

## Solutions Engagement Agreement

This Base Agreement (“**Base Agreement**”) between INTESA SpA (“**Buyer**”) and the “**Supplier**”, establishes the basis for a multinational procurement relationship under which Supplier will provide the Deliverables and Services described in SOWs and/or Was or Purchase Orders issued under this Base Agreement.

### 1.0 Definitions

**"Affiliates"** means entities that control, are controlled by, or are under common control with, a party to this Agreement.

**"Agreement"** means this Base Agreement and any relevant Statements of Work ("**SOW**"), Work Authorizations ("**WA**"), and other attachments or appendices specifically referenced in this Agreement.

**"Business Partner Agreement"** means an agreement executed between Buyer and Supplier to promote, market, and support certain products and services.

**"Customer"** means Buyer’s customer.

**"Deliverables"** means items that Supplier prepares for or provides to Buyer or Customer as described in a SOW and/or WA. Deliverables include Equipment, Program Products, Developed Works, Preexisting Materials and Tools.

**"Developed Works"** means all work product (including software and its Externals) developed in the performance of this Agreement as described in a SOW and/or WA. Developed Works do not include Preexisting Materials, Tools, Program Products, or items specifically excluded in a SOW and/or WA.

**"Electronic Self-Help"** means a process where Supplier electronically disables, removes, or otherwise prevents the use of its software product without the Buyer's or Buyer's Customer's cooperation or consent. Electronic Self-Help could be done through electronic or other means (for example: remotely through "back doors" or hidden entrances in the software or through hidden shut-down commands in the software that can be activated by phone or in other ways).

**"Equipment"** means a machine, its features, elements, cables, or accessories, including the documentation required to install, support, use, and maintain it.

**"Externals"** means any pictorial, graphic, audiovisual works, reports or data generated by execution of code and any programming interfaces, languages or protocols implemented in the code to enable interaction with other computer programs or end users. Externals do not include the code that implements them.

**"Inventions"** means ideas, designs, concepts, techniques, inventions, discoveries or improvements, whether or not patentable, conceived or reduced to practice by Supplier or Supplier Personnel in performance of this Agreement.

**"Joint Inventions"** means Inventions made by Supplier or Supplier Personnel with Buyer Personnel.

**"Participation Agreement"** or "**PA**" means an agreement signed by one or more Affiliates which incorporates by reference the terms and conditions in this Base Agreement, any relevant SOW, and other attachments or appendices specifically referenced in the PA.

**"Personal Data"** means any information that may identify an individual.

**"Personnel"** means agents, employees or subcontractors engaged or appointed by Buyer, Customer or Supplier.

**"Preexisting Materials"** means items including their Externals, contained within a Deliverable, in which the copyrights are owned by a third party or that Supplier prepared or had prepared outside the scope of this Agreement. Preexisting Materials exclude Program Products and Tools, but may include material that is created by the use of Tools.

**"Prices"** means the agreed upon payment and currency for Deliverables and Services, exclusive of Taxes but including all applicable fees and payments, as specified in the relevant SOW and/or WA.

**"Program Products"** means Supplier’s commercially available software and the documentation required to install, support, use, and maintain it.

**"Services"** means work that Supplier performs for Buyer as described in a SOW and/or WA.

**"Statement of Work"** or "**SOW**" means any document that:

1. identifies itself as a statement of work;
2. is signed by both parties;
3. incorporates by reference the terms and conditions of this Base Agreement; and
4. describes the Deliverables and Services, including any requirements, specifications or schedules.

**"Taxes"** means any and all applicable taxes, charges, fees, levies or other assessments imposed or collected by any governmental entity worldwide or any political subdivision thereof and however designated or levied on sales of Deliverables or Services, or sales, use, transfer, goods and services or value added tax or any other duties or fees related to any payment made by Buyer to Supplier for Deliverables and/or Services provided by Supplier to Buyer under or pursuant to this Agreement; exclusive, however, of any taxes imposed upon the net income or capital of Supplier, any taxes in lieu of such net income taxes and any other taxes which are to be borne by Supplier under law.

**"Tools"** means software that is not commercially available, and its Externals, required for the development, maintenance or implementation of a software Deliverable other than a Program Product.

**"Work Authorization"** or "**WA**" means Buyer’s authorization in either electronic or tangible form for Supplier to conduct transactions under this Agreement in accordance with the applicable SOW (i.e., a purchase order, bill of lading, or other

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Buyer designated document). A SOW is a WA only if designated as such in writing by Buyer.

### 2.0 Statement of Work

Supplier will provide Deliverables and Services as specified in the relevant SOW and/or WA. Supplier will begin work only after receiving a WA from Buyer. Buyer may request changes to a SOW and/or WA and Supplier will submit to Buyer the impact of such changes. Changes accepted by Buyer will be specified in an amended SOW and/or WA or change order signed by both parties. Supplier agrees to accept all WA's that conform with the terms and conditions of this Agreement.

### 3.0 Pricing

Supplier will provide Deliverables and Services to Buyer for the Prices. The Prices for Deliverables and Services specified in a SOW and/or WA and accepted by Buyer plus the payment of applicable Taxes will be the only amount due to Supplier from Buyer. The relevant SOW or WA shall contain Prices for each country receiving Deliverables and Services under this Agreement. Supplier is not entitled to payment under this Agreement for activities also covered by a Business Partner Agreement with Buyer.

### 4.0 Taxes

Supplier's invoices shall state all applicable Taxes, if any, by tax jurisdiction and with a proper breakdown between taxable and non-taxable Deliverables and Services. Supplier assumes responsibility to timely remit all Tax payments to the appropriate governmental authority in each respective jurisdiction. Supplier and Buyer agree to cooperate to minimize, wherever possible and appropriate, any applicable Taxes and provide reasonable notice and cooperation in connection with any audit. Supplier shall also bear sole responsibility for all taxes, assessments, or other levies on its own income, leased or purchased property, equipment or software. If Buyer provides a direct pay certificate, certification of an exemption from Tax or reduced rate of Tax imposed by an applicable taxing authority, then Supplier agrees not to invoice or pay any such Tax unless and until the applicable taxing authority assesses such Tax, at which time Supplier shall invoice and Buyer agrees to pay any such Tax that is legally owed.

Buyer shall withhold taxes as required under applicable law on payments made to Supplier hereunder and shall be required to remit to Supplier only the net proceeds thereof. Buyer agrees to remit in a timely manner all taxes withheld to the appropriate government authority in each respective jurisdiction. Upon Buyer request, Supplier will deliver the appropriate documentation as required by the corresponding jurisdictional tax laws, within 15 business days from such request.

Supplier will reimburse Buyer for any claims by any jurisdiction relating to Taxes paid by Buyer to Supplier; and for any penalties, fines, additions to Tax or interest thereon imposed as a result of Supplier's failure to timely remit the Tax payment to the appropriate governmental authority in each respective jurisdiction. Supplier shall also reimburse Buyer for any claims made by a taxing jurisdiction for penalties, fines, additions to Tax and the amount of interest thereon imposed with respect to Supplier's failure to invoice Buyer for the correct amount of Tax.

### 5.0 Payments and Acceptance

#### 5.1 *Payments and Acceptance Terms*

Terms for payment will be specified in the relevant SOW and/or WA. Payment of invoices will not be deemed acceptance of Deliverables or Services, but rather such Deliverables or Services will be subject to inspection, test, acceptance or rejection in accordance with the acceptance or completion criteria as specified in the relevant SOW and/or WA. Buyer or Customer may, at its option, either reject Deliverables or Services that do not comply with the acceptance or completion criteria for a refund, or require Supplier, upon Buyer's written instruction, to repair or replace such Deliverables or re-perform such Service, without charge and in a timely manner.

Unless otherwise provided by local law without the possibility of contractual waiver or limitation, Supplier will submit invoices, corrected invoices, or other such claims for reimbursement, to Buyer within (1) year from the date of acceptance of Deliverables or the satisfactory completion of Services. Exceptions must be specifically authorized by Buyer.

#### 5.2 *Outsourcing License*

In the event Buyer provides outsourcing services to licensees of a Program Product, Buyer will not owe Supplier a fee for access to or assignment of a license to such Program Product or for transfer of the applicable Program Product to a Buyer computer system which is of like configuration as the computer system for which the Program Product was licensed. The foregoing is subject to Buyer providing Supplier notice of such Program Product to be managed by Buyer and provided the Program Product will only be used on behalf of the licensee. Upon expiration or termination of the agreement to provide

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outsourcing services to the licensee, Buyer's right to use that copy of the Program Product will end.

For those Program Products acquired directly by Buyer from Supplier, Buyer shall be free to continue to use such Program Products in support of its business needs, including in support of the provision of Services to Buyer's Customers, at no additional fee, subject to the continued compliance with the terms of the Agreement. Buyer shall have the right to assign the license it has acquired from Supplier hereunder to its Customer at no additional cost, provided that Buyer gives Supplier thirty (30) days prior written notice of its intent to assign such rights, and provided further that Buyer's Customer signs Supplier's license, and/or such other contractual document as may be reasonably required for such Program Product support.

### 6.0 Electronic Commerce

To the extent permitted by local law, the parties will conduct transactions using an electronic commerce approach under which the parties will electronically transmit and receive legally binding purchase and sale obligations ("Documents"), including electronic credit entries transmitted by Buyer to the Supplier account specified in the relevant SOW and/or WA. The parties will enter into a separate agreement governing the transmission of such electronic transactions and associated responsibilities of the parties.

### 7.0 Warranties

#### 7.1 Ongoing Warranties

Supplier makes the following ongoing representations and warranties:

1. it has the right to enter into this Agreement and its performance of this Agreement will comply, at its own expense, with the terms of any contract, obligation, including any between Supplier and its end-users; or any law, regulation or ordinance to which it is or becomes subject;
2. it is incorporated or organized as a partnership;
3. no claim, lien, or action exists or is threatened against Supplier that would interfere with Buyer's rights under this Agreement;
4. it has disclosed to Buyer in writing the existence of any third party code, including without limitation open source code, that is included in or is provided in connection with the Deliverables and that Supplier and the Deliverables are in compliance with all licensing agreements applicable to such third party code;
5. Deliverables and Services do not infringe any privacy, publicity, reputation or intellectual property right of a third party;
6. all authors have agreed not to assert their moral rights (personal rights associated with authorship of a work under applicable law) in the Deliverables, to the extent permitted by law;
7. Deliverables, except for Program Products, are free from defects in design (except for written designs provided by Buyer unless such designs are based entirely on Supplier's specifications), material and workmanship for one year from the date of acceptance. Except for this one year limitation that applies to defects in design, material and workmanship, Deliverables and Services will conform to the warranties, specifications and requirements in this Agreement;
8. it will not engage in Electronic Self-Help;
9. Deliverables are safe for use consistent with the warranties, specifications and requirements in this Agreement;
10. Deliverables do not contain harmful code;
11. Services will be performed using reasonable care and skill and in accordance with the relevant SOW and/or WA;
12. Deliverables and Services which interact in any capacity with monetary data are euro ready such that when used in accordance with their associated documentation they are capable of correctly processing monetary data in the euro denomination and respecting the euro currency formatting conventions (including the euro sign) provided that products and systems not provided by Supplier are capable of interacting with Supplier's euro ready Deliverables and Services;
13. none of the Deliverables contain nor are any of the Deliverables manufactured using ozone depleting substances known as halons, chlorofluorocarbons, hydro chlorofluorocarbons, methyl chloroform and carbon tetrachloride as defined by the Montreal Protocol;
14. Deliverables are new and do not contain used or reconditioned parts;
15. it is knowledgeable with, and is and will remain in full compliance with all applicable export and import laws, regulations, orders, and policies (including, but not limited to, securing all necessary clearance requirements, export and import licenses and exemptions from, and making all proper filings with appropriate governmental bodies and/or disclosures relating to the release or transfer of technology and software to non U.S. nationals in the U.S., or outside the U.S., release or transfer of technology and software having U.S. content or derived from U.S.-origin software or technology); it is knowledgeable with applicable supply chain security recommendations issued by applicable governments and industry standards organizations and will make best efforts to comply with such recommendations;
16. upon Buyer request, it will promptly provide all information necessary to export and import Deliverables under this Agreement, including, as applicable, the Export Control Classification Numbers (ECCN) and subheadings or munitions list

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category number, and will notify Buyer in writing of any changes to the information provided by Supplier to export and import Deliverables under this Agreement;

17. unless authorized by applicable government license or regulation, including but not limited to any U.S. authorization, Supplier will not directly or indirectly export or reexport, at any time, any technical information, technology, software, or other commodity furnished or developed under this, or any other, agreement between the parties, or any other product that is developed or produced from or using Buyer's technical information, technology, software, or other commodity provided under this Agreement to any prohibited country (including release of such technical information, technology, software, or other commodity to nationals, wherever they may be located, of any prohibited country) as specified in applicable export, embargo, and sanctions regulations;

18. it will not use, disclose, or transfer across borders any Personal Data that is processed for Buyer, except to the extent necessary to perform under this Agreement; and

19. it will comply with all applicable data privacy laws and regulations, will implement and maintain appropriate technical and organizational measures and other protections for the Personal Data, (including, without limitation, not loading any Personal Data provided to Supplier on (a) any laptop computers or (b) any portable storage media that can be removed from Supplier's premises unless, in each case, (i) such data has been encrypted and (ii) such data is loaded onto portable storage media solely for the purpose of moving such data to off-site storage). Further, it will report to Buyer any breaches of security of Personal Data immediately after discovery thereof if the Personal Data was, or could be, accessed, used or acquired by an unauthorized person or compromised in any way and will cooperate fully with Buyer in investigating any such breaches or compromises, will cooperate fully with Buyer's requests for access to, correction of, and destruction of Personal Data in Supplier's possession, and will comply with all instructions or other requirements provided or issued by Buyer from time to time relating to Personal Data.

### 7.2 Standard Warranties

Supplier's standard warranty for Program Products will apply to defects in design, material and workmanship; provided however, Program Products will conform to all other warranties, specifications and requirements in this Agreement.

Buyer may pass Supplier's standard warranty for Equipment or Program Products through to the Customer. The Customer may deal directly with Supplier under such warranty and in the event Supplier's standard warranty is more favorable than the warranties in this Agreement, Supplier's standard warranty will apply. If Supplier is not the original manufacturer of the Equipment, Supplier will pass through to Buyer or Customer all warranties provided by the original Equipment manufacturer. In the event of a conflict between the Supplier's standard warranties, original Equipment manufacturer's warranties and the warranties in this Agreement, the warranties more favorable to Buyer or Customer apply.

**THE WARRANTIES IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THOSE WARRANTIES OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

### 7.3 Warranty Redemption

Subject to the Section titled Supplier Liability for Third Party Claims, if Deliverables or Services do not comply with the warranties in this Agreement, Supplier will repair or replace Deliverables or re-perform Services, without charge and in a timely manner. If Supplier fails to do so, Buyer or Customer may repair or replace Deliverables or re-perform Services and Supplier will reimburse Buyer for actual and reasonable expenses. Any reimbursement for Program Products pursuant to the foregoing sentence shall be limited to two times the amount of license fees and maintenance services specified in the SOW and/or WA.

### 8.0 Delivery

Deliverables or Services will be delivered as specified in the relevant SOW and/or WA. Buyer may cancel or reschedule the delivery date or change the delivery point as specified in the relevant SOW and/or WA. Risk of loss and title to any tangible property will pass to Buyer or Buyer's Customer at the delivery point. If Supplier cannot comply with a delivery commitment, Supplier will promptly notify Buyer of a revised delivery date and Buyer may:

1. cancel without charge Deliverables or Services not yet delivered; and
2. exercise all other remedies provided at law, in equity and in this Agreement.

### 9.0 Intellectual Property

#### 9.1 Work Made for Hire

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All Developed Works belong exclusively to Buyer or Customer and are works made for hire. If any Developed Works are not considered works made for hire owned by operation of law, Supplier assigns the ownership of copyrights in such works to Buyer or Customer.

### **9.2 Preexisting Materials**

Supplier will not include any Preexisting Materials in any Deliverable unless they are listed in the relevant SOW and/or WA. If Supplier includes any Preexisting Materials in a Deliverable whether or not listed in the relevant SOW and/or WA, Supplier grants or will obtain for Buyer the following rights: a nonexclusive, worldwide, perpetual, irrevocable, paid-up, license to prepare and have prepared derivative works of such Preexisting Materials and to use, have used, execute, reproduce, transmit, display, perform, transfer, distribute, and sublicense such Preexisting Materials or their derivative works, and to grant others the rights granted in this Subsection.

### **9.3 Tools**

Supplier will not include Tools in Deliverables unless they are listed in the relevant SOW and/or WA. If Supplier includes any Tools in a Deliverable whether or not listed in the relevant SOW and/or WA, Supplier grants or will obtain for Buyer the following rights: a nonexclusive, worldwide, perpetual, irrevocable, paid-up, license to prepare and have prepared derivative works of such Tools, and to use, have used, execute, reproduce, transmit, display and perform such Tools or their derivative works, and to grant others the rights granted in this Subsection.

### **9.4 Invention Rights**

Supplier owns Inventions. Supplier grants to Buyer and Customer an irrevocable, nonexclusive, worldwide, perpetual, paid-up license under Inventions (including any patent applications filed on or patents issued claiming Inventions). The license scope is to make, have made, use, have used, sell, license or transfer items and to practice and have practiced methods.

### **9.5 Joint Invention Rights**

The parties will jointly own all Joint Inventions and resulting patents. Either party may license others under Joint Inventions (including any patent applications filed on or patents issued claiming Joint Inventions) without accounting to or consent from the other.

### **9.6 Perfection of Copyrights**

Upon request, Supplier will provide to Buyer a "Certificate of Originality" or equivalent documentation to verify authorship of Deliverables. Supplier will confirm assignment of copyright for Developed Works using the "Confirmation of Assignment of Copyright" form and will assist Buyer in perfecting such copyrights.

### **9.7 Perfection of Invention Rights**

Supplier will identify all countries in which it will seek patent protection for each Invention. Supplier authorizes Buyer to act as its agent in obtaining patent protection for the Inventions in countries where Supplier does not seek patent protection. Supplier will, at Buyer's expense, assist in the filing of patent applications on Inventions and have required documents signed.

### **9.8 Trademarks**

This Agreement does not grant either party the right to use the other party's or their Affiliates' trademarks, trade names or service marks.

### **9.9 Patents**

For the purpose of supporting the Customer as specified in the relevant SOW and/or WA, Supplier grants to Buyer a nonexclusive, worldwide, perpetual, irrevocable, and paid-up license under any patents and patent applications licensable by Supplier to make, have made, use, have used, import, export, sell, and otherwise transfer the Deliverables and use the Services to the extent authorized in this Base Agreement and any relevant Statements of Work and Work Authorizations.

### **9.10 Program Products**

Customer will receive a license agreement from Buyer or Supplier for Program Products, to which Buyer is not a party nor liable for violations. If a Program Product is available under an existing Buyer agreement, the terms of that agreement will control distribution of that Program Product. Buyer may install and test Program Products for Customer without charge. For recurring charge licenses, Buyer will notify Supplier when to begin invoicing Customer, if applicable.

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## 10.0 Supplier Liability for Third Party Claims

### 10.1 General Indemnification

Supplier will defend, hold harmless and indemnify, including legal fees, Buyer and Buyer Personnel, Buyer's landlord (if there is one), and Customer and Customer Personnel against third party claims that arise or are alleged to have arisen as a result of negligent or intentional acts or omissions of Supplier or Supplier Personnel or breach by Supplier of any term of this Agreement.

### 10.2 Intellectual Property Indemnification

Supplier will defend, or at Buyer's option cooperate in the defense of, hold harmless and indemnify, including legal fees, Buyer, Buyer Personnel, Customer and Customer Personnel from third party claims that Supplier's Deliverables or Services infringe the intellectual property rights of a third party. In addition, if such a claim is or is likely to be made, Supplier will, at its own expense, exercise the first of the following remedies that is practicable:

1. obtain for Buyer and Customer the right to continue to use, sell and license the Deliverables and Services consistent with this Agreement;
2. modify Deliverables and Services so they are non-infringing and in compliance with this Agreement;
3. replace the Deliverables and Services, or other affected Deliverables or Services, with non-infringing ones that comply with this Agreement; or
4. at Buyer's request, accept the cancellation of infringing Deliverables and Services without Buyer having any cancellation liability and the return of the infringing Deliverables at Supplier's expense and refund any amount paid.

Buyer will give Supplier prompt notice of third party claims against Buyer, and cooperate in the investigation, settlement and defense of such claims.

### 10.3 Exceptions to Indemnification

Supplier will have no obligation to indemnify Buyer, Buyer Personnel or Customer for claims that Supplier's Deliverables or Services infringe the intellectual property rights of a third party to the extent such claims arise as a result of:

1. Buyer's or Customer's combination of Deliverables or Services with other products or services not reasonably foreseeable by Supplier and such infringement or claim would have been avoided in the absence of such combination;
2. Supplier's implementation of a Buyer originated design and such infringement or claim would have been avoided in the absence of such implementation; or
3. Buyer's or Customer's modification of the Deliverables and such infringement or claim would have been avoided in the absence of such modification.

## 11.0 Limitation of Liability between Supplier and Buyer

In no event will either party be liable to the other for any lost revenues, lost profits, incidental, indirect, consequential, special or punitive damages. This mutual Limitation of Liability does not limit the obligations and liability of Supplier provided in the Section titled Supplier Liability for Third Party Claims.

Supplier acknowledges and agrees that all WA's or PA's issued by Buyer's Affiliate(s) are independent agreements between Supplier or Supplier Affiliate and the Buyer Affiliate. Buyer shall not be liable to Supplier or Supplier Affiliate(s) for any actions or inactions of any Buyer Affiliate(s) under a WA or PA, nor shall any actions or inactions by Buyer's Affiliate(s) constitute a breach of the Agreement between Buyer and Supplier.

## 12.0 Supplier and Supplier Personnel

Supplier is an independent contractor and this Agreement does not create an agency, partnership, or joint venture relationship between Buyer and Supplier or Supplier Personnel. Buyer assumes no liability or responsibility for Supplier Personnel.

Supplier will:

1. ensure it and Supplier Personnel are in compliance with all laws, regulations, ordinances, and licensing requirements;
2. be responsible for the supervision, control, compensation, withholdings, health and safety of Supplier Personnel;
3. inform Buyer if a former employee of Buyer will be assigned work under this Agreement, such assignment subject to Buyer approval;
4. upon request, provide Buyer, for export evaluation purposes, to the extent permitted by law, the country of citizenship and permanent residence and immigration status of those persons. Buyer retains the right to refuse to accept persons made available by Supplier for export reasons;
5. not discriminate against any employees, applicants for employment, or any entity engaged in its procurement practices because of race, color, religion, sex, age, national origin, or any other legally protected status;
6. (a) be solely responsible for, and fully and properly complete and submit to the relevant government immigration authority, all required immigration forms and documents for all Supplier Personnel performing Services hereunder, maintain

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such forms and documents as required by law and, subject to applicable laws (in particular laws regarding data privacy), make such forms and documents available to Buyer upon request, and

(b) ensure that Supplier Personnel who do not meet all immigration requirements do not perform Services under this Agreement;

7. not assign to work under this Agreement any Supplier Personnel that are subject to any restrictive covenants that could limit such Supplier Personnel from performing Services for Buyer or Customer;

8. before assignment of Supplier Personnel to perform Services for which Buyer has provided specific education requirements and to the extent permitted by law, Supplier shall review proof of education supplied by Supplier Personnel to confirm the Buyer's specific education requirements are satisfied, shall retain such proof of education and, subject to applicable law, shall make such proof of education available to Buyer upon request;

9. remove from any assignment under this Agreement, at Buyer's request in its sole discretion, any Supplier Personnel;

10. comply, at its own expense, with all laws (including Executive Orders), regulations and ordinances relating to verification of employment eligibility for Personnel to which it is or becomes subject to, such as participation in the United States Department of Homeland Security's E-Verify program ("E-Verify") in the United States or similar state or other government sponsored programs, and verify employment eligibility of all Supplier Personnel performing Services for, or providing Deliverables to, Buyer and/or its Customers through such programs, as applicable; and

11. upon Buyer's request, provide documentation to verify compliance with this Section titled "Supplier and Supplier Personnel".

### **12.1 General Business Activity Restrictions**

(a) Supplier will ensure that Supplier Personnel assigned to work on Buyer's or Customer's premises will not:

1. conduct any non-Buyer related business activities (such as interviews, hirings, dismissals or personal solicitations) on Buyer's or Customer's premises;

2. conduct Supplier's Personnel training on Buyer's or Customer's premises, except for on-the-job training;

3. attempt to participate in Buyer or Customer benefit plans or activities;

4. send or receive non-Buyer related mail through Buyer's or Customer's mail systems; and

5. sell, advertise or market any products or distribute printed, written or graphic materials on Buyer's or Customer's premises without Buyer's written permission.

(b) Supplier will, for Supplier Personnel assigned to work on Buyer's or Customer's premises:

1. obtain for each person a valid identification badge from Buyer and return identification badges upon completion or termination of Supplier Personnel assignments;

2. ensure that each person with regular access to Buyer's and Customer's premises complies with all parking restrictions and with vehicle registration requirements if any; and

3. ensure that each person remains in authorized areas only (limited to the work locations, cafeterias, rest rooms, and, in the event of a medical emergency, Buyer's or Customer's medical facilities).

### **12.2 Buyer's Safety and Security Guidelines**

Supplier will ensure that Supplier Personnel assigned to work on Buyer's or Customer's premises:

1. do not bring weapons of any kind onto Buyer's or Customer's premises;

2. do not manufacture, sell, distribute, possess, use or be under the influence of controlled substances (for nonmedical reasons) or alcoholic beverages while on Buyer's or Customer's premises;

3. do not have in their possession hazardous materials of any kind on Buyer's or Customer's premises without Buyer's authorization.

Supplier will promptly notify Buyer of any accident or security incidents (such as those involving loss or misuse of, or damage to, Buyer's Assets (as defined below), physical altercations, assaults or harassment) and provide Buyer with a copy of any accident or incident report involving the above.

### **12.3 Asset Control**

For purposes of this Subsection, the term "Buyer Assets" means information, information assets, supplies or other property, including property owned by third parties (such as Buyer Customers) that is accessed by Buyer Personnel or provided to Supplier Personnel by (or on behalf of) Buyer. Supplier Personnel will:

1. not remove Buyer Assets from Buyer's or Customer's premises without Buyer's authorization;

2. use Buyer Assets only for purposes of this Agreement and reimburse Buyer for any unauthorized use;

3. only connect with, interact with or use programs, tools or routines that Buyer agrees are needed to provide Services;

4. not share or disclose user identifiers, passwords, cipher keys or computer dial port telephone numbers;

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5. not copy, disclose or leave such assets unsecured or unattended, in the event the Buyer Assets are confidential; and
  6. immediately notify Buyer of any security incidents involving Buyer Assets and provide Buyer with a copy of any accident or incident report involving the above.
- Buyer may periodically audit Supplier's data residing on Buyer Assets.

### **12.4 Supervision of Supplier's Personnel**

(a) Supplier will:

1. provide consistent and effective supervision of its Personnel provided under this Agreement, at no additional cost to Buyer;
2. conduct orientation sessions with its Personnel before placement on an assignment with Buyer and identify and provide contact information (which shall be updated by Supplier as necessary) for all supervisor(s) for its Personnel;
3. instruct its Personnel that employment related issues should be brought forward to Supplier (and not Buyer). Where such issues relate to actions which are alleged to have been taken by Buyer or Buyer Personnel, Supplier will notify Buyer immediately in order that appropriate investigative action be taken.

(b) Supplier's supervisor(s) shall:

1. exercise full supervisory authority over all day-to-day employment relationship decisions relating to Supplier's Personnel, including those decisions relating to: wages, hours, terms and conditions of employment, hiring, discipline, performance evaluations, termination, counseling and scheduling; and
2. know each work location's planned holiday (and other closing) schedules and the impacts all such schedules have on Supplier Personnel.

(c) Notwithstanding any other language or agreement to the contrary, Supplier agrees that Buyer has no responsibility to approve, and that Buyer will not approve, timesheets for any Supplier Personnel. If Buyer should review, sign and/or submit timesheets for Supplier Personnel, whether manually or electronically, as part of Buyer's billing verification processes, the parties acknowledge and agree that such review, signature and/or submission shall in no way constitute concurrence or approval of such timesheets, nor create any other commitment or obligation on the part of Buyer to Supplier or Supplier Personnel.

### **12.5 Criminal Background Checks**

(a) To the extent permitted by local law, Supplier will:

1. obtain from all Supplier Personnel photographic proof of identity from an official government source (including but not limited to documentation such as a valid driver's license or government issued passport) and retain copies thereof;
2. to the extent permitted by local law, ensure that, prior to Supplier Personnel being assigned to perform Services under this Agreement, Supplier Personnel will participate in a criminal background check covering the jurisdictions (including but not limited to all counties or states (whichever is more comprehensive), countries (including a federal check in the United States) and provinces) in which the person was employed or resided for the past five years (or longer as required by applicable law);
3. not assign Supplier Personnel whose background checks show any of the following:
  - (a) felony or misdemeanor convictions involving dishonesty (e.g. bribery, fraud, embezzlement, theft, violations of securities laws), violence (including but not limited to sexual or child abuse crimes), or computer related crimes and/or convictions that are employment-related;
  - (b) the existence of restrictions (such as court orders) that would prevent, or impose limitations on, a person's ability to provide the Services contemplated by this Agreement; or
  - (c) that a person presents a higher than normal security risk to Buyer or Customer.

Upon Buyer request and subject to applicable law, Supplier will provide documentation to Buyer to verify its compliance with this Subsection.

(b) Once a criminal background check is conducted for a particular individual, such background check may be used by Supplier to satisfy the requirements of this Section titled "Criminal Background Checks" for five (5) years from the date of the background check. To the extent permitted by local law, Supplier shall conduct new background checks on individuals assigned to perform Services under this Agreement every five (5) years.

(c) Nothing in this Subsection titled "Criminal Background Checks" limits Buyer's ability to remove Supplier Personnel from an assignment at Buyer's discretion.

### **13.0 Insurance**

Supplier will maintain at its expense:

1. commercial general or public liability insurance including products liability and completed operations with a minimum



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- limit per occurrence or accident of 5,000,000 USD (or local currency equivalent);
- workers' compensation and employer's liability insurance as required by local law, such policies waiving any subrogation rights against Buyer; and
  - automobile liability insurance as required by local statute but not less than 5,000,000 USD (or local currency equivalent) if a vehicle will be used in the performance of this Agreement.

Insurance required under clauses (1) and (3) above must:

- name Buyer as an additional insured with respect to Buyer's insurable interest;
- be primary or non-contributory regarding insured damages or expenses; and
- be purchased either: (i) from insurers domiciled in the US with an AM Best Rating of A- or better and a financial class rating of 7 or better, or (ii) from non US carriers with a Standard & Poor's rating of BBB or greater and \$50M in policy holder's surplus.

Upon Buyer's request, Supplier will provide to Buyer certificate(s) of insurance to verify compliance with the terms and conditions above.

### 14.0 Termination

#### 14.1 Termination of this Base Agreement

Either party may terminate this Base Agreement, without any cancellation charge, for a material breach of this Agreement by the other party or if the other party becomes insolvent or files or has filed against it a petition in bankruptcy ("Cause"), to the extent permitted by law. Such termination will be effective at the end of a thirty (30) day written notice period if the Cause remains uncured. Either party may terminate this Base Agreement without Cause when there are no outstanding SOWs or WAs.

#### 14.2 Termination of a SOW or WA

Buyer may, upon written notice to Supplier, terminate a SOW or WA:

- with Cause effective immediately; or
- without Cause effective immediately or as otherwise specified in such notice.

Upon termination, in accordance with Buyer's written direction, Supplier will immediately:

- cease work;
- prepare and submit to Buyer an itemization of all completed and partially completed Deliverables and Services;
- deliver to Buyer Deliverables satisfactorily completed up to the date of termination at the agreed upon Prices in the relevant SOW and/or WA; and
- deliver upon request any work in process.

In the event Buyer terminates without Cause, Buyer will compensate Supplier for the actual and reasonable expenses incurred by Supplier for work in process up to and including the date of termination provided Supplier uses reasonable efforts to mitigate Buyer's liability under this Subsection by, among other actions, accepting the return of, returning to its suppliers, selling to others, or otherwise using the canceled Deliverables (including raw materials or work in process) and provided such expenses do not exceed the Prices.

### 15.0 General

#### 15.1 Amendments

This Agreement may only be amended by a writing specifically referencing this Agreement which has been signed by authorized representatives of the parties.

#### 15.2 Assignment

Neither party will assign their rights or delegate or subcontract their duties under this Agreement to third parties or Affiliates without the prior written consent of the other party, such consent not to be withheld unreasonably, except that either party may assign this Agreement in conjunction with the sale of a substantial part of its business utilizing this Agreement. Any unauthorized assignment of this Agreement is void.

#### 15.3 Choice of Law; Waiver of Jury Trial; Limitation of Action

This Agreement and the performance of transactions under this Agreement will be governed by the laws of the country where the Buyer entering into the Agreement is located, except:

- in Albania, Armenia, Azerbaijan, Belarus, Bosnia-Herzegovina, Bulgaria, Croatia, Former Yugoslav Republic of

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- Macedonia, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Montenegro, Romania, Russia, Serbia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan, this Agreement will be governed by the laws of Austria, ;
2. in Australia, this Agreement will be governed by the laws of the State or Territory in which the transaction occurs;
  3. in Canada, this Agreement will be governed by the laws of the Province of Ontario ;
  4. in Estonia, Latvia, and Lithuania, this Agreement will be governed by the laws of Finland;
  5. in the People's Republic of China, Puerto Rico and in the United States (including if any part of the transaction occurs within the United States) this Agreement and any dispute or controversy arising from or relating to this Agreement will be governed by the laws of the State of New York applicable to contracts executed in and performed entirely within that State;
  6. in the United Kingdom, this Agreement will be governed by the laws of England.

The United Nations Convention on Contracts for the International Sale of Goods does not apply. The parties expressly waive any right to a jury trial regarding disputes related to this Agreement. Any legal or other action related to a breach of this Agreement must be commenced no later than two (2) years from the date on which the cause of action arose, unless otherwise provided by local law without the possibility of contractual waiver or limitation.

### **15.4 Communications**

All communications between the parties regarding this Agreement will be conducted through the parties' representatives as specified in the relevant SOW and/or WA. All notices required in writing under this Agreement will be made to the appropriate contact(s) listed in the relevant SOW and/or WA and will be effective upon actual receipt. Notices may be transmitted electronically, by registered or certified mail, or courier. All notices, with the exception of legal notices, may also be provided by facsimile.

### **15.5 Counterparts**

This Agreement may be signed in one or more counterparts, each of which will be deemed to be an original and all of which when taken together will constitute the same Agreement. Any copy of this Agreement made by reliable means (for example, photocopy or facsimile) is considered an original.

### **15.6 Ethical Dealings**

Supplier will be familiar and will strictly comply with all laws and regulations on bribery, corruption, and prohibited business practices. Supplier and its Affiliates have not and will not, for the purpose of influencing or inducing anyone to influence decisions in favor of Buyer or any of its Affiliates, offer, promise or make or agree to make, directly or indirectly, (a) any political contributions of any kind or any payment to or for the benefit of any public official, whether elected or appointed, (b) any payments for gifts, meals, travel or other value for a government employee or his/her family members or (c) any payments or gifts (of money or anything of value) to anyone. Buyer shall not reimburse Supplier for any such political contributions, payments or gifts.

### **15.7 Exchange of Information**

All information exchanged is non confidential unless it will be made under a separate signed confidentiality agreement between the parties. The parties will not publicize the terms of this Agreement, or the relationship, in any advertising, marketing or promotional materials without prior written consent of the other party except as may be required by law, provided the party publicizing gives the other party reasonable prior notice to allow the other party a reasonable opportunity to obtain a protective order. Supplier will use information regarding this Agreement only in the performance of this Agreement. Any contacts with government employees by Supplier on Buyer's behalf may only be for the purpose of providing Services under this Agreement. For any Personal Data relating to Supplier Personnel that Supplier provides to Buyer, Supplier has obtained the agreement of the Supplier Personnel to release the information to Buyer and to allow Buyer to use, disclose and transmit such information in connection with this Agreement.

### **15.8 Freedom of Action**

This Agreement is nonexclusive and either party may design, develop, manufacture, acquire or market competitive products or services. Buyer will independently establish prices for resale of Deliverables or Services and is not obligated to announce or market any Deliverables or Services and does not guarantee the success of its marketing efforts, if any.

### **15.9 Force Majeure**

Neither party will be in default or liable for any delay or failure to comply with this Agreement due to any act beyond the control of the affected party, excluding labor disputes, provided such party immediately notifies the other.

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### **15.10 Obligations of Affiliates**

Affiliates will acknowledge acceptance of the terms of this Agreement through the signing of a PA before conducting any transaction under this Agreement.

### **15.11 Prior Communications and Order of Precedence**

This Agreement replaces any prior oral or written agreements or other communication between the parties with respect to the subject matter of this Agreement, excluding any confidential disclosure agreements. In the event of any conflict in these documents, the order of precedence will be:

1. the quantity, payment and delivery terms of the relevant WA;
2. the relevant SOW;
3. this Base Agreement; and
4. the remaining terms of the relevant WA.

### **15.12 Record Keeping and Audit Rights**

Supplier will maintain (and provide to Buyer upon request) relevant business and accounting records to support invoices under this Agreement and proof of required permits and professional licenses, for a period of time as required by local law, but not for less than three (3) years following completion or termination of the relevant SOW and/or WA. All accounting records will be maintained in accordance with generally accepted accounting principles.

### **15.13 Severability**

If any term in this Agreement is found by competent judicial authority to be unenforceable in any respect, the validity of the remainder of this Agreement will be unaffected, provided that such unenforceability does not materially affect the parties' rights under this Agreement.

### **15.14 Supplier Conduct Principles**

Supplier will comply with the Supplier Conduct Principles Letter Agreement ("SCPLA") and the terms and conditions of the SCPLA applies to this Agreement.

### **15.15 Survival**

The provisions set forth in the following Sections and Subsections of this Base Agreement will survive after termination or expiration of this Agreement and will remain in effect until fulfilled: "Taxes", "Ongoing Warranties", "Intellectual Property", "Supplier Liability for Third Party Claims", "Limitation of Liability between Supplier and Buyer", "Record Keeping and Audit Rights", "Choice of Law; Waiver of Jury Trial; Limitation of Action", "Exchange of Information", and "Prior Communications and Order of Precedence."

Without limiting the foregoing, all licenses under this Agreement will survive to the extent necessary to allow Buyer to continue providing services to its Customers who are Supplier's licensees, notwithstanding the termination or expiration of this Agreement.

### **15.16 Waiver**

An effective waiver under this Agreement must be in writing signed by the party waiving its right. A waiver by either party of any instance of the other party's noncompliance with any obligation or responsibility under this Agreement will not be deemed a waiver of subsequent instances.

## **16.0 Amendments for Italy**

The following terms and conditions apply to transactions performed entirely within Italy or where the Buyer is located in Italy and amend the other provisions of this agreement to bring the conduct of the parties' transactions into conformity with local law and practice.

### **16.1 Pricing**

The following is added to Section "Pricing" of the Base Agreement: Supplier assumes any responsibility and/or expenses connected with the Deliverables and Services they provide to the Buyer in other Articles of the Base Agreement.

### **16.2 Taxes**

The following replaces the Section "Taxes" of the Base Agreement: Supplier's invoices shall state all applicable Taxes, if any, by tax jurisdiction and with a proper breakdown between taxable and non-taxable Deliverables and Services. Supplier

## Solutions Engagement Agreement

assumes responsibility to timely remit all Tax payments to the appropriate governmental authority in each respective jurisdiction. Supplier and Buyer agree to cooperate to minimize, wherever possible and appropriate, any applicable Taxes and provide reasonable notice and cooperation in connection with any audit. Supplier shall also bear sole responsibility for all taxes, assessments, or other levies on its own income, leased or purchased property, equipment or software. Buyer shall withhold and pay any other additional Tax, not invoiced by Supplier to Buyer, but legally due by Supplier. The Supplier will submit to Buyer, within a reasonable period of time, the "Invoice for Tax" that states the correct and entire amount of the Tax due. The Supplier will not look for and will not expect fine, sanction and/or interest payments on these additional tax amounts. This disposal is not applicable when the Tax is due by Buyer as for jurisdiction rules or when the Buyer provokes a claim with other Taxes.

If Buyer provides a direct pay certificate, certification of an exemption from Tax or reduced rate of Tax imposed by an applicable taxing authority, then Supplier agrees not to invoice or pay any such Tax unless and until the applicable taxing authority assesses such Tax, at which time Supplier shall invoice and Buyer agrees to pay any such Tax that is legally owed.

Buyer shall withhold taxes as required under applicable law on payments made to Supplier hereunder and shall be required to remit to Supplier only the net proceeds thereof. Buyer agrees to remit in a timely manner all taxes withheld to the appropriate governmental authority in each respective jurisdiction. Upon Buyer request, Supplier will deliver the appropriate documentation as required by the corresponding jurisdictional tax laws, within 15 business days from such request.

Supplier will reimburse Buyer for any claims by any jurisdiction relating to Taxes paid by Buyer to Supplier; and for any penalties, fines, additions to Tax or interest thereon imposed as a result of Supplier's failure to timely remit the Tax payment to the appropriate governmental authority in each respective jurisdiction. Supplier shall also reimburse Buyer for any claims made by a taxing jurisdiction for penalties, fines, additions to Tax and the amount of interest thereon imposed with respect to Supplier's failure to invoice Buyer for the correct amount of Tax.

### **16.3 Tracing of Financial Flows**

The Supplier undertakes to fully comply with the provisions of the Law August 13, 2010 n.136 (including but not limited to Article 3 of such Law) on Tracing of Financial Flows related to public contracts.

In case of breach by the Supplier of such provisions, this Agreement shall be resolved pursuant to art. 1456 civil code, without prejudice to the Supplier's liability for any damages caused by such violation.

### **16.4 Payments and Acceptance**

The following is added to Section "Payments and Acceptance" of the Base Agreement where applicable: If the contractual relationship is ruled by law 192/98 "*Disciplina della Subfornitura*", the term of payment will be no more than 60 days from the date of delivery or from Supplier's notification that the work is complete. Nevertheless the Supplier will be obliged to deliver the related invoice at the same time of good's delivery or the communication of service rendered.

### **16.5 Supplier individual requirements**

The following is added to Subsection "Ongoing Warranties" of the Base Agreement: Supplier declares to have the mandatory requirements set forth in:

- Law n. 646 on September 13th, 1982; and
- Law n.55 on March 19th, 1990; and
- any further modifications thereto.

Supplier undertakes, upon Buyer request, to provide any documentation necessary to confirm the compliance of these requirements as well as the documentary evidence of the renewal, issued by the competent authorities, of any license required to carry out business activities with the public administration.

Supplier acknowledges that the assignment, in full or in part, of services and orders to its subsidiaries, even if fully owned by Supplier, or to any consultants, is to be deemed subcontracting and therefore forbidden.

In case of non-compliance with this provision and in case of rejection of Supplier by the Customer, due to:

- a) the Supplier lacking the mandatory individual requirements as per the current laws to prevent mafia-crimes; or
- b) issue by the Supplier of statements containing untrue data and information ,

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Buyer will be entitled to terminate the Order pursuant Article 1456 c.c., by means of a simple written notification.

### **16.6 Assignment**

The following is added to Subsection "Assignment" of the Base Agreement: If the contractual relationship is ruled by law 192/98 "Disciplina della Subfornitura", Supplier may assign up to 50% of such works to third parties or Affiliates without the prior oral or written consent of Buyer. However, if the Supplier is assigning more than 50% of the works, Supplier must obtain the prior written consent of Buyer. Any unauthorized assignment of this Agreement is void.

Nevertheless if Buyer considers the contracted goods or services confidential, subcontractors to be engaged shall have prior written approval of the Buyer and shall enter into a confidentially agreement to a sample provided by the Buyer to the Supplier.

### **16.7 Delivery**

The following replaces the Section "Delivery" of the Base Agreement: Deliverables or Services will be delivered as specified in the relevant SOW and/or WA. Buyer may cancel or reschedule the delivery date or change the delivery point as specified in the relevant SOW and/or WA. Risk of loss and title to any tangible property will pass to Buyer or Buyer's Customer at the delivery point and/or at the Buyer or Buyer's Customer service acceptance, as specified in the relevant SOW and/or WA. If Supplier cannot comply with a delivery commitment, Supplier will promptly notify Buyer of a revised delivery date and Buyer may:

1. cancel without charge Deliverables or Services not yet delivered; and
2. exercise all other remedies provided at law, in equity and in this Agreement.

### **16.8 General Indemnification**

The following replaces the Subsection "General Indemnification" of the Base Agreement: Supplier will defend, hold harmless and indemnify, including legal fees, Buyer and Buyer Personnel, Buyer's landlord (if there is one), against any third party claims, including Customer's claims that arise or are alleged to have arisen as a result of negligent or intentional acts or omissions of Supplier or Supplier Personnel or breach by Supplier of any term of this Agreement.

### **16.9 Intellectual Property**

The following Subsection is added to the Section "Intellectual Property" of the Base Agreement where applicable: Supplier declares to be in compliance with Article 181bis of law 633/1941 on copyright protection, as introduced by Article 10 of law 248/2000, containing new provisions for the protection of copyright of all software products distributed in Italy. Supplier will indemnify and hold Buyer harmless from any damage, cost and/or expenses arising out from the infringement of the above mentioned provisions of law. This Subsection 4.0 will survive after termination or expiration of this PA and of any relevant SOW/WA and will remain in effect until fulfilled.

### **16.10 Personnel**

The following Subsection is added to the Section "Supplier and Supplier Personnel" of the Base Agreement: Supplier cannot subcontract to third parties (both individuals or companies) all or part of the Services if not approved in advance by the Buyer. Supplier will make available to Buyer all necessary information, including contract type and resources, related to the 3rd party which Supplier intends to use as a subcontractor. Notwithstanding this Section the usage of subcontractors will not relieve Supplier from its responsibility on the performance of subcontractors. Supplier will remain the sole responsible vs. the Buyer for all obligations of this Base Agreement. Buyer reserves the right, at its own discretion, to refuse the usage of subcontractors or any other 3rd party.

Personnel assigned to the Services, with the exception of possible consultants, must be regularly hired by Supplier, who undertakes to:

- a) Comply with all the obligations arising out of the legal provisions and regulations on employment and social insurance, bearing the relative cost;
- b) supervise the compliance of mandatory obligations in terms of remuneration, social security and tax contributions for the Supplier's personnel and its sub-suppliers and shall hold the Purchaser harmless for any damage or liability the latter may incur as a result of any breach of the aforementioned obligations pursuant to Article 29 of Legislative Decree 276/2003 and any possible future amendment thereof;
- c) apply vis-a-vis said personnel, compensation and conditions of employment not inferior to those envisaged by employment contracts applicable, as of the date of WA, to the sector and the place where work is performed, in addition to

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conditions resulting from subsequent modifications and integrations and, in general, from any other employment contract subsequently executed for the sector, applicable in said place;

- d) continue to apply said employment contracts until such time as they expire or are replaced. The above mentioned obligations relating to employment contracts is binding on the Supplier also in the event that Supplier no longer belongs to the associations executing said contracts, or withdraws from said associations for all or part of the term of the contract. The Supplier undertakes to provide written confirmation of the above, at any time, at Buyer's request;
- e) maintain for the duration of the Agreement documents confirming the execution of payments by wire transfer of compensation payable to its employees and subcontractors during the performance of the Agreement. The Supplier undertakes to provide written confirmation of the above, at any time, at Buyer's request;
- f) draw up appropriate agreements with its employees that permit them to comply with all the obligations deriving from the Base Agreement and any applicable SOW;
- g) supervise the compliance with regulations protecting the health and safety of the Supplier's personnel pursuant to Legislative Decree 81/08;
- h) guarantee furthermore its collaboration with the Buyer for the purposes of the control and co-ordination of its personnel and the personnel of its Sub-suppliers in respect of the safety measures indicated in the Consolidated Document;
- i) guarantee, amongst others, that in complying with the provisions set out under Article 26 of Legislative Decree 81/08, if it assigns personnel, they shall be provided with an adequate identification card containing their photo, personal details and indicating his/her employer. The Supplier furthermore, guarantees that any such personnel shall carry such identification card at all times when completing his/her assigned tasks.

The following text included in Section "Supplier and Supplier Personnel" of the referenced Base Agreement will not apply:

- 10. comply, at its own expense, with all laws (including Executive Orders), regulations and ordinances relating to verification of employment eligibility for Personnel to which it is or becomes subject to, such as participation in the United States Department of Homeland Security's E-Verify program ("E-Verify") in the United States or similar state or other government sponsored programs, and verify employment eligibility of all Supplier Personnel performing Services for, or providing Deliverables to, Buyer and/or its Customers through such programs, as applicable; and
- 11. upon Buyer's request, provide documentation to verify compliance with this Section titled "Supplier and Supplier Personnel".

### **16.11 Criminal Background Checks**

The following replaces the Subsection "Criminal Background Checks" of the referenced Base Agreement: (a) To the extent permitted by local law, Supplier will:

- 1. obtain from all Supplier Personnel photographic proof of identity from an official government source (including but not limited to documentation such as a valid driver's license or government issued passport) and retain copies thereof;
- 2. to the extent permitted by local law, ensure that, prior to Supplier Personnel being assigned to perform Services under this Agreement, Supplier Personnel will participate in a criminal background check covering the jurisdictions (including but not limited to all counties or states (whichever is more comprehensive), countries (including a federal check in the United States) and provinces) in which the person was employed or resided for the past five years (or longer as required by applicable law);
- 3. not assign Supplier Personnel which refused to participate in the Criminal Background Checks (Supplier, if requested, shall give evidence to Buyer of this refusal) or to furnish the related criminal certification or whose background checks show any of the following:
  - (a) felony or misdemeanor convictions involving dishonesty (e.g. bribery, fraud, embezzlement, theft, violations of securities laws), violence (including but not limited to sexual or child abuse crimes), or computer related crimes and/or convictions that are employment-related;
  - (b) the existence of restrictions (such as court orders) that would prevent, or impose limitations on, a person's ability to provide the Services contemplated by this Agreement; or
  - (c) that a person presents a higher than normal security risk to Buyer or Customer.

Upon Buyer request and subject to applicable law, Supplier will provide documentation to Buyer to verify its compliance with this Subsection.

- (b) Once a criminal background check is conducted for a particular individual, such background check may be used by Supplier to satisfy the requirements of this Section titled "Criminal Background Checks" for five (5) years from the date of the background check. To the extent permitted by local law, Supplier shall conduct new background checks on individuals assigned to perform Services under this Agreement every five (5) years.

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(c) Nothing in this Subsection titled “Criminal Background Checks” limits Buyer’s ability to remove Supplier Personnel from an assignment at Buyer’s discretion.

### **16.12 Data Privacy**

In addition to the parties obligations under the "Exchange of Information" Subsection of the referenced Base Agreement or any disclosure/nondisclosure agreements, where under this PA Buyer discloses information relating to an identified or identifiable individual, partnership, corporation or other legal entity ('Personal Data') Supplier will apply appropriate technical and organizational security measures to protect Personal Data against destruction, loss, alteration, unauthorized disclosure or access, and against all other unlawful forms of processing (including, but not limited to, ensuring the reliability of any personnel who have access to the Personal Data). Supplier represents and warrants: (i) that it will comply with applicable data protection laws and regulations (including any requirement for notification to, or registration with, country data protection authorities), and (ii) that it will only access, use, manage, disclose to third parties, transfer overseas or otherwise process Personal Data in accordance with Buyer’s instructions. Buyer generally instructs Supplier to process Personal Data to the extent necessary to perform this PA. Supplier will promptly assist Buyer in responding to requests to allow access to, correct, block, suppress or delete any Personal Data, including providing Buyer with a copy of all relevant Personal Data in tangible form. Supplier will not transfer any Personal Data out of any country having data protection laws and/or regulations restricting transfers of Personal Data unless that transfer is unavoidable in order for Supplier to perform its obligations under this PA, or where Buyer consents to the transfer in writing. Buyer may, upon reasonable notice, audit and verify Supplier’s compliance with the provisions of this Section. On termination of this PA Supplier shall, at Buyer’s request, promptly return or erase all Personal Data stored in its internal systems.

### **16.13 Application of health and safety laws**

The parties to this Agreement, to the extent applicable to each, undertake to comply with, and guarantee the compliance with, applicable health and safety laws including by way of example but not limited to, the provisions set out by Legislative Decree 81/08 and any related amendment.

In this respect and furthermore, in order to allow the Buyer and/or the Buyer’s Customer to draft the document which evaluates the risks pursuant to Art. 26, third paragraph of the aforementioned Legislative Decree 81/08 as amended (hereinafter the “Consolidated Document”), the Supplier shall provide to the Buyer a document containing its evaluation of the risks and associated costs as well as the evaluation provided by its sub-suppliers, which indicates the measures necessary to eliminate any interference in their respective activities.

The Supplier undertakes to provide its aforementioned evaluation of risks and associated costs and also the evaluation prepared by its sub-suppliers together with the offer it will submit to the Buyer, under the express agreement that the validity of such offer is subject to the provision of the documentation evaluating risks and associated costs as described above.

### **16.14 Termination**

The following replaces the first and second Subsection “Termination” of the referenced Base Agreement.

#### **14.1 Termination for Cause of this Base Agreement**

Either party may terminate for cause this Base Agreement, without any cancellation charge, for a material breach of this Agreement by the other party or if the other party becomes insolvent or files or has filed against it a petition in bankruptcy ("Cause"), to the extent permitted by law. Such termination will be effective at the end of a thirty (30) day written notice period if the Cause remains uncured. Either party may terminate this Base Agreement without Cause when there are no outstanding SOWs or WAs.

#### **14.2 Termination for Cause and/or for Convenience of a SOW or WA**

Buyer may, upon written notice to Supplier, terminate for Cause and/or for Convenience a SOW or WA:

1. with Cause effective immediately; or
2. without Cause effective immediately or as otherwise specified in such notice.

Upon termination for Cause and/or Convenience, in accordance with Buyer’s written direction, Supplier will immediately:

1. cease work;
2. prepare and submit to Buyer an itemization of all completed and partially completed Deliverables and Services;
3. deliver to Buyer Deliverables satisfactorily completed up to the date of termination at the agreed upon Prices in the

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relevant SOW and/or WA; and

4. deliver upon request any work in process.

In the event Buyer terminates without Cause, Buyer will compensate Supplier for the actual and reasonable expenses incurred by Supplier for work in process up to and including the date of termination provided Supplier uses reasonable efforts to mitigate Buyer's liability under this Subsection by, among other actions, accepting the return of, returning to its suppliers, selling to others, or otherwise using the canceled Deliverables (including raw materials or work in process) and provided such expenses do not exceed the Prices.

The following paragraph is added as Subsection 14.3 to Section "Termination" of the Base Agreement.

Should Supplier fail to comply with any obligations whatsoever undertaken, Buyer may request such compliance in writing. If Supplier fails to remedy such non-compliance within the period indicated by the request, the WA shall automatically terminate. In this event, Buyer is under no obligation to make any payment for the services performed. Buyer likewise reserves the right to return to Supplier all the components delivered under this WA and to obtain reimbursement of the amount paid to Supplier under this WA, or to withhold said components with payment to Supplier of a sum to be agreed in line with the Price indicated in the WA.

Buyer has the right to terminate the WA under Article 1456 of the Italian Civil Code if Supplier fails to comply with the following sections of the Base Agreement as eventually supplemented and/or amended by the present section "Amendments for Italy":

7.1 – Ongoing Warranties; 15.7 - Exchange of Information; 12.0 - Supplier and Supplier Personnel; 16.13 Application of health and safety laws

In addition to the liquidated damages provided for in the WA, Buyer at all events reserves the right to request compensation for any damage it may have suffered.

### ***16.15 Choice of Law and Forum; Waiver of Jury Trial: Limitation of Action***

The following provision is added to Subsection "Choice of Law and Forum; Waiver of Jury Trial; Limitation of Action" of the Base Agreement: All disputes arising out of or in connection with the interpretation or performance of this Agreement shall be settled exclusively by Courts of Milan and the parties waive the right to resort to any others.

### ***16.16 Electronic Commerce***

Section "Electronic Commerce" of the Base Agreement will be enforceable between the parties to the extent permitted by law.

### ***16.17 Limitation of liability***

Section "Limitation of Liability" of the Base Agreement on limitation of liability will apply within the limits of art. 1229 c.c.

### ***16.18 General***

The following provision is added to Subsection "Amendment" of the referenced Base Agreement: the parties agree that any possible future amendment or supplement to the Base Agreement should be intended as integral part of the Base Agreement and that any reference to the Base Agreement mentioned in the SOW and/or any WA, where applicable, are inclusive of such changes and/or integration.

### ***16.19 D.L. 134 Compliance***

For the purpose of the legislation dated 12th August 2012 no. 134 (as per implementation of Law Decree dated 22nd June 2012

no. 83, named Decreto Sviluppo), and further amendments where applicable, Buyer, before any payment to Supplier, shall ensure that the Supplier and

Supplier Subcontractors if any, have paid all social security and tax contributions for their personnel due at the date of payment. Until Supplier provides

the documentation necessary to confirm the above, the Buyer shall be entitled to suspend payments as per Art. 13/ter of the aforementioned law.