**Instruction:**

**- Text/clauses preceded by ‘<OPTIONAL>’ are optional.**

**- Where ‘OR’ is stated between the clauses, choose one of the options and delete the other(s).**

**- If a framework agreement is signed with only one party, the recitals listed under ‘Whereas’ should be amended accordingly.**

**- For notes on applying article 5.8 of this agreement, see the internal instructions for the use of the Model Public Service Contract (notes on article 6.12).**

**- For notes on applying article 3.8 of this agreement, see the internal instructions for the use of the Model Public Service Contract (notes on article 3.7).**

**NB: Delete this instruction before using the agreement.**

(Date: October 2016)

**Framework Agreement (ARVODI 2016) for policy-oriented research**

**The undersigned:**

1. The State of the Netherlands, which has its seat in The Hague,

represented by the [*Minister of / State Secretary for ….*],

legally represented in this matter by

[*signatory’s name and position*]

hereinafter referred to as the Contracting Authority,

1. [*Contractor’s full name and legal form*],

which has its registered office in ...,

legally represented in this matter by

... (*and* ...) [*signatory’s name*]

hereinafter referred to as the Contractor,

**WHEREAS:**

1. The Contracting Authority needs to make regular use of external consultants to conduct [policy-oriented research / research in support of policy] and produce consultancy reports in relation to the following policy fields:

……………………………….;

1. To this end, the Contracting Authority wishes to conclude a Framework Agreement with a term of [*number*] year(s) / with [*number*] optional extensions(s) for [*number*] year(s) / months [**Instruction:** *the maximum term of the Framework Agreement, including extensions, is four years*], hereafter referred to as ‘the Framework Agreement’, laying down the terms and conditions applicable to all contracts for the performance of Services to be awarded by the Contracting Authority during the said term;
2. An EU award procedure has been held for the award of the Framework Agreement, based on the Descriptive Document and subject to the Public Procurement Act 2012;
3. The Contracting Authority has judged the Contractor’s tender, and those submitted by … [*enter number of other framework contractors*] other Framework Contractors, as being the most economically advantageous tenders;
4. This Framework Agreement lays down the conditions applying to all contracts for the performance of Services that the Contracting Authority intends to award during the term of this Framework Agreement and that may or may not be awarded to the Contractor following competition between the Framework Contractors based on the award criterion of the most economically advantageous tender;
5. The Contracting Authority will enter into agreements similar to the present Agreement with the … [*enter number of other framework contractors*] other Framework Contractors.

**AGREE AS FOLLOWS:**

A number of terms in this Framework Agreement are written with initial capitals. These terms are defined in article 1 of the General Government Terms and Conditions for Public Service Contracts 2016 (ARVODI 2016). By way of derogation therefrom or in addition thereto, the following terms are defined as follows for the purposes of this Framework Agreement:

Descriptive Document: the Contracting Authority’s document dated [*date*], ref. …, which describes and explains participation in the Framework Agreement for the performance of Services during a certain period, the tender procedure to be followed and the selection and award criteria.

Services: the work that the Contractor is to perform for the Contracting Authority under the terms of a Call-off Contract concluded on the basis of this Framework Agreement, and relating to [*lot x as defined in the tender documentation*].

Tender: the tender dated [*date*], ref. …, submitted by the Contractor on the basis of the Descriptive Document in the context of the EU award procedure of [*date*], ref. ….

Call-off Contract: the further agreement between the Contracting Authority and the Contractor drawn up in accordance with the model attached as Schedule 3 to this Framework Agreement on the basis of which the Contracting Authority may award the Contractor contracts for the performance of Services during the term of this Framework Agreement.

Quotation: an offer to perform Services, made by the Contractor to the Contracting Authority under this Framework Agreement in response to a Request for Quotations.

Request for Quotations: an invitation by the Contracting Authority under this Framework Agreement to all Framework Contractors to submit a Quotation for a public service contract.

Framework Contractor: a tenderer selected to be party to the Framework Agreement for the performance of Services relating to [*lot x as defined in the tender documentation*].

**1. Object of the Framework Agreement**

* 1. During the term of this Framework Agreement, the Contracting Authority may issue a Request for Quotations for a public service contract.
	2. In accordance with the division of lots under this Framework Agreement, the Contracting Authority will conclude a Call-off Contract with one of the Parties to this Framework Agreement for every Service for which a contract is awarded, unless none of the Parties associated with the lot in question is objectively able to provide the Service in question. The Call-off Contract will contain more detailed information on the Service in question. The procedure to be followed in concluding a Call-off Contract is set out in Schedule [...] to this Framework Agreement. The Request for Quotations drawn up by the Contracting Authority for the Service in question, and the Quotation made by the Contractor in response and accepted by the Contracting Authority form at all times an integral and essential part of the Call-off Contract.
	3. The following documents together form the Framework Agreement. In the event of inconsistencies, a higher ranked document takes precedence over a lower ranked document:
1. this document;
2. the ARVODI 2016;
3. the Descriptive Document;
4. the tender;
5. [...].
	1. The Contracting Authority is entitled but not obliged to award contracts for the performance of Services during the term of this Framework Agreement. The Contractor cannot therefore claim any right whatsoever to be awarded contracts for the performance of Services during the term of this Framework Agreement.
	2. The conditions of this Framework Agreement apply in full to all Call-off Contracts concluded during the term of this Framework Agreement by the Contracting Authority and the Contractor for the performance of Services specified in a Request for Quotations, unless a Call-off Contract expressly departs in writing from this Framework Agreement.
	3. A Call-off Contract specifies the Services to which it relates and its duration.

**2. Duration of the Framework Agreement**

* 1. This Framework Agreement enters into force on the date that it is signed by both Parties. It has a term of … year(s) **<OPTIONAL>** *with an option, to be exercised unilaterally by the Contracting Authority, to extend it under the same conditions for a period not exceeding … year(s) / months* [**Instruction:** *the maximum term of the Framework Agreement, including any extensions, is four years*]. **<OPTIONAL>** No later than three months before the expiry of the initial term of the Framework Agreement, the Contracting Authority will notify the Contractor in writing if the Contracting Authority intends to exercise its option to extend the Framework Agreement. If the Contracting Authority does not exercise its option to extend the Framework Agreement, it will end automatically upon expiry of the term referred to in the first sentence of this article. [**Instruction:** *include only if the option to extend the Framework Agreement is included*.]
	2. Termination of this Framework Agreement for whatever reason does not affect the rights and obligations resulting from any Call-off Contracts. The terms of this Framework Agreement continue to apply to any Call-off Contracts remaining in force after this Framework Agreement has ended.
	3. The duration of any Call-off Contracts awarded to the Contractor under this Framework Agreement will be laid down in each individual Call-off Contract.

2.4 **<OPTIONAL>** If the Services have not been performed in full in accordance with the Contract within the agreed or extended term, the Contractor will immediately pay a penalty of 0.1% of the total or maximum price specified in the Contract for each day that it fails to perform the Services as agreed, up to a maximum of 10% thereof. If, other than through force majeure, the Contractor is permanently unable to perform the obligations, the penalty will be immediately payable in full.

The penalty is payable to the Contracting Authority, without prejudice to all other rights and claims, including:

1. the right to demand that the Services be performed as agreed;
2. the right to damages.

The penalty will be set off against amounts payable by the Contracting Authority regardless of whether the right to such amounts has been assigned to a third party.

**3. Price and other financial provisions**

* 1. The Contractor may invoice monthly for the Services performed under a Call-off Contract that have been accepted by the Contracting Authority. The invoice amount is based on the number of [days/hours] per month actually worked and on the [daily/hourly] rate stipulated in the Call-off Contract. All Call-off Contracts will state that the Contractor undertakes not to exceed the maximum total price referred to in the Call-off Contract for the performance of the Services.
	2. It is expressly agreed that if the Contractor does not charge VAT but some or all of the Services are not exempt from VAT, the Contracting Authority will not be liable to pay the VAT in question.
	3. The price referred to in article 3.1 of this Framework Agreement relates to all Services performed by the Contractor under the Call-off Contract in question. It includes any materials needed for that purpose, any travel and accommodation costs and any additional charges. It does not include VAT.
	4. The agreed rates are fixed and invariable for the duration of this Agreement.

**OR**

3.4After [*date*], the rates may be adjusted once a year as of [*day, month*] in line with the price index published by Statistics Netherlands for hourly rates of pay including special remuneration established under collective labour agreements in the business services sector. To this end, the monthly figure of the preceding [*month*] will be used, and the index for [*month year*] will be set at 100%.

3.5 Payment will be made once the Services performed under a Call-off Contract have been received and accepted.

3.6 The Contractor will send the invoice(s) to the central delivery point for invoices, Digipoort, quoting the above-mentioned contract number and commitment number / purchase order number / resource expenditure number [*delete where applicable*.]

**OR**

3.6 Notwithstanding the provisions of article 17.1 of the ARVODI 2016 on electronic invoicing, the Contractor will send the invoice(s) to the Contracting Authority on paper. The Contractor will send the invoice(s), quoting the above-mentioned contract number and commitment number / purchase order number / resource expenditure number [*delete where applicable*] …, to:

 Ministry of …

 (Directorate-General for …)

 … Department, room …

 Postbus ...

Den Haag

3.7 **<OPTIONAL>** A prepayment may be made only once a Call-off Contract has been signed, a prepayment invoice has been received and a bank guarantee as referred to in article 19 of the ARVODI 2016 has been received.

3.8 **<OPTIONAL>** The Contractor will claim expenses which are eligible for reimbursement under the Contract, less the VAT it has already paid on those expenses. The Contractor may charge the applicable VAT rate on that net amount to the Contracting Authority.

**4. Time and place**

* 1. The work relating to the Services specified in a Call-off Contract will be carried out at the place(s) stipulated in the Call-off Contract.
	2. Each Party undertakes to give the other Party’s Staff access to the place where the work relating to the Services specified in the Call-off Contract must be performed and also to enable such Staff to perform the work in working conditions that reflect that Party’s usual practice and in normal office hours. Each Party undertakes to instruct its Staff to observe the rules applicable at the place where the work is to be carried out.

**5. Other Terms and Conditions**

* 1. This Framework Agreement and any Call-off Contract for the performance of Services are governed exclusively by the ARVODI 2016 [Schedule ...], in so far as this Framework Agreement does not depart from them. Any general and special terms and conditions drawn up by the Contractor do not apply.
	2. **<OPTIONAL>** Notwithstanding the provisions of article … of the ARVODI 2016, the following provision applies to …: … .
	3. ***<*OPTIONAL>** Without prejudice to the Contractor’s duty, as referred to in article 9 of the ARVODI 2016, to report to the Contracting Authority on the progress of the Services however often and in whatever manner the Contracting Authority deems necessary, the Contractor must in any event submit quarterly progress reports to the Contracting Authority’s contact / project manager, in accordance with the requirements set out in Schedule … to this Framework Agreement. The Contractor will submit reports specified by the Contracting Authority as often as the Contracting Authority demands.
	4. ***<*OPTIONAL>** If the duty of confidentiality imposed on the Contractor and its Staff under article 13 of the ARVODI 2016 is breached, the Contractor will be liable to pay a penalty to the Contracting Authority of €……… per event.

5.5***<*OPTIONAL*>*** Notwithstanding article 21.3 of the ARVODI 2016, a

Party that imputably fails to discharge its obligations to the other Party is liable for any

damage incurred by the other Party.

**OR**

5.5 ***<*OPTIONAL*>***Notwithstanding article 21.3 of the ARVODI 2016, the liability referred to in that article is limited to €…………. per event and €…… for each year or part of a year that the Contract has been in force.

5.6 ***<*OPTIONAL*>*** The following provision on publication applies in addition to article 24 of the ARVODI 2016. Only the Contracting Authority is entitled to publish all or part of the reports. The Contractor will be cited as the implementing organisation if the Contracting Authority decides to do so. If the Contracting Authority wishes to publish explanatory notes or a commentary to coincide with the publication of the final report, it will consult the Contractor before doing so.

5.7**<OPTIONAL>** In addition to article 21 of the ARVODI 2016, the Contractor indemnifies the Contracting Authority against any claims for damages brought by third parties as a result of its failure to discharge its obligations as referred to in article 21.3 of the ARVODI 2016. The liability amounts set out in article 21.3 of the ARVODI 2016 apply *mutatis mutandis*.

5.8 **<OPTIONAL>** Without prejudice to article 22 of the ARVODI 2016, the Contracting Authority may, within three years of any respective judgment becoming final and unappealable, cancel this Contract forthwith out of court by registered letter, without giving any warning or notice of default, if:

1. the Contractor has been convicted, by final and unappealable judgment, of discrimination within the meaning of articles 137c to 137g and article 429 quater of the Criminal Code; or
2. a member of the Contractor’s Staff has been convicted, by final and unappealable judgment, of discrimination within the meaning of articles 137c to 137g and article 429 quater of the Criminal Code and that staff member is on the Contractor’s executive, management or supervisory board or has representative, decision-making or audit powers.

**6. Intellectual property rights**

6.1 General

a. The Contracting Authority will not use the research methods developed by the Contractor under the latter’s own management without the Contractor’s consent.

b. The Contracting Authority may at any time analyse or otherwise process the research information or complete the research, or instruct third parties to perform such analysis or processing or to complete the research.

* 1. Transfer of title to research material

The Contractor will transfer to the Contracting Authority, and the Contracting Authority will accept from the Contractor, the title to all materials received, acquired and/or produced and processed for the purpose of the research, in so far as the Contractor has such material at its disposal and in so far as the material contains information relating to the research. Title will be transferred by the Parties hereby declaring that the Contractor will retain this material for the Contracting Authority. The material to which the title is to be transferred does not include material containing addresses used for the purpose of the research, unless this material was obtained through or on the instructions of the Contracting Authority.

1. **Retention of material**
	1. Unless agreed otherwise in writing, the Contractor will retain the material referred to in article 6.2 of this Framework Agreement for the Contracting Authority for four years free of charge, starting on the date on which the Framework Agreement is signed.
	2. The Contractor will replace the above material free of charge for as long as it is in its possession, if all or part of the material, for whatever reason, becomes unusable, is destroyed or is disposed of. This provision applies in so far as replacement is possible and desired by the Contracting Authority.
	3. Upon the expiry of the four-year period, the Contractor will make the material available to the Contracting Authority or destroy it free of charge at the latter’s request. If the Contractor fails to notify the Contracting Authority of the expiry of the four-year period, the retention of the material will be tacitly continued until one of the Parties gives written notice of its discontinuation.
2. **Availability**
	1. During the research, neither the Contractor nor a third party engaged by it may use the material referred to in article 6.2 of this Framework Agreement without prior written permission from the Contracting Authority, except for the purpose of activities entailed by performance of the Agreement.
	2. At the Contracting Authority’s request, the Contractor will immediately grant access to the material referred to in article 6.2 of this Framework Agreement and other documents relating to the research and will make it available to the Contracting Authority, even if this material is in the possession of third parties.
	3. At the Contracting Authority’s request, the Contractor will produce duplicates of the material referred to in article 6.2 of this Framework Agreement and make them available to the Contracting Authority at cost price.
	4. Immediately after the research project has been completed, the Contracting Authority will inform the Contractor which research information may not be made public under the Government Information (Public Access) Act. The Contractor must not provide this information to third parties.
3. **Publication**
	1. In connection with the provisions of section 15b of the Copyright Act 1912 and section 8, subsection 2 of the Databases (Legal Protection) Act, the Contractor will make a reservation in respect of the research report or the database under copyright or database law respectively.
	2. Unless the Contracting Authority provides otherwise before the completion of the final report, the Contractor will present the final report in electronic form both to the Contracting Authority and to the e-Depot of the National Library of the Netherlands (KB).
	3. Unless the Contracting Authority provides otherwise before the completion of the final report, the Contractor will present a written copy of the final report to the Contracting Authority and the library at the ministry in question.
	4. In accordance with article 24 of the ARVODI 2016, the following applies to publication. Only the Contracting Authority is entitled to publish all or part of the reports. If the Contracting Authority decides to do so, it will cite the Contractor as the implementing organisation. If the Contracting Authority wishes to publish explanatory notes or a commentary to coincide with the publication of the final report, it will consult the Contractor before doing so. If the Contracting Authority decides not to publish the reports, the Contractor may submit a written request to the Contracting Authority asking for permission to publish them itself. This permission will be given in writing, and may not be withheld without good reason. The Contracting Authority may attach conditions to its permission.
	5. In addition to article 24 of the ARVODI 2016, the following applies. The Contractor is permitted to use the results of the Services, except for privacy-sensitive information. In doing so, the Contractor must not act contrary to the Contracting Authority’s interests. In case of doubt, the Contractor will consult with the Contracting Authority in advance.
4. **Declaration of integrity**
	1. The Contractor hereby declares that it has not offered or given members of the Contracting Authority’s Staff any benefit in order to obtain this Framework Agreement or in order to obtain Call-off Contracts for the performance of Services, nor arranged for them to be offered or given any such benefit. It undertakes not to do so in the future with a view to inducing members of the Contracting Authority’s Staff to perform or refrain from performing any act.
	2. The Contracting Authority hereby affirms that it will in no way undermine the Contractor’s independence during the performance of the Contract.
5. **Final provisions**
	1. In addition to article 22 of the ARVODI 2016, in the event of early termination of this Framework Agreement, the Contracting Authority may demand that the Contractor conclude the Services and transfer the results to the Contracting Authority or to a third party designated by it in such a way that the research can continue unhindered.
	2. Any derogations from this Framework Agreement or a Call-off Contract are binding only if they have been expressly agreed by the Parties in writing.
	3. Any written or oral agreements previously made by the Parties about the award of contracts for the performance of Services, whether under a Call-off Contract or otherwise, are nullified once this Framework Agreement has been signed.

Done on the later of the two dates stated below and signed in duplicate.

The Hague, [*date*] [*date and place*]

For the Minister of / State Secretary for … For [*Contractor’s name*]

[*signatory’s name*] [*signatory’s name*]

[*signatory’s position*] [*signatory’s position*]

[Schedule(s):]