

**FRAMEWORK AGREEMENT EIT FOOD - FoodUnfolded®****Section 1**

This Framework Agreement (the "Agreement") is entered into by and between

**EIT FOOD IVZW**, an international non-for-profit association under Belgium law with registered address at Ubicenter A, Philipssite 5 (bus 34), 3001 Heverlee with enterprise number 0672.423.992 herein represented by Dr. Andreas Michael Zynga, acting as CEO and Saskia Nuijten, acting as Director of Communications.

(Hereinafter referred to as "EIT Food" and/ or the Party),

**And**

\_\_\_\_\_. with registered address at \_\_\_\_\_, \_\_\_\_\_ and registered under the number Vat Nr: \_\_\_\_\_ herein represented by Mr. \_\_\_\_\_ -acting as (hereinafter referred to as the "Contractor" and/or the Party)

(Hereinafter when referred collectively as to "the Parties")

**WHEREAS EIT Food** is Europe's leading food innovation initiative, working to make the food system more sustainable, healthy and trusted.

**WHEREAS** EIT Food requires that Contractor provides certain services to support in \_\_\_\_\_, as further defined in the article 2 and in the attached Annexes I (RFP) and II (Tender). To obtain said services and/or products, EIT Food has conducted a procurement procedure in accordance with its own procurement policy in which it launched a request for proposal (RFP) for the assignment: " \_\_\_\_\_ " (hereinafter "the Assignment")

**WHEREAS**, The Contractor has submitted its offer on \_\_\_\_\_ 2023 - (hereafter referred to as the Tender). The Tender of the Contractor meets the requirements set by EIT Food and said proposal was scored as the offer which is expected to obtain the Best Value for Money.

**WHEREAS**, Contractor agrees to perform the Assignment, all upon the terms and subject to the conditions set forth in this Agreement.

**NOW, THEREFORE**, the Parties agree as follows:

## Article 1.- DEFINITIONS

The following terms used in this Agreement shall have the meaning as set forth hereafter:

**Agreement** – This Framework agreement under which the Sub-assignments will be executed in accordance with the RFP.

**Annex(es)** – Integrated part of this Agreement as documented in an attachment to this Agreement.

**Assignment** – The complete services and products that Contractor will deliver in accordance with the RFP and the Agreement. The Assignment is explicitly described in article 2 and in the Appendixes for the details.

**Confidential Information** - Any information disclosed by one Party (“Disclosing Party”) to the other Party (“Receiving Party”) under this Agreement (i) that is clearly marked as proprietary and/or confidential when disclosed or, (ii) from which the confidentiality and proprietary nature can be reasonably interfered under the circumstances. Without limiting the generality of the foregoing, the terms and conditions of this Agreement, including prices, are Confidential Information of both Parties.

**Consortium** – A group of legal entities in the capacity of Contractor who are jointly and severally liable for the performance of the Assignment.

**Contractor** – The legal entity (or entities in a Consortium) that submitted the winning Tender in accordance with the Assignment and corresponding requirements as formulated in the RFP.

**PA (Partnership Agreement)** - The agreement between EIT Food and the European Institute of Innovation and Technology. The FPA lays down the conditions under which EIT Food and the European Institute of Innovation and Technology work together, a.o. with respect to organizing the KIC Activities and receiving the funding from the European Institute of Innovation and Technology.

**Legal representative** – The natural person who, according to the corporate regulations of Contractor, is entitled to bind the Contractor legally.

**CLCs** – Co-location centres of EIT Food established in Reading, Warsaw, Madrid, Leuven and Munich.

**RFP (Request for Proposal)** – Underlying document with which Contractor was asked to submit its Tender provided that it was fulfilling the minimum requirements.

**RFP documents** – All documents (including the RFP) that are provided by EIT Food during the procurement procedure.

**Service(s) and/or Products** – Requested services and/or products as defined in this Agreement and its Appendices which will lead to achieving the defined goals.

**GA** – (Grant Agreement) The Agreement that sets out specific terms and conditions and rights and obligations that are applicable to the specific grants awarded to EIT Food.

