



REALIZATION OF A RESEARCH AND
DEVELOPMENT PROJECT (PRE-COMMERCIAL
PROCUREMENT) ON "CLOUD FOR EUROPE"

FRAMEWORK AGREEMENT DRAFT

ANNEX II
TO THE CONTRACT NOTICE

TENDER NUMBER <5843932>
CUP <C58I13000210006>

CLOUD FOR EUROPE
FP7-610650



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CLOUD FOR EUROPE – C4E
FRAMEWORK AGREEMENT DRAFT

[TITLE – LOT N. <>]

ANNEX II

To the Contract Notice for Pre-Commercial Procurement concerning R&D services on “CLOUD FOR EUROPE”

Tender Number < 5843932 >

CUP: C58I13000210006

This **Framework Agreement** is made the [] day of [] 2014

between

(1) **Agenzia per L'Italia Digitale - AGID**, with registered office in Roma, Italy, Via Liszt 21, 00144, C.F. and Chamber of Commerce registration number <>, VAT number <>, (hereinafter referred to as "**AGID**" or "**Lead Contracting Authority**")

Acting in its own name and on its own behalf as well as in name and on behalf of the entities listed in the Preamble below,

And

(2) [Name], [Registered Office] and [REGISTRATION NUMBER OF SINGLE ENTITY OR OF EACH ENTITY THAT IS PART OF THE CONSORTIUM OF TENDERERS/CONTRACTORS]

(The "**Contractor**").

The Lead Contracting Authority and the Contractor being together called the "**Parties**" and individually a "**Party**".

PREAMBLE

Whereas:

- It is noted that pursuant to a "Procurers Agreement" signed on October 8, 2014, Agenzia per l'Italia Digitale - AGID is acting hereunder in its own name and on its own behalf as well as in name and on behalf of the following entities:
 - a) **Ministerie van Financiën, Directoraat Generaal Belastingdienst**, Postbus 20201, 2500 EE, The Hague, The Netherlands;
 - b) **Entidade de Serviços Partilhados da Administração Pública, I.P. (ESPAP)**, Av. Leite de Vasconcelos 2, Alfragide, 2614 – 502 Amadora, Portugal;
 - c) **Institutul National de Cercetare-Dezvoltare in Informatica – ICI Bucuresti**, acting on behalf of the Ministry for information society, 8-10, Mareşal Averescu Avenue, 011455, Bucharest, Romania;
 - d) **Ministerstvo Financií Slovenskej Republiky**, Štefanovičova 5, P.O.Box 82, 817 82 Bratislava 15, Slovakia;

Which, together with AGID, collectively form the "**Contracting Authorities**" and are each individually referred to as a "**Contracting Authority**";

- This Agreement is made to define the rights and obligations of the Parties in the context of the pre-commercial procurement concerning the provision by the Contractor of R&D services for a "Cloud for Europe";
- The Lead Contracting Authority, in accordance with the principles relating to the selection of the Contractor, identified the need to proceed with the selection of Contractors with regard to the Contract Notice for the implementation of a Research and Development Project on "Cloud for Europe" – Tender Number < 5843932 > CUP: C58I13000210006", through a European Joint Pre-Commercial Procurement procedure;
- The Contractor has submitted an offer for the implementation of a R&D Project (pre commercial procurement) on "Cloud for Europe", and has subsequently qualified for the awarding of a contract for Phase 1 (one) of the above mentioned procedure and consequently, has expressly manifested his/her will to undertake to provide the subject matter of this Framework Agreement, at terms and conditions set forth below;
- AGID will make use of the Contractor's specialist expertise, which will use professional resources with the knowledge and experience necessary to implement the activities set forth in this Framework Agreement;
- The Contractor declares that the "Contract Notice for the realization of a Research & Development Project (Pre-Commercial Procurement) on "Cloud for Europe" – CIG:, CUP: C58I13000210006", the "Tender Regulation", all the declarations submitted in accordance with the templates provided by Annexes A, B, C, D, E and F to the Tender Regulation, the "Framework Agreement", the "Technical Specifications", , the "Template for Technical Offer" and the "Template for Financial Offer" contents and the specific annexes and/or additional documentation, define adequately and completely the

object of the Services to be provided. Moreover, the Contractor declares that, in any case, was able to understand all elements of the documents mentioned here, for a suitable technical and economic evaluation of them and for the formulation of an offer;

- The CIG assigned to this Lot is; the CUP assigned is C58I13000210006.

Whereas also:

- The Joint Pre-Commercial Procurement is divided into 3 (three) lots, correspondent to three modules, which together constitute the overarching challenge set by the Contracting Authorities to allow the public sector to implement well-defined cloud computing strategies, by removing the obstacles for Cloud adoption and by harmonizing the requirements from different public organizations beyond national borders;
- Each lot is divided into three R&D Phases, consisting respectively, in the following order, in:
 - a. Phase I:** Solution exploration and design;
 - b. Phase II:** Prototype development;
 - c. Phase III:** Original development of a limited volume of first products or services in the form of a test series.

Now therefore, between the Parties, as above represented and domiciled,

IT IS AGREED AS FOLLOWS:

SECTION 1 - INTRODUCTION

ARTICLE 1 – VALUE OF PREAMBLE

1. The preamble, the deeds and documents mentioned in the same preamble and in the remainder of this Framework Agreement, including the "Contract Notice for the implementation of a Research and Development Project (Pre-Commercial Procurement) on "Cloud for Europe" – CIG:, CUP: C58I13000210006", the "Tender Regulation", the "Technical Specifications", and the documents attached to the same or complementary, although not physically annexed to this Agreement, are integral and essential part of the Framework Agreement. It also constitutes integral and substantial part of this Framework Agreement the document "Technical Offer" and the document "Financial Offer", submitted by the Contractor.
2. Parties also agree that, in case of conflict, the provisions included in this Framework Agreement shall prevail over those contained in the "Tender Regulation" and in the documents annexed to the same.

ARTICLE 2 - INFORMATION RELATING TO THE PROCEEDINGS

1. The Contractor agrees to provide research and development services for the Lead Contracting Authority, in the context of Project named "Cloud for Europe", as indicated in the Tender documentation.

2. The Contractor, subject to the positive Verification of Phase I results with regard to the Research and Development project (referred to in article 10 of this Agreement), may be invited to submit an offer for Phase II. The invitation letter will correspond to the requirements provided in the Tender documentation. The offers submitted for Phase II will be evaluated by the Evaluation Committees, to be appointed by the Lead Contracting Authority, after the expiry of the deadline for the submission of such offers.
3. When the result of the offer for Phase II will be adequate, AGID will proceed with the awarding, and the Contractor will enter into a specific contract, which will govern the development of the phase subject of the offer ("Phase II Executive Deed").
4. Following the positive Verification of the Contractor's results realized in Phase II (article 10 of this Agreement), the Lead Contracting Authority will then proceed with the awarding of Phase III of this research and development project. The awarding of Phase III will be performed under the same terms and conditions provided for the awarding of Phase II, as defined in paragraphs 2 and 3 of this Article. **All participating Tenderers shall be bound to abide to the rules set for the current procedure, including those comprehensive of participation to and implementation of Phases II and III. Offers concerning Phase II and III are to be assessed and evaluated in accordance with the criteria listed and specified under the Tender Regulation (section 15).**
5. The Framework Agreement will be effective also for Phase II and III only after the subscription of the relevant Phase Executive Deed, by the Lead Contracting Authority to the Contractor. In case of conflict between the Framework Agreement and a Phase Executive Deed, the Framework Agreement will prevail.
6. Subject to the terms and conditions of this Framework Agreement, the Lead Contracting Authority undertakes to pay to the Contractor the amount for Phase I and, if applicable, the amount for Phase II and Phase III.

SECTION 2 - TERMS AND CONDITIONS

ARTICLE 3 - DEFINITIONS AND INTERPRETATIONS

For the purpose of this Agreement:

- "**Award Criteria**" means, for each Phase, the criteria used to identify the most advantageous Offer;
- "**Contractor**" means those entity/entities which have been successful in the Pre-Commercial Procurement and sign an agreement with the Lead Contracting Authority;
- "**Contractor's Staff**" means the Contractor's representative and all employees, consultants, agents and directors of the Contractor as well as any subcontractors which the Contractor engages in relation to the Project and their employees, consultants, agents and directors;
- "**Data**" means any documents, reports, databases, and other information resulting from, collected or developed in the performance of the Services, and/or used for the purposes of the Services;
- "**Execution Manager**" means a duly identified person authorized to represent the Contractor and who shall have authority to bind the Contractor on all matters relating to the Project and under this Agreement;

- **"Framework Agreement"** means the contract resulting from this Joint Pre-Commercial Procurement procedure, signed by the Contractor and the Lead Contracting Authority, the latter acting on its own account and on behalf of the Contracting Authorities;
- **"Intellectual Property Rights"** means any and all patent rights (including but not limited to, extensions, improvement patents, supplementary protection certificates), inventions (whether or not patentable or capable of registration), and including applications for registration, renewal or extension of any of them, and any other rights or forms of protection of a similar nature which have an equivalent or similar effect to any of them which may now or in the future exist anywhere in the world;
- **"Lot(s)"** means one of a number of categories of goods and services in which a single procurement process has been divided into. The use of lots potentially allows multiple Contractors to be appointed following one procurement process;
- **"Phase Executive Deed(s)"** means the specific contract(s) between the Contractors and the Lead Contracting Authority, to be signed following the awarding of Phase I, as well as the awarding of Phase II and of Phase III, which regulates the implementation of the relevant Phase(s) (see Annex A to this Framework Agreement);
- **"Project Intellectual Property Rights"** means new Intellectual Property Rights arising from or relating to the Services and the Results;
- **"Results"** means any Data, Material as well as any prototypes and pilot systems or related installations and any other result generated by or under the Services;
- **"Services"** means the research and development services being provided by the Contractor specified in the Offer and the possible subsequent offers for Phases II and III in pursuance of the objectives and requirements set forth in the Tender Documents;
- **"Sub-Contract"** any contract or agreement or proposed contract or agreement between the Contractor and any third party (the "subcontractor") whereby that third party agrees to provide to the Contractor the Services or any part thereof or facilities or services necessary for the provision of the Services or any part thereof or necessary for the management, direction or control of the Services or any part thereof;
- **"Tender Documents"** means all documents issued or published by the Lead Contracting Authority as part of the PCP process and made available on its website <website>and on TED, including without limitation the Contract Notice (TED notice), the Tender Regulation, the Technical Specifications, the Framework Agreement, the subsequent Phase Executive Deeds (to the extent these are awarded to the Contractor) and any annexes thereto. In particular, Terms and conditions of the tendering subject are set out in the "Contract Notice" (TED Notice), in the Tender Regulation and in this Framework Agreement". For each specific lot, the technical specification, the required research and development services, the general and specific technical requirements are contained in the document "Technical Specifications". This document Framework Agreement" refers to the specific type of research and development service, with the attached documentation, for each type of service.

ARTICLE 4 - APPLICABLE LAW

1. The applicable law is the Italian law.
2. The interpretation and construction of this Agreement shall be subject to the following provisions:
 - a) the full manifestation of all the agreements reached with the Contractor relating to the activities and contracts performance;
 - b) the provisions of Articles 19 "*Contratti di servizi esclusi*" [Excluded services contracts] and Article 27 of the Legislative Decree n. 163/2006 "*Principi relativi ai contratti esclusi*" [Principles relevant to excluded contracts] and further modification, in accordance with the provision contained in article 16(f) of the Directive 2004/18/EC;
 - c) in any event, when applicable, the additional provisions referred to in the Legislative Decree no. 163/2006 and further modification, of the Presidential Decree n. 207/2010 [Regulation for the execution and implementation of the Legislative Decree no. 163/2006];
 - d) the Italian Civil Code and other legislative provisions in force in the field of private law contracts.

ARTICLE 5 - DURATION AND EXTENSIONS

1. This Framework Agreement will be effective for the overall maximum of 18 (eighteen) months from the signing.
2. The duration of the Project Phases is specified in the document entitled "Tender Regulation".
3. At the end of the period referred to in the first paragraph, the Lead Contracting Authority reserves the right to have an extension of the Framework Agreement duration, which cannot be extended beyond November 30, 2016. The extension referred to in this paragraph – when disposed – will adhere solely to the performance of any activities which opportunity is detected by AGID.

ARTICLE 6 - SCOPE

1. This Framework Agreement regulates the relations between the Parties with respect to the activities subject of the "Contract Notice for the realization of a research and development Project (Pre-Commercial Procurement) on "Cloud for Europe" - CIG:, CUP: C58I13000210006", as specified in the document entitled "Technical Specifications".
2. The Contractor irrevocably undertakes towards AGID to carry out the activities referred to in the document entitled "Technical Specifications", in the document "Technical Offer" and in the document "Financial Offer".
3. Through this Framework Agreement" and the Executive Deed for Phase I, the Lead Contracting Authority assigns to the Contractor the task of performing the services covered by the Phase I of the project.
4. The Contractor confirms to be aware of and to agree with the fact that the Lead Contracting Authority may enter into similar agreements, relating to the same project, with other Contractors of phase I.
5. The execution of the activities referred to in this Article will be entrusted with one or more Executive Deeds transmitted to the Contractor via e-mail, certified e-mail (only for economic operators established

in Italy) or fax (if available). AGID does not guarantee and is not bound to the assignment of activities other than those related to Phase I, as defined in the document entitled "Technical Specifications".

ARTICLE 7 - CONDITIONS FOR THE EXECUTION OF ACTIVITIES

1. The Contractor undertakes to fulfil the obligations under this Framework Agreement with its own means, by organizing and managing at its own risk.
2. During the execution of the Framework Agreement and without any interference in the Contractor internal processes, AGID reserves the right to check periodically the exact fulfilment of the contractual performance.
3. The Contractor shall perform at least the 70% of Research and Development services of each phase, within the European Member States and **countries associated to FP7¹**, under penalty of termination, in accordance with article 29 ("Termination"), of this Framework Agreement. The Contractor shall provide, upon request of AGID, a verified account of the fulfilment of the above obligation.
4. Upon signing of this Agreement, the Contractor shall appoint a representative for this Framework Agreement, which will be the contact person with AGID; the Contractor representative will then have the ability to represent for all purposes the same Contractor. At the same time, AGID will appoint a representative for this Framework Agreement (Execution Manager).
5. At the execution date of this Agreement, the Contractor will have to communicate the name, phone number, fax number (if available) and e-mail address of the Contractor representative.
6. The Contractor will proceed to carry out the activities referred to in the Framework Agreement based on Executive Deeds that constitute to all intents and purposes an integral and substantial part of this Framework Agreement.

ARTICLE 8 - DUTIES OF THE CONTRACTOR

1. The Contractor shall undertake, in addition to the provisions of the document entitled "Technical Specifications", as well as in other parts of this Framework Agreement – without any extra cost for AGID – being the payment for the activities listed below already included in the amount referred to in Article 13, to:
 - a) provide all instruments and methodologies, including the related documentation, to ensure the required service levels, with particular reference to those relating to security and confidentiality;
 - b) promptly notify the Lead Contracting Authority of any changes in its organizational structure involved in the execution of the Framework Agreement, stating analytically the occurred changes.

¹ see latest list of FP7 associated countries on http://cordis.europa.eu/fp7/who_en.html

2. The Contractor shall perform all the activities subject of this Agreement in accordance with this Agreement, in compliance with the applicable regulations and in accordance with the conditions, procedures, terms and provisions contained in the document entitled "Technical Specifications" and its annexes, in the "Tender Regulation" and its annexes, and in the "Technical Offer", or subsequent offers, if any. He/she undertakes to allocate sufficient resources, equally, to each Project Phase that he/she awards, in order to comply with its obligations in such Phase.
3. The Contractor shall obtain and at all times maintain during the collaboration all necessary licenses and consents required for the performance of this Framework Agreement.
4. The Contractor shall meet any performance date for the completion of the tasks (*if provided*: including those set for the delivery of reports at the end of its phases, and to the deliverables).
5. If the Contractor fails to comply with the terms mentioned above, the Lead Contracting Authority, upon notice given to the Contractor by registered letter with acknowledgment of receipt, and without prejudice in any case to the right to compensation for damage suffered by it, shall be entitled to:
 - a) terminate this Framework Agreement in whole or in part without liability to the Contractor (subject to the rights, however, due to the latter);
 - b) refuse to accept any subsequent performance, which the Contractor attempts to make;
 - c) hold the Contractor accountable for any loss and additional costs incurred.
6. The Contractor:
 - a) shall cooperate with the Lead Contracting Authority in all matters relating to the project;
 - b) shall, upon written authorization from the Lead Contracting Authority or, upon the written request of that Authority, appoint:
 - the Contractor's representative for the Framework Agreement, as provided in Article 7.4 of this Agreement;
 - Professional resources made available by the Contractor, who shall be suitably skilled, experienced and qualified to carry on the Project;
 - c) shall ensure that the same person acts as the Contractor's representative throughout the term of this Project;
 - d) shall promptly inform the Lead Contracting Authority of the absence of the Contractor's representative and/or professional resources made available by the Contractor. If the Lead Contracting Authority so requires, the Contractor shall provide a suitably qualified replacement;
 - e) shall not make any changes to the Contractor's representative, Sub-contractors or the Key Staff without the prior written approval of the Lead Contracting Authority, such approval not to be unreasonably withheld or delayed;
 - f) shall ensure that the provided professional resources use reasonable skill and care during the Project.
7. The Contractor also agrees to:

- a) allow the Contracting Authority to proceed at any time to ascertain the full and proper execution of the services covered by the Framework Agreement, as well as to cooperate in order to ensure the performance of audits and/or investigations;
 - b) comply with all information relating to the execution of the Framework Agreement that may be issued by the Lead Contracting Authority;
 - c) notify the Lead Contracting Authority as soon as it becomes aware of any issues, which may arise in relation to the Project.
8. In any case, the Contractor agrees to comply, in the performance of contractual services, all the rules and all the technical requirements and safety regulations as well as those that may subsequently be enacted.
9. Any increased costs, resulting from the need to observe the rules and regulations referred to in the previous paragraph, even if entered into force after the signing of the Framework Agreement, will remain the exclusive responsibility of the Contractor, and in each case paid within the consideration described below. Therefore, the same Contractor cannot claim any payments, as such, against AGID and/or any other third parties, to the extent of its jurisdiction, and will assume all the risks related to any subsequent amendments to the law in force, which may impose additional charges subsequent to those provided at the time of the submission of offers. The Contractor expressly agrees to indemnify and hold harmless AGID and/or, in any case, any third party, for all the consequences arising from any breach of the rules and technical requirements, safety, hygiene and health regulations.

ARTICLE 9 - DUTIES OF THE LEAD CONTRACTING AUTHORITY

The Lead Contracting Authority shall:

- a) co-operate with the Contractor in all matters relating to the Project and appoint (and, as it thinks fit, replace) the Lead Contracting Authority representative, in accordance with article 7.4 of this Agreement;
- b) provide such access to the Lead Contracting Authority's premises and data, and such office accommodation and other facilities as may reasonably be requested by the Contractor and agreed with the Contractor in writing in advance, for the purposes of the Project;
- c) provide such information as the Contractor may reasonably request and the Contractor considers reasonably necessary, in order to carry out the Project, in a timely manner, and ensure that it is accurate in all material respects; and
- d) inform the Contractor of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Lead Contracting Authority's premises.

ARTICLE 10 - VERIFICATION OF THE RESULTS WITH REGARD TO THE RESEARCH & DEVELOPMENT PROJECT

1. The Verification of each of the phases results [*"Phase I" (Solution design); "Phase II" (Prototype development); "Phase III" (Original development of a limited volume of first products or services in the form*

of a test series)] shall be carried out at AGID premises or at any other place indicated by AGID, by an Evaluation Committee, appointed by AGID, and will be held jointly with the Contractor.

2. The Verification of the results will be made within 30 days after the expiry of the Phase I period.
3. The Contractor, upon written notice of the Verification commencement date by AGID, shall notify AGID, in writing, within the same commencement date, the name of its representative who, at the Contractor expenses, will attend the conformity Verification.
4. In the event that the Contractor has not communicated in good time the name of its representative, AGID shall be entitled to proceed autonomously in the same conformity Verification.
5. The Contractor is required to provide, upon request from AGID, at its own expense, the technical assistance that may be needed for the Verification.
6. The Verification will assess the objectives achievement level declared by the Contractor in the "Technical Offer", in accordance with the document named "Technical Specifications".
7. The Verification will be documented in a specific report, indicating the date and the results of the same and must be signed by all the members of the Committee.
8. If the Verification should give evidence of the Contractor non-compliance with the objectives stated in the document entitled "Technical Specifications", AGID, heard the Contractor, will identify the actions to be taken for the purpose of achieving the objectives of the Research and Development Project.

ARTICLE 11 - TAX CHARGES AND CONTRACTUAL EXPENSES

The Contractor shall bear all the tax charges related to the execution of this Agreement and to its eventual extensions, except those that, according to the law, shall be borne by the Lead Contracting Authority, including VAT.

ARTICLE 12 - WARRANTIES

1. The Contractor warrants and represents to have full capacity and authority to send all necessary usage licenses, permits and consents with the related rights related to the Research & Development Project and continue to have this full capacity, authority, usage licenses, permits and consents during the duration of the Framework Agreement.
2. The Contractor warrants that it will perform the services under the Framework Agreement in a professional and skilful manner, meeting best industry practice.
3. The Contractor warrants that the information he will provide under the Framework Agreement will be correct, accurate and up-to-date.
4. The Contractor expressly warrants that service and media, on which Software is provided, will be free from defects related to the design, production, execution and materials, which would decrease the value and/or that would make them entirely or partly unsuitable to the intended use. The Contractor grants the aforementioned warranties on its own, also for act of third person.
5. The Contractor also warrants that software products are free from defects or operating faults that he/she knows, that the same products are compliant with the specification defined in the relevant manuals, and

that they are free from viruses and backdoors as, for this purpose, all the necessary measures have been adopted.

6. In case of lack of conformity, AGID shall report it within 30 (thirty) days after discovery.

ARTICLE 13 - CONSIDERATIONS, ACCOUNTING AND PAYMENTS

1. The total amount to be paid by the Lead Contracting Authority to the Contractor shall not exceed the relevant amounts detailed in the Contract Notice.
2. Payments for the Contractor's Services for each phase will be made according to the following provisions:
 - a) payments will be made by AGID, following the submission of the relevant invoices;
 - b) each amount shall be invoiced, normally, at the end of the respective phase; any different terms of payment may be detailed by the Lead Contracting Authority in the Invitation Letter related to Phase II and III;
 - c) invoices shall be paid by AGID within 30 (thirty) days end of the month of the invoice's date of receipt;
 - d) the Contractor shall not be entitled to receive the invoice payment until AGID has received and approved the documents evidencing the performed activities;
 - e) the Lead Contracting Authority will liquidate the mentioned invoices in the dedicated current account detailed by the Contractor.
3. All activities necessary to a full and regular compliance with the contractual terms and condition shall be the sole responsibility of the Contractor and are included in the consideration specified in the Financial Offer, even if not specified in this Framework Agreement.
4. Prices indicated and submitted by the Contractor in the Financial Offer during the tender shall remain fixed and invariable for the duration of the Framework Agreement and includes all the costs and expenses.
5. The mentioned Research and Development services are not subject to interferential risks, within the meaning of Legislative Decree 81/2008.

ARTICLE 14 - LAW NO. 136 OF AUGUST 13, 2010. TRACEABILITY OF FINANCIAL TRANSACTIONS

1. The Contractor undertakes to ensure the full traceability of all financial transactions and, in any case, to comply with any other applicable obligation referred to in article 3 of Law 136/2010 and further amendments, provided for the same Contractor.
2. The Contractor hereby acknowledges and accepts that, in the event the transactions referred to in article 3 of Law 136 of 13 August 2010, have not been carried out through a bank or Poste Italiane SpA, or other medium allowing full traceability thereof, the Lead Contracting Authority shall be entitled to terminate this Framework Agreement forthwith, for default by the Contractor, subject to prior notice of termination, sent to the Contractor by registered letter with acknowledgement of receipt, with consequent right to definitely hold the deposit, as provided by article 17 of this Agreement.

3. In the event the Contractor concludes contracts with any subcontractors, in connection herewith, it undertakes to comply – and ensure that its subcontractors comply – with the financial transaction traceability obligations referred to in article 3 of Law 136 of 13 August 2010; failure to comply will result in the invalidity of the relevant contracts.
4. Should the Contractor become acquainted with any failure by a subcontractor to comply with the above-mentioned financial transaction traceability obligations, it shall notify the Lead Contracting Authority and the competent Prefecture Offices forthwith.

ARTICLE 15 - PENALTIES

1. For each day of delay or part thereof with respect to the terms contained in this Framework Agreement and/or in the document entitled "Technical Specifications" and/or in the Executive Deeds, AGID reserves its right to apply a penalty equal to the 2% (two) of the contractual amount of each relevant phase.
2. Parties agree that any non-compliance, if not emerged in proceedings, must be promptly notified in writing by AGID to the Contractor.
3. Penalties shall not exceed the 10% of the overall total amount of the contractual amounts of each phase.
4. The overcoming of five days of delay will be considered serious failure and cause, without the need of formal notice, the termination of the contract, pursuant to art. 29 of this Framework Agreement.
5. AGID may issue a special note of debt for credits arising from the application of the penalties specified above, without the need of formal warning, formal notice or judicial proceedings, the amount of which will be collected through even partial enforcement, of the deposit referred to in article 17.

ARTICLE 16 - LIABILITY

1. The Contractor undertakes to fulfil all the obligations arising out of this Framework Agreement, with the best possible diligence required by the nature of the services.
2. The Contractor shall be responsible and liable for any damage caused by it, or its employees and/or collaborators, directly to AGID, or any third parties, (including cost of restoration, penalties, loss of profits, costs and expenses, also legal expenses) which the Lead Contracting Authority is required to compensate, because of the Contractor's delay or failure to comply with its obligations hereunder.
3. The Contractor shall also be responsible and liable for any damages or injuries suffered by his/her property or by people who cooperate with him/her or are employed under him/her, and agrees to indemnify AGID, especially in the case referred to hereunder, as well as what is stated in the previous paragraph, even in court.
4. The Contractor's liability shall subsist only and exclusively, when the problem can be attributed to faults or defects not related to his/her sphere of control and influence or that are not a result of his/her failings.

ARTICLE 17 - DEPOSIT

1. The Contractor shall provide a deposit equal to an amount of 2 % (two *percent*) of the contract value, according to Phase one, by entering into a policy or policies of insurance or a bank guarantee with a reputable insurance company or a bank, as guarantee of the contractual obligations undertaken by the Contractor with the signing of the Framework Agreement.
2. Copies of such deposit shall be released following a first and simple request, unconditional, irrevocable, by waiving the benefit of preventive enforcement, extended to all the accessories of the principal debt, in favour of the Lead Contracting Authority, to guarantee the correct and proper fulfilment of all the present and forthcoming obligations, also pursuant to and by effect of article 1938 of the Italian Civil Code, arising from this Framework Agreement. The deposit shall be issued with a waiver to the exceptions provided for in article 1957, paragraphs 1 and 2, of the Italian Civil Code. The deposit shall be released in favour of the Lead Contracting Authority as a guarantee of the obligations assumed by the Contractor with this Framework Agreement and with the relevant Executive Deeds.
3. In particular, the deposit guarantees all the specific obligations assumed by the Contractor, even those that provide the application of penalties and, therefore, it is expressly understood that AGID, subject to Article 16, has the right to confiscate the deposit.
4. The deposit shall be valid starting from the date of execution of the Framework Agreement.
5. The deposit shall be valid for the duration of the Executive Deed related to the specific Project Phase, for which such deposit is provided; therefore, AGID shall release the deposit, subject to the deduction of any Lead Contracting Authority's credits toward the Contractor, following the full and proper performance of the contractual obligations.
6. In any case, the Contractor will be released from such deposit only by an AGID's written authorization.
7. Where the amount of the deposit would be reduced due to the application of penalties, or any other cause, the Contractor shall provide for the reinstatement of such amount within ten (10) calendar days of receipt of the request send by AGID.
8. Failure to comply with the obligations provided by this article, AGID reserves its right to terminate this Framework Agreement, subject to a notice of termination by registered letter with acknowledgement of receipt, without prejudice to the right to claim further damages.

ARTICLE 18 - SUBCONTRACTING

1. The Contractor shall not transfer this Framework Agreement.
2. The Contractor, in accordance with article 118 of Legislative Decree n. 163/2006, may subcontract the activities provided for in this Agreement up to 30% of the value indicated in the Offer.
3. The Contractor shall be subject to further obligations and requirements provided by the above-mentioned article 118 of Legislative decree n. 163/2006, in order to obtain a written authorization to subcontract, and to avoid further consequences provided by law for unauthorized subcontracting. The Contractor shall respect also obligations and procedures provided by article 3 of Legislative Decree n. 136/2006, under penalty of absolute nullity.

4. The Contractor shall send, within 20 (twenty) days from the date of each payment received from the Lead Contracting Authority, copy of the paid invoices relative to the payment of consideration that the same Contractor has paid to subcontractors, giving details of the amount of retentions.

ARTICLE 19 - TRANSFER OF CREDIT

1. The Contractor shall be allowed to transfer credits earned in respect of AGID, following the regular and proper performance of the services covered by this Framework Agreement, in compliance with the regulations in force and in accordance with the conditions, procedures, terms and requirements contained in this Framework Agreement and its Annexes, provided that:
 - a) AGID has authorized the Contractor to transfer all or part of the credits that will be earned as a result of the regular execution of the Framework Agreement;
 - b) the transferee is a bank or a financial intermediary governed by the laws concerning banking or lending, whose corporate purpose foresees the purchase of business receivables;
 - c) the transfer agreement is concluded by a public or private deed and that the same, in original or certified copy, is notified to AGID within 15 (fifteen) days from the signing.
2. AGID shall be allowed, in any case, to object to the assignee all the same exceptions to the Company enforceable against the transferor.

ARTICLE 20 - PERSONAL DATA

1. The Parties confirm they will comply with all applicable data protection legislation, including but not limited to the applicable transpositions of the Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the Processing of Personal Data and on the free movement of such data.
2. Pursuant to Legislative Decree no. 196/2003 on treatment of personal data, the Parties declare to have already informed each other, prior to the execution of this Framework Agreement, about the modalities and scopes of the treatment of personal data which shall be performed in the execution of this Framework Agreement.
3. For the purposes of the above Legislative Decree, the Parties declare that any personal data provided in this Agreement is correct and true, reciprocally discharging any responsibility for compilation errors or errors deriving from an incorrect inclusion of such data to paper and electronic records.
4. AGID performs the processing of data necessary for the execution of this Framework Agreement, in compliance with legal obligations - including those provided by Legislative Decree no. 31/2001 - and in particular for the purposes related to the monitoring of this Framework Agreement.
5. Treatment of personal data shall follow principles of fairness, legitimacy and transparency and shall comply with safety measures.
6. By executing this Framework Agreement, the Parties declare to have verbally communicated to each other all information provided for in article 13 of Legislative Decree no. 196/2003, including those related to the names of the persons acting as data processor and data controller as well as the modalities of exercise of

the rights of the owner of the personal data as provided for in articles 7 – 10 of the same Legislative Decree.

ARTICLE 21 - LEGISLATIVE DECREE NO. 196 OF JUNE 30, 2003 – PROTECTION OF PERSONAL DATA

1. Pursuant to art. 28 of Legislative Decree no. 30 June 2003, no. 196, in relation to the processing of personal data necessary for the proper execution of the Framework Agreement, the Contractor, acting as autonomous data controller, shall:
 - a) identify and appoint in writing a processor, giving them, also in writing, appropriate instructions;
 - b) monitoring the compliance with the instructions by those in charge;
 - c) adopt and comply with the safety measures indicated and prepared by AGID;
 - d) monitoring the compliance with the aforementioned measures by those in charge;
 - e) verify, at least on a quarterly basis, the status of application of Legislative Decree no. June 30, 2003, no. 196, as well as the proper functioning of the security measures adopted;
 - f) prepare, as a result of each verification, a written report in relation to all the obligations performed pursuant to Legislative Decree no. June 30, 2003, no. 196;
 - g) transmit to AGID, upon request, copies of such reports;
 - h) destroy the personal data in the event of termination of their treatment, and provide the necessary legal formalities;
 - i) communicate to AGID any new treatments necessary to execute the supply correctly, and fulfil the consequent obligations;
 - j) promptly fulfil all requests from interested third parties, which aims at claiming any rights under art. 7 of Legislative Decree no. 196 of June 30, 2003, and immediately notify, also by sending a copy of its response and of any action taken with this regard.
2. In the event that the Contractor receives communications of any kind from the Garante (the Italian Data Protection Authority) in relation to the handling of the personal data necessary for the execution of the Framework Agreement, the Contractor must immediately forward them to AGID.
3. It is understood that the processing of personal data related to this Framework Agreement, executed by the Contractor has to be carried out pursuant to art. 28 of the mentioned Decree no. 196 of June 30, 2003, under the supervision of AGID, which can then control at all times and give any other specific instructions for its conduct. Furthermore, AGID can request the termination of such processing, if imposed by the need to comply with prohibitions and obligations of the law, or any Garante Decisions.
4. The Contractor certifies that the technological system and the services offered to AGID for the execution of the Framework Agreement comply with the provisions of the Technical Regulations regarding minimum-security measures annexed to the Legislative Decree of 30 June 2003, No. 196, and, in particular, declares that:
 - a) the applications used for the processing of personal data provides an authentication and authorization system;
 - b) the password - when provided by the authentication system - is composed of at least eight characters or, if the electronic instrument does not allow it, by a number of characters equal to the maximum allowed;

- c) the password does not contain references that could effortlessly lead to the individual in charge;
 - d) the password is amended by the latter at the first authentication, and thereafter at least every six months (every 3 months in the case of processing of sensitive data and judicial data);
 - e) the identification code, where used, will not be assigned to other agents, at any time;
 - f) each individual in charge is assigned or associated individually one or more authentication credentials;
 - g) authentication credentials (other than those previously authorized only for the purposes of technical management) will be disabled if not used during a period of at least six months, or in case of loss of quality that allows the individual in charge to access to personal data;
 - h) the authorization profiles for each individual in charge or for homogenous classes of individuals in charge, will be identified and configured before the start of the processing, in order to limit the access only to the data needed to perform the processing;
 - i) the persistence of conditions for the conservation of authorization profiles shall be verified periodically, and at least annually;
 - j) personal data, sensitive and judicial data shall be protected against the risk of intrusion and the effects of programs as per Section 615-*quinquies* of the Italian Criminal Code, by implementing suitable electronic means;
 - k) periodic updates of computer programs aimed at preventing the vulnerability of electronic instruments and to correct defects are regularly carried out;
 - l) the data saving shall be performed regularly;
 - m) appropriate measures shall be taken to ensure the restoration of the access to data in case of damage to themselves or to electronic means, in certain times compatible with the rights of the parties and not exceeding seven days.
5. Within 30 days from the signing of the Framework Agreement, the Contractor shall provide formal response to AGID of the adoption of all the measures provided for the entrusted data treatments.

ARTICLE 22 - LEGISLATIVE DECREE NO. 196 OF JUNE 30, 2003 - SYSTEM ADMINISTRATORS

1. Pursuant to the Decision of the Italian Data Protection Authority (DPA) dated 27 November 2008 "Measures and arrangements applying to the controllers of processing operations performed with the help of electronic tools in view of committing the task of system administrator", in relation to the treatment of personal data necessary for the correct execution of this Framework Agreement, the Contractor, as autonomous data controller, shall:
 - a) individually appoint, after their assessment, the System Administrator. Such appointment shall be formalized by analytically listing all the functions committed to them (p. 2.a and 2.b of the mentioned Decision);
 - b) report and update regularly the System Administrators list, for eventual inspection (p. 2.c of the Decision);
 - c) periodically check the System Administrators activity (p. 2.e of the Decision).
2. If the System Administrators activity concerns, also indirectly, services or systems that process and/or allow processing personal information on AGID employees (p. 2.c comma 2 of the Decision), the Contractor shall give immediate communication to AGID, by sending a list evidencing the identity of the

identified persons. This, in order to allow the Data controller (AGID) to fulfil the obligation to transmit to its staff the information required to identify the natural persons appointed as System Administrators, when the above-mentioned circumstances should apply.

3. The Contractor shall provide a formal response to AGID, within 30 days from the signing of the Framework Agreement, of the adoption of all measures provided for the respect of the entrusted protection of data. The same Contractor shall specifically mention that the lists provided by p. 2.d of the Decision, which contain the information required to identify the natural persons appointed as System Administrators, are stored directly at the Contractor headquarters.

ARTICLE 23 - TRANSPARENCY

1. The Contractor expressly and irrevocably declares that:
 - a) there was no mediation or other third party work for the conclusion of this Framework Agreement;
 - b) He/she has not paid nor promised to pay to anyone, directly or through third parties, including affiliated companies and subsidiaries, sums of money or other benefit by way of mediation or similar, with the purpose of facilitating the conclusion of the Framework Agreement;
 - c) He/she has not entered into current agreements and/or concerted practices that restrict competition in the market and prohibited under the applicable law, including Articles 81 and following of the EC Treaty and Articles 2 and following of the Law no. 287/1990 and that the offer has been prepared in full compliance with those regulations.
2. If the Contractor's declaration, pursuant to the preceding paragraph, were found to be false, or the Contractor fails to comply with the commitments and obligations undertaken therein, for the whole duration of this Framework Agreement, the same shall be deemed terminated following a communication by AGID, by registered letter with acknowledgement of receipt, of its intention to terminate the Agreement, without prejudice, in any case, to the right of compensation for damage suffered by AGID.

ARTICLE 24 - PATENTS AND COPYRIGHTS

1. AGID assumes no responsibility in the event that, in carrying out activities provided by this Framework Agreement, the Contractor has used patented materials without the required authorization.
2. The Contractor assumes the duty to indemnify AGID from all claims, liabilities, losses and damages claimed by any person, as well as all costs, expenses or liability relating thereto (including any attorneys' fees) in results of any claim related to violation of copyright or any Italian or foreign trademark, arising from or claim to derive from this Framework Agreement.
3. Each party agrees to give immediate notice to the other of any action or claim by third party, which it becomes acquainted with.

ARTICLE 25 - INTELLECTUAL PROPERTY RIGHTS

1. All existing Intellectual Property rights used or supplied for the purpose of this Framework Agreement in connection with the Project shall remain the property of the Party introducing the same (or any third party supplier that owns it). Nothing contained in this Framework Agreement or any license agreement pertaining or pursuant to the Project shall affect the rights or either Party (or any third party) in its existing Intellectual Property rights.
2. The Contractor shall within two weeks of the signing of this Framework Agreement provide the Lead Contracting Authority with full information in writing about what relevant Intellectual Property rights it (or any of its subcontractors) holds or is using at the date of this Framework Agreement that pertains or may pertain to the Project or any part thereof.
3. If the Contractor (or any of its subcontractors) generates new Intellectual Property rights in relation to this agreement, whether the Contractor (or subcontractor) intends to file for protection of it or not, the Contractor shall within one month from such generation inform the Lead Contracting Authority about the contents of such new Intellectual Property rights.
4. The Intellectual Property Rights, generated by the Contractor in the course of this agreement, shall belong to the Contractor.
5. Immediately following the date of the Verification report provided by Article 10, the Contractor shall grant to AGID and to the other Contracting Authorities, an irrevocable, worldwide, royalty-free, non-exclusive license to use, at no additional cost, the results of what has been achieved with regard to the implementation of the solution design (phase one) and/or the prototype development (phase two) and/or the Original development of a limited volume of first products or services in the form of a test series (phase three).
6. The Contractor shall pose no restriction to AGID and/or to the other Contracting Authorities, in relation to the possible use of the results referred to in the previous paragraph for the purpose of publishing public procurement tender.
7. Software solutions that will be developed over the course of one or more project phases shall include any source code, all documentation, the further possible solutions (source code and executable) that are not available under license from market vendors – which are essential to the development, modification (in total autonomy) and exercise of the application also, if in case, by outsourcing to third parties.
8. Conditions of Use to which all the solutions related to the project are offered to AGID in the context of this Framework Agreement (including, therefore, the "Financial Offer" submitted) will remain unchanged for sixty (60) months (therefore, also over the term of this Agreement, which, with reference to this aspect, will be considered in full force and effect, even beyond the term) from the date of the verification referred to in article 10.
9. The Contracting Authorities have the right to require the Contractor to license Intellectual Property Rights to third parties under fair and reasonable market conditions.

ARTICLE 26 - EXPLOITATION OF INTELLECTUAL PROPERTY

1. The Contractor shall inform the Lead Contracting Authority of any Results, which are capable of exploitation, whether patentable or not.

2. The Contractor shall take all appropriate and necessary measures to ensure the proper management of the Project Intellectual Property Rights. It shall at its own costs be responsible for the application, examination, grant, maintenance, management and defense of the Project Intellectual Property Rights in the results and in particular but without limitation, it shall ensure that:
 - a) the Results of the Project are identified, recorded and carefully distinguished from the outputs of other research and development activities not covered by the Project;
 - b) prior to any publication of the Results of the Project, patentable inventions arising from the Results are identified, duly considered for patentability and, where it is reasonable so to do, patent applications in respect thereof are filed at the competent Member States Patent Office or European Patent Office; and
 - c) all such patent applications are diligently executed taking into account all relevant circumstances.
3. The Contractor shall permit the Lead Contracting Authority to monitor the operation and effectiveness of the Contractor's procedures for the management of the Intellectual Property of the results arising from the project, as deemed reasonably necessary by the Lead Contracting Authority.
4. In order to guarantee the good management of the Intellectual Property of the results arising from the Project, and subject to the terms and conditions set out in Section 2 of this Agreement, the Contractor shall:
 - a) promote the dissemination of the results of the Project; and
 - b) where feasible, exploit commercially the Project Intellectual Property Rights as well as the other Results (even if they cannot be protected by Intellectual Property Rights) to generate revenues by marketing commercial application thereof.
5. If, within three (3) years from the end of the last awarded phase of the Project, the Contractor
 - a) has not commercially exploited the Intellectual Property of the results arising from the project, and also of the other results, through the commercialization of the above mentioned Intellectual Property Rights (either directly or by any potential Subcontractor or Licensee), and
 - b) the circumstances of the case show that the Contractor has not used the maximum effort to do so, or
 - c) the Contractor (and/or any potential Subcontractor or Licensee) is using the results of the Intellectual Property arising from the project to the detriment of the public interest,

the Lead Contracting Authority and the Other Contracting Authorities have the right to obtain from the Contractor all non-exploited Project Intellectual Property Rights.

ARTICLE 27 - RESPONSIBILITIES AND DUTIES OF THE CONTRACTOR TOWARDS ITS EMPLOYEES

1. The Contractor undertakes to comply, at its own expense, with all the obligations – including the relevant insurance and social security obligations – arising from the applicable labour and social security laws and regulations, collective labour agreements, Legislative Decree 81/2008, and other applicable provisions that may be introduced during the term hereof, with respect to the persons working for it. It is expressly understood that any additional charges arising from compliance with the technical requirements referred to herein shall be incurred exclusively by the Contractor, which, therefore, expressly waives any claims against AGID, in connection therewith.
2. In order to comply with the above mentioned regulations, the Contractor hereby agrees to:

- a) cooperate with AGID departments on the implementation of security and emergency measures to adopt in the premises where the contract will be performed;
 - b) communicate to AGID, at the signing of the Framework Agreement, any specific risks arising from the contracts execution.
3. The Contractor shall apply to its Staff contractual conditions and remunerations not lower than those resulting from the collective labour contracts applicable to the relevant work category, with reference to the premises where the services are performed under this Agreement and, in general, those resulting from any other collective labour contracts, subsequently signed, for the relevant category; this, even if the Contractor is not adhering to the contracting associations, or, however, is no longer associated with them.
 4. The Contractor shall apply the above-mentioned collective labour contracts also after their expiry date, and until the same contracts are replaced; it declares and guarantees to be, at the signing of this Framework Agreement, compliant with its obligations relating to the payment of social security and insurance on behalf of their employees, under the law in force, and it hereby agrees to comply with those obligations throughout the duration of this Framework Agreement. Upon request from AGID, the Contractor agrees to provide a document proving the fulfilment of those obligations.
 5. The Contractor expressly undertakes to indemnify AGID from any and all claims that may arise from any failure to comply with the condition and technical requirements mentioned above.
 6. If the Contractor fails to comply with the obligations referred to in the preceding paragraphs, AGID, further to its right to claim to be compensated for damages and expenses, shall be entitled to terminate immediately this Framework Agreement and to commission to other firms the execution of the remaining contractual duties, at the expenses of the aforementioned Contractor.
 7. AGID shall not be held responsible for any reason of events such as theft, loss or deterioration of the Contractor materials and/or means of work left in storage at the Offices, nor will pay to the Contractor compensation or reimbursement of any kind for expenses arising from these events.
 8. The Contractor warrants that the execution of the activities will not bring any harm to the perfect operation of pre-existing works and facilities, and therefore assumes any liability with respect to failures, malfunctions, and damage, that, consequently to the Framework Agreement execution, may occur to the above works and/or facilities.

ARTICLE 28 - CONFIDENTIALITY

1. The Contractor undertakes to keep confidential the data and information he comes in possession of, or in any case becomes acquainted with during the duration of the Framework Agreement, and not to disclose it in any way or form, and not use it for any purpose other than the strict fulfilment hereof.
2. This confidentiality obligation also applies to all the original materials, or any other materials, prepared in connection herewith.
3. This obligation does not apply to data that is already in, or which subsequently enters into, the public domain.
4. The Contractor is responsible and liable for the effective performance, by his employees, consultants and collaborators, of the confidentiality obligations herein.

5. In the event of a party's failure to comply with the confidentiality obligations herein, the Lead Contracting Authority shall be entitled to terminate this Agreement forthwith, subject to prior notice of termination sent by registered letter with acknowledgement of receipt, without prejudice to claim further damages.
6. The Contractor may mention the essential terms of this Framework Agreement, if this is a prerequisite for participating in tendering for contracts.
7. The Contractor undertakes to comply with all the provisions of the Legislative Decree no. 196/2003 and its implementing regulations on confidentiality.
8. The Contractor undertakes to impose this confidentiality obligation on all those persons who, as a result of their position, become acquainted – directly or indirectly – with any confidential information. This general confidentiality obligation shall remain in force for a period of **5 (five) years** after the expiry of the other obligations hereunder, or the early termination of/withdrawal from this Agreement, and therefore full in force also beyond its expiry date.

ARTICLE 29 - TERMINATION

1. Pursuant to article 1456 of the Italian Civil Code, in the event of serious or repeated breach by the Contractor, leading AGID to infer that the Contractor is unqualified to comply with its obligations hereunder, AGID reserves the right to terminate this Agreement for fault of the Contractor and at the Contractor's expense, subject to a notice of termination by certified e-mail or registered letter with acknowledgement of receipt, without prejudice to the right to claim further damages.
2. It is expressly understood that, in the event of serious or repeated breach by the Contractor in respect of the Lead Contracting Authority, the latter, being obliged to terminate the Framework Agreement, shall have the right to permanently hold the deposit, where it has not been returned, and or to apply a penalty of the same amount, and or claim for compensation of damages.
3. The Lead Contracting Authority has the right to terminate this Framework Agreement, by way of example, in the following cases:
 - a) in case the information contained in the declaration submitted by the Contractor during the mentioned *pre-commercial procurement* procedure were found to be false, or if the Contractor fails to meet the minimum requirements for participating in the procedure;
 - b) if an appeal under the bankruptcy law or any other law applicable to insolvency proceedings, has been deposited against the Contractor, proposing the dissolution, liquidation, amicable composition, the debt restructuring or a settlement with creditors, or if a liquidator, a trustee, a guardian or a person having similar functions, which come into possession of the goods or is responsible for managing the business the Contractor is appointed;
 - c) if any of the members of the governing body or the managing director or the general manager or the technical manager of the Contractor are subject to a judgment which has the force of *res judicata* for crimes against the public administration, public policy, public faith or public property, or are subject to the measures provided for in anti-mafia legislation;
 - d) failure to comply with the contractual obligation (including those related to the Executive Deeds) in accordance with the law in force and the conditions, procedures, terms and requirements contained in this Framework Agreement, its Annexes and in the Executive Deeds;

- e) where the pre-commercial procurement procedure should be interrupted for failure to reach the minimum number of Contractors provided for in the Tender Regulation;
- f) any other circumstances that may cease the relationship of trust under this Framework Agreement and/or any single implementation report;
- g) for failure to reinstate the deposit eventually confiscated within a period of ten (10) calendar days of receipt of the Lead Contracting Authority request, pursuant to Art. 17;
- h) for any claims against AGID for violation of patent rights, copyrights and other trademark, pursuant to Art. 24;
- i) in other cases provided for in this Framework Agreement.

ARTICLE 30 - DAMAGES AND CONTRACTUAL LIABILITY

1. The Contractor shall indemnify and hold harmless the Lead Contracting Authority, including the Contracting Authorities, its employees, officers, directors and agents fully against any and all liabilities, claims, actions, suits or proceedings whatsoever in respect of:
 - any damage to property, including any infringement of third party Intellectual Property Rights;
 - any injury to persons, including injury resulting in death;
 - resulting from or in the course of, or in connection with the performance of the Services, except in so far as such damages or injury shall be due to any act or negligence of the Lead Contracting Authority.
2. The Contractor shall promptly notify the Lead Contracting Authority in writing of any such liabilities, claims, actions, suits or proceedings, and in particular of any action brought against the Contractor for infringement or alleged infringement of Intellectual Property Rights which might affect the Project, within thirty (30) days after receipt of notice of any complaint, claim or injury opening an indemnification right as provided for in section 1 of this article.
3. In no event shall the Lead Contracting Authority nor any of the Contracting Authorities be liable to the Contractor for punitive damages, indirect or consequential loss or damage suffered by the Lead Contracting Authority.

ARTICLE 31 - AMENDMENTS

1. If at any time it appears likely that any provision of this Agreement or the Project needs to be amended, the Contractor shall immediately inform the Lead Contracting Authority in writing requesting an Addendum to the Agreement, giving full details of the justification for the request and giving proposals for the amendment to the Agreement. Upon receipt of such a request, the Lead Contracting Authority may:
 - a) agree to amend the Agreement provided such amendment is non-discriminatory and does not amount to a substantial change of the Agreement, the scope of the Service or the scope of the Results, as allowed under the then prevailing case law of the European Court of Justice;
 - b) amend the Project in a manner which the Contractor agrees can be carried out within the Project Period and within the Price with regard to the relevant Phases;

- c) refuse the request on the grounds set forth sub a) and require the continuation of the Project in accordance with the Agreement; or
 - d) give notice of termination in accordance with Article 29.
2. Any Amendment to this Framework Agreement shall be set out in an addendum to this Agreement and signed by both Parties.
 3. The Lead Contracting Authority may request an Amendment to the Agreement if such amendment does not amount to a material change to this Framework Agreement.

ARTICLE 32 - JURISDICTION

1. Any disputes between the Parties, arising with reference to the interpretation, performance, validity, effectiveness and termination of this Agreement and the Executive Deeds, shall be the exclusive competence of the Tribunale Ordinario di Roma (Civil Law Court of Roma).
2. The Parties mutually exclude the competition of other facultative Courts provided by law.
3. The applicable law to this Agreement and the Executive Deeds is the Italian law.

ARTICLE 33 - FINAL PROVISIONS

1. This Agreement constitutes the entire agreement between the parties, who have full knowledge of all its relevant terms, have negotiated its content, which they specifically declare to approve individually and entirely. In any case, no modification of this Agreement or any of its provisions shall be binding upon the Parties unless made by written instrument. In addition, any invalid or ineffective clause of this Framework Agreement shall not affect the validity or effectiveness of the same Agreement in its entirety.
2. Any failure or delay of AGID in requesting performance of duties provided by this Framework Agreement shall not constitute in any case withdrawal of its rights, which AGID is entitled to enforce within the prescription limits.
3. This agreement shall regulate all the general terms of the relationship between the Parties; consequently, it shall not be substituted or replaced by any operative, executive or supplementary agreements, and it will regulate, together with them, the relationship between the Parties; in case of conflict the provisions of this Agreement shall prevail over those in the acts of its execution, unless otherwise expressed will of derogation of the Parties expressed in writing; in case of discrepancy, the provision set forth in this Framework Agreement shall prevail on the Executive Deeds, unless otherwise expressly agreed upon in writing by the Parties.
4. In connection with anything not expressly provided for in this Framework Agreement, the Parties will refer to the relevant legal provisions, to the Italian Civil Code and to local custom.
- 5.

Rome, _____

Agenzia per l'Italia Digitale – AGID

The General Director

Mrs. Alessandra Poggiani

The Contractor

According to articles 1341 and 1342 of the Italian Civil Code, the Contractor expressly approve the following Articles:

- Article 4 "Applicable law";
- Article 5 "Duration and Extensions";
- Article 6 "Scope";
- Article 8 "Duties of the Contractor";
- Article 10 "Verification of the results with regard to the Research & Development Project";
- Article 13 "Considerations, Accounting and Payments";
- Article 14 "Law no. 136 of August 13, 2010. Traceability of Financial Transactions";
- Article 15 "Penalties";
- Article 17 "Deposit";
- Article 18.1 "Subcontracting";
- Article 23 "Transparency";
- Article 27 "Responsibilities and duties of the Contractor towards its employees";
- Article 28 "Confidentiality";
- Article 29 "Termination";
- Article 30 "Damages and Contractual Liability";
- Article 32 "Jurisdiction".

Rome, _____

Agenzia per l'Italia Digitale – AGID

The General Director

Mrs. Alessandra Poggiani

The Contractor

ANNEX A – PHASE EXECUTIVE DEED DRAFT

EXECUTIVE DEED NO. <> /2014 – PHASE <no.>

between

(1) **Agenzia per L'Italia Digitale - AGID**, with registered office in Roma, Italy, Via Liszt 21, 00144, C.F. and Chamber of Commerce registration number <>, VAT number <>, (hereinafter referred to as "**AGID**" or "**Lead Contracting Authority**")

- Acting in its own name and on its own behalf as well as in name and on behalf of the following entities:
 - e) **Ministerie van Financiën, Directoraat Generaal Belastingdienst**, Postbus 20201, 2500 EE, The Hague, The Netherlands;
 - f) **Entidade de Serviços Partilhados da Administração Pública, I.P (ESPAP)**, Av. Leite de Vasconcelos 2, Alfragide, 2614 – 502 Amadora, Portugal;
 - g) **Institutul National de Cercetare-Dezvoltare in Informatica – ICI Bucuresti**, acting on behalf of the Ministry for information society, 8-10, Mareşal Averescu Avenue, 011455, Bucharest, Romania;
 - h) **Ministerstvo financií Slovenskej republiky**, Štefanovičova 5, P.O.Box 82, 817 82 Bratislava 15, Slovakia;

And

(2) [Name], [Registered Office] and [REGISTRATION NUMBER OF SINGLE ENTITY OR OF EACH ENTITY THAT IS PART OF THE CONSORTIUM OF TENDERERS/CONTRACTORS]

(The "**Contractor**").

Whereas:

- With communication by AGID of <dd/mm/yyyy>, the above mentioned Company has been declared as the awarding company of the "Contract notice for the realization of a Research and Development project (pre-commercial procurement) on "Cloud for Europe" CIG:, CUP: C58I13000210006";
- On <dd/mm/yyyy>, AGID and the Contractor signed the Framework Agreement, which, in accordance with article 6, provides that the Contractor shall proceed with the performance of the activities in accordance with the Phase Executive Deeds, which constitutes integral and substantial part of the Agreement.

The conditions for the execution of the assignment subject of this Executive Deed, in accordance with article 6, section 5 of the Framework Agreement, are expressed as follows.

1. SCOPE

Specifically, the scope of this Executive Deed is the execution of the Phase I of Lot n. (...).

2. DURATION

This Executive Deed is effective from (dd/mm/yyyy) to (dd/mm/yyyy).

At the end of this Executive Deed, in accordance with article 10 of the Framework Agreement of <dd/mm/yyyy>, AGID reserves its right to execute the verification of the performed activities, within the condition specified therein.

3. CONDITIONS FOR THE EXECUTION OF ACTIVITIES

The activities set out in paragraph 1 shall be carried out according to the procedures and terms specified in the document entitled "Annex to the Executive Deed no. 1/2014 for Phase <no.> between AGID and the Contractor - Research and Development Project (Pre-Commercial Procurement) on "Cloud for Europe" CIG:, CUP: C58I13000210006" (Attachment 1).

With regard to the operational needs agreed by the Parties, the activities will take place both at the operational headquarters of AGID, either at the premises of the Contractor, and in any event at any other venue agreed upon by the Parties.

4. LICENCE TO USE AND INTELLECTUAL PROPERTY RIGHTS.

In accordance with provisions of articles 25 and 26 of the Framework Agreement, the Contractor undertakes to grant AGID and the other Contracting Authorities, an irrevocable, worldwide, royalty-free, non-exclusive license to use, at no additional costs, the results of what has been achieved with regard to the Research and Development Project, immediately following the date of the verification report provided by article 10.

5. TERMINATION

The Cases and terms of termination are provided by article 29 of the Framework Agreement draft.

6. INDIVIDUALS IN CHARGE OF THE ACTIVITIES

In relation to the activities provided by this Executive Deed, the individuals in charge of the activities are Mr. /Mrs. <>, on behalf of the Contractor; on behalf of AGID, Mr. /Mrs. <>.

7. CONSIDERATIONS

The maximum amount not guaranteed for the activities of this Executive Deed is equal to € <> (/00), excluding V.A.T.

Provisions regarding "Considerations" and in particular article 13 of the Framework Agreement shall apply herein.

8. ACCOUNTING AND PAYMENTS

Terms related to the accounting and payments are regulated in article 13 of the Framework Agreement.

9. PENALTIES AND LIABILITY

Provision contained in articles 15 and 16 of the Framework Agreement will ensure the correct and prompt execution of obligation provided in this Executive Deed.

10. DEPOSIT

Terms related to the deposit are regulated in article 17 of the Framework Agreement.

Rome, _____

Agenzia per l'Italia Digitale – AGID

The General Director

Mrs. Alessandra Poggiani

The Contractor
