

Contract

Regarding consultancy services and auction software in connection with the 700 MHz, 900 MHz and 2300 MHz auction(s)

between

Danish Energy Agency
Amaliegade 44
DK-1256 Copenhagen K

(hereinafter referred to as the Customer)

and

[...]

[...]

[...]

CVR-no. [...]

(hereinafter referred to as the Supplier)

(individually referred to as the “Party” and collectively as the “Parties”)

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1. BACKGROUND AND PURPOSE

This contract has been concluded between the Parties after advertising a prior invitation to tender in the EU Official Journal, see notice of invitation to tender no. 2017/S 041-075084.

The contract aims to regulate the cooperation between the Supplier and Customer on *consultancy services and auction software in connection with the 700 MHz, 900 MHz and 2300 MHz auction(s)*.

2. DEFINITIONS

Working day means Monday to Friday excluding public holidays, Christmas Eve, New Year's Eve and Constitution Day.

Day means calendar day.

Contract means this contract and appendices along with all subsequent amendments and supplements.

3. SUPPLIER'S SERVICES

3.1 The contents and scope of the task

The Supplier is obligated to provide the services that are stated in the Contract.

The Supplier must carry out the tasks described in the Contract as well as any tasks that are a natural part of it.

The Supplier shall perform all consultancy tasks as specified in Appendix 1 (requirements concerning deliveries). The tasks are:

- Consulting services in connection with the 700 MHz, 900 MHz and 2300 MHz auction(s)
- Electronic web-based auction software
- Ad hoc consulting services in connection with the 700 MHz, 900 MHz and 2300 MHz auction(s), see item 3.2.

The Supplier has, prior to signing of the Contract, prepared the Supplier's solution description, where the Supplier has further described how the services will be performed (the Supplier's tender of xx April 2017, cf. Appendix 2) and how the requirements of the Customer's task description and requirement specifications (Appendix 1) will be met. The Supplier's solution description may not lead to the fact that requirements or descriptions in the Customer's task description and requirement specifications (Appendix 1) are not met.

If, during the Contract, doubt arises as to the scope of the task, the Supplier is obligated to immediately notify the Customer in writing thereof.

The work shall start on [date] 2017.

3.2 Ad hoc tasks

The main task, see item 3.1, includes the necessary assistance for the implementation of the task. The Supplier must provide the assistance that is necessary and naturally connected to the task as described in Appendix 1. This assistance is included in the total remuneration, see item 10.1. The Supplier must, for instance, assist in relation to questions of a clarifying nature pertaining to the Contract without additional remuneration.

The Customer may also order the Supplier to perform ad hoc tasks that are not included under the main task of the Contract. Such tasks for example consist of competition analyses or other analyses in relation to the main task not mentioned in Appendix 1, cf. the Danish Public Procurement Act, section 178.

The Supplier must provide the necessary resources and expertise to resolve ad hoc tasks.

Prior to ordering an ad hoc task, the Customer must describe it to the Supplier.

The Supplier must, on this basis, describe how the Supplier will perform the task as well as provide a price estimate on this based on the hourly rates stated per Consultant/Senior Consultant category in Appendix 2. The price estimate must also specify a maximum price that cannot be exceeded. It should also indicate how the ad hoc task is staffed.

If the Customer based on the Supplier's information would like to order the Supplier to perform an ad hoc task, it is done by written notice. A delivery deadline is agreed upon by the Parties, see in addition item 13.2 on delay.

If the Parties agree that the nature of the task renders the ordering procedure unnecessary, another approach can be agreed upon.

The Customer is not obliged to complete a task, and the Customer may without notice decide that an ad hoc task must be completed. An ad hoc task is considered to be complete when the Customer notifies in writing of this and from this point on the Supplier is not entitled to additional remuneration.

An agreement on the performance of an ad hoc task is carried out and completed under the stated terms of the Contract regardless of whether the contract has terminated.

The Supplier's remuneration for the implementation of an ad hoc task is determined in accordance to item 10.3 of the Contract.

Invoicing and payment are done according to item 11 of the Contract.

3.3 Language

The working language at meetings and ongoing communication between the Supplier and the Customer is Danish or English.

All written material that the Supplier must prepare as part of the fulfillment of the Contract must be edited and proofread before its delivery to the Customer.

4. PLACE OF DELIVERY

Deliveries upon fulfillment of the Contract must be delivered to the Customer's address or by e-mail if agreed upon by the Customer. If the Supplier sends deliveries by e-mail, the Customer will send an answer as receipt for the e-mail.

The Supplier must present themselves to the Customer and/or a third party to the extent necessary to perform the tasks covered by the Contract, and if it also proves necessary for the Supplier to fulfill the Contract.

5. SCHEDULE

The Supplier must perform the task in accordance with the Supplier's timetable and activity schedule in Appendix 2 that fills out the Customer's main schedule, see Appendix 1.

The Supplier may not make changes to the schedule without prior written agreement with the Customer.

6. SUPPLIER'S STAFFING

6.1 General

The Supplier is obliged throughout the duration of the Contract to maintain the necessary capacity and knowledge of its staffing in the performance of the task. The Supplier must ensure that the necessary resources will be provided at all times for the fulfillment of Contract.

The Supplier must make available the assigned persons listed for the performance of the task, cf. Appendix 2. The assigned persons' tasks and participation in the fulfillment of the Contract must correspond to the description in Appendix 2.

If the Supplier does not solve tasks with adequate quality and in compliance with agreed deadlines, the Supplier must adjust the staffing of the task, see item 13.2.

6.2 Replacement of employees

The personnel assigned to the task shall be as specified in Appendix 2.

The Supplier must, for the continuity and the quality of work as far as possible, avoid the replacement of persons assigned to the task. Assigned persons of the Supplier may only be changed with the Customer's approval. The Supplier must, upon the Customer's request, replace an assigned person if the Customer's request is reasonably justified.

When replacing an assigned person, the new individual must have at least the same qualifications as the replaced person. This is demonstrated by presenting the resume of the new person that must comply with the requirements for resumes in Appendix 1. The replacement must not incur costs for the Customer and may not lead to delays in the fulfillment of the Contract. For example, the Customer shall not pay for new employees getting a level of insight into the work equal to the level possessed by the replaced employee.

The Customer reserves the right to reject a new employee if the person in question is deemed not to possess the same qualifications as the original one.

The Supplier shall ensure that employees assigned for implementing the contract keep up to date with developments within their respective areas of competence.

The Supplier shall furthermore ensure that their employees comply with any instructions that the Customer may give on the performance of the task.

7. COOPERATION AND THE CUSTOMER'S INVOLVEMENT

7.1 Personnel

The person responsible for management of the contract at the Customer shall be: Maria Schmidt Jensen. Day-to-day contact person at the Customer is Peter Johnson, who shall handle the overall project management and coordination.

The person responsible for management of the contract at the Supplier shall be: [name]. Day-to-day contact person at Supplier is: [name]

The contact persons are responsible for the ongoing dialogue in the duration of the Contract.

7.2 Cooperation and the Customer's involvement

The Danish Energy Agency shall be kept updated on a current basis about the scheduling and progress of the contract work. The parties shall agree on the details of the time schedule and format for such updating.

The Supplier shall inform the Danish Energy Agency immediately if, in the course of the work, doubt should arise about the conditions, objective or performance of the contract.

The Supplier may only expect that the Customer participates in the performance of the task to the extent that is expressly stated in the contract.

The Customer is, however, to a reasonable extent available to answer the Supplier's questions in regard to executing the task.

8. COMPETENCE

Due to the independence, credibility and reliability in performance of the task, the Supplier is obliged to ensure that neither the Supplier nor its liable and participating employees provide or have provided consultancy to clients in connection with tasks that could lead to doubts as to the Supplier's competency.

Similarly, the Supplier is obliged to ensure that the proprietary interests and similar interests of the Supplier and its employees in the companies and firms should not lead to doubts as to the Supplier's competency.

The Supplier must immediately notify the Customer if circumstances arise that may bring about doubt on the Supplier's independence and competency.

9. REGULATORY REQUIREMENTS, LABOUR CLAUSE AND CSR

9.1 General

The Supplier guarantees that the Supplier's services meet all relevant regulatory requirements, including the Personal Data Act, see item 9.2, that exist at the time of the signing of the Contract and later.

The Supplier must provide services in accordance with the Appendix 3 stated requirements for the labour clause and CSR.

9.2 Privacy

If the Supplier's performance of tasks under the Contract entails the processing of personally identifiable information, the Supplier is always obliged to ensure that the applicable Danish privacy laws are complied with, especially the Personal Data Act (Law No. 429 of 31 May 2000 with later amendments) and Executive Order on Security (Executive Order 528/2000 with later amendments).

To the extent the Supplier's performance of tasks under the Contract entails that the Supplier processes personally identifiable information, the Supplier acts as data processor solely on instructions from the Customer as data controller and the rules under Section 41, subsections 3-5 of the Personal Data Act also apply for the processing of personal data by the Supplier. The Supplier may not process personal data for purposes other than those set by the Customer, just as the Supplier may not process personal data due to instructions from anyone other than the Customer.

The Supplier must take the appropriate technical and organisational security measures to protect data against accidental or unlawful destruction, loss or alteration and against unauthorised disclosure, abuse or processing in violation of the Personal Data Act and the Executive Order on Security. This also applies if the processing of personal data by the Supplier occurs at home offices.

If the Supplier is established in another EU member state, the provisions on security as determined in the legislation in the EU member state where the Supplier is established also apply to the Supplier. If the Supplier is established in another EU member state, the Supplier must therefore comply with both the Danish security requirements under the Personal Data Protection Act and the security requirements of the Supplier's homeland.

The Supplier must at the Customer's request provide the Customer with sufficient information to enable the Customer to comply with its obligations as data controller according to the privacy law, including obligations to the data subject (such as the right to access) and the obligations to ensure that the Supplier has taken the mentioned technical and organisational security measures. The Supplier must in this regard arrange an independent third party to submit a statement of assurance once a year to the Customer on the security conditions of the personal data at the Supplier.

The Supplier is obliged to participate in any discussions with the Data Protection Agency and incorporate any recommendations and/or orders, etc. from the agency on the processing of personal data in regard to the performance of the Supplier's tasks under the Contract.

In the event of a security breach, the Supplier must without undue delay notify the Customer of this.

10. REMUNERATION

10.1 General

Remuneration (the total fixed remuneration and hourly rates in **Fejl! Henvisningskilde ikke fundet.**2) are listed in Danish kroner and includes all the applicable taxes except for VAT upon concluding the Contract. If the applicable Danish duties or taxes are changed, the prices must be adjusted in accordance with the net change in these so that it does not affect the Supplier.

The Supplier's remuneration is not adjusted during the contract period.

The Supplier's remuneration and hourly rates include all the Supplier's costs, including any expenses for travel, food and accommodation, office supplies and materials, etc. The Supplier is not entitled to additional remuneration other than what is stated in this Contract.

10.2 Total fixed remuneration

The total fixed remuneration for the agreed service shall be DKK [amount] excluding VAT, cf. item 10.1.

The total remuneration includes the Supplier's performance of all tasks and services in the Contract as well as Appendix 1 and Appendix 2, and what moreover is necessary to perform the main task as described in the Contract and appendices with a satisfactory result.

The total remuneration does not include remuneration for the performance of ad hoc tasks, see item 3.2 and item 10.3.

10.3 Ad hoc tasks

For ad hoc tasks that are ordered under item 3.2 of the Contract, the Supplier's remuneration is calculated as an actual hourly fee, see hourly rates in Appendix 2, for Consultant/Senior Consultant categories.

The Supplier's remuneration, however, may not exceed an amount equal to the Supplier's maximum price for the ad hoc task, see item 3.2.

The Customer may decide that an ad hoc task will immediately be considered to be complete and from this point on the Supplier is not entitled to additional remuneration, see item 3.2.

If the Supplier replaces an employee, the replacement must not incur costs for the Customer. The Customer is solely obligated to pay remuneration for the work of the new employee

equivalent to the remuneration that the Supplier would pay for a replaced employee under the price estimate. This applies even if the new employee is further qualified, etc., than the replaced employee.

11. INVOICING AND PAYMENT TERMS

Invoicing must be in accordance with current regulations on electronic settlement with public authorities.

The Supplier's remuneration in regard to item 10.2 is invoiced in accordance with the payment plan that is contained in Appendix 2, based on milestones in the timetable and activity schedule in Appendix 2, if the Customer has approved the Supplier's payment plan. Invoicing requires that the Supplier on the invoice date has done everything according to the timetable and activity schedule in Appendix 2 that should have been carried out, and that the Customer has approved the Supplier's deliveries relating thereto. If a payment plan is not established in Appendix 2, then invoicing may only happen when the task is completed and all deliverables are delivered, see item 5.

The Supplier's remuneration in regard to item 10.3 for carrying out ad hoc tasks shall be paid as a fixed price in DKK excluding VAT based on the hourly rate stated in Appendix 2.

The remuneration is due for payment 30 days after the Supplier has sent a satisfactory invoice.

12. GUARANTEES

The Supplier guarantees that the Supplier in the performance of its services meets all the requirements under the Contract as well as requirements of good practice within the industry, and that the services will be performed at a professional and qualified level that the Customer with justification can expect under the Contract.

The Supplier guarantees throughout the contract period to maintain the necessary capacity and knowledge in the performance of the task, including qualified staff.

The Supplier furthermore guarantees for its competence in accordance with item 8 of the Contract.

The Supplier guarantees that current legislation for employees, including legislation on residence permits, proof of employment and tax, are adhered to by all employees engaged in executing the Contract. The Supplier guarantees furthermore that all services covered by the Contract also fulfill all relevant statutory requirements and regulations, including rules on work environments that exist at the time of the signing of the Contract and later, see item 9.

The Supplier guarantees that the Supplier in fulfillment of the Contract does not infringe on third party rights, including property rights or intellectual property rights, see item 18.

The Supplier guarantees that it will handle all received material and information on the task with absolute discretion. The Supplier is obliged to comply with the safety procedures etc., which are developed and/or agreed between the Parties in connection with the solution of the task, see item 20.

13. BREACH OF CONTRACT

13.1 General

If there are no other provisions in this Contract, Danish law on remedies are applicable in connection with the breach of contract by a Party, including rules on proportionate reduction.

13.2 Delay

There is a delay if the Supplier exceeds one of the established deadlines, cf. Appendix 2. Likewise, there is a delay if the Supplier exceeds the deadline agreed between the Customer and the Supplier in regard to an ad hoc task, see item 3.2.

If the Supplier anticipates that there is a risk of delay, the Supplier must immediately notify the Customer of this and its reasons as well as the anticipated time delay.

When delays occur, or a delay is expected, the Supplier must immediately take effective steps to overcome the delay or – if it is not possible – to limit it.

If the Supplier's work is delayed as a result of inadequate involvement by the Customer, the Supplier is obliged to immediately notify the Customer of this. If the Customer is not notified immediately, the Supplier forfeits the right to object on grounds of delays caused by this condition.

In the event of a delay of the overall timetable and activity schedule in Appendix 2, due to the Supplier's circumstances, the Supplier shall pay a penalty of 5,000 DKK per work day the agreed overall time schedule is delayed.

The penalty for exceeding several penalty milestones culminates until this/these milestone(s) in question are met.

The total penalty for delay concerning the overall time schedule cannot exceed 500,000 DKK.

The penalty is due for payment weeks in arrears and the Customer is entitled to set off the penalty in the remuneration when the Supplier can invoice this in accordance with item 11.

If the Supplier no later than 6 months from the delinquency received a written demand for payment of a penalty, the right to accrued penalty lapses.

Accrued daily penalty is paid weekly after the delay has occurred upon demand by notice from the Customer. If the Supplier does not receive a demand by notice from the Customer it does not cause that the right to daily penalty is forfeited. The Customer can deduct the sum of the daily penalty in the total fee.

This provision shall not limit the right of the Customer to compensation, cf. item 14.

13.3 Deficiencies of the Supplier's services

A deficiency exists if the Supplier's performance of the task under the Contract does not meet the requirements stated in the Contract, or does not otherwise correspond to what the Customer may reasonably expect.

In the event of deficiencies, the Supplier must take necessary steps to remedy the deficiencies as soon as possible.

The Customer may require that there must be a proportionate reduction in the total remuneration that the Supplier is entitled to under this Contract, if the Supplier does not make the effort to remedy the deficiencies as soon as possible.

13.4 Termination

The Customer may immediately terminate the Contract in whole or in part if there is a substantial breach of contract.