**Sub-assignment** – Detailed (partial) assignments within the scope of the Assignment on which the provisions of the Agreement are applicable. The execution of Sub-assignments will always be preceded by consultation of Parties and an order confirmation and will be reflected in a Statement of Work.

**Tender/ Proposal** – The winning offer of the Contractor on which EIT Food determined this offer to be the offer which provides the best value for money.

**Third parties** – All parties except: EIT Food, Contractor and all their affiliated entities.

**Working day** – A calendar day, not the Saturday or Sunday, not an internationally respected holiday and/or the equivalent of such a day as respected by EIT Food.

## Article 2.- SCOPE OF AGREEMENT AND SERVICES

2.1 This Agreement applies to all Services to be rendered by the Contractor to EIT Food as further described in the Tender and in the Sub-assignments following from this Agreement. The main objective of the Assignment is:

\_\_\_\_\_

Further details on the scope of work of the current Framework Agreement can be found in Annex I (RfP).

2.2 EIT Food may, based on this Agreement, provide Contractor with an order to perform Sub-assignments (additional services as described in the RFP documents and the Tender). This Contract applies to all Services to be rendered by the Contractor to EIT Food as further described in future specific contracts/statements of work, and which will form annexes to this Contract in Annex. The statement of work template is attached as annex III.

Any specific request for services will result in a separate specific contract (statement of work) for specific Services to be rendered between EIT Food and Contractor. The specific statement of work will provide the detailed arrangements for the Services to be rendered thereunder and will be established in accordance with the Annex.

2.3 The following documents (attached as annexes to this Agreement) are an integral part of this Agreement. The Parties agree that all provisions on Contractors forms are deemed deleted. To the

extent there is a conflict between these documents than the first mentioned document will take precedence and govern:

- a. The Agreement:
- b. Request for Proposals (RFP) - Annex I
- c. The Tender as submitted on – Annex II
- d. SoW Template/ First Statement of Work – Annex III
- d. Declaration of honour Annex IV

**2.4** Modifications or amendments to this Agreement shall be valid only if these are foreseen in the RFP documents and there is written prior consent of both parties to the modifications and/or amendments.

### **Article 3.- TERM**

**3.1** This Agreement has a duration of one year and starts on \_\_\_\_\_ (hereinafter: “the Effective Date”).

**3.2** This Agreement will be effective as of the Effective Date and shall remain in effect until \_\_\_\_\_ (“Initial Term”).

**3.3** This Agreement may be renewed by EIT Food for three (3) consecutive twelve (12) month periods (“Renewal Term”) up to a total of 4 (four) giving Contractor written notice thirty (30) days prior to the expiration of the Initial Term or any Renewal Term. Notwithstanding the above mentioned, the Parties shall negotiate and agree on the extent and duration of the Renewal Term.

**3.4** For the avoidance of doubt, the tacit reconduction of the Agreement cannot be interpreted as a renewed commitment from EIT Food.

### **Article 4.- PERFORMANCE OF THE SERVICES – REPORTING**

**4.1** Contractor warrants that the Assignment will be performed in a diligent and professional manner, in compliance with industry and legal standards, and in accordance with all specifications, instructions and/or documentation described in the RFP Documents, the Tender or as otherwise agreed.

**4.2** Contractor guarantees that all services and/or deliveries that are carried out, are in accordance with the requirements of this Agreement.

**4.3** Contractor is obliged to give due timely and responsible indication of the outcome of the Assignment.

**4.4** Contractor will make a tailored offer (regarding the expected number of deployment hours) for each Sub-assignment in which it will provide EIT Food with multiple scenarios (at least two) regarding the level of expertise, so EIT Food can make an educated choice with regard to the deployment of the experts (on junior or senior level). For the remainder Contractor will, when carrying out the Assignment, take reasonable wishes (amongst which but not limited to wishes regarding the deployment of junior or senior employees) of EIT Food into account where possible.

**4.5** Tailored offers with regard to Sub-assignments for copy/printing/” repro” activities can be challenged by EIT Food. EIT Food is not obligated to assign these activities to Contractor.

**4.6** It is the responsibility of Contractor to further adjust the execution of the Assignment to changing conditions. Contractor will discuss impending relevant changes in statutory regulations impacting the execution of this Agreement with EIT Food in a timely matter.

**4.7** Contractor shall immediately notify EIT Food of the (partial)completion of a Sub-assignment if EIT Food would otherwise not be aware of it.

**4.8** Contractor reports monthly to which extent issues have occurred during the execution that influence the execution of the Assignment, and which are outside its control and responsibility.

**4.9** EIT Food may, at any time during the progress of the Services, require additions, deductions, or deviations (all hereinafter referred to as a “Change”) of the Services. All Change requests must be in writing, include any agreed upon price or schedule changes, and signed by an authorised representative of each Party.

**4.10** Contractor shall comply with all reasonable guidelines provided by EIT Food for the implementation of services described in the specific request for services.

**4.11** Submission by the Contractor of all deliverables indicated in the Agreement shall be considered as the Contractor’s report of services rendered. The deliverables and reports on progress of deliverables shall be submitted by e-mail on a weekly basis, alongside regular update calls.

**4.12** The Contractor will ensure that the assigned services and/or deliveries continue in an undisturbed matter and are carried out properly and completely. The Contractor shall always ensure that continuation and execution is not interrupted due to illness, holidays or other reasons for the absence of personnel engaged for the services. The Contractor will immediately take the necessary measures to make the required facilities and/ or the deployment of replacement personnel, as the case may be.

**4.13** The Contractor shall refrain from changing key personnel during the execution of this Agreement. If key personnel will have to be replaced, The Contractor shall consult with EIT Food regarding such replacements. It being understood that the final decisions regarding allocation of personnel always remains with the Contractor. The Contractor shall in any event be liable for any

costs and expenses pertaining to the replacement of key personnel.

## **Article 5.- REMUNERATION, PAYMENT AND TAXES**

### **5.1 Remuneration**

- 5.1.1 The applicable hourly rates for the services are indicated in the Tender ( \_\_\_\_\_ ) such as submitted by Contractor on \_\_\_\_\_.
- 5.1.2 These rates are fixed and specified by Contractor in Euros and excluding VAT.
- 5.1.3 Additional services will not be paid for unless the RFP documents contained an explicit possibility to do so, EIT Food gave an additional order and parties have written prior consent on the scope and price of the additional services.
- 5.1.4 Fees may be adjusted as indicated in the Tender for the first time at the first Renewal of this Agreement ( \_\_\_\_\_ ) provided that the increases of fees can't exceed 5% from the previous financial year and provided that fee reductions are reviewed annually.
- 5.1.5 Contractor provides detailed statements regarding the services rendered for the time spent by its employees. This is only the case for change requests or additional functional support outside the scope of the current agreement.

### **5.2 Payment**

- 5.2.1 The remuneration mentioned in article 5.1 will be specified and invoiced at the end of every month. Contractor will render the invoices for the Services performed following the conditions in the specific statement of work.
- 5.2.2 EIT Food shall make payment of a correct and undisputed invoice within thirty (30) days from the receipt of the invoice, unless otherwise agreed upon in the specific request for services. A "correct" invoice is an invoice that meets EIT Food's invoicing requirements including, but not limited to, correctly reflecting the fee as agreed upon by the Parties as well as the description of the services ordered and provided. If the payment period defined herein differs from the maximum period permitted by the applicable law, the payment period shall be the maximum payment period permitted by such law.
- 5.2.3 EIT Food will, without prejudice to its obligation to pay, pay Contractor an interest equal to the statutory interest over the period after expiry of the said term that the invoice is stayed unpaid for invoices that remain unpaid for more than 30 days from the date of receipt of the invoice.
- 5.2.4 EIT Food is entitled to suspend payment of invoices or to automatically repay the amount collected by Contractor in case of alleged material misstatement of the facts. EIT Food objects to Contractor's invoice before expiry of the payment period or within 30 days of direct debit. In that case Contractor will remain liable for the execution of the Agreement.
- 5.2.5 Invoices shall be paid electronically by EIT Food to the banking institution/account number provided by Contractor. In the event of a change of banking institutions and/or account numbers, Contractor shall provide the applicable EIT Food thirty (30) days prior written notice.

### **5.3 Taxes**

5.3.1 Contractor shall take all necessary measures to comply with tax laws and regulations of each country in which it operates for the performance of this Contract.

5.3.2 Except as otherwise provided in this Contract, all duties, taxes and social insurance contributions ("Taxes") arising out of or in connection with Contractor's performance under this Agreement will be paid by Contractor. Contractor shall be solely liable for Taxes based on Contractor's net or gross income Contractor shall indemnify and hold EIT Food harmless from its failure to make payment of such Taxes.

5.3.3 The prices set forth in the Tender do not include any VAT or sales tax or any other analogous tax in any relevant jurisdiction ("Transfer Taxes") and are inclusive of any other taxes, custom duties, levies and similar charges.

5.3.4 EIT Food shall be responsible for any applicable sales taxes ("Transfer Taxes") with respect to the prices paid for the Services and shall reimburse Contractor for any such Transfer Taxes paid by Contractor on EIT Food behalf. Contractor will not charge an otherwise applicable Transfer Tax if the Services are exempt from Transfer Tax.

### **Article 6.- INDEMNITY LIABILITY AND INSURANCE**

**6.1.** The services provided by Contractor shall always comply with the (local and international) regulations in force at the time of delivery. Contractor will discuss impending relevant changes in statutory regulations with EIT Food on time. Contractor indemnifies, hold harmless and defend the EIT Food against all claims in this regard.

**6.2.** To the maximum extent permitted by law, and except as otherwise provided in this Agreement, under no circumstances and under no legal theory, whether in tort (including negligence) contract or otherwise, shall EIT Food be liable to Contractor for any special indirect, punitive, incidental or consequential damages resulting from or arising out of or relating to this Agreement, even if EIT Food has been informed of the possibility of those damages.

**6.3.** Contractor will indemnify, defend and hold harmless EIT Food, its employees, agents, and the KIC Partners ("indemnitees") from any losses, damages, claims and expenses (including court costs and reasonable attorney's fees) that arise out of or result from: (1) injuries or death to persons or damage to property, including theft, in any way arising out of or relating to the services and/or deliveries, or any person or deliverable furnished by Contractor except to the extent directly caused by the negligence or wilful misconduct of EIT Food or Indemnitees; (2) assertions under workers' compensation or similar social insurance claims made by persons furnished by Contractor; or (3)

Contractor's breach of any obligations under the following clauses: Taxes, Intellectual Property Rights, and compliance with law.

**6.4.** Contractor will provide EIT Food, upon request, certificates or proof of insurance that are sufficient to cover the obligations of Contractor under this Agreement.

#### **Article 7.- INTELLECTUAL PROPERTY, OWNERSHIP & EXPLOITATION**

**7.1.** All (intellectual) property rights and related rights, including but not limited to copyright and patent rights, on all results of Contractor's activities under this Agreement, as well as on the materials used and/or developed thereunder shall be vest with EIT Food. EIT Food shall maintain the full and unrestricted ownership of the information and materials it delivers to Contractor in the execution of this Agreement.

**7.2** Contractor shall waive all rights relating to such results and shall not reproduce, publish or supply any such results to any third party without EIT Foods prior written approval.

**7.3** Contractor is not permitted to use the word / figurative mark or other intellectual property rights of EIT Food in any way or for advertising, promotional and/or acquisition purposes, unless with prior written consent of EIT Food.

#### **Article 8.- LEGAL REQUIREMENTS – GDPR**

**8.1** Contractor shall always during the term of this Agreement comply with all the legal requirements pertaining to its professional activities. EIT Food may request Contractor to provide proof of such compliance.

