UNIVERSITÀ DI PAVIA
Dipartimento di Ingegneria Industriale e dell'Informazione

Il Direttore
Prof. Riccardo Bellazzi

Titolo X   Classe 4
Fascicolo n. 3822   Anno 2021
Allegato 1

OGGETTO DECRETO: Determina a contrarre tramite affidamento diretto extra MEPA (con preventivo già acquisito) – Acquisto di servizi connessi alla pubblicazione dell'articolo scientifico "Regularized System Identification - Learning Dynamic Models fron Data" – Springer Nature Customer Service Center GmbH

IL DIRETTORE DEL DIPARTIMENTO

- **PREMESSO** che il Dipartimento di Ingegneria Industriale e dell'Informazione ha necessità di procedere all'acquisto di servizi connessi alla pubblicazione dell'articolo scientifico "Regularized System Identification - Learning Dynamic Models fron Data", per le esigenze di svolgimento dell'attività di ricerca del Prof. Giuseppe De Nicolao;
- **RICHIAMATO** l'art.32 *(Fasi delle procedure di affidamento)*, comma 2, del D.Lgs. n. 50/2016 e s.m.i. *(Codice dei contratti pubblici)* ai sensi del quale le stazioni appaltanti, in conformità ai propri ordinamenti, decretano o determinano a contrarre, individuando gli elementi essenziali del contratto e i criteri di selezione degli operatori economici e delle offerte;
- **VISTO** l'art. 1, comma 449 della Legge n.296/2006 e s.m.i. ai sensi del quale le istituzioni universitarie sono tenute ad approvvigionarsi utilizzando le convenzioni quadro di Consip s.p.a.;
- **ACCERTATA** l'insussistenza di una convenzione Consip attiva per il servizio richiesto;
- **VISTO** l'art. 1, comma 450 della Legge n. 296/2006 e s.m.i. ai sensi del quale le Università per acquisti di beni e servizi di importo pari o superiore a € 5.000,00 e inferiore alla soglia di rilievo comunitario sono tenute a fare ricorso al Mercato Elettronico della Pubblica amministrazione;
- **ACCERTATO** che il servizio richiesto non è presente nel catalogo MEPA;
- **ACQUISITO** il preventivo dell'operatore Springer Nature Customer Service Center GmbH, individuato dal Prof. Giuseppe De Nicolao mediante indagine di mercato informale, che ha offerto per i servizi in oggetto l'importo di € 4.875,00 (IVA esclusa) (*Allegato 1: Service Agreement*);
- **ACCERTATA** la congruità del preventivo proposto con gli attuali costi di mercato e la compatibilità dell'importo con i vincoli imposti dalla vigente normativa per poter procedere ad affidamento diretto;
- **RICHIAMATO** l'art. 1, comma 1, lett. a) della Legge n. 120/2020 che consente di procedere per acquisti di beni e servizi di importo inferiore a € 75.000,00=. mediante affidamento diretto anche senza previa consultazione di due o più operatori economici;

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- **RICHIAMATO** il Regolamento di Ateneo per l'Amministrazione, la Finanza e la contabilità, con particolare riguardo all'art.37 *(Poteri di spesa)*;
- **ACQUISITO** il CIG n. Z283206D24
- **ACCERTATA** la sussistenza della copertura finanziaria;

DISPONE

- di autorizzare, ai sensi dell'art. 1, comma 1, lett. a) della Legge n. 120/2020, l'affidamento diretto all'operatore Springer Nature Customer Service Center GmbH della fornitura di servizi connessi alla pubblicazione dell'articolo scientifico "Regularized System Identification - Learning Dynamic Models fron Data";
- di nominare la Dott.ssa Nicoletta Galli responsabile del procedimento, con il supporto del Prof. De Nicolao;
- di far gravare la relativa spesa presuntivamente quantificata in € 5.947,50 (già comprensivi di IVA) sul progetto "CTJANSSEN" del bilancio di previsione dell'Ateneo relativo all'esercizio finanziario 2021.

