SERVICE CONTRACT

Open Call for Tenders for the Supply of IT Technical Support Services to End Users of the European University Institute

Ref: CFT-EUI-ICTS-2017-001

The European University Institute (hereinafter referred to as "the Institute", "the EUI" or "the contracting authority"), established in San Domenico di Fiesole, Via dei Roccettini 9, Firenze, Italy, C.F. 80020410488, represented by its President, Prof. Renaud Dehousse / for the purposes of the signature of this contract by Secretary General, Amb. Vincenzo Grassi[1],

on the one part,

and

[*Full official name*]

[*Official legal form*][2]

[*Statutory registration number*][3]

[*Full official address*]

[*VAT registration number*]

(Hereinafter referred to as "the Contractor" or "the Company"), represented for the purposes of the signature of this contract by Mr/Ms [*forename, surname and function*]

[The parties identified above and hereinafter collectively referred to as "the Contractor" shall be jointly and severally liable vis-à-vis the contracting authority for the performance of this contract.]

on the other part,

[1] Signatory must be an authorising officer (by delegation or sub-delegation) designated in accordance with a relevant Delegation Decision, e.g. President's Decision No. 69/70 of 18.12.2013 or Secretary General's Decision No. 1/2014 of 06.02.2014.
[2]Delete if contractor is a natural person or a body governed by public law.
[3]Delete if contractor is a body governed by public law. For natural persons, indicate the number of their identity card, or failing that, of their passport or equivalent.

HAVE AGREED

to the **special conditions**, the **general conditions for service contract** as well as to the following Annexes:

Annex I Special Tender Specifications **CFT-EUI-ICTS-2017-001** of **12/07/2017**

Annex II Contractor's tender (reference No [*complete*] of [*insert date*]) including

- Technical offer *(date)*
- Economic offer *(date)*
- Supporting documents:
  - Declaration on Honour concerning legal status;
  - Declaration on Honour that the Tenderer is in compliance with anti-Mafia provisions;
  - Performance Bond (equal to 10% of the mean annual contract value based on the Economic offer);
  - Certificate of enrolment in commercial register;
  - Insurances (as per Art. I.11.2),

which form an integral part of this contract (hereinafter referred to as “the contract”).

In the event of any conflict herein,

- The terms set out in the Special Conditions shall take precedence over those in the other parts of the Contract.
- The terms set out in the General Conditions shall take precedence over those in the Annexes.
- The terms set out in the Special Tender Specifications (Annex I) shall take precedence over those in the tender (Annex II).

For the avoidance of doubt, the Contractor acknowledges and agrees that the terms of the Contract shall apply to the exclusion of the Contractor’s standard terms and conditions and/or any conditions which might be implied by trade custom, practice or other course of dealing.

Subject to the above, the several instruments forming part of the Contract are to be taken as mutually explanatory. Ambiguities or discrepancies within or between such parts shall be explained or rectified by a written instruction issued by the Institute; subject to the rights of the Contractor under Article I.7 should it dispute any such instruction.

I - SPECIAL CONDITIONS

ARTICLE I.1 – SUBJECT MATTER

I.1.1 The subject matter of the Contract is the supply of IT technical support services to end users of the European University Institute.

I.1.2 The place of execution of the contractual services will be all existing and pertaining premises of the European University Institute and the Historical Archives of the European Union as stated in Article 7 of the Special Tender Specifications.

I.1.3 The contractor shall execute the tasks assigned to it in accordance with the Special Tender Specifications annexed to the contract (Annex I).

ARTICLE I.2 - ENTRY INTO FORCE AND DURATION

I.2.1 The contract shall enter into force [on the date on which it is signed by the last party][4] [on [*insert date*] if it has already been signed by both parties].

I.2.2 Under no circumstances may performance commence before the date on which the contract enters into force.

I.2.3 The duration of the execution of the tasks shall not exceed 24 months. Unless otherwise specified, all periods outlined in the contract are calculated in calendar days.

Execution of the tasks shall start from [the date of entry into force of the contract] [insert date].

The period of execution of the tasks may be extended only with the express written agreement of the parties before the expiration of such period.

4 As a rule the contracting authority signs last. In this case, the contractor should be duly informed of the date on which the contract enters into force (date of signature by the contracting authority).

I.2.4 The Contractor is subject to a probationary period of 6 months. If, during this period, the execution of the service does not correspond to the requirements of the Special Tender Specifications, or to any improvements offered in the tender by the Contractor, the Institute shall be entitled to terminate the Contract by serving a notice of thirty (30) days by registered mail.

I.2.5 Where, at the end of the natural term of the Contract, the Contracting Authority has not yet awarded a contract for the service covering the immediately following period, the Contractor shall be obliged to continue providing the service(s) for a period not exceeding six (6) months under the same terms and conditions in force at the expiration date.

I.2.6 Contract renewal

Automatic Renewal: The contract shall be renewed automatically up to 3 times, each time for a period of execution of tasks of 12 months, starting from the date of completion of the tasks of the previous period, unless written notification to the contrary is sent by one of the parties and received by the other three months before payment of the balance. Renewal does not imply any modification or deferment of existing obligations.

ARTICLE I.3 - PRICES

I.3.1 The [maximum] total amount to be paid by the contracting authority under the contract shall be [amount in figures and in words][5] excluding VAT, covering all services/tasks executed (including charges).

The Institute is exempt from payment of value added tax for services and purchases under the normal course of business for amounts exceeding €300.00 (pursuant to Article 72-paragraph 1-e) and paragraph 2 of Presidential Decree 633 of 26/10/1972 and subsequent amendments).

The economic offer of the Contractor is provided in Annex II.

[5] The total amount will be determined by the offer of the successful tenderer.

I.3.2 Price revision

The total amount referred to in Article I.3.1 shall be fixed and not subject to revision during the first year of performance of the contract.

At the beginning of the second and every following year of the contract, the amount(s) may be revised upwards or downwards, if such revision is requested by one of the parties in writing no later than three months before the anniversary of the date on which the Contract was signed. The other party shall acknowledge receipt within 15 days of reception of the request for price revision. The new prices shall be communicated in writing as soon as the final index is available.

The revision shall be determined by any change resulting from the "EUROSTAT" index of reference.

The EUROSTAT index of reference for the revision is the "Harmonised index of consumer prices". The most recent "Harmonised index of consumer prices" published before the request shall be used for the re-evaluation. In the case where the re-evaluation request is received after the annual expiration date, the same will be granted with effect from the date of receipt of the request.

ARTICLE I.4 - PAYMENT ARRANGEMENTS

I.4.1 Payment

Payment of the amounts due and charges under the Contract shall be made only if the Contractor has fulfilled all its contractual and legal obligations by the date on which the invoice is correctly submitted.

Payment of the amounts due and charges under the Contract shall be made on a monthly basis.

To obtain payment, the Contractor will follow the analytical procedures required by the Institute in terms of billing, issuing upon request specific invoices for each cost/activity reported.

The Contracting Authority shall make payment within sixty (60) days of receipt of invoice.

The specific rules are outlined in Article **II.15 – Reporting and payments**, clause **II.15.3 - Invoices and VAT** of the General Conditions.

Deductions resulting from economic penalties for non-compliance referred to in Article 14 of the Special Tender Specifications will be compensated simultaneously with the payment of invoices for the period of reference.

I.4.2 Performance guarantee[6]

Performance guarantee by financial guarantee

A performance guarantee for an amount of EUR equal to 10% of the mean annual contract value based on the Contractor's own Economic Offer shall be issued no later than [*insert date*][the date of dispatch of the invoice for payment of the balance][7] according to the conditions laid down in Article II.15.5.

ARTICLE I.5 - BANK ACCOUNT

Payments shall be made to the Contractor's bank account denominated in Euro (€), or in the local currency if the receiving party has its legal seat outside Euro-area, and identified as follows:

Name of bank:	
Branch address in full:	
Exact designation of account holder:	
IBAN code:	
SWIFT code:	

ARTICLE I.6 – COMMUNICATION DETAILS AND DATA CONTROLLER

For the purposes of Article II.6, the data controller shall be the Information and Communication Technology (ICT) Service, represented by its Director, Mr. David Scott.

Any notice or other communication relating to the Contract shall be made in writing, shall bear the Contract number and shall be sent to the appropriate address or email address set out below (or such other address or person as the relevant party may notify to the other):

Contracting Authority:

European University Institute ICT Service Via dei Roccettini, 9 - 50014 San Domenico di Fiesole (FI)

6 If the tender specifications provide for complex services, the provisional approval of products can lead to payment of the balance and final approval of the products with full satisfaction on execution can take place sometime (up to several months) after payment of the balance. Then a performance guarantee is necessary to cover this period until final acceptance.

7 This bank guarantee can be requested later in the execution of the contract, not necessarily at the beginning, since it covers ex-post performance and the longer a guarantee is, the more expensive it is.

Email address: ICTS.Contract1-17@EUI.eu

Contractor:

Name and surname:	
Function:	
Company name:	
Full official address:	
Email:	

ARTICLE I.7 - APPLICABLE LAW AND SETTLEMENT OF DISPUTES

I.7.1 The contract shall be governed by the EUI's relevant regulatory acts (e.g. the EUI's regulation on Public Procurement & the EUI's Financial Rules), complemented where necessary by the law of Italy.

I.7.2 Any dispute arising in relation to the present contract shall be submitted in good faith by either party to mediation under the International Mediation Rules of the Milan Chamber of Arbitration by filing a written request with the Secretariat of the Milan Chamber of Arbitration.

I.7.3 If for any reason the dispute remains unsettled 60 days after the request for mediation, it shall be subject to arbitration under the Rules of the Milan Chamber of Arbitration. The seat of the arbitration shall be Milan and the language of the arbitration shall be English. The award shall be final and binding.

The arbitral tribunal shall apply the EUI's relevant regulatory acts, including the EUI's regulation on Public Procurement and the EUI's Financial Rules, complemented, where necessary, by the law of Italy.

ARTICLE I.8 - EXPLOITATION OF THE RESULTS OF THE CONTRACT

See Article II.10.

ARTICLE I.9 - TERMINATION BY EITHER PARTY

Either party may, unilaterally and without being required to pay compensation, terminate the contract by formally notifying the other party by giving twelve weeks' notice. Should the contracting authority terminate the contract, the contractor shall only be entitled to payment corresponding to part-performance of the contract before the termination date (e.g. payment corresponding to the

services which are the subject of valid Purchase Orders before the date termination is notified to become effective ("Termination Date"). The first paragraph of Article II.14.3 shall apply.

On receipt of such notice from the Institute, the Contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce its commitments in relation to the Institute. It shall draw up any documents required by the Contract and its Annexes for the services provided up to the Termination Date, within a period not exceeding sixty days from the Termination Date.

ARTICLE I.10 - MECHANISM OF SANCTIONS AND PENALTIES

The carrying out of the service by non-regular or unsatisfactory means in the opinion of the Contracting Authority, shall incur the application of penalties pursuant to Article 14 of the Special Tender Specifications.

The non-regular and unsatisfactory provision of the service will be notified in writing to the Contractor who shall respond in any case with its comments in writing within 5 (five) days from the dispute. If said response is not acceptable according to the appreciation of the Contracting Authority or if there is no answer or the same is not received within the time specified, the Contracting Authority will apply the penalties referred to in Article 14 of the Special Tender Specifications, from the date of the commencement of the poor performance.

The request and/or payment of penalties shall not discharge the Contractor under any circumstances from performance of the obligations for which it is currently responsible.

ARTICLE I.11 - PROVISIONS RELATING TO SAFETY

I.11.1 It is compulsory that the Contractor, in order to ensure safety in the workplace, strictly complies with the regulations concerning the protection of the health and safety of workers as stipulated in the respective applicable Italian legislation.

All activities related to the services covered by the Special Tender Specifications shall be conducted with order and with the precautions necessary to prevent any injury to employees at work and not cause any damage to floors, furniture, doors and door frames, masonry and painting, etc. The Contractor is also obliged to put in place all necessary measures to avoid any accident or damage

including against third parties. It is the responsibility of the Contractor to provide for the preparation of an operational safety plan for its workers.

It is, moreover, the responsibility of the Contractor to provide Personal Protective Equipment (PPE) necessary to perform the job safely.

The contracting authority reserves the right to carry out checks and controls on compliance by the Contractor towards the rules on the prevention of accidents, reserving the right, in the case of non-compliance, to immediately terminate the contract.

I.11.2 The contractor, in relation to obligations entered into with the acceptance of the Special Tender Specifications, expressly exempts the contracting authority from any and all liability for any injuries or damages suffered by people, things, vehicles and valuables of the Contractor as well as by third parties and assumes responsibility for activities occurring in the execution of the contract services.

To this end, the Contractor undertakes to take out with a leading Insurance company specific employer liability and public liability insurance, where it is explicitly stated that the Contracting Authority is considered "third" for all intents and purposes. These as a minimum shall be:

a) Public Liability Insurance: - minimum of €5m
b) Employer's Liability Insurance: - minimum of €5m

ARTICLE I.12 – CONTRACTUAL FEES

If applicable, any consequential contract costs (fixed-fee registration) will be paid by the Contractor without the right of recourse against the contracting authority.

SIGNATURES

For the Contractor,	For the Institute,
Company Name/name & surname of representative/function	*Name/surname /function*

Signature/s: _____

Signed in Florence, on_____

Signature/s: _____

Signed in Florence, on_____

In duplicate in English

II – GENERAL CONDITIONS FOR SERVICE CONTRACTS

ARTICLE II.1 – PERFORMANCE OF THE CONTRACT

II.1.1 The contractor shall perform the contract according to the highest professional standards.

II.1.2 The contractor shall be solely responsible for taking the necessary steps to obtain any permit or licence required for performance of the contract under the laws and regulations in force at the place where the assigned tasks are to be executed.

II.1.3 Without prejudice to Article II.4, any reference made to the contractor's personnel in the contract shall relate exclusively to individuals involved in the performance of the contract.

II.1.4 The contractor must ensure that the personnel performing the contract possess the professional qualifications and experience required for the execution of the tasks assigned to it.

II.1.5 The contractor shall neither represent the contracting authority nor behave in any way that would give such an impression.

II.1.6 The contractor shall be solely responsible for the personnel who execute the tasks assigned to the contractor. The contractor shall stipulate the following employment or service relationships with its personnel:

a. personnel executing the tasks assigned to the contractor may not be given orders directly by the contracting authority;
b. the contracting authority may not under any circumstances be considered to be the employer of the personnel referred to in point (a) and the personnel shall undertake not to invoke against the contracting authority any right arising from the contractual relationship between the contracting authority and the contractor.

II.1.7 In the event of disruption resulting from the action of one of the contractor's personnel working on the contracting authority's premises or in the event that the expertise of a member of the contractor's personnel fails to correspond to the profile required by the contract, the contractor shall replace him or her without delay. The contracting authority shall have the right to make a reasoned request for the replacement of any such personnel. The replacement personnel must have the necessary qualifications and be capable of performing the contract under the same contractual

conditions. The contractor shall be responsible for any delay in the execution of the tasks assigned to it resulting from the replacement of personnel.

II.1.8 Should the execution of the tasks be directly or indirectly hampered, either partially or totally, by any unforeseen event, action or omission, the contractor shall immediately and on its own initiative record it and report it to the contracting authority. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the contractor to ensure full compliance with its obligations under this contract. In such an event the contractor shall give priority to solving the problem rather than determining liability.

II.1.9 The contractor shall observe the rules stemming from existing laws and agreements on the employment of labour, disability, age, workplace accidents, involuntary unemployment and all other provisions governing the execution phase of the contract.

II.1.10 For workers employed in the execution of the service, whether they are Contractor employees (or working partners in the case of cooperatives) and/or subcontractors, the Contractor undertakes to comply with regulatory conditions and wages that are not to be less than those resulting from collective agreements and from national territorial labour agreements applicable on the date of the Contract as well as with conditions resulting from subsequent amendments and additions, and generally, from any other collective agreement subsequently entered into by category as applicable to the Contractor. The obligation remains even after the expiry of such contracts and collective agreements until they are replaced.

These obligations shall bind the Contractor throughout the period of validity of the contract even if it is not adhering to the signatory associations or withdraws from them, and whatever the nature of trade or industrial applications, the structure or size of the Company as well as its legal status or economic union, including the cooperative form.

It shall be possible for the Contracting Authority to ask the Contractor at any time to substantiate the application of the regulations provided for in the collective salary category contracts and supplemental agreements for workers employed in the service. If the Contractor is found to not be in compliance with these obligations, the Contracting Authority will apply a withholding tax of up to 20% of the amount due.

The deduction will be released only upon presentation by the Contractor of the documentation certifying the payment of social security contributions and compulsory workplace accident and occupational illness insurance, without the Contractor itself being able to lay any claim towards non- or delayed payment.

II.1.11 Should the contractor fail to perform its obligations under the contract, the contracting authority may -without prejudice to its right to terminate the contract- reduce or recover payments in proportion to the scale of the unperformed obligations. In addition, the Contracting Authority may claim compensation or impose liquidated damages in accordance with Art. II.12 and/or any penalties indicated in the Special Tender Specifications.

ARTICLE II.2 – MEANS OF COMMUNICATION

II.2.1 Any communication relating to the contract or to its performance shall be made in writing and shall bear the contract number. Any communication is deemed to have been made when it is received by the receiving party unless otherwise provided for in this contract.

II.2.2 Electronic communication shall be deemed to have been received by the parties on the day of dispatch of that communication provided it is sent to the addressees listed in Article I.6. Without prejudice to the preceding, if the sending party receives a message of non-delivery to or of absence of the addressee, it shall make every effort to ensure the actual receipt of such communication by the other party.

Electronic communication shall be confirmed by an original signed paper version of that communication if requested by any of the parties provided that this request is submitted without unjustified delay. The sender shall send the original signed paper version without unjustified delay.

II.2.3 Mail sent using the postal services is deemed to have been received by the contracting authority on the date on which it is registered by the responsible service referred to in Article I.6.

Any formal notification shall be made by registered mail with return receipt or equivalent, or by equivalent electronic means.

ARTICLE II.3 - LIABILITY

II.3.1 The contractor shall be solely responsible for complying with any legal obligations incumbent on it.

II.3.2 The contracting authority shall not be held liable for any claim, loss, cost or expense or any damage caused or sustained by the contractor, including any damage caused by the contractor to third parties during or as a consequence of performance of the contract, except in the event of wilful misconduct or gross negligence on the part of the contracting authority.

II.3.3 The contractor shall be held liable for any loss or damage, cost (including legal and other professional fees) or expenses sustained by the contracting authority but caused by the contractor in performance of the contract, including in the event of subcontracting and for any claim by a third party but only to an amount not exceeding three times the total amount of the contract. The Contractor shall remain liable without any limitation as to the amount if the damage or loss is caused by the gross negligence or wilful misconduct of the Contractor or by its employees, and for death caused by negligence or wilful misconduct of its employees.

II.3.4 In addition, the contractor shall, in the execution of service, comply with all procedures and precautions that apply to prevent the possibility of damage to property of the contracting authority and third parties, and especially of injury to persons engaged in the service and third parties, in compliance with the provisions of applicable law. Any liability, in the event of accidents, for damages caused by the contractor's staff will fall, therefore, upon the contractor, thus relieving the contracting authority.

II.3.5 The contractor shall indemnify and hold the Institute harmless for all damages and costs incurred due to any claim. The contractor shall provide compensation in the event of any action, claim or proceeding brought against the contracting authority by a third party as a result of damage caused by the contractor during the performance of the contract. In the event of any action brought by a third party against the contracting authority in connection with the performance of the contract, the contractor shall assist the contracting authority.

II.3.6 The contractor shall take out an insurance policy against risks and damage relating to the performance of the contract, if required by the relevant applicable legislation. It shall take out

supplementary insurance as reasonably required by standard practice in the industry. A copy of all the relevant insurance contracts shall be sent to the contracting authority should it so request.

ARTICLE II.4 - CONFLICT OF INTEREST

II.4.1 The Contractor shall take all the necessary measures to prevent any situation of conflict of interest. Such situation arises where the impartial and objective performance of the contract is compromised for reasons involving economic interest, political or national affinity, family or emotional ties, or any other shared interest.

II.4.2 Any situation constituting or likely to lead to a conflict of interest during the performance of the contract shall be notified to the contracting authority in writing without delay. In the event of any such conflict, the contractor shall immediately take all the necessary steps to rectify the situation. The contracting authority reserves the right to verify that the steps taken are appropriate and may require that additional steps be taken within a specified deadline.

II.4.3 The contractor declares that it has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain and has not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, when such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, in so far as it serves as an incentive or reward relating to the performance of the contract.

II.4.4 In compliance with the EUI's Staff Regulations, in particular Art. 11, EUI's staff members shall not, without the permission of the Appointing Authority, accept any gift, directly or indirectly connected with their own work activities. The Contractor confirms acknowledgement of this rule and the consequent termination of the contract in case of non-conformity.

II.4.5 The contractor shall pass on all the relevant obligations in writing to its personnel and to any natural person with the power to represent it or take decisions on its behalf and ensure that it is not placed in a situation which could give rise to conflicts of interest. The contractor shall also pass on all the relevant obligations in writing to third parties involved in the performance of the contract including subcontractors.

Without prejudice to Article II.1 the Contractor shall replace, immediately and without compensation from the Institute, any member of the Contractor's Staff faced with or brought into such a situation.

ARTICLE II.5 - CONFIDENTIALITY

II.5.1 The contracting authority and the contractor shall treat with confidentiality any information and documents, in any form, disclosed in writing or orally in relation to the performance of the contract and identified in writing as confidential.

II.5.2 The Contractor shall:

a. not use confidential information and documentation for any purpose other than fulfilling its obligations under the contract without prior written agreement of the contracting authority;
b. ensure the protection of such confidential information and documentation with the same level of protection it uses to protect its own confidential information, but in no case any less than reasonable care;
c. not disclose directly or indirectly confidential information and documentation to third parties without prior written agreement of the contracting authority.

II.5.3 The confidentiality obligation set out in Article II.5.1 shall be binding on the contracting authority and the contractor during the performance of the contract and for five years starting from the date of the payment of the balance unless:

a. the disclosing party agrees to release the other party from the confidentiality obligation earlier;
b. the confidential information becomes public through other means than via breach of the confidentiality obligations through disclosure by the party bound by that obligation;
c. the disclosure of the confidential information is required by law.

II.5.4 The Contractor shall obtain from any person with the power to represent it or take decisions on its behalf, as well as from third parties involved in the performance of the contract, an undertaking that they will comply with the confidentiality obligations set out in Article II.5.1.

ARTICLE II.6 - PROCESSING OF PERSONAL DATA

II.6.1 Any personal data included in the contract shall be processed by the Institute in accordance with the EUI's Data Protection policy pursuant to the EUI President's Decision No.40/2013 regarding Data Protection at the EUI. Such data shall be processed by the data controller solely for the purposes of the performance, management and monitoring of the contract without prejudice to its possible transmission to the bodies charged with monitoring or inspection tasks in application of relevant EU and national law.

II.6.2 The contractor shall have the right of access to its personal data and the right to rectify any such data. The contractor should address any concerns related to the processing of its personal data to the Data Controller indicated in Art. I.6.

II.6.3 The contractor shall have the right of recourse at any time to the Director of the ICT Service by simultaneous notification to the Data Protection Officer (dpo@eui.eu).

II.6.4 Where the contract requires the processing of personal data by the contractor or any of its subcontractors, the contractor may act only under the supervision of the data controller, in particular with regard to the purposes of the processing, the categories of data which may be processed, the recipients of the data and the means by which the data subject may exercise its rights. In that respect, the contractor shall be bound by the relevant provisions of the EUI President's Decision No. 40/2013 as well as by the Data Protection Directive (95/46/EC) and all applicable national laws and regulations of the country where it is established regarding the processing of personal data and privacy.

II.6.5 The contractor shall grant its personnel access to the data only to the extent strictly necessary for the performance, management and monitoring of the contract.

II.6.6 The contractor undertakes to adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned in order to:

a. prevent any unauthorised person from gaining access to computer systems processing personal data, and especially:

    i. unauthorised reading, copying, alteration or removal of storage media;

ii. unauthorised data input, as well as any unauthorised disclosure, alteration or erasure of stored personal data;

iii. unauthorised use of data-processing systems by means of data transmission facilities;

b. ensure that authorised users of a data-processing system can access only the personal data to which their access right refers;
c. record which personal data have been communicated, when and to whom;
d. ensure that personal data being processed on behalf of third parties can be processed only in the manner prescribed by the Contracting Authority;
e. ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;
f. design its organisational structure in such a way that it meets data protection requirements.

ARTICLE II.7 - SUBCONTRACTING

II.7.1 The contractor shall not subcontract without prior written authorisation from the contracting authority nor cause the contract to be *de facto* performed by third parties.

II.7.2 The request for subcontracting must be accompanied by a clear indication of the activities that will be subcontracted, and must necessarily satisfy the requirements of the current contract and any applicable Italian regulations. In the case of subcontracting occurring during the period of validity of the contract resulting from this procedure, the contractor must submit all required documentation to the Institute and await its prior authorisation before making it indispensable, effective and operational.

II.7.3 Even where the contracting authority authorises the Contractor to subcontract to third parties, the Contractor shall remain bound by its obligations to the Institute under this Contract and shall guarantee the provision of the Services and be solely liable for the proper performance of the Contract as if it was performing the Services itself.

II.7.4 The Contractor shall ensure that the subcontract does not affect rights and guarantees which the contracting authority has by virtue of this Contract and agrees to indemnify the contracting authority against any claim, loss, cost or expenses awarded against, suffered, incurred, or agreed to

be paid by the contracting authority as a consequence thereof.

ARTICLE II.8 - AMENDMENTS

II.8.1 Any amendment to the contract shall be made in writing before fulfilment of any new contractual obligations and in any case before the date of payment of the balance.

II.8.2 The amendment may not have the purpose or the effect of making changes to the contract which might call into question the decision awarding the contract or result in unequal treatment of tenderers.

ARTICLE II.9 – ASSIGNMENT

II.9.1 The contractor shall not assign the rights, including claims for payments, and obligations arising from the contract, in whole or in part, without prior written authorisation from the contracting authority.

II.9.2 In the absence of such authorisation, or in the event of failure to observe the terms thereof, the assignment of rights or obligations by the contractor shall not be enforceable against the contracting authority and shall have no effect on it.

ARTICLE II.10 – OWNERSHIP OF THE RESULTS - INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS

II.10.1 Intellectual Property Rights ("IPR") means all patents and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, brand names, copyrights and copyright rights, trade dress, business and product names, logos, slogans, trade secrets, industrial models, utility models, design models, designs, rights in confidential information, know-how, rights in the nature of unfair competition rights and rights to sue for passing off, and all pending applications for and registrations of patents, trademarks, service marks, and copyrights together with all connected and similar or analogous rights in any country or jurisdiction for the full term thereof.

II.10.2 Pre-existing IPR means all IPR existing prior to the date of this Service Contract and all IPR in any materials, acquired or developed by or for Contractor or Contracting Authority independently of this Service Contract, and any IPR in Contractor's standard hardware and software products or modifications or updates to such products.

II.10.3 All IPR title and interest in all reports, data manuals and/or other materials (other than software) (including without limitation all and any audio or audio visual recordings, transcripts, books, papers, records, notes, illustrations, photographs, diagrams) produced for the purposes of this Service Contract (collectively "the Materials") (or any part or parts thereof) shall vest in the Contracting Authority and the Contractor so acknowledges and confirms. For the avoidance of doubt the Contractor hereby assigns all IPR title and interest in the Materials (including by way of present assignment of future copyright) to the extent that any such IPR title or interest may be deemed by law to reside in the Materials to the Contracting Authority absolutely.

II.10.4 The Contracting Authority grants to the Contractor a royalty-free non-exclusive licence to use the Contracting Authority's Pre-existing IPR for the Term to the extent necessary to enable the Contractor to fulfil its obligations under this Service Contract. Save as expressly set out in this clause all Pre-Existing IPR shall remain the sole property of the party who owned, acquired or developed such intellectual property.

II.10.5 The Contractor shall waive or procure a waiver of any moral rights subsisting in copyright produced under or in performance of this Contract.

II.10.6 Nothing in this Service Contract shall prohibit or be deemed to prohibit the Contractor from providing services similar to the Services to any party other than the Parties hereto. In no event shall the Contractor be precluded from independently developing for itself, or for others, materials which are competitive with, or similar to, the Services and to use its general knowledge, skills and experience, and any ideas, concepts, know-how, formats, templates, methodologies and techniques that are acquired or used in the course of providing the Services.

II.10.7 The Contractor shall ensure that all and any necessary consents and/or licences for any software, instrument, modality or methodology are obtained and in place before use for the purposes of this Service Contract (to include but not be limited to ensuring that the Contracting Authority shall be vested with all necessary rights so as to enable the Contracting Authority to enjoy the benefit of the Services for its business purposes). The Contractor hereby indemnifies the Contracting Authority and shall keep and hold the Contracting Authority harmless from and in respect of all and any liability, loss, damages, claims, costs, or expenses which arise by reason of any

breach of third party IPR in so far as any such rights are used for the purposes of this Service Contract.

II.10.8 At the option of the Contracting Authority for and in respect of any such breach, the Contractor shall at its expense and option:

1. procure the necessary rights for the Contracting Authority to continue use;
2. replace the relevant deliverable with a non-infringing equivalent;
3. replace the relevant deliverable to make it non-infringing while giving equivalent performance; or
4. if the Contractor cannot obtain the remedies in 1), 2) or 3) above, it may direct the return of the deliverable and refund to the Contracting Authority charges paid for such deliverable less a reasonable amount for the Contracting Authority's use of the deliverable up to the time of return, provided such reasonable amount is due to the owner of the said deliverable, TOGETHER with all direct losses thereby accruing to the Contracting Authority as a result of the breach.

II.10.9 Upon the termination of this Service Contract for whatever reason, the Contractor shall immediately deliver up to the Contracting Authority all the Materials prepared up to the date of termination. As an exception to its obligations under this clause the Contractor may retain one copy of the Materials, in paper form, in the Contractor's legal files for the purpose of and only to the extent necessary for ensuring compliance with its obligations under this Service Contract. The provisions of this clause will survive the expiration or termination of this Service Contract for any reason.

ARTICLE II.11 - FORCE MAJEURE

II.11.1 'Force majeure' means any unforeseeable and exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their obligations under the contract, which was not attributable to error or negligence on their part or on the part of subcontractors and which proves to be inevitable in spite of exercising due diligence. Any default of a service, defect in equipment or material or delays in making them available, unless they stem directly from a relevant case of force majeure, as well as labour disputes, strikes or financial difficulties, cannot be invoked as force majeure.

II.11.2 A party faced with force majeure shall formally notify the other party without delay, stating the nature, likely duration and foreseeable effects.

II.11.3 The party faced with force majeure shall not be held in breach of its contractual obligations if it has been prevented from fulfilling them by force majeure. Where the contractor is unable to fulfil its contractual obligations owing to force majeure, it shall have the right to remuneration only for the tasks actually executed.

II.11.4 The parties shall take all the necessary measures to limit any damage due to force majeure.

ARTICLE II.12 – LIQUIDATED DAMAGES

The contracting authority may impose liquidated damages should the contractor fail to complete its contractual obligations, also with regard to the required quality level, according to the Special Tender Specifications.

Should the contractor fail to perform its contractual obligations within the time-limits set by the contract, then, without prejudice to the contractor's actual or potential liability or to the contracting authority's right to terminate the contract, the contracting authority may impose liquidated damages for each and every calendar day of delay.

The contractor may submit arguments against this decision within 30 days of receipt of the formal notification. In the absence of a reaction on its part or of written withdrawal by the contracting authority within 30 days of the receipt of such arguments, the decision imposing the liquidated damages shall become enforceable.

The parties expressly acknowledge and agree that any sums payable under this article are in the nature of liquidated damages and not penalties, and represent a reasonable estimate of fair compensation for the losses incurred due to failure to fulfil obligations which may be reasonably anticipated.

ARTICLE II.13 – SUSPENSION OF THE PERFORMANCE OF THE CONTRACT

II.13.1 Suspension by the contractor

The contractor may suspend the performance of the contract or any part thereof if a case of force majeure makes such performance impossible or excessively difficult. The contractor shall inform the

contracting authority about the suspension without delay, giving all the necessary reasons and details and the envisaged date for resuming the performance of the contract.

Once the circumstances allow resuming performance, the contractor shall inform the contracting authority immediately, unless the contracting authority has already terminated the contract.

II.13.2 Suspension by the contracting authority

The contracting authority may suspend the performance of the contract or any part thereof:

(a) if the contract award procedure or the performance of the contract prove to have been subject to substantial errors, irregularities or fraud;

(b) in order to verify whether presumed substantial errors, irregularities or fraud have actually occurred.

Suspension shall take effect on the day the contractor receives formal notification, or at a later date provided in the notification. The contracting authority shall give notice as soon as possible to the contractor to resume the service suspended or inform the contractor that it is proceeding with the termination of the contract. The contractor shall not be entitled to claim compensation on account of suspension of the contract or of part thereof.

ARTICLE II.14 - TERMINATION OF THE CONTRACT

II.14.1 Grounds for termination

Notwithstanding any other term of this Contract, the Contracting Authority may terminate the Contract, a purchase order or specific contract in the following circumstances:

a. if a change to the Contractor's legal, financial, technical or organisational or ownership situation is likely to affect the performance of the contract substantially or calls into question the decision to award the contract;

b. if the execution of the tasks of the contract or a purchase order or a specific contract has not actually commenced within three months of the date foreseen, and the new date proposed, if any, is considered unacceptable by the contracting authority;

c. if the contractor does not perform the contract or a purchase order or specific contract as established in the Special Tender Specifications, the request for services, or fails to fulfil any other substantial contractual obligation;

d. in the event of force majeure notified in accordance with Article II.11 or if the performance of the contract has been suspended by the contractor as a result of force majeure, notified in accordance with Article II.11, where either resuming performance is impossible or the modifications to the contract might call into question the decision awarding the contract or result in unequal treatment of tenderers;

e. if the contractor is declared bankrupt, is being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

f. if the contractor or any natural person with the power to represent it or take decisions on its behalf has been found guilty of professional misconduct proven by any means;

g. if the contractor is not in compliance with its obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established or with those of the country of the applicable law of this contract or those of the country where the contract is to be performed;

h. if the contracting authority has evidence that the contractor or natural persons with the power to represent it or take decisions on its behalf have committed fraud, corruption or any other illegal activity detrimental to the financial interests of the EUI, or has evidence or seriously suspects that they are involved in a criminal organisation or money laundering;

i. if the Contracting Authority has evidence that the Contractor or natural persons with power to represent or take decisions on its behalf have committed substantial errors, irregularities or fraud in the award procedure or the performance of the Contract, including the case of submission of false information;

j. if the Contractor is unable, through its own fault, to obtain any permit or licence required for the performance of the Contract, purchase orders or specific contracts;

k. in the presence of serious misconduct by employees, duly reported in writing by the contracting authority and which is not promptly handled by replacement of personnel in question.

l. [if the Prefecture of Florence denies a valid request from the Institute for anti-mafia certification concerning the Contractor.]

II.14.2 Procedure for termination

Where the contracting authority intends to terminate the contract, a purchase order or specific contract, it shall formally notify the contractor of its intention, specifying the grounds thereof. The Contracting Authority shall invite the Contractor to make any observations and, in the case of point II.14.1, point c) to inform the contracting authority about the measures taken to continue the fulfilment of its contractual obligations, within 30 days from receipt of the notification.

If the Contracting Authority does not confirm acceptance of these observations by giving written approval within 30 days of receipt, the termination procedure shall proceed. In any case of termination, the contracting authority shall formally notify the contractor about its decision to terminate the contract.

In the cases referred to in points in letters a), b), c), e), g) and j) of Article II.14.1, the formal notification shall specify the date on which the termination takes effect.

In the cases referred to in points d), f), h) and i) and k) of Article II.14.1 the termination shall take effect on the day following the date on which notification is received by the contractor.

II.14.3 Effects of termination

In the event of termination, the Contractor shall waive any claim for consequential damages, including any loss of anticipated profits for uncompleted work. On receipt of the notification of termination, the Contractor shall take all the appropriate measures to minimise costs, prevent damages, and cancel or reduce its commitments. The Contractor shall have 60 days from the date of termination to draw up the documents required by the special conditions for the tasks already executed on the date of termination and produce an invoice if necessary. The Contracting Authority may recover any amounts paid under the contract.

The Contracting Authority may claim compensation for any damage suffered in the event of termination.

On termination the Contracting Authority may engage any other Contractor to execute or complete the services. The Contracting Authority shall be entitled to claim from the Contractor all extra costs incurred in this regard, without prejudice to any other rights or guarantees it may have under the Contract.

ARTICLE II.15 - REPORTING AND PAYMENTS

II.15.1 Date of payment

Payments shall be deemed to be effected on the date when they are debited to the Contracting Authority's account.

II.15.2 Currency

The contract shall be in euros.

Payments shall be executed in euro (€) or in the local currency, if the receiving party has its legal seat outside Euro-area.

II.15.3 Invoices and VAT

The Institute is a teaching and research centre which uses a decentralised administrative structure and which manages, in addition to the different internal projects, several activities which are externally financed by both public and private sponsors. The Contractor undertakes to follow the analytical invoicing procedures requested by the Institute, issuing on demand specific invoices for each cost centre/activity identified.

Invoices shall show the identification details of the Contractor, the amount, currency and date, as well as the reference to the Contract, purchase order or specific contract.

The EUI is, as a rule, exempt from payment of Value Added Tax (VAT) pursuant to Art. 151, para 1 (b) and para 2 of Council Directive 2006/112/EC, as last amended by Council Directive 2009/162/UE.

This exemption applies to goods imported and services provided for the Institute's official activities for amounts exceeding €300.00 (three hundred/00).

The EUI is exempt from customs duties and direct taxes within the terms of Articles 4 and 5 of the "Protocol on the Privileges and Immunities of the European University Institute".

The Contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that supplies and services required for the performance of the contract are exempt from taxes and duties, including VAT exemption.

II.15.4 Suspension of the time allowed for payment

The contracting authority may suspend the payment periods at any time by notifying the contractor that its invoice cannot be processed, either because it does not comply with the provisions of the contract, or because the appropriate documents have not been produced.

The contracting authority shall inform the contractor in writing as soon as possible of any such suspension, giving the reasons for it.

Suspension shall take effect on the date the notification is sent by the contracting authority. The remaining payment period shall start to run again from the date on which the requested information or revised documents are received or the necessary further verification, including on-the-spot checks, is carried out. Where the suspension period exceeds two months, the contractor may request the contracting authority to justify the continued suspension.

Where the payment periods have been suspended following rejection of a document and the new document produced is also rejected, the contracting authority reserves the right to terminate the contract in accordance with Article II.14.1 (c).

II.15.5 Performance guarantees

Performance guarantees shall cover performance of the service in accordance with the terms set out in the Special Tender Specifications until its final acceptance by the contracting authority. The amount of a performance guarantee shall not exceed the total price of the contract. The guarantee shall provide that it remains in force until final acceptance. The contracting authority shall release the guarantee within a month following the date of final acceptance.

In accordance with Article I.4, the performance guarantee shall fulfil the following conditions:

a. the financial guarantee is provided by a bank or an approved financial institution or, at the request of the contractor and agreement by the contracting authority, by a third party;
b. the guarantor stands as first-call guarantor and does not require the contracting authority to have recourse against the principal debtor (the contractor).

The cost of providing such guarantee shall be borne by the contractor.

ARTICLE II.16 - REIMBURSEMENTS

Not applicable.

ARTICLE II.17– RECOVERY

II.17.1 If an amount is to be recovered under the terms of the contract, the contractor shall repay the contracting authority the amount in question according to the terms and by the date specified in the debit note.

II.17.2 If the obligation to pay the amount due is not honoured by the date set by the contracting authority in the debit note, the amount due shall bear interest at the rate applied by the European Central Bank for its main refinancing operations in Euros (the reference rate) plus 3.5%. The reference rate shall be the rate in force on the first day of the month in which the payment period ends, as published in the C series of the Official Journal of the European Union.

Interest on late payments shall cover the period from the day following the due date for payment, up to and including the date when the contracting authority receives full payment of the amount owed.

Any partial payment shall first be entered against charges and interest on late payment and then against the principal amount.

II.17.3 If payment has not been made by the due date, the contracting authority may, after informing the contractor in writing, recover the amounts due by offsetting them against any amounts owed to the contractor by the Institute.

ARTICLE II.18 – CHECKS AND AUDITS

II.18.1 The contracting authority may check or have an audit on the performance of the contract. It may be carried out either directly by its own staff or by any other outside body authorised to do so on its behalf.

Such checks and audits may be initiated during the performance of the contract and during a period of five years which starts running from the date of the payment of the balance.

The audit procedure shall be deemed to be initiated on the date of receipt of the relevant letter sent by the contracting authority. Audits shall be carried out on a confidential basis.

II.18.2 The Contractor, during the lifetime of the Contract, shall or shall procure that its subcontractors shall gather, compile, correlate, collect and otherwise maintain all relevant accounts, records, books and other information in documentary form or on easily accessible electronic media ("Records"), arising in connection with the performance of the Contract.

The contractor shall keep all original documents stored on any appropriate medium, including digitised originals when they are authorised by national law and under the conditions laid down therein, for a period of five years which starts running from the date of payment of the balance.

II.18.3 The contractor shall allow the contracting authority's staff and outside personnel authorised by the contracting authority the appropriate right of access to sites and premises where the contract is performed and to all the information, including information in electronic format, needed in order to conduct such checks and audits. The contractor shall ensure that the information is readily available at the moment of the check or audit and, if so requested, that information be handed over in an appropriate form.

II.18.4 On the basis of the findings made during the audit, a provisional report shall be drawn up. It shall be sent to the contractor, which shall have 30 days following the date of receipt to submit observations. The final report shall be sent to the contractor within 60 days following the expiry of that deadline.

On the basis of the final audit findings, the contracting authority may recover all or part of the payments made and may take any other measure which it considers necessary.