## *DRAFT CONTRACT*

**SERVICE CONTRACT**

**N° DAO.P194N9.GMN-2022.03.28**

Geres,

2 cours Foch, 13400, Aubagne, France

("the contracting authority"),

on the one hand,

and

<Full official name of the Contractor >

[Legal form/title][[1]](#footnote-1)

[Legal registration number] [[2]](#footnote-2)

[Full official address]

[VAT number [[3]](#footnote-3)],

("The contractor" )

on the other,

Have agreed the following:

**Specific conditions**

1. **Objet**

The subject of this contract is the external final project evaluation “Switch off air pollution”, Mongolia, bearing identification number DAO.P194N9.GMN-2022.03.28 ("the services").

1. **Structure of the contract**

The contractor shall provide the services in accordance with the terms and conditions of this contract, which includes, in order of prevalence, the present special conditions ("special conditions"), together with the following appendices:

Appendix I: Terms of reference (including clarifications prior to the deadline for submission of bids )

Appendix II: Organization and methodology [including the bidder's clarifications supplied during evaluation of bids]

Appendix III: Key experts

Appendix IV: Budget

Appendix V: Forms and other relevant documents

Appendix VI : Report on factual observations and terms of reference relating to verification of expenditure

In the event of conflict between these documents, their provisions shall apply in accordance with the order of prevalence set out above.

1. **Value of the contract**

This contract, established in euros, is a **unit price contract**. Based on the maximum fees and the provision for ancillary expenses set out in Appendix IV, the maximum contract value is <amount> euros), all taxes included.

1. **Start date**

The start date will be the date of notification of contract award.

1. **Performance period**

The period for performing the tasks identified in Appendices I and II is two months as of the start date for performance.

1. **Reports**

The contractor shall draw up progress reports in accordance with the terms of reference.

1. **Payments and bank account**

7.1 Payments shall be made in euros to the bank account notified by the contractor to the contracting authority.

7.2 Payments shall be made in the following manner:

|  |  |  |
| --- | --- | --- |
| **Day** |  | **euros** |
|  | **First pre-financing[[4]](#footnote-4)** | <amount> x 30%[[5]](#footnote-5) |
| **17/06** | **Interim instalment (where applicable) on submission of the preliminary draft report** | <amount> x 30% |
| **24/06** | **Expected balance on submission of the final report** | <amount> x 40% |
|  | **Total** | <Maximum contract value> |

Interim invoices must be settled in such a way that the amounts paid do not exceed 90% of the maximum contract value. Payment of the balance of the final contract value shall be made, after deduction of sums already paid, within 45 days from receipt by the contracting authority of an invoice accompanied by the final account and a final report on verification of expenditure, subject to approval of these reports.

1. **Details of contact persons**

Any written communication relating to this contract between the contracting authority and contractor must specify the contract name and identification number and be sent by post, fax or e-mail, or hand-delivered to the addresses below:

For the contracting authority:

<Surname, forename, position, telephone, email>

<Address>

For the Contractor:

Surname, forename, position, telephone, email>

<Address>

1. **Law and language applicable to the contract**

9.1 French law shall govern any matters not covered by the contractual provisions.

9.2 The language of the contract and all written communications between the contractor and contracting authority and/or project manager shall be English.

1. **Settlement of disputes**

10.1 Any dispute arising with regard to performance of this contract which cannot be settled in any other manner shall be subject to the exclusive jurisdiction of <to be specified > applying the national law of the contracting authority.

1. **Delays in performance**

11.1 Force Majeure

None of the party is considered to have breached or breached its contractual obligations if it is prevented from doing so by a situation of force majeure, either after the date of notification of award of the contract, or after its date of entry into force.

For the purposes of this Contract, “force majeure” means any unforeseeable event beyond the control of the parties or which they cannot overcome despite their diligence, such as natural disasters, strikes or other labor disputes, acts of the public enemy, wars, whether declared or not, blockades, insurrections, riots, epidemics, landslides, earthquakes, storms, lightning, floods, civil unrest, explosions.

The contractor is not liable to lump-sum compensation or termination for failure to perform, if and to the extent that its delay in performance or any other breach of its obligations under the contract results from a case of force majeure.

If one of the parties considers that a case of force majeure likely to affect the performance of its obligations has occurred, it shall immediately notify the other party, specifying the nature, the probable duration and the envisaged effects of this event. Unless otherwise instructed in writing by the contracting authority, the contractor shall continue to perform its contractual obligations insofar as it is reasonably possible and seek all other reasonable means allowing it to fulfill all the other obligations that the force majeure does not prevent him to fulfull. He does not implement these other means unless the contracting authority instructs him to do so.

For a unit price contract, if the contractor, following the instructions of the contracting authority, has to face additional costs, their amount is certified by the contracting authority.

If a case of force majeure has occurred and continues for a period of 180 days, notwithstanding any extension of the time limit for performance of the contract that the contractor may have obtained as a result, each party has the right to give to the contractor another 30 days notice to terminate the contract. If, at the end of the 30-day period, the force majeure persists, the contract is terminated and, under the law governing the Contract, the parties are thereby released from their obligation to continue the performance of the contract.

11.2 Except in a case of force majeure, if the contractor does not provide the services within the time limits provided for in the contract, the contracting authority is entitled, without formal notice and without prejudice to the other remedies provided for in the contract, to lump sum compensation for each day or portion of a day elapsed between the end of the period of implementation of the tasks defined in the contract and the actual date of completion of the period of implementation of the tasks.

The daily rate of the fixed allowance is calculated by dividing the value of the contract by the number of days of the period of implementation of the tasks.

If the contracting authority can claim at least 15% of the contract value, it may after notifying the contractor:

- Seize the performance guarantee;

- Terminate the contract without the contractor being able to claim any compensation and

- Conclude a contract with a third party for the part of the services remaining to be delivered. This part is not paid to the contractor. In addition, the contractor is liable for additional costs and damage caused by his deficiency.

1. **Termination**

The contracting authority may terminate this Contract in the following cases:

a) Under the conditions provided for in Article 11.2

b) When a legal, financial, technical, organizational or control change in the contractor's situation is likely to significantly affect the performance of the Contract or call into question the decision to award the Contract;

c) If the execution of the tasks has not actually started within three months of the date set for this and if the new date proposed, if any, is considered unacceptable by the contracting authority;

d) If the contractor does not perform the Contract in accordance with the provisions of the terms of reference or if it does not fulfill any other substantial contractual obligation;

e) In the event of force majeure notified in accordance with article 11 or in the event of suspension of the performance of the Contract by the contractor due to force majeure, notified in accordance with article 11, if the resumption of performance is impossible or if a change to the Contract is likely to call into question the decision to award the Contract or give rise to unequal treatment between tenderers;

f) When the contractor is declared bankrupt or is subject to liquidation, judicial settlement, preventive composition, cessation of activity, or if it is in any situation analogue resulting from a procedure of the same nature existing in national laws or regulations;

g) If, in professional matters, the contractor or any natural person having the power to represent him or to take decisions on his behalf has committed a serious fault established by any means;

h) If the contractor has not complied with his obligations relating to the payment of social security contributions or his obligations relating to the payment of his taxes according to the legal provisions of the country where he is established, or those of the country whose law is applicable to this Contract or those of the country where it is to be performed;

i) If the contracting authority has proof that the contractor or a natural person with the power to represent it or to take decisions on its behalf has committed an act of fraud, corruption, involvement in a criminal organization, money laundering or any other illegal activity;

j) If the contracting authority has evidence that the contractor or a natural person with the power to represent it or take decisions on its behalf has committed material errors, irregularities or fraud in the procurement procedure or in the execution of the Contract, in particular in the event of communication of erroneous information;

k) If the contractor is unable, through its own fault, to obtain any permit or authorization necessary for the performance of the Contract;

The contractor may terminate the Contract:

a) If it has proof that the contracting authority has committed material errors, irregularities or fraud in the contract award procedure or in the performance of the Contract;

b) If the contracting authority does not respect its obligations, in particular the obligation to pay the sums due (advance, down payment and balance), the obligation to provide the contractor with the information necessary for the performance of the Contract provided for in the specifications charges;

c) In the event of force majeure notified in accordance with Article 11 or in the event of suspension of the performance of the Contract by the contracting authority due to force majeure, if the resumption of performance is impossible or if a change to the Contract is likely to call into question the initial conditions of execution of the contract.

In all cases of termination, one party must formally notify the other party of its intention to terminate the Contract, specifying the reasons for termination.

The other party has 30 days from the date of receipt to provide comments, including the steps it has taken to ensure continued compliance with its contractual obligations. Failing this, the termination decision becomes enforceable the day following the expiry of the deadline for submitting observations.

1. **Additionnal clause**

The Contractor declares that he has not committed any act likely to influence the process of performance of the Service to the detriment of the Contracting Authority and in particular that no agreement has been reached and will not be made.

The Contracting Authority and the Contractor declare that the negotiation, signing and performance of the contract has not given rise to and will not give rise to an act of corruption as defined by the United Nations Convention against Corruption dated October 31, 2003.

The Contracting Authority and the Contractor undertake to comply with international standards in terms of environmental protection and labor law, in accordance with the laws and regulations applicable in the country where the service is performed, including the fundamental labor conventions, the ILO and international environmental conventions.

Drawn up in English in two original counterparts, one original handed to the contracting authority and one original to the contractor.

|  |  |  |  |
| --- | --- | --- | --- |
| **For the contractor** | | **For the contracting authority** | |
| Name: |  | Name: |  |
| Position: |  | Title: |  |
| Signature: |  | Signature: |  |
| Date: |  | Date: |  |

1. When the Contractor is an individual. [↑](#footnote-ref-1)
2. If applicable. For natural persons, mention the identification number of their identity card or passport or equivalent document [↑](#footnote-ref-2)
3. Except where the Contractor has no VAT number [↑](#footnote-ref-3)
4. The contractor is not obliged to request pre-financing. [↑](#footnote-ref-4)
5. Maximum 40% of the total contract value if the contract performance period is 12 months or less, 30% of the total contract value if the contract performance period is between 12 and 24 months and 20% of total contract value if the contract performance period is 24 months or more. [↑](#footnote-ref-5)