

Public service contract (ARVODI 2018)

Contract number: ...

The undersigned:

1. The State of the Netherlands, which has its seat in The Hague,
represented by the Minister of / State Secretary for Infrastructure and Water Management,
legally represented in this matter by
[signatory's name and position],
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 requires a Road Monitor based on probe vehicle data (ROMO);
- The Contracting Authority has asked [name of company] to issue a quotation for this purpose;
- [Name of company] issued a quotation on [day month year];
- The Contracting Authority has accepted this quotation;
- [Name of company] 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 perform as described in the quotation submitted by the Contractor on [date] (ref. ..., see Schedule ...) based on the request for quotations issued by the Contracting Authority on August 19 2021 (ref. ..., see Schedule ...), 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 ARVODI 2018;
3. the request for quotations;
4. the other Schedules;
5. the Quotation issued by the Contractor to the Contracting Authority on [date], ref ...

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 December 15, 2021 to December 14, 2023.

2.3 If the Services have not been performed in full in accordance with the Contract within the agreed or extended term, the Contractor will immediately pay a penalty of 0.1% of the total or maximum price specified in the Contract for each day that it fails to perform the Services as agreed, up to a 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.

3. Price and other financial provisions

3.1 The Contractor will perform the Services for a fixed aggregate fee of €... (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.

3.4 The agreed rates are fixed and invariable during the term of this Contract.

3.5 Payment will be made once the results of the Services have been accepted based on monthly service level reports.

3.6 The Contractor must submit invoices electronically in the manner prescribed in the request for quotations.

4. Contacts / project managers

4.1 The Contracting Authority's contact is Ministry of Infrastructure and Water Management The Contractor's contact is ...

5. Other Terms and Conditions

5.1 This Contract is governed exclusively by the General Government Terms and Conditions for Public Service Contracts 2018 (ARVODI 2018), 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.

- 5.2 Article 19 of the ARVODI 2018 does not apply.
- 5.3 Notwithstanding article 21.3 of the ARVODI 2018, a Party that imputably fails to discharge its obligations to the other Party is liable for any loss incurred by the other Party.
- 5.4 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*.
- 5.5 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.

6. User rights

- 6.1 Articles 24.1, 24.5 and 24.6 of the ARVODI 2018 do not apply.
- 6.2 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 possible 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.

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 / State Secretary for
Infrastructure and Water Management

For *[Contractor's name]*

[signatory's name]

[signatory's name]

[signatory's position]

[signatory's position]

[Schedule(s): Data Processing Agreement (ARVODI 2018)]