

Public service contract (ARVODI 2018)

Contract number: 202111047 / WOZ2210282

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 Barto Piersma, Director of National Programmes of the Netherlands Enterprise Agency, 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:

- The Contracting Authority wishes, in relation to the execution of Work for an Integrated Ground Model for the IJmuiden Ver Wind Farm Sites 5 & 6, to agree fixed terms for a certain period with one Contractor;
- The Contracting Authority has conducted an EU tender procedure for the selection of a party to this Agreement on the basis of the Tender Document and subject to the Public Procurement Act 2012;
- The Contractor submitted a tender on [day month year];
- The Contracting Authority has awarded the contract to the Contractor based on this tender;
- The Contractor has sufficiently familiarised itself with what the Contracting Authority wishes to achieve;
- The Parties wish to lay down the ensuing legal relationship in a written Contract;

AGREE AS FOLLOWS:

A number of terms in this Contract are written with initial capitals. The meanings of these terms are defined in article 1 of the General Government Terms and Conditions for Public Service Contracts 2018 (ARVODI 2018).

Client: the Netherlands Enterprise Agency.

Tender: the offer dated [day month year], submitted by the Contractor on the basis of the Tender Document in the context of the EU tender procedure dated [day month year].

Tender Document: the document dated [day month year], ref 202111047, which describes and explains participation to the Contract for the execution of the Work during a certain period, the tender procedure to be followed and the selection and award criteria.

Work: the work that the Contractor is to execute for the Client under the terms of this Contract.

1. Object of the Contract

- 1.1 The Contracting Authority hereby commissions the Contractor to develop an integrated Ground Model and make a Geotechnical Interpretative Report as described in the quotation submitted by the Contractor on [day month year], based on the Tender Document issued by the Contracting Authority on [day month year] (ref. 202111047), in so far as this Contract does not contain any provisions to the contrary. The Contractor hereby agrees to perform these Services.

- 1.2 The following documents are an integral part of this Contract. In the event of inconsistencies, a higher ranked document takes precedence over a lower ranked document:
1. this document;
 2. the Memorandums of Information;
 3. the ARVODI 2018;
 4. The following sections of Annex 6
 - (IV) Remuneration
 - (V) Scope of Work
 - (VI) Quality Requirements & Administrative Instructions
 5. the Tender Document
 6. the Tender issued by the Contractor to the Contracting Authority.

2. Formation and duration of the Contract

- 2.1 This Contract is formed once it has been signed by both Parties.
- 2.2 The agreed Services will be performed in the period from 24 June 2022 to 1 January 2025. If, due to unforeseen circumstances, the work is not finished by this last date, the Contract can be extended twice with one year, under the same conditions, but ultimately until 1 January 2027.
- 2.3 The Schedule of Key Dates is specified in Annex 4 'Cycle Times and Prices'.
- 2.4 If the Services have not been performed in full in accordance with the Contract on the agreed Key Dates, the Contractor will immediately pay a penalty of 0.05% of the Contract Price, (excluding variations of any kind to the Contract) for each day that it fails to perform the Services as agreed, up to a cumulative maximum of 10% thereof. If, other than through force majeure, the Contractor is permanently unable to perform the Services as agreed, the penalty will be immediately payable in full. The penalty will be payable to the Contracting Authority, without prejudice to all other rights and claims, including:
- a. the right to demand that the Services be performed as agreed;
 - b. the right to damages.

The penalty will be set off against amounts payable by the Contracting Authority regardless of whether the claim for payment of such amounts has been transferred to a third party.

The penalties will apply to the following Key Dates as mentioned in Annex 4:

<u>No.</u>	<u>Deliverable name</u>	<u>Date</u>
2i	Provision of Final Laboratory Strategy Plan	[day month year]
2j	Proposal VC/CPT Investigation Locations	[day month year]
2k	Proposal BH/CPT Investigation Locations	[day month year]
3a	Draft Report - Geological Ground Model	[day month year]
3m	Final Report - Geotechnical Interpretation Report	[day month year]
3u	Final Report Integrated Ground Model	[day month year]

3. Price and other financial provisions

- 3.1 The Contractor will invoice retrospectively, based on the Contract Price as specified in Annex 6 Section IV – Remuneration.

- 3.2 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.
- 3.3 The fee covers all the Work to be performed by the Contractor under this Contract, plus any materials needed for this purpose.
- 3.4 The agreed rates are fixed and invariable during the term of this Contract.
- 3.5 The agreed Contract Price will not be subject to indexation.
- 3.6 The Contractor must submit invoices electronically in the manner prescribed in the Tender Document. The reference number to be used when submitting an invoice is WOZ2210282.

4. Contacts / project managers

- 4.1 The Contracting Authority's contact is Joep Bronkhorst.
The Contractor's contact is [TBC]
- 4.2 At least two times per year, the contacts of the two Parties will hold consultations on the way in which this Contract is being implemented (interim evaluation(s)).
- 4.3 Notwithstanding the provisions of article 10.2 of the ARVODI 2018, the contacts named above cannot make legally binding agreements on the Parties' behalf.

5. Time and place

- 5.1 In principle, the Services will be performed at the Contractor's offices.

6. Other Terms and Conditions

- 6.1 This Contract is governed exclusively by the General Government Terms and Conditions for Public Service Contracts 2018 (ARVODI 2018) (see Annex 6-III), of which the Parties have already received a copy, in so far as this Contract does not contain any provisions to the contrary. Any general and special terms and conditions drawn up by the Contractor do not apply to this Contract.

7. Declaration of integrity

The Contractor hereby declares that it has not offered or given members of the Contracting Authority's Staff any benefit in order to obtain the contract nor arranged for them to be offered or given any such benefit. 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.

8. Final provisions

- 8.1 Any derogations from this Contract are binding only if they have been expressly agreed by the Parties in writing.
- 8.2 Any written or oral agreements previously made by the Parties about the Services that are the object of this Contract are nullified by the signature of this Contract.

Done on the later of the two dates stated below and signed in duplicate.

The Hague, [date]

[place, date]

For the Minister of Economic Affairs
and Climate Policy, and commissioned by
Barto Piersma, Director of National
Programmes of the Netherlands Enterprise
Agency:

For [Contractor's name]

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

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

Schedule(s):
[Annexes]