

Request for Proposals for Competence Hub's Learning Management System (LMS)

Guidelines for Proposal preparation

Knowledge & Innovation Community on Urban Mobility,
part of the European Institute of Innovation and Technology (EIT)

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<http://www.eiturbanmobility.eu>



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1. Overview

1.1. EIT Urban Mobility

EIT Urban Mobility is an initiative of the European Institute of Innovation and Technology (EIT). EIT Urban Mobility drives integration on all levels to accelerate change towards a sustainable model for urban mobility. It aims to develop and deploy solutions for the mobility of people, goods, and waste that addresses cities' most critical challenges and creates a positive impact on cities and citizens. We strive for a form of mobility that allows people, goods, and waste to move affordably, fast, comfortably, safely and cleanly, while also enabling cities to reclaim public space from cars, creating more space for people to work, meet, and play. We aim to become the largest European initiative transforming urban mobility. Co-funding of up to € 400 million (2020-2026) from the EIT, a body of the European Union, will help make this happen.

1.2. Academy

The Academy is a collaborative arena for lifelong learning, helping to build critical capabilities for innovation and transformation. We are training the next generation of urban mobility practitioners, needed by the urban mobility ecosystem of the future. We will close the urban mobility knowledge gap with challenge-based training using the latest education methodologies across disciplines and sectors. The programmes are intersectoral, interdisciplinary, international, and entrepreneurial.

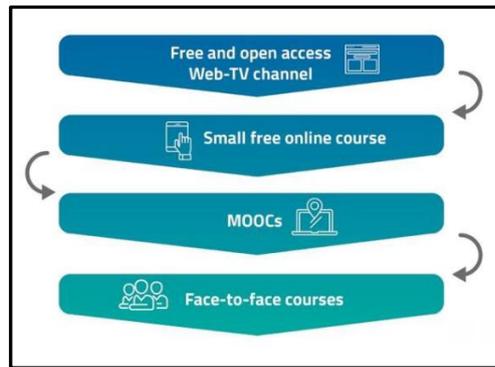
1.3 Competence Hub

The Competence Hub offers intensive programmes on hot topics in urban mobility and transport to work with professionals from different sectors, such as project managers, engineers, city executives and entrepreneurs, co-created by our partners in various locations in Europe. This lifelong learning initiative uses a variety of formats including light online material in a Web-TV channel, online courses, in-project training, and co-creation work, as well as more conventional face-to-face seminars. Together, the Competence Hub aims to reach a total of 500,000 people per year through its online offers.

1.4 Our four-level strategic approach

The Competence Hub provides a customized and accessible way for busy professionals — people working for city authorities, public institutions, companies, or start-ups — to learn about the latest topics in mobility and transport.

It operates using a freemium model with four levels and a blended approach to learning. While the first two levels offer easy access and up-to-date knowledge for a broad audience, the third and fourth levels are more tailored and deal with specific projects or topics.



This "funnel approach" will enable us to probe new topics constantly, using the EIT Urban Mobility Web-TV channel as a base to connect with our community of learners.

1.5 Learning Management System

EIT Urban Mobility Competence Hub is the Professional Training Unit within EIT Urban Mobility's Academy. Our training programmes and content are designed for professionals around Europe, working in or interested in urban mobility and sustainable urban development. These professionals, our end-users, can be either from the private sector (industry, technology, services, start-up, multi-national firms, etc.) or from the public sector (city officials, civil servants, NGOs, etc.).

For the second level of Competence Hub programmes, a Small Free Online Course (SFOC) portfolio will be developed around the topics that gain attraction, identified primarily through the Web-TV activities in the first level. Similarly, for the third level, a Massive Open Online Course (MOOC) portfolio will be developed, based on the insights gained through our Web-TV Channel and our SFOCs (funnel approach). In both cases, to ensure that the Competence Hub SFOCs and MOOCs are readily accessible to our end users and that we can publish and manage our online learning content appropriately, the Competence Hub is interested in contracting support so it may acquire, customise, and operate its own Learning Management System (LMS).

2. General objectives and scope of work

2.1. General objectives

The LMS's main purpose is to serve as an online learning platform, allowing the Competence Hub to publish and manage its professional training portfolio of online learning programmes (SFOCs and MOOCs). These SFOCs and MOOCs will be created by partners and subcontractors of EIT Urban Mobility who will be responsible for developing the online learning content and making it accessible to the Competence Hub. EIT Urban Mobility, therefore, wishes to partner with a third-party software developer (supplier) that has experience in designing/customising and delivering LMS software, so the Competence Hub can publish/operate online courses and learning-contents via its own LMS platform, whenever necessary.

The scope of work includes 2 lots:

Lot 1: Platform identification and customization

- Identifying an open-source LMS system that is user-friendly, engaging and flexible. It should also be adapted to the requirements of our target audience and fully suited to the Competence Hub's needs and strategic goals.
- Customizing the LMS system which is selected so it is tailored to the needs of the Competence Hub and complies with EIT Urban Mobility's visual and functional standards.
- Training the relevant staff within the Competence Hub and EIT Urban Mobility on how to operate the LMS.

Lot 2: Platform hosting and maintenance

- Hosting the LMS for a period of 12 months.
- Providing the relevant technical support to the Competence Hub so it can manage this LMS platform and upload/operate the different SFOCs and MOOCs developed by third-party partners and subcontractors while ensuring a high level of satisfaction of the end-users following these SFOCs and MOOCs.

2.2. Detailed scope of work

Preliminary Knowledge Exchange Meeting(s)

The supplier will facilitate discussion during one or multiple Preliminary Knowledge Exchange Meeting(s) to further define LMS requirements for EIT Urban Mobility Competence Hub, offering demos and trial access whenever possible to support the brainstorming process, and make suggestions around potential options, based on the Competence Hub's online learning strategy, its current and future needs of the SFOCs and MOOCs, as well as the current trends and evolutions of the LMS market.

Once this preliminary knowledge exchange meeting(s) are finalised, the supplier will identify and select the most appropriate open-source LMS system, and justify to EIT Urban Mobility Competence Hub why this is the case.

Initial Development and Customisation

The supplier will develop and customise the LMS according to the requirements listed in this Call for Proposal document and detailed during the preliminary Knowledge Exchange Meetings.

The resulting customised LMS must comply with European GDPR rules. Any documentation/information necessary to enable EIT Urban Mobility to demonstrate that this LMS does comply with European GDPR should be provided.

Testing

The supplier will test the LMS to ensure it works with a variety of desktop web browsers, bandwidth capabilities, mobile access, and within different organizations.

Follow-Up Demo

The supplier will facilitate a demo of the LMS to the Competence Hub for initial feedback and inform adjustments before the soft launch.

Hosting

Once the LMS is validated by EIT Urban Mobility Competence Hub for Soft Launch, the supplier will run the hosting services.

Pilot phase: Training and Soft Launch

After incorporating the feedback from EIT Urban Mobility, the supplier will support the Competence Hub in the soft launch of the LMS for 1-4 weeks with a limited number of users.

Prior/in parallel to the soft launch, the supplier will organise the necessary training session(s) for all relevant EIT Urban Mobility personnel (with EIT Urban Mobility's Head Office and EIT Urban Mobility Innovation Hubs), on how to operate this LMS: from uploading course content to managing the different courses online and offline, supporting the end-users as well as understanding all the key components and functionalities of this LMS.

During the soft launch, the supplier will support the uploading and publishing of the different online training modules (SFOCs and MOOCs) to be hosted in the LMS platform, by assisting the Competence Hub and its content suppliers in solving any technical difficulties they might face. Similar support will be provided with regards to student registration and the operating of the LMS once the first learners register to the courses.

Formal Launch

After incorporating the feedback from EIT Urban Mobility, the supplier will operate a formal launch of the system to all users, no more than 4 weeks after completion of the soft launch.

For a period of up to 2 months after the formal launch, the supplier will support the uploading and publishing of the new online training modules, which shall follow the SCORM standard. Similar support will be provided with regards to student registration and the operating of the LMS if new difficulties are identified.

2.3. Deliverables

The supplier will deliver a customised LMS to EIT Urban Mobility, which will include, at a minimum, the following components:

1. An instructor-led training (ILT) feature set to facilitate self-service individual enrollment and track course/task attendance;
2. Social learning features (i.e. forums/communities, chat groups, discussion boards, and collaborative wikis);
3. Assignments (uploaded documents) that allow for feedback to individual learners;
4. The ability to launch and track custom eLearning content, including webinars, podcasts and other recorded sessions;
5. Sharable Content Object Reference Model (SCORM) compliance and HTML compatibility;
6. The ability to track individual learner training activities;
7. A reporting, interface with the ability to view and export reports in differing formats;
8. Import of course content, user information or other data from other existing systems and standards;
9. Any "traditional" LMS functionality included (e.g., course creation, test creation, notification and reminders on program requirements, user completion, etc.);

10. Course evaluation and survey tools;
11. Communication between: facilitators-learners, learner-learner, administrators-learners, and administrators-facilitators, via the LMS;
12. Asynchronous Learning support tools (technical and instructional);
13. Multi-language feature, that allows for scalability. All content will be published in English as the priority, and potentially moving forward to other European languages;
14. Ability to have ports for external as well as internal users.
15. Possible integration with other platforms, such as SurveyMonkey, online payment systems, and others – an API must be integrated.

The LMS will have a minimum of 5 concurrent licenses for EIT Urban Mobility personnel who are given the authority to administer the platform as well as the different courses, sessions and participants. This personnel will have admin/super admin access. Additional profiles/accesses may be required. If so, they will be defined during the Preliminary Knowledge Meetings.

The LMS should accommodate an infinite number of users.

As explained above, the supplier will also deliver the selection, customisation, training, implementation, post-live training, support, and documentation of the LMS. Associated outputs include:

1. Documented upgrade and enhancement plans, maintenance policies and incremental cost increases (if any) during the contract term.
2. The disaster recovery plan, to include backup policies and procedures and estimated rapid recovery time due to system failures.
3. Security plan and processes to prevent security breaches such as hacking and protect the system against unauthorized use

2.4. Start date & period of implementation

The intended start date is, at the latest, 15 November 2020 and the launch date of the platform is, at the latest 30 November 2020.

The Platform hosting and maintenance contract will start at the latest on 30 November 2020 and will last for 12 months. EIT Urban Mobility retains the right to conclude a contract for 12 additional months using the negotiated procedure without notice with the winner of the present procedure in case the budget is known for 2022. Please note that concluding the contract for 12 additional months is only an option and EIT UM is not obliged in any way.

3. Proposal Process

3.1. Submission of proposal

As this resquest of proposal is an open call, proposals are requested to be emailed in written form, **in English** to the following address until the **deadline 23rd October 2020**, 16:00 Central European Time, to:

Contact name: for the attention of Mr Gautam Rao, Head of Competence Hub.

E-mail: procurement@eiturbanmobility.eu

The proposal shall contain:

- a. The technical response to the services/support requested (see Section 2: “General objectives and scope of work and deliverables”)
- b. The financial offer (the price for the services.) The financial offer must be presented in EUR. Prices must be indicated as net amount + VAT.

The email including the proposal from the bidders should be sent and delivered of 23rd of October 2020, 16:00 Central European Time.

Proposals received after the deadline shall be rejected without any evaluation.

Proposals must be submitted in PDF format.

Responses should be concise and clear. The tenderer’s proposal will be incorporated into any contract that results from this procedure. Tenderers are, therefore, cautioned not to make claims or statements that they are not prepared to commit to contractually. Subsequent modifications and counterproposals, if applicable, shall also become an integral part of any resulting contract.

The tenderer represents that the individual submitting the natural or legal entity’s proposal is duly authorized to bind its entity to the proposal as submitted. The tenderer also affirms that it has read the request for proposals and has the experience, skills and resources to perform, according to conditions outlined in this proposal and the tenderer’s proposal.

