



Abuja, 22<sup>nd</sup> May 2023

Our ref.: AOI N°: ECW/DEAA/RAHC/COMATAO/2023/02

**Subject: Invitation to tender for the Supply of equipment and reagents to regional veterinary laboratories**

Dear Madam/Sir,

I am pleased to inform you that you are invited to take part in the local open procedure for the above supply contract. The complete tender dossier includes:

- A. Instructions to tenderers
- B. Draft contract and special conditions, including annexes
  - Draft contract
  - Special conditions
  - Annex I: general conditions
  - Annex II + III: technical specifications + technical offer (to be tailored to the specific project)
  - Annex IV: budget breakdown (model financial offer)
  - Annex V: forms
- C. Further information
  - Administrative compliance grid
  - Evaluation grid
- D. Tender form for a supply contract and Declaration on honour on exclusion and selection criteria (annex A14a)

For full information about procurement procedures please consult the practical guide and its annexes, which can be downloaded from the following web page: <https://wikis.ec.europa.eu/display/ExactExternalWiki/ePRAG>

We look forward to receiving your tender and the accompanying tender guarantee which has to be submitted no later than the submission deadline mentioned in the Contract Notice.

By submitting a tender you accept to receive notification of the outcome of the procedure by electronic means. Such notification shall be deemed to have been received by you on the date upon which the contracting authority sends it to the electronic address you referred to in your offer.

If you decide not to submit a tender, we would be grateful if you could inform us in writing, stating the reasons for your decision.

Yours sincerely,

**Commissioner for Internal Services**

# CONTRACT NOTICE

## CALL FOR TENDER: GENERAL INFORMATION

### I.1) Name and address Contracting Authority

Official name: ECOWAS Commission /Regional Animal Health Center (RAHC)

Postal address: 101 Yakubu Gowon Crescent, Asokoro

Town: Abuja

Postal Code: N/A

E-mail: [ndarma@ecowas.int](mailto:ndarma@ecowas.int) ; [procurement@ecowas.int](mailto:procurement@ecowas.int) with copy to: [sbangoura@ecowas.int](mailto:sbangoura@ecowas.int); [mfouad@ecowas.int](mailto:mfouad@ecowas.int)

Internet address: <https://ecowas.int/>

### II.1.1) Title:

Supply of equipment and reagents to regional veterinary laboratories

### II.1.3) Type of contract

Supplies

### II.1.4) Short description of the contract

The subject of the contract is the supply, delivery, unloading of the following supplies to the National Veterinary Research Institute (NVRI), Vom-Nigeria; and the implementation period is 45 days.

N°	Description of item	Quantity
1	PPR c-ELISA kit, PPRC-10P (1 bag/4 plates)	1
2	PPR S-ELISA, PPRAG-2P kit (1 bag/4 plates)	1
3	Cell Culture, Tubes, 3mL (1 bag/1000 pcs)	2
4	Opti-MEM&Trade I Reduce Serum Medium, 500 ML	10
5	Syringe filters 13 mm Dia 0.2 µm Pore Size (1 bag/100 pcs)	5
6	Foetal Bovine Serum (FSB) Triple 0.1 µm Sterile Filtered (500 ml)	45
7	African green monkey kidney Vero C1008, clone E6 cells (Tube of 25 ml)	1 tube
8	FMDV-NSP ELISA Kit, (1 pack/1000 samples)	1
9	FMDV Antigen Serotype O, A, SAT1, SAT2 (1 pack/150 Isolates)	5
10	Montanide Gel 02 (1 drum of 1000 litres)	2
11	Macconkey Agar (500g)	5
12	Eosine Methylene Blue (500 g)	5
13	Triple Sugar Iron Agar, (500 g)	5
14	Blood Agar base, (500 g)	5
15	Mueller Hinton Agar (500 g)	5
16	Salmonella shigella Agar base, (500 g)	5
17	Yeast Extract, (500 g)	5
18	Fluid Thioglycolate Medium, (500 g)	5
19	Reinforced Clostridial Medium (Broth) (200 ml)	5
20	Sabouraud Dextrose Agar Base, (500 g)	4
21	Buffered Peptone (500 g)	5
22	Cysteine Triptophane Agar, (500 g)	3
23	Nutrien Agar, (500 g)	5
24	Microbact 24 E (80 samples) (packed by 40)	5
25	Microbact Software	1

26	Trypsin 1:250 from porcine activity:1000-1500 BAEE units, (100g bottle)	5
27	ELISA reader	1
28	UV Transilluminator & Safety spectacles,	1
29	PCR workstation Biocap RNA/DNA,	1
30	ELISA magnetic stirrer with hot plate	1
31	CO <sub>2</sub> Incubator, 230V, 50/60Hz	1
32	Inverted Microscope	1

### **II.1.5) Estimated total value**

Value excluding VAT: *See volume of purchase in II.1.4* Currency: EUR

### **IV.1.1.) Type of Procedure**

Local Open

### **II.1.6) Information about lots**

This contract is divided into lots: **one lot only**

## **CALL FOR TENDER: INFORMATION PER LOT**

### **II.2.3) Place of performance**

Geographical zone benefitting from the action: Nigeria

### **II.2.2) Award Criteria**

Price

### **IV.2.2) Time limit for submission of tenders or requests to participate**

Date: 06/07/2023

Local Time: 11:00 a.m. (Nigerian Time)

### **IV.2.6) Minimum time frame during which the tenderer must maintain the tender**

Duration in months: 3 months (from the date stated for receipt of tender)

### **IV.2.7) Conditions for opening of tenders**

Date: 06/07/2023

Local Time: 11:30 a.m. (Nigerian Time)

Place: ECOWAS Commission, Procurement Division, 101 Yakubu Gowon Crescent, Asokoro, Abuja, Nigeria or on-line participation.

## **Additional information about the Contract Notice**

### **Supply of equipment and reagents to regional veterinary laboratories Location - Nigeria**

#### **1. Nature of contract**

Unit-price

#### **2. Programme title**

Regional Dialogue and Investment Project for Pastoralism and Trans-human in the Sahel and in the coastal countries of Africa West (PREDIP) / COMATAO

#### **3. Financing**

ROC/FED/39-268

#### **4. Legal basis, eligibility and rules of origin**

The legal basis of this procedure is Annex IV to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 as amended in Luxembourg on 25 June 2005 and in Ouagadougou on 22 June 2010. Reference is made to Annex IV as revised by Decision 1/2014 of the ACP-EU Council of Ministers of 20 June 2014.

Participation in tendering is open on equal terms to all natural and legal persons (participating either individually or in a grouping – consortium – of candidates/tenderers) which are established in one of the Member States of the European Union, ACP States or in a country or territory authorised by the ACP-EC Partnership Agreement under which the contract is financed.

All supplies under this contract must originate in one or more of these countries.

For UK candidates or tenderers: Please be aware that following the entry into force of the EU-UK Withdrawal Agreement\* on 1 February 2020 and in particular Articles 127(6), 137 and 138, the references to natural or legal persons residing or established in a Member State of the European Union and to goods originating from an eligible country, as defined under Regulation (EU) No 236/2014\*\* and Annex IV of the ACP-EU Partnership Agreement\*\*\*, are to be understood as including natural or legal persons residing or established in, and to goods originating from, the United Kingdom \*\*\*\*. Those persons and goods are therefore eligible under this call.

\* Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community.

\*\* Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action.

\*\*\* Annex IV to the ACP-EU Partnership Agreement, as revised by Decision 1/2014 of the ACP-EU Council of Ministers (OJ L196/40, 3.7.2014)

\*\*\*\* including the Overseas Countries and Territories having special relations with the United Kingdom, as laid down in Part Four and Annex II of the TFEU.

#### **5. Candidature**

All eligible natural and legal persons (as per item 4 above) or groupings of such persons (consortia) may participate or tender.

A consortium may be a permanent, legally established grouping or a grouping which has been

constituted informally for a specific procurement procedure. All partners of a consortium (i.e., the leader and all other partners) are jointly and severally liable to the contracting authority.

The participation or tender of an ineligible natural or legal person will result in the automatic exclusion of that person. In particular, if that ineligible person belongs to a consortium, the whole consortium will be excluded.

## 6. Number of requests to participate or tenders

No more than one request to participate or tender can be submitted by a natural or legal person whatever the form of participation (as an individual legal entity or as leader or partner of a consortium submitting a request to participate or tender). In the event that a natural or legal person submits more than one request to participate or tender, all requests to participate or tenders in which that person has participated will be excluded.

In case of lots, the candidates or tenderers may submit only one request to participate or tender per lot. Contracts will be awarded lot by lot and each lot will form a separate contract.

## 7. Selection criteria

### Capacity-providing entities

An economic operator (i.e. candidate or tenderer) may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. If the economic operator relies on other entities, it must in that case prove to the contracting authority that it will have at its disposal the resources necessary for the performance of the contract by producing a commitment by those entities to place those resources at its disposal. Such entities, for instance the parent company of the economic operator, must respect the same rules of eligibility and notably that of nationality as the economic operator relying on them and must comply with the selection criteria for which the economic operator relies on them. **Furthermore, the data for this third entity for the relevant selection criterion should be included in a separate document.** Proof of the capacity will also have to be provided when requested by the contracting authority.

With regard to technical and professional criteria, an economic operator may only rely on the capacities of other entities where the latter will perform the tasks for which these capacities are required.

With regard to economic and financial criteria, the entities upon whose capacity the economic operator relies, become jointly and severally liable for the performance of the contract.

The selection criteria for each tenderer are as follows:

- 1) Economic and financial capacity** (based on item 3 of the request to participate form, or on item 3 of supply tender form). In case of candidate being a public body, equivalent information should be provided. The reference period which will be taken into account will be the last three years for which accounts have been closed.
  - 1.1) Not be in cessation of activity (bankruptcy), The tenderer shall provide the relevant document; (certificate of non-bankruptcy or a declaration on the honour of non-bankruptcy).
  - 1.2) Provide the relevant tender guarantee for EUR 3,000 (Bank Guarantee).
  - 1.3) Present the Tax Regularity Certificate dated less than three months before the submission deadline.
  - 1.4) Present proof of payment of taxes for the last three (3) years: 2020, 2021 and 2022.
  - 1.5) Present financial statements certified by a chartered accountant for the three (3) years: 2020, 2021 and 2022).
  - 1.6) Provision of a line of credit equivalent to at least thirty percent (30%) of the amount of the tenderer's total price. Drawn up by a financial institution duly authorised by the competent authorities.
  - 1.7) Have an average annual turnover (2020, 2021 and 2022) equivalent to at least 30% of the

tenderer's total price.

**2) Professional capacity** (based on items 4 and 5 of the request to participate form for service contracts and on items 4 and 5 of the tender form for supply contracts). The reference period which will be taken into account will be the last three years preceding the submission deadline (2020, 2021 and 2022).

2.1) Be a duly registered company in its country of origin and provide proof thereof (Certificate issued by the relevant Body or Institutions). Foreign Companies are also requested to provide proof of partnership with ECOWAS National Company (ies).

2.2) Cover Letter duly signed by the company's authorized signatory.

**3) Technical capacity** (based on items 5 and 6 of the request to participate form for service contracts and on items 5 and 6 of the tender form for supply contracts). The reference period which will be taken into account will be the last five (5) years from submission deadline.

3.1) The tenderer must have carried within the last five (5) years (2018, 2019, 2020, 2021 and 2022), operations of equipment, veterinary consumables and reagents. To assess this criterion, the volumes per year over the last five (5) years will be scored and the two (2) highest annual volume will be used for the evaluation. The average of the two annual volumes considered within the last five years (2018, 2019, 2020, 2021 and 2022) must be at least equal to 50% of the volume in tons proposed in the tenderer's offer.

This means that the contract the candidate refers to could have been started at any time during the indicated period but it does not necessarily have to be completed during that period, nor implemented during the entire period. Candidates are allowed to refer either to projects completed within the reference period (although started earlier) or to projects not yet completed. Only the portion satisfactorily completed during the reference period will be taken into consideration. This portion will have to be supported by documentary evidence (statement or certificate from the entity which awarded the contract, proof of payment) also detailing its value. If a candidate has implemented the project in a consortium, the percentage that the candidate has successfully completed must be clear from the documentary evidence, together with a description of the nature of the supplies delivered if the selection criteria relating to the pertinence of the experience have been used.

## A. INSTRUCTIONS TO TENDERERS

**PUBLICATION REF.: AOI N°: ECW/DEAA/RAHC/COMATAO/2023/02**

By submitting a tender, tenderers fully and unreservedly accept the special and general conditions governing the contract as the sole basis of this tendering procedure, whatever their own conditions of sale may be, which they hereby waive. Tenderers are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this tender dossier. Failure to submit a tender containing all the required information and documentation within the deadline specified will lead to the rejection of the tender. No account can be taken of any remarks in the tender relating to the tender dossier; remarks may result in the immediate rejection of the tender without further evaluation.

These instructions set out the rules for the submission, selection and implementation of contracts financed under this call for tenders, in conformity with the practical guide (available on the internet at: <https://wikis.ec.europa.eu/display/ExactExternalWiki/ePRAG>).

### 1. Supplies to be provided

1.1 The subject of the contract is:

the supply, delivery, unloading, (installing – where applicable) of the following supplies: i.e. **equipment and reagents to regional veterinary laboratories**

N°	Description of item	Quantity
1	PPR c-ELISA kit, PPRC-10P (1 bag/4 plates)	1
2	PPR S-ELISA, PPRAG-2P kit (1 bag/4 plates)	1
3	Cell Culture, Tubes, 3mL (1 bag/1000 pcs)	2
4	Opti-MEM&Trade I Reduce Serum Medium, 500 ML	10
5	Syringe filters 13 mm Dia 0.2 µm Pore Size (1 bag/100 pcs)	5
6	Fœtal Bovine Serum (FSB) Triple 0.1 µm Sterile Filtered (500 ml)	45
7	African green monkey kidney Vero C1008, clone E6 cells (Tube of 25 ml)	1 tube
8	FMDV-NSP ELISA Kit, (1 pack/1000 samples)	1
9	FMDV Antigen Serotype O, A, SAT1, SAT2 (1 pack/150 Isolates)	5
10	Montanide Gel 02 (1 drum of 1000 litres)	2
11	Macconkey Agar (500g)	5
12	Eosine Methylene Blue (500 g)	5
13	Triple Sugar Iron Agar, (500 g)	5
14	Blood Agar base, (500 g)	5
15	Mueller Hinton Agar (500 g)	5
16	Salmonella shigella Agar base, (500 g)	5
17	Yeast Extract, (500 g)	5
18	Fluid Thioglycolate Medium, (500 g)	5
19	Reinforced Clostridial Medium (Broth) (200 ml)	5
20	Sabouraud Dextrose Agar Base, (500 g)	4
21	Buffered Peptone (500 g)	5
22	Cysteine Triptophane Agar, (500 g)	3
23	Nutrien Agar, (500 g)	5
24	Microbact 24 E (80 samples) (packed by 40)	5
25	Microbact Software	1

26	Trypsin 1:250 from porcine activity:1000-1500 BAEE units, (100g bottle)	5
27	ELISA reader	1
28	UV Transilluminator & Safety spectacles,	1
29	PCR work station Biocap RNA/DNA,	1
30	ELISA magnetic stirrer with hot plate	1
31	CO <sub>2</sub> Incubator, 230V, 50/60Hz	1
32	Inverted Microscope	1

in one (1) lot.

to the National Veterinary Research Institute (NVRI), Vom-Nigeria, DDP<sup>1</sup>, and the implementation period and the implementation period is 45 days, in accordance with the summary contract notice.

- 1.2 The supplies must comply fully with the technical specifications set out in the tender dossier (technical annex) and conform in all respects with the drawings, quantities, models, samples, measurements and other instructions.
- 1.3 Tenderers are not authorised to tender for a variant solution in addition to the present tender.

## 2. Timetable

	DATE	TIME
<b>Clarification meeting / site visit (if any)</b>	Not applicable	Not applicable
<b>Deadline for requesting clarifications from the contracting authority</b>	15 <sup>th</sup> June 2023	-
<b>Last date on which clarifications are issued by the contracting authority</b>	28 <sup>th</sup> June 2023	-
<b>Deadline for submission of tenders</b>	As indicated in the Contract notice	
<b>Tender opening session</b>	6 <sup>th</sup> July 2023*	
<b>Notification of award to the successful tenderer</b>	20 <sup>th</sup> July 2023*	-
<b>Signature of the contract</b>	1 <sup>st</sup> August 2023	-

\* Provisional date

## 3. Participation

- 3.1. The eligibility requirements detailed in the Additional information about the contract notice (Annex A5f) or, if applicable, in the Contract Notice (C2), apply to all members of a joint venture/consortium and all subcontractors, as well as to all entities upon whose capacity the tenderer relies for the selection criteria. Every tenderer, member of a joint venture/consortium, every capacity-providing entity, every subcontractor must certify that they meet these

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<sup>1</sup> DDP (Delivered Duty Paid) / DAP (Delivered At Place) — Incoterms 2020 International Chamber of Commerce <http://www.iccwbo.org/incoterms/>



conditions. They must prove their eligibility by a document dated less than one year earlier than the deadline for submitting tenders, drawn up in accordance with their national law or practice or by copies of the original documents stating the constitution and/or legal status and the place of registration and/or statutory seat and, if it is different, the place of central administration. The contracting authority may accept other satisfactory evidence that these conditions are met.

- 3.2. Natural or legal persons are not entitled to participate in this tender procedure or be awarded a contract if they are in any of the situations mentioned in Sections 2.4. (EU restrictive measures), 2.6.10.1. (exclusion criteria) or 2.6.10.1.2. (rejection from a procedure) of the practical guide. Should they do so, their tender will be considered unsuitable or irregular respectively. In the cases listed in Section 2.6.10.1. of the practical guide tenderers may also be excluded from EU financed procedures and be subject to financial penalties up to 10% of the total value of the contract in accordance with the Financial Regulation in force. This information may be published on the Commission website in accordance with the Financial Regulation in force. Tenderers must provide declarations on honour<sup>2</sup> that they are not in any of these exclusion situations. Such declarations must also be submitted by all the members of a joint venture/consortium, by any sub-contractor and by any capacity providing entities. Tenderers who make false declarations may also incur financial penalties and exclusion in accordance with the Financial Regulation in force. Their tender will be considered irregular.

The exclusion situations referred to above also apply to all members of a joint venture/consortium, all subcontractors and all suppliers to tenderers, as well as to all entities upon whose capacity the tenderer relies for the selection criteria. In cases of doubt over declarations, the contracting authority will request documentary evidence that subcontractors and/or capacity providing entities are not in a situation that excludes them.

- 3.3. To be eligible to take part in this tender procedure, tenderers must prove to the satisfaction of the contracting authority that they comply with the necessary legal, technical and financial requirements and have the means to carry out the contract effectively.
- 3.4. Subcontracting is allowed. The tenderer and, where applicable, entities on whose capacities it has relied with regard to criteria relating to the economic and financial capacity shall be jointly liable for the performance of the contract.

When selecting subcontractors, suppliers should give preference to natural persons, companies or firms of ACP States capable of providing the supplies required on similar terms.

## **4. Origin**

- 4.1 All supplies under this contract must originate in one or more of the above countries.

Tenderers must provide an undertaking signed by their representative certifying compliance with this requirement. The tenderer is obliged to verify that the provided information is correct. Otherwise, the tenderer risks to be excluded because of negligently misrepresenting information. For more details, see Section 2.3.5. of the practical guide.

- 4.2 When submitting tenders, tenderers must state expressly that all the goods meet the requirements concerning origin and must state the countries of origin. They may be asked to provide additional information in this connection.

## **5. Type of contract**

Unit-price

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<sup>2</sup> See PRAG Section 2.6.10.1.3 A)

## 6. Currency

Tenders must be presented in Euro

## 7. Lots

This tender procedure is not divided into lots.

## 8. Period of validity

- 8.1 Tenderers will be bound by their tenders for a period of 90 days from the deadline for the submission of tenders.
- 8.2 In exceptional cases and prior to the expiry of the original tender validity period, the contracting authority may ask tenderers in writing to extend this period by 40 days. Such requests and the responses to them must be made in writing. Tenderers that agree to do so will not be permitted to modify their tenders and they are bound to extend the validity of their tender guarantees for the revised period of validity of the tender. If they refuse, without forfeiture of their tender guarantees, their participation in the tender procedure will be terminated. In case the contracting authority is required to obtain the recommendation of the panel referred to in Section 2.6.10.1.1. of the practical guide, the contracting authority may, before the validity period expires, request an extension of the validity of the tenders up to the adoption of that recommendation.
- 8.3 The successful tenderer will be bound by its tender for a further period of 60 days. The further period is added to the validity period of the tender irrespective of the date of notification.

## 9. Language of tenders

- 9.1 The tenders, all correspondence and documents related to the tender exchanged by the tenderer and the contracting authority must be written in the language of the procedure, which is English.

If the supporting documents are not written in one of the official languages of the European Union, a translation into the language of the call for tender must be attached. Where the documents are in an official language of the European Union other than English, it is strongly recommended to provide a translation into English, to facilitate evaluation of the documents.

## 10. Submission of tenders

- 10.1 **Tenders must be sent to the contracting authority before the deadline specified in Contract Notice.** They must include all the documents specified in point 11 of these Instructions and be sent to the following address:

Department of Internal Services,  
Procurement Division,  
1st Floor, ECOWAS Commission Headquarters,  
Plot 101, Yakubu Gowon Crescent,  
Asokoro District, Abuja, NIGERIA

**For submission of electronic copies send to:** [procurement@ecowas.int](mailto:procurement@ecowas.int) with copy to [sbangoura@ecowas.int](mailto:sbangoura@ecowas.int); [mtoure-litse@ecowas.int](mailto:mtoure-litse@ecowas.int); [mfouad@ecowas.int](mailto:mfouad@ecowas.int); [ikamara@ecowas.int](mailto:ikamara@ecowas.int) [neremie@ecowas.int](mailto:neremie@ecowas.int)

If the tenders are hand delivered they should be delivered to the following address:

Department of Internal Services,  
Procurement Division,  
1st Floor, ECOWAS Commission Headquarters,  
Plot 101, Yakubu Gowon Crescent,  
Asokoro District, Abuja, NIGERIA

Tenders must comply with the following conditions:

- 10.2 All tenders must be submitted in one original, marked 'original', and three (3) copies signed in the same way as the original and marked 'copies; and an electronic copy (PDF and Excel version) on a USB key provided at the same time as the physical tender.

## 11. Content of tenders

Failure to fulfil the below requirements will constitute an irregularity and may result in rejection of the tender. All tenders submitted must comply with the requirements in the tender dossier and comprise:

### Part 1: Technical offer:

- a detailed description of the supplies tendered in conformity with the technical specifications, including any documentation required.

The technical offer should be presented as per template (Annex II+III\*, Contractor's technical offer) adding separate sheets for details if necessary.

### Part 2: Financial offer:

- A financial offer calculated on a DDP<sup>3</sup> basis for the supplies tendered.

This financial offer should be presented as per template (Annex IV\*, Budget breakdown), adding separate sheets for details if necessary.

In case of doubt about the applicable VAT system, it is the tenderer's responsibility to contact his or her national authorities to clarify the way in which the European Union is exempt from VAT.

### Part 3: Documentation:

To be supplied using the templates attached\*:

- The "Tender form for a supply contract", together with Annex 1 "**Declaration on honour on exclusion criteria and selection criteria**", both duly completed, which includes the tenderer's declaration, point 7, (from each member if a consortium, and capacity-providing entities or subcontractors (if any)). Signed originals of the Declaration on honour shall be submitted.
- The details of the bank account into which payments should be made (financial identification form – document c4o1\_fif\_en) (tenderers that have already signed another contract with the European Commission, may provide their financial identification form number instead of the financial identification form, or a copy of the financial identification form provided on that occasion, if no change has occurred in the meantime.)
- The legal entity file (document c4o2\_lefind\_en) and the supporting documents (tenderers that have already signed another contract with the European Commission, may provide their legal entity number instead of the legal entity sheet and supporting documents, or a copy of

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<sup>3</sup> DDP (Delivered Duty Paid) — Incoterms 2020 International Chamber of Commerce <http://www.iccwbo.org/incoterms/>

the legal entity sheet provided on that occasion, if no change in legal status has occurred in the meantime).

To be supplied in free-text format:

- A description of the warranty conditions, which must be in accordance with the conditions laid down in Article 32 of the general conditions.
- Duly authorised signature: an official document (statutes, power of attorney, notary statement, etc.) proving that the person who signs on behalf of the company, joint venture or consortium is duly authorised to do so.

Remarks:

Tenderers are requested to follow this order of presentation.

Annex\* refers to templates attached to the tender dossier. These templates are also available on: [https://wikis.ec.europa.eu/display/ExactExternalWiki/Annexes#Annexes-AnnexesC\(Ch.4\):Supplies](https://wikis.ec.europa.eu/display/ExactExternalWiki/Annexes#Annexes-AnnexesC(Ch.4):Supplies)

## 12. Taxes and other charges

The applicable tax and customs arrangements are the following:

There is no agreement between the European Commission and the ECOWAS Commission allowing partial or full exemption from taxes.

General provisions regarding tax and customs arrangements are attached to the tender dossier.

## 13. Additional information before the deadline for submission of tenders

The tender dossier should be clear enough so that tenderers do not need to request additional information during the procedure. If the contracting authority, on its own initiative or in response to a request from a prospective tenderer, provides additional information on the tender dossier, it must send such information in writing to all other prospective tenderers at the same time.

Tenderers may submit questions in writing to the following address up to 21 days before the deadline for submission of tenders, **specifying the publication reference and the contract title: AOI N°: ECW/DEAA/RAHC/COMATAO/2023/02 - Supply of equipment and reagents to regional veterinary laboratories.**

The Director,  
Administration & General Services  
1st Floor ECOWAS Commission  
Plot 101, Yakubu Gowon Crescent, Asokoro District  
Abuja, NIGERIA  
E-mail: [procurement@ecowas.int](mailto:procurement@ecowas.int) with copy to [sbangoura@ecowas.int](mailto:sbangoura@ecowas.int); [mfouad@ecowas.int](mailto:mfouad@ecowas.int); [ikamara@ecowas.int](mailto:ikamara@ecowas.int) ; [neremie@ecowas.int](mailto:neremie@ecowas.int)

Any clarification of the tender dossier will be communicated simultaneously in writing to all tenderers at the latest 8 days before the deadline for submitting tenders.

Any prospective tenderers seeking to arrange individual meetings with either the contracting authority and/or the European Commission during the tender period may be excluded from the tender procedure.

## **14. Clarification meeting / site visit**

- 14.1 No clarification meeting / site visit planned. Visits by individual prospective tenderers during the tender period cannot be organised.

## **14. Alteration or withdrawal of tenders**

- 15.1 Tenderers may alter or withdraw their tenders by written notification prior to the deadline for submission of tenders. No tender may be altered after this deadline. Withdrawals must be unconditional and will end all participation in the tender procedure.

Any such notification of alteration or withdrawal must be prepared and submitted in accordance with Section 10. The outer envelope must be marked 'Alteration' or 'Withdrawal' as appropriate.

- 15.2 No tender may be withdrawn in the interval between the deadline for submission of tenders.1 and the expiry of the tender validity period. Withdrawal of a tender during this interval may result in forfeiture of the tender guarantee.

## **16. Costs of preparing tenders**

No costs incurred by the tenderer in preparing and submitting the tender are reimbursable. All such costs will be borne by the tenderer.

## **17. Ownership of tenders**

The contracting authority retains ownership of all tenders received under this tender procedure. Consequently, tenderers have no right to have their tenders returned to them.

## **18. Joint venture or consortium**

- 18.1 If a tenderer is a joint venture or consortium of two or more persons, the tender must be a single one with the object of securing a single contract, each person must sign the tender and will be jointly and severally liable for the tender and any contract. Those persons must designate one of their members to act as leader with authority to bind the joint venture or consortium. The composition of the joint venture or consortium must not be altered without the prior written consent of the contracting authority.

- 18.2 The tender may be signed by the representative of the joint venture or consortium only if it has been expressly so authorised in writing by the members of the joint venture or consortium, and the authorising contract, notarial act or deed must be submitted to the contracting authority in accordance with point 11 of these instructions to tenderers. All signatures to the authorising instrument must be certified in accordance with the national laws and regulations of each party comprising the joint venture or consortium together with the powers of attorney establishing, in writing, that the signatories to the tender are empowered to enter into commitments on behalf of the members of the joint venture or consortium. Each member of such joint venture or consortium must provide the proof required under Article 3.5 as if it, itself, were the tenderer.

## **19. Opening of tenders**

- 19.1 The purpose of the opening session is to check whether the tenders have been submitted in accordance with the submission requirements of the call for tenders.

- 19.2 The date and venue of the tender opening session is indicated in Section IV.2.7 of the Contract Notice.

The committee will draw up minutes of the meeting, which will be available on request.

- 19.3 At the tender opening, the tenderers' names, the tender prices, any discount offered, written notifications of alteration and withdrawal, the presence of the requisite tender guarantee (if required) and such other information as the contracting authority may consider appropriate may be announced.
- 19.4 After the public opening of the tenders, no information relating to the examination, clarification, evaluation of tenders, or recommendations concerning the award of the contract can be disclosed until after the contract has been awarded.
- 19.5 Any attempt by tenderers to influence the evaluation committee in the process of examination, clarification, evaluation and comparison of tenders, to obtain information on how the procedure is progressing or to influence the contracting authority in its decision concerning the award of the contract will result in the immediate rejection of their tenders.
- 19.6 All tenders received after the deadline for submission specified in the contract notice or these instructions will be kept by the contracting authority. The associated guarantees will be returned to the tenderers. No liability can be accepted for late delivery of tenders. Late tenders will be rejected and will not be evaluated.

## **20. Evaluation of tenders**

- 20.1 Examination of the administrative conformity of tenders

The aim at this stage is to check that tenders comply with the essential requirements of the tender dossier. A tender is deemed to comply if it satisfies all the conditions, procedures and specifications in the tender dossier without substantially departing from or attaching restrictions to them.

Substantial departures or restrictions are those which affect the scope, quality or execution of the contract, differ widely from the terms of the tender dossier, limit the rights of the contracting authority or the tenderer's obligations under the contract or distort competition for tenderers whose tenders do comply. Decisions to the effect that a tender is not administratively compliant must be duly justified in the evaluation minutes.

If a tender does not comply with the tender dossier, it will be rejected immediately and may not subsequently be made to comply by correcting it or withdrawing the departure or restriction.

- 20.2 Technical evaluation

After analysing the tenders deemed to comply in administrative terms, the evaluation committee will rule on the technical admissibility of each tender, classifying it as technically compliant or non-compliant.

The minimum qualifications required (see selection criteria in the additional information about the contract notice) are to be evaluated at the start of this stage.

Where contracts include after-sales service and/or training, the technical quality of such services will also be evaluated by using yes/no criteria as specified in the tender dossier.

- 20.3 In the interests of transparency and equal treatment and to facilitate the examination and evaluation of tenders, the evaluation committee may ask each tenderer individually for clarification of its tender including breakdowns of prices, within a reasonable time limit to be fixed by the evaluation committee. The request for clarification and the response must be in writing, but no change in the price or substance of the tender may be sought, offered or

permitted except as required to confirm the correction of arithmetical errors discovered during the evaluation of tenders pursuant to Article 20.4. Any such request for clarification must not distort competition. Decisions to the effect that a tender is not technically compliant must be duly justified in the evaluation minutes.

#### 20.4 Financial evaluation

- a) Tenders found to be technically compliant will be checked for any arithmetical errors in computation and summation. Errors will be corrected by the evaluation committee as follows:
  - where there is a discrepancy between amounts in figures and in words, the amount in words will be the amount taken into account;
  - except for lump-sum contracts, where there is a discrepancy between a unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price as quoted will be the price taken into account.
- b) Amounts corrected in this way will be binding on the tenderer. If the tenderer does not accept them, its tender will be rejected.
- c) Unless specified otherwise, the purpose of the financial evaluation process is to identify the tenderer offering the lowest price. Where specified in the technical specifications, the evaluation of tenders may take into account not only the acquisition costs but, to the extent relevant, costs borne over the life cycle of the supplies (such as for instance maintenance costs and operating costs), in line with the technical specifications. In such case, the contracting authority will examine in detail all the information supplied by the tenderers and will formulate its judgment on the basis of the lowest total cost, including additional costs.

#### 20.5 Variant solutions

Variant solutions will not be taken into consideration.

#### 20.6 Award criteria

The sole award criterion will be the price. The contract will be awarded to the lowest compliant tender.

#### 1.7 Documentary evidence for exclusion and selection criteria

At any time during the procurement procedure and before the award of the contract, the contracting authority may request documentary evidence on compliance with the exclusion criteria and selection criteria (financial, economic, technical and professional capacity) set out in these instructions. Please note that a request for evidence in no way implies that the tenderer has been successful. **All tenderers are invited to prepare in advance the documents related to the evidence, since they may be requested to provide such evidence within a short deadline.** In any event, the tenderer proposed by the evaluation committee for the award of the contract, will be requested to provide such evidence at short notice.

When requested, regarding the exclusion criteria, the tenderers should be able to provide the documentary proof or statements required under the law of the country in which the company (or, for consortia, each of the companies) is established, to show that it does not fall into any of the exclusion situations listed in Section 2.6.10.1. of the practical guide.

This evidence, documents or statements must be dated, no more than one year before the date of submission of the tender.

The above-mentioned documents must be submitted for every member of a joint venture/consortium, all subcontractors and every capacity providing entity.

The contracting authority may waive the obligation of any tenderer to submit the documentary evidence referred to above if such evidence has already been submitted for the purposes of another procurement procedure, provided that the issue date of the documents does not exceed one year and that they are still valid. In this case, the tenderer must declare on his/her honour that the documentary evidence has already been provided in a previous procurement procedure and confirm that his/her situation has not changed.

Where the documentary evidence submitted is in an official language of the European Union other than the one of the procedure, it is strongly recommended to provide a translation into the language of the procedure, in order to facilitate the evaluation of the documents.

Failure to provide valid documentary evidence at the request and within the deadline set by the Contracting Authority shall lead to the rejection of the tender for the award of the contract, unless the tenderer can justify the failure on the grounds of material impossibility.

If the successful tenderer fails to provide this documentary proof or statement or if the successful tenderer is found to have provided false information, the award will be considered null and void. In this case, the contracting authority may award the tender to the next lowest tenderer or cancel the tender procedure.

## **21. Notification of award**

By submitting a tender, each tenderer accepts to receive notification of the outcome of the procedure by electronic means. Such notification shall be deemed to have been received on the date upon which the contracting authority sends it to the electronic address referred to in the offer.

The contracting authority will inform all tenderers simultaneously and individually of the award decision. The tender guarantees of the unsuccessful tenderers will be released once the contract is signed. The successful tenderer will be informed in writing that its tender has been accepted (notification of award).

## **22. Signature of the contract and performance guarantee**

22.1 The contracting authority reserves the right to vary quantities specified in the tender by +/- 100% at the time of contracting and during the validity of the contract. The total value of the supplies may not, as a result of the variation rise or fall by more than 25% of the original financial offer in the tender. The unit prices quoted in the tender shall be used.

22.2 Within 30 days of receipt of the contract signed by the contracting authority, the selected tenderer must sign and date the contract and return it, with the performance guarantee (if applicable), to the contracting authority. On signing the contract, the successful tenderer will become the contractor and the contract will enter into force.

22.3 If it fails to sign and return the contract and any financial guarantee required within 30 days after receipt of notification, the contracting authority may consider the acceptance of the tender to be cancelled without prejudice to the contracting authority's right to seize the guarantee, claim compensation or pursue any other remedy in respect of such failure, and the successful tenderer will have no claim whatsoever on the contracting authority.

22.4 The performance guarantee referred to in the general conditions is set at **10%** of the amount of the contract. The performance guarantee must be presented in the form specified in the annex to the tender dossier. It will be released within 60 days of the issue of the final acceptance certificate by the contracting authority, except for the proportion assigned to after-sales service. For contracts of EUR 150 000 or below, on the basis of objective criteria such as the type and value of the contract, the contracting authority may decide not to require such a guarantee.



## 23. Tender guarantee

Tenderers must provide a tender guarantee of **EUR 3,000** when submitting their tender. The tender guarantee must be presented in the form specified in the annex to the tender dossier. It must remain valid for **45 days beyond the period of validity of the tender**. This guarantee will be called upon if the tenderer does not fulfil all obligations stated in its tender.

This guarantee will be released to unsuccessful tenderers once the tender procedure has been completed. The tender guarantee of the successful tenderer will be released on signing of the contract, once the performance guarantee has been submitted.

This guarantee will be called upon if the tenderer does not fulfil all obligations stated in its tender.

## 24. Ethics clauses and code of conduct

### 24.1 Absence of conflict of interest

The tenderer must not be affected by any conflict of interest and must have no equivalent relation in that respect with other tenderers or parties involved in the project. Any attempt by a tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the evaluation committee or the contracting authority during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of its tender and may result in administrative penalties according to the Financial Regulation in force.

### 24.2 Respect for human rights as well as environmental legislation and core labour standards

The tenderer and its personnel must comply with human rights and applicable data protection rules. In particular and in accordance with the applicable basic act, tenderers and applicants who have been awarded contracts must comply with the environmental legislation including multilateral environmental agreements, and with the core labour standards as applicable and as defined in the relevant International Labour Organisation conventions (such as the conventions on freedom of association and collective bargaining; elimination of forced and compulsory labour; abolition of child labour).

#### **Zero tolerance for sexual exploitation, abuse and harassment:**

The European Commission applies a policy of 'zero tolerance' in relation to all wrongful conduct which has an impact on the professional credibility of the tenderer.

Physical abuse or punishment, or threats of physical abuse, sexual abuse or exploitation, harassment and verbal abuse, as well as other forms of intimidation shall be prohibited.

### 24.3 Anti-corruption and anti-bribery

The tenderer shall comply with all applicable laws and regulations and codes relating to anti-bribery and anti-corruption. The European Commission reserves the right to suspend or cancel project financing if corrupt practices of any kind are discovered at any stage of the award process or during the execution of a contract and if the contracting authority fails to take all appropriate measures to remedy the situation. For the purposes of this provision, 'corrupt practices' are the offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a contract or execution of a contract already concluded with the contracting authority.

#### 24.4 Unusual commercial expenses

Tenders will be rejected or contracts terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expenses. Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a payee who is not clearly identified or commissions paid to a company which has every appearance of being a front company.

Contractors found to have paid unusual commercial expenses on projects funded by the European Union are liable, depending on the seriousness of the facts observed, to have their contracts terminated or to be permanently excluded from receiving EU funds.

#### 24.5 Breach of obligations, irregularities or fraud

The contracting authority reserves the right to suspend or cancel the procedure, where the award procedure proves to have been subject to breach of obligations, irregularities or fraud. If breach of obligations, irregularities or fraud are discovered after the award of the contract, the contracting authority may refrain from concluding the contract.

### **25. Cancellation of the tender procedure**

If a tender procedure is cancelled, tenderers will be notified by the contracting authority.

If the tender procedure is cancelled before the tender opening session the sealed envelopes will be returned, unopened, to the tenderers.

Cancellation may occur, for example, if:

- the tender procedure has been unsuccessful, namely where no suitable, qualitatively or financially acceptable tender has been received or there has been no valid response at all;
- the economic or technical parameters of the project have changed fundamentally;
- exceptional circumstances or *force majeure* render normal implementation of the project impossible;
- all technically acceptable tenders exceed the financial resources available;
- there have been breach of obligations, irregularities or frauds in the procedure, in particular where these have prevented fair competition;
- the award is not in compliance with sound financial management, i.e. does not respect the principles of economy, efficiency and effectiveness (e.g. the price proposed by the tenderer to whom the contract is to be awarded is objectively disproportionate with regard to the price of the market).

In no event will the contracting authority be liable for any damages whatsoever including, without limitation, damages for loss of profits, in any way connected with the cancellation of a tender procedure even if the contracting authority has been advised of the possibility of damages. The publication of a contract notice does not commit the contracting authority to implement the programme or project announced.

### **26. Appeals**

Tenderers believing that they have been harmed by an error or irregularity during the award process may file a complaint. See Section 2.12. of the practical guide.

## 27. Data Protection

Processing of personal data related to this tender procedure by the contracting authority takes place in accordance with the national legislation of the state of the contracting authority and with the provisions of the respective financing agreement.

The tender procedure and the contract relate to an external action funded by the EU, represented by the European Commission. If processing your reply to the invitation to tender involves transfer of personal data (such as names, contact details and CVs) to the European Commission, they will be processed solely for the purposes of the monitoring of the procurement procedure and of the implementation of the contract by the Commission, for the latter to comply with its obligations under the applicable legislative framework and under the financing agreement concluded between the EU and the Partner Country without prejudice to possible transmission to the bodies in charge of monitoring or inspection tasks in application of EU law. For the part of the data transferred by the contracting authority to the European Commission, the controller for the processing of personal data carried out within the Commission is

the head of legal affairs unit of DG International Partnerships

Details concerning processing of your personal data by the Commission are available on the privacy statement at:

[https://wikis.ec.europa.eu/display/ExactExternalWiki/Annexes#Annexes-AnnexesA\(Ch.2\):General](https://wikis.ec.europa.eu/display/ExactExternalWiki/Annexes#Annexes-AnnexesA(Ch.2):General)

## 28. Early detection and exclusion system

The tenderers and, if they are legal entities, persons who have powers of representation, decision-making or control over them, are informed that, should they be in one of the situations of early detection or exclusion, their personal details (name, given name if natural person, address, legal form and name and given name of the persons with powers of representation, decision-making or control, if legal person) may be registered in the early detection and exclusion system, and communicated to the persons and entities listed in the above-mentioned decision, in relation to the award or the execution of a procurement contract.

**B. DRAFT CONTRACT AND SPECIAL CONDITIONS,  
INCLUDING ANNEXES**

# DRAFT CONTRACT

## SUPPLY CONTRACT FOR EUROPEAN UNION EXTERNAL ACTIONS

NO <Contract number>

### FINANCED FROM THE EDF

ECOWAS Commission / Regional Animal Health Center (RAHC), 101 Yakubu Gowon Crescent A  
(‘The contracting authority’),

of the one part,

and

<Full official name of contractor>  
[<Legal status/title>]  
[<Official registration number>]  
<Full official address>  
[<VAT number>, (‘the contractor’)]

of the other part,

have agreed as follows:

### PROJECT

**Regional Dialogue and Investment Project for Pastoralism and Trans-human in the Sahel and in the coastal countries of Africa West (PREDIP)**

### CONTRACT TITLE

**Supply of equipment and reagents to regional veterinary laboratories**

**Identification number** AOI N°: ECW/DEAA/RAHC/COMATAO/2023/02

#### Article 1 Subject

The subject of the contract shall be: the supply, delivery, unloading, (installing - where applicable), of the following supplies in one (1) lot.

The place of acceptance of the supplies shall be the National Veterinary Research Institute (NVRI), Vom-Nigeria, the time limits for delivery shall be a maximum of 45 days after start

date of contract, 17:00hrs and the Incoterm applicable shall be DDP<sup>4</sup>. The implementation period of tasks shall run from start of implementation of tasks to provisional acceptance (a maximum of 45 days).

N°	Description of item	Quantity
1	PPR c-ELISA kit, PPRC-10P (1 bag/4 plates)	1
2	PPR S-ELISA, PPRAG-2P kit (1 bag/4 plates)	1
3	Cell Culture, Tubes, 3mL (1 bag/1000 pcs)	2
4	Opti-MEM&Trade I Reduce Serum Medium, 500 ML	10
5	Syringe filters 13 mm Dia 0.2 µm Pore Size (1 bag/100 pcs)	5
6	Fœtal Bovine Serum (FSB) Triple 0.1 µm Sterile Filtered (500 ml)	45
7	African green monkey kidney Vero C1008, clone E6 cells (Tube of 25 ml)	1 tube
8	FMDV-NSP ELISA Kit, (1 pack/1000 samples)	1
9	FMDV Antigen Serotype O, A, SAT1, SAT2 (1 pack/150 Isolates)	5
10	Montanide Gel 02 (1 drum of 1000 litres)	2
11	Macconkey Agar (500g)	5
12	Eosine Methylene Blue (500 g)	5
13	Triple Sugar Iron Agar, (500 g)	5
14	Blood Agar base, (500 g)	5
15	Mueller Hinton Agar (500 g)	5
16	Salmonella shigella Agar base, (500 g)	5
17	Yeast Extract, (500 g)	5
18	Fluid Thioglycolate Medium, (500 g)	5
19	Reinforced Clostridial Medium (Broth) (200 ml)	5
20	Sabouraud Dextrose Agar Base, (500 g)	4
21	Buffered Peptone (500 g)	5
22	Cysteine Tryptophane Agar, (500 g)	3
23	Nutrien Agar, (500 g)	5
24	Microbact 24 E (80 samples) (packed by 40)	5
25	Microbact Software	1
26	Trypsin 1:250 from porcine activity:1000-1500 BAEE units, (100g bottle)	5
27	ELISA reader	1
28	UV Transilluminator & Safety spectacles,	1
29	PCR work station Biocap RNA/DNA,	1
30	ELISA magnetic stirrer with hot plate	1
31	CO <sub>2</sub> Incubator, 230V, 50/60Hz	1
32	Inverted Microscope	1

<sup>4</sup> DDP (Delivered Duty Paid) - Incoterms 2020 International Chamber of Commerce - <http://www.iccwbo.org/incoterms/>

- 1.2 The contractor shall comply strictly with the terms of the special conditions and the technical annex.

## **Article 2 Origin**

The rules of origin of the goods are defined in Article 10 of the special conditions.

When required, a certificate of origin for the goods must be provided by the contractor at the latest when it requests provisional acceptance of the goods. Failure to comply with this condition may result in the termination of the contract and/or suspension of payment.

## **Article 3 Price**

- 3.1 The price of the supplies shall be that shown on the financial offer (specimen in Annex IV). The total maximum contract price shall be EUR <insert price>
- 3.2 Payments shall be made in accordance with the general and/or special conditions (Articles 26 to 28).

## **Article 4 Order of precedence of contract documents**

The contract is made up of the following documents, in order of precedence:

- the contract agreement;
- the special conditions
- the general conditions (Annex I);
- the technical specifications (Annex II [including clarifications before the deadline for submission of tenders and minutes from the information meeting/site visit];
- the technical offer (Annex III [including clarifications from the tenderer provided during tender evaluation])
- the budget breakdown (Annex IV);
- specified forms and other relevant documents (Annex V);

The various documents making up the contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they shall prevail in the order in which they appear above.

## **Article 5 Other specific conditions applying to the contract**

For the purpose of Article 44 of the general conditions, for the part of the data transferred by the contracting authority to the European Commission:

- (a) the controller for the processing of personal data carried out within the Commission is

For DG INTPA the head of legal affairs unit of DG International Partnerships.

- (b) the data protection notice is available at [https://wikis.ec.europa.eu/display/ExactExternalWiki/Annexes#Annexes-AnnexesA\(Ch.2\):General](https://wikis.ec.europa.eu/display/ExactExternalWiki/Annexes#Annexes-AnnexesA(Ch.2):General)

Done in English in three originals, one original being for the contracting authority, one original being for the European Commission and one original being for the contractor.

**For the contractor**

Name:

Title:

Signature:

Date:

**For the contracting authority**

Name:

Title:

Signature:

Date:



## ***SPECIAL CONDITIONS***

### **CONTENTS**

These conditions amplify and supplement, if necessary, the general conditions governing the contract. Unless the special conditions provide otherwise, those general conditions remain fully applicable. The numbering of the articles of the special conditions is not consecutive but follows the numbering of the articles of the general conditions. In exceptional cases, and with the authorisation of the appropriate Commission departments, other clauses may be added to cover specific situations.

#### **Article 2 Language of the contract**

- 2.1 The language used shall be English.

#### **Article 4 Communications**

##### 4.1 **For the Contracting Authority**

**Prof. Nazifi Abdullahi Darma**  
**Commissioner for Internal Services**  
ECOWAS Commission  
101 Yakubu Gowon Crescent  
Asokoro, Abuja

##### **For the Contractor**

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.....  
.....  
.....

- 4.2 An electronic system will be used by the contracting authority and the contractor for all stages of implementation including, inter alia, management of the contract (amendments and administrative orders), reporting (including reporting on results) and payments. The contractor will be required to register in and use the appropriate electronic exchange system to allow for the e-management of the contract.

The electronic management of the contract through the aforementioned system may commence on the date on which implementation of the contract starts, as described in Article 18 below, or at a later date. In the latter case, the contracting authority will inform the contractor in writing that he will be required to use the electronic system for all communications within a maximum period of 3 months.

#### **Article 6 Subcontracting**

- 6.3 When selecting subcontractors the contractor must give preference to natural persons or companies from ACP States capable of implementing the tasks required on similar terms.

## Article 9 General obligations

- 9.9 The Contractor shall take the necessary measures to ensure the visibility of the European Union financing or co-financing. These activities must comply with the rules lay down in the Communication and Visibility Manual for EU External Actions published on the EuropeAid Website: [https://international-partnerships.ec.europa.eu/knowledge-hub/communicating-and-raising-eu-visibility-guidance-external-actions\\_en](https://international-partnerships.ec.europa.eu/knowledge-hub/communicating-and-raising-eu-visibility-guidance-external-actions_en)

## Article 10 Origin

- 10.1 All goods purchased must originate in an eligible source country as defined in the 11<sup>th</sup> EDF Programme. For these purposes, ‘origin’ means the place where the goods are mined, grown, produced or manufactured. The origin of the goods must be determined according to the EU Customs Code or to the relevant international agreement applicable.

Goods originating in the EU includes goods originating in the Overseas Countries and Territories.

## Article 11 Performance guarantee

- 11.1 No performance guarantee is required.

## Article 12 Liabilities and insurance

12.2(b), paragraph 2 In the case of use of Incoterms, the contractor shall provide transport insurance to the extent that it assumes transportation risks. The question of the extent of the risks assumed by the contractor (seller) depends in particular on the Incoterms used:

- **DDP - Delivered Duty Paid:** Incoterm which imposes on the seller maximum obligations vis-à-vis transportation and loss risks and damage associated with the goods:  
*‘the seller delivers the goods when the goods are placed at the disposal of the buyer, cleared for import on the arriving means of transport ready for unloading at the named place of destination. The seller bears all the costs and risks involved in bringing the goods to the place of destination and has an obligation to clear the goods not only for export but also for import, to pay any duty for both export and import and to carry out all customs formalities.’*<sup>5</sup> The transfer of risks and costs occurs at the place of unloading of the goods at the agreed place of destination.

## Article 13 Programme of implementation of tasks

- 13.2 Within five (5) working days of the commencement of the contract, the Contractor shall submit the programme for the implementation of the tasks to the Contracting Authority. The Contracting Authority shall approve the programme within (5) working days after receipt of the programme of implementation of tasks.

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<sup>5</sup> See <http://www.iccwbo.org/incoterms/>

All items must be delivered within 45 calendar days of the signing of the contract by the Contractor.

#### **Article 18 Commencement order**

18.1 The contracting authority shall inform the contractor by administrative order of the date on which implementation of the tasks shall begin.

#### **Article 19 Period of implementation of the tasks**

19.1 The implementation period of the tasks shall be 45 calendar days in relation to the date stipulated in Article 18.1.

#### **Article 24 Quality of supplies**

24.2 A preliminary technical acceptance will be required to ascertain compliance with the Technical Specifications based either on samples or entire supplies as will be determined by the Contracting Authority.

The quality of supplies must comply with the Technical Specifications.

#### **Article 25 Inspection and testing**

25.2 The supplies will be inspected and tested in accordance with Article 25 of the General Conditions. The testing will take place at the place of delivery.

#### **Article 26 General principles for payments**

26.1 Payments shall be made in euros

Payments shall be authorised and made by:

The Contracting Authority

Commissioner for Internal Services

ECOWAS Commission

101 Yakubu Gowon Crescent, Asokoro, Abuja, Nigeria

Email: [ndarma@ecowas.int](mailto:ndarma@ecowas.int); [procurement@ecowas.int](mailto:procurement@ecowas.int) with copy to:  
[sbangoura@ecowas.int](mailto:sbangoura@ecowas.int) ; [mfouad@ecowas.int](mailto:mfouad@ecowas.int)

26.5 In order to obtain payments, the contractor must forward to the authority referred to in paragraph 26.1 above:

a) For the 40% pre-financing, the pre-financing guarantee

b) For the 60 % balance, the invoice(s) in triplicate together with the request for provisional acceptance of the supplies.

26.9 This is a fixed price contract. There shall be no price revision.

#### **Article 28 Delayed payments**

28.2 By derogation from Article 28.2 of the general conditions, once the deadline laid down in Article 26.3 has expired, the contractor shall, upon demand, be entitled to late-

payment interest at the rate and for the period mentioned in the general conditions. The demand must be submitted within two months of receiving late payment.

## **Article 29 Delivery**

29.3 The Contractor shall bear all risks pertaining to the goods until provisional acceptance at destination. The supplies shall be packaged to prevent their damage or deterioration in transit to their destination. The packaging shall become the property of the recipient subject to environmental considerations.

29.5/6/7 Each supply delivery shall be accompanied by a statement drawn up by the Contractor, accompanied by a waybill indicating the types and quantities of items supplied. Waterproof material shall be used to boldly label and identify the package for each item.

Each supply delivery shall be accompanied by the following documents where applicable:

- a) User Manuals
- b) Packing list
- c) Warranty Certificate
- d) Copy of the Certificate of Origin

Each delivery must be accompanied by markings on the packaging stating: the Contractor's name, the Contract reference, the description and quantity of the supplies, and the address of delivery. Such information must also be stated in a document transmitted to the Beneficiary at the address of delivery (with copy transmitted simultaneously to the Contracting Authority at the address indicated under Article 4 of these Special Conditions).

## **Article 31 Provisional acceptance**

The certificate of provisional acceptance must be issued using the template in Annex C11.

31.2. By derogation from Article 31.2, second paragraph, the contracting authority's time limit for issuing the certificate of provisional acceptance to the contractor shall not be considered included in the time limit for payments indicated in Article 26.3.

## **Article 40 Settlement of disputes**

40.4 Any dispute arising out of or relating to this contract which cannot be settled otherwise shall:

- (a) in the case of a national contract, be settled in accordance with the national legislation of the state of the contracting authority; and
- (b) in the case of a transnational contract, be settled either:
  - (i) if the parties to the contract so agree, in accordance with the national legislation of the state of the contracting authority or its established international practices; or
  - (ii) by arbitration in accordance with the procedural rules on conciliation and arbitration of contracts financed by the European Development Fund, adopted

by Decision 3/90 of the ACP-EEC Council of Ministers of 29 March 1990  
(Official Journal No L 382, 31.12.1990, Annex a12 to the practical guide)

#### **Article 44 Data protection**

1. Processing of personal data related to the implementation of the contract by the contracting authority takes place in accordance with the national legislation of the state of the contracting authority and with the provisions of the respective financing agreement.

2. To the extent that the contract covers an action financed by the European Union, the Contracting Authority may share communications related to the implementation of the contract, with the European Commission. These exchanges shall be made to the Commission, solely for the purpose of allowing the latter to exercise its rights and obligations under the applicable legislative framework and under the financing agreement with the Partner country – contracting authority. The exchanges may involve transfers of personal data (such as names, contact details, signatures and CVs) of natural persons involved in the implementation of the contract (such as contractors, personnel, experts, trainees, subcontractors, insurers, guarantors, auditors and legal counsel). In cases where the contractor is processing personal data in the context of the implementation of the contract, he/she shall accordingly inform the data subjects of the possible transmission of their data to the Commission. When personal data is transmitted to the Commission, the latter processes them in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC<sup>6</sup> and as detailed in the specific privacy statement published at ePRAG.

\* \* \*

**(Please click the link: [a12\\_conciliationandarbiration\\_en.pdf](#) to download A12 Annex V to Decision No 3/90 of the ACP-EEC Council of Ministers of 29 March 1990 adopting the general regulations, the general conditions and the rules governing the conciliation and arbitration procedure for contracts financed under the EDF)**

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<sup>6</sup> OJ L 205 of 21.11.2018, p. 39

# ANNEX I

## GENERAL CONDITIONS

### ANNEX I: GENERAL CONDITIONS

#### FOR SUPPLY CONTRACTS FINANCED BY THE EUROPEAN UNION OR BY THE EUROPEAN DEVELOPMENT FUND

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## **PRELIMINARY PROVISIONS**

### **Article 1 - Definitions**

1.1. The headings and titles in these general conditions shall not be taken as part thereof or be taken into consideration in the interpretation of the contract.

1.2. Where the context so permits, words in the singular shall be deemed to include the plural and vice versa, and words in the masculine shall be deemed to include the feminine and vice versa.

1.3. Words designating persons or parties shall include firms and companies and any organisation having legal capacity.

1.4. The definitions of the terms used throughout these general conditions are laid down in the 'Glossary of terms', Annex A1a to the practical guide, which forms an integral part of the contract.

### **Article 2 - Language of the contract**

2.1. The language of the contract and of all communications between the contractor, contracting authority and project manager or their representatives shall be as stated in the special conditions.

### **Article 3 - Order of precedence of contract documents**

3.1. The order of precedence of the contract documents shall be stated in the contract.

### **Article 4 - Communications**

4.1. Any written communication relating to this contract between the contracting authority or the project manager, and the contractor shall state the contract title and identification number, and shall be sent by post, cable, telex, facsimile transmission, e-mail or personal delivery, to the appropriate addresses designated by the parties for that purpose in the special conditions.

4.2. If the sender requires evidence of receipt, it shall state such requirement in its communication and shall demand such evidence of receipt whenever there is a deadline for the receipt of the communication. In any event, the sender shall take all the necessary measures to ensure timely receipt of its communication.

4.3. Wherever the contract provides for the giving or issue of any notice, consent, approval, certificate or decision, unless otherwise specified such notice, consent, approval, certificate or decision shall be in writing and the words 'notify', 'consent', 'certify', 'approve' or 'decide' shall be construed accordingly. Any such consent, approval, certificate or decision shall not unreasonably be withheld or delayed.

4.4. Any oral instructions or orders shall be confirmed in writing.

### **Article 5 - Assignment**

5.1. An assignment shall be valid only if it is a written agreement by which the contractor transfers its contract or part thereof to a third party.



- 5.2. The contractor shall not, without the prior consent of the contracting authority, assign the contract or any part thereof, or any benefit or interest thereunder, except in the following cases:
- a) a charge, in favour of the contractor's bankers, of any monies due or to become due under the contract; or
  - b) the assignment to the contractor's insurers of the contractor's right to obtain relief against any other person liable in cases where the insurers have discharged the contractor's loss or liability.
- 5.3. For the purpose of Article 5.2, the approval of an assignment by the contracting authority shall not relieve the contractor of its obligations for the part of the contract already performed or the part not assigned.
- 5.4. If the contractor has assigned the contract without authorisation, the contracting authority may, without formal notice thereof, apply as of right the sanction for breach of contract provided for in Articles 35 and 36.
- 5.5. Assignees shall satisfy the eligibility criteria applicable for the award of the contract and they shall not fall under the exclusion criteria described in the tender dossier.

## **Article 6 - Subcontracting**

- 6.1. A subcontract shall be valid only if it is a written agreement by which the contractor entrusts performance of a part of the contract to a third party.
- 6.2. The contractor shall request to the contracting authority the authorisation to subcontract. The request must indicate the elements of the contract to be subcontracted and the identity of the subcontractors. The contracting authority shall notify the contractor of its decision within 30 days of receipt of the request, stating reasons should it withhold such authorisation.
- 6.3. Subcontractors shall satisfy the eligibility criteria applicable for the award of the contract. They shall not fall under the exclusion criteria described in the tender dossier and the contractor shall ensure that they are not subject to EU restrictive measures.
- 6.4. No subcontract creates contractual relations between any subcontractor and the contracting authority.
- 6.5. The contractor shall be responsible for the acts, defaults and negligence of its subcontractors and their agents or employees, as if they were the acts, defaults or negligence of the contractor, its agents or employees. The approval by the contracting authority of the subcontracting of any part of the contract or of the subcontractor to perform any part of the tasks shall not relieve the contractor of any of its obligations under the contract.
- 6.6. If a subcontractor has undertaken any continuing obligation extending for a period exceeding that of the warranty period under the contract towards the contractor in respect of the supplies provided by the subcontractor, the contractor must, at any time after the expiration of the warranty period, transfer immediately to the contracting authority, at the contracting authority's request and cost, the benefit of such obligation for the unexpired duration thereof.
- 6.7. If the contractor enters into a subcontract without approval, the contracting authority may, without formal notice thereof, apply as of right the sanction for breach of contract provided for in Articles 35 and 36.

6.8. If a subcontractor is found by the contracting authority or the project manager to be incompetent in discharging its duties, the contracting authority or the project manager may request the contractor forthwith, either to provide a subcontractor with qualifications and experience acceptable to the contracting authority as a replacement, or to resume the implementation of the tasks itself.

## **OBLIGATIONS OF THE CONTRACTING AUTHORITY**

### **Article 7 - Supply of documents**

7.1. Save where otherwise provided in the special conditions, within 30 days of the signing of the contract, the contracting authority shall provide the contractor, free of charge, with a copy of the drawings prepared for the implementation of the tasks and a copy of the specifications and other contract documents. The contractor may purchase additional copies of these drawings, specifications and other documents, in so far as they are available. Upon final acceptance, the contractor shall return to the contracting authority all drawings, specifications and other contract documents.

7.2. The contracting authority shall co-operate with the contractor to provide information that the latter may reasonably request in order to perform the contract.

7.3. The contracting authority shall notify the contractor of the name and address of the project manager.

7.4. Unless it is necessary for the purposes of the contract, the drawings, specifications and other documents provided by the contracting authority shall not be used or communicated to a third party by the contractor without the prior consent of the contracting authority.

7.5. The project manager shall have authority to issue to the contractor administrative orders incorporating such supplementary documents and instructions as are necessary for the proper execution of the contract and the remedying of any defects therein.

7.6. The special conditions must indicate the procedure used, if necessary, by the contracting authority and the project manager to approve drawings and other documents provided by the contractor.

### **Article 8 - Assistance with local regulations**

8.1. The contractor may request the assistance of the contracting authority in obtaining copies of laws, regulations and information on local customs, orders or bye-laws of the country where the supplies are to be delivered which may affect the contractor in the performance of its obligations under the contract. The contracting authority may provide the assistance requested to the contractor at the contractor's cost.

8.2. The contractor shall duly notify the contracting authority of details of the supplies so that the contracting authority can obtain the requisite permits or import licences.

8.3. The contracting authority will undertake to obtain, in accordance with the special conditions, the requisite permits or import licences within a reasonable period, taking account of the implementation dates for the tasks.

8.4. Subject to the provisions of the laws and regulations on foreign labour of the country in which the supplies are to be delivered, the contracting authority provides reasonable assistance to the

contractor, at its request, for its application for any visas and permits required by the law of the country in which the supplies are to be delivered, including work and residence permits, for the personnel whose services the contractor and the contracting authority consider necessary, as well as residence permits for their families.

## **OBLIGATIONS OF THE CONTRACTOR**

### **Article 9 - General obligations**

9.1. The contractor shall execute the contract with due care, efficiency and diligence in accordance with the best professional practice.

9.2. The contractor shall, in accordance with the provisions of the contract, supply (deliver, unload, commission) the supplies and carry out any other work including the remedying of any defects in the supplies. The supply may include, as an incidental matter, siting and installation operations. The contractor shall also provide all necessary equipment, supervision, labour and facilities required for the implementation of the tasks.

9.3. The contractor shall comply with administrative orders given by the project manager. Where the contractor considers that the requirement of an administrative order goes beyond the scope of the contract, it shall, give notice with reasons to the project manager. If the contractor fails to notify within 30 days period after receipt thereof, he shall be barred from so doing. Execution of the administrative order shall not be suspended because of this notice.

9.4. The contractor shall supply, without delay, any information and documents to the contracting authority and the European Commission upon request, regarding the conditions in which the contract is being executed.

9.5. The contractor shall respect and abide by all laws and regulations in force in the country where the supplies are to be delivered and shall ensure that its personnel, their dependants, and its local employees also respect and abide by all such laws and regulations. The contractor shall indemnify the contracting authority against any claims and proceedings arising from any infringement by the contractor, its employees and their dependants of such laws and regulations.

9.6. Should any unforeseen event, action or omission directly or indirectly hamper performance of the contract, either partially or totally, the contractor shall immediately and at its own initiative record it and report it to the contracting authority. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the contractor to ensure full compliance with its obligations under the contract. In such event the contractor shall give priority to solving the problem rather than determining liability.

9.7. Subject to Article 9.9, the contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to the performance of the contract without the prior consent of the contracting authority. The contractor shall continue to be bound by this undertaking after completion of the tasks and shall obtain from each member of its –personnel the same undertaking. However, use of the contract's reference for marketing or tendering purposes does not require prior approval of the contracting authority, except where the contracting authority declares the contract to be confidential.

9.8. If the contractor is a joint venture or a consortium of two or more persons, all such persons shall be jointly and severally bound in respect of the obligations under the contract, including any

recoverable amount. The person designated by the consortium to act on its behalf for the purposes of the contract shall have the authority to bind the consortium and is the sole interlocutor for all contractual and financial aspects. The composition or the constitution of the joint venture or consortium shall not be altered without the prior consent of the contracting authority. Any alteration of the composition of the consortium without the prior consent of the contracting authority may result in the termination of the contract.

9.9. Save where the European Commission requests or agrees otherwise, the contractor shall take all relevant measures to ensure the highest visibility to the financial contribution of the European Union. Additional communication activities required by the European Commission are described in the Special Conditions. All visibility and, if applicable, communication activities must comply with the latest Communication and Visibility Requirements for EU-funded external action, laid down and published by the European Commission.

The Parties will consult immediately and endeavour to remedy any detected shortcomings in implementing the visibility and, if applicable, communication requirements set out in this Article and in the special conditions. Failure to perform the obligations set out in this article and in the special conditions can constitute a breach of contract in the sense of Article 35 of these general conditions, and can lead to corresponding measures taken by the Contracting Authority, including suspension of payment and/or a reduction of the final payment in proportion of the seriousness of the breach of obligations.

9.10. Any records shall be kept for a 7-year period after the final payment made under the contract. In case of failure to maintain such records the contracting authority may, without formal notice thereof, apply as of right the sanction for breach of contract provided for in Articles 35 and 36.

## **Article 9a - Code of conduct**

9a.1 The contractor shall at all times act impartially and as a faithful adviser in accordance with the code of conduct of its profession. It shall refrain from making public statements about the project without the prior approval of the contracting authority. It shall not commit the contracting authority in any way without its prior consent and shall, where appropriate, make this obligation clear to third parties.

Physical abuse or punishment, or threats of physical abuse, sexual abuse or exploitation, harassment and verbal abuse, as well as other forms of intimidation shall be prohibited. The contractor shall also provide to inform the contracting authority of any breach of ethical standards or code of conduct as set in the present Article. In case the contractor is aware of any violations of the abovementioned standards he shall report in writing within 30 days to the contracting authority

9a.2 The contractor and its personnel shall respect human rights and applicable data protection rules.

9a.3 The contractor shall respect environmental legislation applicable in the country where the supplies have to be delivered and internationally agreed core labour standards, i.e. the ILO core labour standards, conventions on freedom of association and collective bargaining, elimination of forced and compulsory labour, elimination of discrimination in respect of employment and occupation, and the abolition of child labour, as well as applicable obligations established by these conventions:

- Vienna Convention for the protection of the Ozone Layer and its Montreal Protocol on substances that deplete the Ozone Layer;

- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention);
- Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention);
- Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (UNEP/FAO) (The PIC Convention) Rotterdam, 10 September 1998, and its 3 regional Protocols.

9.a.4 The contractor or any of its subcontractors, agents or personnel shall not abuse of its entrusted power for private gain. The contractor or any of its subcontractors, agents or personnel shall not receive or agree to receive from any person or offer or agree to give to any person or procure for any person, gift, gratuity, commission or consideration of any kind as an inducement or reward for performing or refraining from any act relating to the performance of the contract or for showing favour or disfavour to any person in relation to the contract. The contractor shall comply with all applicable laws and regulations and codes relating to anti-bribery and anti-corruption.

9.a.5 The payments to the contractor under the contract shall constitute the only income or benefit it may derive in connection with the contract. The contractor and its personnel must not exercise any activity or receive any advantage inconsistent with their obligations under the contract.

9.a.6 The execution of the contract shall not give rise to unusual commercial expenses. Unusual commercial expenses are commissions not mentioned in the contract or not stemming from a properly concluded contract referring to the contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company. The European Commission may carry out documentary or on-the-spot checks it deems necessary to find evidence in case of suspected unusual commercial expenses.

The respect of the code of conduct set out in the present Article constitutes a contractual obligation. Failure to comply with the code of conduct is always deemed to be a breach of the contract under Article 35 of the General Conditions. In addition, failure to comply with the provision set out in the present Article can be qualified as grave professional misconduct that may lead either to suspension or termination of the contract, without prejudice to the application of administrative sanctions including exclusion from participation in future contract award procedures.

## **Article 9b Conflict of interest**

9.b.1 The contractor shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of the contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which may arise during performance of the contract shall be notified to the contracting authority without delay. In the event of such conflict, the contractor shall immediately take all necessary steps to resolve it.

9.b.2 The contracting authority reserves the right to verify that such measures are adequate and may require additional measures to be taken if necessary. The contractor shall ensure that its personnel, including its management, is not placed in a situation which could give rise to conflict of interests. Without prejudice to its obligation under the contract, the contractor shall replace, immediately and without compensation from the contracting authority, any member of its personnel exposed to such a situation.

9.b.3 The contractor shall refrain from any contact which would compromise its independence or that of its personnel.

9.b.4 The contractor shall limit its role in connection with the project to the provision of the supplies described in the contract.

9.b.5 The contractor and anyone working under its authority or control in the performance of the contract or on any other activity may be excluded from access to other EU budget/EDF funds available under the same project. However, if the contractor is able to prove that his involvement in previous stage of the project does not constitute unfair competition, he may participate, subject to prior approval of the contracting authority.

## **Article 10 - Origin**

10.1. Under the Multiannual Financial Framework 2014-2020 (contracts/lots below EUR 100 000 under CIR) and under the Multiannual Financial Framework 2021-2027, with the exception of the INSC Regulation 2021/948 of 27 May 2021: All goods purchased can originate in any country.

Under the Multiannual Financial Framework 2014-2020 (contracts/lots above EUR 100 000 under CIR and independently of the value for other instruments) and for contracts financed by the INSC Regulation 2021/948 of 27 May 2021 under the Multiannual Financial Framework 2021-2027:

10.2. All goods shall have their origin in any eligible source country as defined in the instructions to tenderers and the special conditions.

10.3. The contractor must certify that the goods tendered comply with this requirement, specifying their countries of origin. It may be required to provide more detailed information in this respect.

10.4.1 The contractor shall document the origin at the time of provisional acceptance. Failure to comply with this obligation may lead, after formal notice, to termination of the contract and/or suspension of payment.

## **Article 11 - Performance guarantee**

11.1. The contractor shall, together with the return of the countersigned contract, furnish to the contracting authority with a guarantee for the full and proper execution of the contract. The amount of the guarantee shall be as specified in the special conditions. It shall be in the range of 5 and 10% of the total contract price, including any amounts stipulated in addenda to the contract.

11.2. The performance guarantee shall be held against payment to the contracting authority for any loss resulting from the contractor's failure to perform its contractual obligations under the contract.

11.3. The performance guarantee shall be in the format provided for in the contract and may be provided in the form of a bank guarantee, a banker's draft, a certified cheque, a bond provided by an insurance and/or bonding company, an irrevocable letter of credit or a cash deposit made with the contracting authority. If the performance guarantee is to be provided in the form of a bank guarantee, a banker's draft, a certified cheque or a bond, it shall be issued by a bank or bonding and/or insurance company approved by the contracting authority.

11.4. The performance guarantee shall be denominated in the currency in which the contract is payable. No payments shall be made in favour of the contractor prior to the provision of the guarantee. The guarantee shall continue to remain valid until the contract has been fully and properly performed.

11.5. During the execution of the contract, if the natural or legal person providing the guarantee (i) is not able or willing to abide by its commitments, (ii) is not authorised to issue guarantees to contracting authorities, or (iii) appears not to be financially reliable, the guarantee shall be replaced. The contracting authority shall give formal notice to the contractor to provide a new guarantee on the same terms as the previous one. Should the contractor fail to provide a new guarantee, the contracting authority may terminate the contract.

11.6. The contracting authority shall demand payment from the guarantee of all sums for which the guarantor is liable under the guarantee due to the contractor's default under the contract, in accordance with the terms of the guarantee and up to the value thereof. The guarantor shall, without delay, pay those sums upon demand from the contracting authority and may not raise any objection for any reason whatsoever. Prior to making any claim under the performance guarantee, the contracting authority shall notify the contractor stating the nature of the default in respect of which the claim is to be made.

11.7. Unless the special conditions provide otherwise, the performance guarantee shall be released within 60 days of the issuing of the signed final acceptance certificate for its total amount except for amounts which are the subject of amicable settlement, arbitration or litigation.

## **Article 12 - Liabilities and insurance**

### 12.1. Liabilities

The liability rules described below are without prejudice to the possible application of international conventions on the carriage of goods.

#### a) Liability for damage to supplies

Without prejudice to Article 32 (warranty obligations) and Article 38 (force majeure), the contractor shall assume (i) full responsibility for maintaining the integrity of the supplies and (ii) the risk of loss and damage, whatever their cause, until the final acceptance as foreseen in Article 34.

Compensation for damage to the supplies resulting from the contractor's liability in respect of the contracting authority is capped at an amount equal to one million euros if the contract value is less than or equal to one million euros. If the contract value is greater than one million euros, compensation for damages resulting from the contractor's liability shall be capped to the contract value.

However, compensation for loss or damage resulting from fraud or gross negligence of the contractor, its personnel, its subcontractors and any person for which the contractor is answerable, can in no case be capped.

#### b) Contractor's liability in respect of the contracting authority

At any time, the contractor shall be responsible for and shall indemnify the contracting authority for any damage caused to the contracting authority by the contractor, its personnel, its subcontractors and any person for which the contractor is answerable.

Compensation for damage resulting from the contractor's liability in respect of the contracting authority is capped at an amount equal to one million euros if the contract value is less than or equal to one million euros. If the contract value is greater than one million euros, compensation for damages resulting from the contractor's liability shall be capped to the contract value.

However, compensation for loss or damage resulting from the contractor's liability in case of bodily injury, including death, can in no case be capped. The same applies to compensation for any damages of any kind resulting from fraud or gross negligence of the contractor, its personnel, its subcontractors and any person for which the contractor is answerable.

c) Contractor's liability in respect of third parties

The contractor shall, at its own expense, indemnify, protect and defend, the contracting authority, its agents and employees, from and against all actions, claims, losses or damage, direct or indirect, of whatever nature (hereinafter 'claim(s)') arising from any act or omission by the contractor, its personnel, its subcontractors and/or any person for which the contractor is answerable, in the performance of its duties.

The contracting authority must notify any third party claim to the contractor as soon as possible after the contracting authority becomes aware of them.

If the contracting authority chooses to challenge and defend itself against the claim(s), the contractor shall bear the reasonable costs of defence incurred by the contracting authority, its agents and employees.

Under these general conditions, the agents and employees of the contracting authority, as well as the contractor's personnel, its subcontractors and any person for which the contractor is answerable are considered to be third parties.

The contractor shall treat all claims in close consultation with the contracting authority

Any settlement or agreement settling a claim requires the prior express consent of the contracting authority and the contractor.

## 12.2. Insurance

a) Insurance – general issues

At the latest together with the return of the countersigned contract, and for the period of implementation of the tasks, the contractor shall ensure that itself, its personnel, its subcontractors and any person for which the contractor is answerable, are adequately insured with insurance companies recognized on the international insurance market, unless the contracting authority has given its express written consent on a specific insurance company.

At the latest together with the return of the countersigned contract, the contractor shall provide the contracting authority with all cover notes and/or certificates of insurance showing that the contractor's obligations relating to insurance are fully respected. The contractor shall submit without delay, whenever the contracting authority or the project manager so requests, an updated version of the cover notes and/or certificates of insurance.

The contractor shall obtain from the insurers that they commit to personally and directly inform the contracting authority of any event likely to reduce, cancel or alter in any manner whatsoever, that coverage. The insurers shall deliver this information as quickly as possible, and in any event at least thirty (30) days before the reduction, cancellation or alteration of the cover is effective. The contracting authority reserves the right to indemnify the insurer in case the contractor fails to pay the premium, without prejudice to the contracting authority's right to recover the amount of the premium it paid, and to subsequently seek compensation for its possible resulting damage.



Whenever possible, the contractor shall ensure that the subscribed insurance contracts contain a waiver of recourse in favour of the contracting authority, its agents and employees.

The purchase of adequate insurances by the contractor shall in no case exempt it from its statutory and/or contractual liabilities.

The contractor shall fully bear the consequences of a total or partial lack of coverage, and to the full discharge of the contracting authority.

The contractor shall ensure that its personnel, its subcontractors and any person for which the contractor is answerable comply with the same insurance requirements imposed to it under this contract. In case of default of insurance or inadequate insurance of its personnel, its subcontractors or any person for which the contractor is answerable, the contractor shall indemnify the contracting authority from all consequences resulting therefrom.

Under its own responsibility and without prejudice to the obligation to take out all insurance covering its obligations under this contract, the contractor shall ensure that all compulsory insurances are subscribed in compliance with the laws and regulations in force in the country in which the duties are to be performed. It shall also ensure that all possible statutory obligations applying to the coverage are complied with.

The contracting authority shall not bear any liability for the assessment and adequacy of insurance policies taken out by the contractor with its contractual and/or statutory obligations.

#### b) Insurance – Specific issues

The contractor shall take out all insurance necessary to cover its liability, both with regard to its professional liability and its liability as provided under Article 12.1 ‘Liabilities’. The contractor shall in particular subscribe a products and after delivery insurance.

Depending on the nature of the contractor's obligations, the contracting authority may require that the carriage of supplies be covered by a ‘transportation’ insurance policy; the conditions of which may be specified in the special conditions, which may also specify other types of insurance to be taken out by the contractor. This insurance shall in particular cover the loading, intermediate storage, unloading, including stowage and protection, if such operations are included in the contract.

### **Article 13 - Programme of implementation of the tasks**

13.1. If the special conditions so require, the contractor shall submit a programme of implementation of the tasks for the approval of the project manager. The programme shall contain at least the following:

- a) the order in which the contractor proposes to perform the contract including design, manufacture, delivery to place of receipt, installation, testing and commissioning;
- b) the time limits within which submission and approval of the drawings are required;
- c) a general description of the methods which the contractor proposes to adopt for executing the contract; and
- d) such further details and information as the project manager may reasonably require.

13.2. The special conditions shall specify the time limit within which the programme of implementation of the tasks must be submitted to the project manager for approval. They may set time limits within which the contractor must submit all or part of the detailed drawings, documents and items. They shall also state the deadline for the project

manager's approval or acceptance of the programme of implementation, detailed drawings, documents and items.

- 13.3. The approval of the programme by the project manager shall not relieve the contractor of any of its obligations under the contract.
- 13.4. No material alteration to the programme shall be made without the approval of the project manager. If, however, the progress of the implementation of the tasks does not conform to the programme, the project manager may instruct the contractor to submit a revised programme in accordance with the procedure laid down in Article 13.

#### **Article 14 - Contractor's drawings**

14.1. If the special conditions so provide, the contractor shall submit to the project manager for approval:

- a) the drawings, documents, samples and/or models, according to the time limits and procedures laid down in the special conditions or in the programme of implementation of the tasks;
- b) such drawings as the project manager may reasonably require for the implementation of the tasks.

14.2. If the project manager fails to notify its decision of approval referred to in Article 14.1 within the time limits referred to in the contract or the approved programme of implementation of the tasks, such drawings, documents, samples or models shall be

deemed to be approved at the end of the time limits specified. If no time limit is specified, they shall be deemed to be approved 30 days after receipt.

14.3. Approved drawings, documents, samples and models shall be signed or otherwise identified by the project manager and shall not be departed from except as otherwise instructed by the project manager. Any contractor's drawings, documents, samples or models which the project manager refuses to approve shall be modified to meet the requirements of the project manager and resubmitted by the contractor for approval. Within 15 days of being notified of the project manager's remarks, the contractor shall make the requisite corrections, adjustments etc. to the documents, drawings etc. The corrected or adjusted documents, drawings etc. shall be resubmitted for the project manager's approval under the same procedure.

14.4. The contractor shall supply additional copies of approved drawings in the form and numbers stated in the contract or in subsequent administrative orders.

14.5. The approval of the drawings, documents, samples or models by the project manager shall not relieve the contractor from any of its obligations under the contract.

14.6. The project manager shall have the right at all reasonable times to inspect all drawings, documents, samples or models relating to the contract at the contractor's premises.

14.7. Before provisional acceptance of the supplies, the contractor shall supply operation and maintenance manuals together with drawings, which shall be in such detail as will enable the contracting authority to operate, maintain, adjust and repair all parts of the supplies. Unless otherwise stated in the special conditions, the manuals and drawings shall be in the language of the contract and in such forms and numbers as stated in the

contract. The supplies shall not be considered completed for the purpose of provisional acceptance until such manuals and drawings have been supplied to the contracting authority.

## **Article 15 - Sufficiency of tender prices**

15.1. Subject to any additional provisions which may be laid down in the special conditions, the contractor shall be deemed to have satisfied itself before submitting its tender as to the correctness and sufficiency of the tender and to have taken account of all that is required for the full and proper implementation of the tasks and to have included in its rates and prices all costs related to the supplies, in particular:

- a) the costs of transport;
- b) the costs of handling, packing, loading, unloading, transit, delivery, unpacking, checking, insurance and other administrative costs in connection with the supplies. The packaging shall be the property of the contracting authority unless otherwise provided in the special conditions;
- c) the cost of documents relating to the supplies where such documents are required by the contracting authority;
- d) execution and supervision of on-site assembly and/or commissioning of the delivered supplies;
- e) furnishing of tools required for assembly and/or maintenance of the delivered supplies;
- f) furnishing of detailed operation and maintenance manuals for each unit of the delivered supplies, as specified in the contract;
- g) supervision or maintenance and/or repair of the supplies, for a period of time stated in

the contract, with the stipulation that this service shall not release the contractor from any warranty obligations under the contract;

- h) training of the contracting authority's personnel, at the contractor's factory and/or elsewhere as specified in the contract.

15.2. Since the contractor is deemed to have determined its prices on the basis of its own calculations, operations and estimates, it shall carry out without additional charge any work that is the subject of any item whatsoever in its tender for which it neither indicates a unit price nor a lump sum.

## **Article 16 - Tax and customs arrangements**

16.1. Save where otherwise provided in the special conditions, the terms of delivery of the goods shall be DDP (Delivered Duty Paid) – Incoterms 2020, International Chamber of Commerce.

## **Article 17 - Patents and licences**

17.1. Save where otherwise provided in the special conditions, the contractor shall indemnify and hold the contracting authority harmless for all damages and cost incurred due to any claim brought by any third party including creators and intermediaries for alleged or actual violations of intellectual, industrial or other property rights of any kind whatsoever based on the contracting authority's use as specified in the contract of patents, licenses, drawings, designs, models, or brand or trademarks,

except where such infringement results from compliance with the design or specification provided by the contracting authority.

17.2. All industrial, intellectual and other property rights (including but not limited to patent rights and copyright) developed in connection with the tasks by or on behalf of the contractor, including but not limited to any rights in any documents prepared for the purpose of the contract or the tasks, shall remain vested in the contractor but the contracting authority shall have an irrevocable, royalty-free, non-exclusive licence of the above-mentioned rights for the purpose of the contract.

Such licence shall carry the right to grant sub-licences and shall be transferable by the contracting authority to third parties without the consent of the contractor being required.

All industrial, intellectual and other property rights (including but not limited to patent rights and copyright) developed in connection with the tasks by or on behalf of the contracting authority, including but not limited to any rights in any documents prepared for the purpose of the contract or the tasks, shall remain vested in the contracting authority but the contractor shall have the right at its cost to copy, use and obtain communication of these documents for the purpose of the contract.

Upon and notwithstanding any termination of the contract howsoever arising, as well as after completion of the tasks, the contracting authority shall continue to have the benefit of the licence referred to in Article 17.2, first paragraph.

## **IMPLEMENTATION OF THE TASKS AND DELAYS**

### **Article 18 - Commencement order**

18.1. Subject to the special conditions, the contracting authority shall fix the date on which implementation of the tasks is to commence and advise the contractor thereof either in the notification of award of the contract or by administrative order.

18.2. Save where the parties agree otherwise, implementation of the tasks shall begin no later than 90 days following notification of award of contract. Unless this delay results from the contractor default, after that date the contractor shall be entitled not to implement the contract and to obtain its termination and/or compensation for the damage it has suffered. The contractor shall forfeit this right unless it exercises it within 30 days of the expiry of the 90-day period.

### **Article 19 - Period of implementation of the tasks**

19.1. The period of implementation of tasks shall commence on the date fixed in accordance with Article 18 and shall be as laid down in the special conditions, without prejudice to extensions of the period which may be granted under Article 20.

19.2. If provision is made for distinct periods of implementation of the tasks for separate lots, in cases where one contractor is awarded more than one lot per contract, the periods of implementation of the tasks for the separate lots shall not be accumulated.

### **Article 20 - Extension of period of implementation of the tasks**

20.1. The contractor may request an extension to the period of implementation of the tasks if it is or will be delayed in completing the contract by any of the following reasons:

- a) exceptional weather conditions in the country of the contracting authority which may affect installation or erection of the supplies;
- b) artificial obstructions or physical conditions which may affect delivery of the supplies, which could not reasonably have been foreseen by an experienced contractor;
- c) administrative orders affecting the date of completion other than those arising from the contractor's default;
- d) failure of the contracting authority to fulfil its obligations under the contract;
- e) any suspension of the delivery and/or installation of the supplies which is not due to the contractor's default;
- f) force majeure;
- g) extra or additional supplies ordered by the contracting authority;
- h) any other causes referred to in these general conditions which are not due to the contractor's default.

20.2. If the contractor considers himself to be entitled to any extension of the period of implementation under the contract, the contractor shall

- a) give notice to the project manager of its intention to make such a request no later than 15 days after the contractor became aware, or should have become aware of the event or circumstance giving rise to the request.
- b) If the contractor fails to give notice of a request for extension of the period of implementation within such period of 15 days, the period of implementation shall not be extended and the contracting authority shall be discharged from all liability in connection with the request; and
- c) submit to the project manager full and detailed particulars of the request, within 30 days from the above notification unless otherwise agreed between the contractor and the supervisor, in order that such request may be investigated at the time.

20.3. Within 30 days from the receipt of the contractor's detailed particulars of the request, the project manager shall in agreement with the contracting authority, by notice to the contractor, grant such extension of the period of implementation of the tasks as may be justified, either prospectively or retrospectively, or inform the contractor that it is not entitled to an extension.

## **Article 21 - Delays in implementation of the tasks**

21.1. If the contractor fails to deliver any or all of the goods or perform the services within the period of implementation of the tasks specified in the contract, the contracting authority shall, without formal notice and without prejudice to its other remedies under the contract, be entitled to liquidated damages for every day, or part thereof, which shall elapse between the end of the period of implementation of the tasks, or extended period of implementation of the tasks under article 20, and the actual date of completion. The daily rate of liquidated damages is 5/1000 of the value of the undelivered supplies to a maximum of 15% of the total contract price.

21.2. If the non-delivery of any of the goods prevents the normal use of the supplies as a whole, the liquidated damages provided for in Article 21.1 shall be calculated on the basis of the total contract price.

21.3. If the contracting authority has become entitled to claim at least 15% of the total contract price it may, after giving notice to the contractor:

- seize the performance guarantee; and/or
- terminate the contract,
- enter into a contract with a third party for the provision of the balance of the supplies at the contractor's cost.

## **Article 22 - Amendments**

22.1. Contract amendments must be formalised by a contract addendum signed by both parties or by an administrative order issued by the project manager or the contracting authority. Substantial amendments to the contract, including amendments to the total contract price, must be made by means of an addendum. Any contractual amendments must respect the general principles defined in the practical guide.

22.2. Subject to the limits of the procedure thresholds set in the practical guide, the contracting authority reserves the right to vary by an administrative order the quantities per lot or per item by +/- 100 % at the time of contracting and during the validity of the contract. The total value of the supplies may not rise or fall as a result of the variation by more than 25% of the tender price. The unit prices quoted in the tender shall be applicable to the quantities procured under the variation.

22.3. The project manager and the contracting authority shall have the power to order any amendment to any part of the supplies necessary for the proper completion and/or functioning of the supplies. Such amendments by administrative order may include additions, omissions, substitutions, changes in quality, quantity, form, character, kind, as well as in drawings, designs or specifications where the supplies are to be specifically manufactured for the contracting authority, in method of shipment or packing, place of delivery, and in the specified sequence, method or timing of implementation of the tasks. No administrative order shall have the effect of invalidating the contract, but the financial effect, if any, of all such amendments shall be valued in accordance with Article 22.7.

22.4. All administrative orders shall be issued in writing, it being understood that:

- a) if, for any reason, the project manager or the contracting authority finds it necessary to give an order orally, it shall as soon as possible thereafter confirm the order by an administrative order;
- b) if the contractor confirms in writing an oral order given for the purpose of Article 22.4.a and the confirmation is not contradicted in writing forthwith by the project manager or the contracting authority, the project manager or the contracting authority shall be deemed to have issued an administrative order;
- c) no administrative order is required to increase or decrease the quantity of any incidental siting or installation because the estimates in the budget breakdown were too high or too low.

22.5. Save where Article 22.4 provides otherwise, prior to issuing an administrative order, the project manager or the contracting authority shall notify the contractor of the nature and form of such amendment. The contractor shall then, without delay, submit to the project manager a written proposal containing:

- a description of the tasks, if any, to be performed or the measures to be taken and a programme of implementation of the tasks;
- any necessary amendments to the programme of implementation of the tasks or to any of the contractor's obligations resulting from this contract; and
- any adjustment to the total contract price in accordance with the rules set out in Article 22.

22.6. Following the receipt of the contractor's submission referred to in Article 22.5, the project manager shall, after due consultation with the contracting authority and, where appropriate, the contractor, decide without delay whether or not to accept the amendment. If the project manager accepts the amendment, it shall notify the contractor through an administrative order stating that the contractor shall carry out the amendment at the prices and under the conditions given in the contractor's submission referred to in Article 22.5 or as modified by the project manager in accordance with Article 22.7.

22.7. The prices for all amendments ordered by the project manager or the contracting authority in accordance with Articles 22.4 and 22.6 shall be ascertained in accordance with the following principles:

- where the task is of similar character and implemented under similar conditions as an item priced in the budget breakdown, it shall be valued at such rates and prices contained therein;
- where the task is not of a similar character or is not implemented under similar conditions, the rates and prices in the contract shall be used as the basis for valuation as far as is reasonable, failing which the project manager shall make a fair valuation;
- if the nature or amount of any amendment relative to the nature or amount of the whole contract or to any part thereof is such that, in the opinion of the project manager, any rate or price contained in the contract for any item of work is, by reason of such amendment, rendered unreasonable, the project manager shall fix such rate or price as he thinks reasonable and proper in the circumstances;
- where an amendment is required by a default or breach of contract by the contractor, any additional cost attributable to such amendment shall be borne by the contractor.

22.8. On receipt of the administrative order, the contractor shall carry out the requested amendment according to the following principles:

- a) The contractor shall be bound by these general conditions as if the amendment requested by administrative order were stated in the contract.
- b) The contractor shall not delay the execution of the administrative order pending the granting of any extension of time for completion or adjustment to the total contract price.
- c) Where the administrative order precedes the adjustment to the total contract price, the contractor shall keep records of the costs of undertaking the amendment and of the time expended thereon. Such records shall be open to inspection by the project manager at all reasonable times.

22.9. The contractor shall notify the contracting authority of any change of bank account, using the form in Annex V. The contracting authority shall have the right to oppose the contractor's change of bank account.

## **Article 23 - Suspension**

23.1. The contractor shall, on the order of the contracting authority, suspend the execution of the contract or any part thereof for such time or times and in such manner as the contracting authority

may consider necessary. The suspension shall take effect on the day the contractor receives the order or at a later date when the order so provides.

23.2. Suspension in the event of presumed breach of obligations or irregularities or fraud:

The contract may be suspended in order to verify whether presumed breach of obligations or irregularities or fraud occurred during the award procedure or the performance of the contract. If these are not confirmed, performance of the contract shall resume as soon as possible.

23.3. During the period of suspension, the contractor shall protect and secure the supplies affected at the contractor's warehouse or elsewhere, against any deterioration, loss or damage to the extent possible and as instructed by the project manager, even if supplies have been delivered to the place of acceptance in accordance with the contract but their installation has been suspended by the project manager.

23.4. Additional expenses incurred in connection with such protective measures may be added to the total contract price, unless:

- a) otherwise provided for in the contract; or
- b) such suspension is necessary by reason of some breach or default of the contractor; or
- c) such suspension is necessary by reason of normal climatic conditions at the place of acceptance; or
- d) such suspension is necessary for the safety or the proper execution of the contract or any part thereof insofar as such necessity does not arise from any act or default by the project manager or the contracting authority or
- e) the presumed breach of obligations or irregularities or fraud mentioned in article 23.2 are confirmed and attributable to the contractor.

23.5. The contractor shall only be entitled to such additions to the total contract price if it notifies the project manager, within 30 days after receipt of the order to suspend the contract, of its intention to claim them.

23.6. The contracting authority, after consulting the contractor, shall determine such additions to the total contract price and/or extension of the period of performance to be granted to the contractor in respect of such claim as shall, in the opinion of the contracting authority, be fair and reasonable.

23.7. The contracting authority shall, as soon as possible, order the contractor to resume the contract suspended or inform the contractor that it terminates the contract. If the period of suspension exceeds 180 days and the suspension is not due to the contractor's breach or default, the contractor may, by notice to the contracting authority, request to proceed with the contract within 30 days, or terminate the contract.

## **MATERIALS AND WORKMANSHIP**

### **Article 24 - Quality of supplies**

24.1. The supplies must in all respects satisfy the technical specifications laid down in the contract and conform in all respects to the drawings, surveys, models, samples, patterns and other



requirements in the contract, which shall be held at the disposal of the contracting authority or the project manager for the purposes of identification throughout the period of execution.

24.2. Any preliminary technical acceptance stipulated in the special conditions shall be the subject of a request sent by the contractor to the project manager. The request shall indicate the reference to the contract, specify the materials, items and samples submitted for such acceptance according to the contract and indicate the lot number and the place where acceptance is to take place, as appropriate. The materials, items and samples specified in the request must be certified by the project manager as meeting the requirements for such acceptance prior to their incorporation in the supplies.

24.3. Even if materials or items to be incorporated in the supplies or in the manufacture of components to be supplied have been technically accepted in this way, they may still be rejected if a further examination reveals defects or faults, in which case they must immediately be replaced by the contractor. The contractor may be given the opportunity to repair and make good materials and items which have been rejected, but such materials and items will be accepted for incorporation in the supplies only if they have been repaired and made good to the satisfaction of the project manager.

## **Article 25 - Inspection and testing**

25.1. The contractor shall ensure that the supplies are delivered to the place of acceptance in time to allow the project manager to proceed with acceptance of the supplies. The contractor is deemed to have fully appreciated the difficulties which it might encounter in

this respect, and it shall not be permitted to advance any grounds for delay in fulfilling its obligations.

25.2. The project manager shall be entitled to inspect, examine measure and test the components, materials and workmanship, and check the progress of preparation, fabrication or manufacture of anything being prepared, fabricated or manufactured for delivery under the contract, in order to establish whether the components, materials and workmanship are of the requisite quality and quantity. This shall take place at the place of manufacture, fabrication, preparation or at the place of acceptance or at such other places as may be specified in the special conditions.

25.3. For the purposes of such tests and inspections, the contractor shall:

- a) provide the project manager, temporarily and free of charge, with such assistance, test samples or parts, machines, equipment, tools, labour, materials, drawings and production data as are normally required for inspection and testing;
- b) agree, with the project manager, on the time and place for tests;
- c) provide access to the project manager at all reasonable times to the place where the tests are to be carried out.

25.4. If the project manager is not present on the date agreed for tests, the contractor may, unless otherwise instructed by the project manager, proceed with the tests, which shall be deemed to have been made in the project manager's presence. The contractor shall immediately send duly certified copies of the test results to the project manager, who shall, if it has not attended the test, be bound by the test results.

25.5. When components and materials have passed the above-mentioned tests, the project manager shall notify the contractor or endorse the contractor's certificate to that effect.

- 25.6. If the project manager and the contractor disagree on the test results, each shall give a statement of its views to the other within 15 days of such disagreement arises. The project manager or the contractor may require such tests to be repeated on the same terms and conditions or, if either party so requests, by an expert selected by common consent. All test reports shall be submitted to the project manager, who shall communicate the results of these tests without delay to the contractor. The results of retesting shall be conclusive. The cost of retesting shall be borne by the party whose views are proved wrong by the retesting.
- 25.7. In the performance of their duties, the project manager and any person authorised by him shall not disclose to unauthorised persons information concerning the undertaking's methods of manufacture and operation obtained through inspection and testing.

## **PAYMENTS**

### **Article 26 - General principles**

26.1. Payments shall be made in euro or national currency as specified in the special conditions. The special conditions shall lay down the administrative or technical conditions governing payments of pre-financing and final payments made in accordance with the general conditions.

26.2. Payments due by the contracting authority shall be made to the bank account mentioned on the financial identification form completed by the contractor. The same form, annexed to the invoice, must be used to report changes of bank account.

26.3. Pre-financing payment shall be made within 30 days from the date on which an admissible invoice is registered by the contracting authority. The invoice shall not be admissible if one or more essential requirements are not met. Final payment shall be made within 60 days from the date on which an invoice is registered by the contracting authority, together with the request for provisional acceptance as per article 31.2. The date of payment shall be the date on which the paying account is debited.

26.4. The period referred to in article 26.3 may be suspended by notifying the contractor that the invoice cannot be fulfilled because the sum is not due, because appropriate substantiating documents have not been provided or because there is evidence that the expenditure might not be eligible. In the latter case, an inspection may be carried out on the spot for the purpose of further checks. The contractor shall provide clarifications, modifications or further information within 30 days of being asked to do so. The payment period shall continue to run from the date on which a properly drawn-up invoice is registered.

26.5. The payments shall be made as follows:

- a) 40% of the total contract price after the signing of the contract, against provision of the performance guarantee and of a pre-financing guarantee for the full amount of the pre-financing payment, unless otherwise provided for in the special conditions. The pre-financing guarantee shall be provided to the contracting authority following the procedure foreseen for the performance guarantee in accordance with Article 11.3-5, and in accordance with the format annexed to the contract. The pre-financing guarantee must remain valid until it is released 30 days at the latest after the provisional acceptance of the goods. Where the contractor is a public body, the obligation for a pre-financing guarantee may be waived depending on a risk assessment made;

- b) 60% of the total contract price, as payment of the balance, after receipt by the contracting authority of an invoice and of the application for the certificate of provisional acceptance;
- 26.6. Where only part of the supplies has been delivered, the 60% payment due following partial provisional acceptance shall be calculated on the value of the supplies which have actually been accepted and the security shall be released accordingly.
- 26.7. For supplies not covered by a warranty period, the payments listed above shall be aggregated. The conditions to which the payments of pre-financing and final payments are subject, shall be as stated in the special conditions.
- 26.8. The payment obligations of the European Commission under this contract shall cease at most 18 months after the end of the period of implementation of the tasks, unless the contract is terminated in accordance with these general conditions.
- 26.9. Unless otherwise stipulated in the special conditions, the contract shall be at fixed prices, which shall not be revised.
- 26.10. The contractor undertakes to repay any amounts paid in excess of the final amount due to the contracting authority before the deadline indicated in the debit note which is 45 days from the issuing of that note. Should the contractor fail to make repayment within the above deadline, the contracting authority may (unless the contractor is a government department or public body of a Member State of the European Union) increase the amounts due by adding interest:
- at the rediscount rate applied by the central bank of the country of the contracting authority if payments are in the currency of that country;
  - at the rate applied by the European Central Bank to its main refinancing transactions in euro, as published in the Official Journal of the European Union, C series, where payments are in euro,

on the first day of the month in which the time-limit expired, plus eight percentage points. The default interest shall be incurred over the time which elapses between the date of the payment deadline, and the date on which payment is actually made. Any partial payments shall first cover the interest thus established.

Amounts to be repaid to the contracting authority may be offset against amounts of any kind due to the contractor. This shall not affect the parties' right to agree on payment in instalments. Bank charges arising from the repayment of amounts due to the contracting authority shall be borne entirely by the contractor.

Without prejudice to the prerogative of the contracting authority, if necessary, the European Union may as donor proceed itself to the recovery by any means.

- 26.11. If the contract is terminated for any reason whatsoever, the guarantee securing the pre-financing may be invoked forthwith in order to repay the balance of the pre-financing still owed by the contractor, and the guarantor shall not delay payment or raise objection for any reason whatever.
- 26.12. Prior to, or instead of, terminating the contract as provided for in Article 36, the contracting authority may suspend payments as a precautionary measure without prior notice.

26.13. Where the award procedure or the performance of the contract proves to have been subject to breach of obligations, irregularities or fraud attributable to the contractor, the contracting authority may in addition to the possibility to suspend the performance of the contract in accordance with Article 23.2 and to terminate the contract as provided for in Article 36, suspend payments and/or recover amounts already paid, in proportion to the seriousness of the breach of obligations, irregularities or fraud. In addition to measures referred above, the contracting authority may reduce the contract value in proportion to the seriousness of the irregularities, fraud or of the breach of obligations, including where the activities concerned were not implemented or were implemented poorly, partially or late. The measures described in this paragraph may equally be adopted by the European Commission in pursuance of its administrative powers under the Financial Regulation. (Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018, OJ-L 193/30.07.2018, p.1).

### **Article 27 - Payment to third parties**

27.1. Orders for payments to third parties may be carried out only after an assignment made in accordance with Article 5. The assignment shall be notified to the contracting authority.

27.2. Notification of beneficiaries of the assignment shall be the sole responsibility of the contractor.

27.3. In the event of a legally binding attachment of the property of the contractor affecting payments due to him under the contract, and without prejudice to the time limit laid down in Article 26, the contracting authority shall have 30 days, starting from the day on which it receives notification of the definitive lifting of the obstacle to payment, to resume payments to the contractor.

### **Article 28 - Delayed payments**

28.1. The contracting authority shall pay the contractor sums due in accordance with Article 26.3.

28.2. Once the time-limit referred to in Article 26.3 has expired, the contractor – unless the contractor is a government department or public body in European Union Member State- shall, within two months of receipt of the late payment, receive default interest:

- at the rediscount rate applied by the central bank of the partner country if payments are in the currency of that country ;
- at the rate applied by the European Central Bank to its main refinancing transactions in euro, as published in the Official Journal of the European Union, C series, if payments are in euro,

on the first day of the month in which the time-limit expired, plus eight percentage points. The interest shall be payable for the time elapsed between the expiry of the payment deadline and the date on which the contracting authority's account is debited. However, when the interest calculated in accordance with the first subparagraph is lower than or equal to EUR 200, it shall be paid to the creditor only upon a demand submitted within two months of receiving late payment.

28.3. Any default in payment of more than 90 days from the expiry of the period laid down in Article 26.3 shall entitle the contractor either not to perform the contract or to terminate it, according to Article 37.

## **ACCEPTANCE AND MAINTENANCE**

### **Article 29 - Delivery**

29.1. The contractor shall deliver the supplies in accordance with the conditions of the contract. The supplies shall be at the risk of the contractor until their final acceptance.

29.2. The contractor shall provide such packaging of supplies as is required to prevent their damage or deterioration in transit to their destination as indicated in the contract. The packaging shall be sufficient to withstand, without limitation, rough handling, exposure to extreme temperatures, salt and precipitation during transit and open storage. Package size and weight shall take into consideration, where appropriate, the remoteness of the final destination of the supplies, and the possible absence of heavy handling facilities at all points in transit.

29.3. The packaging, marking and documentation inside and outside the packages shall comply with such requirements as shall be expressly provided for in the special conditions,

subject to any amendments subsequently ordered by the project manager or the contracting authority.

29.4. No supplies shall be shipped or delivered to the place of acceptance until the contractor has received a delivery order from the project manager. The contractor shall be responsible for the delivery at the place of acceptance of all supplies and supplier's equipment required for the purpose of the contract.

29.5. Each delivery must be accompanied by a statement drawn up by the contractor. This statement shall be as specified in the special conditions.

29.6. Each package shall be clearly marked in accordance with the special conditions.

29.7. Delivery shall be deemed to have been made when there is written evidence available to both parties that delivery of the supplies has taken place in accordance with the terms of the contract, and the invoice(s) and all such other documentation specified in the special conditions, have been submitted to the contracting authority. Where the supplies are delivered to an establishment of the contracting authority, the latter shall bear the responsibility of bailee, in accordance with the requirements of the law applicable to the contract, during the time which elapses between delivery for storage and acceptance.

### **Article 30 - Verification operations**

30.1. The supplies shall not be accepted until the prescribed verifications and tests have been carried out at the expense of the contractor. The verifications and tests may be conducted before shipment, at the point of delivery and/or at the final destination of the goods.

30.2. The project manager shall, during the progress of the delivery of the supplies and before the supplies are taken over, have the power to order or decide:

- a) the removal from the place of acceptance, within such time or times as may be specified in the order, of any supplies which, in the opinion of the project manager, are not in accordance with the contract;
- b) their replacement with proper and suitable supplies;

- c) the removal and proper re-installation, notwithstanding any previous test thereof or of any installation which in respect of materials, workmanship or design for which the contractor is responsible, is not, in the opinion of the project manager, in accordance with the contract;
  - d) that any work done or goods supplied or materials used by the contractor is or are not in accordance with the contract, or that the supplies or any portion thereof do not fulfil the requirements of the contract.
- 30.3. The contractor shall, with all speed and at its own expense, make good the defects so specified. If the contractor does not comply with such order, the contracting authority shall be entitled to employ other persons to carry out the orders and all expenses consequent thereon or incidental thereto shall be deducted by the contracting authority from any monies due or which may become due to the contractor.
- 30.4. Supplies which are not of the required quality shall be rejected. A special mark may be applied to the rejected supplies. This shall not be such as to alter them or affect their commercial value. Rejected supplies shall be removed by the contractor from the place of acceptance, if the project manager so requires, within a period which the project manager shall specify, failing which they shall be removed as of right at the expense and risk of the contractor. Any works incorporating rejected materials shall be rejected.
- 30.5. The provisions of Article 30 shall not affect the right of the contracting authority to claim under Article 21, nor shall it in any way release the contractor from any warranty or other obligations under the contract.

### **Article 31 - Provisional acceptance**

31.1. The supplies shall be taken over by the contracting authority when they have been delivered in accordance with the contract, have satisfactorily passed the required tests, or have been commissioned as the case may be, and a certificate of provisional acceptance has been issued or is deemed to have been issued.

31.2. The contractor may apply, by notice to the project manager, for a certificate of provisional acceptance when supplies are ready for provisional acceptance. The project manager shall within 30 days of receipt of the contractor's application either:

- issue the certificate of provisional acceptance to the contractor with a copy to the contracting authority stating, where appropriate, his reservations, and, inter alia, the date on which, in his opinion, the supplies were completed in accordance with the contract and ready for provisional acceptance; or
- reject the application, giving his reasons and specifying the action which, in his opinion, is required of the contractor for the certificate to be issued.

The contracting authority's time limit for issuing the certificate of provisional acceptance to the contractor shall be considered included in the time limit for payments indicated in Article 26.3, unless otherwise specified in the special conditions.

- 31.3. Should exceptional circumstances make it impossible to proceed with the acceptance of the supplies during the period fixed for provisional or final acceptance, a statement certifying such impossibility shall be drawn up by the project manager after consultation, where possible, with the contractor. The certificate of acceptance or rejection shall be drawn up within 30 days following the date on which such

impossibility ceases to exist. The contractor shall not invoke these circumstances in order to avoid the obligation of presenting the supplies in a state suitable for acceptance.

- 31.4. If the project manager fails either to issue the certificate of provisional acceptance or to reject the supplies within the period of 30 days, it shall be deemed to have issued the certificate on the last day of that period, except where the certificate of provisional acceptance is deemed to constitute a certificate of final acceptance. In this case, Article 34.2 below does not apply. If the supplies are divided by the contract into lots, the contractor shall be entitled to apply for separate certificates for each of the lots.
- 31.5. In case of partial delivery, the contracting authority reserves the right to give partial provisional acceptance.
- 31.6. Upon provisional acceptance of the supplies, the contractor shall dismantle and remove temporary structures as well as materials no longer required for use in connection with the implementation of the contract. It shall also remove any litter or obstruction and redress any change in the condition of the place of acceptance as required by the contract.
- 31.7. Immediately after provisional acceptance, the contracting authority may make use of all the supplies delivered.

## **Article 32 - Warranty obligations**

32.1. The contractor shall warrant that the supplies are new, unused, of the most recent models and incorporate all recent improvements in design and materials, unless otherwise provided in the contract. The contractor shall further warrant that all supplies shall have no defect arising from design, materials or workmanship, except insofar as the design or materials are required by the specifications, or from any act or omission, that may develop under use of the supplies in the conditions obtaining in the country of the contracting authority.

32.2. The contractor shall be responsible for making good any defect in, or damage to, any part of the supplies which may appear or occur during the warranty period and which:

- a) results from the use of defective materials, faulty workmanship or design of the contractor; and/or
- b) results from any act or omission of the contractor during the warranty period; and/or
- c) appears in the course of an inspection made by, or on behalf of, the contracting authority.

32.3. The contractor shall at its own cost make good the defect or damage as soon as practicable. The warranty period for all items replaced or repaired shall recommence from the date when the replacement or repair was made to the satisfaction of the project manager. If the contract provides for partial acceptance, the warranty period shall be extended only for the part of the supplies affected by the replacement or repair.

32.4. If any such defect appears or such damage occurs during the warranty period, the contracting authority or the project manager shall notify the contractor. If the contractor fails to remedy a defect or damage within the time limit stipulated in the notification, the contracting authority may:

- a) remedy the defect or the damage itself, or employ someone else to carry out the tasks at the contractor's risk and cost, in which case the costs incurred by the contracting authority shall be deducted from monies due to or from guarantees held against the contractor or from both; or
  - b) terminate the contract.
- 32.5. In case of emergency, where the contractor cannot be reached immediately or, having been reached, is unable to take the measures required, the contracting authority or the project manager may have the tasks carried out at the expense of the contractor. The contracting authority or the project manager shall as soon as practicable inform the contractor of the action taken.
- 32.6. The warranty obligations shall be stipulated in the special conditions and technical specifications.
- 32.7. Save where otherwise provided in the special conditions, the duration of the warranty period shall be 365 days. The warranty period shall commence on the date of provisional acceptance and may recommence in accordance with Article 32.3.

### **Article 33 - After-sales service**

33.1. An after-sales service, if required by the contract, shall be provided in accordance with the details stipulated in the special conditions. The contractor shall undertake to carry out

or have carried out the maintenance and repair of supplies and to provide a rapid supply of spare parts. The special conditions may specify that the contractor must provide any or all of the following materials, notifications and documents pertaining to spare parts manufactured or distributed by the contractor:

- a) such spare parts as the contracting authority may choose to purchase from the contractor, it being understood that this choice shall not release the contractor from any warranty obligations under the contract;
- b) in the event of termination of production of the spare parts, advance notification to the contracting authority to allow it to procure the parts required and, following such termination, provision at no cost to the contracting authority of the blueprints, drawings and specifications of the spare parts, if and when requested.

### **Article 34 - Final acceptance**

34.1. Upon expiry of the warranty period, or where there is more than one such period, upon expiry of the latest period, and when all defects or damage have been rectified, the project manager shall issue the contractor a final acceptance certificate and a copy thereof to the contracting authority, stating the date on which the contractor completed its obligations under the contract to the project manager's satisfaction. The final acceptance certificate shall be issued by the project manager within 30 days after the expiration of the warranty period or as soon as any repairs ordered under Article 32 have been completed to the satisfaction of the project manager.

34.2. The contract shall not be considered to have been performed in full until the final acceptance certificate has been signed or is deemed to have been signed by the project manager.

34.3. Notwithstanding the issue of the final acceptance certificate, the contractor and the contracting authority shall remain liable for the fulfilment of any obligation incurred under the contract prior to



the issue of the final acceptance certificate which remains unperformed at the time that final acceptance certificate is issued. The nature and extent of any such obligation shall be determined by reference to the provisions of the contract.

## **BREACH OF CONTRACT AND TERMINATION**

### **Article 35 - Breach of contract**

35.1. Either party commits a breach of contract where it fails to perform its obligations in accordance with the provisions of the contract.

35.2. Where a breach of contract occurs, the party injured by the breach is entitled to the following remedies:

- a) damages; and/or
- b) termination of the contract.

35.3. Damages may be either:

- a) general damages; or
- b) liquidated damages.

35.4. Should the contractor fail to perform any of its obligations in accordance with the provisions of the contract, the contracting authority is without prejudice to its right under Article 35.2, also entitled to the following remedies:

- a) suspension of payments; and/or
- b) reduction or recovery of payments in proportion to the failure's extent.

35.5. Where the contracting authority is entitled to damages, it may deduct such damages from any sums due to the contractor or call on the appropriate guarantee.

35.6. The contracting authority shall be entitled to compensation for any damage which comes to light after the contract is completed in accordance with the law governing the contract.

### **Article 36 - Termination by the contracting authority**

36.1. The contracting authority may, at any time and with immediate effect, subject to Article 36.9, terminate the contract, except as provided for under Article 36.2.

36.2. Subject to any other provision of these general conditions, the contracting authority may, by giving seven day notice to the contractor, terminate the contract in any of the following cases where:

- a) the contractor is in serious breach of contract for failure to perform its contractual obligations;
- b) the contractor fails to comply within a reasonable time with the notice given by the project manager requiring it to make good the neglect or failure to perform its obligations under the contract which seriously affects the proper and timely implementation of the tasks;
- c) the contractor refuses or neglects to carry out any administrative orders given by the project manager;

- d) the contractor assigns the contract or subcontracts without the authorisation of the contracting authority;
- e) the contractor is bankrupt, subject to insolvency or winding up procedures, is having its assets administered by a liquidator or by the courts, has entered into an arrangement with creditors, has suspended business activities, or is in any analogous situation arising from a similar procedure provided for under national law or regulations;
- f) any organisational modification occurs involving a change in the legal personality, nature or control of the contractor, unless such modification is recorded in an addendum to the contract;
- g) any other legal disability hindering performance of the contract occurs;
- h) the contractor fails to provide the required guarantees or insurance, or the person providing the earlier guarantee or insurance is not able to abide by its commitments;
- i) the contractor has been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- j) it has been established by a final judgment or a final administrative decision or by proof in possession of the contracting authority that the contractor has been guilty of fraud, corruption, involvement in a criminal organisation, money laundering or terrorist financing, terrorist related offences, child labour or other forms of trafficking in human beings or circumventing fiscal, social or any other applicable legal obligations, including through the creation of an entity for this purpose;
- k) the contractor, in the performance of another contract financed by the EU budget/EDF funds has been declared to be in serious breach of contract, which has led to its early termination or the application of liquidated damages or other contractual penalties or which has been discovered following checks, audits or investigations by the European Commission, the contracting authority, OLAF or the Court of Auditors;
- l) after the award of the contract, the award procedure or the performance of the contract proves to have been subject to breach of obligations, irregularities or fraud;
- m) the award procedure or the performance of another contract financed by the EU budget/EDF funds proves to have been subject to breach of obligations, irregularities or fraud which are likely to affect the performance of the present contract;
- n) the contractor fails to perform its obligation in accordance with Article 9a and Article 9b;
- o) the contractor fails to comply with its obligation in accordance with Article 10;
- p) the contractor is in breach of the data protection obligations resulting from Article 44 of these general conditions.

The cases of termination under points (e), (i), (j), (l), (m) and (n) may refer also to persons who are members of the administrative, management or supervisory body of the contractor and/or to persons having powers of representation, decision or control with regard to the contractor.

The cases of termination under points (a), (e), (f), (g), (i), (j), (k), (l), (m) and (n) may refer also to persons jointly and severally liable for the performance of the contract.

The cases under points (e), (i), (j), (k), (l), (m), (n) and (p) may refer also to subcontractors.

- 36.3. Termination shall be without prejudice to any other rights or powers under the contract of the contracting authority and the contractor. The contracting authority may, thereafter, conclude any other contract with a third party, at the contractor's own expense. The contractor's liability for delay in completion shall immediately cease when the contracting authority terminates the contract without prejudice to any liability thereunder that may already have arisen.
- 36.4. Upon termination of the contract or when it has received notice thereof, the contractor shall take immediate steps to bring the implementation of the tasks to a close in a prompt and orderly manner and to reduce expenditure to a minimum.
- 36.5. The project manager shall, as soon as possible after termination, certify the value of the supplies and all sums due to the contractor as at the date of termination.
- 36.6. In the event of termination, the project manager shall, as soon as possible and in the presence of the contractor or his representatives or having duly summoned them, draw up a report on the supplies delivered and the incidental siting or installation performed and take an inventory of the materials supplied and unused. A statement shall also be drawn up of monies due to the contractor and of monies owed by the contractor to the contracting authority as at the date of termination of the contract.
- 36.7. The contracting authority shall not be obliged to make any further payments to the contractor until the supplies are completed. After the supplies are completed, the contracting authority shall recover from the contractor the extra costs, if any, of providing the supplies, or shall pay any balance still due to the contractor.
- 36.8. If the contracting authority terminates the contract pursuant to Article 36.2, it shall, in addition to the extra costs for completion of the contract and without prejudice to its other remedies under the contract, be entitled to recover from the contractor any loss it has suffered up to the value of the supply unless otherwise provided for in the special conditions.
- 36.9. Where the termination is not due to an act or omission of the contractor, force majeure or other circumstances beyond the control of the contracting authority, the contractor shall be entitled to claim in addition to sums owed to it for work already performed, an indemnity for loss suffered.
- 36.10. This contract shall be automatically terminated if it has not given rise to any payment in the two years following its signing by both parties.

### **Article 37 - Termination by the contractor**

37.1. The contractor may, by giving 14 days' notice to the contracting authority, terminate the contract if the contracting authority:

- fails to pay the contractor the amounts due under any certificate issued by the project manager after the expiry of the time limit stated in Article 28.3; or
- consistently fails to meet its obligations after repeated reminders; or

- suspends the delivery of the supplies, or any part thereof, for more than 180 days, for reasons not specified in the contract or not attributable to the contractor's breach or default.
- 37.2. Such termination shall be without prejudice to any other rights of the contracting authority or the contractor acquired under the contract.
- 37.3. In the event of such termination, the contracting authority shall pay the contractor for any loss or damage the contractor may have suffered.

### **Article 38 - Force majeure**

38.1. Neither party shall be considered to be in default or in breach of its obligations under the contract if the performance of such obligations is prevented by any circumstances of force majeure which arises after the date of notification of award or the date when the contract becomes effective

38.2. The term force majeure, as used herein covers any unforeseeable events, not within the control of either party and which by the exercise of due diligence neither party is able to overcome such as acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions. A decision of the European Union to suspend the cooperation with the partner country is considered to be a case of force majeure when it implies suspension of funding this contract.

38.3. Notwithstanding the provisions of Articles 21 and 36, the contractor shall not be liable to forfeiture of its performance guarantee, liquidated damages or termination for default if, and to the extent that, its delay in performance or other failure to perform its obligations under the contract is the result of an event of force majeure. The contracting authority shall similarly not be liable, notwithstanding the provisions of Articles 28 and 37, for the payment of interest on delayed payments, for non-performance or for termination by the contractor for default if, and to the extent that, the contracting authority's delay or other failure to perform its obligations is the result of force majeure.

38.4. If either party considers that any circumstances of force majeure have occurred which may affect performance of its obligations, it shall promptly notify the other party and the project manager, giving details of the nature, the probable duration and the likely effect of the circumstances. Unless otherwise directed by the project manager in writing, the contractor shall continue to perform its obligations under the contract as far as is reasonably practicable, and shall seek all reasonable alternative means for performance of its obligations which are not prevented by the force majeure event. The contractor shall not put into effect alternative means unless directed so to do by the project manager.

38.5. If the contractor incurs additional costs in complying with the project manager's directions or using alternative means under Article 38.4, the amount thereof shall be certified by the project manager.

38.6. If circumstances of force majeure have occurred and continue for a period of 180 days then, notwithstanding any extension of time for completion of the contract that the contractor may by reason thereof have been granted, either party shall be entitled to serve upon the other with 30 days' notice to terminate the contract. If, at the expiry of the period of 30 days, the situation of force majeure persists, the contract shall be terminated and, in consequence thereof under the law governing the contract, the parties shall be released from further performance of the contract.

## **Article 39 - Decease**

39.1. Where the contractor is a natural person, the contract shall be automatically terminated if that person dies. However, the contracting authority shall examine any proposal made by the heirs or beneficiaries if they have notified their wish to continue the contract.

39.2. Where the contractor consists of a number of natural persons and one or more of them die, a report shall be agreed between the parties on the progress of the contract, and the contracting authority shall decide whether to terminate or continue the contract in accordance with the undertaking given by the survivors and by the heirs or beneficiaries, as the case may be.

39.3. In the cases provided for in Articles 39.1 and 39.2, persons offering to continue to perform the contract shall notify the contracting authority thereof within 15 days of the date of decease. The decision of the contracting authority shall be notified to those concerned within 30 days of receipt of such proposal.

39.4. Such persons shall be jointly and severally liable for the proper performance of the contract to the same extent as the deceased contractor. Continuation of the contract shall be subject to the rules relating to establishment of any guarantee provided for in the contract.

## **SETTLEMENT OF DISPUTES AND APPLICABLE LAW**

### **Article 40 - Settlement of disputes**

40.1. The parties shall make every effort to settle amicably any dispute relating to the contract which may arise between them.

40.2. Once a dispute has arisen, a party shall notify the other party of the dispute, stating its position on the dispute and requesting an amicable settlement. The other party shall respond to this request for amicable settlement within 30 days, stating its position on the dispute. Unless the parties agree otherwise, the maximum time period laid down for reaching an amicable settlement shall be 120 days from the date of the notification requesting such a procedure. Should a party not agree to the other party's request for amicable settlement, should a party not respond in time to that request or should no amicable settlement be reached within the maximum time period, the amicable settlement procedure is considered to have failed.

40.3. In the absence of an amicable settlement, a party may notify the other party requesting a settlement through conciliation by a third person. If the European Commission is not a party to the contract, it may accept to intervene as conciliator. The other party shall respond to the request for conciliation within 30 days. Unless the parties agree otherwise, the maximum time period laid down for reaching a settlement through conciliation shall be 120 days from the notification requesting such a procedure. Should a party not agree to the other party's request for conciliation, should a party not respond in time to that request or should no settlement be reached within the maximum time period, the conciliation procedure is considered to have failed.

40.4. If the amicable settlement procedure and, if so requested, the conciliation procedure fails, each party may refer the dispute to either the decision of a national jurisdiction or arbitration, as specified in the special conditions.

## **Article 41 - Applicable law**

41.1. This contract shall be governed by the law of the country of the contracting authority or, where the contracting authority is the European Commission, by the applicable European Union law complemented where necessary by the law of Belgium.

## **FINAL PROVISIONS**

### **Article 42 - Administrative sanctions**

42.1. Without prejudice to the application of other remedies laid down in the contract, a sanction of exclusion from all contracts and grants financed by the EU, may be imposed, after an adversarial procedure in line with the applicable Financial Regulation, upon the contractor who, in particular,

- a) is guilty of grave professional misconduct, has committed irregularities or has shown significant deficiencies in complying with the main obligations in the performance of the contract or has been circumventing fiscal, social or any other applicable obligations, including through the creation of an entity for this purpose. The duration of the exclusion shall not exceed the duration set by final judgement or final administrative decision or, in the absence thereof, three years;
- b) is guilty of fraud, corruption, participation in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings. The duration of the exclusion shall not exceed the duration set by final judgement or final administrative decision or, in the absence thereof, five years;

42.2. In the situations mentioned in Article 42.1, in addition or in alternative to the sanction of exclusion, the contractor may also be subject to financial penalties up to 10% of the total contract price.

42.3. Where the contracting authority is entitled to impose financial penalties, it may deduct such financial penalties from any sums due to the contractor or call on the appropriate guarantee.

42.4. The decision to impose administrative sanctions may be published on a dedicated internet-site, explicitly naming the contractor.

### **Article 43 - Verifications, checks and audits by European Union bodies**

43.1. The contractor shall allow the European Commission, the European Anti-Fraud Office, the European Public Prosecutor's Office and the European Court of Auditors to verify, by examining the documents and to make copies thereof or by means of on-the-spot checks, including checks of documents (original or copies), the implementation of the contract. In order to carry out these verifications and audits, the EU bodies mentioned above shall be allowed to conduct a full audit, if necessary, on the basis of supporting documents for the accounts, accounting documents and any other document relevant to the financing of the project. The contractor shall ensure that on-the-spot accesses is available at all reasonable times, notably at the contractor's offices, to its computer data, to its accounting data and to all the information needed to carry out the audits, including information on individual salaries of persons involved in the project. The contractor shall ensure that the information is readily available at the moment of the audit and, if so requested, that data be handed over in an appropriate form. These inspections may take place up to 7 years after the final payment.

43.2. Furthermore, the contractor shall allow the European Anti-Fraud Office to carry out checks and verification on the spot in accordance with the procedures set out in the European Union legislation for the protection of the financial interests of the European Union against fraud and other irregularities.

43.3. To this end, the contractor undertakes to give appropriate access to staff or agents of the European Commission, of the European Anti-Fraud Office, of the European Public Prosecutor's Office and of the European Court of Auditors to the sites and locations at which the contract is carried out, including its information systems, as well as all documents and databases concerning the technical and financial management of the project and to take all steps to facilitate their work. Access given to agents of the European Commission, European Anti-Fraud Office, the European Public Prosecutor's Office and the European Court of Auditors shall be on the basis of confidentiality with respect to third parties, without prejudice to the obligations of public law to which they are subject. Documents must be easily accessible and filed so as to facilitate their examination and the contractor must inform the contracting authority of their precise location.

43.4. The contractor guarantees that the rights of the European Commission, of the European Anti-Fraud Office, of the European Public Prosecutor's Office and of the European Court of Auditors to carry out audits, checks and verification will be equally applicable, under the same conditions and according to the same rules as those set out in this Article, to any subcontractor or any other party benefiting from EU budget/EDF funds.

43.5. Failure to comply with the obligations set forth in Article 43.1 to 43.4 constitutes a case of serious breach of contract.

## **Article 44 - Data protection**

### **44.1. Processing of personal data by the contracting authority**

Any personal data included in or relating to the contract, including its implementation, shall be processed in accordance with Regulation (EU) 2018/1725. Such data shall be processed solely for the purposes of the implementation, management and monitoring of the contract by the data controller.

The contractor or any other person whose personal data is processed by the data controller in relation to this contract has specific rights as a data subject under Chapter III (Articles 14-25) of Regulation (EU) 2018/1725, in particular the right to access, rectify or erase their personal data and the right to restrict the processing of their personal data or, where applicable, the right to object to processing or the right to data portability.

Should the contractor or any other person whose personal data is processed in relation to this contract have any queries concerning the processing of its personal data, it shall address itself to the data controller. They may also address themselves to the Data Protection Officer of the data controller. They have the right to lodge a complaint at any time to the European Data Protection Supervisor.

Details concerning the processing of personal data are available in the data protection notice referred to in the special conditions.

#### 44.2. Processing of personal data by the contractor

The processing of personal data by the contractor shall meet the requirements of the general conditions and be processed solely for the purposes set out by the controller.

The contractor shall assist the controller for the fulfilment of the controller's obligation to respond to requests for exercising rights of person whose personal data is processed in relation to this contract as laid down in Chapter III (Articles 14-25) of Regulation (EU) 2018/1725. The contractor shall inform without delay the controller about such requests.

The contractor may act only on documented written instructions and under the supervision of the controller, in particular with regard to the purposes of the processing, the categories of data that may be processed, the recipients of the data and the means by which the data subject may exercise its rights.

The contractor shall grant personnel access to the data to the extent strictly necessary for the implementation, management and monitoring of the contract. The contractor must ensure that personnel authorised to process personal data has committed itself to confidentiality or is under appropriate statutory obligation of confidentiality in accordance with the provisions of Article 9.7 of these general conditions.

The contractor shall adopt appropriate technical and organisational security measures, giving due regard to the risks inherent in the processing and to the nature, scope, context and purposes of processing, in order to ensure, in particular, as appropriate:

- (a) the pseudonymisation and encryption of personal data;
- (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- (c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;
- (d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing;
- (e) measures to protect personal data from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to personal data transmitted, stored or otherwise processed.

The contractor shall notify relevant personal data breaches to the controller without undue delay and at the latest within 48 hours after the contractor becomes aware of the breach. In such cases, the contractor shall provide the controller with at least the following information:

- (a) nature of the personal data breach including where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;
- (b) likely consequences of the breach;
- (c) measures taken or proposed to be taken to address the breach, including, where appropriate, measures to mitigate its possible adverse effects.

The contractor shall immediately inform the data controller if, in its opinion, an instruction infringes Regulation (EU) 2018/1725, Regulation (EU) 2016/679, or other Union or Member State or third country applicable data protection provisions as referred to in the tender specifications.



The contractor shall assist the controller for the fulfilment of its obligations pursuant to Article 33 to 41 under Regulation (EU) 2018/1725 to:

- (a) ensure compliance with its data protection obligations regarding the security of the processing, and the confidentiality of electronic communications and directories of users;
- (b) notify a personal data breach to the European Data Protection Supervisor;
- (c) communicate a personal data breach without undue delay to the data subject, where applicable;
- (d) carry out data protection impact assessments and prior consultations as necessary.

The contractor shall maintain a record of all data processing operations carried on behalf of the controller, transfers of personal data, security breaches, responses to requests for exercising rights of people whose personal data is processed and requests for access to personal data by third parties.

The contracting authority is subject to Protocol 7 of the Treaty on the Functioning of the European Union on the privileges and immunities of the European Union, particularly as regards the inviolability of archives (including the physical location of data and services) and data security, which includes personal data held on behalf of the contracting authority in the premises of the contractor or subcontractor.

The contractor shall notify the contracting authority without delay of any legally binding request for disclosure of the personal data processed on behalf of the contracting authority made by any national public authority, including an authority from a third country. The contractor may not give such access without the prior written authorisation of the contracting authority.

The duration of processing of personal data by the contractor will not exceed the period referred to in Article 9.10 of these general conditions. Upon expiry of this period, the contractor shall, at the choice of the controller, return, without any undue delay in a commonly agreed format, all personal data processed on behalf of the controller and the copies thereof or shall effectively delete all personal data unless Union or national law requires a longer storage of personal data.

For the purpose of Article 6 of these general conditions, if part or all of the processing of personal data is subcontracted to a third party, the contractor shall pass on the obligations referred to in the present article in writing to those parties, including subcontractors. At the request of the contracting authority, the contractor shall provide a document providing evidence of this commitment.

**ANNEX II + III:**  
**TECHNICAL SPECIFICATIONS**  
**+**  
**TECHNICAL OFFER**

## ***ANNEX II + III: TECHNICAL SPECIFICATIONS + TECHNICAL OFFER***

**Contract title: Supply of equipment and reagents to regional veterinary laboratories**

**p 1 /...**

**Publication reference: < AOI N°: ECW/DEAA/RAHC/COMATAO/2023/02**

**Columns 1-2 should be completed by the contracting authority**

**Columns 3-4 should be completed by the tenderer**

**Column 5 is reserved for the evaluation committee**

Annex III - the contractor's technical offer

The tenderers are requested to complete the template on the next pages:

- Column 2 is completed by the contracting authority shows the required specifications (not to be modified by the tenderer),
- Column 3 is to be filled in by the tenderer and must detail what is offered (for example the words 'compliant' or 'yes' are not sufficient)
- Column 4 allows the tenderer to make comments on its proposed supply and to make eventual references to the documentation

The eventual documentation supplied should clearly indicate (highlight, mark) the models offered and the options included, if any, so that the evaluators can see the exact configuration. Offers that do not permit to identify precisely the models and the specifications may be rejected by the evaluation committee.

The offer must be clear enough to allow the evaluators to make an easy comparison between the requested specifications and the offered specifications.

1. Item number	2. Specifications required	3. Specifications offered	4. Notes, remarks, ref to documentation	5. Evaluation committee's notes
1. PPR c-ELISA kit, PPRC-10P  <u>Quantity:</u> 1 bag/4 plates	-ID Screen PPR Competition ELISA kit (PPR-10p) for the detection of anti-PPRV nucleoproteins antibodies in serum or plasma of sheep and goats			
2. PPR S-ELISA, PPRAG-2P kit  <u>Quantity:</u> 1 bag/4 plates	ID PPR Sandwich ELISA Species: Ovine and caprine Specimens: Variety of sample types, including oral, nasal or rectal swabs as well as tears, tissue samples, gum debris or PBMC Coated antigen: Anti-PPRV NP antibody  Conjugate : Anti-PPRV-NP Mab-HRP conjugate (concentrated 10X)			
3. Cell Culture, Tubes, 3mL  <u>Quantity:</u> 1 bag/1000 pcs	Perform adherent cell cultures in biotechnology, pharmaceutical and research laboratories, as well as in the production of vaccines and diagnostic kits. -Closure Material, Polyethylene - Closure Color, White -Description, Cell Culture Tube, 3mL -Closure Type, Screw Cap -Color, Natural -Length (Metric), 110 mm -Material, Polystyrene -Volume (Metric) Working, 3 mL -Surface Treatment, Nunclon Delta Cell Culture Treated -Sterility, Sterile -Diameter (Metric) Outer, 16 mm -Type, Culture Tube  -Shape, Flat			

1. Item number	2. Specifications required	3. Specifications offered	4. Notes, remarks, ref to documentation	5. Evaluation committee's notes
<b>4. Opti-MEM &amp; Trade I Reduce Serum Medium</b>  <u>Quantity:</u> <b>500 ML</b>	-Improved Minimal Essential Medium (MEM) that allows for a reduction of Fetal Bovine Serum supplementation by at least 50% with no change in growth rate or morphology. -Medium uses a sodium bicarbonate buffer system (2.4 g/L), and therefore requires a 5–10% CO2 environment to maintain physiological pH. -Concentration, 1 X -Form, Liquid -Indicator, Phenol Red -Quantity, 500 ml -Range (pH), 7.0 - 7.4  -With Additives, Sodium Bicarbonate, L-Glutamine, Phenol Red, Sodium Pyruvate			
<b>5. Syringe filters 13 mm Dia 0.2 µm Pore Size</b>  <u>Quantity:</u> <b>1 bag/100 pcs</b>	-Acrodisc 4602 Syringe Filters with Supor Membrane, Modified Acrylic Housing, 13 mm Dia, 0.2 µm Pore Size -Membrane Material, Polyethersulfone (PES) -Pore Size (µm), 0.2 -Membrane Diameter (mm), 13 -Housing Material, Acrylic -Retention Volume (µL), ≤28 -Effective Filtration Area (cm <sup>2</sup> ), 1  -Description, Syringe Filters with Supor -Membrane, Modified Acrylic Housing, 13 mm Dia, 0.2 µm Pore Size			

1. Item number	2. Specifications required	3. Specifications offered	4. Notes, remarks, ref to documentation	5. Evaluation committee's notes
6. Fœtal Bovine Serum (FSB) Triple 0.1 µm Sterile Filtered  <u>Quantity:</u> 500 ml)	-Storage :< -15°C -Appearance Visual Clear yellow-amber n/a -Specific Gravity Mass Balance > 1.01 g/ml -pH Electronic 6.8 - 8.2 -Osmolality 260 - 340 mOsm/kg -Endotoxin LAL Kinetic < 10 EU/ml	-		
7. African green monkey kidney Vero C1008, clone E6 cells  <u>Quantity:</u> Tube of 25 ml	-Organism Cercopithecus aethiops -Tissue kidney -Morphology epithelial -Growth properties Adherent - Disease Normal			
8. FMDV-NSP ELISA Kit  <u>Quantity:</u> 1 pack/1000 samples	-FMDV NS Ab Strip Kit detects antibodies directed against the non-structural 3ABC protein of FMDV. -The ELISA can be used to test serum samples of cattle, sheep, goats and pigs  -FMDV Ab Plate Kit is made by performing a single dilution.			
9. FMDV Antigen Serotype O, A, SAT1, SAT2  <u>Quantity:</u> 1 pack/150 Isolates	IZSLER FMDV Antigen Serotype O, A, SAT1, SAT2			

1. Item number	2. Specifications required	3. Specifications offered	4. Notes, remarks, ref to documentation	5. Evaluation committee's notes
10. <b>Montanide Gel 02</b>  <b>Quantity:</b> <b>1 drum of 1000 litres</b>	- Ready-to-use adjuvants for cattle and Small ruminants and Swine			
11. <b>Macconkey Agar</b>  <b>Quantity:</b> <b>500g</b>	Composition of MacConkey Agar (gm/litre) Peptone: 20.0 Lactose : 10.0 Bile Salts: 5.0 Sodium chloride: 5.0 Agar 12.0 pH 7.4 ± 0.2 @ 25°C			
12. <b>Eosine Methylene Blue</b>  <b>Quantity:</b> <b>500g</b>	Typical Formula (gm/litre) Peptone 10.0 Lactose 10.0 Dipotassium hydrogen phosphate 2.0 Eosin Y 0.4 Methylene blue 0.065 Agar 15.0 pH 6.8 ± 0.2			

1. Item number	2. Specifications required	3. Specifications offered	4. Notes, remarks, ref to documentation	5. Evaluation committee's notes
13. Triple Sugar Iron Agar  <u>Quantity:</u> 500g	Typical Formula*gm/litre Lab-Lemco' powder 3.0 Yeast extract.3.0 Peptone 20.0 Sodium chloride 5.0 Lactose 10.0 Sucrose 10.0 Glucose 1.0 Ferric citrate 0.3 Sodium thiosulphate 0.3 Phenol red 0.024 Agar 12.0 pH 7.4 ± 0.2 @ 25°C			
14. Blood Agar base  <u>Quantity:</u> 500g	Typical Formula (gm/litre) 'Lab-Lemco' powder 10.0 Peptone Neutralised 10.0 Sodium chloride 5.0 Agar 15.0 pH 7.3 ± 0.2			
15. Mueller Hinton Agar  <u>Quantity:</u> 500g	Formule typique (g/litre) Bœuf, infusion déshydratée de 300,0 Hydrolysate de caséine 17.5 Amidon 1.5 Gélose 17.0 pH 7,3 ± 0,1 à 25 °C			



1. Item number	2. Specifications required	3. Specifications offered	4. Notes, remarks, ref to documentation	5. Evaluation committee's notes
<b>16. Salmonella shigella Agar base</b>  <u>Quantity:</u> <b>500g</b>	Typical Formula (gm/litre) 'Lab-Lemco' powder 5.0 Peptone 5.0 Lactose 10.0 Bile salts 5.5 Sodium citrate 10.0 Sodium thiosulphate 8.5 Ferric citrate 1.0 Brilliant green 0.00033 Neutral red 0.025 Agar 12.0 pH 7.3 ± 0.2 @ 25°C			
<b>17. Yeast Extract</b>  <u>Quantity:</u> <b>500g</b>	Description: Yeast Extract Agar Format: Powder Product Type: Agar Type: Media Quantity: 500 g  Yield. For 21.7L medium			
<b>18. Fluid Thioglycolate Medium</b>  <u>Quantity:</u> <b>500g</b>	Format Powder Product Type Dehydrated Culture Media Type Broth, Media Quantity 500 g Yield For 17.2L medium			

1. Item number	2. Specifications required	3. Specifications offered	4. Notes, remarks, ref to documentation	5. Evaluation committee's notes
<b>19. Reinforced Clostridial Medium (Broth)</b>  <u>Quantity:</u> <b>200 ml</b>	Typical Formula*gm/litre Yeast extract 13.0 Peptone 10.0 Glucose 5.0 Soluble starch 1.0 Sodium chloride 5.0 Sodium acetate 3.0 Cysteine hydrochloride 0.5 Agar 0.5  pH 6.8 ± 0.2			
<b>20. Sabouraud Dextrose Agar Base</b>  <u>Quantity:</u> <b>500g</b>	Typical Formula (gm/litre) Mycological Peptone 10.0 Glucose (dextrose) 40.0 Agar 15.0  pH 5.6 ± 0.2 @ 25°C			
<b>21. Buffered Peptone</b>  <u>Quantity:</u> <b>500g</b>	Formule typique (g/litre) Peptone : 10.0 Chlorure de sodium : 5.0 Phosphate disodique : 3.5 Phosphate monopotassique : 1.5  pH 7,2 ± 0,2 à 25 °C			
<b>22. Cysteine Tryptophane Agar</b>  <u>Quantity:</u> <b>500g</b>	Formula gm/litre Pancreatic digest of casein 15.0 Enzymatic* digest of soya bean 5.0 Sodium chloride 5.0 Agar 15.0 pH 7.3 ± 0.2 @ 25°C			

1. Item number	2. Specifications required	3. Specifications offered	4. Notes, remarks, ref to documentation	5. Evaluation committee's notes
<b>23. Nutrien Agar</b>  <u>Quantity:</u> <b>500g</b>	Typical Formula (gm/litre) 'Lab-Lemco' powder: 1.0 Yeast extract: 2.0 Peptone: 5.0 Sodium chloride: 5.0 Agar: 15.0  pH 7.4 ± 0.2 @ 25°C			
<b>24. Microbact 24 E</b>  <u>Quantity:</u> <b>80 samples (packed by 40)</b>	Standardised micro-substrate system designed to simulate conventional biochemical substrates used for the identification of Enterobacteriaceae and common miscellaneous Gram-negative bacilli (MGNB)  The 24E solid microplate format contains the 24 substrates contained in the combination of both the 12A and 12B strips			
<b>25. Microbact Software</b>	Software Program to easily read and interpret Microbact results			
<b>26. Trypsin 1:250 from porcine activity:1000-1500 BAEE units</b>  <u>Quantity:</u> <b>100g bottle</b>	Trypsin From Porcine Pancreas, Lyophilized Powder, BioReagent,			

1. Item number	2. Specifications required	3. Specifications offered	4. Notes, remarks, ref to documentation	5. Evaluation committee's notes
<p>27. ELISA reader</p> <p><b>Quantity:</b> <b>100g bottle</b></p>	<ul style="list-style-type: none"> <li>-Compatibility: Robot</li> <li>-Detector Type: Photodetector</li> <li>-Incubator Temperature Ambient: +4°C to 50°C</li> <li>-Interface User: On-Board or PC Control</li> <li>-Light Source : Quartz Halogen Lamp</li> <li>-Measurement Speed: 7 s for 96-well Plate (Fast Mode), 13 s for 96-well Plate (Normal Mode)</li> <li>-Measurement Technology : Absorbance</li> <li>-Plate Type 96-well Plate, 384-well Plate</li> <li>-Shaking : Linear</li> <li>-Software Type : SkanIt Software</li> <li>-Wavelength Selection : Filters</li> <li>-Accuracy : ± 1% (0 to 3 Abs) or ± 0.003 -Abs, whichever is greater at 405 nm</li> <li>-Description : Reader with incubator</li> <li>-Filters : 8-position filter wheel; filters installed: 405nm, 450nm, and 620nm</li> <li>-Hertz : 50/60 Hz</li> <li>-Linearity : 96-well plate: 0 to 3 Abs, ±2% at 405 nm 384-well plate: 0 to 2.5 Abs, ±2% at 405 nm</li> <li>-Precision : CV ≤ 0.2% (0.3 to 3 Abs) at 405 nm</li> <li>-Resolution : 0.001 Abs</li> <li>-Voltage: 100/240 V</li> <li>-Wavelength Range : 340 to 850 nm</li> </ul>			

1. Item number	2. Specifications required	3. Specifications offered	4. Notes, remarks, ref to documentation	5. Evaluation committee's notes
<b>28. UV Transilluminator</b>  &  <b>Safety spectacles</b>	-Optimal for excitation of EtBr -Hinged UV Safety Cover -Use with Smart Doc imaging enclosure for gel imaging from a smart phone -Compatible DNA Strains: Ethidium Bromide, SmartGlow LD and PS, Gel Red, Gel Green, SYBR Green, SYBR Safe, and Diamond -Nucleic Acid Dye -Light Source: UV -Wavelength: 302nm -Viewing Surface: 16 x 19cm -External Dimensions: 10.5 x 13 x 5.5 in -Dual Intensity (50% or 100%) -Electrical: 120 or 230V, 50-60Hz  <ul style="list-style-type: none"> <li>• Wavelengths from 200 - 400 nm.</li> <li>• Made of impact-resistant polycarbonate</li> </ul>			
<b>29. PCR work station</b> <b>Biocap RNA/DNA</b>	- Biocap PCR Workstation, 31"h; 115v -Vertical laminar air flow pattern prevents DNA or RNA present in the room from contaminating the DNA or RNA sample in the workstation -Exterior Width (in)25 Exterior Height (in)31 Exterior Depth (in)24 Interior Width (in)23 Interior Height (in)23 Interior Depth (in)23 Power (VAC)115 Power (Hz)60 Exhaust Volume (CFM)103			

1. Item number	2. Specifications required	3. Specifications offered	4. Notes, remarks, ref to documentation	5. Evaluation committee's notes
30. ELISA magnetic stirrer with hot plate	<ul style="list-style-type: none"> <li>- Speed: 60 – 1,500 rpm</li> <li>- Platform Dimensions: 7.1” x 7.1” (18 x 18 cm) *ceramic</li> <li>- Operational Temperature range: Ambient 80°C – 380°C</li> <li>- Dimensions: 8” x 9” x 4.5”</li> <li>- Electrical: 120V – 230V, 50-60Hz</li> </ul>			
31. CO2 Incubator, 230V, 50/60Hz	<ul style="list-style-type: none"> <li>-Temperature range up to +50 °C</li> <li>-Two gas connections with quick release connectors for automatic switch-over of gas bottles</li> <li>-Electropolished, seamlessly welded chamber</li> <li>-Electronic control for active humidification and dehumidification (40 to 97 % rh)</li> <li>-Control of oxygen concentration by introducing nitrogen, adjustment range from 1 % to 20 % O2</li> <li>-Type INCO53med basic model</li> <li>-Internal volume 153 litres</li> <li>-Shelf support ribs 6*</li> <li>-Shelves 3*</li> <li>-Stainless steel water dishes 1*</li> <li>-Rating 1500 W</li> <li>Weight 80 kg</li> <li>- Fully insulated stainless steel door with double locking and 4-point adjustment</li> <li>- Inner glass door with opening (8mm dia.) to take gas samples</li> <li>- zinc-plated, steel rear panel</li> </ul>			

1. Item number	2. Specifications required	3. Specifications offered	4. Notes, remarks, ref to documentation	5. Evaluation committee's notes
32. Inverted Microscope	<p>Observation mode: Brightfield, phase contrast.  Head: Trinocular (2-position 100/0, 50/50), 45° inclined.  Interpupillary distance: Adjustable between 50 and 75 mm.  Dioptric adjustment: On the left eyepiece tube.  Eyepieces: WF10x/22 mm, high eye-point and with rubber cups.  Nosepiece: Quintuple revolving nosepiece, rotation on ball bearings.  Objectives: IOS LWD W-PLAN PH 10x/0.25  IOS LWD W-PLAN PH 20x/0.40  IOS LWD W-PLAN PH 40x/0.65  All with anti-fungus treatment.  Specimen stage: Fixed stage, 250x160 mm, with glass and metal stage inserts.  Condenser: LWD pre-centered condenser, N.A. 0.30, W.D. 72 mm.  With 4x/10x, 20x/40x phase contrast slider and brightfield. Removable to extend the working distance up to 150 mm.  with white 8 W LED (6,300K) with brightness control.  With aperture diaphragm.  Multi-plug 100-240Vac/6Vdc external power supply.</p>			

## **ANNEX IV**

### **Budget breakdown (Model financial offer)**



**ANNEX IV : Budget breakdown (Model financial offer)**

**PUBLICATION REFERENCE: AOI N°: ECW/DEAA/RAHC/COMATAO/2023/02 NAME OF TENDERER: <name>**

<b>A</b>		<b>C</b>	<b>D</b>	<b>E</b>
<b>ITEM NUMBER</b>	<b>QUANTITY</b>	<b>SPECIFICATIONS OFFERED (INCL BRAND/MODEL)</b>	<b>UNIT COSTS WITH DELIVERY DDP7  NATIONAL VETERINARY RESEARCH INSTITUTE (NVRT), VOM-NIGERIA OF ACCEPTANCE  EUR</b>	<b>TOTAL  EUR</b>
1				
2				

<sup>7</sup> DDP (Delivered Duty Paid) — Incoterms 2020 International Chamber of Commerce <http://www.iccwbo.org/incoterms/>

			Total	

# **ANNEX V**

## **Specified forms and other relevant documents**

# TENDER GUARANTEE FORM

Specimen tender guarantee

To be completed on paper bearing the letterhead of the financial institution

For the attention of <address of the contracting authority> referred to below as the 'contracting authority'

<Date>

**Title of contract:** < Title of contract >

**Identification number:** <Publication reference >

We, the undersigned, <name and address of financial institution>, hereby irrevocably declare that we will guarantee as primary obligor, and not merely as a surety on behalf of <tenderer's name and address> the payment to the contracting authority of <amount of the tender guarantee>, this amount representing the guarantee referred to in article 11 of the contract notice.

Payment shall be made without objection or legal proceedings of any kind, upon receipt of your first written claim (sent by registered letter with confirmation of receipt) if the tenderer does not fulfil all obligations stated in its tender. We shall not delay the payment, nor shall we oppose it for any reason whatsoever. We shall not under any circumstances benefit from the defences of the security. We shall inform you in writing as soon as payment has been made.

We note that the guarantee will be released at the latest within 45 days of the expiry of the tender validity period, including any extensions, in accordance with Article 8 of the Instructions to tenderers [and in any case at the latest on (1 year after the deadline for submission of tenders)]<sup>8</sup>.

The law applicable to this guarantee shall be that of [if the contracting authority is an authority in the partner country: <the country in which the financial institution issuing the guarantee is established>]. Any dispute arising out of or in connection with this guarantee shall be referred to the courts of [if the contracting authority is an authority in the partner country: <the country in which the financial institution issuing the guarantee is established>].

The guarantee will enter into force and take effect from the submission deadline of the tender.

Name: ..... Position: .....

Signature<sup>9</sup>: .....Date:

<sup>8</sup> This mention has to be inserted only where required, for example where the law applicable to the guarantee imposes a precise expiry date or where the guarantor can justify that he is unable to provide such a guarantee without expiry date.

<sup>9</sup> Can be signed using a qualified electronic signature (QES). Please note that only the qualified electronic signature (QES) within the meaning of Regulation (EU) No 910/2014 (eIDAS Regulation) will be accepted.

## ANNEX V: PRE-FINANCING GUARANTEE FORM

To be completed on paper bearing the letterhead of the financial institution

For the attention of

<name and address of the contracting authority>  
referred to below as the 'contracting authority'

Subject: Guarantee No <insert number>

Financing guarantee for the repayment of pre-financing payable under contract <contract number and title> (please quote number and title in all correspondence)

We, the undersigned, <name, and address of financial institution>, hereby irrevocably declare that we guarantee as primary obligor, and not merely as surety on behalf of <contractor's name and address>, hereinafter referred to as 'the contractor', the payment to the contracting authority of <indicate the amount of the pre-financing>, corresponding to the pre-financing as mentioned in Article 26.1 of the special conditions of the contract <contract number and title> concluded between the contractor and the contracting authority, hereinafter referred to as 'the contract'.

Payment shall be made without objection or legal proceedings of any kind, upon receipt of your first written claim (sent by registered letter with confirmation or receipt) stating that the contractor has not repaid the pre-financing on request or that the contract has been terminated. We shall not delay the payment, nor shall we oppose it for any reason whatsoever. We shall not under any circumstances benefit from the defences of the security. We shall inform you in writing as soon as payment has been made.

We accept notably that no amendment to the terms of the contract can release us from our obligation under this guarantee. We waive the right to be informed of any change, addition or amendment of the contract.

We note that the guarantee will be released 30 days at the latest after the provisional acceptance of the goods [and in any case at the latest on (at the expiry of 18 months after the period of implementation of the tasks)]<sup>10</sup>.

Any request to pay under the terms of the guarantee must be countersigned by the head of delegation of the European Union or his designated empowered deputy as per the applicable Commission rules. In case of a temporary substitution of the contracting authority by the Commission, any request to pay will only be signed by the representative of the Commission, namely whether the head of delegation, his designated empowered deputy or the authorised person at headquarters' level.

The law applicable to this guarantee shall be that of [if the contracting authority is an authority in the partner country: <the country in which the financial institution issuing the guarantee is established>]. Any dispute arising out of or in connection with this guarantee shall be referred to the courts of [if the contracting authority is an authority in the partner country: <the country in which the financial institution issuing the guarantee is established>].

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<sup>10</sup> This mention has to be inserted only where required, for example where the law applicable to the guarantee imposes a precise expiry date or where the guarantor can justify that he is unable to provide such a guarantee without expiry date.

The guarantee will enter into force and take effect on payment of the pre-financing to the contractor.

Done at [*insert place*], on [*insert date*]

Signature<sup>11</sup>: [*signature*]

Signature<sup>12</sup>: [*signature*]

Name:

Name:

[*function at the financial institution/bank*]

[*function at the financial institution/bank*]

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<sup>11</sup> The name(s) and position(s) of the persons signing on behalf of the guarantor must be shown in printed characters. Can be signed using a Qualified Electronic Signature (QES). Please note that only the qualified electronic signature (QES) within the meaning of Regulation (EU) No 910/2014 (eIDAS Regulation) will be accepted.

<sup>12</sup> The name(s) and position(s) of the persons signing on behalf of the guarantor must be shown in printed characters. Can be signed using a Qualified Electronic Signature (QES). Please note that only the qualified electronic signature (QES) within the meaning of Regulation (EU) No 910/2014 (eIDAS Regulation) will be accepted.

## **Legal Entity Form**

**(Please click the link to download and complete the form: [c4o3\\_lefcompany\\_en.pdf](#))**

## **Financial Identification Form**

**(Please click the link to download and complete the form: [c4o1\\_fif\\_en.pdf](#))**



## *Tax and customs arrangements*

### *Article 31 from Annex IV to the Cotonou Agreement*

1. The ACP States shall apply to contracts financed by the Community tax and customs arrangements no less favourable than those applied by them to the most favoured States or international development organisations with which they have relations. For the purpose of determining the most-favoured-nation (MFN) treatment, account shall not be taken of arrangements applied by the ACP State concerned to other ACP States, or to other developing countries.
2. Subject to the above provisions the following shall apply to contracts financed by the Community:
  - (a) the contract shall not be subject in the beneficiary ACP State to stamp or registration duties or to fiscal charges having equivalent effect, whether such charges already exist or are to be instituted in the future; however, such contracts shall be registered in accordance with the laws in force in the ACP State and a fee corresponding to the service rendered may be charged for it;
  - (b) profits and/or income arising from the performance of contracts shall be taxable according to the internal fiscal arrangements of the ACP State concerned, provided that the natural or legal persons who realise such profit and/or income have a permanent place of business in that State, or that the performance of the contract takes longer than six months;
  - (c) enterprises which must import professional equipment in order to carry out works contracts shall, if they so request, benefit from the system of temporary admission as laid down by the national legislation of the beneficiary ACP State in respect of the said equipment;
  - (d) professional equipment necessary for carrying out tasks defined in a service contract shall be temporarily admitted into the beneficiary ACP State or States in accordance with its national legislation free of fiscal, import and customs duties and of other charges having equivalent effect where these duties and charges do not constitute remuneration for services rendered;
  - (e) imports under supply contracts shall be admitted into the beneficiary ACP State without customs duties, import duties, taxes or fiscal charges having equivalent effect. The contract for supplies originating in the ACP State concerned shall be concluded on the basis of the ex-works price of the supplies to which may be added such internal fiscal charges as may be applicable to those supplies in the ACP State;
  - (f) fuels, lubricants and hydrocarbon binders and, in general, all materials used in the performance of works contracts shall be deemed to have been purchased on the local market and shall be subject to fiscal rules applicable under the national legislation in force in the beneficiary ACP State; and
  - (g) personal and household effects imported for use by natural persons, other than those recruited locally, engaged in carrying out tasks defined in a service contract and members of their families, shall be exempt from customs or import duties, taxes and other fiscal charges having equivalent effect, within the limit of the national legislation in force in the beneficiary ACP State.
3. Any matter not covered by the above provisions on tax and customs arrangements shall remain subject to the national legislation of the ACP State concerned.

## ADMINISTRATIVE COMPLIANCE GRID

<b>Contract title :</b>	<b>Supply of equipment and reagents to regional veterinary laboratories</b>	<b>Publication reference :</b>	<b>AOI N°: ECW/DEAA/RAHC/COMATAO/2023/02</b>
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Tender number	Name of tenderer	Electronic submission only: Original tender guarantee included? (Yes/No)	Is tenderer (consortium) nationality <sup>13</sup> eligible? (Y/N)	Is documentation complete? (Y/N)	Is language as required? (Y/N)	Is tender submission form complete? (Y/N)	Is tenderer's declaration signed (by all consortium members if a consortium)? (Yes/No/ Not Applicable)	Declaration(s) of honour included? (Yes/No)	Other administrative requirements of the tender dossier?  (Yes/No/N or applicable)	Overall decision?  (Accept / Reject)

<b>Chairperson's name</b>	
<b>Chairperson's signature</b>	
<b>Date</b>	

<sup>13</sup> If the tender has been submitted by a consortium, the nationalities of **all** the consortium members must be eligible.

## EVALUATION GRID

<b>Contract title :</b>	<b>Supply of equipment and reagents to regional veterinary laboratories</b>	<b>Publication reference :</b>	<b>AOI N°: ECW/DEAA/RAHC/COMATAO/2023/02</b>
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Tender No	Name of tenderer	Rules of origin respected?  (additional guidance <sup>14</sup> )  (Y/N)	Economic & financial capacity? (OK/a/b/...)	Professional capacity? (OK/a/b/...)	Technical capacity? (OK/a/b/...)	Compliance with <sup>15</sup> technical specifications? (OK/a/b/...)	Ancillary services as required? (OK/a/b/.../NA)	Subcontracting statement in accordance with art. 6 of the general conditions?  (Y/N)	Other technical requirements in tender dossier?  (Yes/No/Not applicable)	Technically compliant? Y/N	Justification/ notes:

<b>Evaluator's name &amp; signature</b>	
<b>Evaluator's name &amp; signature</b>	
<b>Evaluator's name &amp; signature</b>	
<b>Date</b>	

<sup>14</sup> Applicable only to contracts financed by a basic act under the MFF 2014-2020 (contracts/lots above EUR 100 000 under CIR and independently of the value for other instruments) and to contracts financed by the INSC Regulation 2021/948 of 27 May 2021 under the MFF 2021-2027.

<sup>15</sup> The selection criteria, in the previous section of this form, have to be met before the technical requirements are assessed.

## **D. TENDER FORM FOR A SUPPLY CONTRACT**

**Publication reference: AOI N°: ECW/DEAA/RAHC/COMATAO/2023/02**

**Title of contract: Supply of equipment and reagents to regional veterinary laboratories**

**<Place and date>**

**A: ECOWAS Commission / Regional Animal Health Center (RAHC), 101 Yakubu Gowon Crescent, Asokoro, Abuja, Nigeria.**

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### **How to complete this tender submission form**

Tenders submitted by **consortia** (i.e. either a permanent, legally-established grouping or a grouping constituted informally for a specific tender procedure) must follow the instructions applicable to the consortium leader and its members. In case of consortia, the tenderer's declaration should be submitted by the leader and by all members of the consortium.

In case the instructions to tenderers (see section 10) state that the tender should be submitted by post or courier or hand delivered (**paper submission**): the attachments to this submission form (i.e. declarations, statements, proofs) may be in original or copy. For economical and ecological reasons, it is recommended that paper files are used and that plastic folders or dividers are avoided. It is also recommended to use double-sided printing as much as possible.

Originals documents that have not been submitted must be kept by the tenderer. If requested, these originals documents must be dispatched to the contracting authority.

### **Delete this section highlighted in yellow after having completed all instructions.**

**One signed** form must be supplied (for each lot, if the tender procedure is divided into lots), together with the number of copies specified in the instructions to tenderers. The form must include a signed declaration using the annexed format from each legal entity submitting this tender. Any additional documentation (brochure, letter, etc.) sent with the form will not be taken into consideration. Tenders being submitted by a consortium (i.e. either a permanent, legally-established grouping or a grouping which has been constituted informally for a specific tender procedure) must follow the instructions applicable to the consortium leader and its members. The attachments to this submission form (i.e. declarations, statements, proofs) may be in original or copy. If copies are submitted, the originals must be dispatched to the contracting authority upon request. For economical and ecological reasons, we strongly recommend that you submit your files on paper-based materials (no plastic folder or divider). We also suggest you use double-sided print-outs as much as possible.

#### Capacity-providing entities

An economic operator (i.e. tenderer) may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. If the economic operator relies on other entities it must in that case prove to the contracting authority that it will have at its disposal the resources necessary for the performance of the contract by producing with the tender documents a commitment by those entities to place those resources at its disposal. Such entities, for instance the parent company of the economic operator, must respect the same rules of eligibility and notably that of nationality as the economic operator relying on them and must comply with the selection criteria for which the economic operator relies on them. **For the purpose of the present tender, the data for this third**

**entity for the relevant selection criterion has to be included in a separate document.** Proof of the capacity will also have to be provided when requested by the contracting authority.

With regard to technical and professional criteria, an economic operator may only rely on the capacities of other entities where the latter will perform the tasks for which these capacities are required.

With regard to economic and financial criteria, the entities upon whose capacity the economic operator relies, become jointly and severally liable for the performance of the contract.

## 1 SUBMITTED BY

	Name(s) of tenderer(s)	Nationality <sup>16</sup>
<b>Leader<sup>17</sup></b>		
<b>Member</b>		
<b>Etc ...</b>		

## 2 CONTACT PERSON (for this tender)

<b>Name</b>	
<b>Address</b>	
<b>Telephone</b>	
<b>Fax</b>	
<b>E-mail</b>	

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<sup>16</sup> Country in which the legal entity is registered.

<sup>17</sup> Add/delete additional lines for members as appropriate. Note that a capacity providing entity/ subcontractor is not considered to be a member for the purposes of this tender procedure. Subsequently, the data on capacity providing entities/ subcontractor must not appear in the data related to the economic, financial and professional capacity but on a separate document. If this tender is being submitted by an individual tenderer, the name of the tenderer should be entered as **'leader'** (and all other lines should be deleted).

### 3 ECONOMIC AND FINANCIAL CAPACITY<sup>18</sup>

Please complete the following table of financial data<sup>19</sup> based on your annual accounts and your latest projections. If annual closed accounts are not yet available for the current year or past year, please provide your latest estimates in the columns marked with \*\*. Figures in all columns must be calculated on the same basis to allow a direct, year-on-year comparison to be made (or, if the basis has changed, an explanation of the change must be provided as a footnote to the table). Any clarification or explanation which is judged necessary may also be provided.

<b>Financial data</b> Data requested in this table must be consistent with the selection criteria set in the additional information about the contract notice document	<b>2 years before last year<sup>20</sup></b> <specify> > €	<b>Year before last year</b> <specify> €	<b>Last year</b> <specify> > €	<b>Average<sup>21</sup></b> €	<b>[Past year</b> € ]**	<b>[Current year</b> €]**
Annual turnover <sup>22</sup> , excluding this contract						
Current assets <sup>23</sup>						
Current liabilities <sup>24</sup>						

<sup>18</sup> Natural persons have to prove their capacity in accordance with the selection criteria and by the appropriate means.

<sup>19</sup> If this tender form is submitted by a consortium, the data in the table above must be the sum of the data in the corresponding tables in the declarations provided by the consortium members — see point 7 of this tender form. Consolidated data are not requested for financial ratios.

<sup>20</sup> Last year=last accounting year for which the entity's accounts have been closed.

<sup>21</sup> Amounts entered in the 'Average' column must be the mathematical average of the amounts entered in the three preceding columns of the same row.

<sup>22</sup> The gross inflow of economic benefits (cash, receivables, other assets) arising from the ordinary operating activities of the enterprise (such as sales of goods, sales of services, interest, royalties, and dividends) during the year.

<sup>23</sup> A balance sheet account that represents the value of all assets that are reasonably expected to be converted into cash within one year in the normal course of business. Current assets include cash, accounts receivable, inventory, marketable securities, prepaid expenses and other liquid assets that can be readily converted to cash.

<sup>24</sup> A company's debts or obligations that are due within one year. Current liabilities appear on the company's balance sheet and include short term debt, accounts payable, accrued liabilities and other debts.

[Current ratio (current assets/current liabilities)]	Not applicable	Not applicable		Not applicable	Not applicable	Not applicable]
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#### 4 PERSONNEL

Please provide the following personnel statistics for the current year and the two previous years<sup>25</sup>.

Annual manpower	Year before past year		Past year		Current year		Period average	
	Overall	Relevant fields <sup>26</sup>	Overall	Relevant fields <sup>11</sup>	Overall	Relevant fields <sup>11</sup>	Overall	Relevant fields <sup>11</sup>
Permanent personnel <sup>27</sup>								
Other personnel <sup>28</sup>								
Total								
Permanent personnel as a proportion of total personnel (%)	%	%	%	%	%	%	%	%

<sup>25</sup> If this tender is submitted by a consortium, the data in the table above must be the sum of the data in the corresponding tables in the declarations provided by the consortium members — see point 7 of this tender form. Consolidated data are not requested for financial ratios.

<sup>26</sup> Corresponding to the relevant specialisms identified in point 5 below.

<sup>27</sup> Personnel directly employed or contracted by the tenderer on a permanent basis (i.e. under indefinite contracts).

<sup>28</sup> Other personnel directly employed or contracted by the tenderer on a non-permanent basis (i.e. under fixed-term contracts).



## 5 FIELDS OF SPECIALISATION

Please use the table below to indicate the **specialisms relevant to this contract** of each legal entity making this tender, by using the names of these specialisms as the row headings and the name of the legal entity as the column headings. Show the relevant specialism(s) of each legal entity by placing a tick (✓) in the box corresponding to those specialisms in which the legal entity has significant experience. **[Maximum 10 specialisms]**

	Leader	Member 2	Member 3	Etc ...
Relevant specialism 1				
Relevant specialism 2				
Etc ... <sup>29</sup>				

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<sup>29</sup> add/delete additional lines and/or rows as appropriate. If this tender is being submitted by an individual legal entity, the name of the legal entity should be entered as 'Leader' (and all other columns should be deleted).

## 6 EXPERIENCE

Please complete a table using the format below to summarise the **major relevant supplies** carried out over the past 3 years<sup>30</sup> by the legal entity or entities making this tender. The number of references to be provided must not exceed **15** for the entire tender

Ref # (maximum 15)	Project title		...					
Name of legal entity	Country	Overall supply value (EUR) <sup>31</sup>	Proportion supplied by legal entity (%)	No of personnel provided	Name of client	Origin of funding	Dates	Name of members if any
...	...	...	...	...	...	...	...	...
Detailed description of supply						Related services provided		
...						...		

<sup>30</sup> References must be contracts implemented by the legal entity (or legal entities) submitting the-tender form (with the exception of documented cases of company buyout or universal succession). In the case of framework contracts (without contractual value), only specific contracts corresponding to assignments implemented under such framework contracts will be considered.

<sup>31</sup> Amounts actually paid, without the effect of inflation.

**7 TENDERER’S DECLARATION(S)**

**As part of their tender, each legal entity identified under point 1 of this form, including every consortium member, as well as each capacity-providing entity and each subcontractor, must submit a signed declaration using this format, together with the declaration on honour on exclusion and selection criteria (Annex 1)**

In response to your letter of invitation to tender for the above contract, we, the undersigned, hereby declare that:

1 We have examined and accept in full the content of the dossier for invitation to tender No <.....> of <date>. We hereby accept its provisions in their entirety, without reservation or restriction.

2 We offer to deliver, in accordance with the terms of the tender dossier and the conditions and time limits laid down, without reserve or restriction:

Lot 1: <description of supplies with indication of quantities and origin>

3 The price of our tender **excluding** spare parts and consumables, if applicable (**excluding the discounts described under point 4**) is:

Lot 1: <insert price and currency>

4 We will grant a discount of [<...>%], or [<.....>] [in the event of our being awarded lot ... and lot ... ..].

5 This tender is valid for a period of 90 days from the final date for submission of tenders.

6 If our tender is accepted, we undertake to provide a performance guarantee as required by Article 11 of the special conditions.

7 Our firm/company [and our subcontractors] has/have the following nationality:

<.....>

8 We are making this tender in our own right [as member in the consortium led by [< name of the leader >] [ourselves]\*. We confirm that we are not tendering for the same contract in any other form. [We confirm, as a member in the consortium, that all members are jointly and severally liable by law for the execution of the contract, that the lead member is authorised to bind, and receive instructions for and on behalf of, each member, that the execution of the contract, including payments, is the responsibility of the lead member, and that all members in the joint venture/consortium are bound to remain in the joint venture/consortium for the entire period of the contract’s execution]. [We confirm, as capacity-providing entity to be jointly and severally bound in respect of the obligations under the contract, including for any recoverable amount.]

9 We undertake, if required, to provide the proof usual under the law of the country in which we are effectively established that we do not fall into any of the exclusion situations. The date on the evidence or documents provided will be no earlier than 1 year before the date of submission of the tender and, in addition, we will provide a statement that our situation has not altered in the period which has elapsed since the evidence in question was drawn up.

We also undertake, if required, to provide evidence of financial and economic standing and technical and professional capacity according to the selection criteria for this call for tender specified in the additional information about the contract notice. The documentary proofs required are listed in Section 2.6.11. of the practical guide.

10 We agree to abide by the ethics clauses in Clause 24 of the instructions to tenderers and, in particular, have no conflict of interests or any equivalent relation which may distort

competition with other tenderers or other parties in the tender procedure at the time of the submission of this form.

We confirm that we, including all consortium members, if any, and subcontractors are not in the lists of EU restrictive measures ([www.sanctionsmap.eu](http://www.sanctionsmap.eu)) and we understand that our tender may be rejected, if proved the contrary.

- 11** We will inform the contracting authority immediately if there is any change in the above circumstances at any stage during the implementation of the tasks. We also fully recognise and accept that any inaccurate or incomplete information deliberately provided in this tender may result in our exclusion from this and other contracts funded by the EU/EDF.
- 12** We note that the contracting authority is not bound to proceed with this invitation to tender and that it reserves the right to award only part of the contract. It will incur no liability towards us should it do so.
- 13** We fully recognise and accept that if the above-mentioned persons participate in spite of being in any of the situations listed in Section 2.6.10.1.1. of the practical guide or if the declarations or information provided prove to be false, they may be subject to rejection from this procedure and to administrative sanctions in the form of exclusion and financial penalties up to 10% of the total estimated value of the contract being awarded and that this information may be published on the Commission website in accordance with the Financial Regulation in force.
- 14** We are aware that, for the purposes of safeguarding the EU's financial interests, our personal data may be transferred to internal audit services, to the early detection and exclusion system, to the European Court of Auditors, to the Financial Irregularities Panel, to the European Anti-Fraud Office or to the European Public Prosecutor's Office.

[\* Delete as applicable]

**[If this declaration is being completed by a consortium member:**

The following table contains our financial data as included in the consortium's tender form. These data are based on our annual closed accounts and our latest projections. Estimated figures (i.e. those not included in annual closed accounts) are given in italics. Figures in all columns have been provided on the same basis to allow a direct, year-on-year comparison to be made <except as explained in the footnote to the table>.

<b>Financial data</b> Data requested in this table must be consistent with the selection criteria set in the additional information about the contract notice document	<b>2 years before last<sup>5</sup></b> <specify> EUR	<b>Year before last year</b> <specify> EUR	<b>Last year</b> <specify> EUR	<b>Average<sup>6</sup></b> EUR	<b>Past year</b> EUR]	<b>[Current year</b> EUR]
Annual turnover <sup>7</sup> , excluding this contract						
Current assets <sup>8</sup>						
Current liabilities <sup>9</sup>						
[Current ratio (current assets/current liabilities)	Not applicable	Not applicable		Not applicable	Not applicable	Not applicable]

The following table contains our personnel statistics as included in the consortium's tender form:

Annual manpower	Year before past year		Past year		Current year		Period average	
	Overall	Relevant fields <sup>11</sup>	Overall	Relevant fields <sup>11</sup>	Overall	Relevant fields <sup>11</sup>	Overall	Relevant fields <sup>11</sup>
Permanent personnel <sup>12</sup>								
Other personnel <sup>13</sup>								
Total								
Permanent personnel as a proportion of total personnel (%)	%	%	%	%	%	%	%	%

Yours faithfully

Name and first name: <.....>

Duly authorised to sign this tender on behalf of:

<.....>

Place and date: <.....>

Stamp of the firm/company:

This tender includes the following annexes:

<Numbered list of annexes with titles>

**ANNEX 1**  
**Declaration on honour on**  
**exclusion criteria and selection criteria**

The undersigned [*insert name of the signatory of this form*], representing:

<i>(only for natural persons)</i> himself or herself	<i>(only for legal persons)</i> the following legal person:
ID or passport number:  (‘the person’)	Full official name: Official legal form: Statutory registration number: Full official address: VAT registration number:  (‘the person’)

The person is not required to submit the declaration on exclusion criteria if the same declaration has already been submitted for the purposes of another award procedure of the same contracting authority, provided the situation has not changed, and that the time that has elapsed since the issuing date of the declaration does not exceed one year.

In this case, the signatory declares that the person has already provided the same declaration on exclusion criteria for a previous procedure and confirms that there has been no change in its situation:

Date of the declaration	Full reference to previous procedure

**I – SITUATIONS OF EXCLUSION CONCERNING THE PERSON**

(1) declares that the person is in one of the following situations:	YES	NO
(a) it is bankrupt, subject to insolvency or winding-up procedures, its assets are being administered by a liquidator or by a court, it is in an arrangement with creditors, its business activities are suspended or it is in any analogous situation arising from a similar procedure provided for under Union or national law;	<input type="checkbox"/>	<input type="checkbox"/>
(b) it has been established by a final judgement or a final administrative decision that the person is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the applicable law;	<input type="checkbox"/>	<input type="checkbox"/>
(c) it has been established by a final judgement or a final administrative decision that the person is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the person belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following:		

(i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of eligibility or selection criteria or in the performance of a contract or an agreement;	<input type="checkbox"/>	<input type="checkbox"/>
(ii) entering into agreement with other persons with the aim of distorting competition;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) violating intellectual property rights;	<input type="checkbox"/>	<input type="checkbox"/>
(iv) attempting to influence the decision-making process of the contracting authority during the award procedure;	<input type="checkbox"/>	<input type="checkbox"/>
(v) attempting to obtain confidential information that may confer upon it undue advantages in the award procedure;	<input type="checkbox"/>	<input type="checkbox"/>
(d) it has been established by a final judgement that the person is guilty of any of the following:		
(i) fraud, within the meaning of Article 3 of Directive (EU) 2017/1371 and Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995;	<input type="checkbox"/>	<input type="checkbox"/>
(ii) corruption, as defined in Article 4(2) of Directive (EU) 2017/1371 or active corruption within the meaning of Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, drawn up by the Council Act of 26 May 1997, or conduct referred to in Article 2(1) of Council Framework Decision 2003/568/JHA, or corruption as defined in other applicable laws;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) conduct related to a criminal organisation, as referred to in Article 2 of Council Framework Decision 2008/841/JHA;	<input type="checkbox"/>	<input type="checkbox"/>
(iv) money laundering or terrorist financing, within the meaning of Article 1(3), (4) and (5) of Directive (EU) 2015/849 of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
(v) terrorist offences or offences related to terrorist activities as well as of inciting, aiding, abetting or attempting to commit such offences as defined in Articles 3, 14 and Title III of Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism;	<input type="checkbox"/>	<input type="checkbox"/>
(vi) child labour or other offences concerning trafficking in human beings as referred to in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
(e) it has shown significant deficiencies in complying with the main obligations in the performance of a contract or an agreement financed by the Union's budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by a contracting authority, the European Anti-Fraud Office (OLAF) or the Court of Auditors;	<input type="checkbox"/>	<input type="checkbox"/>



(f) it has been established by a final judgment or final administrative decision that the person has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95;	<input type="checkbox"/>	<input type="checkbox"/>
(g) it has been established by a final judgment or final administrative decision that the person has created an entity under a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations in the jurisdiction of its registered office, central administration or principal place of business.	<input type="checkbox"/>	<input type="checkbox"/>
(h) ( <i>only for legal persons</i> ) it has been established by a final judgment or final administrative decision that the person has been created with the intent provided for in point (g).	<input type="checkbox"/>	<input type="checkbox"/>
(2) declares that, for the situations referred to in points (1) (c) to (1) (h) above, in the absence of a final judgement or a final administrative decision, the person is <sup>32</sup> :	YES	NO
i. subject to facts established in the context of audits or investigations carried out by the European Public Prosecutor's Office, the Court of Auditors, or the internal auditor, or any other check, audit or control performed under the responsibility of an authorising officer of an EU institution, of a European office or of an EU agency or body;	<input type="checkbox"/>	<input type="checkbox"/>
ii. subject to non-final judgments or non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics;	<input type="checkbox"/>	<input type="checkbox"/>
iii. subject to facts referred to in decisions of entities or persons being entrusted with EU budget implementation tasks;	<input type="checkbox"/>	<input type="checkbox"/>
iv. subject to information transmitted by Member States implementing Union funds;	<input type="checkbox"/>	<input type="checkbox"/>
v. subject to decisions of the Commission relating to the infringement of Union competition law or of a national competent authority relating to the infringement of Union or national competition law;	<input type="checkbox"/>	<input type="checkbox"/>
vi. informed, by any means, that it is subject to an investigation by the European Anti-Fraud office (OLAF): either because it has been given the opportunity to comment on facts concerning it by OLAF, or it has been subject to on-the-spot checks by OLAF in the course of an investigation, or it has been notified of the opening, the closure or of any circumstance related to an investigation of the OLAF concerning it.	<input type="checkbox"/>	<input type="checkbox"/>

## II – SITUATIONS OF EXCLUSION CONCERNING NATURAL OR LEGAL PERSONS WITH POWER OF REPRESENTATION, DECISION-MAKING OR CONTROL OVER THE LEGAL PERSON AND BENEFICIAL OWNERS

<sup>32</sup> The declaration under this point (2) is voluntary and it cannot have adverse legal effect on the economic operator until the conditions of Article 141(1) (a) FR are met.

**Not applicable to natural persons, Member States and local authorities**

(3) declares that a natural or legal person who is a member of the administrative, management or supervisory body of the above-mentioned legal person, or who has powers of representation, decision or control with regard to the above-mentioned legal person (this covers e.g. company directors, members of management or supervisory bodies, and cases where one natural or legal person holds a majority of shares), or a beneficial owner of the person (as referred to in point 6 of article 3 of Directive (EU) No 2015/849) is in one of the following situations:	YES	NO	N/A
Situation (1)(c) above (grave professional misconduct)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (1)(d) above (fraud, corruption or other criminal offence)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (1)(e) above (significant deficiencies in performance of a contract )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (1)(f) above (irregularity)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (1)(g) above (creation of an entity with the intent to circumvent legal obligations)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (1)(h) above (person created with the intent to circumvent legal obligations)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**III – SITUATIONS OF EXCLUSION CONCERNING NATURAL OR LEGAL PERSONS ASSUMING UNLIMITED LIABILITY FOR THE DEBTS OF THE LEGAL PERSON**

(4) declares that a natural or legal person that assumes unlimited liability for the debts of the above-mentioned legal person is in one of the following situations <b><u>[If yes, please indicate in annex to this declaration which situation and the name(s) of the concerned person(s) with a brief explanation]:</u></b>	YES	NO	N/A
Situation (a) above (bankruptcy)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (b) above (breach in payment of taxes or social security contributions)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**IV – OTHER GROUNDS FOR REJECTION FROM THIS PROCEDURE**

(5) declares that the above-mentioned person:	YES	NO
Was previously involved in the preparation of the procurement documents used in this award procedure, where this entailed a breach of the principle of equality of treatment including distortion of competition that cannot be remedied otherwise.	<input type="checkbox"/>	<input type="checkbox"/>

## V – REMEDIAL MEASURES

If the person declares one of the situations of exclusion listed above, it may indicate remedial measures it has taken to remedy the exclusion situation, in order to allow the authorising officer to determine whether such measures are sufficient to demonstrate its reliability. This may include e.g. technical, organisational and personnel measures to prevent further occurrence, compensation of damage or payment of fines or of any taxes or social security contributions. The relevant documentary evidence which illustrates the remedial measures taken must be provided in annex to this declaration. This does not apply for situations referred in point (1)(d) of this declaration.

## VI – EVIDENCE UPON REQUEST

Upon request and within the time limit set by the contracting authority the person must provide information on natural or legal persons that are members of the administrative, management or supervisory body or that have powers of representation, decision or control, including legal and natural persons within the ownership and control structure and beneficial owners and appropriate evidence that none of those persons are in one of the exclusion situations referred to in (1) (c) to (f).

It must also provide the following evidence concerning the person itself and the natural or legal persons on whose capacity the person intends to rely, or a subcontractor and concerning the natural or legal persons which assume unlimited liability for the debts of the person:

For situations described in (1): (a), (c), (d), (f), (g) and (h) above, production of a recent extract from the judicial record is required or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of establishment of the person showing that those requirements are satisfied.

For the situation described in point (1) (a), (b), production of recent certificates issued by the competent authorities of the country of establishment. These documents must provide evidence covering all taxes and social security contributions for which the person is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions. Where any document described above is not issued in the country concerned, it may be replaced by a sworn statement made before a judicial authority or notary or, failing that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment.

The person is not required to submit the evidence if it has already been submitted for another award procedure of the same contracting authority. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date.

The signatory declares that the person has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

<b>Document</b>	<b>Full reference to previous procedure</b>
-----------------	---

<i>Insert as many lines as necessary.</i>	
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The person is not required to submit the evidence if it can be accessed on a national database free of charge.

The signatory declares that the following internet address of the database/identification data provide access to the evidence required.

Internet address of the database	Identification data of the document
<i>Insert as many lines as necessary.</i>	

## VII – SELECTION CRITERIA

### **Selection criteria applicable to all consortium members/subcontractors/capacity providing entities**

(1) declares that the above-mentioned person complies with the selection criteria applicable to it individually as provided in the tender documents:	YES	NO	N/A
(a) It has the legal and regulatory capacity to pursue the professional activity needed for performing the contract as required in section 4 of the contract notice/Instructions to tenderers;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) It fulfills the applicable economic and financial criteria indicated in section 7 of the contract notice/additional information about the contract notice/Instructions to tenderers;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) It fulfills the applicable technical criteria indicated in section 7 of the contract notice/additional information about the contract notice /Instructions to tenderers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) It fulfills the applicable professional criteria indicated in section 7 of the contract notice/additional information about the contract notice/Instructions to tenderers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) is not subject to conflicting interests which may negatively affect the contract performance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### **Selection criteria applicable to the tenderer as a whole-consolidated assessment (to be filled ONLY by the sole tenderer or the leader in case of consortium)**

(2) if the above-mentioned person is the <b>sole tenderer</b> or the <b>leader in case of consortium</b> , declares that:	YES	NO	N/A
---	-----	----	-----

(f) the tenderer, including all members of the group in case of consortium and including subcontractors and entities on whose capacity the tenderer intends to rely if applicable, fulfils all the selection criteria for which a consolidated assessment will be made as provided in the tender documents.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(g) is not subject to conflicting interests which may negatively affect the contract performance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

In case of a procedure with lots the above statements apply to the lot(s) for which the request to participate/tender is submitted.

### VIII – EVIDENCE FOR SELECTION

The signatory declares that the above-mentioned person is able to provide the necessary supporting documents listed in the relevant sections of the tender documents and which are not available electronically upon request and without delay.

Where the evidence is not required to be provided with the request to participate/tender, the person is invited to prepare in advance the documents related to the evidence, since the contracting authority may request to provide these in a short deadline.

The person is not required to submit the evidence if it has already been submitted for another procurement procedure of the same contracting authority. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date.

The signatory declares that the person has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

Document	Full reference to previous procedure
<i>Insert as many lines as necessary.</i>	

The person is not required to submit the evidence if it can be accessed on a national database free of charge.

The signatory declares that the following internet address of the database/identification data provide access to the evidence required.

Internet address of the database	Identification data of the document
<i>Insert as many lines as necessary.</i>	

### IX - DECLARATION ON HONOUR ON ESTABLISHED DEBT TO THE UNION

*(to be filled ONLY by the sole tenderer or the leader in case of consortium)*

The person, being a sole tenderer/the leader in case of consortium, submitting a request to participate/tender for the above procedure, declares that:

the tenderer, including each member of the group in case of consortium, subcontractors,	YES	NO
does not have an established debt to the Union.	<input type="checkbox"/>	<input type="checkbox"/>

***The above-mentioned person must immediately inform the contracting authority of any changes in the situations as declared.***

***The above-mentioned person may be subject to rejection from this procedure and to administrative sanctions (exclusion or financial penalty) if any of the declarations or information provided as a condition for participating in this procedure prove to be false.***

Full name

Date

Signature<sup>33</sup>

---

<sup>33</sup> The declaration is to be signed with:

1. Electronic signature (recommended option):

*In case you have the possibility to sign the declaration using a qualified electronic signature (QES), please have it signed electronically by your authorised representative(s). Please note that only the qualified electronic signature (QES) within the meaning of Regulation (EU) No 910/2014 (eIDAS Regulation) will be accepted.*

*Before sending back your electronically signed document, please check the signature and validity of the certificate with one of the following tools:*

- DSS Demonstration validation tool available at <https://ec.europa.eu/cefdigital/DSS/webapp-demo/validation> can help you check the validity of a certificate by indicating the number and type of valid signatures in a document.
- EU Trusted List Browser can be consulted in order to check whether the electronic signature provider and the trust service it provides are part of European Union Trusted List: <https://esignature.ec.europa.eu/efda/tl-browser/#/screen/home>

*To make sure you use a QES compliant to eIDAS Regulation, you need to check that both the service provider and the qualified certificate generation service used are included in the EU Trusted List Browser.*

2. Handwritten signature:

*In case you do not have the possibility to sign the declaration using a qualified electronic signature (QES), please fill it in electronically, then print it and have it signed and dated by your authorised representative(s) using a hand-written signature.*