



PUBLIC MARKET FOR INTELLECTUAL SERVICES

French Development Agency
5 Rue Roland BARTHES
75012 PARIS

SUBJECT: Technical Assistance programme to assist BIDV in its trajectory towards a Green Bank Model

Contract no. SYF-2024-0518

Procurement procedure

Adapted open – Pursuant to R. 2123-1 and R. 2123-4 to R. 2123-7 of the Public Procurement Code

ATTENTION

This document may only be amended to supplement:

The identification of the Holder;
The “Price” article;
Any annexes.
The choice of batch
Acceptance of advance (if applicable)

UNDER PENALTY OF REJECTION OF YOUR OFFER

between

THE FRENCH DEVELOPMENT AGENCY (AFD)

Public establishment with its head office at PARIS XII - 5, rue Roland Barthes, registered at the Paris Tax Code under number B 775 665 599, represented by the Group Purchasing Department Manager or her deputy, acting under the powers conferred upon it for that purpose,

hereinafter referred to as “the Contracting Authority”, on the one hand,

AND

The

Represented by_____

Having read the contract and documents mentioned below,

- I UNDERTAKE, without reservation, in accordance with the terms, clauses and requirements of the documents referred to above, to perform the services defined below, under the conditions that constitute my offer.
- I AFFIRM, under penalty of termination of contract, that I am the holder of an insurance policy guaranteeing all my liabilities.
- I CONFIRM, under penalty of termination of contract, that the proposed subcontractors are also holders of insurance policies guaranteeing their liabilities.

☐ **Identity and status of signatory: Ms/Mr**
engages the company on the basis of its offer to perform the services
requested under the conditions defined below;

☐ **Identity of the agent ⁽¹⁾: Ms. or Mr.**

☐ of the solidarity group
☐ joint and several

undertakes for all the grouped service providers designated in the attached Annex to perform the
services requested under the conditions defined below;

Trade name and corporate name of the candidate:
.....

Address of the facility:
.....
.....
.....

Registered office address: *(if different from the establishment)*
.....
.....
.....

Generic email address *(it is recommended to use a generic email address valid for the entire duration
of the contract or framework agreement)*:

Phone:

Fax:

SIRET:

EPA:

Intra-Community VAT number:

hereinafter referred to as the Holder,

AGREED AND HEREBY DECIDE:

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1. Preamble

1.1 Presentation of the contracting authority

The French Development Agency is a public industrial and commercial establishment under the banking law, as a financing company.

It is responsible, within the framework of development assistance, for financing, through long-term loans and/or grants, the economic and social development of nearly 110 developing countries and overseas communities.

It has an ethical charter which can be found on its website: www.afd.fr

Within the framework of the contract, the contracting authority entrusts the contract to the Holder, who accepts it. The purpose of this ACSC is to specify the conditions under which the Contractor will be required to provide these services to the contracting authority.

In addition, to promote sustainable development, The parties have each agreed on the need to encourage compliance with internationally recognized environmental and social standards, including the core conventions of the International Labour Organization (ILO) and international conventions for the protection of the environment.

1.2 Definitions

Acts of Corruption:

Designates the offences referred to in articles 432-11, 433-1, 445-1 and 445-2 of the Criminal Code.

Act of Fraud:

Means any act (action or omission) of a person, whether or not it is criminally punishable, which is intended to deliberately deceive another person, intentionally conceal elements from him or surprise or degrade his consent, circumvent legal or regulatory obligations and/or violate internal rules in order to obtain an illegitimate profit.

Personal data:

Means any information relating to an identified or identifiable natural person.

Agreement:

Refers to concerted actions, agreements, express or tacit agreements or coalitions, including through the direct or indirect intermediary of a company of the group established in any country within the meaning of article 420-1 of the Commercial Code, where they have the object or may have the effect of preventing, restricting or distorting competition in a market, in particular when they are intended to:

- Restrict market access or free competition by other companies;
- To prevent price-setting by free market forces by artificially encouraging price increases or decreases;
- Limit or control production, outlets, investment or technical progress;
- Allocate markets or sources of supply.

Confidential information:

Refers to:

- Any information, data, documents of any nature and whatever form or medium, including but not limited to any written note, report, document, study, analysis drawing, letter, listing, software or content of the data stored on a USB key, specifications, figure, graphic, communicated by the Contracting Authority to the Contractor in the context of the Contract;
- The Contract (including any information obtained in connection with its negotiation and/or execution) and more generally any information or document that the Holder may have obtained, directly or indirectly, in writing or by any other means, the Contracting Authority for the purposes or on the occasion of the Contract, including without limitation any technical, commercial, strategic or financial information, studies, specifications, software, products;
- The Service (including reports, works, studies, carried out under the Service) and any information relating thereto.

Agent

Designates the member of the Holding Group designated in this contract who represents all members of the Group vis-à-vis the Contracting Authority.

Personnel:

Refers to the Holder's personnel assigned by the latter to perform the Service.

Benefit:

Refers to all tasks, activities, services, deliverables and services to be performed by the Data Controller under the Contract.

Outsourced Essential Services:

The order of 3 November 2014 (articles 10q, 231 et seq. and 253) and the French Monetary and Financial Code define the essential outsourced services as follows:

- Banking operations, issuing and managing electronic money, payment services and investment services for which the reporting company has been authorised;
- Related operations;
- Services directly involved in the execution of the operations or services mentioned above;
- Any provision of services where an anomaly or failure in its exercise is likely to seriously affect the ability of the undertaking subject to comply at all times with the conditions and obligations of its approval and those relating to the exercise of its activity its financial performance or the continuity of its services and activities.

Holder:

Designates the economic operator or, in the case of a Group, the Agent and its possible co-contractors, signing this Contract.

2. Subject of the Contract- General provisions

2.1 Subject of the Contract

The market governed by this CCAP is a contract for intellectual services relating to the realization of the following services: Technical assistance programme to assist BIDV in its trajectory towards a green bank model.

The aim of these services is to continue E&S support for the BIDV in the context of the previous project between AFD and BIDV, and to support efforts to transform the BIDV into a green bank.

In this sense, the services to be provided are as follows:

- Support for the implementation and disbursement of the new AFD-BIDV climate credit facility
- Support for project monitoring and reporting
- Development of a climate risk management methodology to assess the exposure to climate-related risks of BIDV's portfolio of loans financed through the credit facility
- Strengthen the implementation of the existing environmental and social risk management process

Place of performance: Republic of Vietnam

2.2 Contract duration

The contract duration is defined in the Contract Duration of the Commitment Act.

In accordance with Article 13.1.1 of the CCAG PI, the contract execution period begins on the date of its notification.

2.3 Lead times

The delivery times are 24 months.

2.4 Renewal

The contract can be renewed twice for a period of 12 months by an express renewal and cannot exceed 48 months

If the contracting authority wishes to renew the contract, it shall take an express decision to renew the contract which shall be notified to the contractor at the latest thirty (30) calendar days before the contract expires.

In the event of non-renewal of the contract, the person entitled to sign the contract shall make a written decision not to renew the contract. The DFA notifies the licensee of the decision not to renew three months before the end of the contract term.

In this case, the work assistant / contractor remains engaged until the end of the current period.

The holder cannot refuse the renewal.

2.5 Subcontracting

The Service Provider may subcontract part of the Service under its sole responsibility, subject to obtaining prior written agreement from AFD under the following conditions:

- Notification to AFD by the Service Provider of its intention to subcontract a part of the Service covered by the Agreement, indicating the references of the subcontractor or subcontractors envisaged, a precise description of the part of the subcontracted Service, its amount, and the terms of payment provided;
- AFD will have fifteen (15) working days following receipt of the notification to notify the Service Provider in writing, its acceptance or refusal;
- In the event of acceptance, the Service Provider shall communicate to AFD as soon as possible a copy of the corresponding subcontract(s) or contract(s).

The Contractor undertakes to take all necessary steps to ensure that their subcontractors are able to perform their mission both in France and in the country where the mission is carried out. The Holder is confident of the fulfilment by subcontractors, in particular, of formalities relating to the administrative situation of their staff, obtaining visas and any necessary documents with regard to local regulations. The Holder also undertakes to (i) have taken all necessary measures (insurance, mutual insurance, etc.) to assist their staff in case of difficulties occurring locally, such as, for example, an evacuation for medical or political reasons and (ii) provide any technical assistance that their staff may require as part of their mission.

The Holder must replace one or more subcontractors in case of failure of said subcontractor(s). In this case, the Supplier guarantees the continuity of performance of the Contract. The Holder bears the cost of all costs associated with the establishment of a subcontracting as well as any replacement of subcontractors, if necessary.

The Holder remains responsible for the contractual and operational commitments of the Contract.

2.6 Contract amendment - review clause

The framework agreement may be amended by concluding amending acts in the cases described in articles R. 2194-1 to R. 2194-9 of the Public Procurement Code and article 25 of the CCAG PI. These modifications and/or additions cannot have the effect of changing the overall nature of the Contract and must be directly related to the subject matter of the contract.

2.7 Similar benefits

Services similar to those of this Contract may be awarded to the same Holder by a contract concluded without prior publication or competitive bidding under the conditions provided for in article R. 2122-7 of the Public Procurement Code.

3. Contract documents

Notwithstanding article 4.1 of the CCAG PI, in case of contradiction between the stipulations of the contractual parts of the Contract, they prevail in the following order of priority:

- The deed of commitment and any financial annexes, the original copy of which is/are kept in the buyer's archives, shall be deemed to be authentic.
- This special administrative clauses document (C.C.A.P) and any annexes, the original copy of which is/are kept in the archives of the buyer is/are only authentic.

- The Terms of Reference (TORs) and any annexes, the original copy of which is kept in the purchaser's records, shall be deemed to be authentic.
- The Deed of Undertaking, CCAC and ROL prevail over their schedules in case of contradiction with them and each schedule prevails over the others according to their rank in the list of schedules specific to each document.
- The general administrative clauses of the public contracts for intellectual services (CCAG PI) approved by the decree of 30 March 2021 (published in JORF no. 0078 of 1 April 2021).
- The technical and financial offer of the holder.
- The breakdown of the overall flat rate price.
- Special subcontracting acts and any amendments thereto, subsequent to the notification of the contract.

4. Conditions for the performance of services

The services must be in accordance with the contract stipulations.

The contracting authority shall make available to the contractor the documents in its possession necessary for the performance of the services and shall facilitate, as necessary, the obtaining from other competent bodies of information and information which the contractor may need.

The Holder shall, in the context of the execution of the Contract, provide all its know-how and skills for the performance of the Service. He will provide all the logistics and equipment necessary for the proper execution of the Service.

The Holder shall perform the Service in a professional manner and in accordance with the rules of the art.

4.1 Personnel assigned to the mission

The Holder will assign the appropriate Personnel to perform the various tasks necessary for the proper performance of the Service. The Holder shall communicate the names and professional qualifications of the persons who will be responsible for the performance of the services.

The Licensee may replace one or more Personnel members in the event of failure by said member(s) provided that (i) the qualifications of the person(s) proposed for replacement are equivalent to or superior to those of the or the person(s) to be replaced, (ii) that this replacement does not cause any delay for the Contracting Authority in relation to the schedule of performance of the Service, and (iii) having obtained the prior written agreement of the Contracting Authority on the proposed person(s). The replacement must then be made immediately. The Holder will bear all costs associated with it.

