

Public service contract (ARVODI 2018) for expert support to the Netherlands Enterprise Agency in developing Areas for Offshore Wind, lot 1 or lot 2

Contract number: 202112088 / WOZ2210286

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 expert support to the Netherlands Enterprise Agency in developing Areas for Offshore Wind lot 1 or lot 2 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).

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 [*date*], based on the Tender Document issued by the Contracting Authority on [*date*] (ref. 202112088), 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 Tender Document including the Annexes
 4. the ARVODI 2018;
 5. the tender issued by the Contractor to the Contracting Authority.

2. Formation and duration of the Contract

- 2.1 The agreed Services will be performed in the period from xx.xx 2022 to December 31, 2026.

3. Price and other financial provisions

- 3.1 The Contractor will invoice retrospectively, based on the number of *hours* per month actually worked and a the daily hourly rates of
€... for a Senior expert
€... for a Medior expert
€... for a Junior expert
(excluding VAT and including travel, accommodation and any other costs).
- 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 Services to be performed by the Contractor under this Contract, plus any materials needed for this purpose. International travel costs will be reimbursed (economy class). Other costs (when travelling abroad) can be reimbursed to a maximum of the EC per diem rates.
- 3.4 Payment will be made once the results of the Services have been accepted.
- 3.6 Contractor must submit invoices electronically in the manner prescribed in the tender document. Invoices can be sent every month based on the actual hours worked. The following reference number should be stated on the invoices: WOZxxxx

4. Contacts / project managers

- 4.1 The Contracting Authority's contact is
The Contractor's contact is.
- 4.2 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 Schedule ...)], [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.
- 6.2 **<OPTIONAL>** Notwithstanding the provisions of article ... of the ARVODI 2018, the following provision applies to ...:
- 6.3 If the duty of confidentiality imposed on the Contractor and its Staff under article 13 of the ARVODI 2018 is breached, the Contractor will be liable to pay the Contracting Authority a penalty of € 15,000,--per event.

- 6.4 Contractor will ensure that no situation arises during the execution of the agreement that entails a possible conflict of interest as described in paragraph 3.5 of the tender document. The Contractor will take all necessary measures to this end.
- 6.5 Article 19 of the ARVODI 2018 does not apply.
- 6.6 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. User rights

- 7.1 Article 24.3 will be changed as follows:
In so far as the results of the Services performed are achieved partly or wholly using existing intellectual property rights that do not accrue to the Contracting Authority, such as intellectual property including but not limited to know-how and databases, and any rights thereto {either registered or not} in existence prior to this Contract, the Contractor grants the Contracting Authority a non-exclusive and irrevocable right of use for an indefinite period. In such an event, the Contractor guarantees that it is entitled to grant the aforesaid right of use.
- 7.2 In addition to 24.3 of the ARVODI 2016 the Contractor grants the Contracting Authority a non-exclusive, irrevocable right for an indefinite period to publish or reproduce the results of the Services, or have them published or reproduced, which right the Contracting Authority accepts, such in the widest sense, regardless of the method of use or reproduction and regardless of whether such use or method of reproduction is known when this Contract is signed.

8. 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.

9. Final provisions

- 9.1 Any derogations from this Contract 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 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]

Jan van Putten
Team Manager Procurement Office

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

Schedules:

- Memorandum of Information;
- Tender Document including the Annexes;
- ARVODI 2018;
- Tender issued by the Contractor