Timeline

Publishing the request for proposal invitation on EIT Urban Mobility’s website	16/10/2020
Deadline for submitting proposals	23/10/20
Intended date of notification of award	30/10/20
Intended date of contract signature and start date of implementation	15/11/20

Financial Proposals

For lot 1, the price proposal should be in the format of a fixed total price which covers all the services provided.

For lot 2, the price proposals should be in the following formats:

- Monthly rate for the hosting service.
- Hourly rate for the support service.

3.2. Evaluation of proposals

The EIT Urban Mobility will award the contract to the tenderer who submitted the most economically advantageous and quality regular tender, based on the following criteria (including the weighting assigned to them). Proposals will be assessed based on the following criteria:

- a) The amount of fees (time and material): 40 points

Tenderers will be required to submit service cost excluding VAT covering all kind of services described in Section 2. of this RfP. The amount of TVAC will also be mentioned.

The cheapest offer will be credited with the maximum points for this criterion. The other offers will be credited with a number of points determined according to the formula below:

$$C = (P_{min} * 40) / P$$

C = Grade

P_{min} = cheapest offer

P = bid from the bidder whose bid is evaluated

b) Quality check: 60 points

Tenderers will attach to their tender an explanatory note on the services comprising the following elements which will be evaluated by the contracting authority as follows:

<p>EXPERIENCE</p> <p>Description of former experience with working on a similar project (see 2.1 to 2.3 above). Experience designing, launching, and managing a Learning Management Service. EIT Urban Mobility will rank the bids based on the received information based on the level of detail, harmony with Section 2 and based on international practices.</p> <p>Learning Management Service development and management experience: Minimum experience 5 years - 2 points, 10 years of experience - 5 points</p> <p>Public sector customer experience: Minimum experience 3 years - 2 points, 6 years of experience - 5 points</p> <p>Experience with leading e-learning platforms. Minimum experience with 2 leading e-learning platforms – 2 points, with 3 leading e-learning platforms - 5 points</p> <p>Experience in developing online training related to Urban Mobility, Transportation or Smart City – 5 points</p> <p>Experience in working with other EITs as a partner or subcontractor – 5 points</p>	20 points
<p>QUALITY</p> <p>Quality of the technical offer and organization of service (as described in Section 2.2 and 2.3) should include, but is not limited to:</p> <ol style="list-style-type: none"> a. Description of how you plan to organize the LMS platform and features to meet set requirements and process b. Overview of the core tasks/service packages and timeframe needed to fulfil the contract, the resourced planned to be utilized for each core tasks/service packages (number of hours to fulfil the tasks/service packages). 	40 points

EIT Urban Mobility will rank the bids based on the received information based on the level of detail, harmony with Section 2 and based on international practices.	
The highest-ranking will receive 40 points, 2nd 25, 3rd 10	

The outcome of the award procedure will be communicated in writing (via e-mail) to the successful and unsuccessful tenderers.

3.3 Additional information before the deadline for submitting proposals

The instructions to tenderers should be clear enough to avoid tenderers having to request additional information during the procedure. In case the tenderers need additional information, please address it to the address below.

Mr Gautam Rao, Head of the EIT Urban Mobility Competence Hub
email: gautam.rao@eiturbanmobility.eu

The EIT Urban Mobility has no obligation to provide clarification of the decision. Any questions and requests for additional information must be sent by e-mail and will be treated in the same way. Bidders are advised to avoid including in their questions any information that may contain trade secrets or other confidential information for reasons of equality between bidders since those questions and answers will be provided to all bidders. However, if it is necessary to communicate such confidential information, tenderers will be required to highlight the relevant parts of their questions with appropriate marking. The contracting authority will then provide the question and answer to all tenderers, taking care not to reveal the information concerned.

3.4 Clarification related proposals

After submission of the proposals, they shall be checked if they satisfy all the formal requirements set out in the proposal dossier. Where information or documentation submitted by the tenderers is or appears to be incomplete or erroneous or where specific documents are missing, the EIT Urban Mobility may request the tenderer concerned to submit, supplement, clarify or complete the relevant information or documentation within an appropriate time limit

3.5 Negotiation about the submitted proposal (optional)

After checking the administrative compliance of the tenderers, EIT Urban Mobility can negotiate the contract terms with the tenderers. In this negotiation, EIT Urban Mobility will ask all tenderers to adjust the proposal or specific sections of the proposal within an appropriate time limit.

3.6 Signature of contract

The successful and unsuccessful tenderers will be informed about the result of the award procedure.
For the contract, the template in Annex 1 shall apply.

Within 2 days of receipt of the contract from EIT Urban Mobility, the selected tenderer shall sign and date the contract and return it to EIT Urban Mobility. In case the winning tenderer is unable to sign the contract within the described period, the EIT UM may decide to contract the second best.

3.7 Cancellation of the proposal procedure

In the event of cancellation of the proposal procedure, EIT Urban Mobility will notify tenderers of the cancellation. In no event shall EIT Urban Mobility be liable for any damages whatsoever including, without limitation, damages for loss of profits, in any way connected with the cancellation of a proposal procedure, even if EIT Urban Mobility has been advised of the possibility of damages.

3.8 Appeals/complaints

Tenderers believing that they have been harmed by an error or irregularity during the award process may file a complaint. Appeals should be addressed to EIT Urban Mobility. The tenderers have 3 days to file their complaints from the receipt of the letter of notification of award.

3.9 Ethics clauses / Corruptive practices

The EIT Urban Mobility reserves the right to suspend or cancel the procedure, where the award procedure proves to have been subject to substantial errors, irregularities or fraud. If substantial errors, irregularities or fraud are discovered after the award of the Contract, the EIT Urban Mobility may refrain from concluding the Contract.

The supplier shall take all measures to prevent any situation where the impartial and objective implementation of the contract is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest ('conflict of interests'). He should inform the EIT Urban Mobility immediately if there is any change in the above circumstances at any stage during the implementation of the tasks.

