**FRAMEWORK AGREEMENT**

**BETWEEN:**

**The company (or other legal form) […..…*company name*………]**

Company [………*legal form*…………] with a capital of […………..] Euros,

Registered office […..…*address*……….],

Listed on the French Registre du Commerce et des Sociétés (Trade and Company Register) in [……..] under no. […….],

Represented by [……*last name, first name*...], in his capacity as […*to be completed with position…*], duly authorized for the purposes hereof,

Hereinafter referred to as the “Customer”

**AND**

**The company (or other legal form) […..…*company name*………]**

Company [………*legal form*…………] with a capital of […………..] Euros,

Registered office […..…*address*……….],

Listed on the French Registre du Commerce et des Sociétés (Trade and Company Register) in [……..] under no. […….],

Represented by [……*last name, first name*...], in his capacity as […*to be completed with position…*], duly authorized for the purposes hereof,

Hereinafter referred to as the “Agency”

Hereinafter jointly referred to as the "Parties" and separately as the "Party".

**WHEREAS:**

1. The Customer wishes to outsource the provision of certain services of public relations consultancy to the Agency, as described in the Application Agreement(s) (hereinafter the “Services”).
2. This agreement constitutes the Framework Agreement for the provision of the Services and will be complemented by Application Agreement(s) regarding the specific Services outsourced (hereinafter together referred to as the « Contract »).
3. The Agency is experienced in the provision of public relations consultancy services and has agreed to be responsible for the provision of the Services.
4. The Customer has selected the Agency to provide the Services, subject to the terms and conditions set out in the Contract.

**IT IS AGREED AS FOLLOWS:**

**Article 1 – Contractual Documents**

The contractual documents that compose the Contract are, in decreasing order of priority:

* the Application Agreement(s), any amendments thereto, and its/their appendices;
* this Framework Agreement, any amendments thereto, and its appendixes.

In the event of a contradiction or inconsistency between these documents, the provisions of the higher-ranking document shall prevail.

It is agreed between the Parties that:

* the Contract has been freely negotiated between the Parties;
* the Contract can be modified provided an amendment or any other document in writing is signed between the Parties;
* it is accepted by the Parties that the Contract does not create a significant imbalance between the rights and obligations of the Parties arising from the Contract.

**Article 2 - Purpose of the contract**

The purpose of this Framework Agreement is to determine the conditions under which the Customer entrusts the Agency with the mission of advising on public relations with the press and other media/audiences regarding the products, brands, services and campaign described in the relevant Application Agreement(s) (hereinafter referred to as the “Mission”).

The conditions set out in the present Framework Agreement may apply to different products, brands, services and campaigns (and therefore to different Missions) that the Customer may entrust to the Agency through the signature of Application Agreement(s), which in particular shall set out the remuneration associated with each Mission.

For each Mission entrusted to the Agency, the Agency shall provide the Customer with the Services defined in the relevant Application Agreement(s).

**Article 3 - Services of the Agency**

As part of the Contract and the completion of the Mission, the Agency shall provide the Customer with the Services set out in the relevant Application Agreement(s).

The Application Agreement determines the objectives of the Mission entrusted to the Agency, the various services to be provided by the Agency and the estimated terms of their execution, an estimation of the resources required, and the estimated schedule of operations.

The services of the Agency may include:

- advice regarding and development of a public relations strategy,

- planning and organisation of media and social network communication campaigns,

- design, drafting, layout and updating of press packs,

- design, drafting and layout of press releases,

- management of social networks,

- selection of media titles and journalists,

- coordination, printing and sending out of information to the press,

- press contact for campaign monitoring, feature stories and buying guides, relaying of information to journalists,

- proposals for tests and interviews,

- campaign monitoring meetings,

- *(weekly, monthly, quarterly: to be specified)* reporting.

Any additional or complementary services, as listed hereabove, not provided for in the relevant Application Agreement(s) may be provided by the Agency at the Customer's request. These additional services shall be subject to additional charges based on a preliminary estimate presented to and accepted by the Customer, and shall become part of the Services provided in the framework of a specific Mission after such acceptance.

**Article 4 – Obligations of the Parties**

**4.1 Obligations of the Agency**

The Agency shall proceed with due care and diligence to ensure the successful completion of its Mission.

The Agency, throughout its collaboration with the Customer, is invited to make any suggestions, comments or proposals that may help to improve the efficiency of the Services entrusted to it.

The Agency shall be in charge of drafting (i) the minutes of meetings, (ii) a report of relevant telephone conversations and (iii) the decisions taken thereby. These shall be sent for approval to the Customer and will be considered as accepted by the Customer in the absence of dispute/contestation within 7 (seven) calendar days of receipt by the Customer.

Subject to Article 7 (Responsibility and Liability of the Parties), the Agency shall take out the insurance necessary to cover the risks involved under the Contract.

It is expressly agreed between the Parties that the Agency can and may engage providers or subcontractors to perform all or part of its obligations under the Contract, which the Customer acknowledges and accepts. The Agency negotiates and concludes directly and in its own name, with its own providers or subcontractors, and where applicable in accordance with the provisions stated in the article “Personal data protection”.

**4.2 Obligations of the Customer**

The Customer shall maintain an active and ongoing collaboration with the Agency, on a regular and continuous basis. The Customer also undertakes to define and communicate to the Agency its needs, its requirements and its general and strategic guidelines relating to the performance of the Contract. In any case, the Customer shall cooperate with the Agency in order to perform the Contract.

The Customer shall make available to the Agency, without delay after the start of the Mission and in a timely manner throughout the performance of the Contract, all items, information and answers necessary for the completion of the Mission, or considered useful by the Agency in order to perform the Contract and to assist the latter with planning, realisation and smooth provision of the Services, as well as any information that may entail a change to the envisaged schedule.

The Agency must have access to the information necessary for the completion of the Mission and the provision of the Services. Thus, the Customer must take the initiative to provide the Agency with general data and information on any constraints (such as legal constraints) applicable to the business of the Customer and its operations or products, including specific legislative or regulatory provisions, that could affect the performance of the Contract.

The Customer shall notify the Agency of all information, elements or events that could affect the performance of the Contract, immediately after the Customer becomes aware of such information, elements or events.

The Agency, according to the nature of its Mission, shall be involved in the Customer’s business in order to better understand its workings and objectives and be in a better position to formulate its proposals. The Customer undertakes to the best of its ability to involve the Agency in its business and provide all the relevant information.

The Customer shall establish dedicated and skilled teams, in a timely manner compatible with the performance of the Contract, in order to allow for the Agency to benefit from all information and elements that are necessary for the Agency or considered useful by the Agency in order to perform the Contract. The Customer shall ensure the availability of such team members and that the Agency benefits from a qualified contact within each team that is able to respond to the Agency’s requests and questions in the context of the performance of the Contract and the Mission.

The Customer guarantees that it has the required rights (right to use, to exploit, to distribute, etc.) on any photo, drawing, creative work or any other elements provided to the Agency for distribution to the press or any other media, and that it has paid the applicable royalties to the authors or to any relevant persons. The Customer guarantees that rights attached to these information and elements, including files and data, are not subject to co-ownership, pledge or mortgage or any other type of restriction and more generally that it has all the necessary rights to communicate or make available these information and elements, including files and data, to the Agency, in particular in order for the latter to perform the Contract.

The Customer guarantees that all information and elements, including files and data, that are communicated and/or made available to the Agency by the Customer in the context of the Contract shall not give rise to liability of the Agency towards third parties. In any event, the Agency cannot be held liable for any damage linked directly or indirectly to these information and elements, including files or data. The Customer shall hold the Agency harmless against any action (including claims, proceedings, complaints, oppositions or lawsuits), no matter its form, content or nature, that would be directly or indirectly in connection with these information and elements, including files or data, and/or with the Customer’s obligations under the Contract. The Agency can either ensure its defence itself, or decide that this defence will be carried out by the Customer. In any case, the Agency’s defence shall be at the expense of the Customer. In particular, the Customer undertakes irrevocably to indemnify the Agency for any losses, damages, costs (including legal fees) and expenses incurred by or awarded against the Agency as a result of or in connection with such action.

The Customer undertakes to obtain all the statutory, legal and/or administrative authorizations required to perform the Contract.

**Article 5 - Remuneration and terms of payment**

**5.1 Fee**

The Agency shall charge for the Services under the conditions provided for in the relevant Application Agreement(s). The Customer shall pay all fees and charge in accordance with the relevant Application Agreement(s). In this respect, the Customer expressly acknowledges that this commitment constitutes an essential obligation on its part.

The invoices must be settled by the Customer within 30 (thirty) calendar days following the invoice date by bank transfer.

The Customer is responsible for providing complete and accurate billing and contact information to the Agency and notifying the Agency of any changes to such information without delay.

Unless otherwise stated, the Agency’s fees are exclusive of all applicable taxes, levies or duties imposed by taxing authorities, including without limitation value-added and withholding taxes, and the Customer shall be responsible for payment of all such taxes, levies or duties, excluding only taxes based on the Agency’s income.

The Services will give rise to the payment of V.A.T., except where an exemption applies, and V.A.T. will be billed in the invoices issued by the Agency.

The Parties also expressly agree that travel expenses incurred by the Agency relating to the performance of the Services are not included in the above-mentioned fees. These expenses will be fully paid by the Customer to the Agency, on presentation by the latter of appropriate supporting documents.

**5.2 Technical costs**

In addition to the fee for the provision of the Services, the Agency shall charge technical costs, as detailed in the relevant Application Agreement(s).

The corresponding invoices must be settled by the Customer within 30 (thirty) calendar days following the invoice date by bank transfer.

**5.3 Operating costs**

The operating costs incurred by the Agency in the performance of its Mission, including in particular the costs of telephone calls, faxes, emails, photocopies, supplies, postage, couriers, etc. are set at a fixed amount of [X] % of the Agency’s total fee for the provision of the Services (excluding technical costs).

The Agency shall invoice its operating costs at the same time as its fee. The corresponding invoices must be settled by the Customer within 30 (thirty) calendar days following the invoice date by bank transfer.

**5.4 Late payment**

Any delay by the Customer in making any payments due to the Agency under the Contract on the agreed dates will result in the forfeiture of all outstanding amounts and will entitle the Agency to invoice them immediately.

In accordance with the provisions of Article L.441-10 of the French Commercial Code, any delay or non-payment of all or part of an invoice issued by the Agency on the due date referred to above will result, without the need for a reminder, in the payment of late payment penalties. The interest rate for such late payment penalties will be the interest rate applied by the European Central Bank to its most recent refinancing operation plus ten (10) percentage points. This rate is the rate in force on the 1st of January of the year in question for the first half of the year in question. For the second half of the year in question, it is the rate in force on the 1st of July of the year in question.

These penalties will be calculated on the amount shown on the invoice, inclusive of tax, without prejudice to the Agency’s right to claim compensation for its loss due to late payment or non-payment of the invoice concerned. The penalties will be due from the day following the due date of the invoice until the day of its collection by the Agency.

Additionally, any Customer who is late in payment will automatically owe the Agency a lump-sum compensation for collection costs, set at forty (40) euros. If the collection costs incurred are higher than this indemnity, the Agency may request additional compensation upon justification. However, the Agency will not be able to claim this compensation in the event of the opening of safeguard proceedings, receivership or judicial liquidation proceedings which would prohibit the payment of the debt due to it on the due date.

Additionally, in case of non-compliance with the payment conditions above, the Agency may, without limiting its other rights and remedies, suspend Services until such amounts are paid in full, provided that the Agency has given the Customer at least 10 (ten) calendar days’ prior notice.

**5.5 Revision of remuneration**

The fees and technical costs shall be negotiated every year in the month of [......] to apply as of the 1st of [......] of the following year. If no agreement can be reached by the Parties, the fees and technical costs for the following year shall be revised according to changes in the Syntec price index. The benchmark index is that of the month of [... ..] 2020, that is [....].

**Article 6 - Term**

The Framework Agreement shall:

* become effective on the date of the last signature of this Framework Agreement by the Parties and in any case, at the latest at the time of entry into force of an Application Agreement;
* remain in effect as long as an Application Agreement is in effect;

(hereinafter referred to as the “Term of the Contract”).

The term of each Mission is provided in the relevant Application Agreement(s).

Throughout the Term of the Contract, and including during the notice period, the relationship between the Agency and the Customer must continue loyally, sincerely and normally; the Customer must not transfer to another agency the Services that should be performed by the Agency during the notice period; the Agency must perform with care and diligence the Services entrusted to it by the Customer until the end of the Term of the Contract.

The contracts concluded by the Agency with any third parties in performance of the Contract, including for the performance of an Application Agreement, will continue during the notice period and will be terminated by the Agency upon termination of the Contract. The Customer shall reimburse the Agency for any expenses and technical costs incurred under such third contracts, even during the notice period, as well as any fees, charges and/or penalties related to the termination of such third party contracts.

The Agency may not be held responsible for keeping documents entrusted to them by the Customer beyond a period of one year after the end of the Term of the Contract.

In the event that the Customer exempts the Agency from performing the Services during the notice period, the latter shall receive compensation equivalent to its remuneration as defined previously.

**Article 7 – Responsibility and Liability of the Parties**

**7.1 Responsibility and Liability of the Agency**

The Agency guarantees the Customer against any damage that could result from non-performance or improper performance of its obligations, however this shall be limited to direct, consequential and foreseeable damage suffered by the Customer in accordance with the provisions of the French Civil Code, providing that a failure of the Agency to its obligations within the framework of the Contract has been duly proven by the Customer. If so, the Customer undertakes:

* to notify to the Agency any failure to its obligations under the Contract, in writing and immediately after becoming aware of this failure;
* to cooperate with the Agency in order to resolve the dispute, including the possibility of entering into an amicable agreement.

The Agency cannot be held liable for damage indirectly suffered by the Customer such as loss of turnover, economic loss, damage to its image or reputation, etc.

The Agency cannot be held liable for any damage or loss that may be attributed in whole or in part to an action or an omission of the Customer, including for instance its agents, employees or services providers, or of any other third party.

The Agency cannot be held responsible for any decision taken by the Customer or any third party designated by the Customer.

In any event, the total amount for which the Agency shall be liable may not exceed the remuneration effectively received by the Agency under the Contract over the last calendar year. Therefore, the Customer and its insurers waive their right to take action against the Agency beyond this amount.

**7.2 Responsibility and Liability of the Customer**

The Customer is responsible for the information, data and any elements (including creative works) that it provides to the Agency, by whatever means, and for any damage resulting therefrom, as well as compliance with the legislation specific to its activity.

The Customer therefore guarantees the Agency against all direct and indirect consequences of any action based on information, data and any elements (including creative works) and/or instructions provided by the Customer, and any of its employees or agents, to the Agency.

As a result, the Customer cannot request that the Agency take responsibility for projects submitted to the Customer and to which the Customer has agreed.

In cases where the Customer requires the Agency to use the suppliers chosen by the Customer or where the Customer appoints service providers directly and asks the Agency to coordinate them, the Agency can only be held responsible for the non-performance of this specific mission of coordination, and cannot be held responsible for any damages directly or indirectly caused by such suppliers.

The provisions of this article shall survive and continue to apply even if the Contract is annulled, cancelled, terminated or rescinded, for any reason whatsoever.

**Article 8 - Early cancellation**

**8.1. Non-performance through fault of either party**

The Contract may be terminated early by either of the Parties in the event of non-performance of any of the obligations contained therein by the other Party.

Early termination may take place one month after a notice served by registered letter with acknowledgment of receipt to the defaulting Party, indicating the intention to apply this express termination clause, has remained without effect, without prejudice to any damages the terminating Party may claim as compensation for the harm done.

**8.2. Cessation of activity**

The Contract may also be terminated early in the event of liquidation or bankruptcy of either of the Parties in accordance with the applicable laws and regulations in force and, where appropriate, subject to the applicable public policy provisions.

**Article 9 – Intellectual property**

- Rights of the Agency

The Agency retains ownership of its copyright over the proposals made to the Customer that have not been accepted.

Subject to the article “Rights of third parties” hereafter, all intellectual property rights on the creative works or designs as provided in the proposals and/or the Application Agreement, duly accepted by the Customer, are assigned to the Customer, including the documents setting out these rights and all the elements constituting a support for the creative works or designs. These assigned intellectual property rights include the right to use, to reproduce, represent and adapt the above mentioned creative works or designs, by any means and on any medium, **subject to compliance by the Customer with all of its obligations under the Contract and payment of all sums owed to the Agency**.

The transfer set out in the paragraphs above is made for the duration of the protection of intellectual property rights applicable in France.

The creative works shall be used in accordance with the provisions of the Contract and the French Intellectual Property Code.

Any use of a creative work not covered by the Contract will be subject to express prior consent of the Agency and remuneration, which must be agreed upon.

- Rights of third parties

Third party rights (copyright and related rights, image reproduction rights, personality rights, etc.)are negotiated by the Agency in agreement with the Customer according to the needs of the Services. They are charged to the Customer.

If it foresees any other uses than those initially planned, the Agency shall seek to negotiate to acquire the rights necessary for these uses.

Upon request of the Customer, the Agency shall inform the Customer of the amount and limits of the acquired rights.

- Rights relating to the creative works which the Customer shall provide to the Agency

The Customer shall be personally responsible for obtaining the authorisations and rights required for the intended uses of the creative works, or any other element, subject to intellectual property rights, provided by the Customer to the Agency.

- Methods and know-how of the Agency

The Agency retains full ownership of its methods and know-how, including but not limited to its concepts, templates, models, generic components, etc. that are pre-existing or developed by the Agency in the context of the performance of the Contract.

- Declarations made to the “Centre français d'exploitation du droit de copie” (CFC)

Any copy of press articles or books on any existing or future medium must be declared each year to the *Centre français d'exploitation du droit de copie*.

Consequently, each of the Parties shall fulfil its own obligations with regard to the *Centre français d'exploitation du droit de copie*, and neither Party shall be held liable regarding insufficient or erroneous declarations made by the other Party to this rights collection body. The Client is informed that press panoramas or digital copies of press articles provided for by the Agency are intended for a single user only unless the Client has entered into a specific agreement with the CFC. Any internal or external diffusion by the Client is subject to a specific agreement with the CFC. Failure to do so may result in the suspension by the CFC of the Agency’s access to its catalog for the Client. Shout it be the case, the Agency shall not be liable for the non-completion of the Missions requiring access to the CFC’s catalog.

The provisions of this article shall survive and continue to apply even if the Contract is annulled, cancelled, terminated or rescinded, for any reason whatsoever.

**Article 10 - Confidentiality**

As a confidentiality clause, for the duration of the Contract and for a period of 5 (five) years after its expiry for any reason whatsoever, the Parties undertake to maintain the strictest confidentiality, refraining from directly or indirectly disclosing any information, knowledge or skills concerning the other contracting Party, or any of their activities, projects or operating conditions, to which they may have had access in the course of performance of the Contract, unless such information, knowledge or skills are in the public domain or disclosure is necessitated by virtue of a particular regulation or governmental request.

The Parties shall vouch for compliance with this obligation by its employees or agents.

**Article 11 – Business references**

The Agency is authorized by the Customer to use the Customer’s name, trademarks and logos as business references. In this respect, the Customer grants to the Agency the right to reproduce and to use the Customer’s name, trademarks and logos, by any means and on any media.

These authorizations are granted for the entire world and for 10 (ten) years from termination of the Contract.

The provisions of this article shall survive and continue to apply even if the Contract is annulled, cancelled, terminated or rescinded, for any reason whatsoever.

**Article 12 – Personal data protection**

The Parties warrant and acknowledge to comply with the provisions of the relevant Application Agreement(s) relating to personal data protection.

**Article 13 – Non-Solicitation**

Each of the Parties is expressly forbidden from soliciting or hiring directly or indirectly any member of the staff of the other Party, or taking them into their service in any capacity whatsoever.

This prohibition applies for the duration of the Contract and for two (2) years after its termination, regardless of the reason for termination.

As a penalty clause, in the event of this prohibition being breached, the defaulting Party shall be required to pay immediately to the other Party a fixed charge equal to twelve (12) months of the last monthly gross salary of the person solicited or hired, plus all costs involved in recruiting their replacement.

**Article 14 - Non-transferability**

As the Contract has been concluded *intuitu personae*, the rights and obligations resulting therefrom may not be transferred by either Party in any form (including sale of business, capital invested, sale of shares, etc.), in any capacity and to any person whatsoever, without the prior consent of the other Party, under penalty of automatic termination of the Contract on the grounds of their exclusive fault.

**Article 15 - Force Majeure and Unforeseeable Change of Circumstances**

Neither one of the Parties may be held liable nor deemed to have breached the Contract if it is unable to comply with any of its undertakings due to a *force majeure* event.

For the application of this article, the Parties agree that shall be considered as *force majeure* events the cases presenting characteristics of such event, as defined in the French Civil Code and/or the French case-law.

If, due to a *force majeure* event, either one of the Parties are unable to fulfil one or several of their contractual obligations, they must notify such impossibility to the other Party. The Parties shall meet within fifteen (15) calendar days as of the notification of the *force majeure* event to adopt the measures they deem necessary to enable the correct performance of the Contract or to decide the termination thereof.

If, following a *force majeure* event, either one of the Parties is unable to respect its contractual obligations, the performance of the Contract will be suspended during the time the Party is unable to fulfil its obligations.

If the Parties fail to reach an agreement within two (2) months following the notification of a *force majeure* event, either one of them may terminate the Contract with immediate effect by sending a registered letter with acknowledgement of receipt for this purpose, without any compensation being due on either side.

It is understood and agreed between the Parties that in this case, the Customer shall be bound to reimburse all the costs and amounts incurred by the Agency under the Contract up to the date of the notification of the *force majeure* event.

Furthermore, the Parties agree that, where an unforeseeable change of circumstances, with respect to the circumstances at the time of the conclusion of the Contract, makes its performance more burdensome for the Agency, the Customer undertakes and accepts to cover the extra costs due to this unforeseeable change of circumstances.

**Article 16 - Insurance**

The Agency has taken out an insurance policy, with a reputably solvent insurance company established in France, covering its civil liability. This insurance policy has been taken with [to be completed with name of the insurance company + the address] and for the following territory [+ to be completed with the geographical coverage].

**Article 17 - Miscellaneous provisions**

The Contract establishes no hierarchical relationship between the Parties and does not apply to provision of staff for temporary work.

Should any provision of the Contract prove invalid, the validity of the remaining provisions would not thereby be altered. In such a case, the Parties shall then attempt to establish valid equivalent provisions.

Failure of either of the Parties to invoke a right or a breach by the other Party shall not be deemed to constitute a waiver of the right to invoke that right or breach in the future. No waiver shall be effective unless it has been expressed in writing by an authorised representative of the Party from which it originates.

The Contract (along with its appendixes, which are an integral part of it, and the Application Agreement(s) and its appendixes) constitutes the entire agreement between the Parties. It supersedes all previous documents.

Headings are included for convenience only. In case of difficulty of interpretation between the article headings and the content of any of the article, headings shall be declared null and void.

**Article 18 - Conciliation - Award of jurisdiction – Applicable Law**

The validity of the Contract and any other question or dispute relating to its formation, its interpretation, its execution or its termination shall be governed by French law.

In order to jointly reach a solution to any dispute arising between them concerning the validity, interpretation, performance or termination of the Contract as well as the consequences of these events and ensuing developments, the Parties agree to meet within 8 (eight) calendar days after either of the two Parties has notified the other by registered letter with acknowledgment of receipt.

IF THEY FAIL TO REACH AN AMICABLE AGREEMENT WITHIN A MINIMUM PERIOD OF ONE MONTH, THE PARTIES TO THIS CONTRACT AGREE THAT ANY DISPUTE RELATING TO THIS CONTRACT AND/OR TO ITS ANNEXES AND THE CONSEQUENCES THEREOF AS WELL AS ANY ACTION OR PROCEDURE ARISING FROM THIS CONTRACT AND/OR TO ITS ANNEXES OR RELATING THERETO MUST BE BROUGHT BEFORE THE COMMERCIAL COURT OF PARIS, NOTWITHSTANDING PLURALITY OF DEFENDANTS OR THE INTRODUCTION OF THIRD PARTIES, EVEN FOR EMERGENCY PROCEEDINGS OR PROTECTIVE MEASURES.

The provisions of this article shall survive and continue to apply even if the Contract is annulled, cancelled, terminated or rescinded, for any reason whatsoever.

**Article 19 - Election of domicile**

For the performance of the Contract, the Parties elect domicile at their respective registered offices.

Drawn up in two original counterparts, each Party acknowledging receipt of one original copy

Signatures:

|  |  |
| --- | --- |
| For: the Customer  Name:  Title:  Date:  Place:  Signature: | For: the Agency  Name:  Title:  Date:  Place:  Signature: |