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TN348558 Supply of Metocean Data for Three Dutch Offshore Wind Farm zones

ANNEX 5 - Section II

REMUNERATION

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1 Introduction

1.1 Remuneration document

This document details the Remuneration as part of the Agreement that Contracting Authority has awarded to Contractor for carrying out Metocean measurements at the three Dutch Offshore Wind Farm Zones.

2 Rates, prices and percentages

2.1 Currency

The rates and prices set out in the Pricing Schedule in this document (Section II) are in Euros (€).

2.2 Taxes (VAT)

The rates and prices contained herein exclude Value Added Tax that shall be charged in accordance with prevailing legislation. No Value Added Tax is levied on work outside the 12 Nautical Mile Zone.

2.3 Applicable rate with regard to large/ small fluctuating quantities

The rates and prices contained herein shall apply equally to executing the Work in large, small or fluctuating quantities.

2.4 Variations

Should the Contracting Authority exercise their entitlement to vary the Work, then the amended Work shall be valued by the Contracting Authority at the rates and prices contained herein insofar as it is fair and reasonable to do so or, where appropriate on a pro-rata basis and adjust the Contract Price accordingly.

2.5 Contract Price

The Contract Price set out herein shall be the remuneration payable to the Contractor for the Work set out in the Contract and shall take full account of the liabilities and obligations of the Contractor under this Contract.

2.6 Scope of Work

The Scope of Work set out in this Section II relates to the Scope of Work as detailed in Section III of this Contract.

2.7 Rates and prices not foreseen

When Contracting Authority is extending the Scope of Work and these services are not foreseen in Section III - the Scope of Work, the Contracting Authority and the Contractor shall agree, acting reasonably, additional rates and prices as required, taking full account of rates and prices for similar Work and prevailing market conditions.

All new rates, prices and percentages when approved by the Contracting Authority shall remain valid for the duration of the Agreement.

2.8 Rates to include all contractors costs

All rates and prices set out in 'Annex 3 rates' herein are inclusive of all the Contractors costs of whatever nature, unless otherwise agreed, associated with performing the Work in accordance with the Contract and shall include but not be limited to expenses, management time, overheads, labour (including but not limited to the cost of all productive and non-productive labour), supervision, direct remuneration and payroll related costs (including but not limited to salaries, National Insurance contributions or equivalent in the country of levy, payroll taxes, welfare funds, sick pay, bonus and incentive payments, statutory and annual holidays, health plans and the like), plant & equipment (including but not limited to maintenance and repair), goods, materials and consumables, delivery and collection charges, customs dues.

2.9 Fixed rates and prices

The rates and prices contained herein shall be fixed for the entire duration of the Contract including any extensions of time to the Contract term by way of Variation.

3 Pricing

'Annex 3 rates' sets out the elements of the Virtual Contract Price together with rates and prices for all variations to the Work. All costs related to carrying out the Work but not specifically mentioned in 'Annex 3 rates' are included in the specified rates. Annex 3 Rates and the Virtual Contract Prices follows the assumption that the measurement campaign will last 24 months and two relocations will take place during this time. However the duration of the measurement campaign and the number of relocations could vary. Therefore no rights can be derived on these numbers.

Please note that the Tenderer has to submit a completely filled-in 'Annex 3 rates' sheet for every Lot in which Tenderer participates. This includes all fees for every cluster and every relocation. Fees can differ for clusters related to differences in local conditions.

Only the applicable rates (related to the cluster in which the measurements take place and in the case of the relocation the executed relocation) will be used during the execution of the works.

Please check the tab 'example'.

3.1 Bonus, Malus and Payment scheme

3.1.1 The monthly payment will consist of 40% of the all-inclusive fee for each of the two measuring systems deployed, weighted by the availability achieved, (according to the availability weighting described in section 3.1.2 for the measured parameters). Plus 20% for the fit for purpose spare measuring system, weighted by the percentage of days in the month the spare measuring system is available and fit for purpose. Plus or minus any bonuses or mala.

3.1.2 Weighted Monthly Post-processed Data Availability

Each month the Weighted Monthly Post-processed Data Availability per measuring system will be calculated as a weighted average of the Monthly Post Processed Data Availability of each main dataset.

The weight factors shall be as follows:

1. Wind: (average of 10 min data availabilities taking into account measurements at all LiDAR monitoring heights up to and including 200m and near surface wind speed and direction measurements as per the LiDAR capability and/or Floating System ancillary measurement system)	45%
2. Wave: (average of 30 min data availabilities, excluding hmax and thmax)	20%
3. Current: (average over the water column)	15%
4. Water level	10%
5. Atmospheric Pressure	5%
6. Temperature: (average of air and sea surface)	4%
7. Ecological Parametres	1%

Calculation of the Weighted Monthly Post-Processed Data starts from the starting date of the offshore metocean measurement campaign as specified in the proposal of the Contractor.

3.1.3 Availability of Spare System (20% of the all-inclusive fee for a full month)

Payment per calendar day availability per calendar month

3.1.4 Bonus

3.1.4.1 Availability

The Contracting Authority has included a bonus and malus performance system as an incentive for a high data availability and timely issuing of data and reports.

If the Contractor succeeds to provide a Weighted Monthly Post-processed Data availability per measuring system of at least 95% a bonus will be charged:

The monthly amounts of such bonus shall be 4% of the (Calendar month) all-inclusive fee (=40% per system) for each rounded percentage of Weighted Monthly Post-processed Data Availability above 95%.

3.1.5 Mala

3.1.5.1 Data delivery and reporting

If the Contractor, before 8 weeks after ending of the calendar month of measuring, fails to provide the processed DATA and the final Monthly data report(s) & Monthly Data Validation Report(s) (hereinafter Reports), as specified in SECTION III – Scope of Works, paragraph 2.7, the Contracting Authority will charge a malus of 1% of the (Calendar month) all-inclusive fee for each working day that Contractor fails to perform the Work as agreed. This period of 8 weeks includes 10 working days for reviewing by the Client for the first review and 5 working days for reviewing by the Client for the second review). In case these review times are exceeded by the Contracting Authority, the deadline applicable for Mala will be postponed with the number of such days.

If the Contractor, before 8 weeks after ending of the first 12 months of monitoring fails to provide the 12-months processed dataset the Contracting Authority will charge a malus of 1% of the all-inclusive fee for each working day that Contractor fails to perform the Work as agreed.

If the Contractor, before 8 weeks after ending of the 24 months of monitoring fails to provide the 24-months processed dataset and the Final Report, the Contracting Authority will charge a malus of 1% of the all-inclusive fee for each working day that Contractor fails to perform the Work as agreed.

3.1.5.2 Availability

If the Contractor fails to provide a Weighted Monthly Post-Processed Data availability per measuring system of at least 85%, a malus will be charged:

The monthly amounts of such mala shall be 1% of the (Calendar month) all-inclusive fee for each rounded percentage of Weighted Monthly Post-Processed Data Availability below 85%.

3.1.5.3 Start measuring campaign

If the Contractor fails to start the measurements with both measuring systems as specified in Section III – Scope of Work, on the agreed starting date in the Contract, the Contracting Authority will charge a malus of 7,500 Euro (seven thousand five hundred euro) for each day that Contractor fails to start the measurements as agreed in the Contract.

3.1.5.4 General

The amount of applied mala shall not exceed twenty per cent (20%) of the contract price (P).

If, other than through force majeure, the Contractor is permanently unable to perform the Work as agreed, the mala will be immediately payable in full as specified above.

The mala will be payable to the Contracting Authority, without prejudice to all other rights and claims, including:

- the right to demand that the Work be performed as agreed;
- the right to damages.

All amounts of such mala for which the Contractor may become liable are agreed as a genuine pre-estimate of the losses which may be sustained by the Contracting Authority in the event that the Contractor fails in its respective obligations under the CONTRACT. Such mala shall be the sole and exclusive financial remedy of the Contracting Authority in respect of such failure.

The mala 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.

3.1.6 Payment

The payment shall be related to the supply of the measured data in one calendar month per measuring system and the availability of the spare system. The monthly fee is directly related to the Weighted Monthly Post-Processed Data availability of the 6 main datasets of one measuring system (= 0.4 of the Unit Rate mentioned in 'Overview of rates and prices') + 0.2 unit rate for providing a fit for purpose spare system.

3.1.7 Example of monthly payment calculation

See 'Example monthly data availability.xls' for an example of monthly payment calculation. This example is based on indicative numbers.

3.1.8 Mobilisation Fee

Contracting Authority remunerates for the mobilization of the measuring systems. The amount is two times the monthly fee. This mobilisation fee is eligible for invoicing when both measuring systems are deployed and have started measuring and the spare system is deemed fit-for-purpose. It is up to the Contracting Authority to approve when the mobilisation has been fully completed.

Please note that the mobilisation fee is an integral part of the Contract Price. Please check the 'Annex 3 rates' on how this is implemented.

3.1.9 Final payment

Payments shall be made over the duration of the campaign, based on the Weighted Monthly Post Processed Data Availability, to a maximum of 80% of the CONTRACT PRICE. Final payment of the remainder 20% shall become payable after completion and approval of all Final Reports, raw data sets and post-processed datasets and after successful removal of all measuring equipment (including any equipment on sea floor). Note final payment will be adjusted based on availabilities calculated using the final, post processed datasets, if availabilities differ from the monthly calculated availabilities during the monitoring campaign.

There will be no recalculations or corrections made for applied monthly bonus/mala for availability, as defined under 3.1.4.1 and 3.1.5.2