

**PUBLIC SUPPLIES MARKET**

**Pursuant to the Ordinance No 2015-899 of July 23, 2015 on public markets and its** **regulatory Decree No 2016-360 of March 25, 2016 on public markets.**

**SPECIFIC CLAUSES**

Consultation N° 2017-081834

**Purchase of two Biobanks and software**

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**SPECIFIC TECHNICAL CLAUSES**

**ARTICLE 1 – SUBJECT OF THE CONTRACT – GENERAL PROVISIONS**

**1.1 Subject of the contract**

The present contract has for object the acquisition by the IHU Mediterranean Infection of two Biobanks and their software, intended to develop a platform for the long-term preservation of clinical samples, strains of microorganisms and products derived from research and the use of the latest freezing, sorting, traceability techniques + software allowing for the communication between the robotic Biobanks and Sero'Box Serology Management software.

The stipulations of the present specific technical clauses list (CCTP) concern 2 lots.

The consultation shall be conducted under the formalized procedure with competitive dialogue, in accordance with the legal provisions of Articles 75 and 76 of Decree No 2016-360 of March 25, 2016, and of Article 42 of the Ordinance 2015-899 of July 23, 2015, relating to public markets.

**1.2 Allotment**

The present procedure consists of two lots:

Lot No1: **Purchase and installation of two robotic Biobanks, one at -80°C and the other at -20°C**

Lot No2: **Purchase and installation of software allowing for the communication between the robotic Biobanks and Sero'Box Serology Management software**

**1.3 Subcontracting**

If the contract holder intends, in the course of the contract, to entrust the performance of certain services to one or more subcontractors, the latter must obtain from the buyer the acceptance of each subcontractor and the approval of their conditions of payment.

To this end, the company submits all the necessary elements, as referred to in Article 134 of Decree No 2016-360 of March 25, 2016, in support of its request for subcontracting.

Thus, the contract holder may subcontract the performance of certain parts of his contract. However, subcontracting of the entire market is prohibited.

**1.4 Duration of the contract**

Contracts shall take effect upon notification.

**1.5 Variant**

Not applicable

**1.6 Option(s)**

Not applicable

**ARTICLE 2 – DESCRIPTION OF THE SERVICE**

**2.1 Services proposed**

**2.1.1 Regulations**

All measures will be taken by the contract holder to comply with the regulations and applicable standards in the performance of the services. The delivered materials must comply with the regulations and applicable standards concerning the protection of the users and subjects examined.

**2.1.2 Nature and description of the services**

**Lot N°1: Purchase and installation of two robotic Biobanks, one at -80°C and the other at -20°C**

* 1 biobank at -20°C with a capacity > 2,2 millions samples,
* 1 biobank at -80°C with a capacity > 900 000 samples,
* Storage and sorting of specimens distributed in anonymized tubes
* Biobanks equipped with 2D barcodes and managed by dedicated software,
* Sorting by robots able to identify the precise position of each tube and which will also be able to fetch tubes according to the different criteria entered beforehand (patient name, type of sampling, date of sampling, Synergie number of the sample ...).

**Description of the Biobank -80°C :**

Automated, ultra low temperature (ULT), freezer

Temperature = -80°C

Capacity > 900 000 tubes (1.4 mL)

Water based heat exchanger

Robotized storage and handling, rack based

Random rack access

Random tube access with tube picker

Compatible with: Matrix (1.4ml); FluidX (1.4 mL); Micronic (1.4ml)

Single rack transport handler

High speed handling, un-interrupted climate

LED digital temperature display, remote climate monitoring and control

Specifications at ambient temperature of 22°C, ~40% RH,

Power 220V – 380 V

Battery backup of controller in case of short power failures

Key lockable to protect from unauthorized access

Robotic Gate

Motorized gate for transferring racks

Remote controlled, minimum climate exchange

Position control

1-D bar-code reader

Sensor for rack detection and identification

2-D bar-code reader

Sensor for tube detection and identification

Compatible with 2-D Tube 1.8 mL

Cork without live external in polypropylene with joint in thermoplastic elastomer

Total height of the tube: 49.79 mm

Integrated system weighing the tubes.

CCD camera mounted on rack transport handler

Connected to interface unit

Service Compartment Air Dryer

Air dryer for dry atmosphere in service compartment

Remote climate monitoring and control, automatic defrost feature

Additional refrigeration unit for full redundant operation

Maintenance for 5 years included in the package

### **Peripheral Interface Unit**

PC-based server, local interface for system configuration, diagnosis and maintenance

Interface Unit to ULT

Access: Manual, automated, remote Climate control

Software for climate monitoring and plate and tube manipulation

Storage content data management

Remote access, multi-user network capability

Password protected access

Graphical interface for tube and plate ordering

Database interface for tube and plate data

**Description of the Biobank -20°C :**

Automated deep freezer (DF)

Temperature = -20°C

Capacity > 2 200 000 tubes (0.5 mL)

Water based heat exchanger

Robotized storage and handling, rack based

Random rack access

Random tube access with tube picker (Compatible with: Abgene (Twist-Lock 0.5ml); Matrix (0.5ml, 0.5ml ScrewTop); FluidX (0.5 ml); Micronic (0.5ml)

Single rack transport handler

High speed handling, uninterrupted climate

LED digital temperature display, remote climate monitoring and control

Specifications at ambient temperature of 22°C, ~40% RH,

Power 220V – 380 V

Battery backup of controller in case of short power failures

Key lockable to protect from unauthorized access

Robotic Gate

Motorized gate for transferring racks

Remote controlled, minimum climate exchange

Position control

1-D bar-code reader

Sensor for rack detection and identification

2-D bar-code reader

Sensor for tube detection and identification

Compatible with Thermoscientific Matrix 2-D Tube with DuraSeal installed 0.5 mL

Integrated system weighing the tubes.

CCD camera mounted on rack transport handler

Connected to interface unit

Service Compartment Air Dryer

Air dryer for dry atmosphere in service compartment

Remote climate monitoring and control, automatic defrost feature

Additional refrigeration unit for full redundant operation

Maintenance for 5 years included in the package

### **Peripheral Interface Unit**

PC-based server, local interface for system configuration, diagnosis and maintenance

Interface Unit to ULT

Access: Manual, automated, remote Climate control

Software for climate monitoring and plate and tube manipulation

Storage content data management

Remote access, multi-user network capability

Password protected access

Graphical interface for tube and plate ordering

Database interface for tube and plate data

**Installation and training:**

The installation is included in the package

Training of IHU personnel is performed onsite

**Delivery:**

Maximum: 6 – 8 months from order date

**Payment:**

Payment terms:

* + 30% after receipt of order form
  + 50% after delivery
  + 20% after training period

**Warranty:**

Warranty: 5 years

The machine must be equipped with all the elements and safety devices necessary for individual protection.

The service includes:

− The supply, delivery and installation of the apparatus and the storage and sorting program in connection with the machine,

− The tests and adjustments necessary for its starting up,

− Training of users for the utilization of the device in English + support in English

The equipment delivered must have all the elements necessary for its operation. A free guarantee (parts, labor and travel) of 5 years from the final receipt of the material pronounced by the scientific and technical managers using the equipment will have to be provided by the supplier as well as a free remote assistance (Phone, email, mail).

**Lot N°2: Purchase and installation of software allowing for the communication between the robotic Biobanks and Sero'Box Serology Management software**

* Software allowing the interface between the two Biobanks and the SERO’BOX software.

**Description of the software**:

The requested software must allow an interface with the SERO'BOX software (IHU software), the interfaces most used with the SERO'BOX software are the following:

1/ Connection HL7 (Protocol for the exchange of medical data used by some SIL / SGL)

2/ Direct connection on the database of the targeted software by ODBC links (connection example: Middleware)

3/ Connection via a Webservice (connection example: webservice/middleware ROCHE)

**Installation and training:**

The installation is included in the package

Training of IHU personnel is performed onsite

**Delivery:**

Maximum: 6 months from order date

**Payment:**

Payment terms:

* + 100% after delivery

The service includes:

− The software’s supply, delivery and installation,

− The tests and adjustments necessary for its starting up,

− Training of users for the utilization of the software in English + support in English

The equipment delivered must have all the elements necessary for its operation. A free guarantee (parts, labor and travel) of 24 months from the final receipt of the material pronounced by the scientific and technical managers using the equipment will have to be provided by the supplier as well as a free remote assistance (Phone, email, mail).

**Supplier’s service features:**

The supplier must be able to provide customer service in France.

**ARTICLE 3 – TECHNICAL DOCUMENTATION**

Full and detailed documentation (blueprints and notices) must be provided in English.

**ARTICLE 4 – INSTALLATION AND TRAINING REQUIRED**

Installation of the equipment and software as well as onsite training of users should be expected. The candidate will indicate in days or hours the duration of the proposed training.

The candidate will specify the environment required for a good installation and a good functioning of the device (bulkiness, fluids and electricity supply...).

**ARTICLE 5 – COST OF OPERATING**

The candidate will have to provide an annual maintenance contract, specify its cost, and the actions to be carried out.

**ANNEXES**

**ANNEXE 1 – BLUEPRINTS**

**SPECIFIC ADMINISTRATIVE CLAUSES**

**ARTICLE 1 – PROCUREMENT PROCEDURE**

This is a contract concluded under the formalized procedure for competitive dialogue subject to the provisions of Articles 75 and 76 of Decree No 2016-360 of March 25, 2016, and Article 42 of the Ordinance No 2015-899 of July 23, 2015, on public markets.

**ARTICLE 2 –CONTRACTUAL PARTS**

The contractual documents governing the contract are, in descending order of priority:

- The act of engagement and any annexes, their original copy, kept in the archives of the project owner, which alone is authentic,

- These Particular Administrative and Technical Clauses and any annexes, the original copy of which is kept in the archives of the administration,

- The technical and financial proposal of the provider for each lot;

- The General Administrative Clauses applicable to public supply contracts and services.

**ARTICLE 3 – CONDITIONS OF THE OFFERS**

The period of validity of tenders shall be of 150 days from the closing date for the submission of tenders.

**ARTICLE 4 - CONDITIONS OF IMPLEMENTATION**

**4.1 - Deadlines**

The contract is enforceable from the date of notification.

Installation and testing will be carried out onsite. Admission will be pronounced after verification of the performances announced. The duration of the regular service check is of two months from the proficiency check.

**4.2 – Place of delivery**

The materials must be delivered to the following address:

**IHU Méditerranée Infection**

Biobanque, Rez-de-chaussée Bas

19-21 Boulevard Jean Moulin

13005 MARSEILLE – France

**ARTICLE 5 – RECOGNITION OF PERFORMANCE OF THE CONTRACT**

The clauses of the chapter IV of the C.C.A.G. apply.

**ARTICLE 6 - WARRANTY**

The equipment is the subject of a technical guarantee of at least 24 months from the definitive admission of the equipment which will be recorded by a certificate of receipt at the end of the training period and signed by Mr. Pierre-Edouard FOURNIER of the IHU Mediterranean Infection.

The offer must also include an extension of the warranty for all parts, labor and travel without limitation in number and duration concerning the whole equipment and for a minimum of one additional year beyond the legal warranty.

There will be at least one annual preventive maintenance visit for the entire duration of the warranty.

The supplier must maintain all components.

He shall mention the intervention times and the pricing of maintenance contracts.

The supplier will give the specifications for the installation of the new equipment (electrical standards, air conditioning ...).

In addition, quantitative checks will be carried out on the spot from the day of delivery. The decision of quantitative compliance will be notified to the contract holder within one month from delivery.

Qualitative checks shall be carried out over a period of two months from the date of delivery.

**ARTICLE 7 – APPLICABLE STANDARDS**

The contract holder guarantees that the delivered equipment complies with French regulations and standards and / or European standards.

**ARTICLE 8 - ADVANCE**

Not applicable.

**ARTICLE 9 - PRICE**

**9.1 – Price contents**

The prices are deemed to include all fiscal, parafiscal or other charges imposed on the service, all costs relating to packaging, handling, insurance, storage, transport to the place of delivery as well as any customs fees. Installation, testing, commissioning, user training and warranty are included.

**9.2. – Price type**

The pre-tax price is deemed to include all charges especially those related to shipping, delivery, customs duties and applications, installation, testing and commissioning of equipment and warranty.

VAT applies to this price as the case may be in accordance with applicable regulations.

The prices are fixed for all the lots.

The market is treated at a firm price.

The euro is the currency of the market. The price will remain unchanged in the event of a fluctuation in currency value.

**ARTICLE 10 – TERMS OF PAYMENT**

The remuneration of the contract holder is indicated in the act of commitment.

The method of payment of the contract is the administrative transfer, the first payment of which will take place no later than 30 days from the receipt of the order form by the service provider.

The overall payment period applies in accordance with the terms and conditions detailed in **Article 6 of Decree 2007-590 of April 25, 2007, as amended.**

The starting point for the overall payment period is the date of confirmation of receipt of the purchase order by the service provider.

The invoice, sent in paper or electronic form, will be in the name of the IHU Méditerranée Infection and addressed to the following department:

**IHU Méditerranée Infection**

Service facturation

Micheline Pitaccolo

19-21 Boulevard Jean Moulin

13005 MARSEILLE – France

In addition to the legal notices, the invoice **MUST** include the following information:

* The date
* The name and address of the contract holder
* The Basic Bank Account Number, as specified in the act of commitment
* The nature of the services invoiced
* The order number relating to the contract
* The total amount excluding VAT of the invoice in €,
* The rate and amount of VAT in €,
* The amount of the invoice incl. VAT in €,

**If an invoice does not contain these particulars and indications, it may be rejected.**

The authorizing officer entitled to authorize the sums owed to the contract holder shall be the Director of the IHU Méditerranée Infection.

For lot No1, the payment will be made by administrative transfer to the account of the contract holder, after service rendered (please provide your Basic Bank Account Number). The payment breaks down as follows:

* 1st payment of 30% at the latest 30 days from receipt of the order form by the service provider,
* 2nd payment of 50% at the latest 30 days after the delivery and installation of the equipment,
* 3rd payment of 20% at the latest 30 days after the period of training of the personnel of the IHU.

For lot No2, the payment will be made by administrative transfer to the account of the contract holder, after service rendered (please provide your Basic Bank Account Number). Payment will be made as follows:

- Payment of the total amount no later than 30 days after the delivery and installation of the software.

If the payment period is exceeded, default interest shall be due as of right. The applicable rate is the marginal rate of the BCE at the date on which default interest began to accrue, increased by 8 points.

**ARTICLE 11 – GENERAL OBLIGATION OF THE CONTRACT HOLDER**

For all services covered by the contract, the contract holder of the lot concerned shall be bound to respect **the deadlines, costs and quality** laid down in the contractual documents governing the contract. To this end, the IHU retains the right to refuse a benefit proven to be inconsistent with its requirements in the performance of the expected performances.

For all of its obligations, the contract holder may in no way put forward any failure of any subcontractors. The contract holder shall be solely responsible for the proper performance of the contract. The personnel and subcontractors assigned by the contract holder to perform the services covered by this contract shall in all circumstances be placed under the exclusive authority, direction and supervision of the contract holder.

The contract holder may be held responsible for the improper performance or non-fulfillment of the obligations incurred by him, owing to his fault or negligence, unless such misconduct or failure to act is the result of force majeure such as defined below, or if it results from the buyer.

Expressly are considered cases of force majeure or fortuitous cases, those usually retained by the jurisprudence of French courts and tribunals. In the event of difficulties or poor performance of the services covered by this contract, the contract holder shall promptly notify the relevant department of the IHU by means of a reasoned letter explaining the nature of these difficulties or reasons which did not enable him to ensure the proper performance of the contract. He sets out the conditions and means that he intends to implement to fulfill his commitments.

In the event of violations of the abovementioned obligations, the contract may be terminated at the expense of the contract holder.

In addition, the contract holder must comply with the duty of advising and warning. In this capacity, he is specifically committed to:

- Respond to any request for information from the IHU and communicate to the latter any advice and information it deems necessary concerning the services relating to this contract;

- Take all necessary care and diligence in performing the services covered by this contract;

- Ask the IHU for any information it deems necessary for the proper performance of the services;

The contract holder and his staff (including subcontractors) who have access to the IHU’s premises shall be authorized and subject to the same disciplinary rules as IHU staff during their stay. Failure by the contract holder or his staff to comply with the provided security measures may result in the contract being terminated under the conditions set out in this document.

**ARTICLE 12 – COMPLEMENTARY MARKETS**

Pursuant to Article 30-I-7 of Decree No. 2016-360 of March 25, 2016, the IHU Méditerranée Infection reserves the right to negotiate with the contract holder of this contract at a later date, without prior publicity and without calling for competition, service contracts aimed at the provision of services similar to those which are the subject of this contract awarded after competitive tendering.

The period during which these new contracts may be concluded may not exceed three years from the date of notification of this contract, known as the original contract.

**ARTICLE 13 – DEADLINES - PENALTIEQ**

**13.1 Audit and validation of benefits**

**The contract holder** shall perform the services concerned **within the time limits** set by the contract documents.

**The purpose of verifying services** is to validate the quantity and quality of the services performed and / or the deliverables provided. These verification operations will be carried out by the technical adviser of the IHU empowered instead of the Representative of the IHU by way of derogation from article 23.1 of the CCAG / FCS 2009.

Admission, postponement, reduction and rejection are made in accordance with chapter V and in particular Article 25 of the CCAG-FCS.

**In the event of non-validation of the services**, the IHU transmits to the contract holder the reasons which do not allow it to validate them. The contract holder shall prepare, within a period of time agreed upon with the buyer, the solutions likely to lead to the satisfactory performance of the services requested.

**In case of validation of the services**, the delivery note is validated by the buyer.

**13.2 Order execution time**

The time limit for performance of the services is the one the candidate committed to in his offer.

**13.3 Penalties**

Penalties for delay are those provided for in Article 14 of the CCAG. They shall begin to apply once the time allowed for the putting into operation has been exceeded.

The contract holder shall not be held liable if delays arise as a result of force majeure or fortuitous events, as defined in article 1218 of the Civil Code, and as a result of events for which the IHU is responsible.

In the event of difficulties in the performance of the services, the contract holder shall inform the IHU service concerned as soon as possible by means of a reasoned letter stating the nature of the difficulties.

**13.4 Execution of benefits by a third party at the expense and risks of the defaulting holder**

Article 36 of the CCAG FCS de 2009 – Chapter 6 states:

“*36.1. The contracting authority may have a third party carry out the performance of the services provided for by the contract, at the expense and risk of the contract holder, either in the event of non-performance by the latter of a service which, by its nature, can not suffer any delay, or in case of termination of the contract pronounced to the wrongs of the holder.*

*36.2. If it is not possible for the contracting authority to obtain, under acceptable conditions, services exactly conforming to those provided for in the special contract documents, it may substitute equivalent services.*

*36.3. The holder of the terminated contract shall not be entitled to participate, directly or indirectly, in the performance of the services performed at his own expense and risk. However, he must provide all information gathered and means used in the execution of the initial contract and which would appear necessary for the performance of that contract by the third party designated by the contracting authority.*

*36.4. The increase in expenses, in relation to market prices, resulting from the performance of the services at the expense and risk of the holder, shall be borne by the contract holder. The decrease in expenses does not benefit him.”*

**ARTICLE 14 - CANCELLATION**

This contract is terminable under the conditions provided for in Chapter VI of the CCAG.

The termination shall take effect on the date fixed in the decision or, failing that, on the date of its notification.

**Termination for misconduct:**

In addition to the cases provided for in Article 32 of the CCAG-FCS, the contract may also be terminated by the purchaser for fault of the contract holder in the event of non-performance, improper performance, non-compliance or violations of one or more than one of the contractual requirements.

The IHU notifies the contract holder of the deficiencies by **registered letter with acknowledgment of receipt**. This mail has the value of formal notice. The contract holder shall have **15 days to submit his observations** and, where appropriate, the conditions and means he intends to implement in order to comply with his commitments.

After this period, or if the IHU finds that despite its warning the contract holder still fails to comply with his contractual obligations, the contract may then be terminated without further notice and without notice to the contract holder.

The holder shall not be entitled to any compensation in the event of termination for fault.

**ARTICLE 15 – INSURANCES**

In accordance with Article 9 of the CCAG, the contract holder has the appropriate insurance to ensure that he is responsible to the buyer and third parties.

**ARTICLE 16 – SOCIAL SUPPORTING DOCUMENTS**

Pursuant to Article 51.3 of Decree No 2016-360 of March 25, 2016, the contract holder (of each lot) shall produce, every six months until completion of the contract, the documents provided for in Article D 8222-7 of the Labor Code.

## These documents are the following:

1 ° (a) A document mentioning the individual identification number of the company allocated pursuant to **Article 286 ter of the General Tax Code**. If the counterparty is not required to have such a number, a document indicating his identity and address or, where appropriate, the contact details of his one-time tax representative in France;

(B) A document attesting to the lawfulness of the contracting party's social situation under Regulation (EC) No 883/2004 of April 29, 2004, or of an international social security agreement and, where the legislation of the country of domicile provides a document issued by the body managing the compulsory social security system and stating that the contracting party is up to date with his social declarations and the payment of the corresponding contributions or an equivalent document or, failing that, a certificate of supply of the social and payment declarations and social security contributions provided for in Article L. 243-15 of the Social Security Code. In the latter case, the authenticity of this certificate must be verified with the body responsible for the collection of contributions and social contributions;

(2) When the registration of the contracting partner in a professional register is compulsory in the country of establishment or domiciliation, one of the following documents:

(A) A document issued by the authorities holding the trade register or an equivalent document certifying such registration;

(B) An estimate, advertising document or professional correspondence, provided that the name or legal name, the full address and the nature of the entry in the professional register are given;

(C) For undertakings which are in the process of being set up, a document dating from less than six months from the authority empowered to receive entry in the trade register and attesting to the application for registration in that register.

**ARTICLE 17 – LITIGATION**

In case of dispute, the French law is the only one applicable. The competent court is the

Tribunal Administratif of Marseille.

Read and approved

In , on In Marseille, on

The candidate, The buyer,

(seal and signature)



**SWORN STATEMENT**

I, the undersigned:

(Last Name, First Name)

Legal representative of the company:

Domiciled at :

Certifies on his honor:

- Having met its tax and social obligations,

- Not being the subject of a prohibition to compete,

- Not having been convicted in the last five years of a conviction recorded in bulletin No2 of the criminal record for the offenses referred to in Articles L.324-9, L.324-10, L.341- 6, L.125-1 and L.125-3 of the Labor Code.

- Not being subject to the prohibitions to tender indicated in Article 43 of the Code des Marchés Publics.

Done in

On

Signature