Solthis - OPP-ERA Project

Invitation to Bid

ITB SOLTHIS_OPP-ERA 2017-01

For a Long Term Agreement

for the Supply of Automated Nucleic Acid Extraction Systems

in Burundi, Cameroon, Côte d'Ivoire and Guinea:

Nucleic Acid Extractors

After sales and maintenance services

Nucleic Acid Extraction kits

Solthis
+33 (0)1 81 70 17 98
6 rue Sadi Carnot
93 170 Bagnolet - France
E-mail: procurement.oppera@solthis.org

Index

INTRODUCTION 3
A. ITB and LTA timetable 3
B. Acronyms 3
C. Definitions 3
D. OPP-ERA Project - Phase2 4
E. Objective of the ITB: 5
SECTION I. INSTRUCTIONS TO BIDDERS 6
A. Introduction 6
B. The biddings documents 8
C. Preparation of offers 9
D. Submission of offers 12
E. Opening and evaluation of offers 14
F. Award of LTA 16
SECTION II. SCHEDULE OF REQUIREMENTS 17
SECTION III. EVALUATION AND QUALIFICATION CRITERIA 18
A. Evaluation of offers 18
B. Qualification criteria and required evidences 20
SECTION IV. TECHNICAL SPECIFICATIONS 22
A. Minimum technical requirements 22
B. Additional requirements 23
SECTION V. FORMS 25
A. Bid Form 26
B. PERF Form 28
C. FIN Form 29
D. Vendor Questionnaire 30
E. Price schedules 32
F. Technical Documentation Index 33
SECTION VI. Solthis General Terms and Conditions 35

INTRODUCTION

A. ITB and LTA timetable

Advertisement of ITB	**02 August 2017**
Deadline for clarification requests by bidders	**6 September 2017 by COB**
Deadline for Bids Submission	**20 September 2017** **at 16:30 pm Paris Time (UTC/GMT +2)**
Bid opening	**20 September 2017** **at 17:00 pm Paris Time (UTC/GMT +2)**
Bid evaluation	**21 to 27 September 2017**
OPP Technical validation	**02 October to 02 November 2017**
Award	**15 November 2017**
Acceptance and LTA start	**23 November 2017**

B. Acronyms

ITB: Invitation to Bid

LTA: Long Term Agreement

OPP: Open Polyvalent Platform

PO: Purchase Order

VLT: Viral Load Test

C. Definitions

The following terms shall be interpreted as indicated:

(a) The "**Agreement**" refers to the agreement between the Buyer and the Vendor, as recorded in the Long Term Agreement signed by the parties, including all attachments and appendices and all referenced documents.

(b) The "**Bidder**" refers to any firm willing to provide the Buyer with a bid, or to any firm that provided the Buyer with a bid in response to the ITB launched by the Buyer.

(c) The "**Buyer**" refers to Solthis.

(d) The "**Consortium**" refers to the Buyer and its partners (ANRS, Expertise France, Sidaction).

(e) The "**Day**" refers to calendar days.

(f) The "**Effective Date**" refers to the date on which this Agreement becomes effective.

(g) The "**End User**" refers to the organization(s) where the Equipment and Products will be used.

(h) The "**Equipment and Products**" refers to all Equipment and Products (including reagents, consumables, spare parts, after sales and maintenance services) that the Vendor is required to supply to the Buyer under the Purchase Orders placed against the Agreement.

(i) The "**GHTF**" refers to the Global Harmonization Task Force: a voluntary group of representatives from national medical device regulatory authorities (such as the U.S. Food and Drug Administration (FDA)) and the members of the medical device industry whose goal was the standardization of medical device regulation across the world. Its five founding members are the European Union, the United States, Canada, Japan and Australia.

(j) The "**Price**" refers to the price payable to the Vendor under a Purchase Order placed in reference to the Agreement for the full and proper performance of its contractual obligations.

(k) The "**Target Countries**" are the countries where the Equipment and Products are to be delivered into.

(l) The "**Services**" refers to related services linked to the supply of Equipment and Products, such as installation and commissioning of equipment, and all other services including training, and other Vendor's obligations.

(m) The "**Vendor**" refers to the firm supplying the Equipment and Products included in the Agreement.

(n) In "**Writing**" means any typewritten or printed communication including e-mail.

D. OPP-ERA Project - Phase2

Funded by UNITAID and implemented by a Consortium composed of Expertise France, the ANRS, Solthis and Sidaction, the OPP-ERA Project aims to improve the virological monitoring of people living with HIV/AIDS in developing countries by increasing access to HIV viral load testing through the use of Open Polyvalent Platforms (OPPs).

During its first Phase starting in 2013, seven laboratories have been equipped with "open polyvalent platforms" in three countries (Burundi, Cameroon, Côte d'Ivoire, Guinea). Since August 2014, when the laboratories started performing HIV viral loads, more than 30,000 tests have been performed thanks to the project. The project benefits from close collaboration with national authorities and is implemented in line with national HIV programs and strategies.

OPP-ERA Project Phase 2 builds on Phase 1 results and partnerships to increase access to VLT within existing sites through scaling up throughput of test in OPPs labs. It supports national health departments to scale up the Open Polyvalent Platform (OPP) VLT approach in new sites, including:

- an increased focus and investment in creating and increasing demand for services
- engaging with new vendors to ensure uninterrupted and sustainable supply to match demand
- an increased dissemination of project evidence

- increased engaging with global stakeholders to review project evidence and potential for scale-up the approach in order to achieve global targets.

For more information about Solthis visit www.solthis.org/en/ and the OPP-ERA Project http://opp-era.org/en/en/opp-era-project

E. Objective of the ITB:

The objective of the present ITB is to finalize Long Term Agreements (LTA) with vendors. An LTA is a framework of terms and conditions used for procuring goods or/and services for which there is a repetitive need, it is an arrangement entered into with a vendor to secure the supply of a product or/and a service over a period of time. An LTA is a non-binding arrangement which do not constitute a commitment to buy.

LTAs fix inter alia:

- product and services specifications, terms of reference,
- general provisions,
- the period of validity,
- the agreement documents,
- the prices and discount,
- delivery and freight conditions,
- purchase orders management.

Subsequent Purchase Orders (POs) will be issued under the LTAs.

SECTION I. INSTRUCTIONS TO BIDDERS

Section I. of the ITB Document provides Bidders with information required for bid preparation in compliance with the Buyer's conditions.

The Instructions to Bidders describe the main steps: the bid submission, the bid opening and evaluation, and the LTA award.

Issues related to Long Term Agreement signature, Purchase Orders, contract execution and payments, or related to risks, rights and obligations of all parties are provided in the terms and conditions (Section VI).

A. Introduction

1. Scope of Bid

ITB name and number: ITB SOLTHIS_OPP-ERA 2017-01

The Buyer requests bids in the aim of signing Long Term Agreements for the supply of the Equipment and Products, described in Section IV. Technical Specifications.

The present invitation to bid includes four (3) indivisible parts:

Part 1: Nucleic Acid Extractors

Part 2: After sales and maintenance services

Part 3: Nucleic Acid Extraction kits

The three (3) parts are to be delivered in Burundi, Cameroon, Côte d'Ivoire, Guinea.

2. Funding

Project Name: **OPP-ERA Phase 2**

Funding: **UNITAID**

The Buyer has received a grant from the donor UNITAID to fund the OPP-ERA Project, aiming to improve the monitoring of HIV patients, through a better access the HIV viral load testing and HIV diagnostic for infants. The present Invitation to Bid is launched by the Buyer in the framework of the grant.

3. Fraud and Corruption

It is the Buyer's policy to require that Bidders respect the highest ethical standards during the procurement activities and execution of contracts. In pursuance of this policy, the Buyer:

(a) defines the terms below as follows:

(i) "corrupt practice" refers to the offering, giving, receiving or soliciting, directly or indirectly, anything of value to improperly influence the actions of another party;

(ii) "fraudulent practice" refers to any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

(iii) "collusive practice" refers to an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

(iv) "coercive practice" refers to impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.

(b) will not award LTAs to bidder(s) if it determines that the bidder(s) recommended for award have directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the LTA in question;

(c) will refer the fraud and corruption case to the Bidder's national authority, and will sanction this firm or individual, including declaring ineligible, either indefinitely or for a specific period of time, to be awarded a contract, if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing a contract, it finances or manages.

4. Eligibility of firms

4.1 In accordance with Instructions to Bidders Clause 14 and as part of their bid, Bidders shall provide documents establishing the Bidders eligibility to bid.

4.2 A Bidder may be excluded from bidding if:

a) it has been engaged by the Buyer to provide consulting services for the preparation of specifications and other documents used in this ITB documents;

b) it firm has been subject to:

(i) debarment from public procurement;
(ii) judicial liquidation;
(iii) bankruptcy; or
(iv) failure to file fiscal and social statements and avoidance of payment of taxes and social charges in its own country;

c) it is an agency depending of the Buyer and/or members of the Consortium implementing the OPP-ERA Project shall be allowed to bid.

Government-owned companies may bid only if they can prove that they are legally and financially independent and operate under commercial law.

Bidders shall provide evidence of their continued eligibility throughout the LTA, as reasonably requested by the Buyer.

5. Eligibility of the Equipment, Products and Services

"Equipment and Products" includes any Equipment and Products related to this ITB, and the term "Services" includes related services such as commissioning, installation and training.

To be eligible, the Equipment, Products and Services must meet the minimum technical requirements listed in Section IV. Technical Specifications.

In addition, only Equipment and Products manufactured abroad from the Target Countries and not already imported in the Target Countries are to be considered.

The Bidder shall note that standards, as well as references to brand names designated by the Buyer in the ITB document are intended to be descriptive only and not restrictive. The Bidder(s) may substitute alternative standards, brand names, and/or catalogue numbers in their bid, provided that it demonstrates to the Buyer's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

6. Qualification of the Bidder(s)

The Qualification criteria for Bidders are listed in Section III.

Bids from bidders who cannot prove that they meet these criteria will be rejected.

7. Number of Offers per Bidder

Bidders may submit one global offer and bid for the three (3) parts. Prices must be provided for 100% of each part. **Partial or uncomplete bids will not be reviewed nor considered**.

8. Cost of Bidding

The Bidder shall bear all costs associated with the preparation and submission of its bid, and the Buyer will in no case be responsible or liable for those costs, regardless of the outcome of the bidding process.

B. The biddings documents

9. Content of Bidding Documents

The Bidding Documents content is detailed below and should be read in conjunction with any addendum issued in accordance with Instructions to Bidders Clause 11:

Section I. Instructions to Bidders
Section II. Schedule of Requirements
Section III. Evaluation and qualification criteria
Section IV. Technical Specifications
Section V. Forms
Section VI. Solthis General Terms and Conditions

10. Clarification of Bidding Documents

A prospective Bidder requiring any clarification of the Bidding Documents shall contact the Buyer only by e-mail at **procurement.oppera@solthis.org**

The Buyer will respond in writing to any request for clarification received no later than ten (10) working days prior to the deadline for submission of bids.

All Bidders interested in receiving the clarifications in answer to question of all other Bidders, and Bidding Document Addenda may they be issued, are asked to inform the Buyer at the e-mail address specified above, as soon as the ITB is published, and any time before the deadline for submission of requests. Copies of the Buyer's response, including a description of the inquiry but without identifying its source, shall be sent to all Bidders who have informed the Buyer of their interest in the Bid.

11. Amendment of Bidding Document

At any time prior to the deadline for submission of bids, the Buyer may amend the Bidding Documents by issuing Addenda.

Any addendum thus issued shall be part of the Bidding Documents in accordance with Instructions to Bidders Clause 10 and shall be communicated by the Buyer in writing to all Bidders who have informed the Buyer of their interest in the Bid, as described in Instructions to Bidders Clause 10. Bidders are required to **immediately acknowledge receipt** of any such amendment, and it will be assumed that the information contained in the amendment will have been taken into account by the Bidder in its bid.

In order to give prospective Bidders reasonable time in which to take the amendment into account in preparing their bids, the Buyer shall extend, at its discretion, the deadline for submission of bids, in which case, the Buyer will notify in writing all Bidders who have informed the Buyer of their interest in the Bid, as described in Instructions to Bidders 10.

C. Preparation of offers

12. Language of Bid

The bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Buyer, shall be written in English.

If supporting documents and printed literature provided by the Bidder(s) are provided in another language, then they should be accompanied by an accurate English translation, in which case, for purposes of interpretation of the Bid, the English translation shall take precedence.

13. Documents Constituting the Bid

The bid submitted by the Bidder(s) shall include the following:

a. Duly completed **Bid form confirming the commitment to lend one equipment for the OPP Technical validation** and **Price Schedules**
b. **A technical offer**, accompanied by evidences, establishing in accordance with Instructions to Bidders Clause 5, that the Equipment and Products and related services to be supplied by the Bidder are eligible, and conform to the Bidding Documents.

This evidences may be in the form of literature, graphs, images and data and will consist of (inter alia):

1. a detailed description of the essential technical and performance characteristics of the Equipment and Products;
2. an item-by-item commentary on the Buyer's Technical Specifications demonstrating substantial compliance of the Equipment, Products and Services to, or a statement of deviations and exceptions to the provisions of the Technical Specifications;
3. certificates, scientific publications and any appropriate mean used by the Bidders to demonstrate that norms and characteristics included in their bid respond to the technical requirements defined in the Technical specifications, including certificates and authorizations demonstrating that the Equipment and Products meet the quality criteria on manufacturing sites and assays specified in the Technical specifications (ISO/GHTF/WHO);

c. Information about the **manufacturing sites, in-house quality controls and range of tests**;

d. The PERF form (as per Section V. Forms) to confirm the experience of the Bidder "in vitro diagnosis" contracts during the last two (2) years (see PERF Form).

e. An administrative offer as evidence of the Bidder in accordance with Instructions to Bidders Clause 4 establishing the Bidder's eligibility to bid and his qualification to execute the contract;

f. Documents/information/data to be provided in the bid!

User/Operator manual (in French and/or English)
Protocol for RNA and/or DNA extraction from plasma samples
Protocol for RNA and/or DNA extraction from DBS samples
Duration of extractor preparation time for a complete run of plasma samples
Duration of extractor preparation time for a complete run of DBS
Duration of one complete extraction run for plasma samples
Duration of one complete extraction run for DBS samples
Experience/references on RNA and/or DNA extraction from DBS
Experience/references on RNA and/or DNA extraction from sputum
Experience/references on RNA and/or DNA extraction from others types of samples (i.e. Broncho alveolar fluid, cerebrospinal fluid, urine)
Reproducibility of the eluate volume
Room temperatures for optimal use (min/max)
Experience of use in resource-limited countries laboratories
List and reference of customers using the extractor in resource-limited countries laboratories
References: scientific publications, reports, evaluations, etc. including references for other diagnostic or quantitative techniques
Extractor quality certification or on-going certification
Delivery time upon purchase order reception

Access to programme settings options
Possibility to obtain updated versions of programmes
Frequency of periodic preventive maintenance
Duration of life in optimal conditions of use
Any relevant information and documentation about nucleic extractor
Delivery term: CIP...
Experience of installation and maintenance in resource-limited countries
Experience in training in resource-limited countries
In-country or regional maintenance staff
Any relevant information and documentation about maintenance
Documented RNA extraction yield from plasma : quality for Real-time PCR and quantity ≥ 50%
Documented DNA extraction yield from plasma : quality for Real-time PCR and quantity ≥ 70%
Documented RNA and/or DNA extraction yield from DBS (quality for Real-time PCR and quantity)
Material Safety Data Sheets (MSDS)
Toxic waste management recommendations
Detailed list of specific consumables and if necessary, proteinase K (to be provided in the bid)
Detailed list of non-specific recommended consumables for the extraction process
Reagents shelf life conditions
Production process quality certification
Any relevant information and documentation about nucleic extraction kits

14. Bid Form

The Bidder shall complete the Bid Form and the appropriate Price Schedules provided in the Bidding Document, indicating:

- the Equipment and Products to be supplied;
- a brief description of the Equipment and Products;
- their country of origin.

15. Bid Prices

Prices shall be quoted in the Price Schedules included in Section V. Forms.

Prices for Equipment and Products, manufactured outside the Target Countries, shall be quoted using 2010 CIP Incoterms – named port of destination in the Target Countries.

Burundi: Bujumbura Airport

Cameroon: Yaounde Airport

Ivory Coast: Abidjan Airport

Guinea: Conakry Airport

The installation, commissioning of equipment and training of laboratory staff at installation time are included in the bid price.

The Buyer will be responsible for insurance and transport of Equipment and Products from designated airport destination (CIP to final destinations).

Prices provided by the bidder will **exclude duties and taxes**.

Bidders are invited to submit offers **for all Target Countries** for the three (3) parts and to authorize price discount based on ordered quantities levels.

Bidders are invited to submit offers for maintenance services in the frame of a 2-year LTA.

16. Currency

Bidders are requested to submit their bid **in US Dollars**.

17. Validity of Bids

Bids shall remain valid for one hundred and twenty (120) days after the date of bid submission specified in Instructions to Bidders Clause 23. **A bid with a shorter valid period will not be reviewed nor considered.**

Under exceptional circumstances, prior to expiry of the bid validity period, the Buyer may request that Bidders extend the period of validity for a specified additional period. The request and the responses shall be in writing. A Bidder agreeing to the request will not be allowed to change his bid.

18. Bid guarantee - Not applicable

D. Submission of offers

19. Deadline for Bids Submission

The deadline for bids submission is: **20 September 2017 at 16:30 pm Paris Time (UTC/GMT +2)**

Offers must be received by the Buyer no later than the date and time of the deadline for bids submission.

Should the Buyer decide to extend the deadline, bidders will be informed by e-mail in accordance with Instructions to Bidders Clause 10.

20. Format and Signing of Bid

The Bidder shall submit:

- an original offer with five (5) copies by mail clearly marking each one as “ORIGINAL OFFER” and “COPY”, as appropriate; In case of any discrepancy between them, the original takes precedence.
- an electronic copy in pdf format in a memory stick.

The original and copies of the offer, each consisting of the documents listed in Instructions to Bidders Clause 13, shall be typed and signed by a person duly authorised to represent the Bidder. When relevant, the authorisation to sign shall be indicated by written power of attorney, which accompany the bid.

21. Sealing and Marking of Offers

Bidders may submit their offers by post or parcel delivery company. The envelope/box shall:

(a) mention the name, address and contact of the Bidder;

(b) be addressed to

SOLTHIS –

6 rue Sadi Carnot

93 170 BAGNOLET –FRANCE;

With two mentions: **ITB SOLTHIS_OPP-ERA 2017-01**

"DO NOT OPEN BEFORE 20 September 2017 at 17:00 pm"

If the outer envelope is not sealed and marked as required, the Buyer shall not be liable for misplacement or premature opening.

22. Late Offers

Any bid received after deadline for bids submission will be rejected and returned unopened to the Bidder.

23. Change and Withdrawal of Offers

The Bidder may change or withdraw his offer after submission, provided that written notice of the change or withdrawal is received by the Buyer prior to the deadline for bids submission.

The Bidder's change shall be prepared, sealed, marked, and sent as follows:

(a) The Bidder shall provide an original and five (5) copies of any changes to its bid duly marked as "CHANGED OFFER -ORIGINAL" and "CHANGED OFFER - COPIES." The envelope shall be duly marked "OFFER CHANGE."

(b) Other provisions concerning the marking and sending of bid changes shall be in accordance with Clause 21.

A Bidder wishing to withdraw his bid shall notify the Buyer prior to the deadline for bids submission. A withdrawal notice shall be received prior to the deadline for bids submission. The notice of withdrawal shall:

(b) mention the ITB name and number, and "OFFER WITHDRAWAL NOTICE,"

(c) when relevant, include a power of attorney authorizing the signatory to withdraw the bid.

Withdrawn offers shall be returned unopened to the Bidder.

No bid may be withdrawn after the deadline for bids submission.

E. Opening and evaluation of offers

24. Bid opening

The Buyer will open offers in presence of Bidders' representatives on:

20 September 2017 at 17:00 pm Paris Time (UTC/GMT +2)

at Solthis - 6 rue Sadi Carnot 93 170 Bagnolet - France

Envelopes marked "WITHDRAWAL" shall not be opened and returned to the Bidder.

Envelopes marked "CHANGE" shall be opened.

No bid shall be rejected at bid opening except for late submission.

Offers that are not opened at bid opening shall not be considered for further evaluation.

25. Clarification of Offers

During the evaluation process, the Buyer may ask the Bidder to clarify his bid.

The request for clarification and the answer shall be in writing, and no change in the prices or substance of the bid shall be permitted except to correct calculation errors, in accordance with Clause 28.

26. Confidentiality

Information related to the evaluation of offers and recommendations for award shall not be disclosed to bidders or any other persons not officially concerned with the processes until the notification of award is made.

Any effort by the bidder to influence the Buyer during bid evaluation may result in rejecting the Bidder's offer.

From bid opening to award, any contact between the Buyer and Bidders on matters related to bids should be in writing.

27. Checking and Verification of Conformity

The Buyer will check whether bids are complete, whether there is no calculation mistakes, whether required information and data have been provided, whether documents have been properly signed, and whether offers are in order.

The Buyer may waive any minor nonconformity or irregularity in a bid that does not constitute a material deviation, provided it does not affect the relative ranking of any Bidder.

Prior to evaluation, the Buyer will decide whether each bid is of acceptable quality, complete, and substantially conform to the requirements.

28. Correction of Errors

Calculation errors will be corrected as follows.

If there is a discrepancy between unit price and total price in an item line, the unit price shall prevail.

If there is a discrepancy between subtotals and grand total, the grand total shall be corrected.

If there is a discrepancy between words and figures, the amount in words will prevail.

If a Bidder does not accept the correction of errors, his bid will be rejected.

29. Evaluation of Offers

29.1 Compliance with the minimum technical requirements

Bids that provide the required information and data will be reviewed and selected for further evaluation if all minimum technical requirements are met.

29.2 Technical additional criteria

Bids that meet the minimum technical requirements will be reviewed and awarded accordance with the additional criteria marking table provided in Section III. based on the following criteria.

29.3 OPP Technical validation

Bids that obtain the highest marking will be selected for an in-laboratory OPP Technical validation in Paris, France. The Buyer will check that the equipment and products run properly with the other OPP components already used in the project. The OPP Technical validation is planned for one month (see Timetable page 3) and will be conducted by the OPP-ERA Project Scientific Director.

Bidders will lend their equipment for the duration of the OPP Technical validation and provide the Buyer with free appropriated quantities of extraction kits. Quantities will be confirmed at the time of the OPP Technical validation implementation. The transport cost (DAP Paris) of the equipment and products will be at the charge of the Bidders. The transport cost for the return back of the equipment to the Bidders will be at the charge of the Buyer (DAP…).

29.4 Final ranking

The bids that will comply with Clauses 29.1, 29.2, 29.3 will be compared on CIP price, excluding duties, customs taxes and taxes payable in the Target Countries.

The cost of related services - such as on-site installation and commissioning of equipment, training of laboratory personnel and providing users manuals – will be included in the bid price.

F. Award of LTA

30. Qualification of Bidders

The Buyer will evaluate the Bidder's financial, technical, and production capacities, based on submitted evidences as well as any other information the Buyer considers appropriate.

If the qualification criteria listed Section III. are not fulfilled, the Bid(s) will be rejected.

31. Award Criteria

The Buyer will award the LTA to the Bidder whose bid is substantially conform, has received a high score, succeeded in the OPP Technical validation and provided the Bidder with the lowest bid qualified to perform satisfactorily.

32. Buyer's Right to Accept Any Bid and to Reject Any or All Offers

The Buyer has the right to accept or reject any bid, or to cancel the bidding process and reject all offers, at any time prior to award, without thereby incurring any liability to the Bidders.

33- Back-up LTA

If possible, 2 LTAs will be signed, with a second offer being used as back-up in case of failure of the first offer.

Eventually, if the prices of the 2 offers do not differ significantly, both LTAs will be used simultaneously.

34. Notification of Award

Before expiration of bid validity, the Buyer will notify the successful Bidder(s) that their bid(s) have been accepted.

After signature of the LTAs, the Buyer will notify unsuccessful Bidders.

A Bidder wishing to know on which grounds his bid was not selected should address a request to the Buyer in writing.

35. Signing of LTA

Once award notification has been acknowledged by the successful bidder, the Buyer will send him the LTA incorporating all agreements between parties. The Bidder(s) shall sign and return the LTA to the Buyer seven (7) days after reception.

Quantities estimated by country and by laboratory:

- The quantities below are only estimates and **not contractual**.
- The quantities below have been estimated for the period 2017, 2018, 2019.
- The Buyer will adjust, increase or decrease the quantities ordered in the POs.
- Preventive maintenance services consists of one on-site intervention per year at least.
- Corrective maintenance services consists of on-site intervention per year at least.

Country	Lab	Extractor (estimated quantities)	Extraction cartridges (estimated quantities)	Preventive maintenance services	Corrective maintenance services
Burundi	Lab 1 Bujumbura	2	30 000	Package per year per country	Package per intervention per country
	Lab 2 Bujumbura	2			
	Lab 3 Muyinga	2			
Cameroon	Lab 1 Yaounde	2	27 000		
	Lab 2 Bertoua	2			
Ivory Coast	Lab 1 Daloa	2	11 000		
Guinea	Lab 1 Conakry	2	8 000		
	Lab 2 Conakry	2			
	Grand Total	**14**	**68 000**	**-**	**-**

SECTION III. EVALUATION AND QUALIFICATION CRITERIA

A. Evaluation of offers

Prior to the bid price comparison, the Buyer will take into account the following factors:

A.1. General Principles

- The Technical Specifications (Section IV.) fix the minimum requirements. Any bid not meeting the minimum technical requirements will be rejected;
- Offers meeting minimum technical requirements will be evaluated by rating each criterion;

A.2. Technical score

Bids that meet the minimum technical requirements will be rated as per hereafter table:

	Additional/Complementary requirements	Mark	Maxi Mark
1	Extractor preparation time (=x, in minutes) for a complete run of plasma samples		
	x ≤ 30 min	20	20
	x > 30 min	0	
2	Duration of an extraction run (=x, in minutes) for a complete run of plasma samples		
	x ≤ 45 min	15	15
	45 < x ≤ 60 min	10	
	60 < x < 90 min	5	
	x ≥ 90 min	0	
3	Number of samples per run		
	> 20	15	15
	> 16 and ≤ 20	10	
	> 12 and ≤ 16	5	
4	RNA and/or DNA extraction programme for Dried Blood Spots (DBS)	10	10
5	RNA and/or DNA extraction programme for sputum	7	7
6	RNA and/or DNA extraction programme for others types of samples (i.e. Broncho alveolar fluid, cerebrospinal fluid, urine)	3	3
7	Documented access to programme settings options (volume, step duration, etc.)	3	3
8	Volume samples protocols from ≥ 100 to 500 µL	2	2
	Volume samples protocols from ≥ 500 to 1 000 µL	3	3
	Volume samples protocols ≥ 1 000 µL	2	2
9	Reproducibility of the eluate volume		
	≥95%	10	10
	< 95%	0	
10	Maximum room temperature threshold for optimal use		
	> 32°C	3	3

	>28°C up to 32°C	1	
11	Documented experience of use in resource-limited countries laboratories	5	5
12	Documented process quality certification		
13	Extractor certification (CE-IVD, FDA, etc.) and/or WHO Prequalification	10	10
	On-going extractor certification (CE-IVD, FDA, etc.) and/or WHO Prequalification	5	
14	Verification check list before launching the run	5	5
15	Possibility to obtain updated versions of programmes	5	5
16	Delivery time upon purchase order reception		
	< 1 month	7	7
	< 2 months	3	

17	User manual available In French	10	10
18	Period of warranty (incl. spare parts, servicing and travel)		
	3 years	20	20
	2 years	5	
19	Hotline services in French	20	20
20	on-site corrective intervention delay (when required) < 8 calendar days	20	20
	on-site corrective intervention delay (when required) < 16 calendar days	5	
21	on-site refresher training of 2 to 4 laboratory staff after installation time	20	20
22	Documented experience of installation and maintenance in resource-limited countries	10	10
23	In-country maintenance agent	20	20
24	Regional based maintenance agent	10	10

25	Possibility to extract DNA separately	10	10
26	RNA extraction yield from plasma		
	> 70%	30	30
	≥ 60% and < 70%	20	
	≥ 50% and < 60%	10	
27	DNA extraction yield from plasma		
	> 85%	30	30
	≥ 75% and < 85%	20	
	≥ 70% and < 75%	10	
28	Documented RNA and/or DNA extraction yield from DBS (quality for Real-time PCR and quantity)	5	5
29	Documented experience/references on RNA and/or DNA extraction from sputum and others types of samples (i.e. Broncho alveolar fluid, cerebrospinal fluid, urine)	5	5
30	Recommended conditions for the storage of reagent cartridges: room temperature (to be detailed in the bid)	10	10
31	Recommended conditions for the transport of reagent cartridges: room temperature (to be detailed in the bid)	10	10
32	Detailed list of non-specific recommended consumables for the extraction process (to be provided in the bid)	5	5
33	Documented experience of use in resource-limited countries laboratories	5	5

34	Toxic waste management recommendations are available	10	10
35	Reagents shelf life at room temperature		
	≥ 18 Months	5	5
	< 18 months	0	
		Total	**380**

A.3. Financial score

The cost of related services - including installation, commissioning and training - is included in the equipment price. **Bids not including related services will be rejected as non-compliant.**

A.4. Weighted score- Not applicable in accordance with Clause 29

B. Qualification criteria and required evidences

B.1. Eligibility

1.1 **Manufacturer of the equipment and products to be supplier**: Bid Form

1.2 **No Conflict of Interest situation**: Bid Form

1.3 **Legal action in company country of residence**: Bid Form

B.2. History of Performance and Litigation

Contract performance within the last two (2) years prior to the deadline for submissions, information on eventual disputes or litigation. Amount of pending litigations must not be more than 20% of the Bidder's net capital. PERF form

B.3. Registration and authorization to deliver

3.1 **Registration:** Bidder is registered in the country of manufacture of equipment and/or products.

3.2 **Manufacturer's authorization:** In case Bidders propose products that they do not manufacture, they must prove that they are duly authorized by the manufacturers to deliver in the Target Countries - Manufacturer's written authorization (to be provided)

B.4. Financial Capacity and experience in IVD

4.1 **Financial Performance:** audited balance sheets or equivalent documents for the past three (3) years demonstrating:

- current financial strength of the company, and planned long-term profitability;
- available cash flow equivalent to thirty thousand dollars (30,000 dollars) – FIN Form

4.2 **Average Annual IVD Turnover:** Minimum average annual turnover in the area of In Vitro Diagnosis (IVD) of $6 million ($6,000,000) for the past three (3) years - FIN Form

4.3 **Quality assurance**: Equipment and Products must be manufactured at a site compliant with the requirements **of ISO 13 485** or an equivalent quality management system recognized by one of the Regulatory Authorities of the Founding Members of the Global Harmonization Task Force (GHTF) (European Union, USA, Canada, Australia, and Japan.).

SECTION IV. TECHNICAL SPECIFICATIONS

The technical specifications include minimum requirements and additional requirements.

Bids that do not meet the minimum requirements will be rejected without further evaluation.

A. Minimum technical requirements

Minimum technical requirements

Nucleic acid extractor	
1	RNA and/or DNA extraction from whole blood/plasma/serum/cells samples
2	Volume of sample: between 100 to 1,000 microliters
3	Volume of eluate: between 20 to 150 microliters
4	Documented reproducibility of the eluate volume
5	Integrated decontamination system
6	Running with ready-to-use reagent cartridges
7	Independent from thermocyclers
8	Number of samples per run: at least 12 samples
9	Flexibility of number of samples per run: possibility of running various number of samples per series
10	Maximum room temperature threshold for optimal use: at least 28°C
11	Production process quality certification
12	Electric plug for Burundi, Cameroon, Côte d'Ivoire and Guinea power system: Type E
13	User/Operator manual (paper and pdf; in French and/or English)
14	Delivery term: CIP...

Extractor after sale and maintenance services

15	on-site commissioning and installation (in Burundi, Cameroon, Côte d'Ivoire and Guinea)
16	on-site training of 2 to 4 laboratory staff at installation time
17	Warranty (incl. spare parts, servicing and travel): at least one year
18	Hotline support available upon Laboratories' request by email
19	Hotline call back services (in French and/or English)
20	on-site maintenance services options (to be detailed in the bid)
21	Remote maintenance services options (to be detailed in the bid)
22	on-site 1st level Maintenance tools kit

Nucleic acid extraction kit (including extraction reagents and specifics consumables)

23	Extraction reagents packaged in ready-to-use cartridge
24	RNA extraction reagents
25	RNA/DNA extraction reagents
26	Documented RNA extraction yield: quality for Real-time PCR and quantity ≥ 50%
27	Documented DNA extraction yield: quality for Real-time PCR and quantity ≥ 70%

28	Detailed list of specific consumables and if necessary, proteinase K (to be provided in the bid)
29	Minimum shelf life at in-country delivery time: at least 8 months
30	Delivery term: CIP…
31	Production process quality certification

B. Additional requirements

Additional requirements	
Nucleic acid extractor	
1	Extractor preparation time (=x, in minutes) for a complete run of plasma samples
2	Duration of an extraction run (=x, in minutes) for a complete run of plasma samples
3	Number of samples per run
4	RNA and/or DNA extraction programme for Dried Blood Spots (DBS)
5	RNA and/or DNA extraction programme for sputum
6	RNA and/or DNA extraction programme for others types of samples (i.e. Broncho alveolar fluid, cerebrospinal fluid, urine)
7	Documented access to programme settings options (volume, step duration, etc.)
8	Volume samples protocols
9	Reproducibility of the eluate volume
10	Maximum room temperature threshold for optimal use
11	Documented experience of use in resource-limited countries laboratories
12	Documented process quality certification
13	Extractor certification (CE-IVD, FDA, etc.) and/or WHO Prequalification
14	Verification check list before launching the run
15	Possibility to obtain updated versions of programmes
16	Delivery time upon purchase order reception

Extractor after sale and maintenance services

17	User manual available In French
18	Period of warranty (incl. spare parts, servicing and travel)
19	Hotline services in French
20	on-site corrective intervention delay
21	on-site refresher training of 2 to 4 laboratory staff after installation time
22	Documented experience of installation and maintenance in resource-limited countries
23	In-country maintenance agent
24	Regional based maintenance agent

Nucleic acid extraction kit (including extraction reagents and specifics consumables)

25	Possibility to extract DNA separately
26	RNA extraction yield from plasma
27	DNA extraction yield from plasma
28	Documented RNA and/or DNA extraction yield from DBS (quality for Real-time PCR and quantity)

29	Documented experience/references on RNA and/or DNA extraction from sputum and others types of samples (i.e. Broncho alveolar fluid, cerebrospinal fluid, urine)
30	Recommended conditions for the storage of reagent cartridges: room temperature
31	Recommended conditions for the transport of reagent cartridges: room temperature
32	Detailed list of non-specific recommended consumables for the extraction process
33	Documented experience of use in resource-limited countries laboratories
34	Toxic waste management recommendations are available
35	Reagents shelf life at room temperature

SECTION V. FORMS

All forms must be provided in the bid, dully signed and in the following order:

- **Bid Form**
- **PERF Form**
- **FIN Form**
- **Vendor questionnaire**
- **Prices schedules**
- **Documentation index**

A. Bid Form

Date:

To: **Solthis**
6 rue Sadi Carnot
93 170 Bagnolet – France

Subject: **ITB SOLTHIS_OPP-ERA 2017-01**

Dear Sir, Madam,

We acknowledge receipt of the Bidding Documents for a Long Term Agreement (LTA). We are bidding for the Nucleic Acid Extractors, the after-sales and maintenance services and the Nucleic Acid Extraction Kits for which we are the manufacturer (or its official representative in Africa as per justification document provided in the bid).

Should our bid be eligible to OPP Technical validation, we are committed to lent and provide you with the equipment and product necessary to this validation in accordance with the Instructions to Bidders and the Bidding Documents timetable indication.

Should our bid be accepted, we undertake to supply the ordered equipment, services and products in accordance with the delivery schedule and conditions specified in each Purchase Order placed against the LTA.

Until the formal final LTA is prepared and signed between us, this bid, together with notification of award, shall constitute a binding Agreement between us.

Our firm, and any subcontractors involved in connection with any part of the market, meet the conditions of eligibility in accordance with the Instructions to Bidders.

We are not in a situation of conflict of interest in accordance with the Instructions to Bidders.

Our firm, including any subcontractor involved in connection with any part of the contract, has not been declared disqualified or by an organization of international financing, nor under the laws and regulations of the Buyer's country, nor in our country, in accordance with the Instructions to Bidders.

Our firm, including all subcontractors involved in connection with any part of the market, have not been subject in their own countries to:

(i) debarment from public procurement;

(ii) judicial liquidation;

(iii) bankruptcy; or

(iv) failure to file fiscal and social statements and avoidance of payment of taxes and social charges.

We are committed to providing evidence of this, before contract signature, in the event that we would be successful. We hereby certify that:

- we possess the necessary licenses under intellectual property owned by third parties;
- our [please select: Equipment and/or Products] do not infringe any third party rights in Target Countries;
- we have Freedom to Operate in Target Countries;

It is understood that the present bid, and your notification of award of the LTA sent to us will serve as an LTA between us, until a formal LTA is established and signed.

We understand that you are not bound to accept the first-ranked bidder or any bid you may receive.

Signed:

In the capacity of…..

Duly authorized to sign this bid for and on behalf of……

B. PERF Form

ITB SOLTHIS_OPP-ERA 2017-01

Performance of Contracts in the field of In Vitro Diagnosis

Bidder's Legal Name:

Date:

(*List **all contracts demonstrating continuous work** in the field of In Vitro Diagnosis over the past 2 years.*

For each contract, indicate the year, the customer, the contract number and name, and the total amount in US$.

***List all equipment and products supplied**.*

Describe the level of complexity of the operations, and the methods and technology used.

*For each contract indicate the **percentage of implementation**, and if there is a case of litigation.*

***If there is a pending litigation or there has been a litigation**, explain and indicate the issue. Indicate the amount concerned by the litigation and the percentage of the total contract amount.)*

I confirm that all the information given is accurate. For and on behalf of the vendor:	
Signature	Name
Position	Date

ITB SOLTHIS_OPP-ERA 2017-01

Financial information in US$

Bidder's Legal Name:

Date:

Information from Balance Sheet:

	2014	2015	2016
Total Assets	___	___	___
Total Liabilities	___	___	___
Net Value	___	___	___
Current Assets	___	___	___
Current Liabilities	___	___	___

Fiscal information from Income Statement

	2014	2015	2016
Total Revenue	___	___	___
Profit before Taxes	___	___	___

Average annual IVD turnover calculated as total certified payments received for work in progress or completed, divided by the number of years :_____$.

The Bidder shall attach copies of balance sheets or financial statements or equivalent for the past 3 years pursuant to Section III. (balance sheets including all related notes, income statements or equivalent).

The financial statements shall:

(a) reflect the financial situation of the Applicant.
(b) be audited by a certified accountant.
(c) be complete, including all notes.
(d) correspond to accounting periods already completed and audited (statements for partial periods shall be rejected).

D. Vendor Questionnaire

1. Please provide the name of your business and any parent or subsidiary

2. Please provide the address of your business including post code.

3. Please provide your telephone, fax number, e-mail and web site address:

4. Location of other operational sites (national and international), their functions and approximate number of employees. Attach a full list if space is insufficient.

5. Please state the nature of your business and your main products / services

6. Please provide your company registration number, years in business and VAT number:

Company Reg. No	Years in Business	VAT Number

7. What is the legal status of your business?

Public Limited Company		Partnership		Sole Trader		Private Company	
Not for profit organization		Government Agency				Self Employed	

8a. Company turnover in $ or local currency

8b. Turnover of the part of the business that would supply Solthis

8c. Solthis business as a % of 8b if known

9. Please provide your bank details, IBAN account number

10. How many people does the company employ? _____

11. Does the company have any recognized Operational Standards for products?

12. Is your company committed to achieving the labour and environmental standards in Solthis Code of Conduct for Vendors? Yes / No

15. Declaration:

I confirm that all the information given is accurate. For and on behalf of the vendor:	
Signature	Name
Position	Date

E. Price schedule

Price Schedule in USD

Extractor	Unit Price	Quantity	Total Price
CIP Bujumbura		6	
CIP Yaounde		4	
CIP Abidjan		2	
* including installation, commissioning, training of laboratory staff, after sales services, annual preventive maintenance during the warranty period			
		TOTAL 1	

Preventive Maintenance package per year (after warranty period)	Unit Price	Quantity	Total Price
Burundi (Bujumbura, Muyinga)		6	
Cameroon (Yaounde, Bertoua)		4	
Côte d'Ivoire (Daloa)		2	
		TOTAL 2	

Corrective Maintenance package per intervention (without spare parts)	Unit Price	Quantity	Total Price
Burundi (Bujumbura, Muyinga)		6	
Cameroon (Yaounde, Bertoua)		4	
Côte d'Ivoire (Daloa)		2	
		TOTAL 3	

Extraction cartridges & associated extraction consumables	Unit Price	Quantity	Total Price
Up-to 25,000 units		25 000	
from 25,001 to 40,000 units		15 000	
from 40,001 to 55,000 units		15 000	
> 55,001 units to 68,000 units and above		13 000	
		TOTAL 4	

TOTAL 1+2+3+4	

F. Technical Documentation Index

This table will be fulfilled by the bidders to clearly mention in which document the information/data are provided in their bid.

Information/data	**Name of the source document**	**Page of the source document**
User/Operator manual (in French and/or English)		
Protocol for RNA and/or DNA extraction from plasma samples		
Protocol for RNA and/or DNA extraction from DBS samples		
Duration of extractor preparation time for a complete run of plasma samples		
Duration of extractor preparation time for a complete run of DBS		
Duration of one complete extraction run for plasma samples		
Duration of one complete extraction run for DBS samples		
Experience/references on RNA and/or DNA extraction from DBS		
Experience/references on RNA and/or DNA extraction from sputum		
Experience/references on RNA and/or DNA extraction from others types of samples (i.e. Broncho alveolar fluid, cerebrospinal fluid, urine)		
Reproducibility of the eluate volume		
Room temperatures for optimal use (min/max)		
Experience of use in resource-limited countries laboratories		
List and reference of customers using the extractor in resource-limited countries laboratories		
References: scientific publications, reports, evaluations, etc. including references for other diagnostic or quantitative techniques		
Extractor quality certification or on-going certification		
Delivery time upon purchase order reception		
Access to programme settings options		
Possibility to obtain updated versions of programmes		
Frequency of periodic preventive maintenance		
Duration of life in optimal conditions of use		
Any relevant information and documentation about nucleic extractor		
Delivery term: CIP...		
Experience of installation and maintenance in resource-limited countries		
Experience in training in resource-limited countries		
In-country or regional maintenance staff		
Any relevant information and documentation about maintenance		
Documented RNA extraction yield from plasma : quality for Real-time PCR and quantity ≥ 50%		
Documented DNA extraction yield from plasma : quality for Real-time PCR and quantity ≥ 70%		
Documented RNA and/or DNA extraction yield from DBS (quality for Real-time PCR and quantity)		

Material Safety Data Sheets (MSDS)		
Toxic waste management recommendations		
Detailed list of specific consumables and if necessary, proteinase K (to be provided in the bid)		
Detailed list of non-specific recommended consumables for the extraction process		
Reagents shelf life conditions		
Production process quality certification		
Any relevant information and documentation about nucleic extraction kits		

The following terms and conditions will be contractual part of all Purchase Orders placed against the LTAs:

SOLTHIS GENERAL TERMS AND CONDITIONS

1 Interpretation

1.1 In these Conditions:

1.2 'CONDITIONS' means the standard terms and conditions of purchase set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between Solthis and the Vendor.

1.3 'CONTRACT' means the contract for the sale and purchase of the Goods and the supply and acquisition of the Services incorporating the Conditions.

1.4 'DELIVERY ADDRESS' means the address stated on the Order.

1.5 'GOODS' means the goods (including any instalment of the goods or any part of them) described in the Order.

1.6 'ORDER' means Solthis's purchase order to which these Conditions are annexed, whether this order is in the form of a letter, e-mail or other document.

1.7 'PRICE' means the price of the Goods and/or the charge for the Services.

1.8 'VENDOR' means the person so described in the Order.

1.9 'SERVICES' means the services (if any) described in the Order.

1.10 'SPECIFICATION' includes any plans, drawings, data or other information relating to the Goods or Services.

2 Basis of purchase

2.1 The Order constitutes an offer by Solthis to purchase the Goods and/or acquire the Services subject to these Conditions and no Order shall be deemed accepted until the Vendor accepts either expressly by giving notice of acceptance or impliedly by fulfilling the Order, in whole or in part.

2.2 These Conditions shall apply to the Contract to the exclusion of any other terms and conditions proffered at any time by the Vendor including (without limitation) any terms attached to any quotation, acknowledgement or acceptance of Order

2.3 No variation of the Conditions shall be applicable to any such Order unless expressly accepted in writing by Solthis.

2.4 These Conditions and any specifications and written requirements of Solthis shall constitute the entire agreement between the parties hereto in respect of the subject matter of the Contract and supersede all prior written and oral agreements and representations in relation thereto provided that nothing in this clause shall limit a party's liability for fraudulent misrepresentation.

2.5 These Conditions apply to all Solthis's purchases and no variation to the Order or these Conditions shall be binding unless agreed in writing between the authorised representatives of Solthis and the Vendor.

3 Specifications

3.1 The quantity, quality and description of the Goods and the Services shall, subject as provided in these Conditions, be as specified in the Order and/or in any applicable Specification supplied by Solthis to the Vendor or agreed in writing by Solthis.

3.2 Any Specification supplied by Solthis to the Vendor, or specifically produced by the Vendor for Solthis, in connection with the Contract, together with the copyright, design rights and all other intellectual

property rights in the Specification, shall be the exclusive property of Solthis. The Vendor shall not disclose to any third party or use any such Specification except to the extent that it is or becomes public knowledge through no fault of the Vendor, or as required for the purpose of the Contract.

3.3 The Vendor shall comply with all applicable regulations and other legal requirements concerning the manufacture, packaging, packing, transport and delivery of the Goods and the performance of the Services.

3.4 The Goods shall be marked in accordance with Solthis's instructions and any applicable regulations or requirements of the carrier, and properly packed and secured so as to reach their destination in an undamaged condition in the ordinary course.

4 Price of the Goods and Services

4.1 The Price of the Goods and the Services shall be as stated in the Order and, unless otherwise so stated, shall be:

4.1.1 exclusive of any applicable value added tax (which shall if applicable be payable by Solthis subject to receipt of a VAT invoice); and

4.1.2 inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Delivery Address and any duties, imposts or other levies.

4.2 No increase in the Price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of Solthis in writing.

4.3 Solthis shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Vendor, whether or not shown on its own terms and conditions of sale.

5 Terms of payment

5.1 The Vendor shall be entitled to invoice Solthis on or at any time after delivery of the Goods or performance of the Services, as the case may be, and each invoice shall quote the number of the Order.

5.2 Unless otherwise stated in the Order, Solthis shall pay the Price of the Goods and the Services within 30 days after the end of the month of receipt by Solthis of a proper invoice or, if later, after acceptance of the Goods or Services in question by Solthis.

5.3 Solthis shall be entitled to set off against the Price any sums owed to Solthis by the Vendor.

6 Delivery

6.1 The Goods shall be delivered carriage paid to, and the Services shall be performed at, the Delivery Address on the date or within the period stated in the Order, in either case during Solthis's usual business hours.

6.2 The Vendor shall ensure that each delivery is accompanied by a delivery note which shows, inter alia, the Order number, date of Order, number of packages and contents and, in the case of part delivery (if specified in the Order), the outstanding balance remaining to be delivered.

6.3 The time of delivery of the Goods and of performance of the Services is of the essence of the Contract.

6.4 If the Goods or Services are not delivered on the due date then without prejudice to any other rights which it may have Solthis reserves the right to:

6.4.1 cancel the Contract in whole or in part;

6.4.2 refuse to accept any subsequent delivery of the Goods or Services which the Vendor attempts to make;

6.4.3 recover from the Vendor any expenditure reasonably incurred by Solthis in obtaining goods or services in substitution from any other vendor; and

6.4.4 claim damages as a result of the Vendor's failure to deliver the Goods or perform the Services on the due date.

6.5 Where Solthis agrees in writing to accept delivery of the Goods or performance of the Services by instalments the Contract will be construed as a single contract and not several. Nevertheless failure by the Vendor to deliver any one instalment shall entitle Solthis at its option to treat the entire Contract as repudiated.

6.6 The Vendor must provide at its own expense packaging which is required for the delivery of the Goods. Solthis shall not be obliged to return to the Vendor any packaging or packing materials for the Goods, whether or not any Goods are accepted by Solthis.

6.7 The Vendor must render Solthis at the latter's request every assistance in obtaining any permits, licences, approvals which Solthis may require for the export and/or import of the Goods and, where necessary, for their transit through any country.

6.8 If the Goods are delivered to Solthis in excess of the quantities ordered Solthis shall not be bound to pay for the excess and any excess shall be and shall remain at the Vendor's risk and shall be returnable at the Vendor's expense.

6.9 Solthis shall be entitled to reject any Goods delivered which are not in accordance with the Contract, and shall not be deemed to have accepted any Goods until Solthis has had a reasonable time to inspect them following delivery, or, if later, within a reasonable time after any latent defect in the Goods has become apparent.

7 Code of Ethical Purchasing/Conduct for vendors ("the Code")

7.1 It is a requirement of conducting business with Solthis that you accept responsibility for labour, human rights and environmental conditions under which products are made and services provided. Through acceptance of this contract, the Vendor confirms, or agrees to work towards, compliance with the standards and principles of the Code of Conduct for Vendors, both in connection with the performance of this agreement and any other agreement entered into between the Vendor and third parties relating to the supply of goods or services by the Vendor.

7.2 The Vendor shall periodically communicate the contents of, and the requirement for compliance with, the Code of Conduct for Vendors, to staff, vendors, sub-contractors and home-workers, and shall monitor and enforce such compliance. The Vendor shall report progress in implementing the Code to Solthis on request, and shall undertake to inform Solthis of any significant breach in standards in the Vendor's business or in the supply chain that becomes known to, or is reported by a credible third party to, the Vendor during the course of the relationship.

7.3 Any serious breach of the Code or refusal to implement recommended corrective action will result in a review of the trading relationship and may result in a termination of future orders.

7.4 Solthis will agree in turn to take into consideration local custom and practice and to work with you to meet the targets of continuous improvement.

8 Risk and Property

8.1 Risk of damage to or loss of the Goods shall remain with the Vendor and pass to Solthis upon full and proper delivery to Solthis or the consignee if different in accordance with Clause 6.

8.2 The ownership of the Goods shall pass to Solthis upon delivery or the consignee if different in accordance with Clause 6, unless payment for the Goods is made prior to delivery, when it shall pass once payment has been made.

8.3 Use of Solthis's name:

8.4 The Vendor may not use Solthis's name for any purpose beyond the performance of the Vendor's obligations to Solthis, unless the Vendor has first obtained consent in writing for the use from Solthis's Media Unit.

8.5 Willingness to pursue compliance with Solthis's Ethical Purchasing Policy does not imply Solthis's endorsement for the ethical nature of the Vendor's business. No such claims should be made.

9 Confidentiality

9.1 All information relating to Solthis's business, affairs, products, trade secrets know-how, personnel, customers and vendors which may reasonably be regarded as confidential information (irrespective of the format or medium) shall hereinafter be referred to as "Confidential Information". The Vendor undertakes not to disclose, either directly or indirectly any Confidential Information the Vendor may acquire in any manner and the Vendor further undertakes to use all Confidential Information disclosed to the Vendor exclusively for the provision of the Goods or Services.

9.2 Exceptions to confidentiality: The provisions of this Clause 8 shall not apply to the Vendor in respect of any information which:

9.2.1 the Vendor can prove by documentary evidence produced to Solthis within 28 days of disclosure that such Confidential Information was already in the Vendor's possession before the disclosure to the Vendor under this Contract;

9.2.2 is at the time of disclosure to the Vendor available or subsequently becomes available to the public otherwise than through any act or default of the Vendor;

9.2.3 is disclosed to the Vendor as a matter of right by a third party;

9.2.4 is developed by the Vendor without dependence directly or indirectly upon the disclosure of Confidential Information by Solthis;

10 Insurance and liability

10.1 The Vendor shall have in force and maintain in force public liability, product liability, and employer's liability insurances which insurances shall indemnify Solthis in the event of any claim or proceedings. Such insurance cover shall be for liability or loss under the Contract or the minimum cover (if any) mentioned in the Order whichever is the greater.

10.2 The Vendor shall provide a copy of this policy on request from Solthis.

10.3 Nothing in this Contract shall operate to exclude or limit either party's liability:

10.3.1 for death or personal injury caused by negligence;

10.3.2 for breach of the obligations arising from articles 1641 and 1642 of French Civil Code;

10.3.3 for fraud.

10.4 Solthis's total liability in contract, tort (including without limitation negligence) or otherwise in connection with or arising out of the Contract shall be limited to the Price.

11 Warranties and indemnities

11.1 The Vendor warrants to Solthis that the Goods:

11.1.1 will be of satisfactory quality (within the meaning of articles 1132 and 133 of French Civil Code) and fit for any purpose held out by the Vendor or made known to the Vendor in writing at the time the Order is placed;

11.1.2 will be free from defects in design, materials and workmanship;

11.1.3 will correspond with any relevant Specification or sample; and

11.1.4 will comply with all statutory requirements and regulations relating to the sale of Goods.

11.2 The Vendor warrants to Solthis that the Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for Solthis to expect in all the circumstances.

11.3 Solthis's approval of designs furnished by the Vendor shall not relieve the Vendor of its obligations and liabilities under these Conditions.

11.4 The Vendor's warranties contained in this Clause 11 shall extend to any defect or nonconformity arising or manifesting itself within two years after delivery or where applicable any time period specified in the Order.

11.5 Without prejudice to any other remedy, if any Goods or Services are not supplied or performed in accordance with the Contract, then Solthis shall be entitled:

11.5.1 to require the Vendor to repair the Goods or to supply replacement Goods or Services at the Vendor's risk and expense in accordance with the Contract within seven days; or

11.5.2 at Solthis's sole option, and whether or not Solthis has previously required the Vendor to repair the Goods or to supply any replacement Goods or Services, to treat the Contract as discharged by the Vendor's breach and require the repayment of any part of the Price which has been paid.

11.6 If the Vendor refuses or fails promptly to correct or replace such Goods when requested by Solthis, Solthis may itself, or through any agent or subcontractor, or otherwise, correct or replace such Goods and the Vendor agrees to reimburse Solthis for the costs incurred thereby. Goods corrected or replaced shall be subject to the Conditions in the same manner as those originally delivered hereunder.

11.7 All warranties shall survive acceptance and payment.

11.8 The Vendor shall indemnify Solthis in full against all liability, loss, damages, costs and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by Solthis as a result of or in connection with:

11.8.1 breach or negligent performance or failure in performance by the Vendor of the Contract;

11.8.2 breach of any warranty given by the Vendor in relation to the Goods or the Services;

11.8.3 defective workmanship, quality or materials;

11.8.4 any claim that the Goods infringe, or their importation, use or resale, infringes, the patent, copyright, design right, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises directly from compliance with any Specification supplied by Solthis;

11.8.5 any liability under the French Low of Consumer Code in respect of the Goods;

11.8.6 any act or omission of the Vendor or its employees, agents or sub-contractors in supplying, delivery and installing the Goods, and

11.8.7 any act or omission of any of the Vendor's personnel in connection with the performance of the Services.

12 Termination

12.1 Solthis shall have the right at any time and for any reason immediately upon notice to terminate the Contract in whole or in part whereupon all work on the Contract shall be discontinued and Solthis shall pay the Vendor fair and reasonable compensation as agreed in the Order.

12.2 Solthis shall have the right at any time on notice to terminate the Contract in whole or in part without compensation as of right and without instituting legal proceedings forthwith if:

12.2.1 the Vendor commits a material breach of any of the Conditions; or

12.2.2 the Vendor has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or convenes a meetings of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver or manager, administrator or administrative receiver appointed of its undertakings or any part thereof, or documents are filed with the court for the appointment of an administrator of the or notice of intention to appoint an administrator is given by the Vendor or its directors, or a resolution is passed or a petition presented to any court for the winding up of the Vendor or for the granting of an administration order in respect of the Vendor, or any proceedings are commenced relating to the insolvency or possible insolvency of the Vendor, or any other analogous event under the laws of any other jurisdictions Vendor (ref. CA Paris, 28 May 1993 : Juris-Data n° 1993-600508, Cass. Com. 7 June 1988: Bull. Joly 1998 p. 581, CA Paris 4-10-2002 : JCP E 2002 n°1712); or

12.2.3 the Vendor ceases or threatens to cease to carry on its business; or

12.2.4 the financial position of the Vendor deteriorates to such an extent that in the reasonable opinion of Solthis the capability of the Vendor adequately to fulfil its obligations under the Contract has been placed in jeopardy.

12.3 The termination of the Contract, however arising, shall be without prejudice to the rights and remedies of the parties accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

13 Force Majeure

13.1 If either party is prevented or delayed in the performance of any of its obligations under this Agreement by force majeure (which for the purposes of this Agreement shall mean any circumstance beyond the reasonable control of the party affected thereby) then such party shall give written notice to the other party specifying the detail of the reasons for force majeure and provide such evidence as may be available. In addition it shall estimate the period for which it is expected that the delay or otherwise shall continue. In these circumstances the party shall not be liable for the performance by the stipulated date from the date of such notice for such period as the delay shall continue.

13.1.1 Notwithstanding the relief granted by this clause the party seeking to rely on it shall nevertheless use its best endeavours in any situation where it has invoked this clause to perform its relevant obligations as soon as possible.

13.1.2 Neither party shall be entitled to relief under this clause in any circumstances where it has caused or substantially contributed to any delay or failure in the performance of its obligations by any default on its part including (but without limitation) any failure to place orders or issue instructions when it ought reasonably to have done so.

14 Assignment

14.1 Solthis may assign, transfer or sub-contract their rights and/or obligations under the Contract.

14.2 The Order is personal to the Vendor and the Vendor shall not assign or transfer or subcontract any of its rights and/or obligations under the Contract without the prior written consent of Solthis.

15 General

15.1 Each right or remedy of the parties under the Contract is without prejudice to any other right or remedy of that party whether under the Contract or not.

15.2 All notices required or permitted by this Contract must be in writing and signed on behalf of the party giving the notice, addressed to the party receiving it, and sent by courier, certified mail, facsimile, personal delivery or other recognised manner of delivery, addressed to their respective addresses specified in the Contract. Notices will be effective on date of receipt by the party to whom the notice is given except where the notice is sent by facsimile, in which case it shall be deemed to have been received immediately upon transmission provided the sender receives confirmation of an error free transmission.

15.3 All waivers must be in writing. No waiver by either party shall be considered as waiver of any subsequent breach of the same or any other provision of the Contract.

15.4 If any provision of these Conditions is held by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid or unenforceable it shall, to the extent of such illegality, invalidity or unenforceability, be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

15.5 The parties do not intend that any of the provisions of the Contract shall be enforceable by any third party.

15.6 The Contract shall be governed by the laws of France, and the Vendor agrees to submit to the exclusive jurisdiction of the France courts.

15.7 In the case of any inconsistency between these Conditions and any other terms and conditions of this Contract these Conditions shall prevail.

15.8 Headings are for convenience only and do not constitute part of this Contract.

15.9 Any reference in the Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.