

# **28DIGITAL Detailed Contract Terms And Conditions**

## **28DIGITAL – Framework Agreement Template**

This Framework Agreement (the "Framework Agreement") is intended to form part of the tender documentation package issued by 28DIGITAL for the Tender Process [...]and, upon award, to be signed with the successful Tenderer(s).

### **1. Parties**

This Framework Agreement is entered into between:

**28DIGITAL IVZW**, a Belgian International non-profit Association, with registered offices at Rue Guimard 7, 1040 Brussels, Belgium, (the "Contracting Authority" or "28DIGITAL"),

and

The successful tenderer(s) [...] (the "Supplier"), as identified in the signature block and/or award decision.

28DIGITAL and the Supplier are hereinafter referred to individually as a "Party" and jointly as the "Parties".

### **2. Recitals:**

#### **WHEREAS:**

(A) 28DIGITAL has launched the Tender procedure [...] pursuant to its Request for Proposals ("RFP") for the provision of learning management system (LMS) and related digital services;

(B) The Supplier has submitted a Tender in response to the RFP;

(C) Following evaluation, 28DIGITAL has selected the Supplier to be appointed under a framework agreement (the "Framework Agreement");

(D) This Framework Agreement establishes the general terms and conditions governing the contractual relationship between 28DIGITAL and the Supplier for the provision of Services through Specific Contracts or Call-Offs.

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

### **3. Definitions and Order of Precedence:**

3.1 Capitalised terms shall have the meaning given in this Framework Agreement, the RFP, the Specific Contract, or the annexes hereto.

3.2 In the event of conflict, the following order of precedence shall apply:

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1. The applicable Specific Contract / Call-Off Order;
2. Any Special Conditions agreed in writing;
3. This Framework Agreement (including its annexes);
4. The RFP and its annexes;
5. The Supplier's Tender.

### **4. Nature and Scope of the Framework Agreement:**

4.1 This Framework Agreement establishes the general contractual framework under which 28DIGITAL may purchase Services from the Supplier during the term of the Framework Agreement.

4.2 This Framework Agreement does not in itself give rise to any obligation on 28DIGITAL to purchase a minimum volume or value of Services, unless expressly stated.

4.3 Services shall be ordered exclusively through written Specific Contracts, Call-Off Orders, or Statements of Work (each a "Specific Contract").

### **5. Scope of Services:**

5.1 The Supplier shall provide the Services as described in the RFP, this Framework Agreement, and the applicable Specific Contract.

5.2 Without limitation, Services may include, where applicable:

- \* LMS hosting, configuration, and operation;
- \* Platform maintenance, upgrades, and security;
- \* User and administrator support;
- \* Integration with third-party systems;
- \* Reporting, analytics, and data management;
- \* Development or adaptation of functionalities;
- \* Long-term hosting of EU-funded project content.

5.3 The Supplier shall perform the Services with due care, skill and diligence, in accordance with best professional and industry practices and all applicable laws.

### **6. Term of the Framework Agreement:**

6.1 The Framework Agreement shall enter into force on the Effective Date specified in the signature block.

6.2 The duration of the Framework Agreement shall be for a period of two (2) years from the Effective Date and any extension options shall be discussed amicably between the Parties three (3) months prior the expiry or termination of the initial and subsequent terms.

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6.3 The expiry or termination of the Framework Agreement shall not affect Specific Contracts already concluded, which shall continue in accordance with their terms, unless otherwise agreed.

### **7. Award of Specific Contracts and Call-Offs:**

7.1 Specific Contracts shall be awarded in accordance with the procedures described in the RFP (including, where applicable, direct award, ranking, or mini-competition among framework suppliers).

7.2 Each Specific Contract shall specify at least:

- \* Description and scope of Services;
- \* Deliverables and milestones;
- \* Applicable SLA;
- \* Prices and payment terms;
- \* Duration and timetable;
- \* Any Special Conditions.

### **8. Governance and Cooperation:**

8.1 The Parties shall designate framework managers and operational contact persons and identified them herein below:

- ⇒ 28DIGITAL: [...]
- ⇒ SUPPLIER: [...]

8.2 The Supplier shall cooperate in good faith with 28DIGITAL and provide all information reasonably required for the proper performance of the Services.

### **9. Service Levels, Maintenance and Support:**

9.1 Where applicable, the Supplier shall comply with the service levels, availability targets, response times and escalation procedures defined in the applicable SLA and/or Specific Contract.

9.2 The Supplier shall be responsible for hosting, maintenance, updates, incident management, and business continuity, as specified in the RFP and Specific Contracts.

9.3 The Supplier shall promptly notify 28DIGITAL of any material service interruption, security incident or breach.

### **10. Change Management:**

Any material change to the scope, timetable or pricing of a Specific Contract shall require a written change order signed by both Parties.

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### **11. Prices, Invoicing and Payment:**

11.1 Prices and fees shall be as set out in the Framework Agreement and/or the applicable Specific Contract.

11.2 Unless otherwise stated, prices are exclusive of VAT.

11.3 Invoicing shall be subject to acceptance of deliverables and/or confirmation of Services performed.

11.4 28DIGITAL shall pay correct and undisputed invoices within thirty (30) days of receipt or within the maximum period permitted by applicable law.

11.5 28DIGITAL may suspend payment in case of disputed invoices, material non-compliance, or suspected irregularities.

### **12. Intellectual Property Rights:**

12.1 All intellectual property rights in deliverables, results and materials created specifically under a Specific Contract ("Foreground IP") shall vest in 28DIGITAL upon payment and acceptance, without limitation in time, territory or field of use, unless otherwise agreed in writing.

12.2 Pre-existing intellectual property ("Background IP") shall remain the property of the respective owner. The Supplier grants 28DIGITAL a perpetual, royalty-free, non-exclusive licence to use Background IP to the extent necessary for use of the deliverables.

12.3 The Supplier warrants non-infringement and shall indemnify 28DIGITAL against third-party IP claims.

### **13. Confidentiality:**

Each Party shall treat all Confidential Information as strictly confidential and shall use it solely for the purposes of performing this Framework Agreement and any Specific Contract. Confidentiality obligations shall survive termination for at least four (4) years, unless a longer period is required by law or agreed.

### **14. Data Protection and GDPR:**

14.1 The Parties shall comply with Regulation (EU) 2016/679 (GDPR) and all applicable Belgian and EU data protection laws.

14.2 Where the Supplier processes personal data on behalf of 28DIGITAL, the Parties shall enter into a data processing agreement ("DPA") in accordance with Article 28 GDPR.

14.3 The Supplier shall implement appropriate technical and organisational measures to protect personal data and systems.

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### **15. Security and Cybersecurity:**

The Supplier shall implement appropriate cybersecurity measures and comply with any security requirements specified in the RFP, this Framework Agreement or a Specific Contract.

### **16. Compliance with Law:**

The Supplier shall comply with all applicable EU, Belgian and local laws and regulations.

### **17. Audits and EU Funding Requirements:**

17.1 Where Services are linked to EU-funded activities, the Supplier acknowledges that audits and checks may be carried out by EU institutions and bodies, including the European Court of Auditors and OLAF.

17.2 The Supplier shall cooperate fully with such audits and provide access to relevant records and documentation.

### **18. Liability and Indemnification:**

18.1 Each Party shall be liable for damages caused by its wilful misconduct or gross negligence, in accordance with applicable law up to an aggregate amount equal to the total.

18.2 To the extent permitted by law and unless otherwise agreed, neither Party shall be liable for indirect or consequential damages.

18.3 The Supplier shall indemnify and hold harmless 28DIGITAL against third-party claims arising from:

- \* Intellectual property infringement;
- \* Breach of data protection obligations;
- \* Personal injury or property damage;
- \* Breach of applicable laws.

18.4 Except for the exclusions listed in Article 18A.2, the total aggregate liability of the Supplier arising out of or in connection with the Framework Agreement and all Specific Contracts, whether in contract, tort (including negligence), breach of statutory duty or otherwise, shall be limited to:

- 100% of the total fees paid or payable by 28DIGITAL to the Supplier under the relevant Specific Contract in the twelve (12) months preceding the event giving rise to the claim.

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### **19. Insurance:**

The Supplier shall maintain adequate professional and/or commercial liability insurance and provide proof upon request.

### **20. Subcontracting and Assignment:**

The Supplier may not subcontract or assign this Framework Agreement or any Specific Contract without the prior written consent of 28DIGITAL. The Supplier shall remain fully responsible for approved subcontractors.

### **21. Force Majeure:**

Neither Party shall be liable for failure or delay due to force majeure events beyond its reasonable control, subject to prompt notification.

### **22. Termination:**

22.1 28DIGITAL may terminate this Framework Agreement and/or any Specific Contract for material breach not remedied within a reasonable period after written notice.

22.2 28DIGITAL may terminate with immediate effect in case of insolvency, serious misconduct, or where required by changes in law or funding conditions.

22.3 Termination of the Framework Agreement shall not automatically terminate Specific Contracts, unless expressly stated.

### **23. Survival:**

Clauses relating to confidentiality, intellectual property, audits, data protection, liability and governing law shall survive termination.

### **24. Governing Law and Jurisdiction:**

This Framework Agreement and all Specific Contracts shall be governed by Belgian law, excluding its conflict of law rules and the United Nations Convention on Contracts for the International Sale of Goods (CISG).

The courts of Brussels, Belgium, shall have exclusive jurisdiction, unless mandatory law provides otherwise.

### **25. Entire Agreement and Amendments:**

25.1 This Framework Agreement, together with its annexes and any Specific Contracts, constitutes the entire agreement between the Parties.

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25.2 Any amendment shall be valid only if made in writing and signed by duly authorised representatives of both Parties.

### **26. Annexes:**

The following annexes may form an integral part of this Framework Agreement:

- \* Annex 1: RFP (Description of Services)
- \* Annex 2: Service Level Agreement (SLA)
- \* Annex 3: Pricing and Financial Terms
- \* Annex 4: Data Processing Agreement (DPA)
- \* Annex 5: Call-Off / Specific Contract Template

### **27. Languages:**

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

### **28. Signatures:**

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

Thus, agreed and signed per E-signing,

<b>For 28DIGITAL:</b>	<b>For the SUPPLIER:</b>
Name:	Name:
Title:	Title:
Date:	Date:

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### **Annex 1 – RFP (Description of Services)**



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### Annex 2 – Service Level Agreement (SLA)

#### **A2.1 Scope**

This SLA applies to all LMS hosting, operation, maintenance and support Services provided under the Framework Agreement and any Specific Contract.

#### **A2.2 Service Availability**

- Target monthly availability: \*\*99.5%\*\* unless otherwise agreed in the Specific Contract.
- Scheduled maintenance windows shall be communicated at least five (5) Working Days in advance, except in emergencies.
- Availability excludes pre-agreed maintenance windows.

#### **A2.3 Support Hours**

- Standard support hours: Business days, 09:00–18:00 CET.
- Extended or 24/7 support may be agreed in a Specific Contract.

#### **A2.4 Incident Severity and Response Times**

Severity	Description	Target Response Time	Target Resolution Time
Critical (P1)	System unavailable or major security incident	1 hour	8 hours
High (P2)	Major functionality impaired	4 hours	2 Working Days
Medium (P3)	Non-critical functionality impaired	1 Working Day	5 Working Days
Low (P4)	Minor issue or request	2 Working Days	As agreed

#### **A2.5 Escalation**

The Supplier shall maintain an escalation procedure including management-level escalation for unresolved P1 and P2 incidents.

#### **A2.6 Data Backup and Disaster Recovery**

- Daily backups of production data.
- Retention period: minimum 30 days unless otherwise agreed.
- Disaster recovery objective (RTO): 24 hours.
- Recovery point objective (RPO): 24 hours.

#### **A2.7 Reporting**

The Supplier shall provide monthly service reports including availability, incidents, response times and security events.

#### **A2.8 Continuous Improvement**

The Parties shall review SLA performance at least annually and may agree improvement actions.

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### **Annex 3 – Pricing and Financial Terms**

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### **Annex 4 – Data Processing Agreement (DPA)**

#### **A4.1 Subject Matter and Duration**

This DPA governs the processing of personal data by the Supplier on behalf of 28DIGITAL under the Framework Agreement and Specific Contracts for the duration of such processing.

#### **A4.2 Nature and Purpose of Processing**

Processing relates to the provision and operation of LMS and related digital services, including user management, learning activity tracking, reporting and support.

#### **A4.3 Categories of Data Subjects and Personal Data**

- \* Data subjects: learners, trainers, administrators, project staff.
- \* Personal data: identification data, contact details, user credentials, learning activity data, technical logs.

#### **A4.4 Obligations of the Supplier (Processor)**

The Supplier shall:

- \* Process personal data only on documented instructions from 28DIGITAL;
- \* Ensure confidentiality of personnel;
- \* Implement appropriate technical and organisational measures;
- \* Assist 28DIGITAL with data subject rights requests;
- \* Assist with DPIAs and prior consultations where required;
- \* Notify 28DIGITAL without undue delay of any personal data breach;
- \* Make available all information necessary to demonstrate compliance.

#### **A4.5 Sub-Processing**

The Supplier shall not engage sub-processors without prior written authorisation from 28DIGITAL. The Supplier shall impose equivalent data protection obligations on approved sub-processors.

#### **A4.6 International Transfers**

Transfers outside the EEA shall be subject to appropriate safeguards in accordance with GDPR Chapter V.

#### **A4.7 Deletion or Return of Data**

Upon termination, the Supplier shall, at 28DIGITAL's choice, delete or return all personal data, unless EU or Belgian law requires retention.

#### **A4.8 Audit Rights**

28DIGITAL or its auditors may audit compliance with this DPA upon reasonable notice.

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### Annex 5 – Call-Off / Specific Contract Template

#### **A5.1 Parties**

This Specific Contract is entered into between 28DIGITAL IVZW and the Supplier identified below.

#### **A5.2 Reference to Framework Agreement**

This Specific Contract is governed by and subject to the Framework Agreement dated [...]. In case of conflict, this Specific Contract shall prevail for the specific Services.

#### **A5.3 Description of Services**

*[Detailed description of Services, deliverables and scope]*

#### **A5.4 Deliverables and Milestones**

*[Milestones, acceptance criteria, timetable]*

#### **A5.5 Service Levels**

Applicable SLA: Annex 2 to the Framework Agreement and any specific SLA terms below:  
*[Specific deviations or enhancements]*

#### **A5.6 Prices and Payment**

*[Prices, pricing model, invoicing milestones]*

#### **A5.7 Duration**

*[Start date, end date, options for extension]*

#### **A5.8 Special Conditions**

*[Any project-specific contractual terms]*

#### **A5.9 Contacts**

- 28DIGITAL Contact:
- Supplier Contact:

#### **A5.10 Signatures**

For 28DIGITAL IVZW:	For the Supplier:
Name:	Name:
Title:	Title:
Date:	Date: