



Memorandum of Understanding

Between

GÉANT

And

(PARTNER)



TITLE

Memorandum of Understanding to provide (GÉANT) input in form of allocated development resources in terms of partner person months for the GN5-1 project Above the Network Services - Incubator task

between:

GÉANT Vereniging (Association), which is registered with the Chamber of Commerce in Amsterdam with registration number 40535155 whose office is at Hoekenrode 3, 1102 BR Amsterdam, The Netherlands (hereafter to be referred to as GÉANT)

and

..... (hereafter to be referred to as Partner)

hereinafter jointly referred to as the "Parties" and each individually as the "Party".

Taking into account that:

GÉANT is a not-for-profit company based in Amsterdam and is owned by European National Research and Education Networks (NRENs).

The Partner is

GÉANT and Partner are co-operating for the GN5-1 project Project) as detailed herein.

RECITALS

Whereas

1. The Project is run by GÉANT and aims to accelerate and incubate Above the Network services for the research and education community. The GN5-1 Project is co-funded by the European Commission, Grant Agreement number 101100680.
2. GÉANT, on behalf of the GN5-1 Project, leads and coordinates incubation of Cloud and Data Services.
3. The Partner applies to get a EC-funded manhours awarded for which GÉANT held a competition.
4. GÉANT and the Partner wish to further promote their respective objectives by demonstrating the impact of incubating commercial digital services on European research activities in terms of agility and outcome. Both will provide input and support the development of relevant case studies to be referenced by the broader research community associated with GN5-1.

The Parties have agreed on the following:

Article 1: Purpose, benefits of the collaboration and effective date

1. The purpose of this Memorandum of Understanding (MoU) is to arrange the cooperation between GÉANT and the Partner in regards to the Project. The Partner will support the Project by providing allocated development resources in terms of partner person months and input to the project while



making use of the services, contract and funding. These manhours will provide GÉANT with the required input and opportunity for their case study: to proof and report the results of the Project.

2. This MoU enters in to force on last date of signature, hereinafter referred to as the "Effective Date".

Article 2: Activities

1. GÉANT will drive incubation through different service usage models within the Project up to a maximum of 8 allocated development resources in terms of partner person months provided by the Partner to support the Project. These resources have been awarded via a competition organized within all the Project participants and based on an analysis focused on the Project's needs.
2. The place of supply of these resources, shall be the Partner. GÉANT provides the required details on a case-by-case basis to the awarded Partner.
3. The manhours are provided under the supervision of GÉANT. The Partner will be responsible for providing enough effort in manhours.
4. Based on this MoU between GÉANT and the Partner, the Partner will be able to seek compensation for the agreed upon manhour. Neither GÉANT nor the Project will be held responsible for any costs incurred beyond the amount of manhours redeemed.
5. The Partner agrees to provide input (described in allocated development resources in terms of partner person months) into the development and / or incubation of a related case study (showcase) by the Project funding. This input shall be monitored by GÉANT, must demonstrate the impact of these resources on the project. This case study will be one of a number representing the broader portfolio of studies on the use of commercial digital services in European research.
6. The Partner will provide input to the extent that the Project will be able to incubate and demonstrate the impact on research activities and outcomes before the end of the Project, currently projected for(date) , leaving sufficient time to process the results of such incubator.
7. The Partners contributions towards the Project deliverables should be provided at least four (4) weeks before the due date of the deliverable as stated in the relevant project plan.
8. GÉANT reserves the right to recall manhours in case of prolonged non-delivery of the manhours.

Article 3: Communication

Any communications between the two Parties will initially be through the following named persons.

GÉANT

Dave Heyns – david.heyns@geant.org
Piotr Pawalowski astagor@man.poznan.pl

Partner



Article 4: Duration and Termination

This MoU remains in effect until finalization of the GN5-1 Project or unless terminated for breach by either Party. Notwithstanding its termination, the provisions of this MoU shall survive to the extent necessary to permit an orderly settlement of business between the Parties and to bring on-going activities to a proper conclusion.

Article 5: Settlements of Dispute

1. This MoU shall be governed by and interpreted in accordance with the laws of The Netherlands.
2. In the event of any dispute arising between the Parties in connection with this MoU, the Parties shall attempt to resolve such dispute in good faith under mutual negotiations, without recourse to legal proceedings. This clause shall in no way waive any rights and/or remedies that the Parties may have under this MoU and/or under law.
3. If the Parties are unable to resolve such dispute within thirty (30) calendar days from the day the Parties met or tried to meet after the written notification by one Party to the other of the existing dispute, either Party may request that the dispute be finally settled in legal court situated in Amsterdam the Netherlands.

Article 6: Confidentiality of information and Privacy

1. The Parties may disclose to each other information that the disclosing Party deems confidential and which is (i) in writing and marked “confidential”, or (ii) disclosed orally, and identified as confidential when disclosed, and reduced in writing and marked “confidential” (hereafter referred to as “Confidential Information”). Confidential Information shall be held in confidence and shall not be disclosed by the receiving Party to any third party without the prior written consent of the disclosing Party.
2. Notwithstanding paragraph 1 of this article, a Party is entitled to disclose Confidential Information which it is required by law to disclose or which, in a lawful manner, it has obtained from a third party without any obligation of confidentiality, or which it has developed independently from any Confidential Information received under this MoU, or which has become public knowledge other than as a result of a breach on its part of these confidentiality provisions.
3. For the purposes of GDPR, the Parties acknowledge that they are each a separate and independent controller of any personal data relating to the Research. The Parties do not and will not process personal data as joint controllers. Each Party shall comply with the obligations that apply to it as a controller under the GDPR, and each Party shall be individually and separately responsible for its own compliance.
4. Each Party shall ensure that it has in place appropriate technical and organisational measures to protect the personal data against accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed.

Article 7: Liability

1. For avoidance of doubt, no breach of an obligation contained in this MoU or performance or non-performance under this MoU shall give rise to any liability by one Party to another.
2. GÉANT will not be held responsible for performance of the Partner.
3. The Partner will be fully responsible for their actions and manhours provided by the Partner.



4. Each Party shall use reasonable endeavours to ensure the accuracy of any information or materials it supplies to the other Party and of any other contribution it makes hereunder and promptly to correct any error therein of which it is notified. Each Party shall be under no obligation or liability other than as stated above and no warranty or representation of any kind is made, given or implied, as to the sufficiency, accuracy or fitness for a particular purpose of such information, materials or other contribution or as to the absence of any infringement of any proprietary rights of third parties through the possession or use of such information, materials or other contribution. Each Party shall be entirely responsible for its use of such information, materials or other contribution and shall hold the other Party free and harmless and indemnify it for any loss or damage with regard thereto.
5. Except in case of gross negligence or wilful misconduct, neither Party shall be liable for any indirect or consequential damages of the other Party, including loss of profit or interest, under any legal cause whatsoever and on account of whatsoever reason.

Article 8: Intellectual Property

1. "Intellectual Property Rights" shall mean all intellectual creations including but not limited to inventions, know-how, layouts, drawings, designs, specifications, computer programs, reports, processes, protocols, calculations and any other matter and protected by intellectual property rights, whether registered or not, including patents, registered designs, copyrights, design rights and all similar proprietary rights and applications for protection thereof.
2. All Background Intellectual Property belonging to one Party is and shall remain the exclusive property of the Party owning it (or, where applicable, the third party from whom its right of use the Background Intellectual Property has derived).
3. Each Party grants the other Party a royalty-free, non-transferable, non-exclusive, licence to use its Background Intellectual Property for the sole purpose of the performance of the Research.
4. Foreground Intellectual Property shall vest and be owned as follows:
 - i. To the extent that the Foreground Intellectual Property is generated or developed by the Partner for the delivery of the Research – shall be owned by the Partner,
 - ii. To the extent that the Foreground Intellectual Property is generated or developed by the Partner jointly with GÉANT, then it shall vest in and be owned jointly by the Partner and GÉANT;
 - iii. To the extent that the Foreground Intellectual Property is generated or developed by GÉANT, then it shall vest in and be owned absolutely by GÉANT.
5. In the event that it is or may be possible to obtain any registered Intellectual Property Rights in any jointly owned Foreground Intellectual Property, the Partner agrees to be responsible for the filing and prosecution on behalf of the Parties and in their joint names of applications for registration, and the maintenance and renewal of any registrations, in such countries as the Parties agree in writing, provided that:
 - i. should GÉANT, but not Partner wish to apply for registration in any country or countries, GÉANT may do so at its sole cost and expense on behalf of both Parties and in their joint names, and the Partner shall provide GÉANT with all necessary assistance, information, and instruction;
 - ii. neither Party shall amend or abandon any registration in respect of which the Parties are jointly registered as owners unless, in the case of an amendment, the other Party shall have given its prior written consent or in the case of abandonment, the other Party shall be given the opportunity to maintain the registration at its own cost.
 - iii. the Party making an application for registration shall consult with the other Party at reasonable intervals concerning the application for and maintenance of such registration.



6. The Partner hereby grants to GÉANT, a royalty-free, irrevocable, non-transferable, non-exclusive, right and licence to use its Foreground Intellectual Property for the purposes connected with the GÉANT Association.

Article 9: Miscellaneous

1. This MoU may be amended by written agreement of the Parties. Amendments of such documents shall be valid only if signed by the authorised representatives of the Parties.
2. The Parties may not transfer their rights and obligations under the MoU to third parties without the consent of the other Party. Such consent will not unreasonably be withheld. A Party may attach conditions to its consent.
3. If one or more provisions/articles in the MoU are found to be invalid or are nullified by a court of law, the remaining provisions/articles will retain their legal force. The Parties will consult on the former provisions/articles in order to make an alternative arrangement. The alternative arrangement must not undermine the purpose and the purport of the provisions and articles of the MoU.
4. Provisions/articles and obligations in the MoU which by their nature are intended to survive after the expiry of the MoU, will remain in force after the expiry of the MoU. These provisions and obligations include in any event the provisions/articles and obligations on ownership of Activities, Intellectual Property Rights, Confidentiality, Disputes and Applicable law.
5. The language for this MoU, its interpretation and all cooperative activities foreseen for its implementation, is English.



IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THEIR DULY AUTHORISED REPRESENTATIVES TO SIGN TWO COPIES OF THIS MEMORANDUM OF UNDERSTANDING, IN THE ENGLISH LANGUAGE. THE FOLLOWING AGREE TO THE TERMS AND CONDITIONS OF THIS MOU.

For GÉANT

Name:
Title:
Date:

For the Partner

Name:
Title:
Date:

