

<b>SPECIFIC ADMINISTRATIVE SPECIFICATIONS DOCUMENT FOR PROCUREMENT BY OPEN PROCEDURE</b>
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## **CHAPTER I. GENERAL PROVISIONS**

### **CLAUSE 1. Legal system of the contract and adjudication procedure**

1.1. The contract referred to in these specifications is a service agreement in accordance with Articles 17 and 26 of Law 9/2017 of 8 November on Public Sector Contracts (hereinafter the 'LCSP').

These Specific Administrative Specifications, with their Table of Characteristics, annexes and the Technical Specifications, as well as the bid submitted, are of a contractual nature and are, therefore, compulsory.

1.2. This contract is subject to the regulations contained in Articles 321 and 322 of the LCSP and the IFEMA MADRID Internal Procurement Instructions approved by the Governing Board in its meeting of 28 April 2025.

1.3. It will be awarded by open procedure, pursuant to the terms of the IFEMA MADRID Internal Procurement Instructions.

### **CLAUSE 2. Purpose of the contract and classification**

The object of the contract referred to in these specifications is the service specified in **Section 1 of the Table of Characteristics**, in accordance with the conditions established in the Technical Specifications.

The CPV code is established in **Section 1 of the Table of Characteristics**.

If the object of the contract is divided into lots, this shall be indicated in **Section 1 of the Table of Characteristics**, stating the content of each lot, the lots for which bidders may apply or be awarded and the code, where applicable.

### **CLAUSE 3. Base tender budget and price formulation system**

The base budget for the tender is the amount that is detailed in **Section 3 of the Table of Characteristics**, excluding Value Added Tax.

When the tender is divided into lots, the budget for the lots shall also be specified in **Section 3 of the Table of Characteristics**.

The pricing system (lump sum / unit prices) will be the one determined in **Section 3 of the Table of Characteristics**.

### **CLAUSE 4. Estimated value of the contract**

**Section 3 of the Table of Characteristics** includes the estimated value of the contract and the method for calculating it, pursuant to the terms of the Internal Procurement Instructions.

### **CLAUSE 5. Contract price**

The price of the contract is the price of the adjudication, which in no case will exceed the base tender budget indicated in **Section 3 of the Table of Characteristics**, which will be the maximum budget. It shall be expressed in euros and shall indicate as a separate item the value added tax or tax which, where applicable, replaces it.

The price of the contract will include all other taxes, fees and charges of any kind that may be applicable, as well as all expenses incurred by the successful bidder as a result of the fulfilment of the obligations contemplated in these specifications and other applicable provisions.

If thus established in **Section 3 of the Table of Characteristics**, the price of the present contract may be subject to revision, upwards or downwards, for which purpose the applicable formula or formulas shall be established in the aforesaid section.

**Section 3 of the Table of Characteristics** shall also provide, where applicable, the possibility of including price variation clauses depending on compliance or non-compliance with specific timeline or performance targets.

#### **CLAUSE 6. Contracting authority and the Purchasing and Procurement Committee**

The contracting authority is that which is determined in **Section 2 of the Table of Characteristics**.

The Purchasing Committee will be the competent body to evaluate the bids and qualify the administrative documentation, as well as any procedural acts of the tendering procedure and the other functions attributed to it by the Internal Procurement Instructions and their implementing regulations, where the provisions shall be applicable as supplementary that are contained in the LCSP and its implementing regulations for the contract awarding committees. Its composition is described in **Section 2 of the Table of Characteristics**.

#### **CLAUSE 7. Existence of credit.**

The necessary credit exists to meet the financial obligations arising for IFEMA MADRID from the contract referred to in these specifications.

#### **Clause 8. Contractor profile and Electronic Bidding Portal**

Access to the information relating to this contract will be offered by means of publication on the contracting party's profile, and in particular in the electronic tendering portal, which is indicated in **Section 4 of the Table of Characteristics**.

## **CHAPTER II. TENDERING**

### **CLAUSE 9. Capacity to contract and criteria for the selection of companies**

Natural or legal persons, Spanish or foreign, which have full capacity to act, whose activity is directly related to the purpose of the contract, according to their respective articles of association or bylaws, are not subject to any contracting ban and can accredit their economic, financial and technical or professional solvency by the means specified in **Section 7 of the Table of Characteristics**, may participate in the tendering process for this contract.

Temporary Joint Ventures (hereinafter, TJVs) must also meet the requirements established in Article 69 of the Public Sector Procurement Act. Such TJVs formed for the fulfilment of the service that is the purpose this contract may not include in their name the name of IFEMA MADRID, nor any other name coinciding with the brands or any other distinctive sign registered in for IFEMA MADRID.

Entrepreneurs must also have the business or professional qualification indicated in **Section 7 of the Table of Characteristics** that, where applicable, is required for the performance of the activity or service that is the object of the contract.

#### **CLAUSE 10. Procedure for awarding and processing the dossier**

The contract covered by these clauses will be awarded by the procedure set out in **Section 2.3 of the Table of Characteristics**, in accordance with that which is established and regulated in the IFEMA MADRID Internal Procurement Instructions.

#### **CLAUSE 11. Bid evaluation criteria**

The criteria, pursuant to the terms of Articles 145 and 146 of the LCSP must serve as the basis for awarding the contract, are those established, with their corresponding weighting or, otherwise, in decreasing order of importance, in **Section 8 of the Table of Characteristics**.

When the adjudication process is structured into successive phases, this will be indicated in **Section 10 of the Table of Characteristics**, as well as the possible establishment in all or some of them of minimum thresholds to be exceeded by the bidders in order to continue with the selection process.

The evaluation of the criteria whose quantification depends on a value judgement shall be carried out by the Purchasing and Procurement Committee, on the basis of the technical report issued for this purpose by the corresponding centre.

#### **CLAUSE 12. Submission of bids**

Bids shall be submitted in accordance with the tender notice published on the electronic tendering portal and within the deadline indicated in the notice.

No bidder may submit more than one proposal. Nor may it sign any proposal in a temporary joint venture with others if it has done so individually or appear in more than one temporary joint venture. Violation of these rules will result in the rejection of all proposals this party submits.

The possibility for bidders to offer variants shall be indicated in **Section 9 of the Table of Characteristics**, specifying, where applicable, on which items and under what conditions this submission is authorised. The variants may relate to certain functionalities that the service or services that are the object of the contract may have or to suitably cover needs.

All bids shall be secret, and the necessary means shall be taken to ensure this.

Bidders' bids shall comply with the clauses of these specifications and their submission implies unconditional acceptance by the bidder of all the clauses and conditions and of the technical specifications.

#### **CLAUSE 13. Electronic media**

The use of electronic and IT means and media in the submission of the bid, as well as for notifications and communications between the Purchasing and Procurement Committee or the contracting authority and the interested parties, shall only be compulsory if indicated in **Section 6 of the Table of Characteristics**. For these purposes, the provisions of the fifteenth and sixteenth Additional Provisions of the Public Sector Procurement Act will be applied.

In the same section you will also find the portal where you can access the programmes and information necessary to place a bid electronically.

Even in cases where the submission of the tender by electronic means is not required, for all other communications, notifications and documentary submissions, interested parties shall interact with the contracting authority by electronic means, although oral communication may be used for communications other than those relating to the essential elements of a procurement procedure.

#### **CLAUSE 14. Form and content of the bids**

The proposals and the accompanying documentation shall be presented in Spanish or officially translated into Spanish, and shall consist of **THREE (3) ENVELOPES** (electronic files), marked with the numbers 1,2 and 3 sealed and signed by the bidder or its representative.

The presentation of envelopes on the electronic bidding platform may be carried out by any company employee with an electronic certificate, although the documents contained therein must be signed by the company's legal representatives.

The documents enclosed in the envelopes and requiring the signature of the bidder must be signed electronically (in which case the electronic file containing the electronic signature shall be presented) or in handwriting (in which case the scanned and signed document must be submitted on paper) by the person holding enough power to do so.

If a bid or other document requiring a signature is to be signed by more than one legal representative, the signatures of all those involved must be included on the document in the manner indicated in the previous section,.

The validity and sufficiency of this representation (power of attorney) will be reviewed by the Purchasing Committee at the appropriate time. The committee shall decide on the exclusion of the bidder in the event of insufficient representation.

In the event that **Section 8 of the Table of Characteristics** only provides for the application of criteria that can be evaluated automatically by means of formulae for the evaluation of the bidders' proposals, only envelopes 1 and 3 need to be submitted.



However, when the criteria for evaluating the proposals reflected in **Section 8 of the Table of Characteristics** articulate different phases in which they will operate, in addition to envelopes number 1 and number 3, as many envelopes number 2 as the evaluation phases established in **Section 10 of the Table of Characteristics** will be presented.

The contents of each of the envelopes shall be as follows:

**ENVELOPE OR ELECTRONIC FILE 1 "SUPPORTING DOCUMENTATION ACCREDITING PREREQUISITES".**

**Contents:**

**1. Contents list of documents** on which the contents of the envelope shall be stated on a separate sheet of paper.

**7. Affidavit in accordance with the template included as Annex II (templates) of the Specific Administrative Specifications Document**, which must be signed and bear the corresponding identification, in which the bidder states:

1. That the company is validly constituted and that, in accordance with its corporate purpose, it may bid for the tender, as well as that the signatory of the statement holds proper representation to submit the bid.
2. That it has the pertinent classification, where applicable, or that it meets the economic, financial and technical or professional solvency requirements required, under the conditions established in the specifications and the Table of Characteristics.
3. That it is not subject to a contracting ban, according to the terms of Article 73 of the LCSP, either by itself or by extension, as a consequence of the application of Article 71.3 of the LCSP.
4. The designation of an email address for notifications, which must be 'enabled' pursuant to the terms of Additional Provision 15 of the Public Sector Procurement Act, in cases where the contracting authority has opted to make notifications by email, which will be stated in **Section 6 of the Table of Characteristics**.
5. Declaration of the veracity of the documentation submitted and that the scanned copies and documents are true and accurate copies of the original documentation. It shall include a commitment to provide the original documentation at any time it is requested by the Purchasing and Procurement Committee or the contracting authority.

**2. Bidders who participate on their own behalf, but shall employ the capacity of one or more other entities**, must submit, along with their own affidavit, a separate one, containing the relevant information for each of the entities in question.

**4. Where several bidders present a bid with the commitment to form a TJV**, they must each present a **separate affidavit**, containing the information required from each participating economic operator. In addition, a **commitment to form a temporary joint venture the event of being awarded the contract** shall be provided, signed by the representatives of each of the companies that will form part of the joint venture, indicating the names and circumstances of those forming it, expressly stating that they will be jointly and severally liable before IFEMA MADRID and the participation of each of them in the joint venture. This commitment must be presented in accordance with the template in **Annex XX** of this Specific Administrative Specifications Document.

**5. In all cases in which the procedure requires a provisional guarantee to be issued**, the document certifying that this has been issued must be provided. Unless otherwise indicated in the Table of

Characteristics, it may be issued by means of a bank guarantee, surety insurance, in accordance with Annexes IV and VI of the Administrative Specification document, or by cash deposit.

**6. If the economic operator belongs to a corporate group, an Affidavit must be submitted regarding the business group to which it belongs and including all the companies belonging to the same group, in the terms established in Article 42 of the Commercial Code.**

**7.** Where established under **Section 28** of the Table of Characteristics, proof of having visited the IFEMA MADRID facilities.

**8. Additional documentation to be submitted by overseas companies:**

- If the contract is to be executed in Spain, such companies must provide a declaration of submission to the jurisdiction of the Spanish courts and tribunals of any order, for all incidents that may directly or indirectly arise from the contract, waiving, where applicable, any foreign jurisdiction that may correspond to the bidder, in accordance with the model included as **Annex VII to the Specific Administrative Specifications Document**.
- Non-Spanish economic operators from Member States of the European Union or signatories of the Agreement on the European Economic Area, must accredit their eligibility for contracts under the terms of Article 67 of the LCSP.
- In the case of non-Spanish economic operators from States that are not members of the European Union or signatories to the Agreement on the European Economic Area, they must provide a report from the Permanent Diplomatic Mission or Consular Office of Spain of the company's place of residence stating, subject to accreditation by the company, that they are registered in the local professional, commercial or similar registry or, failing this, that they habitually operate in local business in the field of activities to which the object of the contract extends. They must also accompany the reciprocity report referred to in Article 68 of the Public Sector Procurement Act, except in the case of companies from a signatory State of the World Trade Organisation's Agreement on Government Procurement, in which case this can be replaced with a report from the Spanish Economic and Commercial Office abroad.
- **5. Details of the bidder provided in accordance with Annex III to the Specific Administrative Specifications.**
- ***Verification and compliance with the Statement of Compliance.*** - The Purchasing and Procurement Committee may ask candidates or bidders to submit all or part of the supporting documents when it considers that there is reasonable doubt as to the validity or reliability of the statement, when this is necessary for the smooth running of the procedure and, in any case, before awarding the contract, unless they are registered in ROLECE or similar for EU member states.

*The circumstances relating to the bidders' capacity, solvency and the absence of any prohibition to enter into a contract must be present on the final date for submission of bids and still exist at the time of conclusion of the contract.*

***Grounds for exclusion.*** - If envelope number 1 contains documentation corresponding to envelope number 2 or 3, the bidder will be automatically excluded from the award procedure for violating the confidentiality of the bids (Art. 139.2 LCSP).

**ENVELOPE OR ELECTRONIC FILE 2 "DOCUMENTATION FOR THE EVALUATION OF CRITERIA THAT CAN BE EVALUATED AUTOMATICALLY USING A FORMULA".**

**Content. -**

**1. Only the documentation indicated, for this envelope, in Section 8.1 of the Table of Characteristics** relating to the award criteria whose quantification depends on a value judgement, which cannot be assessed automatically, indicated in the same section, **should be included** .

The supporting documents shall be the most appropriate, in each case, for the evaluation of the tenders submitted. To this end, the nature of the service and, where appropriate, what is established in the Technical Specifications shall be taken into account.

The submission of the documents shall be done in the most appropriate way for each type, in accordance with the provisions of **Section 8 of the Table of Characteristics**. In any case, the submission must be made in electronic format, subject to the indications appearing on the electronic tendering portal, unless otherwise indicated in **Section 6 of the Table of Characteristics** .

**2. When Section 10 of the Table of Characteristics** foresees different evaluation phases, as many number 2 envelopes as evaluation phases established shall be submitted.

**3.** The bidder shall be responsible for the accuracy of all the data presented. In addition, all documents submitted for the purpose of obtaining an evaluation, in accordance with the criteria that cannot be evaluated by means of formulas, for the award of the contract must be clearly and separately stated.

**Grounds for exclusion.** The Purchasing and Procurement Committee, in a reasoned decision, shall automatically exclude from the award procedure the bids submitted in the following cases, where this list includes, but is not limited to:

- If all or part of the required documents is not included, thus making it impossible to carry out the evaluation.

If this envelope 2 contains documentation pertinent any other envelope, as this would violate the confidentiality of the bids.

If the bid contains data that does not comply with or contradicts the minimum requirements demanded by the Technical Specifications or by these Specifications.

However, if supporting documentation has not been provided for elements of the bids which have been awarded points according to **Section 8.1 of the Table of Characteristics**, they shall be awarded 0 points.

### **ENVELOPE OR ELECTRONIC FILE 3 "DOCUMENTATION FOR THE EVALUATION OF CRITERIA THAT CAN BE EVALUATED AUTOMATICALLY USING A FORMULA".**

#### **Contents:**

**1. The financial proposal, which will be presented drafted in accordance with the template included as Annex IX to the Specific Administrative Specifications Document**, duly signed by the person with sufficient legal authority and dated.

In order to be admitted to the procedure, the bid must be equal to or less than the base tender budget indicated in **Section 3.1 of the Table of Characteristics**; it must clearly indicate, written in letters and figures, the euros sum for which the bidder undertakes to execute the contract, excluding indirect taxes. In the event that the letters and the numbers do not coincide and cannot be clearly interpreted, the letters shall always take precedence over the numbers.

In the event that **Section 1.3 of the Table of Characteristics** provides for bidding for specific lots, the financial proposal must indicate the individual bid for each of the lots for which the bid is being submitted.

Where the signatory acts as a representative, he must have sufficient power of representation to render the tender valid. Proof of this power of attorney shall be provided at any time it is required by the Purchasing and Procurement Committee or by the Contracting Authority and, in any case, if the bidder in question is notified that it has submitted the best bid, in accordance with the provisions of **Clause 19** of these Specifications.

Proposals submitted by TJVs must be signed by all the owners or representatives of the companies that make up the joint venture.

**The** Purchasing and Procurement Committee shall reject, in a reasoned decision, any proposals that do not match the documentation examined and accepted, contain omissions, errors or deletions that prevent the terms in which the bid is formulated from being clearly known, exceed the base bidding budget, vary substantially from the established model, or involve a manifest error in the amount of the proposal, or where the bidder acknowledges that it contains an error or inconsistency that makes it unfeasible.

For all purposes, it shall be understood that the bids submitted by the bidders include not only the price of the services offered, but also all the expenses that the tender, award, execution and timely performance of the contract entail, as well as the execution of the contract when it is notarised and any others that may be applicable in accordance with the provisions in force. The estimated calculation of advertising costs is reflected in **Section 12 of the Table of Characteristics**.

**2. In the event that other automatically assessable criteria other than the economic proposal, specified in Section 8.2 of the Table of Characteristics, are assessed for the award, the documentation that allows them to be scored must be provided in this envelope.**

The supporting documents will be those which are most appropriate, in each case, for the evaluation of the bids that are formulated by applying the evaluation criteria identified in **Section 8.2 of the Table of Characteristics**.

**Grounds for exclusion:** The Purchasing and Procurement Committee, in a reasoned decision, shall automatically exclude from the award procedure the bids submitted in the following cases, where this list includes, but is not limited to:

- If all or part of the required documents is not included, thus making it impossible to carry out the evaluation.

If the bid contains data that does not comply with or contradicts the minimum requirements demanded by the Technical Specifications or by these Specifications.

However, if supporting documentation has not been provided for elements of the bids which have been awarded points according to **Section 8.2 of the Table of Characteristics**, they shall be awarded 0 points.

## **CLAUSE 15. Provisional guarantee**

Bidders must include in the envelope or electronic file 1 Documentation Accrediting the Prerequisites, the document accrediting that they have provided IFEMA MADRID with a provisional guarantee, for the amount stated in **Section 11.1 of the Table of Characteristics**.

When the bidder submits its proposal in the form of a joint venture, the provisional guarantee may be constituted by one or more of the participating companies, provided that together they reach the amount required in **Section 11.1 of the Table of Characteristics** and jointly and severally guarantee all the members of the joint venture.

In the case of division into lots, the provisional guarantee shall be fixed on the basis of the base tender budget of the lots for which the bidder is to submit a bid and not based on the amount of the total base tendering budget for the contract.

The guarantee may be deposited in cash, bank guarantee or surety insurance contract, or by any of the means provided for in public procurement rules.

If the guarantee is provided in cash, it must be paid into the current account opened in the name of IFEMA MADRID indicated in **Section 11.1 of the Table of Characteristics**, indicating the selective procedure by quoting, at least, the procurement file number.

If it is constituted by means of a bank guarantee or surety insurance, the models appearing as **Annexes IV or VI to these Specific Administrative Specifications** must be used.

In the case of guarantees issued by guarantee or surety insurance, an authentic electronic copy shall be submitted, in accordance with Article 28.4 of Law 39/2015 of 1 October, on the legal system of Public Administrations. It may also be submitted in the form of a scanned copy of the original document, in which case the bidder may be asked to provide the original document at any time.

In the event of being provided in cash, proof of payment must be provided.

The provisional guarantee must be issued before the deadline for submission of bids. When it is provided in cash, it shall be deemed to be issued when it is proven that the payment (for the total amount required as a guarantee) has been made before the deadline for submission of bids. The bid will be rejected if, within a maximum period of 48 hours from the expiry of the deadline for submission of bids, the actual payment is not made into IFEMA MADRID's account.

The provisional guarantee shall be automatically forfeited and returned to bidders immediately after the award of the contract. The guarantee shall always be held of the bidder whose bid has been selected for the award until the final guarantee has been established, and will be seized from companies that unjustifiably withdraw their bids before the award is made. The reimbursement shall be made by making the document verifying the guarantee established available to the bidder, at the IFEMA MADRID Treasury Department, or by refunding the amount deposited in cash by means of an order cheque (optionally, a bank transfer may be made, if a nominated bank account is designated whose sole holder is the bidder, provided that IFEMA MADRID is reliably notified to this end, by means of certification from the bank). The person who intends to obtain the return of the guarantee must provide proof of representation.

## **CLAUSE 16. Opening and examination of bids**

### **16.1. Opening of Envelope or Electronic File 1 and examination of the supporting documentation accrediting compliance with the prerequisites.**

Prior to the holding of the tendering acts, the Purchasing and Procurement Committee shall qualify the documents presented in due time and form contained in Envelope or electronic file no. 1, verifying that they contain the documents indicated in Clause 14.

If the committee finds defects that can be rectified, it shall allow the bidder a maximum of three business days in which to remedy them. If the bidder fails to remedy the situation within the deadline, it shall be understood that the bidder has withdrawn its bid.

After examining the documentation provided, the committee shall determine which companies have been admitted to tender, which have been rejected and the reasons for their rejection, as appropriate.

**16.2. Opening of Envelope or Electronic File 2 and examination of the documentation to assess criteria that cannot be evaluated automatically using formulas** (only where applicable).

If applicable, the envelope containing the documentation relating to the criteria whose weighting depends on a value judgement, contained in Envelope or Electronic File 2, will be opened in a public act. This act shall begin by notifying the decision on the qualification of the documentation contained in Envelope or Electronic File 1, the bidders admitted and rejected, and the reasons for rejection of the latter, submitting the documentation contained therein to the body responsible for its evaluation.

The assessment will be carried out in accordance with the criteria set out in **Section 8.1 of the Table of Characteristics**.

**Reasons for rejecting bids** shall include, in addition to those indicated in Clause 14 regarding Envelope or Electronic File 2, the following:

- a) Manifest non-compliance with the specifications of these Specifications, the Technical Specifications or the rules, regulations or instructions in force that are applicable to the object of the tender or its execution.
- b) Non-consideration of the totality of the work to be carried out.
- c) Manifestly erroneous calculations and substantial vagueness.
- d) Obtaining a score lower than the minimum required, if applicable, in **Section 10.2 of the Table of Characteristics**.

Rejected proposals will not be taken into account in the evaluation of the criteria evaluated by means of formulas.

Prior to the opening of Envelope or Electronic File 3, which contains the documentation relating to the criteria that can be evaluated automatically by means of formulae, the Purchasing and Procurement Committee shall carry out the evaluation of the criteria whose quantification depends on a value judgement, on the basis of the technical report to be drawn up by the corresponding department. In addition, any technical reports deemed necessary, which are related to the object of the contract, may be requested.

**16.3. Opening of envelope or electronic file 3 and examination of the documentation for the evaluation of the criteria that can be evaluated automatically using formulas.**

In a public act, on the day and time agreed in the publication of the call for tenders and on the e-tender portal, envelope or electronic file 3, corresponding to the documentation relating to the criteria that can be evaluated automatically using formulas, will be opened and the documentation contained therein will be handed over to the department responsible for evaluation.

Prior to its opening and in the same public act, the result of the review of the documents in the envelope or electronic file no. 2 will be announced, detailing the bids admitted and excluded, and the grounds for their exclusion.

**CLAUSE 17. Selection of the best bid**

The Purchasing Committee will assess the documentation contained in Envelope 3, in accordance with the criteria and formulas indicated in **Section 8.2 of the Table of Characteristics**.

The evaluation of the bids submitted by different companies belonging to the same business group will be carried out in accordance with the provisions of Article 86 of the RGLCAP.

The overall score assigned to each bidder, which will determine the best bid, will be the sum of the scores established in **Section 8 of the Table of Characteristics**, which are those that cannot be evaluated automatically.

In the event of a draw, the rules of **Section 8.3 of the Table of Characteristics** shall apply.

The Purchasing and Procurement Committee shall submit an award proposal to the contracting authority.

If the Purchasing and Procurement Committee considers that the best bid is abnormally low and, after considering the justification provided by the bidder and the technical reports issued in this respect, considers that it cannot be met as a result of the inclusion of abnormal or disproportionate values, determined in accordance with Clause 18 below, it shall propose its rejection to the contracting authority, passing it on to the next best bid.

**CLAUSE 18. Bids with abnormal or disproportionate values**

The abnormally low character of a bid shall be determined in accordance with the specific objective parameters set out in **Section 8.4 of the Table of Characteristics**.

In order to determine whether there are bids with abnormally low economic values, bids submitted by companies belonging to the same business group shall be reduced by eliminating the highest bids. This means that only the lowest bid in each group of linked bids will be taken into consideration for the examination of the possible incidence of abnormal or disproportionate bids.

It shall be understood that there is a link between bids when the circumstances set out in Article 42.1 of the Code of Commerce are met.

When a bid is identified that may be considered disproportionate or abnormal, as specified in **Section 8.4 of the Table of Characteristics**, the bidder who submitted it must be given a hearing in order to justify and give a reasoned and detailed breakdown of the low level of prices, or costs, or any other parameter on the basis of which the abnormality of the bid has been defined, by presenting the information and documents that are relevant for this purpose.

In the procedure, the technical advice of the relevant department must be sought and a report issued by the department assessing the justification provided by the bidder.

**CLAUSE 19. Documentation prior to awarding the contract**

The Contracting Authority, following the proposal of the Purchasing and Procurement Committee and the technical reports it deems appropriate, will rank, in descending order, the bids submitted and accepted, in accordance with the evaluation criteria set out in these Specifications.



The bidder who has submitted the best bid will be required to submit, through the electronic bidding portal and within ten business days from the day after receiving the request, the accreditation of having issued the final guarantee, as well as the rest of the administrative documentation required of the successful bidder, **which is indicated in the subsections listed in this clause.**

Exceptionally, and provided that this has been stated in Section 7 of the Table of Characteristics, bidders may be required to provide this documentation prior to the determination of the best bid. In that case, references in this clause to 'successful bidder' or 'bidder having submitted the best bid' shall be construed as references to the 'bidder' or 'bidders'.

In any case, in order to ensure the smooth running of the procedure, the Purchasing and Procurement Committee may ask bidders, at any time prior to the adoption of the award proposal, to provide documentation accrediting compliance with the conditions established for being awarded the contract.

In the case of an award to a TJV, each of the companies that will form part of the TJV must provide the required documentation.

If the request is not duly complied with within the specified period, the bidder shall be deemed to have withdrawn its bid, in which case the same documentation shall be requested from the next bidder, in the order in which the bids were ranked. It will be understood that the request has not been adequately complied with if all or part of what is required is not provided, or if what is provided does not comply with the requirements of these Specifications.

This non-compliance will lead to the imposition of the penalty referred to in Article 150 of the LCSP, which will be effective in the first place against the provisional guarantee, if it has been constituted (it being understood that, if this has already been replaced by the final guarantee, it will be against this, against which the penalty will be effective), without prejudice to the possibility of having incurred a cause of prohibition of procurement in the case of fraud, fault or negligence.

#### **19.1. Documentation necessary to accredit personality and capacity to act.**

Legal persons may only be awarded contracts for services that fall within the aims, purpose or scope of activity that, according to their articles of association or bylaws, are specific to them, and this must be proven in the documentation provided.

In the event that the individual form the economic operator does not have a National Identification Card (DNI), they must present a copy of the equivalent document in accordance with the regulations (Article 21 RGLCAP).

Natural persons. - Must prove their identity by presenting their identification card or equivalent document in the case of foreign nationals, or passport.

Spanish legal entities. - They shall prove their eligibility by means of a deed of incorporation or amendment, where applicable, duly registered in the Companies Register when this requirement is required under the applicable company law. If this requirement is not applicable, the accreditation of the eligibility to operate shall be by means of the deed or document of incorporation, articles of association or founding act, in which the rules governing its activity are stated, registered, where appropriate, with the corresponding official register.

A copy of the Tax Identification Number (NIF) must also be provided.



Overseas companies. - See section 8 of the contents of Envelope or Electronic File 1 in Clause 14 of this Specifications document.

**19.2. Documentation necessary to accredit, where applicable, representation.**

Public deed accrediting the legal representation held.

Power of attorney of the representative, with proof of the powers he/she holds, registered, if applicable, in the Commercial Registry; or public document stating his/her legal representation.

NOTE: The representation held may be legal (e.g. the sole director of a company) or voluntary (the attorney-in-fact).

**19.3. Statement of compliance for not being prohibited from contracting.**

It must be presented by filling in the statement of compliance form for not being subject to any cause of contracting ban that is included as **Annex II to these Specific Administrative Specifications**.

**19.4. Documentation necessary to accredit the business or professional authorisation required to carry out the services covered by the contract.**

If, in accordance with **Section 7.5 of the Table of Characteristics**, it is legally required as a condition of being able to contract, documentation must be provided that accredits the corresponding business or professional authorisation for the performance of the service that constitutes the object of this contract.

**19.5. Documentation accrediting economic, financial and technical or professional solvency or, where applicable, classification.**

It shall be accredited in accordance with the provisions of **Section 7 of the Table of Characteristics**.

In order to prove solvency, the bidder who has submitted the best bid may rely on the solvency and resources of other entities, regardless of the legal nature of the links it has with them, provided that it proves that throughout the duration of the performance of the contract it will actually have such solvency and resources at its disposal and that the entity to which it has recourse is not subject to a prohibition on contracting. If the bidder has used other companies to accredit capacities, it must provide the documentation referred to in **Section 7 of the Table of Characteristics** for these companies, as well as the written commitment of the entities, which demonstrates that it effectively has the declared solvency and means for the performance of the contract.

In the event that, in order to prove technical or professional solvency, specific experience is required to be proven through the performance of contracts with a similar object to that which is the object of the tender, this requirement must be fulfilled by the bidder itself, without contracts concluded by third entities or companies of the same business group being taken into account.

In the case of a TJV, the participating companies may also comply with the technical, economic and financial solvency requirements of **Section 7 of the Table of Characteristics**, in the terms expressed therein.

If this has been indicated in Section 7.5 of the Table of Characteristics, in accordance with the provisions of Article 75.4 of the LCSP, it may be required that certain parts or works, due to their special nature, be executed directly by the bidder itself or, in the case of a bid submitted by a consortium of employers, by a participant in the consortium.

If a part of the service that is the object of the contract has to be done by specialised companies that have a specific professional qualification or authorisation, as indicated in Section 7.5 of the Table of Characteristics, classification in the group corresponding to this specialisation, if required, may be replaced by the contractor's commitment to subcontract the performance of this portion to other contractors who have the necessary authorisation and, where appropriate, classification, always within the limits that, where appropriate, are established in these Specifications and its Annexes for subcontracting and for execution directly by the bidder itself.

**19.6. Documentation accrediting the effective availability of the means which, where applicable, they have** that, if applicable, they have undertaken to dedicate or assign to the performance of the contract, in accordance with Article 76.2 of the LCSP and **Section 7.1 of the Table of Characteristics**.

**19.7. Certificates accrediting that they are up to date with their tax, Social Security and labour obligations.**

**Tax obligations. -**

Positive certification, issued by the Spanish Tax Agency, that they are up to date with their tax obligations. This certification may be obtained in the manner established in Royal Decree 1671/2009 of 6 November, which partially implements Law 11/2007 of 22 June, on citizens' electronic access to public services.

Specific certificate, issued by the Spanish Tax Agency (Agencia Estatal de Administración Tributaria) of being up to date with their tax obligations referring to contractors and/or subcontractors regulated in Article 43.1(f) of General Tax Law 58/2003 (LGT), regarding subsidiary liability for entities that contract or subcontract the performance of works or the provision of services corresponding to their main activity, for tax obligations relating to taxes that must be passed on or amounts that must be withheld from workers, professionals or other employers, in the part corresponding to the works or services that are the object of the contracting or subcontracting.

**Social Security obligations. -**

Positive certification, updated for the current month, issued by the General Treasury of the Social Security, of being up to date in the fulfilment of their obligations with Social Security. This certification may be obtained in the manner established in Royal Decree 1671/2009 of 6 November, which partially implements Law 11/2007 of 22 June, on citizens' electronic access to public services.

**Labour obligations -**

Notwithstanding the fact that non-compliance with labour obligations during the performance of the contract, which have the character of essential contractual obligations, is a cause for termination according to Section 19.1 of the Table of Characteristics, for the necessary protection of fundamental labour rights, and within the framework of the provisions contained in Article 201 of the LCSP, it is required, in this tender phase, as a prerequisite for being awarded the contract, accreditation that the bidder complies with the enforceable obligations for labour matters established in the regulations in force.

The bidder who has submitted the best bid must prove that it complies with its employment obligations with regard to the workers who are company staff, whatever the contract type justifying their employment. The aforesaid compliance must be accredited by means of a **statement of**

**compliance signed by the bidder** in accordance with the form included as **Annex XIV of these Specific Administrative Specifications**, in which the bidder indicates:

1. That at the time of submitting the bid it is up to date with all its labour obligations, including specifically, but not limited to, formal and material obligations regarding the prevention of occupational hazards and health and safety of workers and the payment of wages, in accordance with current legislation, including the applicable collective bargaining agreement, as well as any other company pact or agreement.
2. That all the salary concepts paid to its workers for the work carried out for conducting its activity are in accordance with the law, correspond to the nature of the work effectively executed, are duly reflected in the salary receipts and are taxed with the corresponding taxes and Social Security deductions, if applicable, and that the above is reflected in the tax declarations and contribution documents.
3. That the company requires and verifies compliance with these labour obligations with respect to the companies, self-employed workers or professionals subcontracted, where applicable, by the company.

**Express consent for IFEMA MADRID to request information from the successful bidder -**

Express consent must be provided in favour of IFEMA MADRID so that the latter may request information related to the fulfilment of its obligations in labour, social, tax and occupational safety matters, before the Social Security, Tax Agency or other administrative or judicial bodies or authorities, completed in accordance with the model included as **Annex XV of these Specific Administrative Specifications**.

**Where the bidder, in accordance with the provisions of Section 19.5 of this clause, participates on its own account, but uses the solvency of other entities**, it shall submit, together with its own certificates, declarations and consent required in **this Section 19.7**, the certificates, declarations and consent of these entities, separately and signed or referred to by each of them.

**19.8. Accreditation of Tax on Economic Activities**

In accordance with the provisions of Article 15 of the RGLCAP, the following documentation must be submitted in relation to this tax: Proof of being registered, with reference to the current financial year, with the Tax on Economic Activities in the epigraph corresponding to the object of the contract or up to date with its payment, providing for this purpose a copy of the payment letter for the last financial year, accompanied by a statement of compliance for not having been removed from the registry of this tax and for being up to date. In the event of not being obliged to pay the same, a statement of compliance of this circumstance, signed by the legal representative.

**19.9. Constitution of the final guarantee**

Document accrediting that a final guarantee has been constituted in accordance with the provisions of Clause 21 below and **Section 11.2 of the Table of Characteristics**.

**19.10. Documentation for the part of the contract which the bidder intends to subcontract.**

Where required in **Section 20.1 of the Table of Characteristics**, the bidder who has submitted the best bid must indicate the part of the contract which it intends to subcontract, and the name or business profile, defined by reference to the conditions of professional or technical solvency, of the subcontractors to whom it intends to entrust the performance of the contract.

**19.11. Documentation justifying attendance at the scheduled visit**

Where this is required in **Section 28 of the Table of Characteristics**, the bidder who has submitted the best bid must provide the documentation justifying the visit to the facilities set out in the aforesaid section. Failure to provide such accreditation will result in the exclusion of the bid.

**19.12. Proof of having constituted the additional guarantee.**

Where this is required in **Section 11.3 of the Table of Characteristics**, the bidder who has submitted the best bid must provide supporting documentation.

**19.13. Payment of the costs of the tender announcement.**

Only in exceptional and justified cases where this is established in **Section 12 of the Table of Characteristics**, the bidder who has submitted the best bid must proceed to pay the expenses related to the tender announcement, by means of prior management in the IFEMA MADRID Treasury Department.

**19.14. Actual constitution of insurance**

When this is required in **Section 7.3 of the Table of Characteristics**, the documentation justifying the constitution of the corresponding insurance policies must be provided.

**19.15. Participation in previous IFEMA MADRID tenders**

If within the last year, from the deadline for submission of bids, the bidder has participated in a tender procedure called by IFEMA MADRID in which it has already provided the administrative documentation referred to in Clauses 19.1, 19.2, 19.4, 19.7 and 19.8 required in these Specifications, it will not be necessary for such documentation to be submitted again, provided that it has not undergone any modification whatsoever. In the case of the documentation required in Clauses 19.7 and 19.8, it is only possible to avail oneself of this possibility if the effective period for the documentation has not expired.

The bidder must indicate the file number under which the documentation was submitted and the date on which it was delivered to the registry.

Notwithstanding the above, documentation that has not been rectified at the time, documentation whose validity period has expired, as well as documentation referring to guarantees, insurance policies, statements of compliance (requested in these Specifications and in accordance with the forms established herein) must be provided again, accrediting the circumstances to which each one of them refers, as well as documentation that has undergone modifications since the date of submission of the previous bid.

**19.16. ROLECE registration**

**The Official Register for Public Sector Bidders and Classified Companies (Registro Oficial de Licitadores y Empresas Clasificadas del Sector Público, ROLECE)**, in accordance with the provisions of Article 337 of the LCSP, **accredits the conditions of aptitude of the registered enterprises**, in terms of their personality and capacity to act, representation, professional or business qualification, economic and financial and technical or professional solvency, classification and other registered circumstances, as well as the concurrence or non-concurrence of the prohibitions to contract that appear therein and will exempt the bidder from submitting the corresponding documentation.

The bidder may choose to present the certificate of registration in force, corresponding to the Register of Bidders of the Community of Madrid, and/or the Official State Register of Bidders and Classified Companies in substitution of the administrative documentation required in these specifications and reflected in Sections 19.1, 19.2, 19.4 above, as well as in Section 19.5 when classification was required. With regard to the documentation referred to in section 19.5, it will only be possible to replace it with the certificate from the corresponding register when classification has been required in accordance with **Section 7.2 of the Table of Characteristics**.

If the certificate of registration submitted by the bidder does not include all the information requested in the aforesaid sections, the bidder must additionally provide those documents that complete the administrative documentation required in the tender documents and which are not reflected in the certificate provided.

**The documentation requested in the other sections of this clause must be submitted in any case.**

Together with the certificate of registration in the Register of Bidders, the bidder must submit a statement of compliance on the validity of the data recorded in the Register of Bidders, in accordance with the form included as **Annex VIII to these Specific Administrative Specifications**. If there has been any change to registration data, this shall be expressly mentioned in the aforesaid statement, together with the corresponding documentation.

#### **19.17. Details of the person who will execute the contract**

**Annex XVI to the Specific Administrative Specifications** must be filled in.

#### **CLAUSE 20. Waiver and withdrawal**

The contracting authority may waive the execution of the contract or abandon the unfinished tendering procedure. The decision shall be published in the Contractor Profile and the bidders that have submitted a bid shall be notified personally, accompanied by the complete resolution via which the decision is adopted.

If any of these possibilities are used, the contracting authority must compensate bidders who are not excluded up to the maximum amounts indicated in **Section 13 of the Table of Characteristics** for the actual costs incurred by them in participating in the tender. Only those expenses directly related to the submission of the bid, such as expenses incurred in visiting the facilities where the service will be provided, will be compensated, upon request and with due documentary justification of their financial value. The costs of preparing the bids, in particular the costs and expenses of personnel and material resources, as well as overheads, are expressly excluded.

## **CHAPTER III. AWARDING AND FORMALISATION**

### **CLAUSE 21. Final guarantee.**

#### **21.1. Formal guarantee**

The bidder who has submitted the best bid shall be obliged to provide the contracting authority with a final guarantee, in the amount determined in **Section 11.2 of the Table of Characteristics**.

If this requirement is not met for reasons attributable to it, the contracting authority shall not award the tender in its favour and the award shall be made to the next best bid.

#### **21.2. Establishment, substitution and adjustment**

This guarantee must be lodged by the bidder within 10 business days of receipt of the contracting authority's request.

In the event that the best-ranked bid is submitted by a TJV, the guarantee may be provided by one or more of its members, provided that together they reach the required amount and jointly and severally guarantee all the members of the TJV.

It may be established in cash, bank guarantee or surety insurance contract, or by any of the means provided for in public procurement rules.

If the guarantee is provided in cash, it must be paid into the current account opened in the name of IFEMA MADRID indicated in **Section 11.2 of the Table of Characteristics**, indicating the selective procedure by citing, at least, the contract dossier number.

If the contract price changes as a result of modifying the contract, the guarantee shall be adjusted within fifteen (15) days from the date on which the contractor is notified of the modification agreement, so that it is duly proportionate to the contract price resulting from the modification. If these requirements are not met for reasons attributable to the contractor, IFEMA MADRID may declare the contract terminated due to the contractor's fault, with seizure of the final guarantee and compensation, in addition to the amount exceeding the amount of the seized guarantee, for the damages caused.

In the event that the penalties or indemnities demanded of the successful bidder are paid on the guarantee, the latter must replace or extend it, in the corresponding amount, within fifteen (15) days of performance, failing which the contract will be cancelled.

The final guarantee initially constituted may be applied to the extension period without the need to adjust its amount unless a modification of the contract is agreed together with the extension.

If the provisional guarantee has been established in cash, the successful bidder may either apply its amount to the final guarantee or re-establish it.

In the event of submitting the final guarantee by bank deposit or transfer, the bank receipt must be provided.

In the case of guarantees constituted by guarantee or surety insurance, an authentic electronic copy shall be submitted, in accordance with Article 28.4 of Law 39/2015 of 1 October, on the legal system of Public Administrations.

When so stipulated in **Section 11.4 of the Table of Characteristics**, the guarantee may be provided by means of a withholding in the price, whose form and conditions are set out in the same section.

### 21.3. Scope

The final guarantee shall cover the following items:

- Payment of the penalties imposed for unjustified withdrawal of the bid, when the final guarantee has replaced the provisional guarantee in the period of time between the selection of the best bid and the award of the contract.
- Failure to execute the contract for reasons attributable to the successful bidder.
- Penalties imposed on the contractor for the performance of the contract, when these cannot be deducted from the payment of the invoices received for the contract.
- Compensation for damages caused to IFEMA MADRID, which the latter has determined through the corresponding procedure provided for in Clause 31 of these Specifications due to causes attributable to the contractor as a result of the performance of the contract, when these cannot be deducted from the payment of the invoices received from the same.
- The damages that IFEMA MADRID may incur in the event of termination of the contract, in accordance with its provisions, without prejudice to IFEMA MADRID's right to additional compensation for the damages that the successful bidder may cause it as a result of the performance of the contract, in excess of the amount of the final guarantee seized.
- The costs arising from the contractor's delay in fulfilling its obligations and the damages caused by the contractor in the event of non-fulfilment of the contract, without termination of the contract.

### 21.4. Validity

The final guarantee must remain in force throughout the life of the contract and until its complete termination, including the guarantee period, if any. The guarantee shall be released within two months of that date.

The final guarantee will be reimbursed or cancelled once the contract has been settled and the guarantee period indicated in **Section 25 of the Table of Characteristics** has expired, and the contract has been satisfactorily fulfilled, or the contract has been terminated without fault on the part of the contractor.

The refund will be made by placing the document accrediting the guarantee at the disposal of the contractor at the IFEMA MADRID Treasury Department, or by means of a bank transfer, in the case of designation of a nominated bank account whose sole holder is the bidder, provided that IFEMA MADRID is reliably notified by means of a certificate from the bank. The person who intends to take charge of such documents must provide proof of sufficient power of attorney for that purpose.

### 21.5. Supplementary guarantee

With regard to the additional guarantee foreseen in the LCSP, the provisions of **Section 11.3 of the Table of Characteristics** will apply, where appropriate, and for all purposes it will be considered the final guarantee.

## CLAUSE 22. Adjudication of the contract

Once the request has been duly fulfilled, the contracting authority shall award the contract in a reasoned decision, which shall be notified to the candidates or bidders.



The notification shall always contain the information necessary to enable the unsuccessful bidder or unsuccessful candidate to lodge a sufficiently substantiated appeal, in the manner specified in the Internal Hiring Instructions, against the award decision. In particular, it shall set out these points:

- a) For unsuccessful candidates, a summary of the reasons for the rejection of their application.
- b) In the case of bidders excluded from the award procedure, also in summary form, the reasons why their bid was not accepted.
- c) In any case, the name of the successful bidder, and the reasons why its bid was considered the best, in preference to those submitted by the other bidders whose bids accepted.

The notification will be made by electronic means in accordance with the provisions of the fifteenth additional provision of the Public Sector Procurement Act.

The notification to the successful bidder shall indicate the time limit within which the contract must be executed.

A tender may not be declared void if there is a bid or proposal that is admissible in accordance with the criteria set out in these specifications. Otherwise, or if no bids have been submitted, the invitation to tender shall be declared void.

#### **CLAUSE 23. Insurance**

The awarded contractor will be obliged to take out the insurance policies indicated in **Section 14 of the Table of Characteristics**, for the concepts, amounts, coverage, duration and conditions established therein.

The validity of the insurance must be maintained for the entire period of the awarded service.

#### **CLAUSE 24. Conclusion and execution of the contract**

The contract will be concluded by its execution in a document in accordance with the template that appears in Annex **XVII to these Specific Administrative Specifications**, and unless otherwise indicated in its clauses, it will be understood to be executed at the place where the headquarters of the contracting authority is located.

In the notification of the award, the successful bidder will be requested to execute the contract, which must be done no later than fifteen business days following receipt of the notification of the award to the bidders. The contract shall be deemed to have been perfected upon its formalisation.

The successful bidder must provide the following documentation prior to the execution of the contract:

- a) If the contract is awarded to a TJV, the constitution of the TJV must be accredited, in a public deed, within the period granted for the formalisation of the contract and the Tax ID number assigned to the TJV.
- b) Any other additional documentation required by the contracting authority.

The contractor may request that the contract be notarised, at its own expense.



When for reasons attributable to the successful bidder the contract has not been executed within the indicated period, the amount of three (3) percent of the base tender budget, VAT excluded, will be demanded as a penalty, which will be paid in the first place against the final guarantee, without prejudice to the rest of the consequences that may be applied in accordance with the provisions of the LCSP and in the corresponding specifications.

In this case, the contract shall be awarded to the next bidder in the order in which the bids were ranked, on submission of the relevant documentation.

If the causes of the non-execution are attributable to IFEMA MADRID, the latter will compensate the contractor for the damages that the delay may cause, provided that they are duly accredited, both in terms of their existence, causal relationship and that they have actually been borne. This compensation shall, in any case, be limited to the amount referred to in **Section 13 of the Table of Characteristics**.

## **CHAPTER IV. PERFORMANCE OF THE CONTRACT**

### **CLAUSE 25. Performance and liability of contractor**

The contract shall be performed at the contractor's risk.

The contract shall be performed in accordance with the provisions of the contract clauses and the tender specifications, in accordance with the instructions given to the contractor by the person responsible for the contract (or, where appropriate, by the services reporting to the contracting authority) in the interpretation thereof. It shall also be governed by the IFEMA MADRID Internal Procurement Instructions, approved by its Executive Committee and their implementing rules that are published.

The contractor will be responsible for the technical quality of the work carried out and the services provided, as well as for the consequences for IFEMA MADRID or third parties resulting from omissions, errors, inadequate methods or incorrect conclusions in the performance of the contract.

IFEMA MADRID reserves the right to exercise the right of recourse against the successful bidder, for the overall amount of the claim or litigation, and that the successful bidder agrees, agrees and accepts this right in this act.

Likewise, the successful bidder leaves IFEMA MADRID from harm due to any claims of a labour or Social Security nature brought by the employees of the successful bidder or any public or private third parties referring to the labour rights of the successful bidder's personnel.

The successful bidder shall assume any type of administrative, civil, labour or criminal liability, including damages to third parties that may arise from the performance of the work to be carried out under this contract. If any subsidiary or joint and several liability arises of any kind ever for IFEMA MADRID due to the performance of the contracted work, the successful bidder undertakes and is obligated to subrogate this liability, which it will pay on its own account, releasing IFEMA MADRID from any obligation in this respect.

In particular, the successful bidder shall protect and compensate IFEMA MADRID against any claim for infringement of patent, trademark, copyright or unlawful trade claims in relation to the service provided.

However, this exemption from liability shall not apply in the event of damage caused as a result of orders from IFEMA MADRID or in other cases determined by current legislation on the matter.

If, as a result of labour disputes between the successful bidder and its staff, or other reasons of any kind, unless expressly provided for by law as cases of force majeure, the successful bidder is unable to provide the contracted service, it must notify IFEMA MADRID as far in advance as possible.

In this case, IFEMA MADRID will inform the contractor of those services it considers essential, so that it can take the appropriate actions to ensure their coverage. If, in spite of this, the contractor is unable to provide them with its own means, IFEMA MADRID may use the services of other companies, and may pass on to the successful bidder any possible cost overruns, as well as any damages that may arise.

The persons appointed by the contractor to provide the service covered by this contract are, to all intents and purposes, working for the contractor itself. Consequently, the contractor is an independent contractor and its employees are not, either de facto or de jure, employees of IFEMA MADRID, and are solely and exclusively linked to the company of the successful bidder/contractor,

who will be responsible for the payment of salaries, Social Security contributions, withholdings, tax declarations and settlements, and all obligations arising from the employment contract or any other type of contract.

In the event that IFEMA MADRID finds that the contractor is in breach of labour, social, tax or occupational safety regulations, without prejudice to its power to terminate the contract, it may, depending on the seriousness of the breach, stop the service and require the successful bidder to remedy the breaches detected. Furthermore, in these cases of non-compliance, IFEMA MADRID may withhold payment of the contractor's outstanding invoices, in order to allocate this amount in the first instance for the effectiveness of the imposition of penalties and compensation for damages caused to IFEMA MADRID, being also authorised to keep withholding the remaining balance, to attend to any other eventualities arising from the non-compliance.

In the specific case of non-compliance by the contractor with labour obligations, in particular salary payment obligations (mainly payroll, Social Security and tax withholdings), and without prejudice to the imposition of the corresponding penalties, IFEMA MADRID will apply the amount of the invoices, whose payment has been withheld, to the payment of the unpaid concepts, which will be carried out, at least with regard to the payment of salaries, through a trusted third party.

All of the above is without prejudice to IFEMA MADRID also seizing the final guarantee in such cases.

The successful bidder and its personnel must know and comply with IFEMA MADRID's internal regulations and policies related to the object of the contract, which are published on the IFEMA MADRID website, when carrying out their work or providing the services they carry out at the trade grounds or in any of the facilities in which they act on behalf of IFEMA MADRID. They must also be familiar with and comply with IFEMA MADRID's regulatory compliance rules and policies, also published on its institutional website.

#### **CLAUSE 26. Work programme**

If this is provided for in **Section 16 of the Table of Characteristics**, the contractor is obliged to submit a work programme in accordance with the applicable performance period.

The presentation of the work programme adapted to the contract performance dates shall be carried out within the period indicated in **Section 16 of the Table of Characteristics**, and must be approved by the person in charge of the contract, being obligatory for the contractor.

Whenever the contractual conditions change, the contractor must - if necessary - update the work programme.

#### **CLAUSE 27. Assignment of means to the performance of the contract**

The contractor shall be obliged to assign to the performance of the service referred to in these Specifications the material and human resources provided for in **Section 7.1 of the Table of Characteristics**, as well as those that are obligatorily included in its bid.

In service contracts in which the provisions of collective agreements concerning the subrogation of workers are applicable, the provisions of these regulations on this issue shall apply. In this regard, the company that is awarded the contract, as well as the company that is to be awarded the contract,

if applicable, shall be obliged to comply with the provisions of the corresponding agreement insofar as they apply to the contract. In such cases, information on staff that can be subrogated shall be incorporated in the form set out in **Section 20.3 of the Table of Characteristics**.

In the event that the subrogated staff is insufficient to cover the total number of preferential employed staff required of the contractor, the contractor will provide IFEMA MADRID with a detailed list with all the data of interest necessary for assessment, of the new staff proposed to occupy these posts, for its approval.

Furthermore, the contractor is also obliged, before the expiry of this contract, and at the request of IFEMA MADRID, to provide the latter with the information on the conditions of the contracts of the workers affected by the subrogation of the next successful bidder, and which is necessary to allow an accurate assessment of the labour costs that such a measure will imply, in compliance with the provisions of Article 130.1 of Law 9/2017 on Public Sector Contracts.

As part of this information, in any case, lists of the personnel to be subrogated must be provided, indicating: the applicable collective bargaining agreement and details of the category, type of contract, business day, seniority date, expiry of the contract, gross annual salary of each worker, as well as all the agreements in force applicable to the workers affected by the subrogation.

Failure to comply with this obligation will entitle IFEMA MADRID to impose the penalties indicated in **Section 22 of the Table of Characteristics**.

If, once the subrogation has taken place, the labour costs are higher than those that could be deduced from the information provided by the contractor to IFEMA MADRID, the new contractor will have direct action against the contractor.

#### **CLAUSE 28. Performance period and duration of the contract**

The contractor is obliged to fulfil the contract within the total duration of the contract, which will be that foreseen in **Section 15.1 of the Table of Characteristics**, as well as the partial periods indicated for its successive performance, where applicable, set out in **Section 15.1 of the Table of Characteristics and** in the Technical Specifications governing the tender, as well as the periods which, where applicable, are set out in the work programme.

If **Section 15.1 of the Table of Characteristics** establishes a specific date for the start of the contract performance period, and the contract has not been executed by that date, the start date for contract performance shall be considered as the start date of the execution period. In this case, the contract performance period shall start on the execution date. If the end date of the contract performance period has also been established in **Section 15.1 of the Table of Characteristics** on a specific date, this will be moved to the date resulting from adding to the fixed date the same number of days that have elapsed from the start date indicated in this section to the execution date of the contract.

In the event that the deadlines could be shortened, and this is provided for in the evaluation criteria of the bids, the content of the successful bidder's bid will be taken into account.

**CLAUSE 29. Extension of the contract**

If the possibility of extension is foreseen in **Section 18 of the Table of Characteristics**, the contract may be extended, expressly, under the terms foreseen in Article 29 of the LCSP and in the IFEMA MADRID Internal Procurement Instructions.

The extension shall be agreed by the contracting authority and shall be compulsory for the contractor, provided that notice is given at least before the end of the contract term as set out in **Section 18 of the Table of Characteristics**.

**CLAUSE 30. Penalties for non-compliance with contractual obligations**

The contractor is solely liable to IFEMA MADRID for any defects in the provision of the service that may occur in the performance of the work entrusted, and for the fulfilment of all obligations arising from this contract.

When the contractor partially or defectively fulfils the services covered by the contract, or fails to comply with any of the essential obligations set out in this clause, IFEMA MADRID may choose to terminate the contract or impose the following penalties. It may also terminate the contract if, after having opted for the imposition of penalties, the non-compliance persists or is repeated.

All of the above without prejudice to the fact that the contractor must assume the expenses incurred by IFEMA MADRID, whether for personal services, material means, supplies or any other expenses caused by the aforesaid breaches and without prejudice to IFEMA MADRID being able to take the legal action it deems appropriate.

- **- For delays**

When the contractor, for reasons attributable to the contractor, is in default with respect to compliance with the contract performance period, the contracting authority may choose to terminate the contract or to impose daily penalties in the proportion of 0.60 euros for every 1000 euros of the contract price (excluding VAT), unless different penalties are established in **Section 22 of the Table of Characteristics**.

If this is stated in **Section 22 of the Table of Characteristics**, if the delay in meeting the partial deadlines makes it reasonably presumed that it will be impossible to meet the final deadline, or if meeting the partial deadlines is considered an essential obligation for the performance of the contract, the rules laid down for failure to meet the final deadline for the performance of the contract shall apply to failure to meet the planned partial deadlines.

IFEMA MADRID does not need to be notified in advance if the contractor is in default and the latter may choose to terminate the contract or impose the penalties established in **Section 22 of the Table of Characteristics**.

- **For partial or defective compliance**

When the contractor partially or defectively fulfils the services that are the object of the contract, or fails to comply with the special conditions for the performance of the contract that were foreseen, IFEMA MADRID may choose to terminate the contract or impose the penalties established in **Section 22 of the Table of Characteristics**.

- **Other cases**

**Section 22 of the Table of Characteristics** will include the penalties that will be applicable, of the LCSP, in cases of: breach of commitments to assign resources, breach of the obligation to provide information on conditions of subrogation in work contracts, breach of obligations in environmental, occupational, social or labour safety matters, breach of special performance conditions, breach of characteristics of the offer linked to the award criteria, or breach of obligations in matters of subcontracting. IFEMA MADRID may choose to terminate the contract or impose the penalties established in **Section 22 of the Table of Characteristics**.

- **Limit**

If a maximum limit is established for the amount of penalties to be applied for all concepts, it will be established in **Section 22** of the Table of Characteristics. If this amount is exceeded, IFEMA MADRID shall have the right to automatically terminate the contract.

- **Procedure**

In view of the deficiencies that IFEMA MADRID observes by virtue of the inspection and control powers that it expressly reserves, it may carry out actions aimed at determining, on a preliminary basis, whether there are circumstances that justify the initiation of the procedure for the application of penalties.

Once proceedings have been initiated, IFEMA MADRID shall issue an agreement to initiate the procedure for the imposition of penalties, which shall include, at least, a brief description of the facts that motivate the initiation of the proceedings, their possible classification and the penalties that may correspond to them. In the same act, IFEMA MADRID will agree to withhold payment of the invoices in favour of the contractor up to the amount that is sufficient to cover the penalties that have been determined.

The successful bidder will then be notified of the same so that it may, within a period of eight (8) business days, make the corresponding allegations and propose any evidence it may wish to submit.

In view of the same, IFEMA MADRID may agree, if appropriate, to open a trial period, common to practice, which shall not exceed ten (10) business days.

Subsequently, the contracting authority shall adopt an agreement imposing penalties, which shall be enforceable, without prejudice to any appeals that the contractor may lodge against it, which shall in no case suspend its performance.

The successful bidder will have the period foreseen in **Section 22 of the Table of Characteristics** to pay the penalty. If it fails to do so, IFEMA MADRID will proceed to enforce the penalty firstly against the invoice or invoices whose payment it has withheld, and if this is not sufficient, it will proceed to seize the final guarantee in the corresponding amount, without prejudice to the contractor's obligation to replace the guarantee under the terms set out in these Specifications. The contractor may not claim interest for late payment of the amounts withheld.

**CLAUSE 31. Liability of the contractor for damages**

The contractor shall be liable for all damages caused, in addition to IFEMA MADRID, to third parties as a result of the operations required for the performance of the contract.

The determination of compensation for damages caused to IFEMA MADRID, due to causes attributable to the contractor as a result of performance of the contract, will be carried out and adjusted to the procedure regulated in Clause 30 for the imposition of penalties.

#### **CLAUSE 32. Modification of the contract**

The contracting authority may only introduce modifications to the contract when this is provided for in **Section 21 of the Table of Characteristics** and in the manner laid down therein.

The modification it provides for shall be binding on the contractor, provided that it does not exceed the percentage of the tender budget set out in **Section 21 of the Table of Characteristics**. Above this percentage, the contractor's agreement shall be required.

The procedure shall be initiated either ex officio by IFEMA MADRID or at the request of the contractor. The initiation agreement shall be notified to the contractor, who shall be given a period of eight (8) days to make allegations. Once the allegations have been received, or after the specified period has elapsed without having received them, the contracting authority shall take the appropriate decision and notify the contractor of the decision, who must proceed in accordance with the terms of the decision.

IFEMA MADRID may also modify the contract even if it is not foreseen in **Section 21 of the Table of Characteristics** or in the tender announcement of the present specifications, as long as the modification is limited to introducing the strictly indispensable variations to respond to the objective cause that makes it necessary.

In this case, in order for the modification to be mandatory for the contractor, one of the following events must occur:

a) That it becomes necessary to add additional works, supplies or services to those initially contracted, provided that the change of contractor is not possible for economic or technical reasons, and also that the change of contractor would generate significant inconveniences or a substantial increase in costs for the contracting authority, and that the modification of the contract implies an alteration in its amount that does not exceed, alone or jointly with other agreed modifications, 50 per cent of its initial price, VAT excluded.

b) The need to modify an existing contract arises from unforeseeable circumstances that were unforeseeable at the time the contract was tendered, provided that the need for the modification arises from circumstances that could not have been foreseen with due diligence, that the overall nature of the contract is not altered and that the modification of the contract entails an alteration in its amount that does not exceed, alone or jointly with other agreed modifications, 50 per cent of its initial price, excluding VAT.

(c) The changes are not substantial. If they are, special justification must be given as to the need for them, indicating the reasons why they were not included in the original contract.

The procedure for the modification in this case will be the same, although the drafter of the project or of the technical specifications, if these have been prepared by a third party outside IFEMA MADRID by virtue of a service contract, must also be given a hearing so that, within a period of no less than three days, he/she may formulate the considerations he/she deems appropriate.

The contractor shall also be heard and the reports justifying the need for the modification shall be included in the file.

### **CLAUSE 33. Subcontracting.**

When this is established in **Section 20.1 of the Table of Characteristics**, and in the terms foreseen therein, in accordance with the provisions of the Internal Procurement Instructions, the contractor may arrange with third parties for its partial performance, under the conditions foreseen in the aforementioned Internal Hiring Instructions.

If IFEMA MADRID's authorisation to subcontract is granted, this does not imply the creation of any contractual link or relationship between IFEMA MADRID and the subcontractor and does not release the contractor from the obligation to supervise the subcontractor's activity, to be responsible for the latter's actions and compliance with the contract in its entirety.

The contractor will be liable to IFEMA MADRID, and will have to justify, at IFEMA MADRID's request, compliance with labour, social, tax and any other obligations relating to the subcontractors' personnel.

Without prejudice to the above, IFEMA MADRID may at any time inspect and monitor the work of the subcontractors and the fulfilment of their obligations, and the subcontractors shall be obliged to provide all the collaboration that may be necessary for this purpose (documentation, reports, free access to their facilities, etc.).

Subcontractors shall not have any direct action against IFEMA MADRID for payments owed to them by the contractor. Before making the payment corresponding to the invoicing of the object of the contract, IFEMA MADRID may require the contractor to accredit the fulfilment of its contractual obligations with the subcontractors, and in particular that of being up to date with payments. If IFEMA MADRID verifies that the contractor has not complied with its subcontracting obligations, it may withhold payment of the contractor's outstanding invoices, in order to allocate this amount first for the effectiveness of the imposition of penalties and compensation for damages caused to IFEMA MADRID, being also authorised to keep withholding the remaining balance, to attend to any other eventualities arising from non-compliance.

### **Clause 34. Assignment of the contract**

When this is established in **Section 20.2 of the Table of Characteristics**, the rights and obligations arising from the contract may be assigned by the contractor to a third party provided that the technical or personal qualities of the assignor were not the determining reason for the award of the contract, and the assignment does not result in an effective restriction of competition in the market.

In the aforementioned section, the necessary requirements must be indicated in order for the aforesaid assignment to be applicable, in accordance with the provisions of the IFEMA MADRID Hiring Instructions.

### **Clause 35. Payment of the price**



The successful bidder is entitled to payment of the agreed price for work satisfactorily performed.

Payment of the price shall be made, as indicated in **Section 17 of the Table of Characteristics**, in full or in part, by means of payments on account or, in the case of successive contracts, by means of payment at each of the stipulated due dates.

The contractor shall be entitled to receive payments on account for the amount of the operations preparatory to the performance of the contract that are included in its object, under the conditions indicated in **Section 17 of the Table of Characteristics**, and the aforesaid payments must be secured by the provision of a guarantee.

Payment of the price will be made on submission of the **invoice** and will include the **information** indicated in **Section 17 of the Table of Characteristics**, in the terms established in the regulations on electronic invoicing, and the corresponding indirect tax will be charged as a separate item.

#### **CLAUSE 36. Costs and taxes payable by the contractor**

##### **- Taxes and advertising**

The contractor shall be responsible for the expenses arising from any licences, authorisations and permits required for performance of the contract, as well as any visas required for the duly legalised delivery of the works and all kinds of taxes, especially VAT or the one that may replace it and any others that may arise from the performance of the contract during its validity period.

##### **-Verifications, tests and analyses**

If necessary, the contractor is obliged to cover the cost of the verifications, tests and analyses that the **person in charge of the contract** orders it to conduct, to verify the correct performance of the services, in accordance with the quality control plan established, where appropriate, in the Technical Specifications.

##### **- Signage**

If so stipulated in the Technical Specifications or decided by the **contract manager**, the successful bidder is obliged to install, at its own expense, signs identifying the work, the necessary signage where appropriate, relating to traffic in the area occupied by the works and the points of potential danger, as a result of the performance of the contracted services, both in said area and in its boundaries and vicinity.

##### **- Other costs**

The contractor is responsible for the costs of executing the contract if it is notarised and all the costs that the company must incur for the fulfilment of the contract, such as general, financial, transport and travel, materials, installations, fees of its employees.

#### **CLAUSE 37. Special conditions of fulfilment**

The contractor must comply with the special performance conditions of a social, ethical, environmental or other nature established in **Section 19.2 of the Table of Characteristics**, in accordance with the provisions of the IFEMA MADRID Internal Procurement Instructions.

**Sections 19 and 22 of the Table of Characteristics** may establish penalties for non-compliance with these special performance obligations, or to attribute them the character of essential contractual obligations for the purposes indicated in Article 211 (f) of the LCSP. When non-compliance is not classified as a cause for termination of the contract, its consideration as a serious violation for the purposes set out in Article 71.2 (c) of the LCSP may be foreseen in the specifications.

#### **CLAUSE 38. Essential contractual obligations**

The essential contractual obligations are the main obligations of the contract and those that are qualified as such in **Section 19.1 of the Table of Characteristics**.

#### **CLAUSE 39. Duty of confidentiality .**

They are obliged to maintain absolute confidentiality with regard to the information to which they have access in the fulfilment of the contract, which is given as such in **Section 27 of the Table of Characteristics** or in the contract, or which by its very nature must be treated as such.

Confidential information shall be treated as such by the parties and shall not be disclosed by the recipient without the prior consent of the other party. In particular, the parties undertake to take the necessary measures to prevent unauthorised third parties from gaining access to confidential information and to limit access to authorised employees who need it for the performance of the contract and to pass on to them the same obligation of confidentiality.

This duty must be maintained for a period of five years from the date of having knowledge of the information unless a longer period is stipulated in **Section 27 of the Table of Characteristics** or in the contract.

The bidder may expressly request the reservation and confidentiality of data and information detailed in accordance with **the model declaration in Annex X of the Specific Administrative Specifications Document**. This declaration can be provided in the envelope(s) or electronic file(s) containing the data or information for which confidentiality or secrecy is requested.

In the event that the bidder has requested secrecy or confidentiality, the Purchasing and Procurement Committee shall be obliged to comply with the request only insofar as it considers that such reserve or confidentiality does not infringe either the principles of transparency and publicity, or the rights of effective legal protection and adequate defence of the interests of the other bidders.

Only if the bidder has expressly requested confidentiality in accordance with the provisions of the section, and only if the Purchasing and Procurement Committee considers it appropriate to do so, shall its proposal be treated as confidential if another bidder has requested a review of the dossier.

#### **CLAUSE 40. Place of delivery of the works and fulfilment of the services**

**Section 15.2 of the Table of Characteristics** shall indicate, in detail, the place of delivery of the work and performance of the contracted services.

## **CHAPTER V. TERMINATION OF THE CONTRACT**

### **CLAUSE 41. Fulfilment of the contract and acceptance of the service.**

The contract shall be understood to have been fulfilled by the contractor and received by IFEMA MADRID when the contractor has carried out, in accordance with the terms of the contract and to the satisfaction of IFEMA MADRID, the entire service within the stipulated period.

When this has been established in **Section 24 of the Table of Characteristics**, in view of the characteristics of the contract, the verification of compliance will require a formal and positive act of acceptance or conformity within the period established in this section. In this case, the form of acceptance of the contract shall also be determined in **Section 24 of the Table of Characteristics**.

The appropriateness of partial acceptance of certain parts of the contracted service and the period within which this must be carried out shall be indicated in **Section 24 of the Table of Characteristics**.

### **CLAUSE 42. Guarantee and settlement period**

The guarantee period shall be that set out in **Section 25 of the Table of Characteristics and** shall start from the date of acceptance or conformity.

In the event of partial acceptances, the guarantee period for the parts received shall commence on the dates of the respective partial acceptances.

In the event that, due to the nature and characteristics of the service, it is not appropriate to establish a guarantee period, this will be indicated in **Section 25 of the Table of Characteristics**.

### **CLAUSE 43. Ownership of the works**

All studies and documents prepared during performance of the contract will be the property of IFEMA MADRID, which may reproduce, publish and disseminate them in whole or in part without the successful bidder, the author of the work, being able to oppose this.

The successful bidder may not make any use or disclosure of the studies and documents drawn up in connection with the performance of this contract, either in whole or in part, directly or excerpts, without the express authorisation of the **contracting authority**.

If the object of the contract is the development and provision of products protected by an intellectual or industrial property right, this will be assigned by the contractor to IFEMA MADRID.

### **CLAUSE 44. Termination of the contract**

#### **Causes**

**1.** In order to guarantee and safeguard the public interest at whose service IFEMA MADRID carries out its activity, as an entity that must be subject to the general principles of public sector contracting, the contract will be automatically terminated with the effects foreseen in this clause, by simply notifying the Contractor of this decision, when the Contracting Body observes the concurrence of one or more of the following causes:

- Non-compliance on the part of the CONTRACTOR with the labour, social or tax obligations relating to the personnel assigned to the contracted services. In particular, the non-payment, during the performance of the contract, of salaries by the contractor to the workers who were participating in the contract, or the breach of the conditions established in the collective agreements in force for these workers also during the performance of the contract.
- Falsehood in the provision of technical, economic or legal data, as well as data related to the number and identity of the company's personnel involved in the contracted services, requested by IFEMA MADRID in the exercise of its control and inspection powers, or placing obstacles, for any reason whatsoever, to this exercise.
- Non-compliance with the clauses contained in these Specifications or in the other documents that form part of the contract.
- The extinction of the CONTRACTOR's legal personality, unless the assets and organisation of the extinct company are incorporated into another entity, with the latter fully assuming the obligations of the former and provided that the new entity, within 15 calendar days, offers to carry out the contract under the same stipulated conditions. IFEMA MADRID may accept or reject the offer, without, in the latter case, there being any right to compensation for the rest of the contract not performed.
- The assignment of the contract, in whole or in part, without the prior express authorisation of IFEMA MADRID.
- The death of the individual CONTRACTOR, unless its heirs offer to continue with performance and IFEMA MADRID thus accepts.
- The others provided for in the LCSP, both general and specific for service contracts, when they are attributable to the contractor.
- Those indicated in **Section 23 of the Table of Characteristics**.

**2.** The following shall also be causes for termination of the contract, if the contractor thus decides:

- The suspension, for reasons exclusively attributable to IFEMA MADRID, of the commencement of the contract, in its entirety, for a period of more than six (6) months.
- The suspension of the contract, in its entirety, once it has begun, for a period of more than eight (8) months.
- Delay in the payment of any of the invoices by IFEMA MADRID, without a justified cause, of more than eight (8) months.
- The dissolution or extinction of IFEMA MADRID, whatever the causes of such events.

**3.** Further causes that lead to termination of the contract:

- Mutual agreement between the parties.
- Withdrawal of IFEMA MADRID.
- Circumstances that constitute a legal or material obstacle to the proper performance of the contract.
- The others provided for in the LCSP, both general and specific for service contracts, which are not attributable to the contractor.

**Effects of the termination**

- l) In particular, the termination of the contract for any of the causes mentioned in Sections 1, 2 and 3 above, or in any of the clauses of this contract, shall produce the following effects:
  - a) An inventory shall be made of all documents prepared or under preparation, and of all information collected in physical and computer files. The contractor will deliver to IFEMA MADRID all the work carried out until the date of termination, which will be valued and paid according to IFEMA MADRID's criteria, after deducting the expenses that the termination causes to IFEMA MADRID and the penalties that may be applied. As a consequence, a summary settlement of the work carried out by the contractor shall be made.
  - b) Once the contract has been terminated, IFEMA MADRID may continue the performance of the service by the procedure it deems most appropriate.

To this end, the contractor must immediately deliver the work that is the object of the contracted service, as well as all the documentation or material means that were directly assigned to the performance of the services by virtue of the awarded bid. Likewise, in the event that, due to the characteristics of the service, the contractor is using or occupying IFEMA MADRID's means, premises or facilities, it must vacate them and immediately hand over possession to IFEMA MADRID. Therefore, both parties recognise that, if the contract is terminated, the possession of said goods and items assigned to the service belong exclusively and exclusively to IFEMA MADRID, which is the owner and possessor of all of them, without the contractor being able to allege such possession in its favour in any case and for any factual or legal assumption. In this regard, if the contractor is required to deliver said goods, means or documents and does not deliver them to IFEMA MADRID, or whoever it designates, within a maximum period of one (1) week, an additional daily penalty of 0.1% of the Contract Price shall accrue in favour of IFEMA MADRID, without prejudice and in addition to the compensation for damages corresponding to the termination of the contract, for the concept of specific damages caused by the unlawful occupation of said goods, premises and/or documents.
  - c) The lack of agreement between the parties on the price of occupation of the goods and elements of the service shall not prevent the obligation of immediate delivery of the same agreed in the previous paragraphs, with provisional validity and validity of the price and other conditions determined by IFEMA MADRID, until the discrepancies in this regard are definitively resolved by means of a firm resolution. The existence of economic issues to be resolved, or the lack of agreement in the settlement, shall not be a reason for the contractor not to hand over to IFEMA MADRID the services and the totality of the works carried out until the date of termination, or not to allow the occupation of the goods and elements of the service, and IFEMA MADRID may immediately continue with the fulfilment of the contract by the procedure it deems most appropriate.
  - d) IFEMA MADRID will make effective, in an executive and immediate manner, with charge to the final guarantee, as far as it reaches, the damages caused by the event that has caused the termination and that are attributable to the contractor, notifying the contractor of the pertinent list and settlement of such damages, without detriment to IFEMA MADRID's right to all the work carried out to date, and without prejudice, in any case, to IFEMA MADRID's right to claim from the contractor the excess that may not be covered by the amount of the final guarantee, as well as without prejudice to the contractor's right to exercise the

- actions, claims and appeals that it considers it has against the communication made by IFEMA MADRID, which shall not be, in any case, opposable either to the termination of the contract or to the execution of the guarantee.
- II) In cases of termination for the reasons set out in **Section 1 of this Clause**, it will be sufficient for the termination to take effect if the contracting authority, by means of a reasoned resolution, notifies the contractor of the executive decision to terminate the contract.
  - III) If, in accordance with **Section 2 of this Clause**, the contractor chooses to terminate the contract, it must notify IFEMA MADRID in writing. If IFEMA MADRID considers that the aforesaid cause for termination exists, within a period not exceeding thirty calendar days, the valuation and settlement of the work performed by the contractor up to the date of the termination will take place, and once the corresponding amount has been paid, the contractor will hand over to IFEMA MADRID all the work carried out to date. In addition, IFEMA MADRID will pay an indemnity of three (3) per cent of the contract price corresponding to the services still to be performed. It shall be understood that this percentage constitutes the compensation agreed by the parties for all concepts, in the event of termination of the contract for the causes mentioned in **Section 2 of this Clause**, without any cause attributable, either directly or indirectly, to the contractor.
  - IV) For termination for the reasons set out in **Section 3 of this Clause**, IFEMA MADRID shall return the final guarantee to the contractor within a maximum period of thirty (30) calendar days from the notice of termination, except when there are justified contractual causes to reject this return or when other damages caused by the contractor are yet to be determined.
  - V) If IFEMA MADRID withdraws, a power it may exercise at any time at its own discretion and without the need to justify it to the contractor, in addition to paying the contractor all the amounts it has been credited for having carried out the corresponding services, IFEMA MADRID will pay a compensation of three (3) per cent of the contract price corresponding to the services still to be performed. It shall also be understood that this percentage constitutes the indemnity agreed by the parties for all concepts. IFEMA MADRID may also withdraw, at any time and at its sole discretion, from any of the services covered by the contract. In this case, in addition to paying the contractor the amount of the services provided in accordance with the service from which it is withdrawing, it shall pay the contractor compensation calculated at 3% of the price corresponding to the outstanding service to be performed. It shall also be understood that this percentage constitutes the indemnity agreed by the parties for all concepts. In the event of total unilateral withdrawal from this contract by IFEMA MADRID without any cause attributable, either directly or indirectly, to the contractor, IFEMA MADRID shall return the final guarantee to the contractor within a maximum period of thirty (30) days, except when there are justified contractual causes to reject this return or when other damages caused by the contractor are still to be determined.

### **Procedure**

Termination of the contract shall be agreed by the contracting authority, ex officio or at the request of the contractor, after the following requirements have been met:

- a) In the case of an ex officio proposal, a hearing with the contractor for a period of ten calendar days, unless exceptional circumstances duly justified by IFEMA MADRID impose a shorter period.

b) Hearing, within the same period as above, of the guarantor or insurer if it is proposed that the guarantee be seized.

c) In order to guarantee the public interest to be protected, the agreement of the contracting authority to terminate the contract will produce the effects foreseen in these Specifications, as soon as it is agreed, without prejudice to the provisions of **Clause 49 of these Specifications**.

However, when the requirements for the unilateral termination of service contracts under the Civil Code are met, IFEMA MADRID expressly reserves the right to terminate the contract automatically by means of a single direct notice to the contractor, in which the cause of non-compliance and the effects of the termination are specified, duly justified. Consequently, once the contractor has been notified of the termination, it will be immediately effective, without prejudice to the fact that the contractor, under the terms of the clause on dispute resolution contained in this contract, may exercise the actions it deems appropriate to defend its interests with regard to the effects of the termination.

#### **CLAUSE 45. Personal data protection.**

##### **1. Information regarding the personal data processing:**

**Data controller:** IFEMA MADRID - Feria de Madrid (Q/2873018B). Postal address: Avda. del Partenón, 5, 28042 Madrid, Spain.

**Purposes:** Management of your participation in the tender. The entity's details and contact details will also be processed by IFEMA MADRID as possible suppliers of the institution in order to contact you, where appropriate, announcing new tenders in your sector.

**Legitimate interest:** Performance of a contractual or pre-contractual provision and consent of the data subject.

**Retention of your data:** Your personal data will be kept as part of the tender dossier and, where applicable, for the duration of the contractual relationship with IFEMA MADRID in the event of being awarded the contract, plus any applicable statute of limitation periods. Likewise, as long as you do not revoke your consent, they will be kept as potential suppliers of the institution. Please note that you have the right to withdraw your consent at any time.

**Communication of your data to third parties:** IFEMA MADRID will not communicate the personal data processed to any third party, except at the express request of a court or administrative authorities in cases where this is legally required or insofar as it is necessary for the correct development of the tender. Likewise, IFEMA MADRID shall not carry out any international transfer of the data processed.

**Rights:** The law recognises a number of rights in relation to the processing of your personal data. These rights are the following: access, rectification, erasure, restriction or opposition to processing, portability, and the right to withdraw consent at any time. These rights may be exercised by sending a communication to Avda. del Partenón 5, 28042, Madrid, or by sending an e-mail to [protecciondedatos@ifema.es](mailto:protecciondedatos@ifema.es) including as the subject 'Exercise of bidder's rights in the tender (including the number of the tender procedure)' and indicating the name and ID number of the sender.

##### **2. Access to contractor data by IFEMA MADRID.**



In compliance with its obligations, the contractor is obliged to provide IFEMA MADRID with certain information to accredit compliance with its tax, labour and Social Security obligations, in accordance with the provisions of these Administrative Specifications.

Likewise, in relation to the normal development and operation of the services and for the issue, where applicable, of passes and/or badges for workers, the contractor must update the list of its personnel, as well as, where applicable, the personnel of its subcontractors or collaborating companies assigned to carry out work and/or services on the IFEMA MADRID premises.

In these circumstances, the personal data of the successful bidder's personnel and, where applicable, its subcontractors, will be processed by IFEMA MADRID as data controller for the following purposes:

- (i) To carry out the control of the personnel assigned to provide services at the Recinto Ferial.
- (ii) To monitor the successful bidder's compliance with all tax and labour obligations (wages, contributions, compliance with occupational health and safety regulations, etc.) - a legal obligation established in Article 42 of the Workers' Statute, as well as others that may be applicable.
- (iii) To prepare accreditations, control and management of accesses and stays.
- (iv) Ensuring the general security of the institution.
- (v) Any other detailed in the Technical Specifications.

The legal basis for this lies in the existence of a contractual relationship and IFEMA MADRID's legitimate interest in preserving the security of its facilities.

The data shall be retained for as long as necessary for the fulfilment of those purposes. Your data will not be disclosed to third parties, unless required by the Public Administrations, in compliance with a legal obligation.

Data subjects may exercise their rights of access, rectification, erasure, opposition, portability and restriction to the processing of your data by sending a request to Avda. del Partenón, 5 - 28042 Madrid, or to [protecciondedatos@ifema.es](mailto:protecciondedatos@ifema.es) indicating in the subject line: 'Exercise of personal rights collaborating company (indicate company name)' and name and ID number of the sender. It may also seek the protection of the Spanish Data Protection Agency (AEPD).

In the event of a request for the erasure of the successful bidder's personal data whose access is authorised with a pass or accreditation, this shall entail the return of the same and the withdrawal of the authorisation to provide services at the venue.

### **3. Access to IFEMA MADRID data by the contractor**

If the object of this contract involves access by the contractor to data under the responsibility of IFEMA MADRID, the data processed shall be identified in this contract and the contractor shall process the same as data processor; the purpose of this processing shall be exclusively to provide the services referred to in the same and the measures of **Article 32 of the GDPR** shall be applicable.

**Specifically where the object of the contract refers to information technology and/or involves access to IFEMA MADRID's technological platforms or tools or when it involves the processing of**



**sensitive information or data of a special nature** (health, minors, religion, union affairs, etc.), in these cases, in addition to the security measures set out in Article 32 of the GDPR, the additional security measures detailed in '**Document 076 Annex for contracts for goods and services with IT-related elements**', which is attached as an Annex to this contract, shall be applicable.

**4. The data processor shall always have these obligations:**

- a. To process the data in accordance with the instructions of the controller, to comply with the current personal data protection regulations applicable in each case and to adopt all appropriate security measures.
- b. To keep, in writing, a record of all categories of processing activities carried out on behalf of the controller.
- c. Not to communicate the data to third parties, unless expressly authorised by the controller, unless such communication is necessary for the performance of the services, unless there is a legal obligation or for reasons of public interest.
- d. To not subcontract any of the services that form part of the object of this contract, unless there is prior written authorisation from the controller, indicating the processing that is to be subcontracted and clearly identifying the details of the subcontractor. In this case, the subcontractor shall have the same obligations as the controller and must, in turn, comply with the obligations previously indicated by the controller, and shall be obliged to sign a new contract. The Data Processor shall be jointly and severally liable for the fulfilment of the subcontractor's obligations and the security guarantees to which this party is bound.

Should the use of **auxiliary services** be necessary for the normal development and operation of the contracted service involving the processing of personal data in accordance with the provisions of this contract, subcontracting is authorised on the understanding that the subcontractor, who would also have the status of data processor, shall also be obliged to comply with these obligations and the instructions issued by the controller. It is up to the Processor to regulate the new relationship, so that the sub-processor is subject to the same conditions (instructions, obligations, security measures, etc.) and the same formal requirements as the Processor, with regard to the proper processing of personal data and the guarantee of the rights of the data subjects. In the event of non-compliance by the sub-processor, the processor shall remain fully liable to the controller for the fulfilment of the aforesaid obligations.

- e. To maintain the duty of secrecy with regard to personal data to which it has access by virtue of this contract, even after the end of its purpose.
- f. Ensure that the persons authorised to process personal data undertake, expressly and in writing, to respect confidentiality and to comply with the corresponding security measures, of which they must be duly informed, as well as to ensure their necessary training on data protection.
- g. To assist the controller in responding to the exercise of rights by data subjects. When the persons concerned exercise their rights with the processor, the latter must immediately notify the controller within a period not exceeding 5 days.

- h. The processor shall notify the controller within 24 hours of any breach of security of the personal data under its responsibility of which it becomes aware, together with all relevant information for the documentation and communication of the incident.
- i. To provide the controller with sufficient and appropriate guarantees regarding the correct application of the technical and organisational measures that enable compliance with the requirements of current Spanish legislation and the GDPR, including the appropriate security measures.
- j. To process the information or data provided with the appropriate security conditions that are relevant in each case pursuant to the provisions of Article 32 of the GDPR. The successful bidder undertakes to comply, at all times, with the appropriate security measures according to the corresponding risk level, including those reflected in Document 076 annexed to these Specifications, in the cases indicated in point 3 above of this clause.
- k. To delete or return, at the controller's option, all personal data upon termination of the provision of the processing services, and delete all existing copies unless the retention of such data is required by mandatory regulation.
- l. To make available to the controller all information necessary to prove compliance with its obligations hereunder, and to permit and assist in the performance of audits, including inspections, by the controller or another auditor that it authorises.

**5. The controller shall have the following obligations with regard to the processing of personal data:**

- a. To notify the processor of the technical and organisational security measures required to comply with the obligation set out in clause j above.
- b. To collaborate with the processor in those obligations foreseen in this contract that require such collaboration.
- c. To notify the processor of the results of the impact assessment carried out in relation to the processing of data by the controller.
- d. To grant the right to information at the time of data collection.

## **CHAPTER VI. RELATIONSHIP BETWEEN IFEMA MADRID AND THE STAFF OF THE CONTRACTED COMPANY**

### **CLAUSE 46. Special rules regarding the contractor's labour personnel**

1. Upon termination of the contract, under no circumstances may the persons who have performed the work under the contract be hired as IFEMA MADRID staff.
2. No clause of the Specifications or of the contract that is executed, nor actions during its performance, may be interpreted in such a way as to imply the transfer of the contractor's employees to IFEMA MADRID.
3. The contracting company is exclusively responsible for the selection of the personnel who will form part of the work team assigned to the performance of the contract, without prejudice to the verification by the contracting authority of compliance with the requirements established in the Specifications for this purpose, where applicable. In any case, the work team assigned to the performance of the contract shall be linked to the tender when this is established in the Table of Characteristics.
4. The contractor shall ensure that there is stability in the work team and that variations in its composition are occasional and due to justified reasons, in order not to alter the smooth running of the service, informing the **contract manager** at all times. In any case, the work team assigned to the performance of the contract shall be linked to the tender when this is established in the Table of Characteristics.
5. The contractor assumes the obligation to exercise in a real, effective and continuous manner, over the personnel of the work team in charge of the performance of the contract, the power of management inherent to any employer. In particular, it shall assume the negotiation and payment of wages, the granting of leave and holidays, the replacement of workers in cases of sick leave or absence, the legal obligations regarding social security, including the payment of contributions and benefits, where appropriate, the legal obligations regarding the prevention of occupational hazards, the exercise of disciplinary powers, as well as any other rights and obligations arising from the contractual relationship between employee and employer.
6. In particular, the contractor shall ensure that the workers assigned to the performance of the contract carry out their work without exceeding their duties in relation to the activity defined in the Specifications as the object of the contract.
7. The contracting company must designate a **representative** who, as part of its own staff, is responsible for directing and coordinating the work and conveying the necessary instructions to the personnel assigned to its performance, from the **contract manager** to guarantee its correct performance, whose obligations shall include, but are not limited to:
  - a) Acting as the contractor's spokesperson with the **contracting authority**, channelling communications between the contractor and the staff of the work team assigned to the contract, on the one hand, and the **contracting authority**, on the other hand, in all matters relating to the performance of the contract.
  - b) Distributing the work among the personnel responsible for the performance of the contract, and to give these workers the orders and work instructions that are necessary in relation to the provision of the contracted service.

- c) Supervising the correct performance by members of the work team of the functions entrusted to them, as well as to control the attendance of said staff at the work post.
- d) Organising the holiday system of the personnel assigned to the performance of the contract, and for this purpose the contracting company must coordinate adequately with the **contracting authority**, so as not to alter the smooth running of the service.
- e) Informing the **contracting authority** of any variations, whether occasional or permanent, in the composition of the work team assigned to the performance of the contract.

**CHAPTER VII. CONSULTATIONS****CLAUSE 47. Consultations**

All bidders may make any clarifications they require in writing, sending the request for such clarifications in the time and form indicated in **Section 5 of the Table of Characteristics**.

IFEMA MADRID, after the end of the period set for the formulation of consultations, will reply to them and publish them.

**CHAPTER VIII - VISIT TO THE FACILITIES****CLAUSE 48. Visit to the IFEMA MADRID facilities**

When this is established in **Section 28 of the Table of Characteristics**, bidders will visit IFEMA MADRID's facilities in the manner and time established therein, so that the bidding companies can adequately develop the content of their technical proposal.

When the visit is compulsory, all companies wishing to submit a bid must attend the visit and include in Envelope 1 administrative documentation the proof of attendance which will be given to each company on the day of the visit.

**CHAPTER IX - RESOLUTION OF DISPUTES****CLAUSE 49. RESOLUTION OF DISPUTES.**

Any disputes arising between the parties related to the actions carried out in the preparation and awarding of the contract will correspond to the contentious-administrative jurisdiction, after being challenged administratively in accordance with the provisions of the IFEMA MADRID Internal Procurement Instructions.

Any dispute arising between the parties in relation to the performance, effects and termination of the contract shall be heard by the civil courts. The bidders, by submitting their bids, expressly submit themselves to the Courts and Tribunals of the city of Madrid, renouncing any other jurisdiction that may correspond to them.

In order to guarantee the public interest to be protected, the agreement of the contracting authority that determines the termination of the contract will be enforceable with the effects foreseen in these Specifications, without prejudice to the contractor being able to exercise the corresponding actions in defence of its position and in guarantee of its rights.

Once IFEMA MADRID has agreed the termination of the contract for any of the causes foreseen in Clause 44, and the contractor has been notified, IFEMA may initiate the procedure it deems appropriate for the award of the contract, or for its fulfilment, by a person other than the contractor.

In view of the above, the contractor may not, under any circumstances and under any circumstances:

- To oppose to the termination of the Contract notified by IFEMA MADRID the existence of a dispute between the parties or disagreement with the interpretation made by IFEMA MADRID or differences or reservations of any nature or entity.
- Suspend or delay the works, or abandon them (except in the cases of termination or abandonment regulated in these Specifications), on the grounds or allegation of having pending claims, differences or reservations of any nature or entity, or under the excuse that such claims have or have not given rise to administrative, judicial or arbitration proceedings of any kind.