

# SPECIAL CLAUSES ACT OF COMMITMENT

Sea trials of the moored profiler PROLIXE

Contract n°251000166

Procedure: procedure adapted in accordance with articles R2123-1 1° and R2123-4 of the public procurement code

## 1. DESIGNATION OF THE PARTIES TO THE CONTRACT

### BETWEEN

The authority signing the contract acting in the name and on behalf of Ifremer on the one hand,

### AND

**The Company:**[... ]

**Shape :**[...]

**Head office:**[...]

**Identification number:**[... ]

**Represented by: ...**

**As:**[...]

Hereinafter referred to as “the holder” in the clauses that follow.

The holder undertakes unreservedly to perform the services under the financial conditions defined below and in compliance with the provisions of these Special Clauses, which constitute an act of commitment, and the documents referred to below.

## 2. CONTRACT DOCUMENT

The contractual documents of this contract are, in decreasing order of priority:

- This Special Clauses valid for act of commitment ;
- The general administrative clauses applicable to public contracts for current supplies and services approved by order of March 30, 2021 (CCAG-FCS);
- The specifications of special technical clauses (CCTP-STTC);
- The technical and financial offer of the holder.

The CCAG/FCS is a general document which, although not attached, is a constituent document of the contract, and is deemed to be known to the contract holder. It is available online at the following address: <https://www.legifrance.gouv.fr/>

By way of derogation from Article 4.2.1 of the CCAG-FCS, the notification of the contract includes only a copy of the commitment document. The copy of each of the contract documents, kept in the archives of the contracting authority, is the only authentic copy.

The contract holder is deemed to be aware of all the contractual documents listed above and accepts all of their clauses and conditions, including those that may be contrary to his personal conditions of sale.

## 3. PROCEDURE

The contract is awarded in accordance with an adapted procedure in accordance with Article R2123-1 of the Public Procurement Code.

## 4. PURPOSE AND FORM OF THE CONTRACT

This contract covers the carrying out of sea trials for the moored profiler for a period of one month.

The services are described in the special technical terms and conditions.

The contract is concluded at a global and fixed price.

## 5. CONTRACT DURATION

The duration of the contract coincides with the duration of the performance of the services. It ends upon return of the equipment to Ifremer, after the tests have been carried out.

The candidate undertakes to carry out sea trials (30 calendar days) on the following dates:

Testing start date	End date of testing

## 6. CONTRACT PRICE

The overall and fixed price of the contract is as follows:

Price in € excluding VAT	VAT amount	Price in € including VAT

The price is final and firm. The price is deemed to include all costs related to the execution of the contract.

## 7. TERMS AND CONDITIONS OF PAYMENT

### 7.1. Advance

The holder can benefit from an advance of an amount of **10%** of the initial amount of the contract including all taxes, regardless of the duration of the services.

This advance is calculated on the basis of the amount of the public contract reduced, where applicable, by the amount of services entrusted to subcontractors and giving rise to direct payment. If the holder so requests, the advance is paid automatically within 30 days following the date of notification of the contract. The reimbursement of the advance is deducted from the amounts owed to the holder for the balance.

- ☐ **The holder requests to benefit from the advance.**  
☐ **The holder does not request to benefit from the advance.**

## 7.2. Deposits

The holder can benefit from a deposit of **10%** at the start of the tests.

The balance is paid upon admission to the services.

## 7.3. Submission of payment requests

Invoices will be issued in one copy bearing, in addition to the legal notices, the following information:

DENOMINATION
Labelled in the name of IFREMER
Billing address
Identification of the third party
SIRET number
Intra-community VAT number
IBAN number
Invoice No.
Order No. (SAP)
Order object (nature)
Order item (quantity)
Total amount excluding VAT
VAT (amount, rate)

Non-compliant invoices will be rejected and the overall payment period mentioned will be suspended.

Invoices will be sent in a single original to the following address:

<https://chorus-pro.gouv.fr>

NAME: INST FR SEARCH FOR Exploit Mer

SIRET: 330 715 368 00032

Service code: METROPOLE\_DOM

## 7.4. Overall payment deadline

Invoices are paid within 30 days from the date of receipt of the invoice by transfer to the account number of the holder.

If the period for payment by Ifremer of an invoice from the holder that has become due is greater than 30 days, a late payment interest rate equal to the interest rate applied by the European Central Bank to its most recent main refinancing operations, in force on the first day of the half-year of the calendar year during which the late payment interest began to accrue, plus eight percentage points, will be applied from this period.

## 8. PENALTIES FOR LATE

By way of derogation from article 14.1.1 of the CCAG/FCS, in the event of delay in carrying out the tests, the following penalties will be applied, per day of delay noted:

Number of days late	Daily flat rate
Between 1 and 5 days	€100 excluding VAT
Between 6 and 10 days	€250 excluding VAT
More than 10 days	€500 excluding VAT

By way of derogation from article 14.1.2 of the CCAG/FCS, the total amount of late payment penalties may not exceed 20% of the total amount excluding tax of the contract.

## 9. TERMS OF EXECUTION

### 9.1. Contract monitoring

#### Representative of the holder

The contractor shall designate a single point of contact for the purposes of executing the contract. This point of contact shall be deemed to have sufficient powers to take, upon notification of their name to the contracting authority within the time limits required or set by the contract, the necessary decisions binding on the contractor.

**First name-last name:** ...

**Quality :** ...

**Phone :** ...

**E-mail :** ...

The holder is required to notify the contracting authority without delay of any changes occurring during the performance of the contract and which relate in particular to the single point of contact.

More generally, the holder must notify the contracting authority without delay of any significant changes in the operation of the company which may affect the progress of the contract.

#### Representative of Ifremer

The Ifremer project manager for this market is:  
Jean-Romain Lagadec  
Marine Engineering and Instrumentation Department  
02 99 22 41 27  
[Jean-Romain.Lagadec@ifremer.fr](mailto:Jean-Romain.Lagadec@ifremer.fr)



The project manager must be informed of all information relating to the execution of the contract.

## 9.2. Confidentiality

In accordance with Article 5 of the CCAG/FCS, the personnel of the contractor and any subcontractors are bound by an obligation of confidentiality and professional secrecy with regard to all facts and information of which they become aware during the performance of this contract.

As such, they prohibit any communication to third parties. They expose themselves to the risk of criminal prosecution in the event of a breach of the obligation of secrecy and discretion to which they are formally and specifically bound under this contract. The Contractor remains bound by its obligation of confidentiality after the end of the contractual relationship.

In the event of a breach of the obligations mentioned above, the contract may be terminated due to the fault of the Holder.

## 9.3. Prevention of risks of conflict of interest and corruption

During the execution of the contract, the holder undertakes to maintain its independence of analysis and action in order to avoid any distortion of competition, to avoid any conflict which may exist between its interests, those of the buyer and those of other operators likely to be required to participate in the execution of the contract.

The holder undertakes to notify the buyer of any situation likely to lead to a conflict of interest and submits to him the provisions that he proposes to implement in order to eliminate this situation. In this respect, the holder undertakes to disclose, at the buyer's simple request, the links that would unite him with economic operators submitting their candidacy during another consultation.

In accordance with the provisions of Law No. 2016-1691 of December 9, 2016 relating to transparency, the fight against corruption and the modernization of economic life, the holder guarantees that any person, natural or legal, acting on its behalf within the framework of this contract:

- Complies with all regulations aimed at combating corruption and influence peddling;
- Establishes and maintains its own policies and procedures relating to ethics and anti-corruption;
- Informs the buyer of any event which could result in obtaining an undue advantage, financial or of any other nature, in connection with this contract;
- Provides any assistance necessary to the buyer to respond to a request from a duly authorized authority relating to the fight against corruption.

## 10. CHECKS AND DECISIONS AFTER CHECKS

At the end of the verification operations, the contracting authority pronounces under the conditions defined in article 25 of the CCAG/FCS:

- Either a decision to admit the benefits,
- Either a decision to postpone benefits; this decision must be justified,
- Either a decision of admission with reduction; this decision must be justified,
- Either a decision to partially or totally reject the services; this decision must be justified.

## **11. PROVISION OF SIMILAR SERVICES**

The contracting authority reserves the right to subsequently award the contract holder, pursuant to Article R2122-7 of the Public Procurement Code, one or more new contracts for the provision of similar services. The amount of these contracts may not exceed 50% of the amount of the initial contract.

## **12. TERMINATION OF THE CONTRACT**

In addition to Article 41 of the CCAG/FCS, termination for fault of the contractor may be at the contractor's expense and risk. The termination decision must in this case indicate that the Contracting Authority will have the services provided for in the contract carried out by a third party at the contractor's expense and risk.

By way of derogation from Article 41 of the CCAG/FCS, termination for fault may take place without prior formal notice.

The decision to terminate, whatever the reason, gives rise to the notification of a termination statement to the contract holder.

## **13. NAVAL MEANS**

The holder, co-contractor or subcontractor must be the owner of the vessel used for the trials, or have a reservation priority with the ship-owner in accordance with N.3.4 and N.3.5 of the STTC-CCTP.

## **14. TRANSFER OF CUSTODY**

Custody of the Equipment on which the tests are carried out (the moored profiler PROLIXE) will be transferred to the holder during the period of carrying out the tests.

A report must be countersigned by both parties upon delivery of the Equipment by Ifremer to the holder and then upon return of the Equipment by the holder to Ifremer, specifying the date of transfer and the condition of the Equipment to date.

## **15. RESPONSIBILITY OF THE HOLDER**

The holder shall assume all risks attached to the Equipment during the performance of the tests.

### **15.1. Damage to Equipment**

The holder is responsible in the event of loss, destruction or deterioration, even by fortuitous event, of the Equipment, or in the event of theft, fire, explosion, natural events or any act of vandalism which the Equipment may suffer during the duration of the tests.

In the event of loss, destruction or non-return of the Equipment, the holder undertakes to compensate Ifremer up to the estimated value of the Equipment, i.e. **€500,000**.

In the event of breakage, loss or theft of the Equipment during the loan period, the holder undertakes to notify Ifremer without delay and to take the necessary steps to ensure that the damage is covered by their insurance company.

The holder is not authorized to carry out repair work on the Equipment.

## 15.2. Civil liability

The holder is also liable for all damage that may be caused by the equipment, with the exception of damage resulting from a hidden defect in the Equipment, during the duration of the tests. In particular, the holder is solely liable in terms of civil liability for damage caused to third parties by the Equipment during the duration of the tests (with the exception of damage caused by a hidden defect in the Equipment).

The holder is responsible for monitoring the Equipment and bears sole liability for all damage caused by or during the tests.

## 16. INSURANCE AND VARIOUS CERTIFICATES

The holder provides Ifremer with the following documents upon signing this contract and every six (6) months, until its expiry date:

- Proof of registration in the professional register or equivalent;
- Nominal list of foreign employees subject to authorization, specifying the date of hiring, nationality and the type and serial number of the document serving as a work permit;
- Valid vigilance certificate;
- Valid tax compliance certificate.

Furthermore, within fifteen days of notification of the contract and before any start of execution, the holder (and where applicable its subcontractors) must provide proof that it is covered by an insurance contract for:

**1° professional civil liability;**

**2° the responsibilities mentioned in the previous article (responsibility of the holder), in particular in the event of loss, destruction or deterioration of the Equipment. In particular, he must provide proof of an insurance policy covering the equipment and its accessories in storage and in use/deployment at sea up to its replacement value.**

He must therefore provide certificates from his insurer proving that he is up to date with his contributions and that his policy contains the guarantees in relation to the importance of the service. The new valid insurance certificate must be sent to Ifremer as soon as the one initially sent has reached its expiry date. At any time during the performance of the service, the holder must be able to produce this certificate, at the request of the contracting authority or its representative and within fifteen days of receipt of the request.

## 17. DISPUTE RESOLUTION

In the event of a dispute, French law alone shall apply. The competent administrative court shall be the one in the jurisdiction in which the contracting authority is located: Administrative Court of Rennes, Hôtel Bizien, 3 Contour de la Motte, CS 44416, 35044 Rennes Cedex.

## 18. EXEMPTIONS FROM GENERAL DOCUMENTS

Article 2 deviates from Article 4.2.1 of the CCAG-FCS.



Article 8 derogates from Articles 14.1.1 and 14.1.2 of the CCAG-FCS.

Article 12 derogates from Article 41 of the CCAG-FCS.

## **19. SIGNATURE OF THE HOLDER**

**Identity of the signatory:**

**HAS :**

**THE :**

## **20. SIGNATURE OF THE REPRESENTATIVE OF THE CONTRACTING AUTHORITY**

**This offer is accepted as an act of commitment.**

**In Plouzané**

**For the CEO and by delegation**