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**FILE CRG-06-10**

**SPECIFIC TERMS AND CONDITIONS RELATING TO THE  
SUPPLY CONTRACT OF 21 GENOME-WIDE DNA ANALYSIS  
BEADCHIPS**

**NEGOTIATED SOLE SOURCE**



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## INDEX

TENDER'S TABLE OF CHARACTERISTICS .....	4
CLAUSE 1.....	5
OBJECT AND NATURE OF THE CONTRACT .....	5
CLAUSE 2.....	5
CONTRACT'S LAW .....	5
CLAUSE 3.....	5
JURISDICTION.....	5
CLAUSE 4.....	5
PERIOD AND PLACE OF SUPPLY.....	5
CLAUSE 5.....	5
BUDGET.....	5
CLAUSE 6.....	6
AWARD PROCEDURE AND DOCUMENTATION TO BE PROVIDED TO THE UNDERTAKING WHICH IS INVITED TO SUBMIT A TENDER.....	6
CLAUSE 7.....	6
CONDITIONS OF CAPACITY AND STANDING AND CAPABILITIES OF THE UNDERTAKING INVITED TO TENDER .....	6
CLAUSE 8.....	6
PERIOD AND FORM OF SUBMISSION OF THE TENDER BY THE UNDERTAKING INVITED TO TENDER.....	6
CLAUSE 9.....	7
CONTENT OF THE TENDER.....	7
CLAUSE 10.....	10
CONTRACT AWARDING COMMITTEE OR TECHNICAL UNIT .....	10
CLAUSE 11.....	11
AWARD.....	11
CLAUSE 12.....	12
FORMALIZATION OF THE CONTRACT.....	12
CLAUSE 13.....	12
DEFINITIVE GUARANTEE .....	12
CLAUSE 14.....	13
PAYMENT OF THE SUPPLY.....	13



MINISTERIO  
DE CIENCIA  
E INNOVACIÓN



CLAUSE 15.....	13
OBLIGATIONS OF THE CONTRACTOR .....	13
CLAUSE 16.....	14
RISK AND VENTURE.....	14
CLAUSE 17.....	14
PERFORMANCE.....	14
CLAUSE 18.....	14
FAILURE TO COMPLY WITH THE OBLIGATIONS .....	14
CLAUSE 19.....	15
CAUSES OF TERMINATION.....	15
CLAUSE 20.....	15
DELAY IN THE PERFORMANCE OF THE CONTRACT .....	15
CLAUSE 21.....	15
CONFIDENTIALITY OBLIGATION .....	15
CLAUSE 22.....	16
DATA PROTECTION.....	16
ANNEX No. 1 .....	17
ANNEX No. 2 .....	18
ANNEX No. 3 .....	19
ANNEX No. 4 .....	20

## TENDER'S TABLE OF CHARACTERISTICS

### SPECIFIC TERMS AND CONDITIONS

#### • SUPPLY: FILE CRG06-10

- A.- CONTRACT ESTIMATED VALUE: **148.000,00 USD \$ (VAT excluded)**  
**Aprox. 119.803,04 € (VAT excluded)**
- A. – TENDER'S BUDGET: **148.000,00 USD \$ (VAT excluded)**  
**Aprox. 119.803,04 € (VAT excluded)**
- B. – FILE TYPE AND REFERENCE: **SOLE SOURCE NEGOTIATED - CRG04-10**
- C.- PERIOD OF COMPLETION: **4 WEEKS**
- D.- ASSESSMENT OF PERIODS: **Yes**
- E. – DEFINITIVE GUARANTEE: **4%**
- F. – PERIOD OF WARRANTY: **1 YEAR**
- G.- ACCEPTANCE OF IMPROVEMENTS: **YES**
- H. – PRICE ADJUSTMENT: **NO**
- I.- CAPACITY, STANDING AND CAPABILITIES: **CLAUSE 7 OF THE TERMS AND CONDITIONS.**
- J. – SUBMISSION OF APPLICATIONS:
- F.P. Centre de Regulació Genòmica**  
**C/ Dr. Aiguader, 88, 5<sup>a</sup> planta**  
**08003 BARCELONA**  
**Att: Purchasing Dpt.**
- K. - TENDER DEADLINE: **12:00PM 02 JUNE 2010**
- L. – PUBLIC APPLICATIONS OPENING : **12:30PM 07 JUNE 2010**



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## **CLAUSE 1. OBJECT AND NATURE OF THE CONTRACT**

1.1. The object of these Specific Terms and Conditions is to lay down the conditions that will govern the award, by "**Centre de Regulació Genòmica**", of the Supply Contract of 21 GENOME-WIDE DNA ANALYSIS BEADCHIPS.

1.2. **Centre de Regulació Genòmica** (hereinafter, CRG) is subject to the provisions of the Law 30/2007, of 30 October 2007, governing the Public Sector Contracts (hereinafter, LCSP), relating to the non-harmonized contracting, which is applicable to it, as contracting authority that is not considered Public Administration, as well as to the Contracting Internal Regulations (hereinafter, IIC), which may be consulted by tenderers at the Contractor Profile of the entity at the following web page: [WWW.CRG.ES](http://WWW.CRG.ES)

1.3. This contract, which is qualified as a contract of supply, is deemed a private contract.

1.4. The documentation which forms part of this tender has contractual nature and includes these Specific Terms and Conditions and the Technical Specifications.

## **CLAUSE 2. CONTRACT'S LAW**

2.1. This contract is subject to the Contracting Internal Regulations of CRG, as to its preparation and award; the private-law rules being of subsidiary application.

2.2. In so far as performance and duration are concerned, the contract is subject to the civil, corporate and procedural Spanish law.

## **CLAUSE 3. JURISDICTION**

The contracting parties submit to the civil jurisdiction of the Barcelona Courts, with express waiver of their entitlement to their own laws, for the purposes of settling any dispute arising in connection with the preparation and award of this contract as well as its effects, performance and termination.

## **CLAUSE 4. PERIOD AND PLACE OF SUPPLY**

The contractor shall execute the object of the contract in the place and period set out in the Technical Specifications.

## **CLAUSE 5. BUDGET**

5.1. The budget of this contract is fixed at the amount of 148.000,00 USD (VAT excluded); 119.803,04 € (exchange rate at publication date)



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E INNOVACIÓN



5.2. The amount fixed as budget for this contract comprises the totality of the contract's object as well as all the expenses and costs up to its delivery in operating conditions; it shall not include VAT, which shall be stated as an independent entry.

## **CLAUSE 6. AWARD PROCEDURE AND DOCUMENTATION TO BE PROVIDED TO THE UNDERTAKING WHICH IS INVITED TO SUBMIT A TENDER**

6.1. This contract shall be awarded by means of a direct procurement procedure by reasons other than the amount, in accordance with article 50 of the IIC and the provisions of these Terms and Conditions.

6.2. DOCUMENTATION THAT WILL BE PROVIDED TO THE UNDERTAKING INVITED TO TENDER: Together with the invitation letter, the following documentation shall be furnished to the undertaking invited to tender:

- These Specific Terms and Conditions.
- The Technical Specifications.
- The Standard contract.

## **CLAUSE 7. CONDITIONS OF CAPACITY AND STANDING AND CAPABILITIES OF THE UNDERTAKING INVITED TO TENDER**

7.1. The undertaking which has been invited to tender is the only one which can perform this contract, in accordance with the Report attached to this contracting procedure, and, therefore, it is subject to the provisions of Title Two of the IIC, entitled "On the contractors".

7.2. Eligibility to enter into this contract is open to all Spanish or foreign natural persons or legal entities, which are economic operators, with full capacity to act, and which are not included in any of the events of incapacity or contractual prohibitions set out in the Law 30/2007, of 30 October 2007, governing the Public Sector Contracts.

7.3. The references to be furnished to prove the economic and financial standing, and technical or professional capabilities are the ones laid down in clause 9.1.1. of these Terms and Conditions.

## **CLAUSE 8. PERIOD AND FORM OF SUBMISSION OF THE TENDER BY THE UNDERTAKING INVITED TO TENDER**



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E INNOVACIÓN



8.1. The tender, which needs to be accompanied by the documentation required on the invitation and on the clauses of these Terms and Conditions, shall be submitted to the General Register of CRG within the time limit set out on the invitation, or shall be sent by post within the time limit for submission. Under no circumstances shall be considered a tender which has been submitted after the expiry of the submission deadlines.

8.2. Upon submission of his tender, the tenderer shall indicate a contact address, a telephone number, a fax number, an email address and a contact person for the purposes of communications arising from or in connection with this tender.

## **CLAUSE 9. CONTENT OF THE TENDER**

The proposal submitted by the undertaking invited to tender shall comprise one (1) sealed envelope, identified, in their outside part, with indication of the contracting procedure that it is being tendered for, with the data of the undertaking and signed by the tenderer or person representing it.

The content of the envelope, which shall be listed numerically in independent sheets, shall include the documentation laid down in the IIC and, in particular, the following:

### **9.1.1. Documentation proving the legal personality, capacity, economic and financial standing, and technical and professional capabilities of the undertaking invited to tender**

a) Documents that prove the economic operator's personality and capacity to act:

- a.1. If the economic operator is a natural person (individual economic operator or professional), he or she shall provide his or her national identity card, or document replacing it, and the Tax Identification Number.
- a.2. If the economic operator is a legal entity, it shall submit the company's Memorandum and Articles of Association and, if appropriate, any amendments to the same, duly registered in the Register of Companies. It shall further submit the company's Tax Identification Number. When the company's registration is not required by law, the proof of the undertaking's identity and capacity will be provided through the deed or document of incorporation, document of amendment, Articles of Association, or founding act, which must state the rules governing the company's object. Such documents need to be registered with the relevant official register, where appropriate.
- c) If the economic operator acts through a legal representative or in the case of a legal entity, it is necessary to provide:
  - b.1. Public document of Power of Attorney, duly registered with the relevant public Register.
  - b.2. National Identity Card and Tax Identification Number of the representative and of the person signing the economic proposal.



MINISTERIO  
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E INNOVACIÓN



Foreign companies must prove their capacity to act by means of similar documentation from their country of origin and, where appropriate, their registration in the Registers of their country of origin.

- c) In order to prove the economic and financial standing, the undertaking invited to tender shall furnish one or several of the following documents:
- A Statement from financial institutions or, where appropriate, evidence of a relevant professional risk indemnity insurance.
  
  - In the event of legal entities: Submission of the company's financial statements for the two previous financial years entered into the Register of Companies or extract of the same should their publication be compulsory in the State of its incorporation.
  
  - In the event of natural persons: A statement of the undertaking's overall turnover and the services or works carried out by the undertaking in the course of the last three financial years.
- d) In order to prove the technical capabilities, the undertaking invited to tender shall furnish one or several of the following documents:
- List of the main supplies carried out by the tenderer during the past three years, stating their amounts, dates and recipients, whether public or private, with the relevant certificates.
  
  - Description of the technical team, as well as measures adopted by the supplier in order to ensure the quality of the supplied equipment.
  
  - Certifications established by the institutes or official or certified services in charge of checking the quality control and that prove the conformity of clearly identified goods with certain rules or specifications.
- d) A declaration, signed by the undertaking invited to tender, of not falling under any of the prohibitions to contract with the Administration, which are laid down in Article 49 of the Law 30/2007, of 30 October 2007, governing the Public Sector Contracts.
- h) Registration at the Register of Tenderers of the Generalitat de Catalunya (*Government of Catalonia*)

In the event that the undertaking invited to tender is registered in the Register of Tenderers of the Generalitat de Catalunya, it shall be exempted from submitting all the documentation relating to the legal personality, the capacity to act and the representation. Likewise, in the event that this undertaking is registered in the above-mentioned Register of Tenderers, it does not need to submit the data and the documents, which are in the said Register, and which prove the financial and economic standing and technical or professional capabilities requested in this procedure.





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Finally, the economic operator registered in the Register of Tenderers is exempted from submitting a declaration stating that it does not fall under any of the prohibitions to contract laid down in article 49 of the LCSP.

In order to prove the registration in the said Register, the tenderer shall include inside the sealed envelope the original or legalized copy of the registration certificate issued by the Technical Secretary of the Junta Consultiva de Contractació Administrativa (Catalan Public Contracting Advisory Board), together with the solemn declaration of the validity of the data.

In case that all or part of the following documentation has already been submitted to CRG and has not been modified or updated, and therefore, it is still valid, it will not be necessary for the tenderer to submit it again, provided he produces, under his sole responsibility, a certificate of the documentation's validity in accordance with the model of annex number 2:

- a) Memorandum and Articles of Association and/or amendments thereon.
- b) Tax Identification Number Card.
- c) Document proving the legitimate and sufficient representation of the tender's signatory.

#### **9.1.2. Technical proposal**

The technical proposal shall include the following documentation and shall be submitted duly classified in sections, according to the structure itemized below:

9.1.2.1. A list of the systems, methodology, manufacture used by the undertaking in relation to the protection and preservation of the environment, energy saving and sustainability.

9.1.2.2 A list of the most common elements requiring maintenance/replacement in the first five years of operation, with unit prices, and guarantee of supply.

9.1.2.3 Undertaking concerning the assembly equipments that the tenderer assigns to the execution of the contract, with specifications and performance of each equipment.

9.1.2.4 Planning of the works

9.1.2.5 Training course for the CRG users relating to the use of the equipment as well as delivery of the technical instructions.

9.1.2.6 Catalogs and a full description and photographs of the proposed equipments.

9.1.2.7 Maintenance proposal which shall provide for the following issues:

a) Economic and technical proposal of preventive and corrective maintenance, in which the tenderer shall describe the tasks to be carried out in each of these maintenances (updates, inspections, trials of the equipments, repairs, calibrations,



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lubrications, etc). Such proposal must specify which will be the criterion used by the undertaking in order to update the offered maintenance prices.

b) Duration of the offered maintenance services.

c) Response time by the repair service and resources assigned to it (composition of the group of technical specialists, 24 hour assistance telephone, regional or local offices...).

d) Description of the on-line service in relation to the use of the machinery or of the management programs installed thereon.

e) The maintenance proposal shall further specify the following elements:

- Guaranteed period of the spare parts stock.
- Price list of spare parts, components and/or parts which usually need to be changed.
- Price list of associated services (price per working hour, allowances, price per hour when traveling is required, etc.)

### 9.1.3. Economic Proposal

The economic proposal will follow the model below:

*"Mr./Mrs. ...., residing at .....street.....number....., with Identity Card Number/Tax Identification Number ..., of legal age, acting on his/her own name, or on behalf of the company..., with Tax Identification Number ....., residing at .....street.....number....., having knowledge of the conditions required for the award of the contract number....., which has as its object "\_\_\_\_\_ " at the office of this entity located at ..... of Barcelona, undertakes to perform the contract with fulfillment of the applicable Terms and Conditions as well as the Technical Specifications for the total amount of ..... Euros (clearly write in words and numbers the amount of €), plus the amount of (VAT value) € as VAT, where appropriate".*

*The offer shall be valid for a maximum period of \_\_\_\_\_.*

*(Place, date and signature)".*

## CLAUSE 10. CONTRACT AWARDING COMMITTEE OR TECHNICAL UNIT

The Contract Awarding Committee and Technical Unit will be set up for the award of this contract procedure, under the following punctuation:

a) **Economic Proposal:** -

Up to 20 points



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Formula:

$$P = (20 * M) / Of$$

Where P is your punctuation, M is minimum quote received and Of your quote.

- b) **Technical features:** Up to 15 points
- c) **Installation Services** Up to 10 points.
- d) **Delivery terms** Up to 15 points

Formula:

$$P = (15 * M) / Of$$

Where P is your punctuation, M is your delivery term reduction and Of maximum delivery term reductions received.

- e) **Support proposal after installation** Up to 5 points.
- f) **Additional benefits** Up to 10 points

MAXIMUM PUNCTUATION: From 0 up to 75 points  
MINIMUM PUNCTUATION: 40 Points for be awarded

## CLAUSE 11. AWARD

11.1. The contracting body shall award the contract by means of a reasoned resolution to the undertaking invited to tender, provided that it has submitted a tender which complies with these Terms and Conditions. This resolution shall be notified to the said undertaking within a maximum period of 10 days from the submission of the tender. Likewise, the award of the contract shall be published on the Contractor profile of the Foundation within the same time limit, in accordance with article 51 of the IIC.

11.2. The contracting body may declare this procedure to be void, in the event that the tender submitted by the tenderer does not comply with these Terms and



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Conditions. Likewise, the contracting body may declare the contracting procedure to be void due to public interest reasons duly justified on the contracting dossier.

11.3. The contract award resolution must be justified on the basis of the requirements laid down in these Terms and Conditions. The award resolution shall be sufficiently justified if the the contracting body accepts and assumes the content of the assessment technical report.

In the event that the contracting body does not follow the contract award proposal set out by the technical report, it will need to justify the reasons of the resolution.

11.4. The undertaking invited to tender shall be entitled to withdraw its tender, once the period stipulated for awarding the contract has expired without the relevant resolution being passed.

## **CLAUSE 12. FORMALIZATION OF THE CONTRACT**

**12.1.** Prior to the formalization of the Contract –which shall take place within thirty (30) days from the day following the notification of the award-, the successful tenderer shall deliver to this entity the documentation listed below. In case of non compliance with this obligation, or if the contract could not be formalized due to lack of compliance with the requirements necessary for its entering into by the successful tenderer, this entity may declare the contract award to be void.

The above-mentioned documentation is as follows:

12.1.1. Proof of the successful tenderer's compliance with its tax and Social Security obligations, by means of the handing over of the following documents prior to the formalization of the Contract:

- a) If the tenderer carries out activities which are subject to the Tax on Economic Activities, proof of its enrolment on the section of the tax corresponding to the subject matter of the contract and last receipt of payment.
- b) A specific certificate issued by the relevant tax authorities showing that the tenderer has fulfilled its tax obligations, for the purposes of Article 43 of the General Tax Law 58/2003, of 17 December.
- c) A positive certificate, issued by the relevant body, acknowledging that the tenderer has fulfilled its obligations towards the Social Security.
- d) A positive certificate issued by the relevant Autonomous Community acknowledging the non-existence of taxes owed by the tenderer to the said Administration.

## **CLAUSE 13. DEFINITIVE GUARANTEE**



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13.1 The successful tenderer shall furnish the definitive guarantee, for an amount of 4% of the award amount, VAT excluded, prior to the formalization of the Contract, and such guarantee may be furnished in any of the forms laid down in article 84 of the LCSP.

13.2. In case of a bank guarantee, it shall be formalized in accordance with the model guarantee in annex number 3 of these Terms and Conditions, and the guarantor shall comply with the legal requirements.

13.2. In case of a fidelity bond contract, subscribed, in the form and conditions legally established, with an insurance company authorised to operate in Spain in the field of fidelity bonds, it will be necessary to submit to CRG the certificate of the contract.

This insurance shall be formalized in the relevant policy, materialized in a certificate, the model of which is attached in annex number 4 of these Terms and Conditions, and the insurance company shall comply with the legal requirements.

13.3. The contractor must prove the provision of a definitive guarantee within a period of fifteen working days following the notification of the contract award.

13.4. When as a result of an amendment to the contract, due to any reason, the price of the same varies, there will be a readjustment of the guarantee in the corresponding

amount with the aim of maintaining the proportionality between the guarantee and the budget of the contract in force at each time.

13.5. In accordance with the provisions of Article 90 of the LCSP, the return or cancellation of the definitive guarantee will take place once the period of guarantee has expired and the object of the contract has been fulfilled. It shall also be returned or cancelled if the contract is terminated without the contractor being liable for it.

## **CLAUSE 14. PAYMENT OF THE SUPPLY**

14.1. For the purposes of payment, the contractor shall issue to this entity the invoice relating to the contracted supply.

14.2. Once received the invoice/s shall be reviewed and authorised by this entity.

14.3. The invoice shall be paid to the contractor within the maximum period of 45 days from the date of the invoice, provided the entity has drawn up the delivery form of the supply.

## **CLAUSE 15. OBLIGATIONS OF THE CONTRACTOR**

15.1. The contractor shall fulfill the following obligations:



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a. It shall contribute all the necessary and sufficient personnel for the performance of the contract's object, in accordance with the technical conditions set out, and it will be fully liable to execute the contract to the full satisfaction of this entity.

b. For all purposes, all the personnel providing services hereunder shall be employed exclusively by the successful tenderer, without any labour or civil servant relationship existing between the said personnel or the tenderer and this entity.

## **CLAUSE 16. RISK AND VENTURE**

This contract shall be executed at the risk and venture of the contractor.

## **CLAUSE 17. PERFORMANCE**

**17.1.** The contractor shall perform the object of this contract, in accordance with these Specific Terms and Conditions.

17.2. For the purposes of carrying out all notices and formalities arising in connection with this contract, the successful tenderer's legal residence will be the one appearing in the relevant document of formalization of the contract, except if the successful tenderer states otherwise.

17.3. The contractor shall not be entitled to receive any compensation due to losses, breakdowns, or damages caused in the supply before its installation in operating conditions.

## **CLAUSE 18. FAILURE TO COMPLY WITH THE OBLIGATIONS**

**18.1** The contractor shall compensate CRG for damages and keep it indemnified for any default, due to fraud or negligence, in the performance of the obligations arising under the contract award.

18.2. For these purposes, the following shall be considered events of default:

- a) Failure to comply with the formal requirements laid down in these Terms and Conditions, in the Technical Specifications and in the applicable provisions.
- b) Reluctance to fulfill the demands made by the entity with the aim of complying with the said requirements.
- c) The other events laid down in these Terms and Conditions or in the applicable laws.

18.3. In the event of failure to comply with the obligations undertaken by the successful tenderer, CRG may either compel the contractor to execute the contract with the imposing, where appropriate, of the penalties laid down in the contract, or proceed to terminate the contract due to breach of the same by the contractor.

## **CLAUSE 19 CAUSES OF TERMINATION**

**19.1.** The following shall be causes of termination of the Contract:

- Death or post-contract award disability of the contractor, if it is a natural person, or its dissolution or termination, if it is a legal entity, regardless of the causes of these events.
- The declaration of bankruptcy or insolvency in any procedure.
- The mutual agreement between CRG and the contractor.
  - The non-compliance of the remaining essential contract obligations, qualified as such in the Terms and Conditions or in this contract.
  - Failure to comply, due to a cause attributable to the Contractor, with the total time limit of execution of the supplies and/or installation, provided the delay exceeds (1/6 of the period of contract execution of the supply), or failure to comply with the partial periods, when in the consecutive adjustments of the working Plan it is evidenced the impossibility to carry out the supplies and/or installation within the total time limit above-mentioned.
  - Serious defects in the fulfillment of the technical specifications and the prescribed conditions that govern the execution of the works. All the defects that can be detrimental to the execution and time limit of the works shall be qualified as serious defects.

**19.2.** Likewise, it will be considered cause of termination of the Contract

- The dissolution or termination of CRG, regardless of the causes of such events.
- The delay in the payment due to a cause attributable to CRG for a period exceeding 8 months.
  
- The definitive suspension of the supplies for a period exceeding 6 months, decided by CRG.

## **CLAUSE 20 DELAY IN THE PERFORMANCE OF THE CONTRACT**

The default with regard to the time limit obligations by the successful tenderer shall not require to be summoned by this entity.

## **CLAUSE 21 CONFIDENTIALITY OBLIGATION**

The contractor must keep secret and confidential all data or records which are obtained pursuant to this contract and refer to the subject matter of the same. This



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obligation shall not apply when the said data or records are generally available to the public.

## **CLAUSE 22 DATA PROTECTION**

In compliance with the provisions of Article 5 of the Organic Law 15/1999, of 13 December, of Personal Data Protection, which governs the right of information in the collection of personal data, and in accordance with the Regulation developing the said Law, approved by Royal Decree 1720/2007, of 21 December, it is hereby stated:

- a. The documentation required in order to submit a tender to this procedure, which contains personal data, is necessary for the participation in the same.
- b. In relation to the documentation submitted by the tenderers which contains personal data of natural persons (employees, technical personnel, collaborators, etc.), the tenderer guarantees that he has obtained the previous consent of the persons concerned relating to the provision of the said information to this entity with the purpose of submitting a tender to this contract procedure.
- c. The documentation submitted by tenderers, containing personal data, will be placed at the offices of CRG and will be processed by this entity for the purposes of valuing and comparing the different tenders and complying with the aims of the procurement law, which is applicable to this entity. The recipients of this documentation will be the entity itself, as well as those third parties that carry out supervision tasks or those third parties that, in the execution of the procedure and/or the contract, must have access to the same.
- d. The submission of the tender and the requested documentation implies that the tenderer authorises CRG to process the said documentation and information in the above-described terms, and in the context of the contract execution, should the tenderer be awarded the contract.
- e. The interested / concerned parties may exercise their rights of access, rectification, erasure and objection by means of a document addressed to CRG, as the entity responsible for the processing, to the address indicated in the above paragraph c), attaching a copy of the National Identity Card or another Official Document, proving the identity of the person exercising the right.

Barcelona, 13th of April 2010





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## ANNEX No. 1

### SOLEMN DECLARATION

Dear Sirs,

The undersigned ....., declares:

- 1.- That neither ..... (hereinafter the tenderer) nor his directors and/or legal representatives fall under any of the circumstances laid down in Article 49 of the Law 30/2007, of 30 October 2007, governing the Public Sector Contracts.
- 2.- That the tenderer has complied with his tax obligations with the State.
- 3.- That the tenderer has complied with his tax obligations with the Social Security.
- 4.- That the tenderer has registered with the tax authorities for the purposes of the Tax on Economic Activities, if the tenderer carries out activities which are subject to the said tax.

For the legal purposes, this document is signed in ..... on ..... of .....

Signature



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**ANNEX No. 2**

XXXXXXXXXX  
.....  
.....

Barcelona, ..... of .....of.....

Dear Sirs,

The undersigned ....., certifies:

- That the legal documents requested in the Specific Terms and Conditions governing this tender for the purposes of proving the Tenderer’s legal personality and capacity have not been modified with respect to the ones in their possession, submitted on the day ..... for the purposes of participating in the procedure .....
- That the Card of the Tax Identification Number is the one that you already have in your possession, submitted on the day .... for the purposes of participating in the procedure.....
- That the documents proving my authority as a signatory of the proposal have not been modified nor revoked with respect to the ones in your possession, submitted on the day .... for the purposes of participating in the procedure...

For the legal purposes, this document is signed, on ..... of .....of.....

Signature



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### ANNEX No. 3

#### **MODEL OF DEFINITIVE BANK GUARANTEE**

(Intervened by a notary in accordance with article 197.1 bis of the Notarial Regulation, validated by the Legal Department of the General Savings Bank of Deposits, the State Attorney of the province or by the equivalent bodies of the remaining administrations)

The Bank ....., and on his name and representation Mr/Ms....., acting on his/her capacity as ..... in accordance with the powers given to him/her through Deed of Power of Attorney granted before the Notary from ....., Mr/Ms. ...., dated ....., number..... of his protocol which he/she declares to be entirely in force. The Bank hereby becomes joint and several guarantor of the company ..... on the interest and for the benefit of "XXXXXXXXXX", and up to the amount of ..... euros (...% of the amount of the Contract), for the purposes of guaranteing the exact performance by the above-mentioned company of each and every obligation arising in connection with the award Contract of " .....".

This bank guarantee is issued by the Bank ....., with express and formal waiver of the benefits of discussion, division, order and any other that may be applicable. The Bank undertakes to be jointly and severally liable with the company .....until the termination by "XXXXXXXXXX" of the above-mentioned contract. The Bank shall unconditionally pay, within a maximum period of eight days following the request to pay, the sum or sums requested up to the total amount guaranteed of ....EUROS (...% of the amount of the Contract). The Bank expressly and solemnly waives any exceptions or reserves that it may be entitled to, in relation to the delivery of the requested amounts, regardless of the causes or the grounds of such exceptions, and even if there is opposition or claim by .....or by any third party, regardless of who they are.



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**ANNEX No. 4**

**MODEL OF FIDELITY BOND FOR THE DEFINITIVE GUARANTEE**

(Intervened by a notary in accordance with article 197.1 bis of the Notarial Regulation, validated by the Legal Department of the General Savings Bank of Deposits, the State Attorney of the province or by the equivalent bodies of the remaining administrations)

Certificate number .....

..... (hereinafter, the insurer), with registered office at ....., Street ..... and Tax Number ....., duly represented by Mr/Ms ....., with powers sufficient to bind the insurer in this act, in accordance with .....

**INSURES**

(name of natural person or legal entity) ..... with fiscal number....., as the policyholder, vis-à-vis XXXXXX, hereinafter the insured, up to the amount of euros ..... (...% of the contract's value) ....., for the purposes of guaranteeing the exact performance by the policyholder of each and all the obligations arising in connection with the award of the contract of .....

The non payment of the premium, whether it is a single premium, or the first or subsequent premiums, shall not entitle the insurer to terminate the Contract and neither will result in the termination of the Contract. The said non payment shall not suspend the insurer's coverage, nor free the insurer from his obligation, in the event that the insurer needs to execute the guarantee.

The insurer shall not oppose to the insured the exceptions that it may be entitled to against the policyholder.

The insurer undertakes to indemnify the insured upon the first request from XXXXXXXXXXXX, and to unconditionally pay the sum or sums requested until the total amount guaranteed, within a maximum period of eight days following the request to pay.

This fidelity bond shall be in force until the termination of the contract and finalization of the guarantee period.

In ....., this ..... of ..... of .....

Signature:  
Insurer