security Officer (LSO)**, confirming that the personnel possess the required PSC, specifying the classification level and the validity and expiration date;

or
3. In case the abovementioned documentation cannot be obtained (e.g., due to specific national security applicable rules) or exceptional circumstances, a **detailed explanation** must be provided, accompanied by relevant proof, justifying the reasons why the required documents cannot be submitted. EUSPA reserves the right to assess such explanation and to reject the relevant entity, should this be found unsatisfactory.

In the case listed under item 2. above, the official documentation proving the personnel's PSC must be delivered to EUSPA at the latest before awarding the Framework Contract. Failing the submission of the official documentation within the deadline indicated by EUSPA will lead to the rejection of the Tenderer, unless duly justified as per item 3. above.

Compliance with this requirement will be assessed under selection criterion L4 (see Section 13.4.1, List of Legal and Regulatory Capacity Criteria).

#### **10.1.3.3 (Re-inforced) Non-Disclosure Undertaking**

Any entity (including group members and subcontractors) expected to handle EU classified information (EUCI) **at the level of RESTRIINT UE/EU RESTRICTED or above** during the execution of the Contract, must submit, together with the Tender, the duly filled-in and signed (by an authorised representative) (Re-inforced) Non-Disclosure Undertaking ("RNDU") provided in Annex I.G.

For this purpose, the entity shall submit:

1. RNDU using the form attached in Annex I.G;
2. Proof that the person signing the RNDU is authorised to represent the entity;
3. Specifically, to access EU Classified Information (EUCI) at the RESTRIINT UE/EU RESTRICTED level:
  - a. A **Declaration of CIS Accreditation** duly filled and signed by a person authorized under national laws to make such declarations, using the form provided in the Annex to the RNDU,

or
  - b. A certificate or decision issued by the relevant competent authority proving the accreditation of the CIS at the required classification level.

In case the RNDU is signed electronically, it must be signed with a Qualified Electronic Signature (QES) of the authorised representative. This electronic signature must be provided by a provider which has a qualified status granted by a national competent authority of an EU Member State and which is listed in the national eIDAS Trusted Lists and the EU List of eIDAS Trusted Lists (LOTL) (available at [eIDAS Dashboard \(europa.eu\)](https://europa.eu/eidas)). Please note that the signature has to be at the QES level. Alternatively, the RNDU may be signed blue-ink with the original being submitted together with the Tender.

Please note that:

- Previously signed NDUs with EUSPA shall not be regarded as fulfilling the RNDU requirements under the present procurement procedure.

Compliance with this requirement will be assessed under selection criterion L5 (see Section 13.4.1, List of Legal and Regulatory Capacity Criteria).

## 10.2 Economic and Financial Capacity

The Tenderer shall demonstrate the financial and economic capacity required for the performance of the Contract as follows:

### 10.2.1 Stable Financial Position

The Tenderer must be in a stable financial position and have the economic and financial capacity to perform the Contract.

To evidence compliance with this criterion, the Tenderer shall submit:

1. Duly filled in Financial Statements relating to the Selection Stage in Annex I.E; and
2. Copy of the Tenderer's annual accounts (profit and loss account, notes on the accounts and auditors' remarks when applicable) of the last three years approved by external auditors.

**Note:** The criterion is applied cumulatively. Hence, the Tenderer may submit the relevant evidence (separately) for each entity on whose capacity it intends to rely (members of the Core Team). In such case, the Contracting Authority will proceed with a cumulative assessment.

### 10.2.2 Minimum Yearly Turnover

The Tenderer must have a minimum yearly turnover of EUR 8,750,000 in the last three years preceding the year of launch of the present procurement procedure.

To evidence compliance with this criterion, the Tenderer shall submit:

3. Duly filled in Financial Statements relating to the Selection Stage in Annex I.E; and
4. Copy of the Tenderer's annual accounts (profit and loss account, notes on the accounts and auditors' remarks when applicable) of the last three years approved by external auditors.

**Note:** The criterion is applied cumulatively. Hence, the Tenderer may submit the relevant evidence (separately) for each entity on whose capacity it intends to rely (members of the Core Team). In such case, the Contracting Authority will proceed with a cumulative assessment.

## 10.3 Technical and Professional Capacity

The Tenderer shall demonstrate the technical and professional capacity required for the performance of the Contract as follows:

### 10.3.1 Relevant Experience

The Tenderer shall demonstrate experience in performing recent services as follows.

| Ref #     | Technical and Professional Capacity Criteria  | To be Evidenced by:                                       | Applicable to:   |
|-----------|---|---|--|
| <b>T1</b> | <p>The Tenderer must be <b>Microsoft Solution Partner or equivalent</b> at least in 2 of these competences:</p> <ul style="list-style-type: none"> <li>• Business Applications</li> <li>• Data &amp; AI (Azure)</li> <li>• Digital &amp; App Innovation (Azure)</li> <li>• Infrastructure (Azure)</li> <li>• Modern Work</li> <li>• Security</li> </ul> | Solutions Partner designation Certification or equivalent | The Tenderer, including its Core Team (cumulatively) in accordance with <b>Section 4.1</b> . |
| <b>T2</b> | The Tenderer must have experience of minimum 5 years in delivering IT services related to network and security and of minimum 3 years of delivering services to EU Institutions, bodies or agencies during the last 10 years.   | Company profile and project history                       | The Tenderer, including its Core Team (cumulatively) in accordance with <b>Section 4.1</b> . |
| <b>T3</b> | The Tenderer must have delivered at least 3 relevant projects in the last 3 years involving all following technologies: Cisco, F5, Microsoft 365 Security.  | Project references or case studies                        | The Tenderer, including its Core Team (cumulatively) in accordance with <b>Section 4.1</b> . |

| Ref #     | Technical and Professional Capacity Criteria  | To be Evidenced by:                               | Applicable to:   |
|-----------|---|---|--|
| <b>T4</b> | The Tenderer must be: <ul style="list-style-type: none"> <li>• Cisco Integrator Select Partner (or equivalent)</li> <li>• F5 Unity Partner (or equivalent)</li> <li>• Microsoft Solutions Partner for Security or Infrastructure (Azure)</li> </ul> | Valid certificates or partner status verification | The Tenderer, including its Core Team (cumulatively) in accordance with <b>Section 4.1</b> . |
| <b>T5</b> | The Tenderer must have ISO 27001 certification or equivalent or be ISO 27001 compliant  | Certification and policy summary                  | The Tenderer, including its Core Team (cumulatively) in accordance with <b>Section 4.1</b> . |

| Ref # | Technical and Professional Capacity Criteria   | To be Evidenced by:   | Applicable to:   |
|-------|--|---|--|
| T6    | <p>The Tenderer must provide a reference to exactly 2 software development projects in the leading role, successfully executed and implemented in production in past 3 years. The reference shall be in the form of reference letters confirming that successful execution. The references shall include the contractors experience with one or more of the following technologies: .NET (Framework, Core, MVC, WPF, etc.), PowerApps or other tools of Microsoft Power Platform environment. The references shall include the contractors experience with development of applications with Two-tier or three-tier architecture.</p> | <p>Reference in form of:</p> <ul style="list-style-type: none"> <li>• <b>Reference letters</b><sup>Corr.2</sup></li> <li>• <b>Corr.2</b> Project, product, and process documentation, no code needs to be submitted.</li> </ul> | <p>The Tenderer, including its Core Team (cumulatively) in accordance with <b>Section 4.1</b>.</p> |

**IMPORTANT NOTE:** The Tenderer may rely on the capacities of other entities to fulfil the technical and professional selection criteria, regardless of the legal nature of the links which it has with them. The Tenderer must in that case prove to the Agency that it will have at its disposal the resources necessary for performance of the Contract, by producing a Letter of Intent (in the form provided in Annex I.D.1 (for subcontractors) and in Annex I.D.2 (for non-subcontractors)) ensuring that the tasks for which the support will be provided are clearly indicated therein.

## 11 Minimum Requirements

Tenderers must continue to fulfil the Minimum Requirements throughout the entire duration of this procurement procedure and for the entire duration of the ensuing Framework Contract and specific contracts.

In case of any change in the situations regarding the below-mentioned criteria and requirements, Tenderers / Contractors shall inform the Contracting Authority without delay.

The Tenderer shall demonstrate compliance with Minimum Requirements as follows:

### 11.1 Compliance with Applicable Laws

The Tenderer shall comply with applicable environmental, social and labour law obligations established by European Union law, national legislation, collective agreements or the applicable international social and environmental conventions listed in Directive 2014/24/EU.

To evidence compliance with this criterion, all economic operators participating in this procurement (i.e. primes, each group member and any proposed sub-contractors) shall fill-in the dedicated Section in the Declaration of Honour (Annex I.B).

### 11.2 Other minimum requirements

Minimum quality thresholds (i.e. total minimum score for all the award criteria and individual minimum score for the criteria/sub-criteria), as identified in Section 13.6.113.6.1 below, and compliance to the requirements 3.7 (Ref.: REQ-3.7) and 3.8 (Ref.: REQ-3.8) of the Security Aspect Letter (SAL) attached to the Draft Framework Contract shall operate as minimum requirements.

## 12 Award Criteria

The objective of the Award Criteria is to evaluate the Tenders with a view to choosing the most economically advantageous tender.

The Qualitative Award Criteria, exposed in Section 12.1 below and the Financial Award Criteria, exposed in Section 12.2 below, will be evaluated pursuant to the Evaluation Method detailed in Section 13.6 below.

### 12.1 Qualitative Award Criteria

The technical quality of the Tender will be assessed on the basis of the Tenderer's technical proposal against the qualitative award criteria as follows:

Where an award criterion is divided into subcriteria presented under bullet points in the table below, all subcriteria shall have equal weighting, except if expressed differently.

| Ref # | Description of the Award Criterion   | Maxi-mum points | Minimum points |
|-------|--|-----------------|----------------|
| Q1    | Quality, adequacy, and clarity and of the overall approach to deliver the tasks, subject matter to the Framework Contract <b>and the Simulation Exercise for the takeover task</b> <sup>Corr.3</sup> <b>and recurrent services (WP1)</b> <sup>Corr.2</sup> , with regards to measures to ensure high quality and continuity of the services and limitation of the turnover of the proposed teams of experts, for ensuring prompt reaction times of the Contractor upon requests of the Contracting Authority for specific contracts assignments. | 20              | 10             |
| Q2    | Quality, adequacy and clarity of the proposal for implementation of the tasks included in the Simulation Exercise (WP2 ICT Infrastructure Project).  | 25              | 12             |
| Q3    | Quality, adequacy and clarity of the proposal for implementation of the tasks included in the Simulation Exercise (WP3 Developed exit strategy from US-controlled technologies). Capability, credibility, and readiness to deliver a transition from US-controlled to EU-controlled technologies.  | 9               | 4              |
| Q4    | Quality, adequacy and clarity of the responses in the Simulation Exercise ( <b>WP4</b> ) <sup>Corr.2</sup> for delivery of SW development services.  | 21              | 7              |
| Q5    | <b>Quality and maturity of the plans required under Section 5.2 of the Tender Specifications:</b> <ul style="list-style-type: none"> <li>Quality and maturity of the plan to ensure compliance with the Supply Chain requirement under Section 5.2 of the Tender Specifications and relevant commitment to achieve the target percentage of subcontracting with competitive tendering outside the group, or, if applicable, the completeness and robustness of the provided justification for any derogation.</li> </ul>                         | 5               | 2              |

|           |   |    |   |
|-----------|---|----|---|
|           | <ul style="list-style-type: none"> <li>Quality and maturity of the plan to maximise participation of SMEs and start-ups from across the Union in the delivery of the scope of the Contract in terms of technologies, services, processes entrusted to start-ups and SMEs and relevant justifications.</li> <li>Quality and maturity of the plan to ensure compliance with the general subcontracting principles under Section 5 of the Tender Specifications.</li> </ul>  |    |   |
| <b>Q6</b> | <p><b>Level of stated compliance to the contractual baseline and relevance of justifications where applicable:</b></p> <ul style="list-style-type: none"> <li>Level of stated compliance to draft Contract and relevance of the related justifications where applicable in case of non- or partial compliances are reported, including quality and consistency of possible alternative wording proposed. Duly filled in Background IPR Declaration.</li> <li>Level of stated compliance to the SAL and relevance of the related justifications where applicable in case of non- or partial compliances are reported, including quality and consistency of possible alternative wording proposed.</li> </ul> | 10 | 5 |
| <b>Q7</b> | Quality, adequacy and maturity of the approach and organisation to ensure compliance with the cybersecurity requirements under Regulation 2023/2841 as required in section 3.3.12 Cybersecurity   | 10 | 5 |

Table 2: List of Qualitative Award Criteria

## 12.2 Financial Award Criteria

### 12.2.1 General

The tenders will be evaluated with regard to their Financial Proposals, which shall be submitted in the form provided in Annex I.F.1.

In order to allow for a comparison of the offers, Tenderers are requested to submit Financial Proposal following the financial table of answers (Annex I.F.1) which shall be duly filled in, stamped, initiated, dated and signed by the Tenderer, without any omission or addition with regard to the original format. Omissions or additions with regard to the original format may lead to rejection from the tender procedure.

Prices presented shall be fixed (with possible indexation as/if foreseen by the draft Contract) and binding for the Tenderer/Contractor throughout the duration of the Contract.

## 12.2.2 Total Price for Evaluation Purposes of the Tender

For evaluation purposes, the “Total Price for Evaluation Purposes of the Tender” will be computed using the financial table of answers (Annex I.F.1). Tenders will be evaluated with regard to the price offered for the WP1, WP2, WP3 and WP4<sup>Corr.2</sup> Evaluation Scenarios<sup>Corr.2</sup> (Simulation Exercise). The “Total Price for Evaluation Purposes of the Tender” does not include the financial impact of transfer of undertakings risks (if any) (see section 3.4 above).

## 12.2.3 Calculation of Financial Score of the Tender

In case of competing tenders, the financial score will be calculated as follows:

- The Tender offering the least expensive Total Price for Evaluation Purposes of the Tender will receive 100 points.
- The other tenders will receive points according to the ratio between the least expensive Total Price for Evaluation Purposes and their one, and then multiplied by 100, as shown in the formula below:

$$\text{Financial Evaluation Score of Tender X} = \left( \frac{\text{cheapest total price}_{\text{evpt received}}}{\text{total price}_{\text{evpt}} \text{ of Tender X}} \right) \times 100$$

In the exceptional case in which only one tender for a Lot is submitted, and the formula under section 12.2.3 above may not be used to assess the viability and competitiveness of the prices proposed, the Contracting Authority shall assess the fairness and the reasonableness of the proposed price in view of the level of quality of the tender, and based on it attribute the financial evaluation score of the tenderer, whereby the minimum score of 60 shall be achieved, in order to have the tender proposed for award.

**NOTE:** Tenderers must be aware of Point 23 of Annex I to the Financial Regulation on abnormally low tenders and of the possibility for rejection of the tender based on it.

## 13 Evaluation Method

Tenders will be evaluated in the light of the criteria set out in these Tender Specifications.

The evaluation is based solely on the information provided in the submitted Tender and, if applicable, on additional information and evidence provided at the request of the Contracting Authority during the procedure. For the purposes of the evaluation related to exclusion and selection criteria the contracting authority may also refer to publicly available information, in particular evidence that it can access on a national database free of charge.

It involves the following:

1. Verification of the **submission requirements**;
2. Verification of compliance with the **Access to Procurement** conditions;
3. Verification of **non-exclusion** of Tenderers/Subcontractors on the basis of the exclusion criteria;
4. Verification of **non-rejection** of Tenderers/Subcontractors on the basis of the rejection criteria;
5. Verification of compliance with the **selection criteria**;
6. Verification of compliance with the **minimum requirements**;
7. Evaluation of tenders on the basis of the **award criteria**.

The contracting authority will evaluate the abovementioned elements in the order that it considers to be the most appropriate.

If the evaluation of one or more elements demonstrates that there are grounds for rejection, the tender will be rejected and will not be subjected to further full evaluation. The unsuccessful tenderers will be informed of the ground for rejection without being given feedback on the non-assessed content of their tenders. Only tenderers for whom the verification of all elements did not reveal grounds for rejection can be awarded the contracts resulting from this call for tenders.

In order to demonstrate compliance with exclusion criteria, non-rejection criteria, selection criteria, access to procurement conditions and minimum requirements, any participating entity (including group members and subcontractors) must sign the Declaration of Honour (DoH) duly completed, dated and signed (Annex I.B).

Please note that any non-compliance reported in the DoH, if confirmed, will lead to exclusion from the procurement process. This is without prejudice to the possibility to correct clerical errors or omissions in the submitted DoH.

### 13.1 Access to Procurement

Tenderers will be evaluated against the requirements detailed in **Section 7** above:

| Ref # | Access to Procurement Conditions   | To be Evidenced by:                          | Applicable to:   |
|-------|--|--|--|
| A1    | <b>Participation Conditions</b><br>Entity must meet the conditions as per <b>Section 7.1.</b> above. | As per the provisions in <b>Section 7.1.</b> | All economic operators, as provided in <b>Section 7.1.</b> |

| Ref #     | Access to Procurement Conditions   | To be Evidenced by:                           | Applicable to:  |
|-----------|--|---|---|
| <b>A2</b> | <b>EU Restrictive measures</b><br>Entity must meet the conditions as per <b>Section 7.2</b> above. | As per the provisions in <b>Section 7.2</b> . | All economic operators, as provided in <b>Section 7.2</b> . |

Table 3: Access to Procurement

### 13.2 Exclusion Criteria

Tenderers will be evaluated against the requirements detailed in **Section 8** above:

| Exclusion Criteria  | To be Evidenced by:                              | Applicable to:   |
|---|--|--|
| <b>Exclusion Criteria</b><br>Entity must not be in any of the exclusion situations as per <b>Section 8</b> above. | As per the provisions in <b>Section 8</b> above. | All economic operators, as provided in <b>Section 8</b> above. |

Table 4: Exclusion Criteria

### 13.3 Rejection Criteria

Tenderers will be evaluated against the requirements detailed in **Section 9** above:

| Rejection Criteria  | To be Evidenced by:                              | Applicable to:   |
|---|--|--|
| <b>Rejection Criteria</b><br>Entity must not be in any of the exclusion situations as per <b>Section 9</b> above. | As per the provisions in <b>Section 9</b> above. | All economic operators, as provided in <b>Section 9</b> above. |

Table 5: Rejection Criteria

### 13.4 Selection Criteria

Section 10 above, as well as the subsections below specify which selection criteria evidence must be provided with the Tender (see the column “to be evidenced by” in the tables below – for details, refer to Section 10 above). If the Tenderer does not provide valid documentary evidence within the deadlines set by the Contracting Authority, the Contracting Authority reserves the right to reject the Tender. In any event, in case a Tenderer proposed for the award of the Contract fails to comply with the above evidence requirement, its Tender will be rejected, unless there is a ground for a waiver.

In accordance with point 18.6 of Annex I of the FR, the Tenderers may, where appropriate, rely on the capacities of other entities. In such case, the Tenderer must prove that it has at its disposal the resources necessary for the performance of the Contract by producing a commitment by those entities to that effect in the form

of a Subcontractor Letter of Intent (template in Annex I.D.1) or a Non-Subcontractor Letter of Intent (template in Annex I.D.2) signed by every member of the Tenderer's Core Team (see Section 4.1 above), confirming their irrevocable undertaking to make such resources available to the Tenderer in case of being awarded the Contract.

The Tenderer who intends to rely on the capacities of other entities as subcontractors, must indicate the proportion that it intends to subcontract.

### 13.4.1 Legal and Regulatory Capacity

| Ref # | Legal and Regulatory Capacity Criteria  | To be Evidenced by:                                   | Applicable to:  |
|-------|---|---|---|
| L1    | <b>Legal Entity Authorisation Requirement</b><br>Compliance with <b>Section 10.1.1</b> above. | As per the provisions in <b>Section 10.1.1</b> above. | All economic operators, as provided in <b>Section 10.1.1</b> above. |
| L2    | <b>Management of conflicting interest</b><br>Compliance with <b>Section 10.1.2</b> above.     | As per the provisions in <b>Section 10.1.2</b> .      | All economic operators, as provided in <b>Section 10.1.2</b> .      |
| L3    | <b>Appointed Local Security Officer ("LSO")</b> – as per <b>Section 10.1.3.1</b> .            | As per the provisions in <b>Section 10.1.3.1</b>      | All economic operators, as provided in <b>Section 10.1.3.1</b> .    |
| L4    | <b>Possession of PSC at the required level as per Section 10.1.3.2.</b>                       | As per the provisions in <b>Section 10.1.3.2</b>      | All economic operators, as provided in <b>Section 10.1.3.2</b> .    |
| L5    | <b>(Re-inforced) Non-Disclosure Undertaking</b> signature as per <b>Section 10.1.3.3</b> .    | As per the provisions in <b>Section 10.1.3.3</b>      | All economic operators, as provided in <b>Section 10.1.3.3</b> .    |

Table 6: List of Legal and Regulatory Capacity Criteria

### 13.4.2 Economic and Financial Capacity

| Ref # | Economic and Financial Capacity Criteria  | To be Evidenced by:                              | Applicable to:   |
|-------|---|--|--|
| F1    | The Tenderer must be in a stable financial position and have the economic and financial capacity to perform the Contract. | As per the provisions in <b>Section 10.2.1</b> . | The Tenderer, including its Core Team (cumulatively) in accordance with <b>Section 4.1</b> . |

| Ref #     | Economic and Financial Capacity Criteria   | To be Evidenced by:                             | Applicable to:  |
|-----------|--|---|---|
| <b>F2</b> | The Tenderer must have a minimum yearly turnover of EUR 8,750,000 in the last three years preceding the year of launch of the present procurement procedure. | As per the provisions in <b>Section 10.2.2.</b> | The Tenderer, including its Core Team (cumulatively) in accordance with <b>Section 4.1.</b> |

Table 7: List of Economic and Financial Capacity Criteria

### 13.4.3 Technical and Professional Capacity

| Ref #     | Technical and Professional Capacity Criteria   | To be Evidenced by:                                       | Applicable to:  |
|-----------|--|---|---|
| <b>T1</b> | The Tenderer must be <b>Microsoft Solution Partner or equivalent</b> at least in 2 of these competences: <ul style="list-style-type: none"> <li>• Business Applications</li> <li>• Data &amp; AI (Azure)</li> <li>• Digital &amp; App Innovation (Azure)</li> <li>• Infrastructure (Azure)</li> <li>• Modern Work</li> <li>• Security</li> </ul> | Solutions Partner designation Certification or equivalent | The Tenderer, including its Core Team (cumulatively) in accordance with <b>Section 4.1.</b> |
| <b>T2</b> | The Tenderer must have experience minimum 5 years in delivering IT services related to network and security and minimum 3 years of delivering services to EU Institutions, bodies or agencies.   | Company profile and project history                       | The Tenderer, including its Core Team (cumulatively) in accordance with <b>Section 4.1.</b> |

| Ref #     | Technical and Professional Capacity Criteria  | To be Evidenced by:                               | Applicable to:   |
|-----------|---|---|--|
| <b>T3</b> | The Tenderer must have delivered at least 3 relevant projects in the last 3 years involving Cisco, F5, Microsoft 365 Security, <del>DevOps Security (on-premises and in cloud), and Azure Security/Networking</del> <sup>Corr.1</sup>               | Project references or case studies                | The Tenderer, including its Core Team (cumulatively) in accordance with <b>Section 4.1</b> . |
| <b>T4</b> | The Tenderer must be: <ul style="list-style-type: none"> <li>• Cisco Integrator Select Partner (or equivalent)</li> <li>• F5 Unity Partner (or equivalent)</li> <li>• Microsoft Solutions Partner for Security or Infrastructure (Azure)</li> </ul> | Valid certificates or partner status verification | The Tenderer, including its Core Team (cumulatively) in accordance with <b>Section 4.1</b> . |
| <b>T5</b> | The Tenderer must have ISO 27001 certification or be ISO 27001 compliant  | Certification and policy summary                  | The Tenderer, including its Core Team (cumulatively) in accordance with <b>Section 4.1</b> . |

|    |  |   |  |
|----|--|---|--|
| T6 | <p><del>The Tenderer must provide a reference to exactly 2 software development projects, successfully executed and implemented in production in past 3 years, while acting in a leading role<sup>corr.1</sup>. The reference shall be in the form of reference letters confirming that successful execution. One or more of the following technologies shall be involved in the development: .NET (Framework, Core, MVC, WPF, etc.), PowerApps or other tools of Microsoft Power Platform environment. Applications with Two-tier or three-tier architecture are expected.</del></p> <p><del>The Tenderer must provide a reference to exactly 2 software development projects in the leading role, successfully executed and implemented in production in past 3 years. The reference shall be in the form of reference letters confirming that successful execution. The references shall include the contractors experience with one or more of the following technologies: .NET (Framework, Core, MVC, WPF, etc.), PowerApps or other tools of Microsoft</del></p> | <p><del>Reference in form of project, product, and process documentation, no code is expected to be submitted. The completeness of the documentation and its adherence to selected project methodology will be examined if compliant or not.<sup>corr.1</sup></del></p> <p><b>Reference in form of:</b></p> <ul style="list-style-type: none"> <li>• Reference letters</li> <li>• Project, product, and process documentation, no code needs to be submitted.<sup>corr.2</sup></li> </ul> | <p>The Tenderer, including its Core Team (cumulatively) in accordance with <b>Section 4.1</b>.</p> |
|----|--|---|--|

| Ref # | Technical and Professional Capacity Criteria  | To be Evidenced by: | Applicable to: |
|-------|---|---------------------|----------------|
|       | <b>Power Platform environment.</b> The references shall include the contractors experience with development of applications with Two-tier or three-tier architecture. <sup>Corr.2</sup> |                     |                |

Table 8: List of Technical and Professional Capacity Criteria

## 13.5 Minimum Requirements

| Ref #     | Minimum requirements   | To be evidenced by:                            | Applicable to:   |
|-----------|--|--|--|
| <b>M1</b> | Compliance with applicable environmental, social and labour law obligations established by European Union law, national legislation, collective agreements or the applicable international social and environmental conventions listed in Directive 2014/24/EU.  | As per the provisions in <b>Section 11.1</b> . | All economic operators, as provided in <b>Section 11.1</b> . |
| <b>M2</b> | Minimum quality thresholds (i.e. total minimum score for all the award criteria and individual minimum score for the criteria/sub-criteria), as identified in Section 13.6.1 below, and compliance to the requirements 3.7 (Ref.: REQ-3.7) and 3.8 (Ref.: REQ-3.8) of the Security Aspect Letter (SAL) attached to the Draft Framework Contract shall operate as minimum requirements. | As per the provisions in <b>Section 11.1</b> . | All economic operators, as provided in <b>Section 11.1</b>   |

Table 9: List of Minimum Requirements

## 13.6 Award Stage

The objective of the Award Criteria is to evaluate the Tenders with a view to choosing the most economically advantageous tender. The assessment of the Tenders in the Award Stage is carried out against the Qualitative and the Financial Award Criteria set out in section 12 above pursuant to the method set out below.

### 13.6.1 Qualitative Award Criteria

Each qualitative award (sub-)criterion will be scored out of one hundred as per reference table below and then weighted.

| Scale                   | Score % |
|-------------------------|---------|
| <b>Not satisfactory</b> | 0-59    |
| <b>Satisfactory</b>     | 60-64   |
| <b>Good</b>             | 65-74   |
| <b>Very Good</b>        | 75-85   |
| <b>Excellent</b>        | 86-95   |
| <b>Perfect</b>          | 96-100  |

The evaluation of the technical quality will be based on the ability of the Tenderer to perform the Framework Contract, as described in these Tender Specifications and their annexes. To this end, the information in the technical proposal must be consistent with these Tender Specifications and their annexes. The technical proposal shall contain all necessary information to allow evaluation of the tender according to the qualitative award criteria specified in this document, including in particular the evidence indicated for each criterion.

The qualitative award criteria will be scored out of one hundred (100) points. Tenders scoring **less than 60 (sixty) points** (of a maximum of 100 points) against the qualitative award criteria or **less than the minimum points indicated for any of the criteria** will be rejected without evaluation of the financial offer.

### 13.6.2 Calculation of Final Score and Ranking of Tenders

The Contract will be awarded to the Tenderers having passed the selection stage and offering the best value for money, i.e. the highest score in the final evaluation.

The final score of each tender is established by weighting technical quality against price on a **70/30** basis and will be calculated using the following formula:

**SCORE FOR TENDER= 70% of Qualitative Evaluation score + 30% of Financial Evaluation score**

A ranking list of all Tenderers will be established based on the “score for tender” formula above. The Contract will be awarded to the three Tenderers at most which will be ranked the highest (the best price-quality ratio).

Should the outcome of the formula lead to two or more tenders with the same result, the tenderer who has been awarded the highest marks for quality will be deemed to be the most economically advantageous tender. This approach will continue to be applied to each of the award criteria in the descending order listed in below until the list of successful tenderers including their ranking can be clearly established.

If there is only one ranked Tenderer, the contracting authority may decide to cancel the procurement procedure or sign a single framework contract instead.

## 14 Award of the Contract and standstill period

The Contracting Authority will award the contract in accordance with Articles 170 and 173 of the Financial Regulation. The award decision will be notified to successful and unsuccessful Tenderers in line with Article 173 of the Financial Regulation.

The Contracting Authority shall not sign the Contract with the successful Tenderers until a standstill period of 10 (ten) calendar days have elapsed, running from the day after the simultaneous dispatch of the notifications to successful and unsuccessful Tenderers by electronic means.

## 15 Conditions of Submission of Tenders

### 15.1 Participant Register

Any economic operator willing to submit a tender for this procurement procedure must be registered in the [Participant Register](#) - an online register of organisations and natural persons participating in European Commission's calls for tenders or proposals (participants).

Upon registering, each participant obtains a Participant Identification Code (PIC, 9-digit number) which acts as its unique identifier in the Participant Register. A participant needs to register only once – the information provided can be further updated or re-used by the participant in other European Commission's calls for tenders or calls for proposals.

Participants are required to provide information about the SME status of the participant in the Participant Register by filling in the SME Declaration section in the Participant Register. The section becomes available only when updating/modifying the details of the registered organisation.

At any moment during the procurement procedure, the Research Executive Agency Validation Services (hereafter the EU Validation Services) may contact the participant and ask for supporting documents on legal existence and status and financial capacity. The requests will be made through the register's messaging system to the e-mail address of the participant's contact person indicated in the register. It is the responsibility of the participant to provide a valid e-mail address and to check it regularly. The documents that may be requested by the EU Validation Services are listed in the [EU Grants and Tenders Rules on Legal Entity Validation, LEAR appointment and Financial Capacity assessment](#).

Please note that a request for supporting documents by the EU Validation Services in no way implies that the tenderer has been successful.

### 15.2 Disclaimers

Please note disclaimers referred to in the invitation and in Section 1.4 above.

### 15.3 Variants

Variants are not permitted under this procurement procedure.

### 15.4 Preparation costs of Tenders

Costs incurred in preparing and submitting the Tender are borne by the Tenderers and will not be reimbursed.

### 15.5 Presentation of the Tender

#### 15.5.1 Language

The Tender shall be drafted in one of the official languages of the European Union, preferably **ENGLISH**.

#### 15.6 Content of the Tender to be Submitted

The Tender must be:

- Signed by the Tenderer or its duly authorised representative;

- Perfectly legible so that there can be no doubt as to words and figures;
- Drawn up using all model reply forms supplied in the annexes to these Tender Specifications;
- Clear and concise, with continuous page numbering, and assembled in a coherent fashion (e.g. bound, stapled, or organised in files).

The Contracting Authority reserves the right to request additional evidence in relation to the Tender submitted for evaluation or verification purposes.

### 15.6.1 Administrative File (ENVELOPE I)

Each Tender shall include an administrative file, containing:

| Ref. # | ENVELOPE 1 – ADMINISTRATIVE DOCUMENTS   |
|--------|---|
| 1)     | <p>A <b>cover letter</b>, dated and signed by duly authorised representative of the Tenderer, including:</p> <ul style="list-style-type: none"> <li>• A declaration of full acceptance of the terms and conditions of this Invitation to Tender;</li> <li>• A section presenting the industrial organisation of the Tenderer, describing the Tenderer and listing all the legal entities involved, specifying each entity's role and qualifications. For each entity, it shall be clearly identified (i) whether it is essential in order for the Tenderer to be in a position to meet the selection criteria (i.e. whether it belongs to the “Core-Team”), (ii) whether it will be involved in security sensitive activities (including a due justification / explanation), (ii) whether it will be accessing EUCL for the purpose of the Contract and at which classification level (for each entity);</li> <li>• In case of groups, the competition law compliance assessment made under Section 4.4 above;</li> <li>• A statement in line with the requirement under Section 7.2 above (<b>EU Restrictive Measures</b>).</li> <li>• All the Information required pursuant to Section 9 above (<b>Rejection Criteria</b>).</li> <li>• A statement pertaining to the <b>Conflicting Interest of the Contractor</b> including all the details, as applicable, as required under Section 10.1.2.1 above, i.e. for each economic operator (i.e. the Prime Tenderer / each member of the group / each subcontractor). A list of all the documentation included/enclosed in the Tender.</li> <li>• statement of full compliance with the SAL or pointing out the main deviations with a reference to Statement of Compliance.</li> </ul> |
| 2)     | A duly signed and dated <b>statement of authorisation/Power of Attorney</b> containing the name and position of the <b>representative/signatory</b> and <b>official documentary evidence</b> on the person's legal authority to validly sign the Tender and the Contract on behalf of the organisation, should it be awarded it.  |
| 3)     | In case of groups, a duly signed and dated statement/declaration by each of the group members specifying the company or person heading the project and authorised to submit a tender on behalf of the group, sign and manage the Contracts, using the template in <b>Annex I.C.</b>   |
| 4)     | <p>The duly filled-in and signed <b>Identification Sheet of the Tenderer</b> using the template in <b>Annex I.A.</b></p> <p>Annex I.A (<b>one per Tenderer</b> including all the legal entities involved in the group and sub-</p>  |

| Ref. #                                    | <b>ENVELOPE 1 – ADMINISTRATIVE DOCUMENTS</b>  |
|---|---|
|   | contractors and containing, where appropriate, as many Sections as legal entities involved).  |
| 5)  | For the proposed subcontractors, or other entities on whose capacity the Tenderer intends to rely, duly filled in, signed and dated <b>Sub-contractor Letter of Intent</b> using the template in <b>Annex I.D.1</b> (for subcontractors) and/or <b>Non-Subcontractor Letter of Intent</b> using the template in <b>Annex I.D.1</b> (for other entities), to be submitted for each subcontractor/entity individually).   |
| 6)  | <p>The duly filled in, signed and dated <b>Financial Identification Form</b> using the template available at:</p> <p><a href="https://ec.europa.eu/info/publications/legal-entities_en">https://ec.europa.eu/info/publications/legal-entities_en</a></p> <p>In case of groups, only one identification form for the whole group should be submitted, nominating the bank account into which payments are to be made under the Contract (i.e. the account of the group leader) in the event that the latter is awarded to it.</p> <p>Please pay attention to the supporting documents that should be submitted together with duly filled in Financial Identification Form.</p> |
| <b>Access to Procurement</b>              |   |
| 7)  | <p>The duly filled-in <b>Declaration of Ownership and Control</b>, using the template in <b>Annex I.K – Part 2</b>,</p> <p>including all necessary documents required in Annex I.K for the assessment of the compliance with the Participation Condition (see Section 7.1 above). To be submitted separately by each entity to which the Participation Conditions apply pursuant to Section 7.1 and Section 5 above.</p> <p><b>IMPORTANT:</b> Attention is drawn to Section 5 above.</p>  |
| <b>Exclusion / non-rejection Criteria</b> |   |
| 8)  | The duly filled in, signed and dated <b>Declaration(s) of Honour (including supporting evidence)</b> relating to <b>exclusion criteria, grounds for rejection and selection criteria</b> using the template in <b>Annex I.B - one per economic operator</b> (i.e. Tenderer, all group members, all sub-contractor(s), if any).  |
| <b>Selection Criteria – General</b>       |   |
| 9)  | The duly filled in, signed and dated <b>Financial Identification Form (one per economic operator involved)</b> (tender, group member, or sub-contractor) using the template available at:   |
| 10)                                       | Extract of the inclusion in a <b>trade or professional register</b> , or certificate, membership of a specific organisation, or equivalent <b>(one per economic operator involved)</b> (tender, group   |

| Ref. #  | ENVELOPE 1 – ADMINISTRATIVE DOCUMENTS  |
|---|--|
|   | member, or sub-contractor).  |
| <b>Selection Criteria – Security Requirements</b>               |  |
| 11)   | Documents related to the appointment of the <b>Local Security Officer</b> for each entity (including group members and subcontractors) expected to handle EU classified information (EUCI) at the level of RESTREINT UE/EU RESTRICTED or above. See Section 10.1.3.1 above.  |
| 12)   | Documents related to the possession of the <b>Personal Security Clearance</b> for each individual (within any entity including group members and subcontractors) who is expected to carry out tasks requiring handling EU classified information at the level of CONFIDENTIEL UE/EU CONFIDENTIAL or above. See Section 10.1.3.2 above.   |
| 13)   | The duly signed and filled in <b>(Re-inforced) Non-Disclosure Undertaking (RNDU)</b> pursuant to section 10.1.3.3 above using the template in <b>Annex I.G</b> for each entity (including group members and subcontractors) expected to handle EU classified information (EUCI) at the level of RESTREINT UE/EU RESTRICTED or above.   |
| <b>Selection Criteria – Economic and Financial Capacity</b>     |  |
| 14)   | The duly filled in, signed and dated <b>Financial Statements relating to the selection stage</b> using the template in <b>Annex I.E</b> , complemented by the <b>full financial statements</b> for the last three financial years and a <b>statement of turnover</b> relating to the relevant services this tender for the last three financial years as requested in Table 7 of these Tender Specifications. <b>To be submitted separately by each entity on whose capacity the Tenderer intends to rely for the fulfilment of the Economic and Financial Capacity Criteria.</b>  |
| <b>Selection Criteria – Technical and Professional Capacity</b> |  |
| 15)   | A declaration describing (and tracing to the evidence provided) the Tenderer's experience, as required to fulfil criteria in <b>section 13.4.3 (T1-6)</b> ;  |
| <b>Other</b>  |  |
| 16)   | <p>Duly written, signed and dated <b>Statement of Compliance</b> (using the template in <b>Annex I.I</b>) to the <b>contractual baseline</b>, i.e. to the Draft Framework Contract, including its Annex II.XII – Service Level Agreement (SLA), and to Annex II.VI Security Aspects Letter ("SAL") (including the related annexes).</p> <p>The Declaration on CIS Accreditation attached as Annex I to the SAL shall be duly filled in and signed by the authorised representative of the Tenderer.</p> <p>Tenderers are informed that their tenders will be assessed, by virtue of the qualitative criterion Q6, on the level of compliance to the contractual baseline and the credibility of the related justifications / quality and consistency of the proposed alternative wording.</p> <p>In all the cases where Tenderers are required to submit their Statement of Compliance, the following rules shall apply:</p> <p>a) The Statement of Compliance shall state the degree of compliance with the relevant provisions/requirements/documents (and related annexes) provided by the Contracting Authority as part of the Invitation to Tender.</p> |

| Ref. # | ENVELOPE 1 – ADMINISTRATIVE DOCUMENTS   |
|--------|---|
|        | <p>b) Each Statement of Compliance shall state (alternatively):</p> <ul style="list-style-type: none"> <li>i. Full compliance</li> <li>ii. Non-compliance</li> <li>iii. Partial compliance</li> </ul> <p>Each statement shall be duly justified:</p> <ul style="list-style-type: none"> <li>• In general terms, within the statement of compliance itself.</li> <li>• By reference to the sections of the Tender where further justifications are developed.</li> </ul> <p>c) In case full compliance is stated, Tenderers shall avoid comments, assumptions, and limitations as they will not be taken into account by the Contracting Authority for the evaluation and they shall not apply in case of award.</p> <p>d) In case partial or non-compliance is stated, in addition to the relevant justifications, Tenderers are required to elaborate alternative drafting (including contractual drafting when relevant) reflecting their position in the body text of the document or of its annexes, when relevant.</p> <p>e) Acceptance of a Tender containing reservations, or proposed modifications or amendments is not to be construed as acceptance of these, unless and until such modifications or amendments are confirmed in the contract.</p> <p>Any justification or description included in the Tender, not specifically recalled in the relevant Statements of Compliance will be disregarded and cannot be opposed to the Contracting Authority in the frame of contract execution.</p> |
| 17)    | <p><b><del>Duly filled in Template on Statistical Reporting using the template in Annex I.H, to be submitted by each economic operator (including group members and subcontractors) participating in this procurement.</del></b></p> <p><small>Corr.1</small></p>   |

### 15.6.2 Technical File (ENVELOPE II)

Each Tender shall include a technical file, containing:

| Ref. # | ENVELOPE 2 – TECHNICAL OFFER   |
|--------|--|
| (1)    | <u>An Executive Summary</u> (maximum 15 pages) providing a high level view of the Tenderer's proposed organisation for the performance of the activities within the Tender and, if awarded, within the Contract; |

|  |   |
|--|---|
|  | <p><b><u>A Technical Proposal</u></b>, including at least the following:</p> <p>Technical Proposal, in accordance with the requirements of the present Tender Specifications divided into following sections with headings:</p> <ul style="list-style-type: none"> <li>• Executive Summary (2 pages maximum)</li> <li>• Duly written, signed and dated Statement of Compliance (Annex I.I) in this document and its technical annexes. The tenderer must fill-in Annex I.I and (i) confirm its full compliance and (ii) define its partial or non-compliance to the requirements and tasks described in this document and its technical annexes. Any non-compliance or partial compliance must be explained and the level of compliance committed to be reached shall be indicated.</li> <li>• Profiles of the entire proposed pool of consultants, including the CVs of the proposed team, indicating his/her experience relevant to the specific tasks that he/she will cover. The CVs shall be submitted in English, preferably according to the Europass format (available at: <a href="http://europass.cedefop.europa.eu/en/documents/curriculumvitae/templates-instructions">http://europass.cedefop.europa.eu/en/documents/curriculumvitae/templates-instructions</a>). To be evaluated by virtue of the qualitative award criterion Q1.</li> <li>• One section per each award criterion, subdivided into subsections per subcriteria. Each of these sections and subsections shall include the complete approach related to the respective award criteria and subcriteria. The EUSPA reserves the right to evaluate the award criterion and subcriteria only in respect of information provided in the such sections and subsections and not to take into account information provided in other parts of the tender, unless clear references are made to them.</li> </ul> <p>(2) The technical proposal shall include, <i>inter alia</i>, the following:</p> <ul style="list-style-type: none"> <li>I. The intended approach to the services, the methodology and arrangements ensuring full compliance with the Service requirements (Annex I.J.1, Section 7.10), the organisation of the tenderer, the proposed team, the understanding of the requirements and needs of the Agency and any other relevant information. This information shall cover all tasks and activities described in Annex I.J.1, Sections 5, 7 and 8.</li> <li>II. A complete set of documentation for the Exercise WP2 as described in Annex I.J.2, Section 4.2</li> <li>III. A complete set of documentation for the Exercise WP3 as described in Annex I.J.2, Section 4.3</li> <li>III. A complete set of documentation for the Exercise WP4 as described in Annex I.J.2, Section 4.4</li> </ul> <ul style="list-style-type: none"> <li>• With regard to the competitive subcontracting requirement as set out under Section 5.2 of these Tender Specifications, Tenderers are required to include, in a dedicated section, a plan describing in detail how they plan to comply with the said requirement. Attention is drawn to the fact that this section <b>will be evaluated according to Qualitative Award Criterion Q5</b> as per section 13.6.1 of these Tender Specifications.</li> <li>• With regard to the promotion of the widest and most open participation possible of economic operators and in particular of the participation of start-ups, new entrants and SMEs, as set out under Section 5.2 of these Tender Specifications, Tenderers are required to include, in a dedicated section, a plan describing in detail how they plan to comply with the said requirement. Attention is drawn to the fact that this section <b>will be evaluated according to Qualitative Award Criterion Q5</b> as per section 13.6.1 of these Tender Specifications.</li> </ul> |
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|-----|---|
|     | With regard to the general subcontracting principles as set out under Section 5 of these Tender Specifications, Tenderers are required to include, in a dedicated section, a plan describing in detail how they plan to comply with the said principles / requirements. Attention is drawn to the fact that this section <b>will be evaluated according to Qualitative Award Criterion Q5</b> as per section 13.6.1 of these Tender Specifications. |
| (5) | A list of COTS to be used for the purpose of the Contract, clearly identifying (a.) their intended use within the scope of the Tender / Contract, and (b.) whether the suppliers thereof are OEMs or Re-Sellers, as required under Section 5 above.   |

### 15.6.3 Financial File (ENVELOPE III)

Each Tender shall include a financial file, containing:

| Ref. # | ENVELOPE 3 – FINANCIAL OFFER   |
|--------|--|
| (1)    | <p><b>Duly signed and dated Financial Proposal</b> using the template in <b>Annex I.F.1, including:</b></p> <ul style="list-style-type: none"> <li>FWC Financial Offer including:           <ol style="list-style-type: none"> <li>the man-day rates of each profile for the various locations of the performance of the service</li> <li>the travel costs for missions to the locations specified in the Technical Terms of reference</li> <li>Standby duty service Man-day rate</li> </ol> </li> </ul> <p>Simulation exercise financial proposal, based on the rates, defined in the FWC proposal, for the tasks, specified in the Simulation Exercise in Technical Terms of reference. This exercise is designed to simulate the effort required for <del>the knowledge takeover task which will be necessary prior to entering a routine operating mode (13 consultants for 3 months), and a 12 months of provision of services of recurrent nature (51 consultants)</del> WP1, WP2, WP3 and WP4<sup>Corr.2</sup>.</p> <ul style="list-style-type: none"> <li>There should be no contingency included in the proposal.</li> <li>The Financial Offer shall be submitted in both Pdf (duly signed) and Excel formats. In case of inconsistencies the signed pdf version will prevail.</li> </ul> <p>Tenderers shall not change the structure provided in the Annex I.F (including formulas). Omissions or additions as compared to the original format may lead to rejection from the present procedure.</p> |

The financial offer must respect the following conditions:

#### 15.6.3.1 Prices

Unit prices quoted in Annex I.F must be quoted in euros and are firm and fixed prices not subject to revision.

Unit Prices included in the FWC Financial Offer (sheet A - FWC Unit Prices) will constitute the price list for the duration of the Contract and will be applied pro-rata based on actual hours of deployment for the duration of the FWC in line with the provisions under the FWC.

The Tenderers shall provide in the FWC Financial Offer (sheet A - FWC Unit Prices):

- Unit Prices for Personnel (Man-Days) in line with the requested professional profiles under Section 2.1.6 above and the place of performance (i.e., in-house or Contractor's remises).

Man/Days are intended as eight (8) working hours a day at the places of performance indicated in Section 3.3.3 above and in Annex I.F. Unit Prices for Personnel (Man/Days) quoted in Annex I.F shall include all costs and expenses which are necessary for performance of the tasks. The same applies also for Standby Duty service.

In particular, these costs and expenses encompass effort for all the tasks (including drawing up quotations and reports) and the necessary amounts for their performance, including:

- All costs (e.g. management of the project, administrative support and any support resource, coordination, quality control or currency conversion fees).
- All overheads (management of the firm, secretarial services, social security, wages, etc.) necessary for the performance of the tasks described and incurred directly and indirectly by the Contractor and/or subcontractors (if any) in performance of the tasks that will be entrusted to him.

Mission costs are defined under Article I.4 of the Draft FWC.

The Total Evaluation Price as indicated in Annex I.F (sheet C - Total Evaluation Price) to be used for the purposes of the evaluation under Section 12.2.2 is made up of the price for the WP1, **WP2, WP3 and WP4<sup>Corr.2</sup>** Evaluation Scenario described in Annex I.J.2 (as indicated in sheet B Simulation WP1, **WP2, WP3 and WP4<sup>Corr.2</sup>**) and confirmed in sheet C - Total Evaluation Price.

### **15.6.3.2 VAT exemption**

As the Agency is exempt from all taxes and dues, including value added tax (VAT), pursuant to Articles 3 and 4 of the Protocol on the privileges and immunities of the European Union, these must not be included in the price.

### **15.6.3.3 Currency and exchange rates**

The price tendered must be all-inclusive and expressed in euros without VAT, including for countries which are not part of the Euro zone. For tenderers in countries which do not belong to the Euro zone, the price quoted may not be revised in line with exchange rate movements. It is for the tenderer to select an exchange rate and assume the risks or the benefits deriving from any fluctuation.

## **15.7 Submission**

Tenders shall be submitted only via the eSubmission application according to the instructions laid down in the Invitation to Tender and the eSubmission Quick Guide available at the following link: [https://ec.europa.eu/info/funding-tenders/opportunities/docs/esubmission/quickguidepp\\_en.pdf](https://ec.europa.eu/info/funding-tenders/opportunities/docs/esubmission/quickguidepp_en.pdf).

**NOTA BENE:** Tenderers are invited to make sure they prepare and submit the Tender in eSubmission early enough to ensure it is received within the deadline indicated in Section 2.1 of these Tender Specifications.

**The Declaration of Honour and the NDU must be signed either electronically with a qualified electronic signature (QES) or signed with blue ink, with the original provided to EUSPA by post mail, express mail, commercial courier or hand-delivery. All other documents which are to be signed according to the Tender**

**Specifications as well as all supporting documents may be provided as scans of the originals. Upon request, the tenderer may be required to provide such originals to EUSPA.**

Please note that only QES within the meaning of Regulation (EU) No 910/2014 (eIDAS Regulation) will be accepted. This electronic signature must be provided by a provider which has a qualified status granted by a national competent authority of an EU Member State and which is listed in the national eIDAS Trusted Lists and the EU List of eIDAS Trusted Lists (LOTL) (available at <https://webgate.ec.europa.eu/tl-browser/#/>).

Therefore, before sending to EUSPA your electronically signed document(s), we recommend you to check the signature and validity of the certificate with one of the following tools:

- DSS Demonstration validation tool available at <https://ec.europa.eu/cefdigital/DSS/webappdemo/validation> can help you check the validity of a certificate by indicating the number and type of valid signatures in a document.
- EU Trusted List Browser can be consulted in order to check whether the electronic signature provider and the trust service it provides are part of European Union Trusted List: <https://webgate.ec.europa.eu/tl-browser/#>

To make sure you use a QES compliant to eIDAS Regulation, you need to check that both the service provider and the qualified certificate generation service used are included in the EU Trusted List Browser.

## **15.8 Public opening of the Tenders**

The Tenders will be opened on the date and time specified in Section 2.1 above, via a videoconference.

This opening session will be public. Maximum one representative of each Tenderer may attend the opening of the Tenders. At the end of the opening session, the Chairman of the opening committee will disclose the names of the Tenderers and the decision concerning the admissibility of each offer received. The prices indicated in each Tender received will not be communicated.

Tenderers who wish to attend are invited to send a request (at least 3 (three hours) before the date and time of the opening) to the following e-mail address: [tenders@euspa.europa.eu](mailto:tenders@euspa.europa.eu), specifying the name of the attending person and the Tenderer (s)he represents, as well as providing the submission receipt generated by e-Submission. The subject of the email shall be: "EUSPA/OP/04/25: request from [insert name of legal entity / group] to participate to the opening session".

Tenderers who expressed interest in participating in the opening session will receive contact details for participation in the videoconference.

The opening session may be recorded. In such a case the participants will be informed about the recording at the beginning of the session.

At the beginning of the session, the representatives of the Tenderers will be asked to point the camera at their ID card or passport and expressly declare their identity.

## **15.9 Period of Validity of the Tenders**

Period of validity of the Tenders, during which Tenderers may not modify the terms of their Tenders in any respect shall be nine (9) months from the closing date for the submission of the Tenders.

## **15.10 Contacts with the Tenderers**

Contacts between the Contracting Authority and the Tenderer are prohibited throughout the procedure, save in exceptional circumstances and under the following conditions only:

**Before the final date for submission of Tenders:**

- At the request of the Tenderer, the Contracting Authority may provide additional information solely for the purpose of clarifying the nature of the Contract.
- Any requests for additional information by the Tenderers must be made in writing only through the F&T Portal, according to the instructions laid down in the Invitation to Tender.
- Requests for additional information received after the deadline specified in Section 2.1 above cannot be processed.
- Any additional information will be published through the F&T Portal. It is the economic operator's responsibility to check for updates and modifications during the submission period.

The Contracting Authority may, on its own initiative, inform interested parties of any error, inaccuracy, omission, or any other clerical error in the text of the tender documentation.

**After the opening of Tenders:**

- If, after the Tenders have been opened, any clarifications are required in connection with a Tender, or if obvious clerical errors in the submitted Tender must be corrected, the Contracting Authority may contact the Tenderer, although such contact may not lead to any substantial alteration of the terms of the submitted Tender.

### **15.11 Information for Tenderers**

The Contracting Authority will inform Tenderers of decisions reached concerning the award of the Contract in due course, including the grounds for any decision not to award the Contract.

The Contracting Authority will inform all rejected Tenderers of the grounds on which the decision was taken.

The Contracting Authority will inform each Tenderer who is not rejected and who makes a request in writing, of the name of the Tenderer(s) to whom the Contract is awarded and of the characteristics and relative advantages of the successful Tender and its total financial offer amount.

However, certain information may be withheld where its release would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.

### **15.12 Data Protection**

Personal data gathered for the purpose of the present procedure will be processed pursuant to Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data.

This data will be processed by EUSPA as indicated in the privacy statement published on the Agency's website ([https://www.euspa.europa.eu/sites/default/files/documents/privacy\\_statement\\_relating\\_to\\_euspa\\_procurement\\_procedures\\_grants\\_prizes\\_and\\_selection\\_of\\_experts.pdf](https://www.euspa.europa.eu/sites/default/files/documents/privacy_statement_relating_to_euspa_procurement_procedures_grants_prizes_and_selection_of_experts.pdf)). Any request regarding your personal data should be addressed to the data controller responsible for the call for tenders Head of ITF, [helpdesk@euspa.europa.eu](mailto:helpdesk@euspa.europa.eu)). You may also contact the Agency's Data Protection officer (DPO) at [DPO@euspa.europa.eu](mailto:DPO@euspa.europa.eu). If your request has not been responded to adequately by the data controller and/or DPO, you can lodge a complaint with the European Data Protection Supervisor at [edps@edps.europa.eu](mailto:edps@edps.europa.eu).

## 16 Abbreviations and Definitions

| Abbreviation     | Definition   |
|------------------|--|
| <b>CBS</b>       | Cost Breakdown Structure                             |
| <b>CIS</b>       | Center for Internet Security                         |
| <b>COTS</b>      | Commercial-Off-The-Shelf                             |
| <b>DPO</b>       | Data Protection Officer                              |
| <b>DSA</b>       | Designated Security Authority                        |
| <b>DSS</b>       | Decision Support System                              |
| <b>EC</b>        | European Commission                                  |
| <b>EGNOS</b>     | European Geostationary Navigation Overlay Service    |
| <b>EU</b>        | European Union                                       |
| <b>EUCI</b>      | EU classified information                            |
| <b>EUSPA</b>     | European Union Agency for the Space Programme        |
| <b>FFCs</b>      | Foreign Financial Contributions                      |
| <b>FR</b>        | Financial Regulation                                 |
| <b>FTE</b>       | Full Time Equivalent                                 |
| <b>FUP</b>       | Fixed Unit Price                                     |
| <b>FWC</b>       | Framework Contract                                   |
| <b>GAL</b>       | Galileo  |
| <b>GNSS</b>      | Global Navigation Satellite System                   |
| <b>GOVSATCOM</b> | European Union Governmental Satellite Communications |
| <b>IPR</b>       | Intellectual Property Right                          |
| <b>ITT</b>       | Invitation To Tender                                 |
| <b>KO</b>        | Kick Off   |
| <b>LSO</b>       | Local Security Officer                               |
| <b>NDU</b>       | Non-Disclosure Undertaking                           |
| <b>NSA</b>       | National Security Authority                          |
| <b>OEM</b>       | Original Equipment Manufacturers                     |
| <b>OJ</b>        | Official Journal                                     |
| <b>PRS</b>       | Public Regulated Service                             |
| <b>PSC</b>       | Personal Security Clearance                          |
| <b>QES</b>       | Qualified electronic signature                       |
| <b>RCO</b>       | Registry Control Officer                             |
| <b>REQ</b>       | Requirement  |
| <b>RUE</b>       | Restraint UE/EU Restricted                           |
| <b>SAL</b>       | Security Aspects Letter                              |
| <b>SC</b>        | Specific Contract                                    |
| <b>SCES</b>      | Specific Contract Evaluation Scenario                |
| <b>SME</b>       | Small and Medium Enterprise                          |
| <b>SW</b>        | Software   |
| <b>TS</b>        | Tender Specifications                                |
| <b>VAT</b>       | Value Added Tax                                      |

**Table 10: Abbreviations**

| Term                            | Definition  |
|---------------------------------|---|
| Core Team members               | (a) Prime Contractors, (b) any possible economic operator submitting the tender jointly with the prime tenderer (e.g., group members) and (c) any entity(ies)/subcontractors whose capacity is used by the tenderer to comply with selection criteria as per Section 10.  |
| Group                           | For the purpose of this requirement the expression “Group” is meant to encompass i) the entity or the group of entities acting as a tenderer, ii) the entity /entities to which the tenderer or any of the members of the group acting as tenderer is affiliated, iii) the entities affiliated to the tenderer or to any of the members of the group acting as tenderer. An entity shall be deemed affiliated to the tenderer or any of the members of the group acting as tenderer if it is directly or indirectly controlling, controlled by or under common control of the tenderer or any of the members of the group acting as tenderer, provided that (i) such entity shall be considered an affiliate only for the time during which such control exists, and (ii) for the purpose of this definition, “control” shall be constituted in case any of the following applies to either the legal entity on one side or the tenderer or any of the members of the group acting as tenderer on the other side in relation to each other: (a) holding, whether directly or indirectly, a majority of the voting rights, (b) holding, whether directly or indirectly, more than 50% (fifty per cent) of the share capital, (c) having the right to appoint or remove a majority of the members of the board of directors or other management body, (d) having, by agreement, the right to exercise a majority of the voting rights. Entities which are directly or indirectly controlled by the same entity (as described in points (a), (b), (c) and (d) above are also considered affiliated entities. |
| Prime Tenderer / Contractor     | The Tenderer / Contractor assuming the responsibility for managing the procurement process and the resulting Contract. Prime Tenderer / Contractor may rely on subcontractors, but only the former remains responsible of the execution of the Contract vis-à-vis the Agency and its sole point of contact.   |
| Subcontractor or sub-contractor | An economic operator that is proposed by a tenderer or contractor to perform part of a contract.  |

**Table 11: Definitions**

## 17 List of Annexes

| Annex       | Title   |
|-------------|---|
| Annex I.A   | Administrative Annexes:<br>Template Identification Sheet of the Tenderer  |
| Annex I.B   | Template Declaration of Honour  |
| Annex I.C   | Template Joint Bidding Power of Attorney  |
| Annex I.D.1 | Template Subcontractor Letter of Intent   |
| Annex I.D.2 | Template Non-Subcontractor Letter of Intent   |
| Annex I.E   | Template Financial Statements relating to the Selection Stage   |
| Annex I.F   | Template Financial Table of Answers   |
| Annex I.G   | Template Non-Disclosure Undertaking (Re-Inforced) and Template Declaration on CIS Accreditation annexed to it   |
| Annex I.H   | Template Statistical Reporting  |
| Annex I.I   | Template Statement of Compliance  |
| Annex I.J   | I.J.1 – Technical Terms of Reference<br>I.J.2 – Simulation Exercise   |
| Annex I.K   | Criteria for assessment of Participating Conditions, includes three parts:<br>- Part I – Criteria for Assessment of Participation Conditions<br>- Part II – Excel Spreadsheet – Declaration of Ownership and Control (Template)<br>- Part III – Additional Information Regarding the Assessment of Participating Conditions |

**Table 12: List of Annexes**

**End of Document**