The following conditions, but not limited to, are always considered as substantial breach of contract that grants the Customer right to terminate the Contract:

- 1) If the Supplier at any given time incurs a maximum penalty due to delays in delivery, see item 13.2.
- 2) If the Supplier does not fulfill the guarantees under item 12, and the Supplier has not remedied the deficiencies within a reasonable time after receiving a written notice hereof.
- 3) If the breach of contract that individually does not constitute as substantial breach of contract is overall significant for the Customer.
- 4) The Supplier's bankruptcy, unless the bankruptcy estate is not on the basis of a written application from the Customer without undue delay indicates that the estate appears in the Contract.
- 5) The Supplier is in the process of debt restructuring.
- 6) Opening negotiations on arrangements by the Supplier or significantly deteriorated economic conditions in general that brings the proper fulfillment of the Contract in jeopardy.
- 7) The Supplier ceases to conduct business relating to the Contract, or occurrence of any other events that bring the Contract's proper fulfillment in grave jeopardy.

In the event of a termination of the Contract by the Customer, the Supplier must reimburse the remuneration already received with a deduction of remuneration for services that are approved by the Customer, and with a deduction to the extent the Customer decides to fully or partially take over the completed work at that point with the aim of completing the task, possibly with the assistance from a third party, see item 255.

14. SUPPLIER'S LIABILITY

The Supplier is liable to the Customer in accordance with Danish law. The liability does not include operating loss, loss of profit or other indirect losses.

For conditions that trigger the payment of a penalty, the compensation may only be claimed to the extent the Customer can document to having suffered damages beyond the penalty amount.

The Supplier's liability is maximised to an amount equal to a sum of twice the total remuneration, see item 10.2, beyond the penalty paid in accordance with item 13.2. However the maximum sum for liability for damages cannot exceed 10,000,000 DKK. This limitation, however, does not apply to the Supplier's liability for any violations of the rights of others, see item 18, below.

The restriction also applies only if the loss is not attributable to gross negligence or willful conduct by the Supplier.

15. INSURANCE

The Supplier has employers' liability in accordance to Danish law for the employees assigned to the task.

The Supplier must throughout the duration of the Contract maintain liability insurance that covers the Supplier's liability.

Any assigned person that under the Contract performs work for the Customer, regardless of whether the person is employed by the Supplier, a subcontractor or working freelance, etc., must be covered by liability insurance. The Supplier is obligated to ensure that this coverage is in place at all times.

The supplier must on the request of the Customer prove that the requirements for liability insurance are fulfilled.

16. CUSTOMER'S CONDITIONS

A breach of contract by the Customer is subject to Danish law. Operating loss, loss of profit or other indirect losses are not compensated.

If the Customer defaults on its payment obligations under this Contract, the Supplier is entitled to interest in accordance with the regulations of the Overdue Payments Interest Act.

The Supplier is also entitled to terminate the Contract in part to the Customer with effect for future payments if the Supplier has submitted a demand in writing to the Customer that the Customer has in a specified way defaulted on its payment obligations and that failure to pay within 30 days will result in the termination of the Contract with the Customer, if the Customer does not fulfill its payment obligations by the deadline.

The Customer's liability is maximised in the same way as the Supplier's liability, see item 14.

17. FORCE MAJEURE

Neither the Supplier nor the Customer must under this Contract be deemed responsible to the other Party to the extent the liability is due to circumstances beyond the control of the Party and which the Party at the signing of the Contract should not have taken into consideration, nor should have avoided or overcome. Conditions of the Supplier such as this which can be avoided with normal and reasonable preparation is not considered as force majeure, including with regard to internal strikes and illness.

Delay due to force majeure may only be claimed for the number of Work Days while the force majeure situation exists. If a deadline for the Supplier is postponed due to force majeure, the payments related thereto are deferred accordingly without the Supplier's entitlement to interest.

Force majeure may only be invoked if the Party in question has given written notice about this to the other Party within 10 Work Days of the force majeure occurring.

The Party not affected by the force majeure situation is entitled to terminate the Contract if an agreed deadline is exceeded by 20 Work Days due to the force majeure situation. In the event of such termination, the Supplier is entitled to payment for already provided services before the force majeure situation arose. After that no further claims exist between the Parties under the Contract.

18. RIGHTS

18.1 Customer's right of use

To the extent the Supplier's services results in material protected by intellectual property, the Customer acquires the right to use this material.

The right of use is acquired in line with the production of the material, provided that the Supplier receives payment in accordance with the provisions of the Contract.

The remuneration of the right of use is included in the remuneration for the services resulting in material protected by intellectual property.

The Customer's right of use is without any imitation of a temporal, geographic or quantitative nature. Qualitatively, the Customer's right of use includes any use of material internally and externally in connection with the Customer's business. For example, the Customer may publish material, including with regard to offering of services corresponding to the Supplier's service under this Contract.

The Customer also has the right to freely work, including maintain and develop, the material as well as the right to use the results of this in the same way as the original material.

The Supplier must make the necessary tools available to the Customer so that the Customer can exercise its right of use in accordance with this item.

The Supplier retains any intellectual property rights to the tools.

The Customer may assign their right of use in whole or in part in accordance with item 23. In addition, the Customer – regardless of item 20 – transfers its right of use to a third party to the extent the third party assists the Customer in relation to the Customer’s business. A third party must, where applicable, also comply with the provisions under item 20.

If a third party has rights to (a part of) the material, the Supplier guarantees that these rights are fully cleared, so that the Customer acquires the rights as specified under this item.

The Supplier must indemnify the Customer against any claims that may arise due to the fact that third party rights are not fully cleared as specified under this item.

If an infringement of third party rights exists, the Supplier is also liable at their own expense by agreement with a third party or by changes or replacement of material to provide the Customer the rights as specified under this item.

The Customer’s legal position under this item does not change, regardless of whether – and if so, how – the Contract is terminated.

18.2 Customer’s material

All material made available to the Supplier of the Customer belongs to the Customer.

The material and copies thereof must be returned or deleted immediately when the Contract is terminated regardless of the reason for the termination. The Customer may require proof that the Supplier has complied with this obligation.

The Supplier must, however, store the material as long as and to the extent as outlined by mandatory regulations. The Supplier is also entitled to keep one copy of the material for documentation purposes.

19. REPRESENTATION AND LEGAL CAPACITY

Neither the Supplier, the Supplier’s employees nor subcontractors may convey to any third party the impression of acting on behalf of the Customer unless this has been agreed in writing with the Customer.

If the Supplier, the Supplier’s employees or any subcontractor becomes disqualified in relation to the implementation of the contract, the Customer shall be notified thereof immediately. Disqualification shall be defined as the occurrence of a situation that may give rise to doubt about the Supplier, an employee or a subcontractor’s impartiality or independence, for example if the individual in question has a personal or financial interest in the result of the performance of the contract.

20. CONFIDENTIALITY

The Supplier, its staff and any subcontractors as well as their staff must observe absolute confidentiality and secrecy with regard to the information that they are entrusted with in the performance of this Contract. The Customer may require that each individual employee must sign the usual confidentiality agreement.

The Supplier may not in any other part of its business use information that the Supplier may acquire in connection with the performance of the tasks under the Contract, and the Supplier may not make the information available to third parties with a prior written permission of the Customer.

The Supplier may not use the Customer as a reference without prior written permission of the Customer. However, the Supplier is entitled to include the Customer on a simple reference list.

The Supplier may not broadcast this Contract or its contents to the public without prior written permission of the Customer.

The rules for employees in public administration apply to the Customer's staff. Consultants and others who assist the Customer are subject to similar professional secrecy. The information that the Customer, Customer's advisers or others that assist the Customer acquire on the Supplier's state will be subject to these rules.

Confidentiality is also valid after the termination of the Contract, regardless of the reason for the termination.

21. CONTROL

The Customer may inspect the Supplier's implementation of the Contract. The Customer and the Supplier shall jointly determine the specific terms and conditions for this.

Control by the Customer shall not exempt the Supplier from exercising its own control so as to ensure correct implementation of the Contract.

The Supplier must ensure that the subcontractor's employees and potential sub-supplier's employees who contribute to honour the Contract are ensured salary (including special allowances), working hours, and other working conditions, which are not less beneficial than those applying to work of same category signed under a collective agreement by the most representative labor market parties of the particular professional field in question in Denmark that applies to all Danish territory. The Supplier must as well ensure that the Supplier's employees and potential sub-suppliers inform the employees of the existing working terms.

If the Supplier does not comply with the above mentioned terms and if this cause a legitimate claim for additional salary from the employees the Customer can withhold fees with a view to meet such claims.

