



NYMPHA-MD
Next Generation Mobile Platforms for HeAlth, in Mental Disorders
Grant Agreement N° 610462

NYMPHA-MD
Draft Framework Agreement

<p>www.nympha-md-project.eu</p>	
 The logo for the Seventh Framework Programme, featuring a stylized blue number '7' with horizontal lines, and the text 'SEVENTH FRAMEWORK PROGRAMME' below it.	<p>The coordination and support action has received funding from the European Union's Seventh Framework Programme [FP7/2007-2013] under grant agreement n° 610462</p>

NYMPHA-MD
Next Generation Mobile Platforms for HeAlth, in Mental Disorders

FRAMEWORK AGREEMENT

Framework Agreement stipulated on [[] 2015

between

- (1) **Provincia Autonoma di Trento** (hereinafter referred to as “**Contracting Authority**”), with its registered office in Trento (Italy), Piazza Dante, 15 – 38122, Taxpayers’ code and VAT number, represented by <>, in the role of

acting in its own name and on behalf of the Commissioning Bodies listed in the preliminary remarks below,
and

- (2) [Name], [Registered Office] and [registration number of the individual company or each company that is part of the consortium of successful bidders/tenderers], hereafter referred to as the “**Successful Bidder**”.

The Contracting Authority and the Successful Bidder are jointly described as the “**Parties**” or individually as the “**Party**”.

Whereas:

- It is noted that on the basis of the provisions of the "Procurers' Agreement" signed on 6 January 2015, the Provincia Autonoma di Trento acts in its own name and on behalf of the following Commissioning Bodies:

Corporació Sanitària Parc Taulí, with its registered office in Barcelona (Spain), Parc Taulí Sabadell, 1, 08208, represented by Lluís Blanch Torra, as Director of Research and Innovation;

Mental Health Services in the Capital Region Copenhagen (Region Hovedstaden) with its registered office in Copenhagen (Denmark), 2 Kongens Vaenge, Hillerod 3400, duly represented by Peter Treufeldt, as Deputy Director,

which together with the contracting authority jointly represent the “**Commissioning Bodies**” and are referred to individually as the “**Commissioning Body**”;

- the Contracting Authority, respecting the principles relating to the choice of the contracting party, has identified the Successful Bidders for research and development services in the context of the project called NYMPHA-MD, related to the “search for mobile technological solutions to support health workers and patients with the care and management of bipolar disorder”, through a joint pre-commercial procurement procedure carried out within the European Community;
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- this agreement is stipulated to regulate the rights and obligations of the Parties in the context of pre-commercial procurement related to the provision of research and development services for “Nympha”;
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- the Successful Bidder has submitted a successful bid for Phase 1 (Solution Design) of the aforementioned procedure and has specifically undertaken to provide the services that are the object of this Framework Agreement, on the terms and conditions and in the manner set forth below;
- the Commissioning Bodies intend to avail themselves of the specialist expertise of the Successful Bidder, which will make use of professional staff with the knowledge and experience necessary to implement the activities set forth in this Framework Agreement, as detailed in the bid presented;
- this pre-commercial procurement is divided into three phases of research and development, as described below:
 - a. **Phase I:** Solution design;
 - b. **Phase II:** Prototype development;
 - c. **Phase III:** Original development of a limited volume of first products or services in the form of a test series.

This having been stated, between the Parties represented and domiciled as stated above, THE FOLLOWING IS AGREED:

Article 1 Validity of the preliminary remarks

1. The preliminary remarks and documents mentioned in the preamble and in the remainder of this agreement, including the tender notice, the “draft Framework Agreement”, the “draft Implementation Document”, the “draft contract for the management of intellectual property rights”, the "Technical Specifications" and the “Parameters and criteria for evaluating bids", along with the documents annexed to these or complementary documents, even if not physically annexed to this Framework Agreement, are an integral and essential part of the agreement. The "financial bid", submitted by the Successful Bidder also represents an integral and essential part of this Framework Agreement.
2. The Parties also agree that, in the event of dispute, the provisions included in this Framework Agreement shall prevail over those contained in the "Tender Regulations" and in the documents annexed to the same.

Article 2 Phases in the procedure

1. The Successful Bidder will have 2 (two) months from the signature of the present document to deliver the activities related to Phase 1 (Solution Design), detailed in article 6 subsequently, and provide the Contracting Authority with the documentation provided for therein. On expiry of the deadline, and in any case following presentation of the documents requested, a specific Committee will verify the activities carried out by the Successful Bidder, according to the timescale and in the manner provided for in subsequent article 10.
2. Following the conclusion of the checks stated in article 10, the successful bidders will be invited to participate in phase 2 (Prototype Development). The bid will involve presenting a development

- programme for the prototype, including the design and technical specifications for this and the financial bid, accompanied by a business plan. Three successful bidders will be identified, with whom the relative Implementation Documents for Phase 2 will be stipulated. From the date that these documents are signed, the Successful Bidders will have 5 (five) months to deliver the prototype designed, according to article 6. On expiry of this deadline, and in any case following presentation of the documents requested, a specific Committee will verify the activities carried out by the Successful Bidder, according to the timescale and in the manner provided for in subsequent article 10.
3. Following the conclusion of the checks stated in article 10, the successful bidders will be invited to participate in phase 3 (Original development of a limited volume of first products or services in the form of a test series). The bid will involve presenting a programme of experimentation in a real environment for a limited number of prototypes and the financial bid. Two successful bidders will be identified, with whom the relative Implementation Documents for Phase 3 will be stipulated. From the date that these documents are signed, the Successful Bidders will have 4 (four) months to try out their innovative solution with the three health service providers involved (Trento, Copenhagen and Barcelona) on a selected sample of patients. Once experimentation has concluded, the Successful Bidders must present the Contracting Authority with a final report on the results of the pre-commercial procurement, according to article 6, which will be verified by a specific Committee, according to the timescale and in the manner provided for in subsequent article 10.

Article 3 **Definitions**

- **“Successful Bidder”**: the company/ies that have successfully completed the pre-commercial procurement selection process and signed an agreement with the Contracting Authority, acting in its own name and on behalf of the other Commissioning Bodies;
- **“Successful Bidder Personnel”**: the representative of the Successful Bidder and all employees, consultants, agents and directors of the Successful Bidder as well as any subcontractors which the Successful Bidder engages in relation to the project, and their employees, consultants, agents and directors;
- **“Data”**: all documents, reports, databases and other information collected or developed in the performance of the services, and/or used for the purposes of these services;
- **“Implementation Manager”**: the person nominated by the Successful Bidder as the contact with the Contracting Authority in relation to the fulfilment of the Framework Agreement. The Implementation Manager shall have authority to represent the Successful Bidder on all matters;
- **“Implementation Director”**: the person nominated by the Contracting Authority, who will have the task of verifying the satisfactory provision of the services provided for in the Framework Agreement and the Implementation Documents for the different phases;
- **“Framework Agreement”**: the contract resulting from this pre-commercial procurement procedure, signed by the Successful Bidder and the Contracting Authority, the latter acting on its own account and on behalf of the Commissioning Bodies;
- **“Intellectual Property Rights”**: any and all patent rights (including, but not limited to, extensions, improvement patents and supplementary protection certificates) and inventions (whether or not patentable or subject to registration), including applications for registration, renewal or extension of any of these, and any other rights or forms of protection of a similar

nature having an equivalent or similar effect to any of these, that may exist currently or in the future at global level;

- **“Implementation Document for the Phase:** specific contract(s) between the Successful Bidders and the Contracting Authority, to be stipulated following the awarding of Phases 2 and 3, regulating the implementation of the relative phase (Annex 1);
- **“Project Intellectual Property Rights”:** new intellectual property rights arising from or relating to the research and development services that are the object of this pre-commercial procurement and its results;
- **“Results”:** any data, material, prototypes and pilot applications or related systems and any other results generated by or developing during the provision of the research and development services that are the object of this pre-commercial procurement;
- **“Services”:** the research and development services provided by the Successful Bidders in the context of this pre-commercial procurement;
- **“Subcontracting”** any contract between the Successful Bidder and third parties, on the basis of which the subcontractor provides the services or any part thereof to the Successful Bidder, within the percentage limits provided for in the tender notice;
- **“Project”:** this pre-commercial procurement for research and development services in the context of the project called NYMPHA-MD, related to the “search for mobile technological solutions to support health workers and patients with the care and management of bipolar disorder”.

Article 4 Regulations applicable

1. The applicable law shall be Italian law.
2. The following regulations shall apply to this Framework Agreement, in so far as they are compatible:
 - article 19, paragraph 1, section f) of D.Lgs. no. 163/2006;
 - article 27 of D.Lgs. no. 163/2006, in relation to respect for the principles of cost-effectiveness, efficiency, impartiality, equal opportunities, transparency and proportionality;
 - further articles of D.Lgs. no. 163/2006 specifically referred to in the tender notice;
 - Law no. 241/1990;
 - Provincial Law no. 23/1992;
 - Law no. 633/1941 and subsequent amendments for matters specifically related to copyright and the regulation of patents;
 - D. Lgs. no. 30/2005 for matters relating to industrial property.

Article 5 Duration and extension

1. This Framework Agreement shall have a maximum duration of 36 (thirty six) months starting from the date of signing.
2. The Contracting Authority reserves the right to provide for a maximum of two extensions to this Framework Agreement, with a maximum duration of 10 (ten) months each.

Article 6

Scope

1. The activities that the Successful Bidder must carry out in Phase 1 consist of the development of a feasibility study presented for the purposes of participating in the tender procedure, through the presentation of a report according to article 2, paragraph 1. The report on the feasibility study must consist of a detailed description of the technical solution proposed, the state of the art, the approach to data management, protection of sensitive data, an implementation plan for subsequent phases, the expected impact of the proposed solution and anything else considered necessary for the purposes of better explaining the offer made in the context of the tender notice.
2. The activities that the Successful Bidder must carry out in Phase 2 consist of the development of a prototype for the innovative solution proposed, according to article 2, paragraph 2. The Successful Bidder must deliver a working prototype to the Contracting Authority, accompanied by a user manual and the results of preliminary tests carried out in the laboratory. In this phase the Successful Bidder must prepare tests for the prototype, making recourse to real users, when possible.
3. The activities that the Successful Bidder must carry out in Phase 2 consist of the experimentation in a real environment for a limited number of prototypes with the three health care providers involved (in Trento, Copenhagen and Barcelona), on a sample of patients chosen by each of them. At the end of the experimentation, the Successful Bidder must deliver a final report to the Contracting Authority, describing the whole experimentation process, the methods used, the results of adopting the innovative technical solution from the technical, economic and clinical point of view, and the impact of the solution on the treatment of bipolar disorder. The report must also include overall assessment of the accuracy of the forecasts allowed by the system tested and a possible sales and marketing plan.
4. In the experimentation phase around 25 patients with bipolar disorder of different levels of gravity will be involved at each health care facility. The patients will be selected by each provider according to the criteria established by them. All the tests must be carried out by the Successful Bidder in close collaboration with the clinical staff assigned by each healthcare provider to the Project.
5. During the implementation of all the phases, the Commissioning Bodies reserve the right to carry out inspections, document checks and tests, in order to assess the progress of the services offered.

Article 7

Method for fulfilment of the activities

1. The Successful Bidder undertakes to fulfil the obligations arising from this Framework Agreement with its own means, with organisation and management at its own risk.
2. The Successful Bidder undertakes to carry out the research and development services in each phase within member states of the European Union or countries belonging to the FP7/2007-2013 programme, under penalty of cancellation according to subsequent article 20, with the exception of the provisions of article 6, paragraph 3. On the request of the

Contracting Authority, the Successful Bidder must demonstrate that these obligations have been correctly fulfilled.

3. On stipulation of this agreement, the Successful Bidder undertakes to nominate an Implementation Manager, as stated in previous article 3, for whom the name, telephone number, fax number and e-mail address must be provided. At the same time, the Contracting Authority will nominate its own Implementation Director.
4. For phases 2 and 3, the Successful Bidder will carry out the contractual services provided for in this Framework Agreement and the relative Implementation Document for the phase, which shall represent an integral and essential part of this Framework Agreement in all respects.

Article 8

Obligations of the Successful Bidder

1. The Successful Bidder undertakes to provide the services that are the object of this Framework Agreement in compliance with the “Technical Specifications” document, observing the requirements contained in this article.
2. The Successful Bidder must guarantee the levels of service requested, with particular reference to those relating to safety and confidentiality.
3. The Successful Bidder must promptly communicate any changes in the organisational structure involved in implementing the Framework Agreement to the Contracting Authority, indicating the changes that have taken place in an analytical manner.
4. The Successful Bidder is required to carry out all the services that are the object of this agreement in compliance with the provisions of the agreement and in line with the terms and conditions and methods stated in the “Technical Specifications” document, the Implementation Documents for the phases and the agreement for the management of intellectual property rights, respecting the “Technical Proposal” presented for phase 1 and for subsequent phases, if applicable.
5. The Successful Bidder undertakes to allocate the resources necessary to carry out all phases of the Project, according to the bid made.
6. The Successful Bidder undertakes to respect the terms provided for in terms of the provision of services.
7. The Successful Bidder must provide the services that are the object of this agreement in a professional and efficient manner, respecting the best practice in the sector.
8. The Successful Bidder must promptly inform the Contracting Authority of any prolonged absence of the Implementation Manager or the professional staff made available by the Successful Bidder. In this case, following the instructions of the Contracting Authority, the Successful Bidder must identify a suitably qualified substitute. Any change to the Implementation Manager, subcontractors or professional staff must be authorised in advance by the Contracting Authority, which will verify the requirements and/or professional skills of the persons identified.
9. The Successful Bidder must allow the Contracting Authority to proceed at any time with ascertaining the full and correct performance of the services that are the object of the Framework Agreement, according to article 6, paragraph 5, and ensure their collaboration to allow the carrying out of verification and/or checks.
10. The Successful Bidder must respect all instructions regarding the implementation of the Framework Agreement that may be issued by the Contracting Authority.
11. The Successful Bidder must promptly inform the Contracting Authority of any problems that may arise in the implementation of the Framework Agreement.

12. When providing the contractual services, the Successful Bidder must respect all the regulations and technical limitations on health, hygiene and safety in force, and any provisions that may be issued subsequently. The Successful Bidder specifically undertakes to release the Contracting Authority from any liability for consequences of any kind deriving from the failure to observe these regulations.
13. The Successful bidders in phase 3 shall be required to participate in the costs of the experimentation, paying an amount of euro 35,00000.- (thirty-five thousand/00) to each of the three hospitals identified by the Contracting Authority, on penalty of cancellation of the Framework Agreement, according to article 20, as provided for in the Implementation Document for phase 3.

Article 9

Obligations of the Contracting Authority

The Contracting Authority undertakes to:

- a) co-operate with the Successful Bidder in all matters relating to the Project;
- b) allow access to the facilities in the healthcare organisations involved in the experimentation phase, and to data held by the Contracting Authority, necessary to prepare the bids for phases 2 and 3, following a formal request by the Successful Bidder;
- c) inform the Successful Bidder of all health and safety rules and regulations applied at the premises of the clinical facilities to which the Successful Bidder will have access.

Article 10

Verification of the results of individual phases

1. On completion of each phase, the Contracting Authority will proceed to evaluate the activities carried out by the Successful Bidder and the documents presented, nominating a specific Committee. The evaluation will be directed at verifying that the Successful Bidder has effectively provided the services stated in its bid for the relevant phase and complied with the requirements contained in the “Technical Specifications” document. The evaluation will take place jointly with the Implementation Manager at the headquarters of the Contracting Authority or in any other place identified by the authority. If the Implementation Manager should not attend, the Contracting Authority will proceed with the evaluation procedure in any case. The Successful Bidder is required to provide the technical support necessary to carry out the evaluation activities, at the request of the Contracting Authority,.
2. Verification of the activities carried out will take place within 30 days of communication of the beginning of the verification procedure, sent to the Implementation Manager within 10 days of the Contracting Authority receiving the Successful Bidder’s communication that it has concluded the services that are the object of the individual phase. Should the Successful Bidder intend to nominate a person other than the Implementation Manager as its representative for the evaluation, it must provide the name in the communication following the termination of the services that are the object of the individual phase.
3. The activities of the evaluation committee will be documented in a special report, giving the date and results of the evaluation, signed by the members of the committee.
4. Should the evaluation show a lack of compliance with the technical bid in phase 1, or subsequent phases if applicable, or with the minimum requirements indicated in the “Technical Specifications” document, the Contracting Authority, having consulted with the Successful Bidder, will identify the actions that the latter must put into effect in order to achieve the Project objectives.

5. With specific reference to phase 2, verification of the prototype presented by the Successful Bidder will also take place through analysis of the laboratory test results carried out by the Successful Bidder at its own facilities.

Article 11 **Taxation and contractual expenses**

1. The Successful Bidder shall be responsible for stamp duty in relation to the stipulation of this Framework Agreement, whereas VAT on the payment shall be borne by the Contracting Authority, the recipient of the services.

Article 12 **Guarantees**

1. The Successful Bidder affirms and guarantees that it is fully entitled to grant licences for use, with the related rights, in relation to all the results of the Project and that it will continue to have this capacity, authority, usage licenses, permits and consents for the full duration of the Framework Agreement.
2. The Successful Bidder guarantees that the information provided according to this agreement will be correct, accurate and up-to-date.
3. The Successful Bidder specifically guarantees that the services and the media onto which the software products provided are loaded are free from defects related to design, production, faulty execution and/or defects in the materials used, which would decrease the value and/or that would make them partially or entirely unsuitable for the intended use. The aforementioned guarantees are provided by the Successful Bidder in its own right, also acting on behalf of third parties.
4. The Successful Bidder also guarantees that to its knowledge the software products are free from defects or operating faults, that these products comply with the specifications contained in the relevant manuals, and that they are free from viruses and backdoors, all necessary measures having been adopted for this purpose.
5. The term for reporting any defects not recognisable by the Contracting Authority is established as 30 (thirty) days from discovery.

Article 13 **Fees, invoicing and payment methods**

1. The amount that the Contracting Authority will pay as a fee to the Successful Bidder for phase 1 shall be as established by the offer in the financial bid for phase 1, in relation to the tender value indicated in the tender notice. The amount that the Contracting Authority will pay as a fee to the Successful Bidder for phase 2 shall be as established by the offer in the financial bid for phase 2, in relation to the tender value indicated in the tender notice. The amount that the Contracting Authority will pay as a fee to the Successful Bidder for phase 3 shall be as established by the offer in the financial bid for phase 3, in relation to the tender value indicated in the tender notice. All the amounts are indicated net of VAT.
2. All payments will be made in euro, respecting the following provisions:
 - a) payments will be made by the Contracting Authority, following submission of the relevant invoices, on conclusion of implementation of the relevant phase;

- b) payment of the invoices stated in section a) shall be take place by the Contracting Authority within 30 (thirty) days of the conclusion of the evaluation procedure stated in previous article 10;
 - c) the Contracting Authority will pay the invoices stated in this section by payment into the bank current account indicated according to article 14.
3. All activities necessary to ensure full compliance with the contractual obligations, including those not specified in this Framework Agreement, shall be the sole responsibility of the Successful Bidder and shall be considered to be included in the amount specified in paragraph 1.
 4. The amounts indicated in paragraph 1 shall remain fixed and invariable for the duration of the Framework Agreement and include all the costs and expenses. .
 5. In phases 1 and 2 execution of the tasks outside the headquarters of the clients is expected, so in places outside their legal jurisdiction. Therefore, since there is no risk of interference, there are not presumed to be costs for security as stated in article 26 of Legislative Decree. N. 81/2008 and it is not necessary to draw up the single document on interference risk assessment (DUVRI). In relation to phase 3, given the possible risk of interference, the DUVRI shall be drawn up and enclosed with the letter of invitation.
 6. It is understood that any increased costs resulting from the need to observe norms and technical regulations in the field of health, hygiene and safety shall be the exclusive responsibility of the Successful Bidder and shall in any case be intended to have been covered by the contract fee.

Article 14

Law no. 136 of August 13, 2010. Traceability of financial transactions

1. Under penalty of total cancellation of this contact, the contracting party undertakes to comply with the obligations for the traceability of financial transactions stated in the law of 13 August 2010, no. 136
2. The Administration will verify contracts stipulated between the Successful Bidder and subcontractors in relation to the inclusion of the clause on respect for the financial transaction traceability obligations referred to in article 3 of L.136 /2010, and in the event of failure to comply this will result in the invalidity of the contract.
3. The parties expressly establish that that the contract shall be legally terminated (1456 CC), in all cases in which transactions are carried out without making use of banks or Poste Italiana SPA (article 3, paragraph 3 of L. 136/20) through transfers using dedicated accounts, designed to record all financial transactions, in and out, in compliance with the obligations arising from this agreement.
4. For this purpose, the contracting party shall inform the Contracting Authority of the bank or post office account details for accounts dedicated to public sector orders, also in a non-exclusive manner, at banks or with Poste Italiana SPA. The communication to the Contracting Authority must take place within seven days of the opening of dedicated current account and within the same term the contracting party must communicate the details and taxpayer's code of those entitled to use the account. The same requirements shall also be valid for existing bank or post office accounts, subsequently dedicated to public sector

orders. In this case the term shall run from the declaration of the date that the account is destined for public sector orders.

5. Respecting the obligations on the traceability of financial transactions, bank or post office transfers must state the single project code and the tender identification code for each transaction.
6. The parties agree that any payment related to this agreement shall be suspended until the dedicated current account has been communicated, complete with all further legal requirements, thus waiving any claim or action, recourse or demand for compensation designed to obtain the payment and/or interest and/or fees.

Article 15 Penalties

1. For each day of delay or part thereof with respect to the terms contained in this Framework Agreement and/or the "Technical Specifications" document and/or the Implementation Documents, the Contracting Authority reserves the right to apply a penalty equal to 0.5 per thousand of the contractual amount for the relevant phase.
2. The penalties may not exceed 10% of the total contractual amounts for each corresponding phase. The exceeding of this amount shall be considered a serious breach of contract and may lead to the termination of the contract, pursuant to article 20 of this Framework Agreement, without the need for formal notice.
3. The Parties agree that any non-compliance, if not emerging during consultations, must be promptly notified in writing by the Contracting Authority to the Successful Bidder.
4. The Contracting Authority may issue a special debit note for credit arising from the application of the penalties specified above, without the need for a formal warning, formal notice or judicial proceedings, the amount being collected through withholding of the deposit referred to in article 17, also partially.

Article 16 Liability

1. The Successful Bidder undertakes to fulfil all the obligations arising from this Framework Agreement with the greatest possible diligence, as required by the nature of the services.
2. The Successful Bidder shall be liable for any damage that the Contracting Authority is subjected to directly or required to compensate to third parties, as a result of the Successful Bidder's delay in performing or failure to comply with its obligations according to this Framework Agreement, also with reference to its employees and/or project workers, including the costs of restoration, penalties, loss of profit, costs and expenses, also of a legal nature.
3. The Successful Bidder shall also be liable for any damage to its property or injury suffered by its employees or freelance workers, and agrees to indemnify the Contracting Authority, both with regard to this paragraph and the previous paragraph, also in court proceedings.
4. Only and exclusively in cases when the problem can be attributed to faults or defects not related to its sphere of influence or that are not a result of its failings, the Successful Bidder's liability shall not apply.

Article 17

Deposit

1. The Successful Bidder shall provide a deposit of 1,000.00 (one thousand) euro, as a guarantee of the contractual obligations undertaken by the Successful Bidder with the signing of the Framework Agreement with reference to phase 1, by stipulating a surety policy or bank guarantee with a major insurance company or bank.
2. This unconditional and irrevocable deposit shall be released to the Contracting Authority following the first request, waiving the right to benefit from prior excussion, to guarantee the correct and proper fulfilment of all current and future obligations arising from this Framework Agreement, pursuant to and in accordance with article 1938 of the Italian Civil Code. The deposit shall be issued with a waiver to the exceptions provided for in article 1957, paragraphs 1 and 2, of the Civil Code. The deposit shall be released to the Contracting Authority as a guarantee of the obligations taken on by the Successful Bidder with this Framework Agreement in relation to obligations linked to phase 1.
3. On signing the relative Implementation Documents supplementing this Framework Agreement, the Successful Bidder in phases 2 and 3 shall provide a deposit equivalent to 10% of the financial bid presented. The guarantee must be presented in the manner and containing the conditions/clauses provided for in this article
4. In particular, the deposit guarantees all the specific obligations taken on by the Successful Bidder, including those providing for the application of penalties and it is therefore specifically understood that the Contracting Authority, without prejudice to article 16, has the right to make use of the deposit, and thus the bank guarantee, for the application of penalties.
5. The guarantee shall be valid for the Contracting Authority from the date that the Framework Agreement is signed.
6. The guarantee will be released by the Contracting Authority, subject to the deduction of any credit due to the Contracting Authority from the Successful Bidder, following full and proper fulfilment of all the contractual obligations, ascertained according to previous article 10.
7. In any case, the guarantor shall only be released from the guarantee given following express consent in writing from the Contracting Authority.
8. Should the amount of the guarantee be reduced due to the application of penalties, or for any other cause, the Successful Bidder shall provide for the replenishing of this amount within ten (10) days from receipt of the relative request sent by the Contracting Authority.

Article 18

Subcontracting

1. The Successful Bidder may not transfer this Framework Agreement.
2. The Successful Bidder, in accordance with article 118 of Legislative Decree no. 163/2006, may subcontract the activities provided for in this Agreement for up to 30% (thirty per cent) of the amounts provided for in the individual phases.
3. Authorisation of subcontracting is regulated by article 118 of Legislative Decree no. 163/2006. The Successful Bidder must respect the further obligations and procedures provided by article 3 of Law no. 136/2006, under penalty of total cancellation.

4. Within 20 (twenty) days from the date of each payment received from the Contracting Authority, the Successful Bidder must send a copy of receipted invoices for payments made by the Successful Bidder to subcontractors.

Article 19 **Transfer of credit**

1. The transfer of credit accrued by the Successful Bidder in relation to the Contracting Authority is permitted, in accordance with the provisions of article 117 of D.Lgs. no. 163/2006.

Article 20 **Termination**

1. With reference to article 1453 of the Italian Civil Code, in the event of serious or repeated breaches by the Successful Bidder, leading the Contracting Authority to deduce that the Successful Bidder is not qualified to comply with the obligations taken on with this Framework Agreement, the Contracting Authority reserves the right to terminate this Agreement due to the fault of the Successful Bidder and at its expense, subject to a notice of termination by certified e-mail or registered letter with acknowledgement of receipt, establishing a final term of not less than 15 (fifteen) days within which to fully comply with the obligation.
Once the term of 15 (fifteen) days has expired, the Contracting Authority will proceed with termination of the contract, without prejudice to the right to claim damages due to the failure to fulfil the obligations. In this case the Successful Bidder may be paid the fee agreed for the part of the service provided in compliance with the agreement, within the limits that this appears to be useful for the Contracting Authority.
2. It is agreed by the parties that in the event of the Contracting Authority being obliged to terminate the Framework Agreement, due to serious or repeated breaches by the Successful Bidder, it shall have the right to permanently withhold the deposit, when it has not been returned, and/or to apply an equivalent penalty, or to claim compensation for damage from the Successful Bidder.
3. In addition to termination due to breach of contract as stated in paragraphs 1 and 2, the Contracting Authority reserves the right to terminate the agreement, according to article 1456 of the Italian Civil Code, entirely at the risk of the contractor, reserving the right to claim compensation, in the following cases:
 - a) if it is ascertained that the information contained in the declarations submitted by the Successful Bidder during the pre-commercial procurement procedure stated in the preliminary remarks is false, or if the Successful Bidder fails to meet the minimum requirements for participating in the procedure;
 - b) if an appeal under bankruptcy law or any other law applicable to insolvency proceedings, has been deposited against the Successful Bidder, proposing dissolution, liquidation, amicable composition, debt restructuring or settlement with creditors, or if a liquidator, trustee, guardian or person with a similar role is appointed, coming into possession of the goods or becoming responsible for managing the business of the Successful Bidder;
 - c) if any of the members of the governing body, the managing director, general manager or technical manager of the Successful Bidder are subject to a definitive judgment for

- crimes against the public administration, public order, public confidence or public property, or are subject to the measures provided for in anti-mafia legislation;
- d) in the event of failure to comply with the contractual obligations (including those related to the Implementation Documents), in accordance with the regulations in force and the conditions, procedures, terms and requirements contained in this Framework Agreement, its Annexes and the Implementation Documents;
 - e) in the event of serious breaches of the obligations provided for in previous article 17;
 - f) in the event of any legal action against the Contracting Authority for violation of patent rights, copyright and exclusive rights in general;
 - g) in other cases provided for in this Framework Agreement:
 - article 7, paragraph 2;
 - article 8, paragraph 13;
 - article 14;
 - article 15, paragraph 2;
 - article 24, paragraph 6;
 - article 22, paragraph 3;
 - article 27.
4. The cases listed in paragraph 3 will be notified to the contractor in writing by the Contracting Authority, before or at the same time as a declaration stating that it wishes to apply the specific termination clause in this article.
 5. The lack of objections and/or previous breaches, in relation to which the Contracting Authority did not decide to apply this clause and/or acts of tolerance in the face of previous breaches of any kind by the Successful Bidder, shall not be understood to mean that the authority waives its right to apply the clause contained in paragraph 3 of this article.
 6. In the case of termination as provided for in paragraph 3, the Contracting Authority reserves the right to claim compensation for any damage borne and in particular to demand the refunding of any extra expenses met, as compared to those that would have been borne in the event of compliance, from the Successful Bidder. In this case the Successful Bidder may be paid the fee agreed for the part of the service provided in compliance with the agreement, within the limits that this appears to be useful for the Contracting Authority.

Article 21 Withdrawal

1. The Contracting Authority shall be entitled to withdraw from the agreement for reasons of public interest arising at any time, subject to official communication to the contractor with notice of not less than 15 (fifteen) days and subject to the payment of the services already provided, in addition to a tenth of the services not yet carried out.

Article 22 Damages, civil liability and insurance

1. The Successful Bidder shall indemnify and hold harmless the Contracting Authority, its employees, officers, directors and agents against any and all liability, claims, actions, suits or proceedings whatsoever in relation to:
 - any damage to property, including any infringement of third party intellectual property rights;
 - any injury to persons;
 - damage resulting from the performance of the services, except in so far as such damages or injury shall be due to the action or negligence of the Contracting Authority.

2. The Successful Bidder shall promptly notify the Contracting Authority in writing of any such liability, claims, actions, suits or proceedings, and in particular of any action brought against the Successful Bidder for infringement or alleged infringement of intellectual property rights which might concern the Project, within thirty (30) days of receiving notice of any complaint, claim or injury giving to a right for compensation as provided for in paragraph 1 of this article.
3. The Successful Bidder declares that it has stipulated an insurance policy, for a maximum amount of **€ 5,000,000.00 (five million/00)** in favour of the Contracting Authority, which acts in its own name and on behalf of the other Commissioning Bodies, for the full duration of the Framework Agreement, to cover the Successful Bidder's civil liability in relation to the performance of all the activities in the Framework Agreement. In particular, this policy shall indemnify the Contracting Authority, including its employees and consultants, as well as third parties, for any damages the Successful Bidder may cause to the Contracting Authority, its employees and third parties in the performance of all the activities referred to in the Framework Agreement. The maximum amount of the insurance policy is intended for each damaging event or accident, provided that it is contested in the 24 (twenty-four) months following the conclusion of the activities in this Framework Agreement. It shall also provide for the insurer waiving the right to make any claims in relation to the Contracting Authority, without any exceptions, with particular reference to covering risks even in the event of failure to pay or partial payment of insurance premiums, by way of derogation to the provisions of article 1901 of the Italian Civil Code, or of any inaccurate and/or incomplete statements, by way of derogation to the provisions of Articles 1892 and 1893 of the Italian Civil Code. It is understood that the existence, and hence the validity and effectiveness, of the insurance policy referred to in this article is an essential condition for the Contracting Authority, and that therefore if the Successful Bidder is unable to prove this insurance coverage at any time the Framework Agreement shall be legally rescinded, according to article 20.
4. The Successful Bidder must present, on the Contracting Authority's request, a copy of the insurance policy referred to in this article, or any other document proving the existence of the cover provided by this policy, together with a receipt showing payment of the last premium due for this policy.
5. In no case shall the Contracting Authority or any of the other Commissioning Bodies be liable for damage, indirect or direct, or losses of any kind borne by the Contracting Authority.

Article 23 Amendments

1. If at any time it is necessary to amend the provisions of this Framework Agreement, the Successful Bidder shall immediately inform the Contracting Authority in writing, requesting an amendment to the agreement, giving full details of the justification for the request and giving proposals for the amendment. On receipt of this request, the Contracting Authority will be entitled to:
 - a) agree to amend the agreement, provided that this is non-discriminatory in relation to the other Successful Bidders, and does not lead to substantial changes to the agreement;

- b) refuse the request on the grounds set forth in section a).
2. In order to make any amendments to this Framework Agreement, an addendum to this agreement must be produced and signed by both Parties.
3. The Contracting Authority may suggest amendments to this Framework Agreement if these amendments do not amount to a material change to the agreement and the conditions referred to in paragraph 1, section a) are respected.

Article 24

Responsibilities of the Successful Bidder and duties towards its employees

1. At its own expense, the Successful Bidder undertakes to comply with all obligations, including the relevant insurance and social security obligations, arising from legislative, regulatory and administrative measures relating to employment and social security law, collective labour agreements, the provisions of Legislative Decree 81/2008 and other applicable provisions that may be introduced during the validity of this Framework Agreement, in so far as they are applicable. It is expressly agreed that any additional costs arising from compliance with the regulations and requirements of this paragraph shall remain the exclusive responsibility of the Successful Bidder, which cannot therefore make any claim for payment on any grounds, in relation to the Contracting Authority.
2. In order to comply with the aforementioned regulations, the Successful Bidder hereby agrees to:
 - a) cooperate with the relevant departments of the Contracting Authority in relation to the implementation of security and emergency measures to be adopted at the premises where the tender will be performed;
 - b) communicate any specific risks arising from the implementation of the tender to the Contracting Authority, on the date that the Framework Agreement is signed.
3. The Successful Bidder undertakes to apply contractual conditions and remuneration not lower than those resulting from the collective labour contracts applicable to the relevant work category to its staff, with reference to the premises where the services are performed under this agreement and, in general, those resulting from any other collective labour contracts, subsequently signed, for the relevant category. This shall also apply if the Successful Bidder does not belong to the relevant associations, or is no longer a member.
4. The Successful Bidder also undertakes to continue to apply the aforementioned collective labour contracts after their expiry, and until such contracts are replaced; it declares and guarantees that on the date of the signing of this Framework Agreement, it has complied with its obligations relating to the payment of social security and insurance contributions on behalf of its employees, according to the laws in force, and hereby agrees to comply with those obligations throughout the duration of this Framework Agreement. On the request of the Contracting Authority, the Successful Bidder undertakes to provide documentation proving the fulfilment of those obligations.
5. The Successful Bidder expressly undertakes to indemnify and hold harmless the Contracting Authority from any claims that may arise from failure to comply with the regulations and requirements stated above, also in legal proceedings.
6. The Contracting Authority shall not answer for events such as theft, loss or deterioration of the Successful Bidder's materials and/or operating equipment for any reason, nor will it pay

any compensation or reimbursement of any kind for expenses arising from these events to the Successful Bidder.

Article 25

Safeguarding of personal data

1. Pursuant to article 28 of Legislative Decree of 30 June 2003, no. 196, in relation to the handling of personal data necessary for the proper implementation of the Framework Agreement, the Successful Bidder, acting as autonomous data controller, is required to:
 - a) identify and appoint in writing those responsible for handling the data, giving them appropriate instructions, also in writing;
 - b) monitor the compliance with instructions by those responsible;
 - c) adopt and comply with the safety measures indicated and prepared by the Contracting Authority;
 - d) monitor compliance with the aforementioned measures by those responsible;
 - e) verify, at least on a three-monthly basis, the application of the Legislative Decree of June 30, 2003, no. 196, as well as the proper functioning of the security measures adopted;
 - f) prepare a written report, following each verification, in relation to all the obligations performed pursuant to the Legislative Decree of June 30, 2003, no. 196;
 - g) transmit copies of these reports to the Contracting Authority on request;
 - h) destroy the personal data in the event of termination of the handling of such data, seeing to the necessary legal formalities;
 - i) communicate any new handling necessary to correctly fulfil the agreement to the Contracting Authority and see to the resulting obligations;
 - j) promptly respond to all requests from the third parties concerned, related to the claiming of any rights according to article 7 of Legislative Decree no. 196 of June 30, 2003, and provide immediate notification, also by sending a copy of its response and of any action taken with this regard.
2. In the event that the Successful Bidder receives communications of any kind from the Italian Data Protection Authority in relation to the handling of the personal data necessary for the implementation of the Framework Agreement, the Successful Bidder must immediately forward these to the Contracting Authority.
3. It is understood that the handling of personal data related to this Framework Agreement by the Successful Bidder must be carried out pursuant to article 28 of the aforementioned Decree no. 196 of June 30, 2003, under the supervision of the Contracting Authority, which may at any time carry out checks or issue further specific instructions for the handling of data. Furthermore, the Contracting Authority can request the termination of such handling, if demanded by the need to comply with prohibitions and obligations of the law, or any provisions of the Data Protection Authority.
4. The Successful Bidder certifies that the technological system and services offered to the Contracting Authority for the implementation of the Framework Agreement comply with the provisions of the technical regulations regarding minimum security measures annexed to the Legislative Decree of 30 June 2003, No. 196, and in particular, declares that:

- a) the applications used for the handling of personal data provide for an authentication and authorisation system;
 - b) the password - when provided for by the authentication system - is made up of at least eight characters, or if the electronic instrument does not allow it, by a number of characters equal to the maximum allowed;
 - c) the password does not contain references that could be easily related to the individual responsible;
 - d) the password is amended by the latter on first use, and thereafter at least every six months (every 3 months in the case of handling of sensitive and judicial data);
 - e) the identification code, when used, will not be assigned to others at any time;
 - f) each person responsible is assigned or associated individually with one or more authentication credentials;
 - g) the authentication credentials (other than those previously authorised for technical purposes alone) will be disabled if not used for a period of at least six months, or if they lose the properties allowing the person responsible to access personal data;
 - h) the authorisation profiles for each individual responsible or for homogenous classes of individuals responsible, will be identified and configured before the start of handling, in order to limit access to the data required to perform the processing alone;
 - i) the continuance of conditions for the conservation of authorisation profiles shall be verified periodically, and at least annually;
 - j) personal, sensitive and judicial data shall be protected against the risk of intrusion and the effects of programs according to Section 615-*quinquies* of the Italian Criminal Code, through the use of suitable electronic media;
 - k) periodic updates of computer programs aimed at preventing the vulnerability of electronic instruments and to correct defects are regularly carried out;
 - l) data saving is performed regularly;
 - m) appropriate measures are taken to ensure the restoration of access to data in the event of damage to the data or electronic media, with certain times compatible with the rights of the parties and not exceeding seven days.
5. Within 30 days from the signing of the Framework Agreement, the Successful Bidder shall formally respond to the Contracting authority, certifying the adoption of all the measures provided for in relation to the handling of the data entrusted.
 6. The Parties confirm they will respect all applicable data protection legislation, including but not limited to the applicable transposition of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the handling of personal data and the free circulation of such data.
 7. Pursuant to Legislative Decree no. 196/2003 on the handling of personal data, the Parties declare that they have already informed each other, prior to the signing of this Framework Agreement, of the method and scope of handling personal data performed in the implementation of this Framework Agreement.
 8. For the purposes of the provisions above, the Parties declare that all personal data provided in this agreement is correct and true, reciprocally exonerating each other from any responsibility for compilation errors or errors deriving from incorrect entry of such data in paper and electronic records.

9. The handling of personal data shall follow the principles of correctness, legitimacy and transparency and shall comply with security measures.
10. On signing this Framework Agreement, the Parties declare that they have verbally informed each other of all the information provided for in article 13 of Legislative Decree no. 196/2003, including the names of the persons acting as data processor and data controller as well as the methods for exercising the rights of the party concerned as provided for in articles 7 – 10 of the same legislation.

Article 26

Transparency

1. The Successful Bidder expressly and irrevocably declares that:
 - a) there was no mediation or other action by third parties to conclude this Framework Agreement;
 - b) no sums of money or other benefits have been paid or promised to anyone, directly or through third parties, including affiliated companies and subsidiaries, by way of mediation or similar, with the purpose of facilitating the conclusion of the Framework Agreement;
 - c) there are no agreements and/or practices restricting competition or the market and prohibited according to applicable law, including Articles 81 and following of the EC Treaty and Articles 2 and following of the Law no. 287/1990 underway, and that the offer has been prepared in full compliance with these regulations.
2. Should even one of the declarations pursuant to the preceding paragraph be found to be false, or if the Successful Bidder fails to comply with the commitments and obligations undertaken therein for the whole duration of this Framework Agreement, this agreement shall be deemed terminated following communication by the Contracting Authority, via registered letter with acknowledgement of receipt, of its intention to avail itself of the termination clause, without prejudice, in any case, to the right to claim compensation for damage suffered by the Contracting Authority.

Article 27

Anti-corruption measures

1. On signing this agreement, the Successful Bidder certifies, pursuant to and in accordance with article 53, paragraph 16 ter, of the Legislative Decree of 30 March 2001, no. 165, that it has not concluded employment or project contracts or in any case related to professional assignments with former employees of the Provincia Autonoma di Trento or the other Commissioning Bodies who have exercised authority or negotiating powers on behalf of the Province or the other Commissioning Bodies in relation to the Successful Bidder, in the three-year period following the termination of public office.
2. With reference to the services that are the object of this agreement, the Successful Bidder undertakes, according to article 2 of the Code of Conduct for employees of the Provincia Autonoma di Trento and public bodies depending on the Province, approved with Provincial Council Resolution no. 1217 of 18 July 2014, to observe and enforce observance of the obligations in relation to conduct provided for by the Code of Conduct among its workers, in whatever role, in so far as compatible with the role and activities carried out.

3. For this purpose the Successful Bidder acknowledges that the Administration has transmitted a copy of the Code, according to article 18 of the Code of Conduct referred to above, to ensure full and complete awareness of the provisions. The Successful Bidder undertakes to transmit a copy of the Code to its own workers, in whatever role.
4. Infringement of the obligations of the Code of Conduct referred to in paragraphs 2 and 3 of this article may represent due cause for the termination of this agreement. The Administration, having verified the infringement, will notify the Successful Bidder of the fact in writing, establishing a term of no more than 10 days for presentation of any rebuttal and counter-arguments. If these are not presented or not found to be acceptable, it will proceed with termination of the agreement, without prejudice to the right to claim compensation for damages.

Article 28 Intellectual Property Rights

1. The management of intellectual property rights deriving from this Project shall be regulated by the “Draft agreement for the management of intellectual property rights” annexed to this Framework Agreement (Annex 2).
2. The Successful Bidder has the right to publish – having obtained the consent of other participants in the procedure – extracts or summaries of the results of the PCP, including information about key R&D results attained and knowledge acquired by the Commissioning Bodies during the PCP (e.g. on the ability of the innovative solutions presented to meet the Commissioning Bodies’ requirements and the possibility of commercial exploitation following the conclusion of the procedure). In any case, information may not be disclosed that would hinder application of the law, be contrary to the public interest, or would harm the business interests of stakeholder companies involved in the PCP (with reference for example to intellectual property rights) or that could distort fair competition between the participating companies or others on the market.

Article 29 Confidentiality

1. The Successful Bidder shall have the obligation to keep confidential the data and information coming into its possession, or of which it becomes aware, including information handled using data processing equipment, and not to disclose it in any way or form, or use it for any purpose other than that strictly necessary to fulfil the requirements of the Framework Agreement.
2. The obligation stated in the previous paragraph also relates to all original materials, or any other material prepared in connection with the Framework Agreement.
3. The obligation stated in paragraph 1 does not apply to data that is already, or subsequently becomes, public knowledge.
4. The Successful Bidder is responsible for strict respect of the aforementioned confidentiality obligations by its employees, consultants and project workers.
5. In the event of failure to comply with the confidentiality obligations, the Contracting Authority shall be entitled to declare this Framework Agreement legally terminated, subject to prior notice of termination sent by registered letter with acknowledgement of receipt,

without prejudice to the fact that the Successful Bidder will be required to pay compensation for any damage resulting to the Contracting Authority.

6. The Successful Bidder may mention the essential terms of this Framework Agreement, when this is a prerequisite for its participation in calls for proposals or tendering procedures.
7. The Successful Bidder also undertakes to comply with all the provisions of D.Lgs no. 196/2003 and its implementation regulations on confidentiality.
8. The Successful Bidder undertakes to impose the confidentiality obligation on all those who as a result of their position, become acquainted, directly or indirectly, with any confidential information. This general confidentiality obligation shall remain in force for a period of 5 (five) years after the expiry of all the contractual obligations linked to the stipulation of this Framework Agreement, or early termination /withdrawal from the agreement, and therefore in this case also beyond the duration of the Framework Agreement, which with reference to this aspect shall be considered fully valid and effective even beyond its expiry.

Article 30 **Place of jurisdiction**

1. For any disputes that should arise between the Parties with reference to the interpretation, performance, validity, effectiveness and termination of this contract and the Implementation Documents, Trento Courts shall be the exclusive place of jurisdiction.
2. The Parties agree to exclude the jurisdiction of other optional Courts provided for by the law in competition with the designated court.
3. The law applicable to this contract and the Implementation Documents shall be Italian law.
4. The official version of this contract and the Implementation Documents is the version drawn up in Italian.

Trento, (date) _____

Provincia Autonoma di Trento

The Successful Bidder

According to articles 1341 and 1342 of the Italian Civil Code, the following Articles are specifically approved:

- Article 4 “Regulations applicable”;
- Article 5 “Duration and Extensions”;
- Article 6 “Scope”;
- Article 8 “Obligations of the Successful Bidder”;
- Article 10 “Verification of results with reference to the Research & Development Project”;

- Article 13 “Fees, invoicing and payment methods”;
- Article 14 “Law of 13 August, 2010 no. 136, Traceability of Financial Transactions”;
- Article 15 “Penalties”;
- Article 17 “Deposit”;
- Article 18.1 “Subcontracting”;
- Article 20 “Termination”;
- Article 22 “Damage, civil liability and insurance”;
- Article 24 “Responsibilities and duties of the Successful Bidder towards its employees”;
- Article 26 “Transparency”;
- Article 29 “Confidentiality”;
- Article 30 “Place of jurisdiction”.

Provincia Autonoma di Trento

The Successful Bidder
