

**Green:** To be filled in once the lab(s) is selected (the Supplier)

*This is an unofficial translation from Danish. In case of discrepancies between the Danish original text and the English translation, the Danish version applies.*

## Draft agreement

Agreement on lab tests/ecotoxicological tests regarding testing of treatment of contaminated groundwater from the pollution plume at Grindstedværket.

Region of Southern Denmark  
Miljø og Råstoffer  
Damhaven 12  
7100 Vejle  
Denmark  
CVR no. 29190909  
(in the following referred to "the Region")

and

[The Supplier]  
[Address]  
[Postal code] [City]  
(In the following referred to as "the Supplier")

Together referred to as the "Parties" and separately as "Party"

have today entered into an agreement on consultancy and assistance in connection with lab tests for testing of treatment of contaminated groundwater from the pollution plume at Grindstedværket.

This Agreement concerns sub-agreements 1, 2 and 3/sub-agreements 1 and 2/sub-agreement 3.

## 1 Purpose and subject-matter

- 1.1 This Agreement covers consultancy and assistance in connection with lab tests for testing of treatment of contaminated groundwater/ecotoxicological tests of groundwater from the pollution plume at Grindstedværket.
- 1.2 The scope of contract is described in the tender documents and appendices.

## 2 Contractual basis and interpretation

- 2.1 The contractual basis consists of the following:
- 2.1.1 The Agreement
- 2.1.2 Letters exchanged, minutes of meetings or written material containing agreed changes to, additions to or clarifications of the tender documents or the actual tender, and which are after the tender date.
- 2.1.3 The Region's tender documents including the following appendices:
- Appendix A: Special work descriptions (SAB)
  - Appendix B: Basis for payment and settlement (TAG1-TAG3)
  - Appendix C: Bills of quantities (BoQ1-BoQ3)
  - Appendix D: Solemn declaration.
- 2.1.4 Letters exchanged, minutes of meetings or other written material containing agreed changes to, additions to or clarifications of the tender documents which are after the date of the tender documents, but before the tender date.
- 2.1.5 The Supplier's tender of [date].
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- 2.1.6 Abridged general conditions for consultancy services for building and construction works (ABR Abridged) with the deviations, additions, changes and specifications stated in other parts of the contractual basis (enclosed as Appendix E to the tender documents).
- 2.1.7 In case of conflict between the documents mentioned in clauses 2.1.1-2.1.6, the documents are prioritized in the listed order. Note the deviation from ABR Abridged, § 4, subs. 4 regarding the hierarchy of documents.

## 3 Start and end of Agreement

- 3.1 The Agreement takes effect on 01.11.2019.
- 3.2 Activities commenced prior to 01.11.2019 are not covered by the Agreement, unless specifically agreed with the Region.
- 3.3 The Agreement is non-terminable until xx.xx.2020, when it terminates without notice, unless the Region has organised an extension prior to this.

- 3.4 If the call for tenders regarding the award of this Agreement is brought before the Complaints Board for Public Procurement, and if the Region's decision to award is annulled and/or the Agreement is declared "without effect", or if the Region is otherwise ordered to end the Agreement, the Agreement may be terminated by the Region at three months' notice to the 1st of a month.
- 3.5 Termination pursuant to the above does not entitle the Supplier to compensation payment or other compensation as a result of the termination, only to payment for works already performed.

## 4 Supplier's services and performance of services

- 4.1 The Agreement includes all works necessary to perform the assignment.
- 4.2 The assignment must be carried out in compliance with statutory rules, regulations, instructions etc. in force at the time of submission of the Supplier's tender for present Agreement.
- 4.3 Staff must be able to work together with the Region.
- 4.4 To secure continuity and quality in the performance of services under the assignment, the Supplier must use the staff members indicated in the tender.
- 4.5 If the Supplier has to make changes to the staffing, this is not to incur additional costs to the Region. Any changes to staffing is subject to prior approval by the Region.
- 4.6 At the Region's request, the Supplier must substitute a staff member performing services for the Region under this Agreement, if the Region's request is reasonably motivated, including as a consequence of lack of cooperation between the staff member in question and the Region, or if the staff member in question fails to meet fair requirements for performance of services under the Agreement.
- 4.7 All reports etc. submitted to the Region must be in Danish or English. Correspondence with the Region must also be in Danish or English, unless otherwise agreed.

## 5 Sub-contractors

- 5.1 For performance of specific assignments, the Supplier may involve the following sub-consultants/sub-contractors, which are stated in the Supplier's tender of **date**:
- 5.2 **[Name, CVR number, contact information, contact person]**
- 5.3 If a sub-contractor is not known at the time of commencement of works under agreement, contact information for the sub-contractor must be submitted to the Region as soon as the sub-contractor is appointed.
- 5.4 Substitution or addition of sub-contractors is subject to prior written approval by the Region. Any new sub-contractors must, as a minimum, hold the same qualifications and have the same

experience as the sub-contractor that is being substituted. If the substitution entails additional costs for the assignment, these are to be paid by the Supplier only.

- 5.5 The Supplier's is liable for sub-contractors' services just as he is for his own services, also as regards consultant's liability to the extent that a basis of liability exists. All requirements and provisions also apply to any sub-contractors.
- 5.6 When using sub-contractors that are directly involved in the performance of an assignment under the Agreement, the Supplier is obligated to ensure that the Region, at the commencement of performance of assignment at the latest, receives information about the specific sub-contractor's name, CVR number, contact information and representative, if that information is not included in the Agreement.

## 6 Fee and price index regulation

- 6.1 The fee for specific assignments is included in Appendix C – Bills of quantities.
- 6.2 All prices are in Danish kroner (DKK).
- 6.3 The prices offered in Appendix C – Bills of quantities include all charges in force at the end of the deadline for submission of tender, except for VAT.
- 6.4 As regards any services, goods or other items that are, as an exception, not included in Appendix C – Bills of quantities, the Supplier must continuously and loyally work to offer the Region the best possible prices. The Supplier is not permitted to add any expenses, administration fees or other surcharges. Regardless if such are provided through the Supplier or not, including if the Supplier acts as facilitator. Any type of discounts or bonuses that the Supplier achieves must go to the Region. These services, goods and other items are not regulated according to a price index.

## 7 Payment

- 7.1 The Supplier is paid monthly in arrears, cf. ABR Abridged, § 24.
- 7.2 Deadline for payment is 30 days from receipt of adequate invoice.
- 7.3 The invoice must be submitted electronically and state the following information:
  - EAN location number: 5798002571622
  - Personal reference: [hni@rsyd.dk](mailto:hni@rsyd.dk)
  - Name of case manager: Hanne Nielsen
  - Region of Southern Denmark's file number: 19/4945
  - Title of sub-agreements 1 and 2 "Pollution plume at Grindstedværket. Lab tests of AOP methods"
  - Title of sub-agreement 3: "Pollution plume at Grindstedværket. Ecotoxicological tests".
- 7.4 All services must be included in the tender – except for analysis costs for Eurofins, which are paid by the Supplier. The Supplier is not permitted to add any expenses, administration fees or other surcharges.

- 7.5 The Region does not reimburse expenses that are not included in the price at the time of submission of the Supplier's tender, unless written agreement has been made in special cases.

## **8 Authorisation of invoices from other external parties**

- 8.1 As stated in clause 7.4, all costs must be included in the Supplier's tender. Therefore, the Region does not reimburse expenses etc. that were not included in the price at the submission of the Supplier's tender.

## **9 Confidentiality**

- 9.1 The Supplier must observe unconditional confidentiality regarding information about the Region's or other's circumstances that they learn of during performance of this Agreement. The Supplier must impose a similar obligation on sub-contractors. The duty of confidentiality does not include already publicly accessible information. The duty of confidentiality also applies after the end of the Agreement.
- 9.2 The Supplier's access to systems and databases is to be exclusively used for the specific assignment, i.e. the Supplier must stay within the area that is relevant to the assignment that the Supplier is performing for the Region. The Supplier is not permitted to use the Region's systems for searching for information to be used for performing assignments for others. If the Supplier did not previously sign a non-disclosure agreement must be signed and submitted at the time of signing the Agreement.

## **10 Transfer**

- 10.1 The Supplier is not permitted to transfer his rights and obligations under this Agreement to a third party without prior written approval by the Region.
- 10.2 The Region is entitled to transfer its rights and obligations under this Agreement to any other public authority that should, as a consequence of changes to administration of public tasks, take over responsibility for the performance of the assignments covered by the Agreement.

## **11 Contact persons**

- 11.1 The Region's contact person for this Agreement is: Hanne Nielsen, hni@rsyd.dk
- 11.2 The Region's contact person for this Agreement is: [title, name, contact information]
- 11.3 If the contact person is substituted, the other Party must be notified.

## **12 Other issues**

- 12.1 The results of the lab tests and ecotoxicological tests solely belong to the Region.

- 12.2 Without the Region's written permission, the Supplier is not to use the information that the Supplier learns towards any third party.

## **13 Insurance and liability**

- 13.1 The Supplier is liable according to the standard rules of Danish law.
- 13.2 The Supplier is obligated to take out a standard public liability insurance and professional liability insurance that take effect at the start of the Agreement and to maintain such insurances throughout the Agreement period and as long as specific assignments are ongoing under the Agreement. At the Region's request, the Supplier is to document that insurances are in effect. The size of the public liability insurance must at all times during the Agreement period be DKK 10,000,000 for personal injury and property damage. A deviation from the limit of liability in ABR Abridged, § 38, subs. 4, is implemented, limiting the Supplier's liability to DKK 10,000,000.

## **14 Errors and neglect**

- 14.1 Errors and neglect on the Supplier's part exist if the Supplier's services do not comply with the contractual basis or correspond to the Region's reasonable expectations.
- 14.2 The Region must submit a written complaint to the Supplier within a reasonable period after the Region identifies errors or neglect in connection with the Supplier's assistance.
- 14.3 The Supplier must, without undue delay, after receipt of a written complaint remedy the error or neglect.
- 14.4 If the Supplier does not, as soon as possible and no later than ten working days, ensure that the deliverable complies with the contractual basis, the Region is entitled to a relative deduction of the fee.
- 14.5 If the Supplier repeatedly commits errors or neglect, this is considered material breach, in which case the Region – after at least two episodes where the Region to no avail has submitted written complaints with a deadline of at least ten working days for remedial work (when relevant) – is entitled to terminate the Agreement with immediate effect. In special cases, the Region may choose to only terminate the part or parts related to the breach. If the Region terminates the Agreement, payment will be issued for the work that is done satisfactorily until the time of termination.
- 14.6 The following are examples of a breach:
- Lack of compliance with time schedule
  - Lack of quality assurance of results and report
  - Faulty professional assessments related to tests and reporting
  - Faulty analysis results.

## **15 Deadlines, delay and penalty**

The following time schedule applies to each sub-agreement:

Sub-agreement 1:

All tests must be completed no later than on 12 December 2019, and carbon-treated water must be received at the winner of sub-agreement 3 no later than on 16 December 2019. A preliminary report of the work carried out must be available on 20 December 2019 and a final report must be available on 24 January 2020.

Sub-agreement 2:

All tests must be completed no later than on 6 December 2019, and treated water must be received at the winner of sub-agreement 1 no later than on 9 December 2019. A preliminary report of the work carried out must be available on 20 December 2019 and a final report must be available on 24 January 2020.

Sub-agreement 3:

All ecotoxicological tests must be completed no later than on 20 December 2019, and a report of the work carried out must be available on 17 January 2020.

15.1 Deadlines and delay for the Supplier's performance of specific assignments are regulated in clauses 14.5-14.6. No penalty provisions are included in this Agreement.

## **16 Disputes**

16.1 Pursuant to ABR Abridged, chapter J.

## 17 Signatures

Date:

Place:

For the Region:

Date:

Place:

For the Supplier:

[Redacted Signature]

Name: [insert]  
Title: [insert]

[Redacted Signature]

Name: [insert]  
Title: [insert]

## 18 Agreement appendices

| No. | Name   | Date              |
|-----|--|-------------------|
| 1   | The Region's tender documents                  | 26 September 2019 |
| 2   | Questions and answers during the tender period | xx                |
| 3   | The Supplier's tender                          | xx                |