



Rijkswaterstaat
Ministerie van Infrastructuur en Waterstaat

Draft Agreement (and ARVODI)

Rijkswaterstaat Water, Verkeer en Leefomgeving

Date:

Case number: 31195825

Colophon

Model 110 v1.1

Uitgegeven door: Ministry of Infrastructure and Watermanagement
Rijkswaterstaat Water Verkeer en Leefomgeving

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Agreement

The undersigned:

THE STATE OF THE NETHERLANDS, having its seat in The Hague,
represented by the minister of Infrastructure and Watermanagement,
On behalf of this, Rijkswaterstaat Zee en Delta, M. Ohm,
Director of Netwerkontwikkeling,
hereinafter referred to as: Client,

and

<enter name of legal entity>, established at <enter place> represented by
<enter function>
<enter name>
hereinafter referred to as: Contractor,

Hereinafter collectively referred to as: parties

WHEREAS:

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- Client needs *"to carry out and report on up to ten (10) simulations for the testing of crew behaviour by the end of 2024 and/or early 2025, as well as, due to a larger number of wind turbines, the consequences regarding shipping safety in the North Sea"*;
- Client followed a European public procedure remove accordance with the ARW 2016
- <enter name and place of business of contractor> BV at [...] on <enter day/month/year> submitted a Tender under the tender;
- Client has accepted this Tender;
- <enter name and place of business of Contractor> BV at [...] has sufficiently informed itself of what the Client wants to achieve with the assignment;
- The parties wish to set out the resulting legal relationship in writing in an agreement;
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AGREE:

In this Agreement, a number of terms are used with an initial capital letter. These terms have the meaning given to them in Article 1 of the General Government Purchasing Conditions for public service contracts 2018 (ARVODI-2018).

1. Object of the Agreement

- 1.1 The Client grants an order to the Contractor to perform Services in accordance with the tender submitted by the Contractor based on the Client's Tender Guidelines dated ... 2024, version 1..., submitted by the Contractor of <enter date>, reference <insert reference number> (Annex <insert annex reference>), which order the Contractor hereby accepts, all insofar as this Agreement does not derogate from it.
- 1.2 The following documents jointly constitute the Agreement. To the extent these documents contradict each other, the previously mentioned document shall prevail over the subsequently mentioned one:
1. this document including associated requirement specifications and other Appendices;
 2. the two (2) notes of information dated ... 2024 and ... 2024 respectively;
 3. The Tender Guidelines dated . 2024 v1... (as published on Tendered);
 4. the Requirement Specifications (Annex K) and other Annexes (as published on Tendered);
 5. The ARVODI-2018;
 6. The tender submitted by Contractor of <enter date>, with attribute <enter attribute> (digitally signed by Contractor on ... 2024) with the completed Statement of Rates and Prices (Annex I);
 7. Processor agreement ARVODI-2018.
- 1.3 The work may be changed in order by the Client, provided that the relevant work has not yet started at the Client's request. One reason may be that dates or information will only become available later. However, the number (and/or named) products in Annex I Statement of Rates and Prices will not change. For this reason, the Contractor is obliged to adjust the existing schedule and resubmit it to the Client's Contact Person (project supervisor) with due speed. Furthermore, the Contractor must carry out the sequence of work shown in the amended schedule without further settlement or additional payment.
- 1.4 The results of the Services will be delivered in the form of or completed by submission of a digital project file. The digital project file will in any case contain a statement of the results achieved, the methods and techniques used, as well as the conclusions based thereon. The digital project file shall be accompanied by all delivered reports including all associated data and/or files on which the reports are based.
- 1.5 An report is preceded by a draft report. The draft report shall also be delivered in digital form.
- 1.6 The form in which the reports will take place will be subject to further consultation between the parties. In any event, reports will state that the Client is the copyright holder.
- 1.7 The Contractor is obliged to deploy the Personnel in respect of which the suitability requirements are indicated in section 3.2 of the Client's Tender Guidelines of . 2024, version 1....
- During the performance of the Services under this Agreement, the Contractor is always obliged to deploy Personnel with the following experience, which must be able to be demonstrated at any time with documentary evidence with reference projects.
1. The relevant (senior) overall project leader should have experience gained in the past 3 years with regard to simulations in the field of ocean shipping, as well as reporting in respect thereof;
 2. One or more members of the project team should have knowledge gained within the last 3 years in the field of:
 - a. Services related to human factor observations, analysis and reporting;
 - b. data analysis and reporting related to observations similar to this assignment and/or by conducting similar observations.
- Failure to meet these qualification requirements during performance of the work shall constitute a Default in the performance of obligations under this Agreement.

For work of processing data from measurements and depending on the case for analysis and/or reporting, the work can be done by people with a distance to the labour market. This work is considered to take place at least at MBO level. Work concerning communication with the police or with traffic participants who may or may not have been drinking, driving passenger vehicles while a physical obstacle may impede proper execution, or work at night requiring full focus (no night blindness), or whatever, requires - with exceptions - the attention of people who are not distanced from the labour market. Use of social placement for the purpose of the inspections themselves, according to item 6 of Annex I Schedule of Rates and Prices, is not allowed in any case.

2. Conclusion, timing or duration of the Agreement

- 2.1 This Agreement is established by the signing of the contract by both remove parties.
- 2.2 The agreed Services will commence no later than 9 July 2024 and must be completed no later than 31 December 2024.
After this initial term of approximately six (6) months, the Client has the right to extend the Agreement once for a maximum of six (6) months. The Contracted Party shall be obliged to implement an extension at the Client's first request. If, in the event of an extension, the scope of the Assignment must be (substantially) changed in the opinion of the Client, the Contracted Party will be requested to submit a new quotation for the relevant period prior to the Agreement to be amended, on the understanding that, for the substantively unchanged products (with the total number of hours linked to them), the rates and prices stated in the Schedule I Schedule of Rates and Prices (completed by the Contracted Party and attached to this Agreement) will remain unchanged. Different rates and prices will then be jointly determined for the products newly determined or substantially adjusted on the basis of the new scope.
- 2.3 If the Contracted Party realises or will realise less than it offered in its tender in respect of (parts of) quality or performance criteria set in the context of the tendering procedure for this contract (EMVI- BVfM assessment), it will be placed in default in writing. If the Contractor still ultimately achieves less than it offered with regard to these criteria, an EMVI PPPF sanction will be imposed. This EMVI- BVfM penalty is one and a half (1.5) times the difference between the quality value achieved in the EMVI- BVfM assessment and the realised quality value, calculated in accordance with the EMVI- BVfM assessment method.

3. Price and other financial provisions

- 3.1 The Client shall not be bound by payment terms stipulated by the Contractor or payment proposals indicated by the Contractor in its Tender.
- 3.2 The Client is not obliged to index the rates and prices of the Tender or, as the case may be, Annex I Statement of Rates and Prices after the expiry of a certain period; indexation of rates does not apply to this Agreement, nor to any additional work.
- 3.3 In the event of a Shortcoming arising from breach of clause 1.7 of this Agreement, the Customer may suspend payment of any instalment (or part thereof).
The suspension of payment shall remain in force until such time as the Shortcoming is remedied by the Contractor, at the discretion of the Customer.
The Contractor shall not be entitled to compensation of interest and indexation in the event of a justified suspension.
- 3.4 The prices referred to in this article relate to all Services to be performed by the Contractor under this Agreement and any materials required for that purpose.

- 3.5 The rates (per product) stated in or attached to the Schedule of Rates and Prices shall apply during the term of the Agreement, any six-month extension and in the event of any additional work (resulting from this Agreement) during this term, whether or not extended by six months, except in the event that, in accordance with the provisions of Article 2.2 of this Agreement, for the purposes of the (six-month) extended term, newly determined or substantially adjusted products based on the new scope with new prices with corresponding new quantities have been agreed that apply for the (six-month) extended term. Settlement on fixed and variable products will take place according to the fixed price per product as set out in Annex I.
- 3.6 The hourly rates (excluding VAT) stated in the (completed) Annex I Schedule of Rates and Prices (if any) forming part of this Agreement and the hours entered therein by the Contractor will no longer be settled during the term of this Agreement, including any six-month extension and any additional work arising from the Agreement, except where new or substantially modified products apply as stated in the preceding paragraph.
- 3.7 The Contractor shall perform Services at a *fixed total price*, in accordance with the Schedule of Rates and Prices submitted with the Tender of ... (in accordance with Annex I). This fixed total price amounts to € <enter amount> (excluding VAT and including travel, accommodation and any other costs).
This price relates to the term of the Agreement of six months, excluding the term of the option to extend by six months.
- 3.8 Payment of the fixed total price mentioned in the previous paragraph shall be made in no more than 6 instalments (excluding option).
A term appears each time at the end of the month concerned or the next month, if one or more (fixed) products of one or more (payment) items of the Statement of Rates and Prices in that month has been delivered and accepted by the Client's project supervisor, provided that (in view of the financial value) the appearance of the term has been decided jointly. The last term does not appear until after all (firm) products (payment items) have been delivered and all relevant results of the Services have been accepted by the Client's project supervisor.
Payment of the above amount will be made in instalments as per the schedule below.

Position number	Postal number	Amount	(Latest) delivery date
10	1 to ...		15 December 2024
20	... and ...		31 December 2024

- 3.9 The (fixed) total price according to previous paragraphs is fixed and unchangeable during the term of this Agreement.
- 3.10 The Project Supervisor Client may commission additional (variable) products (in writing or by e-mail) from the Contractor for the execution of the Project after the relevant fixed quantity of products, if any, has been spent, up to the maximum number of additional (variable) products specified at the relevant item of Annex I Schedule of Rates and Prices.
- 3.11 The Contractor shall declare the costs of *variable products* if they have been further instructed, at the (fixed) price per product as stated in Schedule I Schedule of Rates and Prices and up to a maximum amount of € ... (excl. VAT and including travel, accommodation and any other costs).
- 3.12 Payment of the said amount of variable costs (of the variable quantities) shall also be made in the relevant or next monthly instalment, only after the relevant additional (quantity of) product has been delivered and accepted by the Project Supervisor Employer, provided that (in view of the financial value) a joint decision has been taken to appear in the instalment and only after the Contractor has coordinated an overview of the said products with the Project Supervisor Employer.

- 3.13 Payment of amounts for variable quantities will be made in instalments in accordance with the table below.

Position number	Postal number	Year	(Latest) delivery date
30	...	2024	31 December 2024
40		2025	28 February 2025

- 3.14 The final instalment for the variable quantities at the end of the term of this Agreement will appear only when all variable products have been delivered and accepted, and the Contractor has otherwise fulfilled all its obligations under the Agreement.
- 3.15 The Project Supervisor Customer is not permitted to order additional extra work on top of the fixed and variable quantities. This, after reviewing the frameworks, is reserved solely for the Client.
- 3.16 It is expressly stipulated that if the Contractor does not charge VAT, but for (part of) the Services it turns out that there is no exemption from VAT, this will not be charged to the Client.
- 3.17 For sending invoices, the Contractor shall use e-invoicing.
Information on e-invoicing is on the website <https://www.logius.nl/diensten/e-factureren>.
- 3.18 On the invoice, in addition to the case number, the SAP order number and the above-mentioned position number should be indicated. Invoices without these details cannot be processed.

4. Contacts

- 4.1 Contact person for Client (project supervisor) is Mrs A.C. Droppers.
Contact person for Contractor is <enter contract person Contractor>.
- 4.2 Notwithstanding the provisions of Article 10.2 of the ARVODI-2018, the named contact persons do not bind the parties.

5. Times and place Services

- 5.1 In principle, the Services are performed at the offices of the Contractor.
- 5.2 If a limited part of the Services is to be performed at the offices of the Client, he shall grant the Staff of the Contractor access to the place where the Services are to be performed and shall enable such Staff to perform the Services under the working conditions customary at that Party during the regularly applicable office hours.

6. Employment conditions

6.1 Duty to inform

1. The contractor shall comply with applicable laws and regulations on wage rates and payment in the performance of the present agreement.

2. The contractor shall record in a comprehensible and accessible manner (payroll records) all employment arrangements relating to payment of wages due on behalf of persons involved in the performance of this agreement.
3. Upon request, the contractor shall provide authorised bodies with access to these recorded working conditions agreements.
4. Upon request, the contractor shall provide the customer with unconditional access to these recorded employment conditions if the customer deems this necessary in connection with the prevention of and/or the handling of a wage claim regarding work performed for the purposes of the present agreement.

6.2 Testing, checks, collection of information

1. Upon request, the contractor shall unconditionally cooperate in all investigations (including checks, tests, audits, and wage validations) that competent authorities and/or the employer deem appropriate to verify payment of due wages on behalf of persons involved in the performance of the present assignment. To this end, the contractor shall upon request provide unconditional access to the repository of information.
2. If the Contractor wishes to involve other parties in the performance of this Agreement, the Contractor shall inquire with trade unions and with competent authorities whether they have information regarding observed underpayment by these parties to be involved. The contractor shall record its findings as part of the information referred to in Article 1. The contractor shall inform the employer of its findings in the periodic progress report on this agreement.
3. Upon request, the contractor shall provide trade unions with access to all locations where work is carried out for the purposes of the execution of the present agreement, if they wish to ascertain the payment of due wages for the benefit of persons involved in the execution of the present agreement.

6.3 Recovery of assigned wage claim

1. If the employer has paid and recovered from the contractor a wage claim assigned pursuant to section 616b Book 7 Civil Code (Burgerlijk Wetboek), the contractor shall be obliged to pay it on first demand, failing which the employer shall be entitled to withhold it on the next instalment or recover it in some other way.

6.4 Pass-through obligation ("chain clause")

1. The Contractor shall impose all the contractual obligations described in Articles 1 to 3 of this paragraph in full on all parties with whom it makes arrangements and/or enters into contracts for the performance of this Agreement
2. The Contractor also hereby stipulates that all such parties shall fully incorporate all the contractual obligations described in Articles 1 to 3 of this paragraph in arrangements they make and/or contracts they enter into for the purpose of executing this Agreement
3. The Contractor shall administer this central recording of employment terms and conditions. To this end, the Contractor shall stipulate that all such parties attach the employment conditions to be recorded to the employment conditions recorded by the Contractor in accordance with the format used herein by the Contractor, thereby creating a single central record for the present agreement.

6.5 Procedure for dealing with signals of underpayment

1. If the client receives signals of underpayment in the performance of the present contract, it shall immediately address the contractor.
2. The Client shall make every effort to have signals received about underpayment validated. Depending on the situation, the Client may request the cooperation of trade unions and/or competent authorities for this purpose.

3. The contractor is responsible for taking appropriate measures leading to handling the reported underpayment. These include cooperating in validating the signals, and dealing with trade unions and/or competent authorities.
4. On the Contractor's initiative, the Client and the Contractor shall generally discuss the payment of wages due in the performance of the present agreement in accordance with the periodic consultation structure provided for in the present agreement. In case the Contractor is in the process of dealing with reported underpayments, he shall increase this frequency to his satisfaction.

7. Other conditions

- 7.1 Only applicable to this Agreement are the "General Government Purchasing Conditions for public service contracts 2018 (ARVODI-2018)" (already held by the Parties), to the extent not deviated from in this Agreement. The applicability of (any) general and special terms and conditions of the Contractor is excluded.
- 7.2 Without prejudice to the duty mentioned in Article 9 of the ARVODI-2018 to report on the progress of the Services to the Client when and in the manner deemed necessary by the Client, the Contractor shall in any case also be obliged to report immediately on a monthly basis in arrears on planned, delivered, accepted by the Client's Contact Person, invoiced and paid for products listed in the Appendix I Statement of Rates and Prices.
- 7.3 Article 19 of the ARVODI-2018 does not apply.
- 7.4 In addition to Article 24 of the ARVODI-2018, with regard to publication, only the Client is authorised to publish (parts of) the report. If the Client decides to do so, it shall thereby name the Contractor as the implementing agency. If the Client wishes to publish an explanation or commentary on the final report simultaneously with its publication, it shall consult with the Contractor in advance.
In principle, the Client is obliged to disclose investigation reports. If so requested by the Client, the Contractor is obliged to provide, in addition to the original version of the investigation report, an additional version suitable for disclosure in which no personal data are mentioned, or in which personal data are mentioned for which express written permission has been obtained from the relevant persons to the proof of which may be requested by the Client.
- 7.5 In addition to Article 24 of the ARVODI-2018, the Contractor may use the data obtained by the Services for scientific research and scientific education, with the exception of privacy-sensitive data. In doing so, the Contractor shall not act contrary to the interests of the Client. In case of doubt about this, Provider shall consult with Client in advance. If Client decides not to publish the results of the Services, Provider may request Client in writing to be allowed to self-publish the performance. Such permission shall be in writing and shall not be refused without reasonable cause. The Client may attach conditions to the granting of such permission.
- 7.6 In addition to Article 21 of the ARVODI-2018, the Contractor shall indemnify the Client against any third-party claims for compensation for damage as a result of the failure referred to in Article 21.3 of the ARVODI-2018. The graduated scale of liability included in Article 21.3 of the ARVODI-2018 shall apply mutatis mutandis.
- 7.7 In addition to the provisions of Article 22 ARVODI-2018, the Client may terminate this Agreement without any demand or notice of default, with immediate effect out of court by registered letter, in the following cases:
 - a. If the Contractor has been irrevocably convicted criminally of discrimination within the meaning of Articles 137c to 137g and Article 429 quater of the Penal Code (Wetboek van Strafrecht), or;

- b. if Staff of the Contractor have been irrevocably convicted criminally for discrimination within the meaning of articles 137c to g and 429 quater of the Penal Code (Wetboek van Strafrecht) and the person concerned is a member of an administrative, managerial or supervisory body of the Contractor or has powers of representation, decision-making or control therein.

In the cases mentioned under a. and b., the right to rescission expires three years after the relevant conviction has become final.

- 7.8 Parties agree, where appropriate, to exclude the fictitious employment relationship of homeworkers or equivalent persons as referred to in Articles 2b and 2c of the Wage Tax Implementation Decree 1965 (Uitvoeringsbesluit Loonbelasting 1965) and Articles 1 and 5 of the Decree on designation of cases in which employment relationship (Besluit aanwijzing gevallen waarin arbeidsverhouding als dienstbetrekking wordt beschouwd) is considered to be an employment relationship (Decree of 24 December 1986, Stb. 1986, 655).

8. Conditions non-policy-oriented research

8.1 General

- a. Client shall not use research methods developed in-house by Contractor without Contractor's permission.
- b. Client may always perform (or cause to be performed) self-analyses or other operations on the Research Data or complete (or cause to be completed) the Research.

8.2 Transfer of ownership of research material

The Contractor transfers ownership to the Client, as the Client accepts ownership, of all the material received, purchased and/or produced and processed by the Contractor for the purposes of the investigation, insofar as the Contractor can dispose of it and insofar as it records data forming part of the investigation. Delivery takes place as both Parties hereby declare that the Contractor will hold said material for the Client. The material to be transferred to ownership does not include the material on which the addresses used for the study have been recorded, unless this material was obtained through or on the instructions of Client.

9. Custody

- 9.1 Unless otherwise agreed in writing, Contractor shall retain the research material referred to in this Agreement for Client free of charge for a period of four years starting from the date of signing the Agreement.
- 9.2 The Contractor shall replace, free of charge, the aforementioned material for as long as it is in its possession, if it has become wholly or partly unusable, has been destroyed or has been disposed of for whatever reason, all this insofar as replacement is possible and is desired by the Customer.
- 9.3 After the expiry of the four-year period, the Contractor shall make the material available to the Client, or destroy it free of charge at the Client's request. If the Contractor does not notify the Client of the expiry of the said period, the safekeeping is tacitly continued until such time as either Party gives written notice to terminate the safekeeping.

10. Integrity statement

- 10.1 The prevailing [Code of Conduct for Integrity of the State](#) shall apply by analogy to all employees of the Contractor who perform work at the offices or location of the Client for the

performance of this Agreement and/or are given access to confidential information of Rijkswaterstaat and/or its contractor(s).

- 10.2 Client may, through the Contractor, require a signed Confidentiality-Integrity Declaration from an employee deployed under this Agreement.
- 10.3 Through the Contractor, the Client may require a valid Certificate of Good Behaviour from an employee deployed under this Agreement. The Contractor shall ensure that the statements referred to in article 10.1 and 10.2 are in the possession of the Client in good time (in any case no later than on the date on which the relevant employee commences work).
- 10.4 The Contractor declares that he has not offered, given, caused to be offered or caused to be given any advantage to Staff of the Client in order to obtain the assignment. Nor shall he do so in order to induce persons employed by Client to perform or refrain from performing any act.

11. Final provision

- 11.1 Deviations from this Agreement shall only be binding to the extent that they have been expressly agreed between the Parties in writing.
- 11.2 By signing this Agreement, all oral and written agreements, if any, previously made by the Parties regarding the Services hereby agreed upon lapse.

Thus drawn up and signed in duplicate,

at Rijswijk
on -

THE MINISTER FOR INFRASTRUCTURE AND WATERMANAGEMENT
Rijkswaterstaat Zee en Delta
On behalf of these,
Director of Netwerkontwikkeling

M. Ohm

at <enter location>
on -

<enter name>
<enter function>

Annex(es):
- completed Annex I Statement of Rates and Prices
- Data Processing agreement ARVODI-2018

This order has been provided with a digital signature with confidence level 4 (PKI certificate) by Rijkswaterstaat. Want to know more about the PKI certificate and its levels? Then go to <http://www.logius.nl/producten/toegang/pkioverheid> or to <https://www.logius.nl/english/pkioverheid>. Logius is part of the Ministry of the Interior and Kingdom Relations.

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If you search on the signature in the document, you can verify the signature for reliability and for authenticity. For this, you need at least Adobe reader XI. We recommend verifying a digital signature for reliability at all times.