The Supplier shall store data exchanged throughout the auction process between bidders, the auction system and the Customer in a database to enable detailed reviewing after completion of the auction process. The consultant shall store this information in a safe manner for a period of five years after completion of the auction process. The Supplier shall deliver a copy of the original database to the Customer.

22. SUBCONTRACTORS

If the Supplier uses subcontractors, this is described in Appendix 2, the Supplier's solution description must include how the subcontractor is involved in solving the task under the Contract.

Furthermore, the Supplier has in Appendix 2 provided the name, contact details as well as the legal representative of the subcontractors that are used in connection with the performance of the Contract.

The Supplier has submitted the information mentioned upon the submission of tender. If the subcontractor was not known at the time of the submission of tender, the information must be provided without undue delay after the subcontractor is appointed. This also applies if a new subcontractor is appointed that is replacing a former subcontractor.

Finally, the Supplier must disclose any changes in the subcontractor's information without undue delay. As a result, the contracting entity must have information on the name, contact details as well as the legal representative of the subcontractors that are associated with the execution of the task at any time in the duration of the Contract.

The Supplier is not entitled to replace a subcontractor without the written consent of the Customer. The Customer may not refuse such consent without valid reason.

The Supplier is liable for the tasks performed by the subcontractor as if the tasks were delivered by the Supplier itself. The Supplier's use of subcontractors will not limit the Supplier's responsibility in fulfilling the requirements of the Contract.

To the extent the Supplier bases its implementation of the Contract on the capacity of other legal entities under Section 144 of the Public Procurement Act, this will be apparent from Appendix 2. The legal entity, whose resources that are referenced in Appendix 2, is liable for the implementation of the Contract in accordance with the appendix.

23. ASSIGNMENT

The Customer has the right to assign its rights and obligations under this Contract in whole or in part to another public institution or an institution owned by the government or is significantly operated by public funds.

The Supplier may not without the written consent of the Customer assign its rights and obligations under this Contract to a third party.

The Supplier pays for any of its own expenses that may be associated with the assignment.

24. DURATION AND TERMINATION

24.1 General

The Contract will enter into force upon signing and will continue until **1 June 2019**. The Customer may therefore, after the date of the delivery of the main task, order ad hoc tasks from the Supplier until the stated date of termination.

The Contract is non-terminable on the part of the Supplier, however, with the listed exceptions below. The Customer may terminate the Contract at a notice of **30 days/months**.

The Customer may further terminate the Contract without notice in case of a restructuring of responsibilities in the public administration of significance to the Contract or in case of political changes significant to the Contract.

In connection with the Customer's termination of the contract, each contracting party shall fulfil its service obligations until the time of termination. The Customer shall pay the Supplier for work that has been implemented and approved by the Customer until the termination of the Contract.

24.2 Termination upon avoidance

Under the law on the Danish Board of Appeal for public procurement, etc., the Danish Board of Appeal for public procurement may in certain cases of violation of procurement rules declare a concluded contract to be void and order the contracting authority to terminate the contract within a deadline set by the Board of Appeal.

Based on this, the following provisions are determined on the Customer's ability to terminate the Contract in such a case.

The Customer is entitled to terminate the Contract in whole or in part with a notice in accordance with the Danish Board of Appeal for public procurement or court injunctions. The Contract will terminate completely/partially upon annulment with effect in time as determined by the order.

If there are additional conditions or requirements in the order that is issued, the Customer is entitled to continue these conditions or requirements in the cancellation to the Supplier provided that this is justified by objective reasons and the Supplier must then comply with these.

Any claim for compensation or other forms of reimbursement by the Supplier as a result of the Contract being declared void, or for ordering the termination, including e.g. for costs of complying additional conditions and requirements that the Customer has pursued in the termination, must initially be settled according to Danish law. However, the Parties have agreed that indirect losses cannot be compensated and that the compensation is maximised in accordance with item 14.

If the Supplier at the time of concluding the contract had or should have had knowledge of the actual and/or legal circumstances that causes the Contract to be declared void, the Supplier may not claim damages or demand or any other form of compensation as a result of the Contract being declared void, or for ordering the termination, including for costs of complying additional conditions and requirements that the Customer has pursued in the termination.

24.3 Termination upon annulment

Under the Public Procurement Act, the Danish Board of Appeal for public procurement or the general courts by final decision or judgement may cancel the award decision after which the contracting entity must terminate a contract that is concluded on the basis of the decision with adequate notice, unless special circumstances that justify the contract's renewal are applicable.

