



MINISTRY OF DEFENCE
AERONAUTICAL COMMAND
BRAZILIAN AERONAUTICAL COMMISSION IN EUROPE
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BIDDING PROCESS Nº 15/BACE/2021



Authorized by:

JORGE MAURICIO MOTTA Group Capt
Head of BACE

A handwritten signature in blue ink, consisting of a large, stylized loop and a smaller mark to the right.



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BIDDING PROCESS Nº 15/BACE/2021
PROCESSO Nº 67103.200017/2020-30

The Federal Government – Ministry of Defence – Aeronautical Command, through the **BRAZILIAN AERONAUTICAL COMMISSION IN EUROPE (BACE)**, located at 16, GREAT JAMES STREET, WC1N 3DP – LONDON-UK, Legal Entity Registry number 00.394.429/0042-89, through the Permanent Tender Commission, appointed by Public Bulletin number 15, of 31st JUL 2020, makes publicly known to interested parties, that it will commence a Tender process through a **Bidding Process**, in which the decision parameter will be the **LOWEST PRICE**, under the **fixed unit price**, observing the principles of isonomy, the selection of the most advantageous proposal for the administration, legality, impersonality, morality, equality, publicity, administrative probity and compliance with the requirements set forth in this Bidding Process.

DEFINITIONS

The following definitions have been adopted in this Bidding Process:

- a) **AWARD:** Act of granting the winning bidder the right to execute the object of this Bid;
- b) **AWARDED COMPANY:** Company to which BACE grants the Award;
- c) **BACE:** Brazilian Aeronautical Commission in Europe;
- d) **BIDDING PROCESS:** means this document and the bidding process Nº 15/BACE/2021;
- e) **BIDDER:** The Company submitting a Bid;
- f) **PTC:** Permanent Tender Commission;
- g) **COMAER:** Aerospace Operations Command;
- h) **CONTRACT:** the proposed contract for the supply of goods and services to be signed between COMAER and the CONTRACTED PARTY, in the form set out in ANNEX III of this Bidding Process;
- i) **CONTRACTED PARTY:** The Company chosen to sign the contract;
- j) **CONTROLLER:** Selected Representative(s) of COMAER tasked with overseeing the contract;
- k) **SILOMS-EXT:** Integrated Logistics, Material, and Services System – International Module;
- l) **PRICE PROPOSAL:** a price proposal submitted by the Bidder to BACE in accordance with clause 7 of this Bidding Process;
- m) **WINNING BIDDER:** the company that submits the most advantageous proposal to BACE, according to the criteria set forth in this Bidding Process; and
- n) **REQUESTING ENTITY:** body of the Aeronautical Command which requested and will be the recipient of the final object of this bidding process.

1. LOCATION AND TIME

1.1 The Submission of Qualification and Price Proposal Envelopes and the opening of the Qualification Envelopes will take place at **11:30 AM on 13/09/2021**, at the **BRAZILIAN AERONAUTICAL COMMISSION IN**

EUROPE – BACE, located at 16, GREAT JAMES STREET, WC1N 3DP – LONDON-UK, or other location indicated by BACE.

1.2 All references to time in this Bidding Process and during the public process will be London Time – UK.

1.3 At the indicated location will be carried procedures regarding to this Bidding Process, namely:

1.3.1 Submission of Qualification and Price Proposal Envelopes.

1.3.2 Opening of Qualification Envelopes.

2. OBJECT

2.1 The object of this Bidding Process is the provision of services of receipt, storage, entry of related data into the COMAER system SILOMS-BR (Transport Module), customs clearance and subsequent sending of all the goods acquired by COMAER (Brazilian Aeronautical Command) in Europe, Africa, Asia and Oceania to Brazil, and also the performance of these services relating to repairable materials sent from Brazil to the firms contracted for carrying out the respective repairs on the above-mentioned continents, with their subsequent return to Brazil. The aforementioned services shall be managed by the Brazilian Aeronautical Commission in Europe (BACE).

3. REPRESENTATIVE REGISTRATION

3.1 A BIDDER that wishes to attend the meeting for Submission of Qualification and Price Proposal Envelopes and the opening of the Qualification Envelopes shall submit a representative for registration to the PTC, duly provided with the document that authorizes him/her to take part in the bidding process by **11:30 AM** on 13/09/2021.

3.1.1. There is no obligation for the bidder to be present at the meeting for submission of Qualification and Price Proposal Envelopes as well as for the opening of the Qualification Envelopes.

3.2 It will be considered as a legal representative any individual authorized by the bidder, through the submission of authorizing document to act in the bidder behalf during the opening of the envelopes meeting.

3.3 Documents that will be accepted for registration:

3.4 Articles of incorporation, where the authorized person is a shareholder of the **Bidder**;

3.4.1 Power of attorney or declaration from the **Bidder** granting power to the authorized person to act in their bidder behalf in any phase of this bidding process, in Annex IV in this Bidding Process, providing a copy of the ID or Passport of the person who signed the power of attorney/declaration.

3.5 Each authorized person shall represent **only one Bidder**;

3.6 Each BIDDER shall submit one (01) legal representative and his/her registration/credentials must be presented at the Opening Meeting before the opening of the qualification envelopes.

3.7 One (01) legal representative means a single person.

3.8 Only a single representative per BIDDER is allowed to attend the Opening of Envelopes Meeting.

3.9 The non-submission of the authorization will not disqualify the **Bidder**, but it will prevent the legal representative to act on the Bidder's behalf.

3.10 Regarding the authorization for the signing of documents:

3.10.1 The legal representative who will sign the documents relevant to the Bidding Process shall identify their signature as:

a) Business owner or their proxy with power to represent them and decide on their behalf;

b) Business shareholder, if it has been incorporated as a private limited company and if this shareholder has contractual authorization to sign contracts, take part in bidding process, disputes and file appeals, according to the company Articles of Incorporation;

c) Business Director, with powers to sign on behalf of the company;

d) All companies' proxies and/or legal representatives in any situation mentioned above shall submit the document in the form set out in **Annex IV** bearing the business owner and/or legal representative, providing a copy of the ID or Passport of the person who signed the power of attorney/declaration.

Notes:

1. In the case of a private limited company where no legal representative has been assigned, all documents described and the documents submitted shall be signed by the company's shareholders.

2. The individual who wishes to sign documents on behalf on another individual shall submit authorization do to so, in accordance with **letter d)** of this clause.



4. REQUIREMENTS FOR QUALIFYING BIDDERS

4.1 Companies may take part in this Bidding Process if they:

- a) are previously registered in the SILOMS-EXT with their speciality being the object of this Bidding Process and have been invited by BACE;
- b) are registered in the SILOMS-EXT, with their speciality being the object of this Bidding Process which, although having not been invited by BACE;
- c) are not registered in the SILOMS-EXT, although is able to provide the object of this and meet all the requirements for registration available at www.bace.org.uk and <https://www2.fab.mil.br/cabe/> , and those contained in this Bidding Process and its Appendices.

4.2 Tenders will not be accepted from BIDDERS which:

- a) are in composition with creditors, are filing for bankruptcy, are under concourse of creditors, and are in the process of dissolution or liquidation, judicial recovery, extrajudicial recovery, merger, demerger, incorporation, or in liquidation ;
- b) have lost their right to submit a Bid for and be contracted by BACE, or have lost their right to be contracted by BACE, or have been considered not reputable to submit a Bid or to be contracted by the Federal Republic of Brazil;
- c) has as its Partner, Director, or Responsible Technician, any civil servant working at any agency or entity linked to the Brazilian Ministry of Defence and/or Aeronautical Command;
- d) which commercial expertise does not specify an activity relevant and compatible with the object of this Bidding Process;
- e) are under control of the same group of individuals or legal entities of another BIDDER, directly or indirectly; and
- f) are part of the same economic group, which means those companies that have common directors, shareholders or legal representatives, or use common material, technological or human resources, except if they demonstrate they do not represent a common economic interest.

4.3 BIDDERS will be able to participate in this Bidding Process if they meet the conditions described in clauses 4.1 of this Bidding Process.

5. SUBMISSION OF QUALIFICATION AND PRICE PROPOSAL ENVELOPES

5.1 Up to the date and time established in this BIDDING PROCESS, each BIDDER must submit to the PTC: ONE QUALIFICATION ENVELOPE and ONE PRICE PROPOSAL ENVELOPE, separately.

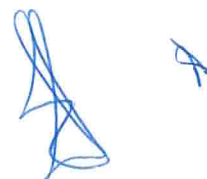
5.1.1. Bidders who wish to submit their envelopes by tracked post/courier service shall observe that Envelopes **must be delivered before the opening session as described in clause 1**, including transit days for delivery.

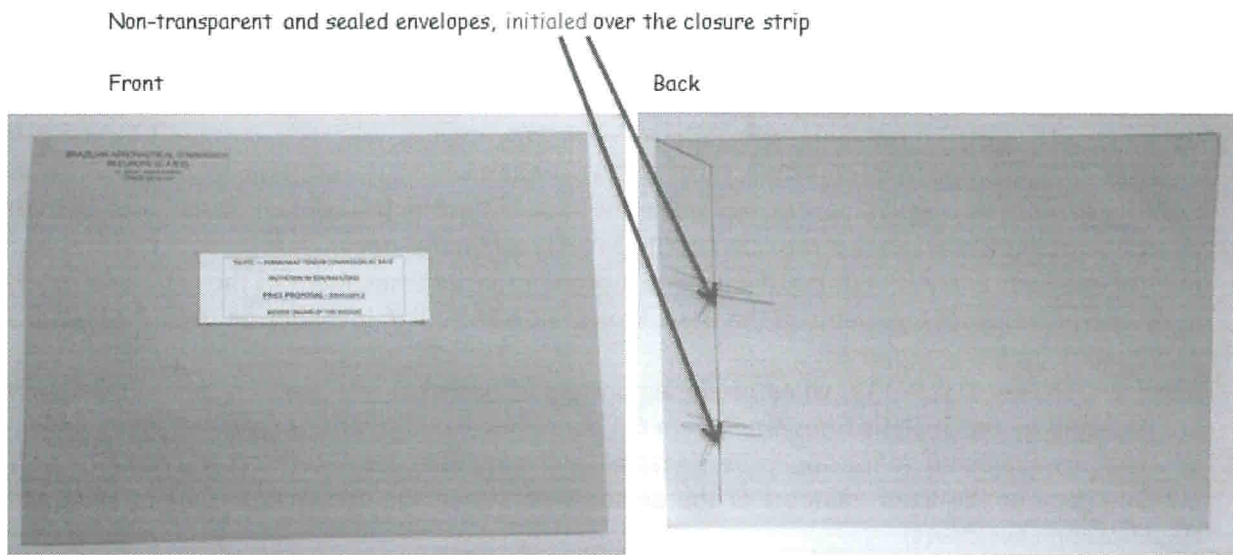
5.1.2. BACE **will not take responsibility for delays on delivering the Envelopes.**

5.2 The documentation must be in non-transparent and sealed envelopes, initialled at the closure strip, containing in its external and frontal parts, in highlighted letters, the following:

TO PTC – PERMANENT TENDER COMISSION AT BACE
BIDIDNG PROCESS Nº 015/BACE/2021
BIDDER: [COMPANY NAME]
ENVELOPE Nº 01 – QUALIFICATION DOCUMENTS

TO PTC – PERMANENT TENDER COMISSION AT BACE
BIDIDNG PROCESS Nº 015/BACE/2021
BIDDER: [COMPANY NAME]
ENVELOPE Nº 02 – PRICE PROPOSAL





5.3 Upon receipt of envelopes and once the closing date for delivery is declared, BACE will not accept inclusions or replacement of any documents, price corrections or terms and conditions, nor any rectifications that may influence on the final result in this bidding process.

5.4 Participation of latecomers, under any circumstances, will not be accepted, except as a hearing participant.

5.5 Proposals containing erasures will not be accepted under any circumstances.

5.6 The openings of "Qualification and Price Proposal" envelopes will be held in a public open session, from which a minute will be written and signed by the members of PTC and by the legal representatives of the attending BIDDERS.

5.7 Receipt of Price Proposals will not confer any right to BIDDERS against BACE.

5.8 Documents can be presented in Portuguese or in English. If a Bidder presents envelopes in both languages, the text in Portuguese will prevail.

5.9 The documents submitted in both envelopes must be original, printed without erasures or overwriting, with its original signatures in blue or black ink.

5.9.1 Copies may be accepted provided they are notarized or consularized.

5.9.2 Documents with digitalized signatures will not be accepted.

6. ENVELOPE NUMBER 01 – QUALIFICATION:

6.1 BIDDERS will be considered qualified if they meet the conditions described in clause 6.2 of this Bidding Process;

6.2 The QUALIFICATION ENVELOPE(S) shall contain the following documents:

a) Company statement in the form set out in (ANNEX V) informing:

- i) Bidder's name, how it should be written in any future contract, Tax Registration Number or equivalent, and complete address;
- ii) that the company is not facing bankruptcy, insolvency, suspended or barred from taking part of bidding process or from any other commercial transaction with Federal, State or Government Agency;
- iii) that it is aware of the full content of this Bidding Process and its Annexes, and it accepts and fully submits to the conditions and requirements, as well as the legislation referent to the subject matter; and
- iv) copy of identification, as stated in clause 6.7 of this Bidding Process.

b) Regarding the Technical Qualification, the Bidder shall submit:

- i) Submit at least one Certificate showing that you have carried out international cargo transportation,
 - (1) For Certificates issued by private companies, those belonging to the same business group as the Bidder, its subsidiary, subsidiary or parent company and by a company in which there is at least one

same individual or legal entity that is a partner of the issuing company, will not be considered and the bidder;

6.3 Regarding the Certificate of Technical Qualification, there is no specific format for the presentation of the physical documents, however they must contain the identification of the Entity and the identification of the professional responsible for issuing the documentation, duly signed, and on behalf of the BIDDER.

6.4 BACE will analyse statements, attestations, certificates, studies, reports and other documents foreseen in letter "b", in order to verify if the CONTRACTED PARTY will have sufficient technical and operational capacity to meet the requirements specified in this Basic Project. In this context, at any time and if it deems appropriate, BACE may request the CONTRACTED PARTY additional documents.

6.5 the previous analysis in item 6.4 will consist of the capacity assessment of the CONTRACTED PARTY to meet the previous requirements in the Basic Project 001/SM/2020. It cannot be used for classification or punctuation for hiring purposes.

6.6 the CONTRACTED PARTY, when rendering untrue, inconsistent, and inaccurate information by, which are detected by the analysis foreseen in item 6.4 or verified by BACE at any time during the validity of the contract, are subjected to the applicable penalties, and may result in the contract rescission.

6.7 One copy of the ID or Passport of the person who signed the documents must be provided in the Qualification Envelope(s).

6.8 Documents submitted on the Qualification Envelope(s) must be printed without erasures or overwriting, with its original signatures in blue or black ink. In case it is impossible to submit original documents, copies may be accepted provided they are notarized or consularized.

7 ENVELOPE NUMBER 02 – PRICE PROPOSAL

7.1 The Price Proposal will be printed in the form set out in **Annex II**, without amendments, erasures, additions, and interlineation, duly dated and signed by the BIDDER or its duly qualified representative, and it may not contain ambiguous or contradictory provisions.

7.2 **The Price Proposal shall be valid for 60 (sixty) days from the date of delivery of the "Price Proposal" envelope to BACE.**

7.3 In the event that the deadline described in item **7.2** is not expressly stated in the proposal, the validity period of **60 (sixty)** days will be deemed accepted by the BIDDER for the purposes of judging the "Price Proposal".

7.4 If, in the event of force majeure, the award cannot occur within the period of validity of the bid, which is **60 (sixty)** days, and if the interest of BACE persists, BACE may formally request the extension of the aforementioned validity.

7.5 The values contained in the Bid (**Annex II**) must be expressed in US DOLLARS (USD), in arabic numerals, and also in writing, prevailing the latter.

7.6 The **Price Proposal** will be the sole responsibility of the BIDDER. A Price Proposal that offers a reduction of the lowest offered price, in whole or in part, will not be considered.

7.7 Under no circumstances may the presented Bid be altered, whether regarding to price, payment terms, deadlines or any other condition which modifies its original terms.

7.8 The Price Proposal shall include all direct and indirect costs, when charge in the origin, including, (but not limited to): tax, VAT, administration fees, materials, serviced, social and employment taxes, insurances, profit and others expenses that may be charged on the object of this Bid.

8 BIDDING PROCESS

8.1 The Bidding process will have the following phases:

a) **Phase 1** – if attending, registry of legal representatives

b) **Phase 2** – 1st Meeting: submission of Qualification and Price Proposal Envelopes

i) Submission of Envelopes 1 and 2, Qualification Envelope(s) and Price Proposal Envelope(s), respectively;

ii) Opening of Qualification Envelopes: opening of Qualification Envelopes, in the presence of the interested parties, by the Permanent Tender Commission, which confer and examine the submitted documentation, that shall bear the initials of all Bidders' legal representatives present;

iii) Qualification documents will be analysed by BACE and sent to analysis by the Technical Commission; and

iv) Envelopes containing Price Proposals will be received, kept locked in a safe at BACE.

- v) Write of a Minute of Meeting.
- c) **Phase 3** – Analysis of the Qualifications Documents:
- i) The Qualification Documents will be evaluated by BACE and sent for evaluation by the Technical Committee;
 - ii) Verification of clauses 4.1 and 6 of this Bidding Process by the PTC and Technical Commission;
 - iii) Writing of the minute of meeting, pointing out the irregularities, classifying the Bidders as qualified and disqualified;
 - iv) In the event all Bidders are disqualified, the PTC may establish a period of (8) eight working days for the Bidders to submitting a new documentation.
- d) **Phase 4** – Publication of the Qualification Minute at BACE website, and start of the appeal period, observing what has been established in the sub clause 8.6 in this Bidding Process;
- e) **Phase 5** – Convene the Bidders for the Opening of Price Proposal Envelopes, on a date to be determined. Bidders will be notified through direct communication (e-mail) or through letter;
- f) **Phase 6** – 2nd Meeting – Opening of the Price Proposal Envelopes
- i) Only Price Proposal Envelopes from qualified Bidders;
 - ii) Proposal shall bear the initials of all Permanente Tender Commission members and by the Bidder's legal representatives attending the meeting;
 - iii) Write of Minute of Meeting.
- g) **Phase 7** - Analysis of Price Proposals
- i) Price Proposals will be evaluated by CABE and sent for evaluation by the Technical Committee;
 - ii) Verification of conformity of each proposal and respective prices with the requirements constant in the Bidding Process and Annexes, by BACE and Technical Commission and, disqualifying nonconforming and incompatible proposals accordingly;
- h) **Phase 8** – classification of proposals and writing of the minute of meeting containing all information, including the Winning Bidder and disqualified Bidders. In case all bids are disqualified, CPL may set the bidders a period of 8 (eight) business days for the submission of other conforming bids.
- i) **Phase 9** – Publication of the Price Proposal Minute at BACE website, and start of the appeal period;
- j) **Phase 10** – Order of the decision-making authority (Head of BACE) approving the process and defining the winner of this Bidding Process and granting the object to the WINNING BIDDER; and
- k) **Phase 11** – Publication of the Awarded Bidder.

8.2 After the opening of the envelopes, all documents and the proposals contained therein will be initialed by all present BIDDERS' representatives and all members of the PTC. BACE will not accept any further complaints by those abstaining from initialling the documents.

8.3 The PTC or its higher authority reserves the right, at any stage of this Bidding Process, to issue any additional procedures which aim to clarify or complete the regulation of the process.

8.4 The disqualification of a Bidder means the loss of right to participate in the subsequent phases

8.5 After the opening of the "Price Proposal" envelopes, BACE will not accept a withdrawal of the proposals, except in the event that unexpected facts arise that are accepted by BACE at its absolute discretion.

8.6 After the opening of Price Proposal Envelopes, a Bidder cannot be disqualified for reasons regarding to qualification, except for supervenient reasons or only learnt after judgment.

8.7 If the minimum of 3 (three) valid proposals are not reached, the Bidding Process will be republished.

8.7.1 If due to market constraints of clear lack of interest by invited companies, the minimum number of proposal required is not achieved, these circumstances must be duly justified in the process; otherwise the Bidding Process has to be repeated.

8.8 The deadline for judgment of the qualification documents will be up to **15 (fifteen) working days** from the opening of the envelopes, and may be unilaterally extended upon notification by the PTC.

8.9 Price Proposal Envelopes from **disqualified bidders** will be returned to them duly sealed.

9. JUDGEMENT OF PROPOSALS

9.1 This Bidding Process is classified as "**LOWEST PRICE**" and the evaluation and judgment of the proposals will be made according to the following criteria:

9.1.1 Price Proposals will be evaluated and judged if it complies with the requirements of this Bidding Process by the PTC. The PTC will classify BIDDERS using the "LOWEST PRICE" criteria for the aforementioned Bidding Process. The classification will be in order of increasing prices offered;

9.1.2 The deadline for judgment of the proposals shall be **fifteen (15) working days** from the date the Price Proposal envelope is opened and may be unilaterally extended upon notification by the PTC;

9.1.3 The PTC may request opinions from technicians or specialists employed by the Aeronautical Command or, also, from others individuals or legal entities, in order to guide its decision;

9.1.4 In case of a tie between two or more proposals, it will be resolved by a drawing, in the presence of all BIDDERS;

9.1.5 During the Price Proposal assessment, the Winning Bidder will be the one who offers the lowest price in their Price Proposal in the form set out in (Annex II), provided that:

a) The Price Proposal shall be submitted in two decimal places;

b) The Bidders shall indicate the total price proposed, including all additional costs, such as: taxes, fees and any other associate costs to the rendered of services, exempting BACE from paying any additional costs. To formulate the price proposal, interested parties must also be aware of Clauses 3.6 and 18.1 of the Draft of the Contract (Annex III of this Bidding Process).

10. DISQUALIFICATION OF PROPOSALS

10.1 After evaluation, a proposal will be disqualified if it:

a) does not meet the requirements contained in this Bidding Process;

b) presents offers not anticipated in this Bidding Process; and

c) presents an overall value higher than the limit established in the Basic Project or with manifestly unenforceable prices.

10.2 In the event of repetition of the Bidding Process and proposals from all BIDDERS are disqualified, the PTC may propose to BIDDERS a new deadline of 8 (eight) working days to submit new documentation, excluding the causes that have been the reason for the disqualification. The new proposals, **with no alteration of the original price**, must be presented in a public meeting, with the date to be informed by the PTC, observing the procedures of evaluation and judgment, according to the Bidding Process.

11 PROCESS APPROVAL AND AWARD OF THE OBJECT

11.1 The final result of the bid will be registered in a minutes, in which the PTC will register the WINNING BIDDER, justifying, in detail, the reasons for the disqualification of the other bids or statement of proposal unfeasibility (**Phase 8, Item 8**).

11.2 Once the minute has been signed, the PTC will make publicly known in a public meeting and in the BACE website (www.bace.org.uk) and (<https://www2.fab.mil.br/cabe/>) the result of the judgment, establishing a deadline of **five (5) working days** for filing an appeal.

11.3 After the legal period for filing an appeal has ended, or the existing appeals have been analysed and completed, the minutes will be submitted to the Head of BACE for approval and Award to the Winning Bidder. Once the process has been approved and the object awarded, the WINNING BIDDER will be summoned to sign the Contract.

11.4 The Order or Minutes of the Decision from the Head of BACE regarding the process approval and award of the object will be disclosed through document which will be part of the process.

11.5 The WINNING BIDDER will be required to maintain the commitment regarding its Bid during ninety (90) days from the delivery of the proposal. After this period it will be released from this commitment if it was not summoned to sign the contract.

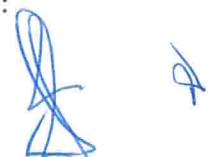
12 SIGNATURE OF CONTRACT

12.1 Upon approval of the Bid result and the Award to the WINNING BIDDER, it will have a period of **five (5) working days from receipt of the communication from BACE**, to sign the contract of this Bidding Process. This period may be extended once for an additional five (5) working days, when requested by the Winning BIDDER provided that there is a good reason which is accepted by BACE at their sole discretion.

12.2 In attention to clauses of the Contract, the Winning Bidder shall provide the information about its legal representative with powers to receive citation and answer administrative and judicially on its behalf, within 2 (two) working days from the date of the contract signature.

12.3 Until the date of the contract signature, the Winning Bidder shall provide to BACE:

12.3.1 Bank details in the United Kingdom, where BACE will make the payments;



12.4 Provided that the WINNING BIDDER fails to sign the contract or withdraw the Purchase Order on time and under the conditions established, BACE may summon other BIDDERS, in rank order, to do it at the same period and under the same conditions as the Winning Bidder. The Winning Bidder shall not have any rights regarding the revoked award.

12.5 The unjustified refusal by the WINNING BIDDER to sign the contract, accept and withdraw the Purchase Order within the period specified by BACE, will be considered as full non-compliance of the obligation undertaken under this Bidding Process and it will be subject to the REMEDIES established in clause 9 of the Contract.

13 CONTRACT FOR THE RENDERING OF SERVICES

13.1 The contract will be formalized by contractual terms, a draft of which is annexed to this Bidding Process (**Annex III**), where is defined the obligation for the Contracted Party to be CONTRACTED, the systematic rendering of services, payment terms, contract renegotiation and the remedies for any breach of the obligations.

13.2 Under no circumstances may the CONTRACTED PARTY discontinue unilaterally the rendering of services on the grounds of non-compliance by BACE.

14. DURATION

14.1 The contract duration will be the one stated in the item 11.1 of the Basic Project number 001/SM/2020 (Annex I).

15 SUBCONTRACTING

15.1 Subcontracting is allowed in this Bidding Process or the resulting Contract, according to Clause 1 of the Draft of the Contract (Annex III).

16. RENDERING AND DELIVERY OF SERVICE

16.1. The services must be provided by the CONTRACTOR under the terms of the contract and in accordance with Basic Project No. 01 / SM / 2020 (Annex I).

16.2. Once the respective service has been received by the Controller, and upon issuing the latter's authorization, the CONTRACTED PARTY shall bill the corresponding expense, which will be paid by the CONTRACTING PARTY.

17. PAYMENT METHODS

17.1 Payment will be made according to clause 3 in the Contract and the Physical-financial Chronogram.

17.2 All payments must only be performed in US DOLLARS (USD) to a bank account out of Brazil, to be informed by the CONTRACTED PARTY until the date of the signature of the Contract.

17.3 Any Invoice which has not been approved by BACE shall be returned to the Contracted Party for the necessary corrections, informing the reasons for the refusal. The invoice new payment period will start from the date of the resubmission.

18. CHALLENGE OF THIS BIDDING PROCESS

18.1 Any citizen may challenge, in writing, the terms of this Bidding Process up to 2 (two) working days from the date established for submission of Qualification and price proposal Envelopes and opening of the Qualification Envelopes.

18.2 A challenge to this Bidding Process shall be submitted to email bid@bace.org.uk or registered in the General Protocol Department of BACE, located at 16 Great James Street, London, WC1N 3DP, and addressed to the President of the PTC.

18.3 BIDDERS will have two (2) working days before the opening of the QUALIFICATION AND PRICE PROPOSAL envelopes to challenge this Bidding Process, after this deadline challenges will not be accepted.

18.4 A timely appeal submitted by BIDDERS will not prevent them from participating in the Bid until the final decision on the appeal has been taken.

19. ADMINISTRATIVE APPEAL

19.1 An appeal against any act of PTC should be submitted to email bid@bace.org.uk or registered in the Registry Department at BACE located at 16 Great James Street, Holborn, London – United Kingdom, WC1N 3DP, for the attention of the President of the PTC. This authority may reconsider its decision within **five (5)**



working days. If there is not reconsideration, the Head of BACE shall send the petition, within that same period, to the higher authority which shall render a decision within **five (5) working days** from the receipt of the appeal.

19.2 During the appeal period, the process file will be open for the examination by BIDDERS at a place determined by the PTC. Under no circumstances shall those records be removed from the premises.

19.3 The appeal judgment results will be sent to all Bidders by letter, fax or email.

19.4 The following appeals will be admitted to the BACE's actions during this Bidding Process:

19.4.1 Hierarchical appeal, within **five (5) working days**, from the notification of the act, or the issue of the minute of hearing, in the event of:

- a) qualification or disqualification of Bidders;
- b) proposal judgment;
- c) annulment or revocation of Bidding Process;
- d) refusal from registration in the suppliers database, or the alteration or cancellation of exiting registration;
- e) contract rescission by unilateral decision from BACE, in the following cases;
 - failure to comply with contractual clauses, specifications, projects or deadlines;
 - Irregular compliance with contractual clauses, specifications, projects and deadlines;
 - performance slower than expected, leading the Administration to prove the impossibility of completing the work, service or supply, within the stipulated deadlines;
 - unjustified delay in starting the work, service or supply;
 - stoppage of the work, service or supply, without reasonable explanation and prior notification to the Administration;
 - the total or partial subcontracting of its object, the association of the contracted party with others, the assignment or transfer, in whole or in part, as well as the merger, spin-off or incorporation, not admitted in the Bidding Process and in the contract;
 - failure to comply with the regular determinations of the authority designated to monitor and supervise its execution, as well as those of its superiors;
 - the recurring of faults in its execution;
 - the application of bankruptcy or the declaration of civil insolvency;
 - the company dissolution or the death of the contractor;
 - corporate change or modification of the purpose or structure of the company, which impairs the performance of the contract;
 - reasons of public interest, of high relevance and wide knowledge, justified and determined by the highest authority in the administrative sphere to which the contracting party is subordinate and included in the administrative process to which the contract refers;
 - the occurrence of acts of God or force majeure, satisfactorily proven, preventing the performance of the contract.

19.4.2 Representation, within **five (5) working days**, from the notification of the decision related to the object of the Bid or Contract, if a hierarchical appeal cannot be filed.

19.5 After receiving the appeal, it will be notified to the others Bidders, who may submit counter-arguments within **five (5) working days**.

19.6 The appeal will be sent to a higher authority duly instructed, by the authority who practiced the appealed act, who may reconsider their decision, within **five (5) working days** of receiving the appeal.

19.7 Any arguments or inputs regarding to the bidder's defence who is seeking total or partial reconsideration of the **Permanent Tender Commission** shall be submitted only in writing and attached to the appeal.

20. BUDGET

20.1 The costs for executing the object of this Bidding Process shall be funded by the Ministry of Defence, available through the Nature of Expenditure 33.90.39, in PTRES 0168913, in Fonte 0150120388, or another that may eventually replace it.

21. ADMINISTRATIVE SANCTIONS

21.1 In the event of the occurrence of any legal infringements, especially of non-performance of an obligation by the Contracted Party, this shall be subject to remedies as provided in clause 9 of the Contract.

22 INSPECTION OF SERVICES RENDERED

22.1 The Contract will be faithfully executed by the parties and it will be controlled by an Agent, Commission or designated Body (the "Controller"), published in Internal Bulletin and informed to the CONTRACTED PARTY about the Controller's composition, in accordance of the Contract.

22.2 The Head of BACE and the CONTROLLER may, at any time, carry out control activities.

22.3 The appointed Controller or Control Committee may be replaced at any time, for the interest of BACE, and their substitutes formally presented to the CONTRACTED PARTY.

22.4 The CONTRACTED PARTY is obliged to perform any repairs notified by the CONTROLLER, in accordance with Basic Project number 001/SM /2020.

23. PRICE ADJUSTMENT

23.1 Price of services contracted for a period equal to or superior to 12 (twelve) months may be adjusted every 1 (one) year from the date of its signature, upon presentation of the variation demonstrated by a cost sheet submitted by the CONTRACTED PARTY, and approved by the CONTRACTING PARTY.

24 ADDITIONS AND SUPPRESSIONS

24.1 Additions and/or suppressions will always be made based on opinions or justifications and will be formalized through an amendment to the original contract, according to the clause 11 of the Contract.

25. REVOCATION AND ANULLMENT OF BIDDING PROCESS

25.1 The Head of BACE may revoke this bidding at any time, if there are reasons of public interest for doing so. In this case there must be factual evidence to justify such conduct. The Head of BACE will then annul it by notice in writing to that effect to all parties.

25.2 The annulment of the Bidding Process, by reason of illegality, generates no obligation on BACE or rights for the BIDDERS.

26. FORUM

26.1 Any dispute or claim (including non-contractual litigation or claims) arising out of or in connection with it or its subject matter or formation, which cannot be settled administratively shall be governed and interpreted in accordance with the British Law.

27. FINAL PROVISIONS

27.1 Any request for clarification of this Bidding Process and its appendices should be sent in writing, email or facsimile, until the second business day preceding the opening of "Qualification and Price Proposal" envelopes, which is, until the second previous working days of the qualification envelopes opening, to the PTC of BACE, 16 GREAT JAMES STREET, LONDON, WC1N 3DP. Questions that arise after the aforementioned period will not be taken into consideration.

27.2 The deadlines for the present Bidding Process will exclude the first day and include the last day. The first and last day for the purposes of this Bidding Process must fall on working days.

27.3 The terms and conditions that govern this Bidding Process will always be interpreted in order to increase competition between the BIDDERS without compromising the security of future contracts.

27.4 Any cases not described in this Bidding Process shall be resolved by the Head of BACE based on the legislation in force.

27.5 In case of divergence between this Bidding Process and its annexes or other parts that compose the process, this Bidding Process will prevail.

27.6 In case of queries and / or controversies arise during the process, in particular regarding interpretation of this instrument and its annexes, the Portuguese language shall prevail.

27.7 Participation in this Bidding Process means total, unrestricted, and irrevocable submission by the BIDDER to the condition in this Bidding Process.

27.8 Decisions from the Permanent Tender Commission will be available at BACE website and notified directly, via e-mail or letter, to the bidder's legal representatives, especially regarding to:

27.8.1 Clarification request;

27.8.2 Qualification or disqualification of Bidders;

27.8.3 Proposals judgment;

27.8.4 Appeals results, if any; and



27.8.5 Result of this Bidding Process.

27.9 The following attachments are part of this Bidding Process:

27.9.1 ANNEX I – Basic Project 01/SM/2020;

27.9.2 ANNEX II – Price Proposal Template;

27.9.3 ANNEX III – Draft of Contract Term;

27.9.4 ANNEX IV – Draft of Legal Representative Letter;

27.9.5 ANNEX V – Draft of Bidder’s Declaration, according to item 6.2, letter “a”.

London, 09 august 2021.

By:



LETÍCIA MOTA DE SOUZA Lt. Col.


Head of Procurement and Contracts Department

APPROVAL:



JORGE MAURICIO MOTTA Col
Head of CABE

**ANNEX I
BASIC PROJECT**



A

**ANNEX II
PRICE PROPOSAL TEMPLATE**

ANNEX 4 – BASIC PROJECT



**ANNEX III
DRAFT OF CONTRACT TERM**

Handwritten signature and initials in blue ink, located at the bottom right of the page.

**ANNEX V
DRAFT OF BIDDER'S DECLARATION**

TO BE PRINTED ON LETTERHEAD PAPER

[Local], [date: day/month/year]

**TO
BRAZILIAN AERONAUTICAL COMMISSION IN EUROPE
FAO: PERMANENT TENDER COMMISSION**

RE: Bidding Process N° 015/BACE/2021 (6.2, "a")

BIDDER INFORMATION

Company's legal name:

Company's legal owner/managing director:

Company's address:

VAT/Tax Identification number is:

DECLARATION


I, [_____], identified by ID/Passport Number [delete as appropriated] Number [xxxxxxxxxxxxx], and legal owner/managing director of (Company's legal name) herewith declare, that we are not facing bankruptcy, insolvency, suspended or barred from taking part of any bidding process or from any other commercial transaction, Federal, State or Agency.

I fully accept and understand the conditions and requirements therein, as well as applicable legislation on the matter and confirm full knowledge of the content of this Bidding Process and its annexes.

Please find enclosed copy of my valid ID/Passport within this letter.

Name
Managing Director
Company's name



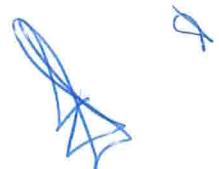
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DRAFT OF CONTRACT
N° /BACE/
(PAG N° 67103.2000017/2020-30)



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MINISTRY OF DEFENCE
AIR FORCE COMMAND
AEROSPACE OPERATIONS COMMAND

CONTRACT N^o /BACE/
BIDDING TYPE: BIDDING PROCESS N^o 15/BACE/2021
BACER PROTOCOL: 67103.200017/2020-30

The Parties have convened at the Brazilian Aeronautical Commission in Europe (BACE) to enter into an agreement in accordance with the Clauses and Conventions stipulated in this CONTRACT.

I - CONTRACTING PARTY: Federative Republic of Brazil — Brazilian Government, Ministry of Defence, through the Aeronautical Command (COMAE), represented by Brazilia Aeronautical Commission in Europe, located at 16, GREAT JAMES STREET, WC1N 3DP – LONDON – UK, Reino Unido, CNPJ (National Identification Number) 00.394.429/0042-89 represented by the Head of BACE,, National Identification CPF No., appointed as such by DECREE, published in the Official Gazette

II - CONTRACTED PARTY:....., established at(full address)....., represented by Mr/Ms/Mrs....., (nationality), (marital status), (profession), identity card (passport) no....., resident at

III - CONVENTIONS:

For this contract the following conventions will be agreed upon in addition to those laid out in Basic Project No. N^o 01/SM/2020:



- a) **BACE** for the Brazilian Aeronautical Commission in Europe;
- b) **CELOG**, for Aeronautical Logistic Center;
- c) **COMAER**, for the Aeronautical Command;

- d) **CONTRACTED PARTY**, for
- e) **CONTRACTING PARTY**, for the BRAZILIAN GOVERNMENT through the AERONAUTICAL COMMAND (BACER), represented in this CONTRACT by the Aerospace Operations Command – BACE
- f) **COMREC**- Commission designated by BACE to inspect the performance of the services described in this Invitation Letter, as in the subsequent contract to be signed by both parties (BACE and the CONTRACTOR)
- g) **DOU** -Federal Official Gazette
- h) **DLC** – Division of Procurement and Contracts
- i) **SUPERVISION**, for the organs, agents, contracted companies or commissions designated by the CONTRACTING PARTY as their representatives to the CONTRACTED PARTY, in order to verify and supervise the fulfilment of this CONTRACT;
- j) **FORCE MAJEURE**, for the occurrence of a substantial fact, the effects of which are not avoidable or preventable, or for the supervenience of exceptional or unforeseeable facts not reasonably within the control of either party, altering the conditions of execution of the CONTRACT, meteorological factors, orbital correction or collision avoidance manoeuvres, as well as other factors with no causal link with the CONTRACTED PARTY's action or omission.
- k) **SILOMS** - Integrated Logistics System for Materials and Services (Integrated Logistics System for Materials and Services Management);
- l) **SM** – BACE Material Section

CLAUSE 1 - OBJECT, SUBCONTRACTING AND MAIN ELEMENTS

- 1.1. This contract is aimed a Hiring of a specialized company to perform the services of receiving, storage, protocol in SILOMS-BR - Transport Module, customs clearance and transportation of all goods acquired by COMAER in Europe, Africa, Asia and Oceania to Brazil, as well as the execution of these services regarding repairable materials sent from Brazil to companies contracted to carry out the respective repairs on the continents mentioned above, with their subsequent return to Brazil.:
- 1.2. The object of this CONTRACT is carried out with the strict observance to Basic Project N° 01/SM/2020.
- 1.3. Subcontracting is allowed according to item 10 of the Basic Project – Subcontracting

CLAUSE 2^a - TYPE OF CONTRACT

2.1. This CONTRACT is celebrated in the form of f global fixed price contracting.

CLAUSE 3^a - PRICES, PAYMENT AND RESETTLEMENT

3.1. The total amount contracted is USD XXXX (US DOLLARS).

3.2. The CONTRACTED PARTY will not charge the CONTRACTING PARTY any other amounts and / or measures, especially those that refer to the items below:

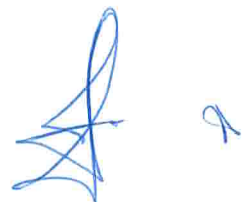
- a) Labour and social charges;
- b) Foreign taxes, duties or fees levied on the object of this instrument until the DAP delivery;
- c) Packaging of any kind;
- d) Materials, tools and support equipment required by the CONTRACTED PARTY to install and / or integrate the EQUIPMENT, SYSTEM and subsystems;
- e) Transportation, food, lodging or other expenses, of any nature, with the CONTRACTED PARTY's personnel designated to carry out any activities related to the object of this CONTRACT;
- f) Transportation, insurance, loading and unloading of all supplies object of this instrument, as well as materials, tools and any other assets of the CONTRACTED PARTY, necessary for the execution of the services under their responsibility;
- g) Payment for services rendered by the CONTRACTED PARTY's employees or CONTRACTED PARTYS;

3.3. Payments for the rendering of services will be effected in accordance with the events contained in the Basic Project 01/SM/2020.

3.4. Payments will be made by the CONTRACTING PARTY, directly and exclusively to the CONTRACTED PARTY, under the conditions set forth in this Clause according to the Financial Schedule, observing the following procedures:

- a) The CONTRACTED PARTY shall issue the invoice relating to the event held to BACE; and
- b) Upon receipt of the documentation and invoice by the CONTRACTING PARTY, payment shall be effected within thirty (30) calendar days.

3.5. The negotiation of an invoice arising from the rendering of the object of this CONTRACT with banks or any other financial institutions, including factoring companies, is forbidden.



- 3.6. The invoices shall be paid provided that the CONTRACTED PARTY's previous obligations, as established in the Financial Schedule, are fulfilled in full, up to the date of the event that originated the billing.
- 3.7. Payments shall be made by the CONTRACTING PARTY, free of charge to the CONTRACTED PARTY, under the name of, in foreign banking address, in US Dollars.
- 3.8. In cases of possible delays in payment, provided that the CONTRACTED PARTY has not failed to deliver the object of this CONTRACT in any way, the amount due must be increased by default charges proportional to the days of delay, calculated from the due date for payment until the effective date of payment at the rate of 6% (six percent) per year, applying the following formula:

$$EM = I \times N \times VP$$

EM = Delay Charges to be added to the amount originally due

I = Financial update index, calculated according to the formula:

$$I = \frac{6 / 100}{365}$$


N = Number of days between the due date for payment and the date of actual payment

VP = Default amount

- 3.9. The value of the continuous service contract with a validity period of 12 (twelve) months or more may be renegotiated, by proving the variation demonstrated by means of a cost sheet presented by the CONTRACTED PARTY, and approved by the CONTRACTING PARTY.

CLAUSE 4^a - TIMESCALES

- 4.1. The duration of this CONTRACT shall be 12 (twelve) months, extendable for successive periods of 12 (twelve) months, up to the limit of 60 (sixty) months, from the date of signature by the legal representatives of the parties.
- 4.2. The CONTRACTED PARTY shall observe, in the course of the performance of the contractual object, the intermediate deadlines contained in the Basic Project 01/SM/2020 .
- 4.3. In the event of failure to comply with any obligation by the CONTRACTING PARTY which results in a delay in the fulfilment of the obligations of the CONTRACTED PARTY, the CONTRACTED PARTY shall be entitled to compensation on as many days as the ones related to the delay occurred, and the parties shall make every effort to overcome it.
- 4.4. The compensation provided for in sub-clause 4.3 will not be used by the CONTRACTED PARTY as justification for delays in unrelated obligations.
- 4.5. The compensation referred to in sub-clause 4.3 will only be granted to the CONTRACTED PARTY when it is proved that the CONTRACTING PARTY's non-fulfilment of their




obligation caused the delay in the fulfilment of the CONTRACTED PARTY's contractual obligations.

- 4.6. The unauthorized anticipation of any event by one of the parties shall not oblige the other party to fulfil its obligations before the dates provided in this CONTRACT.
- 4.7. Failure to comply with the deadlines set in the Basic Project 01/SM/2020 will only be accepted by the CONTRACTING PARTY when caused by force majeure or a fortuitous event, according to the provisions of Clause 20, or facts that may be attributed to the CONTRACTING PARTY's own actions.

CLAUSE 5^a - BUDGET ALLOCATION

- 5.1. The Expenditures arising from the bidding process will be supported by resources made available to BACE, according to the Purchase Order n° XXXXXXXXXXXXX
- 5.2. Payments will be made to the CONTRACTED PARTY, by BACE, in US dollars (USD)..

CLAUSE 6^a - CONTRACTED PARTY'S OBLIGATIONS

- 6.1 Without affecting the other obligations, rights and duties set forth in this CONTRACT, the CONTRACTED PARTY undertakes to comply with the terms and conditions of the Basic Project No. 01/SM/2020 :
 - a) Comply with the terms and conditions of Basic Project No 01 / SM / 2020 (Annex 01);
 - b) The CONTRACTED PARTY shall not be excluded or reduced in the performance of its obligations agreed with BACER;
 - c) The receipt of the object does not exclude civil liability of the CONTRACTED PARTY for the solidity, security and guarantee of the good / service delivered to the CONTRACTING PARTY;
 - d) To submit to the application, after analysis of the process, administrative sanctions provided for in this instrument, when defaulting or defaulting in the fulfilment of its obligations, being assured the right to the adversary and ample defence;
 - e) Formally respond to all communications regarding the execution of this instrument to the CONTRACTING PARTY;
 - f) Respond formally to all notifications of any non-compliance with contractual conditions, as well as occurrences or circumstances noted during the inspection, which may difficulties in the execution of the contracted object;



- g) Repair, at its own expense, in whole or in part, goods or services in which there are defects, defects or errors;
- h) Be responsible for labour, social security, social security, social security and other charges of any nature related to the labour used in their respective supplies, as well as the liability arising from civil liability attributable to the culpable or malicious acts of the CONTRACTED PARTY and SUB-CONTRACTED PARTYS in fulfillment of this AGREEMENT;
- i) Be liable for costs arising from legal actions proposed by third parties against the CONTRACTING PARTY, due to their contractual obligations;

CLAUSE 7^a - CONTRACTING PARTY OBLIGATIONS

- 7.1 Without prejudice to the other obligations under this CONTRACT, the CONTRACTING PARTY, observing the terms and conditions of the Basic Project No. 1/SM/2020 undertakes to:
- 7.2 Effect payments to the CONTRACTED PARTY in accordance with the provisions of Clause 3:
- 7.3 Publish in the Official Gazette the extract from this CONTRACT.

CLAUSE 8^a - SUPERVISION'S OBLIGATIONS

- 8.1 This CONTRACT will be fully performed by the parties and will be supervised by an Agent, Commission or Body formally designated by the CONTRACTING PARTY, published in Internal Bulletin, whose composition shall be disclosed to the CONTRACTED PARTY.
- 8.2 The CONTRACTING PARTY SUPERVISER's obligations are to:
 - a) Verify, in a systematic manner, compliance with the provisions of this CONTRACT;
 - b) Supervise, technical analysis, control and monitoring services and other supplies provided in this CONTRACT, subject to the provisions, terms and conditions of the Basic Project No. 01/SM/2020;
 - c) Accept, receive or reject services and / or equipment; and
 - d) Represent the CONTRACTING PARTY in the receipt of services and equipment;
 - e) Formally communicate to the Head of BACE, on a monthly basis, the occurrences related to this CONTRACT, at the time of reporting.

CLAUSE 9 – REMEDIES



9.1 In the event of any contractual and / or legal non-compliance, especially of default of the obligations, the CONTRACTED PARTY will be subject to the sanctions set forth below, with the following criteria to be observed:

9.1.1 LIQUIDATED DAMAGES

a) **Default payment**, to be applied in case of delay in the execution of any stage established in the Financial Schedules, in accordance with the following formula:

$$M = \frac{C}{T} \times F \times N$$

Where:

- M = value of the fine;
- C = value corresponding to the phase or stage;
- T = timescale in working days for the execution of the phase or stage;
- F = progressive factor, according to the table below; and
- N = period of delay, in calendar days.

DELAY PERIOD (CALENDAR DAYS)	PROGRESSIVE FACTOR
up to 10 (ten) days	0,010
from 11 (eleven) to 20 (twenty) days	0,012
from 21 (twenty-one) to thirty (30) days	0,015
from 31 (thirty one) to 40 (forty) days	0,018
over 40 (forty) days	0,040

b) **Payment**, equivalent to 0.5% of the value of the CONTRACT, for failure to comply with any other legal or contractual obligation;

c) **Payment**, equivalent to 10% of the value of the CONTRACT when the CONTRACTED PARTY terminates or gives rise to the termination of the CONTRACT without due cause;

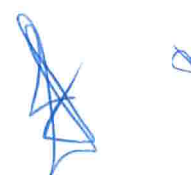
9.1.2 ADMINISTRATIVE SANCTIONS

- a) **Written warning**, for the breach of any agreed item, provided it does not affect the terms and sums set forth in this CONTRACT;
- b) **Temporary Suspension** from participating in biddings and impediment to contract with the Government for up to 02 (two) years; and
- c) **Declaration** of the CONTRACTED PARTY's lack of good standing to contract with the Public Administration for as long as the reasons for the penalty remain valid or until rehabilitation occurs before the authority that applied the penalty, which will be granted whenever the CONTRACTED



PARTY reimburses the Administration for the resulting damages and once the term of the sanction expires, as per previous point

- 9.2 Fines, when applicable, will be cumulative.
- 9.3 The points "a", "b" and "c" of sub-clause 9.1,2 shall be applied according to the seriousness of the offense committed.
- 9.4 The total amount of the fines is limited to 10% of the total contracted amount, resulting in the termination of the contract.
- 9.5 The fault incurred by the CONTRACTED PARTY may be made public worldwide by COMAER;
- 9.6 Non-compliance of the CONTRACT, whether partial or full, will be taken into account in the CONTRACTED PARTY's future participation in Brazilian Government bids;
- 9.7 The application of sanctions, whether warning, temporary suspension or fine, may be appealed, with such appeals to be reviewed by the CONTRACTING PARTY, within 05 (five) working days from the penalty notice or the drawing-up of the minutes of the quarterly meetings as set forth in Annex 03 of the Basic Project No. 01/SM/2020.
- 9.8 After regular administrative proceedings, where the right to full defence and the adversarial principle will be guaranteed, the parties agree that the calculated sum of the fines will be paid by the CONTRACTED PARTY as follows:
 - a) Directly by the CONTRACTED PARTY, by means of a Brazilian Government Contribution Form (Guia de Recolhimento da Uniao) to the National Treasury account, within 20 (twenty) working days from the date of receipt of the "Notice"; and
 - b) Deducted from the invoiced amounts still owed by the CONTRACTING PARTY.
- 9.9 In the event of non-compliance with the timescale established in point "a" of sub-clause 9.8, the CONTRACTING PARTY shall deduct the sum from the invoiced amounts to be paid.
- 9.10 The amount of the fines imposed on the CONTRACTED PARTY shall be paid to BACE within 20 (twenty) calendar days from the date of receipt of the Notice for Collection of Fines, issued by the CONTRACTING PARTY.
- 9.11 In the event of non-payment of the fine and impossibility to deduct it from invoiced amounts, payment will be pursued through the courts, which does not exclude the subsequent termination of the CONTRACT.
- 9.12 No payment shall be made to the CONTRACTED PARTY without proof of payment of the fines or that the Administration has accepted an appeal to waive it.



9.13 The incurrence of any compensation does not exempt the CONTRACTED PARTY from the fulfilment of its obligations, nor from taking the necessary measures to rectify or to compensate for any damages caused to the CONTRACTING PARTY.



CLAUSE 10 - TERMINATION

- 10.1 Grounds for termination of this CONTRACT are set out in this Clause 10.
- 10.2 In an event which constitutes grounds for termination, in accordance with the sub-clause 10.1, the CONTRACTING PARTY shall immediately suspend the payment of invoices not yet verified, whereas the CONTRACTED PARTY shall submit within thirty (30) calendar days from the date of receipt of the notification of termination, evidence of all expenses incurred in the performance of the object of the contract.
- 10.3 The CONTRACTING PARTY shall issue a detailed notification, wherein the termination will be communicated, as well as the reasons for such decision.
- 10.4 This CONTRACT may also be terminated by a unilateral act of the Administration, by amicable agreement or by judicial means.
- 10.5 The occurrence of a FORCE MAJEURE EVENT may constitute grounds for termination of this CONTRACT, provided that its consequences remain for 30 (thirty) consecutive days or more, preventing the continuity of the performance of the contractual object, subject to the provisions of sub-clause 10.2.
- 10.6 Termination may occur if the CONTRACTED PARTY has not rectified the performance of the CONTRACT within 15 (fifteen) working days from the receipt of the notification issued by the CONTRACTING PARTY.
- 10.7 For the total or partial non-performance of the object of the CONTRACT, the CONTRACTED PARTY acknowledges the right granted to the CONTRACTING PARTY to terminate the contractual object, without prejudice to the contractual and legal sanctions. The CONTRACTED PARTY hereby undertakes to comply with the legal regime as set out in this CONTRACT.

CLAUSE 11 – PRICE VARIATION

- 11.1 The CONTRACTED PARTY undertakes to accept, under the agreed conditions, increases or decreases of up to 25% (twenty-five percent) of the initial value of this contract, as necessary and at the discretion of the CONTRACTING PARTY, with the possibility of decreases beyond this limit by agreement between the parties.
- 11.2 The increments and decrements mentioned in clause 11.1 will be formalized by means of Additions to the original Contract, based on opinions or justifications.

CLAUSE 12 - RELATED DOCUMENTS



12.1 This CONTRACT is linked to the Bidding Process No 15/BACE/2021, which forms part of the administrative process No. 67103.200017/2020-30, and to the CONTRACTED PARTY's proposal.

CLAUSE 13 -PRINCIPLES, JURISDICTION AND ARBITRATION

13.1 This CONTRACT is celebrated in the form of global fixed-price contracting.

13.2 The basic principles apply to this contract: the principle of isonomy, the selection of the most advantageous proposal for the administration, being processed and evaluated in strict compliance with the basic principles of legality, impersonality, morality, equality, publicity, administrative probity, compliance with the invitation to tender and objective judgement.

13.3 Issues arising from the performance of this instrument which cannot be settled administratively, including litigation or non-contractual claims arising from or in connection with it or its subject matter, shall be governed by and construed in accordance with the English Law.

13.4 The CONTRACTED PARTY, the company, company registration number....., with offices at, represented by its....., Mr., nationality, marital status, profession, identity No , resident at, as its legal representative, according to the attached power of attorney, to receive summons and to respond administratively and judicially on its behalf.

13.5 Any change relating to the CONTRACTED PARTY's legal representative, as per sub-clause 13.4 shall be made by means of an annotation to the contract.

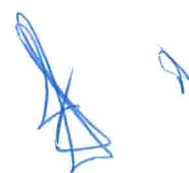
13.6 In exceptional cases, and in the event of circumstances that may affect the performance of obligations undertaken by the parties, in case of restrictions presented by the English Law, the disputes arising from the contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.

13.7 The decision of the International Chamber of Commerce is final, definitive and recognized by the parties.

13.8 There shall be no interruption to the performance of the obligations of the parties for the duration of the judicial process or arbitration, as applicable, except in the event of contractual termination.

CLAUSE 14 - FORCE MAJEURE

14.1 Characterized by the occurrence of a concrete fact whose effects are unavoidable, or by any exceptional or unforeseeable fact, fundamentally altering the ability to execute the CONTRACT.



14.2 Force majeure events that have an impact on planning may lead to the extension of the term, up to the limit of its duration. The CONTRACTED PARTY is obliged, in this case, to prove it legally as well as demonstrate what influences it had in the performance of the object of this CONTRACT.

14.3 In the event of force majeure the following procedure shall be adopted:

- a) Up to 30 (thirty) calendar days after the beginning of its occurrence, the affected party shall estimate its impact and inform the other party;
- b) Up to thirty (30) calendar days after the event ends, the affected party shall provide legal proof of occurrence and its consequences; and
- c) The party receiving the evidence shall state within 10 (ten) calendar days, from receipt of the communication, whether they will accept or reject the reasons given, providing their own reasons in writing.

14.4 Upon completion of the procedure referred to in sub-clause 14.3, the period recognized as an extension of the term for compliance with the contractual obligation referred to in sub-clause 14.2, shall be explained in a document signed by the parties.

14.5 While the force majeure event lasts, no penalty, adjustment, indemnification or any other charges may be claimed.

14.6 Failure to comply with the timescales set forth in Sub-Clause 14.3 shall result in the party alleging force majeure being subject to contractual clauses, whereas not contesting such allegation within the appropriate timescale shall be construed as acceptance of the alleged force majeure.

14.7 Once the effects of the force majeure event have ceased, the affected timescales will be reinstated, with the correct amendments, according to the delays verified.

14.8 Subject to the procedure set forth in point "b" of sub-clause 14.3, should the CONTRACTING PARTY not acknowledge the allegation of force majeure event, the contract term originally agreed upon shall remain in force.

CLAUSE 15 - REGULATION OF CONTRACTUAL CLAUSES AND AMMENDMENTS

15.1 In order to meet the priorities of the Project and to expedite the fulfilment of the obligations set forth in this CONTRACT, it is agreed that, by means of side letters signed by authorised personnel, the parties may, by mutual agreement, regulate any clause of this instrument or make adjustments, without changes to scope, prices and timescale.

15.2 Any modifications, additions or deletions of contractual clauses, duration or object of this instrument shall only be valid by means of an AMENDMENT, duly signed by authorised personnel.



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15.3 Once any side letters and amendments are formalised, they shall become an integral part of this CONTRACT.

CLAUSE 16 - EXTENSION

16.1 The term for the performance of the object of this CONTRACT may be extended in periods of 12 (months) until 60 (sixty) months.

16.2 The extension of the term, if any, will be formalised through an AMENDMENT.

CLAUSE 17 - PARTIES TO THIS AGREEMENT

17.1 In order to better specify the object of this CONTRACT, as well as to define procedures resulting from the obligations herein assumed, the following annexes are included as follows:

- a) Basic Project No. 01/SM/2020;
- b) CONTRACTED PARTY's Proposal; and
- c) CONTRACTED PARTY's Power of Attorney.

CLAUSE 18 - CONFIDENTIALITY

18.1 This CONTRACT is regarded as non-classified.

CLAUSE 19 - CURRENCY

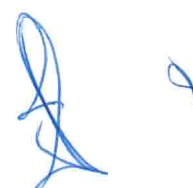
19.1 For all legal and contractual purposes, the currency used in payments to be made under this CONTRACT is US dollar (USD).

CLAUSE 20 – LANGUAGE

20.1 The official language to be used in meetings, correspondence and other documents shall be English, unless otherwise agreed in writing between the parties.

CLAUSE 21 – RESPONSIBILITY

21.1 The CONTRACTED PARTY acknowledges their position as being solely responsible for the full performance of the object of this CONTRACT and, as such, accepts full responsibility for damages which the CONTRACTED PARTY itself, its agents and employees may cause to the public patrimony or to third parties. The CONTRACTING PARTY's SUPERVISION and monitoring shall not excuse the CONTRACTED PARTY from such responsibility or be construed as reason for ignoring or reducing it.



- 21.2 The CONTRACTED PARTY takes total responsibility for the non-payment of salary to personnel allocated to carry out the services herein contracted, whether pursued legally or otherwise, as well as the respective employment, tax and social security charges, thus exempting the Brazilian Government from any charges arising from lawsuits relating to employment, tax and social security, filed by their employees, agents and third parties affected by an action or omission, voluntary or otherwise, on the part of the CONTRACTED PARTY.
- 21.3 The parties, individually, shall be responsible for any costs and indemnities arising from unlawful acts of a civil or criminal nature that involve their teams at work and in contractual activities, when working or visiting the premises of the other party, except in cases in which these events have been caused by the visited party.
- 21.4 Any failure on the part of the CONTRACTING PARTY to require strict compliance with the CONTRACTED PARTY's obligations under the terms and conditions established in this CONTRACT, including its annexes and the documents originating from them, or to deal with procedures or acts of the CONTRACTED PARTY not covered by the provisions of this instrument and even if the CONTRACTING PARTY does not exercise their prerogative deriving from this instrument, the CONTRACTED PARTY acknowledges that such concessions do not constitute and will not constitute, at any rate, renunciation or novation, and will not affect the right of the CONTRACTING PARTY to take remedial or the appropriate measures, at any time, whether based on their contractual prerogatives or on the law.

CLAUSE 22 - CORRESPONDENCE AND NOTIFICATIONS

- 22.1 All correspondence, reports or notifications based on the provisions of this CONTRACT shall be presented in writing, and shall be deemed received when delivered to the addresses indicated below or in others indicated by the parties during the performance of this agreement:

- **BRAZILIAN AERONAUTICAL COMMISSION IN EUROPE**

Address: 16 Great James Street - London - United Kingdom - WC1N 3DP

Tel: +44 20 7440 4320

Fax: +44 20 7831 8129

e-mail: chefelc@bace.org.uk

e-mail: protocolo.bace@fab.mil.br

- **NAME OF CONTRACTED PARTY**

Address: XXXX

Tel: XXXX

Fax: XXXX

e-mail: XXXX



22.2 The correspondence referred to in this Clause 22 may be made by e-mail or letter.

22.3 The parties shall notify any changes to the addresses mentioned in sub-clause 22.1 by writing and registered at BACE's reception desk. Non-compliance with this clause may result in sanctions.

CLAUSE 23 - FINAL PROVISIONS

23.1 For all purposes of this CONTRACT, the CONTRACTED PARTY agrees and acknowledges that the persons entrusted with the performance of their contractual obligations, individuals or legal entities, have no representation or authorisation from the CONTRACTING PARTY on behalf of the CONTRACTED PARTY to position, speak or act, as well as have any employment relationship with the CONTRACTING PARTY.

23.2 This DRAFT OF THE CONTRACT was analysed according to Legal Advice N° 0192/2021/COJAER/CGU/AGU, 16th June 2021 made by COJAER (Legal Consultancy of the Air Force Command)

23.3 The administrative sanctions provided for in the Brazilian Procurement and Contracts Law were inserted, with the relevant adjustments, in clause 9 ° - REMEDIES

As agreed, the parties declare to accept all the provisions set forth in the Clauses of this CONTRACT which, after being read, understood and accepted, is hereby signed by the each party's representative and witnesses.

London, (day) (Month) 2021.

CONTRACTING PARTY:

CONTRACTED PARTY:

WITNESSES:

