

MODEL AGREEMENT – DELIVERY OF GOODS/SERVICES

The undersigned:

1. The Foundation for Education and Professional Education (*Stichting voor Educatie en Beroepsonderwijs*), acting under the name *ROC Nova College*, with its registered office and principal place of business at Buitenrustlaan 9, 2012 BL Haarlem, Netherlands, registered with the Chamber of Commerce under number 41227162 and legally represented by Ms T.D. van den Elst, member of the Executive Board.

hereinafter referred to as the '**Client**';

and

2. [Name per articles of association], with its registered office and principal place of business at [address], [postcode + town/city, country], registered with the Chamber of Commerce under number [xxxxxxx] and legally represented by its [position, name].
hereinafter referred to as the '**Contractor**';

hereinafter referred to collectively as the '**Parties**' and separately as a '**Party**';

Whereas:

- an invitation to tender was issued by the Client on 8 April 2021;
- a tender was submitted in response by the Contractor on 1 June 2021;
- the Client has awarded the tender to the Contractor;
- the Parties wish to make written agreements on the supply and maintenance of a simulated environment for inland waterway navigation in this Agreement.

Definitions

The capitalized terms referred to in this Agreement have the following meanings:

1. **T&Cs:** The General Terms and Conditions of Purchase of Nova College, dated 5 April 2012, as provided by the Client.
2. **Services:** The work to be performed by the Contractor for the Client to maintain the full-mission simulated environment for inland waterway navigation supplied, which consists of software, hardware, screens, consoles, and peripherals, requiring them to be kept in a working condition and in line with the state of the art.
3. **Goods:** The goods to be supplied by the Contractor to the Client, namely a full-mission simulated environment for inland waterway navigation that complies with the technical standards of CESNI. This simulated environment consists of software, hardware, screens, consoles, and peripherals that together function as a single unit.
4. **Quote:** The quotation to deliver the Goods/Services that Contractor issues to the Client under this Agreement following a Request for Quote.

5. **Request for Quote:** The Client's invitation to tender document and its annexes dated 8 April 2021.
6. **Agreement:** This agreement and its related documents.
7. **Parties:** The Contractor and the Client.
8. **Price Sheet:** The prices offered by the Contractor for the provision of a full-mission simulated environment for inland waterway navigation, including installation, implementation, and maintenance.

Artikel 1: Annexes

1. The following documents form part of this Agreement, over which this Agreement prevails. For other documents, which are inextricably linked to this Agreement, the following order of precedence applies:
 - a. explanatory notes, the latest version of which takes precedence
 - b. Client's invitation to tender documents
 - c. the T&Cs, declared applicable in article 12.1, apply;
 - d. the Service Level Agreement;
 - e. the Contractor's registration, including any effects thereof and attachments.

Artikel 2: Subject matter of the Agreement

1. The subject of this Agreement is: the provision of a full-mission simulated environment for inland waterway navigation that meets the technical standards of CESNI. This simulated environment consists of software, hardware, screens, consoles, and peripherals that together function as a single unit. The Contractor ensures that the simulated environment for inland waterway navigation is maintained in such a way that it remains in a working condition and in line with the state of the art.

Artikel 3: Term of the Agreement and termination

1. This Agreement enters into force on 16 July 2021 and is terminated automatically on 31 December 2025.
2. In the event that any changes to laws and regulations require the Agreement to be amended, the Parties must consult each other on the consequences thereof on the content of this Agreement. The Client is permitted to dissolve the Agreement as soon as the purpose of the Agreement lapses.
3. This Agreement may be terminated early if the Parties mutually agree to do so. Early termination may only be made in writing for good cause, subject to six months' notice.
4. The Parties are entitled to terminate this Agreement with immediate effect, without being liable for damage towards the other Party, if:
 - a. the other Party breaches one or more provisions of this Agreement;
 - b. the other Party is declared bankrupt or files for or is granted suspension of payment;
 - c. one or more assets of the other Party is seized;
 - d. the company or organization of the other Party is shut down or liquidated or its legal entity is dissolved.

