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**POSIDON**  
POLLUTED SITE DECONTAMINATION PCP

**ANNEX 2**

**PCP SPECIFIC CONTRACT PER PHASE [\[1\]](#)[\[2\]](#)[\[3\]](#)**

**CODICE CIG N. 7750344A30**

## PCP Specific contract for phase [1][2][3]

This is a Phase Contract for Phase [I] [II] [III] between the following parties:

on the one part,

the "Lead Procurer", Autorità di Sistema Portuale del Mare Adriatico Orientale, via Karl Ludwig von Bruck n. 3, 34144 Trieste, Italy hereinafter referred to also as "ADSP MAO" acting in the name and on behalf of the other procurers in the buyers group (together with the lead procurer: "POSIDON Procurers"):

- Ayuntamiento de Bilbao, Spain
- Centro de Estudios Ambientales Ayuntamiento de Vitoria-Gasteiz, Spain
- Spaque S.A., Belgium
- Baja do Tejo S.A., Portugal

Hereinafter individually referred to as "POSIDON Procurer" and collectively as "POSIDON Procurers",

and on the other hand,

the "Contractor", [insert details of the contractor],

..... with headquarters in ..... via ..... Fiscal Code and VAT number n. .... (hereafter referred to as " ..... ") headed by its ....., born in ..... on .....

**[OPTION for joint tenders:** acting in the name and on behalf of the other members of group of tenderers:

1. .... with headquarters in ..... via ..... Fiscal Code and VAT number n. .... (hereafter referred to as " ..... ") headed by its ....., born in ..... on ..... [insert the details of the members of the group of tenderers]

2. .... with headquarters in ..... via ..... Fiscal Code and VAT number n. .... (hereafter referred to as " ..... ") headed by its ....., born in ..... on ..... [insert the details of the members of the group of tenderers]

3. ....

*The members of the group of tenderers are hereafter collectively referred to as "the Contractor" and will be jointly and severally liable vis-à-vis the Lead Procurer for the performance of this Framework Agreement and the Specific Phase Contracts.]*

The Lead Procurer, POSIDON Procurers and the Contractor(s) shall be referred to together as "Parties" and individually as "Party", unless otherwise specified.

## **PREAMBLE**

WHEREAS:

- i. Based on the communication by the Lead Procurer of *[insert date]*, the above mentioned Contactor has been declared as one of the successful tenderers in the POSIDON PCP Project;
- ii. On *[insert date]*, the Lead Procurer and the Contractor signed the Framework Agreement, which, in accordance with article [...], provides that the Contractor shall proceed with the performance of the activities in accordance with the Phase Contracts, which constitutes integral and substantial part of the Agreement.

The conditions for the execution of the assignment subject of this Phase Contract, in accordance with article [...] of the Framework Agreement, are expressed as follows:

## **TERMS AND CONDITIONS**

### **Article 1 – Subject of the contract**

This Specific Phase *[I] [II] [III]* Contract defines the specific terms and conditions for the implementation of the PCP procurement of R&D services set out in Article [...] – for the *[1<sup>st</sup>][2<sup>rd</sup>][3<sup>rd</sup>]* PCP phase.

### **Article 2 – Duration**

- 2.1. This Specific Phase *[I] [II] [III]* Contract is effective from *[insert date]* to *[insert date]*. At the end of this Phase *[I] [II] [III]* Contract, in accordance with article [...] of the Framework Agreement of *[insert date]* the Lead procurer reserves its right to execute the assessment / evaluation of the performed activities, within the condition specified therein.
- 2.2. The period of execution of the tasks under Phase *[I] [II] [III]* as provided under article 2.1 above may be extended only with the express written agreement of the Parties, prior to the expiration of the period for execution of the tasks.

### **Article 3 – R&D services to be provided**

- 3.1. The contractor shall provide the R&D services (tasks, deliverables and milestones) set out in the Technical Offer, the technical specifications Document and the PCP Call for Proposals for this specific Phase *[I] [II] [III]*: [...]  
*Phase I: Original solution exploration and design, based on a feasibility study.*  
*Phase II: Prototyping.*  
*Phase III: Development of test series and field testing.*
- 3.2. The following members of the Contractor's staff shall be in charge of carrying out the R&D activities for the specific contract: [...]
- 3.3. The activities provided for under this article 3 shall be carried out in *[insert country/city where they carry out the R&D activities]*.

3.4. (ONLY FOR PHASE III). Authorization of Italian Ministry of Environment  
According to section 2.4 of the Call for tender:

[OPTION 1 - The Italian Ministry has authorized the proposed solution and planned experimentation presented at the end of Phase I by the contractor and the field testing in Trieste can be performed. The contractor will test its solution/technology in Bilbao and Trieste in sequential / parallel testing]

[OPTION 2 - The Italian Ministry didn't approve the proposal and the field testing in Trieste cannot be performed.

Consequently, the contractor shall test its solution/technology in Bilbao and in \_\_\_\_\_(Wallonia Region) in sequential / parallel testing

OR

Consequently, the contractor shall test its solution/technology only in Bilbao and the foreseen Phase III payment reflects the reduction of the testing activities that will not be carried out in Trieste].

[OPTION 3 - The field testing activities in \_\_\_\_\_ is not possible for unpredictable causes that are not under of the control of the buyers group or causes of force majeure (natural disasters, other supervening barriers).

The contractor shall test its solution/technology in \_\_\_\_\_ and \_\_\_\_\_ indicated by the Lead Procurer

OR

The contractor shall test its solution/technology only in \_\_\_\_\_ indicated by the Lead Procurer and the foreseen Phase III payment reflects the site-specific economic offer].

#### **Article 4 – Price and payment arrangements**

4.1. The price to be paid by [the lead procurer] for the R&D services offered shall be:

4.2. **Phase [I] [II] [III]:** XXXX,yy € (XXX,yy €);

4.3. Payment schedule:

For Phase I will be split in two parts: 20% at the assignment of Phase 1 and 80% after satisfactory completion of Phase I, based on the assessment of the "End of Phase Report" together with the deliverables belonging to Phase I.

For Phase II will be split in two parts: 20% at the assignment of Phase 2 and 80% after satisfactory completion of Phase II, based on the assessment of the "End of Phase Report" together with the deliverables belonging to Phase II.

For Phase III will be split in three parts: 20% at the assignment of Phase III, 20% at the at the installation of the test series in the pilot sites and 60% after satisfactory completion of Phase III, based on the assessment of the "End of Phase Report" together with the deliverables belonging to Phase III.

4.4. The contractor's bank account in which payments will be made is: [*insert the extremes*].

The invoice must be in the name of Autorità di Sistema Portuale del Mare Adriatico Orientale – via Karl Ludwig von Bruck n. 3, 34144 Trieste Trieste (Italy), VAT No. 00050540327.

[Option FOR Italian tenderers: The contractor must send E –Invoices throw SDI. E-invoice (Unique Code Office UFEHCX - Code iPA APTri) must include the directory number and the date of the contract, the object of the service, the commitment of expenditure n . XXXXXXXXXXXX, the Competition Identification Code (CIG) XXXXXXXX and the dedicated account number on which to credit the payment. For this purpose the tenderer has communicated the following details of the dedicated current account: IBAN code XXXXXXXXXXXXXXXX at XXXXXX. Otherwise, the invoice will be returned to the tenderer for the necessary adjustments.

The contractor has indicated XXXXXXXXXXX (tax code XXXXXXXXXXX) as the person delegated to operate on the aforementioned dedicated current account. In this regard, the tenderer undertakes to promptly notify the Authority of any change in this regard. In the absence of such communication, no responsibility can be attributed to the Authority.]

[Option FOR contractors not established in Italy: the contractor must send an invoice in paper format to the email address protocollo@porto.trieste.it. The invoice must include the directory number and the date of the contract, the object of the service, the commitment of expenditure n . XXXXXXXXXXXX, the Competition Identification Code (CIG) XXXXXXXX and the dedicated account number on which to credit the payment. For this purpose the tenderer has communicated the following details of the dedicated current account: IBAN code XXXXXXXXXXXXXXXX at XXXXXX. Otherwise, the invoice will be returned to the tenderer for the necessary adjustments.

The contractor has indicated XXXXXXXXXXX (tax code XXXXXXXXXXX) as the person delegated to operate on the aforementioned dedicated current account. In this regard, the tenderer undertakes to promptly notify the Authority of any change in this regard. In the absence of such communication, no responsibility can be attributed to the Authority.]

- 4.5. Payments will be made 30 days from the date of invoices at the end of the month, by bank transfer.

Non-Italian contractors should not apply VAT.

Italian contractors should apply in their invoices the non-taxability regime of art. 72, comma 3, n.3 D.P.R. 633/1972, declaring that the transaction is not taxable at 84 % pursuant to art. 72, paragraph 3, no. 3 D.P.R. 633/1972. This should be done by applying VAT to only 16% of the invoiced amount and annotating in the invoice: "L'operazione è non imponibile all' 84 % ai sensi dell'art. 72, comma 3, n.3 D.P.R. 633/1972".

## **Article 5 – Intellectual Property Rights**

In accordance with provisions of 2.7 section of the Call for Tender, the Contractor undertakes to grant the Lead Procurer and the other POSIDON Procurers, an irrevocable, worldwide, royalty-free, world-wide, non-exclusive license to use (not-commercially), at no additional costs, the Results of what has been achieved with regard to the Research and Development services pertaining to this Phase, immediately following the date of the End of phase report.

The IPR regime and treatment applicable to this POSIDON PCP is fully described in section 2.7 of the PCP Call for Tender.

### **Article 6 – Termination**

The Cases and terms of termination are provided by article 22 of the Framework Agreement draft.

### **Article 7 – Individuals in charge**

In relation to the activities provided by this Phase Contract, the individuals in charge of the activities are:

- Mr. /Mrs. <>, on behalf of the Contractor;
- Mr. /Mrs. <>.on behalf of the Lead Procurer.

### **Article 8 – Penalties and liabilities**

Provision contained in articles 17 and 22 of the Framework Agreement will ensure the correct and prompt execution of obligation provided in this Executive Deed

### **Article 9 – Applicable law and dispute settlement**

The applicable law is the Italian law as defined in the call for tender and in the Framework Agreement.

The interpretation and construction of this Agreement shall be subject to the following provisions: D.Lgs. 50/2016

Any disputes between the Parties, arising with reference to the interpretation, performance, validity, effectiveness and termination of this Agreement and the Phase Contracts, shall be the exclusive competence of the Administrative Court of Trieste (Italy).

### **Article 10 – Security related obligations**

Add a provision on security if specifically needed for the phase and not already covered by the provision in the framework agreement.

D.Lgs. 09 April 2008, n. 81 smi - Implementation of article 1 of the law 3 August 2007, n. 123, concerning the protection of health and safety in the workplace.

### **(Only for Phase III) Article 11 – Insurance for execution risks, third party liability and environmental damage**

As referred to in point 4.5 of the call for tenders and to in point 17 of the Framework Agreement, the contractor has taken all responsibility in case of accidents or damage caused to persons or property of both the Authority and third parties, depending on shortcomings or negligence in the Phase III execution. In this regard, the contractor has signed the insurance covering, for the entire period of execution of the interventions, all damages suffered by the buyers group due to damage or total or partial destruction of plants and works for a total insured value of Euro 1,0 Million (onemillioneuro/00) with \_\_\_\_\_, n. \_\_\_\_\_.

The awarded tenderers has already provided, before the signature of the framework contract, the liability insurance n. \_\_\_\_\_, with \_\_\_\_\_ to cover any environmental damages caused during the execution of the contract for an amount equal to € 1,5 Million. Such insurance is in force for the entire contractual duration thereof.

### **Article 12 – Entry into force**

This Phase Contract shall enter into force on the date it is signed by the Parties hereto.

### **SIGNATURES**

The Lead Procurer signs for the buyers group and — in case of joint tenders — the lead contractor for the group of contractors.

**Lead Procurer (for the buyers group)**

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**(Lead) contractor**

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