3.10 Safeguarding of EU's financial interest

The potential or actual supplier should accept that during the implementation of the contract and for four years after the completion of the contract, EIT Urban Mobility has the right for safeguarding the EU's financial interests, the proposal and the contract of the supplier may be transferred to internal audit services, EIT, to the European Court of Auditors, to the Financial Irregularities Panel or the European Anti-Fraud Office.

4. Annexes

Annex 1: Contract Template / Terms and Conditions

SERVICE AGREEMENT

This Service Agreement (“Agreement”) is hereby made by and between:

EIT Urban mobility /UM/ [EIT Urban Mobility s.l], a private limited company, having its registered office and place of business at [Pere IV, 362. 09019, Barcelona. Spain], with company registration number [Temporary registration number: 118237] and VAT number [B67513630], legally represented herein by [name of representative], acting as [position of the representative]; hereinafter referred to as: the **‘Contracting Party’**;

and

[Company name], a private limited company, having its registered office and place of business at [Company’s address], with company registration number [Company’s registration number] and VAT number [Company’s VAT number], legally represented herein by [name of representative], acting as [position of the representative]; hereinafter referred to as: the **‘Supplier’**;

Hereinafter jointly referred to as: the ‘Parties’ or individually as a “Party”;

WHEREAS:

EIT UM is an association whose funds are used to promote innovation, entrepreneurship and education in the field of urban mobility;

EIT UM has launched a procurement procedure for the performance of certain Services described in Annex 1 to this Agreement, via a tender referred to in Annex 1 (“**EIT UM Tender**”) and Supplier has been selected as Service Provider for EIT UM for such Services, based on Supplier’s Offer as referred to in Annex 1.

Supplier has knowledge and experience in performing the aforementioned Services described in Annex 1, on the basis of a temporary engagement (hereinafter: the **‘Services’**);

Supplier is willing and able to provide the Services to EIT UM, as further provided for in this Agreement;

NOW, THEREFORE, THE PARTIES HAVE AGREED AS FOLLOWS:

Structure of the Agreement and precedence

This Agreement consists of the body of this Agreement and Annex 1 attached to this Agreement.

The body contains standard general provisions applicable to all Services purchased by EIT UM from Supplier under this Agreement.

Annex 1 contains the description of the Services and the time schedule for the delivery of such Services (extracted from Supplier's Offer), as well as additional specific conditions and details adapted to the type of Services purchased by EIT UM from Supplier under this Agreement.

Both the body and Annex 1, as well as the EIT UM Tender (as referred to in Annex 1) form the Agreement.

In case of discrepancy between the description of Services and time schedule in the EIT UM Tender and the description of Services and time schedule in Annex 1, the EIT UM Tender shall prevail. In case of discrepancy between a provision in the body and a provision in Annex 1, the provision in the body shall prevail unless the deviating provision in Annex 1 states expressly that it is specifically agreed by both Parties as being in deviation of a specific provision of the body and refers clearly to the provision of the body concerned.

Ordering of Services, non-applicability of Supplier's (standard) terms and conditions

Supplier does not commit to provide the Services exclusively to EIT UM, unless and to the extent provided in Annex 1 for certain specific types of Services.

The contractual relationship between EIT UM and Supplier shall solely be governed by the terms and conditions of this Agreement. EIT UM is therefore not bound by and expressly rejects Supplier's general conditions of services and any additional or different terms or provisions that may appear on any proposal, quotation, price list, acknowledgment, invoice, packing slip or the like used by Supplier.

Performance of the Services, organization, quality, timely delivery, subcontracting, reporting of progress, acceptance, changes

With due observance of the other provisions of the Agreement, Supplier shall perform the Services specified under Annex 1 for EIT UM under this Agreement, within the time schedule specified under Annex 1.

Supplier agrees to perform the Services by exercising due skill, speed and care, at a level generally required of well-reputed Suppliers in the same field as the one covered by this Agreement and shall make every effort to the best of Supplier's abilities to serve the interests of EIT UM as much as possible.

Supplier is free to organise the way it provides the Services and the timing thereof autonomously and at its own discretion without supervision or authority of EIT UM, (i) provided the Services are performed accurately and diligently and in accordance with the requirements of this Agreement, including the timely delivery of the Services as specified under Annex 1, and (ii) subject to specific requirements as may be stated in Annex 1 regarding the way the Services shall be provided. Supplier may conduct its business activities from its own premises but may be requested to operate from EIT UM's premises whenever it is necessary for the performance of the Services. Supplier shall arrange their own travel, should they need to travel in order to performe the Services. When performing the Services, Service Provider shall use its own tools and materials, work forces. Supplier shall be fully responsible for the proper execution of this Agreement in all respects.

Supplier shall use personnel who possess the qualifications and experience necessary for the performance of the Services. Additional requirements relating to personnel may be provided in Annex 1, as the case may be.

Unless otherwise specifically provided under Annex 1, Supplier may subcontract part of the provision of the Services to subcontractors, provided such subcontractors are contractually bound by similar obligations as under this Agreement, and provided Supplier has disclosed the elements of the Agreement to be subcontracted and the identity of the relevant subcontractor to the subcontracting. Supplier remains at all times responsible for the work performed by its subcontractors and for the acts, defaults and negligence of such subcontractors, and no subcontract shall create any contractual relationship between any subcontractor and EIT UM. Additional requirements relating to subcontracting may be provided in Annex 1, as the case may be.

In order for EIT UM and Supplier to monitor the proper performance of the Services throughout the Term of the Agreement, Supplier shall report to EIT UM progress of the performance of the Services, in writing, at intervals and under conditions specified under Annex 1. Supplier shall provide EIT UM with time sheets describing the tasks performed by Supplier and the time spent on each task, pursuant to the regularity provided under Annex 1 and pursuant to the time sheet template provided by EIT UM separately.

If, for whatever reason, Supplier is not able to perform the agreed Services, or is not able to meet the deadlines agreed in Annex 1, Supplier shall notify EIT UM hereof promptly in writing, and shall take any reasonable measure to mitigate the consequences of such situation, in agreement with EIT UM.