Artikel 4: Financial arrangements

1. The prices for the Contractor's provision of the Goods and Services are stated in the Contractor's tender, in annex to this Agreement. All prices mentioned exclude the applicable VAT.
2. The Contractor is entitled to charge the prices and tariffs for Goods and/or Services delivered.
3. The price referred to in paragraph 1 includes any additional costs (travel expenses, overheads, etc.) and excludes VAT.
4. After delivery, the Client will receive an invoice for the installation and implementation of the simulated environment for inland waterway navigation.
5. The Client will receive an invoice every quarter for the maintenance of the simulated environment for inland waterway navigation.
6. The Client will receive an invoice per site with specified amounts (task, quantity, hours spent, etc.) for any additional Goods/Services subsequently delivered.
7. The invoice must specify the cost centre and be sent to:
 - ROC Nova College
 - Stafafdeling Bedrijfsvoering/Financiën
 - Postbus 5004
 - 2000 GA Haarlem, Netherlands
 - financiën@novacollege.nl (invoices must be in PDF format)
8. Prices may be indexed once per calendar year, for the first time on 1 January 2023, in accordance with the Consumer Price Index of the previous year in the country where the Contractor is established. The Contractor must inform the Client of any indexing at least two months in advance by e-mail to inkoop@novacollege.nl
9. The Contractor may then adjust the prices after written agreement from the Client.
10. Any other price changes, other than statutory and regulatory ones, are not accepted.

Artikel 5: Personal data protection

1. Each Party must comply as appropriate with its obligations under the General Data Protection Regulation (GDPR) and other laws and regulations governing the protection of personal data.
2. The Parties indemnify each other against any claims by third parties made against the indemnified Party for a breach of the GDPR attributable to the indemnifying Party, unless the indemnifying Party proves that the breach in question is attributable in whole or part to the other Party.

Artikel 6: Intellectual property rights

1. All copyrights and other intellectual property rights relating to the training, training materials, and other related results arising from the Agreement, explicitly including anonymous visual material obtained by recordings made in the simulator, are the exclusive property of the Client, unless these are products developed by other parties. The Contractor is not in any way entitled to use said visual material.
2. The Parties indemnify each other against the consequences of any infringement of the intellectual rights of third parties arising from the use of the Goods made available by the Parties and written information, provided that the defending Party immediately informs the other Party of any claim based thereon, entrusts the handling thereof to the other Party and provides the other Party with any necessary information on request.

Artikel 7: Communication

1. No information with respect to this Agreement may be communicated externally by either of the Parties unless the other Party has given its consent.
2. The Parties must pay due respect to each other's trade names, logos and trademark rights; neither Party is not permitted to use the other Party's names, logos, etc. without the consent of that other Party.

Artikel 8: Reporting and contacts

1. The Parties each designate a contact person who is competent to make decisions regarding the performance of this Agreement.
2. These contacts will discuss all contractual matters that occur.
3. The Client must report any complaints about the Goods or Services delivered by the Contractor as soon as possible by e-mail to the Contractor. The Contractor must respond in writing to the Client's contact within one working day.
4. The Contractor must demonstrate that the following KPIs have been achieved by reporting with valid and demonstrably reliable information.
5. The following KPIs are measured by Contractor: Up time of 98% for the entire simulated environment for inland waterway navigation during teaching.

Artikel 9: Employment of foreign nationals

1. The Contractor is responsible for compliance with the Foreign Nationals Employment Act (*Wet arbeid vreemdelingen*, WAV). It declares and must ensure that it and all of its employees involved in the performance of the Agreement comply with the provisions of the WAV.
2. The Contractor is responsible for applying for employment permits for foreign nationals working under this Agreement.
3. If the situation referred to in Article 15(1) of the WAV arises, the Contractor must provide a copy of a valid identification document of each foreign national as referred to in Article 1(1)(1) to (1)(3) of the Identification Requirement Act (*Wet op de identificatieplicht*), whether the person concerned has an employment permit or not. The Contractor must submit the identification document to the Client before the person concerned begins their work in performance of this Agreement.

4. The Client is, at all times, entitled to carry out unannounced checks on such documents, in any location and at any time, as well as to determine the identity of the Contractor's employees, establish the authenticity and validity of the identification document of the persons concerned and, if necessary, report to the Labour Inspectorate (*Arbeidsinspectie*) and/or police any and all breaches against the WAV. The Contractor obliges the employees concerned to cooperate with these checks.
5. If the situation referred to in Article 15(1) of the WAV arises, the Contractor must, at the Client's first request, submit within a period to be determined by the Client a list of all persons that may be deployed for the performance of the Agreement, whether employed or sub-contracted by the Contractor. Said list must indicate the names and nationalities of the employees and, if applicable, whether the person concerned has a work permit.
6. In the case of sub-contracting, the Contractor imposes the obligations referred to in this article upon the sub-contractor in full and without limitation, including the obligation to further impose them on any of their own sub-contractors, but remains responsible for compliance with the WAV itself.

Artikel 10: Liability

1. Notwithstanding the provisions of Article 10.1 of the Nova College T&Cs, the following applies. Article 10.1 is replaced by the paragraphs below.
2. If the Contractor fails to fulfil its obligations towards the Client, the Contractor is liable for compensation for the damage that has been or will be suffered by the Client. In case of force majeure, no liability for the failure is attributable.
3. Liability for an attributable failure in the performance of an obligation under this Agreement is limited to an amount per event or per series of related events of € 1,5 million.
4. There is no limitation of liability in the event of wilful intent or wilful intent bordering on recklessness on the part of the Contractor, in the event of claims by third parties for damage resulting from death or injury, or in the event of a breach of third-party rights which results or could result in claims by third parties against the Client under intellectual property rights and/or the General Data Protection Regulation.

Artikel 11: Amendments to the Agreement

1. Additions and amendments to this Agreement are binding only if they have been agreed and signed in writing by both Parties.
2. The Parties must consult each other on amendments to this Agreement required as a result of a change to regulations or the interpretation thereof.

Artikel 12: Other provisions

1. This Agreement is governed exclusively by the Client's T&Cs. In the event of any conflict between the provisions of the T&Cs and those of this Agreement, the provisions of this Agreement prevail.
2. Any general or special conditions of the Contractor are not applicable to this Agreement and are expressly rejected by the Client.
3. In the event that any provision of this Agreement is or becomes invalid, void or otherwise unenforceable, the remaining provisions of the Agreement remain in full force and effect. In that case, the Parties must consult with each other to replace the invalid, void or otherwise unenforceable provision with an alternative enforceable provision.

4. The Parties are not permitted to transfer their rights and obligations under this Agreement to a third party or to object to a limited right, except with the prior written consent of the other Party.
5. The Client is permitted to dissolve the Agreement as soon as the purpose of the Agreement lapses owing to a change in Dutch legislation or regulations.

Artikel 13: Applicable law

1. Dutch law applies to this Agreement and to any disputes which may arise from or in connection with it.
2. In the event that any circumstances not regulated by the provisions of this Agreement are encountered in the performance of this Agreement, the Parties must seek to find a mutually agreed solution consistent with the spirit of the Agreement, which is deemed appropriate to the interests of the Parties in all fairness and reasonableness.
3. Any disputes that may arise between the Parties in connection with this Agreement will be exclusively submitted to the competent court in Haarlem.

Agreed, drawn up and signed in duplicate,

Client

Enter name

Town/city: Haarlem

Date: Fill in

Contractor

Enter name

Town/city: Fill in

Date: Fill in