

**CONTRACT No. LAS2110-01**

Revision: 1 draft

Between:

**MICROGATE s.r.l.,**

(hereinafter called "Prime Contractor" or "Microgate" or "MIC")

whose Registered Office is at:

Via Waltraud-Gebert-Deeg, 3e  
39100 Bolzano (BZ)  
Italy

represented by [REDACTED] its CTO – Chief Technology Officer

of the one part

AND

**ISTITUTO NAZIONALE DI ASTROFISICA,**

(hereinafter called "the Subcontractor" or "INAF"),

whose Registered Office is at:

Viale del Parco Mellini, 84  
00136 Roma  
Italy

represented by [REDACTED] (President INAF)

of the other part,

Microgate and the Subcontractor (hereinafter individually referred to as a “party” and collectively as the “parties”) agree as follows:

#### GENERAL NOTE

For the purpose of the present Contract, the term “Contractor” within *General Conditions of Microgate Contracts [AD2]* shall be read and interpreted as “Subcontractor”, with the meaning set forth in the present contract.

#### Article 1. SUBJECT OF THE CONTRACT – APPLICABLE DOCUMENTS

- 1.1. The Subcontractor undertakes to perform the work entitled “ALASCA” (Advanced Laser guide star Adaptive optics for Satellite Communication Assessments) for the “Reliable GEO Optical Feeder Link Demonstration” ESA-ITT, “the project”, as further described in the Statement of Work [1.2.c of AD3], to cooperate with the Prime Contractor for the execution and the delivery to the main customer (hereinafter referred to as “the European Space Agency”) of the hardware, software and documentation as described herein and as detailed within the documentation provided for the ITT [AD3 and 1.2.f of AD3].

1.2. Applicable documents

Paragraph 4.2 of the *General Conditions of Microgate Contracts [AD2]* apply to this Contract with the following complements and amendments:

The following documents shall be deemed to form the Contract between the Prime Contractor and the Subcontractor, and be read and constructed as part of the Contract, and shall be interpreted in the following order in case of discrepancy or ambiguity among the following documents.

AD1. This contract;

AD2. Microgate General Condition for Contract, as amended by this Contract, attached hereto;

AD3. ESA Contract No. 4000136203/21/NL/AF and the documents applicable to the Contract itself, as per section 1.2 of the ESA Contract, attached hereto;

AD4. LAS2110\_CA\_01, Confidentiality Agreement, not attached hereto but known to both parties;

The present Contract constitutes the entire agreement between the parties in relation to the subject matter of the Contract and replaces and supersedes all other communications or understandings of any kind, either written or oral, between the parties in this respect.

## **Article 2. DELIVERY**

- 2.1. The Subcontractor shall, during the performance of this contract, participate to all reviews and meetings, and deliver all documentation, reports, Hardware and Software to support the Prime Contractor for the delivery to the European Space Agency as specified in [1.2.c and 1.2.f of AD3].

The work shall be performed in accordance with the schedule, the tasks and the timetables set forth in the Project Plan [AD3 and Annex II] in order to enable the parties to meet the work schedule for the project. As further detailed in [1.2.c and 1.2.f of AD3], the work of the Subcontractors is focused on the following main areas:

- System Engineering
- ICS and RTC design, implementation and testing
- AIV Activities in Europe and at OGS
- Test data post-processing

- 2.2. For each scheduled milestone [see AD3], an agreement shall be made between the Prime Contractor and the Subcontractor, detailing the delivery items and delivery dates for the specific milestone.

- 2.3. Final Delivery

All the end-of-project documentation specified in [AD3] shall be delivered to the Prime Contractor no later than 1<sup>st</sup> October 2024.

The object code relevant to the software, mathematical models, data files, design files and computer programmes specified in [AD3 and Annex VI] shall be ready for final delivery to the European Space Agency, via the Prime Contractor, no later than 1<sup>st</sup> October 2024.

The hardware specified in [AD3 and Annex VI] shall be ready for final delivery to the European Space Agency, via the Prime Contractor, no later than 1<sup>st</sup> October 2024.

## **Article 3. PRICE AND PAYMENT**

### **PRICE**

- 3.1. The Total Contract price for the performance of the scope of the Contract is

**275,560.0 EUR**

(in words: Two hundred seventy-five thousand, fifty hundred sixty .0 Euro)  
that Microgate s.r.l. will pay to INAF as detailed below.

**401,924.4 EUR**

(in words: Four hundred one thousand, nine hundred and twenty-four.4 Euro)

are given as in-kind contribution, for which the Subcontractor shall not claim payment of money.

The in-kind contribution will be provided in accordance with the tasks and the timetables set forth in the Project Plan [AD3 and Annex II] in order to enable the parties to meet the work schedule for the project.

The price is deemed to include all the items, direct and indirect, needed for the execution and delivery of the project, including but not limited to labour, facilities, hardware, software, external services, travels, transport and insurances. See [AD3], [1.2.f of AD3 as amended by 1.2.e of AD3] for details.

3.2. The type of price is the following:

Firm Fixed Price as defined in Section 2.1 of Annex II to the GCC [1.2.b of AD3].

The total Contract price is fixed for the duration of the contract, as detailed in Annex II, i.e. includes all costs relating to the performance of the Subcontractor's obligations under the Contract. The total Contract price shall not be subject to any adjustment by reason of the actual cost incurred by the Subcontractor in the performance of the Contract.

3.3. The price is deemed to include all applicable fees for licences to be purchased and delivered in the frame of the Contract, indicating the European Space Agency as the end user. The price is further deemed to include any and all licence fees payable according to Clause 43.7 of the GCC [1.2.b of AD3].

3.4. The Contract price is free of Value Added Tax (VAT). The Subcontractor's invoices shall therefore be established without VAT, according to the European fiscal law.

3.5. **PAYMENT: GENERAL PROVISION (supersedes section 15 of General Conditions of Microgate Contracts [AD2])**

- a. The Payment Plan applicable to this Contract is specified in Appendix 1 hereto.
- b. Payments shall be made within forty-five (45) calendar days after fulfilment of the requirements as specified in paragraph 3.5.d and 3.6 below. Only upon fulfilment of these requirements shall the invoice be regarded as due by the Prime Contractor.
- c. Payments shall be made by the Prime Contractor in EURO to the account specified by the Subcontractor within this contract. Such account information shall clearly indicate the IBAN (International Bank Account Number) and BIC/SWIFT (Bank Identification Code). The Parties agree that payments shall be considered as effected by the Prime

Contractor on time if the Prime Contractor's orders of payment reach the Prime Contractor's bank within the payment period stipulated in the paragraph above.

d. Requirements for invoices being regarded as due<sup>1</sup>:

Progress Payment(s):

- Milestone Achievement Confirmation (MAC/GRN) hereinafter referred to as "confirmation" with supporting documentation, attached in esa-p.
- Invoice(s);

Final Settlement:

- Confirmation, with supporting documentation attached in esa-p.
- Invoice(s);
- Receipt and/or acceptance, by the Prime Contractor, of all deliverable items, of the services to be rendered and other obligations to be fulfilled, in accordance with the terms of this Contract;

e. Subcontractor account information:

IBAN: IT 69 S 01005 03309 000000218500

BIC/SWIFT: BNLITRR

**3.6. PAYMENT: IMPLEMENTATION OF PAYMENTS CONDITIONS**

- a. The Subcontractor shall ensure that all invoices and confirmations are submitted for payment through the Agency's esa-p system.
- b. The Subcontractor undertakes to adhere strictly to the instructions contained in esa-p (including those for billing taxes and duties, where applicable) when submitting invoices and confirmations through the esa-p system.
- c. The Prime Contractor shall be responsible for approving or rejecting, within ten (10) calendar days of receipt, the relevant Subcontractor's invoices and related supporting documents (e.g. MACs/GRNs, Cost Reports).

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<sup>1</sup> For detailed information on how to submit and approve confirmations, invoices, and APR in esa-p you may consult the following two Quick Guides:

[http://esa-p-help.sso.esa.int/Quick\\_Guide\\_How\\_to\\_submit\\_a\\_Confirmation\\_or\\_Invoice\\_or\\_APR.pdf](http://esa-p-help.sso.esa.int/Quick_Guide_How_to_submit_a_Confirmation_or_Invoice_or_APR.pdf)

[http://esa-p-help.sso.esa.int/Quick\\_Guide\\_How\\_to\\_approve\\_a\\_Confirmation\\_or\\_Invoice\\_or\\_APR.pdf](http://esa-p-help.sso.esa.int/Quick_Guide_How_to_approve_a_Confirmation_or_Invoice_or_APR.pdf)

### 3.7. **PAYMENT: COMMUNICATION CHANNEL**

It is explicitly understood that the communication channel described below shall not replace the normal communication lines, and the overall responsibility of the Prime Contractor to ensure proper and timely processing of payments of the Subcontractor:

- With a view to optimise Subcontractors' time to payment and financial coverage, and to facilitate, when needed, the resolution of such issues, the European Space Agency has established a dedicated centralised email address.

Should the Subcontractor encounter serious difficulties in the process leading to:

- (i) timely payment of due invoices (i.e. related to a milestone already achieved) to be made by the Prime Contractor

- (ii) contractual coverage of activities already kicked-off,

the Subcontractor may directly contact the European Space Agency at: [indirectpayments@esa.int](mailto:indirectpayments@esa.int)

- The Subcontractor, when contacting the Agency through the above email, shall document the steps already taken towards its direct customer (i.e. the Prime Contractor) in the consortium in order to resolve the issue and shall document that the Prime Contractor has been informed of the issue.

In doing so, the Subcontractor shall attach the Standard Contact Form available at: <http://emits.esa.int/emits-doc/ESTEC/Indirect-Payments-Query-Form.docx> properly filled in or provide the same information in the body of the email.

### **Article 4. FINAL ACCEPTANCE**

Paragraph 47.1 of the *General Conditions of Microgate Contracts* [AD2] shall be read as follows:

"Final Acceptance shall be granted with effect from the expiry of the guarantee period of 2 years, provided that the Subcontractor has fulfilled all his obligations. To that effect, the Subcontractor shall submit to MIC a Request for Final Acceptance, using the template provided as Annex to the Contract."

### **Article 5. ITEMS MADE AVAILABLE BY THE AGENCY**

The European Space Agency will make available to the Prime Contractor and to the Subcontractor the items listed below:

Item	Replacement Value
Single-mode fibre-coupled and polarisation-maintaining 50 Watt laser system	60,000 €

The Subcontractor shall assume liability for loss of- or damage to the items caused by the Subcontractor and/or the Subcontractor's agents, consultants or any other entity/natural person appointed by the Subcontractor from the time the items are physically delivered to the Subcontractor at the agreed location until the time specified in the Contract.

**Article 6. ACCESS TO EUROPEAN SPACE AGENCY FACILITY (OPTICAL GROUND STATION IN TENERIFE)**

During the execution of the work, the Subcontractor shall access the European Space Agency Optical Ground Station in Tenerife. In doing so, the Subcontractor shall respect all applicable laws, rules and regulations and in particular those concerning safety and security. The Subcontractor shall bear all liabilities related to his use of the OGS and shall hold the Prime Contractor and the European Space Agency harmless from any costs and claims resulting from damage to persons or to property resulting from his use of the OGS.

**Article 7. SAFETY (in complement to Paragraph 22 of the General Conditions of Microgate Contracts [AD2])**

Paragraph 22 of the *General Conditions of Microgate Contracts* [AD2] shall extend with the following addition:

In addition to observing all relevant national legislation in safety and health matters, the Subcontractor shall, when on the Microgate site in Italy or on any other site the Subcontractor requires access to when executing the work, be informed of applicable safety regulations in force thereon and follow these safety regulations. These obligations shall be taken into account by the Subcontractor when drawing up his tenders and performing the contract.

**Article 8. DATA COLLECTED DURING THE PROJECT**

The data, technique and methodologies collected during the project by the Subcontractor shall be shared amongst all the participants to the project (indicated within section 3.1 of [AD3]).

The Prime Contractor and the Subcontractor each acknowledge the other party's interest in publishing and presenting the results of its research. However, any dissemination (including but not limited to communications, publications or presentation) of the results, deriving from the data, technique and methodologies described within the previous section, shall be approved in writing by the Prime Contractor.

Once the approval has been obtained, the publications of such results shall be solely by written agreement of all the participants to the project (indicated within section 3.1 of [AD3]).

**The party wishing to make a publication of the results arising from the project shall deliver to the other party and to the participants to the project (indicated within section 3.1 of [AD3]) a copy of the proposed written publication or an outline of an oral disclosure at least 30 calendar days (or a different timespan agreed in writing by both parties) prior to submission for publication or presentation. The reviewing party and the participants to the project shall have the right to propose modifications to the publication or presentation. Upon expiration of such 30 calendar days (or a different timespan agreed in writing by both parties), the publishing party shall be free to proceed with the publication or presentation. If the reviewers request modifications to the publication or presentation, the publishing party shall edit such publication or presentation prior to submission of the publication or presentation. The publishing party agrees to acknowledge the contributions of the other party and/or the other participants to the project, making appropriate and explicit reference in the publication and presentation based on any contribution they have made to the work. The publications and presentations shall have as co-authors at least two personnel members of the other party and of each participant to the project. The submitting party shall provide the other party and the participants to the project with a copy of the publication or presentation at the time of the submission or presentation.**

#### Article 9. INTELLECTUAL PROPERTY

(in complement to Paragraph 30 of the *General Conditions of Microgate Contracts* [AD2])

Paragraph 23.2 of the *General Conditions of Microgate Contracts* [AD2] shall extend with the following addition:

"In particular, publication by MIC of any information supplied by the Subcontractor shall include clear acknowledgement of the Subcontractor authorship in the form to be agreed between the parties."

The prime Contractor and, consequently, the European Space Agency, on the basis of evidence provided by the Subcontractor, recognises as Background Intellectual Property the information as detailed within section 43 of [AD3].

The Subcontractor shall include the Background Intellectual Property exclusively in the deliverables detailed within section 43 of [AD3] and shall mark them conspicuously as 'Background Intellectual Property – Proprietary Information'.



The Prime Contractor and the European Space Agency shall protect these deliverables under Clause 38 of the GCC [1.2.b of AD3]. All other deliverables shall not contain any Proprietary Background Information, shall not be marked 'Proprietary Information', and shall not fall under the protection of Clause 38 GCC [1.2.b of AD3]."

#### **Article 10. SECRECY UNDERTAKINGS**

The Subcontractor shall refrain from passing on the materials and/or particulars received from MIC and/or any other participants to the project (indicated within section 3.1 of [AD3]) or copies thereof or any information embodied therein, to any third party by communication or publication or otherwise.

#### **Article 11. CONTRACT MANAGEMENT – REPRESENTATION – ADDRESS FOR CORRESPONDENCE**

11.1. The Prime Contractor representatives in charge of the follow-up of the Contract are:

*For technical matters:*

[REDACTED]

with copy to

[REDACTED]

*For managerial and contractual matters:*

[REDACTED]

with copy to

[REDACTED]

and

[REDACTED]

11.2. The Subcontractor representatives in charge of the follow-up of the Contract are:

***For technical matters:***

[REDACTED]

with copy to:

[REDACTED]

***For managerial and contractual matters:***

[REDACTED]

with copy to:

[REDACTED]

**Article 12. LANGUAGE**

Any communication and correspondence between MIC and the Subcontractor shall be in Italian or English.

**Article 13. GENERAL CONDITIONS OF MICROGATE CONTRACTS**

Except to the extent that they have been modified or amended by the above Paragraphs, the provisions of the *General Conditions of Microgate Contracts* [AD2] shall apply to this Contract.

**Article 14. DISPUTES – STATUS – APPLICABLE LAW**

14.1 In case of dispute arising from this Contract, the parties agree and engage to enter into negotiations with the aim to reach an amicable settlement. Failing such an amicable settlement, the parties shall resort to arbitration under the conditions described in Paragraph 33 of the *General Conditions of Microgate Contracts* [AD2].

14.2. The arbitration proceedings shall be conducted in the English language except otherwise decided by the arbitrators.

14.3. The law applicable to MIC contracts is described in Paragraphs 34 of the *General Conditions of Microgate Contracts* [AD2].

Allegato 1 a Delibera CdA n. 61/2021

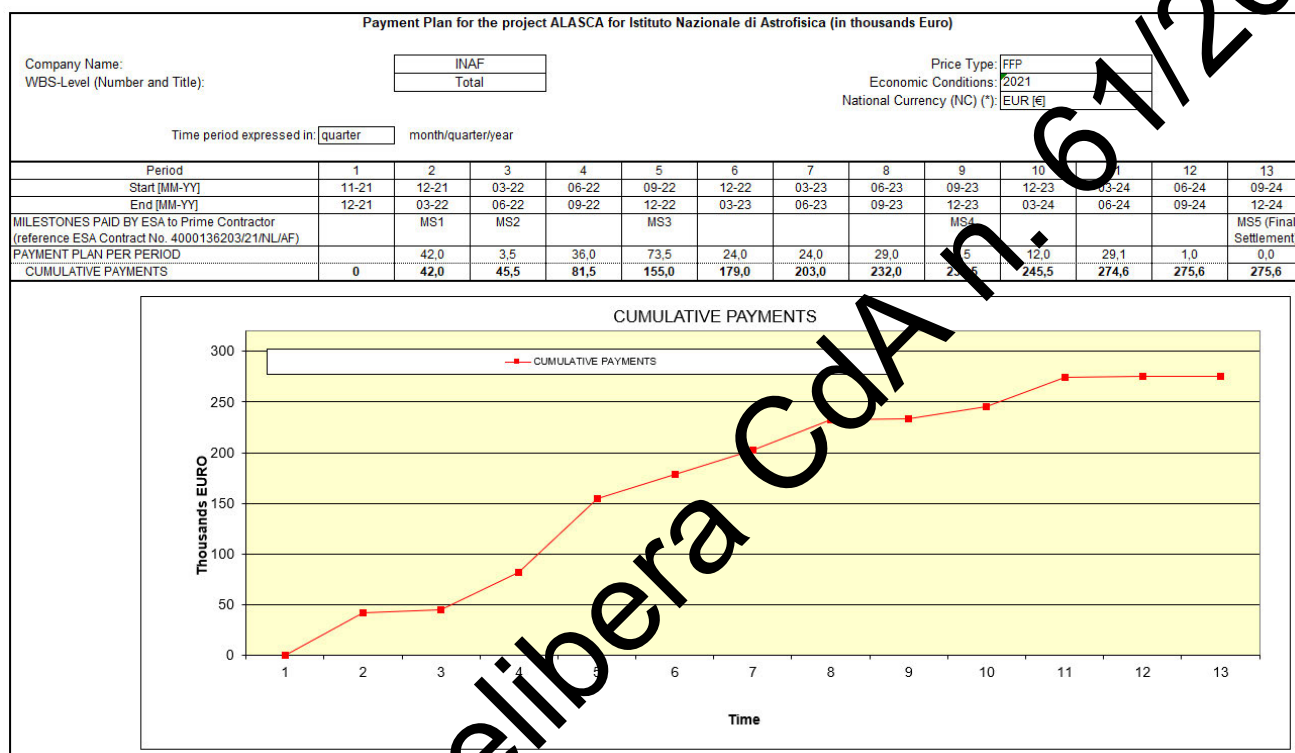
### Annexes

The following Annexes form part of this Contract:

- Annex I: Payment plan - attached hereto
- Annex II: ALASCA project plan (\*) - preliminary.  
(\*) The Prime Contractor shall provide in writing the updated project plan, as approved by the European Space Agency, no later than two months after contract signature.
- Annex III: Microgate General Condition of Contracts
- Annex IV: ESA Contract No. 4000136203/21/NL/AF
- Annex V: MIC-LAS-003-01\_MIN\_v1, Negotiation meeting MoM
- Annex VI: ALASCA PBS with INAF responsibilities and deliverables
- Annex VII: Template for Final Acceptance - attached hereto

Allegato 1 a Delibera CoA n. 61/2021

## **Annex I:** Payment plan



Milestone Acronym refers to the acronym used in the ESA Contract No. 4000136203/21/NL/AF, "APPENDIX 1: PAYMENT PLAN AND ADVANCE PAYMENT AND OTHER FINANCIAL CONDITIONS" [AD3]

The start and end date of each quarter will be confirmed after the approval from ESA of the overall project plan.

**Annex VII:** Template for Final Acceptance

REQUEST FOR FINAL ACCEPTANCE		
Contractor	ISTITUTO NAZIONALE DI ASTROFISICA	
Contract Number	LAS-2110-01	
Scope of the Contract	Subcontract for Reliable GEO Optical Feeder Link Demonstration work: cooperation with the Prime Contractor (Microgate) for the execution and the delivery to the main customer ("the European Space Agency") of the hardware, software and documentation as described within the documentation provided for the ITT	
Final Acceptance	[entire scope of Contract] OR [Items X & Y of Contract]	
Contractual date	[this is the date foreseen in the contract ]	
Actual date		
Comments	[as appropriate, including reference to relevant documentation, i.e. reports, minutes of meetings, etc.]	
We request FINAL Acceptance for the item(s) mentioned above		
Contractor's representative	Date	Stamp & signature