Pavia, data della sottoscrizione digitale

IL DIRETTORE
Prof. Riccardo BELLAZZI
(documento firmato digitalmente)

OA Service Agreement   SPRINGER NATURE

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This Open Access Service Agreement (this "**Service Agreement**") has been approved by and entered into between

Prof. Gianluigi Pillonetto, University of Padova, Department of Information Engineering, Via Giovanni Gradenigo 6, 35131 Padova, Italy
Assoc. Prof. Tianshi Chen, Chinese University of Hong Kong/Shenzhen, School of Data Science, Longxiang Road 2001 Hong Kong, Hong Kong
Prof. Alessandro Chiuso, University of Padova, Department of Information Engineering, Via Giovanni Gradenigo 6B, 35131 Padova, Italy
Prof. Giuseppe De Nicolao, University of Pavia, Electrical, Computer and Biomedical Eng., Via Ferrata 5, 27100 Pavia, Italy
Prof. Lennart Ljung, Linköping University, Department of Electrical Engineering, Campus Valla, 581 83 Linköping, Sweden
(the "**Originator**")
Prof. Gianluigi Pillonetto
(the "**Corresponding Originator**", acting for the account of all co-originators)

And

Università di Pavia, DIII, Via A. Ferrata 3, 27100 Pavia, Italy
represented by:
Riccardo Bellazzi, Chief of the Department of Electrical, Computer and Biomedical Engineering, University of Pavia
Linköping University, Department of Electrical Engineering, 581 83 Linköping, Sweden
represented by:
Martin Enqvist, Associate Professor
University of Padova, Department of Information Engineering, Via G. Gradenigo 6/B, 35131 Padova, Italy
represented by:
Gaudenzio Meneghesso, Chief of the Department of Information Engineering, University of Padova

(the "**Funder**")

on the one part and

Springer Nature Customer Service Center GmbH, Tiergartenstrasse 15–17, 69121 Heidelberg, Germany
(the "**Service Provider**")

on the other part

together hereinafter referred to as the "**Parties**".

§1 Subject of the Agreement

1.1 This Service Agreement concerns the provision of open access services in connection with the publication of a work provisionally entitled:
Regularized System Identification - Learning Dynamic Models from Data
(the "**Work**")
originated by Gianluigi Pillonetto, Tianshi Chen, Alessandro Chiuso, Giuseppe De Nicolao and Lennart Ljung
published by Springer Nature Switzerland AG

(the "**Publisher**")

comprising approximately 400 pages.

1.2 The Work shall be published under the imprint Springer.
1.3 The Work is intended for publication under the terms of the Creative Commons Attribution 4.0 International License (http://creativecommons.org/licenses/by/4.0/), which permits use, duplication, adaptation, distribution, and reproduction in any medium or format, as long as appropriate credit is given to the original author(s) and the source, a link is provided to the Creative Commons licence, and any changes made are indicated.
1.4 The Parties acknowledge that a separate publishing agreement (hereinafter the "**Publishing Agreement**") concerning the intellectual property rights and the workflows and processes for publication and distribution of the Work in all forms and media has to be concluded between the Originator and the Publisher. The Parties agree that the provision of the Open Access Services (as defined below) requires the cooperation of the Originator under the Publishing Agreement. Any failure by the Originator to fulfil the Publishing Agreement may therefore lead to delay or non-performance of the Open Access Services. In this event, the Service Provider shall not be responsible for the delay or non-performance of the Open Access Services. Any contractual consequences for this Service Agreement resulting from a termination or an incomplete fulfilment of the Publishing Agreement are reflected in the Clause "**Termination**" below.
1.5 The Work may be published in the book series Communications and Control Engineering.

§2 Responsibilities of the Service Provider

2.1 The Service Provider is responsible for providing Open Access Services (the "**Open Access Services**") for the Work. Subject to the payment of the Open Access Fee as defined below, the Open Access Services provided by the Service Provider include the technical and administrative services necessary for the preparation, production and publication of the Work, as well as ensuring high product quality. These services typically include:
(a) managing and resourcing the publishing process, the provision of online tools for originators, copyediting, typesetting and formatting, production services or customer services; and
(b) hosting services and making available any electronic editions on online platforms permanently in line with standard business practices.
2.2 A notice about the terms of the **Creative Commons licence** will be published in all editions of the Work. The electronic edition of the Work will be clearly labelled as "open access" in the Publisher's product database.

§3 Open Access Fee

3.1 As consideration for the provision of the Open Access Services the Funder and the Originator shall pay an open access fee in the amount of Euro 13,000.00 plus applicable taxes (the "**Open Access Fee**"). The Parties agree that the Open Access Fee shall be divided according to the following agreed ratio:
Università di Pavia : Euro 4,875.00
Linköping University : Euro 1,625.00
University of Padova : Euro 3,250.00
Gianluigi Pillonetto : Euro 0.00
Tianshi Chen : Euro 3,250.00
Alessandro Chiuso : Euro 0.00
Giuseppe De Nicolao : Euro 0.00
Lennart Ljung : Euro 0.00

Payment shall be due six (6) weeks after the date that the Publisher has confirmed in writing acceptance of the manuscript for the Work to the Originator in accordance with the Publishing Agreement.
The Service Provider will charge and invoice the respective shares of the Open Access Fee. The invoices shall be sent to the respective Parties' addresses specified in the header of this Service Agreement, unless otherwise communicated in writing to the Service Provider.

§4 Warranty

4.1 The Funder and the Originator warrant and represent that the Funder and the Originator have full right, power and authority to enter into and perform their obligations under this Service Agreement.

4.2 The Funder and the Originator further warrant and represent that they shall at all times comply in full with:

(a) all applicable anti-bribery and corruption laws; and

(b) all applicable data protection and electronic privacy and marketing laws and regulations

(the "**Applicable Laws**").

If the Funder or the Originator are in material breach of any of the Applicable Laws or otherwise in material breach of accepted ethical standards in research and scholarship, or becomes the subject of any comprehensive or selective sanctions issued in any applicable jurisdiction (e.g. being subject to the OFAC sanctions list) or if, in the opinion of the Service Provider, at any time any act, allegation or conduct of or about the Funder or the Originator prejudices the production or successful exploitation of the Work or brings the name and/or reputation of the Service Provider, the Publisher or the Work into disrepute, or is likely to do so, then the Service Provider may terminate this Service Agreement in accordance with the Clause "**Termination**".

§5 Termination

5.1 Any Party shall be entitled to terminate this Service Agreement forthwith by notice in writing in the event that any Party:

(a) commits a material breach of the terms of the Service Agreement which cannot be remedied or, if such breach can be remedied, fails to remedy such breach within 90 days of being given written notice to do so; or

(b) as applicable, is made bankrupt or personally insolvent, or goes into liquidation other than voluntary liquidation for the purpose of reconstruction, or has a receiver or an administrative receiver appointed over the whole or any substantial part of its assets.

5.2 In addition to the specific rights of termination set out in this Clause and in the Clause "**Warranty**", the Service Provider may terminate this Service Agreement in the event that:

(a) the Publishing Agreement is terminated prior to publication of the Work; or

(b) the Open Access Fee is not fully paid by the invoice due date.

5.3 In the event that on the date of termination the Open Access Fee, or any share thereof, has already been paid, the Service Provider will refund the respective amount(s).

For the avoidance of doubt the Service Provider shall not be obliged to reimburse the Open Access Fee:

(a) if the Work has been published in line with the Clause "**Responsibilities of the Service Provider**"; or

(b) if this Service Agreement has been terminated at any time due to the termination of the Publishing Agreement by the Publisher on the basis of a material breach of the Originator's warranties and representations given therein; or

(c) if this Service Agreement has been terminated by the Service Provider due to a material breach of the terms of this Service Agreement.

§6 Taxation

6.1 All amounts mentioned in this Service Agreement are expressed exclusive of any value added or similar taxes ("**VAT**"), government fees or levies or other assessments (together hereinafter referred to as "**taxes**"). Reporting, collection and/or remittance of such taxes to the relevant tax authority shall be the responsibility of the Party who has the legal obligation to do so subject to the following provisions.

If VAT is chargeable/due, the Funder and the Originator shall pay to the Service Provider (in addition to and at the same time as paying the principal amounts) an amount equal to the amount of such VAT. Appropriate invoices as required by law shall be issued. The Funder and the Originator shall inform the Service Provider about their entrepreneurial status (including but not limited to their VAT ID) and any change to that immediately.

6.2 Any fees payable by the Funder and the Originator are fees solely related to services, and not to a provision of a licence to content. However, if, based on applicable law, any withholding taxes are or become chargeable, the Funder and the Originator is not entitled to deduct these taxes from the

principal amounts. The Funder and the Originator shall remit these to the competent tax authority and shall provide the Service Provider with appropriate evidence of the remittance.

§7 General Provisions

7.1 This Service Agreement, and the documents referred to within it, constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede any previous agreements, warranties, representations, undertakings or understandings. Each Party acknowledges that it is not relying on, and shall have no remedies in respect of, any undertakings, representations, warranties, promises or assurances that are not set forth in this Service Agreement. Nothing in this Service Agreement shall exclude any liability for or remedy in respect of fraud, including fraudulent misrepresentation. This Service Agreement may be modified or amended only by agreement of the Parties in writing. For the purposes of modifying or amending this Service Agreement, "in writing" requires either a written document signed by all Parties or an electronic confirmation by all Parties with DocuSign or a similar e-signature solution. Any notice of termination and/or reversion and, where applicable, any preceding notices (including any requesting remediable action under the Clause "Termination") must be provided in writing and delivered by post, courier or personal delivery addressed to the physical address(es) as set out at the beginning of this Service Agreement or any replacement address notified for this purpose. All such notices shall become effective upon receipt. Receipt is deemed to have taken place five working days after the respective notice was sent by post or left at the address by courier or personal delivery.
If the Service Provider is the terminating Party, the notice need only be provided to the addresses of the Corresponding Originator and of the Funder.
A copy of the termination notice to the Service Provider must also be sent to the Service Provider's Legal Department located at Heidelberger Platz 3, 14197 Berlin, Germany.
7.2 No failure or delay by any Party to exercise or enforce any term, right or remedy provided under or in connection with this Service Agreement shall constitute a waiver of that or any other term, right or remedy, nor shall it prevent or restrict the further exercise or enforcement of that or any other term, right or remedy. No single or partial exercise or enforcement of such term, right or remedy shall prevent or restrict the further exercise or enforcement of that or any other term, right or remedy.
7.3 Without the prior written consent of Service Provider, the terms of this Service Agreement may not be disclosed to any third party, except to professional advisors or as required by a court, regulatory body or other authority of competent jurisdiction.
7.4 Nothing contained in this Service Agreement shall constitute or shall be construed as constituting a partnership, joint venture or contract of employment between the Parties. No Party may assign this Service Agreement to third parties but the Service Provider may assign this Service Agreement to its affiliated companies. In this Service Agreement, any words following the terms "including", "e.g." or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
7.5 If any difference shall arise between the Parties concerning the meaning of this Service Agreement or the rights and liabilities of the Parties, the Parties shall engage in good faith discussions to attempt to seek a mutually satisfactory resolution of the dispute. This Service Agreement shall be governed by, and shall be construed in accordance with, the laws of Switzerland. The courts of Zug, Switzerland shall have the exclusive jurisdiction.
7.6 A person who is not a Party to this Service Agreement (other than an affiliate of the Service Provider) has no right to enforce any terms or conditions of this Service Agreement. This Service Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Service Provider. If one or more provisions of this Service Agreement are held to be unenforceable (in whole or in part) under applicable law, each such provision shall be deemed excluded from this Service Agreement and the balance of the Service Agreement shall remain valid and enforceable but shall be interpreted as if that provision were so excluded. If one or more provisions are so excluded under this Clause then the Parties shall negotiate in good faith to agree an enforceable replacement provision that, to the greatest extent possible under applicable law, achieves the Parties' original commercial intention.

To indicate their agreement to the terms outlined herein, all Parties have signed and exchanged this Service Agreement.

Originator   **Service Provider**
                                                                 Springer Nature Customer Service Center GmbH

_____   _____
Prof. Gianluigi Pillonetto   Peter Kaul
                                                                 Director Global Logistics

Date   _____   Date   _____

_____   _____
Assoc. Prof. Tianshi Chen   Petra Schuster
                                                                 Director of Customer Data Governance

Date   _____   Date _____

_____

Prof. Alessandro Chiuso

Date _____

_____
Prof. Giuseppe De Nicolao

Date _____

_____
Prof. Lennart Ljung

Date _____

Funder

_____
Riccardo Bellazzi
Chief of the Department of Electrical, Computer
and Biomedical Engineering, University of Pavia

Date _____

_____
Martin Enqvist
Associate Professor

Date   _____

_____
Gaudenzio Meneghesso
Chief of the Department of Information
Engineering, University of Padova

Date   _____