The Staff will act under the supervision, legal, hierarchical and disciplinary responsibility of the Holder. The Holder therefore undertakes to carry out all the formalities applicable in relation to the regulations in force at the employer's expense, particularly regarding labour law, social security and tax obligations. The Staff will in all circumstances be under the sole authority of the Holder and will be responsible for their activity exclusively and directly to the latter.

The Holder undertakes to do everything necessary to ensure that the Staff is able to carry out their mission both in France and in the country where the mission is carried out. He must in particular

complete the formalities relating to the administrative status of the Staff, obtain visas and any documents required by local regulations. The Holder also undertakes to (i) take all necessary measures (insurance, mutual...) to assist Staff in the event of difficulties arising locally, such as, for example, an evacuation for health or political reasons and (ii) provide any technical assistance that Staff may require in the course of their duties.

4.2 Safety

The Holder undertakes to comply with all applicable laws and regulations in relation to security, and to take the measures that are incumbent upon him to ensure the safety of his personnel, for which he is solely responsible.

The Contracting Authority is not responsible for the safety of natural persons or personnel of legal persons to whom the Contractor entrusts or delegates, in any way whatsoever, all or part of the performance of the Service(s).

The Holder is solely responsible for the safety of natural persons or the personnel of legal entities to which it entrusts or delegates, in any way whatsoever, all or part of the performance of the Services. The Contracting Authority is not responsible for the safety procedures and management of the safety of these persons and their staff.

During the entire duration of the performance(s), and in particular before any movement of its staff, the Holder undertakes to inform himself or herself of the French Embassy(s) of the country concerned(s) ⁽¹⁾ on the safety risks incurred and to make good use of the advice provided by his/their services. He undertakes to ensure that natural or legal persons acting on his behalf in the context of the performance of the Service(s) comply with this obligation.

When the area(s) of implementation of the Service becomes/become the subject of a classification in orange or red zone by the French Ministry for Europe and Foreign Affairs during the execution of the contract, the Licensee undertakes to suspend its activities in the area(s) concerned and to transmit its safety documentation to a specialized external body, designated and financed by the Contracting Authority.

The specialized external body will review it and transmit its recommendations to the sole Holder, who will decide on the follow-up to be given under his sole responsibility. The specialized external body will send to the contracting authority a certificate issued by it certifying the review of the documentation transmitted. A new intervention in the area(s) concerned cannot be organised before receipt of this attestation by the Contracting Authority.

The Holder is solely responsible for the decision to cancel or maintain the planned trips.

(1) If the Service Provider is a French national. If this is not the case, replace "from the Embassy(s) of France of the concerned country/ies" by "the consular or local authorities responsible for the nationality of the concerned country or countries."

4.3 Suspension on grounds of serious and imminent risk

In the event of a serious and imminent risk of physical injury to its personnel and any person acting on behalf of it, the Licensee may decide, without prior notification, to demobilize them from the area of execution of this contract and/or the dangerous area, and may immediately suspend all or part of

the execution of this contract.

The Contractor shall inform the Contracting Authority without delay.

The Contractor must, within a maximum of seven (7) days from its decision, justify in writing to the Contracting Authority that its decision was in accordance with the terms of the first paragraph above. He will specify the reasons that led to his decision, the foreseeable consequences for the Contract, the measures proposed to minimize these consequences and the costs incurred by this demobilization and/ or suspension.

The amount of reimbursable expenses, resulting directly from this suspension, demobilization and/or remobilisation of personnel, less the amounts paid by the insurer, and the terms of reimbursement shall be agreed jointly by the parties.

The Licensee shall continue to fulfil its obligations under this contract and take all measures to minimize the consequences of the demobilization of personnel or any involved party and a possible suspension of services. The parties shall determine as necessary any adjustments to this contract in order to ensure that the services are performed.

In the event that the Holder is permanently prevented from executing this contract, article 38.1 of the CCAG Intellectual Services "Difficulties in executing the contract" will be applied.

5. Monitoring of the execution of the contract

5.1 Identification of committees

Full members of the steering committee are:

- AFD representatives
- BIDV representative
- the holder.

5.2 Organization and Objectives

The steering committee will meet once or twice a year.

The committee will be in charge of the following tasks:

- following-up and monitoring of the implementation of the services,
- addressing all matters related to strategic, technical, administrative and/or financial aspects and/or challenges related to the implementation of the services

The decisions taken at these meetings are subject to the writing of a report by the Holder. This document, containing all the decisions taken, is sent to AFD for signature within five (5) working days following the date of the meeting.

Decisions taken may not alter the contractual basis, unless they are ratified by an amendment signed by both parties having legal authority to do so.

However, agreements on technical provisions, organization or operation which do not alter the contractual basis of this contract as set out in a report approved by both parties shall be binding.

6. Prices and price changes

The offer is based on the economic conditions set out in CCAP *Price*.

The services covered by the contract will be remunerated by applying the global and lump sum amount specified below.

- **Amount of contract benefits over the overall duration of the contract**

Total amount H.T.	-
	€
VAT amount	20%
Total T.T.C amount	-
	€

Amount of benefits-in full

- Tax-free amount (in letters) (€):
- VAT amount at 20% rate:
- Amount including taxes (in letters) (€):

In the case of a group, the detailed breakdown of the services and tasks by phase to be carried out by each member of the group and the amount of the contract accruing to each are set out in the attached annex.

- **Mission Expenses**

Air tickets according to the application of article 5.2 of the CCAP, will be paid within the limit of 3000 € HT or XXXX € TTC.

Per diem according to the application of article 5.2 of the CCAP, will be paid within the limit of 100 € HT or XXXX € TTC.

The mission expenses (air tickets and per diem) according to the application of article 5.2 of the CCAP, will be paid within the limit of XXXX € HT or XXXX € TTC.

In any case, to simplify the monitoring of the performance of the service, there is no provision for a refund of these costs.

- **Overall contract amount (Benefit amount + Mission expenses)**

Total amount H.T.
	€
VAT amount	20%
Total contract amount (services + mission costs)
	€

- **Contract amount-in full**

Tax-free amount (in letters) (€):

VAT amount at 20% rate:

Amount including taxes (in letters) (€):

In the case of a group, the detailed breakdown of the services and tasks to be performed by each member of the group and the amount of the contract accruing to each are set out in the attached annex.

6.1 Method of establishing the prices of the Contract

The price of this contract is deemed to be established on the basis of the economic conditions defined in the article *Variation of prices* below.

6.2 Content of prices

Unless otherwise provided, the contract prices are expressed excluding VAT and are deemed to include all the charges normally foreseeable for the performance of the services, subject to the contract, all expenses resulting from the performance of the services, so that the contracting authority has nothing to pay in addition, more particularly: salaries, all premiums, allowances, social security charges, etc... , the general expenses: preparation, participation and reporting of working meetings and reports, collection of data necessary for studies from the various departments, anticipation and warning of AFD in case of delay, secretarial expenses, assurance, reproduction and dissemination of deliverables, small office equipment, necessary for work (computer, printer...) and possible offices on site.

Travel and living expenses are not included in the price indicated in the FGPD;

Travel and living expenses, which would arise from the postponement or rejection of benefits, are borne by the holder.

Content of mission costs prices

The Holder shall reduce its carbon impact as much as possible during the mission. For travel on the site of the mission, the incumbent is encouraged to use environmentally friendly modes of transport as far as possible, low CO2 emissions in line with the objectives of promoting sustainable development pursued by AFD.

Regarding air tickets

Any PCR test costs for the arrival or departure from the mission site, as well as any visas, are included in the cost of air tickets.

Any PCR and other self-tests outside of this case will not be supported by the contracting authority. The prices of the air tickets will be economy class, return and will be refunded to the real within the limit of the price indicated in the FGPD and the maximum amount indicated in the commitment document.

Regarding per diem

The amount paid for per diems will not exceed the maximum amount stated in the commitment document.

Per diem covers accommodation, meals, transportation within the mission area and miscellaneous expenses. The holder may refer to the scale established by the European Union ([https://international-partnerships.ec.europa.eu/system/files/2022-09/Pre %20diem%20rates%20-%2025%20July%202022.pdf](https://international-partnerships.ec.europa.eu/system/files/2022-09/Pre%20diem%20rates%20-%2025%20July%202022.pdf)) for the determination of per diem.

The daily subsistence allowance may not exceed the amount provided for by the European Union.

They may not exceed the daily allowances of the country whose price is fixed by the European Union.

The expenses of missions per diem and air tickets/ visa will be subject to a reimbursement in a lump sum, after service made, on the basis of a single invoice, independent of the billing of the daily rates of the consultants mobilized. This invoice must be accompanied by the appropriate supporting documents to attest the expenses incurred in support of the mission.

Any costs not associated with a relevant supporting document will be considered as expenses not incurred in support of the mission and will not be reimbursed.

N.B. The trips undertaken by the expert for his mobilization and demobilization as well as for his leave cannot be considered as working days or as a mission and will not give rise to the payment of daily allowances.

In order to anticipate the costs associated with mission expenses, the contractor will take care to propose a detail corresponding to these expenses as part of its estimate according to technical specifications.

In addition to Article 10.1.3 of the CCAG-PI, the following clarifications are made regarding the content of prices:

In the case of joint or joint and several contracting, the prices are deemed to include all expenses resulting from the performance of the Coordination and control services performed by the agent, including overheads, or otherwise, the margin for risk and profit as well as all costs resulting from the measures taken to remedy any failures of the members of the group and the consequences of these failures.

In the case of subcontracting, the prices are deemed to cover the costs of coordination and control by the Holder of the services entrusted to this subcontractor, as well as the consequences of these failures.

5.3 Rules applicable to transport

Prices are based on Origin (head office/agency of the service provider) / Destination (AFD agency concerned by the mission)

In the case of a framework agreement, the costs must be validated by AFD before issuing the purchase order

The most direct and economical travel solution must be systematically proposed.

Consultants must plan their missions in the best possible way to enable tickets to be booked at favourable rates.

For air transport, the default travel conditions are those corresponding to the Economy class of the airlines. Business travel may be conducted in Business Class when one of the following conditions is met:

- the journey is made at night;
- if there is no flight at the Economy or Premium rate for the period during which the trip must be carried out (with prior written agreement from AFD)

Flights on companies listed in the black list of airlines of the European Commission are prohibited as part of business travel to l'AFD (black companies listed).

5.4 Form of the Price

The price of the contract services is global and lump sum, in accordance with the tab "DGPF" of the financial annex.

The price of mission expenses is fixed within the limit of the lump sum indicated in the commitment document and the FMPD.

6.5 Change in price

Market prices are firm.

The prices of this contract are deemed to be established on the basis of the economic conditions of the month of the date of submission of the offer by the tenderer.

7. Advance

Subject to the conditions provided for in articles R. 2191-3 and following of the Code of public procurement, an advance is paid to the contractor unless otherwise stated.

The advance will be calculated, according to the duration of the contract, under the conditions defined in article R. 2191-7 of the Public Procurement Code.

The rate of advance is fixed at a maximum of 10% of the amount HT.

The reimbursement of the advance by the licensee is charged to the amounts due to the licensee when the amount of services performed reaches 65% of the total amount including all taxes of the contract. It must be completed when the amount of services performed by the licensee reaches 80% of the total contract tax.

8. Security Hold

No warranty will be retained.

9. Down payment

Articles R 2191-20 to -22 of the Public Procurement Code provide that services which have given rise to a contract start are entitled to instalments.

The down payment is for a service rendered. The amount of the down payment cannot exceed the value of the services to which it relates.

In order to obtain the payment of a deposit, the holder will produce a statement of the services performed in connection with his request for an advance, which will be verified and accepted.

If the 30-day payment deadline for a down payment is exceeded, interest will be payable.

The payment of sums due to the holder shall be made in advance under the following conditions:

The instalments are paid for each service, as and when the mission progresses, in accordance with articles R.2191-21 to 22 of the PAC, and within the time limits below.

Elements of mission	Payment of the deposit
Deliverables 1 and 2	35% on delivery and approval of all deliverables

Deliverable 3	20% on delivery and approval of all deliverables
Deliverables 4 and 5	20% on delivery and approval of all deliverables
Deliverable 6	15% on delivery and approval of all deliverables
Deliverable 7	10% on delivery and approval of all deliverables

10. Settlement of accounts to the holder

10.1 Terms of payment of the price

10.1.1 Price settlement

The payment of the price will be made within 30 (thirty) calendar days from the date of receipt of the invoice by AFD, provided that the user service finds the good performance of the services

10.1.2 Payment requests

The payment request shall be dated and include, as applicable:

- the contract references;
- the amount of benefits received, established in accordance with the provisions of the contract, excluding VAT and, where applicable, less any deductions or the amount of benefits corresponding to the period in question;
- the breakdown of flat-rate prices and the details of unit prices;
- in the case of subcontracting, the nature of the services performed by the subcontractor, their total amount excluding taxes, their amount including taxes and, where applicable, the price variations established HT and VAT
- in the case of a joint grouping, for each economic operator, the amount of services provided by the economic operator;
- the application of price updating or revision;
- Where applicable, allowances, premiums and deductions;
- any penalties for delay;
- the advances to be repaid;
- the amount of VAT or, where applicable, the benefit of an exemption
- the amount including tax

The contracting authority reserves the right to complete or correct payment requests that contain errors or are incomplete. In this case, he must notify the Holder of the corrected payment request.

10.1.3 Transmission of payment requests

Electronic invoices are deposited, transmitted and received exclusively through the Chorus Pro billing portal. When an invoice is transmitted outside this portal, the contracting authority may reject it after reminding the issuer of this obligation and asking it to comply with it. To do this, your dematerialized invoices sent to the contracting authority must include the following information:

Establishment:	FRENCH DEVELOPMENT AGENCY
SIRET:	77566559900129
CHORUS Service Code:	PAR-MOA-020
Contract Number:	SYF-2024-0518

10.2 Regulations in the case of joint joint contractors

In the case of joint contracting, only the representative of the group is entitled to submit payment requests.

In the case of a joint and several arrangement, each co-processor shall settle separately if the distribution of payments is identified in the annex to this Agreement.

The representative of the group indicates in each payment request that it transmits to the contracting authority, the breakdown of payments for each co-contractor.

The acceptance of a settlement to each of the joint joint contractors cannot call into question the solidarity of the joint contractors.

10.3 Payment terms

The time limit for the contracting authority or its representative to make payment of final partial settlements and the balance is 30 days from receipt of the request for payment.

10.4 VAT

This contract is subject to value added tax at the rate in force on the day of the event giving rise to the contract. Each payment term will be subject to VAT. The Contractor undertakes to indicate on its invoices whether it is authorised by the tax authorities to pay VAT on debits.

10.5 Interest on default

The non-payment of advances, instalments, partial payments or final balance within the period set by the Contract shall give rise to default interest calculated from the day following the expiry of that period (or the maturity provided for in the Contract) until the date of payment of principal included (article R. 2192-32 of the Code of public procurement).

The interest rate applicable in the event of the maximum payment deadline being exceeded is equal to the interest rate applied by the European Central Bank on its most recent main refinancing operations as at the first day of the six-month calendar year during which the default interest began to accrue, increased by eight percentage points.

The amount of the lump sum payment for recovery costs is set at 40 euros.

11. Penalties

11.1 How to apply penalties

Notwithstanding article 14 of the CCAG-PI, the penalties defined in the following articles are applied. The settlement of penalties shall not prevent the termination of the Contract by right, and without compensation, at the Holder's fault in case of fault or non-performance of its obligations. Penalties

are only due in the case of damages attributable exclusively to the Holder.

The penalties are cumulative and not liberating, they do not prejudice any claims for damages that the contracting authority may claim.

Payment of penalties does not exempt the Data Controller from performing its contractual obligations.

The amount of penalties will be deducted by the Contracting Authority from the balance to be paid, and the surplus, if any, must be returned by the Holder to the Contracting Authority at the latter's first request.

11.2 Penalties for delay

Documents to be produced by the licensee within a time limit set by the contract shall be transmitted by the licensee in any manner attesting to their date of receipt by the purchaser.

Notwithstanding Article 14.1.1 of the CCAG PI, the rules for applying late penalties are as follows:

Any delay will be determined by a simple comparison of the date of completion of the service with that fixed in the TDR or in the offer of the licensee.

In case of exceeding the execution time, the contractor incurs a fixed penalty of 150 € per day of delay

In accordance with Article 14.1.2 of the CCAG PI, the total amount of late penalties may not exceed 10% of the total amount HT of the tranche concerned.

By way of derogation from article 14.1.3 of the CCAG PI, the holder will not be exempt from penalties whose total amount does not exceed € 1000 excluding tax for the entire contract.

11.3 Other penalties

11.3.1 Penalties for breach of security or confidentiality obligations

The obligation of confidentiality is a fundamental obligation of this Agreement.

The breach of security measures or confidentiality obligation set out in article 5 of CCAG-PI is liable to result in termination of this Agreement for serious misconduct under article 39 of CCAG-PI and exposes the Holder to the following penalties (by way of derogation from Article 14.2 of the CCAG-PI):

In the event of non-compliance with the rules on security and protection of Confidential Information not involving Personal Data: application of a flat-rate penalty between 0.5% and 1% of the amount executed of the Contract at the date of the occurrence of the event;

In case of non-compliance with the rules on security and protection of confidential information involving Personal Data: application of a flat rate penalty between 1% and 2% of the amount executed of the Contract at the date of the finding of the event giving rise to the event.

11.3.2 Penalties for execution at cost and risk

The contracting authority may have all or part of the services provided for in the contract carried out by a third party at the expense and risk of the contractor under the conditions set out in article 27 of the CCAG-PI.

11.3.1 Operational penalties

- **Penalties for absence from a meeting:** €160/absence if no valid justification is provided by the

provider,

-Penalties for failure to comply:

- Failure to comply with the obligations relating to the protection of workers and working conditions: 160 € without prejudice to the termination of the contract without compensation
- Failure to comply with the formalities relating to the fight against illegal work: 160 € without prejudice to the termination of the contract without compensation
- Breach of the clauses of the technical brief: 500 €
- Failure to comply with the legislation on personal data protection: 150 €
- Unapproved subcontracting before intervention: 500 € without prejudice to the termination of the contract without compensation

10. Environmental requirements

To demonstrate its involvement in environmental preservation, the bidder must:

- Identify the main sources of greenhouse gas emissions from the service or its activities in general
- Implement 2 actions to reduce carbon impact
- Optional: have at least 1 additional commitment to climate or environment.

The ability to meet these requirements will be noted in the environmental and societal award criteria of the consultation by-law. The bidder who meets the requirements is qualified as “meets the requirements” and the bidder who also meets the optional requirement is “exceeds the requirements”.

11. Monitoring the implementation of requirements

At the request of AFD, the licensee will provide for each calendar year covered by the contract, the information corresponding to the climate and social requirement:

- Brief report on the two reduction actions;
- The case may be, the report of additional actions and 1 or 2 indicators related to the identified requirements
- If applicable, report of additional commitment(s).
- Where appropriate, a brief account of the professional commitment to climate and social issues, with quantification (number of meetings, hours of training etc.);
- This information will be communicated to the AFD (Purchasing Department) for each calendar year covered in part or totally at the request of the AFD.

12. Records to be provided by the holder

In the context of the contract, the contractor must send all written or drawn documents resulting from his studies, by electronic means to the following address:

On the site [http:// https://www.marches-securises.fr/](http://https://www.marches-securises.fr/)

For document transmission, all files must be compatible with the following formats:

The incumbent is asked to:

- Do not use certain formats, especially the ". exe".
- do not use certain tools, especially "macros".
- to process the files of its studies by an anti-virus.

In the event of difficulty in recovering or detecting viruses, the data subject shall take all necessary measures to transmit to the purchaser all such data either by electronic means or on a legible and sound physical medium within five (5) days. In case of delay in the transmission of this material, the buyer reserves, if applicable, the application of penalties for delay for the study element concerned. It will be the responsibility of the service provider to ensure that the transmission of these documents in a dematerialized form has been carried out with the interested parties.

15. Cessation of the performance of the service

Insofar as technical parts are provided for in the Contract and this in accordance with article 22 of the CCAG PI, the buyer reserves the right to stop performance at the end of each of these technical parts without compensation.

Notwithstanding article 22 of the CCAG PI, in the event that the interruption of the performance of the service at the end of a technical part is temporary, it does not result in the termination of the contract. In all other cases, the decision is a termination of the contract. The decision shall specify whether the decision is temporary or final.

16. Admission – Mission completion

Upon receipt of the deliverables, the Contracting Authority will have fifteen (15) working days to validate or not the deliverables. If the Contracting Authority wishes to amend the deliverable, it will communicate its comments on these deliverables to the Licensee no later than fifteen (15) working days after receipt. The Holder will have 7 working days to take these comments into account and propose a new version of the deliverable. This process may be renewed until the Contracting Authority is satisfied with the deliverables.

The deliverable will only be validated upon decision of the contracting authority.

17. Insurance - Liability

In accordance with article 9 of the CCAG PI, the Holder must contract insurance to guarantee its liability towards the Contracting Authority and third parties, victims of accidents or damage caused by the performance of services.

The tenderer must provide proof of his holding of these insurance contracts within 15 days of notification of the contract and before any execution thereof begins, by means of a certificate establishing the extent of the guaranteed liability.

At any time during the execution of the contract, the holder must be able to produce this attestation, upon request of the buyer and within a period of fifteen days from receipt of the request.

18. Intellectual property – Use of results

18.1 Prior knowledge regime and prior standard

The provisions of Articles 33 and 34 of the CCAG PI will be applicable to the contract.

18.2 Results regime

By way of derogation from article 35 of the CCAG PI, the Contracting Authority shall provide for the following conditions:

18.2.1 Assignment of copyright

The Holder exclusively assigns to the Contracting Authority the rights to the Service, as well as any element that is part or all of it. He irrevocably assigns to the Contracting Authority, exclusively for the entire world and for the legal duration of the copyright, the exploitation rights, representation and reproduction and adaptation for commercial and/or non-commercial purposes that it holds or will hold on the reports, works, studies and documents carried out under the Service (hereinafter referred to as "Assignment").

