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Contract - Framework Agreement

Call for Tender in accordance with the
Regulations Regarding Public Procurement, Parts I and
III

for the procurement of

**FRAMEWORK AGREEMENT FOR THE
PURCHASE OF ANALYSES OF SCIENTIFIC
SAMPLES FROM DEVELOPMENT-LED
ARCHAEOLOGICAL INVESTIGATIONS**

Ref. no. 427/26/550/RCa

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TABLE OF CONTENTS:

1.1	Content of the Agreement	5
1.2	Duration and termination.....	5
1.3	Interpretation and ranking	6
1.4	The parties' representatives.....	6
1.5	Supplier's personnel.....	6
2.1	Order	7
2.1.1	<i>Framework Agreement with one supplier</i>	7
2.2	Ownership, copyright etc.	7
2.3	Staffing.....	7
2.4	Cancellation.....	8
3.1	Changes to the Agreement	8
3.2	Changes to orders	8
4.1	Supplier's duties.....	8
4.1.1	<i>Supplier's responsibilities and competence</i>	8
4.1.2	<i>Responsibility for subcontractors</i>	9
4.1.3	<i>Cooperation with third parties</i>	10
4.1.4	<i>Special provisions relating to pay and working conditions</i>	10
4.1.5	<i>Advertising</i>	10
4.2	The Client's duties	10
4.2.1	<i>Involvement</i>	10
4.3	Meetings.....	11
4.4	Risk and responsibility for communication and documentation	11
4.5	Confidentiality.....	11
5.1	Prices	11
5.2	Invoicing and payment.....	11
5.3	Changes in price	11
5.4	Interest.....	12
6.1	Breach by the Supplier – delay and deviation	12
6.1.1	<i>Delay</i>	12
6.1.2	<i>Delay charges</i>	Error! Bookmark not defined.
6.1.3	<i>Deviation</i>	12
6.1.4	<i>Corrections and price reduction</i>	12
6.1.5	<i>Termination</i>	13
6.1.6	<i>Compensation</i>	13
6.1.7	<i>Limitation</i>	13
6.2	Breach by the Supplier – legal deviations	13
6.2.1	<i>Claims against the Client from third parties</i>	13
6.2.2	<i>Duty to cover own costs</i>	13
6.2.3	<i>Duty to correct legal deviations</i>	13
6.2.4	<i>Termination</i>	14
6.2.5	<i>Compensation</i>	14
6.2.6	<i>Compensation to third parties</i>	14
6.3	Breach by the Client.....	14
6.3.1	<i>What is considered a breach</i>	14
6.3.2	<i>Limitation of Supplier's right of retention</i>	14
6.3.3	<i>Non-payment</i>	14
6.3.4	<i>Termination</i>	15
6.3.5	<i>Compensation</i>	15
7.1	Transfer of rights and obligations	15
7.2	Bankruptcy, administration etc.....	15
7.3	Force majeure.....	15
8.1	Rights	16

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The translation is not official; it is provided for information purposes only. In the event of any inconsistency, the Norwegian version shall prevail.

8.2	Negotiations	16
8.3	Mediation	16
8.4	Court.....	16

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**FRAMEWORK AGREEMENT FOR THE PURCHASE OF ANALYSES
OF SCIENTIFIC SAMPLES FROM ARCHAEOLOGICAL
INVESTIGATIONS**

Framework Agreement between:

[Name of Supplier]

(hereafter called the Supplier)

and

Stiftelsen Norsk institutt for kulturminneforskning (NIKU)
(hereafter called the Client)

Place and date:

The Client

The Supplier

The Framework Agreement is to be signed in two copies, one to each party.

Enquiries

All enquiries relating to this framework agreement are to be sent to:

The Client:

Name

Position

Telephone

e-mail

Visiting address:

Storgata 2, 0155 Oslo

Post address:

Postboks 736 Sentrum, 0105 Oslo

The Supplier:

Name

Position

Telephone

e-mail

Visiting address

Post address

Sign.: _____ / _____

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1 GENERAL PROVISIONS

1.1 Content of the Agreement

This agreement (hereafter “the Agreement”) is a framework agreement between the Client and the Supplier regarding the purchase of the analysis of scientific samples from archaeological investigations.

The Agreement consists of the general agreement text and its appendices. The contents of the services that may be ordered under this agreement are specified in Appendix 1 and Appendix 2.

