**SERVICES AGREEMENT**

**CBD/CFT2022/2**

**LOT 2**

This Services Agreement ("Agreement"), effective as of [INSERT DATE] ("Effective Date"), is by and between :

**World Organisation for Animal Health**whose statutory name is “Office International des Epizooties”, an intergovernmental organisation represented by Dr Monique Eloit in her capacity of Director General and having its principal office at 12 rue de Prony, F-75017 Paris, France

Hereinafter referred to as “WOAH”.

On one part,

And

**[Service provider]**

represented by […] in his capacity of [TITLE] and having its principal office at [address]

Hereinafter referred to as the “Service provider”,

on the other part,

WOAH and the Service Provider are collectively referred to as the “Parties” or individually, a “Party”.

WHEREAS, WOAH invited service providers to submit a technical and financial proposal to provide support to WOAH in the [XXXX], as further described in a call for tender launched on XX/XX/2022 (Schedule A);

[WHEREAS, WOAH wishes to [DESCRIBE BRIEFLY THE SERVICE YOU ARE LOOKING FOR] (Schedule A);]

WHEREAS, Service Provider was selected, based on the technical and financial proposal Service Provider submitted to WOAH (a copy of which is attached hereto as Schedule B), to provide support to WOAH in [XXXX] and Service Provider wishes to provide its services to deliver such expertise;

NOW THEREFORE, in consideration of the sums to be paid by WOAH to Service Provider, and the terms and conditions of this Agreement, the Parties hereby agree as follows:

# Interpretation and Definitions.

As used in this Agreement:

1. “Services” means all services, functions, responsibilities, and tasks specified in the Schedules A and B and their annexes, under the terms and conditions set forth herein.
2. “Deliverables” means any tangible product, delivered to WOAH under this Agreement, as specified in Schedules A and B, and art. 6.
3. “Effective Date” shall be used to refer to the date of the signing of this Agreement and the date that Service Provider begins work on the Services for WOAH.
4. “Term” means the period in which Service Provider will complete or cease the provision of Services to WOAH. The Term will be 20 months from the Effective Date.
5. “Fees” shall be used to refer to the payment WOAH will pay to Service Provider for the rendering of the Services.
6. “Confidential Information” means information which the disclosing party considers to be proprietary to itself or third parties and includes information disclosed by WOAH to Service Provider or its staff, and vice-versa, either directly or indirectly, or by inspection of data, documents, notes, summaries, reports, studies, findings and all information otherwise obtained. Confidential information shall not include information which:
	1. was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party;
	2. becomes publicly known and made generally available after disclosure by the disclosing party;
	3. was already known by or in the possession of Service Provider at the time of disclosure by the disclosing party as shown by Service Provider's files and records immediately prior to the time of disclosure;
	4. was obtained by Service Provider from a third party lawfully in possession of such information and without a breach of such third party's obligations of confidentiality.

Schedules A and B (together with any Annexes) to this Agreement are hereby incorporated into and deemed part of this Agreement for all purposes. The words “will” and “should” are expressions of command, not merely expressions of future intent or expectation.

If there is any inconsistency between the provisions of the Agreement, and unless otherwise stipulated in the Agreement, a descending order of precedence will be accorded to:

* the clauses of this Agreement;
* Schedule A;
* Schedule B;
* Schedule C;

so that the provision in the higher ranked document, to the extent of the inconsistency, will prevail. In case any ambiguity or discrepancy or inconsistency still prevails, the Parties will discuss in good faith with the purpose of clarifying them. Terms of Business of Service Provider or WOAH shall not apply and any uncertainty or contradiction between this Agreement and the Terms of Business of Service Provider or WOAH shall be resolved in favour of this Agreement.

1. Relationship of Parties

Service Provider and its staff will perform all of their obligations under this Agreement as independent contractors. Nothing in this Agreement shall be deemed to create or constitute an employer-employee, partnership, or joint venture relationship among the Parties. Neither Party will have the right, power or authority to bind the other.

1. Service Provider’s Obligations

Commencing on the Effective Date (or such later date as specified by WOAH), and continuing throughout the Term, Service Provider will be responsible for the following:

* + 1. Perform the services, functions, responsibilities, tasks and deliverables described in this Agreement (the “Services”) with a degree of accuracy, quality, completeness, timeliness and responsiveness not less than generally expected of an appropriately qualified and competent consultant experienced in carrying out equivalent services of a similar size, scope, complexity, value and purpose.
		2. Prepare and provide the services and deliverables described in the attached Schedules A and B in accordance with the relevant timetable specified in Article 6 unless otherwise mutually agreed upon between the Parties.
		3. Procure the human, material, financial and other resources necessary to perform the Services and otherwise meet its obligations under this Agreement at no charge for WOAH.
		4. Regularly advise WOAH on the progresses in performing the services and submitting the services and deliverables for acceptance to WOAH. Immediately and without undue delay inform WOAH of any event which interferes or threatens to materially interfere with the successful implementation of the Services. A risk management plan will have to assure that all risk sources are monitored and that prevention, mitigation, and corrective actions have been defined and are put in place in case of risk occurrence
		5. Employ and assure the availability at all time of adequate staff with appropriate professional qualifications, language abilities, training, and experience in order to complete the Services in accordance with this Agreement.[in each case as described in Schedule B]. Service Provider shall be solely responsible for employing staff or retaining the services of any consultants and subcontractors under the applicable laws, including compliance with immigration and visa laws, obtaining and maintaining work permits, health or accident insurance, social security, unemployment insurance and other contributions or benefits as may be required under applicable laws. To the extent applicable, while on the premises of WOAH, Service Provider will conduct itself, and ensure that its staff and experts conduct themselves, in a professional and business-like manner with tact and courtesy, and comply, and ensure that its staff comply, with the policies and guidelines regarding health and safety, data protection and other matters, which apply generally to WOAH’s contractors and which may be communicated to Service Provider from time to time. Service Provider shall be solely responsible for its staff’s and agents’ compliance with, and their breaches of, the terms of this Agreement.
		6. Use its best endeavours to avoid unnecessary turnover of the team members. Should the composition of Service Provider’s project team change, Service Provider shall notify WOAH at least 30 working days prior to the effective change, provide written explanations for such change, and propose a new team composition. If any key team member, as set out in Schedule B, is removed from the team, Service Provider shall provide at least three available experts with equivalent background training and experience for replacement for WOAH’s consent which shall not be unreasonably withheld.
		7. Take all the necessary measures to assure the integrity and the storage of the data processed during the contract duration period in accordance with article 12 of this Agreement.
		8. Designate, within its project team, a project manager who will act as the unique contact point for WOAH and shall have the required qualifications, responsibility over its team members and authority to implement any required resource or action to ensure the prompt and successful delivery of the Services in accordance with the Agreement, throughout the duration of the Contract.

# WOAH’s Obligations

WOAH shall:

* 1. Cooperate with Service Provider for anything that the Service Provider may reasonably require in performing the Services, including provide Service Provider and its staff assigned to perform the Services with timely access to the information required to perform the Services;
	2. Inform Service Provider of any elements that may adversely affect the performance of the Agreement; provided however, that it is understood and acknowledged by Service Provider that it agrees (i) not to rely on such information until it has ensured through assessment procedures that such information is sufficiently accurate and complete for the purpose of performing the Services, and (ii) to use such access solely for the purposes of performing the Services.
	3. WOAH reserves the right to propose to the Service Provider to replace subject matter experts that can better suit for the needs, without any impact on the financial offer. It is therefore intended that the proposed list of subject matter experts is subject to the WOAH approval.
	4. WOAH reserves the right to request to the provider a negotiation on the workplan, in case deliverable production dates have to be anticipated or for any other reason that may require it. The awarded service provider will be requested to provide a revised budget to accommodate WOAH’s requests. For such modification an amendment will be signed by the Parties.

WOAH shall designate a project manager who shall be responsible for the follow-up of the delivery of the Services under the Agreement. The project manager shall be Service Provider’s main contact point within WOAH and shall provide the Service Provider with all functional and technical information as well as providing support to the administrative management of the Agreement.

# Representations and Warranties.

Service Provider represents and warrants that it will perform the Services described in this Agreement using reasonable care and skill and with a degree of accuracy, quality, completeness, timeliness and responsiveness not less than generally expected of an appropriately qualified and competent consultant experienced in carrying out equivalent services of a similar size, scope, complexity, value and purpose.

Service Provider further warrants that:

* 1. Service Provider holds all licenses, authorisations or approvals which may be required for the performance of the Services, and such licenses, authorisations or approvals (if required) shall be in full force and effect during the Term.
	2. All information, in any medium or format, including the technical and financial proposal attached hereto, provided by Service Provider, is true and correct, and contains no material errors or omissions.
	3. Service Provider will not infringe on or violate the intellectual property rights or any other right any third party in accordance with Article 15.
	4. The Services shall fully conform to the requirements set forth in Schedule A.
	5. This Agreement has been duly executed and delivered by Service Provider and constitutes the legal, valid and binding obligation of Service Provider, enforceable against it in accordance with its terms. No consent, approval or authorisation of, or registration with, any person or entity is required in connection with the execution and delivery of this Agreement, or the performance of the Services contemplated hereby.

# Deliverables Warranty

The Deliverables shall be prepared and delivered to WOAH according to the terms, conditions and timetable defined in the Agreement.

Deliverables will be deemed accepted by WOAH following written notice of their validation or if, within 30 working days of delivery, WOAH has not provided Service Provider with a written notice specifically identifying any non-conformity of such Deliverable with the Agreement. Milestones and deliverables are described in the table below:

|  |  |  |  |
| --- | --- | --- | --- |
| **#** | **Milestone** | **Activity/Deliverable** | **Date of Completion** |
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# Compensation.

In consideration for the obligations undertaken by Service Provider and the Services performed by Service Provider in accordance with the Agreement, and subject to the terms and conditions of this Agreement, **WOAH agrees to pay Service Provider a maximum amount of EUR …. (…….)**. The total amounts payable to Service Provider shall not exceed those amounts and payment shall be made to Service Provider’s designated bank account. Service Provider shall not be reimbursed for any additional expenses it may incur in performing the Services.

* 1. Payments to Service Provider shall be made as follows:
		1. a first payment of fifty percent of the total price : EUR ….. (…… euros) shall be made after validation by WOAH of the storyboard;
		2. the balance payment of EUR ……. (………. euros) will be issued upon reception and validation by WOAH of the final report (month 8).
	2. Each payment throughout the Term will be subject to:
		1. the receipt of an invoice to allow payment by WOAH according to the above-schedule, and
		2. the completion of Deliverables in accordance with the Agreement.
1. Invoices shall be worded as follows: World Organisation for Animal Health(WOAH),
2. Invoices shall be sent by e-mail to WOAH Budget Unit (budget@woah.org) and b.alessandrini@woah.org.

WOAH shall notify Service Provider in writing of any dispute with any invoice (along with a reasonably detailed description of the dispute) within fifteen (15) working days from receipt of such invoice. The Parties shall seek to resolve any such disputes expeditiously and in good faith. Notwithstanding anything to the contrary, the Parties shall continue performing their obligations under the Agreement during any such dispute, and WOAH will pay all due and undisputed invoice amounts (or when only part of the invoice is disputed, all due and undisputed part of the invoice amounts) according to the above schedule and within 45 days of receipt.

# Term and Termination.

Unless terminated earlier, this Agreement shall commence on the Effective Date and shall continue until completion of the Services (the “Term”). The Parties may terminate this Agreement in the following events:

* 1. *WOAH may terminate this Agreement*:
		1. if the Service Provider does not remedy a failure in the performance of the obligations under this Agreement, within thirty (30) calendar days after being notified. In such event, WOAH shall have the right to terminate this Agreement with immediate effect, and will pay the portion of the compensation associated with the Services satisfactorily performed in accordance with this Agreement prior to the effective date of termination;
		2. if the Service Provider is adjudicated bankrupt or makes a general assignment for the benefit of creditors, or takes the benefit of any insolvency, reorganization or other relief act, or if a receiver is or trustee is appointed on behalf of a creditor or by a court of justice or in respect of the whole or part of its business;
		3. if during the contractual execution, the situation of the Service Provider no longer allows it to comply with the declaration of integrity (Schedule B). In such event, WOAH shall have the right to terminate this Agreement with immediate effect.
		4. if the Service Provider sells, leases or exchanges a material portion of its assets, or merges or consolidates with or into another party, or a change in control of Service Provider occurs;
		5. if the funding associated with the Services is terminated or reduced.
	2. *Service Provider may terminate this Agreement*:
		1. if WOAH does not remedy a failure in the performance of the obligations under the Agreement, within thirty (30) calendar days after being notified in writing. In such event, Service Provider shall have the right to terminate the Agreement with immediate effect;
		2. if WOAH is adjudicated bankrupt or makes a general assignment for the benefit of creditors, or takes the benefit of any insolvency, reorganisation or other relief act, or if a receiver or trustee is appointed on behalf of a creditor or by a court of justice or in respect of the whole or part of its business.
1. *Either party may terminate this Agreement:*
	* 1. in the event of a Force Majeure event (as defined in Article 17) affecting either Party’s performance under the Agreement for more than thirty (30) consecutive calendar days.
		2. upon mutual agreement in writing of the parties.

WOAH shall for convenience (i.e., for any reason or no reason) effective as of any date give the Service Provider notice of termination at least sixty (60) days prior to the termination date specified in such notice. In such event, WOAH will pay the portion of the compensation associated with the Services satisfactorily performed prior to the effective date of termination, reimburse Service Provider for all of Service Provider’s direct and reasonable out-of-pocket costs and expenses incurred by Service Provider prior to receipt of WOAH’s termination notice that arise from or relate to the Contract.

1. Commitments and penalties

If the Services do not commence at the Effective Date specified in the Agreement, provided the delay was not caused by WOAH, WOAH will have the right to either renegotiate the terms of the Agreement or terminate it with immediate effect.

If the Services are not provided within the period specified under the Agreement, provided the delay is attributable to Service Provider and was not caused by WOAH nor by a Force Majeure event (as defined in article 13), WOAH shall be entitled to ask Service Provider penalties for delay amounting to 0.5% for each working day of delay after five consecutive working days of delay, capped at a global amount of thirty percent (30%) of the overall amount payable under the Agreement.

If the Services are provided in a timely manner but are nevertheless partially completed or do not comply with the standards or requirements set out in the Agreement, and provided this was not caused by WOAH, WOAH shall have the right to ask for compensation of any loss and expenses that may be suffered as a result, or to request that Service Provider complete and/or correct the Services in an expedited manner to ensure compliance with the Agreement.

1. Confidentiality

Each Party acknowledges and agrees that they and the other party each possess certain non public Confidential Information regarding business operations and development. The Parties agree that this information is secret and valuable to each of their respective businesses and the parties have entered into a business relationship through which they have access to the other party’s Proprietary Information.

Both Parties agree that they shall not disclose Confidential Information via any unauthorised means to any third party throughout the duration of this Agreement and the Parties’ relationship with each other and not use the Confidential Information for any purpose except those contemplated herein or expressly authorised by the party disclosing the Confidential Information.

The term “Confidential Information” shall not include information which:

* 1. was publicly known and made generally available in the public domain prior to the time of disclosure by WOAH or Service Provider;
	2. becomes publicly known and made generally available after disclosure by WOAH to Service Provider and vice-versa;
	3. was already known by or in the possession of Service Provider or WOAH at the time of disclosure by WOAH or Service Provider as shown by Service Provider's or WOAH’s files and records respectively, immediately prior to the time of disclosure;
	4. was obtained by Service Provider or WOAH from a third party lawfully in possession of such information and without a breach of such third party's obligations of confidentiality.

During and after the Term, each Party agrees to and to cause its staff, advisors and subcontractors to, safeguard and not to use any Confidential Information acquired in the course of the Contract for any other purposes than those of performing the Services.

Service Provider will be liable, within the liability limitations of this Agreement, for any losses incurred by the disclosing party resulting from a disclosure of Confidential Information by Service Provider in violation of this Agreement. If Service Provider is required by law to make any disclosure that is prohibited or otherwise constrained by this Section, to the extent permitted by applicable laws, Service Provider will provide the disclosing party with prompt written notice of such requirement so that the disclosing party may seek a protective order or other appropriate relief protecting the Confidential Information from public disclosure. Subject to the foregoing sentence, Service Provider may furnish that portion (and only that portion) of the Confidential Information of which Service Provider is legally compelled or required to furnish and shall obtain assurance that confidential treatment will be accorded to such information. The Service Provider further agrees to ensure that Confidential Information as well as the deliverables provided to WOAH as part of the Services shall not be made public.

11. Return of Confidential Information

Upon termination or expiration of the Agreement, Service Provider will promptly (a) return all documents and tangible materials (and any copies) containing Confidential Information and (b) erase all Confidential Information from its computer systems.

# 12. Publication of beneficiaries

To comply with disclosure requirements and enhance transparency, WOAH shall publish on its website the following information about this Agreement: (i) the nature of the contract (ii) year of award (iii) name and locality of the Service Provider; (iv) the title, purpose of the Services provided; and (v) the amount of this Agreement. WOAH will not release or publish information that could reasonably be considered confidential or proprietary.

# 13. Intellectual Property Rights and Ownership of the Deliverables

Service Provider represents and warrants that it holds all the rights and authorisations, notably all rights and titles of intellectual property, over all the activities carried out and deliverables provided under this Agreement, especially as concerns studies, analyses, methodologies, design and execution documents etc. as well as over any item giving rise to intellectual property rights.

The parties agree and acknowledge that each party solely owns any intellectual property, including but not limited to its brands, trademarks, logos, know-how, patents and software, on whatever medium, held by such party prior to the effective date of the Agreement.

Service Provider assigns to WOAH all right, title and interest in and to the intellectual property of all deliverables, in whatever medium, including draft and final work products, delivered to WOAH as part of the Services (“Deliverables”). All Deliverables are “works made for hire” exclusively for WOAH and shall therefore be exclusively owned by WOAH.

Notwithstanding the foregoing, in the event any of the Deliverables is totally or partially protected by any intellectual property right, including copyright, the rights assigned to WOAH shall include, among others:

1. the right to reproduce or have all or part of the Deliverables reproduced, by any means or process, on any kind of medium and materials whether current or future, known or unknown;
2. the right to represent or have the Deliverables represented by any means of dissemination and communication whether current or future, known or unknown;
3. the right to adapt, modify, transform, make changes to all or part of the Deliverables, to integrate all or part of them to or in any current or future work, on any paper, magnetic or optic medium;
4. the right to translate or have the Deliverables translated, totally or partially, in any language;
5. the right to distribute and disseminate the deliverables by any means;
6. the right to make any use of and exploit the Deliverables, for its own activity purposes or for a third party, in no case whatsoever;
7. the right to transfer all or part of transferred rights, including to grant to any third party any contract for the reproduction, distribution, dissemination, manufacturing, in any form, on any medium and by any means whatsoever, whether against payment or free of charge;

Such intellectual property rights assignment is granted worldwide, for any field and for the entire legal period of protection of intellectual property rights.

WOAH and the Service Provider agree that the price of the Deliverables will be included on a flat-rate and permanent basis by the payment received by Service Provider under the Contract and that Service Provider shall not claim any additional payment whatsoever.

Service Provider warrants that it owns full rights pertaining to the Deliverables, including intellectual property rights. It warrants that the Deliverables and the assignment of rights do not infringe the rights of any third parties.

In the event of any claim alleging that any of the Deliverables supplied infringe upon any intellectual property rights of a third party, the Service Provider agrees to defend, indemnify and hold harmless WOAH against, and shall compensate and reimburse, all liabilities, demands, damages, claims, suits, costs, expenses. Service Provider shall arrange, at its own expense, for the replacement of the alleged infringing Deliverable(s).

# 14. Data Protection Policy

In the context of the performance of the Services covered by the Agreement, the Service Provider is required to process WOAH’s data, on behalf of WOAH.

In application of this Agreement, WOAH’s data includes personal data which are processed as described in the Schedule C *Description of the processing of personal data*. To the extent applicable to the framework of the Services, each Party thus undertakes to comply with the regulations applicable to it relating to the protection of personal data and, in the case of the Service Provider, including those arising from the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation - GDPR).

*Obligations of WOAH*

WOAH, as an intergovernmental organisation is not subject to the GDPR. Any reference to terms commonly used under data protection legislation in relation to WOAH is simply for convenience and does not imply a waiver of any privileges and immunities applicable to WOAH.

WOAH nevertheless guarantees that any personal data are processed in compliance with its privacy policy available on its website: [Privacy Policy - WOAH - World Organisation for Animal Health](https://www.woah.org/en/privacy-policy/)

WOAH undertakes to document, in writing, any instructions concerning the processing of personal data by the Service Provider.

*Obligations of the Service Provider*

Service Provider declares that it provides sufficient guarantees as to the implementation of the appropriate technical and organizational measures referred to in this clause, so that the processing operations fully complies with the requirements of the regulations on the protection of personal data.

It is expressly agreed that the Service Provider:

1. processes personal data only for the purpose(s) of this Agreement;
2. may only process the personal data on documented instruction from WOAH, including with regard to the location of the hosting and transfers to third countries;
3. informs WOAH before processing if the Service Provider is legally required to transfer personal data to a third party; this obligation does not apply if the law prohibits such information on important grounds of public interest;
4. immediately inform WOAH if, in its opinion, an instruction infringes regulations on the protection of personal data;
5. guarantees the confidentiality of the personal data processed under this Agreement;
6. ensures that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
7. takes into account, with regard to the Services it provides on behalf of WOAH, the principles of data protection from the design stage and by default (privacy by design, and by default);
8. may subcontract all or part of the processing activities carried out on behalf of WOAH, subject to obtaining WOAH's prior and specific written authorisation;
9. must ensure that its own data processor complies with the obligations of this Agreement and that this data processor provides the same sufficient guarantees as to the implementation of appropriate technical and organizational measures so that the processing meets the requirements of the regulations on the protection of personal data;
10. is fully liable to WOAH for the performance by its data processor of its obligations, in particular when the latter does not fulfil its obligations with regard to the protection of personal data;
11. helps WOAH, through appropriate technical and organizational measures, insofar as this is possible, to fulfil its obligation to comply with the requests of the persons concerned concerning their rights (rights of access, rectification, erasure and objection, restriction of processing, data portability, not to be the subject of an automated individual decision (including profiling); in this respect, in the event of direct receipt by the Service Provider of such a request, it is agreed that the latter shall immediately forward the request to WOAH ( dpo@woah.org), who shall be responsible for responding to it;
12. notifies W of any personal data breach, without delay and at the latest twenty-four (24) hours, after becoming aware of it, by e-mail at dpo@woah.org; such notification shall be accompanied by any relevant communication in order to enable WOAH, if necessary, to notify such breach as it sees fit. The description of the nature of the breach shall include the categories and approximate number of persons concerned by the breach and the categories and approximate number of data records concerned; description of the likely consequences of the breach; and description of the measures taken or proposed by the Service Provider to be taken to remedy the breach.
13. assists WOAH in carrying out data protection impact assessments, and in implementing its own appropriate technical and organizational measures to ensure a level of security appropriate to the risk;
14. declares that it keeps a register of processing operations in accordance with data protection regulations;
15. provides WOAH with all the information necessary to demonstrate compliance with its obligations and to allow audits, including inspections, to be carried out by WOAH or an auditor chosen by WOAH, and shall contribute to such audits under the conditions referred to below.

15. Security measures

The Service Provider acknowledges that security is a fundamental criterion for WOAH, and that compliance by the Service Provider with the security requirements defined herein constitutes an essential and determining obligation of WOAH’s consent to this contract.

The Service Provider must take into account the nature, scope, context and purposes of the processing, the sensitivity of the data of WOAH and the risks to which they are exposed in order to define the adequate security measures to deal with these risks and make the residual risks acceptable. When the service involves the processing of personal data, these measures shall take into account the risks for the data subjects generated by the processing.

The security measures implemented by the Service Provider must, in all cases, take into account state-of-the-art technology as well as the cost of implementation.

The protection measures and provisions shall in no case be less stringent than those implemented by the Service Provider for its own data, including personal data and confidential information.

The Service Provider expressly undertakes to implement the following security measures:

1. guarantee the confidentiality, integrity, availability and traceability of WOAH’s data and maintain written documentation describing the technical and organisational security measures implemented to this effect,
2. utilise the most effective means available to detect, resolve and notify in a timely manner of security incidents and personal data breaches,
3. rapidly restore the availability and accessibility of the data of WOAH in a timely manner in the event of a physical or technical security incident,
4. ensure the storage of WOAH's data separately from its own data or data belonging to other customers or service providers,
5. allow only authorised personal access to WOAH’s data and ensure that it is limited to what is strictly necessary for the performance of their tasks. The Service Provider undertakes to provide WOAH with a list of authorised persons and a log of connections in response to any request made by the latter,
6. ensure that any person with access to personal data processed in the context of the performance of the Agreement is bound by an obligation of confidentiality resulting from a written undertaking or a legal obligation,
7. establish a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing,
8. the complete anonymisation of the personal data of WOAH or the pseudonymisation of the personal data of WOAH on the production environment and the anonymisation of the personal data of WOAH on the other environments (test, pre-production, integration) and the encryption of the personal data of WOAH;
9. measures to ensure that any natural person acting under the authority of the Service Provider who has access to the personal data of WOAH can only process them in accordance with the written instructions of WOAH;
10. the purging of the personal data of WOAH beyond the period of retention of personal data provided for herein. Upon written request of WOAH, the Service Provider shall certify the actual destruction;
11. a device for detecting personal data breaches

Any significant changes to these measures and policies must be documented and presented to WOAH for evaluation. Such changes must in no way reduce the level of security of the Services during the term of the Agreement.

*Fate of data*

At the end of the provision of the Services, the Service Provider must delete all personal data and destroy all copies (paper or electronic) of the personal data of WOAH that it may hold.

Upon written request of WOAH, the Service Provider shall certify the actual destruction.

WOAH reserves the right to carry out any verification it deems necessary to confirm the performance of these obligations.

This article shall remain in force after the expiry or termination of the Agreement for any reason whatsoever.

Nothing in the Agreement shall be construed as limiting or excluding the liability of Service Provider with regard to the breach of this data protection clause.

16. Audit

During the performance of the Agreement, WOAH reserves the right to conduct an audit of the project up to a maximum of two (2) times per contractual year, at its own expense and under its responsibility to check the compliance with the provisions of the Agreement, in terms of:

1. compliance with the security policies,
2. quality of service,
3. maintenance of appropriate security measures, in particular to ensure the protection of the integrity and confidentiality of WOAH’s data,
4. compliance with the regulations on the protection of personal data which include the GDPR.

This audit is notified by WOAH to the Service Provider by registered letter with acknowledgement of receipt detailing the documents requested and, where applicable, the protocol that will be carried out, the methods used and the data audited, thirty (30) working days before the planned date of its implementation.

The Parties expressly agree that, insofar as this is possible, an audit of the documents shall be preferred and that an on-site audit shall be scheduled if the elements made available by the Service Provider do not prove sufficient to demonstrate compliance with its obligations under this clause.

The audit may be carried out by WOAH or by a third party designated by WOAH.

The audit results will be the subject of a contradictory debate and validation by the Parties. If the results of the audit reveal any non-compliance in the performance of the Services covered by this Agreement, the Service Provider shall implement corrective actions within a period to be agreed between the Parties and, the costs of the audit will be borne by the Service Provider, without prejudice to the additional rights of WOAH to claim damages and/or to terminate the Agreement.

Without prejudice to WOAH’s right to carry out an audit, the Service Provider must regularly check the conformity and sufficiency of the technical and organisational security measures put in place and be able to demonstrate their application and effectiveness, as well as compliance with the security policies by subjecting its information systems to regular tests and audits carried out by independent third parties.

The Service Provider will report the results of these tests and audits to WOAH, producing a copy of the test and audit report, if requested by WOAH.

# 17. Indemnification.

# WOAH may not under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the staff or property of the Service Provider while the Services are being carried out, or as a consequence of the service. Therefore, WOAH may not accept any claim for compensation or increases in payment in connection with such damage or injury. The Service Provider shall assume sole liability towards third parties, including liability for damage or injury of any kind sustained by them in respect of or arising out of the Services.

The Service Provider shall discharge WOAH of all liability associated with any claim or action brought as a result of an infringement by the Service Provider or the Service Provider’s employees, experts or agents, of a third party's rights. The Service Provider shall defend, protect, indemnify and hold harmless WOAH from and against all liability, claims, damages and costs (collectively “losses”) that WOAH may incur as a result of the negligence, recklessness, willful misconduct or breach by the Service Provider of any of the terms, contained in the Contract. WOAH agrees that Service Provider may not be held liable for any losses caused by a breach of the Agreement or fault by WOAH.

*Force Majeure*

Notwithstanding the foregoing, no Party shall be liable to the other of losses incurred if its ability to perform one or several of its contractual obligations be substantially prevented by an event of Force Majeure (defined as any act of God, strike, epidemic, fire, law, regulation, or by the reason of any other matter beyond such Party's reasonable control). The non-performing Party shall notify the other Party of such Force Majeure event within five (5) working days after such occurrence by giving written notice to the other Party stating the nature of the event, its anticipated duration, and any action being taken to avoid or minimize its effect. The suspension of performance shall be of no greater scope and no longer duration than is necessary and the non-performing Party shall use commercially reasonable efforts to remedy its inability to perform.

# 18. Insurance

Service Provider shall procure, at its own expense and maintain in full force and effect during the term of the Agreement, insurance coverage with a reputable insurance company, and in amounts that are reasonable to support the enforcement of the indemnification obligations under the Agreement. WOAH shall have the right to request from Service Provider proof of insurance coverage that fulfils the foregoing requirements.

19. Assignments and subcontracting

Assignment. Neither Party shall assign, convey, transfer or otherwise dispose of all or any portion of its rights and obligations under, this Agreement without the prior written consent of the other party.

Subcontracting. Neither Party shall subcontract any portion of the Services without the prior written consent of the other Party. Subcontractors must be precisely identified according to the proposed phases of the project. The subcontracting rate must be indicated in the request and not exceed 20% of the total amount indicated on section 7.

Service Provider shall be responsible for the work of a subcontractor whose work shall be undertaken to the same standard as required by this Agreement.

20. Time for Performance

Time shall be of the essence for the performance by Service Provider of its obligations under the Agreement. Any dates, periods, or times for performance specified in the Agreement are to be met and in default Service Provider will be in breach.

# 21. Miscellaneous Provisions.

* 1. Communications. Any notice, request or other formal communication to be given or made under this Agreement shall be in writing and shall be deemed to have been duly given when delivered by registered or first class mail to the recipient at the respective addresses listed on the first page of this Agreement.
	2. Entire Agreement. This Agreement constitutes the full understanding of the Parties and a complete and exclusive statement of the terms and conditions of the agreement relating to the subject matter hereof.
	3. Amendments. No alteration, modification, amendment or change in this Agreement shall be effective or binding on any Party unless the same is in writing and is executed by the Parties.
	4. If any provision in this Agreement is held to be illegal, invalid or unenforceable in whole or in part, the legality, validity and enforceability of the remainder of this Agreement shall not be affected.

# 22. Dispute Resolution and Applicable Law

The Agreement shall be solely governed by its provisions, and, if necessary, by general principles of law, to the exclusion of any single national system of law.

Any dispute, controversy or claim arising out of or relating to the interpretation, application or performance of the Agreement, will first be dealt with through amicable consultations between the Parties. In the event that such attempt at amicable consultations is not successful within thirty (30) working days after the date of a notice stating a dispute, controversy or claim, the parties shall have the right to resolve such dispute through final and binding arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration between International Organisations and Private Parties as in effect on the date of the Agreement.

23. Privileges and Immunities

Nothing in or relating to this Agreement shall be deemed a waiver, express or implied, of any of the privileges and immunities of WOAH or its staff.

# 24. Survival

The provisions of Articles 10 (Confidentiality), 11 (Return of Confidential Information), 12 (Publication of beneficiaries), 13 (Intellectual Property Rights and Ownership of the Deliverables), 14 (Data Protection Policy), 17 (Indemnification), 22 (Dispute Resolution and Applicable Law) and 23 (Privileges and Immunities) shall survive the termination of this Agreement.

# 25. Facsimile Signature

This Agreement may be executed and delivered by facsimile/email and upon such delivery the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other Party. The failure to deliver the original signature copy and/or the non-receipt of the original signature copy shall have no effect upon the binding and enforceable nature of this Agreement.

This Agreement is executed and delivered by Service Provider and WOAH, and effective as of the Effective Date.

**WORLD ORGANISATION FOR ANIMAL HEALTH (WOAH)**

Date:

By:

Dr. Monique Eloit

Director General

**XXXXXX**

**(Service Provider)**

Date:

By:

**SCHEDULE A**

**CALL FOR TENDER – CBD/CFT2022/1**

**SCHEDULE B**

**TECHNICAL, FINANCIAL PROPOSAL AND DECLARATION OF INTEGRITY**

**SCHEDULE C**

**DESCRIPTION OF THE PROCESSING OF PERSONAL DATA**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Subject-matter, purpose of the processing** | **Nature of the processing** | **Type of personal data** | **Categories of data subjects** | **Transfers to third countries** | **Data processor of the Provider** |
|  |  |  |  |  | [to be filled in by service provider] |
|  |  |  |  |  | [to be filled in by service provider] |