Based on this, the following provisions are determined on the Customer's ability to terminate the Contract in such a case.

The Customer is entitled to terminate the Contract in whole or in part with adequate notice. The Contract will therefore completely cease upon termination.

Any claim for compensation or other forms of reimbursement by the Supplier as a result of the termination of the Contract due to the annulment of the award decision must initially be settled according to Danish law. However, the Parties have agreed that indirect losses cannot be compensated and that the compensation is maximised in accordance with item 14.

If the Supplier at the time of concluding the contract had or should have had knowledge of the actual and/or legal circumstances that cause the annulment of the award decision, the Supplier may not claim damages or demand any other form of compensation as a result of the annulment of the award decision.

25. OBLIGATIONS ON TERMINATION

Upon termination of the Contract regardless of reason – the Customer is entitled to decide in whole or in part and against a proportional remuneration to assume the completed work until then in the form of written material, data, etc. with the aim of completing the task with the possible assistance of third parties, see item 13.4.

The termination of the Contract will not affect the validity of the contractual terms (on liability, confidentiality, etc.) that aims to apply even after the termination of the Contract.

The Supplier is in connection with the termination of the Contract for whatever reason obliged to assist the Customer to a reasonable extent in relation to facilitating the basis for a possible implementation of renewed offer of services that the Contract includes.

Furthermore, the Supplier is obliged to cooperate as necessary with any new supplier as to the transition of the task to the new supplier.

The Supplier will not receive additional remuneration for these tasks.

26. CHANGES AND INTERPRETATION

This Contract may be amended only by written agreement between the Customer and the Supplier that is attached to the Contract as an addendum.

The total remuneration does not include remuneration for the performance of ad hoc tasks, see item 3.2 and item 10.3.

Each of the parties shall notify the other contracting party in writing of any change of address not later than 14 days before the change is to take place.

Each of the parties shall notify the other contracting party immediately in case the party changes its status as a legal person, or is subject to bankruptcy proceedings, restructuring proceedings (initiation of negotiations for an arrangement with creditors) or voluntary liquidation.

Both contracting parties may request amendments to the nature, extent, time of delivery and price of the agreed service where the need for amendments arises direct from new legislation or changes in government regulation. Such amendments shall be made in accordance with any notices or deadlines prescribed by the relevant legislation or government regulation. Both contracting parties may request that amendments related to this, include changes in the price of the agreed service if such amendments cause a factual increase or reduction in the cost of supplying the agreed service, cf. item 3.

Both contracting parties may request adjustment of the price of the agreed service if new legislation or change in government regulation in addition to the cases mentioned just above causes an increase or reduction in the cost of supplying the agreed service, cf. item 3.

Amendments related to the above mentioned cases shall take effect from the time when the new legislation or the change in government regulation causes a specific increase or reduction in the cost of supplying the agreed service, cf. item 3.

Provisions in the tender specifications in the Supplier's offer during correspondence prior to the conclusion of the Contract or similar that are not repeated in this Contract may not be invoked subsequently as the basis for interpretation.

Reference to the Contract or the provision herein also includes the appendices to the Contract that are relevant to the provision in question.

In case of discrepancies between the Contract and the Appendices, the Contract will prevail.

27. CHANGE CLAUSE

27.1 Changes of payment

The payment plan suggested in Appendix 2 will constitute the contractual amount. The total value of the contract cannot be changed.

Compliance and delivery of a milestone in the payment plan will submit partial payment of the total value of the contract. A payment according to the payment plan will only submit with the consent from the Danish Energy Agency.

Compliance and changes to the payment plan can be negotiated between the contract parties if relevant.

28. DISPUTES

The legal conditions according to the Contract and its interpretation will be governed by Danish law.

If a dispute arises between the Parties in connection with the Contract, the Parties will seek a solution through negotiation.

If a solution is not reached through negotiations, the dispute will be settled by the courts.

29. SEPARATE AGREEMENT

The Parties agree that item 24.2 of the Contract constitutes a separate agreement between the Parties that is applicable regardless of whether the Contract in general may be declared void.

30. SIGNATURES

The Contract is signed in two copies, of which one is kept by the Customer and one is kept by the Supplier.

Place: Copenhagen

Date:

For the Customer:

Place:

Date:

For the Supplier: