

EXTENDED CONFIDENTIALITY AGREEMENT

BETWEEN

The 'Tenderer'

AND

A.S.T.R.I.D., a limited company under public law with registered office address at Regentlaan 54, 1000 Brussels,

Represented by **Salvator Vella**, in his capacity as **Director General**,

Referred to below as '**A.S.T.R.I.D.**'

The Tenderer and A.S.T.R.I.D. are also each referred to individually as '**Party**', and together as '**the Parties**'

FOR THE PURPOSES OF THIS PUBLIC CONTRACT

Referred to below as '**the Performance**'

WHEREAS:

1. This Agreement sets out the conditions for the exchange of Information between the Parties;
2. The following terms used in this agreement have the following definitions:
 - Agreement:** *This Extended Confidentiality Agreement;*
 - Community:** *A group of persons sharing common interests;*
 - Information:** *All information or data, irrespective of its form or nature, that belongs to or is entrusted to A.S.T.R.I.D. and that is of importance to A.S.T.R.I.D. and its users, including personal data, technical knowledge, specifications, plans, models, software, techniques, drawings, schedules, procedures, industrial and intellectual property rights, commercial information, information about the suppliers and clients of A.S.T.R.I.D. and, in general, all information that is shared with or disclosed to the Tenderer, and all information processed by the Tenderer for the account of A.S.T.R.I.D., its employees, sub-contractors, or other parties it engages;*
 - Infrastructure:** *The systems of A.S.T.R.I.D. or any infrastructure in which these systems are located, including cloud solutions, exploited, developed, maintained, or that are required to be installed, combined, adapted or expanded, and in which Information is stored, processed, handled, added to, or made available;*
 - Client:** *Any service, institution, company, or association as defined in Article 3 §1 of the statute of 8 June 1998 on the radio communications of emergency and security services;*
 - User:** *any member of staff of the Client who utilises the systems and services of A.S.T.R.I.D.;*
 - Third parties:** *Persons or groups of persons that are not parties to this Agreement;*
 - Partners:** *Persons or groups of associated persons who carry out a project;*
 - Subcontractors:** *Persons that perform work on behalf of either Party;*
 - Tenderer:** *The Tenderer, including its employees and where relevant its Third Parties and Subcontractors;*
 - Owner:** *The Party that holds the intellectual property rights to Information;*
3. A.S.T.R.I.D. is the operator of the emergency and security networks (cf. Articles 102 and 103 of the Royal Decree of 16 January 2017 establishing the third management contract of A.S.T.R.I.D.). Information is sent via these networks which, in the event of any kind of incident, could be released;
4. The '**98 Statute**' means the 'Statute of 11 December 1998 on classification and security clearances, certificates and advisory notices' together with the relevant Royal and ministerial decrees, and including all legislative amendments thereto;
5. All Information classified as "CONFIDENTIAL - 98 Statute", "SECRET - 98 Statute" or "TOP SECRET - 98 Statute" may be exchanged between A.S.T.R.I.D. and the Tenderer in accordance with the rules stipulated by the 98 Statute;
6. A.S.T.R.I.D. classifies its Information in accordance with the Traffic Light Protocol (TLP, <https://www.first.org/tlp/>) standard:
 - TLP:CLEAR :** *The recipients may distribute the information globally; there are no restrictions on its distribution;*
 - TLP:GREEN :** *Restricted disclosure; the recipients may distribute this Information within their Community;*
 - TLP:AMBER :** *Restricted disclosure; the recipients may only distribute this Information on the basis of a 'need to know' within their organisations and amongst their clients;*
 - TLP:RED :** *For the eyes and ears of individual recipients only; no other distribution;*
7. The General Data Protection Regulation (the GDPR - (EU 2016/679) and the statute of 30 July 2018 concerning the protection of natural persons with regard to the processing of personal data (EU 2016/680) strictly apply;
8. The following Information is not covered by the present Agreement:
 - *Information that complies with Recital 9 of this Agreement;*
 - *Information that A.S.T.R.I.D. has formally consented to be disclosed;*
 - *Information that by virtue of any court order must be disclosed in whole or in part;*
9. The following information is not included in the Information:
 - *Information that is already in the possession of a Party – otherwise than by virtue of a breach of the duty of confidentiality – before it is disclosed by A.S.T.R.I.D.;*
 - *Information already in the public domain at the time this Agreement is signed;*
 - *Information that is made public after receipt through no intervention of either Party;*
 - *Information acquired by the Tenderer from a third party that held this information in good faith and that had authority to supply this information;*
 - *Information that is independently generated by the Tenderer and that is not based on, or makes use of, data or information disclosed by A.S.T.R.I.D.;*
10. The Tenderer should be able to access the Information communicated by A.S.T.R.I.D., its employees, Third Parties, Subcontractors, or Users;
11. The Tenderer should be able to access the Infrastructure;