**8.2** In the event Contractor qualifies as a processor as referred to in the 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) while Contractor processes personal data for EIT Food during the Assignment, Contractor guarantees the application of appropriate technical and organizational measures, for the processing to meet the requirements of the General Data Protection Regulation and the protection of the data subjects is guaranteed. Contractor processes personal data exclusively on commission and based on written instructions from EIT Food, except for deviating legal prescriptions.

#### **Article 9.- TERMINATION**

**9.1** EIT Food may terminate this in the event the Contractor breaches any material term or condition and where such breach remains uncured for more than fifteen (15) days after the breaching Contractor is provided written notice of such breach.





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**9.2** EIT Food or Contractor may terminate this Agreement by written notice to the other Party if a proceeding is commenced against the other Party under any bankruptcy code and such proceeding has not been discharged, dismissed or terminated within thirty (30) days of its commencement.

**9.3** Upon expiration or termination of this Agreement, Contractor shall cease performance of all Services. Notwithstanding the aforementioned, the terms and conditions of this Agreement shall remain in effect for any services not cancelled at such time and any services still to be provided shall continue until such services are completed unless otherwise requested by EIT Food. EIT Food's liability shall be limited to payment of the amount due for services provided up to and including the date of expiration, termination or cancellation.

## **Article 10.- CONFIDENTIAL INFORMATION**

**10.1** "Confidential Information" means any information disclosed by one Party ("Disclosing Party") to the other Party ("Receiving Party") under this Agreement (i) that is clearly marked as proprietary and/or confidential when disclosed or, (ii) from which the confidentiality and proprietary nature can be reasonably interfered under the circumstances. The terms and conditions of this Agreement are confidential to both Parties.

**10.2** The Receiving Party shall (a) only use Confidential information to exercise its rights and fulfill its obligations under this Contract; and (b) maintain the confidentiality of Confidential Information and not disclose Confidential Information to any third party.

**10.3** The Receiving Party's obligation of confidentiality and restriction on use shall not apply to information deemed Confidential Information by the Disclosing Party to the extent that the Receiving Party can reasonably demonstrate that the information was: (i) known to the Receiving Party before receipt from the Disclosing Party under this Agreement without restriction on use or disclosure or a breach of this Agreement at the time of disclosure; (ii) generally available to the public without any breach of this Contract; or (iii) was independently developed by the Receiving Party without use of the disclosed Confidential information.

**10.4** Where the Receiving Party is obliged to disclose the Confidential Information, in whole or in part, to comply with a court order, a verdict, an administrative act or a statutory requirement, the Receiving Party shall notify the Disclosing Party thereof without delay and in advance of such disclosure and shall support the Disclosing Party in defending against the requirement for disclosure or seeking further protection of such confidential information.

**10.5** In accordance with Disclosing Party's written instructions, Receiving Party will, at its own expense, destroy (and certify in writing such destruction) or return the original and any copies of Confidential Information, except for a copy of the Confidential Information to be kept in accordance with the Receiving Party's professional standards in order to meet legal requirements. The Disclosing Party shall only provide such Disclosing Party's own or a third party's Confidential Information where such Disclosing Party has the right to do so.

## **Article 11.- SPECIAL CONDITIONS**

**11.1** Contractor acknowledges the obligations of EIT Food under the PA and the GA, that EIT Food receives grants from the European Institute of Innovation and Technology and that EIT Food has the obligation to comply with controls, checks and audits and investigations (hereinafter “Audits”) that may be carried out by the European Institute of Innovation and Technology, the European Court of Auditors and/or the European Anti-Fraud Office (OLAF). Contractor shall do everything that is necessary to enable EIT Food to comply with these obligations.

**11.2** More in particular, Contractor acknowledges and agrees that the European Institute of Innovation and Technology, the Commission, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) can exercise their rights under the Partnership Agreement and the GA also towards Contractor. Contractor agrees in this regard to comply with any requests (including but not limited to providing any information and/or documents at first request) made by the European Institute of Innovation and Technology, the European Court of Auditors and/or the European Anti-Fraud Office (OLAF) in the context of such audits as to the Agreement and the results of the Agreement by Contractor.

## **Article 12.- MISCELLANEOUS**

### **12.1 Assignments**

Neither Party will assign this Agreement, in whole or part, without prior written consent of the other Party, such consent not to be unreasonably withheld.

### **12.2 Waiver**

A Party's failure to enforce any right or remedy available under this Agreement will not constitute a waiver of that right or remedy.

### **12.3 Severability**

If any of the provisions of this Agreement and/or in the Annexes is held to be invalid or unenforceable by a court of competent jurisdiction, this Agreement, and other Annexes will be construed as if it did not contain the invalid or unenforceable provision(s).

### **12.4 Survival**

All rights and obligations of the Parties, which by their nature would continue beyond termination, cancellation or expiration of this Agreement and/or a specific request for services will survive.

### **12.5 English Language**

The Parties acknowledge that the terms and conditions of this Agreement are written in the English language and that it is the intent of the Parties that the English translation shall always apply. Contractor confirms that Contractor understands English.

### **12.6 Entire Contract**

This is the Parties' entire Agreement as to the Services and it supersedes all prior Contracts, proposals, communications, and understandings, whether written or oral. This Agreement can only

be amended with a writing signed by authorised representatives of both Parties. All provisions on Contractor's forms are deemed deleted.

### **12.7 Notices**

Any notice or demand described in this Agreement or required by law must be in writing and must be communicated by confirmed facsimile, certified or registered mail, overnight mail or personal delivery addressed as follows:

**EIT Food IVZW, Ubicenter A, Philipssite 5 (box 34), B – 3001 Heverlee**

The effective date of a notice will be (I) five (5) days following the date mailed for certified or registered letters, (II) two (2) days following the date for overnight letters, or (III) when delivered, if in person. The above addresses may be changed at any time by giving prompt, written notice as provided above.

### **12.8 Force Majeure**

Neither Party shall be liable for delays in performance or non-performance, in whole or in part - except for payments due - resulting from causes beyond its reasonable control, such as acts of God, fire, strikes, embargo, acts of the government, or other similar causes. In such event, the Party delayed shall promptly give notice to the other party. The Party affected by the delay may: (a) extend the time for performance for the duration of the event, or (b) cancel all or any part of the unperformed part if such delay exceeds ninety (90) days.

### **12.9 Independent Contractors**

The relationship of Parties is that of independent contractors, and nothing in this Agreement or otherwise shall be deemed to create any other relationship, including employment, partnership, agency or joint venture, between Parties. Nothing in this Agreement shall be deemed or construed by the Parties or any third party as creating the relationship of principal and agent, franchisor and franchisee, partnership or of a joint venture, it being understood and agreed that no provision contained herein, and no act of the Parties, shall be deemed to create any relationship between the Parties other than the relationship of independent contractor.

### **12.10 non-Exclusive**

EIT Food expressly agrees that the Contractor also performs services and/or deliveries for other clients, provided that this doesn't interfere with the proper execution of the Assignment between EIT Food and the Contractor and/or it doesn't harm (other) interests of EIT Food.

## **Article 13.- APPLICABLE LAW AND SETTLEMENT OF DISPUTES**



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**13.1 Settlement of Disputes**

In the event of a dispute ensuing from the interpretation or the performance of this Contract, the Parties undertake to initially seek a friendly solution. If such solution cannot be reached, the dispute will be for the exclusive competence of courts of Leuven.

**13.2 Choice of Law**

This Agreement will be governed by the laws of Belgium, excluding its choice of law principles and the United Nations Convention on Contracts for the International Sale of Goods.

**Article 14.- ELECTRONIC SIGNATURE**

Parties agree to waive the obligations resulting from article 1325 of the Belgian civil code, and agree that the signed copies, as provided for in electronic manner, shall be deemed to have the same evidential value as an original (signed) document.

**EIT FOOD**

By Dr. Andreas Michael Zynga

Title: CEO

Signature

Date \_\_\_\_\_

By: Saskia Nuijten

Title: Director of Communications

Signature:

Date: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Signature

Date: \_\_\_\_\_