



Pre-commercial Procurement (PCP) FABULOS

Future Autonomous Bus Urban Level Operation Systems

TENDER DOCUMENT 3:

PCP FRAMEWORK AGREEMENT (the “Framework Agreement”)

Version dated 1.9.2018

This PCP Framework Agreement, designated as Tender Document 3, should be read in conjunction with other documents related to this Pre-Commercial Procurement (PCP), listed hereunder:

Tender Document 1: Request for Tenders

Tender Document 1: Forms A through G

Tender Document 2: Functional Specifications

Tender Document 4: Specific Contract for Phase 1

All documents are to be downloaded from the FABULOS website fabulos.eu

Supplier:
[to be filled]

Date:
[to be filled]

This project has received funding from
the European Union's Horizon 2020
research and innovation programme
under grant agreement No. 780371.



Preamble

This Framework Agreement ("Agreement") has been entered into on ____ / ____ 2018 between:

PREAMBLE

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

on the one part,

the "lead procurer", **FORUM VIRIUM HELSINKI OY**, hereinafter referred to as 'FV-Helsinki',

acting in the name and on behalf of the other procurers in the buyers group (together with the lead procurer: "procurers"):

1. **MAJANDUS JA KOMMUNIKATSIOONIMINISTERIUM**, hereinafter referred to as 'MKM';
2. **DIMOS LAMIA**, hereinafter referred to as 'Lamia';
3. **SOCIEDADE DE TRANSPORTES COLECTIVOS DO PORTO SA**, hereinafter referred to as 'STCP';
4. **GEMEENTE HELMOND**, hereinafter referred to as 'Helmond';
5. **GJESDAL KOMMUNE**, hereinafter referred to as 'Gjesdal';

and on the other hand, the "Contractor", [insert details of the contractor],

OPTION for joint tenders: acting in the name and on behalf of the other members of group of tenderers:

Insert the details of the members of the group of tenderers

1.

2.

3.



The members of the group of Tenderers are hereafter collectively referred to as the "Contractor" and will be jointly and severally liable vis-à-vis the Lead Procurer for the performance of this Framework Agreement and the specific Contracts.

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

WHEREAS

The Buyers Group has applied for and received funding from the European Union for the Pre-Commercial Procurement (PCP) project "FABULOS (the "Project") under Grant Agreement no. 780371 and the Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020) ("Grant Agreement");

The objective of the Project comprises the design and delivery of a systemic proof-of-concept on autonomous last mile public transport as part of the urban areas' existing transport system.

To this aim, the Buyers Group have signed a Procurers Agreement on 11.06.2018 that defines their respective roles and responsibilities under the Project ("Consortium Agreement"); with Forum Virium Helsinki OY as Lead Procurer entrusted with the management of the procurement of the R&D Services under the Project as well as with the implementation of the Framework Agreements and Specific Contracts concluded with the providers of the R&D Services;

By signing this Framework Agreement the Parties agree to implement the Pre-Commercial Procurement in accordance with the Agreement and all the obligations it sets out.

The Contractor has knowledge and expertise in matters relevant to the Project;

The Framework Agreement is concluded within the context set out here above.



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2 Definitions

“Applicable Laws” - all rules and regulations and the “Specific requirements for innovation procurement (PCP/PPI) supported by Horizon 2020 grants” (hereinafter the “Specific PCP Requirements”)¹ relevant for the execution of the Framework Agreement and all laws, treaties, rules, regulations and orders of any local, national or other authority having jurisdiction over the Contractor.

“Background” - any intellectual property rights, data, software, know-how or information, whatever its form or nature (tangible or intangible), that is held by any Buyers Group member or the Contractor prior to the award of the Framework Agreement, which is needed to perform the R&D Services or exploit the Results.

“Buyers Group” - the Consortium Partners procuring the R&D Services under the Project, comprising Forum Virium Helsinki (Finland), the municipalities of Helmond (Netherlands), Gjesdal (Norway) and Lamia (Greece), the Ministry of Communications of Estonia and public transport operator STCP from Porto (Portugal).

“Call-off” - the procedure organised by the Lead Procurer to select the successful Contractor(s) who will participate in the next Phase of the Project under the Framework Agreement.

“Confidential Information” - any information related to the Framework Agreement which has been identified as confidential or which can be reasonably understood to be confidential.

“Data” - the documents, data and other information provided by the Lead Procurer or any Buyers Group member to the Contractor.

“Fair and Reasonable Conditions” - appropriate conditions, including possible financial terms or royalty-free conditions, taking into account the specific circumstances of the request for access, including in particular the actual or potential value of the Results or Background to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged.

“Force Majeure” - any circumstance beyond the reasonable control of the party invoking Force Majeure, including acts of nature, fire and war, which prevent it, wholly or partially, from performing its obligations under the Framework Agreement. Strikes and other labour conflicts which do not form part of an industry-wide conflict shall not constitute Force Majeure. A default of a subcontractor shall in no event constitute Force Majeure for the Contractor if it is not due to any of the circumstances defined above as Force Majeure.

“Functional Specification” - the Functional Specification for the R&D Services as set out in Tender Document 2: The Functional Specification.

“Results” - any tangible or intangible output such as data, software, know-how or information that is generated under the Framework Agreement whatever its form or

¹ http://ec.europa.eu/research/participants/data/ref/h2020/wp/2014_2015/annexes/h2020-wp1415-annex-e-inproc_en.pdf

nature, whether or not it can be protected, including any intellectual property rights or other rights therein. The Results expected to be generated under the Framework Agreement are identified in the relevant Specific Contract(s).

“Sideground” - any tangible or intangible data, software, know-how or information, whatever its form or nature, whether or not it can be protected, including any intellectual property rights or other rights therein, that is generated during the timespan of the Framework Agreement but does not constitute part of the Results expected to be delivered thereunder and which is needed to perform the R&D Services or exploit the Results.

“Specific Contract” - the specific contract for each Phase of the R&D Services under the Framework Agreement, to be concluded between Forum Virium Helsinki OY and the Contractor in addition to the Framework Agreement.

3 Introduction

3.1 The Framework Agreement is entered into between Forum Virium Helsinki OY, acting on behalf of the Buyers Group, and the Contractor. Therefore, any rights and indemnities extended by the Contractor under the Framework Agreement to Forum Virium Helsinki OY extend to the Buyers Group members, regardless of whether these are specifically mentioned in the Framework Agreement or not.

3.2 The Framework Agreement governs the provision by the Contractor of the R&D Services, covering PCP Phases 1 through 3:

- Phase 1: Solution design
- Phase 2: Prototype development and lab testing
- Phase 3: Field testing

3.3 After signature of the Framework Agreement and a Specific Contract for Phase 1, the Contractor shall perform the R&D Services falling thereunder and acknowledges that Forum Virium Helsinki OY simultaneously enters into similar arrangements with other contractors. The provision by the Contractor of R&D Services under subsequent Phases is subject to the award by Forum Virium Helsinki OY of a Specific Contract for such Phases, as set out hereunder.

3.4 During Phase 1, Forum Virium Helsinki OY will make a Call-off to the contractors for the performance of Phase 2, whereupon the contractors shall submit an offer for Phase 2, together with the Phase 1 final report and deliverables. Successful completion of Phase 1 is a prerequisite to have the Phase 2 tender evaluated. If the Contractor is awarded a Specific Contract for Phase 2, the Framework Agreement shall continue for the duration of Phase 2 and a separate Specific Contract for Phase 2 will be executed by the Parties. If the Contractor is not awarded a Specific Contract for Phase 2, the Framework Agreement shall expire automatically on the date announced by Forum Virium Helsinki OY.

3.5 During Phase 2, Forum Virium Helsinki OY will make a Call-off to all contractors for the performance of Phase 3, whereupon the contractors shall submit an offer for Phase 3, together with the Phase 2 final report and deliverables. Successful completion of Phase 2

is a prerequisite to have the Phase 3 tender evaluated. If the Contractor is awarded a Specific Contract for Phase 3, the Framework Agreement shall continue for the duration of Phase 3 and a separate Specific Contract for Phase 3 will be executed by the Parties. If the Contractor is not awarded a Specific Contract for Phase 3, the Framework Agreement shall expire automatically on the date announced by Forum Virium Helsinki OY.

4 Scope of the Framework Agreement

4.1 Forum Virium Helsinki OY, on behalf of the Buyers Group, entrusts to the Contractor the task of providing the R&D Services, including the delivery of the solution, in accordance with the Framework Agreement.

4.2 The terms and conditions and the Annexes together form the Framework Agreement and are to be taken as mutually explanatory to one another. These terms and conditions prevail over the Annexes and the priority between the Annexes shall be in decreasing order, starting from the top:

Annex 1: Request for Tender
Annex 2: Contractor's Tender
Annex 3: Background

5 Performance of the Framework Agreement

5.1 The Contractor shall be deemed to have satisfied himself as to the correctness and sufficiency of the Framework Agreement and entered into it on the basis that it has full knowledge and understanding of the Project. The Framework Agreement, including the Specific Contracts, shall cover all matters necessary for the delivery of the R&D Services. In case of discrepancy between the Framework Agreement and a Specific Contract, the provisions of the Specific Contract shall prevail.

5.2 The Contractor, including its subcontractors, shall deliver the R&D Services with skill, care and diligence and in accordance with applicable national and international cloud computing standards, including but not limited to those set out in each Specific Contract, as well as according to the state of the art and good industry practice.

5.3 The Contractor, including its subcontractors, shall comply with Applicable Laws, and in accordance with Clause 2.1, shall hold Forum Virium Helsinki OY free and harmless from, and indemnify Forum Virium Helsinki OY for any loss or damage, including legal costs, arising from their infringement.

5.4 The Contractor, including its subcontractors, shall obtain and maintain for the duration of the Framework Agreement all necessary permits, consents and licenses for the performance of his obligations.

5.5 The Contractor, including its subcontractors, shall perform at least 50% of the R&D Services in each Phase within the EU Member States or H2020 Associated Countries, and the principal R&D staff employed by the Contractor and working on each Phase must be located within the EU Member States or the H2020 Associated Countries. The percentage shall be measured in terms of the total price of each Specific Contract allocated to the R&D Services that are performed in the EU Member States or H2020 Associated Countries. The total amount of activities shall include all activities covered by each Specific Contract, including those performed by subcontractors.

6 Subcontracting

6.1 The Contractor shall not without prior permission in writing by Forum Virium Helsinki OY subcontract the performance of any part of his obligations under the Framework Agreement to any other subcontractor(s) than that (those) which is (are) named in the Framework Agreement.

6.2 Any permission given by Forum Virium Helsinki OY shall not release the Contractor from his liability for the performance of the sub-contracted obligation(s) and the Contractor shall remain fully liable for the performance of his obligations under the Framework Agreement. In accordance with Clause 2.1, the Contractor shall hold Forum Virium Helsinki OY free and harmless from, and indemnify it for any loss or damage, including legal costs, arising from any claim related to the performance of such obligation(s).

6.3 The Contractor shall ensure that the Framework Agreement is binding upon the subcontractors employed to provide services in connection with the Framework Agreement.

7 Delivery and acceptance

1.1 Delivery

7.1.1 The Contractor shall deliver the R&D Services in accordance with the time schedule set out in Tender Document 1 - Request for Tender.

7.1.2 The Contractor shall complete all formalities necessary for the delivery of the R&D Services in accordance with the Framework Agreement and shall be liable for all costs or delay resulting therefrom.

7.1.3 Forum Virium Helsinki OY may refuse delivery of any R&D Services or any deliverable identified in any Specific Contract in the event of non-compliance with the requirements of the Framework Agreement.

1.2 Acceptance

7.2.1 The Contractor shall notify Forum Virium Helsinki OY in writing of the completion of the R&D Services.

7.2.2 Upon delivery of the R&D Services, Forum Virium Helsinki OY shall be entitled to carry out a detailed inspection, including tests, as set out in the Functional Specification and/or in any Specific Contract, to verify their conformity with the Framework Agreement.

7.2.3 The R&D Services shall be deemed accepted by Forum Virium Helsinki OY following issue by Forum Virium Helsinki OY of a written notice of acceptance.

7.2.4 If any part of the R&D Services is not in conformity with the requirements of the Framework Agreement, Forum Virium Helsinki OY shall so notify the Contractor in writing. In that event, the Contractor shall forthwith and at his own expense take such remedial measures as may be required to ensure their conformity, whereupon the acceptance procedure set out here above shall apply anew.

7.2.5 Notwithstanding Clause 6.2.4, in the event of non-conformity, Forum Virium Helsinki OY may terminate with immediate effect the Framework Agreement or any Specific Contract if as a result of the time required for the taking of remedial measures and taking into account the specific nature of the R&D Services concerned, their provision has lost its purpose for Forum Virium Helsinki OY.

7.2.6 Except for the Results, title to the deliverables of the R&D Services shall transfer to the Buyers Group members upon their acceptance by Forum Virium Helsinki OY.

8 Intellectual Property

1.3 Ownership

8.1.1 Background and Sideground shall remain the property of the Party or the Buyers Group member providing it, or, as the case may be, its licensor(s). Save as expressly granted in this Clause, no license to use any Intellectual Property is granted or implied by the Framework Agreement.

8.1.2 The Contractor shall, within 30 days of the signature of the Framework Agreement, provide Forum Virium Helsinki OY with a list of its Background, including but not limited to, a list of the software necessary for the operation of the prototype and pilot services that will be developed as part of the R&D Services, specifying which software is closed source software, as well as a list of prior obligations that may apply to Results. The Contractor shall provide an updated list of its Background at each Phase.

8.1.3 The Contractor shall own the Results it generates. The Contractor shall be responsible for the management of intellectual property rights in its Results and shall bear any associated costs.

1.4 Protection and Transfer of the Results

8.2.1 The Contractor shall inform Forum Virium Helsinki OY of any Results that can be exploited, regardless of whether they can be protected or not, at the end of the Phase during which they are generated. The information submitted to Forum Virium Helsinki OY shall include information about the contents of the Results, the confirmation by the Contractor regarding protection of said Results, and the planned timing of such protection. The Buyers Group members shall be entitled to monitor the management of intellectual property rights in Results.

8.2.2 The Contractor may transfer the ownership of its Results to a third party provided that the latter undertakes to the Buyers Group members to be bound by and perform the obligations of the Contractor under the Framework Agreement, and that the transferee agrees to pass on these obligations in any subsequent transfer.

1.5 Access rights

8.3.1 Subject always to pre-existing obligations that may apply to Background or Sideground, the Parties grant each other and to the other Buyers Group members a royalty-free, non-exclusive, irrevocable and non-sub-licensable license to use their Background and Sideground for the execution of the Framework Agreement.

8.3.2 The Contractor hereby grants to the Buyers Group members, including their affiliated institutes/outstations, a royalty-free, non-exclusive and irrevocable and non-sub-licensable license to use the Results for their own non-commercial purposes during and after the termination of the Framework Agreement.

8.3.3 Subject to pre-existing obligations that may apply to Background or Sideground, the Contractor hereby grants to the Buyers Group members a license to use its Background and Sideground under fair and reasonable conditions to the extent needed to use the Results for their own non-commercial purposes.

8.3.4 The Contractor shall, upon request by any member of the Buyers Group and within a reasonable time period specified in the said request, grant to third parties non-exclusive and non-sub-licensable licenses to use and exploit the Results (and any Background or Sideground which may be necessary for the use or exploitation of the Results) under Fair and Reasonable Conditions.

8.3.5 The Contractor may grant non-exclusive licenses to third parties to exploit the Results to the extent that such licenses do not affect the Buyers Group members' rights related to such Results.

8.3.6 Any use of a Party or Buyers Group member's Background, Sideground and Results shall be subject to prior obligations of that Party or Buyers Group member in relation to such Background, Sideground and Results and to limitations imposed by sub-contractors/manufacturers of items implementing the Background, Sideground or Results.

9 Commercial Exploitation of Results

9.1 The Contractor shall, within minimum four (4) years after the end of the participation of the Contractor in the Project, take measures to ensure that its Results are exploited commercially (directly or indirectly, in particular through transfer or licensing, which includes licensing under “Open Source” conditions).

9.2 If the Contractor fails to commercially exploit the Results within this period (or uses the Results to the detriment of the public interest, including security interests), the Buyers Group members are entitled to require the ownership of the Results be transferred to them.

10 Framework Agreement / Specific Contract Prices

10.1 The price for the R&D Services to be delivered under each Phase will be set out in the Specific Contract for that Phase.

10.2 The prices shall be based on the unit prices in accordance with the Contractor's Tender (Annex 2) and on the following conditions:

- If new items/unit prices are added by Forum Virium Helsinki OY to tenders for Phases 2 or 3, they shall become binding for the remaining phases;
- All (unit) prices shall be net, firm, exonerated from taxes and customs duties, not exceed the relevant amounts set out in the Specific Contracts, and be inclusive of all costs and expenses related to the performance of the Framework Agreement, including all costs related to the delivery and insurance of the R&D Services.

10.3 Any cost increase shall be the exclusive responsibility of the Contractor.

11 Payment conditions

11.1 The payment framework for each Phase shall be as set out in the Request for Tender (Annex 1). The specific payment conditions for each Phase shall be set out in the Specific Contract for that Phase.

11.2 The Contractor shall submit his invoices to Forum Virium Helsinki OY not later than 30 days following the acceptance by Forum Virium Helsinki OY of the R&D Services. The Contractor's invoices shall be paid by Forum Virium Helsinki OY within 30 days after receipt and acceptance of a correct invoice for the amount(s) specified in the Specific Contract(s).

11.3 Payments to subcontractors, engaged by the Contractor, if any, shall be the exclusive responsibility of the Contractor.

11.4 Where any amount is payable by the Contractor to Forum Virium Helsinki OY under the Framework Agreement, Forum Virium Helsinki OY may deduct the same from any amount payable by it to the Contractor.

12 Warranty

In addition to its obligations in the Framework Agreement, the Contractor warrants that:

- a) It has, and shall maintain for the term of the Framework Agreement, full capacity and all necessary licenses and consents to enter into the Framework Agreement and perform the R&D Services;
- b) There are no proceedings pending or threatened against the Contractor that might affect its ability to carry out his obligations under the Framework Agreement;
- c) The information provided under the Framework Agreement will be correct, accurate and up to date;
- d) It will apply the monies paid under the Framework Agreement solely to the activities thereunder; and
- e) The R&D Services and the use of the Results shall not infringe any third party rights, including intellectual property rights.

13 Confidentiality and ownership and protection of information and Data

13.1 The Contractor, including its subcontractors, shall keep confidential and shall not without prior permission in writing by Forum Virium Helsinki OY disclose the Data to any third party, or use the Data for any purpose other than the performance of its obligations under the Framework Agreement. The Contractor, including its subcontractors, shall limit the circle of recipients of the Data on a need-to-know basis and shall ensure that the recipients are aware of and comply with the obligations defined in this Clause. The Contractor, including its subcontractors, shall continue to comply with these obligations without any restriction in time, except as agreed in writing by Forum Virium Helsinki OY. The Contractor, including its subcontractors, shall use industry best practices and technology, to protect and guard the availability and security of the Data.

13.2 Where Forum Virium Helsinki OY or any Buyers Group member have designated Data as being of personal nature, the Contractor's duty to ensure compliance with Applicable Laws shall include the compliance with the European directives and regulations on data protection. The Contractor, including its subcontractors, shall use industry standard security measures, including standard encryption protocols, to protect such personal data.

13.3 The Contractor, including its subcontractors, shall promptly notify Forum Virium Helsinki OY of any security breach that may affect or be likely to affect any Data processed by the Contractor pursuant to the Framework Agreement.

14 Use of images, logos and names of the Buyers Group members

14.1 The Contractor, including its subcontractors, shall not use or make reference to any image or logo of any Buyers Group member or any of the names under which any Buyers Group member is known, without prior permission in writing by the member concerned. Any permission shall expire upon termination of the Framework Agreement.

14.2 The parties are obligated not to disclose the Confidential Information, Results and the other Parties' Sideground and Background Knowledge, however see clause 7. This obligation also applies after the interruption or termination of the Project and after any Party's possible withdrawal from the Project. However, the Parties may disclose this information to their potential advisors to the extent necessary if they ensure that the advisors assume a similar confidentiality obligation.

The Parties' confidentiality obligation under clause 12.1 does not include information which:

- a) At the time of receipt was, or later became, publicly available, without this being due to any breach of the confidentiality obligation
- b) Is received without confidentiality restrictions from any third party entitled to pass on such knowledge
- c) Is to be given to any third party on the basis of an obligation provided by law, legal judgment or any other binding public act
- d) Either party has developed independently of the participation in the PCP Project, such as specific inventions or new knowledge that a Party has obtained concurrently with but independently of the PCP Project.

14.3 The Buyers Group member concerned may withdraw any permission granted pursuant to Clause 13.1 at any time.

15 Monitoring

15.1 During each Phase, the implementation by the Contractor of the R&D Services will be monitored periodically and reviewed against the expected deliverables for that Phase.

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

16 Force Majeure

16.1 If a Party is subject to Force Majeure it shall immediately notify the other Party in writing thereof, giving details, including the expected duration of the Force Majeure. It shall immediately notify the other Party in writing when the Force Majeure ceases.

16.2 The Party who is subject to Force Majeure shall, during the continuance of the Force Majeure and subject to Clause 15.1, be released from the performance of its obligations to the extent that such performance is affected by the Force Majeure. Such Party shall make all reasonable efforts to minimise the consequences of the Force Majeure on the Framework Agreement.

16.3 Each Party shall itself be responsible for all direct and indirect financial consequences affecting it as a result of or in connection with the Force Majeure.

The occurrence of Force Majeure shall not entitle either Party to any additional payment or compensation.

16.4 If a Force Majeure event occurs and its effect continued for a continuous period of no less than 60 days either Party shall be entitled to terminate the Framework Agreement and/or any Specific Contract with immediate effect without any liability for either Party, except insofar as has accrued prior to the date on which the termination of the Framework Agreement takes effect.

17 Obligations originating from the EU

1.6 Promotion, publicity and communication

17.1.1 The Contractor shall undertake communication activities to create publicity about its participation in the Project, and to promote the objectives and the results of the R&D Services carried out under the Framework Agreement, in particular to other potential customers beyond the Buyers Group with the objective to achieve commercial exploitation of the Results.

17.1.2 All communication activities shall comply with Clause 12.

17.1.3 During the implementation of the Framework Agreement and for a period of four (4) years after the end of the Project, the Contractor shall inform Forum Virium Helsinki OY thirty (30) days in advance of any (written or oral) publication or any other type of communication (in any media or form) relating to the R&D Services or Results. Information on communication activities expected to have a major media impact shall be provided sufficiently in advance to allow Forum Virium Helsinki OY to inform the EU. The Contractor will recognise and acknowledge any trademarks of Forum Virium Helsinki OY (including FABULOS project and partners) and not use these in a manner which would risk infringement of such trademarks.

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

- a) for communication activities: 'This is part of the FABULOS project that has received funding from the European Union's Horizon 2020 Research and Innovation Programme';
- b) for infrastructure, equipment and major results: 'This [infrastructure] [equipment] [insert type of result] is part of the FABULOS project that has received funding from the European Union's Horizon 2020 Research and Innovation Programme';

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

17.1.6 Forum Virium Helsinki OY and the other Buyers Group members may, in particular, publish the names of the participating contractors (including the Contractor and subcontractors) and their project abstracts, the summaries of the main results from the R&D Services and the lessons learnt during the Project. This does not change the confidentiality obligations under Clause 12. Before publishing this information, Forum Virium Helsinki OY and the other Buyers Group members shall consult the Contractor, in order to avoid harm to legitimate business interests or distortion of competition.

17.1.7 The EU may use, for the purposes of communication and publicity, information relating to the Project, documents (notably summaries) and deliverables, and any other material (such as pictures or audio-visual material) from the Contractor (including in electronic form), except where the Contractor has marked such information, documents or any other material as "confidential" in which case the Contractor may ask the Lead Procurer to request the EU not to use it.

17.1.8 The right of the EU to use the Contractor's materials, documents and information set out in Clause 16.1.7 includes:

- a) Use for its own purposes (in particular, making them available to staff working for the EU or for EU Member State institutions or bodies; and copying or reproducing them in whole or in part, in unlimited numbers);
- b) Distribution to the public (in particular, publication as hard copies and in electronic or digital format, publication on the internet, as a downloadable or non-downloadable file, broadcasting by any channel, public display or presentation, communicating through press information services, or inclusion in widely accessible databases or indexes);
- c) Editing or redrafting for the purposes of communication and publicity (including shortening, summarising, inserting other elements (such as meta-data, legends, other graphic, visual, audio or text elements), extracting parts (including in particular audio or video files), dividing into parts or using in a compilation);
- d) Translation;
- e) Giving access in response to individual requests made under Regulation EC No 1049/2001, without the right to reproduce or exploit;
- f) Storage in paper, electronic or other form;
- g) Archiving, in line with applicable rules on document management, and

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

If the right of use is subject to rights of a third party (including the Contractor's staff), the Contractor shall ensure that it obtains the necessary approval from the third parties concerned.

1.7 Conflicts of interest

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

17.2.2 The Contractor shall notify Forum Virium Helsinki OY without delay of any situation constituting or likely to lead to a conflict of interest (including changes of ownership) and shall immediately take all steps necessary to rectify this situation. Forum Virium Helsinki OY may instruct the Contractor to take specific measures to remedy the situation.

1.8 Ethics and research integrity

17.3.1 The Contractor, including its subcontractors, shall carry out the tasks assigned to it in the Framework Agreement in compliance with ethical principles (including the highest standards of research integrity)

17.3.2 The Contractor, including its subcontractors, shall carry out the activities under the Framework Agreement for non-military purposes only.

17.3.3 The Contractor, including its subcontractors, shall comply with the highest standards of research integrity — as set out, for instance, in the European Code of Conduct for Research Integrity².

This implies notably compliance with the following essential principles:

- a) Honesty;
- b) Reliability;
- c) Objectivity;
- d) Impartiality;
- e) Open communication;
- f) Duty of care;
- g) Fairness and
- h) Responsibility for future science generations.

This means that the Contractor shall ensure that persons carrying out research tasks:

- a) Present their research goals and intentions in an honest and transparent manner;
- b) Design their research carefully and conduct it in a reliable fashion, taking their impact on society into account;

² The European Code of Conduct for Research Integrity of ALLEA (All European Academies) and ESF (European Science Foundation) of March 2011.

http://www.esf.org/fileadmin/Public_documents/Publications/Code_Conduct_ResearchIntegrity.pdf

- c) Use techniques and methodologies (including for data collection and management) that are appropriate for the field(s) concerned;
- d) Exercise due care for the subjects of research — be they human beings, animals, the environment or cultural objects;
- e) Ensure objectivity, accuracy and impartiality when disseminating the results;
- f) Allow - as much as possible and taking into account the legitimate interest of the Contractor - access to research data, in order to enable research to be reproduced ;
- g) Make the necessary references to their work and that of other researchers;
- h) Refrain from practicing any form of plagiarism, data falsification or fabrication;
- i) Avoid conflicts of interest and misrepresentation of credentials or other research misconduct.

17.3.4 Before starting any activity that raises an ethical issue, the Contractor shall submit to Forum Virium Helsinki OY a copy of:

- a) Any ethics committee opinion required under Applicable Laws, and
- b) Any notification or authorisation for activities raising ethical issues required under Applicable Laws.

1.9 Obligation to provide information and keep records

17.4.1 The Contractor shall, at any time during the implementation of the Framework Agreement, provide any information requested by Forum Virium Helsinki OY in relation to the Framework Agreement.

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

17.4.3 This obligation includes records and other supporting documentation on scientific and technical implementation and on the price charged and the costs incurred by the Contractor. The Contractor shall keep the original documents. Digital and digitalised documents are considered originals if so authorised under Finnish law. Should there be on-going checks, reviews, audits, investigations, litigation or other pursuits of claims (including involving Forum Virium Helsinki OY or the other members of the Buyers Group), the Contractor shall keep the records and other supporting documentation relating to the implementation of the Framework Agreement until the end of these procedures.

1.10 EU checks, reviews, audits and investigations

Should the EU, including as represented by the European Court of Auditors or the European Anti-Fraud Office (OLAF), decide to carry out a check, review, audit or investigation, the Contractor shall make available all information, records and other supporting documents relating to the implementation of the Framework Agreement. Should there be an on-the-spot visit, the Contractor shall allow access to its premises and shall ensure that the information requested is readily available.

1.11 EU impact evaluation

Should the EU carry out an impact evaluation of its grant to the Buyers Group, the Contractor shall make available all information, records and other supporting documents relating to the implementation of the Framework Agreement.

18 Liability

18.1 The Contractor shall indemnify and hold Forum Virium Helsinki OY and the other Buyers Group members free and harmless against loss and damage, including personal injury and death and related legal costs, arising from or in connection with its acts or omissions in relation to the Framework Agreement.

18.2 The Contractor's indemnity obligations under Clause 17.1 shall be without prejudice to any other rights and remedies available to Forum Virium Helsinki OY, including the right to terminate the Framework Agreement or any Specific Contract.

18.3 If the Contractor fails to deliver Results or other deliverables compliant with the Framework Agreement, Forum Virium Helsinki OY shall give the Contractor the opportunity to amend, within an appropriate period. If Forum Virium Helsinki OY is still not satisfied after the expiry of such cure period it may (at its discretion):

- a) Withhold payments until satisfactory delivery;
- b) Cancel payments;
- c) Exclude the Contractor from the any subsequent Phases on the basis that the Contractor has not successfully completed the present Phase; and/or
- d) Terminate the Framework Agreement and/or any Specific Contract (see hereunder).

18.4 Acceptance by Forum Virium Helsinki OY of any deliverable or Result shall not limit the Contractor from liability in respect of such deliverable or Result subsequently being discovered to be non-compliant with the requirements of the Framework Agreement, nor for any loss or damage which may arise as a result.

18.5 Except in case of infringement of Applicable Laws, gross negligence or wilful misconduct on its part, a Party shall not be liable to the other for loss of the Framework Agreement, loss of income or revenue, loss of customers or reputation or any other indirect or consequential loss or damage.

18.6 Except in case of liability pursuant to Clause 7, infringement of Applicable Laws, gross negligence or wilful misconduct on its part, each Party's total liability in relation to the Framework Agreement shall be limited to the total value of the Specific Contract under the application of which the act or omission giving rise to the liability took place.

18.7 The Contractor shall take out insurance to cover its liability under the Framework Agreement and shall provide evidence of his insurance cover if so required by Forum Virium Helsinki OY. The Contractor shall ensure that the same applies to its subcontractors involved in activities under the Framework Agreement. Any such insurance shall be maintained for the duration of the Framework Agreement and for a minimum of four (4) years thereafter.

19 Termination

19.1 The Framework Agreement shall terminate automatically in the event that the Contractor is not awarded a Specific Contract for the next Phase, as set out in Clauses 2.3, 2.4 and 2.5.

19.2 In addition to the entitlement to terminate the Framework Agreement and/or any Specific Contract pursuant to Clause 15.4, either Party may terminate the Framework Agreement and/or any Specific Contract hereunder with immediate effect in the event of (i) gross negligence or wilful misconduct by the other Party in relation to the Framework Agreement, or (ii) any breach of the Framework Agreement by the other Party which has not been remedied within a reasonable period stipulated by the Party notifying the breach and requiring remedial action to be taken, or (iii) the other Party making a composition or arrangement with its creditors, or becoming bankrupt or insolvent, or having an administrator or receiver appointed, or in the event of any circumstance similar or analogous to any of these events, including the situation where any of these events is threatening to occur.

19.3 Forum Virium Helsinki OY may terminate the Framework Agreement and/or any Specific Contract hereunder in whole or in part with immediate effect if (i) the Contractor sub-contracts the performance of any part of its obligations under the Framework Agreement without its permission or fails to comply with any of the conditions attached to any permission granted by Forum Virium Helsinki OY, or (ii) in case of infringement of Applicable Laws by the Contractor, or (iii) if Forum Virium Helsinki OY receives information from the Contractor that it will not be able to deliver the R&D Services in conformity with the Framework Agreement or if the date of delivery of the R&D Services and/or any deliverables thereunder is not in conformity with the Framework Agreement and leaves insufficient time to carry out the acceptance procedure set out in the relevant Specific Contract, provided that, as a result, the delivery of the R&D Services loses its purpose for Forum Virium Helsinki OY.

19.4 Forum Virium Helsinki OY may terminate the Framework Agreement and/or any Specific Contract with immediate effect (i) in the event the EU terminates the Grant Agreement, or (ii) in the event the EU reduces the funding to a level insufficient to cover the payment by Forum Virium Helsinki OY of the monies due under the applicable Specific Contract, or (iii) at will.

20 Consequences of termination

20.1 In the event that the Framework Agreement and/or any Specific Contract is terminated by the Contractor pursuant to Clause 18.2 or by Forum Virium Helsinki OY pursuant to Clause 18.4, Forum Virium Helsinki OY shall pay to the Contractor all costs wholly and necessarily incurred by it in the performance of its obligations under the Framework Agreement prior to the date on which the termination takes effect. The total amount of such payment shall be limited to the amount made available by the EU and shall never exceed the unpaid amount at the date of termination as specified in the applicable Specific Contract.

20.2 In the event that the Framework Agreement and/or any Specific Contract is terminated by Forum Virium Helsinki OY pursuant to Clause 18.2 or 18.3, the Contractor shall compensate Forum Virium Helsinki OY for all costs wholly and necessarily incurred by it as a result of such termination. Such costs shall include the additional costs of having any contractual obligation performed by a third party of Forum Virium Helsinki OY's choice.

20.3 Subject always to Clause 17, the liability defined in this Clause shall be without prejudice to any other liability that may arise pursuant to the Framework Agreement, which shall be calculated independently.

20.4 Following expiry or termination of the Framework Agreement for any reason, the Contractor shall, if requested by Forum Virium Helsinki OY, promptly delete any data of Forum Virium Helsinki OY or other members of the Buyers Group which the Contractor is holding in connection with the R&D Services.

21 Entry into force, duration, survival of clauses

21.1 The Framework Agreement shall enter into force on the Effective Date and shall remain valid for as long as necessary to give effect to its provisions.

21.2 Notwithstanding termination of the Framework Agreement, its provisions shall continue to bind the Parties in so far and for as long as may be necessary to give effect to their respective rights and obligations accrued prior to termination. Clauses 7, 11, 12, 17, 20 and 21 shall in any event survive the expiry or termination of the Framework Agreement.

22 Governing law and Dispute Resolution

22.1 The terms and conditions of the Framework Agreement shall be interpreted in accordance with their true meaning and effect and independently of any national, local or other law. Provided that if, and insofar as the Framework Agreement does not stipulate, or any of the terms and conditions are ambiguous or unclear, then, in those circumstances only and solely in respect of those circumstances and not in respect of the Framework Agreement as a whole, reference shall be made to Finnish substantive law.

22.2 If any dispute under the Framework Agreement fails to be settled amicably, this dispute shall be brought before the District Court of Helsinki. Notwithstanding reference of any dispute to the District Court of Helsinki, the Parties shall continue to perform their obligations under the Framework Agreement.

23 Coordination and notifications

23.1 All communications under the Framework Agreement shall be in writing and bear the reference: "Agreement No. *[insert agreement number]*"

23.2 In all technical, commercial or contractual matters, Forum Virium Helsinki OY shall be represented exclusively by, and all correspondence of technical nature shall be addressed to:

Forum Virium Helsinki OY
Smart Mobility Department - FABULOS
Unioninkatu 24
00130 Helsinki, Finland

23.3 Invoices or credit notes are preferably sent in PDF by e-mail to **ask@fabulos.eu** and **laskut@administer.fi**.

23.4 Invoices or credit notes must - except any legal formalities – be provided with the following additional information:

- Reference to the FABULOS Specific Contract;
- Reference to the Forum Virium Helsinki OY purchase order number;
- For each shipment or service supplied: date and place of the shipment/service; description of the shipment/service; quantity; unit price; total price.

23.5 Each invoice must be accompanied by a delivery report containing the name of the signatory, and signed for approval by Forum Virium Helsinki OY and the Contractor's signatory or his representative.

23.6 Correspondence with the Contractor shall be addressed to: ask@fabulos.eu

24 Assignment

24.1 The Contractor shall not assign any part of his obligations under the Framework Agreement without prior permission in writing by Forum Virium Helsinki OY. Any such permission may be subject to conditions.

25 Amendments

25.1 Forum Virium Helsinki OY and the Contractor may agree to amend the Framework Agreement provided that:

- Such amendment is non-discriminatory and does not amount to a substantial change to the Framework Agreement, the scope of the R&D Services or the scope of the Results
- The Framework Agreement is amended within the limits of the price and the duration of the Project.

24.2 Subject to the foregoing, any amendment to the Framework Agreement shall only enter into force upon signature by the authorized representative(s) of each Party.

Signed in Helsinki on <i>(insert date)</i>
CONTRACTOR <i>(fill in name lead contractor)</i>
Forum Virium Helsinki OY

Annex 1: Forum Virium Helsinki OY's Request for Tender dated 1.9.2018 including all its annexes as completed by Forum Virium Helsinki OY on [insert date]

Annex 2: The Contractor's Tender dated [insert date] completed by the Contractor on [insert date]

Annex 3: Background