Specifically, the Assignment includes the rights:

- to use, reproduce, retain, distribute, communicate, perform, translate, exploit, disseminate, represent the Service;
- for promotional, commercial or non-commercial purposes, public or private and in particular but without this list being exhaustive on the occasion of exhibitions, information operations or public relations);
- partially or completely on any medium, current or future, including paper, optical, digital, magnetic or any other computer, electronic or telecommunication medium.

The Assignment is carried out as reports, works, studies and documents are produced by the Service Provider in connection with the Service.

The Service Provider also acknowledges that the Contracting Authority has the right to transfer to any third party its right of use of the reports, works, studies and documents carried out by the Service Provider in the framework of the Contract.

18.2.2 Guarantees of the Assignment

For the duration of the Assignment, the Holder (i) undertakes not to distribute the Service in any medium whatsoever without the agreement of the Contracting Authority and (ii) guarantees the peaceful enjoyment of the ownership of the rights thus transferred to the Contracting Authority against all disturbances, claims and evictions of any kind. It guarantees in particular that it has regularly acquired all the rights, including intellectual property rights, necessary for the Transfer.

Accordingly, the Contractor guarantees the Contracting Authority against any action, claim, claim or opposition by any person invoking a right of intellectual property in particular or an act of competition and/ or parasitic to which the Assignment would affect.

The Holder warrants that the Service does not contain anything that could constitute a violation of the laws and regulations in force, in particular with regard to defamation and insult, privacy and image rights, infringement of good morals, to counterfeiting or plagiarism.

18.2.3 Remuneration of the Assignment

The price of the Assignment is included in the remuneration of the Contract. The Holder acknowledges that it is aware of this and will not be able to claim any additional amount under the Assignment.

19. Safety

At the time of notification of the contract, if the area(s) in which the Service is implemented is/are classified as an orange or red zone by the French Ministry for Europe and Foreign Affairs, the Contractor undertakes to transmit its safety plan to a specialised external body designated and financed by the Contracting Authority. This transmission takes place as soon as the contract is notified and before any movement or intervention in this/these area(s).

The specialised external body will transmit its recommendations to the sole Holder, who will decide

on the follow-up to be given under his sole responsibility.

The specialized external body will send to the contracting authority a certificate issued by it certifying the review of the documentation transmitted. No travel by the Contractor may be carried out before receipt of this attestation by the Contracting Authority.

20. Additional clauses

20.1 Reorganization or judicial liquidation

The following provisions shall apply in the event of judicial reorganization or liquidation.

The judgment establishing the judicial reorganisation or liquidation shall be notified immediately to the contracting authority by the contractor. The same applies to any judgment or decision that may have an effect on the performance of the contract.

The contracting authority shall send a notice to the administrator or liquidator asking him whether he intends to require performance of the contract. In the case of judicial reorganization, this notice is addressed to the holder in the case of a simplified procedure without an administrator if, pursuant to article L627-2 of the Commercial Code, the judge has expressly authorized them to exercise the option open to article L622-13 of the Commercial Code.

In the event of a negative response or failure to reply within one month from the dispatch of the notice, the contract shall be terminated. This one-month period may be extended or shortened if, before the expiry of that period, the court judge has granted the administrator or liquidator an extension or has given him a shorter period.

Termination shall take effect on the date of the decision by the administrator, liquidator or holder to waive further performance of the contract, or on expiry of the above one-month period. It shall not entitle the holder to any compensation.

20.2 Declaration and obligations of the Data Controller

20.2.1 Statement by the Holder

The Service Provider shall be responsible for the necessary authorisations under the Contract and insurance relating to the Service. The Service Provider declares that it will subscribe and maintain, and ensure that its Staff has insurance covering all risks related to the performance of the Service. The Service Provider shall provide AFD, upon request, with the corresponding insurance certificate or certificates.

The Service Provider declares:

- that he has obtained all the necessary authorisations from the competent authorities to carry out his activity.
- that it has all the necessary authorisations for the validity of the Contract and the performance of the obligations arising therefrom;
- that the Staff is employed by him in accordance with the applicable labour regulations.

In accordance with articles L 8222-1 and D 8222-5 of the French Labour Code, the Service Provider must provide at the time of signing the Contract, and then regularly according to the validity period of each document, the following documents:

- The valid document certifying the actual registration of the structure (extract K-bis or equivalent)
- A tax certificate issued by the competent authorities certifying that the Holder is up to date with its tax obligations;
- A certificate issued by the competent authorities certifying that the Holder is up to date with its social obligations;
- A valid certificate of civil and/or professional liability insurance.
- The list of names of foreign workers outside the EC or posted, employed by the structure or otherwise an affidavit of non-employment of foreign workers outside the EC.

These documents must be provided and kept up to date in the PROVIGIS tool – a tool for collecting certificates that has been developed by the contracting authority.

20.2.2 Confidentiality obligation

The Holder, acting both for himself and on behalf of the Staff for whom he is responsible, undertakes, during the term of the Contract and for a period of five (5) years following the end of the Contract, that the Confidential Information:

- are protected and kept strictly confidential, and treated with the same degree of care and protection as it accords to its own confidential information of equal importance;
- are transmitted internally only to Staff;
- not be used for any purpose other than that specified in the Agreement.

Notwithstanding the above paragraph, information covered by professional and banking secrecy shall be kept confidential until such time as the confidentiality of the information is lifted.

The Contractor therefore undertakes not to disclose, directly or indirectly, in part or in whole, the Confidential Information without express prior written agreement of the Contracting Authority, to keep confidential any information or document obtained under the Contract and not to make any communication to third parties on the missions entrusted to it without prior, express and written authorization of the Contracting Authority.

At the end of the contract, the Holder undertakes to return the documents provided in full.

20.2.3 Powers of the Holder

The Contractor has no power to act in the name and on behalf of the Contracting Authority or to engage the latter, except for an express and special mandate granted by the Contracting Authority on a case-by-case basis. The Contracting Authority remains the sole judge of any decisions to be taken on the proposals submitted by the Contractor at the end of the Service.

20.2.4 Integrity clause

The Data Controller declares and undertakes to:

- have not committed any act that could influence the bidding process and in particular that no Agreement has been or will be made;
- that the negotiation, conclusion and execution of the Contract have not given, do not give and will not give rise to an Act of Corruption and/or an Act of Fraud.

20.2.5 Social and environmental responsibility

The contracting authority attaches great importance to compliance with provisions in favour of

sustainable development, both in its social and environmental aspects.

20.2.6 Personal data

In the context of the Service, the Data Controller may be required to process personal data within the meaning of Regulation (EU) 2016/679 of the European Parliament and the Council of 27 April 2016, known as the General Data Protection Regulation ("GDPR") and the French law n°78-17 of 6 January 1978, as amended, known as the "Data Protection Act" (hereinafter "the Data"), on behalf of and under the responsibility of the Contracting Authority. Therefore, the Holder would act as a "subcontractor" of the Contracting Authority, within the meaning and under the conditions described in article 60 of the Data Protection Act and 28 of the GDPR.

Also, if applicable, the Holder undertakes to:

- not use the Data for purposes other than those necessary to implement the Service and do not make any copies of the Data except in the strict framework of the performance of the Contract,
- respect the principle of relevance and proportionality of personal data processed and, therefore, to collect/process only Data strictly necessary for the provision of the Services. In any case, the Contractor undertakes to act only on written and prior instructions from the Contracting Authority which may, spontaneously or at the request of the Contractor, specify in writing the categories of personal data that may be processed for the performance of the Service,
- not to transfer the Data to states outside the European Economic Area, within the meaning of articles 44 and following of the GDPR, without prior written consent from the Contracting Authority.

Subcontracting

The Data Controller undertakes not to subcontract all or part of the Services involving participation in the implementation of the processing of Data to third-party companies, unless it has obtained the prior written consent of the Contracting Authority. If the Contracting Authority accepts the proposed subcontract, the Contractor undertakes to conclude with its identified subcontractor a contract containing the same obligations as regards the protection of Data as those agreed at present.

The Data Controller shall, at the first request of the Contracting Authority, justify the contractual commitments of any third party involved in the processing of the Data, if necessary by communicating the contract documents relating thereto.

Security, confidentiality and audit

The Data Controller undertakes to treat the Data with the strictest confidentiality. The Contractor manages, within the scope of its responsibilities, the internal organization of his company and defines the logical, physical and organizational measures to respond to the specific instructions of the Contracting Authority and, more broadly, to the requirements of protection of Data against unauthorised access, misuse, fraudulent use or loss. The Contractor shall immediately inform the Contracting Authority if the measures implemented do not or no longer meet these requirements.

The Holder shall immediately report to the Contracting Authority any control measures or access requests carried out by authorities duly authorised for this purpose, such as the CNIL or judicial police services.

These obligations of confidentiality and security of the Data remain valid after the end of the Contract as long as the Holder would continue to store the Data or access them. These obligations will only end on the day when the Data Controller ceases to access and/or store the Data.

In accordance with the provisions of article 28 of the GDPR, the Contracting Authority must ensure that the security and confidentiality measures implemented by the Holder are respected. The contracting authority is therefore authorized, directly or through any person it has mandated for this purpose, to:

- request any useful information from the Holder justifying the implementation of security and confidentiality measures (checks on coins),
- to check at the Data Controller's place of activity or that of its subcontractor that these measures are being implemented effectively (on-site checks).

The Contracting Authority may undertake a verification visit once a year, at the Licensee's premises, during normal office hours, without disrupting the operation of the Licensee's business. In addition to this annual audit, the Contracting Authority may undertake any ad hoc audit in the event of a security breach by the Data Controller affecting the confidentiality, integrity or security of the Data, whether committed voluntarily or accidentally, including any breach, loss, theft, unauthorised access, disclosure, destruction or alteration of the Data (hereinafter referred to as a "Data Breach").

The Contracting Authority must respect the operational processes of the Holder and give notice 72 hours before any visit by specifying the scope of the control, except for an ad hoc control following a Data Breach.

The contracting authority undertakes to make its best efforts to assist the person mandated during the controls and to allow him access to the premises as well as to the relevant equipment. The Contractor undertakes to provide, upon request of the Contracting Authority, the information required for the purpose of allowing a control, on documents or on site, by the Contracting Authority on the conditions for implementing the processing of Data and provide it with any documentation relating thereto.

Notification of Data Breaches by the Data Controller

The Holder undertakes to inform the Contracting Authority without delay, as soon as it becomes aware of any Data Breach. The Contractor undertakes to provide, together with this information, all necessary elements to the Contracting Authority (or any person expressly designated by it) to assess the risks and impacts of the Data Breach and to enable it to make any relevant decisions.

In agreement with the Contracting Authority, the Holder shall immediately implement all appropriate measures to prevent any further Data Breach.

The notification of Data Breaches to the Contracting Authority by the Holder and their management are an integral part of the Services and will not give rise to additional billing.

In the event that the applicable regulations impose on the contracting authority, in its capacity as controller, an obligation to notify the CNIL services, the Holder shall provide him with all assistance to enable him to make such notification within the applicable time limit.

In the event that information is needed from the persons concerned, this communication will be carried out according to a timetable and content determined by the contracting authority (where appropriate in consultation with the competent supervisory authority).

Power of the Contracting Authority to make an inquiry

The Contracting Authority has extensive rights to give any instructions, in particular with regard to the nature, importance and processing of the Data. The instructions given by the Contracting Authority must be in writing and may not give rise to a request for additional remuneration by the Contractor.

As part of its obligation to advise, the Owner shall inform the Contracting Authority without delay if it considers that a directive is contrary to French and European regulations relating to the protection of personal data.

At the end of its mission, the Holder shall, at the choice of the Contracting Authority, either hand over to the Contracting Authority the Data in its possession or erase them immediately and completely, subject to the application of legal provisions that prevent the complete deletion of Data. The same applies to copies for automatic backups.

The deletion shall, where applicable, be recorded in a record of the date. A copy of this report will be sent to the Contracting Authority.

Rights of data subjects

Any request for information from the Data Controller, issued by a person affected by the processing of Data, within the meaning of Article 4 of the GDPR will be immediately transmitted to the Data Protection Correspondent of the Contracting Authority or any other person expressly designated by the Contracting Authority. The same applies to any request for access, rectification or opposition. The Contractor shall provide the Contracting Authority with any assistance necessary to enable it to comply with these requests within the legal time limits.

Formalities

The Holder shall cooperate with the Contracting Authority and provide it with all necessary information for the latter to establish and update the list of automated processing provided for in article 47 of the decree of 20 October 2005, or, more generally, carry out all the necessary formalities prior to the implementation of processing, including impact assessments, requests for authorisation or prior consultation with the CNIL.

Proof of compliance with processing

The Holder undertakes to keep and make available to the Contracting Authority any useful documentation justifying that the processing of the Data implemented by the Holder on behalf of the Contracting Authority has been implemented in accordance with the commitments made under of the Contract and any specific instructions from the Contracting Authority.

The Holder undertakes to keep said documentation, beyond the end of the Contract, until the end of

the applicable limitation period during which the Contracting Authority's liability may be incurred due to the conditions and methods for implementing the processing of the Data by the Data Controller. The Holder may nevertheless release himself in advance of this obligation by submitting to the Contracting Authority at the end of the Contract said documentation.

Management of the Contracting Authority's suppliers

In the context of the administrative management of its suppliers, the Contracting Authority implements a processing of personal data that may concern the Holder's staff, who therefore has, pursuant to the Data Protection and Privacy Act, a right of access, rectification and opposition. These rights are exercised directly by contacting the AFD group's Information Technology and Freedoms Correspondent, in particular by sending an e-mail to: informatique.libertes@afd.fr.

20.3 Obligations of the Contracting Authority

To enable the Licensee to carry out its work, the Contracting Authority will ensure that:

- make available to the Holder all the elements it holds and necessary for knowledge of the problem in order to perform the Service;
- facilitate the Contractor's contact with the persons of the Contracting Authority concerned by the Service.

20.4 Miscellaneous

The Contractor may not assign any of its rights and/or obligations under this contract unless expressly and prior agreement is given by the Contracting Authority.

All notifications, reports and other communications relating to the Agreement will be delivered or sent to the respective addresses of the Parties mentioned at the beginning of this document. They shall become effective upon receipt at this address or any new address duly notified in writing to the other party.

Any modification of the terms and conditions of the Contract, including changes to the nature or volume of the Service or to the amount of the Contract, shall be subject to written agreement by the Parties.

The originals of the Contract are drawn up and signed in French. If a translation is made, only the French version will be considered valid in case of divergence of interpretation of the provisions of the Contract or in case of dispute between the Parties.

21. Audit

The Contracting Authority reserves itself, or for the Supervisory and Resolution Authority (ACPR) or any other equivalent foreign authority within the meaning of articles L. 632-7, L. 632-12 and L. 632-1213 of the Monetary and Financial Code for Services to be performed abroad or in the context of ACPR's cooperation with these foreign authorities) or any other regulatory or supervisory authority, any data protection authority or public archives authority and the persons designated by them have the right to carry out any audit of the Supplier. This audit could:

- Aim to verify compliance by the client with its contractual obligations, the conditions for performance of services and/or the performance of the service provider, as well as the applicable regulatory requirements;

- Relate to personal data, the details of which are specified in the article on personal data for this contract;
- Allow the exercise of the supervisory and resolution powers of the ACPR, as provided for in Article 63 paragraph 1 point a) of Directive 2014/59/EU and Article 65 paragraph 3 of Directive 2013/36/EU.

The Contracting Authority reserves for itself and for the ACPR, as well as for any person designated by them, the unconditional right to inspect and audit the way in which the service provider complies with the applicable contractual and regulatory requirements. In this context, the contracting authority, the ACPR and the third parties mandated by them will have full access to all relevant business premises (head offices, operational centres, etc.), to all aircraft, relevant systems, networks, information and data used to deliver the service, including related financial information, as well as the staff members and external auditors of the service provider to whom written or oral explanations may be requested, free of charge.

The contracting authority also reserves the right to carry out so-called individual audits and intrusion tests at the service provider in order to assess the effectiveness of the measures and processes implemented in terms of cyber security and internal ICT security.

In the case of subcontracting, duly authorised by the contracting authority, the service provider ensures that the subcontractor grants to the contracting authority and ACPR the same contractual access and audit rights as those granted by the service provider.

This audit may be carried out at any time at the discretion of the contracting authority, including once the contract has been completed, within a limit of five (5) years.

The Contractor is notified by the Contracting Authority, the ACPR or third parties acting on their behalf of the audit in writing one month before the start of the audit, unless this is impossible due to an emergency or crisis situation or leads to a situation where the audit would no longer be effective. In this capacity, the Contracting Authority may appoint an independent expert, not a competitor of the Contractor, who must sign a confidentiality agreement.

The Contractor undertakes to cooperate with the Contracting Authority or its representative and with the ACPR and to facilitate their audit by providing them with all necessary information and responding to all their requests relating to this audit, within the authorized limits of control listed at the beginning of this article. In the event that their requests exceed these contractual limits of the authorized audit, the Contractor will alert the Contracting Authority. Both parties will seek the best way to achieve the above control within the contractual limits.

During the entire duration of the Contract and during the period of tax prescription after its termination, the Holder undertakes to keep at the disposal of the Contracting Authority and its authorized auditors, all accounting documents and other documents relating to the services covered by the contract.

The Holder undertakes to maintain complete and accurate records of invoices and all associated documentation related to the establishment of these invoices.

These archives include (non-exhaustive list):

- Physical documents (paper, CD...),
- Electronic documents (e-mails and information stored in electronic databases)

In the event that the Contracting Authority requires the production of documents in the exclusive and demonstrated possession of the Contractor, audits will then be conducted at the premises of the Contractor and must comply with opening hours, the practices and safety rules in force on the premises in question. The Contracting Authority may access the premises of the Licensee after having notified its request in writing and respecting a 72-hour notice.

The cost of this audit is borne by the contracting authority except in the case where this audit reveals a failure on the part of the Licensee.

22. Reversibility

At any time during the execution of this contract, at the request of the Contracting Authority, as well as in case of expiry or termination of all or part of the contract for any reason whatsoever:

The Holder undertakes to ensure reversibility and to make every effort, from a legal and human point of view, to enable the Contracting Authority, on the date of termination of the Contract, to take over or have taken over by a third party the service subject to this Contract, in the most coordinated way possible and under the most economical conditions for the Contracting Authority, and allowing in particular the continuity of the service, object of the contract, with a minimum of interruptions. For this purpose also, after the termination of the Contract and during a transition period of 3 months, the Holder will continue to provide the service before that it is taken over in full and effectively by the Contracting Authority or a new service provider designated by it.

Upon termination of the Contract, for whatever reason, the Contractor shall make available to the Contracting Authority any document that may be necessary in connection with the resumption of the service, whether it is to provide it itself or entrust it to a third party.

At the request of the Contracting Authority, the Contractor undertakes, for a maximum period of two (2) months from the end of the Contract, to respond to any request for assistance, even if it is ad hoc, made by the Contracting Authority or by the Contractor designated by it to take over the service subject to this Contract.

The Parties agree to the following provisions with respect to the reversibility assistance services provided by the Holder:

- if the reversibility results from a termination or a termination of the Contract, following a fault or default of the Holder, or if it results from a non-renewal at any of the deadlines of the Contract due to the Holder, the services of assistance to reversibility performed by the Holder are not invoiced to the Contracting Authority,
- if the reversibility results from the occurrence of a case of force majeure or a termination of the Contract in the context of shared damages, the costs of the assistance to the Reversibility are divided by half,
- if the reversibility results from any other cause of interruption of this Contract, the services of assistance to reversibility performed by the Holder shall be invoiced to the Contracting Authority in their entirety.

In this context, the Data Controller undertakes to:

- to return, in an integrated, usable and agreed format, all the data belonging to the Contracting Authority as well as personal data previously communicated by the Contracting Authority,

- destroy any copies of the data and not use them for own use or for the benefit of third parties

The Owner undertakes to make every effort to ensure access to the data belonging to the Contracting Authority even in the event of insolvency, resolution or interruption of the Owner's business activities. It will not sub-outsource the Service or transfer data to a third party without the prior written consent of the contracting authority and will refrain from any measure that may hinder the contracting authority's access to the data belonging to it. In the event of a voluntary interruption of its commercial activities related to the Service, the Holder undertakes to notify the Contracting Authority at least 3 months beforehand and to ensure the reversibility of the outsourcing of the Service

23. Termination of the Contract

Articles L 2195-1 and following of the public procurement code and articles 36 to 42 inclusive of the CCAG-PI will be applied with the following clarifications:

23.1 Termination of the Licensee's Tort

The Contracting Authority may, after a formal notice has not been given within the time limit set and subject to no less than fifteen (15) days' notice, terminate the contract for damages of the Contractor under the conditions laid down in article 39 of the CCAG-PI.

In particular, and without being exhaustive, the contracting authority reserves the right to terminate the contract if:

- Repeated non-execution or poor quality of the operational requirements and expectations;
- repeated application of the penalties provided for in Article Penalties of this ACB, not followed by significant improvement;
- repeated findings of rejection or postponement of benefits, in application of the provisions of the operations for verification and validation of benefits of article Admission - Completion of this CCAP;
- Failure to comply with the provisions of Schedule 1 of this ACSC "Safety".

The deficiencies referred to above must be previously acknowledged by the parties in the Steering Committee.

The Contracting Authority also reserves the right to terminate the contract with the Contractor when:

- the latter no longer has the required certifications and approvals for the performance of the Service;
- Where the handling, management or security of confidential information and personal or sensitive data has weaknesses such as integrity, security, confidentiality or fair treatment of such information and data appears to be compromised.

This termination for fault is without prejudice to other actions, including criminal, that would be initiated in this case against the Holder.

In the event of termination for fault:

- Sections 27 and 39 of the CCAG PI are applied with the following clarifications: the contracting authority may have a third party carry out the services provided for in the contract at the expense and risk of the contractor under the conditions defined in Article 27 of the CCAG PI. The termination decision will mention this explicitly;
- The Data Controller is not entitled to any compensation;
- By way of derogation from and in addition to Articles 39 and 41.3 of the CCAG PI, the fraction of the services already performed by the holder is remunerated with a 10% reduction.
- The Contractor shall indemnify the contracting authority for all costs and/or damages incurred by

the contracting authority as a result of the termination of the contract directly or indirectly, and in particular where applicable, the costs incurred by the contracting authority as a result of replacing the Licensee with a new service provider.

