

CONTRACTS SUBJECT TO LAW 31/2007 OF 30 OCTOBER 2007¹ **GENERAL TERMS AND CONDITIONS**

1. OBJECT OF THE CONTRACT

The object of the contract shall be the implementation of the supply, service or works contract specified in section “**A**” of the **Characteristics Table** attached to the **Technical and Particular Conditions**.

2. CONTRACT OBJECT CODING

The coding that corresponds to the object of the contract shall be that indicated in section “**B**” of the **Characteristics Table**.

3. CONTRACT TERMS AND CONDITIONS

For all effects and purposes, these General Terms and Conditions and Appendices, the **Technical and Particular Specifications** and the **Characteristics Table**, together with the work projects or programmes that may have to be submitted pursuant to the conditions established for the contract in question, are contractual. The presentation of quotations requires the company’s unconditional acceptance of the content of all the clauses and conditions of the aforesaid Conditions and Specifications, regulating tenders, without qualifications or exceptions, and must be signed in conformity by the successful bidder at the moment of the contract’s formalization.

4. TENDER BUDGET AND DISTRIBUTION IN YEARLY AMOUNTS

The tender Budget and its distribution in yearly amounts, when applicable, shall be those given in sections “**C**” and “**D**”, respectively, of the **Characteristics Table**.

When the object of the contract is divided into Lots, the **Characteristics Table** shall also indicate the amount corresponding to each Lot, which may not be exceeded by the quotations submitted.

¹ Law 31/2007 of 30 October 2007 of Contracting Procedures in the Water, Energy, Transport and Postal Services Sectors

5. CONTRACT DURATION

The duration of the contract and, when applicable, its renewal(s), as provided for pursuant to the provisions of Section 17 of Law 31/2007 of 30 October 2007 of Contracting Procedures in the Water, Energy, Transport and Postal Services Sectors, shall be given in section “E” of the **Characteristics Table** and in the **Technical and Particular Specifications**.

Whenever delays arise for reasons attributable to successful bidder and the latter offers to meet its commitments provided the term set for the contract’s performance is extended, a term can be granted that shall be at least equal to the time lost, as a minimum, unless successful bidder were to request a shorter term.

The performance term can be amended if, in the circumstances envisaged in the documents that act as the basis for the contract, it is necessary to amend the contract. In this case, approval of such amendments shall included the extension of the term corresponding to performance, which shall be proportional to the percentage increase such amendments represent. Consideration shall also be given to the extension of the term needed to absorb the delays caused by the processing of the record, as and when applicable.

The request for extension by contractor must take place within a maximum term of 15 days from the date on which the cause giving rise to the delay occurs, alleging the reasons why it considers that such cause is not attributable to it and indicating the probable length of the extension’s duration, and always before the completion of the contract performance term, it being understood that contractor waives this right when no request for extension is made within the aforesaid term.

6. PRICE REVIEW

The review of the price for which the contract is awarded may only take place when 20% of its amount has been performed and one year from its award has elapsed, with such 20% of the award price not being open to review and such price review not being able to take place within the first year from the award.

Whenever the price review clause is applied to time periods in which the contractor has incurred a delay, and without prejudice to any penalties that may apply, the price indices to be taken into account shall be those that would have corresponded on the date established in the contract for the performance in due time of the contracted service, except when the price indices corresponding to the real performance term produce a lower coefficient, in which case the latter shall be applied.

7. AWARD AND TERM REDUCTION PROCEDURE

The procedure for processing the record and the reduction in the terms to be applied, as and when applicable, appear in sections “F” and “G”, respectively, of the **Characteristics Table**.

8. QUOTATION ASSESSMENT AND AWARD CRITERIA

The award criterion is that established in the **Technical and Particular Specifications** and section “H” of the **Characteristics Table**, which shall correspond to the one with the lowest price when only one award criterion exists, or the most economically advantageous quotation when two or more criteria exist, as provided for in Section 60 of Law 31/2007 of 30 October 2007 of Contracting Procedures in the Water, Energy, Transport and Postal Services Sectors. The weighting attributed to the technical rating and economic quotation shall be that which appears, when applicable, in section “I” of the **Characteristics Chart** and in the **Technical and Particular Specifications**.

Each one of the assessment criteria and their weighting, or their listing in decreasing order of importance when, for demonstrable reasons, it is not possible to give a weighting to the chosen criteria, can be found in the **Technical and Particular Specifications**, together with the mathematical formulae which will be applied in the quotation assessment.

9. OBLIGATIONS OF CONTRACTOR

Contractor shall have the obligation of fulfilling, under its exclusive responsibility, the conditions that govern the contract's performance, in accordance with the instructions received from Sociedad Estatal Correos y Telegrafos, S.A. In particular, but not being limited thereto, and without prejudice to the provisions of the **Technical and Particular Specifications**:

- Compliance with the prevailing legal provisions relating to the object of the contract, including but not being limited to technical, labour, social, health and safety at work, and personal data protection provisions, etc.
- Contract performance shall be for contractor's risk and account, being responsible for the technical execution of the work it performs and the services it provides, in addition to the consequences for Sociedad Estatal Correos y Telegrafos, S.A. or third parties of its omissions, errors, inadequate methods or incorrect conclusions in the contract's performance.
- Contractor shall be responsible for the damages and losses caused to the persons who intervene in the contract as well as external third parties as a consequence of the contract's performance, having the obligation, when so required by virtue of the **Technical and Particular Specifications**, in the terms and conditions indicated therein, of taking out an insurance policy to cover the liability for damages and losses caused to Sociedad Estatal Correos y

Telegrafos, S.A. and/or third parties as a direct or indirect consequence of the contract's performance.

- Whenever, by action or omission, harm or damage is caused to persons or choses as a result of the contractor company's error or negligence, the latter shall have the obligation of repairing the damage in accordance with the prevailing legislation.
- The costs of transport and delivery to the agreed place shall be for contractor's account, except when stipulated otherwise in the **Technical and Particular Specifications**.
- Contractor shall have the obligation of preparing, delivering and mounting the goods, rendering the service or executing the work in the established time and place. Delay on contractor's part shall not require a prior notification on the part of Sociedad Estatal Correos y Telegrafos, S.A.
- Contractor shall have the obligation of maintaining strict confidentiality in respect of the contract's content as well as the data and information to which it may have access as a result of the performance thereof; likewise, it has the obligation of using such information for the exclusive purpose of the contract's performance, being able to disclose to third parties only those aspects authorized by Sociedad Estatal Correos y Telegrafos, S.A. in writing.
- Successful bidder's Obligations on the subject of the Protection of Personal Data: Contractor's performance of the object of the contract may involve the need to have access, for such purpose, to files including personal data, deemed to be all those data affected by the provisions of Organic Law 15/1999 of 13 December 1999 of the Protection of Personal Data, in respect of which Sociedad Estatal Correos y Telegrafos, S.A. has the condition of party responsible for the file, as laid down in the aforesaid Law.

As and when applicable, successful bidder's access to the aforesaid personal data for the performance of the object of the contract shall not have the legal consideration of communication or assignment of data for the purposes provided for in Organic Law 15/1999 of 13 December 1999 of the Protection of Personal Data but rather that of access on behalf of a third-

Party (party in charge of processing), as provided for in Section 12 of the aforesaid Law. These personal data shall be the exclusive property of Sociedad Estatal Correos y Telegrafos, S.A., with such ownership extending to as many data processing activities as successful bidder may need to carry out in fulfilment of the contract.

Successful bidder, in its capacity as the party in charge of processing, is subject to the duty of confidentiality and security of the personal data to which it has

access, as provided for in the applicable regulations and, in particular, it is subject to the following obligations:

- a) To use and apply the personal data for the exclusive purpose of fulfilment of the object of the contract.
- b) To adopt the necessary technical and organizational measures of those established in Section 9 of Organic Law 15/1999 and the regulations for its application so as to guarantee the personal data's security and avoid their unauthorized alteration, loss, processing or access, taking into account the state of the technology, the nature of the data being processed and the risks to which they are exposed, whether deriving from human action or the physical or natural medium. Likewise, it undertakes to apply the security measures of the corresponding level based on the data to be processed, pursuant to the provisions of Royal Decree 1720/2007 of 21 December 2007 by virtue of which the Regulations for the application of Organic Law 15/1999 of 13 December 1999 of the Protection of Personal Data were approved.
- c) To maintain strict confidentiality in respect of the personal data to which it has access for rendering the services or of those that result from their processing, irrespective of the support on which they are obtained.
- d) Not to communicate or assign the file's data to another person, even for their conservation, having the obligation of destroying the personal data to which it has had access as well as the results of their processing, in addition to whatsoever support or documents containing a personal datum object of processing, except when Sociedad Estatal Correos y Telegrafos, S.A. requires that they be returned to it.
- e) To maintain professional secrecy in respect of all the personal data known to it or to which it has access in the contract's performance. Likewise, it undertakes to safeguard the personal data and prevent the access thereto of external third parties. The foregoing obligations extend to all the persons who may intervene in any phase of data processing on behalf of successful bidder.
- f) To notify and enforce compliance by its employees of the obligations laid down in the foregoing sections and, in particular, those relating to the duty of secrecy and observance of the security measures.
- g) To inform Sociedad Estatal Correos y Telegrafos, S.A. of any incidents of which it may have knowledge that can influence the accuracy and/or updating of the data or in the exercise of the interested parties' rights of access, rectification, cancellation and opposition.

Successful bidder shall have the obligation of releasing Sociedad Estatal Correos y Telegrafos, S.A. from whatsoever type of liability before third parties for the claims of all types that have their origin in the non-fulfilment of the

personal data protection obligations that affect it in its capacity as the party in charge of processing and shall be liable before the aforesaid Company for the result of such actions. Successful bidder shall also have the obligation of giving its full support in the exercise of the actions that correspond to Sociedad Estatal Correos y Telegrafos, S.A.

- Obligations of Successful Bidder on the subject of Personnel:

Successful bidder shall have the capacity of employer in respect of the personnel it assigns to the rendering of the contracted service, with all the rights and obligations inherent in this condition, with all the costs thereof being for its account and exercising at all times its disciplinary and sanctioning power.

The service's award shall involve the establishment of an exclusively business relationship between Sociedad Estatal Correos y Telegrafos, S.A. and successful bidder. Under no circumstances can it be assumed that the service's award implies the establishment of a labour relationship of any type between Sociedad Estatal Correos y Telegrafos, S.A. and the workers assigned to the rendering of the service.

Successful bidder shall have the obligations of complying with all present and future regulatory or convened provisions on the subject of labour, Social Security, tax, health and hygiene at work or accident at work insurance that may apply.

On a monthly basis (or with the regularity established in the **Technical and Particular Specifications**), Successful bidder shall have the obligation of providing Sociedad Estatal Correos y Telegrafos, S.A. with documentation evidencing compliance with these obligations.

In particular, successful bidder shall have exclusive responsibility for all obligations resulting from any cancellations of contracts of employment, transfers or other measures directly or indirectly deriving from fulfilment, interpretation or cancellation of the award contract, suspension of the service or assumption thereof by personnel of Sociedad Estatal Correos y Telegrafos, S.A.

Successful bidder shall accept in full all the liabilities deriving from the non-fulfilment of its labour, Social Security, tax, and health and safety at work obligations, releasing Sociedad Estatal Correos y Telegrafos, S.A. from the foregoing and those that subsidiarily or jointly and severally can be attributed to the latter. In this connection, successful bidder undertakes to hold Sociedad Estatal Correos y Telegrafos, S.A. harmless before whatsoever type of claim, judgment or sentence. In the event of Sociedad Estatal Correos y Telegrafos, S.A. having to accept a liability, it shall be authorized by successful bidder to obtain compensation through allocation to the guarantee of the full economic amount borne and of the damages and losses caused.

When legally appropriate, successful bidder shall be subrogated in the contracts of employment of the personnel of the outgoing company that had been rendering services, in all rights and obligations, as per the provisions of the legislation and the appropriate Collective Bargaining Agreement in force at any given moment. Under no circumstances shall the service's award imply the establishment of a labour relationship between Sociedad Estatal Correos y Telegrafos, S.A. and the outgoing company's workers, subrogated or otherwise.

Successful bidder shall inform Sociedad Estatal Correos y Telegrafos, S.A. immediately of any individual or collective labour disputes that may have an effect on the rendering of the service and, in particular, it must immediately communicate the calling of strikes that may affect the service.

Successful bidder undertakes to cover workers' absences so that, as a minimum, the quoted workforce is permanently maintained.

Successful bidder shall have the obligation of complying with all other personnel-related obligations established in the **Technical and Particular Specifications**.

- Compliance with the special execution conditions that may be established in the **Technical and Particular Specifications** of an environmental or social nature designed to foster protection of children, insertion of persons with a disability and immigrants, eliminate inequalities between men and women, combat unemployment and violence in the home and, in general, foster the best social practices in Sociedad Estatal Correos y Telegrafos, S.A.

Taking into account the principles of the United Nations Global Compact, assumed by Sociedad Estatal Correos y Telegrafos, S.A., the companies interested in participating in its contracting procedures must guarantee fulfilment of the undertakings listed below. The presentation of quotations shall imply an express declaration of acceptance of such undertakings.

The signing of this document by successful bidder in the same act as the contract's formalization shall imply acceptance of their content and an undertaking to comply with them:

1. Internationally proclaimed human rights shall be protected.
2. Elimination of all forms of forced and compulsory labour and of discriminatory practices.
3. Effective abolition of child labour.
4. As a minimum, wages and working hours must comply with the applicable laws, rules and regulations of the country in question, including minimum wages, overtime and maximum working hours.

5. The right of employees of freedom of association and the effective recognition of the right to collective bargaining.
6. Good health and safety conditions at work shall be provided to employees.
7. Activities shall be conducted respecting the environment and observing the applicable legislation in each country.
8. All products and services shall be supplied in such a way that they meet adequate quality and safety criteria and shall be safe for the purpose for which they are acquired.
9. For the supply of goods and services to Sociedad Estatal Correos y Telegrafos, S.A., corruption in all its forms, including extortion and bribery, shall not be used.
10. Successful bidder shall guarantee that, in turn, its suppliers and subcontractors comply with the obligations listed above.

10. OBLIGATIONS OF SOCIEDAD ESTATAL CORREOS Y TELEGRAFOS, S.A.

By virtue of the contract, Sociedad Estatal Correos y Telegrafos, S.A. shall have the obligation of paying the price to successful bidder in the manner and terms established in the **Technical and Particular Specifications and/or the contract**.

11. CAPACITY TO CONTRACT WITH SOCIEDAD ESTATAL CORREOS Y TELEGRAFOS, S.A.

Pursuant to the provisions of Section 21 of Law 31/2007 of 30 October 2007 of Contracting Procedures in the Water, Energy, Transport and Postal Services Sectors, those Spanish and foreign individuals and bodies corporate with full capacity to act, that meet the qualitative selection criteria as established by the Company or, as and when applicable and if so required, the corresponding classification shall be able to contract with Sociedad Estatal Correos y Telegrafos, S.A.

11.1 Bidders and candidates must provide evidence of their legal personality and capacity to act, as per the legally established terms and conditions. In the case of bodies corporate, they must demonstrate that the entity's corporate purpose includes all the activities that constitute the object of the contract for which they are bidding. This fact shall be evidenced through the presentation of the articles of association registered in the Mercantile Register or any other applicable official register depending on the type of entity.

Whenever Sociedad Estatal Correos y Telegrafos, S.A. receives knowledge subsequent to the contract's execution of the fact that successful bidder does not meet

the required conditions it shall be able to discharge the contract, leaving it without effect, with the right to demand from the contractor compensation for the damages and losses caused.

11.2 The qualitative selection or classification criteria, as applicable, shall be laid down in the **Technical and Particular Specifications**. Failing this, economic and financial solvency shall be evidenced by any of the means provided for in Section 64 of Law 30/2007 of Public Sector Contracts and technical and professional solvency by any of the means provided for in Sections 65, 66 and 67 of the same Law 30/2007, depending on whether the contract is for works, supplies or services, respectively.

12. CONTRACTING PROHIBITIONS

Bidders or candidates involved in any of the causes of prohibition to contract established in Section 49.1 of Law 30/2007 of 30 October 2007 of Public Sector Contracts shall not be able to enter into a contract with Sociedad Estatal Correos y Telegrafos, S.A. For the accreditation of these circumstances, the provisions of Section 62 of the aforesaid Law 30/2007 shall apply. Whenever, for these purposes, a responsible statement is submitted, the model attached as **Appendix 3** to these General Terms and Conditions must be adopted.

13. PRESENTATION OF QUOTATIONS

Bidders or candidates wishing to participate in a tender procedure called by Sociedad Estatal Correos y Telegrafos, S.A. must submit their quotations in the place indicated in the tender announcement or, as and when applicable, the invitation to bid.

Presentation of the documentation referred to in the foregoing paragraph must be made within the term for the admission of quotations established in the tender announcement or invitation to bid, as applicable, in office hours. If so desired, this documentation can be sent by mail.

Whenever a bidder chooses to send the documentation by mail, it must demonstrate the date and time the documentation was accepted in the Post Office and inform the Central Contracting Unit accordingly by fax, telegram or registered fax addressed to the General Register at the registered office of Sociedad Estatal Correos y Telegrafos, S.A. before 24:00 hours on the quotation presentation deadline date. Quotations sent by mail will only be admitted when they are accepted in the Post Office prior to the expiry of the term established for their presentation.

A bidder may not submit more than one quotation, except when the **Technical and Particular Specifications** allow for the possibility of submitting variations or alternatives.

Neither may a bidder sign a proposal in a temporary joint venture with others if it has submitted a proposal individually or appears in more than one temporary joint venture.

Failure to abide by this rule shall result in the exclusion of all the quotations in which such bidder intervenes.

14. CONTENT OF THE QUOTATIONS

Quotations shall be submitted in three (3) closed envelopes clearly showing the bidder's name or denomination, its signature or that of the person with representative powers, its contact data and a detailed list of the documentation in each one of the envelopes. In turn, these envelopes must comply with the following requirements:

14.1 ENVELOPE NUMBER 1

TITLE ON THE FRONT OF THE ENVELOPE: "Technical Documentation". The object of the contract and the bidder's name must be indicated.

CONTENTS: This envelope shall contain exclusively the technical documentation as indicated in the **Technical and Particular Specifications**, with no references to economic aspects. Should references to economic aspects exist, the quotation will be rejected.

All the required technical documentation must be presented in Spanish.

14.2 ENVELOPE NUMBER 2

TITLE ON THE FRONT OF THE ENVELOPE: "General Documentation". The object of the contract and the bidder's name must be indicated.

CONTENTS: All the documentation must be presented in the form of originals, authenticated copies, with a Notary Public's testimony thereof, which, if not in Spanish, must be translated into Spanish by a sworn translator, or in any of the forms established in mortgage legislation so that it can take effect in Spain.

14.2.1 Accreditation of Legal Personality

- 1) Individual entrepreneurs and those who appear or sign quotations on behalf of another must present their Identity Cards or, by default, the document that serves the same purpose.
- 2) If the bidder is a body corporate it must submit the deed or document of incorporation, the articles of association or founding act, placing on record the rules by which its activity is regulated, duly registered, as and when applicable, in the corresponding public Register, depending on the type of body corporate in question.
- 3) Non-Spanish companies of Member States of the European Union or signatory countries of the European Economic Area Agreement must

provide evidence of their registration in the appropriate register pursuant to the legislation of the country in which they are established or through the presentation of a sworn declaration or certificate, in the terms as established in the regulations, as per the applicable EU provisions.

- 4) All other foreign companies must demonstrate their capacity to act through a report issued by the Permanent Diplomatic Mission of Spain in the corresponding country or the Consular Office in whose territorial scope the company's registered office is located, placing on record that they are registered in the local professional, commercial or similar Register or, by default, that their normal business falls within the scope of the activities to which the object of the contract refers.
- 5) Non-EU foreign companies must attach a report from the Permanent Diplomatic Mission of Spain or competent body on:
 - The condition of signatory country to the World Trade Organization's Government Procurement Agreement, or
 - That, in turn, the foreign company's country of origin accepts the participation of Spanish companies in contracts with the Administration or with public sector bodies, organisms and entities similar to those listed in Section 3 of Law 30/2007 of 30 October 2007 of Public Sector Contracts, in a substantially analogous way.

14.2.2 When the bidder is not acting in its own name or is a company or body corporate, it must submit an adequate power of attorney, registered in the Mercantile Register, to be able to represent the person or entity on whose behalf it is participating in the Sociedad Estatal Correos y Telegrafos, S.A. tender.

14.2.3 Documentary evidence that it complies with the quantitative selection criteria laid down in the **Conditions and Specifications regulating the tender**, the classification or the economic, financial, technical or professional solvency requirements, as appropriate.

14.2.4 In the case of temporary joint ventures established for the purpose, a document must be included indicating the names and circumstances of the entrepreneurs signing the joint venture, the participation of each one and the appointment or designation of the joint venture's sole representative or proxy with sufficient powers to exercise the rights and fulfil the obligations resulting from the contract up to its expiry.

Each one of the entrepreneurs comprising the joint venture must demonstrate its capacity to act, with the documents indicated above.

Individuals and bodies corporate from non-EU member states, apart from evidencing their full capacity to enter into a contract and bind themselves pursuant to the legislation of their own country and their economic, financial, technical and

professional solvency, must demonstrate that they have opened a branch in Spain with the designation of proxies or representatives for their operations and that they are registered in the Mercantile Register.

14.2.5 Responsible declaration that they are not involved in a prohibition to contract (as per the model attached hereto as Appendix 3 of these General Terms and Conditions). This declaration must include a statement that they are up-to-date in the fulfilment of their tax and Social Security obligations, without prejudice to the evidence of such requirement prior to the final award, by the entrepreneur in whose favour the final award is going to be made.

In those cases in which the contract is going to be performed in Spain, foreign countries must submit a declaration to the effect that they abide by the jurisdiction of Spanish courts and tribunals of whatsoever order, for all incidents that may arise directly or indirectly from the contract, waiving, as and when applicable, the foreign jurisdiction that may correspond to the bidder.

14.3 ENVELOPE NUMBER 3

TITLE ON THE FRONT OF THE ENVELOPE: "Economic Quotation". The object of the contract and the bidder's name must be indicated.

CONTENT: Quotation adapted to the model included in **Appendix 1** to these General Terms and Conditions and, when applicable, the model included in the **Technical and Particular Specifications**.

Both in the quotations prepared by the entrepreneurs and the tender budget, general overheads and industrial profit as well as the amounts of the taxes of all types imposed on the services that are the object of the contract shall be deemed to be included for all effects and purposes, with the exception of Value Added Tax (VAT) or any other equivalent indirect tax, as applicable, which must be identified and subsequently charged as independent items.

Quotations containing omissions, errors and crossings out that prevent from being clearly known what Correos considers essential for taking the quotation into account shall not be accepted.

15. AWARD

The award shall be made in accordance with the criteria laid down in the tender announcement or in the **Technical and Particular Specifications** and as indicated in sections "H" and "I" of the **Characteristics Table**, with the tender being declared void if none of the quotations is acceptable.

Should the successful bidder fail to comply with the conditions laid down in these General Terms and Conditions prior to the contract's execution or should it fail to sign the contract or whenever, having signed it, its performance is not started in the terms and conditions in which it was awarded, the award body shall take the appropriate decision, being able to grant the award to the following bidder or bidders in the order in which their quotations have been classified, always provided that this is feasible and that the new successful bidder has given its consent.

Prior to the award, Sociedad Estatal Correos y Telegrafos, S.A. shall be able to request the presentation of supplementary documentation, clarifications or amendments to the quotations it considers appropriate for the award's greater success.

16. DOCUMENTATION REQUIRED OF SUCCESSFUL BIDDER

For the contract's formalization, successful bidder must provide the documents listed below:

a) Documentation evidencing that it is up-to-date in the fulfilment of its tax and Social Security obligations.

It shall be understood that companies are up-to-date in the fulfilment of their tax and Social Security obligations through the accreditation of the circumstances envisaged in Articles 13 and 14, respectively, of Royal Decree 1098/2001 of 12 October 2001 by virtue of which the General Regulations for the application of the Law of Public Administration Contracts, or the rule that replaces it, were approved.

The circumstances referred to in the foregoing paragraph shall be proven through an administrative certificate issued by the competent body, except in the case of accreditation of being up-to-date in the payment of Business Tax (IAE), proof of which shall be through the presentation of registration and, when applicable, the latest Business Tax receipt, completed with a responsible declaration to the effect that the company has not de-registered from such tax. For the purpose of participation in the tender process, these certificates must be valid for six (6) months from the date of their issuance.

When the company does not have the obligation of presenting the declarations and documents referred to in paragraph two of this section, this circumstance must be accredited through a responsible declaration.

b) Documentation evidencing the guarantee required in section "J" of the **Characteristics Table** in addition to payment of the costs of the tender announcement or announcements.

- c) In the case of successful bidder being a temporary joint venture, it must submit the joint venture's deed of incorporation.
- d) Any other documents evidencing its suitability to contract and the effective availability of the means it may have undertaken to devote or allocate to the contract's performance, as well as any other supplementary documentation it may consider appropriate.

17. GUARANTEES

17.1 Definitive Guarantee

Successful bidder entrepreneurs shall have the obligation of constituting a definitive guarantee for the amount indicated in section "J" of the **Characteristics Table** within a term of ten (10) working days from that following the date on which the award is notified.

This performance bond can be constituted in cash or as a guarantee provided by any of the banks, savings banks, credit co-operatives, credit financial institutions or mutual guarantee companies authorized to operate in Spain.

The content of the guarantee must comply with the model included in **Appendix 2** to these General Terms and Conditions.

The guarantee amount shall be assigned to the penalties established in the **Technical and Particular Conditions** for the case of defective fulfilment or breach of the contractual obligations as well as compensation for the damages and losses that may be incurred for whatsoever cause in the contract's performance or during the validity period of the warranty established in section "K" of the **Characteristics Table**.

Except when the **Technical and Particular Specifications** stipulate otherwise, payment of the amount of the penalties shall not substitute compensation for damages and losses due to the contractor's breach nor shall it release the latter from complying with the contractual obligations, it being possible to demand of contractor fulfilment of such obligations and payment of the amount corresponding to the stipulated penalties.

Whenever, as a consequence of the contract's amendment, the price thereof undergoes a variation, the constituted guarantee shall be adjusted in the necessary amount so as to maintain due proportionality with the new adjusted price.

Within a term of three months from the contract's termination or the finalization of the warranty period established in section "K" of the **Characteristics Table**, the guarantee shall be returned or cancelled.

17.2 Provisional Guarantee

Sociedad Estatal Correos y Telegrafos may demand from bidders the constitution of a guarantee to answer for the maintenance of their quotations up to the contract award or any cause attributable to the bidder that prevents the final award. For the successful bidder, the guarantee shall also cover fulfilment of the obligation of presenting the documentary evidence established in section 16 of these General Terms and Conditions.

When so required, the provisional guarantee amount shall be that which appears in section “J” of the **Characteristics Table**.

This guarantee can be constituted in any of the manners provided for in these General Terms and Conditions for the definitive guarantee. This provisional guarantee shall expire automatically and shall be returned to the bidders immediately after the contract award.

Nevertheless, the guarantee constituted by the successful bidder shall be retained until it has constituted the definitive guarantee and shall be executed in the case of the bidders who withdraw their quotations without justification prior to the award.

Successful bidder may choose to apply the provisional guarantee amount to the definitive guarantee or constitute a new guarantee, in which case the provisional guarantee shall be cancelled simultaneously with the constitution of the definitive guarantee.

18. FORMALIZATION OF THE CONTRACT

Successful bidder has the obligation of executing the contract within the term laid down in the **Technical and Particular Specifications**, which may not be less than fifteen (15) working days from that following the date of the award notification. Failing this, the contract shall be formalized on the first working day following the end of the 15 working day term from that following the date of the award notification. Should these terms elapse without the contractual document being formalized for causes attributable to successful bidder, the contracting body of Sociedad Estatal Correos y Telegrafos, S.A. shall be able to discharge the contract and execute the provisional guarantee, being able to choose between making a new award to the following bidder or bidders in the order in which their quotations have been classified, always provided that this is feasible and that the new successful bidder has given its consent, or calling a new tender.

The contract can be formalized in a public deed whenever this is requested by either of the parties, with the expenses deriving from such solemn execution being for the account of the party that requested it.

19. TERMINATION OF THE CONTRACT

The contract shall be terminated by conclusion, performance or discharge.

The following are causes for the contract's discharge:

- A. Non-fulfilment of the legal provisions applicable to the contract.
- B. Breach of the clauses and obligations contained in the **Conditions and Specifications regulating the tender** and the Appendices thereto, the contract or any other contractual document.
- C. Sudden death or disability of the individual contractor. When the deceased or disabled person's heirs or representative offer to perform the contract in the conditions stipulated therein, Sociedad Estatal Correos y Telegrafos, S.A. shall be able to accept or reject such offer. The decision not to continue with the contract shall not afford the right to an indemnity for the part of the contract not performed.
- D. Termination of the legal personality of the contractor's trading corporation, except in those cases in which the terminated company's equity and organization is incorporated into another company, with the latter assuming the obligations of the former and always provided that the new entity, within a term of one month, offers to perform the contract in the same stipulated conditions. Sociedad Estatal Correos y Telegrafos, S.A. may accept or reject the offer, without, in this latter case, there being the right to an indemnity for the part of the contract not performed.
- E. The mutual consent of Sociedad Estatal Correos y Telegrafos, S.A. and the contractor.
- F. Failure to formalize the contract in the due term.
- G. Assignment of the contract to third parties without the authorization of Sociedad Estatal Correos y Telegrafos, S.A.
- H. Any other cause expressly established in the **Conditions and Specifications regulating the tender**.
- I. Delay in fulfilment of the performance terms established in the **Technical and Particular Specifications** and/or the **awarded quotation**.

When discharge of contract is attributable to successful bidder, Sociedad Estatal Correos y Telegrafos, S.A. shall execute the constituted guarantee, if appropriate and at its sole discretion, retaining the amount thereof, without prejudice to its right to be indemnified for the damages and losses incurred.

20. EXTENSION OF THE CONTRACT

Once the contract's validity has expired, including any extension(s), the contracting body of Sociedad Estatal Correos y Telegrafos, S.A. shall be able to agree the contract's extension for a maximum three-month term, which extension shall be obligatory for successful bidder.

21. AMENDMENT OF THE CONTRACT

Sociedad Estatal Correos y Telegrafos, S.A. shall be able to amend the contract in the terms and conditions established in the **Technical and Particular Specifications**.

22. SUBCONTRACTING

The provisions of Section 87 of Law 31/2007 of 30 October 2007 of Contracting Procedures in the Water, Energy, Transport and Postal Services Sectors shall apply.

23. RIGHT TO INFORMATION ON THE SUBJECT OF DATA PROTECTION

In fulfilment of the provisions of Section 5 of Organic Law 15/1999 of 13 December 1999 of the Protection of Personal Data, by virtue of which the right to information on the collection of personal data is regulated, successful bidder is informed that the necessary data for fulfilment and performance of the contract that is the object of these General Terms and Conditions, in addition to those furnished on its employees for the same purpose, shall be included in a computerized file owned by Sociedad Estatal Correos y Telegrafos, S.A., before which it shall be able to exercise rights of access, rectification, cancellation and opposition in the terms and conditions laid down in the aforesaid Law, by sending a document to the Central Contracting Unit of the aforesaid Company at Via Dublin 7, 28070 Madrid.

Successful bidder shall have the obligation of informing its employees of the legal warnings indicated in the foregoing paragraphs.

24. LEGAL REGIME OF THE CONTRACT

Contracts executed by Sociedad Estatal Correos y Telegrafos, S.A. shall be subject to the following legal regime:

- As regards their preparation and award, the provisions of these General Terms and Conditions and Law 31/2007 of 30 October 2007 of Contracting Procedures of the Water, Energy, Transport and Postal Services Sectors.

- As regards their effects, fulfilment and termination, they shall be governed by the clauses of the **contract** and for all aspects not expressly provided for therein, insofar as they do not contradict them and are applicable, the conditions, precepts and provisions contained in the supplementary documentation comprising such contracts, as per the order of priority established below:

1. **Technical and Particular Specifications and Characteristics Table**
2. **General Terms and Conditions**
3. All other contractual documents, as per the conditions regulating the contract
4. Spain's set of private laws

25. JURISDICTION

Settlement of the discrepancies that may arise between the parties in connection with the effects, fulfilment and termination of the contract corresponds to the civil jurisdictional order and shall be determined by the Courts and Tribunals of the place of its execution, with the parties expressly waiving their right to any other venues that may correspond to them.

The procedure for handling claims for breach of the provisions of Law 31/2007 of 30 October 2007 of Contracting Procedures for the Water, Energy, Transport and Post Services Sectors shall be conducted pursuant to Sections 103 and following of the aforesaid Law.

26. APPENDICES

Appendices 1, 2 and 3 form a comprehensive part of these Terms and Conditions and, consequently, are contractual documents.

APPENDIX 1

ECONOMIC QUOTATION MODEL

- Mr. / Ms
- With address at:
- Street/Road/Square, no.:

When acting in representation

- As proxy of:
- With address at:
- Street/Road/Square, no.:

Being informed of the conditions and requirements for taking part in the Procedure called by Sociedad Estatal Correos y Telegrafos, S.A. to award a contract for, believes that it is in a position to participate as a bidder therein.

To this end it places on record that it knows the Conditions and Specifications that act as the basis of the tender, that it unconditionally accepts the clauses thereof, that it meets each and every one of the conditions to contract and that it undertakes (on its own behalf or in the name of the company it represents) to perform the object of the contract with strict fulfilment of the aforesaid requirements and conditions, as per the following quotation:

Basic Price (in numbers) € (without VAT or any other equivalent indirect tax)

Basic Price (in letters) euros (without VAT or any other equivalent indirect tax)

Tax Rate, VAT (or equivalent indirect tax): %

Price (in numbers) € (with VAT or any other equivalent indirect tax)

Price (in letters) euros (with VAT or any other equivalent indirect tax)

Date and Bidder's Signature

APPENDIX 2

THE ENTITY

.....

.....
 jointly and severally

GUARANTEES

the company with
 registered office at
 and
 Tax Identification Code

Before Sociedad Estatal Correos y Telegrafos Sociedad Anonima, waiving whatsoever benefit particularly that of division, excussion and preference for an amount of euros (..... euros) to respond for each and every one of the obligations and possible liabilities of whatsoever type deriving from fulfilment of the contract for

.....

, Record Number

This guarantee shall be executable by Sociedad Estatal Correos y Telegrafos, Sociedad Anonima AT FIRST REQUEST, being sufficient for the purpose a simple request through a notary public addressed to the guarantor entity informing it of the contractual breach incurred by the guaranteed company.

The signatory to the guarantee is especially empowered for its formalization as per the powers granted before the Notary of Mr., on[date]..... with number

in his minute of record, which have been neither revoked, restricted nor amended in any way.

This guarantee, which has been registered on this same date in the Special Register of Guarantees with number, shall remain in force until each and every one of the obligations incurred by the guaranteed company have been completed and settled and Sociedad Estatal Correos y Telegrafos, Sociedad Anonima authorizes its cancellation.

In, on the day of of the year

Signed: GUARANTOR ENTITY

RESPONSIBLE DECLARATION

Mr./Ms , holder of National ID Card No. , acting in his/her own name (or on behalf of , with Tax Identification Code and registered office at) in his/her capacity as interested party in the tender procedure called by Sociedad Estatal Correos y Telegrafos, S.A. relating to the contract for , Record Number

By virtue of this document, and for the purposes provided for in the Third Additional Provision of Law 31/2007 of 30 October 2007 of Contracting Procedures in the Water, Energy, Transport and Postal Services Sectors, I RESPONSIBLY DECLARE:

- That I/my principal am/is not involved in any cause of prohibition to contract with the public sector as established in Section 49.1 of Law 30/2007 of 30 October 2007 of Public Sector Contracts.
- That I/my principal am/is up-to-date in the fulfilment of the tax and Social Security obligations imposed by the prevailing provisions and I/it undertake/undertakes to provide documentary evidence of such requirement prior to the final award in the event of I/my principal receiving the provisional award, all in accordance with the prevailing legislation.

In , on the day of of the year

Signed: _____