EXTENDED CONFIDENTIALITY AGREEMENT

12. The Tenderer that is given access to the Information or to the Infrastructure, should comply strictly with the following performance conditions;

THE FOLLOWING PERFORMANCE CONDITIONS STRICTLY APPLY

13. The Tenderer acknowledges the confidentiality of the Infrastructure pertaining to the Performance.
14. The Tenderer acknowledges the confidential nature of the Information of which it learns, or has learned, directly or indirectly except for the Information indicated in Recital 7 and relating to the Performance.
15. The Tenderer must comply with all European regulations and Belgian laws that apply to the Performance.
16. The Tenderer must supply to the security officer of A.S.T.R.I.D., for each of its Belgian employees that it deploys in the context of a Performance and who have clearance under the 98 Statute, all information (references, dates, security levels, personal data, etc.) pertaining to the clearances of its employees involved in the Performance.
17. The security officer of A.S.T.R.I.D. may be contacted via e-mail (✉ sec.advice@astrid.be).
18. The Tenderer must obtain a clearance via A.S.T.R.I.D., a security advisory notice as defined by the 98 Statute from the Belgian National Security Authority ('the NSA') for each Belgian employee who has not received a clearance as defined by the 98 Statute, but who holds a Belgian national registration number and has fixed residence in Belgium for a continuous period of at least five years.
19. The Tenderer must obtain a clearance via A.S.T.R.I.D., a security advisory notice as defined by the 98 Statute from the Belgian National Security Authority ('the NSA') for each Belgian employee who is deployed in respect of a Performance and who does not meet the conditions of section 18, above. It must supply to the security officer of A.S.T.R.I.D., all information (references, dates, security levels, personal data, etc.) pertaining to the clearances obtained for its employees.
20. Where necessary, the Tenderer must take the required steps with the NSA to get clearance of its business as defined by the 98 Statute at a level that is at least equal to the level stipulated by A.S.T.R.I.D. in the context of the Performance.
21. Where necessary, the Tenderer must designate a security officer as defined by the 98 Statute to the NSA and must provide the contact details of its security officer to the security officer of A.S.T.R.I.D.
22. If the Tenderer employs a non-Belgian employee it must contact the NSA of the country from where the non-Belgian employee must apply to obtain a clearance for such person at the level required by A.S.T.R.I.D., in the context of the Performance.
23. Only the security clearances issued by the NSA of a member state of the European Union or of NATO or by the European Union or NATO, and that are at a level equal to or higher than 'confidential' are permitted by the Belgian NSA. The level 'restricted/restraint' is not permitted.
24. Payments incurred in obtaining a security advisory notice are payable in full by the Tenderer.
25. Payments incurred in obtaining a security clearance for natural persons or legal entities are payable in full by the Tenderer.
26. The Tenderer is responsible for notifying the security officer of A.S.T.R.I.D. of any change relating to the security clearances and security advisory notices applied for and received in respect of those of its employees who are involved in the Performance, such as the cancellation or revocation of a security clearance or a security advisory notice.
27. The Tenderer is responsible for the timely renewal of the security clearances and security advisory notices in respect of those of its employees who are involved in the Performance.
28. The Subcontractors of the Tenderer may only report to the security officer of the Tenderer. The security officer of A.S.T.R.I.D. shall decline to deal with any requests made directly to him by the Subcontractors of the Tenderer.
29. Any exchange of Information outside the European Economic Area must be formally approved by the data protection officer of A.S.T.R.I.D. (DPO, ✉ dpo@astrid.be) and must comply with the requirements of the General Data Protection Regulation (Regulation (EU) 2016/679 (the GDPR)), of the Belgian 'statute of 30 July 2018 on the protection of natural persons in regard to the processing of personal data' (EU 2016/680), and of the Contract Type provisions of the European Commission available on the website of the Belgian Data Protection Authority: <https://www.dataprotectionauthority.be>.
30. Notwithstanding the above, as an exception and strictly limited in terms of time and volume, Information may be disclosed outside the European Economic Area on condition that the Tenderer has obtained the prior formal consent of A.S.T.R.I.D., and ensures that there is an NDA (Non-Disclosure Agreement) or equivalent agreement between the Tenderer and the party that receives the Information disclosed by the Tenderer that covers this Contract.
31. Given the Infrastructure, and given the nature and content of the Information, the Tenderer that at any time during the Performance could be confronted with Infrastructure and/or Information, is required to put in place the relevant organisational and technical Information security measures as specified in the ISO27001 standard for good practices for information security management systems (or equivalent norms or standards) in force at the moment that this Contract is signed by the Parties.
32. The Tenderer undertakes to provide the Chief Information Security Officer (CISO, ✉ ciso@astrid.be) of A.S.T.R.I.D. on request with the evidence of the organisational and technical security measures put in place.
33. The Tenderer undertakes to allow audits by or requested by A.S.T.R.I.D. whenever A.S.T.R.I.D. deems this necessary. The costs of the primary audit are payable by A.S.T.R.I.D.; the costs related to any monitoring audits in the context of the Performance are payable by the Tenderer.
34. The Tenderer agrees and acknowledges that, with the exception of the rights expressly provided for in this Contract, the disclosure and supply of exclusive Information by A.S.T.R.I.D. under this Contract may not be interpreted as the granting to the Tenderer of any express or implied rights, by way of licence or otherwise, against the business, inventions, or discoveries to which the exclusive Information pertains, nor to the granting of any copyrights, trademark rights, or rights to trade secrets.
35. The Tenderer undertakes not to use the Information supplied to it by A.S.T.R.I.D. including its employees and where relevant its Third Parties and Subcontractors for purposes other than those defined for the Performance.
36. The Tenderer undertakes to return to A.S.T.R.I.D., as soon as the Performance is completed and in accordance with the further terms to be agreed between the Parties, all Information pertaining to the Performance, except for the Information that is covered by Recital 8, and unless otherwise formally stipulated by A.S.T.R.I.D..



EXTENDED CONFIDENTIALITY AGREEMENT

VOTRE RÉSEAU SÉCURITÉ
COMMUNICATIE VOOR VEILIGHEID

37. The Tenderer undertakes to comply with a formal and official request by A.S.T.R.I.D. to definitively and irreversibly destroy all Information pertaining to the Performance, with the exclusion of Information as covered by Recital 8, irrespective of the location where this Information is processed, stored, handled, etc., including copies and back-ups, and Information contained on a physical carrier (paper, USB stick, external hard drive, etc.). The effective, demonstrable destruction of the Information must be notified to the CISO and the DPO of A.S.T.R.I.D. (photo, video, signed declaration, etc.) as well as the protocols used. The Tenderer must use the tools and protocols adapted to the sensitivity of the Information to be destroyed.
38. The Tenderer undertakes in the context of the Performance to work ethically and, unlimited by time, to not to disclose any Information to any third party connected with the Performance.
39. The Tenderer guarantees that the persons referred to above shall also be bound by this Agreement and/or other equivalent duty of confidentiality.
40. If the Tenderer so wishes, it may propose its own confidentiality agreement to A.S.T.R.I.D.
41. This Agreement sets out all obligations of the Parties concerning confidentiality and replaces all previous obligations between the Parties in this regard.
42. This Agreement is governed by Belgian law.
43. Any disputes arising between the Parties under this Agreement shall be brought exclusively before the competent courts in Brussels.
44. The Agreement comprises all the conditions set out in this document.
45. The Tenderer is liable on behalf of its employees, Third Parties and Subcontractors for strict compliance with this Agreement.