

Special Administrative Clauses (CCAP)

Supply contract

Manufacturing and delivery of a vibrocorer for ships in the French oceanographic fleet

N° 251000188

PROCEDURE :

Contract with adapted procedure, in accordance with Articles R.2123-1 and R.2123-4 of the French Public Procurement Code

CONTRACTION AUTHORITY

IFREMER

CCAG APPLICABLE : general administrative clauses applicable to industrial government contracts approved by order of March 30, 2021 (CCAG/MI)

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1. Purpose of the contract – General conditions

1.1. Purpose of the contract

This contract is a framework agreement for the manufacturing and delivery of a vibrocorer for ships in the French oceanographic fleet. Details of the services and technical environment are defined in the special technical specifications.

1.2. Parties of the contract

The parties to the contract are:

- Ifremer, referred to as the 'Contracting Authority' or 'buyer' in this contract;
- The supplier to whom this contract is awarded, referred to in this contract as the 'Contractor';

Hereinafter referred to individually as the "Party" and collectively as the 'Parties'.

1.3. Contacts for contract monitoring

From contract notification, the Holder shall nominate a single contact person for purposes of performing the contract.

Said person, once their name has been notified to the Holder within the contract's deadlines, shall be deemed to hold sufficient powers to take required decisions binding the Holder.

The Holder must promptly notify the Contracting Authority of changes arising during contract performance that fall under the single contact person's remit.

Generally, the Holder is bound to promptly notify the Contracting Authority of any major changes in its business operations that could affect the contract.

1.4. Counting the deadlines

Contract deadlines are expressed in calendar days unless otherwise stated. The authoritative calendar is the French calendar.

1.5. Co-contracting

Economic operators may form one or other of the groupings defined in article R2142-20 of the French Public Procurement Code.

In the event of joint liability consortia, lead consortium members shall assume full liability.

Whatever the form of the grouping, one of the service providers who is a member of the grouping is designated as the lead contractor in the contract. He represents all the members, and coordinates the services of the members of the grouping.

Consortium members are invited to set up a joint or single bank account for payments.

1.6. Subcontractor

The Holder may use subcontractors as specified under Articles L2193-1, L2193-2, L2193-3 and L2193-10 Public Procurement Code.

The Holder is entitled to subcontract part of its services, with direct payment to the subcontractor for services in excess of €600.00 including VAT.

The Contracting Authority must approve the subcontractor and its terms and conditions before said subcontractor begins work.

Approval of a subcontractor and its payment terms may be accepted during Contract term, pursuant to rules specified under Article L2193-5 Public Procurement Code and Article 3.6 CCAG MI.

For each engaged subcontractor working on the contract, the Holder, in addition to a special project deed or rider, must enclose:

- A subcontractor signed statement that said subcontractor does not fall under prohibitions arising from Articles L2141-1 to L2141-14 Public Procurement Code.
- A subcontractor sworn statement that said subcontractor in the past five years has not been convicted of a crime specified under L.8221-1, L.8221-3, L.8221-5, L.8251-1, L.8231-1 and L.8241-1 Labour Code, as evidenced by a Bulletin 2 criminal record.

The special deed (form DC4) is available from the following website:

<https://www.economie.gouv.fr/daj/formulaires-declaration-du-candidat>

Any undisclosed subcontractor may be sanctioned by Contract termination, all risks and costs arising herefrom being borne by the Holder (Article 48.1 CCAG/MI).

1.7. Labour safety

The Holder is subject to statutory and regulatory duties relating to working conditions and ensuring the safety of workers.

The Holder must be able to provide evidence for both itself and subcontractors, upon first request from the Contracting Authority, of compliance with the eight ILO fundamental conventions.

On first request from the Contracting Authority, The Holder shall communicate supporting evidence and facilitate access to all its and its subcontractors' workplaces.

Should a breach hereto be found, the contract may be cancelled under conditions stated in Article 44.1 CCAG/MI.

Before notification of the contract, the contractor shall submit:

1. An affidavit stating its intention to employ foreign workers, and if so, the list of foreign workers employed and subject to the work permit provided for in article L 5221-2 of the French Labor Code, specifying for each worker (D. 8254-2 of the same code):
 - Date of hire ;
 - Nationality;
 - Type and serial number of work permit.
2. Certificates attesting that it is up to date with its social obligations (payment of social security contributions) with URSSAF, as of December 31 of the previous year, and with the

payment of taxes due to the Public Treasury, in accordance with the decree of March 22, 2019 fixing the taxes, contributions or social security contributions giving rise to the issue of certificates for the award of public contracts and concession contracts.

3. Where registration of the co-contractor in the Trade and Companies Register or the Trades Register is compulsory, or in the case of a regulated profession, one of the following documents:
- Extract from the company register (K or K bis)
 - An identification card proving registration in the trade register;
 - A quotation, advertising document or professional correspondence, provided that it includes the company's name, full address and registration number in the Trade and Companies Register or the Trades Register, or in a list or roll of a professional association, or the reference to the approval issued by the competent authority;
 - A receipt for the filing of a declaration with a business formalities center for those in the process of registering.

1.8. Provisions applicable to foreign contractors

In the event of disputes or litigation, French law alone shall apply. Only French courts shall be competent.

The contract and accounting currency shall be euros. The euro-denominated price shall remain fixed should exchange rates fluctuate.

Contract documentation shall be written in French with an English translation apart from technical specifications that shall only be in English. In all circumstances, the French version shall prevail over the English version. In the event of disputes or litigation, only the French version shall serve as reference.

If the Holder is resident in another country and has no permanent establishment in France, it shall invoice its supplies without VAT and shall be entitled to receive a tax identification number from the French tax authorities.

Pursuant to Article D.8222-7 Labour Code, the Holder, if established or resident abroad, shall be bound to produce every six months until contract term expiry, the following documents:

1° In all cases, the following documents:

a) A document stating the individual identification number allocated in application of article 286 ter of the French General Tax Code. If the co-contractor is not required to have such a number, a document stating its identity and address or, where applicable, the details of its tax representative in France;

b) A document certifying that the co-contractor's social security status is in compliance with Regulation (EC) no. 883/2004 of April 29, 2004, or with an international social security agreement, and, where the legislation of the country of domicile so provides, a document issued by the organization managing the compulsory social security scheme, stating that the co-contractor is up to date with its social security declarations and the payment of related contributions, or an equivalent document or, failing this, a certificate of provision of social security declarations and payment of social security contributions as provided for in article L. 243-15 of the Social Security Code. In the latter case, it must verify the authenticity of this certificate with the agency responsible for collecting social security contributions;

2° Where registration of the co-contractor in a professional register is mandatory in the country of establishment or domicile, one of the following documents:

- a) A document issued by the authorities holding the professional register or an equivalent document certifying such registration;
- b) A quotation, an advertising document or professional correspondence, provided that the name or corporate name, the full address and the nature of the entry in the professional register are mentioned;
- c) For companies in the process of being set up, a document dated less than six months from the authority empowered to receive the entry in the professional register, attesting to the application for entry in the said register.

In accordance with article D8222-8 of the French Labor Code, the documents and certificates listed above must be written in French or accompanied by a French translation.

Should the Holder plan to hire a foreign subcontractor, the subcontractor request shall include a subcontractor statement containing its name and address written as follows:

"I accept that French law shall exclusively apply and that French courts shall have sole jurisdiction for purposes of my subcontracting contract no dated Purpose This relates to French Subcontracting Act no. 75-1334 dated 31 December 1975. My payment requests shall be denominated in euros and addressed to Ifremer; prices therein shall remain fixed should exchange rates fluctuate. All correspondence that I may send shall be written in French or English."

2. CONTRACTUAL DOCUMENTATION

Should stipulations stated in various contractual documentation contradict each-other, said stipulations shall prevail in the following order:

- Act of commitment and any appendices thereto, specifically the version including latest contract amendments, if any;
- The unit price and/or fixed price List (BPU) ;
- Special administrative clauses (CCAP) and any appendices thereto;
- Special technical terms and conditions (CCTP) in its latest applicable version and any appendices thereto;
- General administrative clauses applicable to industrial government contracts approved by order of March 30, 2021 (CCAG/MI);
- Special subcontracting deeds and any amendments thereto signed after contract notification;
- Contractor's technical file.

The CCAG/MI is general legislation that, even if not enclosed hereto, forms part of the contract and the Holder is deemed to be aware of it. It is available online at the following address: <https://www.legifrance.gouv.fr/>

Notwithstanding article 4.2.1 of the CCAG-MI, notification of the contract includes only a copy of the act of commitment. A copy of the above documentation held in the Contracting authority's filing system shall be the sole reference for this purpose.

The contract Holder is deemed to be familiar with all the contractual documents listed above, and to accept all their clauses and conditions, even insofar as they may conflict with his personal terms and conditions of sale.

3. BRACKDOWN OF THE CONTRACT

3.1. Purchase Order

In accordance with article R2162-2 of the French Code of public, the contract is a framework agreement that will be executed progressively by the issue of purchase orders in accordance with the prices defined in the unit price list (BPU).

3.2. Placement of purchase order– General provisions

By way of derogation from Article 3.7.2 of the CCAG/MI, when the contractor considers that the provisions of a notified purchase order require comments or observations, they must notify the signatory of the relevant purchase order within three (3) calendar days from the date of receipt of said purchase order, failing which they shall be time-barred.

Purchase orders may be issued up until the last day of validity of the framework agreement. Their execution shall continue until completion, in accordance with their respective terms.

3.3. Content of purchase order

The services covered by purchase orders are defined in the **Unit Price list (BPU)**.

3.4. Notification of purchase order

Upon notification of the contract, the Buyer notifies to the Contractor a first purchase order, which shall include, at a minimum, the item 20 from the Unit Price Schedule (UPS/BPU).

Additional purchase orders may be notified by the Buyer as needs arise. If the Buyer requires a service not defined in the initial Unit Price Schedule, the Buyer shall request a quotation from the Contractor. Based on this quotation, and if the Buyer considers the terms acceptable, the service shall be notified by service order and shall thereby be incorporated into the Unit Price List.

4. CONTRACT PRICE

4.1. Price content

The Holder is deemed to have taken cognizance of all elements relating to the performance of the services.

In addition to article 11.1.3 of the CCAG/MI, contract prices are deemed to include, in addition to the services to which they relate:

- The cost of studies for the manufacture of the vibrocorer;
- The cost of purchasing products and consumables, excluding spare parts;
- The manufacture of the vibrocorer and associated equipment as defined in the CCTP ;
- Cost of transport and other transport costs, including customs duties;
- **Delivery to the place of delivery defined below;**
- Participation in various tests;
- All deliverables defined in the CCTP;
- All ancillary costs (packaging, customs duties, insurance, exchange rates, travel expenses, invoicing costs, etc.).

In addition, any costs arising from the postponement or rejection of services shall be borne by the contractor.

For spare parts, the contract prices include the cost of delivery to the Ifremer Centre in Brittany.

Whatever the services ordered, in the event of delivery to an address other than that defined in article 9 below, the provisions of article 17.5 apply.

4.2. Type of price

The contract prices defined in the BPU are unit and/or lump sum prices.

4.3. Price establishment date

The pricing date is the month in which the bids are submitted (if there are several bids, the month in which the last bid is submitted).

4.4. Price update

4.4.1. Update frequency

The price of item 20 of the BPU is firm and definitive, with no possibility of revision.

The prices of the other items in the BPU, including the prices of spare parts are firm for the first year of the contract. For any request for an annual price revision, the contractor must inform Ifremer by e-mail at cellule.marche@ifremer one month before the anniversary date of the contract. The holder shall provide the elements used to calculate the revision formula, as well as the resulting new prices. Ifremer informs the contractor of acceptance of the price revision by service order. The revision is made price by price and is applicable from the anniversary date of the contract. The revision cannot be retroactive. Price revisions apply both upwards and downwards

4.4.2. Update Formula

The update formula is as follows:

(The following form is to be completed by the applicant)

$$P = P_0 \times (0.20 + 0.80 [(0,xx (\text{Indice1VR} / \text{Indice2V0})) + (0,xx (\text{Indice2VR} / \text{Indice2V0}))])$$

Where :

- P0 is the original price to be updated
- P is the updated value of price P0
- Index VR is the last known index value at the price revision date, whether this value is definitive or provisional.
- Index V0 is the value of the index in the month in which the P0 price was established.

Indexes 1 and 2 and their weighting are defined below by the contractor:

Candidates must use public, official, regularly published and freely accessible indices or indexes issued by a recognised public organisation:

- Index 1 : reference and weighting (to be completed by the applicant)
- Index 2 : reference and weighting (to be completed by the applicant)

4.4.3. Ceiling clause

The annual price revision may not result in **an increase of more than 3% for each unit price defined in the unit price list (BPU)**. This ceiling applies **per revision year** and **individually to each price item** listed in the Unit Price list (BPU).

5. TERMS PAYMENT

5.1. Advance

This contract provides for the payment of an advance of 10% of the amount of item 20 of the BPU.

Repayment of the advance is deducted from the sums due to the contractor by way of instalments or final partial payment or balance.

It must, in any event, be completed when the amount of the services performed by the contractor reaches 80% of the amount of the contract, all taxes included.

5.2. Installments

Any contractor who so requests may claim the following installments :

- Installement excluding spare parts defined in the BPU:

For each item in the BPU, the contractor is entitled to the following installment :

Installment number	% of installment	Associated deliverables
1	XX% (to be completed by the applicant) of the cost of the item defined in the BPU	Overall and integration plan and deliverables defined in article 2.3 of the CCTP
2	XX% (to be completed by the applicant) of the cost of the item defined in the BPU	Factory Departure Report (see article 12.2 below)

Xx (the applicant may add further installment)		
	20% to the balance of the contract	acceptance of services (see article 12 below)

In all cases, the installment plan submitted by the candidate must comply with the following rules: :

- the total of the installment payments may not exceed 50% of the total amount of the BPU item ordered before the vibrocorer leaves the factory;
- a balance representing at least 20% of the total amount of the BPU item ordered will be paid on acceptance of the services, after validation of the tests and transmission of all deliverables.

If the payment on installment is linked to the supply of a deliverable, the amount of the payment on account may be either suspended or reduced:

- If the deliverable does not comply with the contract specifications;
- If the service provided does not comply with the requirements of the CCTP;
- If the services are subject to reservations.

➤ Installment for spare parts defined in the BPU :

At the request of the contractor, an installment of 50% of the associated BPU may be made when the order is placed;

6. CONDITIONS RELATING TO PAYMENT

6.1. Overall payment period

Invoices are paid within 30 days from the date of receipt of the invoice by transfer to the Account Holder's account number. If Ifremer takes longer than 30 days to pay an invoice from the Titleholder that has become due, interest will be charged from that date at a 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 six-month period of the calendar year during which the default interest began to accrue, increased by eight percentage points.

6.2. Presentation of order forms

Each order form must indicate

- The company name of the holder,
- The number and subject of the contract,
- The SAP number,
- The number and date of the purchase order,
- The place of delivery,
- the subject of the service,
- the timeframe for completion of the purchase order (the deadline for the service),

- the nature, quantities and unit prices of the BPU.

6.3. Presentation of invoices

The payment of the Contractor will be made on the basis of the services actually provided. Payment will be reduced, where applicable, by the penalties set out in article 8 of this document.

Invoices will be drawn up in one copy bearing, in addition to the legal mentions, the following indications:

NAME
invoice made out to Ifremer
Invoice Address
Contractor name
SIRET number
Intra-Community VAT number
IBAN number
Invoice number
Order number (SAP)
Subject of the purchase order (item of BPU)
quantity ordered
Total amount excluding VAT
VAT (Amount, taux)
Numéro du marché (25xxxx)

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

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

NOM : INST FR RECHERCHE POUR L'EXPLOIT MER

SIRET : 330 715 368 00032

Code de service : METROPOLE_DOM

For foreign contractors, invoices must be sent in a single original to the following address: :

acp.visa.depenses@ifremer.fr

A copy of the Contractor's and subcontractor's invoices must also be sent by e-mail to the following addresses: sebastien.morvan@ifremer.fr

7. DEADLINES FOR BPU ITEMS

For each item in the BPU, the contractor commits to an execution period of the services (including delivery period). The execution period of each item is defined in the BPU.

8. PENALTIES

8.1. General terms of penalties

By derogation article 15.2 of the CCAG/MI, the total amount of penalties may not exceed 15% of the total amount excluding taxes of each purchase order.

By derogation from article 15.3 of the CCAG/MI, the contractor is not exempt from penalties whose total amount does not exceed €1,000 for the entire contract.

The penalties below may be applied to the installment payments made to the contractor throughout the contract or to the balance of the contract.

8.2. Penalties for late delivery

In the event of a delay in the delivery deadlines defined in the BPU, the following penalties will apply:

This penalty is calculated by applying the following formula:

$$P = V * R / 3\,000$$

with :

P = the amount of the penalty;

V = the amount of the BPU item multiplied by the quantity ordered, excluding price variations and excluding the scope of application of VAT.

R = the number of calendar days of delay.

When the buyer intends to apply late payment penalties, he shall invite the contractor in writing to submit his observations within a period of fifteen days. This invitation shall specify the amount of the penalties likely to be applied, the delay or delays concerned and the period allowed for the contractor to submit its observations.

In the absence of a response from the contractor within this period or if the purchaser considers that the comments made by the contractor in application of the first paragraph are not sufficient to demonstrate that the delay is not attributable to the contractor or its subcontractors, the penalties for delay will apply and will be calculated from the day following the day on which the contractual period for performance of the services expired.

8.3. Other penalties for late delivery

Late penalties defined in Article 8.1 above also apply:

- 1° If the deferment period defined in Article 34 of the CCAG/MI or the deadlines defined in Articles 12 and 13 below are exceeded or, failing this, the period agreed between the parties is exceeded;
- 2° If the repair period during the warranty period, defined in Article 15 below, is exceeded;
- 3° If the supply of the deliverables defined in the CCTP is delayed.

9. PLACE DELIVERY

Deliveries of services (equipment, spare parts, etc.) under this contract will be made under the Incoterm DAP - Delivered At Place, in accordance with Incoterms® 2020 published by the International Chamber of Commerce (ICC).

As such, the contractor will bear all costs relating to delivery to the destination designated by the buyer, including, but not limited to, the cost of main carriage, handling, packaging, insurance to destination, as well as any costs or formalities required for export.

The agreed place of delivery is:

IFREMER

Centre Ifremer de Bretagne

1625 Rte de Sainte-Anne,

29280 Plouzané,

France

The buyer does not bear any transport or logistics costs until the equipment is delivered to the above-mentioned site. The unloading of the goods on arrival is the responsibility of the buyer.

10. Documentation prepared by the contractor

In addition to the provisions defined in the CCTP concerning the documentation, the contractor undertakes to supply any corrections to the documentation at no extra cost.

11. Duties of the Contracting Parties

11.1. Main duties of the contractor

Le Titulaire s'engage à affecter à l'exécution du Contrat des intervenants disposant des compétences nécessaires et en nombre suffisant pour que les objectifs contractuels soient atteints et les délais contractuels respectés.

En cas de difficultés dans l'exécution du Contrat, le Titulaire s'engage à tout mettre en œuvre pour faire preuve d'une réactivité maximale, notamment en termes de moyens humains, matériels et économiques.

The contractor undertakes to assign to the performance of the Contract people with the necessary skills and in sufficient numbers to ensure that the contractual objectives are achieved and the contractual deadlines met.

In the event of difficulties in the performance of the Contract, the Contractor undertakes to make every effort to demonstrate maximum responsiveness, particularly in terms of human, material and economic resources.

The Contractor, in his capacity as a skilled tradesman, professional and specialist in the field covered by the Contract :

- Shall take all steps to assume sole responsibility for the compliance of the Results with the specifications and other contractual documents and with all recommendations made by legislation or regulations,
- Is bound by an obligation to provide information, advice and warnings relating to all the Services provided under the Contract. This obligation concerns in particular the technical, economic and time-related aspects of the performance of the Contract and more generally any other difficulty encountered during performance.

In addition, the Contractor must suggest to the Contracting Authority, on its own initiative, the most appropriate solution to meet the need expressed or the difficulties encountered.

11.2.Obligation of the Parties to cooperate

The Parties agree to cooperate actively and regularly, to exchange all information necessary for the proper performance of this Contract and to be sincere in their contractual relations, in order to optimise the chances of success.

Each of the Parties undertakes to communicate to the other any difficulties that it may become aware of in the light of its experience, as and when the Services covered by the Contract are carried out, so that they can be taken into account as quickly as possible, thereby contributing to the success of the whole.

11.3.Obligation of confidentiality

The contractor and the contracting authority who, during the performance of the contract, become aware of information or receive communication of documents or elements of any kind, indicated as being of a confidential nature and relating, in particular, to the means to be implemented for its performance, to the operation of the services of the contractor or of the contracting authority, are required to take all necessary measures to ensure that this information, documents or elements are not disclosed to a third party who does not need to know them. A party may not request the confidentiality of information, documents or elements which it has itself made public.

Where applicable, the contractor must inform its subcontractors of the confidentiality obligations and security measures it must take to perform the contract. He must ensure that his subcontractors comply with these obligations.

This confidentiality obligation does not apply to information, documents or elements that are already accessible to the public when they are brought to the attention of the parties.

11.4. Obligation to protect personal data

Each party is required to comply with the rules relating to the protection of personal data to which it has access for the purposes of performing the contract.

In the event of changes in legislation on the protection of personal data during the performance of the contract, any amendments requested by the contracting authority in order to comply with the new rules will give rise to the signature of an amendment by the parties.

To ensure this protection, it is the responsibility of the contracting authority to make the declarations and obtain the administrative authorisations necessary for the performance of the services provided for in the specific documents of the contract.

11.5. Environmental obligations

The contractor shall ensure that the services it provides comply with the legislative and regulatory requirements in force with regard to the environment. As far as possible and throughout the contract, the contractor will ensure that the carbon and environmental impact of the performance of the services is limited by integrating these obligations in areas such as the transport of materials and their packaging. At the request of the purchaser, the Contractor will provide a specific note describing :

- The choice of modes of transport (e.g. use of rail, pooling, sea transport vs. air transport, etc.).
- The measures to reduce CO₂ emissions linked to transport.
- The origin of the equipment (local manufacture, short circuits).
- The type of packaging used (recycled, recyclable, returnable, reduced to a minimum).
- Measures limiting packaging.

Article 12. Verification of the Performance of Services, Excluding Spare Parts

12.1. Quantitative and Qualitative Verification

The quantitative and qualitative verification operations correspond to the factory tests, dockside tests and sea trials defined in the special technical specifications. Their purpose is to enable the contracting authority to check in particular that the contractor has implemented the means defined in the contract, in accordance with the requirements set out therein, and has performed the services defined in the contract as being its responsibility, in accordance with the contractual provisions and the conditions set out in article 32 of the CCAG/MI.

The contractor carries out tests under the conditions defined in the special technical specifications.

The tests leave the contractor fully responsible and do not limit the contracting authority's right to refuse the services recognised as defective until the stage of unconditional acceptance of the services and to ask the contractor to take back the defective elements.

12.2. Factory tests

By derogation article 33.1 of the CCAG/MI, the factory tests are carried out under the conditions defined in article 3.3 of the CCTP.

By derogation article 33.1 of the CCAG/MI, if on the date of the tests, the purchaser notes that the equipment is malfunctioning, the contractor has a period of 15 calendar days to replace all the malfunctioning equipment, to guarantee that it is working properly and to carry out the tests again. If these new tests are unsuccessful, the Contracting Authority may terminate this contract in accordance with the 'Termination' article of this document.

If the tests are successful, a Factory Test Acceptance Report for the equipment will be co-signed by the representatives of the Contracting Authority and the contractor.

After signature of the Factory Test Acceptance Report and before the equipment leaves the factory, a Factory Departure Report is co-signed by the representatives of the Contracting Authority and the contractor. This report must list the various parts as well as the various packaging elements and their condition (possibly accompanied by photographs).

These tests leave the contractor entirely responsible and do not limit the contracting authority's right to refuse the services recognised as defective until the stage of acceptance of the services without reservation and to ask the contractor to take back the defective elements.

In the event that the tests are unsuccessful, if the cause and the solution are clearly identified, but the deadline for correction is longer than 15 calendar days, and if the contractor undertakes to carry out, at his own expense, all the technical work necessary to achieve the requirements requested at the latest before the sea trials, a Test Acceptance Report with reservations may be co-signed by the representatives of the Contracting Authority and the contractor. The services will be declared ready for delivery, with reservation(s).

12.3. Delivery

Delivery of BPU item 20 and other BPU items ordered at the same time as BPU item 20 takes place after the factory tests and before the quayside and sea trials. The delivery location is defined in article 9 above.

Physical delivery does not constitute acceptance of the services within the meaning of article 34.1 of the CCAG/MI. It merely triggers the start of operations prior to acceptance, in accordance with the provisions of this contract.

Physical delivery also does not constitute transfer of ownership or transfer of the risks of the equipment, with the exception of the storage of the equipment, which is assumed by the contracting authority once the equipment and its associated components have been delivered.

On delivery, a joint inspection (possibly accompanied by photographs) will be carried out between the representative of the contracting authority and the contractor. This report will relate solely to the apparent condition of the equipment (packaging, documentary conformity, absence of visible damage). It does not constitute even a provisional acceptance of the equipment, but certifies that the physical delivery has been carried out correctly.

12.3. Storage of equipment by the contracting authority

The contracting authority undertakes to keep the equipment in conditions that comply with the specifications of the contractor and in normal safety conditions, without prejudice to the contractor's liability in the event of failure prior to acceptance.

12.4. Dockside and sea trials

By derogation article 33.1 of the CCAG/MI, the quayside and sea trials are carried out under the conditions defined in articles 3.3.2 and 3.3.3 of the CCTP. These tests are at the expense of the contracting authority; the contractor must nevertheless assign the necessary personnel to the place where the dock and sea tests are carried out under the conditions defined in article 3.3.2 of the CCTP.

12.5. Decision after verification

Once the above-mentioned checks have been completed, the contracting authority will take a decision to admit, postpone, reduce or reject all or part of the services in accordance with the conditions set out in article 34 of the CCAG/MI and in the light of the types of malfunction noted and defined below:

- The Contracting Authority declares the partial or total rejection of the services for blocking malfunctions: functional performance not achieved and/or safety of personnel and/or equipment used,
- The Contracting Authority declares the postponement of services for Major malfunctions: functional performance achieved but under limited conditions; the safety of personnel and equipment remains optimal,
- The Contracting Authority issues an acceptance with reservations or a reduction in price in the event of minor malfunctions: deviation noted in relation to the SCC that does not result in any loss of performance of the equipment.

If no malfunctions are found, the Contracting Authority accepts the services without reservation.

By derogation article 34 of the CCAG/MI, acceptance of the services cannot be tacit.

Article 13. Verification and décision – spare parts

The performance of the services will be recorded in accordance with the provisions of articles 32 to 34 of the CCAG/MI.

Delivery will be effective and compliant when the delivery note has been endorsed and signed by the representative of the contracting authority.

If the supplies do not conform or do not meet the requirements, the contractor must return to collect the supplies from the place of deposit.

By derogation article 34.4.3 of the CCAG/MI, the deadline for taking back supplies that have been rejected or postponed is 15 calendar days.

The contractor shall replace the supply at its own expense, without any right of recourse. The replacement supplies must be delivered within the same period as the period initially stipulated.

Article 14. Transfer of Ownership and Risk

For all services ordered by purchase orders, acceptance of these services without reservation shall result in the transfer of ownership and risk from the contractor to the contracting authority.

Article 15. Warranty

In addition to the legal warranty arising from the application of the Civil Code, the equipment is by default subject to a contractual warranty for a minimum period of 12 months from the date of notification of the unqualified acceptance decision. The warranty period begins on the date of notification of the unqualified acceptance decision.

If, on expiry of the guarantee period, the contractor has not carried out the prescribed repairs, the guarantee period is extended until the repairs have been completed.

The time available to the contractor to carry out the repairs will be determined by service order, after consultation with the contractor. The contractor must carry out the service order immediately, even if he has reservations about invoking the technical guarantee or about the deadlines.

If the repair time is exceeded, the penalties defined in the 'Penalties' article will apply.

If the defective services cannot be repaired, the contractor shall replace the defective services or reimburse the contracting authority for the replacement value of the service.

When the contracting authority considers that the contractor's intervention to put an end to anomalies is likely to hinder the smooth running of the service, it may, after informing the contractor, carry out some of the services provided for in the contract itself. These services are carried out at the contractor's expense and give rise to the payment of compensation representing the costs of repair by the contracting authority. The contractor shall not be held liable in such cases, except for the consequences of any information or instructions it may be required to give. The contractor will be informed, in writing, of the date on which the contracting authority's intervention ends.

By derogation article 36.6 of the CCAG/MI, any parts replaced or repaired and any work carried out under the guarantee must be guaranteed again for a period of 12 months from the date of their delivery to the Contracting Authority by the contractor.

If the contractor has submitted a more favourable guarantee in its tender, this will apply instead of the guarantee described above.

Article 16. Use of results

This article derogates from article 37 of the CCAG/MI.

The rights to use the results are granted on a non-exclusive basis to the contracting authority. Ownership of the rights or titles relating to the results remains with the contractor.

The Contracting Authority may freely use the results of the studies and calculations carried out by the Contractor. The Contractor may only communicate the results of the services to third

parties, whether free of charge or in return for payment, with the authorisation of the Contracting Authority.

The price of this concession is included in the contract price.

17. REVIEW CLAUSES

The parties shall consider amending this contract in good faith.

In any event, any amendments must not change the overall nature of the contract, nor substantially modify the technical characteristics of the offer submitted by the Contractor during the competitive tender.

The successful tenderer will not be able to take advantage of the contracting authority's refusal to implement the review clauses to make any financial claim or to contest the conditions of performance of this contract.

17.1. Technological, technical and regulatory changes to the framework agreement

In accordance with article R2194-1 of the French Public Procurement Code, the following changes may be made to the framework agreement, regardless of the amount, in the event of technological developments, obsolescence management or changes to regulations:

in the event of minor technological developments, obsolescence, manufacturing discontinuation or changes to regulations, the Contractor may propose to supplement, modify or replace the equipment/accessories that it initially proposed, with equivalent equipment/accessories deemed to provide better performance or to be better suited to requirements. To this end, the Contractor shall provide the Contracting Authority with the following documents relating to the equipment/accessories which are the subject of the development, change or modification:

- technical and commercial data sheets and the end-of-life date of the proposed configurations,
- the prices,

Where applicable, the production of documents certifying compliance with the performance and functionalities of the products concerned.

If an equivalent or similar price cannot be maintained, the Contractor shall provide the Contracting Authority with all the reasons enabling it to assess the price increase.

Any modification accepted by the contracting authority at the end of this procedure is the subject of a service order.

17.2. Changes to the unit price list

Pursuant to Article R. 2194-1 of the French Public Procurement Code relating to the review clause, the following amendment is authorised:

- Addition or replacement of spare parts to the Unit Price Schedules,

The parties may, by mutual agreement, propose the integration of new spare parts. The contractor shall provide a quotation. If accepted, the contracting authority notifies the holder, by service order, of the modified Unit Price Schedule. Where applicable, the prices added may be revised in accordance with the conditions specified in article 5.5.2 of this SCC.

The parties may organise meetings to jointly examine the modifications envisaged.

17.3. Modification of the performance deadlines in the event of performance difficulties

In the event of any difficulty making it impossible to meet one or more of the delivery deadlines defined in the BPU, the holder may submit a request for the deadlines to be amended. The holder shall notify the purchaser, by any means that enables a precise date of receipt to be determined, of the causes that prevent compliance with the contractual deadlines. To this end, he has a period of fifteen days from the date on which these causes came to light or a period running until the end of the contract, if the contract expires within a period of less than fifteen days. On this occasion, it shall indicate the extension requested. The parties may arrange a meeting to jointly examine the situation. Following receipt of this request, the purchaser will notify its decision as soon as possible.

If it intends to grant all or part of the request, the extension will be notified to the contractor by service order. This extension may apply on a one-off basis or be valid until the end of the contract's validity.

In the event of refusal to grant this request, the decision of the contracting authority is binding on the contractor, who must comply with the deadlines set out in the BPU, without being able to claim a reduction or cancellation of the penalties applicable.

17.4. Modification of the ceiling of the cap clause

Pursuant to Article R. 2194-1 of the French Public Procurement Code relating to the review clause, the following modifications are authorised:

- The removal or modification, on a one-off or permanent basis, of the ceiling set by the sunset clause.

The review is triggered by the occurrence of an unforeseen event within the meaning of article R. 2194-5 of the French Public Order Code. The contractor shall notify the purchaser, by any means that enables a precise date of receipt to be determined, of the financial difficulties justifying the modification referred to in the first paragraph. The holder will produce all the supporting documents required at its request.

The implementation of this clause is the sole responsibility of Ifremer but is initiated by the Titleholder alone.

Modifications are authorised by mutual agreement between the parties and concluded by amendment.

17.5. Change of place of delivery

In the event of a request to change the place of delivery defined in article 9 above, in particular on the initiative of the buyer, the price per km defined in the BPU shall apply instead of the delivery costs for delivery to the IFREMER Centre Bretagne in Plouzané. The contractor therefore presents the purchaser with the reduction in value relating to delivery to Plouzané and the amount for delivery to the new address indicated by the purchaser. The purchaser notifies the modification of the place of delivery and its financial impact by service order sent to the contractor.

18. CONTRACT MODIFICATIONS DURING PERFORMANCE

18.1. Additional supplies contract

In accordance with articles R2194-2 and R2194-3 of the French Public Order Code, the contract may be amended by up to 50% of the amount of the initial contract with the contractor of the initial contract, for additional delivery that have become necessary and that were not included in the initial contract. A change of contractor must also be :

- is impossible for economic or technical reasons
- presents a major inconvenience or is likely to lead to a substantial increase in costs for the purchaser.

The modification then takes the form of a supplementary contract.

18.2. Transfert amendment

The initial contract may be amended by a transfer amendment when the initial contractor is replaced by a new contractor following a restructuring of the initial contractor.

19. NEGOCIATED PROCEDURE WITHOUT PRIOR PUBLICATION

Pursuant to Article R2122-4 of the French Public Procurement Code, contracts negotiated without advertising or competitive tendering may be awarded at a later date under the following conditions:

- For additional deliveries, the cumulative amount of which may not exceed 50% of the amount of the initial contract. Supplementary deliveries are considered to be all deliveries directly related to the subject of the contract.
- The duration of these contracts may not exceed three years from the date of notification of the initial public contract.

20. CONTRACT TERMINATION

In addition to article 44 of the CCAG/MI, termination for fault on the part of the contractor will be at the contractor's expense and risk. In this case, the decision to terminate must state that the Contracting Authority will arrange for a third party to perform the services provided for in the contract at the contractor's expense and risk.

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

21. PERFORMANCE AT THE CONTRACTOR'S COST AND RISK

. Apart from termination for fault on the part of the contractor, the Contracting Authority or its representative may arrange for a third party to carry out the services provided for in the contract and which the contractor is unable to perform, when the service, by its nature, cannot be delayed.

22. INSURANCE AND VARIOUS CERTIFICATES

In accordance with the regulations resulting from the Labour Code, the Titleholder shall provide IFREMER with the following documents on signature of the present contract and every six (6) months until its expiry date:

- a certificate of provision of social declarations issued by the social protection body responsible for collecting the social security contributions incumbent on the Titleholder and dating from less than six (6) months,
- a K-bis extract less than three (3) months old proving registration in the Trade and Companies Register,
- a declaration on honour in which the Account Holder certifies that he/she has made all the necessary declarations to the tax authorities and, if he/she employs employees, that they are legally employed in accordance with the French Employment Code.

Within fifteen days of notification of the contract and before any start of performance, the contractor (and, where applicable, its subcontractors) must provide proof that it is covered by an insurance policy for civil liability arising from articles 1240 et seq. of the Civil Code.

It must therefore provide a certificate from its insurer showing that it is up to date with its contributions and that its policy contains cover commensurate with the size of the service.

23. COMPETENT COURT

In the event of a dispute, only French law will apply. The French courts shall also have sole jurisdiction.

The currency is the euro and prices are quoted exclusive of tax.

Candidates' bids must be drawn up in French or English. In any event, for documents translated into English and French, in the event of contradiction, problems of interpretation or in the event of litigation, the French version shall prevail.

24. DEROGATIONS FROM GENERAL DOCUMENTS

* Article 2 derogates from Article 4.2.1 of the CCAG.

- * Article 4.1 supplements Article 11.1.3 of the CCAG
- * Article 12.2 derogates from Article 33.1 of the CCAG.
- * Article 12.4 derogates from Article 33.1 of the CCAG
- * Article 13 derogates from Article 33.4.3 of the CCAG
- * Article 15 derogates from Article 36.6 of the CCAG
- * Article 16 derogates from Article 37 of the CCAG
- * Article 20 supplements Article 37 of the CCAG.