Services delivered are subject to the acceptance of EIT UM. EIT UM shall issue a Performance certificate after completion of Services. Should EIT UM fail to reject part or all of the Services provided within 15 (or other deadline set forth in Annex 1) calendar days as from such delivery, on the grounds of a lack of quality or compliance, or because of late delivery, Services shall be considered as accepted. Should EIT UM reject a Service (within the above deadline) because of lack of quality or compliance, and such failure is capable of remedy, Supplier shall re-perform the rejected (part of the) Service promptly (but no later than 5 days in absence of any further instructions) at no additional charge for EIT UM. Should such failure be not capable of remedy (given the type of Service and/or the extent of the failure) or should the delivery have occurred after an essential delivery deadline which renders the Service irrelevant or useless, the Services at stake shall be considered as rescinded, and EIT UM is not obliged to provide any compensation to Supplier for such Services.

Modifications to the Services and/or other provisions of this Agreement may only be agreed by the Parties as per the EIT UM procurement rules, i.e. if:

- (a) mutually agreed in writing, and
- (b) the need for modification has been brought about by circumstances which a diligent contracting entity could not foresee; and
- (c) the modification does not alter the overall nature of the contract; and
- (d) any increase in price is not higher than 25 % of the original value of the Agreement. In addition, if several successive increases in price would be agreed, the total cumulating of such successive increases shall not exceed 25% of the original value of the Agreement; and
- (e) modifications above 10% of the original value of the Agreement should only amend specific conditions of the Agreement and be made by way of an amendment to this Agreement signed by both Parties.

The Parties designate the following contact persons for communication with respect to this Contract:

For EIT UM:
Name: ...
Phone: ...
E-mail: ...

For Service Provider:
Name: ...
Phone: ...
E-mail: ...

Compensation, invoicing and payment, expenses

Supplier is entitled to charge, in respect of Supplier's Services as described under Annex 1, the compensation specified in Annex 1 per Service.

Supplier may only charge the amounts under Section 4.1. corresponding to the delivered Services, after acceptance of such Services by EIT UM.

Further, Supplier may only charge the amounts under 4.1. subject to (i) EIT UM having received a correct invoice bearing the essential elements below, (ii) all relevant Progress Reports relating to the delivered Services so invoiced having been properly delivered to EIT UM in a timely manner and accepted by EIT UM in writing (as the case may be).

An invoice shall be considered as correct when containing the following essential elements:

- (a) the name and address of Supplier
- (b) the VAT identification number of Supplier
- (c) the VAT identification number of EIT UM
- (d) the name and address of EIT UM
- (e) the invoice number
- (f) the invoice date
- (g) the date on which the Services were supplied (provided EIT UM S has accepted them pursuant to this Agreement)
- (h) the quantity and type of goods supplied (if applicable)
- (i) the nature and type of Services supplied
- (j) the following data for every VAT tariff or exemption:
 - the price per piece or unit, excluding VAT
 - any reductions that are not included in the price
 - the VAT tariff that has been applied
 - the cost (the price excluding VAT)
 - in case of advance payment: the date of payment, if this is different from the invoice date
 - the amount of VAT

By deviation to Section 4.2., Supplier may charge the amounts under Section 4.1., at the beginning of each (quarterly, monthly or other) period specified in Annex 1, if such alternative is specifically agreed by EIT UM in Annex 1. In such a case, requirements of Section 4.3. shall apply to each regular invoice.

The payment term applying to Supplier invoices fulfilling the requirements of this Section 4 is fixed in Annex 1.

All amounts corresponding to the compensation per Service, as fixed in Annex 1, shall be fixed tariffs, which may not be revised during the Term of this Agreement, unless specifically provided otherwise in Annex 1 (and within the limits of the price revision mechanisms authorised under the procurement procedure).

Supplier may charge expenses to EIT UM, to the extent Annex 1 provides for such possibility. Expenses shall only be paid if EIT UM has given its written approval prior to Supplier incurring said costs.

If Supplier fails to fulfil any of its obligations under the Agreement, EIT UM may suspend payment to Supplier, upon notice to Supplier.

Supplier hereby unconditionally accepts that EIT UM has the right to set off any amount that EIT UM owes to Supplier under this Agreement, with any amount Supplier owes to EIT UM under this Agreement or any other agreement.

Taxes, other contributions, no employment agreement and related indemnification

All tariffs are gross amounts but exclusive of any value added tax (VAT), sales tax, GST, consumption tax or any other similar tax ("**Taxes**").

If the Services under this Agreement are subject to any other Taxes, Supplier may charge such Taxes to EIT UM, which taxes shall be paid by EIT UM in addition to the compensation for Supplier. Supplier is responsible for paying any applicable Taxes to the appropriate (tax) authorities.

In addition to Section 5.1. and 5.2., all social security, fiscal charges or taxation of any kind and contributions of any kind including but not limited to value added, levies, withholdings, unemployment, medical insurance and insurance of any kind, pensions, national insurance contributions and social security benefits, as imposed by any law, accommodation and travel costs, living expenses, or other expenses and charges arising from this Agreement, will be the exclusive responsibility of Supplier, who must pay such taxes, charges, any kind of expenses and contributions directly to the competent authorities or employees (as the case may be) (altogether called "**Contributions**").

Supplier shall perform the Services hereunder as an independent contractor and not as an agent of EIT UM and nothing contained in the Agreement is intended to create a partnership, joint venture or employment relationship between the Parties irrespective of the extent of economic dependency of Supplier on EIT UM.

Supplier shall indemnify and keep EIT UM harmless from any claims from any authority for payment of any Contributions, including all interest charged in respect thereof, surcharges and possible administrative fines in connection with the Services performed by Supplier on the basis of the Agreement.

Intellectual property, ownership and licensing, IP infringement indemnification

"**Intellectual Property Rights**" or "**IP**" shall mean patents, utility certificates, utility models, (industrial) design rights, copyrights, database rights, trademarks, trade names and trade secrets, including moral rights and any applications, renewals, extensions, combinations, divisions, discontinuations or re-issues of the foregoing.

Unless expressly specified otherwise in Annex 1, should the performance of the Services entail the delivery of (written) advice, reports or any other materials or results ("**Deliverables**"), the ownership of any Intellectual Property Rights in such Deliverables shall be vested in EIT UM.

In addition to Section 6.1., any item provided by EIT UM (or by a third party designated by EIT UM on behalf of EIT UM) and used to perform the Services and/or embedded in the delivered Services, shall at all times remain the ownership of EIT UM S. Supplier shall have no right, title or interest in any of these items nor any trademark or trade name from EIT UM.

By exception to Section 6.1., Intellectual Property Rights owned or controlled by Supplier before the start of the performance of the Services shall remain the ownership of Supplier ("**Background IP**").

Supplier hereby grant a non-exclusive, royalty-free and fully paid-up, worldwide, irrevocable and perpetual license under its Background IP used for the performance of the Services, to EIT UM, with the right to sublicense, for the use, make, have made, build-in, market, sell, lease, license distribute and/or otherwise dispose of the Services and/or Deliverables.

Supplier shall not, without EIT UM' prior written consent, publicly make any reference to EIT UM, whether in press releases, advertisements, sales literature or otherwise.

Unless expressly specified otherwise in Annex 1,

Supplier shall indemnify and hold harmless EIT UM, its Affiliates, partners, contractors and employees in respect of any and all claims, damages, costs and expenses (including but not limited to loss of profit and reasonable attorneys' fees) in connection with any third party claim that any of the Services alone or in any combination or their use infringes any third party IPRs, or, if so directed by EIT UM, shall defend any such claim at Supplier's own expense. By "Affiliate" is meant any and all companies, firms and legal entities with respect to which now or hereafter EIT UM, directly or indirectly holds 50% or more of the nominal value of the issued share capital or 50% or more of the voting power at general meetings or has the power to appoint a majority of directors or otherwise to direct the activities of such company, firm or legal entity, including but not limitedly through a domination agreement.

EIT UM shall give Supplier prompt written notice of any such claim, provided, however, any delay in notice shall not relieve Supplier of its obligations hereunder except to the extent it is prejudiced by such delay. Supplier shall provide all assistance in connection with any such claim as EIT UM may reasonably require.

If any Services alone or in any combination, provided under the Agreement are held to constitute an infringement or if their use is enjoined, Supplier shall, as directed by EIT UM, but at its own expense: either 1) procure for EIT UM or its users the right to continue using the Services alone or in any combination; or 2) replace or modify the Services alone or in any combination with a functional, non- infringing equivalent.

If Supplier is unable either to procure for EIT UM the right to continue to use the Services alone or in any combination or to replace or modify the Services alone or in any combination in accordance with the above, EIT UM may terminate the Agreement and upon such termination, Supplier shall reimburse to EIT UM the price paid, without prejudice to Supplier's obligation to indemnify EIT UM as set forth herein.

Confidentiality, documents

Confidential Information means any and all proprietary and/or confidential data and information, such as but not limited to commercial and/or technical information, that EIT UM, its Affiliates or representatives may disclose directly or indirectly, whether in writing or any other form, to Supplier that is related to the Service, which (a) is marked as "confidential" or "proprietary" or words of similar import when disclosed, and (b) is orally disclosed and is summarized and described as confidential in a writing that is delivered to Supplier within fifteen (15) days of disclosure.

During the period beginning on the Effective Date and continuing for a period of five (5) years thereafter (the "**Confidentiality Period**"), Supplier agrees not to: (i) use EIT UM' Confidential Information for any purpose other than for the Service; and (ii) disclose EIT UM Confidential Information to any third party, except to its employees and other persons under its supervision that are operating within its organization, including without limitation, its Partners' employees who (A) have a legitimate "need to know" to accomplish the Service, and (B) are obligated to

protect such Confidential Information pursuant to terms and conditions not less restrictive than those contained in this Agreement. Supplier shall protect EIT UM' Confidential Information as required hereunder using the same degree of care, but no less than a reasonable degree of care, as Supplier uses to protect its own confidential information of a like nature.

Supplier's obligations above shall not apply to any data or information that it can prove: (a) is lawfully available to EIT UM, prior to the time of receipt from EIT UM as verified by written records; (b) is or becomes publicly available without violation of this Agreement or any other obligation of confidentiality and through no act or omission of Supplier; (c) is lawfully furnished to Supplier by a third party without use or disclosure restrictions; or (d) is developed by Supplier without use of or reference to any of EIT UM' Confidential Information. Furthermore, a disclosure by Supplier that is required pursuant to any judicial or governmental proceeding shall not be considered a breach of this Agreement, provided that Supplier promptly after learning of such action shall notify, to the extent permitted by applicable law, EIT UM thereof to give Supplier the opportunity to contest disclosure or to seek any available legal remedies to maintain such information in confidence.

Supplier is not permitted - alone or with or through others – to remove, dispatch, transmit or allow any third parties to inspect, use or otherwise have access to any property belonging to EIT UM or any of its Affiliates, including but not limited to any notes, drawings, letters, formulas, recipes, other documents and/or any copies thereof, tools, designs, products manufactured or (copies of) computer files or other data carriers, unless EIT UM has given its prior written permission to any such action.

EIT UM shall remain the owner of all property it has made available to Supplier in connection with this Agreement.

Supplier shall make all property belonging to EIT UM (or its Affiliates) such as, but not limited to any notes, drawings, letters, formulas, recipes, other documents and/or copies of such matters, tools, models, finished products, (copies of) automated files or other data carriers, which come into its possession during the term of this Agreement, available to EIT UM in good condition immediately upon initial request, but in any case on the day on which the Agreement ends.

Personal data

For the purpose of this Agreement,

- **“Personal Data”** shall mean any and all information relating to an identified or identifiable individual, including but not limited to EIT UM current or former employees, employee family members, dependents or beneficiaries, customers, consumers, suppliers, business partners or contractors;
- **“Processing”** shall mean any operation or set of operations performed or to be performed upon Personal Data, whether or not by automatic means, such as creation, access, collection, recording, organization, storage, loading, employing, adaptation or alteration, retrieval, consultation, displaying, use, disclosure, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction (hereinafter also referred to as a verb **“Process”**).

Where Supplier in the performance of the Agreement Processes Personal Data, then Supplier agrees and warrants that Supplier shall:

- (a) comply with all privacy and data protection law and regulations applicable to its Services;
- (b) Process Personal Data only (i) on behalf of and for the benefit of EIT UM, (ii) in

- accordance with EIT UM' instructions, and (iii) for the purposes authorized by this Agreement or otherwise by EIT UM, and (iv) insofar necessary for the Services rendered to EIT UM and as permitted or required by law;
- (c) maintain the security, confidentiality, integrity and availability of the Personal Data;
 - (d) implement and maintain appropriate technical, physical, organizational and administrative security measures, procedures, practices and other safeguards to protect the Personal Data against (i) anticipatable threats or hazards to its security and integrity; and (ii) loss, unauthorized access to, or acquisition or use of or unlawful Processing; and
 - (e) promptly inform EIT UM of any actual or suspected security incident involving the Personal Data.

To the extent that Supplier allows a (sub)contractor to process the Personal Data, Supplier shall ensure that it binds such (sub)contractor to obligations which provide a similar level of protection, but in no way less restrictive, as this Section 8.

Supplier shall, upon the termination of the Agreement, securely erase or destroy all records or documents containing the Personal Data. Supplier accepts and confirms that it is solely liable for any unauthorized or illegal processing or loss of the Personal Data, if Supplier fails to erase or destroy the Personal Data upon termination of the Agreement.

Supplier shall indemnify and hold harmless EIT UM, their officers, agents and personnel from any damages, fines, losses and claims arising out of a breach of this Section 8.

Liability, indemnification, insurance

Supplier shall indemnify and hold harmless EIT UM, its Affiliates, agents and employees, from and against all suits, actions, legal or administrative proceedings, claims, demands, damages, judgments, liabilities, interest, attorneys' fees, costs and expenses of whatsoever kind or nature (including but not limited to special, indirect, incidental, consequential damages), whether arising before or after completion of the performance of the Services covered by the Agreement, in any manner caused or claimed to be caused by the acts, omissions, faults, breach of express or implied warranty, breach of any of the provisions of this Agreement, or negligence of Supplier, or of anyone acting under its direction or control or on its behalf, in connection with Services or any other information furnished by Supplier to EIT UM under the Agreement.

Supplier warrants that it has taken out sufficient insurance against the aforementioned damage, costs and interest, or has made a sufficient provision for this purpose and is obliged to fully disclose to EIT UM immediately upon initial request all the (policy conditions of the) aforementioned insurance(s) and/or provisions. Supplier shall indemnify EIT UM and shall pay its insurance proceeds to EIT UM and furthermore indemnify for the excess amount of the total claim of damages that is not covered by the insurance of Supplier or any other insurance. EIT UM shall be entitled to take legal action against Supplier.

Neither Party excludes or limits its liability for death or personal injury arising from its own negligence, fraud, breach of confidentiality or for any liability that cannot by law be excluded or limited.

Subject to Section 9.3 In no event shall EIT UM be liable under any theory of liability, for indirect, incidental, special, consequential or punitive damages, which includes without limitation damages for lost profits or revenues, lost business opportunities, loss of image or lost data, even if EIT UM has been advised of the possibility of such damages and in no event shall EIT UM be liable to Supplier, its successors or assigns for damages in excess of the amount due

to Supplier for complete performance under the Agreement, less any amounts already paid to Supplier by EIT UM.

Subject always to Section 9.3., depending on the nature of the Services and the liability risk associated therewith, a cap to the liability of Supplier under this Agreement may apply only if expressly mutually agreed in writing in Annex 1.

Suspension, termination of the Agreement

The Agreement is entered into as from the Effective Date specified in Annex 1 and shall end by operation of law, without the requirement of prior notice of termination, on the date the last of the Services have been delivered by Supplier, accepted and paid by EIT UM ("**Term**").

As an exception to the above, EIT UM may suspend, withdraw, dissolve or terminate this Agreement fully or partially with immediate effect without incurring any penalty or compensation if and as soon as:

- (a) Supplier breaches any of its material obligations under this Agreement and, notwithstanding a written request from EIT UM to repair the current breach and to take appropriate measures to prevent such a breach in the future, fails to comply with such a request within a reasonable deadline fixed by EIT UM in the notice; or
- (b) EIT UM, in its reasonable discretion, determines that Supplier is not able to perform the Services as required; or
- (c) Supplier fails to provide EIT UM with adequate assurance of performance following request by EIT UM; or
- (d) Supplier files a petition for bankruptcy or is declared bankrupt; or
- (e) Supplier has become unable to pay its debts as they fall due or make any special arrangement(s) or composition with its creditors;
- (f) Supplier enters into voluntary or judicial liquidation;
- (g) the business of Supplier ceases to exist or control or ownership is taken over by a third party;
- (h) as a result of the termination of the European Programme(s) which requested EIT UM to enter into this Agreement (as the case may be).

As from receipt of a termination notice from EIT UM (under any legal ground), Supplier shall take immediate steps to bring the terminated Services to a closure in a prompt and orderly manner and to reduce expenditure to a minimum.

Supplier may, after giving 14 calendar days written notice to EIT UM, terminate the Agreement if EIT UM:

- (a) Fails for more than 120 calendar days to pay Supplier the amounts due after the expiration of the payment term stated in Section 4; or
- (b) Consistently fails to meet its material obligations after repeated reminders; or
- (c) Suspends the progress of the Services or any part thereof for more than 90 calendar days for reasons not specified in the Agreement, or not attributable to Supplier's breach or default.

Safeguarding of EU's financial interest and conflict of interest

Supplier accepts without reservation that during the implementation of the Agreement and for four (4) years after the completion of the Agreement, EIT UM has the right for the purposes of safeguarding the EU's financial interests, the tender proposal and the Agreement with Supplier may be transferred to internal audit services, the EIT, to the European Court of

Auditors, to the Financial Irregularities Panel or to the European Anti-Fraud Office ('safeguarding the EU's financial interests').

Supplier confirms that it shall take all measures to prevent any situation where the impartial and objective implementation of the Agreement is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest ('conflict of interests'). The contractor is obliged to inform EIT UM immediately if there is any change in the above circumstances at any stage during the implementation of the tasks under the Agreement.

Miscellaneous

All notices given under this Agreement shall be given in writing. Any subsequent change of address shall be promptly notified by the Party concerned to the other Party and embodied in an amendment to the preamble of this Agreement.

In the event that Supplier is prevented from performing any of its obligations under the Agreement for reason of force majeure (being an event unforeseeable and beyond the control of Supplier) and Supplier has provided sufficient proof for the existence of the force majeure, the performance of the obligation concerned shall be suspended for the duration of the force majeure. EIT UM shall be entitled to terminate the Agreement with immediate effect by written notice to Supplier, immediately if the context of the non-performance justifies immediate termination, and in any event if the circumstance constituting force majeure endures for more than thirty (30) days and, upon such notice, Supplier shall not be entitled to any form of compensation in relation to the termination. Force majeure on the part of Supplier shall in any event not include shortage of personnel or production materials or resources, strikes, not officially declared epidemic or pandemic, breach of contract by third parties contracted by Supplier, financial problems of Supplier, nor the inability of Supplier to secure the necessary licenses in respect of software to be supplied or the necessary legal or administrative permits or authorizations in relation to the Services to be supplied.

Supplier shall not transfer, pledge or assign any of its rights or obligations under the Agreement without the prior written consent of EIT UM. Any such pre-approved, transfer, pledge or assignment shall be null and void and have no effect vis-à-vis such third party.

The rights and remedies reserved to EIT UM are cumulative and are in addition to any other or future rights and remedies available under the Agreement, at law or in equity.

Neither the failure nor the delay of EIT UM to enforce any provision of the Agreement shall constitute a waiver of such provision or of the right of EIT UM to enforce each and every provision of the Agreement.

No course or prior dealings between the parties, no course of performance, and no usage of the trade shall be relevant to determine the meaning of the Agreement and to modify the provisions of this Agreement.

No waiver, consent, modification or amendment of the terms of the Agreement shall be binding unless made in a writing specifically referring to the Agreement signed by EIT UM and Supplier.

In the event that any provision(s) of this Agreement shall be held invalid, unlawful or unenforceable by a court of competent jurisdiction or by any future legislative or administrative action, such holding or action shall not negate the validity or enforceability of any other provisions of the Agreement. Any such provision held invalid, unlawful or unenforceable, shall be substituted

by a provision of similar import reflecting the original intent of the clause to the extent permissible under applicable law.

All terms and conditions of the Agreement which are destined, whether express or implied, to survive the termination or the expiration of the Agreement, including but not limited to Intellectual Property, Confidentiality and Personal Data, shall survive.

The Agreement shall be governed by and construed in accordance with the laws of the country or state in which the EIT UM ordering entity is located, as applicable.

Supplier and EIT UM each consents to the exclusive jurisdiction of the competent courts in (i) the country or state in which the EIT UM ordering entity is located; or (ii), at the option of EIT UM, the jurisdiction of the entity of Supplier to which the order was placed, or (iii), at the option of EIT UM, for arbitration in which case Section 12.12. applies. Supplier hereby waives all defences of lack of personal jurisdiction and forum non-convenience.

If so chosen by EIT UM in accordance with Section 12.11, any dispute, controversy or claim arising out of or in connection with this Agreement, or their breach, termination or invalidity shall be finally settled solely under the International Chamber of Commerce Rules of arbitration, which Supplier and EIT UM declare to be known to them. Supplier and EIT UM agree that: (i) the appointing authority shall be the ICC-International Chamber of Commerce of Paris, France; (ii) there shall be three (3) arbitrators; (iii) arbitration shall take place in the jurisdiction of the EIT UM entity mentioned in the recitals or, at the option of EIT UM, the jurisdiction of the Supplier's entity mentioned in the recitals; (iv) the language to be used in the arbitration proceedings shall be English; and (v) the material laws to be applied by the arbitrators shall be the laws as determined under Section 12.10.

The United Nations Convention on International Sale of Goods shall not apply to the Agreement.

Drawn up on [DATE] and signed in two copies:

EIT UM	[company name]
[name of representative]	[name of representative]
[position of representative]	[position of representative]

Annex 1 to the Service Agreement

In addition to the general terms and conditions specified in the body of the Service Agreement, the Parties hereby agree on the following specific conditions and details:

Description and timing of the Services subject to the procurement procedure (as per the Whereas section, Section 3.1., of the Agreement) and detailed description of the types of Services and Deliverables (as per Section 6.2 of the Agreement) covered by the Agreement:

- Task 1
- Task 2

Price of the Services (as per Section 4 of the Agreement):

In application of Section 4.1. of the Agreement, the following Services shall be remunerated on the basis of an hourly rate, fixed per type of Services, as follows:

Services	Price
[subject of the services]	[(unit) price of the services]

Charging the compensation to EIT UM (as per Section 4. of the Agreement)

Supplier may charge the amounts of the Agreement at the end of the following period:

Payment 1 – [description]	[date]
Payment 2 - [description]	[date]
Payment 3 - [description]	[date]

Payment term applying to Supplier invoices (as per Section 4 of the Agreement):

Payment term (expressed in calendar days)	30 days
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Term of the Agreement (as per Section 10 of the Agreement):

In application of Section 10.1. of the Agreement, the Effective Date on which the Agreement starts and the Termination Date on which the Agreement shall terminate automatically are set forth below:

Effective Date (start of the Agreement)	Termination Date (i.e. date on which the last Service is expected to be delivered and paid)
[starting date of the contract]	[end date of the contract]