

TD4

Framework agreement for the procurement of wave energy
research and development services

TURBOWAVE PROJECT

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1 Preamble

This document constitutes a framework agreement (hereinafter referred to as the Agreement) between the following parties:

On the one hand, as the contracting authority

ENTE VASCO DE LA ENERGÍA (EVE), with CIF Q5150001E and registered office at Edificio Plaza Bizkaia, Alameda de Urquijo, 36 - 1ª Planta - 48011 Bilbao (Bizkaia), Spain.

And, on the other hand, as contractor

[insert details of the companies awarded the contract]

By signing this framework agreement, the parties agree to deploy Pre-commercial Public Procurement in accordance with the terms and conditions set out herein.

2 Terms and Conditions

Article 1. Definitions

The provisions of the agreement shall be interpreted in accordance with the following definitions:

“Award criteria” refers, at each stage, to the criteria used to identify the most advantageous proposal on the basis of the Pre-commercial Procurement (PCP) specifications set out in the “TD1_Request for Tenders” Document.

“Call back provisions” are incentives established in this PCP for the contractor to pursue commercialisation of the results generated in this PCP. In relation to Intellectual and Industrial Property Rights (IIPR), it is stipulated that if a contractor abuses its IIPR generated during the PCP against the public interest, or fails to commercialise the results within the timeframe established in this agreement for that purpose, EVE can recover ownership over those rights.

“PCP Challenges” refers to the content of the “TD2_TurboWave Challenge”, as well as to section 2.3 of the “TD1_Request for Tenders” Document, where the challenge of the project and the objectives set for each phase are summarised, specifying the results and deliverables of each phase.

“Commencement date” is understood as the date indicated in the preamble to this agreement.

“Contractor” refers to the person, firm, company or organisation (including all members of any TJVs or consortiums) with whom the contractor enters into this Framework Agreement and is named in this preamble.

“Representative” refers to the person who holds a legally valid power of attorney to represent one of the parties specified in the preamble to the agreement. His/her acts shall be binding on the represented party.

“Confidential Information” refers to any information that has been qualified as confidential or equivalent (classified, restricted or secret) by the sharing party, or is to be treated as such, whether or not it is designated as confidential, regardless of the means of transmission and/or storage. Information relating to the business affairs, properties, assets, business practices, goods, services, developments, trade secrets, IIPR, know-how, personnel, customers and suppliers of any party, all personal data and data protected under data protection legislation and other commercially sensitive information shall be considered confidential.

“Days”: unless otherwise specified, the time limits set out herein shall be understood to be calendar days.

“Data” is understood as information generated by the project and stored or exploited for the purpose of research, irrespective of the means of collection or processing.

“Breach” is understood as any violation by the parties of the provisions of the “TD1_Request for Tenders” Document, the remaining documentation that constitutes this PCP, the Framework Agreement and the Call-Off Contract

“Deliverable” is understood as any document, product or item of any kind that is submitted by the contractor in fulfilment of its obligations under this agreement or the “TD1_Request for Tenders” Document.

“Results dossier” refers to a written deliverable to be submitted by the contractor at the end of each phase, containing all the information necessary for the closure of the phase and evaluation of the works, as well as the document identifying all the deliverables submitted.

“Fair and reasonable terms” are understood as appropriate terms, including those relating to the non-application of royalties or other financial terms, taking into account the specific circumstances for access, including in particular the current or potential value of the foreground or background to which access is requested or the scope, duration or other characteristics of the intended exploitation.

“Framework Agreement”, or “Agreement”, refers to the present document signed between the parties and containing the terms and conditions with respect to the implementation of the TurboWave PCP project, regulating the activities framed in all phases of the project. The

Framework Agreement includes the annexes attached to it and especially the Call-Off Contracts that are signed with the successful bidders of each of the phases.

“Fraud” is understood as any violation of applicable national or international regulations by acts of a malicious nature. Irrespective of whether or not it creates a detriment to another party or third parties. Fraud shall mean deliberate deception for the purpose of obtaining an unlawful gain.

“Requirements” refers to the specifications set out in the “TD1_Request for Tenders” Document, and all other documents that constitute the PCP, where the results to be obtained in each phase and the project as a whole are characterised.

“PCP-generated” refers to all results, rights or products derived from the execution of the activities described in the PCP Framework Agreement, the PCP-Call-Off Contracts and the “TD1_Request for Tenders” Document.

“Monitoring Committee” refers to the team designated and composed of EVE members or designated third parties to ensure the proper implementation of the project and to monitor the achievement of the expected results, as well as ensuring compliance with IIPR and Royalty obligations by the Contractor.

“Phase” is understood as an individual and separate part of the PCP implementation, described in the TurboWave project Request for Tenders Document.

“Personal data” refers to data qualified as such in the current and applicable legislation on the protection of personal data.

“Price” is understood as the total amount, expressed in euros, exclusive of VAT but including any other taxes and duties, and agreed between the parties for each phase of the project, to be paid by the contracting authority to the contractor on the basis of the terms and conditions of this Agreement.

“Research” is understood as the subject matter of the work (Research and Development Services) specified in Article 4 of the Agreement.

“Services” refers to the works to be provided by the contractor in performance of the agreement.

“Call-Off Contract” is understood as the phase-specific contract for the R&D services to be provided, to be signed between the contracting authority and each contracting party selected for each phase and which shall be incorporated as an Annex to this Agreement.

Likewise, section 7.1 of the “TD1_Request for Tenders” Document specifically defines the following concepts: “Pre-existing Intellectual and Industrial Property Rights”, “Do not commercially exploit the results”, “IIPR or acquired knowledge”, or “results”, “Intellectual and Industrial Property Rights (IIPR)”, “License”, “Exclusive license”, “Non-exclusive license”, “Royalties”, “Innovative Solution”, “Results” or “Generated results”.

For any other terminology used in this document, the reader is referred to the definitions specified in the “TD1_Request for Tenders” Document and other documentation that constitutes the project and is available to the parties.

Article 2. Purpose of the Framework Agreement

This Framework Agreement defines the general terms and conditions for the procurement of R&D services with the purpose of conducting the TurboWave PCP project, the scope of which is defined in article 4 of the Agreement.

The Agreement shall constitute the regulatory framework for the Call-Off Contracts to be signed with the contracting parties for each phase of the project, as appropriate and following the award decision, as well as the framework to regulate the rights and obligations derived from the TDII, the exploitation and commercialisation of results and the payment of Royalties that will remain in force after the termination of the Call-Off Contracts.

Article 3. Duration

This Agreement shall enter into force on the date of signature and shall continue until the obligations assumed by the intervening parties are fulfilled, and in particular, those relating to the

rights and obligations arising from IIPR, the exploitations and commercialisation of results and the payment of Royalties. The foregoing shall not apply as long as the contract has been terminated pursuant to the provisions of article 23 of this Framework Agreement.

Likewise, the period of execution of the obligations contracted in the Call-Off Contracts may only be extended with the express written agreement of the parties before the expiration of the period of execution of said obligations.

Article 4. Scope of the contract

4.1 The contractor shall provide the R&D services (tasks, deliverables and milestones) to develop the solutions that meet the challenges set out in the “TD1_Request for Tenders” Document, TD2 TurboWave Challenge and Call-Off Contracts for each phase, and all other documents that regulate the PCP, in accordance with the rules established in the framework of State aid for R&D&I.

R&D covers fundamental, industrial and experimental research, according to the definition given in the framework of EU R&D&I state funding. It can include exploring and designing solutions and creating prototypes up to the original development of early products or services in the form of a series of tests. The original development of a series of a first product or service may include limited production or supply to incorporate the results of field tests and demonstrate that the product or service is suitable for production or supply in quantity with acceptable quality standards.

4.2 The contractor irrevocably undertakes to submit bids for each of the phases if invited to do so and to carry out the phase R&D activities aimed at creating, prototyping and field testing the “Innovative Solution”, in the time and manner described in this Framework Agreement and in the Call-Off Contracts in accordance with the specifications of the tender. The activities must comply with the following paragraphs and within the limits of royalty-based compensation, also as specified in the tender documentation.

4.3 The Contractor undertakes to settle the obligations arising from this Framework Agreement by its own means, organisation, and management at its own risk.

4.4 The Contractor undertakes to comply with all deadlines established for the provision of services, including those foreseen for the delivery of Deliverables.

4.5 During the execution of the Framework Agreement and without any interference in the internal processes of the Contractor, EVE reserved the right to periodically verify the exact fulfilment of the contractual services.

4.6 Meetings shall be agreed and held between the Contractor and the Monitoring Committee. In addition, the monitoring of each phase will be carried out periodically with the aim of complying with the results agreed in each phase.

4.7 All participants in the tender must comply with the rules established for all stages of the process.

The offers related to the different phases of the process will be analysed and scored according to the criteria established in the documents that regulate the PCP.

Deliverables will be analysed and assessed according to the “satisfactory” and “successful” completion criteria specified in sections 6.2 and 6.3 of the “TD1_Request for Tenders” Document.

4.8 Subject to the terms and conditions of this Framework Agreement, EVE undertakes to pay the Contractor the amount corresponding to Phase I and, where applicable, the amount corresponding to Phase II and Phase III of the procedure under the condition of the satisfactory completion of the same.

4.9 The object of the contract will be executed in the facilities of the successful bidder, with the exception of the tests that must be carried out during Phase II (location to be chosen by the contractor) and during Phase III (tests to be carried out at the Mutriku plant – MWPP – owned by Biscay Marine Energy Platform, S.A. – BiMEP). All this, without prejudice to the itinerant meetings that may take place throughout the project.

Article 5 - Price, method of payment and accounting

5.1 The price of the R&D services to be provided in the PCP shall correspond to that indicated and broken down in the proposal of each bidder for each phase.

The amount offered has been calculated by the Contractor at his own risk, based on his calculations, expert opinions, estimates etc., so it is fixed and will not vary over time, regardless of any type of unforeseen event or contingency. Therefore, the Contractor assumes all risks related to the activities, including those related to the payment and/or fulfilment of the duties and obligations arising from the execution of R&D activities and compliance with laws, regulations and provisions that have been or will be promulgated by the competent authorities. In this regard, the Contractor shall not be entitled to other remuneration, nor to adjust, revise or increase the aforementioned compensation. Unexpected expenses arising from nay change shall be borne exclusively by the Contractor without additional financial burden for the Contracting Authority.

In this regard, EVE will pay the cost referred to the provision of R&D services, not being required to pay the costs of applying penalties and/or damages derived from the R&D services provided that the Contractor may have had to face

In relation to the cost of the profiles, proposed for the execution of each phase of the project, these must remain constant in all the phases with regard to the hourly price proposed. The above is also applicable if in successive phases new categories of profiles are incorporated. Any modification thereto must be expressly approved in writing by EVE, and under no circumstances may such modification entail an increase in the total amount stipulated for each phase in the initial proposal.

5.2 Payment and invoicing conditions are specified in section 6.6 "Payments based on satisfactory achievement of milestones and deliverables for each phase" of the "TD1_Request for Tenders" Document, which refers to the milestones set out in TD2 TurboWave Challenge.

5.3 Invoices are to be presented in euros and payments are to be made in euros. The tax base shall include all applicable taxes and fees, excluding VAT. The contractor shall state in the invoice the price with and without Value Added Tax (VAT) separately, according to the current rate. Any other amounts (including sales, services, uses, inputs, leases, excise, withholding or goods), taxes, levies, duties, fees or duties associated with the contractor's performance of the contract or which may be levied on the price, shall be the responsibility of the contractor. Payments to third parties contracted or subcontracted by the contractor shall be the responsibility of the contractor, who shall ensure timely payment.

5.4 EVE may at any time require evidence, as far as is reasonably necessary, that the contractor has used the amounts paid in accordance with the contract. The contractor shall maintain proper and identifiable accounting and financial records of the project throughout the performance of the project and up to five years after its completion.

Article 6. Sharing of IIPR-related risks and benefits under market conditions

6.1 The public entity that launches a PCP acquires R&D services at market price, thus providing contractors with a competitive and reliable, transparent source of financing for the early stages of their research and development. The granting to each contractor of Intellectual and Industrial Property (IIPR) linked to the results generated during the PCP means that it can widely exploit the new commercially developed solutions. In return, there must be financial compensation maintaining ownership of IIPR compared to the case where IIPR were transferred to the procuring entity: in this PCP, such compensation shall materialise through the payment of royalties. In addition, EVE and BiMEP (owner of the Mutriku plant) must receive rights to use the R&D results for internal use and use licenses under the conditions specified in this document.

6.2 For the purpose of what is regulated in this document in relation to rights of use of the R&D results for internal use and license rights in favour of EVE (Contracting Entity) it will be understood that it will also be applicable to BiMEP.

Article 7. Pre-existing rights (Background) and Sideground (including Intellectual and Industrial Property Rights, IIPR)

7.1 The ownership of pre-existing rights shall remain immutable and non-transferable. All pre-existing IIPR used or supplied for the purposes of the Agreement shall be the property of the contributing party (or, as the case may be, the third party that licensed them to the contributing party) and nothing contained in the Framework Agreement or any license agreement related to or under the Turbowave project shall affect the proprietary rights of either party (or any third party) in their pre-existing rights.

7.2 The parties grant each other access to each other's pre-existing rights and rights generated for the proper execution of the tasks assigned in the course of the PCP, on the occasion of the exploitation of results generated in the PCP and for the use of the results for their own purposes.

7.3 The Contractor shall provide EVE with complete and exhaustive written information on the relevant and significant IIPR that the Contractor (and/or any of its subcontractors) owns or is using or to which it has access that belongs or may belong to the Turbowave PCP project or any part thereof based on the documentation and in accordance with the requirements set out in section "7.3 Pre-existing Rights" of the "TD1_Request for Tenders" Document.

7.4 The Contractor shall duly inform EVE of the generation or change of pre-existing rights and sideground within fifteen (15) days of the generation or change.

In any case, the Contractor shall guarantee that the IIPR generated during this Agreement are original. Likewise, he/she will be liable for all claims that may be made by third parties in relation to their ownership, as well as for damages that may be caused to EVE for such reasons.

7.5 The Contractor shall, upon request from EVE, grant to the latter and its investee company BiMEP, a non-exclusive and free license to use the relevant and significant pre-existing IIPR that are necessary for the use of the Results and for the purpose of executing the Turbowave project, as well as for non-commercial research purposes.

The parties grant each other access to pre-existing rights and rights generated in the PCP to perform the tasks assigned to each other in the PCP, for the exploitation of results generated in the project or for the use of the results for their own purposes, as well as their participating entities.

Article 8. Rights and obligations related to results (Foreground)

8.1 The Results and Intellectual and Industrial Property Rights generated in the course of this Framework Agreement that protect the innovative solution to be developed, and the corresponding economic exploitation rights, are the exclusive property of the Contractor who conceived and created the Innovative Solution. Therefore, the Contractor fully holds the exclusive exercise of the exploitation rights of the solutions developed in any form and modality worldwide.

8.2 For results that involve an implementation of specifications designed for simulations, prototypes, demonstrations or first products/services, these results are limited in time to the deadlines set in article 11.2 and for the achievement of the R&D objectives of the PCP: to accelerate the development of air turbine technologies that are adapted to the needs of the wave power sector in general and to the specific technical requirements of the Mutriku Wave Power Plant in particular.

8.3 The Contractor will grant EVE and its investee company BiMEP an irrevocable, indefinite, worldwide, royalty-free and non-exclusive license to use, without commercial purposes and at no additional cost, all Project Results, including Intellectual and Industrial Property Rights of the Project, of what has been achieved with respect to the implementation of the solution design (Phase I), the development of the prototype (Phase II) and the original development of a limited volume of first products (Phase III). If the Results constitute software, the license shall be extended, under the same conditions described above, to all updates and upgrades thereof during the tests established to prove the validity of the Results.

8.4 EVE has the right to require that the Contractor licenses (without the right to assign or sublicense) the commercial exploitation rights of the results derived from the research and development activities subject to the PCP procedure, without exclusivity to interested third parties, under fair and reasonable market conditions, defined at the proposal of the Contractor and validated by EVE through expert consultation. In any case, the Contractor and interested third parties are responsible for establishing fair market conditions. 8.5 If the Contractor (or any of its sub-Contractors) generates Project Intellectual and Industrial Property Rights, whether the Contractor (or sub-Contractors) intends to file for protection of it or not, the Contractor shall, within 30 days from such generation, inform the Procurer about the contents of such Project Intellectual and Industrial Property Rights.

The Project Intellectual and Industrial Property Rights shall remain vested within the Contractor. Subject to next point "Commercial exploitation of results", the Procurer shall enjoy the right to require the Contractor, upon express request from the Procurer, to transfer the ownership of the

Results to the Procurer free of costs or to grant non-exclusive licenses to third parties on the Results and Foreground IIPR developed in the Project, at fair and reasonable market conditions free of costs. The Contractor and these third parties are responsible for establishing the fair market conditions.

8.6 The Contractor undertakes not to transfer ownership of such rights without the prior written consent of the Contracting Authority, in order to ensure the achievement of public interests.

Article 9. Exploitation of Intellectual and Industrial Property Rights (IIPR)

9.1 Contractors and subcontractors must inform EVE of the results that can be exploited, regardless of whether they can be protected or not, within thirty (30) days of their generation. The information provided to EVC should include details of the content of the results, confirmation by the contractor of its intention to protect them, and the plan and time frame envisaged for enhancing its protection.

9.2 Except as otherwise provided in the Framework Agreement, the Contractor shall take all appropriate and necessary measures to ensure the proper management and protection of project IIPR. The Contractor shall be liable at its own expense, and assuming the costs that may arise of the application, examination, granting, management and protection of the IIPR in relation to the Results of the project.

The Contractor undertakes to protect the Results with professional diligence, depending on their nature and the maximum protection achievable based on applicable laws. The Contractor, therefore, must legally protect the Results as soon as possible and within a maximum period of three (3) months.

To legally protect the Results, the Contractor may also timely and accurately submit specific applications for exclusivity (including, but not limited to, an industrial invention patent, a model, as well as the adoption of security measures intended to keep the results secret). Legal protection also includes the adoption of documentable contractual and technical measures aimed at keeping the results secret. The Contractor will be in charge of legally protecting the Results, in a documented manner, with the aim of allowing the best commercialization of the Innovative Solution. And in particular, by way of example, but not limited to, the Contractor shall ensure that:

- a) The Project Results are carefully identified, recorded and distinguished from the results of other Research and Development activities not covered by the Project.
- b) Prior to any publication of the Project, patentable inventions arising from the Results, duly considered for patentability, are identified and, where it is reasonable to do so, patent applications thereon are filed in the Member State concerned or with the European Patent Office (the Contractor shall proceed with a national or supranational territorial limitation, depending on your strategy.).
- c) All such patent applications are carried out and processed expeditiously taking into account all relevant circumstances.

The Contractor shall bear all costs and expenses related to the protection of the results, including those related to the possible filing of applications for patents or other forms of industrial property rights. The Contractor also assumes all costs and expenses related to the maintenance of the patent application or any form of legal protection chosen and its possible extension.

9.3 In order for the Contractor to exercise the protection of industrial and/or intellectual property rights, the Contracting Authority undertakes not to make any communication and/or use related to the Innovative Solution within three (3) months following the end of the CPP, unless expressly authorized by the Contractor or except for the content provided for in deliverables for specific communication purposes.

After three (3) months from the end of the execution of the PPP, EVE, and its investee company BIMEP, will be entitled to use the Results, as well as the drawings, designs and everything else presented by the Supplier during the aforementioned CPP procedure. The Results can be used for internal purposes: by way of example, but not exhaustively, to carry out analyses, to formulate a possible need for the acquisition of technologies with characteristics similar to those found in the Innovative Solution derived from the PPP procedure, etc. The Contractor, therefore, may not

restrict EVE and BIMEP from internal use of the Results, if they have complied with the deadline mentioned above.

After three (3) months following the end of the pre-commercial execution, EVE will have the right to proceed with the dissemination -without prejudice to the intellectual and industrial property rights- of the Results, understood as the performance, the technical characteristics, as well as the motivations for choosing the innovative solution.

9.4 If the Contractor fails to act to protect the Innovative Solution (the Intellectual and Industrial Property Rights of the Project, or any other proprietary rights in the Results to be protected) within the three (3) month period set out in paragraph 9.2, EVE shall be entitled to acquire the rights free of charge.

In addition, EVE shall be entitled to enhance the rights by, by way of non-exhaustive example:

- Release of the Results, in whole or in part, into the public domain, making the Results available to the community in the most appropriate ways, without the Contractor having the right to claim or receive any compensation.
- Any other form of valuation to be identified.

This acquisition is free of charge and without the Contractor having the right to claim from EVE or receive any compensation from it.

To exercise the above options, EVE, after the period of three (3) months established in section 9.3, must communicate to the Contractor a statement stating the willingness to acquire the rights related to the Results. Within fifteen (15) days following receipt of the aforementioned declaration, the Contractor may inform EVE of the existence of objective causes that prevent the achievement of full legal protection of the Innovative Solution. EVE, having become aware of the statements issued by the Contractor, shall inform the Contractor, within fifteen (15) days of receipt of such statements, of its willingness to revoke or confirm the acquisition of the rights.

9.5 If the Contractor becomes aware of any product or activity of a third party that involves or may involve an infringement or other violation of the Project's Intellectual and Industrial Property Rights, or any other proprietary right in the Results, the Contractor shall promptly notify EVE of the infringement or infringement.

9.6 The Contractor shall take all appropriate measures to protect or defend such Project Intellectual and Industrial Property Rights, or any other proprietary rights in the Results. The Contractor shall carry out and bear the costs of such procedures.

However, EVE will be able to:

- a) Supervise/audit the fulfilment of the procedures and the Contractor undertakes to take into consideration EVE's comments on the fulfilment of the procedures.
- b) Provide assistance, within reason, to the Contractor with respect to initiating any action.

The Contractor shall permit EVE to control the operation and effectiveness of the Contractor's procedures for the management of the Project's Intellectual and Industrial Property Rights in such manner as EVE reasonably deems necessary. The Contractor shall also ensure the proper management of the Intellectual and Industrial Property Rights of the Project in accordance with the terms and conditions of this Framework Agreement:

- The Contractor shall promote the dissemination of Project Results.
- Where exploitable, the Contractor shall commercially exploit the Intellectual and Industrial Property Rights of the Project, as well as the other Results (even if they cannot be protected by Intellectual and Industrial Property Rights) in order to generate revenue through the commercialization of commercial applications thereof.

Article 10. Commercial exploitation of results

10.1 The contractor shall, for at least the periods set out in Article 11.2 of this Framework Agreement, take measures and make all necessary diligent efforts to:

- Ensure that the results of the project are exploited commercially (directly or indirectly, through commercial agreements) to other potential users, based on the definition provided.
- Make all the diligent efforts necessary to implement the Technological Development Plan contributed at the end of Phase III, make significant advances in the technological development roadmap to contribute to the development of the TRL and bring the system to the target market successfully.

10.2 EVE shall have the right to require the Contractor to transfer ownership of the Results and IIPR generated at no cost ("call-back" option) or to grant non-exclusive licenses to interested third parties designated by EVE on the Results and the IIPR developed in the Project (Foreground), with the right to develop and commercially exploit them, free of charge in the following cases:

- a) If within four (4) years after the end of the PPP, the Innovative Solution has not been commercialized or exploited, the Technological Development Plan provided at the end of Phase III has not been implemented and/or significant progress has not been made in the technological development roadmap to contribute to the development of the TRL and bring the system to the target market successfully.

The aforementioned period of four (4) years may be extended, upon reasoned request of the Contractor to EVE, until the time objectively necessary to carry out, with criteria of professional diligence, an effective commercialization and / or significant technological advance of the Innovative Solution.

- b) If the Contractor fails to fulfil its obligation to commercially exploit the results within ten (10) years after the completion of the PPP, or if the commencement of commercialization commences after four (4) years have elapsed from the completion of the PPP, within six (6) years from the date of commencement of commercialization of the Innovative Solution.

The acquisition of rights by call-back is free of charge without the Contractor being entitled to any claim against EVE or to receive any compensation from it.

10.3 Likewise, EVE will be entitled to execute the "call-back" option mentioned above in the following cases:

- i) Where the Contractor uses the results to the detriment of the public interest (including security interests). By way of example, but not limited to, in the case of PPP contracts, it will be considered that the Contractor is acting to the detriment of the public interest:
 - When the Phase III Call-Off Contract is successfully completed and a marketable product is available but the contractor does not participate in subsequent tenders that the Public Administrations call for the purpose of contracting the products, technology, solution or similar resulting from this Agreement, or does so with prices above market prices.
- ii) Where the Contractor does not submit a tender for the next phase when invited to submit the next phase.
- iii) Where the Contractor fails to submit documentation prior to awarding the contract, fails to enter into the relevant Call-Off Contract or abandons the project without good cause.
- iv) When the Contractor, without fully justified and documented reason at the discretion of EVE, decides to abandon the project once the corresponding Call-Off Contract has been formalised.
- v) Where the Contractor fails to act to protect the Innovative Solution as stipulated in paragraph 9.4.
- vi) When the Contractor does not submit the final deliverable of the execution phase in which it is within the period granted or does not satisfactorily correct the final deliverable within the period granted for that purpose as regulated in section 6.2 of the "TD1_Request for Tenders" Document.
- vii) When the Contractor carries out actions or omissions that prevent the correct monitoring of the exploitation of the results generated. By way of example, but not limited to:

- a. Failure to submit the reports described in section 12.2, accounting documentation or any other documentation requested by EVE or its auditors appointed to carry out the monitoring of the exploitation of generated results, or manifestly falsify or omit information contained in such documents fraudulently (data related to the sale of the Innovative Solution or R+D Results, TRL achieved, actions to implement marketing and technological plans, etc.) in order to evade the obligations and responsibilities that are required of the Contractor.
 - b. Not keeping separate accounts to distinguish the net sales of the Innovative Solution (or its components) linked to the Turbowave project effectively.
- viii) In general, when the actions or omissions carried out by the Contractor are prejudicial to the objectives to be achieved with the launch of the PCP of the Turbowave project.

10.4 In the event that EVE exercises the right to require the transfer of ownership, the contractor shall ensure EVE's access, free of charge, to all Background and Sideground necessary to exploit the results (including source code and designs with all documentation).

10.5 The Contractor must duly inform EVE about the start of the commercialization of the Results and IIPR within thirty (30) days from the formalisation of the first sale.

Article 11. Financial compensation (Royalties)

11.1 EVE is entitled to receive financial compensation in the form of royalties on the sales obtained by the Contractor or Contractors awarded Phase III, through the commercialization of the Innovative Solution or R+D results generated during the PCP.

11.2 This share of sales revenue is set at an amount equal to 8% of net annual sales, limited to the Innovative Solution (or any of its components) protected by industrial and/or intellectual property rights, for a period of ten (10) years from the date of commercialization of the Solution itself from the end of the CPP (termination or termination of the Phase III Based Agreement).

11.3 The obligation referred to in the preceding paragraph extends to operators to whom the Contractor assigns commercial exploitation rights free of charge or for consideration. The Contractor is obliged to enforce the obligations arising from the Contract vis-à-vis the purchasers of the industrial and/or intellectual property rights relating to the Innovative Solution and its evolutions. The Contractor shall fully indemnify EVE in the event of breach of this clause by the third party holder of the rights.

11.4 The Contractor undertakes to keep separate accounting records with respect to sales of the Innovative Solution and assignments or concessions of industrial and/or intellectual property rights to third parties, which allows the calculation of the derived net sales to be calculated and accredited. The Contractor shall provide EVE, or third parties designated by EVE, with accounting documentation supporting such sales.

In case of exploitation by a third party or other entity belonging to the same business group of the Contractor of the results generated, the assignee is subrogated in this obligation with EVE.

11.5 EVE reserves the right to make periodic visits to the Contractor's offices, including through third parties designated by the Contractor, for the inspection of the accounting books, supporting documentation and everything necessary to control and verify the actual net sales derived from the exploitation of results and ownership of the intellectual and industrial property rights inherent in the innovative solution.

Article 12. Monitoring and reporting

12.1 In order to monitor the evolution of the contracted services, EVE reserves the right to request the Contractor, in addition to the deliverables and corresponding minimum documentation set for each phase, the preparation of specific reports in electronic and/or telematic format, containing the aggregated and summarised data relating to the contracted services, to be sent to EVE within fifteen (15) days from the date of the request, under penalty of the application of the penalties referred to in article 21.2.d. In particular, EVE reserves the right to request additional information, corresponding to the procedure in question, including copies of the annual financial statements. All reports and, in any case, all documentation of information and monitoring of the Contract, provided,

prepared and / or created by the Contractor in execution of contractual obligations, as well as all data and information contained therein, will be and will remain available to EVE.

12.2 EVE reserves the right to supervise the correct compliance, application and execution of all activities related to the management of IIPR, using, where appropriate, the support of third parties authorized for this purpose. This monitoring will also be carried out through the analysis of specific Reports requested from the Contractor, who must in any case send EVE the aggregated and summarized data related to the income derived from the sales of the Innovative Solution, with the modalities and deadlines indicated by it.

12.3 From the date of completion of the PPP, the Contractor undertakes to deliver annually to EVE a report certifying the net sales of the Innovative Solution (according to its evolution, in terms of improvement after the pre-commercial tender), the licenses granted and other acts of alienation of industrial and/or intellectual property rights, as well as the economic conditions under which the Innovative Solution was sold or the R+D results and intellectual and industrial property rights were granted and/or transferred to third parties. The report will also include follow-up information on the implementation of the Marketing and Exploitation and Technological Development Plans, and their updating. Failure to submit the annual reports, as well as any specific additional reports that EVE may request under Article 12.2, constitutes a breach of this Agreement.

12.4 EVE shall indicate to the Contractor the detailed content of the reports, as well as the ways in which such reports are sent. EVE, in the course of contractual execution, reserves the right to modify the obligations referred to in this paragraph.

12.5 In the event that the data referred to in the previous paragraph are not complete and/or there are discrepancies, the Contractor shall be obliged to deliver the complete and/or correct data within five (5) business days following EVE's request, without prejudice to the application of the penalties referred to in article 21.2.e.

12.6 In the event of a check, review, audit or investigation in order to avoid errors and irregularities, the Contractor shall be obliged to have and offer all documentation, records or any document that is required directly related to this Framework Agreement or any other contract signed between the parties involved.

In the event that this inspection procedure is carried out on site, the contractor shall be obliged to allow access to its premises as well as to provide the documentation referenced above when required.

Article 13. Provision of the work team

All personnel providing the service in connection with this Framework Agreement shall be subject to the same terms and conditions of service as normally applied to the contractor's staff, as well as the terms applicable to the contractor's personnel below.

The contractor may not discriminate on grounds of sex, race, disability, sexuality, age, religion or otherwise allow employment legislation to be infringed.

The contractor must ensure that the terms and conditions of the personnel employed or contracted, to provide the services contained in this Agreement and the "TD1_Request for Tenders" Document, contain the provisions on protection of intellectual and industrial property aligned with the provisions of this Agreement, as well as the rest of the terms and conditions applicable to the contractor's work team.

The Contractor shall ensure that any person employed or having a service contract with the Contractor in connection with this Framework Agreement complies with the rules and regulations of EVE applicable to the provision of such services to the contractor's personnel.

Article 14. Confidentiality

14.1 The parties shall keep confidential any data, documents or other material (in any format) that is identified as such at the time it is shared. This duty applies during the term of this Framework Agreement, without prejudice to the right of EVE to proceed with the dissemination - without prejudice to intellectual and industrial property rights - of the Results according to the deadlines

and requirements established in article 9.3. An agreement may be reached to extend the duty of confidentiality, which will be annexed as an addendum to this Agreement.

If the information has been identified as confidential only verbally, its confidentiality must be confirmed in writing within fifteen (15) days after it was shared verbally.

The contractor is fully responsible for the effective fulfilment, by its employees, consultants and collaborators, of the confidentiality obligations established in this clause and undertakes to impose this obligation of confidentiality on all those persons who, by reason of their position or job, come to know, directly or indirectly, of any information considered confidential.

In the event of a breach by the Contractor of the confidentiality obligations set forth herein, and without prejudice to clauses 22 and 23 of this Framework Agreement, EVE shall be entitled to terminate the Framework Agreement immediately, following irrefutable notification of termination sent by electronic means, or in case of material impossibility to perform such act through electronic means, by certified letter with acknowledgment of receipt, without prejudice to claiming additional damages.

14.2 The parties may disclose confidential information to their team or to third parties involved in the PCP only in the following cases:

- Knowledge of such information is required for the execution of PCP activities under this Framework Agreement and the Call-Off Contracts.
- They are subject to an obligation of confidentiality.

14.3 Confidentiality obligations cease to be in force in the following cases:

- The sending party agrees to withdraw the obligation of confidentiality from the receiving party.
- The information was already known to the recipient or was provided to him without obligation of confidentiality by a third party who had no obligation of confidentiality.
- The recipient proves that such information was acquired without the use of confidential information.
- The information is general and public knowledge, without implying any breach of confidentiality.
- The disclosure of information is required by national or regional regulations or by court/government order.

This does not change the security obligations that apply. Information that is considered classified in the European Union, by EVE or subject to a security recommendation, enhanced confidentiality shall apply.

Article 15. Advertising and communication

15.1 The contractor shall undertake the necessary communication activities to generate publicity about its participation in the procurement, and to promote the objectives and results of the PCP to a reasonable extent. These activities will be agreed with the Monitoring Committee and approved by the Contracting Committee.

15.2 EVE shall give precise and mandatory instructions to contractors in relation to the manner in which the activities referred to in the previous point are to be conducted.

15.3 The contractor undertakes to collaborate in the organization of those dissemination events promoted by EVE due to the PCP and the results achieved therein, without prejudice to that information qualified as confidential on which the publicity and dissemination measures will not be applied, which shall be explicitly declared as such by the contractors.

Article 16. Conflicts of interest

16.1 The contractor shall take all necessary measures to prevent a situation arising in which the impartial and objective performance of this Agreement or Call-Off Contracts is compromised for

reasons related to economic, political or national, family, personal or any other area of interest interests.

The contractor shall also take all necessary measures to prevent the situation where his professional activity (previous or current) affects the impartial and objective performance of this Framework Agreement or Call-Off Contracts.

16.2 The contractor shall promptly notify EVE of any situation that constitutes or could constitute a conflict of interest (including changes in ownership) and shall immediately take all necessary steps to remedy such situation.

16.3 EVE may instruct the contractor to take the necessary steps to remedy the situation.

Article 17. Ethical and research integrity

17.1 The contractor shall carry out the tasks assigned in the Framework Agreement and Call-Off Contracts, in compliance with the following:

- Ethical principles (including the best standards of research integrity).
- The applicable national, European and international legislation, as applicable.

The Contractor shall not:

- Conduct activities in a country outside the European Union, if these are prohibited in all EU member countries.
- Conduct activities that are not exclusively for civilian application.

The Contractor shall respect the fundamental principle of integrity in research, as enshrined in the European Code of Conduct for Integrity in Research.

The foregoing implies compliance with the following essential principles:

- Reliability in ensuring the quality of research reflected in the design, methodology, analysis and use of resources.
- Honesty in the development, entrepreneurship, review, reporting and communication of research in a transparent, fair and impartial manner.
- Respect for colleagues, research participants, society, ecosystems, cultural heritage and the environment.
- Responsibility for research from idea to publication, for its management and organisation, for training, supervision and mentoring, and for its wider impacts.

This means that contractors must ensure that persons carrying out research tasks follow good research practice and refrain from breaching the European Code of Conduct for Research Integrity.

17.2 Before commencing any activity involving an ethical conflict, the contractor shall send EVE a copy with:

- The opinion of any ethics committee that is necessary under national regulations.
- Any notification or authorisation for the execution of activities that involve an ethical conflict by national regulations.

Article 18. Protection of personal data

18.1 Contractors will be obliged to treat any personal information data confidentially in accordance with Organic Law 3/2018, of December 5, Protection of Personal Data and guarantee of digital rights (LOPD), as well as with 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).

18.2 Likewise, the data may not be communicated to third parties unless it is strictly necessary for the fulfilment of the purpose of the treatment of the legal obligations derived from the contract.

18.3 In addition, contractors may grant their staff access to the data, only if strictly necessary, for the management and monitoring of the Framework Agreement and the Call-Off Contracts.

Article 19. Obligation to retain documentation

19.1 First, in the event that EVE requests information related to this Framework Agreement, it is important to note that contractors must make it available to them.

19.2 In the event of audits, investigations, litigation or any other procedure, contractors shall be obliged to retain any relevant documentation, even if the term of the Framework Agreement has expired, until the conclusion of such procedures.

Article 20. Rules of execution of the contract

20.1. General execution obligations:

1. The contract shall be executed subject to the provisions of its clauses and the documents that make up the PCP, and in accordance with the instructions for its interpretation given to the successful tenderer by the contracting authority, the Monitoring Committee or the Contract Manager.
2. The execution of the contract shall be at the risk of the Contractor.
3. The Contractor shall be liable for the technical quality of the work carried out and for the services and services performed, as well as for any damage and consequences for the contracting entity or for third parties resulting from omissions, errors, inadequate methods or incorrect conclusions in the performance of the contract.
4. The contractor undertakes to provide the additional information and technical assistance necessary for the perfect use of the result of the contract (documents and all types of information).
5. The Contractor shall be responsible for the correct application of the contract and the risks of loss, both material and personnel and third parties, during the performance of the work.

20.2 Employment and social obligations, health and safety and prevention of occupational risks:

- a) The contractor, with respect to the personnel employed in the performance of the awarded work, is obliged to comply with the exact regulations in force in labour, Social Security, safety and health at work and prevention of occupational risks, and undertakes that the subcontractor company, where appropriate, complies with current legislation on labour matters with respect to its workers.
- b) The contractor will be obliged to ensure that the work, both in his company and with the companies he subcontracts, where appropriate, is carried out in decent conditions, being the agreement of the sector that they belong to applicable to the workers.
- c) The contractor shall have the knowledge, ability, resources and means necessary to comply with and enforce all provisions and rules applicable to the performance of the contract relating to health, safety and the environment, and shall hold the procuring entity harmless from any claim arising from incidents arising in connection with the performance of the contract.

The contractor will be responsible for health and safety in relation to its activities and will adopt all safety and hygiene measures at work as are relevant or necessary in order to the most perfect prevention of risks that may affect the life, integrity and health of workers, keeping the place in an adequate state, appropriately to avoid danger to people.

The contracting entity or its delegate may, at any time, carry out such inspections as it deems necessary to verify the contractor's compliance with safety and health or its preventive services, and shall be entitled to request the adoption of additional measures or which are considered to have been breached at the successful tenderer's expense or suspend all or part of the performance of the contract if the successful tenderer fails to fulfil its safety, health or any other obligations.

- d) The Contractor must, where applicable:

- Comply with and strictly enforce the obligations imposed by Labour Legislation, including the applicable Collective Agreement and especially any obligation arising from Law 31/1995 of 8 November on the Prevention of Occupational Risks, as well as its implementing regulations including (and especially) Royal Decree 171/2004, of January 30, which develops article 24 of Law 31/1995, of November 8, on the Prevention of Occupational Risks, in matters of coordination of business activities.
 - Integrate occupational risk prevention into the company's general management system through the implementation and application of an occupational risk prevention plan according to art. 2 of the Prevention Services Regulations, approved by RD 39/1997 of January 17, as well as carry out the risk assessment and planning of the preventive activity corresponding to the contracted activity.
 - Ensure that all personnel involved in the execution of the contract, both own and others, have received at the time of incorporation information on specific risks, protection measures and emergency measures of the same, as well as that they have received the necessary training on the risks that affect their activity, in accordance with the procedure of the occupational risk prevention plan.
 - Provide all its personnel with the approved personal protective equipment that is applicable according to the occupational risk prevention plan derived from the risk analysis carried out for the works object of the Contract, ensuring that such personnel have received the necessary training in the use of such equipment.
- e) The contractor shall, at the request of the procuring entity, submit all documentation evidencing compliance with those obligations which must or may be documented.
- f) Failure to show or undue delay shall constitute a breach of contractual obligations and the Procuring Entity may therefore terminate the Contract.
- g) The personnel assigned to the work will depend exclusively on the successful bidder, who will have all the rights and duties inherent to his quality as employer with respect to it.
- h) The Contracting Entity does not acquire by virtue of the formalization of the contract any of the labor and social obligations that legally or statutorily correspond to the contractor with respect to its personnel. The successful tenderer, in any case, undertakes to indemnify the Contracting Entity with respect to any claim addressed by its personnel or by third parties in relation to the fulfilment of these obligations.
- i) In general, the contractor shall be liable for all obligations imposed on him in his capacity as employer, as well as for compliance with all the rules governing and developing the employment or other relationship between him, or between his subcontractors, and the workers of both, without any fine, sanction or any type of responsibility that could be imposed for breach of any of them, being passed on to the contracting entity. In any case, the successful bidder shall indemnify the Contracting Entity for any amount it was obliged to pay for breach by the contractor of the obligations established in these specifications, even if this is imposed by judicial or administrative resolution.
- j) Upon termination of the contract, the consolidation of the persons who have performed the work covered by the contract as staff of the contracting entity may not take place under any circumstances.
- k) The contractor will ensure that there is stability in the work team, and that the variations in its composition are punctual and obey justified reasons, in order not to alter the proper functioning of the service.
- l) The contractor assumes the obligation to exercise in a real, effective and continuous way, over the personnel of the work team responsible for the execution of the contract, the power of direction inherent to any employer. In particular, it shall undertake the negotiation and payment of wages, the granting of leave, leave and holidays, the replacement of workers in cases of absence or absence, legal obligations in the field of social security, including the payment of contributions and the payment of benefits, where appropriate, the legal obligations regarding the prevention of occupational risks, the exercise of disciplinary power,

as well as any rights and obligations arising from the contractual relationship between employee and employer.

- m) The contractor shall take special care that the workers assigned to the execution of the contract carry out their activity without exceeding the functions performed with respect to the activity defined in the specifications as the object of the contract.
- n) The contractor shall designate at least one coordinating person to carry out the following tasks:
 - Act as the contractor's spokesperson with the contracting authority, channelling communication between the contractor and the staff assigned to the contract, on the one hand, and the contracting authority, on the other, in all matters arising from the performance of the contract.
 - Distribute the work among the staff and give the orders and work instructions necessary for the correct execution of the service.
 - Supervise the correct performance of the functions entrusted to the staff and control attendance at the workplace.
 - Organise the holiday schedule.
- o) The contractor shall be responsible for all personnel costs incurred for the performance of the contract.

20.3 Environmental obligations

The contractor shall prevent its operations or those of its subcontractors from having a negative impact on the natural environment or on animal and plant life and shall take the necessary measures to cancel or minimise any incident that may arise during such operations.

The contractor will carry out the work in compliance with all laws, regulations and recommendations issued by the competent authorities in environmental matters and will strictly observe all additional rules that the Contracting Entity may establish, being solely responsible for non-compliance with them.

20.4 Gender equality obligations

The contractor company, when applicable, must comply with the obligations imposed by Law 4/2005, of February 18, for the equality of Women and Men (BOPV, March 2, 2005), to private entities that contract, agree or are beneficiaries of aid or subsidies from the Administration.

20.5 Third-party permits:

All licenses, permits and authorizations necessary for the execution of the contract will be processed and paid exclusively by the contractor during the term of this Agreement.

20.6 Verification of payments to subcontractors and suppliers:

The procuring entity may request the contractor to forward a detailed list of subcontractors and suppliers participating in the contract when their participation is perfected together with those subcontracting conditions that are directly related to the term of payment.

The Contracting Entity may request the contractor to send proof of compliance with payments to subcontractors and suppliers once the service has been completed within the legally established payment deadlines.

Article 21. Penalties

21.1 Each time any of the breaches indicated below occur, EVE may (through enforcement of the guarantee provided by the tenderer or Contractor) apply a penalty equivalent to 5% of the price offered by the contractor for the phase in which the breach occurs, and taking into account that in the event that the non-compliance occurs prior to the start of Phase I, the price offered for Phase I will be considered, and that in case the non-compliance occurs after the end of Phase III, the price offered for Phase III will be considered:

- a. The cases provided for in Articles 10.2 and 10.3 of this document.

- b. Failure to comply with the obligation to provide EVE with all the documentation provided for in the regulations and documents governing this Agreement
- c. Failure to communicate generation of IIPR and Results in order to evade the obligations and responsibilities associated with them, and their non-protection.
- d. The transfer of the contract by the Contractor (see article 22.3), without the prior authorisation of EVE.
- e. Failure to comply with the special execution criteria established in section 4.4 of the "TD1_Request for Tenders" Document (definition of R&D services, other public financing aid, application in the test sites for Phase III) due to actions or causes attributable to the contractor or defects of the project.

21.2 In relation to delays, EVE will be entitled to apply penalties dependent on of the seriousness of the breach, the damage generated to EVE by said breach, and always subject to the prior hearing of the contractor in accordance with the provisions of article 21.4, and with the limit indicated in article 21.5:

- a. Delay in the delivery of intermediate milestone deliverables for each phase, if an extension has not been previously authorised, or delay in the delivery of the correction of intermediate deliverables in case the Monitoring Committee has rejected the initially submitted deliverables and has made a request for amendments, as regulated in section 6.2 of the "TD1_Request for Tenders" Document.
- b. Delay in sending the communication of start of commercialisation (see article 10.5).
- c. Delay in the communication to EVE about the generation or change of pre-existing rights and Sideground (article 7.4), generation of IIPR (article 8.5), generation of results (article 9.1) and protection of the Innovative Solution (9.2).
- d. Delay with respect to the deadlines established for the delivery of the reports referred to in Article 12, until said reports are delivered complete and in compliance with the requirements indicated for them.
- e. Delay in the delivery of the reports referred to in article 12, with incomplete or incorrect data, unless the penalty associated with section 10.3.vi) is applied in relation to the data in question.
- f. Delay shall also be considered if the Contractor performs the contractual services in a manner that differs partially from the prescribed requirements, until the moment in which the service begins to be provided in a way that effectively complies with the contractual provisions.
- g. Delay within the period established in article 24.4 to replace the definitive guarantee previously executed totally or partially.
- h. Delays in any other deadlines established in the documentation that regulates the PCP, and that have not been specified in the rest of the sections of this article.

21.3 Each time any of the breaches listed below occur, EVE may apply a penalty equivalent to 1 % of the price offered by the contractor for the stage at which the breach occurs, and taking into account that in the event that the non-compliance occurs prior to the start of Phase I, the price offered for Phase I will be considered, and that in case the non-compliance occurs after the end of Phase III, the price offered for Phase III will be considered:

- a. The falsity of any information included in the reports/deliverables of each phase.
- b. The non-communication of any circumstance that may prevent achieving the deadlines and objectives established in the requirements of the Contract, within a maximum period of five (5) business days since said circumstance had been generated.
- c. Repeated non-compliance by the contractor with the instructions of the Monitoring Committee.

- d. Failing to respond to requests for information that EVE makes to the Contractor and that have not been specified in the rest of the sections of this article.
- e. Breaches of the conditions established in the documentation that regulates the PCP, and that have not been specified in the rest of the sections of this article.

21.4 Upon finding the non-compliance and/or delay, EVE shall notify the Contractor of the reason for the non-compliance and the application of penalties; They may propose their deductions and / or justifications in writing within a maximum period of five (5) business days from the receipt of the challenge. If these deductions and/or justifications are not considered adequate in the opinion of the EVE to justify the non-compliance or are not received within the indicated period, the aforementioned penalties will be applied to the Contractor.

21.5 In any case, the maximum cumulative penalty for all the concepts provided for in this section will be 10% of the contract price. Once this limit is exceeded, the EVE may choose to terminate the contract with the effects described in this Agreement.

21.6 EVE may offset the claims resulting from the application of penalties with any amount owed to the Contractor for any reason, therefore, also with the fees accrued from the pre-commercial contract or any other guarantees issued by the Contractor, without the need for warning, further investigation or judicial process.

21.7 The requirement and/or payment of the penalties referred to in this article does not exempt in any case the Contractor from compliance with the obligation for which it has failed to comply and which has given rise to the obligation to pay the corresponding penalty.

21.8 Notwithstanding the application of any of the penalties referred to in this article, EVE shall also be entitled to claim damages.

Article 22. Breach of contract

22.1 In the event of improper performance of this Framework Agreement by any of the contractors, the latter shall indemnify EVE for the damages caused. In addition, the contractor who improperly performs this Agreement shall keep EVE, its staff and intervening representatives harmless from any liability, loss, unlimited costs, damages or disputes arising with respect to the following:

- Any damage or loss caused as a result of any negligence committed in the performance of the R+D services provided under this Framework Agreement by any of the contracting parties or subcontractors.
- Any violation against persons arising as a result of the R&D services provided under this Agreement.
- Any violation causing damage or loss to EVE of any pre-existing right or ownership of the results reflected in Articles 6 to 10 of this Framework Agreement.
- Any damage or loss resulting in a breach of Article 8 14 of this Agreement relating to "Confidentiality".
- Any damage or loss caused as a result of the Contractor's failure to submit a bid for the next phase when invited to submit it, failing to provide documentation prior to the award of the contract for the next phase, not signing the contract or abandoning the project without just cause.

22.2 In addition, the EVE may, by prior written notice, terminate this Framework Agreement without being held liable, without prejudice to the compensation that EVE may demand for the loss, costs, damages or losses caused by the following cases:

- Any consent, authorisation or license necessary for the performance of the Framework Agreement or any Call-Off Contract is not granted within the duly stipulated period.
- The contractor becomes insolvent.
- The contractor breaches this Framework Agreement or any Call-Off Contract on it if (i) the breach is remediable, and the contractor has not cured it within five (5) days of prior written notice or (ii) the breach is not remediable.

- Death or incapacity of the contractor.

EVE will not be liable for damages caused by the contractor. Likewise, the contractor will be responsible for any damage caused by EVE in the execution of this Agreement.

In the event that the damage caused has been caused by gross negligence or wilful misconduct, the contractor shall be liable, without limitation, for the amount of any such damage caused.

22.3 Without prejudice to the provisions of section 4.1.2 of the “TD1_Request for Tenders” Document and article 98 of the LCSP, it is absolutely forbidden for the Contractor to transfer, for any reason, the Contract, under penalty of nullity of the transfer itself. In the absence of performance of this obligation, EVE is entitled to declare the Contract terminated.

Article 23. Termination clauses and consequences

23.1 EVE shall have the right to terminate this Framework Agreement at any time during the course of the Project. Failure to comply with this Agreement by any of the contractors will entitle EVE, upon written notice, to terminate it. The following are considered causes of termination of contract, by way of example, but not limited to:

- The contractor breaches any of its confidentiality obligations referred to in Article 14 of this Agreement
- The contractor fails to comply with its conflict-of-interest obligations referred to in Article 16 of this Agreement.
- The contractor fails to comply with the obligations contained in Article 18 of this agreement relating to the protection of personal data.
- The contractor fails to comply with the obligations contained in Article 20 of this Agreement concerning the rules of performance of the contract.
- The Contractor does not provide the services and obligations governing the execution of the PCP within the stipulated period. By way of example, but not limited to, the non-provision of R&D services, the non-completion of the milestones of the corresponding phase or the non-delivery of the minimum Deliverables required in DL2 will be considered a breach of the execution obligations of the PCP.
- The Contractor does not submit a bid for the next phase when invited to submit it, does not provide the documentation prior to the award of the contract corresponding to the next phase, does not sign the contract or abandons the project without just cause.
- The Contractor does not comply with the obligations stipulated on the ownership of the results (Foreground), pre-existing rights (Background), Intellectual and Industrial Property Rights (Sideground), commercial exploitation of the results and payment of Royalties and the monitoring and reporting of all of the above.
- Failure to comply with the obligations established in article 24 relating to the definitive guarantee to be provided or provided by the contractor (by way of example, but not limited to, the non-extension of the guarantee once it has been partially executed).
- No contribution or renewal of the minimum insurance required for each phase established in the solvency criteria of section 4.3 of the “TD1_Request for Tenders” Document.
- Failure to comply with the special execution criteria established in section 4.4 of the “TD1_Request for Tenders” Document: definition of R&D services, other public financing aid, application in the test sites for Phase III.
- The impossibility of developing the R&D service in the terms initially proposed by the contractor, its continuation being unfeasible for reasons not attributable to the contractor or defects of the project.
- Early termination of the contract signed with BIMEP for the use of the Mutriku plant (MWPP) prior to the completion of Phase III.
- The assignment of the Contract not authorised by EVE in the terms established in article 22.3.

- Repeated non-compliance by the contractor with the instructions of the Monitoring Committee.
- The accumulation of a higher percentage of penalties than that established in article 21.5.

The EVE may claim damages caused as a result of breach of contract.

23.2 EVE is entitled to unilaterally withdraw from the Framework Agreement, in whole or in part, at any time, without notice, in cases of just cause, including (but not limited to) the following circumstances:

- If an appeal has been lodged against the Contractor in accordance with the insolvency law or other applicable law on bankruptcy, proposing the dissolution, liquidation, amicable settlement, debt restructuring or bankruptcy, or in the case that a liquidator, receiver, custodian or entity with similar functions is appointed, to take possession of the property or to manage the affairs of the Contractor.
- Repeated breaches by the Contractor.
- Any other circumstance resulting in the loss of the relationship of trust underlying the Framework Agreement.

Article 24. Definitive security deposit

24.1 1 The Contractor, based on the award of Phase I and possible awards of Phases II and III, must provide a definitive guarantee corresponding to 5% of the price offered for each phase (excluding VAT) in favour of EVE.

In the case of awarding successive Phases II and III, the Contractor must provide the new guarantee together with the documentation prior to being awarded for each phase, for an amount that reaches at least 5% of the price offered for each phase. Once the new guarantee has been received correctly, the previous guarantee will be returned if it has not been fully executed, and if it has been partially executed, the partial refund will be made.

24.2 The deposit of the guarantee is provided for the exact and correct fulfilment by the Contractor of all obligations, also future. In particular, the deposit guarantees all specific obligations assumed by the Contractor, including those for which the application of penalties is foreseen, and, therefore, it is expressly understood that EVE has the right to claim directly against the guarantee provided for the application of the penalties referred to in Article 21.

24.3 The guarantee operates for the entire term of the Framework Agreement and the Call-Off Contracts, and until the total and exact execution of the obligations arising from the aforementioned contracts. Therefore, the guarantee related to Phase III will remain in force beyond the completion of the PCP, to guarantee compliance with the obligations derived from the Results and the IIPR developed in the Project, the development and commercial exploitation thereof, the payment of royalties and the monitoring and reporting of all the above.

The deposit shall be released only with the express written consent of EVE.

24.4 If the amount of the final guarantee is reduced by the application of penalties, or for any other reason, the Contractor must arrange for the replacement within 10 (ten) business days from the receipt of the respective request by EVE.

24.5 In case of non-compliance with the obligations provided for in this article, EVE will declare the Framework Agreement terminated, without prejudice to the right to compensation for the damages suffered.

24.6 When the successful bidder or contractor is a Temporary Union of Companies or Consortium, the definitive guarantee may be constituted by one or more participants in the grouping, provided that together the total amount required is reached, and is guaranteed jointly and severally to all its members.

Article 25. Amendments to the Framework Agreement

Any modification of this Agreement must be the subject of a written agreement concluded by the intervening parties before the fulfilment of all their contractual obligations. Likewise, the

modifications that are intended to be included, in no case can have as their objective that there is an unequal treatment between the tenderers, as well as to question the decision on the award of the contract.

On the other hand, an oral agreement will not be binding on the intervening parties.

Article 26. Interpretation of the Framework Agreement

The interpretation and drafting of this Framework Agreement shall be subject to the following conditions:

- The Agreement prevails over any of the documents annexed to the Agreement.
- In the event of a conflict or ambiguity between the conditions set out in the documents set out below, the condition set forth in the document appearing earlier in the following list shall take precedence over the one listed below, as follows:
 - Framework Agreement
 - Call-Off Contracts. Priority will be given to the most recently formalised Call-Off Contracts over previous Call-Off Contracts.
 - TD1 Request for Tenders
 - TD2 TurboWave Challenge
 - The contractor's proposal

Article 27. Applicable law and dispute resolution

27.1 This Framework Agreement is subject to Spanish law.

This Framework Agreement and any other Contract entered into in these proceedings, as well as any conflict, controversy or claim relating to the fulfilment, effects and termination of said Contract or any contracts will be governed by and construed in accordance with Spanish law, in particular the Courts of Bilbao.

In this sense, each of the intervening parties irrevocably accepts that the Courts of Bilbao will be the only ones that have jurisdiction to resolve any litigation or controversy arising from this Framework Agreement or any contracts they have contracted.

27.2 On the other hand, prior to the above, any dispute between the parties involved arising from the fulfilment, effects and termination of this Framework Agreement must be referred in the first instance to both the representative designated by the contractor and the representative designated by the EVE in order to carry out its resolution. Likewise, if necessary, it will be referred to the corresponding superior hierarchical representative.

27.3 In the event that the dispute has not been resolved within thirty (30) days, it may be submitted to the intervention of a mediator agreed upon by the parties. However, if the conflict continues, it must be resolved by carrying out the procedure referred to at the beginning of this article, that is, before the Courts of Bilbao.

Article 28. Preservation of the content of the contract

In the event that the nullity of any of the clauses that make up this Framework Agreement is declared, the corresponding clause will be eliminated, being mandatory compliance with the rest of the clauses.

That is, even if a clause is declared null and void and is consequently removed, the rest of the clauses of this Framework Agreement shall continue in force, thus complying with what is described therein.

On the other hand, if the clause that is intended to be declared null and void and, therefore, removed is an essential clause for the correct fulfillment of the Framework Agreement, that is to say, it is an essential clause which, if removed, would prevent compliance with the rest of the clauses, the parties to this Agreement shall immediately initiate the corresponding negotiations to correct said nullity.

Article 29. Waiver of the conclusion of the Framework Agreement and withdrawal from the procedure.

As regards the waiver of the conclusion of the contract and withdrawal from the award procedure, the decision not to conclude this Framework Agreement or the withdrawal of the PCP award procedure may be agreed by the EVE before the conclusion of this Agreement.

A decision not to award or conclude the Agreement may only be taken on grounds of public interest duly justified in the file. The withdrawal of the procedure must be based on a non-remediable infringement of the rules of preparation of the Agreement or those regulating the award procedure, and the grounds must be justified in the file.

Article 30. Force majeure

Force Majeure is understood to be that which inevitably imposes the damaging result caused, being a force beyond all control and foresight and which excludes any intervention of any fault. In this sense, for force majeure to exist, the event considered must be unforeseeable, insurmountable or irresistible and, therefore, prevent any of the parties from voluntarily complying with the obligations of this Agreement.

In the event that one of the intervening parties is confronted with a case of force majeure, it shall notify the other party in writing.

Likewise, it shall be understood that none of the parties has breached the obligations of this Agreement if it has been involved in a case of force majeure. In this sense, the rest of the contractors shall carry out the measures they deem appropriate to mitigate the damage caused.

3 Signatories of the agreement

Both parties sign this Framework Agreement by means of the corresponding electronic certificate:

Digital signature of EVE

Digital signature of the successful bidder

Full name

Full name

Position

Position

Date and stamp

Date and stamp

TD4_Annex 1 Request for Tenders

TD4_Annex 2 Contractor Proposal – Phase I

TD4_Annex 3 Contractor Proposal – Phase II

TD4_Annex 4 Contractor Proposal – Phase III