



## **PUBLIC MARKET FOR INTELLECTUAL SERVICES**

**French Development Agency**  
5 Rue Roland BARTHES  
75012 PARIS

**SUBJECT: Feasibility study on biodiversity in ANGOLA**

**Contract no. ARB-2025-0163**

### **Procurement procedure**

Adapted open – Pursuant to sections 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 in the Paris RCS under number B 775 665 599, represented by the Heads of the Group/Division Purchasing Department ODA, acting pursuant to the powers conferred on it for this purpose,

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

**AND**

**The** \_\_\_\_\_

Represented by \_\_\_\_\_

Having read the contract and the documents mentioned below,

- I AGREE, 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 by law of the market, that I am holder of an insurance policy guaranteeing all responsibilities that I incur.
- I CONFIRM, under penalty of termination by law of the contract, that the proposed subcontractors are also holders of insurance policies guaranteeing their liabilities.

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

☐ **Identity of the agent <sup>(1)</sup>: Mr/Mrs .....**  
☐ of the solidarity group  
☐ joint and several  
☐ not 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 facility:

.....

.....

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

.....

.....

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

Phone: .....

Fax: .....

SIRET (or equivalent registration number in the country concerned):

.....

EPA: .....

Intra-Community VAT number: .....

hereinafter referred to as the Holder,

**HAS AGREED AS FOLLOWS:**

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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 80 developing countries and overseas communities.

It has an ethical charter which can be found on its website: [www.afd.fr](http://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 CCAC is to specify the conditions under which the Contractor will be required to provide these services to the contracting authority.

Furthermore, in order 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) which is unfair, whether or not it is criminally incriminated, intended to deliberately deceive another, to intentionally conceal elements from him or to surprise or distort 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:

- Limiting market access or free competition by other companies;
- To prevent price-setting by free market forces by artificially encouraging higher or lower prices;
- 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 writing, 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 within the framework 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, of 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:

Designates the personnel of the Holder 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 and following 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 a 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. Purpose of the Contract- General provisions**

### **2.1      Subject of the Contract**

This Contract defines the conditions under which the Contracting Authority entrusts to the Contractor,

who accepts it, the performance of the following services: Feasibility study Biodiversity in Angola

**Place(s) of execution:** ANGOLA

For information purposes, the services will begin on or about 09/06/2025.

## 2.2 Duration of contract

The duration of the Contract is fixed at 10 months from notification of the contract.

## 2.3 Lead times

Delivery times are expected to be 7 months.

## 2.4 Renewal

The Contract may be renewed once.

The renewal is tacit.

The contract may be renewed once for a period of 3 months without the total duration of the contract exceeding 13 months.

If the contracting authority does not wish to renew the contract, it shall take an express decision of non-renewal which shall be notified to the contractor no later than 30 calendar days before the date of expiry of the contract.

The holder does not have the right to refuse the renewal of the contract.

## 2.5 Subcontracting

The Contractor may sub-contract a part of the Service under its sole responsibility, subject to obtaining the prior written agreement of the Contracting Authority under the following conditions:

- Notification to the Contracting Authority by the Contractor of its intention to subcontract a part of the Service that is the subject of the Contract, indicating the references of the intended sub-contractor or sub-contractors, a precise description of the part of the Service processed, its amount and the expected payment terms;
- The Contracting Authority shall have a period of fifteen (15) working days following receipt of the notification to notify the Contractor in writing, its acceptance or refusal;
- In the event of acceptance, the Contractor will communicate as soon as possible to the Contracting Authority a copy of the corresponding subcontract or contracts.

## 2.6 Contract Amendment - Review Clause

The contract may be modified 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:

- This Agreement and any annexes thereto;
- The Special Technical Clauses (C.C.T.P.) and any annexes thereto, of which the original copy kept in the buyer's archives is the only authentic one;
- The Cahier des clauses administratives générales des marchés publics de prestations intellectuelles (CCAG PI) approved by decree of 30 March 2021 (published in JORF no. 0078 of 1 April 2021);
- The Holder's offer;
- The special acts of subcontracting and their possible amending acts, 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 provide, in the context of the execution of the Contract, all its know-how and skills for the realization of the Service. He will bring 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 performing the services.

The Licensee may replace one or more Personnel members in the event of failure of 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 with respect 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 expense of the employer concerning, in particular, labour law, social coverage 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 take all necessary steps to ensure that the Staff is able to carry out its mission both in France and in the country where the mission is carried out. He must in particular carry out the formalities relating to the administrative situation of the Staff, obtain the visas and any documents necessary with regard to 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 its mission.

## 4.2 Environmental consideration and mission execution

The Licensee shall reduce its carbon impact as much as possible during the mission. In the case of on-site travel, the incumbent is encouraged to use environmentally friendly modes of transport whenever possible, low CO2 emission in line with the objectives of promoting sustainable development pursued by the Contracting Authority.

## 4.3 Safety

The Data Controller undertakes to comply with all applicable laws and regulations relating to security, and to take the necessary measures to ensure the safety of its personnel, for which it is solely responsible.

The Contracting Authority is not responsible for the safety of natural persons or personnel of legal persons to whom the Holder 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 Service(s), and in particular prior to any movement of its staff, the Holder undertakes to obtain information from the French Embassy(s) of the country concerned(s) <sup>(1)</sup> 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 under his sole responsibility. The specialised external body shall send to the contracting authority a certificate drawn up by it certifying that the documentation transmitted has been reviewed. 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 Holder is a French national. If this is not the case, delete "de(s) l'Ambassade(s) de France du/des pays concernés" and add "of the consular or local authorities competent with regard to its nationality of the country concerned."*

#### 4.4 Suspension on grounds of serious and imminent risk

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

The Contractor shall inform the Contracting Authority thereof 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 refundable expenses, resulting directly from this suspension, demobilization and/or remobilisation of personnel, less amounts paid by the insurer, as well as the terms of reimbursement shall be jointly agreed 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 staff 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 the continued performance of the services.

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. Prices and price changes

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

Tax-free amount (in figures) (€): .....

VAT amount at 0%: This contract meets the requirements to benefit from VAT exemption. (See article 8.4)

Amount including taxes (in figures) (€): .....

Amount including taxes (in letters) (€): .....

The amount of the offer includes all the expenses necessary for the execution of the Contract under the terms of the article "Price content" below.

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.

## 5.1 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.

## 5.2 Content of prices

By way of derogation from article 10.1.3 of the CCAG PI, all amounts included in this contract are deemed to include all charges normally foreseeable for the performance of the services, object of the contract, all expenses resulting from the performance of the services, so that the contracting authority does not have to pay extra.

The price includes, but is not limited to, wages, all premiums, insurance, allowances, social security charges and any taxes inherent in the market, overheads, etc.

## 5.3 Concerning mission expenses

### 5.3.1 Rules applicable to transport

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

The most direct and cost-effective travel solution must always be offered.

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 is permitted in Business Class when one of the following conditions is met:

- the trip has a journey time (take-off from the airport of origin - landing at the airport of destination) greater than 10 hours;
- 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 the companies listed in the black list of airlines of the European Commission are prohibited as part of business trips to l'AFD (black companies listed).

### 5.3.2 Per diem

Per diem covers accommodation, meals, transportation within the mission area and miscellaneous expenses.

The daily subsistence allowance may not exceed the scale established by the European Union ([https://international-partnerships.ec.europa.eu/funding-and-technical-assistance/guidelines/managing-project/diem-rates\\_fr](https://international-partnerships.ec.europa.eu/funding-and-technical-assistance/guidelines/managing-project/diem-rates_fr)).

Travel for the purposes of a mission shall be considered as part of the mission.

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.

## 5.4 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.  
This month is called “zero month”.

## 6. Advance

A refundable advance is paid to the Holder.  
The advance rate is set at 20% of the market amount including taxes

Repayment of the advance will be made in two instalments on the first two instalments, by deduction from the sums due to each third party (owner, co-contractors or subcontractor).

## 7. Security Hold

No retention of warranty will be made.

## 8. Settlement of accounts to the holder

### 8.1 Terms and conditions for payment of the price

#### 8.1.1 Price settlement

The amount of this contract will be billed according to the following schedule:

20% at validation of initial scoping report

30% on validation of the project definition report

30% to the validation of the drafting of project documentation and deliverables for approval by EU/EDA

20% upon validation of the final report

The final payment will be made within 30 (thirty) days maximum from the date of receipt of the invoice by the Contracting Authority, subject to the user service verifying the proper performance of the services.

#### 8.1.2 Payment requests

The request for payment 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 reductions 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 TTC as well as, where applicable, the price variations established HT and TTC

- in the case of a joint grouping, for each economic operator, the amount of services provided by the economic operator;
- the application of the price update 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 taxes

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

### 8.1.3 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:

<b>Establishment:</b>	FRENCH DEVELOPMENT AGENCY
<b>SIRET:</b>	77566559900129
<b>CHORUS Service Code:</b>	by
<b>Contract Number:</b>	ARB-2025-0163
<b>Project number:</b>	To be filled in with the SIOP project number

## 8.2 Regulations in the case of joint joint contractors

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

In the case of a joint and several arrangement, a separate settlement will be made by each co-processor if the distribution of payments is identified in the appendix 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.

## 8.3 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.

## 8.4 VAT

This Agreement is subject to Value Added Tax (VAT) at the rate in force on the day of the event giving rise to it. Each payment term will be subject to VAT.

The Holder of this Contract undertakes to indicate on its invoices whether it is authorised by the tax administration to pay VAT according to the debits. The Holder is solely responsible for compliance with the tax legislation in force.

It is recalled that the contract may be exempt from French VAT when:

- the market finances a cooperation action for the benefit of a country outside the European Community,
- the service consists of information, advice, studies or research services,
- the result of the service is communicated to the country concerned and
- the framework of intervention of the benefit is oriented in such a way as to highlight the certain benefit of the benefit for the country concerned.

The status of the AFD, the characteristics of the services to be carried out and their destination, allow the Service Provider to assert this exemption with the tax services to which the latter would have to provide justifications.

## 8.5 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) up to and including the date on which the principal is put into payment (Article R. 2192-32 of the Public Procurement Code).

The default interest rate applicable in case of exceeding the maximum payment deadline 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 months of the calendar year during which the default interest began to accrue, increased by eight percentage points.

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

## 9. Penalties

### 9.1 Procedures for the application of penalties

By way of derogation from article 14 of the CCAG-PI, the penalties defined in the following articles are applied.

The settlement of penalties shall not prevent the termination by right, and without compensation, of the Contract at the fault of the Holder in case of fault or non-performance of its obligations. Penalties are only due in the case of damage 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.

### 9.2 Penalties for delay

The documents to be produced by the contractor within a time limit set by the contract must be transmitted by the Contractor by any means that attests their date of receipt by the Contracting Authority.

By way of derogation from Article 14.1.1 of the CCAG PI, the procedures for applying late penalties are as follows:

- Penalties per day of delay for late delivery of requested document:

100 € per day of delay (in derogation from Article 14.1.1 of the CCAG PI),

In accordance with Article 14.1.2 of the CCAG PI, the total amount of late penalties may exceed 10% of the total amount HT of the Contract.

### **9.3 Other penalties**

#### **9.3.1 Penalties for breach of security or confidentiality obligations**

The obligation of confidentiality is an essential obligation of this Agreement.

The breach of security measures or of the confidentiality obligation set out in article 5 of the CCAG-PI is liable to result in the termination of this Agreement for serious misconduct within the terms of article 39 of the 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 the event 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 on which the event is established.

#### **9.3.2 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.

## **10. Cessation of performance of the service**

To the extent that 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 the performance of the services at the end of each of these technical parts without compensation.

By way of derogation from 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 entail the termination of the contract. In all other cases, the judgment shall terminate the contract. The decision made shall specify whether the judgment is temporary or final.

## **11. Admission – Mission completion**

Upon receipt of the deliverables, the Contracting Authority will have 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 15 working days after their 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 by decision of the contracting authority

## **12. 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 shall, within a period of 15 days from notification of the contract and prior to any commencement of its execution, prove that he is the holder of these insurance contracts 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.

## **13. Intellectual Property – Use of Results**

### **13.1 Prior knowledge regime and prior standard**

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

### **13.2 Results regime**

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

#### **13.2.1 Assignment of copyright**

The Holder exclusively assigns to the Contracting Authority the rights to the Service, as well as any element constituting it in part or in full. It 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").

More 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 and when reports, works, studies and documents are produced by the Service Provider under 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 under the Contract.

#### **13.2.2 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.

Consequently, 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 right to image, infringement of good morals, to counterfeiting or plagiarism.

### **13.2.3 Remuneration of the Assignment**

The price of the Assignment is definitively 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.

## **14. Additional clauses**

### **14.1 Reorganization or judicial liquidation**

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

The judgment establishing the judicial reorganisation or liquidation shall be notified immediately to the contracting authority by the contract holder. 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 formal 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 opened by 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 commissioner 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 does not entitle the holder to any compensation.

### **14.2 Declaration and obligations of the Data Controller**

#### **14.2.1 Statement by the Holder**

The Service Provider shall be responsible for the necessary authorizations under the Contract and the 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 are 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 the following documents at the time of signing the Contract, then regularly depending on the validity period of each document:

- 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.

#### 14.2.2 Duty of confidentiality

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:

- be 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 confidentiality is lifted.

The Contractor therefore undertakes not to disclose, directly or indirectly, in part or in full, 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 destroy all manual or computerized files storing the information entered.

#### 14.2.3 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 that will be submitted to it by the Contractor at the end of the Service.

#### 14.2.4 Integrity clause

The Holder declares and undertakes to:

- have not committed any act likely to influence the bidding process and in particular that no

Agreement has taken place or will take place;

- 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.

#### 14.2.5 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.

#### 14.2.6 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 to use the Data for purposes other than those necessary to implement the Service and not to make any copies of the Data other than within 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 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 sub-contract all or part of the Services involving participation in the implementation of the processing of the Data to third parties, unless it has obtained the prior written consent of the Contracting Authority. If the Contracting Authority accepts the proposed subcontract, the Holder undertakes to conclude with its identified subcontractor a contract containing the same obligations regarding the protection of Data as those currently agreed.

The Data Controller shall justify, at the first request of the Contracting Authority, 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 capable of responding 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 requests for access carried out by authorities duly authorised for this purpose, such as the CNIL or the judicial police.

The present 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 compliance with the security and confidentiality measures implemented by the Holder. 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 (coin checks),
- check at the Data Controller's place of activity or its subcontractor the effectiveness of the implementation of these measures (on-site controls).

The contracting authority may once a year undertake an on-site inspection 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 that occurred voluntarily or accidentally, in particular 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 mandated person 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 the spot, 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 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 data controller, an obligation to notify the CNIL services, the Holder shall provide him with any assistance to enable him to make such notification within the applicable time limit.

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

### **Power of investigation of the contracting authority**

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 the 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 preventing the complete deletion of Data. The same applies to copies for automatic backups.

The deletion shall, where applicable, be recorded in a record with an indication 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 the information necessary for the latter to draw up and update the list of automated processes 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 conformity of processing**

The Data Controller undertakes to keep and make available to the Contracting Authority any relevant documentation proving that the processing of the Data carried out by the Data Controller on behalf of the Contracting Authority has been carried out in accordance with the commitments made in within the framework of the Contract as well as 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 liability of the Contracting Authority may be incurred due to the conditions and modalities for implementing the processing of the Data by the Data Controller. The Holder may nevertheless release in advance of this obligation by submitting to the Contracting Authority at the end of the Contract said documentation.

## **Contracting Authority supplier management**

As part 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](mailto:informatique.libertes@afd.fr).

### **14.3 Obligations of the contracting authority**

In order to enable the Contractor 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.

### **14.4 Miscellaneous**

The Contractor may not assign any of its rights and/or obligations under this contract unless expressly agreed to in advance by the Contracting Authority.

All notifications, reports and other communications relating to the Agreement will be issued or sent to the respective addresses of the Parties mentioned at the beginning of this document. They will 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 modifications to the nature or volume of the Service or 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 taken into account in case of divergence of interpretation of the provisions of the Contract or in case of dispute between the Parties.

## **15. 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 framework of ACPR's cooperation with these foreign authorities) or for any other regulatory or supervisory authority, any data protection authority or any public archives authority as well as 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 contractor with its contractual obligations, conditions for performance of services and/or performance of the service provider, as well as applicable regulatory requirements;
- Relate to personal data, the details of which are set out in the Personal Data section of 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 the ACPR, as well as 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 services, 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 with regard to cyber security and internal ICT security.

In the case of subcontracting, duly authorised by the contracting authority, the service provider shall ensure 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 ended, 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. To this end, the Contracting Authority may appoint an independent expert who is not a competitor of the Contractor and who must sign a confidentiality agreement.

The Contractor undertakes to cooperate with the Contracting Authority or its representative as well as with the ACPR and to facilitate their audit by providing them with all necessary information and responding to all their requests related to this audit, within the authorized limits of the 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 event that this audit reveals a failure on the part of the Licensee.

## 16. Reversibility

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

The Holder undertakes to ensure reversibility and to make every effort legally and humanly possible to allow 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, allowing in particular continuity of the service, subject to the contract, with a minimum of interruptions. For this purpose also, after the termination of the Contract and during a transitional 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 by a new service provider designated by it.

Upon termination of the Contract, for whatever reason, the Contractor shall keep at the disposal of the Contracting Authority any document that may be necessary to him 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 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 cancellation or 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 carried out 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 Holder undertakes 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 this data and not use it for own use or for the benefit of third parties

The Holder 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 Holder's business activities. It will not sub-outsource the Service or transfer the data to a third party without the prior written consent of the contracting authority and will refrain from any measure having the effect of hindering the access of the contracting authority 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 times in advance and to ensure the reversibility of the outsourcing of the Service

## 17. 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:

### 17.1 Termination of the Licensee's Tort

The Contracting Authority may, after a formal notice which has not been successful 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.

More specifically, and in a non-exhaustive manner, the contracting authority reserves the right to terminate the contract if:

- Repeated non-executions or poor quality executions of operational expectations and requirements;
- repeated application of the penalties provided for in Article Penalties of this Agreement, not followed by significant improvement;
- repeated findings of rejection or postponement of services, pursuant to the provisions of the verification and validation operations of services in Admission - Completion of this Contract;
- non-compliance with the provisions of the Annex to this Security Agreement.

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 processing, 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 made without prejudice to other actions, including criminal, which would

be initiated in this case against the Holder.

In the event of termination due to 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 decision to terminate shall expressly mention this;
- 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 rank 1 and above of the personal surety guaranteeing the payment of all sums due by them to the sub-contractor of second rank and above, and after formal notice of the subcontractor of rank 1 and above and of the contract holder, remained without effect within a fixed period of 8 days, the contract will be terminated for damages to the holder without the latter being able to claim compensation and, where appropriate, with performance of the services at its own expense and risk.

## **17.2 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 set at 5% of the contract's VAT-free commitment amount, less the unrevised VAT-free amount of the admitted services.

## **17.3 Termination for failure to comply with 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:

- an attestation 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 has been entered in the Trades Register] or [a receipt of the declaration filed with a business registration centre];
- an attestation on honour issued by the Service Provider certifying that its employees have been provided with pay slips in accordance with French regulations[2].

In accordance with article L 8222-6 of the French Labour Code, AFD reserves the right to impose a

penalty on the Service Provider who does not comply with 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 agent of the consequences of the first and third paragraphs of this article or, in case of continuation of the contract, if the proof of the end of the tort situation has not been provided within six months following the notice, 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. Failure to comply with the obligations arising from

## 18. 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 the event of a dispute, the competent court is the Administrative Court of Paris.

## 19. Provisions applicable in the case of a foreign holder

French law is the sole 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.

## 20. Derogations from general documents

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

## 21. 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 collect the advance.

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

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

## 22. Candidate's signature

The candidate is reminded that the signature of this Contract constitutes 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 purchase process and the contractual relationship with the 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 the case of a group of undertakings, of the authorised representative or of each member of the group:

## **23. Acceptance of the offer by the contracting authority**

The subcontractors proposed in the sub-contracts annexed to this Contract are accepted as eligible for direct payment and the terms of payment indicated are agreed.

This offer is accepted as an undertaking.

A

The

The contracting authority

## 24. Annex: Declaration of Subcontracting

Annex to the Instrument of Commitment

Contracting Authority: Agence Française de Développement

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- Designation of purchaser:

.....  
.....

- Person entitled to provide information on the pledging or assignment of receivables:

.....  
.....

Subject matter of the contract

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**Subject of the consultation: Feasibility Study on Digital Infrastructure in Cambodia**

Contract Subject: Feasibility Study of Digital Government in Cambodia

Purpose of the subcontractor's statement

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This declaration of subcontracting is:

☐ A document attached to the Bidder's bid.

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

☐ A special amending act: it cancels and replaces the subcontracting declaration 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 head office (if different from the postal address), e-mail address, telephone and fax numbers, SIRET number:

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

Legal form of the individual bidder, the tenderer or the member of the group (sole trader, 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 subcontractor

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

.....

.....

.....

Legal form of the individual bidder, the tenderer or the member of the group (sole trader, 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:.....

.....

**Outsourcing of personal data processing:**

(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 operations carried out on the data is: .....

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

The personal data processed are: .....

The categories of persons involved are: .....

The Bidder/Tenderer declares that:

- ☐ The processor provides sufficient guarantees for the implementation of technical and organizational measures to ensure the protection of personal data;
- ☐ The subcontract incorporates the mandatory clauses provided for in Article 28 of 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 outsourced services indicated below, revalued if necessary by applying the price variation formula shown below, is the maximum amount of money payable by direct payment to the subcontractor.

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

- VAT rate: .....
- Net amount (€): .....
- Amount including taxes (€): .....

**b)** Amount of the subcontract in the 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 to be **entitled to direct payment:**  
(Art R. 2193-10 or Art R. 2393-33 of the Public Procurement Code)

☐ YES ☐ NO

## Condition of payment

---

Banking references:  
(Attach an IBAN)

IBAN: .....

BIC: .....

The subcontractor requests an advance:

☐ YES ☐ NO

## Capabilities of the subcontractor

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(Note: this information is only required when the purchaser requires it and it has not already been provided as part of 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 ability to carry out the relevant professional activity, its economic and financial capabilities or its professional and technical abilities:

If applicable, internet address where the supporting documents and evidence are directly accessible and 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 <sup>(\*)</sup>** that he does not fall into 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 <sup>(\*\*)</sup>

In order to certify that the subcontractor is not in one of these prohibited 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:

If applicable, internet address where the supporting documents and evidence are directly accessible and free of charge, as well as 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 any pledge of receivables 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 French Procurement Code.

As a result, the holder produces with DC4:

☐ The single 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 holder provides evidence that the assignment or pledge of claims 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 beneficiary of the assignment or pledge of receivables resulting from the contract, which is attached to this document.

## Acceptance and approval of payment terms of the subcontractor

A ....., the .....

A ....., the .....

The subcontractor:

.....

The Bidder or Contractor shall:

.....

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 the 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:

A ....., the .....

## 25. Annex: Designation of co-contractors and allocation of benefits.

### Annex to the Instrument of Commitment

*Complete one copy per co-processor:*

Trade name and corporate name of the candidate:

Address of 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

Banking references:

IBAN: .....

BIC: .....

Company name	Benefits affected	Amount HT (€)	VAT rate	Amount TTC (€)
Corporate name: ..... ..... ..... ..... .....				
Corporate name: ..... ..... ..... ..... .....				
Corporate name: ..... ..... ..... ..... .....				
Corporate name: ..... ..... ..... ..... .....				
Corporate name: ..... ..... ..... ..... .....				
	Totals			

## 26. Annex: Pledge or assignment of receivables

☐ **Certificate of transferability** issued (1) dated ..... 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 for which the amount is ☐ (indicate the amount in figures and letters):

.....  
 .....

2 The total amount of order no. .... relating to ☐ 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 numbers 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, either transferability certificate or copy issued in single copy

(2) Original date and signature

## 27. Appendix - Security

### INFORMATION SECURITY IN THE CONTEXT OF PERFORMANCE OF CONTRACTS FOR SERVICES

#### Service contract

(frame to be removed before signing the contract)

Use of the safety annex

This schedule must be attached to any contract for the provision of services (purchase on own account) in the following cases:  
The contract provides AFD with permanent access to its premises for the duration of the contract (service provider badge awarded),  
and/or

The contract provides AFD with staff who must have access to AFD's IS, even on a one-time basis,  
The contract requires you to share information owned by AFD, in digital or physical form, with the service provider.  
In case of doubt, contact the DMI/SEC division

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## Definitions

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- The Contract

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

- The Customer

Refers to the DFS, party to the Contract.

- The Provider

Designates the contractor 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 connection with the performance of their services. It is therefore necessary to provide a framework for such access to 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 access to the Information and its use, 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.

## **Commitment and rights of the parties in matters of security**

---

The Client makes available to the Service Provider its documentation regarding 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 Customer regarding information security and to comply with the policies, procedures and rules contained therein. The Service Provider undertakes not to disclose this documentation transmitted as part 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 the access and logistics services provided by the Customer on its behalf.

The Service Provider undertakes to inform the Client 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 rejected.

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 subject to 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 the professional secrecy governing its profession.

The Client and the Service Provider are each responsible for the selection, implementation and maintenance of 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.

As part of the implementation of 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 sites and/or Client's Information is granted.

The Customer 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

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The Service Provider undertakes to access only the information strictly necessary for the performance of its mission. 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 on behalf of the Service Provider as part of the performance 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 above, 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.

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

## Remote connection to the client network

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

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

## Risk assessment

---

Upon 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 connection with the service.

## Final provisions

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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.

NOT CONTRACTUAL

NOT CONTRACTUAL

## 28. Appendix - GDPR

### **ARTICLE XXX - PROTECTION OF PERSONAL DATA**

As part of the execution of the contract, XXX may be required to access and process personal data, within the meaning of the General Data Protection Regulation (EU) 2016/679 (hereinafter "the Data"), on behalf of AFD.

#### **a) Obligations of the Service Provider vis-à-vis AFD**

The Service Provider undertakes to:

- Processing the Data only for the sole purpose(s) necessary to perform the services and in accordance with the documented instructions of AFD. If the Service Provider 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 AFD;
- Not transfer the Data outside the European Economic Area, within the meaning of the applicable regulations, except to obtain the prior express consent of AFD;
- Implement all appropriate measures to guarantee the confidentiality of the Data processed in connection with this contract;
- Disclose the Data only to persons duly authorised, due to their duties, to receive communication thereof, whether private, public, physical or legal persons;
- Not make any copies of the Data except as necessary to perform its functions. If applicable, delete all copies made at the end of the Service;
- Immediately notify the AFD of any incident found that could potentially constitute a data breach, within the meaning of the applicable regulations. This notification will be made to the following address: [#DPO\\_notification@afd.fr](mailto:#DPO_notification@afd.fr)

This notification must be accompanied by any useful information in order to allow AFD, if necessary, to notify the competent supervisory authority of this violation.

- Ensure that persons authorized to process Personal Data under this contract:
- commit to respect confidentiality or be subject to an appropriate legal obligation of confidentiality;
- receive the necessary training in personal data protection
- are committed to complying with AFD's safety instructions

Where the Service Provider has appointed a Data Protection Officer, it undertakes to communicate the name and contact details of that Data Protection Officer to AFD. In addition, the Service Provider declares that it keeps a written record of all categories of processing activities carried out on behalf of AFD, including all the information required pursuant to article 30 (2) of the Regulation.

#### **b) Description of the processing in which the Service Provider participates as part of the service**

Nature of the operations carried out on the Data:

*[Delete, 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 processing:

*[Complete with the objectives pursued by the processing in question]*

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:

Categories of persons concerned:

*(Check the appropriate boxes)*

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- ☐ Candidates
- ☐ Suppliers and service providers
- ☐ Visitors
- ☐ Prospects
- ☐ Partners
- ☐ Other:

#### **c) DFS Power of Inquiry**

The Service Provider must at all times comply with AFD's general and specific instructions regarding the processing of Data. The Service Provider may only transfer Data to third parties with the prior written consent of AFD.

#### **d) Information of the persons concerned**

The Service Provider undertakes to inform the persons whose data is processed under this contract of the processing of their data.

The Service Provider undertakes in particular to inform these persons of the following processing purposes:

- Follow-up of the mission that may be entrusted to it
- Assessment of the quality of service provided
- Establishment and operation of a file listing the service providers to which AFD has recourse

The Service Provider also undertakes to communicate to persons acting under its responsibility the AFD's privacy policy and the address of the AFD's DPO (informatique.libertes@afd.fr ). The DPO of the AFD will

thus be able to answer all questions relating to the processing of their personal data.

NOT CONTRACTUAL