



Framework Agreement relating to “Experts Macadamia nuts sector in Kenya” (Lot 1)

IUC number: 202005117

The undersigned:

1. The State of the Netherlands, which has its seat in The Hague, represented by the Minister of Economic Affairs and Climate Policy, legally represented in this matter by Pauline Döll, Manager CBI/RVO on behalf of the Centre for the Promotion of Imports from developing countries (CBI), hereinafter referred to as the Contracting Authority,

and

2. [*Contractor’s full name and legal form*], which has its registered office in ..., legally represented in this matter by ... [*and ...*] [*signatory’s name*], hereinafter referred to as the Contractor,

WHEREAS:

1. The Contracting Authority wishes, in relation to the performance of Services in the area of Business Export Coaching/ Supply Chain Management and Exporters Alignment (lot 1), to agree fixed terms for a certain period with 1 service provider;
2. To this end, the Contracting Authority wishes to conclude a Framework Agreement having a term of 1.5 year with a go/ no go decision taken by RVO with a written decision. With a go decision the Framework Agreement will be extended by the Contracting Authority up to 3.5 years (hereafter referred to as: ‘the Framework Agreement’), laying down the conditions applicable to all contracts for the performance of Services to be awarded by the Contracting Authority during the said term. With a no go decision the Framework Agreement will end after Phase 1;
3. An EU contract award procedure for the selection of Parties to this Framework Agreement has been conducted on the basis of the Tender Document and subject to the Public Procurement Act 2012;
4. The Contracting Authority has judged the Contractor’s bid to offer the best price-quality ratio;
5. This Framework Agreement lays down the conditions that apply to all Further Agreements for the performance of Services that the Contracting Authority intends to award during the term of this Framework Agreement;

AGREE AS FOLLOWS:

A number of terms in this Framework Agreement are written with initial capitals. These terms are defined in article 1 of the General Government Terms and Conditions for Public Service Contracts 2018 (ARVODI 2018). In derogation therefrom or in addition thereto, the following terms are defined as follows for the purposes of this Framework Agreement:

Tender Document: the Contracting Authority's document dated [date 2021], ref. 202005117, which describes and explains participation in the Framework Agreement for the performance of Services during a certain period, the tender procedure to be followed and the selection and award criteria.

Services: the work that the Contractor is to perform for the Contracting Authority under the terms of a Further Agreement concluded on the basis of this Framework Agreement in the area of [lot x as defined in the tender documentation].

Tender: the tender dated xxx 2021, submitted by the Contractor on the basis of the Tender Document in the context of the EU contract award procedure dated xxx 2021.

Further Agreement: the contract between the Contracting Authority and the Contractor in accordance with the request for offer of which the Contracting Authority may award the Contractor contracts for the performance of Services during the term of this Framework Agreement.

Quotation: an offer to perform Services submitted by the Contractor to the Contracting Authority in response to a Request for Quotations under this Framework Agreement.

Request for Quotations: an invitation by the Contracting Authority under this Framework Agreement to all Framework Contractors to submit a Quotation for a public service contract.

Contractor: a tenderer selected to be Party to the Framework Agreement relating to the performance of Services in the area of Business Export Coaching/ Supply Chain Management and Exporters Alignment (lot 1).

1. Object of the Framework Agreement

- 1.1 During the term of this Framework Agreement the Contracting Authority may issue Requests for Quotations for Further Agreements to perform Services. In response to the Request for Quotations, the Contractor must submit a Quotation that is not less favourable than the Tender submitted by the Contractor. If the Further Agreement referred to in the Request for Quotations is awarded by the Contracting Authority to the Contractor on the basis of the award criteria for the further award, the Contractor must perform that Further Agreement in accordance with the conditions of this Framework Agreement. To this end, the Contractor must in that case conclude a Further Agreement with the Contracting Authority.
- 1.2 The following documents are an integral part of this Framework Agreement. In the event of inconsistencies, a higher ranked document takes precedence over a lower ranked document:
 1. this document including schedules;
 2. the Memorandum of Information, [date]2021;
 3. the Tender Document;
 4. the ARVODI-2018;
 5. the Tender issued by the Contractor to the Contracting Authority on [date].
- 1.3 The Contracting Authority is entitled but not obliged to award contracts for the performance of Services during the term of this Framework Agreement. The Contractor cannot therefore claim any right whatsoever to be awarded contracts for the performance of Services during the term of this Framework Agreement.
- 1.4 The terms of this Framework Agreement apply in full to all Further Agreements concluded during the term of this Framework Agreement between the Contracting Authority and the Contractor concerning contracts for the performance of Services specified in a Request for Quotations, unless a Further Agreement expressly departs from this Framework Agreement.
- 1.5 A Further Agreement states the specific Services to which it relates and its duration.

2. Duration of the Framework Agreement

- 2.1 This Framework Agreement enters into force on [date].
It has a maximum term of 5 years of which 1.5 years for phase 1 and after a go decision 3.5 years for phase 2. In case of a no go decision after phase 1, the Framework Agreement will end after the first 1.5 years.
- 2.2 Termination of this Framework Agreement for whatever reason does not affect rights and obligations resulting from Further Agreements. The terms of this Framework Agreement continue to apply to any Further Agreements remaining in force after this Framework Agreement has ended.
- 2.3 The duration of any Further Agreements awarded to the Contractor under this Framework Agreement will be stipulated in the individual Further Agreements for each contract for the performance of Services.
- 2.4 Contracting authority is entitled to terminate this Framework Agreement prematurely as soon as the maximum value and/or amount of the contract is reached, without any further compensation. Contracting authority shall inform Contractor as soon as possible if and when he wants to invoke this right and he will observe a reasonable notice period.

3. Awarding further agreements

- 3.1 The Contractor must submit a Quotation, having regard to the provisions of this Framework Agreement, within the number of working days as stated in the standard Request for Quotations. The Contracting Authority will not be required to pay to obtain a Quotation.
- 3.2 The Quotation, including the fee, must comply with and may not be less favourable than the Tender submitted.

4. Price and other financial provisions

- 4.1 The maximum value/amount of the Framework Agreement is 400.000 euro excl VAT (phase 1: 150.000 euro excl. VAT and phase 2 (after a go decision): 250.000 euro excl. VAT .
- 4.2 The Contractor may invoice monthly for Services performed under a Further Agreement that have been accepted by the Contracting Authority. The invoice amount is based on the number of days/hours per month actually worked and the *daily/hourly* rate stipulated in the Further Agreement. All Further Agreements will state that the Contractor guarantees that the maximum total price referred to in the Further Agreement for the performance of the Services will not be exceeded.
- 4.3 It is expressly agreed that if the Contractor does not charge VAT but some or all of the Services are not exempt from VAT, the Contracting Authority will not be liable to pay the VAT in question.
- 4.4 The price referred to in article 4.1 of this Framework Agreement relates to all Services to be performed by the Contractor under the Further Agreement in question. It includes the cost of any materials needed for that purpose, any travel and accommodation costs, and any additional costs. It does not include VAT.
- 4.5 The agreed maximum or other rates are fixed and invariable for the duration of this Framework Agreement and Further Agreements concluded on the basis of this Framework Agreement.

4.6 E-invoicing

The Contractor must send the invoices electronically to:

Government identification number: OIN nummer
attn.

The general terms and conditions that apply to this contract prescribe/contain a provision that invoices must be sent electronically (not in pdf). This can be done in 4 different ways:

- The invoicing portal of the Dutch government;
- Link with Digipoort;
- E-invoicing with your own (accounting) software package through Simplerinvoicing;
- E-invoicing through a service provider.

For more information: <https://www.helpdesk-efactureren.nl/e-facturen-versturen>.

For questions regarding e-invoicing via the portal, please contact helpdesk-efactureren@rvo.nl, 088-0424400, option 2.

For questions regarding e-invoicing via an accounting program (Peppol), please contact info@simplerinvoicing.org, 020-3697653.

The paragraph concerning e-invoicing does not apply to companies located outside of the Netherlands.

You must state the order number on your invoice. You can send your invoice by e-mail in PDF format to pdfacturen@minezk.nl.

- 4.7 Payment will be made once the Services performed in accordance with a Further Agreement have been received and accepted.

5. Contacts / Project managers

- 5.1 The contact person of the Contracting Authority is Mrs. M. Klomp.
The contact person of the Contractor is xxx.

- 5.2 At least once per year, the contacts of the two Parties will hold consultations on the way in which this Framework Agreement is being implemented (interim evaluation(s)).

- 5.3 Notwithstanding the provisions of article 10.2 of the ARVODI 2018, the contacts cannot make legally binding agreements on the Parties' behalf.

6. Time and place

- 6.1 The work relating to the Services specified in a Further Agreement will be carried out at the place(s) stipulated in the Further Agreement.

7. Other Terms and Conditions

- 7.1 This Framework Agreement and a contract for the performance of Services in accordance with a Further Agreement are governed exclusively by the ARVODI 2018 (*already in the Parties' possession*), in so far as this Framework Agreement does not depart therefrom. Any general and special terms and conditions drawn up by the Contractor do not apply.

- 7.2 In addition to article 21 of the ARVODI 2018, the Contractor indemnifies the Contracting Authority against any claims for damages brought by third parties as a result of its failure to discharge its obligations as referred to in article 21.3 of the ARVODI 2018. The liability amounts set out in article 21.3 of the ARVODI 2018 apply mutatis mutandis.

- 7.8 In addition to the provisions of article 22 of the ARVODI 2018, the Contracting Authority may cancel this Contract forthwith out of court by registered letter, without giving any warning or notice of default, in the following cases:
- a. If the Contractor has been convicted, by final and unappealable judgment, of discrimination within the meaning of articles 137c to 137g and article 429 quater of the Criminal Code; or
 - b. If a member of the Contractor's Staff has been convicted, by final and unappealable judgment, of discrimination within the meaning of articles 137c to 137g and article 429 quater of the Criminal Code and that staff member is on the Contractor's executive, management or supervisory board or has representative, decision-making or audit powers. In the cases set out under (a) and (b) the right to cancellation expires three years after the judgment becomes unappealable.

8. Declaration of integrity

The Contractor affirms that it has not offered or given members of the Contracting Authority's Staff any benefit in order to be selected to be party to this Framework Agreement or in order to obtain Further Agreements for the performance of Services, nor arranged for them to be offered or given any such benefit, nor will it offer or give any such benefit or arrange for any such benefit to be offered or given. It undertakes not to do so in the future with a view to inducing any members of the Contracting Authority's Staff to perform or refrain from performing any act.

9. Final provisions

- 9.1 Any derogations from this Framework Agreement or a Further Agreement are binding only if they have been expressly agreed by the Parties in writing.
- 9.2 Any written or oral agreements previously made by the Parties about the award of contracts for the performance of Services, whether under a Further Agreement or not, are nullified by the signature of this Framework Agreement.

Done and signed in duplicate.

The Hague,
[date] 2021:

[place],
[date] 2021:

For the Minister of Economic Affairs and
Climate Policy and commissioned by
Pauline Döll, Manager CBI of the
Netherlands Enterprise Agency (RVO),

[name Contractor]

Jan van Spronsen MSc,
Unit manager Procurement Office

[signatory's name]
[signatory's position]