**English version of the original (catalan). In case of discrepancy, the original version prevails.**

**SUPPLY OF LOTTERY GAMES FOR TELEMATICS MARKETING**

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TABLE OF CHARACTERISTICS OF THE CONTRACT

A. PURPOSE

Description: supply of lottery games for telematic commercialisation

Batches: this contract cannot be divided into batches because it is a functional unit that determines that the different benefits that make it up cannot be separated if the public purpose covered by this contract is to be achieved. This objective would be unachievable by division into batches and by having several different contractors execute the contrast.

File Code: LCAT-2024-20036

CPV code:

37524800-5 Lottery games

72212900-8 Miscellaneous software and computer systems development services

B. ECONOMIC DATA

**B.1** Price determination: **lump sum and unit price**.

* **Provision of kits (section 3.1 PPT)**

**Unit price**

The calculation of the bidding amount has been based on estimated prices in the overall lottery market for lottery right-of-use services for the licences corresponding to the games that can be marketed and from multiple developers by the gaming market in general.

The prices identified in the table incorporate the costs linked to the services defined in the Technical Specifications and linked to the execution of the contract, as well as the overheads of the activity and the business margin that each successful tenderer establishes as part of the price offer.

In this regard, it should be noted that, in the practice of the market for this type of games, prices are fundamentally established as a percentage of sales or monthly GGR (Gross Gaming Revenue) for each game. GGR is understood as the differential margin between the value of ticket sales and the prizes resulting from the draws linked to these sales in a specific period.

|  |  |  |
| --- | --- | --- |
| **Concepts** | **Concepts** | **Concepts** |
| Inter-social participation games | 5% | Sales |
| Social participation games | 5% | Sales |
| Individual participation kits provided by the contractor | 14% | GGR |
| Individual participation games contracted directly by LCAT | 2% | GGR |

In the column "Contract cost" an estimate of the cost of the service including all possible months of the contract has been indicated.

|  |  |
| --- | --- |
| **Concept** | **Contract cost** |
| Overall estimate | 70.000 €\* |

\*Given that the service consists of the possibility of incorporating a certain number of games from the catalogue of games offered by the successful bidder and that the prices for each of them may not exceed the maximum tender price, LCAT has estimated a global amount for this service.

* **Technology contribution and implementation (section 3.2 PPT)**

**Flat-rate** price

The calculation of the tender amount has been based on estimated prices in the global lottery market for telematic gaming technology platform implementation services.

The price identified in the table incorporates the costs linked to the services defined in the Technical Specifications and linked to the execution of the contract, as well as the overheads of the activity and the business margin.

In the column "Contract cost" an estimate of the expected service cost for the initial implementation of the base platform and the games selected for the start of the implementation has been indicated.

|  |  |  |
| --- | --- | --- |
| **Concept** | **Initial implementation** | **Contract cost** |
| Overall estimate |  73.000 € | 73.000 € |

* **Maintenance of infrastructures, software and functional and technical support to LCAT (section 3.3 PPT).**

**Flat-rate** price

The calculation of the tender amount has been based on the estimation of prices in the global lottery market for infrastructure housing services, the type of software used by this type of platform and the recurrent maintenance of the software, as well as a forecast of the hours necessary to provide training to LCAT staff so that they can operate the games at user level.

The price identified in the table incorporates the costs and any other costs linked to the execution of this concept defined in the Technical Specifications and linked to the execution of the contract, as well as the overheads of the activity and the business margin.

A maximum estimate of the cost of the service for the months of the contract duration has been indicated in the column "Monthly cost".

|  |  |  |
| --- | --- | --- |
| **Concept** | **Monthly cost** | **Contract cost (20 months)** |
| Overall estimate | 7.000 € | 140.000 € |

* **Provision of related services in the marketing operation (section 3.4 PPT)**

**Unit price**

The calculation of the tender amount has been based on estimated prices in the global lottery market for KYC (Know Your Customer) services of the type of software commonly used by this type of platform.

The price identified in the table incorporates the costs and any other costs linked to the execution of this concept defined in the Technical Specifications and linked to the execution of the contract, as well as the overheads of the activity and the business margin.

In the column "Maximum cost per transaction" an estimate has been made of the cost for possible new registrations during the contract period.

|  |  |  |
| --- | --- | --- |
| **Concept** | **Maximum cost per****revision** | **Contract cost****(x approx. 9055 units)** |
| Overall estimate | 1,80 €  | 16.300 €\* |

(\*) This amount is an estimate because it is determined on the basis of the transactions linked to the contract.

* **LCAT's on-demand evolutionary maintenance services (section 3.5 PPT)**

**Unit price**

The calculation of the tender amount has been based on estimated prices in the overall lottery market for evolutionary maintenance services typically provided by this type of platform.

The price identified in the table incorporates the costs and any other costs linked to the execution of this concept defined in the Technical Specifications and linked to the execution of the contract, as well as the overheads of the activity and the business margin.

In the column "Maximum hourly cost" the maximum cost of the service has been indicated for the on-demand services that may be requested during the duration of the contract.

|  |  |  |
| --- | --- | --- |
| **Concept** | **Maximum cost per****revision** | **Contract cost****(estimated 240 hours)** |
| Overall estimate | 125 €/hour  | 30.000 € |

* **Integration of other games selected by LCAT from third party suppliers (section 3.6 PPT).**

**Flat-rate** price

The calculation of the tender amount has been based on estimated prices in the overall lottery market for game integration services from suppliers on marketing platforms.

The price identified in the table incorporates the costs and any other costs linked to the execution of this concept defined in the Technical Specifications and linked to the execution of the contract, as well as the overheads of the activity and the business margin.

In the column "Contract cost" the cost of the service including all months of the contract duration has been indicated.

|  |  |  |
| --- | --- | --- |
| **Concept** | **Maximum cost per****revision** | **Contract cost****(estimated 320 hours)** |
| Overall estimate | 125 €/hour | 40.000 € |

Consequently, the tender budget for the purpose of acting as maximum tender value is **that identified in section B.2 of the Table of Characteristics.**

**B.2** Basic tender budget:

In accordance with the provisions of Article 100 LCSP, the basic tender budget is as follows:

|  |  |
| --- | --- |
| **BASE TENDER BUDGET** | **Total** |
| Contribution of games\* | 70.000 € |
| Technology input and implementation | 73.000 € |
| Maintenance of infrastructures, software and functional and technical support to LCAT | 140.000 € |
| Contribution of related services in the marketing operation\*\* | 16.300 € |
| Evolutionary maintenance services\*\*\* | 30.000 € |
| Integration of other games selected by LCAT from third party suppliers\*\*\* | 40.000 € |
| **TOTAL** | **369.300 €** |

|  |  |  |  |
| --- | --- | --- | --- |
| BASIC TENDER BUDGET | Budget (VAT excluded) | VAT 21% | Budget (VAT included) |
| TOTAL | 369.300,00 € | 77.553,00 € | 446.853,00 € |

(\*) This amount is an estimate, as variable remuneration is based on sales.

(\*\*) This amount is an estimate because it is determined on the basis of the transactions linked to the contract.

(\*\*\*) This amount is an estimate because it is determined on the basis of estimates by the successful tenderer at LCAT's request.

**Unit prices**:

In accordance with the provisions of Additional Provision 33 of Law 9/2017, of the 8th of November, on public sector contracts (LCSP), **the amount of the base budget is considered an estimate and has the character of a maximum and limiting budget** of this contract conditioned on the amount of services that the contracting company actually performs based on the required services. **LCAT is not obliged to exhaust the budget in consideration of which the final price is determined according to its needs and by applying the corresponding prices.**

The estimated units identified in the table may be subject to variation depending on the needs of the contracting authority and in accordance with Article 309.1, paragraph two, of the LCSP: “*In cases where the price is determined by means of execution units, the variation that occurs during the correct execution of the provision is not considered as modification, as long as it has been established as such in the set of particular administrative clauses exclusively in the number of units actually executed on those provided for in the contract, which can be collected in liquidation, as long as they do not represent an increase in expenditure exceeding 10 per cent of the contract price*.”

**B.3** Estimated contract value (VEC):

The VEC **does not coincide** with the tender budget without VAT, as modifications, extensions and other concepts have been planned for this contract.

The **VEC** is in accordance with the following breakdown:

|  |  |  |  |
| --- | --- | --- | --- |
| **VEC** | **Allowance** | **Anticipated modifications** **(Art. 101.2.c LCSP)** **maximum 20%** | **TOTAL** **(VAT excluded)** |
|
|
| **Contract**  | 369.300,00 € | 73.860,00 € | 443.160,00 € |
| **Extension** | 296.300,00 € | 59.260,00 € | 355.560,00 € |
|  |  |  | **798.720,00 €** |

This contract **is not subject to harmonised regulation** because LCAT does not have adjudicating power (Art. 19.1 of the LCSP).

C. EXISTENCE OF CREDIT

**C.1** Budget item: 6230/D/226.0045

**C.2** File of multi-year scope: Yes.

This contract is multi-year in scope, with the following distribution:

|  |  |  |  |
| --- | --- | --- | --- |
| **YEAR** | **AMOUNT(Vat excluded)** | **VAT (21%)** | **AMOUNT(VAT included)** |
| **2024** | 131.945,00 € | 27.708,45 € | 159.653,45 € |
| **2025** | 180.780,00 € | 37.963,80 € | 218.743,80 € |
| **2026** | 56.575,00 € | 11.880,75 € | 68.455,75 € |
| **TOTAL** | 369.300,00 € | 77.553,00 € | 446.853,00 € |

D. DURATION OF THE CONTRACT

**D.1** Duration term: **the contract will start from its formalisation and shall run until the 30th of April 2026 included (approximately 20 months).**

Place of delivery: Barcelona

Date of receipt: see paragraph “8 Phases of the contract” of the Technical Specifications

**D.2** Possibility of extensions and deadline: for this contract, the possibility of extension is foreseen. Loteries may extend the contract up to a maximum of 20 additional months. Loteries shall give notice of its intention to extend or renew the contract at least 3 months before the end date of the current contract or extension.

E. VARIANTS

Not allowed.

F. PROCESSING OF THE FILE AND AWARD PROCEDURE

**F.1** Form of processing: ordinary

**F.2** Award procedure: General Procedure with various criteria in accordance with section 2.25.1 Criteria for evaluating bids in the Internal Contracting Instructions of Loteries de Catalunya, SAU (hereinafter "IIC").

**F.3** Presentation of bids using the Digital Envelope tool: Yes.

G. BUSINESS SOLVENCY AND CLASSIFICATION

**G.1** Selection criteria related to economic, financial, technical or professional solvency:

Economic and financial solvency: in accordance with Article 87.1.a) of the LCSP and Article 11.4.a) of the RGLCAP:

It will be accredited through a **statement on the annual volume of business of the bidder or candidate**, which, referring to the year with the highest volume of business of the last three completed (2020, 2021 and 2022), must be at least:

**250.000,00 €, excluding VAT**

Economic and financial solvency, in the event that the bidder is proposed as the successful bidder, must be accredited by means of the annual accounts approved and deposited in the Mercantile Register, and in the event that the bidder is not registered in this register, by means of the annual accounts approved and deposited in the official register where they must be registered. Tenderers who are individual entrepreneurs not registered in the Mercantile Register will accredit their annual turnover by means of the inventory books and annual accounts legalised by the Mercantile Register.

The contracting body, in addition to the documents referred to in the previous paragraph, may admit other means of proof of solvency different from those provided for in Articles 87 to 91 of the LCSP.

In all cases, the bidder proposed as the successful bidder must meet the annual business volume indicated in this section.

Technical or professional solvency: in accordance with Article 89.1.a) LCSP and Article 11.4.b) of the RGLCAP:

Proof shall be provided by means of a list of the main services or work carried out of the same or a similar nature to those which constitute the subject of the contract in the course of at most the last three years (2020, 2021 and 2022), indicating the amount, the date and the public or private recipient of such services or work.

The cumulative annual amount of the year of highest execution must be equal to or greater than the amounts indicated below (70% of the estimated value of the contract), or its average annual amount if this is less than the estimated value of the contract:

**222.000,00 €, excluding VAT**

Technical or professional solvency, in the event that the tenderer is proposed as the successful tenderer, must be proven by means of certificates of good execution and for the cumulative annual amount indicated in the previous paragraph, or in the absence of certificates, by means of a declaration by the tenderer accompanied by the documents accrediting the performance of the service.

**G.2** Business classification: optional

It is not required for this file, in accordance with Art. 77.b LCSP.

**G.3** Assignment of material and/or personal means to the execution of the contract:

Not required.

**G.4** Certificates of compliance with quality assurance and/or environmental management standards:

Loteries de Catalunya is a member of the World Lottery Association and the European Lotteries and, therefore, its suppliers are required to have ISO-27001 Certification or equivalent.

H. CRITERIA FOR EVALUATING BIDS

**H.1** Award criteria:

In accordance with articles 145 and 146 LCSP, with article 2.25.1 of the LCAT contracting instructions, the selection and evaluation of the proposals will be carried out on the basis of economic and technical criteria that allow the best value for money to be evaluated.

The score that the tendering company may obtain in relation to these criteria will be up to 100 points distributed according to this section.

However, the procedure is organised in two phases so that, in the evaluation of the **criteria that depend on value judgement, the bidding company must obtain a minimum of 35 points in** order to be able to continue in the tender. **If the score is lower, the bidding company will be excluded** and, therefore, its economic offer will not be evaluated and the tender will not be awarded.

* Criterion that depends on value judgment: up to a maximum of 60 points

TECHNICAL PROPOSAL: up to a maximum of 60 points

In accordance with point 8 of Directive 1/2020 of the General Directorate of Public Procurement for the application of valuation and scoring formulas for economic and technical proposals, the formulas described below are applied due to incompatibility of the general rule with the structure used in this tender.

For the evaluation of the technical proposal, the score will be assigned according to the evaluation criteria indicated below:

|  |  |
| --- | --- |
| Evaluation criterion | Weight per criterion |
| Excellent | 100% |
| Optimum | 85% |
| Notable | 75% |
| Correct | 50% |
| Acceptable | 35% |
| With shortcomings | 25% |
| With relevant shortcomings | 10% |
| Deficient | 0% |

These evaluation parameters will be applied considering the level of adequacy and information of the technical approach to the supply services identified in the Technical Specifications (PPT) and specifically on the basis of the following sections and weighting:





* Criterion that can be quantified automatically: up to a maximum of 40 points

**For all criteria**:

The price offered shall be evaluated with respect to the maximum bid price established for each concept and the formula to be applied, in accordance with Directive 1/2020 of the Directorate General for Public Contracting on the application of evaluation formulas and scoring of economic and technical proposals, the evaluation shall be carried out as follows:



The contracting authority shall apply a weighting value of 2 to the formula in accordance with point 7.d) of Guideline 1/2020, in order to avoid "situations that lead to a distortion of the value for money balance in tenders and undermine the strategic objective of public procurement".



General considerations for all automatically quantifiable criteria: companies will have to duly fill in this model taking into account the following indications:

* Prices:

- These prices do not include VAT.

- The amounts offered shall be expressed to two decimal places.

**It shall be grounds for exclusion**:

* Companies whose bids do not comply with the maximum tender prices cannot be evaluated and will therefore have to be excluded from the tender.
* Companies that submit a bid that does not offer a price for each and every one of the items specified in this model financial bid may not be evaluated and, consequently, will have to be excluded from the tender.

**H.2** Form of presentation

In accordance with **section 3.2.4 of Loteries de Catalunya, SAU’s internal contracting instructions**, the presentation of the following envelopes is planned for this contract file:

ENVELOPE A: ADMINISTRATIVE DOCUMENTATION AND DOCUMENTATION RELATING TO SUBJECTIVE ASSESSMENT CRITERIA.

This documentation must be submitted duly completed in **PDF format.**

1. According to the **DOCUMENTATION** related to **clause 11 of the Particular Administrative Clauses (PCAP)**, specifically:
	* SINGLE EUROPEAN PROCUREMENT DOCUMENT (ESPD).
	* **DECLARATION OF SUBMISSION TO SPANISH COURTS AND TRIBUNALS (foreign companies only):** foreign companies must provide a declaration of submission to the Spanish courts and tribunals of any order for all incidents that may arise from the contract, with an express waiver of their own jurisdiction.
	* **COMMITMENT INTEGRATION SOLVENCY BY EXTERNAL MEANS (optional).**
2. **DECLARATION OF TRANSFER OF DATA** through **APPENDIX 1 of the PCAP**.
3. **TECHNICAL PROPOSAL** that will have to include the documentation relating to the concepts included in section *H.1 Award criteria* "Criteria that depend on value judgement - Technical Proposal" using the model in **ANNEX 2 of the PCAP**. It may be accompanied by complementary documentation.

Cause for exclusion:

* The non-incorporation within this envelope of the concepts indicated above, except for the concepts identified in point 1 and 2, which will be amendable.
* The incorporation of documentation that does not correspond to this envelope when there is a violation of the secrecy of the bids or of the duty not to have knowledge of the content of the documentation relating to the objective assessment criteria before relating to the subjective assessment criteria.

ENVELOPE B: ECONOMIC PROPOSAL AND DOCUMENTATION RELATING TO AUTOMATICALLY QUANTIFIABLE CRITERIA.

1. **ECONOMIC BID, to be presented in accordance with the model in ANNEX 3 of the PCAP.**

This documentation must be presented duly completed in **PDF format**.

Companies must fill in the economic offer form properly, taking the following indications into account:

* **Prices**:

- These prices do not include VAT.

- The amounts offered shall be expressed with two decimal digits.

Cause for exclusion:

* The non-incorporation within this envelope of the concepts indicated above.
* Companies that **make an offer in which no price is offered for each and every single one of the items determined in the economic offer form (except for the “Options” and “Adjustment Table” sections)**, cannot be evaluated. As such, it must be excluded from the tender.
* Companies whose bid **does not respect the maximum tender prices may not be evaluated**. As such, it must be excluded from the tender.

I. ASSISTANCE TO THE PROCUREMENT AUTHORITY

**I.1** Members of the Procurement Board: in accordance with section 2.4. Contracting body of the IICs, it does not apply to this dossier.

**I.2** Committee of experts: the designation of a committee of experts is not applicable in this file.

J. CRITERIA FOR DETERMINING THE EXISTENCE OF PRESUMEDLY DISPROPORTIONATE OR ABNORMAL LEAVES

The following limits are defined for the consideration of tenders with, in principle, abnormal or disproportionate values:

A differential of 10 percentage points below the average of the tenders or, in the case of a single tenderer, 20 percentage points below the net tender budget.

If the number of bidders exceeds 10, the lowest bid and/or the highest bid shall be disregarded for the calculation of the average bid if there is a difference of more than 5% in relation to the next highest bid.

In accordance with the provisions of Article 149.4 of the Contract Act, the tender will be rejected if it is found to be abnormally low because it does not comply with the applicable obligations in terms of subcontracting, environmental, social or labour law established in European Union law, national law, the sectoral collective agreements in force or the provisions of international law listed in Annex V of the Contract Act.

K. OTHER DOCUMENTATION TO BE SUBMITTED BY BIDDING COMPANIES OR COMPANIES PROPOSED AS CONTRACTORS

Not required.

L. PROVISIONAL GUARANTEE

Not required.

M. DEFINITIVE GUARANTEE

**M.1** Amount: 5% award amount, excluding VAT.

**M.2** Form of constitution: any of those established in Article 108 of the LCSP, including withholding the price.

**M.3** Additional guarantee in the event of presumably disproportionate or abnormal low prices: 5% of the award amount, excluding VAT.

N. SPECIAL EXECUTION CONDITIONS

**N.1** **Purpose and means:**

* The successful tenderer undertakes to provide all the personal and material resources necessary for the correct execution of the tasks to be carried out and to provide all the information and assistance necessary for the use of the results provided.
* The company awarded with the contract will be responsible for the technical quality of the work carried out in the provision of the service covered by the contract, as well as for the consequences for Loteries de Catalunya, SAU, or for third parties arising from omissions, errors, inadequate methods or incorrect conclusions in the execution of the contract.
* The contractor undertakes to develop the project with full transparency, so that LCAT can access all documents, tools, databases and information used in the development of the service.
* The work meetings, coordination and presentation of works that the successful bidder has to hold with LCAT staff, or these with third parties, will preferably take place at LCAT's offices.
* The costs of subsistence, accommodation and travel that may be incurred by the successful tenderer in connection with the contract shall be deemed to be included in the award price.
* The successful tenderer undertakes that any press release or media insertion that the supplier wishes to make in relation to the service will have to be previously approved by LCAT.

N.2 Responsible for the contract

* The successful tenderer will appoint a contract manager to interact directly with the respective managers appointed by LCAT.

The latter shall have, inter alia, the following obligations:

* The preparation of follow-up meetings, ensuring the quality of the process and compliance with the deadlines set for the submission of reports and documentation established during the execution of the contract.
* To act as interlocutor of the contractor company before LCAT, channelling, on the one hand, the communication between the contractor company and the staff of the work team assigned to the contract and, on the other hand, of LCAT, in all matters related to the execution of the contract.
* To distribute the work among the personnel responsible for the execution of the contract, and to give these workers the orders and work instructions that are necessary in relation to the provision of the contracted service.
* To supervise the correct fulfilment by the staff of the work team of the functions entrusted to them, as well as to control the attendance of this staff at the work post.
* To inform LCAT about the variations, occasional or permanent, in the composition of the work team assigned to the execution of the contract.
* The person designated by the contractor company will be the person in charge of managing all the requests for services requested, as well as to solve incidents of any order that may arise, as well as to deliver information that LCAT may request. Any substitution of this or these persons will have to be communicated to LCAT for its knowledge and with a minimum notice of ten working days.
* The tasks of the person in charge described in the previous section will be considered included in the price of the contract, as well as the services of any other person that the successful bidder considers appropriate to interact with in order to obtain information to be incorporated into the project.
* The company in its offer or when formalising the contract, must state or indicate the person or persons who will be responsible for the contract before LCAT, expressing the name and surname, fixed and mobile telephones and e-mail. This person will have to centralise the relations between the company and LCAT.

**N.3** **Maintenance of quality, offer and satisfaction in providing the service:**

* The successful bidder will use recyclable, biodegradable and non-polluting materials whenever possible based on the order.

**N.4** **Staff and salary conditions:**

* A special condition of execution is established in **clause 29 b)** of the Particular Administrative Clauses relating to compliance with the salary conditions of workers in accordance with the applicable sectoral collective agreement.
* The successful bidder will carry out the service with its own staff and will depend exclusively on it, so it will have all the rights and duties inherent in its capacity as employer and must comply with the provisions in force in labour matters and the prevention of occupational hazards.
* The contractor company is exclusively responsible for the selection of the personnel that, accrediting the requirements of qualification and experience demanded in the specifications, will form part of the work team assigned to the execution of the contract, without prejudice to the verification by LCAT of the fulfilment of those requirements.
* The contractor company will try to ensure that there is stability in the work team, and that the variations in its composition are punctual and due to justified reasons, in order not to alter the smooth running of the service, informing LCAT at all times.
* In relation to the workers assigned to the execution of this contract, the contracting company assumes the obligation to exercise in a real, effective and continuous manner, the power of management inherent to any employer. In particular, it will assume the negotiation and payment of wages, the granting of permits, leaves and holidays, the substitution of workers in cases of sick leave or absence, the legal obligations in terms of Social Security, including the payment of contributions and the payment of benefits, where appropriate, the legal obligations in terms of prevention of occupational hazards, the exercise of disciplinary powers, as well as all other rights and obligations arising from the contractual relationship between employee and employer.
* The contractor shall take particular care to ensure that the workers assigned to the performance of the contract carry out their work without exceeding the scope of their duties in relation to the activity defined in the specifications as the object of the contract.

N.5 Gender perspective:

* The successful bidder in the preparation and presentation of the purpose of the contract must incorporate the gender perspective and avoid sexist discrimination in the use of language and imagery.

N.6 Intellectual and industrial property:

* In accordance with the provisions of this contract, the ownership of the awarded works will correspond to LCAT and no one will be able to make use of them without its authorisation.
* All intellectual property rights on the works of all types that result from the execution of the contract will become the property of Loteries de Catalunya exclusively for the whole world and for the legal duration of the rights, in accordance with Royal Legislative Decree 1/1996, of the 12th of April, which approves the revised text of the Intellectual Property Law, and all other relevant regulations.
* LCAT is the exclusive owner of all intellectual property rights derived from the works entrusted under the contract and, as such, of all exploitation rights inherent in these, worldwide, and may exercise them in as broadly as the law allows, which includes their reproduction, distribution, transformation, public communication and availability in any format or language, with the effects determined by law.
* The contractor must refrain from marketing, publishing, disseminating or communicating the content of the aforementioned materials and works in any way, in a whole or in part, without the prior express consent of LCAT.
* Upon termination of the contract for any reason, the contractor undertakes to hand over to LCAT any material that is in its or its staff’s possession as a result of the provision of services.

N.7 Clauses on the use of Catalan and linguistic conditions of execution:

* The contracting company must preferably use Catalan in its relations with Loteries de Catalunya arising from the execution of the object of this contract. Likewise, the contracting company and, if applicable, subcontracting companies must preferably use Catalan in signs, publications, notices and other general communications arising from the execution of the services covered by the contract.
* The contracting company must preferably deliver the work covered by this contract in Catalan.
* Furthermore, the contracting company assumes the obligation to assign to the execution of the contract the means and personnel that are adequate to ensure the linguistic correctness of the services that are the object of the service.
* In particular, the contracting company must use at least the Catalan language in the labelling, packaging, technical documentation, instruction manuals and in the description of other singular characteristics of the goods and products, in accordance with what is determined in the technical specifications. Therefore, together with the delivery of the goods covered by this contract, the contracting company must deliver the corresponding manuals, as well as all the technical documentation necessary for it to work, at least in Catalan.

N.8 Penalties

The obligations established in the previous paragraphs **are considered special conditions for the execution of the contract.**

Failure to comply with any of the special conditions of execution, with the exception of the **Ethics Clause,** which already incorporates the specific consequences for non-compliance, **entails the requirement of the amount of 2,5 per cent of the basic tender budget, excluding VAT, as a penalty**, in accordance with Article 202.3 LCSP and the limits established in Article 192.1 LCSP.

**N.9** **Essential obligations**

The obligations established in this section are considered **essential obligations of the contract**, in accordance with Article 211.1.f of the LCSP. The application procedure is regulated in accordance with Article 212 et seq. of the LCSP.

**N.9.1** The successful bidder must perform the services required in the Technical Specification Sheet in accordance with the guidelines that LCAT may dictate, in order to achieve the objectives of the procurement.

**N.9.2** The successful bidder must have the **minimum work team of section G.3** available for the entire duration of the contract (art. 76.2 LCSP).

**N.9.3 Confidentiality clause:**

Bidders, contractors and subcontractors assume the following obligations:

* The purpose of the contract **is confidential** and the successful bidder must maintain professional secrecy at all times, given that it **entails the successful bidder’s obligation to sign the corresponding confidentiality agreement** that LCAT determines.
* The successful bidder is obliged to keep secret data or information that are not public or notorious and are related to the purpose of the contract, as well as information and documentation provided by LCAT or resulting from the work carried out in this contract.
* The documentation provided and the documents resulting from the provision of the service will be understood as the exclusive property of LCAT and the successful bidder may not use it for other purposes or disseminate it.

**N.9.4** **Data Protection Clause**:

Bidders, contractors and subcontractors assume the following obligations:

* The object of the contract does involve the processing of personal data and, consequently, the successful tenderer undertakes to sign the corresponding contract for the processing of personal data determined by LCAT.
* The successful tenderer undertakes to comply with the applicable national and EU data protection regulations.
* The successful tenderer undertakes to inform the contracting body whether or not it plans to subcontract the servers or the services associated with them, and if so, to identify the subcontracted company, using the model in **ANNEX 1 of the PCAP**.
* The successful tenderer undertakes to inform the contracting body of the location of the servers and where the associated services will be provided using the model in **ANNEX 1 of the PCAP**.
* The successful tenderer undertakes to inform the contracting body of any changes that may occur during the life of the contract to the information provided in relation to the location of the servers and the place where the services associated with them are provided, using the model in **ANNEX 1 of the PCAP**.

O. SUBSCRIPTIONS TO THE CONTRACTOR

* **Variable sales compensation/ GGR: Share Revenue**
* % fixed in the successful bidder's financial offer of the sales or GGR for the period of each calendar month and for each type of game.
* Rate offered for each new registration on the platform (KYC) in the period of each calendar month.
* **Implementation**: by means of an initial invoice for an amount of 50% of the price offered by the contractor for the service to be executed and a final invoice for the remaining 50%, once the service has been completed and with the agreement of the person in charge of the contract.
* **Recurrent services**: through monthly payments in arrears for services actually performed.
* **Third-party evolutionary and integration maintenance services**: by means of an initial invoice for an amount of 50% of the project budget accepted by LCAT and a final invoice for the remaining 50%, once the service has been completed and subject to the agreement of the person responsible for the contract.

**General part**:

The company awarded the contract will have to draw up the invoices indicating the services carried out in such a way that they can be identified, respecting confidential data in all cases. The invoice must state, in addition to the total amount, the unit price applied, which in no case may be higher than those offered by the successful bidder in its economic proposal.

The unit prices may in no case be higher than those offered by the successful bidder in its economic proposal.

Under no circumstances may the contracting company invoice administration costs.

The price will be paid once the person in charge of the contract conforms the invoice presented by the contractor for the partially executed work.

The invoice will be presented through the EFACT platform, as the general entry point for electronic invoices of the Public Administration of the Generalitat de Catalunya and its public sector. The identifying data are:

* Loteries of Catalonia, SAU
* NIF: A06945323
* Electronic invoicing DIR3 code: A09018860
* File: V0952-OPER-024-18

The settlement of the price will be paid by means of payment into the bank account indicated for this purpose by the contracted company, within the maximum period established by current regulations. Each invoice must be detailed and may not include any type of tax, fee or duty, with the exception of VAT (21% or the legally applicable percentage), which will be expressed separately.

P. AMENDMENT OF PROPOSED CONTRACT

It is foreseen that the base tender budget may be modified upwards up to a maximum of 20% of the initial amount in the following cases:

1. In anticipation of new needs arising from the implementation process.
2. In anticipation that the estimate of expenditure in the following sections is insufficient to meet the needs for the execution of the contract:

2.1. Provision of games (section 3.1 PPT).

2.2. Provision of related services in the marketing operation (section 3.4 PPT).

2.3. Infrastructure maintenance, software and functional and technical support to LCAT (section 3.3 PPT).

2.4. Evolutionary maintenance services on demand of LCAT (section 3.5 PPT).

2.5. Integration of other games selected by LCAT from third party suppliers (section 3.6 PPT).

This modification cannot entail the establishment of new unit prices not provided for in the contract.

Q. ASSIGNMENT OF THE CONTRACT

**The contract cannot be transferred** because the technical qualities of the awarding company are decisive when awarding it.

R. SUBCONTRACTING

**The related services in the marketing operation defined in section 3.4 of the PPT may be subcontracted, with the express authorisation of LCAT.**

S. REVISION OF PRICES

Not applicable.

T. WARRANTY PERIOD

The warranty period will be **of six (6) months**.

U. MAXIMUM AMOUNT OF ADVERTISING EXPENSES TO BE PAID BY THE COMPANY OR THE CONTRACTING COMPANIES

Not applicable.

V. WORK PROGRAMME

Not applicable.

X. RESPONSIBLE FOR THE CONTRACT

In this file, the director of Games Operations and the director of Innovation of Loteries de Catalunya, SAU are designated as responsible for the contract.

Y. CONTACT

Enquiries:

Compliance Area

juridic@loteries.cat

Tel: (+34) 935.547.432

<https://contractaciopublica.cat/en/perfils-contractant/detall/eaja?categoria=0>

Tenderers interested in receiving automatic e-mail notifications of all publications on this file in the profile of the contracting party may subscribe by accessing the "Subscribe" link on the corresponding page of the tender announcement published in the profile.

PARTICULAR ADMINISTRATIVE CLAUSES

I. GENERAL PROVISIONS

One. Purpose of the contract.

**1.1** The purpose of the contract is to provide the supplies described in **section A of the Table of Characteristics.**

**1.2** The batches into which the purpose of the contract is divided are identified in **section A of the Table of Characteristics**.

**1.3** The expression of the coding corresponding to the nomenclature of the Common Procurement Vocabulary (CPV) is the one contained in **section A of the Table of Characteristics**.

Two. Administrative needs to be met and suitability of the contract.

Those laid out in the technical prescriptions.

Three. Financial data of the contract and existence of credit.

**3.1** The system for determining the price of the contract is the one indicated in **section B.1 of the Table of Characteristics.**

The estimated units identified in the table may be subject to variation based on the needs of the contracting authority and in accordance with Article 309.1, paragraph two, of Law 9/2017, of 8 November, on public sector contracts

**3.2** The estimated value of the contract and the method applied for calculating it are those indicated in **section B.2 of the Table of Characteristics.**

**3.3** The basic tender budget is the one indicated in **section B.3 of the Table of Characteristics**. This is the maximum expenditure limit (including VAT) that, by virtue of this contract, the contracting authority can commit to, and constitutes the maximum price that can be offered by the companies competing in the tender for this contract.

**3.4** The contract price is the award price and must include Value Added Tax (VAT) as an independent item. The price will be considered to include taxes, any kind of applicable fees, as well as all expenses that arise as a result of the obligations established in this specification that must be fulfilled during the execution of the contract.

**3.5** All regulatory procedures have been completed to ensure the existence of credit for the payment of the contract. The budget item to which this credit is attributed is the one mentioned in **section C.1 of the Table of Characteristics**.

Four. Duration of the contract.

**4.1** The duration of the contract is that established in **section D of the Table of Characteristics**. The total duration and the partial time periods are those set in the work programme that is approved, if applicable. All these periods start to count from the day stipulated in the contract.

**4.2** The contract may be extended if so provided in **section D of the Table of Characteristics**. In this case, the extension will be agreed by the contracting authority and will be mandatory for the contracting company, as long as it gives notice at least two months before the end of the contract period. In any case, the extension will not occur by tacit agreement of the parties.

Five. Legal regime of the contract.

**5.1** The contract has a private nature and is governed, in accordance with Article 26.1.c) and 26.4 of the LCSP, by the provisions of Articles 321 and 322 of the LCSP regarding the preparation and award, and specifically, by the internal contracting instructions approved on 21 July 2021 by Loteries de Catalunya, SAU. This is likewise for this set of administrative clauses and for the technical prescriptions, the clauses of which are considered an integral part of the contract. Their effects, modification and termination are regulated by the applicable rules of private law.

Additionally, it is also governed by the following rules if they are applicable according to the IIC and the set of administrative clauses and the set of technical prescriptions:

1. Law 9/2017, of 8 November, on public sector contracts, by which European Parliament and Council Directives 2014/23/EU and 2014/24/EU, of 26 February 2014 are transposed to the Spanish legal system.
2. Decree-Law 3/2016, of 31 May, on urgent measures in the field of public procurement.
3. General regulation of the Public Administration Contracts Act approved by Royal Decree 1098/2001, of 12 October, in all that is not modified or repealed by the aforementioned provisions (hereinafter, RGLCAP).
4. Organic Law 3/2018, of December 5, on the protection of personal data and the guarantee of digital rights.
5. Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27 April 2016, relating to the protection of natural persons with regard to the processing of personal data and the free movement of such data, which repeals Directive 95/46/EC.

**5.2** Ignorance of the clauses of the contract in any of its terms, of the other contractual documents that are part of it and also of the instructions or other rules that result from application in the execution of what is agreed does not exempt the awarded company from the obligation to fulfil them.

Six. Admission of variants.

Variants will be admitted when so stated in **section E of the Table of Characteristics**, with the minimum requirements, in the modalities and with the characteristics provided for.

Seven. File processing and award procedure.

The form of processing the file and the procedure for awarding the contract are those established in **section F of the Table of Characteristics**.

Eight. Electronic media.

**8.1** In accordance with Article 2.15 IIC, the processing of this tender involves the practice of the notifications and communications that derive from it by exclusively electronic means (email, digital envelope and e-NOTUM). However, oral communication may be used for communications other than those related to the essential elements, that is, tenders and bids, leaving the content of the oral communication duly documented, for example, through files or written or audio summaries of the main elements of communication.

**8.2** The communications and notifications made during the procurement procedure and during the validity of the contract will be carried out by electronic means at the choice of the contracting body, which are detailed below:

1. **Through the e-NOTUM notification system**, in accordance with the LCSP and Law 39/2015, of 1 October, on the common administrative procedure of public administrations. For these purposes, notices of the availability of notifications and communications will be sent to the email addresses and mobile phones that the companies have provided for this purpose in the ESPD, in accordance with what is indicated in clause 11 of this contract.

Once the email(s) have been received, or SMS, if mobile phones have also been provided, indicating that the corresponding notification has been made available in the e-NOTUM, the designated person/s will have to gain access through the link that will be sent for this purpose. In the virtual space where the notification is deposited, said notification can be accessed with a digital certificate or password.

1. Via email.
2. Through the digital envelope

The deadlines to be counted from the notification will be calculated from the date of sending the notification notice if the act subject to notification has been published on the same day in the contractor profile of the contracting body. Otherwise, the terms will be calculated from the receipt of the notification by the company to which it is addressed.

**8.3** Furthermore, in order to receive all the information related to this tender, the companies that so desire and, in any case, the bidding companies, must subscribe as interested in this tender, through the subscription service at the novelties of the virtual bidding space that is made available for this purpose at the web address of the contractor profile of the contracting body, accessible on the Public Procurement Services Platform of the Generalitat:

[https://contractaciopublica.gencat.cat/ecofin\_pscp/AppJava/cap.pscp?reqCode=viewDetail&keyword=games&idCap=203533&ambit=&](https://contractaciopublica.gencat.cat/ecofin_pscp/AppJava/cap.pscp?reqCode=viewDetail&keyword=jocs&idCap=203533&ambit=&)

This subscription will allow you to receive notice immediately of any news, publication or notice related to this tender at the electronic addresses of the subscribed persons. Moreover, certain communications that must be made on occasion or as a result of the bidding and awarding procedure of this contract will be made through the bulletin board associated with the virtual bidding space of this bid on the Public Procurement Services Platform. Information related to both the tender and the contract will also be published on this electronic bulletin board, which provides reliable evidence of the authenticity, integrity and date and time of publication of the published information.

In addition, bidding companies can also be registered in the bidder’s profile after the required authentication. The bidder’s profile is made up of a set of services aimed at bidding companies to provide each bidding company with its own space, with a series of tools that facilitate access and management of procurement files of your interest. To register, you must “click” on the bidder’s profile section of the Public Procurement Services Platform and have the required digital certificate.

**8.4** Digital certificates:

In accordance with the first additional provision of DL 3/2016, the use of the advanced electronic signature based on a qualified or recognised electronic signature certificate will be sufficient under the terms provided for in Regulation (EU) 910/2014/EU, of the European Parliament and the Council, of 23 July 2014, relating to electronic identification and trust services for electronic transactions in the internal market and which repeals Directive 1999/93/EC. Therefore, this is the minimum required security level of the electronic signature certificate supported for signing the ESPD and the bid.

With regard to foreign Community certificates, qualified certificates will be accepted in any country of the European Union in accordance with Article 25.3 of Regulation (EU) 910/2014/EU on electronic identification and trust services, which provides that “a qualified electronic signature based on a qualified certificate issued in a Member State will be recognised as a qualified electronic signature in the rest of the Member States”.

Nine. Ability to procure.

**9.1** Natural or legal persons, Spanish or foreign, who meet the following conditions are entitled to participate in this tender and sign the corresponding contract, if applicable:

* Have legal personality and full capacity to act, in accordance with the provisions of Article 65 of the LCSP.
* Not involved in any of the circumstances of the prohibition to enter into contracts included in Article 71 of the LCSP, which they can prove by any of the means established in Article 85 of the LCSP.
* Accredit the required solvency, in the terms established in clause 10 of this contract.
* Have the business or professional qualification that, if applicable, is required to carry out the service that constitutes the purpose of the contract.
* In addition, when the contracting company is required to meet certain requirements relating to its organisation, destination of its profits, financing system or others in order to participate in the award procedure, as determined by the applicable regulations, they must be certified by the bidding companies.

Also, the services that are the subject of this contract must be included within the purposes, object or scope of activity of the bidding companies, according to their statutes or their founding rules.

The circumstances relating to the capacity, solvency and absence of prohibitions to enter into contracts must meet at the final date of submission of bids and subsist at the time of perfecting the contract.

**9.2** The capacity of Spanish companies to act as legal entities is proven by means of the deed of incorporation or amendment entered in the Mercantile Registry when it is required in accordance with commercial legislation. When it is not, it is certified by means of the deed or document of constitution, bylaws or founding act, which contain the rules that regulate its activity and are registered, if applicable, in the corresponding official registry. You must also provide the Spanish tax ID (NIF) of the company. The capacity of Spanish companies to operate as natural persons is accredited with the presentation of Spanish tax ID (NIF).

The capacity to operate of non-Spanish companies from Member States of the European Union or signatories of the Agreement on the European Economic Area must be proven by registration in the appropriate professional or commercial registries of their Member State establishment or presentation of an affidavit or one of the certifications indicated in Appendix XI of Directive 2014/24/EU.

The ability to operate of foreign companies from States that are not members of the European Union or signatories of the Agreement on the European Economic Area is certified by providing a report issued by the permanent diplomatic mission or by the Spanish consular office of the place of the company’s domicile, in which it is stated, after accreditation by the company, that it is registered in the local professional, commercial or similar registry, or, failing that, that it usually acts in locally within the scope of the activities covered by the purpose of the contract. Foreign companies must also provide a report from the permanent diplomatic mission of Spain or the General Secretariat of Foreign Trade, certifying that the State of which they are nationals has signed the Agreement on public procurement of the World Trade Organisation (WTO), as long as it deals with contracts subject to harmonised regulation - with an estimated value equal to or greater than 139.000 Euros - or, otherwise, the reciprocity report referred to in Article 68 of the LCSP.

**9.3** Unions of companies that are temporarily constituted for this purpose (joint venture) can also participate in this tender, without it being necessary to formalise them in a public deed until they have been awarded the contract. These companies are jointly bound before LCAT and must appoint a sole representative or attorney with sufficient powers to exercise the rights and fulfil the obligations deriving from the contract until its termination, notwithstanding that the companies grant joint powers of attorney for collections and payments of a significant amount.

**9.4** The duration of the joint venture must at least coincide with that of the contract until its termination.

**9.5** Companies that wish to form temporary associations of companies to participate in public tenders can be found by using the meeting point functionality of the Public Procurement Services Platform of the Generalitat, which can be found in the bidder’s profile section.

**9.6** Companies that have participated in preparing the technical specifications or preparatory documents for the contract or have advised the contracting authority during the preparation of the procurement procedure may participate in the tender as long as it is guaranteed that their participation will not falsify the competition.

Ten. Solvency of the bidding companies.

**10.1** The companies have to prove that the minimum requirements of solvency that are detailed in the section fulfill G.1 of the picture of characteristics, through the means of accreditation that correlate in this same section.

To companies that, for a valid reason, are not in a position to present the references requested in **section G.1 of the Table of Characteristics** to prove their economic and financial solvency will be authorised to prove it by means of any other document that the contracting body deems appropriate.

**10.2** The bidding companies must undertake to devote or assign to the execution of the contract sufficient personal or material means as indicated in **section G.3 of the Table of Characteristics**.

**10.3** The bidding companies can use the capacities of other organisations to execute the contract, regardless of the legal nature of the links they have with them, in order to prove their economic and financial and technical and professional solvency, as long as these organisations are not prohibited from contracting and that the bidding companies demonstrate that throughout the duration of the execution of the contract they will have the necessary resources by submitting the written commitment of the aforementioned organisations to that effect.

**10.4** The community certificates of employers authorised to hire those referred to in Article 97 of the LCSP constitute a presumption of aptitude in relation to the qualitative selection requirements that appear in them.

**10.5** In the UTEs, all the companies that are part of them must certify their solvency, in the terms indicated in **section G.1 of the Table of Characteristics.** In order to determine the solvency of the temporary union, the one accredited by each of its members is accumulated.

II. PROVISIONS RELATING TO THE BIDDING, THE AWARD AND THE FORMALISATION OF THE CONTRACT

Eleven. Presentation of documentation and proposals.

**11.1** Companies can submit a single bid.

The Board or the organ of recruitment, will qualify the documentation contained in the Envelope A and, if observes amendable faults, he will communicate it to the companies bidders affected so that they amend them in the deadline of three days. Once amended, if it suits, the faults in the documentation contained in the Envelope A, the board will evaluate it and will determine the companies admitted in the bidding and the excluded ones, as well as, in their case, the causes of the exclusion. Without harm of the communication to the interested persons, these circumstances will be made public through his profile of contracting party.

Likewise, in accordance with the article 95 of the LCSP the Board or the organ of recruitment will be able to request to the bidder companies the clarifications that are necessary to him about the certificates and presented documents or to require them, which, so that they present complementary in accordance with the article 22 of the RGLCAP, they will order of a deadline of five calendar days without being able to present after declared accepted the offers.

Requests for clarifications or amendments will be carried out by email or through the functionality that the Digital Envelope tool has for this purpose, by means of which an email will be sent to the address or addresses indicated by the bidding companies in the registration form, with the link for which they access the space in the tool where they have to provide the corresponding documentation.

These requests for amendment or clarification, optionally, may also be communicated to the company by electronic communication via e-NOTUM, integrated with the Public Procurement Services Platform, in accordance with clause eight of these specifications.

**11.2** The bidding companies, when stated in **section H.2 of the Table of Characteristics**, must submit the documentation that conforms to their bids in different envelopes within the maximum period indicated in the tender announcement by means of the digital envelope tool accessible from the contractor’s profile (Public Contracting Services Platform).

Once they access the digital envelope web tool via this link, the bidding companies will have to fill in a form to register for the tool and will then receive a message at the email address indicated in this registration form for activating the bid.

The email addresses that the bidding companies indicate in the registration form of the digital envelope tool, which will be the ones used to send emails related to the use of the digital envelope tool, must be the same as designated in their ESPD to receive notifications and communication via e-NOTUM, digital envelope or email.

Bidder companies must keep the bid activation email, since the link contained in the activation message is the exclusive access they will have to submit their bids through the digital envelope tool.

By accessing the web space for submitting bids through this sent link, the bidding companies must prepare all the required documentation and enclose it in electronic format in the corresponding envelopes. The bidding companies can prepare and send this documentation in stages, before submitting the bid.

To start sending the documentation, the tool will require the bidding companies to enter a keyword for each envelope with encrypted documentation that is part of the tender (no keyword is required for Envelope A, since the documentation is not encrypted). With this keyword, the documentation will be encrypted when the bids are sent. The bid documents are encrypted using the same keyword, which the bidding companies must keep. It is necessary to take into account the importance of properly guarding this or these keys (they can be the same for all envelopes or different for each of them), since only the bidding companies have them (the digital envelope tool does not save or remember the passwords entered) and are essential for decrypting the bids and therefore for accessing their content.

Through the email address indicated in the registration form for registering the bid in the digital envelope tool, LCAT will ask the bidding companies to access the digital envelope web tool to enter their keywords at the corresponding time.

When the bidding companies enter the keywords, the process of deciphering the documentation will begin, which will be saved in a secured virtual space that guarantees the inaccessibility of the documentation before establishing the Board and opening the envelopes on the date and time established, if applicable.

Tendering companies must in any case enter the code word before the end of the act of opening the encrypted envelope.

In the event that any bidding company does not enter the keyword, the contents of the encrypted envelope will not be accessible. Thus, given that the submission of bids through the Digital Envelope tool is based on the encryption of the documentation and necessarily requires the bidding companies to enter the keyword (or keywords), which only they keep safe throughout the process, in order to access the encrypted contents of the envelopes, it will not be possible to evaluate the documentation of their bid that cannot be decrypted because the company has not entered the keyword.

Once all the documentation of the bid has been completed and the documents that make it up have been attached, the bid will be properly submitted. From the moment the bid has been submitted, it will no longer be possible to modify the documentation sent.

It should be noted that the Digital Envelope tool does not allow bids to be deleted or modified once they have been submitted; it is possible at any time prior to the submission of the bid. In the event that a tendering company submits two or more bids for the same lot/contract within the deadline for submission of bids, and intends the last bid to replace one or more previous bids, it must inform the contracting body in this way and the contracting body or, where appropriate, the contracting committee, will assess which of these bids is appropriate.

In the event of a technical failure that makes it impossible to use the digital envelope tool on the last day for submitting proposals, the contracting authority will extend the deadline for submission of the same for the time considered essential, modifying the deadline for submitting bids, publish the corresponding amendment on the Public Procurement Services Platform and the notify all companies that had activated the bid of the change of date.

You can find support material on how to prepare a bid using the digital envelope tool in the “Electronic Bidding” section of the Public Procurement Services Platform at the following web address:

<https://contractaciopublica.cat/en/manuals/usuari>

**11.3** In accordance with the provisions of section 1.Hof Additional Provision 16 of the LCSP, bids using the digital envelope tool can be sent in two stages: first by transmitting the digital fingerprint of the bid documentation within the deadline for submitting bids, whose receipt will be deemed to have been submitted for all purposes, then by sending the documentation of the bid itself, within a maximum period of 24 hours. If this second referral is not made within 24 hours, the bid will be considered to have been withdrawn.

If you use this possibility, you must bear in mind that the documentation sent in this second stage must completely match that of which the digital fingerprint was previously sent, so that no modification can be made to the electronic files that make up the bid documentation. Thus, it is important not to manipulate these files (or, for example, to make copies of them, even if their content is identical) so as not to change their digital fingerprint, which is what will be checked to ensure the coincidence of documents in the bids sent in the two stages.

Proposals submitted after the deadline will not be accepted under any circumstances.

**11.4** Submitted bids must be free of computer virus and of any type of programme or harmful code, since under no circumstances documents affected by a virus will be opened with the corporate tools of the Generalitat de Catalunya. Thus, the contracting companies must scan the documents with an antivirus programme. If documents from their bids arrive with viruses, it will be their fault that LCAT cannot access their content.

If any document submitted by the bidding companies is damaged, blank or illegible or is affected by a computer virus, LCAT will assess, depending on the documentation affected, the legal consequences regarding this company’s participation in the procedure, which must result from the impossibility of accessing the content of any of the documents in the bid. In the case of documents essential to understanding or evaluating the bid, LCAT may agree to exclude the company.

The bidding companies may submit a backup copy of the electronic documents presented in electronic physical support, which will be requested from the bidding companies if needed to access the content of the documents in case they are damaged. Thus, it is importance not to manipulate these files so as not to vary their electronic fingerprint, which is what will be checked to ensure the coincidence of the documents of the backup copy, sent in physical electronic support, and of the consignments in the bid, through the digital envelope tool. Moreover, this copy cannot be used if documents with virus have been sent through the digital envelope tool, given the technical impossibility in these cases of being able to compare the electronic fingerprints and therefore to guarantee that the bids have not been modified once the submission period has ended.

The Digital Envelope tool does not allow the submission of files larger than 25 MB. For this reason, files of this size have to be compressed or split into several parts. The partitioning has to be done manually (without using \*winzip or \*winrar automatic partitioning tools) and without incorporating any kind of password. The files resulting from the partitioning are incorporated in the other documentation section numbered (part 1 of 2, part 2 of 2).

**11.5** The technical specifications necessary for the electronic submission of tenders are available in the section "Help material for users" in the "support" section of the Public Procurement Services Platform: (https://contractaciopublica.cat/en/manuals/usuari).

The admissible electronic document formats are PDF and Excel.

**11.6** In accordance with Article 23 of the RGLCAP, foreign companies must submit documentation officially translated into Catalan and/or Spanish.

**11.7** Persons interested in the tender procedure may request additional information on the tender documents and other supporting documents from the contracting authority, which will provide it at least six days before the deadline for submission of tenders, provided that they have requested it at least 12 days before the deadline for submission of tenders.

People interested in the tendering procedure can also go to the contracting body to request clarification of what is established in the specifications or the rest of the documentation through the questions and answers section of the notice board of the virtual tender space. These questions and answers will be public and accessible through the aforementioned panel, located in the LCAT contractor profile.

**11.8** The submission of the bids implies the bidding company’s unconditional acceptance of the content of the present tender, of the technical prescriptions tender, as well as authorisation for the Board and the contracting body to consult the data collected by the Electronic Registry of Bidding Companies of the Generalitat de Catalunya or the Official Registry of Bidders and Classified Companies of the Public Sector, or the official lists of economic operators of a Member State of the European Union.

**11.9** Each bidding company cannot submit more than one proposal. Nor can it subscribe to any joint venture proposal with others if it has done so individually or appears in more than one temporary union. Violation of these rules results in the non-admission of any of the proposals subscribed to.

11.10 Contents of envelopes.

11.10.1 CONTENTS OF ENVELOPE A (GENERAL DOCUMENTATION and DOCUMENTATION RELATING TO SUBJECTIVE ASSESSMENT CRITERIA).

a)European Single Procurement Document (ESPD).

Bidding companies must submit the European Procurement Single Document (ESPD), through which they declare the following:

* That the company is validly constituted, that it can be submitted to the tender in accordance with its corporate purpose and that the person signing the ESPD has the proper representation to present the proposal and the ESPD.
* That it meets the requirements of economic, financial, technical solvency, in accordance with the minimum requirements of this contract.
* That it is not incurred in the prohibition to enter into contracts.
* That it complies with the rest of the requirements established in this contract and that can be proven through the ESPD.

Moreover, the designation of the name, surname and NIF of the person or persons authorised to access the electronic notifications must be included, as well as the email addresses and the mobile phone numbers to receive the notifications, in accordance with clause 8 of this contract. To ensure the receipt of electronic notifications, it is recommended to designate more than one person authorised to receive them, as well as several email addresses and mobile phone numbers to receive notices of postings.

These data must be included in the section relating to “contact person or persons” in Part II.A of the ESPD.

In addition, if applicable, the bidding companies will indicate in the ESPD the information relating to the person or persons qualified to represent them in this tender. The ESPD must be submitted electronically signed by the person or persons who properly represent the company to present the proposal.

In the case of companies that participate in the tender with the commitment to form a joint venture if they are awarded the contract, each must prove its personality, capacity and solvency and present a separate ESPD. In addition to the ESPD, they must provide a document stating their commitment to formally create a joint venture if they are awarded the contract.

If the bidding company resorts to the solvency and resources of other companies in accordance with the provisions of Article 75 of the LCSP, or intends to sign subcontracts, it must indicate this circumstance in the ESPD and another separate ESPD must be submitted for each of the companies whose solvency it appeals to or that it intends to subcontract.

In accordance with Article 71.1, letter d) of the LCSP, accreditation of compliance with the job reserve quota and the obligation to have an equality plan must be done through the presentation of the DEUC.

Bidding companies that appear in a national database of a Member State of the European Union, such as a virtual file of the company, an electronic document storage system or a pre-qualification system, with free access, only have to provide the information that does not appear in these bases in each part of the ESPD. Thus, the companies registered in the Electronic Registry of Bidding Companies (RELI) of the Generalitat de Catalunya, regulated by Decree 107/2005, of 31 May, and managed by the Technical Secretariat of the Consultative Board of Administrative Contracting (Carrer del Foc, 57, 08038 Barcelona; telephone (+34) 935.528.090; https://contractacio.gencat.cat/ca/inici/), or in the Official Registry of Bidders and Classified Companies of the Public Sector, are only required to indicate in the ESPD the information that is not entered in these records, or that is not current or updated. In any case, these companies must indicate in the ESPD the necessary information that allows the contracting body, if applicable, to access the corresponding supporting documents or certificates.

The contribution of the documentation justifying the fulfilment of the requirements required in this contract, the fulfilment of which has been indicated in the ESPD, must be made by the bidding company to which the award proposal falls for having presented the most economically advantageous bid, prior to the award.

However, the contracting body or the Procurement Board may ask the bidding companies to present all or part of the documentation justifying compliance with the prerequisites when they think that there are reasonable doubts about the validity or reliability of the ESPD or when necessary for the proper development of the procedure. However, the bidding company that is registered in the RELI or in the Official Registry of Bidders and Classified Companies of the Public Sector or that appears in a national database of a Member State of the European Union with free access is not required to present supporting documents or other documentary evidence of the data entered in these registries.

b)Declaration of submission to Spanish courts and tribunals.

Foreign companies must provide a declaration of submission to the Spanish courts and tribunals of any order for all incidents that may arise from the contract, with an express waiver of their own jurisdiction.

c)Commitment to assignment of material and/or personal means.

Declaration by the company to undertake to assign certain material and/or personal means to the execution of the contract, when required in **section G.3** **of the Table of Characteristics.**

d)Other documentation.

Any other documentation required in **section K of the Table of Characteristics.**

e)Provisional guarantee.

Proof of the constitution of the provisional guarantee when established in **section L of the Table of Characteristics** and for the amount to be determined.

The provisional guarantee can be constituted:

* In cash or in public debt securities, subject in each case to the conditions established by regulation, and in accordance with the requirements laid down in Article 55 of the RGLCAP and the forms listed in Appendices III and IV of the same regulation. The cash must be deposited in the “Caixa General de Dipòsits” of the General Treasury of the Generalitat de Catalunya or in the deposit boxes of the territorial treasuries. The immobilisation certificates of the listed values must be presented to the contracting authority.
* Through a guarantee presented to the contracting body, in the form and under the regulatory conditions, and without depositing it in the “Caixa General de Dipòsits”, lent by any bank, savings bank, credit cooperative, financial credit establishment or reciprocal guarantee authorized to operate in Spain, with strict compliance with the provisions of Articles 56 and 58 and Appendix V of the RGLCAP.
* For a surety insurance contract concluded in accordance with the requirements of Articles 57 and 58 and Appendix VI of the RGLCAP and signed with an insurance agency authorised to operate in the surety sector. The contract certificate must be delivered to the contracting authority.
* In the case of temporary unions of companies, the provisional guarantees can be set up by one or more of the participating companies, as long as the total amount required is reached and it jointly covers all the companies that make up the temporary union.

The provisional guarantee is automatically extinguished and must be returned to the bidding companies immediately after the perfection of the contract. In any case, the provisional guarantee must be returned to the bidding company selected as the successful bidder when it has set up the final guarantee, although it can apply the amount of the provisional guarantee to the final one or proceed to set up a definitive guarantee, ex novo.

f) Award criteria that can be evaluated based on a value judgment.

If award criteria that can be evaluated based on a value judgment and automatically quantifiable criteria have been established, the bidding companies must include in Envelope A all the documentation related to the award criteria submitted to the value judgment and in Envelope B the documentation related to the automatically quantifiable criteria.

In this case, the inclusion in Envelope A of the economic offer, as well as any relevant bid information that can be evaluated automatically and which, therefore, must be included in Envelope B, will entail the exclusion of the bidding company when there is a violation of the secrecy of the bids or the duty not to have knowledge of the content of the documentation relating to the objective assessment criteria before relating to the subjective assessment criteria.

11.10.2 CONTENT OF ENVELOPE B.

The financial proposal must be formulated, if applicable, according to the form that is attached as an appendix to this contract and as a template, in Envelope B of this tender included in the digital envelope tool, and the corresponding proposals to other award criteria, if applicable, to the contents indicated in the templates and appendices of this contract.

Financial proposals will not be accepted that have omissions, errors or amendments that obscure what is considered essential to evaluate them.

Through the digital envelope tool, companies must sign the “summary” document of their bids with an advanced electronic signature based on a qualified or recognised certificate, with whose signature it is understood that the entirety of the bid is signed, given that this document contains the electronic fingerprints of all the documents that make it up.

The proposals must be signed by the legal representatives of the bidding companies and, in the case of companies that compete with the commitment to form a joint venture if they are successful, they must be signed by the representatives of all the companies that make it up. The person or persons signing the bid must be the person or persons signing the ESPD.

For each document indicated in the digital envelope tool, the bidding companies will be able to indicate that it contains confidential information if it contains information of this type.

The documents and data presented by the bidding companies in the documentation related to the award criteria that can be assessed based on a value judgment included in Envelope A or the documentation related to the automatically quantifiable award criteria included in Envelope B can be considered confidential if they include industrial, technical or commercial secrets and/or intellectual property rights and their dissemination to third parties could be against their legitimate commercial interests or harm fair competition between companies in the sector, or when its treatment may be against the provisions of regulations on the protection of personal data. Moreover, the confidential nature affects any other information with content that can be used to falsify the competition, either in this bidding procedure or in subsequent ones. Under no circumstances are the company’s economic offer, nor the data included in the ESPD, confidential.

The confidentiality declaration of the companies must be necessary and proportional to the purpose or interest that is to be protected and must expressly and justifiably determine the documents and/or data provided that they consider confidential. Generic or unsubstantiated statements of a confidential nature are not accepted.

In any case, it is up to the contracting body to assess whether the classification of certain documentation as confidential is appropriate and, accordingly, decide on the possibility of access or viewing said documentation, after hearing the affected bidding company or companies.

As noted, the bidding companies will be able to submit a backup copy, in electronic physical form, of the documents of their bids that they have submitted using the digital envelope tool. This copy must be delivered at the request of the contracting authority or to the Procurement Board, if required, and must contain a copy of the bid with exactly the same documents – with the same fingerprints – as those provided in the bid through the digital envelope tool.

The submission of tenders means that the contracting authority may at any time during the contractual procedure consult or obtain information on anything declared by the tendering companies or contractors, unless they expressly object.

Twelve. Procurement Board.

**12.1** The Procurement Board is made up of the members indicated in section **I.1 of the Table of Characteristics**. The details of the composition will be published in the contractor’s profile at least seven days before the meeting for the qualification of Envelope A.

**12.2** The Procurement Board will grade the documentation contained in Envelope A. If there are defects that can be corrected, it will notify the affected bidding companies so that they can be corrected within three days. Once the defects in the documentation contained in Envelope A have been corrected, if applicable, the Board will evaluate it and determine the companies admitted to the tender and those excluded, as well as, in their case, the causes of the exclusion Without prejudice to the communication to the interested parties, these circumstances will be made public through their contracting profile.

Moreover, in accordance with Article 95 of the LCSP, the Board may ask the bidding companies for the clarifications it needs about the certificates and documents presented or require them to present complementary ones. In accordance with Article 22 of the RGLCAP, they will have a period of five calendar days without being able to present themselves after the bids have been declared accepted.

Requests for clarifications or amendments will be carried out by email or through the functionality that the digital envelope tool has for this purpose, through which an email will be sent to the address or addresses indicated by the bidding companies in the registration form, with the link to access the space of the tool where they must provide the corresponding documentation.

These requests for amendment or clarification can also be communicated to the company electronically through e-NOTUM, integrated with the Public Procurement Services Platform, in accordance with **clause 8** of this document.

**12.3** The acts of exclusion adopted by the Board in relation to the opening of Envelope A will be subject to appeal under the terms established in **clause 39**.

Thirteen. Committee of experts.

If a committee of experts is required, it will be indicated in section **I.2 of the Table of Characteristics**. The committee will evaluate the award criteria that depend on a value judgment, to which the following clause refers.

Fourteen. Determination of the best bid.

**14.1** Contract award criteria.

To evaluate the proposals and determine the best bid, the award criteria are established in **section H.1 of the Table of Characteristics** in accordance with Article 2.25.1. of the IIC and with what is provided for in Article 321 of the LCSP.

Therefore, the contract must be awarded using a plurality of award criteria on the basis of the best value for money or in accordance with criteria based on an approach that takes the best cost-effectiveness into account on the basis of price or cost, such as the calculation of the life cycle cost in accordance with Article 148 LCSP, in the subjects provided for in Article 145 of the LCSP.

**14.2** Practice of the evaluation of the bids.

If award criteria have been established based on a value judgment and automatically quantifiable criteria, the A envelopes presented by the admitted companies will be opened on the day and time indicated in the tender announcement. Afterwards, the B envelopes presented by the companies will be opened.

The Board or the contracting body may request and admit the clarification or amendment of errors in the bids when they are material or formal, not substantial and do not prevent knowledge of the meaning of the bid. Clarification or correction of errors in bids will only be permitted provided they do not involve modification or specification of the bid to guarantee the principle of equal treatment between bidding companies.

Requests for clarifications or amendments will be carried out by email or through the functionality that the digital envelope tool has for this purpose, through which an email will be sent to the address or addresses indicated by the bidding companies in the registration form, with the link to access the space of the tool where they must provide the corresponding documentation.

These requests for amendment or clarification can also be communicated to the company via electronic communication through the e-NOTUM, integrated with the Public Procurement Services Platform, in accordance with clause 8 of this contract.

Companies whose proposals do not agree with the examined and accepted documentation, those that exceed the basic tender budget, substantially modify the proposal forms established in this contract, or that contain an obvious error will be excluded from the tender, through a reasoned resolution in the amount of the proposal and those in which the bidding company recognises the existence of an error or inconsistency that makes it unviable.

The existence of errors in the economic proposals of the bidding companies will imply their exclusion from the procurement procedure when the principle of equality may be affected, in cases of errors that prevent it from being determined with certainty which is the price actually offered by the companies and, therefore, prevent evaluation of the bids.

The Board or the contracting body may request the technical reports it deems necessary before formulating its award proposal. You can also request these reports when you consider it necessary to verify that the offers comply with the technical specifications of the tenders. Proposals that do not meet these requirements will be excluded.

Reports may also be required to the social organisations of users who are recipients of the award, to organisations representing the field of activity to which the purpose of the contract corresponds, to trade unions, to organisations that defend gender equality and other organisations to verify social and environmental considerations.

The acts of exclusion of the bidding companies adopted in relation to opening Envelopes A and B will be subject to appeal under the terms established in **clause 39**.

**14.3** In the event of a tie in the scores obtained by the bids of the tendering companies, preference in the awarding of the contract will be given:

* The proposal presented by those companies that, on expiry of the deadline for the presentation of bids, have a higher percentage of disabled workers on their staff than those required by the regulations. If several of the tendering companies that have tied for the most advantageous proposal prove that they have a higher percentage of employees with disabilities than those required by the regulations, the tendering company with the highest percentage of permanent employees with disabilities on its staff will have preference in the awarding of the contract.
* The proposal presented by the insertion companies regulated by Law 44/2007, of 13th of December, for the regulation of the regime of insertion companies, which meet the requirements established by this regulation to be considered as such.
* In the awarding of contracts relating to social or assistance services, the proposal submitted by non-profit organisations, with legal personality, provided that their purpose or activity is directly related to the object of the contract, as established in their respective statutes or founding rules and that they are registered in the corresponding official register.
* The proposal of entities recognised as fair trade organisations for the awarding of contracts that have as their object products in which there is a fair trade alternative.
* The proposal presented by companies that, on expiry of the deadline for the presentation of bids, include measures of a social and labour nature that favour equal opportunities between women and men.
* The bidding companies must provide the documentation accrediting the tie-breaking criteria at the time when the tie occurs.

**14.5** Bids with abnormal or disproportionate values.

The determination of the bids that present abnormal values must be carried out based on the limits and objective parameters established in **section J of the Table of Characteristics.**

In the event that one or more of the tenders submitted are presumed to be abnormal, the contracting committee or body shall ask the tendering company or companies that submitted the tender to justify it and to provide a detailed and reasoned breakdown of the low level of prices, costs or any other parameter on the basis of which the tender is considered to be abnormal. For this reason, the committee or body shall request such details as it deems appropriate concerning the viability of the tender and the relevant justifications. The requested company will have a period of three working days to present the information and documents that are relevant for this purpose.

Requests for justification will be sent by email or through the functionality of the digital envelope tool for this purpose, through which an email will be sent to the address or addresses indicated by the companies bidders in the registration form, with the link to access the space of the tool where they must provide the corresponding documentation.

This requirement can also be communicated to the company through electronic communication through e-NOTUM, integrated with the Public Procurement Services Platform, in accordance with **clause 8** of this document.

The company has one **period of three working days** to present the corresponding information and justifications. If the last day is a non-working day, with the period ending on the first following working day. After this period, if the Board or the contracting body does not receive the requested information and supporting documentation, it will inform the contracting body and it will be considered that the proposal cannot be fulfilled, excluding the bidding company from the procedure.

If the Bureau or the contracting body receives the requested information and supporting documentation by the deadline, it will evaluate it and raise the corresponding proposal for duly motivated acceptance or rejection to the contracting body so it can decide, provide the technical advice on the corresponding service or accept the bid, because it considers its viability proven or otherwise rejects it.

The Board or the contracting body will reject bids made on the presumption of abnormality if they are based on assumptions or inappropriate practices from a technical, economic or legal perspective. Moreover, it will reject the bids if it verifies that they are abnormally low because they violate the regulations on subcontracting or do not fulfil the applicable obligations in national or international environmental, social or labour matters, including non-compliance with the sectoral collective agreements in force, in application of what is established in Article 201 of the LCSP.

Fifteen. Classification of bids and documentation requirement prior to the award.

**15.1** If a Procurement Board competes, once the bids have been assessed, the Board will rank them in descending order, and then send the corresponding award proposal to the procurement body.

To carry out this classification, the Procurement Board will take the award criteria into account. The Board’s award proposal does not create any rights in favour of the bidding company proposed as the awardee, since the contracting authority may deviate from it whenever it provides reasons for its decision.

**15.2** If no Procurement Board meets, once the bids have been evaluated, the procurement body will rank them in descending order and will take the award criteria into account.

Once the Board’s proposal has been accepted by the contracting body or directly by the body itself, the corresponding services will require the bidding company that presents the best bid to submit the supporting documentation mentioned below within **five working days** counting from the day following when it had received the request.

The documentation will be sent through email or the functionality that the digital envelope tool has for this purpose, through which an email will be sent to the address or addresses indicated by the bidding companies in the registration form, with the link to access the space of the tool where they must provide the corresponding documentation.

This request can also be made through electronic notification via e-NOTUM, integrated with the Public Procurement Services Platform, in accordance with clause 8 of this contract.

**A.1** Companies not registered in the Electronic Registry of Bidding Companies (RELI) or in the Official Registry of Bidders and Classified Companies of the Public Sector or that do not appear in a national database of a Member State of the European Union:

The bidding company that submitted the best bid must provide the following documentation. If applicable, this documentation must also be provided with respect to the companies whose capacities are used:

* Corresponding documentation certifying the capacity to work and legal personality, in accordance with the provisions of clause 9.
* Documents proving the representation and legal personality of the persons signing the bids: power of attorney to appear or sign bids on behalf of another and the national identity card or passport. The company can prove this by registration in the Representa portal register.
* Accrediting documentation of compliance with the specific solvency requirements or the corresponding classification certificate.
* In addition, the tendering company that has submitted the best offer will have to provide:
* If applicable, certificates attesting to compliance with the quality assurance and environmental management standards.
* In the event that the company uses the capacities of other entities, the commitment to have the necessary resources referred to in Article 75.2 of the LCSP.
* Documents accrediting the effective availability of means that it has committed to dedicate or assign to the execution of the contract in accordance with Article 76.2 of the LCSP.
* Document accrediting the constitution of the definitive guarantee, in accordance with what is established in clause sixteen (except in the case that the guarantee is constituted by means of withholding from the price).
* Receipt accrediting payment of the corresponding advertising expenses, the maximum amount of which is indicated in **section U of the Table of Characteristics**.
* Any other documentation that, specifically and due to the nature of the contract, is determined in **section K of the Table of Characteristics**.

**A.2** Companies registered in the Electronic Registry of Bidding Companies (RELI) or in the Official Registry of Bidders and Classified Public Sector Companies or listed in a national database of a Member State of the European Union:

The company that has submitted the best bid must provide the following documentation, only if it is not registered in these registers, or if it is not current or updated, in accordance with the provisions of the eleventh clause of these specifications, as well as the following documentation:

* In the event that the company resorts to the capacities of other entities, the commitment to have the necessary resources referred to in Article 75.2 of the LCSP.
* Documents certifying the effective disposal of means that have been committed to dedicate or assign to the execution of the contract in accordance with Article 76.2 of the LCSP.
* Document certifying the constitution of the definitive guarantee, in accordance with what is established in clause 16.
* Proof of payment of the corresponding advertising expenses, the maximum amount of which is indicated in **section U of the Table of Characteristics**.
* Any other documentation that, specifically and due to the nature of the contract, is determined in **section K of the Table of Characteristics** of the contract

**15.3** Once the required documentation has been provided by the bidding company that submitted the best bid, it will be qualified. If there are defects or errors of a rectifiable nature in the documentation presented, the affected companies must be notified so that they can correct or amend them in the **maximum term of 3 working days**.

Requests for amendments will be carried out by email or through the functionality of the digital envelope tool for this purpose, through which an email will be sent to the address or addresses indicated by the bidding company or companies in the registration form, with the link to access the space of the tool where they must provide the corresponding documentation.

These amendment requests can also be communicated to the company electronically through e-NOTUM, integrated with the Public Procurement Services Platform, or by email in accordance with clause 8 of this document.

If the documentation requirement is not properly fulfilled within the specified period, or within the period to amend that is given, it will be understood that the bidding company has withdrawn its bid and the same documentation will be required of the next bidding company in the order in which the bids have been classified.

This requires 3 per cent of the basic tender budget, excluding VAT, as a penalty, which will be effective in the first place against the provisional guarantee that may have been set up. In addition, it may result in declaring the company prohibited from entering into contracts for the reason provided for in Article 71.2.aof the LCSP.

Moreover, the eventual falsehood in what is declared by the bidding companies in the ESPD or in other declarations may give rise to a prohibition to enter into contracts with the public sector provided for in Article 71.1.eof the LCSP.

Sixteen. Definitive guarantee.

**16.1** The amount of the definitive guarantee is that indicated in **section M of the Table of Characteristics**.

**16.2** Guarantees can be provided in any of the following ways:

1. In cash or in public debt securities subject, in each case, to the conditions established by regulation. The cash and the immobilisation certificates in the listed values must be deposited in the “Caixa General de Dipòsits” of the General Treasury of the Generalitat de Catalunya or in the deposit boxes of the territorial treasuries.
2. Through a guarantee, provided in the form and under the conditions established by regulation, by any of the banks, savings banks, credit cooperatives, financial credit establishments or mutual guarantee companies authorised to operate in Spain, which must be deposited in any of the establishments mentioned in section a).
3. Through a surety insurance contract with an insurance company authorised to operate in the manner and conditions established by law. The insurance certificate must be delivered in the establishments indicated in section a).
4. Through withholding on the price, which will be carried out on the first invoices derived from the contract until the total amount is covered.

**16.3** In the case of a temporary merger of companies, the definitive guarantee can be constituted by one or more of the participating companies as long as the total reaches the amount required in **section M of the Table of Characteristics** and guarantee all the companies that are members of the temporary union jointly agree.

**16.4** The definitive guarantee corresponds to the items defined in Article 110 of the LCSP.

**16.5** In case of amortisation or total or partial replacement of the values that constitute the guarantee, the awarded company must replace them in the amount necessary so that the amount of the guarantee does not decrease for this reason, since there must be a documented record of the aforementioned replacement.

**16.6** When, as a result of the modification of the contract, its total value experiences variation, the guarantee constituted must be adjusted to the amount necessary to maintain the due proportion between the guarantee and the budget of the contract in force at each moment within a period of fifteen days from the date on which the company is notified of the modification agreement. For these purposes, the price variations that result from a review of this will not be considered, in accordance with what is indicated in the chapter relating to the review of prices in public sector contracts of the LCSP.

**16.7** When the penalties or indemnities payable to the awarded company become effective on the guarantee, it must replace or extend the guarantee, in the corresponding amount, within fifteen days from execution.

**16.8** In the event that the guarantee is not replaced in the cases mentioned in the previous section, LCAT can terminate the contract.

Definitive guarantees will not be returned or cancelled until the expiration of the contractual guarantee period or, upon termination of the contract, provided that, in the latter case, the termination was carried out through no fault of the contractor.

**16.9** In the event that the tender of the company awarded the contract had been subject to a presumption of abnormality, it will have to present a complementary guarantee of up to 5% of the price, in accordance with Article 107.2 of the LCSP.

Seventeen. Decision not to award or sign the contract and withdraw.

The procurement body may decide not to award or sign the contract for duly justified reasons of public interest and with the corresponding notification to the bidding companies before the formalisation of the contract. It may also withdraw from the procedure before the formalisation of the contract by notifying the bidding companies when it notices an irreparable violation of the contract preparation rules or the rules governing the award procedure. In both cases, the bidding companies will be compensated for the expenses they have incurred.

The decision not to award or sign the contract and the withdrawal of the award procedure will be published in the contractor’s profile.

Eighteen. Contract award.

**18.1** Once the documentation referred to in clause 15 has been submitted, the procurement body will agree to award the contract to the company or companies proposed as successful bidders within a period of **fifteen (15) calendar days** following the receipt of said documentation, which may be extended by an additional fifteen (15) days in the event that the reports provided for in the previous section are requested or if there are bids with abnormal or disproportionate values.

The tender will not be declared void if there is any proposal that is admissible in accordance with the criteria listed in this contract. The statement that this procedure has been abandoned, when appropriate, will be published in the contractor’s profile.

**18.2** The decision to award the contract will be notified to the bidding companies through electronic notification via e-NOTUM or email, in accordance with clause 8 of this contract, and will be published in the contractor’s profile of the contracting body within 15 days, indicating the period in which the contract must be formalised.

For this purpose, a notification of the availability will be sent to the email address. If it has been reported, it may be sent to the mobile phone number that the bidding companies have designated when submitting their proposals of the notification. The email will also contain the link to access it.

Nineteen. Formalisation and perfection of the contract.

**19.1** The contract will be formalised in a private document, using an advanced electronic signature based on a qualified or recognised electronic signature certificate. The awarded company or companies may request that the contract be converted into a public deed, bearing the corresponding costs. The formalisation of the contract will be carried out within a period of fifteen working days from the date on which the notification of the award referred to in the previous clause is sent to the tendering companies.

**19.2** If the contract is not formalised within the periods indicated in the previous section for reasons attributable to the awarding company, the amount of 3 per cent of the tender base budget is set as damages caused to the contracting body , excluding VAT, as a penalty, which must be recovered through the execution, in any case, of the total amount of the definitive guarantee, if applicable. If the damages were not sufficiently covered by the execution of the definitive guarantee or this had not been foreseen, they must be claimed through the courts. This may also result in declaring the company prohibited from entering into contracts, in accordance with Article 71.2.b of the LCSP.

If the contract **cannot be formalised with the awarded company**, it will be awarded to the following company that has submitted the best bid in accordance with the order in which the bids have been classified, with the prior submission of the documentation referred to in clause 15, the deadlines being applicable in the previous sections.

**19.3** If the contract **it is not formalised within the period indicated for reasons attributable to LCAT**, the awarding company will have to be compensated for any damages that the delay may cause.

**19.4** The companies that have competed with the commitment to form a joint venture must present, once the contract has been awarded in their favour, the public deed of incorporation of the temporary union (UTE) that states the appointment of the representative or the sole authorised person of the union with sufficient powers to exercise the rights and fulfil the obligations arising from the contract until its termination.

**19.5** The **content of the contract** will be what is established by Articles 35 of the LCSP and 71 of the RGLCAP and will not include any clause that implies alteration of the terms of the award.

**19.6** The contract will be perfected with its formalisation and this will be a prerequisite for starting the execution, except in cases of urgency and/or emergency duly justified in the file.

**19.7** The formalisation of this contract, together with the contract, will be published within a period of no more than fifteen days after its completion in the contractor’s profile.

**19.8** Once the contract has been formalised, the Generalitat de Catalunya’s Public Contracts Registry will be notified for registration of the basic data, which will include the identity of the awarded company, the award amount of the contract, together with the corresponding VAT breakdown; and subsequently, if applicable, modifications, extensions, time or price variations, the final amount and termination of the contract.

The contractual data communicated to the public registry of contracts will be publicly accessible, with the limitations imposed by the rules on data protection, as long as they are not confidential.

The execution of the contract may not begin without its prior formalisation, except in urgent and/or emergency cases duly justified in the file.

III. PROVISIONS RELATING TO THE EXECUTION OF THE CONTRACT

Twenty. Special and essential conditions of execution.

The special conditions in relation to the execution, to be complied with by the company or the contracting companies and, where applicable, by the company or the subcontractors, are those established in **section N of the Table of Characteristics,** as well as those established as such in the rest of the clauses of these specifications.

Twenty-one. Execution and supervision of supplies.

**21.1** The contract will be executed subject to what is established in its clauses and specifications and in accordance with the instructions given to the contractor company or companies by the person responsible for the contract referred to in **clause 24 of this contract**.

In its bid or when formalising the contract, the company must state or indicate the person or persons who will be responsible for the contract before LCAT, expressing the name and surname, landline and mobile telephone numbers and email. This person will have to centralise relations between the company and LCAT.

**21.2** The person designated by the contracting company will be in charge of managing all service requests, as well as resolving incidents of any kind that may arise and providing information requested by LCAT. Any replacement of this or these persons must be communicated to LCAT for its knowledge and within a minimum of ten working days in advance.

Twenty-two. Work programme.

The company or contracting companies will be required to present a work programme that must be approved by the contracting body when it is determined in **section V of the Table of Characteristics.**

Twenty-three. Compliance with deadlines and proper execution of the contract.

**23.1** The contracting company is obliged to deliver the goods which are the object of the supply in the time and place set out in **section D of the Table of Characteristics**.

The contracting company is not entitled to compensation for loss, breakdown or damage caused to the goods before delivering them in the terms set out in section D of the Schedule, unless LCAT has been in default in receiving them.

**23.2** If the contracting company incurs a delay in meeting the full or partial deadlines, for reasons attributable to it, given the circumstances of the case, LCAT may terminate the contract with loss of the guarantee or by imposing penalties established in **section N of the Table of Characteristics**. LCAT will have the same authority if the contracting company partially fails to perform the services defined in the contract for reasons attributable to it.

If the delay in meeting the deadlines was caused by reasons not attributable to the contracting company and the latter offers to comply if the initial deadline for execution is extended, it will be granted a deadline at least equal to the time lost, unless the contractor asked for another shorter one. In any case, the establishment of a delay by the contracting company will not require prior warning from LCAT.

**23.3** In the event of defective performance of the provision subject to the contract or breach of the commitments assumed by the company or the contracting companies or of the special conditions of execution established in **clause 20** of this contract, the imposition of the penalties established in Article 192.1 of the LCSP may be agreed upon.

**23.4** The amounts of the penalties imposed will be made effective by deducting the amounts that, in terms of total or partial payment, must be paid to the contracting company or on the guarantee that had been established, if applicable, when they cannot be deducted from the aforementioned payments.

In the event of partial non-performance or defective performance or delayed performance where no penalty is provided for or where the penalty does not cover the damage caused to the administration, the contractor shall be required to pay damages.

Twenty-four. Person responsible for the contract.

Regardless of the unit in charge of monitoring and the ordinary execution of the contract, the person responsible for the contract indicated in **section X of the Table of Characteristics** will perform the following functions:

* Supervise the execution of the contract and make the decisions and dictate the necessary instructions to ensure the correct performance of the service, always within the powers granted by the contracting body.
* Adopt the proposal on the imposition of penalties.
* Issue a report determining whether the delay in execution is due to reasons attributable to the contractor.

The instructions given by the person responsible for the contract set up the obligations for the execution of the contract together with its clauses and specifications.

Twenty-five. Resolution of incidents.

Due to differences in the interpretation of what has been agreed or due to the need to modify the contractual conditions, incidents that may arise between LCAT and the contracting company in the execution of the contract may be processed through a contradictory file that will necessarily include the actions described in Article 97 of the RGLCAP.

Unless justified by reasons of public interest or required due to the nature of the incidents, its processing will not determine the suspension of the contract.

Twenty-six. Resolution of interpretative technical doubts.

A non-binding external technical report can be requested from LCAT to resolve interpretative technical doubts that may arise during the execution of the contract.

IV. PROVISIONS RELATING TO THE RIGHTS AND OBLIGATIONS OF THE PARTIES.

Twenty-seven. Payments to the contracting company.

**27.1** The contractor shall be entitled to payment of the price of the supplies actually delivered and formally received by LCAT.

**27.2** The payment to the contractor shall be made against the presentation of the invoice issued in accordance with the current regulations on electronic invoicing, within a maximum period of 30 calendar days, counted from the effective date of the provision of the service or the reception of the contractual object or, in case this date is not known, from the date of registration of the invoice.

In accordance with the provisions of Law 25/2013, of the 27th of December, on the promotion of electronic invoicing and the creation of the accounting registry of invoices in the public sector, invoices must be signed with an advanced signature based on a recognised certificate and must necessarily include the contract file number.

The format of the electronic invoice and signature must conform to the provisions of Annex 1 of Order ECO/306/2015, of 23rd of September, which regulates the procedure for processing and recording invoices in the Accounting Registry of invoices in the public administration of the Generalitat de Catalunya and the public sector attached to it.

The EFACT platform is the general entry point for electronic invoices for the administration of the Generalitat de Catalunya and its public sector.

The identification data of the administrative body responsible for public accounting, of the contracting body and of the recipient, which the contracting company must include in the corresponding invoices, will be communicated to the awarded company.

The status of the invoices can be monitored on the website of the Catalan Ministry of the Vice Presidency and of the Economy and Finance in the Treasury and Payments section, from the day following registration of the invoice.

**27.3** In the event of a delay in payment, the contractor has the right to receive, under the legally established terms and conditions, late interest and the corresponding compensation for collection costs in the terms established in Law 3/2004, of 29th of December, by which measures are established to fight arrears in commercial operations.

**27.4** The contractor may deliver the supplies more quickly than stipulated in the contract. However, it will not be entitled to receive in each year, regardless of the amount of what has been executed or of the certificates issued, more than the amount allocated to the corresponding year, as affected by the award coefficient.

**27.5** The contracting company may transfer the collection rights under the terms and conditions established in Article 200 of the LCSP.

Twenty-eight. Liability of the contracting company.

**28.1** The contracting company is responsible for the technical quality of the services and deliveries provided, as well as for the consequences for LCAT or third parties resulting from omissions, errors, inadequate methods or incorrect conclusions in the execution of the contract.

**28.2** The contracting company executes the contract at its own risk and is obliged to indemnify any damages caused to third parties as a result of the operations required for the execution of the contract, except in the event that the damages are caused as an immediate and direct consequence of an LCAT order.

Twenty-nine. Other obligations of the contracting company.

1. The contracting company is obliged in the execution of the contract to comply with the applicable obligations in environmental, social or labour matters established by European Union law, national law, collective agreements or the provisions of international environmental, social or labour matters that bind the State, and in particular those established by Appendix V of the LCSP.

It must also comply with the provisions in force regarding the social integration of people with disabilities and tax authorities.

Non-compliance with the aforementioned environmental, social or labour obligations and, in particular, repeated non-compliance or delays in the payment of wages or the application of wage conditions lower than those derived from the collective agreements that are serious and fraudulent, will give rise to the imposition on the contractor company of a penalty amounting to 2,5 per cent of the base tender budget, excluding VAT, in accordance with Article 202.3 LCSP and the limits established in Article 192.1 LCSP.

To this end, the contracting company must send the justification of the effective realisation of these payments to the contracting body when requested to do so.

1. The contracting company must comply with the salary conditions of the workers in accordance with the applicable sectoral collective agreement.
2. The contracting company undertakes to apply the measures intended to promote equality between men and women when performing the specific supplies.
3. The contractor undertakes to comply with everything established by Law 1/2019, of 20 February, on business secrets and Organic Law 3/2018, of 5th of December, on the Protection of Personal Data and guarantee of digital rights and development regulations, in relation to the personal data to which it has access on the occasion of the contract; and, as of 25th of May 2018, to that established by Regulation (EU) 2016/679, of the European Parliament and of the Council, of 27th of April 2016, relating to the protection of natural persons with regard to the processing of personal data and the free movement of such data, which repeals Directive 95/46/EC.

The documentation and information obtained or accessed during the execution of the services that are the purpose of this contract and that corresponds to LCAT contracting responsible for the personal data file, is confidential and may not be the subject of total or partial reproduction by any means or medium. Therefore, it may not be processed or computerised, nor transmitted to third parties outside the strict scope of the direct execution of the contract.

1. The contracting company undertakes to provide, where appropriate, the information established in Article 3.5 of Law 19/2014, on transparency, access to public information and good governance.
2. In the case of service contracts whose purpose is to develop and make available products protected by an intellectual or industrial property right in accordance with Article 308 of the LCSP, these include the transfer of rights mentioned in LCAT.
3. The contractor undertakes to provide the service with the agreed continuity and to guarantee to individuals the right to use it under the conditions that have been established and by means of the payment, where appropriate, of the fixed economic consideration; to take care of the good order of the service; to compensate the damages caused to third parties as a consequence of the operations required to carry out the service, with the exception of those produced by causes attributable to LCAT; and to deliver, where appropriate, the service to third parties; to compensate the damages caused to third parties as a consequence of the operations required to carry out the service, with the exception of those caused by causes attributable to LCAT; and to deliver, if necessary, the works and installations to which it is obliged in the adequate state of conservation and functioning.
4. The contractor company or companies must comply with the competition regulations. In case of non-compliance with these regulations, LCAT may initiate a claim for damages, in accordance with Royal Decree Law 9/2017 of 26th of May.
5. The contracting company, unless otherwise agreed, is obliged to bear the costs of delivery and transport of the goods to be supplied at the agreed place.
6. In the case of leasing contracts, the contracting company is obliged to maintain the object of the contract for the duration of the contract.

Thirty. Prerogatives of LCAT.

**30.1** Within the limits and subject to the requirements and effects indicated in the LCSP, the contracting body has the prerogatives to interpret the contract, resolve the doubts raised by its compliance, modify it for reasons of public interest, declare the liability attributable to the contractor company following its execution, suspend its execution, agree on its resolution and determine its effects. Also, the contracting body has the powers to inspect the activities carried out by the contracting company during the execution of the contract, in the terms and with the limits established by the LCSP.

**30.2** The agreements adopted by the contracting body in the exercise of the aforementioned prerogatives exhaust the administrative route and are immediately enforceable.

**30.3** The exercise of the prerogatives of LCAT will be carried out through the procedure established in Article 191 of the LCSP.

Thirty-one. Modification of the contract.

**31.1** The contract can only be modified for reasons of public interest, in the cases and in the manner specified in **section P** **of the Table of Characteristics and this clause** and, subsidiarity, in accordance with what is provided for in Articles 203 to 207 of the LCSP.

**31.2** Anticipated modifications: Art. 204 LCSP

The modification of the contract will be carried out in the event(s), with the conditions, scope and limits detailed in this clause and in accordance with the following procedure:

1. Report of the need for modification.
2. Notification to the contracting company.
3. Formalisation of the contractual modification.
4. Publication on the Public Procurement Services Platform

**These modifications are mandatory for the contracting company**.

Under no circumstances may the modification of the contract entail the establishment of new unit prices not provided for in the contract.

**31.3** Unplanned modifications: Art. 205 LCSP

The modification of the contract not provided for in this clause can only be carried out when the requirements are met and the cases provided for in Article 205 of the LCSP are met, in accordance with the procedure regulated in Article 191 of the LCSP and with the particularities provided for in Article 207 of the LCSP.

These modifications are mandatory for the contracting company unless individually or together they involve a change in their amount that exceeds 20% of the initial contract price, excluding VAT. In this case, the modification will be agreed by the contracting body with the prior written consent of the contracting company. Otherwise, the contract will be terminated in accordance with the cause provided for in Article 211.1.g) of the LCSP.

**31.4** The modifications to the contract will be formalised in accordance with the provisions of Article 153 of the LCSP and clause 19 of this contract.

**31.5** The announcement of modification of the contract, together with the allegations of the contracting company and all the reports that, if applicable, are requested before approving the modification, both those provided the awarding company and those issued by the contracting authority, will be published in the contractor’s profile.

**31.6** The variation that occurs during the proper execution of the service exclusively in the number of units actually executed on those provided for in the contract, which can be collected at liquidation, is not considered modification as long as it does not increase expenditure exceeding 10 per cent of the contract price.

Thirty-two. Suspension of the contract.

**32.1** The contract may be suspended by agreement of LCAT or because the contractor chooses to cease compliance in the case of a delay in payment of the price exceeding four months by notifying LCAT one month in advance. In any case, LCAT must extend the corresponding suspension record, ex officio or at the request of the contracting company, in accordance with the provisions of Article 208.1 of the LCSP.

**32.2** In accordance with Article 103 of the RGLCAP, the record of suspension must be signed by a person representing the contracting body and the contracting company and must be extended within a maximum period of two working days, starting from the day after the day on which the suspension is agreed.

**32.3** LCAT must pay the contracting company any damages effectively caused in accordance with the provisions of Article 208.2 of the LCSP. Payment of damages to the contracting company will only cover the reasons for payment indicated in this precept.

Thirty-second bis. Ethics clause.

**32.1.Bis** Senior officials, managerial staff, commanding positions, administrative positions and staff of the Public Administration and its public sector who intervene, directly or indirectly, in the public procurement procedure are subject to the Code of Principles and recommended conduct in public procurement and its provisions will be applied cross-cuttingly to any action that is part of any stage of the procurement procedure in accordance with the degree of intervention and responsibility in the contractual procedures.

The submission of the bid by the bidders will mean their adherence to the Code of Principles and recommended conduct in public procurement in accordance with the ethical and integrity commitments that form part of the contractual relationship.

**32.2.Bis** Bidders, contractors and subcontractors assume the following obligations:

1. Observe the principles, rules and ethical canons specific to the activities, trades and/or professions corresponding to the services covered by the contracts.
2. Refrain from taking action that puts the public interest at risk in the area of the contract or the services to be tendered.
3. Report irregular situations that may occur in public procurement processes or during the execution of contracts.
4. Refrain from conduct whose purpose may have the effect of preventing, restricting or distorting competition, such as collusive or fraudulent competitive behaviour (guarding bids, elimination of bids, allocation of markets, bid rotation, etc.).
5. At the time of submitting the bid, the bidder must declare if he has any situation of possible conflict of interest, for the purposes of Article 64 of the LCSP, or an equivalent relationship with interested parties in the project. If a situation of this nature occurs during the execution of the contract, the contractor or subcontractor must inform the contracting authority.
6. Respect agreements and confidentiality rules.
7. Collaborate with the contracting body in the actions it carries out for the monitoring and/or evaluation of the fulfilment of the contract, particularly by providing the information that is requested for these purposes and that the transparency legislation and public sector contract regulations impose on contractors in relation to the Public Administration or administrations of reference, without prejudice to compliance with the transparency obligations that belong to them directly by legal provision.

**32.3.Bis** Bidders, contractors and subcontractors, or their subsidiaries or related companies, undertake to strictly comply with tax, labour and social security legislation and, specifically, not to carry out financial operations contrary to tax regulations in countries that do not have rules on capital controls and are considered tax havens by the European Union.

**32.4.Bis** All these obligations and commitments are considered special conditions for the execution of the contract.

**32.5.Bis** The consequences or penalties for breach of this clause will be as follows:

* In case of breach of sections a), b), c), f) and g) of section 32.2.Bis, a minimum penalty of 0,60 Euros is established for every 1.000 Euros of the contract price, VAT excluded, which may increase in a justified and proportional way depending on the seriousness of the events. The seriousness of the events will be determined by the damage caused to the public interest, repetition of the events or the gain of a benefit derived from the breach. In any case, the amount of each of the penalties may not exceed 10% of the contract price, excluding VAT, nor may their total exceed 50% of the contract price under any circumstances.
* In the case of non-compliance with what is provided for in letter d) of section 32.2.Bis, the contracting body will notify the competent authorities of the matter of competition.
* In the case of non-compliance with what is provided for in letter e) of section 32.2.Bis, the contracting body will bring it to the attention of the Public Procurement Ethics Commission of the Generalitat de Catalunya so that it issues the relevant report, without prejudice of other penalties that may be established.
* If the seriousness of the facts requires it, the contracting body will bring them to the attention of the Antifraud Office of Catalonia or the control and inspection bodies that are competent in the matter.

V. PROVISIONS RELATING TO SUCCESSION, ASSIGNMENT, SUBCONTRACTING AND REVIEW OF CONTRACT PRICES

Thirty-three. Succession and assignment of the contract.

**33.1** Succession in the person of the contractor:

In the event of a company merger in which the contracting company participates, the contract will remain in force with the absorbing entity or with the entity resulting from the merger, which will be subrogated in all rights and obligations arising from it.

In cases of separation, contribution or transfer of companies or branches of activity, the contract will continue with the entity to which the contract is attributed, which will be subrogated in the rights and obligations that it requires, as long as it meets the conditions of capacity, absence of prohibition to entering into contracts and the solvency required when agreeing to the award of the contract or as long as the companies benefiting from these operations are jointly responsible for the execution of the contract as well as, in case of subsisting, the company from which the assets, companies or segregated branches originate.

The contracting company must notify the contracting authority of the circumstance that has occurred.

If the contracting company is a UTE, when merger, off-split or branch transfer operations take place with respect to one or more companies that are part of the temporary union, the contract will continue to be executed with the awarded temporary union.

If the absorbing company resulting from the merger, the beneficiary of the split or the acquirer of the branch of activity are not integral companies of the temporary union, it must have full capacity to act, it cannot be prohibited from entering into contracts and it must maintain the required solvency, capacity or classification.

If the contract is awarded to a different entity, the definitive guarantee can be renewed or replaced, at the discretion of the awarding entity, by a new guarantee subscribed by the new entity, taking into account the risk assumed by the latter entity. In any case, the old definitive guarantee remains valid until the new guarantee is established.

If the subrogation cannot occur because the entity to which the contract should be attributed does not meet the necessary solvency conditions, the contract will be terminated, being considered for all purposes a case of termination due to the fault of the contracting company.

* 1. Assignment of the contract (see **section Q** **of the Table of Characteristics**):

The rights and obligations arising from this contract may be assigned by the contracting company to a third party as long as the technical or personal qualities of the assignee have not been a determining reason for the award of the contract or the assignment does not result in an effective restriction of competition in the market, when the following requirements are met:

1. The contracting body authorises the assignment expressly and in advance. If the two-month period passes without a decision on the transfer authorisation request having been communicated, this will be understood as granted due to administrative silence.
2. The transferring company has executed at least 20 per cent of the contract amount. This requirement is not required if the transfer takes place while the contracting company is in bankruptcy, even if the liquidation stage has opened, or has informed the competent court of the declaration of bankruptcy for which it has started negotiating to reach a refinancing agreement, or to obtain adhesions to an advance agreement proposal, in the terms provided for by insolvency legislation.
3. The transferee company has the capacity to enter into contracts with LCAT, the solvency required depending on the stage of execution of the contract and is not involved in a cause of prohibition to enter into contracts.
4. The assignment is formalised between the awarding company and the transferring company in a public deed.

The assignment to a third party may not be authorised when the assignment involves a substantial change in the characteristics of the contracting company if they are essential to the contract.

The assignee company will be subrogated in all the rights and obligations that would correspond to the company that assigns the contract.

Thirty-four. Subcontracting.

**34.1** The contracting company can arrange the partial performance of the provision that is the subject of this contract with other companies, in accordance with what is foreseen in **section R of the Table of Characteristics**.

Tendering companies must indicate in their tenders the part of the contract which they intend to subcontract, stating the amount and the name or professional profile, defined by reference to the conditions of professional or technical solvency, of the subcontractors to whom they intend to entrust the performance of the contract. In this case, the intention to subcontract must be indicated in the STUC and a separate STUC must be submitted for each of the undertakings intending to subcontract.

In the event that the contracting companies wish to enter into contracts that do not comply with what is indicated in the offer, these may not be entered into until twenty days have elapsed since the notification has been sent to the contracting body and the justifications referred to in the following paragraph have been provided, unless expressly authorised beforehand or if there is a justified emergency situation or urgent measures are required, unless LCAT notifies its opposition within this period.

**34.2** The contracting company must communicate in writing, after the contract is awarded and, at the latest, when it its execution begins, to the contracting body of its intention to sign subcontracts, indicating the part of the provision it intends to outsource and the identity, contact details and legal representative or representatives of the subcontracting company, sufficiently justifying the latter’s ability to execute it by reference to its technical and human components and its experience and proving that is not subject to a prohibition on entering into contracts.

If the subcontracting company has the appropriate classification to carry out the part of the contract that is the purpose of the subcontract, notification of this circumstance is sufficient to prove its suitability.

**34.3** The contracting company must notify the contracting authority in writing of any changes to this information during the execution of the contract and all the necessary information about the new subcontracts.

**34.4** The signing of subcontracts is subject to compliance with the requirements and circumstances regulated in Article 215 of the LCSP.

**34.5** The violation of the conditions established in this clause and in Article 215 of the LCSP to proceed with subcontracting, as well as the lack of accreditation of the subcontracting company’s aptitude or the determining circumstances of the situation of emergency or those that make subcontracting urgent, will entail the following consequences, depending on the repercussion in the execution of the contract:

1. The imposition on the contracting company of a penalty of up to 50 per cent of the amount of the subcontract.
2. The termination of the contract, as long as the requirements established by the second paragraph of letter f) of section 1 of Article 211 of the LCSP are met.

**34.6** The subcontracting companies are bound only to the main contracting company which will, therefore, assume full responsibility for the execution of the contract vis-à-vis LCAT, in accordance with this specification and the terms of the contract, including fulfilment of the obligations in environmental, social or labour matters referred to in clause 29 of this contract. As well as the obligation to submit to national and European Union regulations on data protection.

The knowledge that LCAT has of the contracts signed or the authorisation it grants do not alter the exclusive responsibility of the main contractor.

The subcontracting companies do not have direct action against LCAT contracting for the obligations contracted with them by the contracting company as a result of the execution of the main contract and the subcontracts.

**34.7** Under no circumstances may the company or contracting companies arrange the partial execution of the contract with persons disqualified from contracting in accordance with the legal system or incurred in any of the causes of prohibition to enter into contracts provided for in Article 71 of the LCSP.

**34.8** The contracting company must inform the representative of the subcontracting workers, in accordance with labour legislation.

**34.9** Subcontracts are in any case private in nature.

**34.10** Payment to subcontractors and supply companies is governed by the provisions of Articles 216 and 217 of the LCSP.

LCAT will verify strict compliance with payment to subcontractors and supplier companies by the contracting company.

For these purposes, the contracting company must provide, when requested, a detailed list of subcontractors or supplier companies specifying the conditions related to the payment deadline and must present proof of payment on time. These obligations are considered a special condition of execution, so that their failure to comply may result in the imposition of the penalties provided for in clause 23 of this contract, responding to the definitive guarantee of these penalties.

A penalty of 2.5 per cent of the base tender budget, VAT excluded, will be imposed on the contracting company in accordance with Article 202.3 LCSP and the limits established in Article 192. 1 LCSP, when, by means of a firm judicial or arbitration decision provided by the subcontractor or by the supplier to the contracting body, the lack of payment on time by the contractor to a subcontractor or supplier linked to the execution of the contract is accredited, and provided that this delay in payment is not motivated by the breach of any of the contractual obligations assumed by the subcontractor or by the supplier in the execution of the service.

Thirty-five. Price review.

**35.1** The price review applicable to this contract is detailed in **section S of the Table of Characteristics**.

**35.2** The price review will only be appropriate when at least 20% of the amount of the contract has been executed and one years have passed since its formalisation.

**35.3** The amount of the reviews that are due will be effective, ex officio, through the credit or the corresponding discount in the certifications or partial payments.

VI. PROVISIONS RELATING TO THE TERMINATION OF THE CONTRACT

Thirty-six. Reception and liquidation.

**36.1** The receipt and liquidation of the contract will be carried out in accordance with the provisions of Articles 210 and 311 of the LCSP and Article 204 of the RGLCAP.

LCAT will determine if the service performed by the contractor company conforms to the prescriptions established for its execution and compliance and, if applicable, will require the performance of the contracted services and the correction of the defects observed upon their reception.

**36.2** If the work carried out does not correspond to the service contracted, as a result of defects or shortcomings attributable to the contracting company, it may reject it in such a way that it will be exempt from the obligation to pay or will have the right, if applicable, to recover the price paid.

The reception and liquidation of the supplies that are the object of the contract will be carried out in accordance with the provisions of articles 210 and 300 of the LCSP.

If, due to their condition, the goods cannot be received, this must be recorded in the reception report and LCAT must give the necessary instructions to the contractor to remedy the condition of the defective goods or deliver new goods in accordance with the contract.

In addition, the contract reception units will verify effective compliance with the contractual clauses that establish obligations to use Catalan, making express reference to them in the certificates of receipt and correct execution.

Thirty-seven. Guarantee period and return or cancellation of the definitive warranty.

**37.1** The guarantee period is that indicated in **section T of the Table of Characteristics** and will begin to run from receipt of the supplies.

**37.2** If during the guarantee period the existence of vices or defects in the goods supplied is accredited, the contracting body has the right to demand that the contracting company replace those that are inadequate or repair them if this is sufficient.

During this period the contracting company has the right to be heard on the application of the supplied goods.

If the goods are not fit for purpose, as a result of the defects or faults observed and attributable to the contracting company, and there is the presumption that the repair or replacement is not sufficient, the contracting body may reject the goods and leave them to the account of the contracting company, without the latter having the right to the payment of the goods or, if applicable, to be claimed the price that LCAT has paid.

**37.3** Once the obligations resulting from the contract have been fulfilled by the contracting company, if there are no responsibilities that must be exercised on the definitive guarantee and the guarantee period has passed, the agreement of return or cancellation of the definitive guarantee will be issued ex officio, in accordance with the provisions of Article 111 of the LCSP.

Thirty-eight. Termination of the contract.

**38.1** The following are grounds for terminating the contract:

* The death or subsequent incapacity of the individual contractor or the termination of the legal personality of the contracting company, without prejudice to the provisions of Article 98 relating to the succession of the contractor.
* The declaration of bankruptcy or the declaration of insolvency in any other procedure.
* Mutual agreement between LCAT and the contractor.
* Delay in meeting deadlines by the contractor.
* Delay in payment by LCAT for a period of more than six months.
* The breach of the main obligation of the contract, as well as the breach of the essential obligations qualified as such in this contract.
* The impossibility of executing the service in the initially agreed terms when it is not possible to modify the contract in accordance with Articles 204 and 205 of the LCSP; or when, given the circumstances established in Article 205 of the LCSP, the modifications involve, individually or together, changes in the price of the same, in an amount greater than, more or less, 20% of the initial price of the contract, excluding VAT.
* The withdrawal before the commencement of the supply or the suspension of the commencement of the supply for reasons attributable to LCAT for a period of more than four months from the date indicated in the contract for the delivery.
* Withdrawal once the execution of the supply has begun or the suspension of the supply for a period of more than eight months agreed by LCAT.
* Non-payment, during the execution of the contract, of the wages by the contractor to the workers who were participating in it, or the breach of the conditions established in the collective agreements in force for these workers during the execution of the contract.

**38.2** The application and effects of these causes for termination are those established in articles 212, 213 and 307 of the LCSP.

**38.3** In all cases, the termination of the contract will be carried out following the procedure established in Article 191 of the LCSP and Article 109 of the RGLCAP.

VII. REMEDIES, PROVISIONAL MEASURES AND SPECIAL CASES OF CONTRACTUAL NULLITY

Thirty-nine. Appeals regime.

**39.1** In accordance with Article 321. 5 of the LCSP, the actions adopted by the contracting body in the preparation and awarding of the contract for the entities referred to in this article must be challenged administratively in accordance with the provisions of Law 39/2015, of 1 October, of the Common Administrative Procedure of Public Administrations, Specifically, bidders, in accordance with the provisions of articles 121 and 122 of Law 39/2015, of 1 October, on the Common Administrative Procedure for Public Administrations, in accordance with article 76 of Law 26/2010, of 3rd of August, on the legal and procedural regime of the public administrations of Catalonia, may lodge:

* **Against the invitation to tender or the specifications**: an appeal to be lodged within a period of one month, from the day after publication, with the Secretary of Finance of the Department of Economy and Finance of the Generalitat de Catalunya, and to be resolved by the head of the Department of the Department of Economy and Finance of the Generalitat de Catalunya.
* **Against the award**: an appeal to be lodged within a period of one month from the day after the notification of the decision, with the Secretary of Finance of the Ministry of Economy and Finance of the Generalitat de Catalunya, and to be resolved by the head of the Department of the Ministry of Economy and Finance of the Generalitat de Catalunya.

**39.2** Against the acts adopted by the contracting body in relation to those of this contract that are not subject to administrative appeal (the effects, modification and termination of the contract), actions will be brought according to private law.

Forty. Disability regime.

This contract is subject to the invalidity regime provided for in Articles 38 to 43 of the LCSP.

Forty-one. Jurisdiction, competition and arbitration.

**41.1** For the resolution of litigious issues that may arise in relation to the preparation and award of this contract, the administrative contentious jurisdiction of the city of Barcelona will be competent, with the express waiver of any other jurisdiction that may correspond due to domicile or other circumstances.

**41.2** For the resolution of litigious issues that may arise in relation to the effects, modification and termination of this contract, the parties will submit to the arbitration of the Court of Arbitration of Catalonia, as long as it is about matters of free provision in accordance with law and, specifically, on the effects, compliance and termination of this contract, in accordance with the provisions of Law 60/2003, of 23rd of December, on arbitration or regulations that replace it. In the absence of arbitration, the civil jurisdiction of the city of Barcelona will be competent, with the express waiver of any other jurisdiction that may correspond due to domicile or other circumstances.

Conflicts, disputes and claims arising between the contracting company and the users in the legal consumer relations that arise during the execution of this contract must be resolved by means of the Consumer Arbitration System. To this end, in accordance with article 133-4 of Law 22/2010, of 20th of July, of the Consumer Code of Catalonia, the contractor company/s must choose between adhering to the Consumer Arbitration System or accepting arbitration for each specific case.

On the date of the electronic signature of the director general of Loteries de Catalunya, SAU.

ABBREVIATIONS CONTAINED IN THIS DOCUMENT

(arranged alphabetically)

BOE Official State Gazette of Spain

CPA Statistical classification of products by activities

CPV Common procurement vocabulary

DOGC Official Journal of the Government of Catalonia

OJEU Official Journal of the European Union

IIC Internal procurement instructions of Loteries de Catalunya, SAU

LCAT Loteries of Catalonia, SAU

LCSP Law 9/2017, of 8th of November, on public sector contracts

LOPD Organic Law 3/2018, of 5th of December, on the protection of personal data and guarantee of digital rights

LPAC Law 39/2015, of 1st of October, on the common administrative procedure of public administrations

LRJPAC CAT Law 26/2010, of 3rd of August, on the legal regime and procedure of the public administrations of Catalonia

PCAP Particular Administrative Clauses

PPT Technical Prescription Sheet

RPC Public Registry of Contracts of the Generalitat of Catalonia

RELI Electronic Registry of Bidding Companies

RGLCAP Royal Decree 1098/2001, of 12th of October, which approves the General Regulations of the Public Administration Contracts Act

ANNEXES

ANNEX 1 DECLARATION OF TRANSFER OF DATA

(To be included in Envelope A)

ANNEX 2 TECHNICAL PROPOSAL

(To be included in Envelope A)

ANNEX 3 FINANCIAL OFFER

(To be included in Envelope B)