The following appendices are part of the Agreement:

Appendices to the Agreement
Appendix 1: The Client’s Requirements
Appendix 2: The Supplier’s offer
Appendix 3: Administrative provisions and order form
Appendix 4: Prices and conditions of payment
Appendix 5: Changes after entry into agreement

This Agreement commits the Client to order, if necessary, the analysis of scientific samples from archaeological investigations from the Supplier in accordance with Appendices 1 and 2 of the Agreement, with ordering done as per this Agreement. Services covered by this Agreement will be ordered separately according to the provisions of Clause 2 of the Agreement and Appendix 4. The individual orders are based on this Agreement.

If, in connection with the need for analysis of scientific samples from archaeological investigations, a conflict of interest exists in relation to other services the supplier has performed or performs for the Client, the Client may order the service from other suppliers, even if the service is initially included in the Agreement.

1.2 Duration and termination

The agreement applies from the date on which both parties have signed the Agreement and runs for two years. The agreement can be extended a further 2 times for 1 year per extension, unless the Client gives the Supplier written notice of termination no later than one month before the expiration of the applicable contract period.

The Client may terminate the Agreement at any time with three months' written notice. Termination of the Agreement has no effect on orders made before the Agreement expires. The Supplier is entitled to terminate the Agreement with six months' written notice if there are reasonable grounds.

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1.3 Interpretation and ranking

In the case of conflict, the following principles of interpretation shall be used:

Changes to the Agreement go before the general agreement text, but only to the extent that it is clear and unambiguous what has been changed, replaced or added. In cases where the change is not clearly specified, the general agreement text has priority.

Appendix 2 precedes Appendix 1, but only to the extent that it is clear and unambiguous what has been changed, replaced or added. In cases where the change is not clearly specified, the requirement specification (Appendix 1) has priority over the solution specification (Appendix 2).

In the event of a conflict between the appendices where the changes are not clearly specified as above, Appendix 1 has priority over the other appendices.

If there is conflict between an appendix and the general agreement, the general agreement text has priority.

The Agreement has priority over minutes from meetings, notes and similar documents issued by the parties.

1.4 The parties' representatives

Upon entry into the Agreement, each party shall appoint a representative authorized to act on behalf of the party in matters relating to the Agreement.

1.5 Supplier's personnel

The supplier's personnel for the execution of services under this Agreement are set out in Appendix 2. Changes of personnel at the Supplier must be approved by the Client. Approval cannot be refused without a valid reason.

In the event of a change of personnel, the Supplier is obliged to provide a replacement with an equivalent professional background. Any costs related to providing new personnel the knowledge necessary to operate at the same level as the personnel being replaced shall be covered by the Supplier.

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2 ORDERING

2.1 Order

2.1.1 Framework Agreement with one supplier

When the Client requires the services covered by this agreement, the Client is to order in writing using the form in Appendix 4 or equivalent.

2.2 Ownership, copyright etc.

Proprietary ownership, copyright and other relevant material and immaterial rights to the results of services performed by the Supplier in accordance with the Agreement are held by the Client, subject to the limitations imposed by the law.

Rights also include the right to alterations and transfer, cf. section 39b of the Intellectual Property Act (åndsverksloven).

To the extent that it does not conflict with the provisions of the Agreement regarding loyalty and confidentiality, each party may freely utilize the know-how acquired in connection with the implementation of the Agreement.

Unless otherwise agreed, the Supplier shall retain the rights to their own tools and methodological basis. Such material may not be used in violation of the provisions of the Agreement regarding loyalty and confidentiality.

2.3 Staffing

The Supplier is responsible for ensuring that contracted services are conducted by the personnel designated by the parties. Change of key personnel initiated by the Supplier may only happen if the person terminates in their position with the Provider, is on sick leave, takes care leave or is absent for similar reasons.

When changing key personnel, the Supplier is obliged to replace the person with an alternative person with a corresponding professional background.

Any costs of providing new personnel knowledge to make them operational at the level of personnel replaced by the Supplier shall be covered by the Supplier.

Replacement of personnel initiated by the Supplier shall only take place after written approval from the Client.

If one or more persons terminate their employment with the Supplier, and the insertion of alternative personnel causes significant disadvantage for the Client, the Client has the right to terminate the termination agreement in whole or in part.

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The Client shall approve new personnel that the Supplier proposes to make available. For each new person, there is a trial period of 10 working days. During the trial period, the Client may demand that the person be replaced. After the trial period, the Client cannot refuse approval without a valid reason.

2.4 Cancellation

Orders can be cancelled in writing by the Client with immediate effect.

In the case of cancellation where the order is partially completed, the Client shall pay for the services that the Supplier has already completed.

The Client is to receive all the rights to the material the Supplier has prepared up to the point of cancellation.

3 CHANGES TO THE AGREEMENT AND ORDERS

3.1 Changes to the Agreement

Changes to or additions to the Agreement shall be agreed in writing and signed by both parties. The template for changes can be found in Appendix 5.

3.2 Changes to orders

Changes to or additions to the individual orders must be agreed in writing.

If the Supplier wishes that the content or scope of the order is to be changed before it is finalized, the Supplier must notify the Client in writing without undue delay. If this is not done, the order is to be completed to the agreed time and price.

The Supplier must state the reason for the change and the consequences it has for quality, delivery time and price. If the parties do not agree, the dispute shall be settled as prescribed under Clause 8. If the parties agree, a written agreement as mentioned in the first paragraph shall be entered into.

4 THE PARTIES' DUTIES

4.1 Supplier's duties

4.1.1 Supplier's responsibilities and competence

The supplier shall be the Client's collaboration partner and give the Client high priority.

Services shall be conducted in accordance with the Agreement and shall be performed professionally, efficiently and to high professional standards. The Supplier guarantees that the

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services are carried out with sufficient qualitative and quantitative resources and expertise, based on the requirements of the Agreement and the individual call.

The Supplier shall at any time seek to propose solutions that will increase the value and usefulness of the services at the Client.

If one or more specific standards, methods or the like are to be used, these must be specified. The Client shall be given the opportunity to check and verify the Supplier's work and that it complies with the stated standards, methods or similar.

Enquiries from the Client should be answered without undue delay.

The Supplier shall, without undue delay, notify of any circumstances that the Supplier identifies as affecting or possibly affecting the provision of the service, including any expected delays. The Supplier is obliged to inform the Client of changes in own ownership structure, mergers, demergers and the like.

The Supplier is responsible for the personnel performing the services, as defined in the individual orders, in a professional and satisfactory manner, as well as to the agreed deadline.

The Supplier's personnel, insofar as it is natural to see this in connection with their individual duties, are obliged to report to the Client if they believe that solutions or methods chosen are not appropriate or correct.

The Supplier is under all circumstances responsible for ensuring that all personnel proposed have the necessary expertise in connection with the agreed service to the Client.

4.1.2 Responsibility for subcontractors

If the Supplier engages a subcontractor to perform services provided under this Agreement, the Supplier is fully responsible for the execution of these services in the same manner as if the Supplier itself was responsible for their execution.

All interactions regarding questions related to the Agreement shall only be between the Supplier and the Client, unless the parties agree otherwise.

The Client has no responsibility or role in cases of disagreement between the Supplier and the subcontractor.

The Supplier's use of subcontracting must be approved in writing by the Client. Approval cannot be refused without a valid reason.

Approved subcontractors are to be listed in Appendix 3.

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4.1.3 Cooperation with third parties

The supplier is obliged to cooperate with third parties designated by the Client where the Client considers this necessary for the provision of the service. The Client shall, as far as practicable, specify the need for such cooperation in the procurement order. In such cases, the Supplier is obliged to have an independent position and act in consultation with the Client.

The Supplier is exempted from the duties mentioned in the first section if they believe that such cooperation would cause a significant disadvantage compared to their existing subcontractors or other business associates.

4.1.4 Special provisions relating to pay and working conditions

Employees of the Supplier and any subcontractors who directly contribute to fulfilling the Agreement shall have pay and working conditions in accordance with this provision.

In areas covered by regulations for a general collective agreement, pay and working conditions are required to comply with the applicable regulations.

In areas that are not covered by regulations on a general collective agreement, pay and working conditions are required to be in accordance with the applicable national collective agreement for the industry in question. Pay and working conditions mean in this context provisions on minimum working hours, wages, including overtime allowance, shift supplement and inconvenience surcharge, and coverage of travel, board and lodging expenses, to the extent that such provisions follow from the collective agreement.

The Supplier and any subcontractors must be able to prove that these requirements for pay and working conditions have been fulfilled.

The Client reserves the right to make the necessary sanctions, if the Supplier or any subcontractors fail to comply with the above-mentioned requirements for pay and working conditions, cf. Section 2.5.

4.1.5 Advertising

The Supplier undertakes not to use this Agreement in its marketing or otherwise advertise publicly or provide public information about the Agreement without the prior written consent of the Client. The Supplier also undertakes to make a similar provision to its subcontractors.

4.2 The Client's duties

4.2.1 Involvement

The Client will be loyally involved in the implementation of the Agreement and the individual orders.

The Client shall, without undue delay, notify of conditions that may affect the provision of agreed services, including any expected delays.

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4.3 Meetings

If necessary, a party may call for a meeting with the other party to discuss the contractual relationship and the manner in which the contractual relationship is concluded with at least 3 (three) working days' notice.

4.4 Risk and responsibility for communication and documentation

Both parties shall ensure proper communication, storage, and backup of documents and other material of importance to the services, regardless of form, including e-mail and other electronically stored material.

The Supplier bears the risk and responsibility for any material, no matter what form, which is damaged or destroyed while under the Supplier's control.

4.5 Confidentiality

If necessary, a confidentiality agreement is to be signed. In this case, it shall indicate the information that is covered by the confidentiality agreement and how it is to be safeguarded. Employees or others who end their service with one of the parties shall be required to maintain confidentiality even after the end of their service.

Confidentiality also applies after the termination of the Agreement.

5 REMUNERATION AND CONDITIONS OF PAYMENT

5.1 Prices

Prices of the services covered by this Agreement are specified in Appendix 4.

All prices are exclusive of VAT, but include any other taxes / fees.

5.2 Invoicing and payment

Invoicing is to happen after the order has been completed and approved by the Client. Payment is to be made in accordance with the invoice, with due date 30 days after the invoice date. Any invoice charges etc. will not be covered.

5.3 Changes in price

The Supplier can demand changes to the prices in Appendix 4 as a result of increases in Norwegian customs and tax rates which may become applicable after the Agreement has been concluded and before the individual order has been received by the Supplier, if they incur additional costs to the Supplier.

Furthermore, the Supplier and Client may demand a change in prices as of 1 January each year, corresponding to changes in Statistics Norway's consumer price index (main index) based on the index for the month the agreement was entered into.

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In case of price change, written notice must be sent no later than 1 month before the price change can be made applicable.

5.4 Interest

If the Client does not pay at the agreed time, the Supplier is entitled to interest on the amount due for payment, pursuant to the Act on Interest on Late Payment, etc.

6 BREACH OF CONTRACT

6.1 Breach by the Supplier – delay and deviation

6.1.1 Delay

If services are not delivered at the agreed time, and this is not due to force majeure or the Client's actions, the delay is on the side of the Supplier.

6.1.2 Fines

In case of delay, a fine will begin to accrue unless otherwise agreed between the Client and the Supplier.

The fine is 10% of the fee excluding VAT from the start of the first week of delay, and thereafter an additional 5% per commenced week as long as the delay lasts. If the service is delayed by more than 8 weeks, the Client shall not pay for that particular order.

As long as fines accrue, the Client cannot cancel the order agreement or this Framework Agreement. This does not apply if the Supplier or someone the Supplier is responsible for has acted irresponsibly or otherwise acting without propriety and good faith.

6.1.3 Deviation

There is deviation if the purpose, requirements or specifications stipulated in this Agreement are not complied with, unless due to force majeure or the Client's actions.

6.1.4 Corrections and price reduction

The Client may require that a deviation be corrected at the expense of the Supplier in the case of rectification or replacement, if it can happen without the Supplier incurring unreasonable cost or inconvenience. The Client can set a reasonable deadline. Insofar as the deviation is not rectified, the Client may request an appropriate price reduction.

Even if the Client does not demand it, the Supplier is entitled at their own expense to rectify a deviation when it can be done without significant cost or inconvenience to the Client and without the risk that the Client's costs will not be covered by the Supplier.

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6.1.5 Termination

The Client can terminate part or the entirety of an order or the Agreement in the case of a significant breach of contract.

6.1.6 Compensation

The Client may claim compensation for any probable loss that may reasonably be due to delay, deviation or other breach by the Supplier unless the Supplier proves that the breach or cause of the breach is not its fault.

The compensation shall include the Client's direct loss from the date of default. Loss due to additional work and delayed start-up or interruptions are considered direct loss.

6.1.7 Limitation

Compensation for indirect losses cannot be claimed. Lost profits, lost sales and lost expected savings are considered indirect losses.

The compensation is limited to an amount equal to the contract amount excl. VAT, per type of default.

If the Supplier or someone they are responsible for has committed gross negligence or deliberate negligence, the above-mentioned limitations are not applicable.

6.2 Breach by the Supplier – legal deviations

It is considered a legal deviation if the Supplier's service provision violates the copyright or intellectual property rights of others.

6.2.1 Claims against the Client from third parties

If a claim is made against the Client regarding the violation of at third party's rights, the Client is obliged to provide the Supplier with written notice of the claim without undue delay.

6.2.2 Duty to cover own costs

Should there be any claim from a third party on the basis of copyright infringement, etc. which relates to any part of the services covered by this Agreement, the Supplier undertakes to handle the matter at their own expense, including for the Client. From the time the Supplier takes over the matter, the Client is obliged to support the Supplier in return for special remuneration, and will not act independently during any court case.

6.2.3 Duty to correct legal deviations

If a dispute arises, for example, in the form of a claim, court case and the like against the Supplier or Client for violation of the rights that are a prerequisite for this Agreement, the Supplier has the following choices to correct the legal deviations:

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1. To acquire for themselves and the Client the right to use the intellectual property/equipment/service in question
 2. Within a short period of time, provide the Client with an equivalent that does not infringe the rights of others as long as this does not significantly hinder the Client from performing his duties
 3. To ensure or guarantee the Client against any losses.

6.2.4 Termination

If the Supplier fails to remedy the legal deviation and the deviation is of significance to the Client, the Client may terminate the Agreement with immediate effect.

6.2.5 Compensation

The Client may claim compensation for the loss suffered as a result of a legal deviations in the Supplier's services. Clause 6.1.7 of the agreement will be correspondingly applicable.

6.2.6 Compensation to third parties

If, as a result of a legal deviation, the Client is legally liable for compensation to third parties, the Supplier is responsible for covering this liability.

6.3 Breach by the Client

6.3.1 What is considered a breach

There is a breach by the Client if the Client fails to fulfil their obligations under the Agreement.

However, there is no breach if the situation is due to the Supplier's circumstances or circumstances considered force majeure.

6.3.2 Limitation of Supplier's right of retention

The Supplier cannot withhold services or payments that arise from a breach caused by the Client.

6.3.3 Non-payment

If due remuneration with the addition of late payment charges is not paid within 30 (thirty) calendar days after the due date, the Supplier may send written notice to the Client that the Agreement will be cancelled if settlement has not taken place within 60 (sixty) calendar days after the notice has been received.

Termination cannot occur if the Client pays with the addition of late interest charges within the deadline.

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6.3.4 Termination

In case of non-payment-related breaches, the Supplier may, if the breach is of such a nature as to be of essential importance to the Supplier, notify the Client in writing that the Agreement will be terminated if the Client has not corrected the breach within 60 (sixty) days of receipt of the notice. Termination cannot occur if the Client corrects the breach before the expiry of the deadline.

6.3.5 Compensation

The Supplier may claim compensation for probable loss that can reasonably be considered the result of a breach, unless the Client can prove that the breach is not attributable to the Client.

The agreement's limitation clause, cf. Clause 6.1.7, applies correspondingly.

7 OTHER PROVISIONS

7.1 Transfer of rights and obligations

The Supplier may only transfer their rights and obligations under the Agreement upon the written consent of the Client. This also applies if the Supplier merges with another company, is divided into several companies or if the transfer takes place to a subsidiary. If the Client does not agree to the transfer, the Client may terminate the Agreement with a minimum of 30 days' written notice.

7.2 Bankruptcy, administration etc.

If, as part of their business, the Supplier enters into debt negotiations, administration or bankruptcy or other forms of credit management, the Client has the right to terminate the Agreement with immediate effect.

7.3 Force majeure

Should an extraordinary situation occur that is beyond the control of the parties and which makes it impossible to fulfil the duties under this Agreement and which, in accordance with Norwegian law, must be regarded as force majeure, the counterparty shall be notified of this without undue delay and the relationship shall be documented in writing. The affected party's obligations are suspended as long as the extraordinary situation lasts. The other party's responsibilities are suspended for the same period.

In force majeure situations, the counterparty may only terminate the Agreement with the agreed party's consent or if the situation lasts or is expected to last for more than 90 days from the date the situation occurs, and then only with 15 days' notice.

In case of force majeure situations, the parties have mutual duty of disclosure to each other regarding all matters that may be considered to be of importance to the other party. Such information should be given as quickly as possible.

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8 DISPUTES

8.1 Rights

The parties' rights and obligations under this Agreement are in entirety determined by Norwegian law.

8.2 Negotiations

In the case of dispute between the parties about the interpretation or the legal effects of the Agreement, the dispute shall first be attempted resolved through negotiations.

8.3 Mediation

If a dispute related to this Agreement is not resolved after negotiations, the parties may attempt to resolve the dispute through mediation.

The parties may choose to apply the Norwegian Law Association's rules for mediation by lawyer, possibly modified as requested by the parties. It is assumed that the parties agree on a mediator with the expertise the parties think best suits the dispute.

The procedure for mediation is determined by the mediator in consultation with the parties.

8.4 Court

If a dispute is not settled by negotiation or mediation, each party may request the dispute resolved in Norwegian courts.

The Client's business address is the applicable legal district.