In the event of termination pursuant to article L2195-4 of the Public Procurement Code, the equivalent offences provided for by the legislation of another state outside the European Union will also be applied.

In addition to article 39 of the CCAG PI, in case of non-production within 8 days of acceptance of a subcontract of second and higher rank submitted by the sub-contractor dealing with a Tier 1 and above guarantee of the personal and joint and several guarantee of payment of all sums due by them to the second-tier sub-contractor and above, and after notice of default of the Tier 1 and above sub-contractor and the contract holder, was not effective within a period of 8 days, the contract will be terminated for damages to the contractor without the latter being entitled to compensation and, where appropriate, with performance of the services at its own expense and risk.

23.2 Termination for reasons of general interest

In the event of a termination for reasons of general interest, or at the request of the ACPR, the termination indemnity is fixed at 5% of the contract's VAT-free commitment amount, less the unrevised VAT-free amount of the admitted services.

23.3 Termination for failure to comply with the formalities relating to the fight against illegal employment

In accordance with articles L 8222-1 and D 8222-5 of the French Labour Code and article 15.2 "Declaration by the Service Provider", the Service Provider must provide at the time of signing the Contract, and then on a regular basis depending on the validity period of each document, all six documents (6) month, until the end of the Contract, the following documents:

- a certificate of the provision of social declarations issued by the social protection body responsible for collecting the social contributions incumbent on the Service Provider and dated less than six (6) month; this certificate must mention the payment of social security contributions and contributions, which must show the identification of the undertaking, the number of employees employed and the basis of remuneration declared on the last summary of social security contributions addressed to the collection agency;
- an extract from the Trade and Companies Register or a copy of the identification card showing that the application was registered in the Trades Register, or a receipt for the declaration filed with a business registration centre;
- a certificate on honour issued by the Service Provider certifying that its employees have been provided with pay slips in accordance with French regulations.

In accordance with article L 8222-6 of the French Labour Code, AFD reserves the right to impose a penalty on the Service Provider for not fulfilling the formalities mentioned in articles L 8221-3 to L 8221-5 of the French Labour Code relating to work disguised by concealment of activity and concealment of paid employment.

Without prejudice to articles L. 8222-1 to L. 8222-3, any legal person governed by public law who has entered into a contract with an undertaking shall be informed in writing by a control officer of the irregular situation of that undertaking with regard to the formalities referred to in articles L. 8221-33 and L. 8221-5, immediately enjoins the company to put an end to this situation without delay. The undertaking so served shall, within two months, provide the public person with evidence that it has put an end to the tort situation. If this is not done, the contract may be terminated without compensation at the contractor's expense and risk. The public-law legal person informs the reporting officer of the action taken by the enterprise on his or her direction. If he fails to comply with the

obligations arising from the first and third paragraphs of this article or, in the case of continuation of the contract, if the proof of the end of the criminal situation has not been provided within six months following the notice of default, the legal person governed by public law is jointly and severally liable with its co-contractor for payment of the sums mentioned in 1° to 3° of article L. 8222-2, under the conditions set out in article L. 8222-3.

24. Disputes

In the event of a dispute between the parties, Article 43 of the CCAG PI will be applied.

French law is the only applicable.

In case of dispute, the competent court is the Administrative Court of Paris.

25. Provisions applicable in the case of a foreign holder

French law is the only applicable to this contract.

All reports, documentation and correspondence relating to this contract must be written in French or may be written in English with the agreement of AFD.

26. Derogations from general documents

Notwithstanding article 1 of the CCAG-PI, the derogations from the provisions of the CCAG-PI are not summarised in this article but are expressly indicated as it is read.

27. Acceptance of advance

An advance is provided under the conditions set by the regulations in force.

Sole Proprietor or Agent: Refuses to collect advance ☐

☐ Agrees to receive the advance

The attention of applicants is drawn to the fact that if no choice is made, the contracting authority will consider that the company refuses to receive the advance.

The collection of the advance by co-contractors and subcontractors is indicated in the annexes.

The advance will be paid and absorbed under the conditions set out in article Advance of the CCAP which also determines the guarantees to be put in place by the company or companies.

28. Signature of the candidate

The candidate is reminded that signing this contract agreement means acceptance of all contractual documents.

The supplier adheres to the Supplier Relations Charter presented [here](#) and undertakes to respect the principles and commitments set out above, throughout the entire purchase process and contractual relationship with AFD group.

The supplier also undertakes to make known and enforce the commitments of this Charter by all its employees, including temporary and acting employees, partners, suppliers and subcontractors.

Made in one original

A:

The

Signature(s) of the holder, or in case of a group of undertakings, of the authorised representative or each member of the group:

29. Acceptance of the offer

The subcontractors proposed in the subcontracting acts annexed to this Commitment Act are accepted as eligible for direct payment and the terms of payment indicated are agreed.

This offer is accepted as an act of commitment.

A

The

The Contracting Authority

30. Annex: Declaration of Subcontracting

Annex to the Commitment Document

Contracting Authority: Agence Française de Développement

- Buyer's name:

.....
.....

- Person authorized to provide information on the pledge or assignment of receivables:

.....
.....

Subject matter of the contract

Consultation Purpose: Diagnosis of existing hydro-agricultural developments in the ATDA 4 territory

Contract Subject: Diagnosis of existing hydro-agricultural developments in the ATDA 4 territory

Purpose of the subcontractor's statement

This Subcontracting Statement is:

☐ A document attached to the Bidder's bid.

☐ A special act accepting the subcontractor and approving its payment terms (*subcontractor presented after award of contract*)

☐ Special amending act: cancels and replaces the declaration of subcontracting of

Identification of the bidder or contractor

Trade name and legal name of the unit or establishment that will perform the service, postal addresses and registered office (if different from the postal address), e-mail address, telephone and fax numbers, SIRET number:

.....
.....
.....

Legal form of the individual tenderer, the tenderer or the member of the group (sole proprietorship, SA, SARL, EURL, association, public institution, etc.):

.....
.....
.....

In the case of a temporary group of companies, identification and contact details of the representative of the group:

.....
.....
.....

Identification of the subcontractor

Trade name and legal name of the unit or establishment that will perform the service, postal addresses and registered office (if different from the postal address), e-mail address, telephone and fax numbers, SIRET number:

.....
.....
.....

Legal form of the individual tenderer, the tenderer or the member of the group (sole proprietorship, SA, SARL, EURL, association, public institution, etc.):

.....
.....
.....

Physical person(s) with the authority to engage the subcontractor: (Indicate the name, surname and quality of each person):

.....
.....
.....

Is the subcontractor a micro, small or medium-sized enterprise within the meaning of the Commission recommendation of 6 May 2003 on the definition of micro, small and medium-sized enterprises or an artisan within the meaning of article 19 of the law of 5 July 1996 n° 96-603 amended on the development and promotion of trade and crafts? (*Art. R. 2151-13 and R. 2351-12 of the Public Procurement Code*)

☐ YES ☐ NO ☐

Nature of outsourced services

Nature of outsourced services:.....
.....

Subcontracting for the processing of personal data:

(To be completed if applicable)

.....
.....

The processor is authorised to process the personal data necessary to provide the following service(s):

The duration of treatment is.....

The nature of the transactions carried out on the data is:

The (or the) purpose(s) of the processing is (are):

The personal data processed are:

The categories of persons involved are:

The Bidder/Licensee declares that:

☐ The processor provides sufficient guarantees for the implementation of technical and organisational measures to ensure the protection of personal data;

☐ The subcontract incorporates the mandatory clauses provided for in Article 28 of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and the free movement of such data and repealing Directive 95/46/EC (GDPR).

Price of outsourced services

Amount of outsourced benefits:

In the case where the subcontractor is entitled to direct payment, the amount of the contracted services indicated below, adjusted as appropriate by applying the price variation formula shown below, is the maximum amount of money to be paid by direct payment to the subcontractor.

a) Amount of the subcontract in case of services not falling under (b) below:

- VAT rate:
- Amount excluding taxes (€):
- Amount including taxes (€):

b) Amount of the subcontract in case of subcontracted work falling under Article 283-2 nonies of the General Tax Code:

- VAT rate: self-liquidation (VAT is due by the holder)
- Amount excluding VAT (€):

Terms of price variation:

.....

The licensee declares that its subcontractor meets the conditions **for direct payment:**
(Art R. 2193-10 or Art R. 2393-33 of the Public Procurement Code)

☐ YES ☐ NO

Payment Condition

Bank references:
(Attach an IBAN)

IBAN:
BIC:

The subcontractor requests an advance:

☐ YES ☐ NO

Capabilities of the subcontractor

(Note: this information is only required when the purchaser requires it and it has not already been provided in DC2 -see section H of DC2.)

Summary of the information and documents requested by the purchaser in the consultation documents which must be provided, as an annex to this document, by the subcontractor to prove his suitability for the occupation concerned, its economic and financial capabilities or its professional and technical abilities:

Where applicable, the web address at which supporting documents and evidence are directly accessible free of charge, as well as all information necessary to access them:

- Internet address:
.....

- Information required to access:
.....

Affidavit of the subcontractor regarding exclusions from the procedure

The subcontractor declares on his honour ^(*) not to fall under any of the exclusions provided for in articles L. 2141-1 to L. 2141-5 or articles L. 2141-7 to L. 2141-10 of the Public Procurement Code
^(**)

To certify that the subcontractor is not in one of these prohibited bid cases, tick the following box: ☐

(*) Where an economic operator is, during the procedure for awarding a contract, placed in one of the exclusion cases mentioned in Articles L. 2141-1 to L. 2141-5, Articles L. 2141-7 to L. 2141-10 or Articles L. 2341-1 to L. 2341-3 of the Public Procurement Code, he shall inform the purchaser of this change in situation without delay.

(**) In the event that the subcontractor is admitted to the judicial reorganisation proceedings, its attention is drawn to the fact that it will have to prove that it has been entitled to continue its activities during the foreseeable period of execution of the public contract.

Evidence documents available online:

Where applicable, the web address at which supporting documents and evidence are directly accessible free of charge, together with all information necessary to access them:

(If the address and information are identical to those provided above, please refer to the relevant section.)

- Internet address:

- Information required to access:

Assignment or pledge of public contract receivables

☐ **First hypothesis:** This declaration of subcontracting constitutes a **special act**.

The licensee establishes that no assignment or pledge of debts resulting from the public contract shall prevent direct payment by the subcontractor, under the conditions provided for in article R. 2193-22 or article R. 2393-40 of the Code of Public Procurement.

As a result, the holder produces with DC4:

☐ The unique copy or certificate of transferability of the public contract issued to it,

Or

☐ An attestation or release of the transferee's transfer or pledge of receivables.

☐ **Second hypothesis:** This declaration of subcontracting constitutes a **special amending act**:

☐ The holder requests the modification of the single copy or the certificate of transferability, provided for in article R. 2193-22 or article R. 2393-40 of the Public Procurement Code, which is attached to this document;

Or

☐ The single copy or certificate of transferability has been issued for assignment or pledge of receivables and cannot be returned, the licensee shall provide evidence that the assignment or pledge of receivables relating to the public contract does not prevent direct payment by the subcontractor, or that its amount has been reduced in order for such payment to be possible.

This justification is provided by a certificate or release of the transferee's transfer or pledge of receivables resulting from the contract, which is attached to this document.

Acceptance and approval of payment terms of the subcontractor

At, the

At, the

The subcontractor:

.....

The Bidder or Contractor:

.....

The buyer's representative, who is competent to sign the contract, accepts the subcontractor and agrees to its terms of payment.

A, the

The buyer's representative:

Notification of special act to the holder

In case of sending by registered letter with acknowledgement of receipt:

(Paste the postal receipt, dated and signed by the holder)

In case of delivery against receipt:

The holder receives a copy of this special act as notification:

At, on

31. Annex: Designation of co-contractors and allocation of benefits.

Annex to the Commitment Document

Fill out one copy per co-processor:

Trade name and corporate name of the candidate:

.....

Address of the facility:

.....

.....

.....

Registered office address: *(if different from the establishment)*

.....

.....

.....

Email address:

Phone:

Fax:

SIRET NO.: APE:

Intra-Community VAT number:

Agrees to receive advance:

☐ Yes

☐ No

Bank references:

IBAN:

BIC:

Company name	Benefits affected	Amount HT (€)	VAT rate	Amount including taxes (€)
Corporate name:				
Corporate name:				
Corporate name:				
Corporate name:				
Corporate name:				
	Totals			

32. Annex: Pledge or assignment of receivables

☐ **Certificate of transferability** issued (1) on the date of to

Or

☐ **Copy issued in a single copy** (1) to be given to the credit institution in case of assignment or pledge of debt:

1 The total contract of which the amount is ☐ (indicate the amount in figures and letters):
.....
.....

2 The entire order number of the contract ☐ (indicate the amount in figures and letters):
.....
.....

3 The portion of the services which the contractor does not intend to subcontract to those who receive direct payment is valued at ☐ (indicate in figures and letters):
.....
.....

4 The portion of benefits valued at ☐ (indicate the amount in figures and letters):
.....
.....
.....

and to be executed by
.....

as follows:

- ☐ member of a business group
- ☐ subcontractor

A le
Signature (2)

(1) Check the box that corresponds to your choice of either transferability certificate or copy issued in single copy
(2) Original date and signature

33. Annex - Security

INFORMATION SECURITY IN THE CONTEXT OF
PERFORMANCE OF CONTRACTS FOR SERVICES

Contract of service

Contents

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Definitions

- The Contract

Refers to the contract of services to which this is attached.

- The Customer

Means the DFA, party to the Contract.

- The Service Provider

Designates the service provider party to the Contract.

- Information system

All hardware, software, methods and procedures and, if necessary, personnel required to process the Information.

- Information

Refers to information belonging to the Client, whether or not stored on its information system and which may be accessed by the service provider in the course of the contract.

- Remote connection

Refers to a connection that provides remote access to the Client's information system from an infrastructure not owned by the Client.

General

The Client regularly uses service providers, who are required to have access to the Information in the context of the performance of their services. It is therefore necessary to regulate access to the information and its use, and to define the security rules applicable to service providers.

The purpose of this annex is to secure the conditions for accessing and using the Information, in particular by defining the criteria for granting the Service Provider secure and controlled access to the Information and preventing that may be used without permission.

The provisions of this annex apply to the Service Provider, employees and subcontractors who have or may have access to the Information.

Security Commitment and Rights of the Parties

The Client makes available to the Service Provider its documentation in relation to information security (policies, procedures and rules) necessary for the execution of the contract. The Service Provider undertakes to take note of the documentation provided by the Client in relation to information security and to comply with the policies, procedures and rules contained therein. The Service Provider undertakes not to disclose this documentation transmitted in the context of the performance of the Contract.

The Service Provider undertakes to subject its staff and subcontractors working on its behalf to security controls and must be able to provide evidence regarding the modalities and results of these controls.

The Service Provider undertakes to keep a list of individuals authorised to use on its behalf the access and logistics services provided by the Customer.

The Service Provider undertakes to inform the Customer in writing, and as soon as possible, of any changes made to the list provided for in the paragraph above and to propose any changes it considers necessary regarding the nature or scope of access to the Information. It is the responsibility of the Client to formally notify the Service Provider of its agreement on the requested changes. Without this formal agreement, the change is deemed to be refused.

The Service Provider undertakes to respect the intellectual property rights relating to the information and software made available by the Customer.

The Service Provider is informed that the Client processes information covered by banking secrecy within the meaning of the French Monetary and Financial Code. The Service Provider undertakes to respect the confidentiality of the client's information under professional secrecy governing its profession.

The Client and the Service Provider are each responsible for selecting, implementing and maintaining their own security procedures and policies as well as their suitability for the services to be performed under the Contract. This is to protect their respective information from unauthorized access, modification or destruction.

In the context of implementing its security policy and procedures, the Client has the right to record and supervise any activity carried out by the Service Provider in execution of the Contract. As such, the Service Provider's staff and its subcontractors are subject to the same controls as the Customer's staff.

The Client may require the Service Provider to provide a copy of the identity document of its employees in charge of performing the services provided under the Contract before access to the Client's sites and/or Information is granted.

The Client reserves the right to deny access without notice to any employee of the Service Provider or to require replacement if such employee does not comply with security policies, procedures and rules.

Access control

The Service Provider undertakes to access only the information strictly necessary for the performance of its mission. The access to the information, services and infrastructures granted to the Service Provider is limited to the minimum necessary for the performance of its services under the Contract. The Service Provider will inform the Client as soon as possible if it notices an error in the allocation of access preventing it from performing its mission or exceeding the scope of its mission.

Access to the Client's computer system and/or premises is given by name to persons acting for the Service Provider in the context of the execution of the Contract.

Access may be permanently subject to protective mechanisms and recorded. For the purposes of protecting and controlling access to its Information, the Customer does not limit itself to the protection mechanisms put in place by the Service Provider. The Customer grants, controls and revokes the Service Provider's access to the premises and Information necessary for the performance of the services. As such, the Service Provider is informed that its personnel acting within the framework of the contract may, at any time and without prior notification, be subject to security checks based on traces recorded on the Customer's IS.

If it is necessary to provide access to classified information

"CONFIDENTIAL" or higher, or at the Client's premises where such information is stored, processed or disseminated, a risk assessment will be carried out to identify the protection mechanisms to be put in place. The protection mechanisms identified during the risk assessment will be notified to the Service Provider, documented and implemented.

To access the Client's information system, the Service Provider must use exclusively the computer equipment made available by the Customer, unless the latter has previously authorized the Service Provider in writing to use other means of access.

Remote connection to the client network

Any remote connection to the Client's network must be made through a computer equipment or an access portal made available to the Service Provider by the Client. The Customer may, without notice or justification, interrupt, refuse or extend a remote connection to its network. The Client disconnects from the network when it is no longer required.

The remote connection to the Client's network is permanently recorded and archived for memory.

Risk assessment

At the Client's decision, the service may be subject to an assessment in order to determine the risks relating to the security of information. This assessment focuses primarily on the possible consequences for the Client of any breach of the availability, integrity, confidentiality and transmission chain of its Information used in the course of the service.

Final provisions

Failure to comply with this security annex constitutes a breach of the Contract which may justify its termination without penalty for the Customer.

In addition, a delay or postponement resulting from the Service Provider's failure to comply with safety rules and the measures taken by the Customer to remedy them, pursuant to this annex, cannot be invoked by the Service Provider to request any extension of the deadlines for performance of the services of the Contract, to which the Service Provider remains bound, or any exemption from penalties.

This security annex may be revised by the Client every year and amended as necessary without penalty or additional cost.

34. Appendix - GDPR

AGREEMENT ON SUBCONTRACTING PERSONAL DATA

BETWEEN:

[Designation]
[Corporate form] to the capital of [capital], whose registered office is located in [head office], entered in the Commercial and Company Register of [city] under the number [RCS number]
Represented by [legal representative] in his capacity as [quality]

Hereinafter referred to as "[XXX]" or "the Subcontractor"

On the one hand,
AND:

AGENCE FRANCAISE DE DEVELOPPEMENT (AFD), Public Industrial and Commercial Establishment, whose headquarters are located at PARIS XII - 5, rue Roland Barthes, registered with the Paris RCS under number B 775 665 599
Represented by [to be completed]

Hereinafter referred to as "DFS" or "the Data Controller"

On the other hand,

The above companies are individually or collectively referred to as "the Party(s)".

THE FOLLOWING IS SET OUT IN ADVANCE:

[Present the context of the service]

XXX has been selected by the AFD to provide the service of [Specify] under the conditions and expenses as defined in a separate contract, referenced [Complete], signed at [Complete] on [Complete], hereinafter referred to as "the Main Contract".

In the context of services provided under the Main Contract, the Subcontractor is required to process personal data on behalf of AFD insofar as it concerns information relating to identified or identifiable natural persons, directly or indirectly (hereinafter referred to as the "Data"). In accordance with the regulations on the protection of personal data, including articles 28 et seq of the General Regulation on Data Protection (hereinafter referred

to as the “Regulation”), XXX is considered as a sub-entity dealing with the AFD and can therefore act only on instructions from the latter, which must in particular specify to its subcontractor, by contractual means, the obligations of the latter.

In this context, the Parties have come closer together to agree on the following.

IT AGREED AS FOLLOWS:

1. Purpose of the Convention

This agreement (hereinafter referred to as the “Agreement”) determines the conditions under which the Processor undertakes to process the Data entrusted by the Controller in connection with the provision of the services defined in the Main Contract.

The Agreement is an integral part of the Main Contract.

2. Description of the processing being subcontracted

The Processor is authorised to process the Data on behalf of the Controller insofar as they are necessary for the provision of the services defined in the Main Contract.

The processing carried out by the Processor on behalf of AFD meets the following characteristics:

Nature of the operations carried out on the Data:

[Remove, among the following proposals, actions not included in the processing carried out by the Processor: collection, registration, organization, structuring, conservation, adaptation or modification, extraction, consultation, use, communication by transmission, dissemination or any other form of making available, approximation or interconnection, limitation, erasure or destruction]

Purpose(s) of the processing:

[Complete with the purposes of the processing]

Categories of personal data processed:

(Check the appropriate boxes)

- ☐ Civil status, Identity, Identification data
- ☐ Personal life (lifestyle, family situation, etc.)
- ☐ Professional life (CV, professional email address, vocational training, academic background, etc.)
- ☐ Economic and financial information (income, financial situation, tax status, etc.)
- ☐ Connection data (IP address, connection logs, etc.)

☐ Location data (travel, GPS, GSM, etc.)

☐ Other:

If sensitive data is also processed:

(Check the appropriate boxes)

☐ Data revealing racial or ethnic origin

☐ Data revealing political views

☐ Data revealing religious or philosophical beliefs

☐ Data on union membership

☐ DNA data

☐ Biometric data

☐ Health data

☐ Data concerning life or sexual orientation

☐ Data on criminal convictions and related offences or security measures

Categories of persons concerned:

(Check the appropriate boxes)

☐ Employees

☐ Candidates

☐ Suppliers and service providers

☐ Visitors

☐ Prospects

☐ Partners

☐ Other:

Data retention periods:

[Specify the life cycle of the Data]

3. Power of the Data Controller to investigate

The Processor is obliged at all times to comply with the instructions of the Data Controller on the execution of the Agreement and the processing of the Data. The Data Controller retains a general right to instruct regarding the nature, scope and method of processing the Data, which may be supplemented by specific instructions, including the instructions resulting from article 2 hereof. The Processor may not transfer Data to third parties without the prior written consent of the Controller.

4. Transfer of data outside the European Economic Area

In the context of processing Data on behalf of AFD, the Processor undertakes not to transfer said Data outside the European Economic Area, within the meaning of the applicable regulations, unless you have the prior express consent of the Data Controller.

By way of exception to the above, if the Processor is required to transfer the Data to a third country in the European Economic Area or an international organization, under the law of the Union or the law of the member state to which it is subject, he must inform the Controller of this legal obligation before processing, unless such

information is prohibited by relevant law for important reasons of public interest.

5. Obligations of the Processor towards the Data Controller

The Subcontractor undertakes to:

- process the Data only for the sole purpose(s) that is/are the subject of the outsourcing and in accordance with the documented instructions from the Controller;

If the Processor considers that an instruction constitutes a breach of the Regulation or any other provision of Union law or of the law of the Member States relating to data protection, it shall immediately inform the Controller;

- ensure the confidentiality of Data processed in connection with this contract;
- ensure that the persons authorized to process Personal Data under this contract:
 - are committed to confidentiality or are subject to an appropriate legal obligation of confidentiality;
 - receive the necessary training in personal data protection.
- Take into account the principles of data protection by design and data protection by default in its tools, products, applications or services.
- Provide the data controller with any information and support relevant to the implementation, if necessary:
 - Data protection impact assessment;
 - prior consultation with the competent supervisory authority;

6. Use of third party service providers by the Processor

[Choose between option A or option B]

Option A (specific authorization)

The Processor may only subcontract all or part of the data processing services to third parties (hereinafter referred to as the "Subsequent Processor") after obtaining the prior, specific written consent of the Controller.

If the Data Controller accepts the proposed outsourcing, it is the responsibility of the initial Processor to ensure that the Data Processorsubsequent processing shall have the same sufficient guarantees as regards the implementation of appropriate technical and organisational measures so that the processing complies with the requirements of the European Data Protection Regulation. The Processor also undertakes to enter into a contract with the subsequent Processor that includes the same obligations regarding the protection of Data as those agreed herein between the Controller and the Processor.

Where the Processor uses a subsequent processor, the Data Controller has a right to audit and control the latter in accordance with the terms of this Agreement.

The Processor will justify, at the first request of the Data Controller, the contractual commitments of any subsequent Processor involved in the processing of the Data, if necessary by providing a copy of the relevant contract documents.

Option B (general clearance)

The Processor may use a third party (hereinafter, the "Further Processor") to carry out specific processing activities of the Data for the provision of services defined in the framework of the Main Contract. In this case,

it shall inform the Data Controller in advance and in writing of any changes envisaged regarding the addition or replacement of subsequent Processors. This information must clearly indicate the subcontracted processing activities, the identity and contact details of the Sub-processor and the dates of duration of the subcontract.

This information will be considered valid once it has been made, in particular with the DPO of the AFD at the following email address:

informatique.libertes@afd.fr

The Data Controller has a minimum of 15 working days from the date of receipt of this information to submit its objections. This outsourcing can only be carried out if the Data Controller has not objected to it within the agreed period.

If the Data Controller accepts the proposed outsourcing, it is the responsibility of the initial Processor to ensure that the Data Processors subsequent processing shall have the same sufficient guarantees as regards the implementation of appropriate technical and organisational measures so that the processing complies with the requirements of the European Data Protection Regulation. The Processor also undertakes to enter into a contract with the subsequent Processor that includes the same obligations regarding the protection of Data as those agreed herein between the Controller and the Processor.

Where the Processor uses a subsequent processor, the Data Controller has a right to audit and control the latter in accordance with the terms of this Agreement.

The Processor will justify, at the first request of the Data Controller, the contractual commitments of any subsequent Processor involved in the processing of the Data, if necessary by providing a copy of the relevant contract documents.

7. Contract term

This agreement is effective from the date of its signature and will remain in force for the duration of the Main Agreement.

8. Rights of persons

To the extent that the Processor would be required to collect all or part of the Data directly from the said persons concerned, within the meaning of the applicable regulations, it undertakes to provide these persons, at the time of this collection, information in accordance with the wording, format and medium of the Data Controller's written instructions.

Any request made by a data subject to the Processor will be immediately forwarded to the Data Protection Officer of the Data Controller, at the following address:

informatique.libertes@afd.fr

The Processor undertakes to provide the Data Controller with all necessary assistance in order to enable it to process and, if necessary, comply with these requests within the legal deadlines.

9. Technical and Organizational Measures (MTO)

It is the responsibility of the Data Controller to ensure that the Processor provides sufficient guarantees as regards implementation by the Processor, appropriate technical and organisational measures to ensure that the processing meets the requirements of the Regulation and ensures the protection of the rights of the data

subject.

Therefore, the Processor has detailed in writing to the Data Controller all the technical and organizational measures implemented to guarantee the confidentiality and security of the Data. These measures are detailed in the "MTO" annex of this Agreement. The Subcontractor undertakes to maintain these measures for the entire duration of the Main Contract.

As technical and organisational measures depend on the progress and development of technology, the Subcontractor may be required to take appropriate alternative measures within the framework of this Convention. These do not require the prior written consent of the controller unless they guarantee a level of security at least equivalent to the measures described in Annex 1 "MTO".

These changes must nevertheless be notified to the Data Controller as soon as possible.

10. Notification of data breaches by the Processor

As a reminder, a «personal data breach» is a security breach that results in the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of transmitted personal data, stored or otherwise processed, or unauthorized access to such data.

The processor notifies the controller of any personal data breach within a maximum of two working days after becoming aware of it. This notification can only be validly made if it is sent by e-mail to the following address:

#DPO_notification@afd.fr

This notification must be accompanied by any relevant documentation in order to enable the Controller, if necessary, to notify the competent supervisory authority of such infringement.

This documentation will include the following:

- a description of the nature of the personal data breach, including, where possible, the categories and approximate number of affected persons as well as the volume of compromised data;
- all the elements necessary for the Data Controller (or person designated by him) to assess the risks and impacts of this Data Breach and to enable it to take any decisions and measures relevant to its management and follow-up;
- a description of the measures taken or proposed by the Processor to remedy the personal data breach, including, where appropriate, measures to mitigate any negative consequences.

The Processor must inform the Data Controller in all cases where the Processor or persons employed by it violate the provisions relating to the protection of Data or the instructions of the Data Controller.

The Processor undertakes to inform without delay, as soon as it becomes aware of it, the Data Controller of any security breach affecting the confidentiality, integrity or security of the Data, whether intentional or accidental, including any breach, loss, theft, unauthorized access, disclosure, destruction, alteration of Data (hereinafter referred to as "Data Breach").

The notification of Data Breaches to the Controller by the Processor and their management are an integral part of the services resulting from the performance of the Main Contract and will not give rise to additional billing.

In the event that both the Data Controller and the Processor are subject to an obligation to notify a supervisory authority (including the CNIL regarding personal data breaches), coordination between the Parties will be ensured by the Data Controller regarding the consistency of the content and deadlines of the various

notifications.

In the event that information of data subjects is necessary, this communication will be carried out according to a schedule and content determined by the Controller (and, where appropriate, in consultation with the competent supervisory authority).

In agreement with the Data Controller, the Processor shall take appropriate measures to prevent any further breach of the Data.

11. Supervisory powers of the Data Controller

The Data Controller is authorised to carry out control visits at the Processor's place of business before the start of processing and then at regular intervals in order to verify that the technical and organisational measures implemented by the Sub-Processorprocessing, as declared in Annex 1 "MTO" are actually implemented.

The Data Controller reserves the right to carry out these control missions himself or to appoint an expert for this purpose, at his own expense.

It is agreed that the follow-up visits will be conducted as follows:

The Data Controller may once a year carry out an on-site inspection at the premises of the Processor. In addition to this annual audit, the Data Controller may undertake any ad hoc audit in the event of a breach of data at the Processor affecting the integrity, confidentiality or security of the Data.

The Data Controller must respect the Processor's operational processes and, as far as possible, give 48 hours' notice of any visit by specifying the scope of the control.

The Processor undertakes to do its utmost to assist the person appointed by the Data Controller during the controls and to give him access to the premises and relevant equipment.

The Processor undertakes to provide, upon request, the Data Controller with the information required for the purpose of allowing effective control of the Data Controller's processing procedures and to make available the relevant documentation.

11. Data and Useful Documentation

At the end of the term of the Agreement, the Processor must, at the option of the Data Controller:

- Return to AFD all the data collected and produced in connection with the provision of services, in accordance with the instructions of the Data Controller. This restitution must be accompanied by the destruction of all existing copies in the information systems of the Subcontractor.

Or

- Permanently delete all data.

The deletion will be recorded in a record with an indication of the date. A copy of this report will be sent to the Data Controller.

The documentation established for the purpose of proving the compliance of the processing of Data with the instructions of the Controller and the obligations resulting from this, shall:

- be kept beyond the term of this Convention, respecting the statutory limitation periods
- be handed over to the Data Controller at the end of the Main Contract.

12. Data Protection Officer and Record of Processing Activities

If the Processor has appointed a Data Protection Officer, he undertakes to communicate the name and contact details of this Data Protection Officer to the Controller.

In addition, the Processor declares that it keeps a written record of all categories of processing activities carried out on behalf of the Controller, including all the information required pursuant to article 30 (2) of the Regulation.

13. Final Provisions

Any amendment to this Convention shall be the subject of an addendum signed by the authorized representatives of the Parties. No verbal agreement will be taken into consideration.

If any provision of this Agreement is held to be invalid in whole or in part, the validity and enforceability of the other provisions shall not be affected or altered in any way. In such a case, the Parties shall meet to agree on the replacement of the stipulation concerned by a valid stipulation respecting as much as possible the spirit and general scheme of the contract, as well as the will of the Parties.

Annex 1 MTO (Technical and Organisational Measures) and Annex 2 are integral parts of the Convention and, therefore, of the Main Contract.

In the event of any conflict between this Agreement and the Main Contract, the provisions of this Agreement shall prevail.

Is [Insert date], in two original copies, one for each Party.

For [NAME OF SERVICE PROVIDER] For AFD

ANNEX MTO TO THE PERSONAL DATA SUBCONTRACT AGREEMENT

The Service Provider undertakes to take all necessary precautions to preserve the security and confidentiality of the Data, and in particular to prevent it from being distorted, damaged or that unauthorised third parties have access to it. The Service Provider undertakes to implement:

- (i) physical security measures to prevent unauthorized persons from entering the premises (identity checks, management of authorisations to limit access to the premises to those persons who need to have access to them in the context of their functions and scope of activity);
- (ii) logical security measures to protect the information hosted and processed (network filtering and protection architectures, strengthening the protection of servers and workstations, authentication of employees to confer on them use profiles according to the principle of least privilege and respecting the need to know, Enhanced measures for access to data management and information system administration functions);
- (iii) protocols for managing authorisations associated with devices that allow all actions performed on the information system to be traced as part of support and maintenance operations;
- (iv) continuous monitoring of the systems and applications logs and their operation, combined with procedures for detecting and reporting incidents impacting the Data.