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|  | COMUNIDADE ECONOMICA DOS ESTADOS DA AFRICA OCIDENTAL |  |
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STANDARD BIDDING DOCUMENTS

**Framework Agreements for Supply and Related Services Contracts**

**SEPTEMBER 2023**

**Preamble**

This standard document is for the procurement of supplies and related services through a Framework Agreement based on the rules and procedures of Article 98 of the ECOWAS Institutions’ Public Procurement Code, as per the thresholds set out in Article 8 (Annexes 1 to 8) of the Code.

Furthermore, to facilitate the harmonised use of this non-conventional procurement technique by all ECOWAS institutions, an explanatory guide to the technical itinerary for the conduct and administration of procurement procedures by Framework Agreement has been designed.

Contracts awarded under a Framework Agreement are written documents that specify the required services’ characteristics and terms of performance, which have not been stipulated in the Framework Agreement. Contracts awarded under a Framework Agreement are concluded when the need arises; these are known as specific contracts.

The Framework Agreement is awarded to several economic operators, subject to an adequate number of bidders and bids. Specific contracts awarded under this Framework Agreement are preceded by competitive bidding organised among holders of the Framework Agreement.

The Framework Agreement enables ECOWAS offices, agencies and institutions to benefit from a high level of responsiveness on the part of service providers when needs arise. In contrast, the award of a contract for each new need requires, apart from exceptional circumstances, the enforcement of the standard procedures of the Public Procurement Code.

It also allows ECOWAS offices, agencies and institutions to adapt the response to their needs when they can identify them and decide on the purchase.

Framework Agreements are particularly suitable for recurring purchases, where the scope of the contract is not completely defined in advance or where there are likely to be technological changes.

Compared to a purchase order contract, it offers the possibility of not defining in advance all the performance requirements under the contract and of being able to put the holders of the Framework Agreement out to bid to benefit, throughout the duration of the Framework Agreement, from the best quality at the best price.

The use of Framework Agreements helps to reduce procedural costs. It offers buyers who need long-term visibility the possibility of planning their contracts and knowing the main characteristics of the supply situation in advance.

In particular, it offers the opportunity to procure services at the best price when prices are volatile.

It is of great interest, for example, in communications or IT equipment markets with high potential for technological change or for needs that must be met as soon as they crop up.

The Framework Agreement is not simply a referencing system for building a roster of service providers or suppliers.

It is a contract with obligations and commitments for each of the parties.

Although it allows certain terms of the subsequent contracts to be determined only when they are concluded, the Framework Agreement cannot simply define the requirements in summary terms, allowing the Contracting Authority complete freedom to set their requirements.

The Framework Agreement must include the aspects relating to the bid itself.

Specific contracts are awarded under the Framework Agreement. The Framework Agreement must therefore contain a certain amount of information on the commitments of the parties and the terms for awarding specific contracts.

In particular, clauses relating to the price or how it is determined should set out many financial requirements without making them fixed.

For example, the price may be the sole criterion on which the Framework Agreement holders may be invited to take part in the competitive bidding.

Particular care must therefore be taken when determining the terms of the Framework Agreement, as they cannot under any circumstances be substantially amended at a later date.

The Framework Agreement may be a single-holder or multiple-holders.

The public purchaser’s a priori determination of the number of holders it intends to select must be guided by the concern to establish a balance between the requirements of a purchasing procedure, which must be quick, and the preservation of effective competition between the holders themselves within the Framework Agreement, if it opts for a plurality of holders.

The Framework Agreement includes exclusive purchasing rights from the holder(s).

The Framework Agreement is a contract established by the voluntary meeting of its signatories, which can only have an effect between the parties.

Understandably, the certainty of quickly having suppliers and services available is an advantage that may entail a cost, but this cost must be proportionate to the reality of the economic market.

This is why the Contracting Authority will be particularly well advised in the Framework Agreement to define strict price trends clauses, particularly “stop" clauses (ceiling price, change range, etc.).

ECOWAS would also be well advised to provide that the holders of the Framework Agreement undertake to submit regular, acceptable and appropriate bids when they are called upon for specific contracts.

The obligation to respond to subsequent contracts may be subject to penalties.

The Framework Agreement may be concluded with a minimum and a maximum, or with a minimum, or with a maximum, or without a minimum or maximum in value or quantity.

When a Framework Agreement is awarded to a single contractor, the authority is duty-bound to conclude specific contracts with that contractor up to the minimum evaluated over the total duration of the Framework Agreement unless it is obliged to compensate the contractor.

The case law relating to the compensation of the holder of a purchase order contract is identical to that of the sole holder under Framework Agreements.

Framework Agreements are awarded as per the same procedures and under the same conditions as public contracts, especially regarding compliance (Article 16) and integrity (Articles 117 & 118) requirements of the Code.

They are subject to the same thresholds as public contracts (Article 8/years 1 to 8). When calculating the amount of the Framework Agreement, account should be taken of the estimated maximum value of the requirement for the entire duration of the Framework Agreement, even though the Contracting Authority has no visibility as to the number of specific contracts that will be concluded or the quantity that will be ordered.

Bidding documents for the Award of Supplies and Related Services Contracts under the Framework Agreement

Contents

**PART ONE - BIDDING PROCEDURES**

**Section 0. Bid Notice**

This section contains a model bid notice.

**Section I. Instructions to Bidders (IBs)**

This Section provides bidders with useful information for preparing their bids. It also includes information on bidding, the opening and evaluation of bids, and the award of contracts**. The provisions contained in this Section I must not be modified.**

**Section II. Bid Data Sheets (BDS)**

This Section sets out the provisions specific to each procurement and the information or terms and conditions set out in Section I, Instructions to Bidders.

**Section III.** **Submission Forms**

This Section contains models of the forms to be submitted with the bid: (i) the bid submission letter; (ii) the price schedules; (iii) the bid guarantee; and (iv) the model undertaking to comply with the Charter of Transparency and Ethics in Public Procurement.

**PART TWO - SUPPLY CONDITIONS**

**Section IV: Schedule of Requirements, Place of Delivery, Technical Specifications, Drawings, Inspections and Tests.**

This Section contains the list of Supplies and, where applicable, Related Services, the General Conditions of Contract, and Special Conditions of the Contract, the designs describing the Supplies and Related Services to be provided, Inspection and Tests.

**PART THREE - FRAMEWORK AGREEMENT**

**Section V. General Conditions of Contract (GCC)**

This Section contains the general provisions applicable to all Framework Agreements. **The wording of the clauses in this Section should not be modified**.

**Section VI. Specific Conditions of Contract (SCC)**

This Section sets out the clauses specific to each Framework Agreement and amends or supplements Section V, General Conditions of Contract.

**Section VII. Framework Agreement Forms**

This Section contains the model **Award Notification Letter** andthe model **Contract Agreement,** which, when completed, incorporates any corrections or changes to the accepted bid concerning the changes permitted by the Instructions to Bidders, the General Conditions of Contract, and the Special Conditions of Contract and the model **Performance Bond** and **Guarantee Statement**.

BIDDING DOCUMENTS

issued on: *[insert date]*

**for**

**The Award of a Framework Agreement for**

*[Insert the name of any related supplies and services]* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Invitation to Bid No:
*[insert bid number]***

**Contracting Authority: *[insert name of Contracting Authority].***

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## PART ONE - Bidding Procedures

## Section 0: Bid Notice (BN)

**Bid Notice - Cases without Pre-Qualification**

***[Insert: identifier of the Contracting Authority].***

***[Insert: Identification of the BN].***

1. This Invitation to Bid follows the publication of the General Procurement Notice in *[insert name of publication]* on *[insert date1*].
2. The *[insert name of* ***Contracting Authority****] [has obtained (within its budget)/applied for] [insert source of such funds]* funds to finance *[insert name of project or programme, budget],* and intends to use part of these funds to make payments under the *[insert number]* Framework Agreement*,* relating to *[insert name].*
3. The *[insert name of* ***Contracting Authority****]* invites bids to be submitted in a sealed cover from suitably qualified and eligible bidders to provide *[insert a brief description of the Supplies3,4 and related Services; indicate the list of lots if the invitation to bid relates to several lots which may be awarded separately; also indicate whether variants may be considered, name of focal point].*
4. The Framework Agreement will be *[insert: "****closed*** *Framework Agreement without second stage competition" or "****closed*** *Framework Agreement with second stage competition" or "Open Framework Agreement"]].* The Framework Agreement will be awarded to a maximum of *[insert number]* holders *[in the case of several lots, indicate "per lot"]* subject to a sufficient number of bidders and satisfactory bids. The duration of the Framework Agreement will be *[insert number (maximum 4)]* years.
5. The contract will be awarded by open bid, defined in the Public Procurement Codeand open to all eligible bidders.
6. Interested bidders may obtain information from *[insert name of* ***Contracting Authority****; insert name and e-mail address of the person responsible]* and examine the bidding documents at the address below *[specify address]* from *[insert opening and closing hours6*].
7. The qualification requirements are: *[insert list of technical, financial, legal and other requirements].* A margin of preference applicable to certain supplies manufactured in ECOWAS Member States *will be* granted to eligible bidders. See the bidding document for detailed information.
8. Interested bidders may obtain a complete set of bidding documents by making a written request to the address below *[specify address]* against a non-refundable payment of7 *[insert amount in XXX].* The method of payment will be *[insert form of payment]8.* The bidding document will be sent by *[insert method of delivery].9*
9. Bids must be submitted to the following address *[specify address10*] no later than *[insert date and time]*. Bids submitted after the deadline will not be accepted. Bids will be opened in the presence of bidders’ representatives present at the following address *[specify address]* at *[insert date and time].* Bids must include a bid guarantee of *[insert amount in (currency of the country of the institution concerned). This amount must be between 1 and 2% of the estimated value of the contract unless an exemption is granted by the Contracting Authority (****Article 80 of the Code****). This amount must be expressed as an absolute value for confidentiality reasons]11.* Bids will remain valid for a period of *[insert number of days] from* the deadline for submission.

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

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

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

3. Provide a brief description of the Supplies, including quantities, place of final destination, and other information likely 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: from 9.00 to 17.00

7 The price charged is intended to defray the Contracting Authority’s cost of printing, postage/delivery of the bidding documents; the price must not deter applicants from participating.

8. For example, counter cheque transfer to an account to be specified.

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

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

11 The amount of the bid guarantee must be stated as a fixed amount or as a percentage of the estimated value of the contract in accordance with the provisions of the Contract Code.

**Letter to Pre-Qualified Bidders**

|  |
| --- |
| **Note on the letter to shortlisted bidders**The following letter is addressed exclusively to bidders admitted to bid following a pre-qualification procedure conducted by the Contracting Authority. In the case of an open invitation to bid without pre-qualification, the text of the Bid Notice (not preceded by pre-qualification) appearing in the section preceding it must be used.It is advisable to send this letter to successful bidders simultaneously as the pre-qualification results are announced. |

**Sample Letter to Pre-qualified Bidders**

**Invitation to Bid**

 Date :

To: [*Candidate’s name and address].*

Reference: [*Project Name]*

Bid Notice No: *[Bid Notice Reference]*

Ladies and Gentlemen,

1. The *[insert name of* ***Contracting Authority****] [has obtained (within its budget)/applied for] [insert source of funds]* funds to finance *[insert name of project or programme, budget]* and intends to use part of these funds to make payments under the *[insert number]* Framework Agreement relating to *[insert name].*

2. The *[insert name of* ***Contracting Authority****]* invites bids submitted in sealed envelopes from eligible and suitably qualified bidders to provide *[insert a brief description of the Supplies3,4 and related Services; indicate the list of lots if the invitation to bid relates to several lots which may be awarded separately; also indicate whether variants may be considered, name of focal point].*

3. The Framework Agreement will be *[insert: "****closed*** *Framework Agreement without a second stage competitive bidding or "****closed*** *Framework Agreement with a second stage competitive bidding" or "open Framework Agreement"]].* The Framework Agreement will be awarded to a maximum of *[insert number]* holders *[in the case of several lots, indicate "per lot"]* subject to a sufficient number of bidders and satisfactory bids. The duration of the Framework Agreement will be *[insert number (maximum 4)]* years.

4) Prequalified bidders may obtain additional information and examine the Bidding Documents at the offices of [*name of department responsible for the Contract*][[1]](#footnote-1) *[postal address, telegraphic address or address and telex number of the department, e-mail address, fax number where the Bidder may obtain information, examine and obtain the documents, name of focal point].*

5 You have been pre-qualified and are therefore eligible to bid (for the following lots). ([[2]](#footnote-2))

6 A complete set of bidding documents may be purchased from the above department on payment of a non-refundable fee of *[insert amount and currency].*

7 Bids must be accompanied by a guarantee of *[amount ([[3]](#footnote-3))*] XXX (specify currency in the country of the ECOWAS institution concerned) and must be delivered to *[indicate precise address] no* later than *[time]* on *[date]*. Bids must remain valid for a period of *[insert number of days] from* the deadline for submission.

8. Bids will be opened in the presence of representatives of bidders who wish to attend the opening of bids on *[date]* at *[time] at* the following address: *[give exact address and location].* ([[4]](#footnote-4))

 Yours Sincerely

 *[Authorised signature]*

 *[Name and Title]*

 *[Contracting Authority]*

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| Section I. Instructions to Bidders (IBs) |
|  | Overview |
| **Subject of the Contract** | * 1. In support of the Bid Notice specified in the Bid Data Sheet **(BDS),** the Contracting Authority, as specified in the **BDS,** issues these Bidding documents for a Framework Agreement for the procurement specified in Section IV. The type of Framework Agreement is specified in the **BDS**. The name, identification number and number of lots covered by the Framework Agreement (FA) are set out in the **BDS**.
	2. The Framework Agreement will be awarded to a maximum number n offirms specified in the **BDS**, subject to sufficient bidders and satisfactory bids.
	3. The duration of the Framework Agreement is set at the period specified in the BDS from receipt by the holders of the letter notifying them of the contract.
 |
|  | * 1. In all these bidding documents:
1. The term "in writing" means communicated in written form with acknowledgement of receipt;
2. If the context so requires, the singular refers to the plural, and vice versa; and
3. The term "day" refers to a calendar day; unless otherwise indicated, periods are expressed in clear days, i.e., a number of whole days, without including the day from which the period begins or the last day.
 |
| **Source of Funds** | * 1. The origin of the funds budgeted for the financing of the contracts to be awarded under the Framework Agreement, which is the subject of this call for bids, is indicated in the **BDS.**
	2. The **BDS** indicate the estimated budget or quantities of the Supplies and Related Services provided under the specific contracts to be awarded as part of the Framework Agreement.
 |
| **Penalties for misconduct by bidders or holders of public contracts** | * 1. ECOWAS requires bidders and holders of its public contracts to comply with the strictest rules of professional ethics during the award and execution of these contracts. Bidders must provide a declaration stating that they have read and understood the Charter on Transparency and Ethics in Public Procurement provisions and undertake to comply with them. The Sanctions Committee may impose sanctions on bidders and contract holders if it is found that they have breached the rules governing the award of public contracts. Any bidder or contractor who:
1. has granted or promised to grant to any person involved in any capacity whatsoever in the procurement procedure an undue financial or other advantages, directly or through intermediaries, to obtain the contract;
2. has engaged in any form of collusion 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. has influenced the method of awarding the contract or the definition of the services in such a way as to gain an undue advantage;
4. has deliberately provided false or misleading information or declarations in their bid, likely to influence the outcome of the award procedure;
5. has issued payment requests that did not correspond to the services actually provided;
6. has been convicted of corrupt activities towards the public officials in charge of awarding the contract; and of fraudulent practices to obtain the contract, illegal agreements, unjustified renunciation of the performance of the contract if their bid is accepted, threats, harassment or violence towards the public officials in charge of awarding the contract, obstructive practices likely to influence the smooth running of the award procedure;
7. has committed acts or underhand dealings intending to obstruct the investigations and enquiries carried out by the staff of the Public Procurement Regulatory Entity.
 |
|  | * 1. Violations are recorded by the Sanctions Committee (Article 27 of the Code), which carries out all necessary investigations and refers the matter to 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 cumulatively as appropriate:
1. Confiscation of guarantees provided by the offender in connection with procurement procedures in which they participated;
2. Exclusion from the right to bid for public contracts, public service delegations and partnership contracts for a period determined according to the seriousness of the misconduct committed.

These sanctions may be extended to any company that 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 ECOWAS Sanctions Committee.Where the violations committed are established after a contract has been awarded, the penalty imposed may be accompanied by the termination of the current contract or the substitution of another company at the risk and peril of the sanctioned offender.. |
| **Conditions for taking part in contracts** | * 1. If this invitation to bid has been preceded by a pre-qualification, as indicated in the **BDS**, only bidders notified that they have been pre-qualified are authorised to submit bids; otherwise, bidders must meet the qualification conditions pursuant to Clause 5 below. Bidders may be natural persons, legal entities or any combination thereof with a formal intention to enter into an agreement or having entered into a joint venture agreement. In the case of a joint venture, unless otherwise specified in the BDS, all member parties are jointly and severally liable. Bidders must provide any document that the Contracting Authority may reasonably require, establishing to the Contracting Authority’s satisfaction that they continue to be eligible to compete.
 |
|  | * 1. In accordance with Article 10 of the Code, the following are not eligible to compete:

a. Any bidder who is insolvent, in receivership, bankrupt or whose business activities have been suspended; b. Any bidder found guilty of violating any provision of this Code; c. Any natural or legal person whose directors or officers have been convicted of a criminal offence or a breach of any tax legislation; d. Any bidder excluded from participation in any procurement procedure following a decision by the Sanctions Committee because their contract has been terminated as a result of default or negligence in the performance of a contract previously awarded to it by the institutions of the Community; e. Any bidder excluded from participation in any procurement procedure following a decision by the Sanctions Committee, or by any other national, foreign or international organisation of the same nature, on the grounds of false declarations concerning its qualifications for the award of public contracts; f. Any bidder blacklisted or banned from participating in public contracts by an international organisation or any other foreign institution; g. Any public undertaking that does not enjoy financial or legal autonomy or is not subject to commercial law; h. Any bidder in which any member of the Contracting Entity had or has a financial or personal interest.The above provisions also apply to members of a joint venture and subcontractors. |
|  | * 1. A bidder may not be in a situation of conflict of interest. Any bidder in a situation of conflict of interest will be disqualified*.* A bidder (including all members of a group of companies and all sub-contractors of the bidder) will be considered to be in a situation of conflict of interest if they:
1. are associated, or have been associated in the past, with a company (or a subsidiary of such a company) that has provided consultancy services for the design, preparation of technical specifications and other documents used in connection with contracts awarded under this invitation to bid; or
2. submits more than one bid under this invitation to bid, except variant bids authorised under Clause 13 of the IBs, where applicable; however, this does not preclude the participation of subcontractors in more than one bid.
 |
| **Qualification of bidders** | * 1. Bidders must meet the conditions of qualification in terms of material, human and financial resources or experience acquired in carrying out activities similar to those covered by the Framework Agreement, as indicated in the **BDS**.
 |
|  | Contents of the Bidding documents |
| **Sections of the bidding documents** | * 1. The Bidding documents comprise Parts 1, 2 and 3, which include all the sections listed below. They should be read in conjunction with any addenda issued in accordance with Clause 8 of the IBs.
 |
|  |  **PART ONE: Bidding Procedures*** Section 0: Bid Notice
* Section I. Instructions to Bidders (IBs)
* Section II. Bid Data Sheets (BDS)
* Section III. Submission Forms

**PART TWO: Supply Conditions*** Section IV. Schedule of Requirements, Delivery Schedule, Technical Specifications. Drawings, Inspections and Tests

**PART THREE: Framework Agreement*** Section V. General Conditions of Contract (GCC)
* Section VI. Special Conditions of Contract (SCC)
* Section VII. Framework Agreement Forms
 |
|  | * 1. The Applicant must have obtained the Bidding documents, including any addenda, from the Contracting Authority or an agent authorised by them in accordance with the provisions of the Bid Notice.
	2. The Applicant must review all instructions, forms, conditions and technical specifications in the Bidding documents. It is the Applicant’s responsibility to provide all information and documents requested in the Bidding documents. Failure to do so may result in the rejection of their bid.
 |
| **Clarifications to the Bidding documents**  | * 1. A prospective bidder seeking clarification of the documents should contact the Contracting Authority in writing at the address of the Contracting Authority given in the **BDS**. The Contracting Authority will respond in writing, no later than five (5) working days before the deadline for submission of bids, to any request for clarification received no later than ten (10) working days before the deadline for submission of bids. They will send a copy of their reply (stating the question asked but not identifying the author) to all prospective bidders who have obtained the Bidding documents following the provisions of Clause 6.2 of the IBs. If the Contracting Authority considers it necessary to amend the Bidding documents as a result of requests for clarification, they will do so following the procedure set out in Clauses 8 and 23.2 of the IBs.
 |
| **Changes to the Bidding documents**  | * 1. The Contracting Authority may, at any time before the deadline for the submission of bids, amend the bidding documents by publishing an addendum.
	2. Any published addendum will be considered an integral part of the Bidding documents and will be communicated in writing to all those who have obtained the Bidding documents directly from the Contracting Authority.
	3. To allow Bidders reasonable time to take into account the Addendum in preparing their bids, the Contracting Authority may, at its discretion, extend the deadline for submission of bids in accordance with Clause 23.2 of the IBs.
 |
|  | Preparing Bids |
| **Submission Fees**  | * 1. The bidder will bear all costs associated with the preparation and submission of their bid, and the Contracting Authority is in no way responsible or liable for these costs, regardless of the conduct and outcome of the bidding procedure.
 |
| **Language of the Bid** | * 1. The bid and all correspondence and documents relating to the bid exchanged between the Bidder and the Contracting Authority shall be in one of the working languages of ECOWAS.
 |
| **Documents making up the Bid** | * 1. The bid must 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 IBs;
2. The bid guarantee drawn up in accordance with the provisions of Clause 21 of the IBs;
 |
|  | 1. Written confirmation authorising the signatory of the bid to bind the Bidder in accordance with the provisions of Clause 22 of the IBs;
2. The documents certifying, following the provisions of Clause 16 of the IBs, that the Bidder is admitted to the competition, including the Bidder Information Form and, where applicable, the Information Forms for the members of the joint venture;
3. An undertaking by the Bidder certifying that he has read and agrees to comply with the provisions of the Charter of Transparency and Ethics in Public Procurement by completing the form provided in Section III, Submission Forms;
 |
|  | 1. Documents certifying, under the provisions of clauses 17 and 30 of the IBs, that the Supplies and related Services comply with the requirements of the Bidding documents;
2. The documents certifying, under the provisions of Clause 18 of the IC, that the Bidder has the qualifications required to perform the Contract if their bid is successful;
3. Certificates proving that they have fulfilled his obligations concerning the Social Security Fund, Tax Collection authorities, and the Labour Inspectorate; the above certificates must be produced when the contract is signed and bidders must undertake on their honour, in their bids, that they are in good standing with the authorities concerned; and
4. Other document stipulated in the **BDS**
	1. In addition to the documents required in Clause 11.1 of the IBs, the bid submitted by a joint venture must include either a copy of the joint venture agreement binding all the members of the joint venture or a letter of intent to form the joint venture in the event of the contract being awarded, signed by all the members and accompanied by the draft joint venture agreement.
 |
| **Bid submission letter and price lists**  | * 1. The Applicant shall submit their bid by completing the form provided in Section III, Bid Forms. The Bid Submission Form must be used as is, and any reservations or major discrepancies will result in the rejection of the bid. All sections must be completed in such a way as to provide the information requested.
 |
|  | * 1. If the BDS requires, the Applicant shall provide Price Schedules for the Supplies and Related Services, using the appropriate forms set forth in Section III, Bid Forms.
 |
| **Variants** | 13.1 Unless otherwise specified in the **BDS**, variants will not be considered. |
| **Bid Price and Discounts** | * 1. The **provisions of Clause 14 shall only apply where the price is an evaluation criterion**.
	2. The prices and discounts quoted by the Applicant on the Bid Form and Price Schedules shall be under the following provisions.
	3. All lots and items on the Supplies and Related Services list must be listed and priced separately on the Price Schedules.
 |
|  | * 1. The price to be indicated on the bid submission letter will be the total price.
 |
|  | * 1. The Applicant shall indicate any unconditional or conditional discount and the method of application of such discount in the bid submission letter.
 |
|  | * 1. The terms "EXW, CIF, CIP, DDP," and other similar terms will 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.
 |
|  | * 1. Prices shall be quoted as required in each Price Schedule provided in Section III, Bid Forms. The prices quoted in the Price Schedule Forms for the Supplies and Related Services shall be in the following form unless otherwise specified in the BDS:
	2. For Supplies: the price of the supplies DDP Delivered Duty Paid (agreed place of destination specified in the BDS), including all customs duties, sales taxes, or other taxes already paid or payable;
	3. For Related Services, where such Related Services are required in Section V: Schedule of Requirements, Delivery Schedule, Technical Specifications, Drawings, Inspections and Tests: the price of each item forming part of the Related Services shall be quoted (inclusive of applicable taxes).
 |
|  | * 1. Unless otherwise stipulated in the BDS and the SCC, the prices quoted by the Bidder will be revised during the performance of the Framework Agreement following the provisions of the GCC.
	2. Where the period of performance of the Framework Agreement, including renewals, is less than twelve months, the prices of the Framework Agreement may be updated following the provisions of the GCC if the period between the bidding date and the entry into force of the Framework Agreement is longer than the period of validity of the bids.
 |
|  | * 1. Clause 1.1 may provide for the bid to be issued for a single contract (lot) or a group of contracts (lots). In this case, the prices quoted must correspond to the totality of the items in each lot and the totality of the quantity indicated for each item. Applicants wishing to offer a discount if more than one contract is awarded shall specify the discounts applicable to each group of lots or each contract in the group of lots. Discounts will be offered in accordance with Clause 14.4, provided, however, that bids for all lots are submitted and opened at the same time.
 |
| **Bid Currency** | * 1. **If price is an evaluation criterion**, prices will be quoted in (specify currency) unless otherwise stipulated in the BDS.
 |
| **Documents certifying that the applicant is eligible to compete**  | * 1. To establish that he is eligible to compete under the provisions of Clause 4 of the IBs, the Applicant must complete the Letter of Submission (Section III, Standard Bid Submission Forms).
 |
| **Documents attesting to the conformity 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 Applicant 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 brochures, schedules or data. It shall include a detailed description of the main technical and performance characteristics of the Supplies and related Services, demonstrating that they correspond to the specifications and, where applicable, a list of deviations and reservations concerning the provisions of Section IV.
	3. If required by the BDS, the Applicant 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 continued operation of the supplies from the time of their commencement of use by the Contracting Authority and for the period specified in the **BDS.**
	4. Standards that apply to methods of execution, manufacturing processes, equipment and materials, as well as references to brand names or catalogue numbers specified by the Contracting Authority, are mentioned by way of information purposes only and are in no way restrictive. The Applicant may substitute other quality standards, brand names or catalogue numbers, provided that they establish to the satisfaction of the Contracting Authority that the standards, brand names and catalogue numbers so substituted are substantially equivalent to or better than the Technical Specifications.
 |
| **Documents attesting to the Bidder’s qualifications** | * 1. The documentation that the Applicant will provide to establish that they are qualified to perform the Contract if their bid is accepted will establish, to the satisfaction of the Contracting Authority, that:

(a) if required by the **BDS**, an Applicant that does not manufacture or produce the Supplies he is offering shall submit a Manufacturer’s Authorisation, using the standard form included in Section III, to certify that they have been duly authorised by the manufacturer or producer of the Supplies to provide the Supplies in the purchaser’s country; (b) if required by the **BDS,** in theevent that the Applicant is not present in the country of the Contracting Authority, the Applicant is or will be (if their bid is accepted) represented by an agent who is equipped and able to meet the Contractor’s contractual obligations concerning technical specifications, maintenance, repairs and the supply of spare parts.(c) the Applicant meets the qualification criteria specified in Clause 5 of the IBs.  |
| **Bid validity period** | 19.1 Bids will remain valid for the period specified in the BDS after the deadline for submission of bids set by the Contracting Authority. A bid valid for a shorter period will be considered non-compliant and rejected by the Contracting Authority. |
|  | 19.2 Exceptionally, before the expiry of the period of validity of bids, the Contracting Authority may ask bidders to extend their bids’ validity period. The request and responses must be made in writing. The validity of the bid guarantee will be extended for a corresponding period. A bidder may refuse to extend the validity of their bid without losing their guarantee. A bidder who agrees to such an extension will not be asked to, nor will he be permitted to, amend their bid, subject to the provisions of Clause 14.8 of the IBs.  |
| **Bid Guarantee** | * 1. Unless otherwise stipulated in the Bidding documents, the Bidder shall provide a bid guarantee which shall form an integral part of their bid.
 |
|  | * 1. The amount of the bid guarantee is specified in the BDS, and the guarantee must:
1. At the Applicant’s option, be in one of the following forms: (i) an irrevocable letter of credit; (ii) a bank guarantee issued by a duly authorised banking institution; or (iii) a guarantee issued by an authorised guarantee-issuing institution; or (iv) a bank cheque;
2. Come from a reputable institution of the Applicant’s choice established in a country meeting the origin criteria. If the institution issuing the guarantee is foreign, it must have a corresponding financial institution based in the country of the Contracting Authority allowing the guarantee to be called;
3. Comply with the bid guarantee form in Section III;
4. Be payable immediately upon written request by the Contracting Authority where the conditions listed in Clause 20.5 of the IBs are invoked;
5. Be submitted in the form of an original document; copies will not be accepted;
6. Remain valid for twenty-eight (28) days after the expiry of the validity period of the bid, including if the validity period of the bid is extended following the provisions of Clause 19.2 of the IBs.
 |
|  | * 1. Any bid not accompanied by a bid guarantee, following the provisions of Clause 20.1 of the IBs, will be rejected by the Contracting Authority as non-compliant.
 |
|  | * 1. The bid guarantees of unsuccessful bidders will be returned to them as soon as possible after the Contracting Authority has decided to award the contract and no later than 60 days after the date of publication of the provisional award notice for the Framework Agreement.
 |
|  | * 1. The bid guarantee can be called up:
1. if the Bidder withdraws their bid during the period of validity specified by them in the letter of submission of their bid, subject to the provisions of Clause 19.2 of the IBs; or
2. in the case of the Bidder selected, if the latter:
3. does not accept the corrections made to their bid during the evaluation and comparison of bids;
4. fails to fulfil his obligation to sign the Framework Agreement following Clause 42 of the IBs;
5. is in breach of his obligation to provide a performance bond pursuant to Clause 43 of the IBs;
	1. The bid guarantee for a joint venture must designate the joint venture that submitted the bid as a bidder. Suppose a joint venture has not been formally constituted at the time the bid is submitted. In that case, the bid bond for a joint venture must designate all the members of the future joint venture as bidders.
 |
| **Form and signature of the Bid** | * 1. The Applicant shall prepare an original of the documents constituting the bid as described in Clause 11 of the IBs, clearly marked "ORIGINAL." Additionally, he shall submit the number of copies of the bid indicated in the **BDS**, clearly marking these copies "COPY." In the event of any discrepancies between the copies and the original, the original shall prevail.
 |
|  | * 1. The original and all copies of the Bid must be typed or written in indelible ink and signed by a person duly authorised to sign on behalf of the Applicant. Such authority shall be in the form of a written confirmation attached to the Applicant’s Information Form which is part of Section III. The name and title of each person signing the authorisation must be typed or printed under the signature. The same person may not represent more than one Bidder for the same contract. All bid pages, except for unmodified publications such as the manufacturer’s catalogue, must be initialled by the person signing the bid.
 |
|  | * 1. To be valid, any addition between the lines, erasure or overwriting must be signed or initialled by the person signing the bid.
 |
|  | Submission of Bids and Opening of Bids |
| **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 of its copies, including any variants authorised according to Clause 13 of the IBs, in separate sealed envelopes marked "ORIGINAL" or "COPY," as appropriate. All these envelopes will themselves be placed in the same sealed outer envelope.
 |
|  | * 1. The inner and outer envelopes must:
1. be addressed to the Contracting Authority in accordance with Clause 23.1 of the IBs;
2. include the identification of the invitation to bid indicated in Clause 1.1 of the IBs, and any other identification indicated in the **BDS**;
3. include the instruction not to open them before the date and time set for opening bids in conformity with Clause 26.1 of the IBs.

The inner envelope must also bear the name and address of the Bidder. If the envelopes are not sealed and marked as stipulated, the Contracting Authority will not be liable if the bid is misplaced or opened prematurely. |
| **Deadline for submission of bids**  | * 1. The Contracting Authority must receive bids at the address indicated in the **BDS** and no later than the date and time specified in the **BDS.**
	2. The Contracting Authority may, if it considers it necessary, extend the deadline for the submission of bids by amending the Bidding documents according to Clause 8 of the IBs, in which case all rights and obligations of the Contracting Authority and the Applicants governed by the earlier deadline will be governed by the new deadline.
 |
| **Late Bids** | * 1. The Contracting Authority will not consider any bid received after the deadline for submission of bids in accordance with Clause 23 of the IBs. Any bid received by the Contracting Authority after the closing date and time for submission of bids will be declared out of time, disregarded and returned to the Applicant unopened.
 |
| **Withdrawal, substitution and modification of bids**  | * 1. A bidder may withdraw, replace or amend their bid after it has been submitted, by written notification in accordance with Clause 22 of the IBs, duly signed by an authorised representative, together with a copy of the authorisation (power of attorney) under Clause 21.2 of the IBs (except in the case of notifications of withdrawal for which copies are not required). The relevant variation or replacement offer must be attached to the written notification. All notifications must be:
1. issued according to Clauses 21 and 22 of the IBs (except for withdrawal notices, 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 Authority before the closing date and time for submission of bids in accordance with Clause 23 of the IBs.
 |
|  | * 1. Bids that bidders request to be withdrawn under Clause 26.1 will be returned to them unopened.
 |
|  | * 1. No bid may be withdrawn, replaced, or modified between the closing date and time for submission of bids and the date of expiry of the validity period specified by the Applicant on the Bid Form or of expiry of any extension period.
 |
| **Bid Opening**  | * 1. The Contracting Authority’s Contracts Committee will open the bids publicly on the date, at the time and address indicated in the **BDS**. The representatives of the bidders present will be asked to sign a register attesting to their presence.
 |
|  | * 1. Initially, the envelopes marked "WITHDRAWAL" will be opened and their contents announced aloud, while the envelope containing the corresponding bid will be returned to the Applicant unopened. If the envelope marked "WITHDRAWAL" does not contain a power of attorney confirming that the signature is that of a person authorised to represent the Applicant, the corresponding bid will be opened. No withdrawal of a bid will be authorised if the corresponding notification does not contain a valid authorisation for the signatory to request the withdrawal and is not read aloud. After that, the envelopes marked "SUBSTITUTE BID" will be opened and announced aloud. The corresponding new bid will be substituted for the previous one, which will be returned unopened to the Applicant. No substitute bid will be authorised if the corresponding notification does not contain a valid authorisation for the signatory to request the replacement and is not read aloud. Finally, envelopes marked "MODIFICATION" will be opened, and their contents will be read aloud with the corresponding bid. No bid modification will be authorised if the corresponding notification does not contain a valid authorisation for the signatory to request the modification and is not read aloud. Only bids that have been opened and announced aloud at the bid opening will be considered.
 |
|  | * 1. All other envelopes will be opened one after the other. The name of each bidder will be announced aloud, as well as any mention of a change, the amount of the bid per lot, if applicable, including any discounts and any variants, the existence of a bid guarantee, and any other details that the Contracts Committee may deem useful to mention. Only the discounts and variants in the bid announced aloud when the bids are opened will be subject to evaluation. No bid will be rejected when the bids are opened, except bids submitted after the deadline in line with Clause 24.1 of the IBs. All pages of the bid and Price Schedules will be stamped by the members of the Contracts Committee present at the opening ceremony.
 |
|  | * 1. As soon as the bid opening operations have been completed, the Contracts Committee will draw up minutes of the bid opening session, recording the information read aloud. A copy of the minutes will be distributed to all bidders who submitted a bid within the deadline.
 |
|  | Evaluation and comparison of bids (Articles 14 to 20 of the ECOWAS Institutions Procurement Code) |
| **Confidentiality** | * 1. No information relating to the review, evaluation, and comparison of bids, the verification of the bidders’ qualifications and the recommendation for the award of the Framework Agreement will be given to the bidders or to any other person not concerned by the said procedure until the award of the Framework Agreement has been made public.
 |
|  | * 1. Any attempt by a bidder to influence the Contracting Authority during the examination, evaluation, and comparison of bids and the verification of bidders’ qualifications or during the award decision may result in the rejection of their bid.
 |
|  | * 1. Notwithstanding the provisions of Clause 27.2, between the time when bids are opened, and when the Framework Agreement is awarded, if a bidder wishes to contact the Contracting Authority for any reason relating to their bid, it must be done in writing.
 |
| **Clarifications concerning Bids** | * 1. To facilitate the examination, evaluation, and comparison of bids and the verification of the qualification of Bidders, the Contracting Authority has full discretion to ask a bidder to clarify their bid. No clarification provided by a bidder other than in response to a request from the Contracting Authority will be considered. The Contracting Authority’s request for clarification and the response must be in writing. No substantial change to the bid will be requested, offered or permitted. If price is an evaluation criterion, no change in price will be requested, offered or permitted other than to confirm the correction of arithmetical errors discovered by the Contracting Authority during the evaluation of bids pursuant to clause 30 of the IBs.
 |
| **Bid Compliance**  | * 1. The Contracting Authority will establish the conformity of the bid based on its content alone.
 |
|  | * 1. A substantially compliant bid is a bid that complies with all the stipulations, specifications, and conditions of the Bidding documents without any material deviations, reservations or omissions. Substantial deviations or omissions are those:
	2. which substantially limit the scope, quality, or performance of the Supplies and Related Services specified in the Framework Agreement; or
	3. which substantially limit the Contracting Authority’s rights or the Bidder’s obligations under the Framework Agreement in a manner that is inconsistent with the Bidding documents; or
	4. the acceptance of which would be prejudicial to the other bidders who have submitted compliant bids.
 |
|  | * 1. The Contracting Authority will disregard any bid that does not substantially comply with the Bidding documents, and the Applicant may not subsequently bring the bid into compliance by making corrections to the substantial discrepancy, reservation or omission found.
 |
| **Non-compliance, errors and omissions** | * 1. If a bid is substantially compliant, the Contracting Authority may tolerate any non-compliance or omission that does not constitute a material deviation from the bid requirements.
 |
|  | * 1. If a bid is substantially compliant, the Contracting Authority may request the Bidder to submit, within a reasonable time, the information or documentation necessary to remedy the non-compliance or non-essential omissions found in the bid concerning the documentation requested. Such omissions may not, under any circumstances, be linked to any element of the price of the bid if the price constitutes an evaluation criterion. Any Candidate who fails to comply with this request may have their bid rejected.
 |
|  | * 1. Where price is an evaluation criterion, if a bid is compliant, the Contracting Authority will rectify arithmetical errors on the following basis:
1. If there is a discrepancy between the unit price and the total price obtained by multiplying the unit price by the quantities, the unit price will prevail, and the total price will be corrected unless, in the opinion of the Contracting Authority, the decimal point in the unit price is patently misplaced, in which case the total price indicated will prevail, and the unit price will be corrected;
2. If the total obtained by adding or subtracting the subtotals is not correct, the subtotals will be taken as the correct total, and the total will be corrected; and
3. If there is a discrepancy between the price stated in words and the price stated in figures, the amount in words shall prevail unless the discrepancy is due to an arithmetical error, in which case the amount in figures shall prevail subject to paragraphs (a) and (b) above.
 |
|  | * 1. If a bidder selected from among the provisional recipients of the Framework Agreement does not accept the corrections made, their bid will be rejected, and their bid guarantee may be forfeited.
 |
| **Preliminary screening of bids**  | * 1. The Contracting Authority will examine the bids to ensure that all the documents and technical documentation requested in Clause 11 of the IBs have been supplied and are complete.
 |
|  | * 1. The Contracting Authority will confirm that the following documents and information are included in the bid. If any of these documents or information are missing, the bid will be rejected:
1. the bid submission form, in accordance with Clause 12.1 of the IBs.
2. if required, the price schedule, in accordance with Clause 12.2 of the IBs.
3. the power of attorney authorising the signatory to make a binding commitment on behalf of the Applicant, in accordance with Clause 21.2 of the IBs; and
4. the bid guarantee in accordance with Clause 20 of the IBs.
 |
| **Examination of conditions, Technical Evaluation** | * 1. The Contracting Authority will examine the bid to confirm that all the terms and conditions specified in the General Conditions and Special Conditions of the Framework Agreement have been accepted by the Applicant without any material variance or reservation.
	2. The Contracting Authority will evaluate the technical aspects of the bid submitted in accordance with Clause 17 of the IBs to confirm that all the requirements of Section IV: Schedule of Requirements, Delivery Schedule, Technical Specifications, Drawings, Inspections and Tests of the Bidding Documents have been adhered to without substantial deviation or qualification.
	3. If, after examining the terms and conditions of the invitation to bid and the technical evaluation, the Contracting Authority establishes that the bid does not comply with Clause 29 of the IBs, it will reject the bid in question.
 |
| **Bid Evaluation** | * 1. **The provisions of Clause 33 only apply where the price is a criterion for evaluation**.
	2. The Contracting Authority shall evaluate each of the bids it has established to be compliant at this stage of the evaluation.
 |
|  | * 1. In evaluating a bid, the Contracting Authority will use only the criteria and methods set out in this Clause to exclude all other criteria and methods.
 |
|  | * 1. In evaluating a bid, the Contracting Authority will take into account the following elements:
1. the method of evaluation, by item or by lot, as indicated in the **BDS, and** the bid price indicated in accordance with the provisions of Clause 14 of the IBs;
2. adjustments made to the price to correct arithmetical errors pursuant to Clause 30.3 of the IBs:
3. price adjustments attributable to discounts offered pursuant to Clause 14.4 of the IC;
4. adjustments, as indicated in the **BDS**, resulting from the use of the evaluation factors, methods and criteria selected;
5. adjustments attributable to applying a margin of preference, where applicable, per Clause 34 of the IBs*.*
 |
|  | * 1. In assessing the bid price, the Contracting Authority may also need to consider factors other than the bid price quoted according to Clause 14 of the IBs, including the characteristics and performance of the related Supplies and Services and their terms and conditions of purchase. Where appropriate, the factors selected will be expressed in monetary terms to facilitate the comparison of bids. The factors to be used and the application method shall be as set out in Clause 33.4 (d) of the IBs.
 |
|  | * 1. If provided for in the **BDS**, these Bidding Documents enable bidders to quote prices for different lots separately and allow the Contracting Authority to award one or more lots to one or more bidders. The evaluation method for determining the lowest bid combination, considering any discounts offered in the bid submission letter, will be specified in the **Bidding documents**.
 |
| **Margin of preference** | * 1. **The provisions of Clause 34 only apply where the price is a criterion for evaluation.**
	2. For contracts awarded based on an international call for bids, preference is given to bidders from ECOWAS member countries and to bidders whose bids include only products from ECOWAS member countries over bidders from non-ECOWAS member countries, provided that their bids are not more than fifteen (15) percent higher than that of the lowest bidder (Article 85 of the Public Procurement Code).
	3. In the context of a national call for bids, the same preference is given only for equivalent quality and comparable delivery times to workers’ groups, workers’ production cooperatives, artisans’ groups, and cooperatives, artists’ cooperatives and individual artisans monitored by the national consular chambers, as well as to approved research, supervision or financing organisations.
	4. To benefit from the preference provided for above, bidders must enclose, in addition to the appropriate supporting documents, a declaration in which they request to benefit from the said provisions, at the same time as they provide all the relevant supporting documents concerning the exercise of their activities in an ECOWAS member country and the Community from where the products originate.
	5. To grant a margin of preference to supplies originating in ECOWAS member countries, the Contracting Authority will classify the bid into one of the following two groups:

(a)  **Group A**: Bids proposing supplies from ECOWAS member countries, if the Bidder establishes to the satisfaction of the Contracting Authority that: (i) the cost of labour, raw materials and components from ECOWAS member countries accounts for more than thirty percent (30%) of the pre-tax price of the supplies offered, and (ii) the establishment in which the supplies will be manufactured or assembled has been manufacturing or assembling identical supplies at least since the date of submission of the bids;(b) **Group B**: all other bids.To facilitate this classification by the Contracting Authority, the bidder must provide all the justifications necessary for their bid to be classified in Group A.* 1. The Contracting Authority will first examine the bids to verify in which group the bidders have ranked their bids when preparing them. It will confirm or modify this ranking if necessary.
	2. All the evaluated bids in each group will then be compared with each other to determine the lowest evaluated bid in each group. The lowest evaluated bid from each group will then be compared with the lowest evaluated bid from the other groups. If, as a result of this comparison, a bid from Group A is the lowest evaluated bid, the bidder that submitted it will be awarded the contract.
	3. If, as a result of the foregoing comparison, the lowest evaluated bid is from Group B, that Group B bid will be compared again with the lowest evaluated bid from Group A after adding to the evaluated price of the imported supplies offered in the lowest Group B bid, and for the sole purpose of this additional comparison, 10% of the bid price of those supplies.
	4. If Group A’s bid is the lowest evaluated bid in this additional comparison, it will be selected. Otherwise, the lowest evaluated bid from Group B, by application of the provisions of Clause 34.5 above, will be selected.
 |
| **Comparison of bids** | * 1. **If price is an evaluation criterion***,* the Contracting Authority will compare all substantially compliant bids by ranking them in ascending order by their respective amounts, from the lowest evaluated bid to the highest evaluated bid, under Clause 33 of the IBs, to determine the bids ranked in the first **n** places, within the limit of the number of successful bidders provided for in the Framework Agreement, under Clause 1.2 of the IBs.
	2. **If price is not an evaluation criterion**, as set out in the **BDS**, the Contracting Authority will only compare the qualifications of those bidders whose bids are substantially compliant following the technical evaluation, according to Clause 32 of the IBs, to determine the bidders ranked in the top **n** places, within the limit of the number of successful bidders provided for in the Framework Agreement, under Clause 1.2 of the IBs*.*
 |
| **Post-verification of bidder’s qualifications** | * 1. **The provisions of Clause 36 only apply where the price is a criterion for evaluation.**
	2. The Contracting Authority will ensure that the Bidders selected for having submitted the bids evaluated in the first **n** places, pursuant to Clauses 1.2 and 35.1 of the IBs, and substantially in accordance with the provisions of the bidding documents, have the qualifications required to perform the Framework Agreement 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 Framework Agreement.
 |
|  | * 1. This determination will be based on examining the documents attesting to the bidders’ qualifications and submitted by them pursuant to Clause 18 of the IBs.
 |
|  | * 1. Awarding the Framework Agreement to a bidder is subject to the positive outcome of this determination. If this is not the case, the bid will be rejected. The Contracting Authority will proceed to examine the compliant bid ranked immediately after those ranked in the top n places, according to Clause 35 of the IBs, to establish in the same way whether the bidder is capable of performing the Framework Agreement satisfactorily.
 |
| **Right of the Contracting Authority to accept any of the bids and to reject any or all of the bids**  | * 1. The Contracting Authority reserves the right to accept or reject any bid, cancel the bid procedure and reject all bids at any time before the award of the Framework Agreement, without thereby incurring any liability whatsoever to the bidders.
	2. At their written request, the Contracting Authority will inform bidders of the reasons which have led them not to award or give notice about the Framework Agreement or to recommence the procedure within five (5) working days of receipt of the request.
 |
|  | Contract Award |
| **Award Criteria** | * 1. If price is an evaluation criterion, the Contracting Authority will award the Framework Agreement to the bidders whose bids are evaluated as the lowest priced, ranked nth highest, under Clauses 1.2 and 35.1 of the IBs, and determined to be substantially responsive to the Bidding documents, under Clause 32 of the IBs, provided that they are also determined to be qualified to satisfactorily perform the Framework Agreement, pursuant to Clause 36 of the IBs.
	2. If price is not a criterion, the Contracting Authority will award the Framework Agreement to those bidders whose bids are found to comply substantially with the Bidding documents, under Clause 32 of the IBs, provided that they are also found to be qualified to satisfactorily perform the Framework Agreement, pursuant to Clause 36 of the IBs, and are ranked in the top n places following the comparative review of the Bidders’ qualifications, pursuant to Clause 35.2 of the IBs.
 |
| **Signature of the Framework Agreement** | * 1. The Contracting Authority will send the successful Bidder the Commitment Deed and the Special Conditions of Contract (SCC) for the Framework Agreement.
	2. Within fourteen (14) days of receipt of the Contract Agreement, the successful Bidder must sign, date and return it to the Contracting Authority.
 |
| **Notification of the award of the Framework Agreement** | * 1. As soon as possible after its approval by the Competent Authority, the Contracting Authority shall notify the successful bidder of the Framework Agreement before the expiry of the bids’ validity period. Notification consists of delivery to the successful bidder against a receipt or dispatch by registered letter with acknowledgement of receipt or by any means capable of giving a definite date to that dispatch. The date of notification is that of the acknowledgement of receipt.
	2. Unless otherwise stipulated in the Framework Agreement, the date of notification constitutes the starting point for the contractual deadlines for the performance of the Framework Agreement. The Framework Agreement only takes effect concerning the successful bidder from the date of his notification.
 |
| **Performance guarantee** | * 1. Within fourteen (14) days of receipt of notification by the Contracting Authority of the award of the Framework Agreement, the successful Applicants shall provide the performance bond, if required in accordance with the GCC, using the Performance Bond Form set out in Section VII.
	2. Failure by the successful Bidder to provide the performance bond above, if required, or failure by the Bidder to sign the Deed of Commitment, will constitute sufficient grounds for cancellation of the award of the Framework Agreement and for forfeiture of the bid guarantee, in which case the Contracting Authority may award the Framework Agreement to the Bidder whose bid is determined to be substantially responsive to the Bidding documents and ranked immediately after those ranked in the top n places, according to Clause 34 of the IBs, and who possesses the qualifications required to perform the Framework Agreement.
 |
| **Information for bidders** | * 1. As soon as it approves the award proposal, the Contracting Authority immediately notifies the other bidders that their bids have been rejected, returns the bid guarantee, and publishes an award notice.
	2. This notice will contain at least: (i) the identification of the invitation to bid and of each lot, if applicable; and (ii) the names of the bidders whose bids have been selected.
	3. Any bidder that has submitted an unsuccessful bid may ask the Contracting Authority in writing for an explanation as to why their bid was not selected. The Contracting Authority will reply in writing to the bidder within five (5) working days of receipt of the request.
	4. Within fifteen (15) days of notification of the contract, the Contracting Authority publishes a final award notice on the ECOWAS website. This notice contains the same information as that indicated in Article 41.2 above.
 |
| **Appeal** | * 1. All bidders are entitled to appeal. Appeals must be lodged with the person responsible for the contract using a written notification indicating the references of the procedure for awarding the contract and setting out the grounds for the complaint by registered letter with acknowledgement of receipt or delivered against a receipt. This appeal may relate to the decision to award or not to award the contract, the conditions for publication of the notices, the rules relating to the participation of bidders and the capacities and guarantees required, the method of the award, and the selection procedure chosen, the compliance of the invitation to bidding documents with the regulations, the technical specifications chosen and the evaluation criteria. The complaint must allege a clear breach of public procurement regulations. The complaint must be lodged within 15 days of publication of the provisional contract award notice, the invitation to bid notice, or the invitation to bidding documents.
	2. The person responsible for the contract must respond to this complaint within three (3) working days, after which failure to respond will constitute an implicit rejection of the informal appeal.
	3. If the applicant’s request for an internal review is not granted, the applicant has three (3) working days from receipt of the response from the Contracting Authority or the expiry of the three (3) day period referred to in clause 44.2 above to submit an appeal to the President of the Commission.
	4. Referral to the PRMP (Regional Public Procurement System Reform Project) is made by written notification. Appeals are only admissible if they allege a clear breach of public procurement regulations and are accompanied by proof of payment of a deposit, the amount of which is set by the Contracting Authority.
 |

|  |
| --- |
| Section II. Bidding Data Sheets (BDS)The following particulars supplement, clarify, or amend the Instructions to Bidders (IBs) clauses. In case of conflict, the clauses below take precedence over those in the IBs.*[The notes in italics accompanying the clauses below are intended to facilitate the establishment of the corresponding specific data.]*  |
| **A. Introduction** |
| **IC 1.1** | Reference of the invitation to bid *[insert reference].* |
| **IC 1.1** | Name of Contracting Authority: *[insert name] :*  |
| **IC 1.1** | Type of Framework Agreement: *[insert: "****closed*** *Framework Agreement without second-stage competition" or "****closed*** *Framework Agreement with second-stage competition" or "open Framework Agreement"].* |
| **IC 1.1** | Number and identification of lots covered by this Framework Agreement: *[Insert number and identification numbers]* . |
| **IC 1.2** | The maximum number of suppliers/service providers awarded the Framework Agreement: *[insert number].* *[If the Framework Agreement comprises several lots, indicate the maximum number of suppliers for each lot].* |
| **IC 1.3** | The duration is *[insert number (maximum 4)]* years.OrThe duration is one year, renewable *[insert number (maximum 2)]* times. |
| **IC 2.1** | Source of funding for contracts to be awarded under the Framework Agreement: *[insert].*  |
| **IC 2.2** | [*The Framework Agreement may provide a minimum and a maximum in value or quantity or a minimum and no maximum, or no minimum and a maximum, or be concluded without a minimum or maximum*]. *[Insert as appropriate (Delete unused formulas)*:The estimated budget (or quantity) is: *[Insert estimate]* orThe maximum budget planned (or the maximum quantity planned) is: *[Insert]* orThe minimum planned budget (or minimum planned quantity) is: *[Insert]* *]* |
| **IC 4.1** | The call for bids was (*was/was not)* preceded by a pre-qualification. |
| **IC 5.1** | The qualification requirements applicable to bidders are as follows: Financial CapacityThe bidder must provide written proof that they meet the following requirements: [*insert list of requirements, specifying the nature of the supporting documents required; as a minimum, the bidder should be required to provide its certified financial statements for the last three financial years; requirements concerning average annual turnover over many years or the existence of liquid assets or a credit line are not generally relevant to supply contracts and should therefore be avoided unless duly justified].*Technical Capacity and ExperienceThe bidder must prove, with supporting documents, that they meet the following technical capacity requirements: [*insert list of requirements, specifying the nature of the supporting documents required; this type of requirement will be justified in particular where 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 he will have the necessary resources, either directly or through a representative established in the country of the Contracting Authority*]. The bidder must prove, with supporting documents, that he meets the following experience requirements: [*This type of requirement, relating, for example, to the existence of a certain number of similar contracts carried out by the bidder over a given number of years, will be justified in particular when the contract requires the implementation of complex distribution or after-sales service logistics; however, care should be taken not to formulate excessively restrictive requirements, to the detriment of local bidders who would otherwise be qualified to provide the required distribution and after-sales services; to this end, it may be indicated that the similarity of the contracts will be defined appropriately 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 evidence that the supplies he proposes meet the following condition(s) of use: *[insert condition(s) of use; for example, in the case of equipment, it may be useful to require the bidder to provide evidence 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 (climatic conditions in particular) similar to those prevailing in the country of the Contracting Authority, and that this equipment has been operating satisfactorily for at least three years].* |
| **B. Bidding documents** |
| **IC 7.1** | For **clarification purposes** only**,** theaddress of the person responsible for the Contract at the Contracting Authority is as follows:*[Attention: insert the name and office number of the person responsible for the Contract].*The attention of: *[insert name of the person responsible]* Address: *[insert full address]* P.O. Box: *[insert P.O. Box number*]. Telephone number: *[insert number]* Fax number: *[insert number]* E-mail address: *[insert address]*  |
| **C. Preparing Bids** |
| **IC 11.1 (g)** | The bidder must enclose the following documents with their bid: *[Insert list of documents, if necessary].*   |
| **IC 12.2** | Price schedules for Supplies and Related Services *[insert "are" or "are not"]* required*[If the submission of the first stage of the Framework Agreement is for information purposes, it will be examined solely from the point of view of compliance, and the price schedules will not be requested, as the price is not an evaluation criterion.**If price is an evaluation criterion, then price lists will be required].* |
| **IC 13.1** | Variants *[insert "are" or "are not"]* authorised.*[If alternative bids are authorised, insert:* *"A bidder is only authorised to submit a variant bid if they submit a basic bid. The Contracting Authority will only consider variants offered by bidders classified as eligible for the Framework Agreement based on their evaluated basic bid."**Or**"A bidder may submit an alternative bid with or without a basic bid. The Contracting Authority will consider alternative bids that comply with the Technical Specifications indicated in Section IV, Schedule of Requirements, Delivery Schedules, and Technical Specifications. All bids received, whether for the basic solution or as alternative bids meeting the required conditions, will be evaluated on their merits, per the same procedures set out in Clause 33 of the IBs"*].  |
| **IC 14.6 (a)**  | The destination is: *[insert name(s)*].  |
| **IC 14.8** | The prices proposed by the Bidder *[insert "shall be firm" or "shall be subject to revision"]*.The prices offered by the bidder will be subject to review if the performance period of the Framework Agreement is longer than twelve (12) months.  |
| **IC 17.3** | The expected period of use of the supplies is: *[to be used for equipment purchases only; in this case, insert a number of years; for supplies not requiring spare parts or special tools, indicate: "Not applicable"].* |
| **IC 18.1(a)** | Manufacturer’s Authorisation *[insert ‘is’ or ‘is not’]* required.  |
| **IC 18.1 (b)** | After-sales service *[insert ‘is’ or ‘is not’]* required.  |
| **IC 19.1** | The period of validity of the offer will be *[insert number] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* days. |
| **IC 20.1** | *[Where the Framework Agreement is executed with second-stage competition, a bid guarantee will not be required. In this case, state: "****A bid guarantee is not required****" and indicate "****Not applicable****" in the right of IBs 20.2 below. Article 80 of the Code.**It should also be noted that for contracts estimated at less than UA 50,000, the requirement for a bid bond is not compulsory (Article 80 of the Code). In such cases, the above indications will be repeated.**Where the Framework Agreement is executed without competitive bidding during the second stage, a bid guarantee may be required in accordance with the provisions of the Public Procurement Code and its implementing texts. In such a case: (i) if the Framework Agreement provides for a minimum and a maximum, the bid guarantee may be indexed to the minimum; (ii) if there is a minimum and no maximum, the bid guarantee will be indexed to that minimum; (iii) if there is a maximum and no minimum, the bid guarantee will be indexed to that maximum; (iv) if there is neither a maximum nor a minimum, the bid guarantee will be indexed to the estimated price of the works specified in the bidding documents for evaluation purposes. In all cases, the Contracting Authority must endeavour to adopt the minimum possible bid guarantee so that it does not constitute an obstacle to participation*].  |
| **IC 20.2** | The amount of the bid guarantee is: *[insert the amount which must be between 1 and 2% of the estimated value of the Framework Agreement (minimum amount or maximum amount or estimated amount of works indicated in the bidding documents for evaluation purposes); if the bid guarantee is not required, indicate here: "****Not applicable****]* |
| **IC 21.1** | In addition to the original of the bid, the number of copies requested is: *[insert number of copies]*  |
| **D. Submission of Bids and Opening of Bids** |
| **IC 22.2 (b)** | The inner and outer envelopes must bear the following identifications: *[insert name or number that must appear on the bid envelope to identify this procurement process].*  |
| **IC 23.1**  | To submit **bids** only, the address of the Contracting Authority is as follows:Note: *[Note: insert the person’s full name, if applicable, or insert the name of the Project Manager].* Address: *[insert full address]* P.O. Box: *[insert P.O. Box number*]. **The closing date and time for submission of bids are as follows:**Date: *[insert day, month, year; for example 15 June 2008*] Time*:* [*insert time]*   |
| **IC 26.1** | The bids will be opened at the following addressAddress: *[insert full address]*   Date*: [insert day, month, year; for example 15 June 2008*] Time*: [insert time]*  |
| **E. Evaluation and Comparison of Bids** |
|  |  |
| **IC 33.4 (a)** | The evaluation will be conducted by *[insert "item" or "batch"].**[Select one of the three sample clauses below as appropriate].*The supplies and services constitute a single lot and bids must cover all the supplies and services.OrBids will be evaluated by item, and the Contract will cover the items awarded to the selected Applicant.OrBids will be evaluated by lot. If a Price Schedule includes an item without providing the price, the price will be deemed included in the other items’ prices. An item not mentioned in the Price Schedule will be deemed not to form part of the bid, and, assuming that the bid is substantially compliant, the highest price offered for the item in question by the bidders whose bids are compliant will be added to the bid price, and the total price thus evaluated for the bid will be used to compare bids.  |
| **IC 33.4 d)** | Adjustments will be calculated using the following assessment criteria:a) Cost of spare parts, mandatory spare parts and after-sales service: *[insert (i) or (ii) below].*i) The Contracting Authority provides the list and quantities of the main components and spare parts in the list of Supplies. Their total cost resulting from applying the unit prices indicated by the bidder in their bid will be added to the bid price for evaluation purposes.**or**(ii) The Contracting Authority will prepare a list of frequently used components and spare parts to evaluate each bid, together with an estimate of the quantities required for the initial period of operation. The relevant cost will be determined from the unit prices quoted by the Bidder and added to the bid price for evaluation purposes.b)Availability of spare parts and after-sales services in the country of the Contracting Authority for the equipment offered in the bid:The cost to the Contracting Authority of providing minimum facilities for after-sales service and storage of spare parts will be added to the bid price for evaluation purposes.c)Operating and maintenance costs:The cost of operating and maintaining the proposed supplies will be added to the bid price for evaluation purposes only. [*Insert method of determining operating and maintenance costs, if applicable].*d)Performance and efficiency of supplies*: [insert (i) or (ii) below].*i) Bidders must indicate the guaranteed performance or efficiency based on the Technical Specifications. For any performance or efficiency below the standard of 100, the bid price will be increased by the discounted cost of running the equipment for its lifetime, calculated using the following method: *[insert]*. **Or**ii) The equipment offered must have the minimum efficiency specified in the Technical Specifications to be considered compliant with the provisions of the Bidding documents. The evaluation will take into account the additional cost due to the deviation of the efficiency of the equipment proposed in the bid from the required efficiency; the bid price will be adjusted according to the following method: *[insert]*. e)Additional specific criteria*[Any other specific criteria, together with the appropriate method for their application to the evaluation, should be specified here where appropriate].*  |
| **IC 33.6** | *[Insert the following text if the invitation to bid concerns several lots that may be awarded separately; otherwise, indicate: "Not applicable"].* [The Contracting Authority will award the various lots to the bidder(s) offering the lowest evaluated combination of bids per lot (including any discounts that may be granted in the event of the award of more than one lot) and who meet the qualification requirements]. |
| **IC 34.2** | *[Insert as appropriate: "A margin of preference of x% (x may not exceed 10) will be given to supplies originating in ECOWAS member countries"].* |
| **IC 34.3** | *[Insert, where appropriate: "A margin of preference of x% (x may not exceed 10) will be granted to supplies from workers’ groups, workers’ production cooperatives, artisans’ groups and cooperatives, artists’ cooperatives and individual artisans monitored by the Consular Chambers].* |
|  |  |
| **F. Award of the Contract** |
| **IC 35.2** | **This clause only applies where the price is not a criterion for evaluation**.*[Where price is not an evaluation criterion, the Contracting Authority, after determining which bids are deemed to comply substantially with the provisions of the bidding documents, will verify the qualifications of the bidders who have submitted substantially compliant bids.**Following this check, if the number of bidders who have submitted bids that substantially comply with the bidding documents exceeds the number* ***n*** *representing the maximum number of successful bidders to whom it is intended to award the Framework Agreement, the Contracting Authority will re-examine the strengths and weaknesses of these bidders using the qualification criteria, to identify the* ***n*** *best applications for the Framework Agreement.**The Contracting Authority will indicate the qualification criteria that will be considered in this review, indicating the evaluation criteria. In the event of a tie in an initial review, it will indicate a further series of qualification criteria that will be reviewed until the target number n of suppliers is reached.* *By way of example, the Contracting Authority may indicate that the bidders will be ranked as follows:** *Initially, the Contracting Authority will rank the bidders according to the greatest number of similar contracts or services carried out. The first* ***n bidders to*** *have carried out the greatest number of similar contracts or services will be declared provisional winners of the Framework Agreement.*
* *If, at the end of this first evaluation, the number of bidders ranked in the first* ***n*** *places exceeds the number* ***n of*** *bidders planned for the Framework Agreement, the Contracting Authority will use the following additional criterion to decide between these bidders placed in the first* ***n*** *places: the bidders who are equal at the end of the first evaluation will be separated, in a second stage, by a ranking according to the highest average turnover achieved over the last 3 years. The* ***n bidders with*** *the highest number of contracts or similar services will then be declared provisional winners of the Framework Agreement.*

*The Contracting Authority may specify other additional criteria].* The criteria that will be considered in this review are as follows: [Indicate qualification *and ranking criteria; if the price is an evaluation criterion of the Framework Agreement, indicate* ***"Not applicable"*** *here].* |

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| Section III. Submission Forms |

List of Forms

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[Model bid guarantee (guarantee issued by a financial institution) 59](#_Toc519511370)

[Model undertaking to comply with the Charter of Transparency and Ethics in Public Procurement 61](#_Toc519511371)

## Candidate Information Form

*[The bidder completes the table below in accordance with the instructions in square brackets. The table must not be modified. No substitutions will be allowed].*

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

Bid Notice Number: *[Insert name of Bid Notice].*

|  |
| --- |
| 1. Bidder name: *[Insert the legal name of bidder].* |
| 2. In the case of a joint venture, the names of all the members: *[insert the legal name of each member of the joint venture].* |
| 3. a Country where the bidder is, or will be legally registered: *[insert name of country of registration].* | 3.b NINEA (National Identification Number  |
| 4. Candidate’s year of registration: *[insert year of registration].* |
| 5. The bidder’s official address in the country of registration: *[insert the bidder*’s *legal address in the country of registration].* |
| 6. Details of the bidder’s duly authorised representative:  Name: *[insert the name of the bidder’s representative].* Address: *[insert address of* Candidate’s *representative].* Telephone/Fax: *[insert telephone/Fax number of* Candidate’s *representative].* E-mail address: *[insert e-mail address of* Candidate’s *representative].* |
| 7. Enclosed 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 IBs Clauses 4.1 and 4.2* In the case of a joint venture, a letter of intent to form a joint venture, or a joint venture agreement, in accordance with Clause 4.1 of the IBs.
 |

## Joint venture Member Information Form

*[The bidder completes the table below in accordance with the instructions in square brackets. The table must not be modified. No substitutions will be allowed].*

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

Bid Notice Number: *[insert name of Bid Notice].*

|  |
| --- |
| 1. Bidder s name: *[insert legal name of bidder].* |
| 2. Name of the member of the joint venture: *[insert the legal name of the member of the joint venture].* |
| 3.a Country where the joint venture member is, or will be legally registered: *[insert name of the country where joint venture member is registered].* | 3.b NINEA (National Identification Number  |
| 4. Year of registration of the Group Member: *[insert year of registration of the Group 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. Details of the duly authorised representative of the member of the joint venture:  Name: *[insert the name of the joint venture member’s representative].* Address: *[insert the address of the joint venture member’s representative].* Telephone/Fax: *[insert the telephone/fax number of the joint venture member’s representative].* E-mail address: *[insert the e-mail address of the joint venture member’s representative].* |
| 7. Enclosed 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 IBs |

|  |
| --- |
| Bid Submission Letter |

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

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

Bid Notice Number: *[insert name and the number of bid notice].*

Variant number: *[insert identification number if their bid is proposed as a variant].*

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

We, the undersigned, certify that:

1. We have examined the Bidding Documents, including Addendum(s) number(s): *[insert number(s) and date(s) of issue of each Addendum(s)];* and have no reservations with respect thereto;
2. We undertake to supply, following the Bidding Documents and the delivery schedule specified in the Schedule of Requirements, the Schedule of Delivery, and the Technical Specifications, the following Supplies and Related Services: [insert a brief description of the Supplies and Related Services];
3. The total price of our bid, excluding the discount offered in clause (e) below, is: *[insert the total bid price in words and figures, indicating the currencies and amounts corresponding to those currencies]*;
4. The unit price schedule is contained in the annexes *[insert name of annexes];*
5. The discounts offered, and the terms and conditions for applying them are as follows:

*[Give details of discounts offered, if any, and the item(s) in the price list(s) to which they apply].*

*[Also indicate in detail the method that will be used to apply the discounts offered, if applicable].*

1. Our bid will remain valid for the period required in Clause 19.1 of the Instructions to Bidders from the deadline for submission of bids in Clause 23.1 of the Instructions to Bidders to bid and will continue to be binding on us and may be accepted at any time before the expiry of that period;
2. If our bid is accepted, we undertake to provide *[a performance bond of the Framework Agreement or a guarantee statement; select the applicable option;]*, under Clause 41 of the Instructions to Bidders and Articles 19.1 and 19.2 of the GCC *[if a performance bond of the Framework Agreement is not required, state here: not applicable or delete this clause];*
3. Our application, and any subcontractors or suppliers involved in connection with any part of the Contract, do not fall within the exclusionary conditions of Clause 4.2 of the Instructions to Bidders.
4. We do not have a conflict of interest as defined in Clause 4.3 of the Instructions to Bidders.
5. We undertake not to grant or promise to grant to any person involved in any capacity whatsoever in the contract award procedure any undue advantage, financial or otherwise, directly or through intermediaries, to obtain the contract and in general to comply with the provisions of the Charter of Transparency and Ethics in Public Procurement as evidenced by the attached undertaking form, signed by us.
6. It is understood that this bid, and your written acceptance of this bid contained in the notification of award of the Contract sent by you to us, shall serve as the contract between us until a formal contract is drawn up and signed.
7. We understand that you are not obliged to accept the lowest evaluated bid or any of the bids you may receive.

Name *[insert the full name of the person signing the offer].*

In my capacity as *[indicate the capacity of signatory].*

Signature *[insert signature]*

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

Dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of *[Insert date signed]*

## Price Lists

*[The bidder must fill in all blanks in the Price Schedule Forms in accordance with the instructions below. The list of items in Column 1 of the Price Schedule must be identical to the list of Supplies and Related Services provided by the Contracting Authority in Section IV].*

|  |
| --- |
| Price List for Supplies  |
|  |
|  | Date [*insert date (day, month, year) of bid submission].*Bid Notice Number: *[insert Bid Name].*Variant number: *[insert identification number if this Bid is proposed as a variant].* |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | 6 |
| Item | Description | Quantity (No. of units) | Price per unitCIP 2020 | Total CIP 2020 priceBy item(Cols.4 x 5) | Cost Local labour, raw materials and componentsfrom ECOWAS% of Col.5 |
| *[Insert item reference]* | *[Insert supplier identification].* | *[Insert quantity and identification of the unit of measurement].* | *[Insert the 2020 CIP unit price for the item].* | *[Insert the total CIP 2020 price for the item].* | *[Insert the cost of Local labour, raw materials and components from* ECOWAS member countries *% of the price for the item].* |
|  |  |  | Total price | *[Insert total price]* |  |

Bidder name *[insert Candidate’s name]* Signature *[insert signature]*, Date *[insert date].*

Date *[insert date of bid]*

|  |
| --- |
| Price Schedule for Related Services |
|

|  |  |  |
| --- | --- | --- |
|  | Currency of the bid in accordance with Clause 15 of the IBs | Date *[insert date (day, month, year) of submission of the bid].*Bid Notice Number: *[insert name of bid notice].*Variant number: *[insert identification number if this bid is proposed as a variant].* |
| 1 | 2 | 3 | 4 | 5 |
| Item | Description of Services  | Quantity (No. of units) | Price per unit  | Total price per item (Col. 3\*4) |
| *[Insert item reference]* | *[Insert department identification]* | *[Insert quantity and identification of the unit of measurement].* | *[Insert the unit price for the item].* | *[Insert the total price for the item].* |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  | Total price  | *[Insert total price]* |
| Candidate’s name *[insert bidder’s name]* Signature *[insert signature]* Date *[insert date]* |

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| Model Bid Guarantee (Guarantee issued by a financial institution) |

*[The guaranteeing financial institution completes this model bid guarantee in accordance with the information in square brackets***].**

*[Insert the name of the Bank or Guarantee Company and the address of the issuing branch].*

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

Date: *[insert date]*

**Bid warranty number:** *[insert warranty number].*

We have been informed that *[insert name of Candidate]* (hereinafter referred to as "the Applicant") has responded to your invitation to bid number *[insert number of invitations to bid]* for the supply of *[insert description of supplies]* and have submitted their bid to you on *[insert date of submission of bid]* (hereinafter referred to as "the Bid").

Following the provisions of the Bidding documents, the Bid must be accompanied by a Bid Guarantee.

At the Applicant’s request, we *[insert name of Bank or Guarantee company] hereby* undertake, unreservedly and irrevocably, to pay you any sums of money that you may claim up to [*insert amount in figures and words*].

Your payment request must be accompanied by a statement to the effect that the Applicant has failed to perform any of his obligations under the Bid or has been sanctioned for misconduct in connection with the procurement procedure, namely:

1. if they do not accept the changes to their bid following the correction of calculation errors; or
2. if they withdraw the Bid during the period of validity specified in the letter of submission of the Bid; or
3. if, having been notified of the acceptance of the Bid by the Contracting Authority during the period of validity as stated in the letter of submission of the bid or as extended by the Contracting Authority before the expiry of such period, they:
	1. Do not sign the Contract; or
	2. Fail to provide the Contract Performance Bond if he is required to do so as set out in the Instructions to Bidders; or
4. if they have been the subject of a sanction by the Sanctions Committee or a competent administrative court, leading to the seizure of the guarantees he provided in connection with the contract award.

This guarantee expires (a) if the Contract is awarded to the Applicant when we receive a copy of the signed Contract and the performance bond issued on your behalf, as instructed by the Applicant; or (b) if the Contract is not awarded to the Applicant, on the earlier of (i) when we receive a copy of your notification to the Applicant of the name of the successful Applicant, or (ii) twenty-eight (28) days after the expiry of the Bid.

Any claim for payment under this guarantee must be received by this date at the latest.

This guarantee is governed by the International Chamber of Commerce (ICC) Uniform Rules for Demand Guarantees, ICC Publication No. 758.

This guarantee is issued under approval number. ..................... of ..............., which expires on ...............................

Name: *[full name of signee]* Title *[legal capacity of signee]*

Name: *[full name of signee]* Title *[legal capacity of signee]*

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

## Model undertaking to comply with the Rules on Transparency and Ethics in Public Procurement (Articles 117&118)

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

Dear Sir/Madam

Having examined, with a view to submitting our proposal for *[insert here the subject of the consultation or contract],* we, the undersigned, have taken due note of the provisions of the Charter of Transparency and Ethics in Public Procurement and undertake to comply with all the provisions of this text concerning us, during the procedure for awarding the contract and, if our bid is accepted, during its performance.

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

* corrupt activities concerning public officials responsible for awarding the contract;
* fraudulent practices to obtain the contract;
* illegal agreements;
* unjustified waiver of the performance of the contract if our bid is accepted; and,
* default on our commitments.

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

Yours faithfully

Date 20

Signature in the capacity of

duly authorised to sign for and on behalf of the Applicant *[name of Applicant or group of companies followed by "jointly and severally"].*

## PART TWO - Supply Conditions

|  |
| --- |
| Section IV. Schedule of Requirements, Place of Delivery, Technical Specifications, Drawings, Inspections and Tests |

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

The Contracting Authority must prepare and include this Section IV in the Bidding document. This Section shall include at least a description of the Goods and Services to be supplied and the place of delivery.

The purpose of this Section IV is to provide bidders with sufficient information to prepare their bids efficiently and accurately, particularly the Price Schedules, for the preparation of which Section III provides standard forms.

|  |
| --- |
| 1. **Supplies List**  |

*[The Contracting Authority shall complete this table. The list of items must be identical to the one appearing 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 BDS**  |
|
|  | *[Insert description of Supplies]*  | *[Insert quantity of items to be supplied].* | *[Insert unit of measurement]* | *[Insert the place of final delivery, according to the BDS].* |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

|  |
| --- |
| 2. **List of Related Services** *[This table is completed by the Contracting Authority].*  |
| **Item number Service.** | **Description of the Service** | **Quantity[[5]](#footnote-5)** | **Physical unit** | **Site or location where the Services are to be performed** |
|
| *[Insert Service number* | *[Insert service description]* | *[Insert number of items to be supplied].* | *[Unit of measurement]* | *[Place where service is provided]* |
|  |  |  |  |  |
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3. **Technical Specifications**

*The General Technical Specifications (GTS), where applicable, and Special Technical Specifications (STS) 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 taking into account that:*

* *The technical clauses constitute the reference against which the Contracting Authority checks the conformity of the bids and then evaluates them. Well-defined technical clauses, therefore, make it easier for bidders to prepare compliant bids and for the Contracting Authority to examine, evaluate and compare them.*
* *The technical clauses require that all supplies, as well as the materials of which they are made, are new, not used, of the most recent or current model and that they incorporate all improvements in terms of design and materials unless the contract stipulates otherwise.*
* *Standardisation of technical clauses can be advantageous and depends on the complexity of the supplies and the repetitive nature of the procurement in question.*
* *The equipment, material and labour standards specified in the bidding documents should not be restrictive. International standards should be used wherever possible. References to brand names, catalogue numbers, or other details which limit materials or items to a particular Manufacturer should be avoided wherever possible. Where unavoidable, such a 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) Required material and manufacturing standards for producing and manufacturing the supplies.*

*b) Details of tests (type and number);*

*c) Additional ancillary services required to ensure proper delivery;*

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

*e) A list of the functional guarantees (details) covered by the Guarantee and details of the penalties applicable in the event of failure to comply with these functional guarantees.*

* *The technical clauses specify the main technical and operating characteristics required, and other requirements, such as maximum or minimum guaranteed values, as appropriate. If necessary, the Contracting Authority includes an ad hoc form (attached to the Letter of Bid) in which the Applicant provides detailed information on the acceptable or guaranteed values of the operating characteristics.*

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

*[If a summary of the technical clauses is to be provided, the Contracting Authority shall insert the information in the Table below. The Applicant shall prepare a similar table showing the requirements are met].*

**Summary of Technical Specifications**

**The supplies and related 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 regulations and standards].*  |
|  |  |  |
|  |  |  |
|  |  |  |

Detailed technical specifications and standards, if required.

 *[Insert detailed description]*

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4. **Drawings**

 These Bidding documents *[insert "includes the following drawings" or "does not include any drawings"] as* appropriate.

*[if the Bidding documents include drawings, insert the list in the table below].*

|  |
| --- |
| **List of Drawings** |
| **Numbers** | **Titles** | **Objectives** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

5. **Inspections and Tests**

The following inspections and tests will be conducted*: [insert list of inspections and tests]*.

## PART THREE

## Framework Agreement

## Section V. General Conditions of Contract

**List of Clauses**

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[**2. Contractors** 73](#_Toc519511382)

[**3. Penalties for misconduct by bidders or holders of public contracts** 73](#_Toc519511383)

[**4. Entry into force of the Framework Agreement** 74](#_Toc519511384)

[**5. Subject of the Framework Agreement and contracts concluded under the Framework Agreement** 75](#_Toc519511385)

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[**7. Form of Contracts concluded under the Framework Agreement** 75](#_Toc519511387)

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[**25. Applicable Law** 86](#_Toc519511405)

|  |  |
| --- | --- |
| **1. Definitions** | * 1. Unless the context otherwise requires, whenever used in this Framework Agreement, the following terms shall have the following meanings:
1. Framework Agreement: The Contract signed by the Parties and all Related Documents, i.e., the General Conditions of the Contract (GCC), the Special Conditions of the Contract (SCC) and the Annexes
2. Contracting Authority: The institution with which the Selected Bidder signs the Framework Agreement.
3. Applicable Law: means the laws and other texts having the force of law within ECOWAS as and when they are published and come into force.
4. "Fraud and Corruption" means any action as defined in the General Conditions of the Framework Agreement (including the terms "coercive practice," "collusive practice," "corrupt practice," "fraudulent practice," "obstructive practice," and "prohibited practice" as defined in the General Conditions of the Framework Agreement), which may result in legal action against the Consultant, his Personnel or the Contracting Authority’s personnel.
5. Day: this is a calendar day; unless otherwise indicated, time limits are expressed in clear days, i.e., as a number of whole days, without including in the time limit the day on which it starts or the last day.
6. Subsequent contract: the contract awarded under the Framework Agreement.
7. Sub-contractor: any person or entity engaged by the Contractor to perform part of the Services.
 |
| **2. Contractors** | * 1. This Framework Agreement is concluded between the parties mentioned in the Special Conditions (**SCs**).
 |
| **3. Penalties for misconduct by bidders or holders of public contracts** | * 1. ECOWAS requires bidders and holders of its public contracts to comply with the strictest rules of professional ethics during the award and execution of these contracts. Sanctions may be imposed by the Sanctions Committee on bidders and holders of contracts if they are found to have violated the rules governing the award of public contracts. Any bidder or contractor who:
1. has granted or promised to grant to any person involved in any capacity whatsoever in the procurement procedure an undue financial or other advantage, directly or through intermediaries, to obtain the contract;
2. has participated in collusive practices between bidders in order to set bid prices at artificial and non-competitive levels, depriving the Contracting Authority of the benefits of free and open competition;
3. has influenced the method of awarding the contract or the definition of the services in such a way as to gain an undue advantage;
4. has deliberately provided false or misleading information or statements in their bid, likely to influence the outcome of the award procedure;
5. has issued payment requests that did not correspond to the services actually provided.
 |
|  | * 1. Violations committed are recorded by the Contracting Authority, which carries out all necessary investigations and refers the matter to all competent authorities. Without prejudice to criminal proceedings and actions for compensation for the loss suffered by the Contracting Authority, the following penalties may be imposed, cumulatively as appropriate:
1. confiscation of guarantees provided by the offender in connection with procurement procedures in which he participated;
2. exclusion from the right to compete for public contracts, public service delegations and partnership contracts for a period determined according to the seriousness of the misconduct committed.
	1. These penalties may be extended to any company that 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 Contracting Authority.
	2. Where the violations committed are established after the contract award, the penalty imposed may be accompanied by the termination of the ongoing contract or the substitution of another company at the risk and peril of the sanctioned offender.
 |
| **4. Entry into force of the Framework Agreement** | * 1. This Framework Agreement shall enter into force on the date the Framework Agreement is notified to the Contractor or such later date as may be specified in the SCs. This date is the effective date.
 |
| **5. Purpose of the Framework Agreement and contracts concluded under the Framework Agreement** | * 1. These General Conditions of the Contract govern the procedures for implementing the Framework Agreement, the subject of which is defined in the **SCs,** as well as those relating to the conclusion of contracts to be awarded under the Framework Agreement during the period set out in Article 11 of the General Conditions of the Contract.
	2. The subject of the contracts to be awarded under the Framework Agreement is specified in the S**Cs**.
 |
| **6. Characteristics of the Framework Agreement** | * 1. The Framework Agreement may be of the open or closed type. The type of this Framework Agreement is indicated in the **SCs**.
	2. If the Framework Agreement is open, the frequency of the competitive bidding for the admission of new bidders will be specified in the **SCC.**
 |
| **7. Form of Contracts concluded under the Framework Agreement** | * 1. Contracts to be awarded under a Framework Agreement may be either for execution in instalments or as a single undivided contract.
	2. The form of the contracts concluded under this Framework Agreement is specified in the **SCs**.
 |
| **8. Procedures for awarding contracts concluded under the Framework Agreement** | * 1. As indicated in the **SCs**, when the need arises or at intervals set in accordance with Article 8.2 of this Framework Agreement, the Contractor will be invited to submit a bid.
	2. Depending on the procedure indicated in the **SCs**, the holder may be invited to supplement his initial bid in writing within a maximum period set in the **SCs** or submit a bid in the context of a re-competition of all the holders of the Framework Agreement.
	3. The holder of the Framework Agreement must respond to each request for completeness or submit a bid each time the contracts based on the Framework Agreement are put out to bid.
 |
| **9. Terms not covered by the Framework Agreement relating to the characteristics of the requirement specified in the contracts**  | * 1. The characteristics of the requirements to be met that are not fixed at the Framework Agreement stage will be defined in the **SCs**.
	2. These characteristics will be set out in the subsequent contracts at the time of the request for additional information or the re-competition*.*
 |
| **10. Contractual documents for the Framework Agreement and subsequent contracts** | * 1. The contractual documents of the Framework Agreement and the contracts concluded under the Framework Agreement are as follows in order of prioritý:
* The Letter of Award and the Deed of Commitment, duly signed
* The specific conditions of the Framework Agreement
* Contracts concluded under the Framework Agreement;
* Specific technical conditions (STCs.)
* The unit price schedule covering the terms defined in the Framework Agreement
* The additional unit price schedule attached to the Contracts awarded under the Framework Agreement;
* The general conditions applicable to the Framework Agreement and subsequent contracts
* Any other contractual documents requested at the stage of concluding subsequent contracts (e.g., the catalogue attached to contracts awarded under the Framework Agreement. Any new catalogue replacing or cancelling the previous one).
* [Any other document required by the **SCs**].
 |
| **11. Duration - Deadlines - Penalties** | * 1. **Duration of the Framework Agreement**

11.1.1 The period of validity of the agreement is specified in the **SCC**.11.1.2 Contracts awarded under this Framework Agreement may only be concluded during the period of validity of the Framework Agreement.* 1. **Renewal of the Framework Agreement**

11.2.1 The Framework Agreement is not renewable unless otherwise specified in the **SCs,** in which case the Contracting Authority will specify the number of renewals in the SCs.11.2.2 The Contracting Authority shall notify the Contractor(s), by service order, of the decision whether or not to renew the Framework Agreement within a period specified in the **SCs**. This period is defined concerning the date corresponding to the end of the Framework Agreement. The holder of the Framework Agreement may not refuse the renewal. Renewal takes effect from the anniversary date of notification of the Framework Agreement.11.2.3 The holder of the Framework Agreement may not refuse to renew a closed Framework Agreement if the Contracting Authority so decides. In the event of refusal to maintain his commitment to the Framework Agreement, the holder is liable to penalties that may go as far as temporary exclusion from public contracts. This obligation does not apply in the case of an open Framework Agreement. * 1. **Duration of subsequent contracts**

11.3.1 The maximum duration of the contracts awarded as subsequent contracts is indicated either in the **SCs** or in each subsequent contract. The performance period of the last subsequent contract may not exceed the expiry date of the Framework Agreement by more than a period to be specified in the SCs. The performance period shall run from the date of notification of the subsequent contract or any other milestone date specified in the Special Conditions of Contract. 11.3.2 If the subsequent contracts are split contracts (purchase order contracts, customer contracts, or contracts with instalments), the maximum period of execution of the purchase orders or instalments will be specified in the subsequent contracts. The successive purchase orders will precisely define the deadlines and procedures for carrying out the various services.* 1. **Penalties for late performance of subsequent contracts**

11.4.1 Late payment penalties are set either in this Framework Agreement or in the subsequent contracts, depending on the option chosen by the Contracting Authority and specified in the **SCs,** andmust not exceed 10% of the value of the contract (Article 97 of the Contract).11.4.2 Late payment penalties are applied without prior notice in the event of late performance of contracts awarded based on the Agreement. They are calculated by applying the formula indicated in the **SCs**. |
|  | * 1. In the absence of any response during a consultation with a view to a subsequent contract, the holder of a Framework Agreement must provide in writing, within a period set in the Special Conditions, why he has not submitted a bid. In the event of failure to reply within the time limit set or of a reply for which the reasons would be inadmissible for the award of a subsequent contract, a flat-rate penalty will be applied, the amount of which is set out in the **Special** **Conditions**.
	2. All bidders of the Framework Agreement are required to sign a declaration on their honour in which they undertake to pay the amount of the penalty for failure to respond without supporting evidence, noted in the context of a consultation with a view to the conclusion of a subsequent contract.
 |
| **13. Amount of the Framework Agreement** | * 1. Depending on the option the Contracting Authority chooses, the Framework Agreement may be concluded without a minimum or a maximum amount, with a minimum and a maximum amount, or with a minimum and a maximum quantity. The option chosen is indicated in the **SCs**.
 |
| **14. Definition, content and variation of prices in subsequent contracts** | * 1. **Definition of prices in subsequent contracts**

**14.1.1 Single-award Framework Agreement**14.1.1.1 If the prices of the subsequent contracts are unit prices, they shall be applied to the services actually carried out, the wording of which is specified in the unit price schedule attached to the Framework Agreement. The unit prices proposed in the subsequent contracts must not be higher than those proposed in the Framework Agreement by more than a percentage specified in the **SCs**. 14.1.1.2 When the prices of the subsequent contracts are lump-sum prices, the services are remunerated by application of the lump-sum overall price proposed in the Framework Agreement and indicated in the **SCs**. The lump-sum prices proposed at the time of the supplements requested before the conclusion of the subsequent contracts must not be higher than those proposed in the Framework Agreement by more than the percentage specified in the **SCs**. 14.1.1.3 Where the subsequent contracts contain lump sum and unit prices, each price category will be treated according to the methods defined above, as indicated in the **SCs**. **14.1.2 Multi-award Framework Agreement**14.1.2.1 Where the price has not been a criterion for the award of the Framework Agreement, the contracts concluded under the Framework Agreement will be awarded based on unit prices applied to the services actually performed, the wording of which is specified in the unit price schedule attached to the contracts awarded under the Framework Agreement.14.1.2.2 Where the price was a criterion for the award of the Framework Agreement:1. The unit prices of the contracts concluded under the Agreement will be applied to the services actually carried out and the wording of which is specified in the schedule of unit prices attached to the Agreement and in the schedule of additional unit prices attached to the contracts concluded under the Framework Agreement.
2. Where the prices of subsequent contracts are lump-sum, the services are remunerated by applying the overall lump-sum price proposed in the Framework Agreement.

14.1.2.3 Each time the contract is reopened to competition, the increase in the agreement’s unit prices and lump sum prices will be limited to a percentage defined in the **SCs.*** 1. **Price Content**

14.2.1 The prices are deemed to include all the expenses resulting from the performance of the services, including all the costs, charges, supplies, materials, and Contractor’s duties, as well as any other expenses provided for in the **SCs**.* 1. **Price Changes**

14.3.1 Where the period of performance of the Framework Agreement, including renewals, is less than twelve months, the prices of the Framework Agreement may be updated by application of the formula indicated in the **SCs**, if the period between the date of submission of bids and the entry into force of the Framework Agreement is longer than the period of validity of the bids. 14.3.2 If the performance period of the Framework Agreement is longer than twelve (12) months, the Framework Agreement’s prices may be revised per the terms indicated in the **SCs**. * 1. **Variation in prices for subsequent contracts**

14.4.1 Bids will be drawn up based on the economic conditions in force in the month of submission of bids for the subsequent contracts. The prices of the subsequent contracts are firm for a performance period less than or equal to twelve months. After an initial performance period of more than twelve months, the prices of the subsequent contracts may be revised by applying the revision formula indicated in the **SCs**. 14.4.2 Where the prices of the subsequent contracts are firm, the amount of the said contracts may be updated by applying the formula indicated in the **SCs**, if more time than the period of validity of the bids has elapsed between the date on which the bidder submitted his financial bid for the subsequent contract concerned and the date on which performance of the services under the said subsequent contract commences.  |
| **15. Procedures for awarding subsequent contracts** | * 1. **Principles applicable to competitive bidding**

15.1.1 Where competition is reopened when the need arises, and the Framework Agreement has been divided into several lots, only the holders of the lots corresponding to the subject of the contract based on the Framework Agreement shall be consulted. 15.1.2 Where the reopening of competition is organised periodically as provided for in the Framework Agreement, it shall cover all the lots concerned by the Framework Agreement. * 1. **Sending a Consultation Letter**

15.2.1 The holder of the Framework Agreement will be invited by a written request from the Contracting Authority to submit a bid or to supplement and clarify its initial bid in writing within the period specified in the **SCs**. This period must be sufficient to allow bidders to submit a bid or to supplement their initial bid. The consultation letter, sent simultaneously to the bidders concerned, and accompanied by the consultation documents, will specify the reference services whose execution is requested and will provide all the additional specifications making it possible to determine the context and the objectives sought through the services requested. It will indicate the deadlines for completion, the address to which requests for information can be sent, the deadlines for the admissibility of requests for information, the deadline for receipt of bids and the address to which they are to be sent, a detailed indication of the documents to be attached and a reminder of the terms of payment. The consultation documents are sent to the bidders concerned free of charge.15.2.2 The competent Contracts Committee shall open bids in accordance with the conditions laid down in the Code. * 1. **Supplier’s Bid**

The holder of the Framework Agreement expressly undertakes to respond to all consultations launched under the Framework Agreement with a view to the conclusion of subsequent contracts in an appropriate manner and written form.* 1. **Dealing with the absence of bids and with inappropriate, irregular, or unacceptable bids**

**15.4.1 Submission of inappropriate, irregular or unacceptable bids by the Contractor**15.4.1.1 When, on the occasion of two successive consultations with a view to the conclusion of subsequent contracts, a holder of the Framework Agreement fails to submit a bid or submits two successive unsuitable, irregular, or unacceptable bids, the Contracting Authority reserves the right to propose to the Sanctions Committee his exclusion from the competitive bidding procedure for the next number of subsequent contracts, as indicated in the **SCs**. This sanction will be applied without prejudice to a flat-rate penalty, the amount of which is specified in the **SCs**. 15.4.1.2 The lifting of the sanctions will be conditional upon the payment of this penalty, in accordance with the letter of undertaking on honour signed by the holder and attached to their bid under the Framework Agreement. The holder will be informed of the penalty after awarding the subsequent contract concerned. In the event of a repeat offence, the Contracting Authority reserves the right to terminate, without notice or compensation, the Framework Agreement of the defaulting holder.**15.4.2 Subsequent Contract giving rise to no bids or unsuitable, irregular or unacceptable bids**15.4.2.1 Where the holders of the Framework Agreement have submitted only unsuitable, irregular or unacceptable bids and, in particular, if the Contracting Authority considers, in the light of its prior assessment of the need, that the price of all the bids is overestimated in the light of the need expressed and the prices in force on the market, it may, without prejudice to any penalties that may be applied, have recourse to one or more of the following options, or to each of these options successively: (i) entering into discussions with the holders on the basis of the expectations expressed by the Contracting Authority for the conclusion of the subsequent contract concerned (consultation letter, technical document); (ii) launching a consultation on the basis of the expectations expressed by the Contracting Authority for the conclusion of the subsequent contract concerned, outside the Framework Agreement, the holders of the said Framework Agreement not being authorised to participate.**15.4.3 Programming of subsequent contracts** 15.4.3.1 Resulting contracts concluded under the Framework Agreements are not subject to the requirement to be included in the Contracting Authority’s procurement plan.* 1. **Award of Subsequent Contracts**

15.5.1 Where the Framework Agreement is a single-award agreement, when the requirement arises, or at the specified intervals, the Framework Agreement holder may be invited to supplement his initial bid in writing within the period specified in the Contracting Authority’s request.15.5.2 Where the Framework Agreement is multi-awarded, the subsequent contract will be awarded, after a call for competition and any request for clarification or additional information and examination of the bids, to the bidder who has submitted the lowest evaluated compliant bid concerning the proposed price and delivery conditions, following the provisions of Article 25 of the Public Procurement Code. The method for combining price and delivery conditions is specified in the **SCs**. * 1. **Update of Application Documents**

15.6.1 Attestations proving that obligations concerning the Social Security Fund, Tax Collection Agencies, and the Labour Inspectorate have been met must be submitted by the bidder to whom a subsequent contract is supposed to be awarded within the period specified in the **SCs**. The same applies to the regulatory fee payment certificate for contracts concerning the financial year preceding the launch of the Framework Agreement concerned. * 1. **Prior control of procedures relating to subsequent contracts**

15.7.1 Bid evaluation reports and minutes of provisional awards of subsequent contracts are subject to the same compliance control rules as standard contracts. |
| **16. Financing of subsequent contracts** | * 1. **Payment of an advance to the holder of a subsequent contract**

16.1.1 An advance will be granted to the holder(s) of the contracts concluded under the Framework Agreement under the conditions provided for in the Public Procurement Code unless the said holders expressly waive their right to do so. The advance’s repayment terms will be set out in the Final Contract.* 1. **Amount of Advance**

16.2.1 The basis for calculating the amount of the advance on contracts concluded under the Framework Agreement will be as follows:* if the duration of the subsequent contract is less than or equal to 12 months, the amount of the start-up advance is calculated based on the total amount of the contract, excluding VAT;
* if this is not the case, the amount of the advance payment is calculated based on the amount of work to be carried out during an initial 12-month period, following the provisions of the Public Procurement Code.

16.2.2 The amount of the start-up advance is determined as follows, depending on the option taken by the Contracting Authority:a) In the case of a non-split subsequent contract: the amount of the advance payment is fixed at a percentage not exceeding twenty percent (20%) of the total amount of the contract inclusive of all taxes, as indicated in the **SCs**;b) In the case of a subsequent split contract, as indicated in the **SCs**:* if the subsequent contract is a purchase order contract with a minimum and a maximum amount, the amount of the lump-sum advance payment is set as a percentage of the minimum amount, which may not exceed 20%;
* If the subsequent contract is a purchase order contract with neither a minimum nor a maximum amount but defining a minimum and a maximum quantity, the amount of the advance payment is equal to a percentage of the amount of each purchase order, which may not exceed 20%;
* if the subsequent contract is a contract with the firm and conditional tranches, the amount of the lump-sum advance payment is equal to a percentage of the amount of the firm tranche, which may not exceed 20%.
	1. **Payment of an advance to the subcontractor of the holder of the Framework Agreement**

16.3.1 A start-up advance may be granted to the subcontractor under the conditions laid down in the Public Procurement Code, unless the subcontractor expressly waives this right in the special subcontracting agreement.16.3.2 If the contractor subcontracts part of the contract after his notification, he must repay the part of the advance corresponding to the amount of the subcontracted services, even if the subcontractor does not wish to benefit from the advance. |
| **17. Subcontracting of subsequent contracts** | * 1. The Contractor may subcontract part of the performance of the services covered by the subsequent contracts, other than the supply services, following the conditions set out in the Public Procurement Code.
	2. Subcontractors may be proposed to the Contracting Authority for acceptance when the Framework Agreement is submitted or when bids are submitted for subsequent contracts.
 |
| **18. Acceptance of the services covered by the subsequent contracts** | * 1. The provisions of the General Conditions (GCs) governing the subsequent contract apply to the acceptance of the services covered by the contracts concluded under this Framework Agreement.
	2. In the case of intellectual services, the provisions of the General Conditions of Contract and the relevant annexes relating to the approval of reports shall apply.
 |
| **19. Performance guarantees for the Framework Agreement and subsequent contracts** | * 1. A performance bond for the Framework Agreement, the amount indicated in the **SCs**, may be required from the holders of the Framework Agreement pursuant to the provisions of the Public Procurement Code if indicated in the **SCs**. The performance bond is renewed if the Framework Agreement is renewed.
	2. If indicated in the **SCs**, when the duration of the Framework Agreement is equal to or greater than one year, the performance bond may be replaced by a solemn declaration of the Contractor to pay, within 15 calendar days, the amounts of the penalties defined in Articles 12 and 15 of the General Conditions, provided for in the event of default during the implementation period of the Framework Agreement.
	3. The guarantees required for subsequent contracts are those set out in the GCC and SCC governing the said contracts and any other specific guarantees requested in the **SCs**.
 |
| **20. Terms of payment for services covered by contracts concluded under the Framework Agreement** | * 1. If the performance period of the subsequent contracts is less than or equal to three months, the services will be paid for in a single instalment.
	2. After a performance period of three months, the terms of payment will be established as indicated in the **SCs**.
 |
| **21. Insurance** | * 1. The holder of the subsequent contracts and the subcontractors must comply with the insurance requirements set out in the GCC and SCC governing the subsequent contracts and referred to in the **SCs**.
 |
| **22. Termination of the Framework Agreement**  | * 1. **Termination without fault**

22.1.1 The Framework Agreement may be terminated without fault on the holder’s part. In the event of termination of a Framework Agreement for reasons of general interest, the Contracting Authority shall give prior notice to the holder within the period specified in the **SCs**.* 1. **Termination to the detriment of the Holder**

22.2.1 In the event of default by the **Holder** of the Framework Agreement, the Contracting Authority may, after a formal notice has been served but not followed up, terminate the Framework Agreement. This termination does not automatically result in the termination of any subsequent contracts already concluded. No subsequent contract may be concluded under a Framework Agreement already terminated. 22.2.2 The Framework Agreement may be terminated to the detriment of the Contractor if they fails to respond to bids with a view to the conclusion of subsequent contracts, does not complete their bid within the required period, or if their response is insufficient to allow the subsequent contracts to be awarded or does not comply with the terms of the Framework Agreement.22.2.3 A formal notice must first be sent to the holder of the Framework Agreement before the termination procedure is initiated.* 1. **Effects of Termination of the Framework Agreement on Subsequent Contracts**

22.3.1 When the Framework Agreement is terminated, any subsequent contracts previously awarded under the Framework Agreement may continue to be duly executed. However, it will no longer be possible to award other subsequent contracts based on the terminated Framework Agreement. 22.3.2 Where the Framework Agreement is multi-awarded, the Contracting Authority may terminate it with only one of the holders. Termination of the Framework Agreement does not, unless otherwise stipulated in the decision, automatically terminate the subsequent contracts, and performance of the subsequent contracts may continue with a holder for whom the Framework Agreement has been terminated after the termination date. 22.3.3 No subsequent contract may be concluded based on the terminated Framework Agreement. If the Contracting Authority wishes to terminate the Framework Agreement at the same time as one or more subsequent contracts concluded under the Framework Agreement, it must issue an individual act of termination for the Framework Agreement and each subsequent contract. 22.3.4 If the Contracting Authority only terminates a subsequent contract with one of the holders, it may not exclude that holder from re-competition to award subsequent contracts.22.3.5 The termination of a subsequent contract is decided in accordance with the provisions of the GCC and the SCC governing the subsequent contract.  |
| **23. Taxes and duties** | * 1. The Contractor shall be fully responsible for paying all taxes, stamp and registration duties, patents, and fees due under this Framework Agreement and the contracts concluded under this Framework Agreement. It should be noted that ECOWAS, by virtue of the headquarters agreements signed with each of the Member States, is exempt from the payment of all duties and taxes in connection with its acquisitions of goods, services, and works intended for its institutional needs.
 |
| **24. Disputes** | * 1. Disputes arising from the performance of the Framework Agreement are dealt with following the provisions of the GCC applicable to subsequent contracts.
	2. Disputes arising from the award of subsequent contracts are dealt with following the ordinary law of the country of the Contracting Authority.
	3. An arbitration clause may also be included in the Framework Agreement, as indicated in the **SCs**, and the **SCCs** governing the subsequent contracts.
 |
| **25. Applicable Law** | * 1. The law applicable to the interpretation and performance of this Framework Agreement is the law of the country of the Contracting Authority.
 |

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## Section VI. Schedule of Specific Clauses (SSCs)

**Schedule of Specific Clauses**

|  |
| --- |
| The Specific Clauses (SC) clarify the General Clauses (GC). In the event of any disagreement, the clauses below shall ‑prevail over the clauses of the GC.*[The Contracting Authority selects and inserts the appropriate text using the examples provided below or an acceptable alternative text; and deletes text in italics].* |
| **GC 2 "Contractors** | This Framework Agreement is concluded between: (1) *[insert full legal name of Contracting Authority]* \_\_\_\_\_\_\_\_ *from [insert full address of Contracting Authority]* \_\_\_\_\_\_\_\_\_\_\_\_, and (2) *[insert full legal name of Holder]* \_\_\_\_\_\_\_\_\_\_\_ from *[insert full address of Holder]* \_\_\_\_\_\_\_\_\_\_\_\_\_\_.  |
| **GC 4****"Entry into force of the Framework Agreement** | The Framework Agreement’s date of entry into force is *[date].**[If the Framework Agreement enters into force on the date on which it has been notified to the Holder, this Clause must be deleted from the SCs].* |
| **GC 5****"Subject of the Framework Agreement and contracts concluded under the Framework Agreement."** | **GC 5.1**The subject of this Framework Agreement is *[specify title and subject, and lot number if applicable].*  |
| **GC 5.2**The subject of the contracts to be concluded under the Framework Agreement is *[specify the subject of the contracts].* |
| **GC 6****"Characteristics of the Framework Agreement** | **GC 6.1**The Framework Agreement is *[indicate "open" or "closed"].* |
| **GC 6.2**The frequency of competitive bidding for the admission of new bidders is *[indicate frequency; if the Framework Agreement is closed, indicate "not applicable" here].* |
| **GC 7****"Form of Contracts concluded under the Framework Agreement."** | *[Choose one of the options below and delete the option not selected.**Choice 1: Contracts concluded under the Framework Agreement are not divided into parts*The subsequent contracts that will complete the bid of the holder of the lot or lots making up the Framework Agreement will be single, undivided contracts.*Choice 2: Contracts concluded under Framework Agreement are broken down into purchase orders*The subsequent contracts that will complete the bid of the holder of the lot or lots making up the Framework Agreement will be fractional contracts with purchase orders or customer orders].  |
| **GC 8****"Procedures for awarding contracts concluded under the Framework Agreement."** | *[Choose one of options 1 or 2 below and delete the option not selected].**Choice 1: if a single award Framework Agreement*When the need arises, the Contractor may be invited to complete his initial bid in writing *[within a maximum period of .... days from notification of the request for completeness or within a period specified at the time of the request for completeness (choose)]*.*Choice 2: if multi-award Framework Agreement**[Choose one of options 2.1 or 2.2 below. Delete the text corresponding to the option not selected].**Choice 2.1: if non-allocated Framework Agreement*During the period of validity of the Framework Agreement, public contracts concluded under this Agreement will be awarded after reopening competition with all the holders of the Framework Agreement.*Choice 2.2: if allotted Framework Agreement*During the period of validity of the Framework Agreement, public contracts concluded under this Agreement will be awarded after reopening competition *[between the holders of the lots corresponding to the subject of the contract or between the holders of all the lots (Choose)].**Add the following paragraph common to the multi-allocated or non-allocated Framework Agreement:*This reopening of competition will take place *[when the need arises or at the following intervals: (indicate)]*.It will be carried out under the conditions specified in this Framework Agreement, possibly supplemented by the specifications laid down [*in the consultation regulations or the consultation letter (choose)]* specific to each contract to be launched.  |
| **GC 9****"Terms not covered by the Framework Agreement linked to the characteristics of the requirement specified in the contracts."** | *[Indicate the characteristics of the requirement which are not set out in the Framework Agreement and which will be specified in the subsequent contracts at the time of the request for additional information or the reopening of competition.**Choose one of options 1 or 2 below. Delete the text corresponding to the option not selected].**Choice 1: in the case of a single award Framework Agreement*The terms not covered by the Framework Agreement, which will be specified when requests are made to supplement the bid, are: *[list the various terms]*.*Choice 2: in the case of a multi-award Framework Agreement*The terms not covered by the Framework Agreement, which will be specified when the competition is re-opened, are: *[list the various terms (generally certain characteristics of the requirement)]*. |
| **GC 10****"Contractual documents for the Framework Agreement and subsequent contracts."** | The following other documents form part of the contractual documents: *[Insert here any contractual document that does not already appear in the clause ...... of the General Conditions]* |
| **GC 11****Duration - Deadlines - Penalties** | **GC 11.1**The duration of the Framework Agreement is *[indicate the number (maximum 3)]* years from its notification. |
| **GC 11.2***[Choose one of options 1 or 2 below, depending on whether or not the Framework Agreement is renewable. Delete the text corresponding to the option not selected]**Choice 1: if the Framework Agreement is not renewable*The Framework Agreement is not renewable.*Choice 2: if the Framework Agreement is renewable*The Framework Agreement may be renewed *[indicate number]* times without its total duration exceeding *[indicate the number (maximum 3)]* years*].* |
| **GC 11.3***[Choose one of options 1 or 2 below. Delete the text corresponding to the option not selected].**Choice 1: the duration of the subsequent contracts is indicated in the Framework Agreement* The maximum duration of contracts awarded under the Framework Agreement is *[indicate number]* months from their notification.*Choice 2: the duration of the subsequent contracts is not set out in the Framework Agreement* The firm duration will be set out in the contracts concluded under the Framework Agreement*].* |
| **GC 11.4***[Choose one of options 1 or 2 below. Delete the text corresponding to the option not selected].**Choice 1: Late payment penalties are set out in the Framework Agreement (recommended)*Penalties will be applied without prior notice in the event of delays in the performance of contracts awarded under this Agreement.They are calculated based on the following formula:P = 1/1000 x (N x M) N being the number of days late.M being the amount of the subsequent contract concerned.P representing the amount of the late payment penalties.*Choice 2: Late payment penalties are set out in the contracts concluded under the Framework Agreement.*Late payment penalties will be set out in the contracts concluded under the Framework Agreement*].**[If other penalties are provided for, indicate here: "For example, penalties may be applied in the form of a reduction for the non-compliant performance of certain services, provided that the non-compliances do not compromise the validity and viability of the services."**If no other penalties are provided, delete the text in square brackets].* |
| **GC 12****"Penalties for failure to respond to subsequent contracts”** | The amount of the flat-rate penalty is *[indicate amount] (specify the currency of the country of the institution concerned*). |
| **GC 13****"Amount of the Framework Agreement”** | *[Choose one of the options 1 to 3 below. Delete the texts corresponding to the options not selected.**Choice 1: Framework Agreement with no minimum or maximum amount*The Framework Agreement is concluded with no minimum or maximum.*Choice 2: Framework Agreement with a minimum and maximum value*The minimum amount of the Framework Agreement: *[indicate amount* XXX excluding VAT, Maximum amount XXX of the Framework Agreement: *[indicate amount* XXXX excluding VAT.*Choice 3: Framework Agreement with a minimum and maximum quantity*Minimum quantity of the Framework Agreement: *[indicate quantity].* The maximum quantity of the Framework Agreement: *[indicate quantity].* |
| **GC 14****"Definition, content and variation of prices in subsequent contracts."** | **GC 14.1.1***[Choose one of the options below. Delete the texts corresponding to the options not selected.**Choice 1: The subsequent contracts will be based on unit prices*Each time the bid is completed, the increase in the prices specified in the unit price schedule attached to this Agreement will be limited to X% *[Indicate the number; this percentage may be an evaluation criterion; in such a case, this possibility will be provided for in the consultation regulations and the bidder will indicate the percentage in their bid]*.*Choice 2: The subsequent contracts will be awarded on a lump-sum basis*The services covered by the contracts concluded under the Framework Agreement will be remunerated by application of the total and lump sum amount specified below:* Price excluding. ................................. : XXXX (in figures)
* V.A.T. .........................................: XXX (in figures)
* Amount incl. VAT. ........................................ : XXXX (in figures)

Each time the bid is completed, the increase in this amount will be limited to X% *[Indicate the number; this percentage may be an evaluation criterion; in such a case, this possibility will be provided for in the consultation rules, and the bidder will indicate the percentage in their bid]*.*Choice 3: The subsequent contracts will be handled at mixed prices (Repeat choices 1.1 and 1.2 above)* |
| **GC 14.1.2**At each re-competition, the increase in the prices specified in the unit price schedule attached to this Agreement will be limited to X% *[Indicate the number; this percentage may be an evaluation criterion; in such a case, this possibility will be provided for in the consultation regulations and the bidder will indicate the percentage in their bid]*. |
| **GC 14.2**The prices include the following expenses: *[Indicate; if there are no additional expenses other than those listed in Article 9.2 of the GC, indicate "Not applicable" here].* |
| **GC 14.3****Updating of Framework Agreement prices**Prices will be discounted using the following formula: [indicate formula].**Price review** *[Choose one of the options below. Delete the texts corresponding to the options not selected].**Choice 1: By reference to a parametric formula*Prices will be revised using the following formula: *[indicate formula].*Prices will be revised on the anniversary date of the notification of the Framework Agreement/monthly/other frequency to be defined (choose the desired revision frequency).*Choice 2: By reference to the holder’s price list (add if catalogue)*The prices of the Framework Agreement will be adjusted by reference to the catalogue price list used by the Contractor for all his customers. The holder undertakes to communicate this in writing at the time of each *[reopening for competition/request to supplement the initial bid (choose)]*.Adjustments can be made upwards or downwards.Final clause: The adjusted prices of the Framework Agreement on the holder’s scale may not exceed *[X% (to be specified)]* per year. |
| **GC 14.4**The prices of the subsequent contracts will be revised using the following formula: *[indicate formula].*Prices will be discounted using the following formula: *[indicate formula].* |
| **GC 15****"Terms and conditions for the award of subsequent contracts."** | **GC 15.2**The period granted to the Contractor to submit a bid or to supplement and clarify its initial bid in writing is: *[indicate the period in days].* |
| **GC 15.4.1**Following the failure to submit a bid or the successive submission of two inappropriate, irregular or unacceptable bids:* The exclusion from competitive bidding concerns *[indicate number]* subsequent contracts.
* The amount of the fixed penalty will be *[indicate amount*].
 |
| **GC 15.5**The procedures for taking delivery conditions into account in determining the lowest evaluated bid are as follows: [*indicate the terms and conditions; this generally involves, within an acceptable period (i.e., between and including an initial date and a final date), adding to the prices of bids providing for delivery on a date within the said acceptable period, specified in the Delivery Schedule, an adjustment of a given amount; this adjustment will be made for evaluation purposes only; no bonus will be awarded for early delivery, and bids offering delivery beyond the acceptable period will be considered non-compliant].* |
| **GC 15.6**The deadline for submitting the application documents (administrative attestations) is: *[indicate the number of days and the event from which the period starts to run; Example: 5 days after notification of the provisional award of the subsequent contract;]*.  |
| **GC 16****"Financing of subsequent contracts”** | **GC 16.2***[Choose one of the options below. Delete the texts corresponding to the options not selected.**Choice 1: if Contracts are not split*The advance payment amount is set at *[indicate number (maximum 20%)]* % of the amount of the Contract excluding VAT.*Choice 2: if purchase order contracts with a minimum and a maximum amount*The amount of the lump-sum advance payment is set at *[indicate number (maximum 20%)]* % of the minimum amount.*Choice 3 if purchase order contracts with no minimum and maximum amounts or with minimum and maximum amounts fixed in terms of quantity*The advance payment amount is equal to [indicate number (maximum 20%)] % of the purchase order amount. |
| **GC 19****"Guarantees provided for in subsequent contracts."** | **GC 19.1**The performance bond *[is/is not]* required.The amount of the performance bond of *[the bond may not exceed 10%]* % of the Amount of ........... |
| **GC 19.2**The performance bond *[is/is not]* replaced by a Contractor’s Solemn Guarantee Statement. |
| **GC 19.3***[Choose one of options 1 or 2 below. Delete the text corresponding to the option not selected].**Choice 1: No guarantees other than those provided for in the GCC are required*No specific contractual guarantee will be required.*Choice 2: Specific guarantees will be provided*The following guarantees are also required: *[indicate the specific guarantees required and describe how they will be implemented].* |
| **GC 20****"Terms of payment for services covered by contracts concluded under the Framework Agreement."** | The method and conditions of payment for contracts concluded under this Framework Agreement are as follows: *[state method of payment].*The sums due in the performance of the contracts concluded under this Framework Agreement shall be paid by bank transfer made payable to the holder by crediting the following account: *[give all account details].* |
| **GC 21****"Insurance”** | The contractor and subcontractors must submit, within *[specify number]* days of notification of the subsequent contracts, the insurance policies prescribed in the GCC and SCC governing the subsequent contracts, and in particular, an insurance certificate proving that they are covered for civil liability and professional liability in the event of an accident or any damage caused in the performance of the subsequent contracts.*[Indicate any other insurance required].* |
| **GC 22****"Termination of the Framework Agreement”** | The deadline for informing the holder of the Framework Agreement of the decision to terminate the Framework Agreement [*Indicate number]* months/days at the latest before this date. |

## Section VII. Framework Agreement Forms

**List of Forms**

[Model Contract 99](#_Toc519511408)

[Model Performance Bond (guarantee issued by a financial institution) 100](#_Toc519511409)

[Performance Bond Declaration – Solemn Undertaking 102](#_Toc519511410)

## Model Contract

This Framework Agreement was entered into on day of 20

between *[name]*, residing at *[address]* (hereinafter referred to as "the Contracting Authority") on the one hand and *[name of Contractor or joint venture followed by, "jointly and severally*, *and represented by [name] as joint agent"],* residing at *[address]* (hereinafter referred to as "the Contractor") on the other hand,

Whereas the Contracting Authority desires the Supplier to submit a bid in any solicitation to be issued by the Contracting Authority for certain Supplies and Related Services under contracts to be awarded under this Framework Agreement, namely *[Subject of Resulting Contracts], the* Contracting Authority has accepted the Supplier’s bid for the delivery of such Supplies and the provision of such Related Services, if the Supplier is awarded one or more of such contracts.

It has been agreed as follows:

In this Contract, terms and expressions shall have the meanings assigned to them in the Contract Specifications listed below‑.

In addition to the Contract Agreement, the Contract documents are as follows:

a) Award Notification Letter

b) Specific conditions of the Framework Agreement

c) Contracts concluded under the Framework Agreement;

d) Specific technical terms and conditions (STTC)

c) The unit price schedule covering the terms defined in the Framework Agreement

d) The additional unit price schedule attached to contracts awarded under the Framework Agreement;

e) The general terms and conditions applicable to the Framework Agreement and subsequent contracts

f) Any other contractual documents requested at the stage of concluding subsequent contracts (e.g., the catalogue attached to contracts awarded under the Framework Agreement. Any new catalogue replacing or cancelling the previous one).

g) [Indicate any other documents required**]**.

In the event of differences between the constituent parts of the Contract‑, these parts shall prevail in the order in which they are listed above.

The Supplier undertakes to respond to all consultations launched under the Framework Agreement with a view to the conclusion of subsequent contracts, in an appropriate manner and written form.

The Contracting Authority undertakes to invite the Contractor to submit a bid for all subsequent contracts under this Framework Agreement, except where the Contractor is excluded from the consultation following the provisions of the General Conditions of the Framework Agreement.

Signature of the Contracting Authority

Contractor’s Signature

## Model Performance Bond (Guarantee issued by a Financial Institution)

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Call for Bids No. \_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*name of bank and address of issuing bank*]

**Beneficiary:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*name and address of the project owner]*

**Date:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Performance Bond Number:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

We have been informed that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*name of Contractor*] (hereinafter referred to as "the Contractor") has entered into Contract No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_ with you for the performance of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*description of work*] (hereinafter referred to as "the Contract").

Furthermore, we understand that a performance bond is required under the terms of the Contract.

At the Contractor’s request, we \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*name of bank*] hereby undertake, unreservedly and irrevocably, to pay you on first demand, any sums of money that you may claim up to a maximum of \_\_\_\_\_\_\_\_\_\_\_\_\_ [*insert sum in figures*] \_\_\_\_\_\_\_\_\_\_\_\_\_ [*insert sum in letters*][[6]](#footnote-6) . Your demand for payment must be accompanied by a statement that the Applicant is not complying with the terms of the Contract without you having to prove or give any reason or justification for your demand or the amount stated in your demand.

This Guarantee expires at the latest on \_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_ 2\_\_\_\_,[[7]](#footnote-7) and any payment request must be received by this date at the latest.

This Guarantee is governed by the ICC Uniform Rules for Demand Guarantees, ICC Publication No. 756.

Name: *[full name of the person signing*].

Title *[legal capacity of signatory]*

This Guarantee is issued under the terms of approval No.......................of the ............... Ministry of Economy and Finance, which expires on ..............................

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

**[Signature]**

**Note: Text in italics should be removed from the final document; it is provided as a guide to facilitate the preparation of the document*.***

## Performance Bond Declaration – Solemn Undertaking

*[Where applicable,* ***the Bidder*** *shall complete this form in accordance with the instructions in square brackets.*

Date: *[insert date]*

Contract name: *[insert name]*

Contract Identification Number: *[insert number].*

Bid Number: *[insert number].*

To **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

We, the undersigned, declare that:

1 We understand that, in accordance with your terms and conditions, Framework Agreements must be covered by a performance bond declaration.

2 We agree to be automatically declared ineligible by the Contracting Authority to submit any bid in respect of contracts financed by ECOWAS or its partners until payment of the amount of the penalty incurred following the provisions of the Framework Agreement if we breach our obligations (our obligation) under the terms and conditions of performance of the Framework Agreement by:

a) non-response to *[insert number]* bids for the award of subsequent contracts; or

b) cases of submission of inappropriate, irregular or unacceptable bids to *[insert number]* consultations for the award of subsequent contracts.

3 We agree that this declaration shall expire no later than twenty-eight (28) days from the closing date set out in the Framework Agreement if no extension to the Framework Agreement has been signed and approved by that date.

4 We understand that if we are a Group of companies, the Performance Bond Declaration must be drawn up in the name of the Group.

Signature(s) *[insert signature(s) of authorised representative]* In the capacity of *[insert title]*

Name *[insert name in capitals]*

Duly authorised to sign the Bid for and on behalf of *[insert name of authorising authority].*

Date *[insert day, month, year].*

1. The office where the Bidding documents are consulted and issued and the office where the bids are submitted may be the same or different. [↑](#footnote-ref-1)
2. These sections of the text must be added when the project is divided into several lots and the pre-qualification has been carried out for several lots. The second section must be adapted according to the lot or lots for which the candidate is invited to bid. [↑](#footnote-ref-2)
3. Coordinate with Article 20 of the IS, "Bid security". [↑](#footnote-ref-3)
4. Coordinate with Article 26 of the IS, "Opening of bids". [↑](#footnote-ref-4)
5. If applicable [↑](#footnote-ref-5)
6. *The Guarantor must insert an amount representing the advance payment in the form of a percentage of the Contract amount mentioned in the Contract.* [↑](#footnote-ref-6)
7. *Insert the date representing twenty-eight days following the estimated date of completion of the works. The Employer must take into account the fact that, in the event of an extension of the Contract period, it will have to ask the Guarantor to extend the duration of this guarantee. Any such request must be made in writing before the expiry date stated in the Guarantee. When preparing the Guarantee, the Employer may consider adding the following at the end of the penultimate paragraph: "At the written request of the Employer, made prior to the expiry of this Guarantee, the Guarantor shall extend the duration of this Guarantee for a period not exceeding [six months] [one year]. Such an extension will only be granted once."* [↑](#footnote-ref-7)