|  |  |  |
| --- | --- | --- |
|  | COMUNIDADE ECONOMICA DOS ESTADOS DA AFRICA OCIDENTAL |  |
| ECONOMIC COMMUNITY OF  WEST AFRICAN STATES |  | COMMUNAUTE ECONOMIQUE DES ETATS DE L’AFRIQUE DE L’OUEST |

Economic Community of West African States

# Standard Bidding Document

Procurement of Goods and Non-Consultancy Services

**Open and Restricted Local Bidding**

**SEPTEMBER 2023**

Standard Bidding Document

|  |
| --- |
| **Award of Contracts for Goods and Non-Consultancy Services** |

##### 

##### Preface

This Standard Bidding Document (SBD) has been prepared by ECOWAS for the award of contracts for Goods and Non-Consultancy services by Local Competitive Bidding (open or restrictive) for contracts in accordance with the thresholds set in Annexes 1 to 8 of the Procurement Code, broken down as follows:

* Commission and other Institutions: UA 30,001 to UA 200,000
* Agencies and external offices: UA 25,001 to UA 100,000

The bid shall be opened when ECOWAS publishes the bid notice on the ECOWAS website and in the media of wide circulation in the ECOWAS country.

Restricted local bids do not require advertising. The ECOWAS entity directly consults a limited number of bidders, while applying the general principles of free access to public procurement and transparency. When the invitation to bid is restricted, the ECOWAS entity shall consult at least three highly qualified technical, financial and ethical bidders.

In order to streamline the preparation of Bidding Documents for each procurement, the SBD groups together the standard clauses which may not be modified and which are included in Section II, Instructions to Bidders, and in Section IV, General Specifications. The information and clauses specific to each contract must be specified in Section III, Specific Data to the Invitation to Bid; Section V, Special Conditions; Section VI, Quantities/Delivery Schedule; and Section VII, Technical Specifications. Standard documents are presented in Section I, Invitation to Bid, and in Section VIII, Standard Forms.

ECOWAS Institutions, Agencies and Offices should take care to verify that the Standard Bidding Documents (SBD) provisions are compatible with the nature of the contract to be concluded and the type of procurement required. The following general instructions must be observed when using this Standard Bidding Documents. In addition, notes have been added to each of the sections for the sole use of the person responsible for preparing the Bidding Document. These notes should not be included in the final Bidding Document, with the exception of the notes in Section VIII, Sample Forms, as they are useful to bidders.

(a) Specific details, such as the “name of Procuring Entity” and “the address to which bids should be sent” must be included in the Bid Notice, Bid Data Sheet, and the Special Contract Conditions. The final document must not contain any blank spaces or alternate provisions.

(b) Any adaptations to the Instructions to Bidders and the General Conditions of Contract must be included in the Bid Data Sheet and the Special Conditions of Contract, respectively in line with the specificity of each contract.

(c) Footnotes or italics included in the Invitation to Bid, Bid Data Sheet, Special Contract Conditions, and in the Schedule of Quantities/Delivery Schedule are not an integral part of document, even when they constitute instructions which the bidder must follow to the letter.

(d) The Special Conditions include, for instance, provisions that the bidder must prepare for each specific contract.

(e) The forms presented in Section VIII must be completed by the bidder; the footnotes on these forms must be kept in the SBD given that they contain instructions for the bidder.

**Table of Contents**

Contents

**[Standard Bidding Documents](#_Toc147828686)**[…………………………… 1](#_Toc147828686)

**[Table of Clauses………………………………. 1](#_Toc147828687)**3

[List of Forms 3](#_Toc147828688)4

[Bidder Information Form………......................................................................3](#_Toc147828689)5

[Joint Venture Member Information Form…………………………………….36](#_Toc147828690)

[Bid Submission Letter……………………………………………….………..37](#_Toc147828691)

[Price Schedule for Supplies………………………………………..…………39](#_Toc147828692)

[Price Schedule and Timetable for the Performance of Related Services.........4](#_Toc147828693)0

[Bid Guarantee (Security issued by a Financial Institution)…………………..4](#_Toc147828694)1

[Manufacturer Authorization Template…………………………..…………...4](#_Toc147828695)3

[Template for Commitment to Respect Rules of Transparency and Ethics in Public Procurement………………………………………………….………..4](#_Toc147828696)4

[**PART TWO – Terms and Conditions for Supplies 4**](#_Toc147828697)**5**

Table of Content………………………………………………………………………47

[1. List of Supplies and Delivery Schedule 49](#_Toc147828704)

[2. List of Related Services and Completion Schedule 50](#_Toc147828705)

[3.Technical Specifications................................................................................51](#_Toc147828706)

[4. Plans……………………………………… 5](#_Toc147828707)3

[5. Inspections and Tests…………………………. 54](#_Toc147828708)

### **Section VI. Special Conditions of Contract (SCC)**…………………………………...55

[**List of Forms 59**](#_Toc147828712)

[1.Agreement…………………………………………………………………..6](#_Toc147828713)0

[2. Performance Guarantee/Security Template (Guarantee Issued by a Financial Institution)………………………………………..……………...……………6](#_Toc147828714)2

[3. Advance Refund Guarantee Template (Guarantee Issued by a Financial Institution)……………………………………………………………….........63](#_Toc147828715)

Section I. Invitation to Bid (ITB)

|  |
| --- |
| Notes relating to the Invitation to Bid  The Invitation to Bid (ITB) must be published in at least……… newspaper(s) with national circulation in the ECOWAS member country concerned.    The Invitation to Bid provides the information necessary for bidders to decide on their participation. In addition to the essential information contained in the Standard Bidding Document (SBD), the Invitation to Bid must contain the main criteria that shall be applied for the evaluation of the bids or the verification of the qualification of the bidder (for example: the requirement of a sufficient level of experience in the manufacture of supplies similar to that requested by the Invitation to Bid.)  The Invitation to Bid must be included in the Bidding Documents. The information requested in the Invitation to Bid must be similar to that required in the Bidding Document and in particular to those mentioned in the Details of the Invitation to Bid. |

Section II. Instructions to Bidders (IB)

|  |
| --- |
| Notes on Instructions to Bidders  The purpose of Section II is to provide bidders with the necessary information to prepare the bids that comply with the conditions set by the Procuring Entity. It also provides information on the submission of bids, opening of bids, evaluation of bids and the award of the contract.  **Section II contains standard clauses which are not to be modified. Section III contains special data relating to the Clauses in the Instructions to Bidders that are specific to the contract for which the Invitation to Bid is issued.**  Issues relating to the performance of the contract, payments under the contract, or those relating to the risks, rights and obligations of the parties involved are not normally dealt with in this section, but are dealt with in those relating to the General or Special Clauses of the contract. If it is unavoidable that the same issue is dealt with in different sections of the documents, the user must take care to avoid any contradiction or conflict between clauses dealing with the same subject.  The Instructions to Bidders are not part of the contract. |
|  |

**Section 0. Invitation to Bid (ITB)**

**Invitation to Bid**

***[Insert: Name of Procuring Entity]***

***[Insert: ITB identification]***

1. This Invitation to Bid follows the General Procurement Notice published on the ECOWAS website [*insert name of publication*] of [*insert date1*] or any other channel to be specified.
2. *The [insert the name of* ***the Procuring Entity****] obtained for the year xxx an allocation from the budget (investment/operating/item) in order to finance the procurement of various goods and non-Consultancy services (specify).*
3. The *[insert name of Procuring Entity]* invites sealed bids from eligible and qualified Bidders to provide *[insert brief description of Goods and non-consultancy Services; indicate the list of lots if the bid is for several lots that can be awarded separately; also indicate if variants can be considered, name of focal point].*
4. If local biding is restricted, use the formula below:

This Bid Document is addressed to the following bidders: (full addresses of all bidders);

1. The procurement shall be conducted by Local Competitive Bidding as defined in the Revised ECOWAS Procurement Code (Annex 1 to 8), and open to all eligible Bidders.
2. The following are eligible to bid:

* Bidders from the Procuring Entity country.
* Bidders from any ECOWAS country;
* Firms established outside ECOWAS that have signed a joint venture agreement with a Firm in the ECOWAS member country.

1. Interested Bidders may obtain information from *[insert name of* *Procuring Entity; insert the name and e-mail address of the responsible person]* and consult the Bidding Documents at the address mentioned below *[specify the address]* of *[insert opening and closing hours6]*.
2. The qualification requirements are: *[insert list of technical, financial, legal and other conditions.*
3. Interested bidders may obtain a complete bidding document at the address mentioned below *[specify the address]* free of charge or upon payment of a non-refundable sum of *[insert the amount in XXXX]*. The method of payment shall be *[insert form of payment].8* The Bidding documents shall be obtained by *[insert method of delivery9].*
4. Bids must be delivered to the address below *[specify address10]* not later than *[insert date and time].* Bids submitted after the deadline for submission of bids shall not be accepted by the Bid Opening Committee and shall be returned to their holders unopened. Bids shall be opened in the presence of the representatives of the bidders present at the address below *[specify address]* at *[insert date and time, office number, door etc.].* Bids must include a bid guarantee in the amount of *[insert amount in XXXX. This amount must be between 1 and 2% of the estimated market value.]*
5. *Bids sent by post (Post, Courier, etc.) shall be received on or before the deadline. Any bid received after the stipulated deadline shall be rejected by the Bid Opening Committee.*
6. *If the particulars of the Invitation to Bid permit, sending by electronic mail is acceptable. However, it should respect the conditions and channels defined by the Procuring Entity.*
7. Bids shall remain valid for a period of (*90-120) days* from the submission deadline.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Day, month year; for example: 31 January 2016

2. *[insert, if applicable: “This contract shall be jointly financed by {insert name of co-financier).*

3. Provide a brief description of the Goods, including quantities, final destination, and other information to enable potential Bidders to decide whether or not to participate in the Invitation to Bid.

4. *[insert: the delivery period is (insert number of days/months/years or dates].*

6. For example: 9 a.m. to 5 p.m.

7.

The price charged is intended to cover the Contracting Authority's cost of printing, mailing/transporting the bidding documents; the price must not deter Bidders from participating.

.

8. For example, cashier's check, transfer to an account to be specified.

9. The delivery procedure is generally airmail for foreign countries and normal post or home delivery locally. For emergency or security reasons, home delivery by courier may be considered. .

10. The office where bids are opened is not necessarily the one where documents can be viewed or where bids must be submitted. Only one place must be mentioned for the submission of bids, which must be located as close as possible to the place of opening of bids in order to limit the time between submission and opening of bids.

11. The amount of the bid guarantee must be indicated as a fixed amount or as a percentage of the estimated contract value.

**Table of Clauses**

**A. Introduction 10**

1. Subject of the Contract………………………………………………………………..10

2. Source of Funds……………………………………………………………………….10

3. Sanctions for Faults Committed by Bidders or Holders of Public Procurement Contracts…………………………………………………………………………………10

4. Conditions for taking part in Contracts……………………………………………….11

5. Qualification of Bidder …………………………………………………………........11

**B. Content of Bidding Document ……………12**

6. Sections of the Bidding Document……………………………………………………12

7. Clarifications on the Bidding Document 13

8. Amending of Bidding Document 13

**C. Preparation of Bids**…………………………………………………………………………..13

9. Bidding Fees 13

10. Bid Language 13

11. Bid Document 14

12. Bid Submission Letter and Price Schedule 15

13. Variants 15

14. Bid Price and Discount 15

15. Bid Currency 16

16. Documents Certifying that the Bidder is Eligible to Compete 16

17. Documents Attesting to Compliance of the Supplies and Related Services with the Bidding Document 16

18. Documents Attesting to the Bidder's Qualification 17

19. Bid Validity Period ……………………………………………………………….....17

20. Bid Security/Guarantee …………………………………………………………...…17

21. Form and Signature of the Bid ………………………………………………………19

**D. Submission and Opening of Bids ……………………………………………………………19**

22. Sealing and Marking of Bids 19

23. Deadline for Submission of Bids 19

24. Late Bids 20

25. Withdrawal Substitution and Modification of Bids 20

26. Bid Opening ……………………………………………………………………..…...20

**E. Bid Evaluation and Comparison 21**

27. Confidentiality 21

28. Clarifications Regarding the Bid 21

29. Bid Responsiveness 22

30. Non-Compliance, Errors and Omissions 22

31. Preliminary Screening of Bids 23

32. Review of Conditions, Technical Evaluations 23

33. Bid Evaluation ………………………………………………………………….........23

34. Comparison of Bids ………………………………………………………………....24

35. Subsequent verification of Bidder's Qualifications……………………………….…24

36. Right of Contracting Authority to Accept any Bid and Reject any or all Bids……...24

**F. Contract Award 25**

37. Contract Award Criteria 25

38. Contracting Authority's Right to change Quantities at Award of Contract 25

39. Notification of Award 25

40. Information to Bidders 25

41. Standstill Period 26

42. Signature of the Contract………………………………....…...……….......................26

43. Performance Security/Guarantee……………………………………………………..26

|  |  |
| --- | --- |
| **Section I. Instructions to Bidders (IB)** | |
|  | **Generalities** |
| 1. **Subject of the Contract** | * 1. In support of the Invitation to Bid indicated in the Bid Data Sheet (BDS), the Contracting Entity, as indicated in the BDS, launches this Invitation to Bid in view of obtaining goods and related Services specified in Section IV, Schedule of Quantities/Delivery, Technical Conditions, Plans, Inspections and Tests. The name, identification number and number of lots subject to the Invitation to Bid (ITB) appear in the BDS. |
|  | * 1. Throughout this Bidding Document:  1. The term: “in writing” shall mean communicated in written form including electronic mail; 2. If the context so requires, the singular designates the plural, and vice versa; and 3. The term “day” means a calendar day; unless otherwise indicated, the deadlines are expressed in clear days, i.e., in the number of whole days, without including in the deadline the starting day or the last day. |
| 1. **Source of Funds** | * 1. The source of funds budgeted for the financing of the Contract which is the subject of this Invitation to Bid is indicated in the BDS. |
| 1. **Sanctions for Faults Committed by Bidders or Holders of Public Procurement Contracts** | * 1. ECOWAS requires bidders and holders of its public contracts to respect the strictest rules of professional ethics during the award and execution of these contracts. Bidders must provide a statement attesting that they have read the provisions of the Charter of Transparency and Ethics in Public Procurement adopted in the revised Code (articles 117 and 118). Sanctions may be pronounced by the Sanctions Committee with regard to Bidders and holders of contracts in the event of observed violations to the rules for the award of public procurement contracts committed by the parties concerned. The Bidder or holders shall be liable to the sanctions below in the event they have:  1. Granted or promised to give to any person involved in any capacity whatsoever in the procurement procedure an undue advantage, pecuniary or otherwise, directly or through intermediaries, with a view to obtaining the contract; 2. Participated in practices of collusion between bidders in order to establish the bid prices at artificial and non-competitive levels, depriving the Contracting Authority of the advantages of free and open competition; 3. Influenced the method of contract awarding or the definition of the services in such a way as to benefit from an undue advantage; 4. Deliberately provided false or misleading information or statements in their bids, likely to influence the outcome of the procurement procedure; 5. Established payment requests that do not correspond to the services actually provided; 6. Been convicted of corrupt activities with regard to the public officials in charge of contract awarding, of fraudulent manoeuvres to obtain the contract, of illegal agreements, of unjustified renunciation of the contract performance if their submission is accepted, threats, harassment or violence towards the public officials in charge of the contract awarding, obstructive manoeuvres likely to influence the smooth conduct of the award procedure; 7. Committed acts or manoeuvres aimed at obstructing the investigations and inquiries carried out by the Sanctions Committee. |
|  | * 1. Violations committed are noted by the ECOWAS Sanctions Committee, which conducts all necessary investigations and makes referrals to the competent authorities. Without prejudice to criminal proceedings and actions for compensation for the damage suffered by the Contracting Authority, the following penalties may be imposed, and, as the case may be, cumulatively:  1. Confiscation of the securities provided by the offender in the context of the procurement procedures in which they participated; 2. Exclusion from the right to compete for obtaining public procurement contracts and partnership contracts for a fixed period depending on the seriousness of the fault committed.   These sanctions can be extended to any business enterprise that owns majority capital in the offending company, or of which the offending company owns the majority capital, in the event of collusion established by ECOWAS.  When the violations committed are established after the award of a contract, the sanction imposed may be accompanied by the termination of the current contract or substitution with another company at the risk and peril of the sanctioned offender. |
| 1. **Conditions for taking part in Contracts** | * 1. In the event of a joint venture, unless otherwise specified in the BDS, all member parties shall be jointly and severally liable. Bidders must provide such documentation as the Contracting Entity may reasonably require establishing to the satisfaction of the Contracting Entity that they continue to be eligible to compete. |
|  | * 1. In accordance with Article 10 of the ECOWAS Procurement Code, the following are not allowed to compete:   a. Any bidder who is insolvent, in receivership, bankrupt or whose business activities have been suspended;  b. Any bidder found to have violated any provision of this Code;  c. Any natural or legal person whose directors or officers have been found guilty of a criminal offence or breach of any tax legislation.  d. Any bidder excluded from participating in any procurement procedure, following a decision by the Sanctions Committee, for termination of their contract resulting from a failure or negligence in the performance of a contract which had previously been allocated to them by the institutions of the Community;  e. Any bidder excluded from participation in any procurement procedure, following a decision rendered by the Sanctions Committee, or by any other national, foreign or international organization of the same nature, because of false statements with regard to their qualifications for the conclusion of public contracts;  f. Any bidder placed on the blacklist and/or prohibited from participating in public contracts by an international organization or any other foreign institution;  g. Any public company not enjoying financial or legal autonomy and/or not subject to commercial law;  h. Any bidder with which any member of the Procuring Entity had or has financial or personal interests.  The above provisions are also applicable to joint venture members and subcontractors. |
|  | In pursuance of Community human and financial capacity development in ECOWAS, foreign firms that do not enter into joint venture agreements with Member States’ firms shall not be eligible to participate in a bidding process where the contract is wholly financed by Community Funds.  The above provisions also apply to natural or legal persons acting as subcontractors to the main contractor. |
| 1. **Qualification of Bidder** | * 1. Bidders must meet the qualification conditions, in terms of material, human and financial resources, or experience acquired in carrying out activities similar to those covered by the contract, as indicated in the **BDS.** |
|  | **Content of Bidding Documents** |
| 1. **Sections of Bidding Documents** | * 1. The Bidding Document consists of Parts 1, 2 and 3, which include all sections listed below. It should be read in conjunction with any corrigenda issued in accordance with the IB clause 8. |
|  | **PART 1: Bidding Procedures**   * Section 0. Invitation to Bid * Section I. Instructions to Bidders (IB) * Section II. Bid Data Sheet (BDS) * Section III. Bid Submission Forms   **PART 2: Conditions for the Provision of Goods and Non-Consultancy Services**   * Section IV. Schedule of Quantities, Delivery Schedule, Technical Specifications. Plans, Inspections and Tests   **PART 3: Contract**   * Section V. General Conditions of Contract (GCC) * Section VI. Special Conditions of Contract (SCC) * Section VII. Contract Forms |
|  | * 1. The Bidder must have obtained the Bidding Documents, including any corrigendum, from the Contracting Entity or an agent authorized by them, in accordance with the provisions of the Invitation to Bid.   2. The Bidder must examine all the instructions, forms, conditions and technical requirements appearing in the Bidding Documents. It is their responsibility to provide all the information and documents requested in the Bidding Documents. Any failure in this regard may result in the rejection of their bid. |
| 1. **Clarifications to Bidding Documents** | * 1. Any potential Bidder wishing clarification on the documents must contact the Contracting Entity in writing, at the address of the Contracting Entity indicated in the **BDS** no later than ten (10) days before the deadline for submission of bids. The Contracting Entity shall respond in writing no later than five (5) working days before the deadline for submission of bids. In the event that the Contracting Entity deems it necessary to modify the Bidding Documents following requests for clarification, it shall do so in accordance with the procedure stipulated in clauses 8 and 23.2 of the IB. |
| 1. **Amending of Bidding Documents** | * 1. The Contracting Authority may, at any time, prior to deadline for submission of bids, amend the Bidding Documents by issuing a Corrigendum.   2. Any Corrigendum thus issued or communicated to bidders shall be considered part of the bidding documents and shall be transmitted in writing to all those who have obtained the bidding documents directly from the Contracting Authority.   3. To give bidders reasonable time in which to take a Corrigendum into account in preparing their bids, the Contracting Authority shall extend as necessary the deadline for submission of bids, in accordance with IB Clause 23.2. |
|  | **Bid Preparation** |
| 1. **Bidding Fees** | * 1. The Bidder shall bear all costs relating to the preparation and presentation of their bid, and the Contracting Entity is in no way responsible for these costs or liable to pay them, whatever the course and the outcome of the bidding procedure. |
| 1. **Bid language** | * 1. The bid as well as all correspondence and all documents relating to the bid exchanged between the bidder and the Contracting Authority shall be drawn up in one of the ECOWAS working languages in accordance with Article 29 of the Code. |
| 1. **Bid documents** | 11.1 The bid shall include the following documents:   1. the bid submission letter and the applicable price schedules, completed in accordance with the provisions of Clauses 12, 14, and 15 of the IB; 2. the bid guarantee determined in accordance with the provisions of clause 21 of the IB; |
|  | 1. written confirmation authorizing the signatory of the bid to commit the bidder, in accordance with the provisions of Clause 22 of the IB; 2. the documents certifying, in accordance with the provisions of Clause 16 of the IB, that the bidder is eligible to compete, including the bidder Information Form, and, where applicable, the Information Forms on members of the joint venture; 3. an undertaking by the bidder certifying that they have read and undertake to comply with the provisions of the rules of Transparency and Ethics in public procurement, by completing the form provided in Section III, Bid Forms (Articles 117 and 118) of the procurement code; |
|  | 1. the documents certifying, in accordance with the provisions of Clauses 17 and 30 of the IB, that the Supplies, goods and non-Consultancy services comply with the requirements of the Bidding Documents; 2. documentary evidence, in accordance with the provisions of clause 18 of the IB, that the bidder is qualified to perform the Contract should their bid be successful; 3. certificates justifying that they have met their obligations with regards to the Social Security Fund, the institutions responsible for tax collection and the Labour Inspectorate. The above certificates are provided at the signing of the contract and the bidders must declare on their honour, in their Bids, that they are in good standing with the institutions concerned; and 4. any other document stipulated in the **BDS**.   Any documents referred to in paragraphs a), b), d), e), f) and, where applicable, h) and i), which are not supplied or are incomplete, must be produced within a period no longer than that allowed, for the Contracting Entity to issue the letter of intent to award the contract. Where the successful Bidder fails to provide the documents referred to, the Contracting Entity reserves the right to request the successful Bidder to provide the documents referred to. |
| 1. **Bid Submission Letter and Price Schedules** | * 1. The bidder shall submit their bid by completing the form provided in Section III, Bid Forms. The Bid Submission Form must be used as it is and any reservations or major discrepancies will result in rejection of the bid. All sections must be completed in such a way as to provide the information requested. |
|  | * 1. The bidder shall provide price schedules for Supplies and related Services, using the appropriate forms listed in Section III, Bid Forms. |
| 1. **Variants** | 13.1 Unless otherwise specified in the BDS, variants shall not be considered. |
| 1. **Bid Price and Discounts** | 14.1 The prices and discounts indicated by the bidder on the bid form and the price schedules shall comply with the stipulations below.  14.2 All lots and items on the list of supplies and related services must be listed and their prices shown separately on the price schedules. |
|  | 14.3 The price to be indicated on the bid submission letter shall be the total price of the bid. |
|  | 14.4 The Bidder shall indicate any unconditional or conditional discount and the method of applying such discount in the Bid Submission Letter. |
|  | 14.5 The terms “EXW, CIF, CIP, DDP” and other related terms shall be governed by the rules prescribed in the latest edition of INCOTERMS published by the International Chamber of Commerce on the date of the Invitation to Bid |
|  | 14.6 Prices shall be shown as required in each of the price schedules provided in Section III, Bid Forms. The prices listed in the price schedule forms for Supplies and related Services, shall be presented as follows, unless otherwise stipulated in the BDS:   * 1. For Supplies: Equipment will be delivered in accordance with the current version of INCOTERMS unless otherwise stipulated in the Bidding Documents. The relevant INCOTERM to be used will be specified in the Bidding Documents.   2. For Related Services, where such are required in Section V: Schedule of quantities and Delivery, Technical Specifications, Plans, Inspections and Tests:the price of each element forming part of the Related Services shall be indicated (including applicable taxes). |
|  | * 1. The prices offered by the bidder shall remain fixed for the entire duration of the Contract and may not vary in any way, unless otherwise stipulated in the BDS. A bid accompanied by a price revision clause shall be considered non-compliant and shall be rejected, pursuant to clause 29 of the IB. However, if the BDS provides that the prices shall be subject to revision during the period of performance of the Contract, a fixed price offer shall not be rejected, but the bidder shall no longer be able to benefit from the price revision. |
|  | * 1. A fixed-price contract may be reviewed to take into account cost variations between the initial deadline for the validity of bids and the date on which performance of the contract begins, by applying the discount formula stipulated in the SCC to the original amount of the bid. |
|  | * 1. Clause 1.1 may provide for the Invitation to Bid to be issued for a single contract (lot) or for a group of contracts (lots). In this case, the prices quoted must correspond to the total number of items in each lot, and to the total quantity indicated for each item. Bidders wishing to bid a discount if more than one contract is awarded must specify the discounts applicable to each group of lots or to each contract in the group of lots. Discounts will be offered in accordance with clause 14.4, provided that bids for all lots are submitted and opened at the same time. |
| 1. **Bid Currency** | * 1. The prices shall be indicated in local currency, unless otherwise stipulated in the BDS. |
| 1. **Documents Certifying that the bidder is Eligible to Compete** | * 1. To establish that it is eligible to compete under the provisions of Clause 4 of the IB, the bidder must complete the Bid Submission Letter (Section III, Standard Bid Submission Forms). |
| 1. **Documents Attesting to Compliance of the Supplies and Related Services with the Bidding Documents** | * 1. To establish compliance of the Supplies and Related Services with the Bidding Documents, the bidder shall provide, as part of their bid, written evidence that the Supplies comply with the technical requirements and standards specified in Section IV.   2. Written evidence may take the form of either colour prospectuses, catalogues, drawings or data and shall include a detailed description of the main technical and performance characteristics of Supplies and related Services, demonstrating that they correspond to the specifications and, where applicable, a list of deviations and reservations with respect to the provisions of Section IV.   3. If required by the BDS, the bidder shall also provide a list giving full details, including available sources of supply and current prices of spare parts, special tools, etc., necessary for the correct and continuous operation of the Supplies since the commencement of their use by the Contracting Entity and during the period specified in the BDS.   4. Standards that apply to methods of execution, manufacturing processes, equipment and materials, as well as the references to brand names or catalogue numbers specified by the Contracting Entity are mentioned by way of indication only and are in no way restrictive. The Bidder may substitute other quality standards, brand names and/or other catalogue numbers, provided that they establish to the satisfaction of the Contracting Entity that the standards, brands and numbers thus substituted are substantially equivalent to or superior to the technical specifications. |
| 1. **Documents Attesting to the bidder’s qualifications** | The documents which the bidder shall provide to demonstrate that they are qualified to perform the Contract if their bid is accepted, shall establish, to the satisfaction of the Contracting Entity Authority, that:  a) if required by the **BDS**, a Bidder who does not manufacture or produce the Supplies they are bidding for, shall submit a Manufacturer’s Authorization, using the standard form included in Section III, to attest to the fact that it has been duly authorized by the manufacturer or producer of the Supplies to supply the latter in the ECOWAS country (to be specified);  b) if required by the **BDS,** in the event that they are not present in the ECOWAS country, the bidder is or shall be (if their bid is accepted) represented by an agent equipped and able to meet the contractual obligations of the Contracting Authority in terms of technical specifications, maintenance, repairs and supplies of spare parts;  c) the bidder shall meet each of the qualification criteria specified in Clause 5 of the IB. |
| 1. **Bid Validity Period** | 19.1 Bids shall remain valid for the period specified in the BDS after the deadline for submission set by the Contracting Entity. A bid valid for a shorter period shall be deemed non-compliant and rejected by the Contracting Entity. |
|  | 19.2 Exceptionally, before the expiry of the bid validity period, the Contracting Entity may request bidders to extend the validity period of their bids. Requests and responses shall be made in writing. The validity of the bid guarantee shall be extended for a corresponding period. A bidder may refuse to extend the validity of their bid without forfeiting their security. A Bidder who consents to this extension shall not be asked to modify their bid, nor shall they be allowed to do so, subject to the provisions of Clause 14.8 of the IB. |
| 1. **Bid Security/ Guarantee** | * 1. Unless otherwise stipulated in the BDS, the bidder shall provide a bid guarantee which shall be an integral part of their bid. |
|  | * 1. The amount of the bid security/guarantee is specified in the BDS and the security shall:  1. Be in one of the following forms: (i) an irrevocable letter of credit, or (ii) a bank guarantee issued by a banking institution approved by the Ministry of Finance of the country of the ECOWAS Institution, or (iii) a guarantee issued by an institution authorized to issue guarantees approved by the Ministry of Finance, or (iv) a Banker’s cheque; 2. come from a reputable Financial Institution of the bidder’s choice established in a country that meets the criteria of origin. If the institution issuing the security/guarantee is outside the ECOWAS region, it must have a corresponding financial institution located in the ECOWAS country enabling the security to be invoked; 3. comply with the Bid Security/Guarantee Form in Section III; 4. be payable immediately, upon written request by the Contracting Entity in the event that the conditions listed in Clause 20.5 of the IB are invoked; 5. be submitted in the form of an original document; copies shall not be accepted; 6. remain valid for thirty (30) days after the expiry of the Bid Validity Period, even if the Bid Validity Period is extended in accordance with Clause 19.2 of the IB. |
|  | * 1. Any bid not accompanied by a bid security/guarantee, in accordance with the provisions of Clause 20.1 of the IB, shall be rejected by the Contracting Authority as non-compliant. |
|  | * 1. The bid security/guarantees of unsuccessful Bidders shall be returned to them as soon as possible after the Contracting Entity has taken the decision to award the contract and no later than 60 days after the date of publication of the letter of intent to award the contract. |
|  | * 1. The bid security/guarantee may be forfeited:  1. if the bidder withdraws their bid during the validity period specified in the bid submission letter, subject to the provisions of Clause 19.2 of the IB; or 2. with respect to the Successful Bidder, if the latter: 3. refuses to accept corrections made to their bid during the evaluation and comparison of bids; 4. fails to perform their obligation to sign the Contract pursuant to Clause 42 of the IB; 5. fails to provide the performance security/guarantee under Clause 43 of the IB;    1. The bid security/guarantee of a joint venture must designate as the bidders of the joint venture that submitted the bid. If a joint venture has not been formally constituted at the time of submission of the bid, the bid guarantee for a joint venture must designate as bidder all the members of the future joint venture. |
| 1. **Form and Signature of the Bid** | * 1. The Bidder shall prepare an original of the bidding documents as described in clause 11 of the IB, clearly marked “ORIGINAL”. In addition, they shall submit the number of copies of the bid indicated in the BDS, clearly marking these copies “COPY”. In the event of discrepancies between the copies and the original, the original shall prevail. |
|  | * 1. The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the bidder. This authorization shall consist of a written confirmation which shall be attached to the bidder Information Form which forms part of Section III. The name and title of each person signing the authorization must be typed or printed under the signature. The same person may not represent more than one Bidder for the same contract. All pages of the bid, with the exception of unmodified publications such as the manufacturer’s catalogue, shall be initialled by the person signing the bid. |
|  | * 1. For any additions between lines, alterations, erasures or overwriting to be valid, they must be signed or initialled by the person signing the bid. |
|  | **Submission and Opening of Bids** |
| 1. **Sealing and Marking of Bids** | * 1. Bids may always be submitted by post or delivered in person. The bidder must place the original of their bid and each copy thereof, including any variants authorized pursuant to clause 13 of the IB, in separate sealed envelopes, marked “ORIGINAL” or “COPY”, as appropriate. All these envelopes shall themselves be placed in the same sealed outer envelope. |
|  | * 1. The inner and outer envelopes shall:  1. be addressed to the Contracting Entity in accordance with Clause 23.1 of the IB; 2. bear the identification number of the bid indicated in Clause 1.1 of the IB, and any other identification number indicated in the BDS; 3. provide a warning not to open before the date and time for bid opening pursuant to Clause 26.1 of the IB.   The inner envelope shall also include the bidder’s name and address.  If the envelopes are not sealed and marked as stipulated, the Contracting Entity shall assume no responsibility for the misplacement or premature opening of the bid. |
| 1. **Deadline for Submission of Bids** | * 1. Bids must be received by the Contracting Entity at the address specified in the BDS and no later than the date and time stipulated in the said BDS.   2. The Contracting Entity may, in exceptional circumstances, extend the deadline for submission of bids by amending the Bidding Documents in accordance with Clause 8 of the IB, in which case all rights and obligations of the Contracting Entity and the bidders previously subject to the original deadline will thereafter be subject to the deadline as extended. |
| 1. **Late Bids** | * 1. The Contracting Entity shall not consider any bid which arrives after the deadline for submission of bids prescribed in Clause 23 of the IB. Any bid received by the Contracting Entity after the deadline for submission of bids shall be declared late, rejected and returned unopened to the bidder. |
| 1. **Withdrawal, Substitution and Modification of Bids** | * 1. A bidder may withdraw, substitute or modify their bid after submission, by means of a written notification in accordance with Clause 22 of the IB, duly signed by an authorized representative, accompanied by a copy of the authorization (power) in application of Clause 21.2 of the IB (except for notifications of withdrawal where copies are not required). The modification or the corresponding substituted bid must be attached to the written notification. All notifications must be:  1. issued pursuant to Clauses 21 and 22 of the IB (except for notices of withdrawal which do not require copies). In addition, the envelopes must be clearly marked, “WITHDRAWAL”, “SUBSTITUTE BID” or “MODIFICATION” as appropriate; and 2. received by the Contracting Entity before the bid submission deadline in accordance with Clause 23 of the IB. |
|  | * 1. Bids which bidders request to be withdrawn pursuant to clause 26.1 shall be returned to them unopened. |
|  | * 1. No bid may be withdrawn, substituted or modified during the interval between the deadline for submission of bids and expiry date for bid validity specified by the bidder on the bid form, or the expiration of any extension period. |
| 1. **Bid opening** | * 1. The Contracting Authority’s Bid Opening Committee shall open the bids in public on the date, at the time and at the address indicated in the BDS. The Bidder’ representatives who are present shall sign a register evidencing their presence. |
|  | * 1. Envelopes marked “WTHDRAWAL” shall be opened first and their contents read out, while the envelope containing the corresponding bid shall be returned to the bidder unopened. If the envelope marked “WTHDRAWAL” does not contain the power of attorney confirming that the signature is that of a person authorized to represent the bidder, the corresponding bid shall be opened. No bid withdrawal shall be authorized if the corresponding notification does not contain a valid authorization of the signatory to request withdrawal and is not read aloud. Subsequently, the envelopes marked “SUBSTITUTE BID” shall be opened and announced aloud and the corresponding new bid substituted for the previous one, which shall be returned unopened to the bidder. No bid substitution shall be authorized if the corresponding notification does not contain a valid authorization of the signatory to request the substitution and is not read aloud. Finally, the envelopes marked “MODIFICATION” shall be opened and their contents read aloud together with the corresponding bid. No bid modification shall be authorized if the corresponding notification does not contain a valid authorization of the signatory to request the modification and is not read aloud. Only bids that have been opened and read aloud at the bid opening shall then be considered. |
|  | * 1. All other envelopes shall be opened one after the other and the name of each Bidder read aloud, together with any indication of a modification, the bid amount per lot if applicable, including any discounts and any possible variants, the existence of a bid security/guarantee, and any other detail that the Bid Opening Committee may deem useful to mention. Only the discounts and variants of the bid read aloud during the bid opening shall be submitted for evaluation. No bid shall be rejected at the bid opening, with the exception of late bids pursuant to Clause 24.1 of the IB. The pages of the bid submission letter and price schedules shall be signed by the Bid Opening Committee Members present at the opening session. |
|  | * 1. As soon as the bid opening is completed, the Bid Opening Committee shall draw up minutes of the bid opening session, recording the information read aloud. A copy of the minutes shall be distributed to all Bidders who submitted a bid on time. |
|  | **Bid Evaluation and Comparison** |
| 1. **Confidentiality** | * 1. Information relating to the examination, clarification, evaluation and comparison of bids, and recommendations for the award of a contract shall not be disclosed to bidders or any other persons not officially concerned with such process until the award to the Successful Bidder has been announced. |
|  | * 1. Any attempt by a Bidder to influence the Contracting Authority during the examination, evaluation, and comparison of bids and verification of the qualification of Bidders or during the award decision may result in the rejection of their bid. |
|  | * 1. Notwithstanding the provisions of clause 27.2, during the interval between the time bids are opened and the Contract is awarded, if a Bidder wishes to contact the Contracting Authority for reasons relating to their bid, they must do so in writing. |
| 1. **Clarifications Regarding the Bids** | * 1. To assist in the examination, evaluation and comparison of bids, as well as the verification of the qualification of Bidders, the Contracting Authority, may at its discretion, ask any Bidder for clarification of their bid. No clarification provided by a Bidder other than in response to a request from the Contracting Authority shall be considered. The request for clarification from the Contracting Authority and the response provided shall be in writing. No change in price or substance of the bid shall be sought, offered or permitted except as required to confirm the correction of arithmetic errors discovered by the Contracting Authority in the evaluation of the bids in accordance with Clause 30 of the IB. |
| 1. **Bid Responsiveness** | * 1. The Contracting Authority shall establish the bid responsiveness on the basis of its content alone. |
|  | * 1. A responsive bid is one that conforms to all the terms, conditions, and specifications of the bidding documents without material deviation or reservation. A material deviation or omission is one:   2. which affects in any substantial way the scope, quality, or performance of Supplies and related Services specified in the Contract; or   3. substantially limit the Contracting Authority’s rights or the bidder’s obligations under the Contract in a manner that is inconsistent with the Bidding Documents;   4. the acceptance of which would be detrimental to the other Bidders who have submitted responsive bids. |
|  | * 1. The Contracting Authority will reject any bid that does not substantially comply with the Bidding Documents and the Candidate may not subsequently make it compliant by rectifying the discrepancy, reservation or substantial omission noted. |
| 1. **Non-Compliance, Errors and Omissions** | * 1. If a bid is substantially responsive, the Contracting Authority may tolerate any non-compliance or omission that does not constitute a material departure from the terms of the Invitation to Bid. |
|  | * 1. If a bid is substantially responsive, the Contracting Authority may require the bidder to submit, within a reasonable time, the information or documentation necessary to remedy the non-conformity or non-essential omissions found in the bid in relation to the requested documentation. Such an omission may not, under any circumstances, be linked to any element of the price of the bid. The Bidder who does not comply with this request may see their bid rejected. |
|  | * 1. When a bid is responsive, the Contracting Authority shall correct arithmetic errors on the following basis:  1. where there is a discrepancy between the unit rate and the total price resulting from multiplying the unit rate by the quantity, the unit rate shall govern, and the total price shall be corrected, unless, in the opinion of the Contracting Authority, there is an obviously gross misplacement of the decimal point in the unit rate, in which case the total price as quoted shall govern and the unit rate will be corrected. 2. if the total obtained by adding or subtracting the subtotals is not correct, the subtotals shall govern, and the total shall be corrected; and 3. if there is a contradiction between the price indicated in words and in figures, the amount in words shall take precedence, unless this amount is linked to an arithmetic error, in which case the amount in figures shall govern l subject to paragraphs (a) and (b) above. |
|  | * 1. If the bidder, evaluated as the most economically-advantageous does not accept the corrections made, their bid shall be rejected and their bid guarantee may be forfeited. | |
| 1. **Preliminary Screening of Bids** | * 1. The Contracting Authority shall examine the bids to ensure that all documents and technical documentation requested in Clause 11 of the IB have been provided and are all complete. | |
|  | 1. The Contracting Authority shall confirm that the following documents and information are included in the Bid Submission Form, in accordance with Clause 12.1 of the IB: 2. the price schedule, in accordance with Clause 12.2 of the IB. 3. the power entitling the signing authority to commit the bidder, in accordance with clause 21.2 of the IB; and 4. the Bid security in accordance with Clause 20 of the IB clause. | |
| 1. **Review of Conditions, Technical Evaluation** | * 1. The Contracting Authority shall examine the bid to confirm that all the conditions specified in the GCC and the SCC have been accepted by the bidder without substantial deviations or reservations.   2. The Contracting Authority shall examine the technical aspects of the bid submitted in accordance with Clause 17 of the IB to confirm that all the stipulations of Section IV: Schedule of Quantities, Delivery Schedule, Technical Specifications, Plans, Inspections and Tests of the Bidding Document, are complied with without substantial discrepancies or reservations.   3. If, after reviewing the terms and conditions of the Invitation to Bid and the technical evaluation, the Contracting Authority determines that the bid is non-compliant under Clause 29 of the IB, it shall disqualify the bid in question. | |
| 1. **Bid Evaluation** | * 1. The Contracting Authority shall evaluate each of the bids which it has determined, at this stage of the evaluation, to be compliant. | |
|  | * 1. To evaluate a bid, the Contracting Authority shall only use the criteria and methods outlined in this article. | |
|  | * 1. In evaluating a bid, the Contracting Authority shall consider the following:  1. the method of evaluation, by item or by lot, as indicated in the BDS, and the bid price indicated according to the provisions of Clause 14 of the IB; 2. adjustments made to the price to correct arithmetic errors pursuant to Clause 30.3 of the IB: 3. price adjustments attributable to discounts offered pursuant to IB Clause 14.4 of the IB; 4. adjustments, as indicated in the BDS, resulting from the use of the evaluation factors, methods and criteria selected. | |
|  | * 1. In evaluating the bid amount, the Contracting Authority may also have to take into account factors other than the bid price indicated in accordance with Clause 14 of the IB, including the characteristics and performance of supplies and related services and their conditions of purchase. The factors retained, if any, shall be expressed in monetary terms to facilitate the comparison of bids. The factors to be used and the method of application shall be as set out in IB Clause 33.3(d) of the IB. | |
|  | * 1. If provided for in the BDS, this Bid Document authorizes Bidders to indicate their prices separately for different lots, and allows the Contracting Authority to award one or more lots to one or more than one Bidder. The method of evaluation to determine the most cost-effective combination of bids, considering any discounts offered in the bid submission letter, shall be specified in the BDS. | |
| 1. **Comparison of Bids** | * 1. The Contracting Authority shall compare all substantially responsive bids to determine the most cost-effective evaluated bid, pursuant to Clause 33 of the IB. | |
| 1. **Subsequent Verification of Bidder’s Qualifications** | * 1. The Contracting Authority shall ensure that the bidder selected for having submitted the most economically-advantageous evaluated bid that is substantially responsive to the provisions of the bidding documents, has the qualifications required to perform the Contract satisfactorily. The Contracting Authority reserves the right to accept minor deviations from the qualification requirements if they do not materially affect a Bidder’s ability to perform the contract. | |
|  | * 1. This decision shall be based on the examination of the documents attesting to the qualifications of the bidder and submitted by them pursuant to Clause 18 of the IB. | |
|  | * 1. The award of the Contract to the bidder shall be subject to the positive outcome of this decision. Otherwise, the bid shall be rejected and the Contracting Authority shall proceed to examine the second lowest evaluated bid in order to establish in the same manner whether the bidder is capable of performing the Contract satisfactorily. | |
| 1. **Right of Contracting Authority to Accept Any Bid and Reject Any or All Bids** | * 1. The Contracting Authority reserves the right to accept or reject any bid, and to cancel the bidding process and reject all bids at any time before the award of the contract, without incurring any lability whatsoever to the bidders.   2. The Contracting Authority shall inform bidders, at their written request, of the reasons they have decided not to award or notify the contract or to restart the procedure, within five (5) working days of receipt of the request. | |
|  | **Contr****act Award** | |
| 1. **Contract Award Criteria** | * 1. The Contracting Authority shall award the Contract to the bidder whose bid has been determined as the most economically-advantageous and found to be substantially responsive to the Bidding Documents, provided that the bidder has been deemed eligible to perform the Contract satisfactorily. | |
| 1. **Contracting Authority’s Right to Change Quantities at Award of Contract** | * 1. At the time of the award of the contract, the Contracting Authority shall reserve the right to increase or decrease the quantity of Supplies and related services initially specified in Section IV, provided that such change does not exceed the percentages indicated in the BDS, and without any modification of the unit prices or other conditions of the bid and of the bidding documents. | |
|  |  | |
| 1. **Notification of Award** | * 1. As soon as possible after the approval by the competent authority, the Contracting Authority shall notify the Successful Bidder before expiry of the bid validity period. The notification consists of the intention of award to the successful bidder, dispatched by registered letter with acknowledgement of receipt.   2. Unless otherwise provided in the contract, the date of notification is the starting point of the contractual deadlines for performance of the contract. The contract only takes effect as far as the Successful Bidder is concerned from the date of its notification. | |
|  |  | |
|  |  | |
| 1. **Information to Bidders** | * 1. The Contracting Authority shall in writing inform all unsuccessful bidders of their rejection, and return their bid securities/guarantees.   2. This notice shall contain at least: (i) the identification of the Invitation to Bid and of each lot, if applicable; (ii) the name of the bidder whose bid was accepted, and (iii) the amount of the contract awarded.   3. Any unsuccessful bidder may request in writing from the Contracting Authority an explanation as to the reasons why their bid was not accepted. The Contracting Authority shall respond in writing to the bidder within seven (7) calendar days of receipt of the request.   4. At the end of the evaluation process, the Contracting Authority shall publish a notice of intent to award the contract on the ECOWAS website. | |
| 1. **Standstill period** | * 1. Any unsuccessful bidder is entitled to appeal within fifteen (15) calendar days of the publication of the notice of intent to award the contract. Appeals must be made in writing to the person responsible for the contract, indicating the references of the contract award procedure and setting out the grounds for the complaint. This appeal may relate to the decision to award or not to award the contract, the conditions for publication of notices, the rules governing the participation of candidates and the capacities and securities required, the award method and selection procedure adopted, the conformity of the bidding documents with regulations, the technical specifications adopted and the evaluation criteria. The complaint must allege a clear breach of public procurement regulations. The complaint must be lodged within 15 days from the date of issuing the notification to award the contract.   2. The person responsible for the contract is required to respond to this complaint within five (5) working days, beyond which, failure to respond shall constitute an implicit rejection of the administrative appeal.   3. In the absence of a favourable response to the administrative appeal, the bidder has three (3) working days from receipt of the response from the Contracting Authority or from the expiration date of three (3) days referred to in Clause 44.2 above to submit a petition to the Directorate in charge of Administration.   4. Referral to the Directorate in charge of Administration is done by written notification. | |

|  |  |
| --- | --- |
| 1. **Signature of the Contract** | * 1. The Contracting Authority shall send the Successful Bidder the Commitment Deed and the Special Conditions of Contract (SCC). |
| 1. **Performance Security** | * 1. Within fourteen (14) days of receipt of notification by the Contracting Authority of the award of the Contract, the Successful Bidder shall provide the performance security, in accordance with the GCC (General Conditions of Contract), using the Performance Security Form set out in Section VII. |
|  | * 1. Failure by the Successful Bidder to submit the aforementioned performance security or failure to sign the Commitment Deed, shall constitute sufficient grounds for cancellation of the award of the Contract and forfeiture of the bid guarantee, in which case the Contracting Authority may award the Contract to the bidder whose bid is deemed substantially compliant with the bidding documents and ranked the second most cost-effective and who has the qualifications required to perform the Contract in a satisfactory manner. |

|  |  |
| --- | --- |
| **Section II. Bid Data Sheet (BDS)**  The specific data that follows, supplements, clarifies or amends the clauses of the Instructions to Bidders (IB). In the event of conflict, the clauses below shall prevail over those in the IB.  *[The notes in italics that acco**mpany the clauses below are intended to facilitate the establishment of the corresponding specific data]* | |
| **A. Introduction** | |
| **IB 1.1** | Reference of Invitation to Bid *[insert reference]* |
| **IB 1.1** | Name of Contracting Entity: *[insert name]:* |
| **IB 1.1** | Number and identification of lots subject to this Invitation to Bid:  *[Insert number and identification numbers].* |
| **IB 2.1** | Contract funding source: *[insert]* |
| **IB 4.1** | The Invitation to Bid (has/has not) been preceded by prequalification. |
| **IB 5.1** | The qualification requirements applicable to bidders are as follows:  Financial capacity  The bidder must provide written proof that they meet the following requirements: *[insert list of requirements specifying the nature of supporting documents required; at a minimum, the bidder should be required to provide their certified financial statements for the last three financial years; requirements concerning the average annual turnover over a certain number of years or the existence of liquid assets or a line of credit are generally not relevant for supply contracts and should therefore be avoided, except in duly justified cases.]*  Technical capacity and experience  The bidder must demonstrate, with supporting documentation, that they meet the technical capability requirements below: *[insert list of requirements specifying the nature of supporting documents required; this type of requirement shall be justified in particular when the contract requires the implementation of complex distribution or after-sales service logistics, in which case the bidder should be asked to provide proof that they will have the necessary means, either directly or through a representative based in the ECOWAS country.]*  The Bidder must demonstrate, with supporting documentation, that they meet the following experience requirements: *[insert the list of requirements, specifying the nature of the supporting documents required for this type of requirement, relating for example to the existence of a certain number of similar contracts carried out by the bidder during a given number of years, shall be justified in particular when the contract shall require the implementation of complex distribution or after-sales service logistics; however, care should be taken not to formulate overly restrictive requirements to the detriment of local Bidders who would otherwise be qualified to perform the required distribution and after-sales service; to this end, it may be indicated that the similarity of contracts will be defined in an appropriate manner and will relate to the complexity of the distribution and after-sales services rather than to the specific nature of the supplies]*  The bidder must provide written proof that the supplies they bid meet the following condition(s) of use: *[insert term(s) of use; for example, in the case of equipment, it may usefully be required that the bidder provide proof that the type of equipment proposed has already been marketed in at least three countries other than that of the manufacturer, at least two of which have service conditions (notably climatic) similar to those prevailing in the ECOWAS country and that this equipment has been operating satisfactorily for at least three years.]* |
| **B. Bidding Documents** | |
| **IB 7.1** | For clarification purposes only, the address of the person responsible for the Contract to the Procuring Entity is as follows:  *[Note: insert the name and office number of the person responsible for the Contract]*  For the attention of: *[insert name of official]*  Address: *[insert full address]*  Mailing address: *[insert PO box number]*  Phone number: *[insert number]*  Fax number: *[insert number]*  Email address: *[insert address]* |
| **C. Preparation of Bids** | |
| **IB 11.1 (g)** | The bidder shall submit with their bid the following other documents:  *[insert list of documents, as necessary]* |
| **IB 13.1** | Variants *[insert “are" or "are not”]* allowed.  *[If variant bids are allowed, insert:*  *“A bidder is only permitted to submit a variants bid if they submit a base bid. The Contracting Authority shall only consider the variants offered by the bidder having submitted the lowest evaluated base bid.”*  *Or*  *“A bidder is permitted to submit a variant bid with or without a base bid. The Contracting Authority shall consider alternative bids satisfying the Technical Specifications set out in Section IV, Schedule of Quantities and Delivery, Technical Specifications. All bids received, for the base solution or as variants meeting the required conditions, shall be evaluated according to their intrinsic values, in accordance with the same procedures, as indicated in clause 33 of the IB.”]* |
| **IB 14.6 (a)** | The place of destination is: *[insert name]* |
| **IB 14.7** | The prices offered by the bidder *[insert “will be firm” or “will be subject to review.”]* |
| **IB 17.3** | The period of use of the goods is planned for: *[to be used for equipment procurement only; in that case, insert a number of years; for goods not requiring spare parts or special tools, state: “Not Applicable”]* |
| **IB 18.1 (a)** | Manufacturer’s Authorization *[insert “is” or “is not”]* required. |
| **IB 18.1 (b)** | After-sales service *[insert “is” or “is not”]* required. |
| **IB 19.1** | The bid validity period shall be *[insert number]* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ days. |
| **IB 20.1** | [For contracts estimated at less than XXXXX, the Contracting Authority may choose not to require a bid security/guarantee; in such a case, indicate here: *“****A bid*** security/***guarantee is not required****” and state “****Not Applicable****” to the right of 20.2 of the IB below.]* |
| **IB 20.2** | The amount of the bid security/guarantee is: *[insert the amount which must be between 1 and 2% of the estimated contract value; the percentage retained being inversely proportional to this estimated value.]* |
| **IB 21.1** | In addition to the original of the bid, the number of copies requested is: *[insert number of copies]* |
| **D. Bid Submission and Bid Opening** | |
| **IB 22.2 (b)** | The inner and outer envelopes shall bear the following other identifications: *[insert name and/or number that should appear on the bid envelope to identify this procurement process]* |
| **IB 23.1** | For **bid submission purposes** only, the address of the Contracting Authority is as follows:  Note: *[Note: insert the full name of the person, if applicable, or insert the name of the project manager]*  Address: *[insert full address]*  Mailing address: *[insert PO box number]*  **The closing date and time for bid submission are as follows:**  Date: *[insert day, month, year; for example: 15 June 2008]*  Time: *[insert time]* |
| **IB 26.1** | The opening of the bids shall be at the following address:  Address: *[insert full address]*    Date*: [insert day, month, year; for example: 15 June 2008]*  Time: *[insert time]* |
| **E. Bid Evaluation and Comparison** | |
|  |  |
| **IB 33.3 (a)** | The evaluation shall be conducted by *[insert “item” or “lot”]*  *[Select one of the three sample clauses below as applicable]*  The goods or services constitute a single lot and the bids must cover all the goods and services.  Or  Bids shall be evaluated per item and the Contract shall relate to the items awarded to the Successful Bidder.  Or  Bids shall be evaluated by lot. If a price schedule includes an item without providing the price, the price shall be considered included in the prices of the other items. An item not mentioned in the Price Schedule shall be considered as not being part of the bid and, assuming that the latter is essentially compliant, the highest price offered for the item in question by the bidder with compliant bids shall be added to the bid price, and the total bid price thus evaluated shall be used for the purpose of comparing bids. |
| **IB 33.3 (d)** | Adjustments shall be calculated using the following evaluation criteria:  a) Variation from delivery schedule: The Supplies covered by this Invitation to Bid must be delivered within an acceptable period of time (i.e. between and including an initial date and a final date) specified in Section IV, Schedule of quantities, Delivery and Technical Specifications. No bonus shall be allocated for early delivery; and bids proposing delivery beyond this period shall be considered non-compliant. Within this acceptable period, an adjustment of *[insert adjustment factor, per week of delay greater than the minimum delay]*, shall be added to the bid prices providing for delivery on a date included in the period specified in the Delivery schedule. This adjustment shall be made for evaluation purposes only.  (b) Cost of spare parts, mandatory spare parts, and after-sales service: *[insert (i) or (ii) below]*  i) The list and quantities of major assemblies and spare parts are provided by the Contracting Authority in the list of Supplies. Their total cost resulting from the application of the unit prices indicated by the bidder in their bid, shall be added to the bid price for evaluation purposes.  **Or**  ii) The Contracting Authority shall list commonly used components and spares during the evaluation of each bid, together with an estimate of the quantities required for the initial period of operation. The corresponding cost shall be determined from the unit prices indicated by the bidder, and shall be added to the bid price for evaluation purposes.  c) Availability of spare parts and after-sales services in the ECOWAS country, for the equipment offered in the bid:  The cost to the Contracting Authority of providing minimum after-sales service and spare parts storage facilities shall be added to the bid price for evaluation purposes.  d) Operating and maintenance costs:  The costs of operation and maintenance of the Supplies contained in the Invitation to Bid shall be added to the bid price for evaluation purposes only. *[Insert method of determining operation and maintenance costs, if applicable]*  e) Performance and efficiency of supplies: *[insert (i) or (ii) below]*  i) The bidders shall indicate the performance or guaranteed efficiency, based on the Technical Specifications. For any performance or efficiency below the standard of 100, the bid price shall be increased by the discounted cost of the operating costs during the life of the equipment in question, calculated according to the following method: *[insert].*  **Or**  ii) The equipment offered must have the minimum performance specified in the Technical Specifications to be considered compliant with the provisions of the Bidding Documents. The evaluation shall consider the additional cost due to the difference in performance of the equipment proposed in the bid compared to the required performance; the offered price shall be adjusted according to the following method: *[insert].*  f) Additional specific criteria  *[Any other specific criteria, as well as the appropriate method for applying it to the evaluation, should be detailed here, if applicable.]* |
| **IB 33.5** | *[Insert text below if the bid is for multiple lots that can be awarded separately; otherwise, indicate: “Not Applicable”.]*  [The Contracting Authority shall award the different lots to the bidder(s) who offer (s) the combination of bids per lot (including any discounts that may be granted in the event of the award of more than one lot evaluated as the economically-advantageous bidder, and who meets the qualification conditions.] |
| **IB 34.1** | *[Insert, if applicable:**“A margin of preference of x% (x may not exceed 10) will be granted to supplies from workers’ groups, workers’ production cooperatives, craftsmen’s groups and cooperatives, artists’ cooperatives and individual craftsmen monitored by the Chambers of Commerce of Member Countries]* |
| **IB 34.2** | *[Insert, if applicable:**“A margin of preference of x% (x may not exceed 10) will be granted to supplies manufactured in ECOWAS member countries.”]* |
| **F. Award of Contract** | |
| **IB 39.1** | The quantities can be increased by a maximum percentage equal to: *[insert percentage between 0 and 15 percent]*  The quantities can be reduced by a maximum percentage equal to: *[insert percentage between 0 and 15 percent]* |

|  |
| --- |
| **Section III. Bid Submission Forms** |

**List of forms**

**[Bidder Information Form…………………………………………………...3](#_Toc190767529)5**

**[Joint Venture Member Information Form…………………………………](#_Toc190767530)36**

**Bid Submission Letter……………………………………………………….37**

**Price Schedule for Supplies………………………………………………….39**

**Price Schedule and Timetable for the Performance of Related Services....40**

**[Bid Guarantee (Security issued by a Financial Institution)……………….4](#_Toc190767536)1**

**[Manufacturer Authorization Template……………………………………..4](#_Toc190767537)3**

**[Template for Commitment to Respect Rules of Transparency and Ethics in Public Procurement…………………………………………………………..4](#_Toc190767538)4**

1. **Bidder Information Form**

*[The bidder completes the table below in accordance with the instructions in square brackets. The table may not be modified. No substitutions shall be permitted.]*

Date: *[insert date (day, month, year) of bid submission]*

ITB number: *[insert name of Invitation to Bid]*

|  |  |
| --- | --- |
| 1. Bidder name: *[insert bidder’s legal name]* | |
| 2. If a Joint Venture, the names of all members: *[insert the legal name of each member of the joint venture]* | |
| 3. a. Country where the bidder is or shall be legally registered:*[insert name of country of registration]* | 3.b. CRN (Company Registration Number) *[insert number]* |
| 4. Year of registration of the bidder: *[insert year of registration]* | |
| 5. Official address of the bidder in the country of registration: *[insert the legal address of the bidder in the country of registration]* | |
| 6. Information on the bidder’s duly authorized representative:  Name:*[insert name of bidder’s representative]*  Address:*[insert the address of the bidder’s representative]*  Telephone/Facsimile:*[insert telephone/facsimile number of bidder’s representative]*  Email address:*[insert the email address of the bidder’s representative]* | |
| 7. Attached are copies of the originals of the following documents: *[tick the box(es) corresponding to the original documents attached]*   Registration document, listing or incorporation of the firm named in 1 above, in accordance with Clauses 4.1 and 4.2 of the IB. | |

1. **Joint Venture Member Information Form**

*[The bidder completes the table below in accordance with the instructions in square brackets. The table may not be modified. No substitutions shall be permitted.]*

Date: *[insert date (day, month, year) of bid submission]*

ITB number: *[insert name of Invitation to Bid]*

|  |  |
| --- | --- |
| 1. Bidder name: *[insert bidder’s legal name]* | |
| 2. Joint venture member name: *[insert legal name of joint venture member]* | |
| 3.a. Country where the joint venture member is or shall be legally registered: *[insert the name of the country of registration of the joint venture member]* | 3.b. CRN (Company Registration Number)) *[insert number]* |
| 4. Year of registration of the joint venture member: *[insert year of registration of joint venture member]* | |
| 5. Official address of the joint venture member in the country of registration: *[insert the legal address of the joint venture member in the country of registration]* | |
| 6. Information on the joint venture’s duly authorized representative:  Name:*[insert name of joint venture member’s representative]*  Address:*[insert the address of the joint venture member’s representative]*  Telephone/Facsimile:*[insert telephone/facsimile number of joint venture member’s representative]*  Email address:*[insert the email address of the joint venture member’s representative]* | |
| 7. Attached are copies of the originals of the following documents: *[tick the box(es) corresponding to the original documents attached]*   Registration document, listing or incorporation of the firm named in 2 above, in accordance with Clauses 4.1 and 4.2 of the IB  In the event of a joint venture, letter of intent to form a joint venture, or joint venture agreement, in accordance with Clause 4.1 of the IB. | |

|  |
| --- |
| 1. **Bid Submission Letter** |

*[The bidder completes the letter below in accordance with the instructions in square brackets. The letter format may not be modified. Any reservation or major deviation from this format may result in the rejection of the bid]*

Date: *[insert date (day, month, year) of bid submission]*

ITB number: *[insert name and number of the Invitation to Bid]*

Variant number: *[insert identification number if this bid is offered for a variant]*

To *[insert full name of Contracting Authority]*

We, the undersigned, certify that:

1. We have reviewed the Bidding Documents, including corrigendum number: *[insert the numbers and date of issue of each of the addenda];* and have no reservations about them;
2. We undertake to provide, in accordance with the Bidding Documents and the delivery schedule specified in the Schedule of Quantities and Delivery and Technical Specifications, and Related Supplies and Services below: [insert brief description of Related Supplies and Services];
3. The total bid price, excluding the discount offered in Clause (d) below, is: *[insert the total price of the bid in words and figures, indicating the currencies and amounts corresponding to these currencies].*
4. The discounts offered and the terms of application of said discounts are as follows:

*[specify in detail the discounts offered, if any, and the item(s) of the price schedule(s) to which they apply]*

*[Also detail the method that shall be used to apply the discounts offered, if any]*

1. Our bid shall remain valid for the period required in Clause 19.1 of the Instructions to Bidders from the deadline set for submission of bids in Clause 23.1 of the Instructions to Bidders; this bid shall continue to be binding on us and may be accepted at any time before the expiration of this period;
2. If our bid is accepted, we undertake to provide a contract performance security/guarantee in accordance with Clause 42 of the Instructions to Bidders and clause 17 of the General Conditions of Contract (GCC);
3. Our application, as well as any subcontractors or suppliers intervening in connection with any part of the Contract, do not fall under the conditions of exclusion of Clause 4.2 of the Instructions to Bidders.
4. We are not in a situation of conflict of interest defined in Clause 4.3 of the Instructions to Bidders.
5. We undertake not to grant or promise to grant to any person intervening in any capacity whatsoever in the procurement procedure an undue advantage, pecuniary or otherwise, directly or through intermediaries, with a view to obtaining the contract, and in general to respect the provisions of the Charter of Transparency and Ethics in Public Procurement, as evidenced by the attached commitment form, signed by us.
6. It is understood that this bid, and your written acceptance of the said bid appearing in the notification of award of the Contract that you shall send to us, shall constitute a contract between us, until a formal contract is drafted and signed.
7. It is understood that you are not bound to accept the lowest evaluated bid or any of the bids you may receive.

Name *[insert full name of the person signing the bid]*

As *[indicate capacity of signatory]*

Signature *[insert signature]*

Having the power to sign the bid for and on behalf of *[insert the full name of the bidder]*

Dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of *[insert date of signature]*

|  |  |
| --- | --- |
| 1. **Price Schedule for Supplies** | |
| *[The bidder must fill all blanks in the Price Schedule forms as instructed below. The list of items in Column 1 of the Price Schedule must be identical to the list of Related Supplies and Services provided by the Contracting Authority in Section IV.]* | |
|  | Date *[insert date (day, month, year) of bid submission]*  ITB number: *[insert name of Invitation to Bid]*  Variant number: *[insert identification number if this bid is offered for a variant]* |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Item | Description | 1. Delivery date | Quantity (No. of units) | Unit price  CIP | Total CIP price  per item  (col.4 x 5) | Cost local labour, raw materials and components from ECOWAS  % of Col.5 |
| *[Insert item reference]* | *[Insert supply identification]* | *[Insert bid*  *delivery date]* | *[Insert quantity and identification of unit of measure]* | *[Insert CIP unit price for item]* | *[Insert CIP total price for item]* | *[Insert cost local labour, raw materials and components sourced* from ECOWAS *% of price for item*] |
|  |  |  |  | Total price | *[insert total price]* |  |

Name of Bidder *[insert name of Bidder]* Signature *[insert signature]*, Date *[insert date]*

Date *[insert bid date ]*

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 1. **Price Schedule and Timetable for the Performance of Related Services** | | | | | | | |
|  | | Bid currency in accordance with IB clause 15 | | | Date *[insert date (day, month, year) of bid submission]*  ITB number: *[insert name of Invitation to Bid]*  Variant number:[insert identification number if this bid is offered for a variant] | | |
| 1 | 2 | 4 | 5 | 6 | | 7 | |
| Item | Description of Services | Completion date at final destination | Quantity (No. of units) | Unit price | | Total price per item  (Col. 5\*6) | |
| *[Insert item reference]* | *[Insert service identification]* | *[Insert the completion date proposed]* | *[Insert quantity and identification of unit of measure]* | *[Insert unit price for item]* | | *[Insert total price for item]* | |
|  |  |  |  |  | |  | |
|  |  |  |  |  | |  | |
|  |  |  |  |  | |  | |
|  |  |  |  |  | |  | |
|  | | | | | | Total price | *[insert total price]* |
| Bidder name *[insert name of Bidder]* Signature *[insert signature]* Date *[insert date]* | | | | | | | |

|  |
| --- |
| 1. **Bid Security/Guarantee Template (Guarantee issued by a financial institution)** |

*[The financial guarantor completes this bid security/guarantee template in accordance with the indications in square brackets]*

*[Insert name of bank or guarantor company, and address of issuing agency]*

*Beneficiary: [insert name and address of Contracting Authority]*

Date: *[insert date]*

**Bid security/guarantee number:** *[insert security number]*

We have been informed that *[insert name of bidder]* (hereinafter referred to as “the bidder”) has responded to your bid number *[insert tender notice number]* for the supply of *[insert description of supplies]* and has submitted their bid to you dated *[insert date of submission of bid]* (hereinafter referred to as “the Bid”).

Under the provisions of the bidding documents, the bid must be accompanied by a bid security/guarantee.

At the request of the bidder, we *[insert name of bank or guarantor company]* hereby undertake, without reservation and irrevocably, to pay you all sums of money that you may claim within the limit of *[insert the amount in figures and in letters].*

Your request for payment must be accompanied by a statement attesting that the bidder has not fulfilled one of the obligations to which they are bound under the Bid or has been subject to a sanction for misconduct within the framework of the procurement procedure, namely:

1. if they do not accept the changes to their bid following the correction of arithmetic errors; Or
2. if they withdraw the Bid during the validity period they have specified in the bid submission letter; Or
3. if, having been notified of the acceptance of the Bid by the Contracting Authority during the validity period as indicated in the bid submission letter or extended by the Contracting Authority before the expiry of such period they:
   1. do not sign the Contract; or
   2. fail to provide a security for the proper performance of the Contract, if required to do so as provided in the Instructions to Bidders; Or
4. they have been subject to a sanction by the Sanctions Committee or a competent administrative court, leading to the seizure of the securities they have constituted in the context of the contract award;

1. This security expires (a) if the contract is awarded to the bidder, when we receive a copy of the signed Contract and the performance security issued on your behalf, as instructed by the bidder; or (b) if the Contract is not awarded to the bidder, on the earlier of the following dates: (i) when we receive a copy of your notification to the bidder of the name of the Successful Bidder, or (ii) thirty (30) days after the expiration of the Bid validity.

Any request for payment under this security must be received by this date at the latest.

This security/guarantee is governed by the International Chamber of Commerce’s (ICC) Uniform Rules for Demand Guarantees (URDG), published in 2020.

Name: *[full name of person signing]* Title *[legal capacity of person signing]*

Name: *[full name of person signing]* Title *[legal capacity of person signing]*

Signed *[signature of person whose name and title appear above]*

1. **Manufacturer Authorization Template**

*[The bidder requires Manufacturer to prepare this letter as indicated in square brackets. This letter of authorization must be on the Manufacturer’s letterhead and signed by a person duly authorized to sign documents binding the Manufacturer. The Bidder includes this letter in their bid, if required in the ITB]*

Date *[insert date (day, month, year) of bid submission]*

ITB number: *[insert name and number of the Invitation to Bid]*

Variant number: *[insert identification number if this bid is offered for a variant*

To: *[insert full name of Contracting Authority]*

WHEREAS:

*[Insert full name of Manufacturer]* is a reputable manufacturer of *[indicate supplies produced]* having our factories *[indicate full address of factory]*

We hereby authorize *[insert full name of Bidder]* to submit a bid, and possibly sign a contract with you for the Invitation to Bid number *[insert the number of the Invitation to Bid]* for these supplies manufactured by us.

We confirm all our warranties in accordance with Clause 27 of the General Conditions of Contract for the supplies offered by the above company for this Invitation to Bid.

Name *[insert the full name of the person signing the authorization]*

As *[indicate capacity of signatory]*

Signature *[insert signature]*

Duly mandated to sign the authorization for and on behalf of *[insert full name of Manufacturer]*

Dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_ *[insert date of signature]*

1. **Template for Commitment to Respect the Rules of Transparency and Ethics in Public Procurement**

To: *[name and address of Contracting Authority]*

Dear Sir/Madam,

In view of submitting our bid for *[insert here the subject of the consultation or contract]*, we, the undersigned, have noted the rules of transparency and ethics in public procurement and we undertake to comply with all the provisions of this regulations concerning us during the contract award procedure and, should our bid be successful, during its execution.

We are aware that, as a sanction, we may be temporarily or permanently excluded from public procurements, in accordance with the regulations, if it is established that we have engaged in one or more of the practices, below, in connection with the award and performance of the contract:

* corrupt activities towards public procurement officials;
* fraudulent manoeuvres to obtain the contract;
* illegal agreements;
* unjustified relinquishment of the contract performance if our bid is accepted; and,
* failure to meet our requirements.

We are also aware that these administrative sanctions are without prejudice to the criminal sanctions provided for by the laws and regulations in force.

Yours faithfully,

Done on 20

Signature as

duly authorized to sign for and on behalf of the bidder *[name of the bidder or the joint ventures followed by “jointly and severally”]*

**PART 2 - Co****nditions for Delivery of Supplies**

|  |
| --- |
| **Section IV. Schedule of Quantities, Delivery Schedule, Technical Specifications, Plans, Inspections and Tests** |

**Table of Contents**

1. List of Supplies and Delivery Schedule 49

2. List of Related Services and Completion Schedule 50

3. Technical Specifications 51

4. Plans 53

5. Inspections and Tests 54

**Notes for the Preparation of this Section IV**

The Contracting Authority shall prepare and include this Section IV in the bidding document. This Section includes at least a description of the Supplies and Services to be supplied and the Delivery Schedule.

The purpose of this Section IV is to provide bidders with sufficient information to enable them to prepare their bids efficiently and accurately, including Price Schedules, for the preparation of which Section III provides standard forms. Furthermore, this Section IV, used in conjunction with the Price Schedules (Section III), should allow prices to be adjusted in the event of variations in quantities at the time of contract award in accordance with Clause 39 of the Instructions to Bidders (IB).

The date or period of delivery of Supplies should be specified carefully, taking into account: (a) the implications which may arise from the terms used to define delivery, the said terms being specified in the IB and defined in International Commercial Terms (Incoterms); and (b) the prescribed date, which is the date from which the obligations of the Contracting Authority begin (e.g. notification of contract award, signing of contract, opening or confirmation of letter of credit).

|  |
| --- |
| **1. List of Supplies and Delivery Schedule** |

*[The Contracting Authority completes this table, except for the column “Delivery Date proposed by the bidder” which is completed by the bidder. The list of items must be identical to that which appears in the price schedule, Section III]*

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Item number** | **Description of Supplies** | **Quantity (No. of units)** | **Unit** | **Site (project) or Final destination as indicated in the SBD** | **Delivery date** | | |
| **Earliest delivery date** | **Latest delivery date** | **Delivery date proposed by the bidder [to be indicated by the bidder]** |
|  | *[Insert description of Supplies ]* | *[Insert quantity of items to be supplied]* | *[Insert unit of measure]* | *[Insert the place of final delivery, according to the ITT]* | *[insert date]* | *[insert date]* | *[Insert the date proposed by the bidder]* |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **2. List of Related Services and Completion Schedule**  *[This table is completed by the Contracting Authority. Service completion dates must be realistic, and consistent with delivery dates]* | | | | | |
| **Item number Service.** | **Description of Service** | **Quantity[[1]](#footnote-2)** | **Physical unit** | **Site or location where the Services are to be performed** | **Final date of performance of the Services** |
|
| *[Insert service number]* | *[Insert description of service]* | *[Insert number of items to be supplied]* | *[Unit of measurement]* | *[Place of performance of the service]* | *[insert date]* |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

**3. Technical Specifications**

*The purpose of the Technical Specifications (TS), where applicable, is to define the technical characteristics of the Supplies and related Services requested by the Contracting Authority. The Contracting Authority prepares the detailed technical clauses considering that:*

* *The technical clauses constitute the reference against which the Contracting Authority verifies the conformity of the bids and then evaluates them. Therefore, well-defined technical clauses facilitate the preparation of responsive bids by the bidders, as well as the preliminary screening, evaluation and comparison of the bids by the Contracting Authority.*
* *The technical clauses require that all the supplies, as well as the materials which constitute them, be new, unused, of the latest or current model, and that they incorporate all improvements in design and materials, unless the contract stipulates otherwise.*
* *The standardization of technical clauses can have advantages and depends on the complexity of the Supplies and the repetitive nature of the award of the contracts in question.*
* *The standards for equipment, materials and labour specified in the bidding documents must not be restrictive. International standards should be used wherever possible. References to brand names, catalogue numbers, or other particulars which limit materials or articles to a particular Manufacturer should be avoided wherever possible. Where unavoidable, such description of an item should always be accompanied by the statement “or substantially equivalent”.*
* *The technical clauses must describe in detail the requirements concerning, among other things, the following aspects:*

*a) Material and manufacturing standards required for the production and manufacture of the Supplies;*

*b) Details of the tests (nature and number);*

*c) Additional related /services, necessary to ensure proper delivery/completion;*

*d) Detailed activities to be carried out by the bidder, and any involvement of the Contracting Authority in these activities;*

*e) List of performance securities/guarantees (details) covered by the security and details of penalties applicable in the event of non-compliance with these performance securities.*

* *The technical clauses specify the main technical and operating characteristics required, as well as other requirements, such as the maximum or minimum guaranteed values. If necessary, the Contracting Authority includes an ad hoc form (attachment to the bid submission letter) in which the bidder provides detailed information on the acceptable or guaranteed values of the operating characteristics.*

*When the Contracting Authority requires the bidder to provide in their bid some or all of the technical clauses, technical documents, or other technical information, the Contracting Authority shall specify in detail the nature and quantity of the information requested, as well as their presentation in the bid.*

*[If a summary of the technical clauses is to be provided, the Contracting Authority inserts the information in the Table below. The bidder prepares a similar table showing that the conditions are met]*

**Summary of Technical Specifications**

**Related Supplies and Services must comply with the following specifications and standards.**

|  |  |  |
| --- | --- | --- |
| **Items (References)** | **Names of Related Supplies or Services** | **Technical specifications and applicable standards** |
|  |  |  |
| *[Insert item reference]* | *[Insert name]* | *[Insert requirements and standards]* |
|  |  |  |
|  |  |  |
|  |  |  |

Detailed technical specifications and standards, if necessary.

*[Insert detailed description]*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**4. Plans**

This Bidding Document [insert “includes the following plans” or “does not include any plans”], as applicable.

*[If the Bidding Document includes plans, insert the list in the table below]*

|  |  |  |
| --- | --- | --- |
| **Plan list** | | |
| **Numbers** | **Titles** | **Objectives** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

**5. Inspections** **and Tests**

The following inspections and tests shall be performed: *[insert list of inspections and tests].*

|  |
| --- |
| Section V. General Administrative Clauses (CCAG) |

List of clauses

1. Definitions 64

2. Contractual documents 65

3. Sanction for mistakes committed by candidates or holders of public contracts 65

4. Interpretation 66

5. Language 68

6. Grouping 68

7. Criteria of origin 68

8. Notification 68

9. Applicable law 68

10. Dispute resolution 68

11. Purpose of the Contract 69

12. Delivery 69

13. Responsibilities of the Holder 69

14. Contract Amount 69

15. Terms of payment 69

16. Taxes, fees and duties 70

17. Performance guarantee 70

18. Copyright 71

19. Confidential information 71

20. Subcontracting 72

21. Specifications and Standards 72

22. Packaging and documents 73

23. Insurance 73

24. Transportation 73

25. Inspections and tests 73

26. Penalties 75

27. Guarantee 75

28. Patents 76

29. Limitation of liability 77

30. Amendments to laws and regulations 77

31. Force majeure 77

32. Modification orders and contract amendments 78

33. Extension of deadlines 79

34. Termination 79

35. Transfer 81

**Book of general administrative clauses**

|  |  |
| --- | --- |
| 1. Definitions | * 1. The following terms and expressions will have the meaning assigned to them here:  1. “Market” means all the rights and obligations subscribed to by the parties for the provision of supplies and services. The contractual documents and exhibits are listed in the Deed of Commitment. 2. “Contractual documents” means the documents referred to in the Deed of Commitment, including any amendments to said documents. 3. “Market Amount” means the price payable to the Contractor, in accordance with the signed Deed of Commitment , subject to any addition and modification or any deduction from said price, which may be made under the Contract. 4. “Day” means a calendar day. 5. “CCAG” means the General Administrative Clauses. 6. “Supplies” means all products, raw materials, machinery and equipment and/or any other materials that the Contractor is required to deliver to the Contracting Authority in execution of the Contract. 7. “Contracting Authority” means the entity purchasing the supplies and related services, as identified in the CCAP. 8. “Related Services” means services relating to the supply of goods, such as insurance, installation, training and initial maintenance, as well as any similar obligations of the Contractor under the Contract. 9. “CCAP ” means the Specifications of Special Administrative Clauses. 10. “Subcontractor” means any natural person, private person or governmental entity or any combination thereof, to whom any part of the Supplies or Related Services is subcontracted by the Licensee. 11. “Holder” means the natural or legal person awarded the contract and who is designated as such in the Document of Commitment. 12. “Place of final destination” means the place indicated in the CCAP, if applicable. 13. “WAEMU” means the West African Economic and Monetary Union. |
| 1. Documents contractual | * 1. Subject to the order of precedence indicated in the Document of Commitment, all the documents constituting the Contract (and all parts of said documents) are correlative, complementary and mutually explanatory. The Act of Commitment is read as forming a whole.   2. Documents to be delivered to the Holder in the event of collateralization of the market.   Upon notification of the contract, the Contracting Authority shall deliver to the Contractor, free of charge, against receipt, a certified copy of the Act of Commitment and the other documents mentioned in paragraph 2 of the said Act of Commitment, excluding the CCAG .  The Contracting Authority also delivers, free of charge, to the Contractor, co-contractors and directly paid subcontractors the documents they need to secure their receivables. |
| 1. Sanction for mistakes committed by candidates or holders of public contracts | 3.1 The Contracting Authority requires that candidates, and holders of its public contracts, respect the strictest rules of professional ethics during the award and execution of these contracts. Sanctions may be imposed by the Sanctions Committee of the Body responsible for the regulation of public procurement against candidates and contract holders in the event of violations of public procurement rules committed by those concerned. Any candidate or holder who:     1. granted or promised to grant to any person intervening in any capacity whatsoever in the procurement procedure an undue advantage, pecuniary or otherwise, directly or through intermediaries, with a view to obtaining the contract; 2. participated in collusion practices between bidders to set bid prices at artificial and non-competitive levels, depriving the contracting authority of the benefits of free and open competition; 3. influenced the method of awarding the contract or the definition of services so as to benefit from an undue advantage; 4. has deliberately provided false or misleading information or statements in its tender, likely to influence the outcome of the award procedure; 5. established payment requests that did not correspond to the services actually provided. |
|  | 3.2 Violations committed are noted by the Sanctions Committee which carries out all necessary investigations and refers all competent authorities. Without prejudice to criminal proceedings and actions for compensation for damage suffered by the Contracting Authority, the following sanctions may be imposed, and, depending on the case, cumulatively:   * confiscation of the guarantees provided by the offender in the context of the procurement procedures in which he participated; * exclusion of the right to compete for public contracts, public service delegations and partnership contracts for a fixed period depending on the seriousness of the fault committed.   These sanctions may be extended to any company which owns the majority of the capital of the offending company, or of which the offending company owns the majority of the capital, in the event of collusion established by the Sanctions Committee.  When the violations committed are established after the award of a contract, the sanction imposed may be accompanied by the termination of the current contract or the substitution of another company at the risk of the sanctioned offender.  The offender has an appeal before the courts with administrative jurisdiction against the decisions of the Dispute Resolution Committee. This appeal is not suspensive. |
| 1. Interpretation | 4.1 If the context requires, the singular refers to the plural and vice versa.  4.2 Incoterms Subject to inconsistencies with the terms of the Contract, the meaning of a commercial term and the corresponding rights and obligations of the parties to the Contract are those prescribed by the International Commercial Terms - Incoterms.  1. The terms EXW, CIP, DDP and other similar terms shall be governed by the rules prescribed in the latest edition of Incoterms specified in the **CCAP** and published by the International Chamber of Commerce (ICC) in Paris, France. |
|  | 4.3 Completeness of agreements  The Contract represents all of the contractual provisions agreed upon by the Contracting Authority and the Contractor relating to its subject matter, and it replaces all communications and agreements (written and oral) concluded between the parties relating to its subject matter before the date of commencement. |
|  | 4.4 Amendments  Amendments to the contract may only enter into force if they are in writing, dated, expressly refer to the contract, are signed by a duly authorized representative of each of the parties to the contract and approved by the competent authority. |
|  | 4.5 No waiver   1. Subject to the provisions of clause 4.5(b) of the CCAG below, no relaxation, forbearance, delay or indulgence of either party in enforcing any of the terms and conditions of the Contract or the fact that the one of the parties grants an additional period to the other, cannot prejudge the rights vested in this party by the Market, nor affect or restrict them; likewise, the waiver by one of the parties to seek compensation for any violation of the Market cannot constitute a waiver of any request for compensation for subsequent or continuing violation of the Market. 2. Any waiver of a party's rights, powers or remedies under the Contract must be in writing, be dated and signed by an authorized representative of the party granting the waiver, and specify the right being waived and the scope of this waiver. |
|  | 4.6 Divisibility  If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of the other clauses and conditions of the Contract. |
| 1. Language | 5.1 The Contract and all correspondence and documentation relating to the Contract exchanged by the Contractor and the Contracting Authority will be drawn up in English or French. The additional documents and printed matter forming part of the Contract may be drawn up in another language, provided that they are accompanied by an exact translation into the French language of the passages deemed relevant by the Contracting Authority. In this case, for the purposes of interpretation of the Contract, this translation will be authentic.  5.2 The Holder will assume all costs of translation into the applicable language and all risks relating to the accuracy of this translation, with respect to the documents it provides. |
| 1. Group | * 1. If the Contractor is a group, unless otherwise provided in the **CCAP,** all members will be jointly and severally bound towards the Contracting Authority to respect the clauses of the Contract, and they must designate one or more members to act as common agent with power to engage the group. The composition or constitution of the group cannot be modified without the prior written agreement of the Contracting Authority. |
| 1. Original criteria | 7.1 Unless otherwise provided in the **CCAP,** the holders of contracts whose financing is provided for by the budgets of the Contracting Authorities subject to the Procurement Code , must be ECOWAS Member State companies or from a WAEMU Member State regularly licensed or exempt from the license and registered in the trade and personal property credit register or in the trade register in any of the ECOWAS Member States. |
| 1. Notification | 8.1 Any notice sent to either party by the other party under the Contract must be given in writing to the address specified in the **CCAP**. The expression “in writing” means transmitted in writing with acknowledgment of receipt.   * 1. A notice takes effect on the date it is given or on its effective date, whichever is later. |
| 1. Applicable right | 9.1 The Market is governed and interpreted in accordance with the law of Senegal, unless the **CCAP** provides otherwise. |
| 1. Dispute settlement | * 1. Regulations amicable :  1. The Contracting Authority and the Contractor will use their best endeavours to resolve amicably, through direct and informal negotiation, any dispute between them or in connection with the Contract. 2. The Contracting Authority or the Contract Holder may resort to the Dispute Resolution Committee placed within the Body responsible for the regulation of public procurement. This appeal has no suspensive effect on the execution of the contract. |
|  | * 1. Judicial appeal :  1. If the parties have not succeeded in resolving their dispute amicably, the dispute will be submitted to the competent ECOWAS Member State jurisdiction at the initiative of the Contracting Authority or the Holder, subject to the provisions of the CCAP. 2. Notwithstanding any reference to litigation, the parties will continue to fulfil their respective contractual obligations, unless they decide otherwise by mutual agreement, and the Contracting Authority will pay to the Contractor any sum due to it . |
| 1. Object of the contract | 11.1 The Supplies and Related Services relating to this Contract are those listed in la Section IV, Schedule of Quantities, Delivery Schedule, Specifications of Technical Clauses, Plans, Inspections and Tests. |
| 1. Delivery | 12.1 Pursuant to clause 32.1 of the GCC, delivery of the Supplies and provision of related Services will be carried out in accordance with the delivery and completion schedule set out in the Bill of Quantities and Delivery Schedules. The **CCAP** sets the details relating to the shipment and will indicate the other documents and documents to be provided by the Holder. |
| 1. Responsibilities of the Holder | 13.1 The Contractor will supply all Supplies and related Services included in the subject of the Contract in accordance with clause 11 of the CCAG and the delivery and completion schedule, in accordance with clause 12 of the CCAG. |
| 1. Market price | 14.1 The price requested by the Contractor for the Supplies delivered and for the related Services rendered under the Contract will not vary from the price indicated by the Contractor in its offer, except for price modifications authorized in the **CCAP** . |
| 1. Terms of Payment | 15.1 The Market price will be settled in accordance with the provisions of the **CCAP** .   * 1. The Contractor will submit its request for payment in writing to the Contracting Authority, accompanied by invoices describing, in an appropriate manner, the supplies delivered and related services rendered, and documents and exhibits presented in accordance with clause 12 of the CCAG, and after having meets all obligations specified in the Contract. |
|  | * 1. Payments due to the Holder will be made without delay by the Contracting Authority, and at the latest within forty-five (45) days following presentation of the invoice or payment request by the Holder, and after its acceptance by the Contracting Authority.   2. In the event that the Contracting Authority does not make a payment due on its due date or within the period indicated in the **CCAP** , the Contracting Authority will be required to pay the Holder default interest on the amount of the late payment, at the rate(s) specified in the **CCAP** for the entire period of delay until full payment of the price, whether before or following a judgment or arbitral award. |
| 1. Taxes, fees and duties | 16.1 Unless otherwise provided in the **CCAP**, the Contractor will be fully responsible for the payment of all taxes, stamp and registration duties, license fees and charges due under the Contract.  16.2 A regulatory fee is owed by the Holder to the Public Procurement Regulatory Agency at the rate provided for in the **CCAP.**  16.3 If the Holder is entitled to exemptions, reductions, reductions or privileges in tax matters, the Contracting Authority will do its utmost to enable the Holder to benefit from them. |
| 1. Performance Guarantee | 1. Within fourteen (14) days following receipt of notification of Contract award, the Contractor will provide a guarantee for the proper execution of the Contract, for the amount specified in the **CCAP**. 2. The performance security will be payable to the Contracting Authority as compensation for any loss resulting from the Contractor's inability to fulfill all of its obligations under the Contract. 3. The performance security will be presented in one of the forms stipulated by the Contracting Authority in the **CCAP** or in any other form acceptable to the Contracting Authority. 4. The Contracting Authority will release and return to the Contractor the performance guarantee no later than twenty-eight (28) days after the date of completion of the Contractor 's obligations in connection with the performance of the Contract, including guarantee obligations. |
| 1. Copyright | 1. The copyright of all plans, documents and other materials containing data and information furnished to the Contracting Authority by the Contractor shall remain the property of the Contractor or, if furnished directly to the Contracting Authority or by the through the Licensee by a third party, including suppliers of materials, the copyright in such materials will remain the property of such third party. |
| 1. Confidential information­ | 1. The Contracting Authority and the Contractor will respect the confidential nature of any document, data or other information provided directly or indirectly by the other party under the Contract, and will not disclose them without the written consent of the other party, whether such information has been provided before, during or after the execution or termination of the Contract. Notwithstanding the above provisions, the Contractor may give its subcontractor any document, data and other information it receives from the Contracting Authority to the extent necessary to enable the subcontractor to carry out its services in accordance with the Contract, in which case the Holder will ask said subcontractor to make a confidentiality commitment similar to the commitment imposed on the Holder under clause 19 of the CCAG. |
|  | 1. The Contracting Authority will not use any document, data or other information received from the Contractor for purposes other than those of the Contract. Likewise, the Contractor will not use any document, data or other information received from the Contracting Authority for purposes other than the completion of the Contract. |
|  | 19.3 However, the obligation imposed on a party under clauses 19.1 and 19.2 above will not apply to the following information:   1. those that the Contracting Authority or the Holder must share with institutions participating in the financing of the Contract; 2. those which, now or later, belong or will belong to the public domain, without the party in question having committed any fault; 3. those which it can be proven that they were in the possession of the party in question when they were communicated and that they had not been previously obtained, directly or indirectly, from the other party; Or 4. those which are legitimately made available to the party in question by a third party not bound by the duty of confidentiality. |
|  | 19.4 The above provisions of clause 19 of the CCAG do not in any way modify a confidentiality commitment given by either party before the date of the Contract with regard to all or part of the supply.  19.5 The provisions of clause 19 of the CCAG will remain in force after the completion or termination of the Contract, for whatever reason. |
| 1. Subcontracting | 1. The Contractor will notify the Contracting Authority in writing of all subcontracting contracts ‑awarded under the Contract if it has not already done so in its offer. This notification, provided in the offer or subsequently, will not release the Holder from liability, and will not release him from any of the obligations incumbent upon him as a result of the Contract. 2. Subcontracting contracts will comply with the provisions of clauses 3 and 7 of the CCAG. |
| 1. Specifications and Standards | 21.1 Technical specifications and plans   1. The Supplies delivered under the Contract and the related Services must comply with the Specifications of Technical Clauses specified in la Section IV: Schedule of Quantities, Delivery Schedule, Specifications of Technical Clauses, Plans, Inspections and Tests, of the Invitation to Tender document. If no standard is indicated, the standard will be assumed to be equivalent to or higher than the official standards whose application is appropriate in the country of origin of the Supplies. 2. The Contractor may disclaim responsibility for any design study, data, plan, specification or other document, or any modification of these elements, which has been provided or designed by the Contracting Authority or on its behalf, by giving to the Authority contracting party a notification indicating that it declines its liability. 3. When the Contract refers to the codes and standards according to which it will be executed, the edition or revised version of said codes and standards will be that specified in the Technical Specifications. During the execution of the Contract, changes to the said codes and standards will only be applied after the approval of the Contracting Authority and will be dealt with in accordance with clause 32 of the CCAG. |
| 1. Packaging and documents | * 1. The Contractor will package the Supplies in the manner required so that they do not suffer damage or deterioration during transport to their final destination, in accordance with the provisions of the Contract. During transport, the packaging will be sufficient to withstand rough handling and extreme temperatures, salt and precipitation, and open storage under all circumstances. The dimensions and weight of the boxes will take into account, whenever necessary, the fact that the final destination of the supplies is remote and the possible absence, at all stages of transport, of heavy handling equipment. |
|  | * 1. The packaging, marking, labeling and documentation inside and outside the crates will strictly comply with the provisions specified in the Contract as well as subsequent instructions, if applicable, pursuant to the CCAP**,** and any other instructions given by the Contracting Authority. |
| 1. Insurance | * 1. Unless otherwise indicated by the **CCAP**, the Supplies delivered in execution of this Contract will be fully insured in FCFA or in a freely convertible currency against any loss or damage arising from their manufacture or acquisition, their transport, their storage and their delivery in accordance with the Incoterms in force or in the manner specified in the **CCAP**. |
| 1. Transportation | * 1. Responsibility for the transportation of the Supplies is assumed by the party specified in the Incoterms in force. |
| 1. Inspections and testing | * 1. The Contractor carries out at its own expense and free of charge for the Contracting Authority all tests and/or inspections relating to the supplies and related services stipulated in the **CCAP.** |
|  | * 1. Inspections and tests may be carried out on the premises of the Holder or its subcontractor, at the point of delivery and/or at the place of final destination of the supplies or at any location referred to in the **CCAP**. Subject to clause 25.3 of the CCAG, if the tests and/or inspections take place at the premises of the Holder or its subcontractor, all reasonable facilities and assistance, including access to plans and information relating to manufacturing, will be provided to inspectors, at no cost to the Contracting Authority. |
|  | 25.3 The Contracting Authority or its authorized representative shall have the right to attend the tests and/or inspections referred to in clause 25.2 of the C CAG, it being understood that the Contracting Authority will bear all costs and expenses incurred in connection therewith, including including, but not limited to, all travel, living and accommodation costs. |
|  | * 1. As soon as the Contractor is ready to carry out said tests and inspections, it will notify the Contracting Authority with reasonable notice, indicating the place and date of said tests and inspections. The Contractor will obtain from any third party or the manufacturer concerned, any authorization or consent necessary to allow the Contracting Authority or its authorized representative to attend the tests and/or inspection. |
|  | * 1. The Contracting Authority may ask the Contractor to carry out tests and/or inspections not stipulated in the Contract but deemed necessary to verify that the characteristics and operation of the supplies comply with the Technical Specifications, the codes and standards provided for. in the Contract, it being understood that the reasonable cost to the Holder of said additional tests and/or inspections will be added to the Contract price. Furthermore, if said tests and/or inspections hinder the continuation of manufacturing and/or prevent the Contractor from fulfilling its other obligations relating to the Contract, this will be duly taken into account in the delivery dates and deadlines. execution and with regard to compliance with other obligations thus affected. |
|  | * 1. The Contractor will provide the Contracting Authority with a report presenting the results of the tests and/or inspections thus carried out.   2. The Contracting Authority may refuse all or part of the supplies that are defective or do not conform to specifications. The Contractor will make the necessary rectifications to the refused supplies or will replace them or make the necessary modifications to ensure that they comply with the specifications, at no cost to the Contracting Authority, and will repeat the tests and/or inspection, without costs to the Contracting Authority, after having given notice in accordance with clause 25.4 of the CCAG. |
|  | * 1. The Contractor acknowledges that neither the carrying out of a test and/or an inspection of all or part of the supplies, nor the presence of the Contracting Authority or its authorized representative during a test and/or an inspection carried out on the supplies, nor the submission of a report pursuant to clause 25.6 of the CCAG, do not exempt the Holder from its guarantee obligations or other obligations stipulated in the Contract. |
| 1. Penalties | * 1. Subject to the provisions of clause 31 of the CCAG, if the Contractor does not deliver any or all of the Supplies or does not render the Services provided for within the time limits specified in the Contract, the Contracting Authority, without prejudice to the other remedies it has under the Contract, may deduct from the Contract price, as penalties, a sum equivalent to the percentage stipulated in the **CCAP** of the price of Supplies delivered late or related Services not performed, for each week or fraction of a week of delay, until actual delivery or service, up to a maximum amount corresponding to the percentage of the Contract amount indicated in the **CCAP** . When this maximum is reached, the Contracting Authority may terminate the Contract in accordance with clause 34 of the CCAG. |
| 1. Guarantee | * 1. The Contractor warrants that the Supplies are new and unused, are of the most recent or current model, and include all the latest improvements in design and materials, unless otherwise provided in the Contract. . |
|  | * 1. Subject to clause 21.1(b) of the CCAG, the Holder further guarantees that the supplies will be free from all defects linked to an action or omission of the Holder or linked to a defect in design, materials and manufacturing, nature to prevent their normal use in the particular conditions in Member State. |
|  | * 1. Unless otherwise provided in the **CCAP**, the warranty will remain valid twelve (12) months after delivery of all or part of the supplies, where applicable, to their final destination indicated in the **CCAP**, as specified in the Contract. |
|  | * 1. The Contracting Authority will notify the Contractor of any claim as soon as possible after discovering the defects, indicating the nature of the said defects and providing the available evidence. The Contracting Authority will allow the Contractor to inspect said defects. |
|  | * 1. Upon receipt of such a claim, the Contractor will promptly repair or replace, within the time period provided for this purpose in the **CCAP**, the defective supplies or parts, at no cost to the Contracting Authority.   2. If the Contractor, after having received notification, does not remedy the defect within the period prescribed by the **CCAP**, the Contracting Authority may undertake, within a reasonable period of time, at the risk and expense of the Contractor, any necessary recourse action, without prejudice to other remedies available to the Contracting Authority against the Contractor under the Contract. |
| 1. Patents | 28.1 Provided that the Contracting Authority complies with clause 28.2 of the CCAG, the Contractor will indemnify and hold harmless the Contracting Authority, its employees and directors, against any legal proceedings, damages, claims, losses, penalties and costs of any nature , including attorneys' fees, which may be brought or incurred by the Contracting Authority as a result of actual or alleged infringement of any patent, registered design, trademark, copyright or intellectual property right registered or in force on the date of the Contract, due to:   1. the installation of the supplies by the Holder or the use of the supplies in Senegal; and 2. the sale in any country of goods produced using the supplies.   This indemnification obligation will not cover any use of the supplies or any part of the supplies for purposes other than those indicated in the Contract or which can be reasonably inferred therefrom, in accordance with the Contract. |
|  | 28.2 In the event that proceedings are initiated or a claim is made against the Contracting Authority in the context of clause 28.1 of the CCAG, the Contracting Authority will notify the Contractor without delay, by sending him a notification to this effect, and the Holder may, at its own expense and on behalf of the Contracting Authority, conduct said procedure or settle this claim, and engage in any negotiations with a view to settling said procedure or claim. |
|  | 28.3 If the Contractor does not notify the Contracting Authority, within twenty-eight (28) days of receipt of the notification, that it intends to pursue said procedure or claim, the Contracting Authority will be free to do so in its capacity. own name.   * 1. The Contracting Authority shall, if requested by the Contractor, provide the Contractor with all available assistance to ensure the conduct of the procedure or settlement of the claim, in which case the Contractor will reimburse the Contracting Authority for all reasonable costs incurred. he will have incurred for this purpose. |
|  | 28.5 The Contracting Authority will indemnify and hold harmless the Contractor, its employees, directors and subcontractors, against any legal proceedings, damages, claims, losses, penalties and costs of any nature, including attorneys' fees, which such action is brought against the Holder, or such costs are borne by the Holder, as a result of an actual or alleged infringement of any patent, registered design, trademark, copyright or intellectual property rights registered or in force on the date of the Contract, in respect of plans, data, drawings, specifications or other documents or materials furnished or designed by or on behalf of the Contracting Authority. |
| 1. Limit of liability | 29.1 Except in cases of gross negligence or willful misconduct:   1. Neither party is liable to the other for any indirect or consequential loss or damage, loss of use, loss of production or loss of profit or financial expense, it being understood that this exception does not apply to no obligation of the Contractor to pay contractual penalties to the Contracting Authority; 2. The overall obligation that the Contractor may assume towards the Contracting Authority under the Contract or under civil liability or otherwise cannot exceed the amount of the Contract, it being understood that this limitation of liability will not apply to costs repair or replacement of defective equipment, nor the obligation of the Holder to compensate the Contracting Authority in the event of infringement of a patent. |
| 1. Changes to laws and regulations | 30.1 Unless the Market provides otherwise, if after the date corresponding to 28 days before the date of submission of offers, a law, decree, order or local regulation having the force of law is adopted, promulgated, repealed or modified in Senegal (including any change in the interpretation or application of the said text by the competent authorities) in a manner which affects the delivery date and/or the Contract price, the said delivery date and/or the said The Market price will be revised upwards or downwards as the case may be, to the extent that the Holder has been affected in the execution of any of its obligations under the Market. Notwithstanding the above provisions, the surcharge or reduction in cost will not be paid or credited separately if such surcharge or reduction has already been taken into account in the provisions relating to adjustment of prices from time to time, in accordance with clause 14 of the CCAG. |
| 1. Force majeure | 31.1 The Contractor will not be exposed to the seizure of its performance guarantee, to penalties or to the termination of the Contract for non-performance if, and to the extent, its delay or any other failure in the performance of the obligations incumbent upon it under the Contract is due to a case of Force Majeure. |
|  | 31.2 For the purposes of this Clause, the expression “Force majeure” means an event beyond the control of the Holder, which is not attributable to its fault or negligence and which is unforeseeable and unavoidable. Such events may include, but are not limited to, acts of the Contracting Authority under State sovereignty, wars and revolutions, fires, floods, epidemics, quarantine and embargo measures on the freight.  31.3 In the event of Force Majeure, the Contractor will immediately notify the Contracting Authority in writing of its existence and its reasons. Subject to contrary instructions, in writing, from the Contracting Authority, the Contractor will continue to fulfill its contractual obligations to the extent possible, and will endeavor to continue to fulfill the obligations the performance of which is not hindered by the case of Force Majeure. |
| 1. Change orders and contract amendments | 32.1 The Contracting Authority may at any time request the Contractor, by notification, in accordance with the provisions of clause 8 of the CCAG, to make modifications in the general framework of the Contract, in one or more of the following areas:   1. plans , designs or specifications, when the supplies to be delivered under the Contract must be manufactured specially for the Contracting Authority; 2. the method of shipping or packaging ; 3. the place of delivery ; And 4. the Related Services to be provided by the Licensee . |
|  | 32.2 If any of the above changes results in an increase or reduction in the cost or time required for the Contractor to perform any part of the Contract, the Contract price and/or delivery/completion schedule will be amended equitably and the Market will be modified accordingly. Any request for adjustment made by the Holder under this clause must be filed within twenty-eight (28) days following the date of receipt, by the Holder, of the modification order issued by the Contracting Authority.  32.3 The price that the Contractor will charge, in exchange for the provision of any related services which may be necessary but which were not included in the Contract, will be agreed in advance by the parties and will not exceed the rates requested by the Contractor from other customers for similar services.  32.4 Subject to the above provisions, no variation or modification of the terms of the Contract will be made other than by a written amendment signed by the parties. |
| 1. Extension of deadlines | 33.1 If at any time during the execution of the Contract, the Contractor or its subcontractors encounter a situation which prevents them from delivering the supplies or providing the related services within the time limits provided for in clause 12 of the CCAG, the Contractor immediately notify the Contracting Authority in writing of the delay, its probable duration and the reason. As soon as possible after receipt of the notification made by the Contractor, the Contracting Authority will assess the situation and may, at its discretion, extend the deadlines given to the Contractor to execute the Contract, in which case the extension will be confirmed by the parties, by amendment to the market. |
|  | 33.2 With the exception of the case of force majeure referred to in clause 31 of the CCAG, a delay on the part of the Holder in the execution of its obligations will expose it to the application of the penalties provided for in clause 26 of the CCAG, unless an extension of time has been granted under clause 33.1 of the CCAG. |
| 1. Termination | 34.1 Termination for breach of the Holder   1. The Contracting Authority may, without prejudice to other remedies available to it in the event of termination of contract, notify the Contractor in writing of the termination for failure to fulfill its obligations, of the whole or part of the Contract : |
|  | 1. if the Contractor fails to deliver all or part of the supplies within the deadlines specified in the Contract or within the deadlines extended by the Contracting Authority in accordance with the provisions of clause 33 of the CCAG; or 2. if the Holder fails to perform any other obligation under the Contract. |
|  | 1. The contracting authority may only pronounce termination for the contractor's failure to fulfil its obligations pursuant to the provisions of clause 34.1(a) of the CCAG after prior notice has been given without effect within the time limit set in the notice. 2. In the event that the Contracting Authority terminates all or part of the Contract, in application of the provisions of clause 34.1 (a) of the CCAG, the Contracting Authority may acquire, on the conditions and in the manner which it considers suitable, supplies or related services similar to those not received or not performed and the Contractor will be responsible to the Contracting Authority for any additional costs resulting therefrom. However, the Contractor will continue to perform the Contract to the extent that it is not terminated. |
|  | 34.2 Automatic termination without compensation  The contract is automatically terminated without compensation:   1. in the event of the death of the Holder as a natural person, if the Contracting Authority does not accept, where applicable, the offers that may be made by the heirs for the continuation of the work; 2. in the event of bankruptcy, if the Contracting Authority does not accept, in the event that the trustee has been authorized by the court to continue the operation of the business, the offers that may be made by said trustee for the continuation ; 3. in the event of liquidation of assets or legal settlement, if the Holder is not authorized to continue operating his business.   In the cases mentioned in paragraphs b) and c) above, precautionary or security measures which appear to be urgent, pending a final decision from the court, are taken automatically and are the responsibility of the contract holder. |
|  | 34.3 Termination for convenience   1. The Contracting Authority may at any time terminate all or part of the Contract by written notice addressed to the Contractor when the performance of the contract has become unnecessary or unsuitable taking into account the needs of the public service. The notice of termination will specify that the termination occurs unilaterally for convenience, to what extent the execution of the tasks stipulated in the Contract ends and the date on which the termination takes effect. |
|  | 1. The Contracting Authority will take delivery, at Contract prices and conditions, of the Supplies completed and ready for shipment within twenty-eight (28) days following receipt by the Contractor of notice of termination for convenience. With regard to other remaining supplies, the Contracting Authority may decide: 2. to have any part of these supplies completed and delivered at Market prices and conditions; and or 3. to cancel the remainder and pay to the Contractor an agreed amount in respect of the partially completed Supplies and Related Services and materials which the Contractor has already procured, and in which case the Contracting Authority will pay to the Contractor compensation of termination corresponding to five (5) percent of the value of the cancelled supplies. |
| 1. Transfer | 35.1 Unless having received the prior written consent of the other party, neither the Contracting Authority nor the Contractor will assign, in whole or in part, its contractual obligations under the Contract. |

|  |  |
| --- | --- |
| **Section VI. Special Conditions of Contr****act (SCC)** | |
| The Special Conditions of Contract (SCC) specifies the General Conditions of Contract (GCC). In the event of contradiction, the clauses below shall prevail over the clauses of the GCC.  *[The Contracting Authority selects and inserts the appropriate text using the examples provided below or acceptable alternative text; and deletes the italicized text]* | |
| **GCC 1.1 (g)** | The Contracting Authority is: *[insert full legal name]* |
| **GCC 1.1 (m)** | The final destination(s) is(are): *[insert name(s)]:* |
| **GCC 4.2 (b)** | Trade terms shall have the meanings prescribed by Incoterms (2020 version) |
| **GCC 6.1** | *[" Bidders for public procurement contracts may form joint ventures or several consortia to compete for the contracts, subject to compliance with the rules prohibiting barriers to competition. The members of the joint venture shall be joint when each of its members undertakes to perform one or more parts of the contract identified as to their nature and price without incurring liability as to the performance of the other parts of the contract. The members of the joint venture are in solidarity when each of its members is engaged for the entire contract.”*  *Overall, the Contracting Authority would wish that the joint venture is in solidarity, so that there will be no need to modify the GCC. In the event that the Contracting Authority wishes the joint venture to be joint, insert the following provision here: "the members of the joint venture shall be joint within the context of the Revised ECOWAS Procurement Code"],* |
| **GCC 7.1** | *[When, under a particular financing agreement, the original criteria are different from those appearing in the GCC, the applicable criteria should be indicated here, otherwise the GCC should not be modified]* |
| **GCC 8.1** | For **notification** purposes, the address of the Contracting Authority shall be:  For the attention of: *[insert the name of the person responsible for the Contract]*  Address: *[insert full address]*  Phone: *[insert number]*  Fax: *[insert number]*  Email address: *[insert email address]* |
| **GCC 10.2** | The parties shall endeavour to settle amicably any dispute relating to the contract which may arise between them. In the event of failure of the amicable settlement within a reasonable time frame (as agreed by the parties), , the dispute shall be settled by other Alternative Dispute Resolution Mechanisms (ADR) as agreed by the parties. |
| **GCC 12.1** | The INCOTERM to be used for this contract shall be: |
| **GCC 14.1** | The price of the Supplies delivered and Related Services performed [insert “shall be firm” or “shall be subject to review”].  The amount of a fixed-price contract may be discounted to take account of variations in costs between the deadline for the validity of bids and the date on which performance of the contract begins, by applying the following discounting formula to the original amount of the bid:  P1 = P0 (a L1/Lo + b Mb1/Mbo +c Mc1/Mco+..)  in which:  P1 = Discounted price.  P0 = Market price (base price).  a = Estimated percentage of the labour component in the Market Price.  b, c, = Estimated percentages of specific materials in the Market Price.  L0, L1 = Labour cost indices applicable to the industry concerned, at the bid validity deadline and price update date, respectively.  Mb0 et Mb1, Mc0 et Mc1, etc…  = price indices for the main basic materials on the offer validity deadline and price update date respectively.  The sum of elements a, b, c, etc. must always be equal to one (1) in each case where the formula is used.  The price update date is the date on which the notification of the final award of the contract is made. |
| **GCC 15.1** | Payment Terms:  Payment shall be made in the currency of the contract as follows:  (i) Advance Payment: Thirty (30) percent of the Contract Price shall be paid against an invoice and a bank guarantee for the equivalent amount and in any other form acceptable to the Contracting Authority.  (ii) On Delivery: Seventy (70) percent of the Contract Price shall be paid on receipt of the Goods and upon the acceptance certificate for the respective delivery issued by the Contracting Authority.  NB: *The maximum of advance payment is 30%. The Procuring Entity may adjust the percentages between 1% and 30% in accordance with the provision of the Procurement Code and Financial Regulations.* |
| **GCC 15.4** | The period beyond which the Contracting Authority shall pay default interest to the Contractor is xxxxxxxxxxxxxxxxxxxxxxxxxxx  The rate of default interest applicable shall be a rate based on the discount rate adopted by the Central Bank of the Member State where the contract is being executed, increased by one (1) point. |
| **GCC 16.1** | *[If the Contract is to be exempt from certain taxes, duties or fees, this must be specifically stated here, otherwise the GCC shall not be amended.]* |
| **GCC 17.1** | The amount of the performance security shall be ten (10) percent of the amount of the Contract. |
| **GCC 17.3** | The performance guarantee shall be: *[insert “a bank guarantee” or “an Insurance bond”].* |
| **GCC 20.1** | [Where the Contracting Authority wishes to make direct payment to any subcontractors, the following clause shall be inserted; otherwise omit this insertion:  “The subcontractor may obtain payment directly from the Contracting Authority for the Supplies or services which they have provided and which have not already given rise to payment for the benefit of the Contractor. In that case, the Contractor shall submit to the Contracting Authority, before any commencement of performance of the subcontract, a declaration mentioning:  a) the nature of the services for which subcontracting is planned;  b) the name, purpose or corporate name and address of the proposed subcontractor;  c) the terms of payment provided for in the draft subcontract and the estimated amount of each subcontract, including the date of pricing and, where applicable, the system of advances, instalments, reductions and penalties. |
| **GCC 22.2** | The packaging, marking and documents placed inside and outside the crates shall be: *[insert information]* |
| **GCC 25.1** | Inspections and Tests are: *[describe the types, frequencies and procedures used to carry out these inspections and tests.]* |
| **GCC 25.2** | Inspections and tests shall be carried out at: *\_ [insert locations]* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **GCC 26.1** | The late penalty shall be: [insert e.g. 1/1000 ]per day of lateness  *NB: The penalty range is a range of 1/1000 to 1/5000 (0.0001 to 0.0002)* |
| **GCC 26.1** | The maximum amount of late penalties shall be ten (10) percent of the amount of the Contract, after which, the contract may be terminated |
| GCC 27.3 | *[When the Contracting Authority wishes to retain a warranty period different from that provided for in the GCC, it should be indicated here, otherwise do not modify the GCC]* |
| **GCC 27.5 and 27.6** | The repair or replacement time shall be: *[insert number]* days. |

|  |
| --- |
| **Section VII. Contract Forms** |

**List of forms**

**[1.](#_Toc188515105)****[Agreement ………………………………………………………………………………60](#_Toc188515105)**

**[2. . Performance Guarantee/Security Template (Guarantee Issued by a Financial Institution)…………………………………………………………………………………62](#_Toc188515106)**

**[3. Advance Guarantee Refund Template (Guarantee Issued by a Financial Institution)………………………………………………………………………………....63](#_Toc188515107)**

**1. Agreement**

*[The Beneficiary shall complete this* ***Agreement*** *in accordance with the indications in italics]*

UNDER THIS AGREEMENT, entered into on [date]\_\_\_\_\_ day of [month] \_\_\_\_\_\_ of \_\_ [year] \_\_\_\_

BETWEEN

(1) *[insert full legal name of Contracting Authority]* \_\_\_\_\_\_\_\_ of *[insert full address of Contracting Authority]* \_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as the “Contracting Authority”) on the one hand, and

(2) *[insert full legal name of Contractor]* \_\_\_\_\_\_\_\_\_\_\_ of *[insert full address of Contractor]* \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as the “Contractor”), on the other hand:

WHEREAS the Contracting Authority has called for bids for certain Supplies and related Services, namely *[insert a brief description of the Supplies and related Services]* \_\_\_\_\_\_\_\_\_\_\_\_\_ and has accepted the Contractor’s bid for the delivery of these Supplies and the provision of such related Services, for an amount of *[insert amount of the Contract]* \_\_\_\_\_\_\_ (hereinafter referred to as the “Contract Price”) and within a maximum period of *[insert maximum period for the performance of the related supplies and services ]*.

IT HAS BEEN DECIDED AND AGREED AS FOLLOWS:

1. In this Contract, the words and expressions shall have the same meaning as those which are respectively given to them in the clauses of the Contract to which reference is made.

2. The following documents are deemed to form part of the Contract and to be read and construed as such:

a) This **Agreement**;

b) The Contract Award Notification sent to the Contractor by the Contracting Authority;

c) The bid and the Price Schedules presented by the Contractor;

d) The Special Contract Conditions;

e) The General Contract Conditions;

f) Schedule of Quantities and the Delivery Schedule, and Technical Specifications; and

g) [Add any additional document(s) here] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. This **Agreement** shall prevail over any other constituent document of the Contract. In the event of a difference between the constituent parts of the Contract, these parts shall prevail in the order in which they are listed above.

4. In consideration of the payments to be made by the Contracting Authority for the benefit of the Contractor as hereinafter set forth, the Contractor hereby agrees with the Contracting Authority to deliver the Supplies, perform the Related Services, and remedy defects in such Supplies and Related Services in accordance with the provisions of the Contract and in all respects thereof.

5. The Contracting Authority hereby agrees to pay the Contractor, in consideration of the Supplies and Related Services, the Contract Price, or any other amount due under the Contract, at the times and in the manner prescribed by the Contract.

IN WITNESS THEREOF, the parties to this Contract signed this document on the day and year mentioned below.

Signed by *[insert name and title of person authorized to sign]* \_\_\_\_\_\_\_\_\_\_\_\_\_ (for the Contracting Authority)

Signed by *[insert name and title of person authorized to sign]* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (for the Contractor)

**2A.** **Performance Guarantee/Security Template (Guarantee Issued by a Financial Institution)**

*[At the request of the Contractor, the financial organization (guarantor) completes this standard performance guarantee in accordance with the indications in italics]*

Date: *[insert date]*

ITB identification: *[insert identification]*

*[Insert name and address of issuing bank]*

Beneficiary: *[insert name and address of Contracting Authority]*

Performance guarantee/security number: *[Insert No.]*

We have been informed that *[insert name of Contractor]* (hereinafter referred to as “the Contractor”) has entered into Contract number [*insert No.*] with your institution dated *[insert date]* for the supply of *[insert description of Supplies and Related Services]* (hereinafter referred to as “the Contract”).

In addition, we understand that a performance guarantee is required under the terms of the Contract.

At the request of the Contractor, we *[insert name of bank]* hereby undertake, without reservation and irrevocably, to pay you on first demand, any amount which you may claim up to the limit of *[insert sum in figures; The Guarantor must insert an amount representing the amount or percentage mentioned in the Contract] [insert the sum in words].*

Your request for payment must be accompanied by a statement certifying that the Contractor does not comply with the conditions of the Contract, without you having to prove or give the reasons or the reason for your request or the amount indicated in your request.

This guarantee shall expire no later than *[insert date]* day of *[insert month]* 2 *[insert year]*,[[2]](#footnote-3) and any claim for payment must be received by that date.

This Guarantee is governed by the ICC Uniform Rules for Demand Guarantees, ICC Publication No: 458.

*[Insert the name and position of the person authorized to sign the guarantee on behalf of the bank]*

*[Insert signature]*

**3.** **Advance Guarantee Refund Template (Guarantee Issued by a Financial Institution)**

*[At the request of the Contractor, the financial organization completes this standard guarantee in accordance with the indications in italics]*

Date: *[insert date]*

ITB identification: *[insert identification]*

*[Insert name and address of issuing bank]*

**Beneficiary:** *[insert name and address of Contracting Authority]*

**Advance Refund Guarantee Number** *[Insert No.]*

We have been informed that *[insert name of Contractor]* (hereinafter referred to as “the Contractor”) has entered into Contract number [*insert No.*] with you dated *[insert date]* for the supply of *[insert description of Supplies and Related Services]* (hereinafter referred to as “the Contract”).

In addition, we understand that an advance refund guarantee is required under the terms of the Contract.

At the request of the Contractor, we *[insert name of bank]* hereby undertake, without reservation and irrevocably, to pay you on first demand, any amount which you may claim up to the limit of *[insert sum in figures; the Guarantor must insert an amount representing the amount or percentage mentioned in the Contract] [insert the sum in words].* Your request for payment must be accompanied by a statement attesting that the Contractor does not comply with the conditions of the Contract.

Any request and payment under this guarantee is conditional on receipt by the Contractor of the above-mentioned advance in his account bearing the number *[insert bank account number]* at *[insert name and address of bank]*.

This guarantee shall expire no later than the earliest of the following dates: upon receipt of a copy of *[insert name of documents establishing delivery of Supplies in accordance with applicable INCOTERM]* or the *[insert date]* day of [*insert month]* 2 *[insert year]*.[[3]](#footnote-4) All requests for payment must be received by this date at the latest.

This Guarantee is governed by the ICC Uniform Rules for Demand Guarantees, ICC Publication No: 758.

*[Insert the name and position of the person authorized to sign the guarantee on behalf of the bank]*

*[Insert signature]*

1. If applicable [↑](#footnote-ref-2)
2. *The date is set in accordance with Article 17.4 of the General Conditions of Contract (“GCC”), taking into account any guarantee obligation of the Contractor under Article 27.2 of the GCC/SCC.*  [↑](#footnote-ref-3)
3. *Insert the expected delivery date in the initial delivery schedule.*  [↑](#footnote-ref-4)