

**SPECIFICATION OF SPECIFIC ADMINISTRATIVE CLAUSES THAT REGULATE THE  
FRAMEWORK AGREEMENT FOR THE APPROVAL OF SUPPLIERS FOR THE  
CONTRACTING OF THE SERVICE OF MANAGEMENT OF THE REGISTRATION AND  
MAINTENANCE OF PATENTS AND OTHER INDUSTRIAL PROPERTY RIGHTS FOR THE  
ENTITIES THAT MAKE UP THE JOINT PURCHASING GROUP**

**OPEN PROCEDURE - SUBJECT TO HARMONISED REGULATION**

**Exp. 01/2022**

**Description of the Framework Agreement:**

Framework Agreement: Service

Procedure: Ordinary

Procedure: Open

CPV: 85312320-8 Advisory Services

CPV: 70332300-0 Services related to industrial property

CPV: 79120000-1 Patent & Copyright Consulting Services

**In the event of a discrepancy, the Spanish version will prevail.**

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## I. SUMMARY TABLE OF CHARACTERISTICS

### A. DESCRIPTION OF THE SUBJECT MATTER OF THE FRAMEWORK AGREEMENT:

**A.1.** Purpose: The purpose of this Framework Agreement is the approval of suppliers for the contracting of the service of management of the registration and maintenance of patents and other industrial property rights, owned or co-owned, or in those cases where there is a management entrustment.

**A.2.** Entities participating in the Framework Agreement:

1. Entities initially adhered to (hereinafter, **Group A**):

- Centre for Research in Agricultural Genomics (CRAG)
- Centre for Genomic Regulation Foundation (CRG)
- Girona Biomedical Research Institute Dr. Josep Trueta Foundation (IDIBGI)
- Institute for Bioengineering of Catalonia Foundation (IBEC)
- Fundació Institut de Recerca de l'Hospital de la Santa Creu i Sant Pau (FIRHSCSP)
- Catalonia Institute for Energy Research Foundation (IREC)
- Institute of Agrifood Research and Technology (IRTA)
- Josep Carreras Leukaemia Research Institute (IJC)

2. Entities that may subsequently join according to the procedure described in **section U** of the summary table of characteristics of this same Specification. These entities, hereinafter **Group B**, may be those that are recognized as "CERCA" centers as well as other non-profit research entities, which show their interest in joining.

**A.3. Lots:**

- **LOT 1 - LIFE AND HEALTH SCIENCES:** Management of industrial property corresponding to pharmaceutical chemistry, biotechnology, bioengineering, diagnostics, medical devices, medical devices, medical devices, nutrition, health, nanobiotechnology, advanced therapies (stem cells, gene therapy, cell therapy, nanomedicine, regenerative medicine and tissue engineering).
- **LOT 2 - PHYSICAL SCIENCES AND ENGINEERING:** Industrial property management corresponding to, electronic engineering, software, computer-implemented inventions and telecommunications, artificial intelligence, mechanical

and industrial engineering, materials, chemical engineering, energy, nanotechnology, instrumentation, optics and photonics, quantum, robotics, food technology and environmental technology.

There are no limitations on the participation of the lots into which the Framework Agreement is divided.

**A.4. Number of successful bidders.** The Framework Agreement shall be concluded with at least one (1) bidder for each lot and without limiting the maximum number of approved suppliers, provided that they comply with the selection criteria or eligible bids that meet the award criteria, under the conditions set out in these Specifications.

## B. ESTIMATED VALUE OF THE FRAMEWORK AGREEMENT

The method applied to calculate the estimated value of the contract is, in accordance with **Article 101** of the LCSP, the maximum estimated amount of the set of contracts provided for throughout the term of the Framework Agreement, including any extensions and modifications envisaged. Thus, the estimated value of the Framework Agreement is **€3,489,595.20** (excluding VAT)

Concept	Estimated Value Lot 1	Estimated Lot 2	Total
First Group A Annuity	€448,900.00	€190,220.00	<b>€639,120.00</b>
First Group B Annuity	€134,670.00	€57,066.00	<b>€191,736.00</b>
First overtime Group A	€448,900.00	€190,220.00	<b>€639,120.00</b>
First overtime Group B	€134,670.00	€57,066.00	<b>€191,736.00</b>
Second Group A Title	€448,900.00	€190,220.00	<b>€639,120.00</b>
Second Own Group B	€134,670.00	€57,066.00	<b>€191,736.00</b>
Third overtime Group A	€448,900.00	€190,220.00	<b>€639,120.00</b>
Third overtime Group B	€134,670.00	€57,066.00	<b>€191,736.00</b>
Possible modifications Group A	€89,780.00	€38,044.00	<b>€127,824.00</b>
Possible modifications Group B	€26,934.00	€11,413.20	<b>€38,347.20</b>
<b>TOTAL ESTIMATED VALUE</b>	<b>2.450.994,00 €</b>	<b>1.038.601,20 €</b>	<b>3.489.595,20 €</b>

## **GROUP A:**

The amount of the annuities has been calculated on the basis of the expected estimates of the services to be provided according to the lot by each entity participating in this Framework Agreement and according to the maximum unit prices established below:

<b>Services associated with the Framework Agreement – GROUP A</b>			
<b>Description</b>	<b>Maximum Unit Prices</b>	<b>Total anual LOTE 1</b>	<b>Total, anual LOTE 2</b>
<b>Potential Protection Analysis</b>	800,00 € incl.	€12,800.00	€3,200.00
<b>Drafting of patentability studies</b>	€4,000.00	€64,000.00	€24,000.00
<b>International Strategy Report</b>	€1,500.00	€15,000.00	€6,000.00
<b>Drafting of the protection and application reports for each invention</b>	€7,000.00	€91,000.00	€35,000.00
<b>Patent Scope of Protection Analysis, International Extension Strategy and Report</b>	€2,500.00	€22,500.00	€7,500.00
<b>Adaptation of memories</b>	€1,200.00	€21,600.00	€9,600.00
<b>Extension of protection (PCT or others)</b>	€6,000.00	€78,000.00	€36,000.00
<b>IPER Management</b>	€4,000.00	€16,000.00	€12,000.00
<b>Patent applications in national phases</b>	<b>(see note 1)</b>	€54,000.00	€24,000.00
<b>Procedures related to the follow-up and defence of the file until its concession and maintenance are achieved</b>	<b>(see note 1)</b>	€22,000.00	€10,000.00
<b>Writing Freedom to Operate (FTO) Reports</b>	<b>(see note 1)</b>	€30,000.00	€15,000.00
<b>Translations</b>	€22.00/word.	€22,000.00	€7,920.00
	<b>ANNUAL TOTAL</b>	<b>€448,900.00</b>	<b>€190,220.00</b>
	<b>VAT.</b>	<b>€94,269.00</b>	<b>€39,946.20</b>
	<b>TOTAL GROUP A BATCH</b>	<b>€543,169.00</b>	<b>€230,166.20</b>

**Note 1:** The performance of these services will be paid at the following rates/maximum hour per dedication depending on the type of task:

- **Administrative tasks:** maximum unit amount **90€ /hour**
- **Technical tasks:** maximum unit amount **180 €/hour**

The maximum unit prices have been established by estimating the values by means of a market survey. These usual market prices have taken into account the costs based on the application of the labour regulations in force, other costs deriving from the material execution of the services, the general costs of the structure and the industrial profit, establishing a maximum price that is in accordance with real market prices and that guarantees competition.

### **GROUP B:**

An amount item is established to be able to incorporate the entities that wish to join after the formalization of this Framework Agreement, for both lots, and until they are exhausted depending on the forecasts requested by the entities as described in **section U** of the summary table of this specification.

The unit prices according to which the amount of the annuities has been determined for Group A entities will also apply.

### **B.2. Considerations on the economic data of the Framework Agreement:**

The amounts of the annuities as well as those allocated to each task (either per unit or per dedication) must be considered indicative and non-binding, not implying, in any case, an obligation to spend on the part of the participating entities or that they are obliged to demand a minimum amount of the associated services, since the various requests for service will be adapted to the real needs of the participating entities processed through the contracts based on this Framework Agreement.

Only the services actually performed by the successful bidders of the contracts based on them will generate an obligation to pay.

It should be noted that it is allowed to request as many service requests until the budget of each participating entity is exhausted.

The amount of the bids will include all taxes, fees and royalties, as well as any other expenses contemplated or not contemplated in these specifications and that are necessary for the proper execution of the contract, except for VAT, which will be charged as a separate item in the corresponding invoice.

Likewise, it is understood that the offer includes the remuneration, as well as the benefit of the contractor and all the expenses that the bidder must make for the correct fulfillment of the execution of the services object of the contract, such as, for example, financial expenses, insurance, transportation, among others. The amount of the annuities has been calculated on the basis of the expected estimates of the services to be provided according to the lot by each entity participating in this Framework Agreement and according to the maximum unit prices established.

**Likewise, the participating entities reserve the right to increase, exchange or reduce the amounts initially foreseen in the first year and any possible extensions, as well as between estimated items to the tasks foreseen according to the needs throughout the term of the Framework Agreement, without this entailing any type of economic compensation or compensation to the successful bidder and with the maximum limit of the estimated value for each of the participating entities.**

In this sense, the maximum limit for each of the participating entities is:

Group A Entities	LOT 1	LOT 2	TOTAL BY ENTITY
Centre for Research in Agricultural Genomics (CRAG)	€23,500.00	€20,000.00	<b>€43,500.00</b>
Centre for Genomic Regulation Foundation (CRG)	€170,000.00	€23,220.00	<b>€193,220.00</b>
Girona Biomedical Research Institute Dr. Josep Trueta Foundation (IDIBGI)	€22,000.00	€7,000.00	<b>€29,000.00</b>
Institute for Bioengineering of Catalonia Foundation (IBEC)	€80,000.00	€25,000.00	<b>€105,000.00</b>
Fundació Institut de Recerca de l'Hospital de la Santa Creu i Sant Pau (FIRHSCSP)	€37,400.00	€9,000.00	<b>€46,400.00</b>
Catalonia Institute for Energy Research Foundation (IREC)	€0.00	€50,000.00	<b>€50,000.00</b>
Institute of Agrifood Research and Technology (IRTA)	€31,000.00	€31,000.00	<b>€62,000.00</b>
Josep Carreras Leukaemia Research Institute (IJC)	€85,000.00	€25,000.00	<b>€110,000.00</b>
<b>TOTAL</b>	<b>448.900,00 €</b>	<b>€190,220.00</b>	<b>€639,120.00</b>
TAX.	€94,269.00	€39,946.20	€134,215.20
<b>TOTAL GROUP A</b>	<b>€543,169.00</b>	<b>€230,166.20</b>	<b>€773,335.20</b>

**B.3. Existence of credit:** there is no provision for a credit reserve for the Framework Agreement since the expenditure will be specified at the time of each procurement based on the Framework Agreement.

For contracts based on the case, the expenditure will be approved, through a credit reserve document or fund provision, in advance and charged to the budget of each applicant entity and for the current year.

**B.4. Financing with European, national, competitive or other funds:** Where applicable, it will be determined by each entity participating in the processing of each contract based.

## **C. DURATION AND VALIDITY OF THE FRAMEWORK AGREEMENT AND CONTRACTS BASED ON IT:**

The period of **validity of the Framework Agreement** will begin on the day following its formalization, and its duration will be **one (1) year**.

The term of the Framework Agreement delimits the period within which contracts based by the participating entities may be awarded to approved suppliers.

**Validity of the based contracts:** The validity of the based contracts will be independent of the duration of the Framework Agreement, will be determined in the based contract itself and will be governed by **article 29** of the LCSP and these specifications.

## **D. EXTENSIONS OF THE FRAMEWORK AGREEMENT AND CONTRACTS BASED ON THEM:**

It includes the possibility of extending the Framework Agreement through **three (3) annual extensions** of up to a maximum of **twelve (12) months** each.

The contracting authority of the IJC, at the request of the person responsible for the contract, shall communicate the intention to extend the Framework Agreement with two (2) months' notice before the end of the term of the agreement, which extension shall be mandatory for the contractor. Such extension shall be formalized in an addendum to the framework agreement.

In the case of based contracts, any extensions will be as determined in the based contract itself.

**Exceptional extension:** When, at the expiry of the Framework Agreement, a new Framework Agreement has not been formalised to guarantee the continuity of the service as a result of events unforeseeable by the contracting authority during the award procedure and there are reasons of public interest not to interrupt the service, the original Framework Agreement may be extended until the implementation of the new Framework Agreement begins and, in any case, always the contract notice must have been published at least three (3) months before the date of termination of the original Framework Agreement and for a maximum period of nine (9) months.

In view of the unforeseeable nature of this extension, the application of which does not derive from the will of the contracting authority, it will not be taken into consideration for the purposes of determining the estimated value nor will it apply to the aforementioned notice obligation.

The exceptional extension will be mandatory for the contractor and will be formalized in an addendum to the Framework Agreement.

#### **E. PLACE OF EXECUTION:**

The place of execution of the services will be determined in the based contracts entered into by the participating entities with the approved suppliers.

#### **F. INTERIM WARRANTY:**

It is **not required for the Framework Agreement**, since the award of the same does not imply the execution of any service, until the moment the contracts based on it are awarded.

For **based contracts** , it is not required.

#### **G. ULTIMATE WARRANTY:**

It is **not required for the Framework Agreement**, since the award of the same does not imply the execution of any service, until the moment the contracts based on it are awarded.

For **based contracts** , it will be determined by the participating entities at the time of processing the based contracts and in accordance with the provisions of the LCSP.

## H. ELIGIBILITY OF VARIANTS AND IMPROVEMENTS:

The possibility of variants is not included.

**The option of improvements to the Framework Agreement is included** through the award criteria. In the case of based contracts, it will be determined by the participating entities at the time of processing the based contracts and in accordance with the provisions of the LCSP.

## I. CAPACITY AND SOLVENCY CONDITIONS:

See **Clause 6** of the Specifications.

**Allocation of material and personal resources for the execution of contracts based on:**

Yes

No

The documentation that regulates the based contracting will define, where appropriate, the material and/or personal resources that the companies must undertake to allocate for its execution.

## J. SUBMISSION OF PROPOSALS AND OPENING OF PROPOSALS:

Deadline: May 17, 2024

Cut-off time: until 12:00 p.m.

Opening of bids: will take place from twenty-four (24) hours after the deadline for the submission of bids.

Format and place of submission: Through two (2) envelopes in digital format, which will be called: **Envelope 1 and Envelope 2**, and which must be submitted using the Digital Envelope tool (telematic offer) accessible at the following web address:

[https://contractaciopublica.gencat.cat/perfil/institut\\_josep\\_carreras](https://contractaciopublica.gencat.cat/perfil/institut_josep_carreras)

## K. OPENING OF ENVELOPE NO. 1 CONTAINING THE ADMINISTRATIVE DOCUMENTATION, THE NON-SCORING TECHNICAL DOCUMENTATION AND THE REQUIRED SOLVENCY:

It will be held in closed meetings.

**L. OPENING OF ENVELOPE NO. 2, WHICH CONTAINS THE PROPOSAL TO BE EVALUATED THROUGH THE APPLICATION OF QUANTIFIABLE CRITERIA USING AUTOMATIC FORMULAS:**

They will be held in closed session.

**M. CRITERIA FOR AWARDING BIDS:**

According to **Annex No. 1** of this Specification.

**N. MODEL OF THE OFFER RELATING TO CRITERIA QUANTIFIABLE BY MEANS OF FORMULAS:**

According to **Annex No. 2** of this Specification.

**O. AMENDMENT OF THE FRAMEWORK AGREEMENT:**

This **Framework Agreement**, in accordance with the provisions of **articles 203** et seq. of the LCSP, may be modified for the reasons indicated below.

In no case may the total amount of the modifications increase more than 20% of the contract price or incorporate new contradictory prices, all in accordance with the provisions of **article 204** LCSP. Such amendments may not affect the essential conditions of the subject matter of the Framework Agreement and of the contracts on which it is based.

The procedure for processing the modification, both for the Framework Agreement and for the contracts based on it, will initially require a prior report from the person responsible for the contract, justifying the need for the modification and qualifying and quantifying them.

Expected causes of change:

- Changes and/or updates of the related regulations and that imply an increase of more than 25% of the usual dedication in the provision of the usual service by the approved companies.

- Increase in needs due to extraordinary assignments, substantial increase in consultations, consultations on other matters, among others.

#### **P. ASSIGNMENT OF THE FRAMEWORK AGREEMENT AND SUBCONTRACTING IN CONTRACTS BASED ON:**

There is no provision for the possibility of assignment of the Framework Agreement or its based contracts

The partial performance of the object of the contracts based on the provisions of **article 215** of the LCSP and as established in **Clause 28** of this same Specification may be subcontracted to third parties.

In the case of subcontracting, bidders must submit **signed Annex No. 3** to these Specifications.

#### **Q. PROCESSING:**

Ordinary processing, through the open procedure provided for in **articles 156 to 158** of the LCSP and subject to harmonized regulation

#### **R. ADVERTISING:**

- Contractor profile through the following website:

[https://contractaciopublica.gencat.cat/ecofin\\_pscp/AppJava/cap.pscp?reqCode=viewD](https://contractaciopublica.gencat.cat/ecofin_pscp/AppJava/cap.pscp?reqCode=viewD)

- Official Journal of the European Union (OJEU).

#### **S. INFORMATION AND QUERY RESOLUTION SERVICE AVAILABLE TO TENDERERS:**

Doubts, queries and/or requests for information must be made in writing through the Generalitat's Procurement Platform, by accessing the specific tender and in the section/tab of "send question" (doubts and questions), no later than seven (7) days before the deadline for submitting bids. The code/number of the file must be included in the subject of the message.

Likewise, interested parties are informed that the information related to the status of this procedure will be published in the contractor's profile, including the pertinent clarifications and amendments, if applicable. Interested parties are advised to periodically consult the contractor profile to be informed of the status of the procurement procedure.

## T. RESPONSIBLE FOR THE FRAMEWORK AGREEMENT AND CONTRACTS BASED ON

The Framework Agreement will be led by Ms Anna Riera, as head of the IJC's Innovation Unit.

With regard to those responsible for the Framework Agreement of the participating entities, the following are appointed:

Centre for Research in Agricultural Genomics (CRAG)	Carlos Muñoz
Centre for Genomic Regulation Foundation (CRG)	Anabel Sanz
Girona Biomedical Research Institute Dr. Josep Trueta Foundation (IDIBGI)	Queralt Farreras
Institute for Bioengineering of Catalonia Foundation (IBEC)	Eduard Salas
Fundació Institut de Recerca de l'Hospital de la Santa Creu i Sant Pau (FIRHSCSP)	Miriam Ors
Catalonia Institute for Energy Research Foundation (IREC)	Marta Fonrodona
Institute of Agrifood Research and Technology (IRTA)	Irene Mael
Josep Carreras Leukaemia Research Institute (IJC)	Anna Riera

In accordance with article 62 of the LCSP, in each based contract, a person responsible for the contract will be determined, who will be responsible for supervising the execution of the based contract and issuing the necessary instructions in order to ensure the correct performance of the agreed service, within the scope of the contracting authority's powers.

This person may coincide with the person designated as responsible for the Framework Agreement both in the case of the IJC and the recipient or adhering entities.

## U. ACCESSION TO THE FRAMEWORK AGREEMENT

The participating entities initially adhering to the joint procurement have expressly expressed their agreement with this tender and the specifications that govern it by means of a collaboration agreement and adopting, as established in the internal procurement regulations of the IJC, that:

1. Authorizes the Contracting Authority of the IJC to approve this file and to order the opening of the procedure for the award of the Framework Agreement.
2. It entails the commitment of the participating entity to participate in the procurement procedure.

Any adhesion of the entities provided for in **section A.2** of the summary table of characteristics of this specification that is intended to be carried out in this Framework Agreement after its formalization (no new adhesions are contemplated from the publication of the tender notice until its formalization), will entail that the entity seeking adhesion must issue a document where:

1. Expressly approve the terms and conditions governing the Framework Agreement and the contracts based on it.
2. Request the issuance of an addendum to the Collaboration Agreement for its inclusion in said Agreement, agreeing to its content.
3. Report of the required service needs.
4. Provide an annual spend forecast for each of the included lots.
5. Express your willingness to join the Framework Agreement.
6. Include the contact details of the requesting entity.

It should be noted that the confirmation of membership will be subject to the maximum amount stipulated for entities belonging to **Group B**.

This document must be sent by e-mail from the entity interested in joining to the address indicated below: [Purchasing@carreresiarch.org](mailto:Purchasing@carreresiarch.org)

Upon receipt of this email, it will be assessed and reviewed. The decision on the application for membership will be communicated by reply to the e-mail received. In the event that the adhesion is accepted, in addition to the aforementioned response, a Notice will also be published on the contracting platform to notify the approved suppliers of this agreement, as well as the timely publication in the contractor's profile of the IJC.

Petitions will be evaluated in order of date received. It is possible that several applications for membership will be grouped together and the decision taken to accept membership will be published together.

## II. GENERAL PROVISIONS

### CLAUSE 1

#### PURPOSE AND LEGAL REGIME OF THE FRAMEWORK AGREEMENT

1.1. The purpose of this Specification of Particular Administrative Clauses is to establish the conditions that will govern the award, by the FUNDACIÓ INSTITUT DE RECERCA CONTRA LA LEUCÈMIA JOSEP CARRERAS (hereinafter, "contracting entity or IJC") of the Framework Agreement for the approval of suppliers for the contracting of the service whose object is described in **section A** of the Summary Table of Characteristics defined in this Specification and its annexes.

The indication of the division of the contract into lots is given in **section A** of the Summary Table of Characteristics. Likewise, where appropriate, the description and content of each batch is defined in the technical documentation attached to this Specification.

1.2. The purpose of this tender is the award, by IJC, of a Framework Agreement for the subsequent contracting of the services referred to by it and by the participating entities, in accordance with the provisions of this Specification, the Technical Specifications (PPT) and the procurement based on the Framework Agreement.

IJC does not guarantee the award of a certain number of contracts based on it. Participation in this procedure and the award of the Framework Agreement does not ensure or guarantee in favour of approved suppliers the signing of any contract based on their favour, without this fact entitling them to be indemnified, compensated or compensated. Therefore, the non-award of any contract based on it will not entitle the approved company to be compensated, indemnified or compensated.

1.3. The recipients of the services covered by this Framework Agreement are the participating entities indicated in **sections A.2** and **A.3** of the Summary Table of Characteristics of these specifications, which will be the ones that will award the contracts based on the requirements of this Framework Agreement.

1.4. The purpose of the framework agreement is as follows:

- Select the companies that will be able to provide the services to be contracted, as defined in the specifications that govern this tender, as well as in the subsequent contracts based on it.
- To establish the minimum conditions and economic conditions relating to the companies awarded the contract that will provide the services covered by this framework agreement.
- To establish the general conditions for the award and execution of subsequent service contracts through contracting based on this Framework Agreement.

**1.5.** The Framework Agreement shall be in accordance with the content of these specifications, the clauses of which shall be considered an integral part of the respective contract based on which, where appropriate, it is entered into with the approved companies. These specifications, their annexes, the PPT and any other documentation listed in **clause 4** of this document that is made available to bidders are of a contractual nature.

**1.6.** The submission of proposals implies the unconditional acceptance by the bidders of the content of these specifications and of all the documentation that makes up this tender, without exception or reservation of any kind.

**1.7.** Ignorance of this documentation in any of its terms and of the other contractual documents of any kind that may be applicable in the execution of the agreed thing will not exempt the winning company from the obligation to comply with them.

**1.8.** The interpretation of the Framework Agreement and any disagreements on its application shall be made taking into account, in the first instance, these specifications and the technical specifications. In the event of a discrepancy between the provisions of the specifications and the contract based on, the provisions of the PCAP and the PPT shall prevail.

**1.9. In the event that this document is translated into other languages, in the event of a discrepancy, the Spanish version will prevail.**

**1.10.** The contracting entity is subject to the provisions of Law 9/2017, of November 8, 2017, on Public Sector Contracts, which transposes into Spanish law the Directives of the European Parliament and of the Council 2014/23/EU and 2014/24/EU, of February 26, 2014 (hereinafter, "LCSP"), relating to harmonised procurement which, as a contracting authority that does not have the character of Public Administration, are applicable to it and the same Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement ("Directive 2014/24/EU").

**1.11.** The Framework Agreement that is formalized is considered private and is subject, in terms of its effects and termination, to private law, governed by this Specification, by the PPT, and other annexed documentation, and in all matters not foreseen, by the applicable civil and commercial legislation.

The provisions of Title I of Book Three of the LCSP are applicable to the preparation and awarding of this Framework Agreement.

In relation to any contractual modifications that may occur, the regime provided for in subsection 4 of Section 3 of Chapter I of Title I of Book Two of the LCSP shall apply.

The contracts based on which the adhered entities are considered to be contracting authorities that are not public administrations will be private in nature and will be subject, in terms of their effects and termination, to private law, governed by these Specifications, by the PPT, and other accompanying documentation, and in all matters not provided for, by the applicable civil and commercial legislation.

The contracts based on which the adhered entities are considered to be public administrations will be of an administrative nature and will be subject, in terms of their effects and termination, to the LCSP, to the rules applicable to public sector contracts in Catalonia and to the applicable sectoral regulations. governed by this Specification, by the PPT, and other attached documentation. In addition, the rules of administrative law and, failing that, the rules of private law will apply.

**1.12.** In order to resolve any discrepancy that may arise from the preparation, award and contractual modifications of the Framework Agreement, when the latter are based on non-compliance with the provisions of **articles 204** and **205** of the LCSP, when it is understood that such modification should have been the subject of a new award, the parties will submit to the contentious-administrative jurisdictional order.

In order to resolve any discrepancies that may arise in relation to the effects and termination of the Framework Agreement, the parties shall submit to the civil courts.

## CLAUSE 2

### ESTIMATED VALUE OF THE FRAMEWORK AGREEMENT, BIDDING BASE BUDGET AND PRICE OF THE FRAMEWORK AGREEMENT

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**2.1.** The estimated value of the Framework Agreement for the purposes of determining the award procedure, publicity and competence of the Contracting Authority is that shown in **section B** of the Summary Table of Characteristics, and does not include Value Added Tax.

This estimated value has been calculated on an estimated basis, taking into account the expenditure that would potentially be generated during the entire possible duration of the framework agreement in accordance with the provisions **of Article 101** of the LCSP. This value is the sum of the base tender budget, as well as any modifications and, where appropriate, extensions or other options, under the terms established in these Specifications.

Therefore, this maximum value is purely indicative and non-binding, and does not imply, in any case, an obligation to spend on the part of IJC or the participating entities or that they are obliged to demand a certain amount of services, since it will be determined according to the contracts based on this Framework Agreement that are actually carried out. Only the services actually performed by the successful bidders in the contracts based on them will generate an obligation to pay.

**2.2.** In accordance with article 100.3 of the LCSP, prior to the processing of the Framework Agreement, it is not necessary to approve a tender budget.

Where applicable, at the time of entering into contracts based on the framework of this Framework Agreement, a tender budget will be indicated applying the provisions of article 100 of the LCSP. For this reason, the existence of credit will be certified by the participating entities prior to the conclusion of each of the contracts based on it.

**2.3. Contract Price Based:**

- a) The successful tenderer of a based procurement shall be entitled to receive the amounts corresponding to the services actually rendered, in the manner provided for in the procurement based on and in accordance with the prices offered, and which have been requested by the procuring entity.
- b) Bidders must match or reduce the maximum unit prices in their bid, indicating the VAT to be applied separately. The bidders' proposals shall include all the services that the bidder may offer, and the unit prices for each of the services included in this contract.
- c) In contracts based on this Framework Agreement, the price of the service will be determined according to the supplier's offer and that of the specific services to be

performed and actually provided. The economic offer of the contract based on no case may incorporate a discount lower than that offered by the company in participating in the Framework Agreement.

- d) The price of the based contract will not be subject to revision.
- e) The award of the funds will require prior certification of the existence of the relevant financial endowment.
- f) The price of the contract based on the contract will be considered to include other taxes, fees and royalties of any kind, which may be applicable, as well as all the expenses that the successful bidder has to assume in accordance with the provisions of these Specifications and accompanying documentation.

## CLAUSE 3

### PLACE OF PERFORMANCE OF THE SERVICES AND DURATION OF THE CONTRACT

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- 3.1.** The place of performance of the services is as described in **section E** of the Summary Table of Characteristics. Taking into account the nature of the services covered by the Framework Agreement, the place of performance shall be stipulated in the contracts based on which this Framework Agreement is concluded.
- 3.2.** The duration of the Framework Agreement, as well as the contracts based on it, is as set out in **section C** of the Summary Table of Characteristics.
- 3.3.** The possibility of extending the duration and validity of the Framework Agreement is defined in **section D** of the Summary Table of Characteristics. If permitted, the extension will be agreed by the Contracting Authority and will be mandatory for approved companies, in accordance with the provisions of **article 29** of the LCSP.

Previously, the IJC will request confirmation from the entities participating in this joint tendering procedure so that they can provide a response to validate their participation within the Framework Agreement as the contracting entity of the contracts based. The processing of the extension of the Framework Agreement will be valid when there is at least one (1) of the initial participating entities, which confirms the acceptance to execute the extension in question. Confirmation of each extension must be in writing.

However, this maximum duration of the Framework Agreement shall be terminated and terminated for all purposes at the time when the maximum amount foreseen as an estimated value is exhausted.

The termination of the term of the Framework Agreement, either due to exhaustion of the amount of the estimated value or due to compliance with the deadline, shall not prevent the continuation of the validity of the based contracts that had been awarded prior to the termination of the Framework Agreement.

### **3.4. Duration of based contracts:**

- a) Contracts based on the Framework Agreement may be awarded throughout the term of the Framework Agreement.
- b) The duration of the based contracts shall be independent of the duration of the Framework Agreement and shall be governed by the provisions of the based contract.
- c) The terms of the framework agreement shall govern all contracts based on the framework agreement.
- d) The term of the contract based on it shall begin to run from the day following the day on which it was concluded.
- e) The possibility of extending the duration of the contracts based on it is defined in **section D** of the Summary Table of Characteristics. If permitted, the extension will be agreed by the corresponding Contracting Authority and will be mandatory for the successful bidder, in accordance with the provisions of **article 29** of the LCSP.

## **CLAUSE 4**

### **NEED AND SUITABILITY, PROCUREMENT DOSSIER, CONTRACT AWARD PROCEDURE AND DOCUMENTATION TO BE PROVIDED TO TENDERERS**

**4.1. NECESSITY AND SUITABILITY OF THE CONTRACT:** The execution of this Framework Agreement is necessary and suitable for the fulfillment and realization of the institutional purposes of the participating entities.

With respect to the two lots that make up this bidding procedure, the need to be covered is related to advice on protection, analysis and studies of patentability or prior

patentability (for other types of Industrial Property, hereinafter "IP"), including the search in payment databases, preparation, preparation and processing of the patent registry. the preparation of administrative documentation, follow-up, notices and those steps that are necessary to ensure the correct registration, as well as the maintenance of patents and other IP rights, owned or co-owned or in those cases in which there is a management entrustment.

The terms used in the documents of this Master Agreement relating to "patent" or "invention" and other related terms in the management of IP shall be interpreted broadly to cover all forms of IP protection, as applicable in each case.

**4.2.** The approval of suppliers for future contracts of reference services will be awarded through the OPEN PROCEDURE subject to HARMONIZED regulation, as provided for in **articles 156 to 158** of the LCSP.

The contract will be awarded to companies that meet each and every one of the requirements set out in the documentation of this tendering procedure, for each of the lots included.

**4.3. DOCUMENTATION TO BE PROVIDED TO BIDDERS:** From the day of publication of the contract notice, interested companies will be able to obtain, through the Contractor Profile, the necessary documentation to prepare their proposals, which includes the following documents:

- This Specification of Particular Administrative Clauses and its Annexes.
- The Technical Specifications.

All this documentation will be of a contractual nature. Likewise, it is reported that they regulate the obligations of the contractor, such as, but not limited to, form of payment, conditions of execution, subcontracting, payment to subcontractors and suppliers, penalties, termination of the contract, among others. and which will therefore have to be taken into consideration by the tenderers.

In accordance with **article 138.3** of the LCSP, the Contracting Authority shall provide all interested parties, six (6) days before the end of the deadline for submitting bids, with additional information relating to the specifications and other complementary documentation requested by them, provided that it has been requested at least seven (7) days before the deadline for submission of bids.

**4.4. RESPONSIBLE FOR THE FRAMEWORK AGREEMENT AND THE CONTRACTS BASED ON BASE:** As set out in **section T** of the Summary Table of Characteristics.

#### **4.5. CONTRACTING AUTHORITY OF THE FRAMEWORK AGREEMENT AND THE CONTRACTS BASED ON IT:**

The Contracting Body of this Framework Agreement is the president of the Executive Committee appointed by the Board of Trustees of this entity in its act of incorporation (public deed granted before the Notary of the Illustrious Notarial Association of Catalonia, Mr. Pedro Ángel Casado Martín, on March 1, 2012, with No. .438 of its protocol).

In the case of **based contracts**, the Contracting Authority will be the one corresponding to each of the participating entities and that has been assigned this competence, stating this in the corresponding documentation to process the based contract.

### **CLAUSE 5**

#### **PUBLICITY OF THE TENDER**

- 5.1. This tender will be published by means of a notice in the Official Journal of the European Union (OJEU) as well as in the entity's Contractor Profile, which can be accessed through the website referenced to **section R** of the Summary Table of Characteristics.
- 5.2. Notices shall state the date on which the notice was sent to the OJEU. Publication in the OJEU shall precede any other publication under the terms established in **article 135.3** of the LCSP.

## **III. BIDDING PROCEDURE**

### **CLAUSE 6**

#### **CAPACITY AND SOLVENCY CONDITIONS OF BIDDERS**

- 6.1. Individuals or legal entities, Spanish or foreign, who have full capacity to act in accordance with the provisions of **article 65** of the LCSP, who are not included in any of the prohibitions on contracting set out in **article 71** , may contract with the participating entities of the aforementioned Law and that they prove the solvency required in these Specifications and enjoy the business or professional qualification

that, if required, is required to carry out the activity or service that constitutes the object of the contracts based on the lots to which they are chosen.

The requirements of capacity, solvency and absence of prohibitions on contracting must be met at the time of submission of the tender and maintained until the time of the award and formalization of the Framework Agreement, as well as maintained throughout the term of the Framework Agreement and the contracts based on it.

- 6.2.** In accordance with **article 75** of the LCSP, solvency may be accredited based on the solvency and resources of other entities, regardless of the legal nature of the existing links, provided that it is proven that, for the execution of the contracts based on it, it will effectively have these means. However, with regard to educational and professional qualifications or professional experience, the skills of other entities may only be used if they perform the part of the subject matter of the contract for which such skills are required. These third parties will have to prove their capacity, aptitude and solvency required for this Specification.

In the event that the bidding company uses the capacities of other companies to prove economic and/or technical solvency, in accordance with the provisions of **article 75** of the LCSP, or intends to subcontract, it must indicate this circumstance in the ESPD and submit a separate ESPD for each of the companies to which it uses or intends to subcontract. duly signed.

In the event that the economic and financial solvency of other entities is used, the bidder and the entities with which it collaborates for the provision of this contract shall be jointly and severally liable for the execution of this contract.

In the case of resorting to **solvency integration through external means**, the provision of the commitment referred to in **article 75.2** of the LCSP will be mandatory.

- 6.3.** Bidding companies have to meet the following solvency criteria:

**a) Economic and financial solvency criteria:**

- **Annual turnover.** The annual turnover referred to the best of the last three (3) years available depending on the date of incorporation or commencement of activities of the company must be, at least:

Concept	Amount of Economic Solvency
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<b>Lot 1: LIFE SCIENCES AND HEALTH</b>	<b>€125,000.00</b>
<b>Lot 2: PHYSICAL SCIENCES AND ENGINEERING</b>	<b>€75,000.00</b>

The annual turnover of the tenderer or candidate shall be evidenced by means of its annual accounts approved and deposited in the Commercial Register, if the entrepreneur is registered in that register, and if not, by those deposited in the official register in which he must be registered. Individual entrepreneurs not registered in the Commercial Registry will prove their annual turnover through their inventory books and annual accounts legalized by the Commercial Registry.

If, for a valid reason, the tenderer is not in a position to submit the references requested by the contracting authority, he shall be authorised to prove his economic and financial solvency by means of any other document which the contracting authority considers appropriate.

- **Indemnity insurance.** Proof of the **existence of an indemnity insurance for professional risks** with an insured sum **of not less than three hundred thousand euros** (€300,000.00).

This will be accredited by a certificate issued by the insurer, stating the amounts and risks insured and the expiry date of the insurance, and by means of the binding commitment document to subscribe, extend or renew the insurance, where applicable.

#### **b) Technical or professional solvency criteria:**

- **A list of the main services or works similar** to those that are the subject of this tender, carried out in the last three (3) years, including amount, dates and the recipient, public or private, of the same. Such services or work shall be accredited by certificates issued or endorsed by the competent body if the recipient is a public sector entity or, where the recipient is a private entity, by a certificate issued by the latter. In the absence of certificates, they may be accredited by means of a declaration by the employer.

Entrepreneurs will have to prove that they have executed, during the year of greatest execution of the indicated period, **a minimum amount (without taxes)** for services similar to those that are the subject of this tender. These minimum amounts will be:

Concept	Technical solvency amount
Lot 1: LIFE SCIENCES AND HEALTH	€85,000.00
Lot 2: PHYSICAL SCIENCES AND ENGINEERING	€35,000.00

6.4. **Non-EU foreign companies** will also have to comply with the requirements established in **article 68** of the LCSP.

6.5. The contracting entity may contract with **employers' unions that are temporarily constituted** for this purpose. This participation will be instrumentalized, at the bidding stage, by providing a private document in which the will to participate jointly is expressed, indicating the names and circumstances of those who constitute it, the participation of each of them, designating a representative or sole representative with sufficient powers to exercise the rights and comply with the obligations arising from the contract until the termination of the same, without prejudice to the existence of joint powers in other aspects, and assuming the commitment to be formally constituted in the event of being awarded the contract. It will not be necessary to formalize it in a public deed until the award has been made in your favor.

These employers shall be jointly and severally liable to the contracting entity.

It will not be necessary to formalize the joint venture in a public deed until the contract has been awarded in its favor.

6.6. The Contracting Authority shall take appropriate measures to ensure that the participation in the tendering process of undertakings which have previously participated in the preparation of the technical specifications or preparatory documents for the contract, or which have advised the Contracting Authority during the preparation of the procurement procedure, do not distort competition. In any case, the rules set forth in **article 70** of the LCSP will be observed.

In the event that a bidding company, or a company related to it, has participated in the preparation of the technical specifications or preparatory documents for the contract, it must expressly indicate this, specifying what its participation has been, providing the corresponding declaration of responsibility in envelope No. 1.

- 6.7.** Legal entities may only be awarded contracts whose services are included within the purposes, object or scope of activity that, in accordance with their statutes or founding rules, are specific to them.
- 6.8.** Bidders with fifty or more permanent workers must have a number of disabled workers employed by not less than two (2) per cent of the total workforce, or comply with the alternative measures established in Royal Decree 364/2005, of 8 April, or the regulation that replaces it.

## CLAUSE 7

### BIDDERS' PROPOSALS. GENERAL RULES

- 7.1.** Proposals shall relate to all the services covered by this Framework Agreement, and partial tenders shall not be accepted.

Proposals shall be submitted within the maximum period provided for in **section J** of the Summary Table of Characteristics and in the contract notice. Proposals submitted after the established deadline will not be accepted under any circumstances or under any circumstances.

Bids must be valid for six (6) months from the date of opening of bids. Once this period has passed, bidders may choose to maintain or withdraw their proposals, with full indemnity for the parties, without being able to request any type of compensation or indemnity. Bids that are not withdrawn shall be deemed valid and binding by the bidder for all purposes set forth in these Specifications.

- 7.2.** Each tenderer may not submit more than one proposal in this procurement procedure, either individually or jointly with other undertakings. Nor may it sign any proposal in joint participation with other tenderers if it has already done so individually, or be included in more than one of these groups. Failure to comply with the provisions of this paragraph shall result in the inadmissibility of all proposals submitted by you and exclusion from this tendering procedure.
- 7.3.** The simultaneous submission by related companies will entail the effects established in the applicable regulations in relation to the application of the regime of offers with abnormal or disproportionate values.

## CLAUSE 8

### FORMAT FOR THE PRESENTATION OF PROPOSALS AND ELECTRONIC MEDIA. GENERAL RULES

**8.1.** The proposals will consist of **two (2) envelopes** in digital format, which will be called **Envelope 1** and **Envelope 2**, which must be submitted through the Digital Envelope tool accessible from the following website:

[https://contractaciopublica.gencat.cat/perfil/institut\\_josep\\_carreras](https://contractaciopublica.gencat.cat/perfil/institut_josep_carreras)

**8.2.** The contents of each of the envelopes are detailed in **Clause 9** of these Specifications.

In case the contract is divided into lots, an **Envelope 1 and 2** will have to be submitted for each lot.

The documentation contained in **Envelope 1** may not include any information that would allow us to know the content of **Envelope 2** relating to the economic proposal and documentation relating to automatically assessable criteria. Failure to comply with this obligation will result in exclusion from the tender.

Tenderers may indicate which information in their proposal is confidential, but under no circumstances may they declare the financial offer as such. The Contracting Authority shall guarantee the confidentiality of the information expressly designated in this way, within the parameters of the law and provided that it does not affect the right to information enjoyed by the rest of the bidders in accordance with the provisions of current legislation on access to public information.

**8.3.** The bidder may submit the required documentation, in the event that it is notarial, in accordance with the requirements established by the Notarial Regulations, regarding the legalization and legitimization of documents.

**8.4.** Any handwritten document or document with omissions, errors or amendments that do not allow a clear understanding of the conditions for evaluating the offer will not be accepted.

**8.5.** Under no circumstances will the offers of those persons in whom any of the circumstances provided for in **article 71** of the LCSP on prohibitions on contracting are met, will not be accepted.

**8.6.** In accordance with the fifteenth additional provision of the LCSP, the processing of this tender entails the practice of notifications and communications that derive by exclusively electronic means.

However, oral communication may be used for communications other than those relating to the essential elements, i.e. specifications and tenders, leaving the content of the oral communication duly documented.

**8.7.** Communications and notifications made during the procurement procedure and during the term of the contract will be made by electronic means through the e-NOTUM notification system, in accordance with the LCSP, Law 39/2015, of 1 October, on the common administrative procedure of public administrations and Order PDA/21/2019, of 14 February, which determines the electronic notification system of the Administration of the Generalitat of Catalonia and its public sector. To this end, notices of the availability of notifications and communications will be sent to the e-mail addresses and mobile phones provided by the companies for this purpose during the bidding process. Once the e-mail or e-mails have been received and, in the event that mobile phones have also been provided, the SMS, indicating that the corresponding notification has been made available to e-NOTUM, the designated person or persons will have to access it through the link that will be sent for this purpose. In the virtual space where the notification is deposited, it is possible to access this notification with a digital certificate or password.

(The e-NOTUM system allows the managing body to establish that access to notifications can be carried out with a digital certificate and, in addition, from the generation of a disposable password).

**8.8.** Likewise, certain communications that have to be made on the occasion of or as a result of the bidding procedure and the award of this contract will be made through the notice board associated with the virtual tender space of this tender of the Public Procurement Services Platform. On this electronic bulletin board, which provides a reliable record of the authenticity, completeness and date and time of publication of the published information, information relating to both the tender and the contract will also be published.

**8.9.** The time limits to be counted from the date of dispatch of the notification notice, if the act to be notified has been published on the same day in the contracting authority's contractor profile. Otherwise, the deadlines will be calculated from the receipt of the notification by the company to which it is addressed.

However, the time limits for notifications made on the occasion of the special appeal procedure by the Catalan Court of Contracts are in any case calculated from the date of sending the notice of notification.

**8.10.** On the other hand, in order to receive all the information related to this tender, the companies that want it and, in any case, the bidding companies must subscribe as interested in this tender, through the subscription service to the news of the virtual tender space that, for this purpose, is made available to the web address of the contracting authority's contractor profile.

Companies that activate the bid with the Digital Envelope tool will automatically register for the tender.

This subscription will allow you to immediately notify the email addresses of the subscribers of any news, publication or notice related to this tender.

**8.11.** In addition, bidding companies can also register in the bidder's profile, subject to the required authentication. The bidder profile is made up of a set of services aimed at bidding companies with the aim of providing each bidding company with its own space, with a series of tools that facilitate access to and management of procurement files of interest. To register, you must click on the "Bidder profile" section of the Public Procurement Services Platform and have the required digital certificate.

**8.12. 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 under the terms established in Regulation (EU) 910/2014/EU of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing it will be sufficient Directive 1999/93/EC. Therefore, this is the minimum level of security required for the supported electronic signature certificate for the signature of the responsible declaration and the offer.

As for foreign EU 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 one Member State shall be recognised as a qualified electronic signature in all other states limbs.

## CLAUSE 9

### BIDDERS' PROPOSALS. DOCUMENTATION

#### ABOUT 1

#### 9.1. Documentation accrediting compliance with the prerequisites.

##### CONTENT (Required)

**Envelope 1** must contain the following document(s):

a) **Single European Procurement Document (ESPD).**

The bidding companies must submit the ESPD by which they declare their capacity and economic, financial and technical solvency, in accordance with the minimum requirements demanded in these Specifications according to **Clause 6**; that they are not subject to any prohibition to contract or, if they are, that they have adopted the measures to demonstrate their reliability in the cases where legally applicable; and that they are up to date with compliance of tax and Social Security obligations, as well as that they comply with the rest of the requirements established in this Specification.

Bidding companies can fill in the ESPD form attached to the procurement web platform, as additional documentation of the file in question. The attached files are in PDF and XML format with the name: **DEUC Exp. 01/2022**.

It can also be done through the European Commission's online service, through which you can import the ESPD model corresponding to this tender, fill it in, download it and print it for submission. The model of this Document can be downloaded at the following e-mail address:

<https://visor.registrodelicitadores.gob.es/espd-web/filter?lang=es>

Specialities in relation to temporary unions of employers:

- a) Each of the entrepreneurs must present their corresponding ESPD.
- b) It will be necessary to present the document accrediting the appointment of a representative or sole representative with sufficient powers to exercise the rights and comply with the obligations arising from the contract until its

termination, as well as the indication of the names and circumstances of the entrepreneurs who sign it, the participation of each of them, and the commitment to formally constitute a temporary union. in the event of being awarded.

- c) The provisional NIF assigned by the competent Administration may be incorporated. Only in the event that the union is awarded, its constitution will have to be accredited in a public deed and provide the NIF definitively assigned.
- d) In the event that a provisional guarantee is required, one or more of the companies participating in the union may constitute the provisional guarantee, provided that together they reach the amount required in these Specifications, but in both cases the guarantee must be guaranteed jointly and severally by the companies that have to integrate the Temporary Union.

#### Other specialties

- (i) When the employer uses the solvency and resources of other entities or intends to subcontract, it must indicate this circumstance in the ESPD and submit a separate ESPD for each of the companies to which it uses or intends to subcontract, duly signed.

In addition, when the tenderer intends to subcontract, it must submit a declaration of responsibility, in accordance with the model in **Annex No. 3**.

- (ii) Where the specifications provide for the division of the subject matter of the contract into lots, if the requirements of economic, financial or technical or professional solvency vary from one lot to another, a declaration of responsibility shall be provided for each lot or group of lots to which the same solvency requirements apply.

The Contracting Authority shall require the company in favour of which the award proposal falls, before the award of the contract, to prove compliance with the requirements of qualified personality and solvency through the provision of the documentation indicated in **Clause 6** of these Specifications.

In any case, the Contracting Authority may request, at any time prior to the adoption of the award proposal, that the bidders provide the documentation accrediting compliance with the conditions established to be awarded the contract referred to in the aforementioned **Clause 6** of these Specifications.

- b) **Declaration of responsibility** regarding the **capacity to contract**, in accordance with **Annex No. 7**.

#### **CONTENT (Optional as applicable)**

- c) In the event that a company wishes to make use of the **capacities and solvency of other entities**, it will have to provide the written commitment of these entities, in accordance with the provisions of **article 75.2** of the LCSP.
- d) Document certifying that the **provisional guarantee** has been provided, in the event that, in accordance with **section I** of the Summary Table of Characteristics, it has been required.

This guarantee shall cover the maintenance of tenders until the conclusion of the contract and may be provided in one or more of the forms referred to in Article 108 (1).

In the event that the contract is divided into lots, the provisional guarantee shall be made on the basis of the amount of the lots for which a bid has been submitted and not on the basis of the amount of the total contract budget.

The provisional guarantee shall automatically terminate and shall be returned to the tenderers immediately upon completion of the contract.

- e) In the event that several employers are grouped together in a temporary union, the **commitment to constitute the temporary union** will be provided, in accordance with the provisions of **article 69.3** of the LCSP.
- f) Foreign **companies**, in the event that the contract is executed in Spain, will have to provide a declaration of submission to the jurisdiction of the Spanish courts and tribunals of any order, for all incidents that may arise directly or indirectly from the contract, waiving, where appropriate, the foreign jurisdictional jurisdiction that may correspond to the bidder.
- g) **Responsible declaration on subcontracting**. In the event that, in accordance with the provisions of **section P** of the Summary Table of Characteristics, subcontracting is permitted. In the event that the tenderer intends to subcontract the execution of any contracts based on it, it must submit a declaration of responsibility, in accordance with the model in **Annex No. 3**.
- h) **Responsible declaration** of the relationship of **related companies** with the offeror, in accordance with **Annex No. 4**.

**Under no circumstances should Envelope 1 contain information related to the financial offer, or relevant documents of its economic offer, or documents relating to automatically quantifiable criteria. The inclusion of information of an economic nature in Envelope 1 will lead to the exclusion of proposals that do not comply with the above.**

## OUT OF 2

### CONTENT:

#### 9.2. Economic offer and other references that can be evaluated automatically.

- a) **The economic offer and other automatically assessable references, which must be formulated in accordance with the model attached to this specification as Annex No. 2.**

As for the economic offer, the prices offered will be considered to include all types of expenses that arise from the contract and its correct execution.

In addition, the prices offered will have to include a breakdown of the current Value Added Tax. Any variation in the VAT rate will be applicable from the date of its entry into force.

Failure to follow the tender model provided for in **Annex No. 2** will result in the exclusion of the tendering company.

Tenders that submit an amount higher than the tender budget or the unit prices into which it is broken down will be excluded.

## CLAUSE 10

### CRITERIA FOR THE AWARD OF THE FRAMEWORK AGREEMENT

**10.1.** The proposals submitted and accepted will be studied, evaluated and weighed in accordance with the criteria set out in **Annex No. 1** of this Specification.

**10.2.** The submission of the proposal by the bidder implies that it complies with the legal system and that it may be executed in its terms and in no case can this responsibility

be affected or diminished by the fact that the offer has been evaluated or accepted by the IJC.

**10.3.** The award will be made to the proposals that present the best value for money, based on the score of those proposals admitted in the tender that equal or exceed the minimum points established in these Specifications, if they have been established. When none of the bids achieves the minimum score required in these specifications, based on the award criteria, the IJC will reject all the bids and declare this tendering procedure void.

**10.4.** The award decision shall state the reasons for the award and, unless it is contradictory to the proposal made by the Contracting Committee, or is based on different considerations, it shall be understood that it adopts the reasons contained in the proposal of the aforementioned Contracting Committee.

**10.5.** Tenders that are presumed to be abnormal or disproportionate shall be assessed in accordance with the provisions of **Annex No. 1**.

If, as a result of the application of these criteria, one or more bids are identified as having a presumption of abnormality, in accordance with **article 149** of the LCSP, the Contracting Committee or, failing that, the Contracting Authority shall request from the tenderers concerned, in writing, the information and justifications it deems appropriate in relation to the different components of its proposal. This procedure must be completed within a maximum period of three (3) business days.

Once the requested information and justifications have been received, the Contracting Committee or, failing that, the Contracting Authority will request the drafting of a technical report by the technical services of the contracting entity, with the assessment of the justifications of the bidders incurred in an alleged abnormal or disproportionate bid.

For the analysis of the justifications for proposals that may be considered abnormal or disproportionate, the relationship between the economic offer made by the tenderer and the rest of the elements offered shall be taken into consideration.

On the basis of the tenderer's justification and the technical report drafted, the Contracting Authority shall determine whether the tender can be fulfilled by the tenderer as a result of the inclusion of abnormal or disproportionate values. In the event that it is considered that the offer cannot be fulfilled due to the inclusion of abnormal or

disproportionate values, the Contracting Authority shall exclude it from the tendering procedure.

If it is evident that the offer submitted by a bidder may be considered abnormal or disproportionate due to the inclusion of the workers' salary below the minimum established in the specific applicable agreement, for the purpose of verifying the adequacy of the offer to wage costs, a complementary technical report may be required from the Workers' Representative Body or from an organization representing the sector.

Likewise, the bid will be excluded if, in the hearing process of the bidding company that has submitted an abnormally low qualified bid, it is evident that the unit prices of the salaries of the people who will execute the contract considered in the offer are lower than those established in the applicable agreement.

## CLAUSE 11

### CONTRACTING DESK

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**11.1.** The Contracting Board is made up of the following members:

**President:** Heura Boix, Economic Coordinator of the Josep Carreras Leukaemia Research Institute Foundation, or person delegated.

**Secretary:** Quique Montserrat, Bidding Technician of the Josep Carreras Leukaemia Research Institute Foundation, or person delegated.

**Vowel:** Laia Reyes, Procurement Manager of the Josep Carreras Leukaemia Research Institute Foundation, or person delegated.

**Vowel:** Cristina Calonge, Head of Finance of the Josep Carreras Leukaemia Research Institute Foundation, or person delegated.

**Vowel:** Anna Riera, Head of Innovation at the Josep Carreras Leukaemia Research Institute Foundation, or the person delegated.

**Vowel:** Alba Ginés, Project Manager of Innovation at the Josep Carreras Leukaemia Research Institute Foundation, or delegated person.

In the constitution of the Contracting Board, its members shall declare on the existence or not of incompatibilities, provided for all purposes to the LCSP. In the event of any incompatibility, the member of the Bureau affected by it will have to leave it and, in these

cases, the substitute member will be part of it or another member will be appointed who meets, if necessary, the requirements of experience and suitability of the member involved in incompatibility.

- 11.2.** In the case of contracts based on contracts, it will be the participating entities that will decide what the configuration of the Contracting Board will be, if applicable, or if it will be the technical services and/or the management unit that, together with the Contracting Authority, will act in accordance with the determinations of the contract procedure based on the applicable public procurement regulations and the LCSP.

## CLAUSE 12

### OPENING AND EXAMINATION OF TENDERS

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- 12.1.** At the end of the period established in the notice for the submission of bids, **Envelope 1 will be opened**, for the purpose of verifying that it contains the documentation established in **Clause 9.1** of these Specifications and proceeding to qualify the validity of the same.

The contracting committee may require bidders to submit all or part of the documents justifying their suitability, capacity and solvency for the purpose of verifying any point of the declaration of compliance with prerequisites when it considers that there are reasonable doubts about the validity or reliability of the declaration or when it is necessary to ensure the proper development of the declaration. The deadline for providing the required documentation will be five (5) calendar days from receipt of the request.

- 12.2.** Subsequently, and if appropriate, tenderers shall be notified of the existence of defects or omissions that can be remedied, and a deadline shall be set for tenderers to submit the appropriate remedy. This period may not exceed three (3) business days from the date of the aforementioned communication.

Defects consisting of the lack of the required requirements will be considered non-remediable, and those that refer to the mere lack of accreditation of the same will be remediable. The decisive moment for assessing whether the capacity requirements for contracting have been met will be the end of the deadline for the submission of proposals.

Tenderers who have defects that cannot be remedied or have not remedied the defects within the period granted will be inadmissible and excluded from the tendering procedure.

In addition, the Contracting Committee may request clarification from the tenderer on the certificates and documents submitted or require the tenderer to submit additional certificates.

- 12.3.** Failure to submit any of the documents to be included in Envelope 1 will be grounds for exclusion from the bidding procedure, unless it is considered amendable by the Contracting Board and has been amended within the period granted.

Proposals from entrepreneurs excluded from the call for tenders will be excluded from the award procedure and the envelopes containing them will not be opened.

- 12.4.** Subsequently, Envelope 2 **will be opened** and once the documentation incorporated by each of them has been checked, the Contracting Committee will indicate those bids that will have been excluded because they do not conform to the bases explicit in this Specification of Particular Administrative Clauses.

The proposals contained in **Envelope 2** will be studied, evaluated and weighted, in accordance with the automatically assessable award criteria indicated in this Bidding Document.

In the event that presumed abnormal bids are detected, the procedure will be in accordance with the provisions **of clause 10.5** of these Specifications.

- 12.5.** Once the evaluation of the bids has been carried out, and after excluding those that do not meet the requirements of the Specifications, the Contracting Committee will propose the classification in descending order of score and will formulate the award proposal in favor of the bidding company that has obtained the best score. This proposal will be submitted to the Contracting Authority.

In order to formulate the classification proposal, technical reports may be requested as deemed relevant.

## CLAUSE 13

### CLASSIFICATION OF OFFERS UNDER THE FRAMEWORK AGREEMENT

**13.1.** Once the Contracting Authority has accepted the classification proposal made by the Contracting Board, the contracting entity shall require the bidder who has submitted the best offer, in accordance with the provisions of **Article 145** of the LCSP, to within ten (10) working days from the day following the date on which the request was received, Please provide the following documentation:

➤ **In the event that the company is not registered with ROLECE or RELI:**

**I) Documentation accrediting personality and capacity:**

a) For **individuals** (sole proprietors and professionals), it will be mandatory to present the **national identity document** (DNI), or document that replaces it, and the tax identification number (NIF), in the event that this does not appear in the aforementioned DNI.

b) For **legal entities**, it will be mandatory to present the **CIF** and the **deeds of incorporation**, modification and adaptation of bylaws, if applicable, duly registered in the Commercial Registry, when this requirement is enforceable in accordance with the applicable commercial legislation. When this registration is not required, accreditation will be made by providing the deed or document of incorporation, amendment, statutes or founding act, which includes the rules governing the company's activity, registered, where appropriate, in the corresponding Official Register.

c) If the entrepreneur acts through a representative or is a legal person, the following must be provided:

c.1.) Public document of power of attorney, duly registered in the corresponding Public Registry.

c.2.) DNI and NIF of the representative and the signatory of the economic proposal.

d) The capacity to act of non-Spanish companies from Member States of the European Community, or signatories to the agreement on the European Economic Area, must be accredited by registering in the appropriate registers in accordance with the legislation of the state where they are established, or by submitting an affidavit or certification under the terms established by regulation. in accordance with the implementing Community provisions.



e) The capacity to act of foreign companies not included in the previous section must be accredited by observing the rules provided for in **article 68** of the LCSP.

f) As has been advanced, bids may be submitted tendered by unions or groups of companies that are temporarily constituted for this purpose, without the need to formalize them in a public deed until the award has been made in their favor. These undertakings shall remain jointly and severally liable to the contracting entity.

A tenderer who is a member of a group or union of employers that is temporarily constituted may not participate individually in the same procedure or be included in more than one group or union of employers.

In the event that all or part of the related documentation has already been delivered to the contracting entity and has not been subject to any modification or update, being, therefore, fully valid, it will not be necessary for the tenderer to provide it again as long as it accompanies duly completed and under its responsibility certification on the validity of the aforementioned documentation. according to the model in **Annex No. 5**.

II) Documentation to prove the **solvency** required in **clause 6.3** of these Terms of Reference and mandatory to qualify for being an approved supplier.

### III) Other documentation:

a) Registration in the **Economic Activities Tax**, under the heading corresponding to the object of the contract, and last receipt, provided that you carry out activities subject to and not exempt from the aforementioned Tax.

Even so, in the event that the selected company is in any of the cases of exemption from this tax set out in **article 82** of Royal Legislative Decree 2/2004, of 5 March, which approves the Revised Text of the Law regulating local treasuries, it must provide a responsible declaration that must specify the legal case of exemption and the declaration document in the census of taxpayers Tax.

b) **Specific certificate** of being up to date with tax obligations issued by the **Tax Administration**, for the purposes of **article 43** of Law 58/2003, of 17 December, General Taxation.

- c) **Positive certificate** issued by the **Government of Catalonia** accrediting the non-existence of tax debts with the aforementioned Administration.
- d) **Positive certificate** , issued by the competent body, of being up to date with the fulfilment of the obligations with the **Social Security**.
- e) In the case of resorting to the integration of solvency through external means, provision of the commitment referred to in **article 75.2** of the LCSP.

➤ **If the company is registered with ROLECE or RELI:**

- I) **Document** accrediting registration in **ROLECE or RELI** and **certification** of the **validity of the data** contained therein. **If any of the information referred to in the previous sections (from I to IV) is not included in the RELI, it must be provided separately.**
- II) In the case of resorting to the integration of solvency through external means, provision of the commitment referred to in **article 75.2** of the LCSP.

If the request is not complied with within the specified period, it will be understood that the bidder has withdrawn its bid, and the amount of 3% of the base tender budget, excluding VAT, will be demanded as a penalty, which will be paid in the first place against the provisional guarantee, if it has been constituted.

In this case, the same documentation shall be requested from the next tenderer in accordance with the order in which the tenders have been ranked.

## **IV.AWARD AND FORMALIZATION OF THE FRAMEWORK AGREEMENT**

### **CLAUSE 14**

#### **AWARD OF THE FRAMEWORK AGREEMENT: APPROVAL OF SUPPLIERS**

- 14.1.** The Contracting Authority will approve for the Framework Agreement the proposal(s) that present the best value for money by means of a reasoned resolution that will be notified to all bidders and published in the Contractor Profile of the entity, within a

maximum period of five (5) working days from the date on which the definitive guarantee has been constituted. If required, and once the documentation referred to in the previous clause has been provided.

**14.2.** The decision approving the Framework Agreement must state the reasons for the award criteria of this Specification, must specify the reasons for rejecting a candidacy or offer and the characteristics and advantages of the selected tender, including an indication of the scores, total and partial, obtained by all the companies admitted. In each of the award criteria. A statement of reasons will be sufficient if, in the approval decision, the Contracting Authority accepts and accepts the proposal made by the Contracting Committee.

**14.3.** Likewise, the approval resolution will indicate the period in which the Framework Agreement will have to be formalized.

**14.4.** If there is no proposal that is admissible in accordance with the award criteria of this Specification, the procedure will be declared void.

Likewise, the Contracting Authority may annul the procurement procedure, when there are circumstances of a factual or legal nature that, in a logical and reasonable manner, impose the prevalence of the public interest in view of the needs that the contract seeks to satisfy, and may also desist or renounce the award procedure for reasons of public interest duly justified in the file.

**14.5.** If the Contracting Authority departs from the approval proposal made by the Contracting Board, the reasons must be justified in the resolution.

**14.6.** Once the deadlines set out in **Article 158** of the LCSP for the award of the Framework Agreement have elapsed without the award or approval agreement having been issued, the bidders shall have the right to withdraw their proposal, without the right to any type of compensation. However, the Contracting Authority may request the bidders to maintain their offer for a longer period, after notifying the bidders and publishing it in the Contractor Profile, and the tender will be maintained with those bidders who accept the extension.

## CLAUSE 15

### FORMALIZATION OF THE FRAMEWORK AGREEMENT

**15.1.** The Framework Agreement may not be formalized before fifteen (15) working days have elapsed since the notification of approval is sent to the bidders.

The services dependent on the Contracting Authority will require the approved suppliers to formalize the Framework Agreement within a period of no more than five (5) calendar days from the day following the day on which they received the request, once the period provided for in the previous paragraph has elapsed without the appeal associated with the suspension of the formalization of the contract having been filed. The same procedure shall be followed when the body competent to decide on the appeal has lifted the suspension.

**15.2.** When, for reasons attributable to the approved supplier, the Framework Agreement has not been formalised within the period indicated, the amount equivalent to 3% of the base tender budget, excluding VAT, will be required as a penalty, which will be paid in the first place against the definitive guarantee, if it has been constituted.

**15.3.** The Framework Agreement may not be executed prior to its formalization.

**15.4.** The Framework Agreement will have to be formalized by means of a private document, which will specify the minimum conditions offered that have determined the approval of the supplier and that must be respected in any and/or future contracts based on them. The Framework Agreement will be perfected with its conclusion and it will be from then on that contracts based on it can be concluded.

The approved supplier may request that the Framework Agreement be made public and be responsible for the corresponding costs.

**15.5.** Within a period of no more than ten (10) calendar days from the formalization of the Framework Agreement, the notice will be sent to the OJEU so that the aforementioned formalization can be published. The notice of formalization of the Framework Agreement and the corresponding documentation will also be published in the Contractor Profile, within a period of no more than fifteen (15) days from its completion.

## CLAUSE 16

### ULTIMATE WARRANTY

**16.1.** Given that the award of this Framework Agreement only entails the expectation of being approved or selected to subsequently be awarded the different contracts based

on it, in accordance with **article 107.5** of the LCSP, the awarded companies are exempted from the obligation to provide a definitive guarantee.

**16.2.** With regard to **contracts based on them**, each participating entity may decide whether or not to require them at the time of processing. If required, the successful bidder of the based contract must provide the definitive guarantee, for an amount of 5% of the base tender budget of the based contract, excluding VAT, before its formalization, and must be presented as required in the documentation corresponding to the processing of the based contract.

However, participating entities are provided with the following options:

- If a cash guarantee is required, it will be deposited with the Caixa General de Dipòsits de la Generalitat de Catalunya, in the manner and under the conditions established by the LCSP.
- In the case of a bank guarantee, the aforementioned guarantee must be formalized according to the standard guarantee that appears in **Annex No. 7A** of these Specifications, and the guarantor must comply with the legally enforceable requirements.
- In the case of a surety insurance contract, entered into in the manner and under the conditions established by regulation, with an insurance company authorised to operate in Spain in the field of surety insurance, it is necessary to deliver the certificate of the contract to the corresponding Contracting Authority of the IJC.
- This insurance must be formalised by means of the corresponding policy which will be specified in a certificate, the standard model of which is set out in **Annex No. 7B** of these Specifications and the insurance company must comply with the legally enforceable requirements.
- It is also possible to provide the definitive guarantee by means of a retention on the price. In this case, each contracting entity must establish the form and conditions of the withholding in the documentation to be processed by the contract based.

The successful bidder must provide proof of the provision of the definitive guarantee within the period provided for in the documentation for the processing of the contract based on it.

When, as a result of the modification of the contract based on it, for any reason, the price of the contract varies upwards or downwards, the guarantee constituted will be

readjusted by the necessary amount in order to maintain the due proportionality between the guarantee and the budget of the based contract in force at any given time. Likewise, if the based contract is extended, the term of the guarantee provided must also be extended or a new one must be provided.

The **return or cancellation of the definitive guarantee** shall be carried out once the warranty period has expired and the contract is satisfactorily fulfilled, or the contract has been terminated for reasons not attributable to the contractor, and in accordance with the procedure established in the contract.

## **V. IMPLEMENTATION OF THE FRAMEWORK AGREEMENT**

### **CLAUSE 17**

#### **SUCCESSION OF THE APPROVED SUPPLIER AND ASSIGNMENT OF THE FRAMEWORK AGREEMENT**

##### **17.1. Succession of the approved supplier of the Framework Agreement:**

In the event of a merger of companies in which the approved company participates, as well as in the event of a spin-off, contribution or transfer of companies or branches of activity, the Framework Agreement and, where applicable, the contracts based on which they were in execution will continue with the absorbing entity or the entity resulting from the merger, which will be subrogated to all the rights and obligations arising therefrom.

In the event of a spin-off, contribution or transfer of undertakings or branches of activity, the contract shall continue with the entity to which the contract is awarded, which shall be subrogated to the rights and obligations arising therefrom, provided that it meets the conditions of capacity, absence of prohibition on contracting and the solvency required when the award of the Framework Agreement or the corresponding procurement based on or on the contract is agreed. In the event of subsistence, the company from which the assets originate, companies or segregated branches, are jointly and severally liable for the execution of the contract.

The approved supplier must communicate this circumstance at the time it occurs.

##### **17.2. Assignment of the Framework Agreement: not contemplated.**

## CLAUSE 18

### AMENDMENT OF THE FRAMEWORK AGREEMENT

- 18.1.** In relation to any contractual modifications that may occur in the Framework Agreement, the regime provided for in subsection 4 of Section 3 of Chapter I of Title I of the LCSP of Book II shall apply, depending on whether or not specific causes for modification have been foreseen.
- 18.2.** Planned modifications: See **section R** of the Table-Summary of Characteristics.
- 18.3.** Unforeseen modifications: when the requirements are met and the cases provided for in **articles 205** and **206** of the LCSP are met under the conditions and requirements legally established by the LCSP.
- 18.4.** The procedure for amending the Framework Agreement shall be:
- Justifying report from the person responsible for the Framework Agreement stating the need to proceed with its modification.
  - Legal report from the Contracting Department stating, where appropriate, its origin.
  - Hearing procedure for the approved suppliers of the Framework Agreement for a period of ten (10) business days so that they can state that they have been informed of the modification of the Framework Agreement.
  - Approval of the modification by resolution of the competent Contracting Authority at the proposal of the contract manager with budgetary validation, if applicable.
  - Publication of the modification in the entity's contractor profile.
- 18.5.** Any modifications that are approved will be mandatory by the approved supplier. Consequently, the approved supplier accepts any modification of the Framework Agreement proposed by the Contracting Authority that complies with the provisions of these Terms and Conditions and undertakes to implement them once the corresponding agreement is adopted.
- 18.6.** In these cases, the approved supplier will be obliged to follow the work in strict accordance with the rules that are set for it, without the right to claim any compensation and without being able to slow down the pace of the work or suspend it for any reason.

## CLAUSE 19

### VARIATION IN THE ELIGIBILITY TO CONTRACT OF APPROVED SUPPLIERS

- 19.1.** During the term of the Framework Agreement, the awarded companies must notify the IJC within a maximum period of five (5) business days of any changes that affect their ability to contract with the public sector in relation to their capacity to act, prohibition of contracting and solvency.

## VI. CONTRACTS BASED ON THE FRAMEWORK AGREEMENT: PROCESSING AND EXECUTION

## CLAUSE 20

### GENERAL CRITERIA FOR THE PROCESSING OF CONTRACTS BASED ON

- 20.1.** The status of an approved company in the Framework Agreement does not entitle it to the provision of the services covered by this call for tenders. The participating entities, according to their needs, may issue the appropriate requests for services to the approved companies of contracts based on the procedure established in these specifications.

Contracts based on the Framework Agreement may only be concluded between the participating entities and the undertakings that have been originally approved by it.

- 20.2.** While the Framework Agreement is in force, contracts may be concluded on the basis of the Framework Agreement, the duration of which may be extended beyond the date on which the term of the Framework Agreement expires, provided that they have been awarded prior to such termination.
- 20.3.** The contractor of a based contract shall be responsible for the quality of the services it delivers, as well as for any errors or improper methods during its execution.

When the contractor or its personnel incurs deficiencies in the provision of the services that compromise or disturb the proper functioning of the contract based on it, the participating entity may require the adoption of specific measures to achieve or restore or amend the deficiencies detected in the agreement. These eventualities will be considered contractual breaches and may be subject to penalties according to the terms established in the formalization of the Framework Agreement and/or based contract.

**20.4.** The person responsible for the contract based on the designation of the participating entities shall determine whether the services performed by the successful tenderer comply with the requirements laid down for their performance.

**20.5.** The call, invitation, award and formalisation of the contracts based on them will be carried out in accordance with the general framework set out in this clause, a framework that may be adapted to the internal procurement procedure of each participating entity.

**20.6.** Contracts based on the Framework Agreement shall be executed subject to the provisions of the Framework Agreement, contracts based on the specifications of specific administrative clauses and technical requirements and in accordance with the instructions given to the contractor in the invitation document for their interpretation.

The contractor is obliged to comply with the deadlines for performance set out in the contracts based on it.

**20.7.** The award of based contracts shall be carried out in accordance with the following procedure:

a) **In those contracts whose estimated value is less than 15,000 euros (excluding VAT), the contract may be awarded directly.**

In the event that the contracting entity wishes to request bids from different approved companies, such bids will be evaluated on the basis of the award criteria set out in Annex No. 1 of the Framework Agreement, consisting of the Award Criteria by means of automatic formulas. At the discretion of each of the participating entities, all or part of the criteria defined in **clause 20.8** of these specifications may also be included, whether they are other automatic criteria, criteria that can be evaluated by means of a value judgement or a combination of both, according to the terms set out in section b).

The maximum price for the service that is requested will be the result of applying the % discount confirmed by the approved provider to which the provision of the service is requested. At the time of submitting the bid, the supplier must match

the bid price or include a discount from the bid price. In no case will amounts higher than the established maximums be accepted, as well as a lower % than that awarded in this Framework Agreement.

b) **In those contracts whose estimated value is equal to or greater than 15.00 euros (excluding VAT), an offer must be requested from more than one approved supplier** and the evaluation of the offers may be carried out:

- Through the use of **various automatic criteria** that can be evaluated by means of automatic formulas, where the bid that obtains the highest score will be awarded once the formulas indicated in the invitation document have been applied. In this case, the price must be one of the criteria to be assessed. The criteria to be used in the based contracts may be the same as those used for the award of the Framework Agreement. In this case, the maximum values to be indicated in the documentation to process the contract based on it must be the values that have been awarded in the Framework Agreement.

- Following a **combination** of valuation criteria using **automatic formulas** and valuation criteria using a **value judgment**. In this case, the minimum score for the evaluation criteria using automatic formulas will be 51 points and in the case of evaluation criteria using a value judgment, it will be a maximum of 49 points. For those contracts based on which a total score is different from 100 points, the same proportion as indicated in this section must be maintained. In this case, the price must be one of the criteria to be assessed.

#### **20.8. Award criteria to be used in contracts based where tenders are to be requested from more than one approved supplier\*:**

- **Price**, the formula used in this Framework Agreement or the one determined by the participating entity may be applied.

In this case, although the maximum price in the processing of the based contract will be the same as that required in the Framework Agreement (**section B**), the tendering companies will be obliged to include in their bids the same % awarded in this Framework Agreement or a higher % discount than that awarded.

Thus, when evaluating the offers:

- In the case of bidding the same % as the awardee, the score to be assigned must be zero (0) points.

- In the case of bidding a higher percentage, the calculation of the allocation of the score must be made by the figure of the % offered for the based contract. In other words, if an approved supplier has been awarded a 5% discount in the Framework Agreement and the offer submitted to the based contract includes a 12% discount, the figure "12" will be taken as the value to calculate the score that corresponds to it based on the mathematical formula that is indicated.

In no case will amounts higher than the established maximums be accepted, as well as a lower % than that awarded in this Framework Agreement, as they must be considered a reason for exclusion in the procedure for processing the contract based.

- **Automatic criteria, the explanation and development of which, as well as the weighting attributed, will be determined in the corresponding contract based on:**

- o Those used for the award of the Framework Agreement: response time, subscription and use of the patent search database and staff training.
- o Other automatic criteria:
  - Qualifications and experience of the personnel required to be assigned to the execution of the contract.
  - Have Qualified European Agents (EQAs) in the areas and sub-areas described for the execution of the contract.
  - Provision of quality certificates.
  - Preparation of extraordinary reports at no cost or without extraordinary cost.
  - Set an urgent delivery deadline for justified reasons.
  - Prior knowledge regarding the patent to be managed by the assigned work team
  - Have delegations outside Spain
  - Number of oppositions or appeals filed with the European Patent Office (EPO) by the members of the seconded task force in the last five (5) years.
  - Number of national or international awards or accolades received by the members of the assigned work team in the last five (5) years.

These automatic criteria are options that do not imply the obligation to use all of them at the time of processing the based contracts, but the participating entities may choose between one (1) of them, several or all of them.

- **Criteria that can be evaluated by means of value judgment:** technical or descriptive reports on:
  - o Organizational scheme of the professional team that will intervene in the execution of the service, including, among others:
    - Number of EPAs (European Patent Attorney) or European Patent Attorney.
    - Number of industrial property agents (accredited and registered in the Special Register of Industrial Property Agents of the Spanish Patent and Trademark Office).
  - o Quality control plan and monitoring of the services to be provided.
  - o Methodology for the provision of the service.
  - o Description of prior knowledge of the patent (\*)

These criteria will be assessed according to the following parameters, which will be defined in the documentation of the contract based:

Very complete and detailed report, adequate and well justified.	Up to [-]
Complete and coherent, detailed and adequate report.	Up to [-]
A basic and coherent report, but not very specific and relevant.	Up to [-]
It does not provide or provides non-relevant information.	0

*(\*) It is possible that the same criterion can be assessed by means of automatic formulas or by means of a value judgment. Either way, the possibility of assessing it in both options is not contemplated, that is, if this criterion is included, it can only be assessed objectively or subjectively.*

*In the case of using criteria that may be considered as additional solvency to that required to participate in the Framework Agreement, either as an objective or subjective criterion, it will be necessary to justify their inclusion and appropriateness.*

**20.9. Tie-breaking criteria in bids for based contracts:** a tie between several bids after the application of the contract award criteria will be resolved by applying the following social criteria in order, referred to at the end of the deadline for submission of bids:

- a. Highest percentage of workers with disabilities or in a situation of social exclusion in the workforce of each of the companies, prioritizing in the case of equality, the largest number of permanent workers with disabilities in the workforce, or the largest number of workers in inclusion in the workforce.
- b. Lower percentage of temporary contracts in the workforce of each of the companies.
- c. Highest percentage of women employed in the workforce of each of the companies.
- d. The draw, in the event that the application of the above criteria would not have resulted in a tie-breaker.

**20.10. Criteria for considering a bid with abnormal or disproportionate values in bids for based contracts:** in the processing of documentation for the conclusion of based contracts, participating entities shall indicate in which case a bid will be considered to be abnormal or disproportionate. In addition, the procedure that will be carried out in the event that an offer is detected as abnormal or disproportionate must be detailed, as well as the actions that will be taken to decide whether the offer is accepted or denied and how it will proceed in each case.

**20.11.** Participation in the based procurement to which approved companies are invited is established as a special condition for the performance of the contracts based on them.

Non-participation for unjustified reasons in two (2) or more contracts based on the framework agreement of the same recipient entity will be subject to a penalty of up to 2% of the bidding budget of the requests to which the approved companies are invited. This penalty may be processed by the same entity affected.

In the event of unjustified non-participation in six (6) or more contracts based on various participating entities, the IJC shall be entitled to terminate the framework agreement with such approved company.

## CLAUSE 21

## PROCESSING OF CONTRACTS BASED ON

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### 21.1. Requests under €15,000 (excluding VAT): direct award

Where the estimated value of the based contract is less than €15,000 (excluding VAT), contracts based directly on an approved supplier may be awarded, without the need to consult all approved suppliers in the lot concerned.

Such requests shall be dealt with by sending an e-mail to the address indicated by the approved provider in question, indicating at least:

- Offer Requester.
- Determination of the subject matter of the contract.
- Deadline for submission of the offer.
- Maximum term of execution of the service.
- Maximum tender budget according to the approved offer, excluding VAT or other taxes.
- Mailbox for sending electronic invoices, if applicable.
- Other information that is necessary for the submission of the offer, if applicable.

### 21.2. Requests equal to or greater than €15,000 (excluding VAT) and up to the harmonisation threshold in force at the time of processing the based contract (excluding VAT):

- a) The Participating Entities, through the assigned responsible person or the corresponding Contracting Authority, will initiate the processing of the contracts based, by sending through the contracting platform (for example, Digital Envelope or other available option), an **invitation to all approved suppliers, except in those cases in which it is adequately justified that only three approved suppliers** will be invited, so that within a period of no more than ten (10) calendar days they submit the appropriate offer and that, at least, must contain the economic proposal and a declaration of responsibility confirming the validity of the requirements of capacity and aptitude to contract.
- b) The request for quotation shall indicate at least:

- Contracting authority of the contract based.
- Determination of the subject matter of the contract.
- Duration of the contract.
- Deadline for submission of the offer.
- Maximum term of execution of the service.
- Bidding Base Budget and Estimated Contract Value, excluding VAT or other taxes in both cases.
- Award criteria to be considered.
- Composition of the Contracting Board, if applicable.
- Form of submission of bids.
- Date of opening of the envelope or envelopes of the offer submitted.
- Definitive guarantee, if requested.
- Mailbox for sending electronic invoices, if applicable.
- Other information that is necessary for the submission of the offer, if applicable.

### **21.3. Requests above the harmonisation threshold in force at the time of processing the based contract (excluding VAT):**

- a) The Participating Entities, through the assigned responsible person or the corresponding Contracting Authority, will initiate the processing of the contracts based, by sending through the contracting platform (for example, Digital Envelope or other available option), an **invitation to all the approved suppliers in the corresponding batch of the Framework Agreement**, so that within a period of no more than ten (10) calendar days they submit the appropriate offer and that, at least, must contain the economic proposal and a declaration of responsibility confirming the validity of the requirements of capacity and aptitude to contract.
- b) The request for quotation shall indicate at least:
  - Contracting authority of the contract based.
  - Determination of the subject matter of the contract.

- Duration of the contract.
- Deadline for submission of the offer.
- Maximum term of execution of the service.
- Bidding Base Budget and Estimated Contract Value, excluding VAT or other taxes in both cases.
- Award criteria to be considered.
- Composition of the Contracting Board, if applicable.
- Form of submission of bids.
- Date of opening of the envelope or envelopes of the offer submitted.
- Definitive guarantee, if requested.
- Mailbox for sending electronic invoices, if applicable.
- Other information that may be necessary for the submission of the offer, if applicable

## CLAUSE 22

### AWARD OF CONTRACTS BASED ON

#### 22.1. Requests under €15,000 (excluding VAT): direct award

Once the requested offer has been received from the approved supplier, the contract will be awarded based on the offer made and which complies with the minimum conditions for approval of the Framework Agreement. By accepting the award, the contract will be considered formalized and its execution can begin.

It should be noted that the acceptance of the award will be adapted to the management of each participating entity, which may be through the sending by email of the internal order issued, as well as the preparation of the award resolution of the appropriate contracting authority or another similar procedure that is justified in the documentation of the processing of the contract based.

#### 22.2. Requests equal to or greater than 15,000 euros (excluding VAT):

##### a) Opening envelopes and evaluating bids



The Contracting Committee of the participating Entities, in the event that they have chosen to set it up, will open the envelopes in a private session and will proceed to evaluate the bids received.

The committee or the contracting authority may request its technical services to carry out the appropriate review to validate that the content complies with the requirements of the PCAP, PPT and related invitation document and assign them the appropriate score based on the established criteria. In this way, it will issue a technical evaluation report, ranking the bids in descending order and, in the case of the committee, submitting the award proposal to the bid with the best score to the Contracting Authority.

In the event that value judgement criteria have been established, these will be assessed prior to the economic offer and other automatic references, and must have been presented in separate envelopes and without contamination of information or documentation.

In the event that any economic offer does not comply with the maximum prices indicated in the terms provided for in the Specifications that govern this contract, involves a manifest error, or there is an acknowledgement by the bidder that it suffers from error or inconsistency that makes it unviable, the proposal will be rejected by the Bureau or the contracting body in a reasoned resolution.

In the event of abnormal bids, the participating entity shall proceed in accordance with clause 10.5 of these Specifications.

The change or omission of some words of the economic offer model, provided that the meaning is not altered, will not be sufficient cause for the rejection of the proposal.

The Bureau or the contracting authority may only propose to declare the request void in the event that all the tenders submitted are inadmissible in accordance with the criteria set out in the Tender Documents governing the Framework Agreement or the invitation document.

## b) **Award**

The Contracting Authority, in view of the classification of tenders formulated by the Contracting Committee, if any, shall award the tender to the tender that has obtained the highest score according to the established award criteria.

Prior to formalization, the contractor shall be obliged to submit the corresponding guarantee if required.

All the actions generated will be recorded in one or more minutes, which will be attached to the file, as well as published in the contractor's profile.

The award must be reasoned, all bidders must be notified, published on the contractor's profile and indicate the deadline within which it must be formalised.

## CLAUSE 23

### FORMALIZATION OF CONTRACTS BASED ON

#### **23.1. Requests under €15,000 (excluding VAT): direct award**

Formalization will not be necessary. Acceptance of the award shall be sufficient to commence the performance of the contract on which it is based.

#### **23.2. Requests equal to or greater than €15,000 (excluding VAT) and up to the harmonisation threshold in force at the time of processing the based contract (excluding VAT):**

The formalization will be carried out with the signing of the resolution awarding the based contract and the attached document of specifics in which the specific conditions of the based contract will be detailed, which will be at least: purpose, effective date, price, other criteria and characteristics of the service, and those considered necessary.

#### **23.3. Requests above the harmonisation threshold in force at the time of processing the based contract (excluding VAT):**

The formalization will be carried out through the signing and subscription of a contract between the parties that contains all the characteristics of the awarded service (purpose, effective date, price, other criteria and characteristics) and other obligations or conditions considered in the processing of the request.

## CLAUSE 24

### PAYMENTS TO THE CONTRACTOR

**24.1.** The successful bidder of the based contract, once the service relating to a patent or other industrial property rights has been carried out, shall submit an invoice broken down according to the following items:

- For service performed based on the amounts awarded.
- Such services should be broken down in the highest level of detail (e.g. fees, official fees, translations, management fees by the network of foreign partners in other countries).
- The percentage and amount of VAT corresponding to each of the items and/or services invoiced.

**24.2.** It is possible that, due to the related financial project, the participating entities may request a more exhaustive breakdown where the economic breakdown of the items included in the invoice is necessary.

**24.3.** In the event that the invention is jointly owned (co-ownership), the invoices will be divided among the co-owners as established in the corresponding co-ownership agreements and sent to the different co-owners. The participating entities will be responsible for providing this information in advance to the winning companies so that they can prepare the corresponding invoicing. These invoices shall reflect both the total amount and the amount corresponding to the co-owner entities.

**24.4.** The effective payment of the services performed will be made within a maximum period of thirty (30) calendar days from the date of approval of the invoice by the contracting entity or within the period stipulated in the documentation to process the contract based.

In compliance with Law 25/2013, of December 27, 2013, on the promotion of electronic invoicing and the creation of the accounting register of invoices in the public sector, the participating entities have the procedure for the admission of electronic invoices (eFACT).

Electronic invoices must be processed through the AOC's eFact system, will be issued in arrears and must be in compliance with the contract manager for proper processing.

**24.5.** The participating entities shall provide, at the time of processing the based contracts, the following information necessary for the correct issuance of invoices by the companies awarded the based contracts:

- DIR codes: **Accounting Office; Managing body; and, Processing Unit**
- The tax data of the participating entity.

- Any other reference that the participating entity requires to appear on the invoice for its correct registration and accounting.
- Information regarding the payment term of invoices.

## CLAUSE 25

### MODIFICATION OF THE CONTRACT BASED ON

**25.1.** In relation to any contractual modifications that may occur, the regime provided for in subsection 4 of Section 3 of Chapter I of Title I of the LCSP of Book II will apply, depending on whether or not specific causes for modification have been foreseen.

**25.2.** The causes that may give rise to the conditions to generate a modification of the based contract are the following:

Subjective:

- Total or partial succession of the initial contractor, derived from a business restructuring, complying with the requirements and conditions established in **article 98** of the LCSP and provided that this does not imply other substantial modifications to the contracts, nor is it intended to avoid the application of the Directive
- Substitution of the initial contractor as a result of the assignment of the Contract to a third party, under the terms established in **article 214** of the LCSP. In this case, the prior and express authorisation of the Contracting Authority will be required for the assignment of the Contract and that the assignee has full capacity to contract with the public sector, has the solvency required in the Specifications and is not in cases of incapacity or prohibitions to contract with the public sector determined by current legislation. The assignee of the contract shall be subrogated to all the rights and obligations of the assignor.

Objective: Those that are determined in the corresponding contract based on the contract.

**25.3.** The procedure for modifying the contract based on to be followed by the participating entities will be:

- f) Justifying report from the person responsible for the contract based on the need to proceed with its modification.
- g) Legal report from the Contracting Department stating, where appropriate, its origin.
- h) Hearing the contractor for a period of ten (10) business days so that they can state that they have been informed of the modification of the contract based on it.
- i) Approval of the modification by resolution of the competent Contracting Authority at the proposal of the contract manager based on budgetary validation, if applicable.

**25.4.** Any modifications that are approved will be mandatory by the contractor. Consequently, the successful bidder accepts any modification of the based contract proposed by the Contracting Authority that complies with the provisions of these Specifications or the Based Contract and undertakes to execute it once the corresponding agreement is adopted.

**25.5.** In these cases, the contractor shall be obliged to carry out the work in strict accordance with the rules laid down in accordance with the rules, without the right to claim any compensation and without being able to slow down the pace of the work or suspend it for any reason.

**25.6.** There will be no limitation on modification of the contract downwards. In the event that the downward modifications exceed twenty per cent of the award amount, the successful bidder may request the termination of the contract and the settlement of the work carried out, without having any right to any type of compensation or payment for the lost profit.

## **CLAUSE 26**

### **RISK AND CHANCE. PRICE REVIEW**

**26.1.** The execution of the contracts based on it will be carried out at the risk and fortune of the successful bidder.

**26.2.** The successful bidder does not have the right to a price review, given the characteristics of the contracts based on this Framework Agreement.

## CLAUSE 27

### MANAGEMENT AND INSPECTION OF THE EXECUTION OF THE CONTRACT BASED ON

**27.1.** The person responsible for the based contract appointed by the contracting entity shall perform the following functions:

- Supervise the execution of the awarded based contract.
- Ensure compliance with the obligations assumed by the successful bidder, both those provided for in the Tender Specifications and in the proposal or offer.
- To send the successful bidder the appropriate orders and instructions to ensure the correct execution of the service that is the subject of the contract based.
- Assume the dialogue with the technical coordinator or person in charge designated by the successful bidder.
- Ensure that the contracted company proves the obligation that the workers assigned to the execution of the contract are affiliated and registered with the Social Security and for this purpose, it may request from the successful bidder, together with each invoice, the payslips and the TC1 and TC2 documents accrediting the payment of the salaries and Social Security of the people who execute the contract based on it and accompany these documents to each validated invoice.

The person responsible for the based contract will be the interlocutor with the technical coordinator or person in charge designated by the winning company, who must belong to its staff, to coordinate and control the correct execution of the contract, for which they will have to meet with the appropriate periodicity.

Under no circumstances shall the person in charge of the contract of the contracting entity determine the employees of the successful tenderer who have to execute the contract or participate in their selection or training, nor shall he/she give specific orders and instructions to the staff of the successful tenderer or exercise any managerial power over them.

The contracting entity shall also have the power to supervise, throughout the execution of the contract, that it is executed with the utmost respect for the environment, in accordance with the obligations and requirements contained in these Specifications.

## CLAUSE 28

### CONDITIONS OF CONTRACTUAL PERFORMANCE AND ESSENTIAL OBLIGATIONS OF THE CONTRACT BASED ON

#### 28.1. Special conditions for the contractual performance of contracts based on:

The ethical principles and rules of conduct to which bidders, contractors and subcontractors must adapt their activity, assuming the following obligations:

- a) Maintenance of the working conditions of the persons who will execute the contracts based on which they are formalized throughout the contractual period: the contractor must maintain, throughout the execution of the contracts based, the working and social conditions of the workers involved in the execution of the contracts, fixed at the time of submitting the bid, according to the applicable convention.
- b) Compliance with data protection obligations.
- c) Submission of bid in response to a contract based.

The contractor must submit the documentation that justifies the effective fulfillment of the aforementioned obligations, when required by the heads of the entities participating in the formalized based contracts.

#### 28.2. Essential obligations of the Framework Agreement and the contracts based on it:

- a) The contractor shall be bound by the bid it has submitted, the fulfillment of which, in all its terms, shall be an essential obligation of the Framework Agreement and the subsequent contracts based on which they may be concluded.
- b) Compliance with the special performance conditions set out in the preceding paragraph shall be an essential contractual obligation.
- c) The effective dedication or assignment to the execution of the personal and/or material resources indicated and committed in the offer.

- d) Those obligations of the PCAP and the Framework Agreement to which they are specifically attributed the character of essential contractual obligation.

## CLAUSE 29

### OBLIGATIONS OF THE CONTRACTOR

**29.1.** In addition to the obligations established in the applicable regulations in force, it will be obliged to:

- a) Specify, at the request of the contracting entity, the specific persons who will perform the services, as well as communicate any substitution or modification of those persons and prove that their employment situation is in accordance with the law.
- b) Designate a person responsible for the smooth running of work and staff behaviour; You also have to liaise with the contracting entity and the person responsible for the contract.
- c) Carry out a correct environmental management of its service, taking the necessary measures to minimise the impacts that it may cause (minimising acoustic impacts, on the environment, making a correct management of waste and packaging, among others) in accordance with current legislation.
- d) Maintain confidentiality with respect to data or records that are not public or notorious and that are related to the object of the contract, of which they have become aware on the occasion of the contract.
- e) Respect, in any case, the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 and Organic Law 3/2018 of 5 December 2018 and the regulations implementing it.
- f) Comply with current provisions on tax, labour and social matters and the general regulations on the prevention of occupational risks, specifically to be up to date with the documentation required by Law 54/2003, of 12 December, on the reform of the regulatory framework for the prevention of occupational risks and by Royal Decree 171/2004, of 30 January, which develops **article 24** of Law 31/1995, of 8 November, on the prevention of occupational risks. To this end, it will have to have and provide, at the request of the contracting entity, the tax certificate of contractors and subcontractors that covers the entire contractual period.

- g) On the basis of **the Advisory Board's Resolution 2/2005** of 5 May, amended by **Resolution 1/2009** of 30 July, the following clauses on the use of Catalan are included:
- The contractor must use Catalan in its relations with the contracting entities arising from the execution of the object of this Framework Agreement and the subsequent contracts based on it. Likewise, the contractor and the subcontractors, if applicable, must use, at least, Catalan, in the titles, publications, notices and in the rest of the general communications that derive from the execution of the presentations that are the subject of the contract.
  - The winning company must deliver the works covered by this contract in at least Catalan, except in those cases where there is an obligation to write them in another language.
  - Likewise, the contractor assumes the obligation to allocate to the execution of the contract the means and personnel that allow to ensure that the services covered by the service can be carried out in Catalan. In this sense, the winning company must allocate the training actions of its staff that are necessary to ensure that they, if necessary, can relate to the public, with sufficient knowledge of the Catalan language to carry out the tasks of attention, information and communication in a fluent and adequate way.
- h) In any case, the contractor and the subcontractors, if applicable, are subject, in the execution of the contract, to the obligations derived from Law 1/1998, of 7 January, on language policy and related provisions.
- i) Ensure that all actions in this contract guarantee respect for the principles of non-discrimination and equal treatment relating to non-discrimination on the basis of sex, sexual orientation, gender identity, ideology, nationality, race, ethnicity, religion, age, functional diversity or any other type of disability, and the dignity and freedom of individuals.
- j) Provide and provide the information indicated in Law 19/2014, of 29 December, on transparency, access to public information and good governance.
- k) Comply with the following obligations relating to the ethical principles and rules of conduct to which bidders and contractors must adapt their activity, in accordance with the provisions of **article 55.2** of Law 19/2014, of 29 December, on transparency, access to public information and good governance:



- Adopt an ethically exemplary conduct, refrain from encouraging, proposing, promoting or carrying out any type of corrupt practice, both in relation to what the Penal Code refers to as corruption and also in relation to ethically reprehensible actions, to inform the competent bodies of any manifestation of these practices that, in their opinion, is present or may affect the procedure or the contractual relationship and not to take any other action that may violating the principles of equal opportunities and free competition.
- Observe the principles, norms and ethical canons of the activities, trades and/or professions corresponding to the services covered by the contract.
- Not to carry out actions that put the public interest at risk in relation to the scope of the contract or the contracted services.
- Report, during the execution of the contract, any irregular situations that may arise in the contracting process.
- Immediately notify the contracting authority of any situations of conflict of interest, understood as any situation in which members of the staff of the contracting authority or of a procurement service provider acting on behalf of the contracting authority who participate in the conduct of the procurement procedure or are likely to influence the outcome of the procurement procedure have, directly or indirectly, a financial, economic or personal interest which might appear to compromise their impartiality and independence in the context of the procurement procedure. And also taking into account the provisions contained in Directive 2014/24/EU regarding conflict of interest.
- Not to request, directly or indirectly, that a public official or employee influence the award, continuation or maintenance of the contract in his or her own interest or that of third parties.
- Not to offer or provide personal or material advantages to public officials or employees, either for themselves or for third parties, regardless of the personal or professional relationship they may or may not have, and to persons who participate in or who may influence the recruitment procedures.
- Respect the principles of the free market and competitive competition and refrain from conduct that has the purpose or may have the effect of preventing, restricting or distorting competition, such as collusive conduct of fraudulent competition (offers for safekeeping, elimination of offers, allocation of markets,

rotation of offers, etc.). Likewise, to denounce any act or conduct aimed at those purposes and related to the tender or contract of which it is aware.

- Not to use confidential information, known through bidding or contract execution, to obtain, directly or indirectly, an advantage or benefit of any kind in one's own interest.
  - Not to attempt to unduly influence the contracting authority's decision-making process, to obtain confidential information that may confer undue advantage on it in the procurement procedure or to negligently provide misleading information that may have a material influence on decisions relating to exclusion, selection or award."
  - Collaborate with the Contracting Authority in the actions it carries out for the monitoring and/or evaluation of compliance with the contract, particularly by providing the information requested for these purposes.
  - Comply with the obligations to provide information that transparency legislation and public sector contracts impose on successful bidders in relation to the Administration or administrations of reference, without prejudice to compliance with the transparency obligations that correspond directly to them by legal provision.
  - Report acts of which it becomes aware and which may entail a breach of the above obligations.
- l) It is the exclusive responsibility of the contractor to select the personnel who, meeting the qualification and experience requirements set out in the specifications (in cases where specific qualification and experience requirements are established), will form part of the work team assigned to the execution of the contract, without prejudice to the verification by the IJC of compliance with those requirements.
- m) The contractor assumes the obligation to exercise in a real, effective and continuous manner, over the personnel who are members of the work team in charge of the execution of the contract, the power of management inherent in every employer. In particular, it will assume the negotiation and payment of salaries, the granting of leave, leave and vacations, Social Security matters, including the payment of contributions and the payment of benefits, where applicable, the legal obligations regarding the prevention of occupational risks, the exercise of disciplinary power, as

well as all the rights and obligations arising from the contractual relationship between employee and employer.

- n) The contractor shall take special care to ensure that the workers assigned to the execution of the contract carry out their activity without exceeding the functions exercised with respect to the activity defined in the specifications as the subject matter of the contract.

## **CLAUSE 30**

### **RECEIPT AND SETTLEMENT OF SERVICES**

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- 30.1.** The review and conformity of the services provided will be carried out at the time of receipt of the invoices issued by the approved suppliers. In the event that the participating entity is satisfied with the services provided, it will proceed to process the invoice to proceed with the payment of the same according to the agreed conditions.
- 30.2.** In the event that incidents arise in relation to the services performed, these will not be deemed to have been received, but a maximum period of ten (10) calendar days will be granted to the successful bidder to proceed to correct the deficiencies detected.
- 30.3.** Settlement of the contract shall be agreed within thirty (30) days from receipt of all services or from the receipt of the last invoice by the contracting entity if it is after the date of receipt.
- 30.4.** If the aforementioned periods have elapsed without the participating entity having proceeded to issue the corresponding certificate of receipt of the works or services executed, these will be considered received.

## **CLAUSE 31**

### **SUBCONTRACTING AND ASSIGNMENT OF CONTRACTS BASED ON**

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- 31.1.** In the event that partial performance of the contract is permitted, the successful tenderer shall notify the contracting authority in writing, after the award of the contract and at the latest as soon as the performance of the contract begins, of the intention to enter into the subcontracts, and shall indicate the part of the service to be subcontracted

and the identity, contact details and the subcontractor's legal representative(s). It must sufficiently justify the latter's ability to carry it out by reference to the technical and human resources at its disposal and its experience, and it must prove that the latter is not prohibited from contracting.

- 31.2.** If, during the execution phase of the contract, the contractor intends to modify the subcontractors, the contracting authority must authorise the modification of the subcontractors identified in the tender. This authorisation will not be granted if the same solvency conditions as those offered at the approval stage are not met.
- 31.3.** In accordance with the provisions of Additional Provision 51 of the LCSP, the Contracting Authority may make direct payments to subcontractors when the payment deadlines established in **Article 216** of the LCSP are not met.
- 31.4.** Payments made by the Contracting Authority shall be deemed to have been made by the main contractor. In no case shall the contracting entity be liable for any delay in payment resulting from the failure of the main contractor to comply with the invoice submitted by the subcontractor.
- 31.5.** Under no circumstances may the contractor subcontract persons or companies that are in cases of incapacity or prohibitions to contract with the public sector determined by current legislation.
- 31.6.** The assignment of the contract may be carried out as long as the requirements established in **article 214.2** of the LCSP are met.

## CLAUSE 32

### DELAY IN BENEFITS

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- 32.1.** The contractor is obliged to perform the contract based on it within the total time fixed for its performance, as well as the partial deadlines indicated for successive performance, if any. The contractor shall not be in default without prior notice from the contracting entity.
- 32.2.** Where the contractor, for reasons attributable to it, has incurred a delay in complying with the partial or total deadline, the contracting participating entity may opt for the termination of the contract based on it.

**32.3.** In the processing of the file, the contractor will be given a hearing so that it can make allegations within five (5) working days and the corresponding Contracting Authority of the participating entity will resolve, after issuing the relevant reports.

**32.4.** The contractor may suspend the performance of the contract for non-payment, provided that the delay is more than six (6) months.

## **CLAUSE 33**

### **ENFORCEMENT RESPONSIBILITY AND PENALTIES**

**33.1.** The contractor shall compensate the contracting entity, or its subordinate personnel, for damages and compensate the contracting entity for damage resulting from wilful misconduct or negligence in the performance of the obligations resulting from the award of the contracts on which they are based. Likewise, you will be liable for damages caused to third parties during the execution of the contract.

**33.2.** In the event of non-compliance or defective performance of the obligations assumed by the successful tenderer, the contracting entity may terminate the contract based on it or compel the successful tenderer to comply with it.

**33.3.** Failure to comply or defective performance of contractual obligations will result in the imposition of penalties.

In addition to what is indicated in clause 20.11 of these specifications, the classification of the faults for the purposes of the formalized based contracts are described below. Even so, it is possible that the participating entities, at the time of processing the based contracts, may define and include other types of faults that they consider necessary to ensure the correct execution of the object of the contract based:

#### LIGHT:

- a) Lack of collaboration with the staff of the contracting entity.
- b) Failure to partially perform the services defined in the Framework Agreement and its subsequent contracts based on it, which does not constitute serious misconduct.
- c) Failure to notify the contracting entity of the addition of new staff or if changes occur.

- d) Failure to comply with the regulations on the Prevention of Occupational Risks, classified as minor by their specific regulations.
- e) The absence of mandatory documentation for the proper execution of the object of the Framework Agreement and its subsequent contracts based on it.
- f) Other deficiencies that are incurred due to non-compliance with the PPT of the Framework Agreement or with the requirements demanded in the documentation to process the contracts based on and do not appear in the previous relationships.
- g) Exceed from 25% any of the deadlines established in the service subject of the Framework Agreement and its subsequent contracts based on it.

**SERIOUS:**

- a) Resistance to, or non-compliance with, requirements made by the contracting entity.
- b) Failure to partially perform the services defined in the Framework Agreement and its subsequent contracts based on it, which does not constitute very serious misconduct.
- c) Existence of three minor breaches in the same year.
- d) Lack of coverage of the service for a period of time, due to the lack of substitute staff or other causes, provided that it is not a very serious breach.
- e) Failure to comply, which does not constitute a very serious offence, with the obligations arising from the general regulations on the prevention of occupational risks, and in particular, those of the health and safety plan for benefits, classified as Serious by their specific regulations.
- f) Exceed from 50% of any of the deadlines established in the service object of the contract.

**VERY SERIOUS:**

- a) Failure to provide the service, whether due to abandonment or other causes.
- b) Passivity, carelessness and apathy in the execution of the object of the Framework Agreement and its subsequent contracts based on it.

- c) Resistance to, or failure to comply with, the requirements made by the contracting entity when it causes very serious damage to the performance of the Framework Agreement and its subsequent contracts based on it.
- d) The use of work systems, elements, materials, machinery or personnel other than those provided for in the Specifications and in the bids of the successful bidder, if any, when it causes very serious damage.
- e) Do not make personnel available for the execution of the contracted service.
- f) Very serious non-compliance with the requirements relating to subcontracting, if any.
- g) Falsification of the services stated by the successful bidder in the invoice.
- h) Existence of three minor breaches in the same year.
- i) Recruiting staff without any knowledge of their obligations or prior training.
- j) Failure to comply with the regulations on the Prevention of Occupational Risks, classified as very serious by their specific regulations, and especially those of the Health and Safety Plan in the benefits.
- k) Failure to comply with third-party safety requirements for services.
- l) Exceed from 75% of any of the deadlines established in the service object of the contract.

**33.4.** In the processing of the file, the successful bidder will be given a hearing so that it can make the allegations it deems pertinent and the Contracting Authority of the contracting entity will decide.

**33.5.** Regardless of the compensation for damages, in the event of non-compliance that does not result in termination of the contract, the contracting entity may apply the following sanctions, graduated according to the degree of damage, danger and/or repetition:

- **VERY SERIOUS** offences: 5% of the amount awarded of the formalised based contract.
- **SERIOUS** misconduct: 3% of the amount awarded of the formalized based contract.
- **MINOR FAULTS**: 1% of the amount awarded of the formalized based contract.

- 33.6.** When the participating entities decide to apply any of the penalties established in these Specifications, they shall communicate in writing to the winning company the reason for the penalty, the percentage represented by the penalty and the absolute amount of the penalty.
- 33.7.** The successful bidder must pay these amounts to the participating entity in the immediately following billing period, by reducing the corresponding amount in the next invoice. In the event that there are no invoices pending to be issued, the participating entity may deduct from the final guarantee, if any, the amount of the penalties applied or issue a charge invoice to the bidder so that the bidder can make the timely payment.
- 33.8.** The appropriate Contracting Authority reserves the right to terminate the contract based on repeated deficiencies in the execution of the object of the contract if more than three (3) penalties of those indicated in section 3 are applied during the period of validity of the contract.
- 33.9.** In the event of any of the incidents described in the execution of the contracts based, the procedure to be followed will be as follows:
- The participating entity shall notify the contractor in writing of the incident/non-compliance that has occurred, its graduation and its characteristics.
  - The contractor will be given a maximum period of ten (10) calendar days to present the allegations it deems pertinent, indicating what measures it has adopted to avoid the occurrence of a new incident/non-compliance.
  - The participating entity will notify the successful bidder of the resolution adopted, taking into account the allegations presented and, where appropriate, with the imposition of the corresponding penalty.
- 33.10.** The provisions of this clause shall also apply, where applicable, to penalties and/or termination of the Master Agreement.

## REGULATION 34

### PERFORMANCE OF THE CONTRACT BASED ON

- 34.1.** The execution of the based contract will be directed and managed exclusively by the successful bidder, which assumes all the business risk of the contract. The successful bidder will designate, at any given time, the persons who will perform the services,

determine the tasks to be carried out in accordance with the general instructions of the contracting entity and issue the appropriate guidelines to ensure the correct development of the contract. The successful bidder shall provide its technical, material, organisational and human resources to ensure proper execution, shall designate the trained and specialised staff who, under its charge and on its behalf, shall carry out the tasks covered by the contract and shall ensure that the assigned staff has the qualifications, training and professional level appropriate to the services to be performed. without the successful bidder being able to dissociate itself from the execution in any case.

## CLAUSE 35

### DATA PROTECTION

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**35.1.** In compliance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, and Organic Law 3/2018, of 5 December, on the Protection of Personal Data and Guarantee of Digital Rights, which regulates the right to information in the collection of personal data, the following points are recorded:

- a) The documentation required to tender in this procedure that contains personal data is necessary for participation in it.
- b) In relation to the documentation submitted by the tenderers containing personal data of natural persons (workers, technical staff, collaborators, among others), the tenderer guarantees that it has previously obtained the consent of the interested parties to provide the aforementioned information to the contracting entity for the purpose of tendering in this procedure.
- c) The documentation submitted by the tenderers containing personal data shall be deposited at the offices of the contracting entity and shall be processed by the contracting entity for the qualification, evaluation and comparison of the tenderers' proposals and to comply with the purposes established in the public procurement regulations applicable to the contracting entity. The recipients of this information will be the contracting entity itself, as well as those third parties that carry out inspection

tasks or those third parties who, in the execution of the contract, necessarily have access to it.

- d) The submission of the tender and the requested documentation implies that the tenderer authorises the contracting entity to process the aforementioned information in the terms indicated and, in the event of being awarded the contract, within the framework of the execution of the contract. The data provided will be kept for the years necessary to comply with legal obligations.
- e) The interested parties may exercise their rights of access, rectification, deletion, limitation and opposition by contacting the contracting entity, as the entity responsible for the processing, at the address indicated in letter c) above, attaching a copy of the National Identity Document or other official document that proves the identity of the person exercising the right. The data subject may also lodge a complaint with the competent supervisory authority.

**35.2.** The contractor shall be obliged to comply with the regulations in force on data protection and, in particular, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (hereinafter, GDPR) and Organic Law 3/2018, of 5 December, on the Protection of Personal Data and Guarantee of Digital Rights (hereinafter, LOPDGDD) and the regulations that develop it, with the contractor being subject to said regulations.

**35.3.** The obligations established in this clause, in accordance with the provisions of **article 202.1** of the LCSP, are established as a special condition for the performance of the contract based on it and also have the character of essential contractual obligations, the breach of which will be considered a breach of a main obligation of the contract and will be cause for its termination.

#### **A. OBLIGATIONS ARISING FROM THE PROCESSING OF PERSONAL DATA**

**35.4.** The personal data that will be delivered by the participating entities to the contractor or to which the contractor accesses, generates or processes during the performance of the services that are the subject of the based contracts are transferred to the contractor for the sole and exclusive purpose of providing the service that is the subject of the tender or related contracts. They may not be processed by the contractor for any other purpose.

- 35.5.** As indicated in the previous point, the contractor is obliged to comply in all cases with national and European Union regulations on data protection.
- 35.6.** The contractor shall, during the life of the contract, be obliged to notify IJC, or the participating entities, of any changes to the information provided in the declaration indicated above.
- 35.7.** In any case, the contractor, in its capacity as data processor, may not use another data processor (sub-processor) without the prior written authorization, specific or general, of the corresponding participating entity. In the case of a general authorisation, the contractor shall inform the participating entity of any planned changes to the addition or replacement of other processors, thus giving IJC the opportunity to object to such changes.
- 35.8.** The contractor, in its capacity as data processor, will be obliged to formalize with the participating entity at the time of formalization of the based contract, the document called "data processing contract", with the clauses indicated in section B. below, being obliged to comply with the obligations established in **article 28** of the GDPR.
- 35.9.** The obligations set out in this clause shall also apply to authorised subcontractors who are required to have access to personal data. Subcontractors will be subject to national and European Union regulations on data protection, and a special performance condition will also result in an essential contractual obligation, which breach will be cause for termination. Likewise, and in application of the provisions of **article 28.4** of the GDPR, the contractor shall impose on the other processor (sub-processor/subcontractor), under contract, the same data protection obligations as those stipulated in these Terms of Reference, in the contract and in the contract for the processing and, in particular, the provision of sufficient guarantees for the application of appropriate technical and organisational measures so that the processing is in accordance with the GDPR provisions. The contractor shall be fully liable to the participating entity for any breaches by the sub-processor/subcontractor. Consequently, the contractor will assume full responsibility for the execution of the contract vis-à-vis the participating entity.
- 35.10.** The obligations established in this clause, in accordance with the provisions of **article 202.1** of the LCSP, are established as a special condition for the performance of the contract, and also have the character of essential contractual

obligations, the breach of which will be considered a breach of a main obligation of the contract, being cause for its termination.

## **B. CONTRACT FOR THE COMMISSION OF TREATMENT.**

**35.11.** By means of these clauses, the awarding entity (for the purposes of this clause identified as "processor" or "data processor"), as data processor, is authorized to process on behalf of the participating entity (for the purposes of this clause also identified as "data controller" or "data controller"), the personal data of the staff of the participating entity necessary to perform the service described in the object of these Specifications. The processing will only consist of access to the personal data of the staff of the participating entity that it indicates, only in order to be able to carry out the service that is the object of these specifications.

**35.12.** The successful bidder, with respect to the personal data to which it may have access for the performance of the contracted works, will be considered as a data processor, in relation to the data for which the participating entity is responsible under the provisions of **article 28.3** of European Data Protection Regulation 679/2016 (GDPR). In accordance with the provisions of the aforementioned Regulation, IJC is considered to be the data controller.

**35.13.** By virtue of the above, the successful bidder undertakes to keep and respect the strictest confidentiality regarding the information, personal data and/or documentation to which it has access, undertaking not to use it for purposes other than those of the contractual relationship they maintain. Likewise, it may not disclose or communicate the aforementioned information to third parties without the prior, express and written consent of the participating entity. In the same way, you undertake not to disclose any information related to the personal data obtained from your relationship with the participating entity, neither during the current contractual relationship nor after its termination.

**35.14.** The successful tenderer, pursuant to **Article 29** of the GDPR, undertakes to process personal data exclusively in accordance with the instructions of the participating entity, unless it is obliged to do so under the law of the Union or its Member States.

**35.15.** Identification of the affected information: In order to perform the services derived from the fulfilment of the purpose of these specifications, the participating entity will make available to the awarding entity, in charge of the processing, the personal data required to carry out the service.

**35.16. Duration:** Once the contract has ended, the data processor must return the personal data to the participating entity and remove a copy of it from the participating entity.

**35.17. Obligations of the successful bidder as data processor:** The data processor and all its staff undertake to:

- Use the personal data being processed only for the purpose for which this assignment is made. Under no circumstances may you use the data for your own purposes.
- Process the data in accordance with the instructions of the participating entity.
- If the processor considers that any of the instructions infringe the GDPR or any other data protection provisions of the Union or the Member States, the processor shall immediately inform the participating entity.
- Keep, in writing, a record of all categories of processing activities carried out on behalf of the participating entity, containing:
  - The name and contact details of the processor(s) and of each controller on whose behalf the processor acts and, where applicable, of the controller's representative or processor and the data protection officer.
  - The categories of processing carried out on behalf of each controller.
  - An overview of technical and organisational security measures concerning:
    - Pseudonymization and encryption of personal data.
    - The ability to ensure the ongoing confidentiality, integrity, availability, and resilience of treatment systems and services.
    - The ability to restore availability and access to personal data quickly, in the event of a physical or technical incident.
    - The process of regular verification, evaluation and assessment of the effectiveness of the technical and organisational measures that ensure the effectiveness of the processing.

- Not to communicate personal data to third parties, natural or legal, national or foreign, unless they have the express, prior written authorisation of the participating entity, in the legally admissible cases.
- The processor may communicate personal data to other processors of the same controller, in accordance with the instructions of the controller. In this case, the controller must identify, in advance and in writing, the entity to which the data will be communicated, the data to be communicated and the security measures to be applied to proceed with the communication.
- If the processor is required to transfer personal data to a third country or to an international organisation under the law of the Union or the Member States applicable to it, it shall inform the controller of this legal requirement in advance and in writing.
- **Subcontracting.** The processor will not subcontract any of the services that are part of the subject matter of this contract that involve the processing or access of personal data.

**35.18.** If any processing has to be subcontracted, this fact will be communicated in advance and in writing to the responsible party, 15 working days in advance. It is necessary to indicate the processing that is intended to be subcontracted and to clearly and unequivocally identify the subcontractor company and its contact details. Subcontracting may be carried out if expressly authorised in writing by the responsible party.

**35.19.** The subcontractor, who will also have the status of data processor, is also obliged to comply with the obligations that this document establishes for the processor and the instructions issued by the controller. It is the responsibility of the initial processor to regulate the new relationship, so that the new processor is subject to the same conditions (instructions, obligations, security measures, among others) and with the same formal requirements as the new processor, with respect to the proper processing of personal data and the guarantee of the rights of the affected persons. If the subcontractor (sub-processor) fails to comply, the original processor remains fully liable to the responsible party for the fulfilment of the obligations.

**35.20.** Maintain the duty of secrecy with respect to the personal data to which it has had access by virtue of this assignment, even after the end of the purpose.

**35.21.** Ensure that the persons authorised to process personal data undertake, expressly and in writing, to respect confidentiality and comply with the corresponding security measures, of which appropriate information must be provided.

**35.22.** Keep at the disposal of the responsible party the documentation that proves that the obligation established in the previous section is fulfilled.

**35.23.** Ensure the necessary training on the protection of personal data of the persons authorized to process personal data.

**35.24.** Assist the Data Controller in responding to the exercise of the following rights:

- Access, rectification, deletion and opposition.
- Restriction of processing.
- Data portability.
- Not to be subject to automated individualised decisions (including profiling).

**35.25.** When the data subjects exercise any of the rights indicated before the data processor, the latter will notify the person responsible for the contract by email. The communication will be made immediately and in no case later than the day following the working day on which the request was received, together with, where appropriate, other information that may be relevant to resolve the request.

**35.26.** Notification of Data Security Breaches:

- The Data Processor must inform the Data Controller, without undue delay and in any case within a maximum period of twelve (12) hours, of the personal data breaches of which it is aware, together with all relevant information to document and report the incident.
- If available, at least the following information must be provided:
  - Description of the nature of the personal data breach, including, where possible, the categories and approximate number of data subjects affected and the categories and approximate number of personal data records affected.
  - Name and contact details of the Data Protection Officer or other point of contact where further information can be obtained.

- Description of the potential consequences of the personal data breach.
- Description of the measures taken or proposed to remedy the personal data breach, including, where applicable, the measures taken to mitigate potential negative effects.

**35.27.** If and to the extent that it is not possible to provide the information simultaneously, the information shall be provided gradually without undue delay.

**35.28.** Support the controller in carrying out data protection impact assessments, where appropriate.

**35.29.** Support the controller in making prior consultations with the supervisory authority, where appropriate.

**35.30.** Make available to the controller all the information necessary to demonstrate that it complies with its obligations, as well as to carry out audits or inspections carried out by the responsible party or another auditor authorized by it.

**35.31.** Implement the security measures defined by the responsible party.

**35.32.** In any case, mechanisms must be put in place to:

- Ensure the ongoing confidentiality, integrity, availability and resilience of treatment systems and services.
- Restore availability and access to personal data quickly, in the event of a physical or technical incident.
- Verify, evaluate and assess, on a regular basis, the effectiveness of the technical and organisational measures implemented to guarantee the security of the processing.
- Pseudonymize and encrypt personal data, if applicable.

**35.33.** Appoint, if necessary in accordance with the GDPR, a data protection officer and communicate the identity and contact details to the controller.

**35.34.** Destination of the data:

- Return the personal data and, where appropriate, the media on which they appear to the data controller, once the service has been completed.
- The return must entail the total deletion of the data on the computer equipment used by the processor.

## REGULATION 36

### CONFIDENTIALITY

**36.1.** The successful bidder and its collaborators shall be obliged to respect the confidential nature of all information to which it has access for the execution of the Framework Agreement and/or related based contracts that is so indicated therein or that is so indicated by the entity, or that by its very nature has to be treated as such. This duty of confidentiality will be maintained for a minimum period of 5 years, unless a longer term is established in the contract.

**36.2.** Likewise, the entrepreneur will have to expressly indicate the documentation and/or information that he considers confidential of his offer.

## **VI. TERMINATION OF THE FRAMEWORK AGREEMENT AND BASED CONTRACTS AND REMEDIES REGIME**

### CLAUSE 37

#### TERMINATION OF CONTRACT BASED

**37.1.** Contracts based on this may be terminated for any of the reasons set forth in **articles 211 and 313** of the LCSP.

**37.2.** In addition to those indicated in the previous point, the following are specific causes for termination:

- Delay in the start of benefits.
- Non-compliance or defective compliance with the conditions of execution of the contract established in these Terms and Conditions and in the Technical Specifications.
- Failure to comply with essential contractual obligations.
- The others legally established by this type of contract.



- The manifest technical incapacity or negligence, proven, in relation to the performance of the tasks covered by this contract, the manifest refusal or resistance of the successful tenderer to comply with the indications made by the contracting entity to adjust the contract to its needs, the repeated failure to appear at work meetings, the failure to comply with the partial deadlines that may be established, the omission of information and any attitude or negligence that may affect the performance of the contract.
- Due to a situation foreseen as a cause for prohibition of contracting that occurs once the contract has been concluded.
- Be in a position of control or association with other candidates, have reached an agreement with other participants in the tendering procedure and have subcontracted any task to other companies participating in this tender without the authorisation of the contracting entity.
- Failure to maintain due confidentiality with respect to data or records that are not public or notorious and that are related to the object of the contract, of which they have become aware during the contract.
- Failure to partially perform the services defined in the contract when it causes very serious damage.
- Repeated failure to comply with any of the special performance conditions established in these Terms and Conditions that are not of the nature of an essential contractual obligation.
- On the basis of **Resolution 2/2005** of 5 May of the Advisory Board, amended by **Resolution 1/2009** of 30 July, the specific cause for termination of the contract is the failure to comply with the obligations provided for in relation to the use of Catalan and, in general, the failure to comply with any of the obligations relating to the use of Catalan that derive from the provisions of Law 1/1998. of 7 January, on language policy and the provisions implementing it. However, prior to the adoption of the contractual termination measures, the Contracting Authority may require the contractor to comply with the linguistic obligations of use of Catalan with the application of the penalty system provided for in article 196 of the LCSP.

## CLAUSE 38

## TERMINATION OF THE FRAMEWORK AGREEMENT

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- 38.1.** The Framework Agreement may be terminated for any of the reasons established in **articles 211 and 313** of the LCSP.
- 38.2.** The Framework Agreement shall be terminated upon compliance with the period initially envisaged or the agreed extensions or upon exhaustion of the maximum estimated value.

### CLAUSE 39

#### RESOURCE REGIME

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- 39.1. Where the Framework Agreement or the contracts based on it have an estimated value of more than €100,000:**

In accordance with Article 44 of the LCSP, special appeal in procurement matters is open to tender notices of the Framework Agreement or contracts based thereon, specifications and contractual documents that establish the conditions that must govern the Framework Agreement or the contracts based on it; the preparatory acts that decide, directly or indirectly, on the procedure for the approval of the Framework Agreement or the award of the contracts based on it, provided that these make it impossible to continue the procedure or cause defencelessness or irreparable damage to rights or legitimate interests; the admission and award agreements adopted by the contracting authority; and the modifications of the contract based on the failure to comply with the provisions of articles 204 and 205 of the LCSP, in order to understand that the modification should have been subject to a new award.

The special appeal in procurement matters is optional. Alternatively, an administrative appeal may be filed, in accordance with Law 29/1998, of 13 July, regulating the contentious-administrative jurisdiction.

An appeal may be lodged by natural and legal persons whose rights or legitimate interests have been harmed or may be affected by the decisions which are the subject of the appeal, and in any event by tenderers.

The deadline for filing the special appeal in procurement matters will be fifteen (15) business days, which will be counted in accordance with the provisions of article 50 of the LCSP, depending on the act being appealed.

However, when the appeal is based on any of the grounds for nullity provided for in section 2 of article 39 of the LCSP, the time limit for filing the special appeal will be that indicated in letters a) and b) of article 50.2 of the LCSP.

The appeal may be filed with the Registry of the Contracting Authority, in the Registry of the Body competent for the resolution of the appeal or in any of the places established in Article 16.4 of Law 39/2015, of 1 October, on the Common Administrative Procedure of Public Administrations.

If two (2) months have elapsed from the month following the filing of the appeal without notification of its resolution, the interested party may consider it dismissed for the purposes of filing the contentious-administrative appeal.

The application shall state the contested act, the ground on which the appeal is based, the evidence sought by the appellant and, where appropriate, the request for the adoption of provisional measures, attaching to it the documentation required by Article 51 of the LCSP.

### **39.2. Where the based contracts have an estimated value of less than or equal to €100,000:**

The acts derived from the procedure of the procurement based on the procedure may be challenged through administrative channels by virtue of the provisions of article 44.6 of the LCSP before the Administration of affiliation of the IJC, within the deadlines and requirements that are reported in the notification of the corresponding act.

If you intend to challenge the tender notice or the specifications or the invitation, the deadline for filing the appeal is one (1) month from the day following the publication of the IJC's Contractor Profile.

The maximum period for issuing and notifying the resolution of the appeal will be three (3) months. If this period has elapsed without a decision having been issued, the appeal may be deemed to have been dismissed.

Against the express dismissal or silence of the appeal, an administrative appeal may be filed with the Administrative Courts of Barcelona, within two (2) months from the day following receipt of the corresponding notification (if the resolution is express) or within

six (6) months from the day following the day on which the aforementioned appeal is understood to have been dismissed due to silence.

Badalona, 22 March 2024

**Contracting Authority**  
**Evarist Feliu Frasnado**

## I. ANNEXES

### ANNEX N. 1

#### CRITERIA FOR THE AWARD OF THE FRAMEWORK AGREEMENT

In accordance with Article 145 of the LCSP, it is established that "the award of contracts shall be carried out using a plurality of award criteria in accordance with the best value for money", and in addition "the best value for money shall be evaluated in accordance with economic and quantitative criteria".

Therefore, in the light of that reflection and in order to ensure an objective comparison of the tenderers' proposals in order to determine, under conditions of effective competition, which tender is the most economically advantageous, the evaluation criteria have focused solely on objective and mathematically assessable elements.

**In this way, those suppliers that in addition to meeting and complying with the required solvency conditions, obtain a minimum of 60 points out of the maximum 100 possible will be approved.**

The defined criteria will be used for the evaluation and scoring of the two (2) lots of this dossier and a **maximum total score of 100 points is established for each of the lots.**

#### **A) AWARD CRITERIA BY MEANS OF AUTOMATIC FORMULAS - Applicable for both batches (Up to 100 points)**

**A.1. The economic offer** will be valued with **up to 45 points** to the bidding companies that confirm the highest percentage of common linear cancellation that they offer to apply with respect to all the unit prices that comprise the services to be performed.

The score obtained will be the result of applying the following formula:

$$Pv = P * \frac{Ov}{Om}$$

Where:

*P<sub>v</sub> = score of the offer to be evaluated*

*P: Value Offer Points (45)*

*O<sub>v</sub> = percentage of the bid to be valued*

*O<sub>m</sub> = best percentage bid*

A disproportionate or abnormal bid will be considered when the percentage of withdrawal offered by the bidder exceeds the arithmetic average of the proposals submitted by twenty (20) percentage units.

However, if among the bids received there are proposals that are higher than the average by more than twenty (20) percentage units, a new average will be calculated only with the bids that are not in the indicated case.

### **A.2. IMPROVEMENT 1: Reduced response time (up to 21 points)**

Up to 21 points **will be awarded** to the **reduction in response times** detailed in the Technical Specifications **for all processes** where a maximum response time (deadline) is required:

The score will be assigned as follows:

A reduction in response times is not included	<b>0 points</b>
A reduction in response times <b>of up to 10% is included</b>	<b>5.5 points</b>
A reduction in response times <b>of up to 25% is included</b>	<b>11 points</b>
This includes a reduction in response times by <b>more than 25%</b>	<b>21 points</b>

### **A.3. IMPROVEMENT 2: Subscription and use of the patent search database (up to 18 points):**

Up to 18 points **will be awarded** if the successful bidder confirms that **it is subscribed to payment databases specialized in patent search** and that the subscription is valid at the time of submitting the bid for this bidding procedure. Evidence must be provided by means of a certificate, declaration of responsibility or similar of the subscription.

The score will be assigned as follows:

<b>No</b> evidence of database subscriptions is provided	<b>0 points</b>
One (1) evidence <b>of database subscription</b> is provided	<b>9 points</b>
Two (2) or more evidences <b>of database subscription</b> are provided	<b>18 points</b>

#### **A.4. IMPROVEMENT 3: Training of the staff of the participating entities (up to 16 points)**

Up to 16 points **will be awarded** if the bidder includes in its offer the possibility of **giving** refresher training sessions on technical aspects of patent protection and strategy, although they may also deal with other topics within the field of industrial property or technology transfer. The training may be aimed at the staff of the participating entities jointly or individually by participating entity. The management of the joint or individualized training sessions will be supervised by the IJC, except in the case of formalized based contracts where this same award criterion is included. The content of the proposed training courses must be verified and confirmed prior to their delivery by the person responsible for the contract of the participating entity.

It should be noted that these training sessions **must not involve a cost** for the IJC or the participating entity where they are taught and **may not be a billable concept for the successful bidder.**

The score will be assigned as follows:

<b>Training sessions</b> are not included	<b>0 points</b>
Training sessions are included for a maximum of <b>five (5) hours</b> per year	<b>4 points</b>
Training sessions are included for a maximum of <b>ten (10) hours</b> per year	<b>8 points</b>
Training sessions are included for a maximum of <b>fifteen (15) hours</b> per year	<b>16 points</b>

**Tie-breaking criteria:** taking into account that this tendering procedure is based on a Framework Agreement for the approval of suppliers, the possibility that two or more bidders may tie is accepted. If this is the case, if the score obtained exceeds the established minimum, it will be homologated. In the event that the score does not reach the minimum, it will be grounds for exclusion.

## ANNEX N. 2

### BIDDING MODEL WITH AUTOMATIC CRITERIA

#### MODEL OF ECONOMIC PROPOSAL AND REFERENCES WHOSE VALUATION DEPENDS ON AUTOMATIC FORMULAS

Mr. .... with residence in ..... street..... No. .... aware of the announcement published in ..... and the conditions and requirements required for the award of the Framework Agreement for the approval of suppliers for the contracting of the service of management of the registration and maintenance of patents and other industrial property rights, owned or co-owned, or in those cases where there is a management entrustment (**Lot XX**), undertakes on behalf (itself or the company it represents) to carry them out strictly subject to the following conditions:

#### 1. ECONOMIC OFFER

Minimum discount from maximum prices	
A <b>minimum discount</b> is confirmed with respect to the maximum unit prices of:	

#### 2. RESPONSE TIME

Reduction of <b>RESPONSE TIME</b> as required by the Technical Specifications	Check the appropriate box with "X"
The <b>deadlines required in the Technical Specifications</b> are not improved	
A reduction in response times <b>of up to 10% is included</b>	
A reduction in response times <b>of up to 25% is included</b>	
This includes a reduction in response times <b>by more than 25%</b>	

#### 3. DATABASE

Confirm subscription and use of patent search DATABASES.	Check the appropriate box with "X"
No evidence of database subscriptions is provided	
One (1) evidence of database subscription is provided	
Two (2) or more evidences of database subscription are provided	

#### 4. TRAINING SESSIONS

Confirm the delivery of TRAINING SESSIONS.	Check the appropriate box with "X"
Training sessions are not included	
Training sessions are included for a maximum of <b>five (5) hours per year</b>	
Training sessions are included for a maximum of <b>ten (10) hours per year</b>	
Training sessions are included for a maximum of <b>fifteen (15) hours per year</b>	

Date & Signature

## ANNEX N. 3

### RESPONSIBLE DECLARATION ON SUBCONTRACTING

No. Recruitment File:

Purpose of the contract:

**Company identification data:**

\_\_\_\_\_  
Surnames and first names or company name NIF

**Details of the person acting on behalf of the company**

\_\_\_\_\_  
Name and surname NIF

**I declare, under my own responsibility,**

That the company I represent will proceed to the subcontracting

No

Yes : [.] benefits

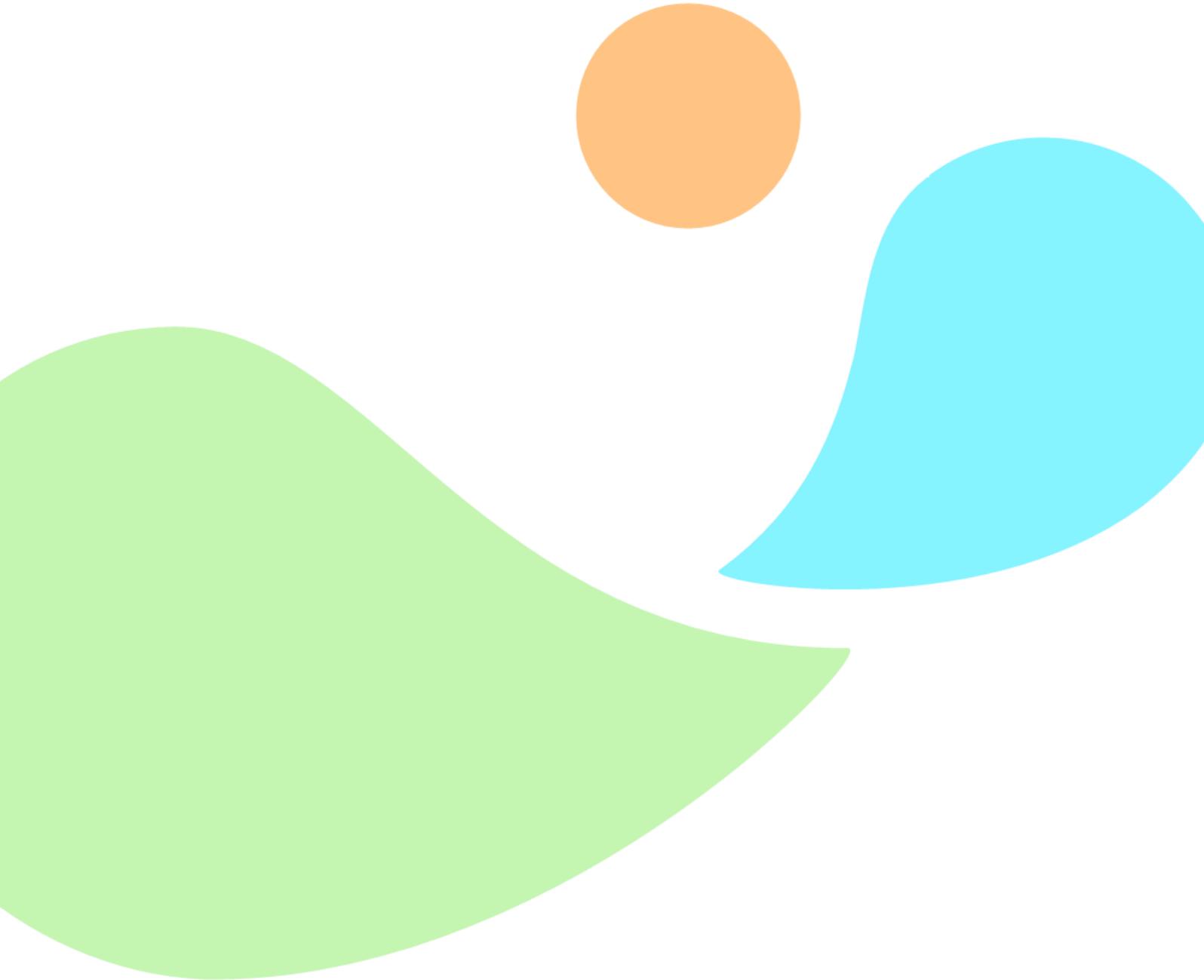
\_\_\_\_\_  
*(Specify the percentage to be subcontracted, and details of the company to be subcontracted if it already has such data).*

And for the record, I sign this statement,

Location and date

\_\_\_\_\_  
Signature of the legal representative

\_\_\_\_\_  
Company Seal



## ANNEX N.4

### DECLARATION OF RELATED COMPANIES

D/D<sup>a</sup>. ....., of legal age, residing in..... C/ ....., with ID ....., acting in his own name and right or on behalf of ....., in his capacity as .....; in relation to the proposal submitted for the contracting of the Framework Agreement for the approval of suppliers for the contracting of the service of management of the registration and maintenance of patents and other industrial property rights, owned or co-owned, or in those cases where there is a management entrustment (Lot XX), for the IJC Foundation, declares under your own responsibility

(Insert where applicable):

- That companies related to the offering company are those included in the attached list, without there being any other company in which the requirements indicated in the aforementioned precept are met.

Name or company name..... NIF/CIF.....

- 1.-
- 2.-
- 3.-

- That the offering company has no related companies.

Place, date and signature of the bidding company.

## ANNEX N. 5

### DECLARATION OF VALIDITY OF THE DOCUMENTATION SUBMITTED

Gentlemen

The signatory ..... certifies:

- That the deeds requested in the Specification of Particular Administrative Clauses regulating this tender to accredit the personality and capacity of the Bidder have not been modified with respect to those in their possession, presented on date..... to participate in the procedure.....
- That the tax identification number card is the one you already have in your possession, presented on time..... to participate in the proceedings.....
- That the documents accrediting my representation as a signatory of the proposal have not been modified or revoked, respect those in their possession, presented on date..... to participate in the procedure.....

And as proof of conformity, this is signed, at ..... of..... of.....

## ANNEX N. 6

### RESPONSIBLE DECLARATION

Mr. ...., with DNI no. ...., acting on behalf of ..... (tenderer), in its capacity as ..... and with sufficient powers to sign this declaration of responsibility, aware of the call for the contracting procedure of the Framework Agreement for the approval of suppliers for the contracting of the service of management of the registration and maintenance of patents and other industrial property rights, owned or co-owned, or in those cases where there is a management entrustment (Lot XX).

#### RESPONSIBLY DECLARES:

1. That the company it represents complies with the legally established conditions to contract with the public sector, and therefore neither the undersigned nor its administrators and/or representatives are included in any of the circumstances provided for in **article 71** of the LCSP.
2. That the company he represents is up to date with his tax obligations to the State.
3. That the company it represents is up to date with its tax obligations with the Government of Catalonia.
4. That the company you represent is up to date with Social Security obligations.
5. That the company it represents is registered in the Tax on Economic Activities and up to date with its payment, when activities subject to this tax are carried out.
6. That the company it represents has not unduly withdrawn its proposal or candidacy in an award procedure, nor has it made it impossible to award a contract in its favor by not complying with the provisions of **article 150.2** of the LCSP, within the period indicated for this purpose by intervening with intent, fault or negligence.
7. That it accepts that the documentation attached to the Tender Specifications is of a contractual nature.
8. That the company it represents complies with and undertakes to comply with the ethical principles and rules of conduct indicated by the Josep Carreras Leukaemia Research Institute Foundation, assuming responsibility for non-compliance.

9. That the company's tax data are:

- Company name:
- Address:
- Zip code:
- NIF:
- Telephone:
- Contact e-mail:

And for the appropriate purposes, this declaration of responsibility is signed,

to..... of..... of.....

Signature

## ANNEX N. 7A

### DEFINITIVE BANK GUARANTEE MODEL

(Notarized in accordance with Art. 197.1 bis of the Notarial Regulations, Validated by the Legal Department of Caixa General de Depositos, the State Attorney's Office of the province or by the equivalent bodies of the other administrations)

Bank ..... and in your name and on your behalf ..... as a ..... and according to the powers of the Power of Attorney deed granted before the notary of ....., D. .... dated ..... Number..... of its protocol, and which affirms that it is entirely subsisting, the guarantor is constituted as a joint guarantor of the company ..... in the interest and benefit of the Fundació Institut de Recerca Contra la Leucèmia Josep Carreras, and up to the sum (...% of the amount of the Contract), in order to guarantee the exact fulfilment by the aforementioned company of each and every one of the obligations mentioned in the corresponding .....

The guarantee indicated is provided by Banco ..... with express and formal waiver of the benefits of exclusion, division, order and any other that may be applicable if applicable, and to this effect the Bank declares that it will be and is jointly and severally obligated with the company ..... until the end of the guarantee period of the aforementioned contract, to be paid unconditionally and within, at the latest, eight (8) days following being requested, the sum or sums that, until the concurrence of the amount given as a guarantee of (...% of the amount of the Contract) € expressed in the request, the Bank expressly and solemnly waiving, to any exception or reservation as to the delivery of the sums that may be demanded, whatever the cause or reason for which they may be promoted, and even if opposition or claim is made by ....., or by third parties, whatever they may be.

## ANNEX N. 7B

### MODEL SURETY INSURANCE CERTIFICATE FOR THE DEFINITIVE GUARANTEE

(Notarized in accordance with Art. 197.1 bis of the Notarial Regulations, Validated by the Legal Department of Caixa General de Depositos, the State Attorney's Office of the province or by the equivalent bodies of the other administrations)

Certificate number ..... (hereinafter referred to as insurer), domiciled in ..... and CIF ..... duly represented by Mrs. .... with sufficient powers to be bound by this act, as appears from .....

#### ENSURES

To..... NIF/CIF ..... as policyholder, with the Fundació Institut de Recerca Contra la Leucèmia Josep Carreras, hereinafter the insured, up to the amount of ..... euros (.....% of the contract amount) in order to guarantee the exact fulfilment by the insured of each and every one of the obligations arising from the ..... contract

Failure to pay the premium, whether single, first or subsequent, shall not entitle the insurer to terminate the contract, nor shall the contract be terminated, nor shall the insurer's coverage be suspended, nor shall it release it from its obligation, in the event that the insurer has to make the guarantee effective.

The insurer may not raise against the insured any defences that may correspond to it against the policyholder.

The insurer will assume the commitment to indemnify the insured upon the first request of the Fundació Institut de Recerca Contra la Leucèmia Josep Carreras to be paid unconditionally and within, at the latest, eight (8) days after being required to make effective, the sum or sums that until the insured amount is reached expressed in the request.

This surety bond insurance will be in force until the aforementioned contract is settled by the Fundació Institut de Recerca Contra la Leucèmia Josep Carreras.

In ....., ..... of..... of the.....

Signature:

