

Free translation of the General Bid Specifications for the International public bidding INDOTEL/LPI-001-2023 contained in resolution No. 100-2023 of the Board of Directors of INDOTEL. This translation is for information purposes only. The official document is the version in Spanish available in this resolution.

INTERNATIONAL PUBLIC BIDDING

No. INDOTEL/LPI-001-2023

"GENERAL BID SPECIFICATIONS THAT WILL GOVERN THE INTERNATIONAL PUBLIC BIDDING FOR THE AWARD OF CONCESSIONS AND RELATED LICENSES FOR THE PROVISION OF PUBLIC CARRIER AND END-USER TELEPHONY AND INTERNET ACCESS SERVICES, THROUGH THE USE OF RADIO FREQUENCIES WITHIN THE 698-806 MHZ, 2340-2400 MHZ AND 3600-3700 MHZ BANDS NATIONWIDE"

September, 2023
Santo Domingo, Dominican Republic.

General Bid Specifications that will govern the international public bidding for the award of concessions and related licenses for the provision of public carrier and end-user telephony and internet services, through the use of radio frequencies within the 698-806 MHz, 2340-2400 MHz and 3300-3600 MHz bands nationwide.

CHAPTER I. General Information

1.1 Call for Application

The Dominican State, through the Dominican Telecommunications Institute (hereinafter **INDOTEL**), calls for International Public Bidding to award the related Concession(s) and License(s) for the use throughout the Dominican Republic of **PUBLIC CARRIER AND END-USER TELEPHONY AND INTERNET ACCESS SERVICES** within the 698-806 MHz, 2340-2400 MHz and 3300-3600 MHz radio frequency bands.

1.2 Legal Basis

The provisions contained in this Bid Specifications are subrogated to the legal and regulatory rules listed below:

- The Constitution of the Dominican Republic, enacted on June 13, 2015, in its cited provisions;
- The General Telecommunications Law, No. 153-98, of May 27, 1998, in its cited provisions;
- Law No. 107-13 on the Rights and Duties of Individuals in their relations with the Administration and Administrative Procedure, dated August 8, 2013, in its cited provisions;
- The Authorization Regulations issued by Resolution No. 036-19 of the Board of Directors of **INDOTEL**;
- The General Regulation for the Use of the Radio Spectrum, approved by Resolution No. 034-2020, of the Board of Directors of **INDOTEL**;
- Resolution No. 022-2020 of the Board of Directors of **INDOTEL**, which establishes the Special Procedures applicable to the modification of the National Frequency Allocation Plan (PNAF) and migration of services and migration options for licensees of the bands affected by the modification of the PNAF;
- Resolution No. 001-21, of the Board of Directors of **INDOTEL**, which approves the Definitive Plan for the Channelization of Frequencies contained in the 698-806 MHz Segment.
- Resolution No. 012-2023 of the Board of Directors of **INDOTEL**, which approves the norm for establishing caps on radioelectric spectrum holding on bands identified for IMT by the PNAF;
- The National Frequency Allocation Plan (PNAF, for its acronym in Spanish), approved by the Executive Branch through Decree No. 266-23 dated June 19, 2023;

1.3 Objective and Scope of the Bid Specifications

The purpose of this Bid Specifications is to establish the general, legal, technical and economic requirements necessary for legal entities that wish to participate in the Public Bidding for the award of the related Concession(s) and License(s) for the provision of public carrier and end-user telephony and internet services, through the use of radio frequencies within the 698-806 MHz, 2340-2400 MHz and 3600-3700 MHz bands

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nationwide; and to define the way in which the Public Bidding and Award process will be carried out.

1.4 Purpose of the Bidding and Concession Characteristics

1.4.1 Purpose of the Bidding

1.4.1.1 The purpose of the Bidding is to select the legal entities that will provide public telecommunications services through the frequencies within the 698-806 MHz, 2340-2400 MHz and 3600-3700 MHz Bands of the radio spectrum nationwide, in the ranges and blocks indicated below:

1. 698-806 MHz band, consisting of the 703-748 MHz range for *uplink* and 758-803 MHz range for *downlink* and segmented in 5 MHz paired blocks (10 MHz in total).

Block	Uplink (MHz)	Downlink (MHz)	Quantity (MHz)
A1	703-708	758-763	5+5
A2	708-713	763-768	5+5
A3	713-718	768-773	5+5
A4	718-723	773-778	5+5
A5	723-728	778-783	5+5
A6	728-733	783-788	5+5
A7	733-738	788-793	5+5
A8	738-743	793-798	5+5
A9	743-748	798-803	5+5

2. 2340-2400 MHz band, segmented in blocks of 10 MHz each.

Block	TDD Contiguous Spectrum (MHz)	Quantity (MHz)
B1	2340-2350	10
B2	2350-2360	10
B3	2360-2370	10
B4	2370-2380	10
B5	2380-2390	10
B6	2390-2400	10

3. 3600-3700 MHz band, segmented in blocks of 10 MHz each.

Block	TDD Contiguous Spectrum (MHz)	Quantity (MHz)
C1	3600-3610	10
C2	3610-3620	10
C3	3620-3630	10
C4	3630-3640	10
C5	3640-3650	10
C6	3650-3660	10
C7	3660-3670	10

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C8	3670-3680	10
C9	3680-3690	10
C10	3690-3700	10

1.4.2 Term of Concession and Licenses

1.4.2.1 The term of the Concessions to be granted via the award of this Bidding will be twenty (20) years, in the case of a new concessionaire, from the date of signing of the corresponding Concession Contract. The conditions for its renewal are detailed in the Law, the Authorizations Regulation for Telecommunication Services and in the corresponding Concession Contracts to be signed. The Licenses to be awarded will have the same duration as the Concession to which they are linked.

1.4.2.2 If a company that already had an end-user public service Concession is awarded in this Bidding, the duration of its new Licenses will be for the remaining period of its Concession and will require the subscription of an addendum to its concession contract.

1.5 Definitions and Interpretations

The following terms have the following meaning, regardless of whether such terms are used in the plural or singular, masculine or feminine:

- a) **Presentation Ceremony**: Date, place and time in which **INDOTEL**, in the presence of the Bidders, and in front of a Notary Public, proceeds to verify the contents of the documents in the Technical bid and Financial bid, under the conditions established for the submission of each of the envelopes as provided in this Bid Specifications.
- b) **Award**: Legal act by which the Board of Directors of **INDOTEL**, after receiving the report of the Evaluation Committee, declares by resolution the winning Bidder(s) of this Public Bidding.
- c) **Awardee**: The legal entity that is the successful bidder in this Public Bidding.
- d) **Assignment**: Authorization by **INDOTEL**, in the act of awarding a Concession or License, for the use of the frequency associated with certain conditions of use, by a radio station.

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- e) **Allocation**: Refers to the use that may be given to the radio spectrum, in accordance with the National Frequency Allocation Plan (PNAF), approved by the Executive Power through Decree No. 266-23.
- f) **Authorization**: Legal act issued by **INDOTEL**, after compliance with the formalities established by the Law and the regulations, which grants the applicant the right to provide or operate telecommunications services, public or private, in the Dominican Republic and/or perform acts and activities that require the prior approval of **INDOTEL**, and which entail or are linked to a Concession, Registration in the Special Registry, License, transfer, assignment, lease, granting of the right of use, constitution of an encumbrance or transfer of control. The type of authorization to be granted to the applicant in each case will depend on the service to be provided.
- g) **700 MHz band**: Refers to the frequency segment in the 698-806 MHz range.
- h) **2300 MHz band**: Refers to the frequency segment in the 2340-2400 MHz range.
- i) **3600 MHz band**: Refers to the frequency segment in the 3600-3700 MHz range.
- j) **Memo**: Document issued by the Evaluation Committee to complete, clarify, specify or interpret the contents of the Bid Specifications; and to respond to the queries formulated by the Bidders in relation to the contents of the Bid Specifications, forms, annexes or other memos, and which is made known to all Bidders.
- k) **Evaluation Committee**: Collegiate Committee appointed by the Board of Directors of **INDOTEL**, whose role will be to receive, evaluate and answer questions and prepare the necessary memos, analyze the bids, evaluate the data, documents and information and prepare the documents containing the results and serving as support for the award decisions to be adopted by the Board of Directors.
- l) **Concession**: Authorization by means of which **INDOTEL** or the regulatory authority prior to the enactment of the General Telecommunications Law, No. 153-98, grants a legal entity the right to provide public telecommunications services, the terms and conditions of which must be contained in a formal written contract.
- m) **Concessionaire**: Legal entity to which **INDOTEL** or the regulatory authority prior to the enactment of the Law has granted a Concession for the provision of public telecommunications services.
- n) **Consortium**: It is the grouping of two or more legal entities, with a legal personality independent from that of its members, which has been formed for the purpose of participating as Bidder in this Bidding. The Consortium must necessarily include the operator that would provide the services.

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- o) **Consultation**: Written communication sent by a Bidder and received by the Evaluation Committee, according to the established procedure, requesting clarification or interpretation on aspects exclusively related to the Bid Specifications.
- p) **Concession Contract**: It is the agreement subscribed between **INDOTEL** and the Concessionaire that contains the terms and conditions for the provision of the telecommunication services authorized in the Concession, whose minimum content is described in the Authorization Regulation issued by Resolution No. 036-19.
- q) **Schedule**: Temporal sequence of activities that will be developed during the process of this Bidding and that are indicated in numeral 1.6 of this Bid Specifications.
- r) **Sworn Statement**: Written statement legalized by a Notary Public and submitted by the Bidder, in which it declares or assumes under oath, the truthfulness of what has been declared before the administrative authority for the purposes of this Bidding.
- s) **Participation Fee**: Non-reimbursable amount to be paid by all interested parties in participating in this Public Bidding process.
- t) **Calendar Days**: All days of the year, whether or not they are working days.
- u) **Business Days**: Every day from Monday to Friday, both inclusive, except those declared holidays by law or declared non-working days by the Dominican State.
- v) **Dollars**: Legal tender of the United States of America.
- w) **Amendment**: Written communication issued by the Board of Directors of **INDOTEL**, with the purpose of modifying the content of the Bid Specifications, forms or annexes that are made known to all Bidders.
- x) **Performance Bond**: Sum of money rendered by the Awardee in the manner and conditions set forth in section 7.3 and according to the models attached as Annex VII and VIII.
- y) **Bid Maintenance Guarantee**: Sum of money rendered by the Bidder in favor of **INDOTEL** in the manner and conditions set forth in section 7.3 of this Bid Specifications and in accordance with the model attached as Annex VI, to guarantee the validity of the offer. In case of bonds, it shall be unconditional, irrevocable and renewable and must be given in the same currency as the Financial Bid. This guarantee will have the same duration as the bids.

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- z) **INDOTEL**: Dominican Telecommunications Institute, the telecommunications regulatory body of the Dominican Republic.
- aa) **Law**: General Telecommunications Law No. 153-98, dated May 27, 1998.
- bb) **License**: Authorization by which the Board of Directors of **INDOTEL** grants the right to use frequencies of the radio spectrum to an entity (for the purposes of this Public Bidding, it refers to the Awardee(s), which is linked to the Concession.
- cc) **Public Bidding**: It is the administrative procedure regulated by this Bid Specifications to grant Concessions and Licenses for the provision of public carrier and end-user telephony and internet services, through the use of radio frequencies within the 698-806 MHz, 2340-2400 MHz and 3600-3700 MHz bands nationwide.
- dd) **Obligations to do**: Services to be provided by the Awardee in exchange for the awarded radio spectrum, in addition to the Minimum Expansion Plan, under the terms and conditions defined in the Bid Specifications and which will be included in the Concession Contract.
- ee) **Bidder**: Legal entity or group of legal entities acting in Consortium, which submit Bids in accordance with the terms of this Bid Specifications and the applicable legislation, acting directly or through an Authorized Legal Representative.
- ff) **Bid**: Set of documents comprising the Technical Bid and the Financial Bid submitted by the Bidder, as well as the complementary documentation and the clarifications submitted after the Bid opening ceremony. which shall be deemed to be incorporated into the Concession Contract.
- gg) **Technical Bid**: Set of documents submitted by the Bidder in Envelope A, in order to comply with the general, legal, technical and financial requirements set forth in the Bid Specifications.
- hh) **Financial Bid**: Document submitted by the Bidders, in which they attach the financial conditions that reflect their unconditional, irrevocable and unilateral will to obtain the Concession and License(s) for the provision of Public Telecommunications Services through the frequencies that make up one or several of the Blocks subject of this Bidding process. The Financial Bid shall be submitted in the manner set forth in Annex V of this Bid Specifications.
- ii) **Minimum Expansion Plan**: It is the program of installation and expansion of services and systems to which the Awardee is committed and must comply with, in accordance with this Bid Specifications and the Concession Contract and which will form part of the Bidder's Technical Bid and will be subject to the minimum terms set forth in Annex IV of this Bid Specifications.

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- jj) **General Bid Specifications:** This document contains the conditions of this Public Bidding where the background, objectives, scope, technical, legal, financial and technical requirements and the conditions by which the Bidders shall be governed, as well as the manner in which the Bidding process shall be carried out, are established.

- kk) **Authorized Legal Representative:** Individual(s) appointed by a Bidder and who is (are) authorized and accredited to act on its behalf and represent it in all matters related to this Public Bidding procedure, in accordance with this Bid Specifications.

- ll) **Reference Value:** The minimum price per Megahertz (MHz) per year approved by the Board of Directors of INDOTEL, established in this Bid Specifications, expressed in Dollars for each of the Bands. Bidders must submit economic offers equal to or greater than the established reference value.

1.6 Bidding Schedule

	<u>ACTIVITY</u>	<u>DATE</u>
1	Publication of a call for applications for International Public Bidding in a newspaper with nationwide distribution and INDOTEL's website	Monday, September 25, 2023
2	Deadline for Registration of Bidders, Payment of Participation Fee and Consultations on the Bid Specifications and the Draft of the Contract by registered Bidders.	Monday, November 27, 2023
3	Deadline for INDOTEL to issue a response through Memos or Amendments to the Bidders. This corresponds to the final version of the bid specifications.	Thursday, December 14, 2023
4	Date of receipt and opening of Technical and Financial Bids.	Monday, February 19, 2024

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5	Deadline for notification of Errors or Omissions of a remediable nature.	Wednesday, March 6, 2024
6	Deadline for correcting Errors or Omissions of a remediable nature.	Wednesday, March 19, 2024
7	Award Resolution.	Within the next 15 calendar days
8	Resolution that issues the concession and License(s).	Within the next 60 calendar days from the Award Resolution
9	Deadline for the constitution and presentation of the Bid Maintenance Guarantee.	Within 75 calendar days of the award resolution
10	Signing of the Concession Contract or Addendum to the concession contract and first payment corresponding to the Financial Bid submitted by the awardee.	Within 90 calendar days of the publication of the Award Resolution and 30 days of the Resolution that issues the concession, if applicable.

1.7 Availability and Acquisition of the Bid Specifications.

The Bid Specifications to participate in this International Public Bidding will be available to interested parties from the date of publication of the call for application according to the Bidding Schedule, on **INDOTEL's** website, at www.indotel.gob.do.

1.8 Concession Contract

1.8.1 The Awardee(s) of this International Public Bidding must sign or have signed with **INDOTEL** the corresponding Concession Contract.

1.8.2 Interested Bidders may submit suggestions to the Draft of the Contract included as Annex IX within the deadlines foreseen for consultations in the Schedule. Such suggestions shall not be considered binding for **INDOTEL**.

1.9 Interpretation and References

1.9.1 The terms and expressions used in this Bid Specifications shall be interpreted in their natural and obvious sense, unless another meaning has been specifically assigned to them in this document or its annexes or is inferred from the context thereof; and in any case, in accordance with the regulations in force in the Dominican Republic. All Bidders shall be deemed, without admitting proof to the contrary, to be aware of the national laws and regulations in force and applicable to this process.

1.9.2 The titles of the chapters, paragraphs, items, forms and annexes of this Bid Specifications are used exclusively for indicative purposes and shall not affect the Resolution No. 100-2023 of the Board of Directors of **INDOTEL**

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interpretation of their contents.

1.9.3 For the purpose of interpretation, or in case of contradiction between the provisions of this Bid Specifications and those stipulated in any of its annexes, the provisions of the Bid Specifications shall prevail. In all cases, the contents of the "Memos" or "Amendments" referred to in this Specifications prevail over the provisions of the Specifications even if not expressly stated.

1.10 Reference Value

1.10.1 The Reference Value determined by the Board of Directors of **INDOTEL**, in accordance with the radio spectrum valuation studies carried out for such purposes, is:

- **ONE HUNDRED SIXTY-FIVE THOUSAND UNITED STATES DOLLARS 00/100 (USD\$165,000.00. 00)** per Megahertz per year in the 698-806 MHz band

- **TWENTY-TWO THOUSAND UNITED STATES DOLLARS 00/100 (USD\$22,000.00)** per Megahertz per year in the 2340-2400 MHz segment.

- **TWENTY-TWO THOUSAND UNITED STATES DOLLARS 00/100 (USD\$22,000.00)** per Megahertz per year in the 3600-3700 MHz segment.

1.10.2 The Reference Value includes all applicable taxes and reflects the minimum value to be offered by the Bidders in their Financial Bid.

1.10.3 The Offers shall be submitted in accordance with the Financial Bid presentation scheme contained in Annex V.

1.10.4 The Bidder that submits a Financial Bid that contravenes the provisions of the preceding paragraph shall be disqualified. Likewise, **INDOTEL** will disqualify any Bidder that submits a Financial Bid below the Referential Value.

CHAPTER II. Participation Prohibition, Tenders, Right to Participate and Legal Representative

2.1 Participation Prohibition and Accumulation Limit

2.1.1 Legal entities that are prevented from entering into a contract with the State will be prohibited from participating in this Public Bidding process as Bidders, either directly or indirectly, or subsequently in its Award, in accordance with the prohibitions set forth in Article 14 of Law No. 340-06 on Procurement and Contracting of Goods, Services, Works and Concessions.

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2.1.2 Companies belonging to the same economic group¹ or under the corporate control of the same entity² may not participate separately in this Public Bidding. Likewise, foreign governments may not participate, directly or indirectly through the Bidder's shareholding.

2.1.3 Those who have not paid the charges for non-compliance with the condition of irrevocable res judicata, duties, fees and taxes provided for by Law No. 153-98 pending payment, as well as concessionary companies that do not have a Concession contract signed with **INDOTEL** cannot not be Awardees.

2.1.4 In the event that **INDOTEL** were to prove the violation of the prohibitions established in the preceding paragraphs after being granted the contract, the Bid shall be absolutely null, and void and the Bid Bond shall be executed.

2.1.5 Similarly, aiming to promote and encourage an efficient use of the radio spectrum and a greater level of fair and effective competition, Bidders may not be awarded blocks of radio spectrum, such that as a result of the award, it would hold a cumulative assignment of more than one hundred (100) MHz in the 3300-3700 MHz band.

2.1.6 Additionally, in order to protect the climate of fair and effective competition in the telecommunications sector, Bidders should take into account the caps on spectrum holding for end-user public services established by resolution No. 012-2023 of INDOTEL Board of Directors.

2.1.7 In this regard, radio spectrum blocks will not be awarded, such that as a result of the award, the Bidder would hold a cumulative assignment of more than:

- I. Eighty-seven (87) MHz in the radio spectrum below 1 GHz for end-user public services.
- II. Two hundred sixty-four (264) MHz in the mid-low radio spectrum range (between 1 GHz and 3 GHz) for end-user public services.
- III. One hundred (100) MHz in the 3300-3700 MHz band for end-user public services.

¹ For the purposes of this Bid Specifications, a company of the same economic group shall be understood as a company that is part of a group of two or more legal entities among which there are links or business, capital, administrative or kinship relationships that allow one or more of those entities to have sufficient management powers or majority in the decision-making bodies of the others.

² It shall be understood that a company is under the corporate control of another company when one hundred percent (100%) of the shares or membership interest units of the Bidding company, or those of one of the members of the Consortium, belong to a different company (parent or controlling company) or when this other company holds less than one hundred percent (100%) of such shares, has management powers or sufficient majority in the decision-making bodies of the Bidding company.

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2.2 Tenders

Any company interested in offering public telecommunications services, which complies with the requirements established in the Law and the Authorizations Regulation for Telecommunication Services, as well as the End-user Public Telecommunications Services Concessionaires already authorized, may participate in this Public Bidding, provided that they comply with the Financial, Technical and Legal Requirements and the objectives demanded in this Bid Specifications.

2.3 Participation Right

2.3.1 The interested legal entity or Consortium that has completed the registration and payment of the Participation Fee shall be considered Bidder for the purposes of this Public Bidding.

2.3.2 The Participation Fee is fixed at the equivalent in Dominican Pesos of **TEN THOUSAND UNITED STATES DOLLARS AND 00/100 (US\$10,000.00)**, converted at the purchase exchange rate in effect at the time of payment, which shall be deposited in the checking account No. 240-005122-9 (Swift #BRRDDDOSD) from Banco de Reservas de la República Dominicana, in the name of **INDOTEL** (RNC 401508915). This amount is non-refundable.

2.3.3 Once the payment has been made, a simple communication must be sent to the e-mail address licitacionespectro@indotel.gob.do, attaching evidence of the payment of the Participation Fee to **INDOTEL** in order to complete its registration, indicating (1) the name of the interested company (Bidder), (2) the e-mail address to which communication, memos and amendments regarding the International Public Bid shall be sent, and (3) the general information of the legal representative that will act on its behalf during this process.

2.3.4 Once submitted the information, the Evaluation Committee will validate via e-mail that the registration has been completed, the amount of spectrum blocks that it is allowed to acquire in accordance to the caps established by resolution No. 012-2023 of INDOTEL Board of Directors for the establishments limits on holdings of radio spectrum in bands identified for IMT, and this General Bid Specifications, as well as the years remaining in their concession contract to be considered in the Financial bid.

2.4 Consortium Participation

2.4.1 In the case of Consortiums, the tendering company must submit the contract that regulates such relationship, which is an indispensable requirement to participate in the Public Bidding.

2.4.2 The Consortium must have been constituted as a legal entity of the Dominican Republic, whose main purpose will be the execution of the services inherent to the objectives of this Bid Specifications and the Minimum Deployment Plan, prior to the resolution awarding the Concession, in case of being declared as Awardee of this Public Bidding. Said company will be the only one recognized by **INDOTEL** for the operation of the services of the Concession, the License and the use of the allocated frequencies;

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and, by virtue thereof, it will be its only counterpart in all the activities resulting from the Award of the Public Bidding.

2.5 Authorized Legal Representative

2.5.1 To participate in the Public Bidding, companies shall be represented by the legal representative established in their bylaws or by an Authorized Legal Representative appointed by means of a special power of attorney for such purposes. In case such document is issued abroad, it must be apostilled and translated into Spanish, if applicable, prior to its presentation to the Evaluation Committee.

2.5.2 In case that the authorization to represent the company is granted by means of a power of attorney, one of the following methods must be used, in accordance with the provisions of the Bidding company's bylaws:

- a) Power of Attorney granted by the Chief Executive or Manager of the Bidding Company, by means of an Authentic Deed or under Private Signature, legalized by a Notary Public.
- b) Power of attorney granted by resolution of the General Shareholders' Meeting or the Board of Directors, validly convened. The corresponding minutes must be signed by all shareholders present or represented at the meeting.

2.5.3 In both cases, such documents must be certified as true and faithful to their original by the legal representative established in the company's bylaws or by the Authorized Legal Representative by means of a power of attorney granted before a Notary Public.

2.5.4 The formalities, actions and proceedings that may be necessary for the execution of the Bidding shall be the exclusive responsibility of the legal representative established in the company's bylaws or of the Legal Representative Authorized by means of a power of attorney granted before a Notary Public.

CHAPTER III. Queries on the Bid Specifications, Memos or Amendments

3.1 Consultation Deadline

From the date indicated in the Schedule of the Public Bidding established in section 1.6 above and until the date indicated in the same section, the Bidders registered as established in section 2.3 of this Bid Specifications, may make Consultations on the Bid Specifications and suggestions regarding the draft of the Concession Contract.

3.2 Formality of Consultations

Inquiries should be made in writing in Spanish and should be sent to the following e-mail address: licitacionespectro@indotel.gob.do. Inquiries from entities who have not registered in accordance with the provisions of section 2.3 of this Bid Specifications will not be answered, nor those submitted outside the date set forth in the Schedule of the Public Bidding.

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3.3 Memos or Amendments

3.3.1 INDOTEL, when answering the Consultation(s), will transcribe them without indicating the name of who made the Consultation. The response(s) shall be issued and made known to all Bidders, whether or not they have submitted Consultations, by means of Amendments or Memos, as appropriate; and shall be notified in accordance with the term and conditions established in the Bidding Schedule of this Bid Specifications.

3.3.2 INDOTEL will only respond to queries directly related to the contents of the Bid Specifications. With respect to the suggestions on the draft of the Concession Contract, these will be subject to evaluation and **INDOTEL** will have the exclusive power to reject, accept or adapt them, without the need of any motivation or substantiation, since they are non-binding suggestions.

3.3.3 If **INDOTEL**, at any time, considers it necessary to clarify, modify, specify or complement the Bid Specifications, it will issue a Memo or Amendment to such effect, which will be notified to the Authorized Legal Representatives of the Bidders through the e-mail address indicated by the Bidder. All Memos and Amendments will be available on **INDOTEL's** website.

3.3.4 The Memos and Amendments that may be issued shall form an integral part of this Bid Specifications and, consequently, shall be legally binding for all Bidders. Those that modify this Bid Specifications shall be announced in a newspaper with nationwide distribution.

CHAPTER IV. Submission of Documents containing the bids

4.1 Document Submission

4.1.1 The Bid must be prepared and presented to **INDOTEL** according to the formats and annexes established to that effect. The documents containing the Technical and Financial bids must be structured and signed digitally by the Authorized Legal Representative, and be digital certified by a Certifying body duly accredited by INDOTEL. The list of entities authorized to provide this service in Dominican Republic is available at the website: <https://indotel.gob.do/firma-digital/entidades-de-certificacion>

4.1.2 All bids must be submitted electronically, in password-protected³ files, through site made available by **INDOTEL** on its website considering the following:

- i) The Technical Bid shall contain the technical, financial and legal information requested in the Bid Specifications, as well as the Bid Maintenance Guarantee.

³ The files containing the Bids with their corresponding digital certificate, can be compressed by software, and the compressed files with the Bids be password protected to protect the confidentiality of the submitted Bids. The day of the opening of the bids, each bidder will be asked to share the password of their respective Bids.

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- ii) The Financial Bid will contain the financial proposals of each Bidder in accordance with the requirements of this Bid Specifications.
- iii) All documents must be delivered prior to the date set in the bidding schedule.

4.1.3 The Bid (technical and financial) must contain a table of contents and the pages must be duly numbered. Due to the large number of documents that may be submitted by the Bidder, the documents may be submitted in separate envelopes, but each one must be properly identified, sequenced, closed and sealed.

4.2 Language

All documents must be submitted in Spanish or accompanied by the corresponding translation made by an authorized court interpreter in the Dominican Republic. In the event of any discrepancy between the texts in the two languages, the Spanish text shall prevail. **INDOTEL** will accept the presentation of the documents listed in section 4.4.3 related to the technical requirements, in English. If necessary, the Evaluation Committee will request the Bidder the translations it deems necessary within the term established for notification and correction of remediable errors or omissions, as indicated in the Bidding Schedule.

4.3 Bid Submission Fee

The Bidders shall bear all costs and expenses, direct and indirect, incurred in connection with the preparation and submission of the Bid. The State, **INDOTEL**, nor any other official agency of the Dominican Republic shall be liable for such costs, regardless of the manner in which the Public Bidding is carried out or its result.

4.4 Documentation to be submitted in the Technical bid

4.4.1 General Information

Bidders shall complete the presentation form with general information available at the **INDOTEL** website.

4.4.2 Legal Requirements

4.4.2.1 The Bidder shall submit digital copies of the following documents as legal requirements for qualification:

- i. Power of attorney granted before a Notary Public or a copy of the Minutes of the Meeting of the Board of Directors or of the General Shareholders' Meeting, as required by the Company's bylaws. In the event that the Bidder is represented by its Chief Executive and provided that the bylaws in force grant him/her the power of attorney to represent the company, it is not necessary to submit this document;
- ii. Cover letter according to Annex I of this General Bid Specifications;

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- iii. Affidavit signed by the Chief Executive, legal representative or the Authorized Legal Representative, duly notarized, which shall be drawn up in accordance with the format provided in Annex II of this General Bid Specifications;
- iv. Certification of non-criminal record, issued by the Attorney General's Office of the Republic, of the members of the Board of Directors or of Administration, administrators, managers, representatives or any agent of the applicant
- v. Copy of the updated and current Company's Bylaws, whose corporate purpose must be related to the provision of telecommunications services;
- vi. Copy of the updated Subscription List and Statement of Payment of Shares or Membership Interest Units;
- vii. Copy of the current Mercantile Registration Certificate, issued by the corresponding Chamber of Commerce and Production;
- viii. If more than one (1) year has elapsed since the date of incorporation of the company, counted from the date of the Constitutive General Assembly, it shall be necessary to submit a certification from the General Directorate of Internal Taxes (D.G.I.I., for its acronym in Spanish), stating that the Bidder is up to date in the fulfillment of its tax obligations;
- ix. Copy of the documents verifying the validity of the mandates granted to the officers of the company.

Paragraph I. Copies of documents of a legal nature corresponding to legal entities must be certified copies by the corresponding Chamber of Commerce and Production or by an equivalent registration entity, in applicable cases.

4.4.2.2 For consortiums:

In addition to the above requirements, consortiums must submit:

1. Original of the notarial certificate or contract, duly legalized and registered, by which the consortium is formalized, including its purpose, the obligations of the parties, its duration, the legal capacity of each member of the consortium, as well as their general information. In the case of a document signed and legalized abroad, show the corresponding apostille.
2. Special power of appointment of the sole representative or manager of the Consortium authorized by all the companies participating in the consortium.
3. Affidavit required for consortiums under the terms contained in Annex III of this Bid Specifications.

4.4.3 Technical Requirements:

Bidders shall submit the following information regarding the provision of public telecommunications services:

1. The general topology of the network highlighting the technologies to be used and the proposed signaling and transmission plans. Detailed diagrams must be included indicating the technical solution by means of which it will guarantee compliance with the affirmative covenant and the Minimum Expansion Plan stipulated in Annex IV.
2. A description of the technical scheme to ensure the security of the data flowing through the network and the confidentiality of communications.

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4.4.4 Economic and Financial Requirements:

All Bidders must prove a minimum financial capacity in order to be Awardee of this Public Bidding. The Bidder shall submit the following documents:

1. Audited Financial Statements of the last two (2) fiscal years, accompanied by the due notes of the auditors and expressing the corresponding exchange rate if a currency other than the Dominican Peso is used. In the case of a company incorporated under Dominican law, the financial statements referred to in this paragraph may be expressed in Dominican Pesos. Among the information to be included in the financial statements, the following is required:
 - Balance Sheet;
 - Income Statement;
 - Cash Flow;
2. An investment plan, providing information regarding projections for at least the first five (5) years, identifying amount, source and distribution, as well as a profitability, solvency and liquidity analysis.

4.4.5 Bid Maintenance Guarantee

Each Bidder shall constitute and submit, along with its Technical Bid, a bid maintenance guarantee in order to ensure and guarantee the validity and seriousness of the Bid from the Bid submission phase until the signing of the Concession Contract or Addendum, resulting from the Public Bidding Award.

4.4.6 Additional Information

INDOTEL, through the Evaluation Committee, reserves the right to request from the Bidders any other information or documentation it deems necessary for the correct evaluation of the Bids that are the subject of this Public Bidding.

4.5 Documentation to be submitted in the Financial Bid

4.5.1 The Bidder shall include in "Envelope B" its Financial Bid, which shall contain the amount it is willing to pay for the Concession and related Licenses under the terms set forth in this Bid Specifications, taking as a minimum parameter the Reference Value set forth in item 1.10 and according to the form contained in Annex V of this Bid Specifications. The Financial Bid must be signed with the digital certification by the legal representative or Authorized Legal Representative of the Bidder. To assure the confidentiality of the bids, the Bidder shall attach through the platform made available by INDOTEL, the digital files containing the digitalized documents of their Financial bid, which will need to include password using a compression software. The before mentioned password will be shared by the Bidder the day of the opening of the Technical and Financial Bid.

4.5.2 The form for submitting the Financial Bid shall break down the Bidder's bids by number of Blocks in the respective bands, according to the standard form in Annex V, and the order of preference for positioning of the frequencies in case of being awarded.

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4.5.3 The Financial Bid shall remain in effect for a minimum of one hundred and eighty (180) days after the date of its submission, even if it has not been successful.

4.6 Bid Maintenance Guarantee

4.6.1 The bid maintenance guarantee in order to ensure and guarantee the validity and seriousness of the Bid shall be set up from the Bid submission phase until the signing of the Concession Contract or Addendum, resulting from the Public Bidding Award. Said guarantee shall be constituted in favor of **INDOTEL**, for an amount equivalent to **TWO MILLION UNITED STATES DOLLARS WITH 00/100 (USD\$2,000,000.00)** for Bidders interested in the 700 MHz band, **TWO HUNDRED THOUSAND UNITED STATES DOLLARS WITH 00/100 (USD\$200,000.00)** for Bidders interested in the 2340-2400 MHz band, and the amount of **THREE HUNDRED THOUSAND UNITED STATES DOLLARS WITH 00/100 (USD\$300,000.00)** for Bidders interested in the 3600-3700 MHz band, and it must be unconditional, irrevocable and renewable, in addition to being constituted in the same currency of the Financial Bid. This bid bond shall be of mandatory compliance, being an indispensable condition for the acceptance of the technical and financial bid of the bidders, and shall be included in the Technical Bid. Failure to submit this bid bond, or when the it is insufficient, or when the it is constituted in a currency other than the U.S. Dollar, will result in the automatic and full rejection of the bid without the need for any judicial or extrajudicial proceeding whatsoever.

4.6.2 Bidders may choose exclusively among the following types of Bid Maintenance guarantees:

- a) Bank guarantee letter; or,
- b) Constitution of surety bond policies from insurance companies of recognized solvency in the Dominican Republic.

4.6.3 The insurance through the constitution of surety bond policies or bank guarantees will be extended in favor of **INDOTEL**, to be granted by an institution subject to the supervision and oversight of the Superintendency of Insurance or the Superintendency of Banks, as applicable, and which has a risk rating equal to or greater than "A" by the international rating agencies *Fitch Ratings* or *Moody's*, and whose text must be in accordance with Annex VI.

4.6.4 *Validity of the Bid Maintenance Guarantee:* The bid maintenance guarantee must be irrevocable and of immediate execution at the first request of the beneficiary (**INDOTEL**) and must remain in force for a minimum term of one hundred and eighty (180) calendar days counted from the date of submission of the bids (Technical and Financial) in accordance with the bidding schedule established in numeral 1.6 of this Bid Specifications.

4.6.5 *Extension of the Validity of the Bid Maintenance Guarantee.-* When there are indications that the term of validity of the bid bonds does not reach the constitution of the performance bond by the Awardee due exclusively to causes attributable to **INDOTEL**, or in the event that the Public Bidding is challenged and/or suspended due to a third party, **INDOTEL** may request the Bidders to extend the validity of the Bid Bonds for such additional term as **INDOTEL** may deem, the costs of which shall be borne by the Bidders. Bidders who fail to do so within ten (10) business days of having been Resolution No. 100-2023 of the Board of Directors of **INDOTEL**

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requested, shall have their Bid Bond returned within a term not to exceed one (1) business day, without any compensation whatsoever. Failure to comply with this last condition shall result in the disqualification of the Bidder in their own right, as well as the loss of its status as Bidder, for which reason it shall not have the right to continue participating in the process.

4.6.6 Return of the Bid Maintenance Guarantee. The Bidders' Bid Maintenance Guarantee, whether they have been awarded the contract or not, will be returned once the signing of the concession contracts or addenda corresponding to the award of the bidding has been completed within the following ten (10) business days. However, in the event of a challenge through the filing of administrative appeals, the Bid Bond granted by the challenger shall be maintained and extended, as the case may be, to cover the payment of any liabilities that may be applicable.

4.6.7 Loss of the Bid Maintenance Guarantee. Causes of Enforcement. The Bid Bond shall be forfeited by operation of law without the need for any judicial or extrajudicial proceeding and may be enforced immediately, without prior notice, in the following cases:

- a) Refusal to sign the concession contract or addendum, as appropriate, within the stipulated term.
- b) Failure by the Awardee to provide the performance bond, as specified in section 7.3 of this Specifications.
- c) When the Bidder withdraws its bid after the deadline set for the submission of bids, or withdraws a Financial Bid selected after the Opening of Envelope B.
- d) When the first payment of the amount offered in the Bidding process is not paid.
- e) The failure of an incoming Operator or Consortium to incorporate the Dominican company within the term and in accordance with the provisions of this Bid Specifications.
- f) When it is proven that any of the documents or information presented are false, or of false content;
- g) When, at any time during the process, the Bidder engages in unlawful or corrupt practices or practices expressly prohibited by this Specifications. In general, unlawful or corrupt practices are considered to be those prohibited by the laws and regulations issued thereunder, including, but not limited to, Law No. 155-17 against Money Laundering and Financing of Terrorism dated June 1, 2017, and Law no. 448-06 on Bribery in Commerce and Investment of December 6, 2006 and its accessory regulations, which prohibit, among other practices, direct or indirect payments, in cash or any other asset, to any government official, political party or candidate for public office, with the objective of influencing a decision or act, or inducing an official to breach his or her official duties, or to secure an undue advantage for the purpose of being granted.
- h) When there is irrefutable evidence of collusion or agreement between interested parties. Those indications that create the conviction of the existence of this type of conduct and are sufficient to support the administrative decision to take the measures foreseen in the Specifications for such cases shall be considered.

4.6.8 The execution of the bid bond does not limit or restrict any other right that **INDOTEL** may have against the Awardee that failed to comply with its obligations.

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4.6.9 INDOTEL shall have the power, in case of default by the Awardee, to award the Public Bidding to the Bidder that has obtained the second position in the bidding process, as reported for such purposes. In this case, **INDOTEL** shall notify the Bidder holding such position of its decision to declare it as the new Awardee, informing it, in addition, of the closing procedure and the date, time and place where it will take place. The new successful Bidder must deposit the Performance Bond and sign the Concession Contract or Addendum, within the term to be granted by **INDOTEL**, by means of a formal communication.

4.6.10 Notwithstanding the provisions of this paragraph, **INDOTEL** may initiate all legal actions allowed by applicable laws, as a direct or indirect consequence of the default of the original Awardee. Failure of the Awardee to appear to constitute the Contract Performance Bond shall be understood as a waiver of the Award and the Bid Maintenance Agreement shall be enforced.

CHAPTER V. Bid Opening and Validation

5.1 Place, Date and Time for Submitting the Bids

5.1.1 The timeframe for the submission of the Bids will end at 10:00AM of the date indicated in the bidding schedule of the General Bid Specifications. Those bids submitted within the indicated time will be presented to the Evaluation Committee.

5.1.1.1 The presentation of the documents contained in the Technical and Financial Bids will be made simultaneously before the Evaluation Committee, at **INDOTEL**'s address, located at Av. Abraham Lincoln 962, Edificio Osiris, city of Santo Domingo de Guzmán, Distrito Nacional, capital of the Dominican Republic, at eleven o'clock in the morning (11:00 A.M.) on the date indicated in the Bidding Schedule of this General Bid Specifications.

5.1.1.2 Once the time established for the reception of the Bids by the Bidders has passed, the submission of new Technical Bids will not be accepted, even if the Opening Ceremony does not begin at the time previously indicated.

5.1.1.3 Once all the Envelopes submitted by the Bidders have been presented, the Bidders will be invited to share the password to access their respective Bids, the integrity and validity of the digitally signed documents and the digital certificate, and then will proceed to verify the contents of the Technical Bids. The acting Notary Public will prepare the corresponding records of the Bidders that submitted Bids, verifying and certifying via *ValidaFirma* that the documents presented are valid.

5.1.1.4 Next, in the presence of all interested parties, the Evaluation Committee will instruct the Notary Public to proceed to open and read the Financial Bids, certifying their contents, making public the amount offered by each Bidder for each amount of spectrum in the respective bands. The bids of each Bidder will be typed and projected on a screen for the view of all interested members of the public in attendance and the order of preference will be noted regarding the positioning of the blocks in case it results as the Awardee.

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5.1.1.5 Likewise, it shall be verified that the Bids for the different Bands do not result in an Award that exceeds the holding limit, as set forth by Resolution No. 012-2023 of **INDOTEL** Board of Directors and this General Bid Specifications. Block bids that comply with the limit will remain valid.

5.1.1.6 In case of discrepancy between the Financial Bids presented in the corresponding form, duly received by the acting Notary Public and the reading of the same, the value written in letters shall prevail.

5.1.1.7 If there is a discrepancy between a partial quantity and the total quantity obtained by multiplying the partial quantities, the partial quantity shall prevail, and the total shall be corrected.

5.1.1.8 After the reading of the Bids, the Evaluation Committee will invite the Bidders' Legal Representatives to present their observations. The Public Notary acting in the Bid opening procedure will prepare his report noting the Bidders that presented Technical and Financial Bids, including any observations made during the procedure, if any.

5.2 Validation, Verification and Substantiation of Documents in the Technical Bid

5.2.1 The Evaluation Committee will proceed to the validation and verification of the documents contained in the Technical Bids. In the event of any doubt as to the information submitted, the said Committee may verify, by such means as it deems appropriate, the truthfulness of the information received.

5.2.2 Before proceeding to the detailed evaluation of each Technical Bid, the Evaluation Committee will determine whether the Technical Bid corresponds to the requirements of this General Conditions, based on the contents of the bid itself, without having to resort to external evidence; or whether there are deviations, reservations, omissions or errors of a remediable nature.

5.3 Corrections

5.3.1 In those cases, in which deviations, reservations, omissions or correctable errors are presented, the Evaluation Committee shall notify the Bidder(s) and request them to proceed to make the corresponding corrections, within the terms established in the Schedule described in section 1.6. Once the aforementioned term has elapsed without the corrections having been made, the Bid(s) shall be rejected

5.3.2 Those matters that do not affect the principle that the bids must substantially conform to the Bid Specifications shall be considered errors or omissions of a remediable nature. The absence of requirements related to the credentials or legal requirements of the bidders can always be remediable. Likewise, bidders may be requested to provide any necessary clarifications, giving them the opportunity to correct such deviations, reservations, omissions or errors.

5.3.3 Any correction that alters the substance of a bid and that could positively affect its subsequent evaluation shall not be considered a remediable error or omission.

5.3.4 Corrections on Bids that initially did not comply with the General Bid Specifications, such that makes it compliant will not be accepted.

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5.4 Criteria for Qualification of Technical Bids

5.4.1 The Technical Bids submitted by the Bidders shall contain all the documentation required as indicated in section 4.4. of this General Bid Specifications, necessary, sufficient and reliable to demonstrate the following aspects, which shall be verified under the "COMPLIANT/NON-COMPLIANT" mode:

- ✓ Eligibility: That the Bidder is legally authorized to carry out its commercial activities in the country, in accordance with the legal requirements indicated in this Bid Specifications. It will be verified that the Bidder is not within the prohibitions established in this Bid Specifications.
- ✓ Financial Situation: That the Bidder has sufficient financial stability to satisfactorily execute the proposed investment plan and the obligations arising from the Authorization(s) and the bidding. Where applicable, the audited financial statements for the last two (2) years will be evaluated to determine that it has enough net liquid assets to operate the network during three (3) months without any additional income, considering all the conditions and obligations in the corresponding financial ratios and the documentation indicated in section 4.4.4 of this Bid Specifications.
- ✓ Technical Capacity: That the services to be offered are consistent with the network described, both at the initial level and in the different phases of expansion and, in particular, comply with each of the technical requirements established in section 4.4.3 of this Bid Specifications. Also, that the documents related to the proposed network are consistent with the Minimum Expansion Plan and the Obligations To Do.
- ✓ Submission of Guarantee: It will be verified that the Bidder has submitted the Bid Maintenance Guarantee in accordance with the provisions of the Bid Specifications.

5.4.2 INDOTEL will reject any bid that does not substantially comply with this General Bid Specifications. Subsequent corrections shall not be admitted that would allow any bid, which initially did not comply with this bidding document, to subsequently comply with the same, without prejudice to compliance with the remediability rules.

5.5 Evaluation of the Financial Bid

5.5.1 The Financial Bids of the qualified Bidders will be compared by the Evaluation Committee and will be awarded according to the following rules:

1. All Bids must specify the Quantity of MHz (Blocks) for which the bid is made and the Price per MHz per year you are willing to pay for each quantity. The Bidder may submit as many bids as it considers, accepting in advance that, at the time of award, the award will be made subject to the spectrum holding limitations (caps) set forth in this Specifications for each Band.

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2. Among the different bids made by a Bidder, priority will be given to the Bid that presents the highest total economic value per year. In case of equal values, priority will be given to the one that represents a higher Price per MHz per Year.

3. The number of blocks would be awarded according to the following criteria:
 - a. The Bid prioritized with the highest total economic value per year would be awarded the number of blocks corresponding to such offer. This Bidder will not be considered for further blocks in the respective band.
 - b. The Bidder with the next Bid with the highest total economic value per year, associated to an amount of spectrum still available, would be awarded the number of blocks corresponding to such bid. This Bidder will not be considered for further blocks in the respective band.
 - c. The Bidder with the subsequent Bid with the highest total economic value per year, associated to an amount of spectrum still available would be awarded the amount of blocks corresponding to such bid. This Bidder will not be considered for further blocks in the respective band.
 - d. This process will be repeated until all possible block awards have been defined or until there are no more qualified Bidders.
 - e. In the event of a tie regarding the highest total economic value per year and the amounts cannot be satisfied, the bid with the highest Price per MHz per Year will be Awarded. In the case of a tie in total economic value per year and Price per MHz per year, the procedure shall be as established in paragraph a) of section 5.6.

4. Once the number of blocks related to each Bidder selected in the process just described has been determined, the corresponding blocks will be identified, guaranteeing that:
 - a. All blocks awarded to a company will be contiguous.
 - b. It will begin with valid Bid that has the highest economic value per year, provided that this does not interfere with the contiguity of the other selected Bidders.
 - c. The blocks will be identified according to the preferences indicated in the Financial Bid of each Bidder, based on the two extremes available of the band.
 - d. Will proceed thusly, until the entire spectrum tendered for which awardable Financial bids have been received, have the corresponding Bidder is identified.

5.5.2 Report of the Evaluation Committee.

The Evaluation Committee will send its report to the Board of Directors of **INDOTEL**, with the results of the evaluation of the Technical and Financial Bids, indicating the Bidders that would be awarded frequencies, the Blocks that would correspond to them within the bid bands and the corresponding blocks within the tendered Bands.

5.6 Tiebreaking procedure

In case of a tie between two (2) or more Bidders in the total economic value per year, as well as in the price offered per MHz per year, a second round of Financial Bids will be Resolution No. 100-2023 of the Board of Directors of INDOTEL

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convened between the Bidders involved and only for the same amount of megahertz (MHz) for which the tie was generated. If a tie persists, Bidders will have two (2) hours to present a new Financial Bid, which must be higher than their previous offer. This procedure will be repeated until a Bidder wins with the highest Bid in a given Block. There shall be at least seven (7) days between the notification of a second round and the date of reception ceremony.

CHAPTER VI. Award and Additional Provisions

6.1 Award

6.1.1 The Board of Directors of **INDOTEL**, after receiving the Evaluation Committee's Report, will decide on the Award by means of a reasoned resolution. Said resolution shall be notified to all Bidders and published in at least one newspaper of wide national circulation, as well as on **INDOTEL's** website (www.indotel.gob.do), within ten (10) calendar days following the date of its issuance.

6.1.2 Within ninety (90) calendar days following the publication of the Award Resolution, the Executive Office of **INDOTEL** and the Awardee shall execute the Concession Contract or the addendum, as appropriate. The Concession Contract shall enter into force and take legal effect as of the subscription.

6.1.2.1 In case that the Awardee of the bidding is not constituted as a legal entity in the Dominican Republic, it will have sixty (60) days following the publication and notification of the Award Resolution to constitute the company that will be beneficiary of the Concession to be issued by the Board of Directors of **INDOTEL**. Said resolution is an indispensable prerequisite for the signing of the Concession Contract.

CHAPTER VII. Compliance with Obligations, Consequences of Breaches and Guarantees

7.1 Payment and Fulfillment of Undertaken Obligations

7.1.1 The Awardee shall be responsible for paying **INDOTEL** the full amount expressed in its Financial Bid for the Blocks of which it is the winner for the rendering of the concessioned public telecommunications services, nationwide.

7.1.2 Payment shall be made by the Awardee by means of an annual disbursement, for five (5) years, each one equivalent to twenty percent (20%) of the value offered until the total payment is completed. The initial disbursement will be made at the time of signing the concession contract or addendum, as appropriate. Payments shall be made by means of electronic transfer duly confirmed, drawn in favor of **INDOTEL**, against an account authorized for such purpose, in a commercial bank in the Dominican Republic. The amounts paid for this concept are non-refundable, even in cases in which, due to Awardee incompliance, **INDOTEL** revokes the License in question.

7.1.3 **INDOTEL** will define and propose Projects and Obligations To Do, such that the Resolution No. 100-2023 of the Board of Directors of **INDOTEL**

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Awardee can pay up to forty percent (40%) of the value of their Financial Bid by agreeing with **INDOTEL** to the Obligations, by any of the following means:

1. A signed agreement between the Awardee and **INDOTEL**, after the award Contract, which will be incorporated into the contract as an amendment.
2. By participating in and executing projects presented by **INDOTEL** through the Development Telecommunications Fund, be it by the approved Biannual Plan, Special Projects or any additional calling.
3. By accepting projects published by **INDOTEL** accreditable as Obligations To Do towards the concessionaire. These projects will be published on a website made available for this purpose, and each project will state at least, the name, a detailed description, deadlines and the value assigned, which will be recognized and discounted from the Awardee pending payments resulting of this Bidding. The awardee interested in a published project will fill in the corresponding form, which must be signed by the legal representative. This document shall submit this form to **INDOTEL**, who will mark the project as assigned.

7.1.4 These Obligations To-Do will be of public knowledge and will require transparency and non-discriminatory treatment among Awardees.

7.1.5 The payments made via the mechanisms described in article 7.1.3 will be recognized from the moment that the acceptance acts are issued by **INDOTEL** and the recognized value will be deducted from the upcoming payment.

7.1.6 The Awardee will be responsible for complying with the commitments and obligations undertaken in this Bid Specifications, including the Minimum Expansion Plan detailed in Annex IV related to the provision of public telecommunications services; and may not, under any circumstance, justify non-compliance thereof, since they constitute an inherent element of the Award and grant of the corresponding operating permits.

7.1.7 In the case that the Awardee does not have frequencies previously assigned in the corresponding group of bands to provide IMT services, prior to this Bidding⁴ it may pay in annual disbursement for eight (8) years, each one equal to 12.5% of the total economic value of the Bid until completing payment in full.

7.2 Consequences of Non-Payment or Non-Compliance with Undertaken Obligations

7.2.1 Failure to comply with the obligations for the concession contract or corresponding addendum, as well as the first payment or the constitution of the Performance Bond, within the terms and conditions stipulated in the present Bid Specifications, shall cause the immediate annulment of the Award and shall give rise to **INDOTEL** declaring as Awardee the Bidder that has been in second place in the evaluation stage of the Financial Bids for the corresponding spectrum, and for those amounts awarded subsequently, when applicable, and if necessary may require the extension of the Bid Bond. The cancellation of the Award will be made without prejudice to **INDOTEL** proceeding to execute the guarantees corresponding to this type of non-compliance.

⁴ This means, that the Awardee of radio spectrum in the 700MHz Band does not have previous licenses for mobile services in the lower bands (<1GHz); or the Awardee of radio spectrum in the 2300MHz band does not have previous licenses for mobile services in the mid-low bands (between 1GHz and 3GHz); or the Awardee does not have radio spectrum in the 3600MHz band, does not have previous licenses for mobile services in the mid-high bands (between 3GHz and 6GHz).

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7.2.2 Any delay or non-compliance in the corresponding payments, will have as a consequence the revocation of the Licenses for the awarded frequencies, in compliance with the Concession Contract between the parties. Once a non-compliance is evidenced, **INDOTEL** will proceed to execute the Bonds contemplated for this purpose. The awardee acknowledges that the consequences and penalties related to non-compliance, execution of guarantees, revocations and any other consequence or claim that may assist **INDOTEL**, shall be selected by **INDOTEL**, without the need for any justification whatsoever and without prejudice to the right to additionally make and/or exercise other claims and/or actions.

7.2.3 Any delay or non-compliance in quantity or quality of the obligations assumed, related to the deployment of the Minimum Expansion Plan, may have as a consequence the revocation of the Concession and related Licenses, according to the applicable legal and regulatory provisions, and the total execution of the guarantees related to such obligations. The awardee acknowledges that the consequences and penalties related to non-compliance, execution of guarantees, revocations and any other consequence or claim that may assist **INDOTEL**, shall be selected by **INDOTEL**, without the need for any justification whatsoever and without prejudice to the right to additionally make and/or exercise other claims and/or actions.

7.3 Performance Bonds

7.3.1 In order to guarantee the faithful, full and timely compliance with the execution of the Project and the obligations of the Awardee in the Concession Contract, the Awardee undertakes to submit within seventy-five (75) calendar days from the notification of the Award, and prior to the date of signature of the Contract, the following:

7.3.2 *Price Performance Bond.* A letter of credit issued in favor of **INDOTEL**, granted by a first-class banking institution subject to the supervision and oversight of the Superintendency of Banks, for an amount equivalent to twenty (20%) of the price corresponding to the awarded frequencies, which represents the remainder of the total price. This guarantee must be unconditional, irrevocable and renewable, enforceable on first demand, and must be constituted in the same currency as the Financial Bid and the Concession Contract, drawn up in accordance with Annex VII. This guarantee will ensure the timely payment of the remainder of the total award price agreed in the Concession Contract, and will remain in force during the term established to complete the payments, or when the total price agreed in the Concession Contract or addendum is paid, whichever happens first. This guarantee shall clearly state the right of **INDOTEL** to execute the guarantee, in whole or in part, in the event of default of any installments of the price.

7.3.2.1 Failure to enforce the foregoing warranty by **INDOTEL** shall not be inferred as a waiver of its rights under this section, or any other remedies provided by local laws.

7.3.3 *Performance bond for the infrastructure deployment obligations that make up the Minimum Expansion Plan.* A bank guarantee or the constitution of a surety bond policy for a total amount of 10% of the value of the awarded Bid (Price x MHz x Year). This guarantee will insure (i) the non-compliance with the population coverage goals per year in accordance with the Minimum Expansion Plan (MEP) annexed to the Concession Resolution No. 100-2023 of the Board of Directors of **INDOTEL**

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Contract, (ii) the damages that may be generated to the detriment of **INDOTEL** in the event of non-compliance with the Contract by the Awardee or for delay in its compliance; and (ii) damages that may be generated to the detriment of **INDOTEL** in case of breach of the Contract by the Awardee, or due to delay in its compliance; and (iii) compensation for damages caused to third parties in the execution of the Contract and claimed or demanded by them to **INDOTEL**. This guarantee must be unconditional, irrevocable and renewable, enforceable on first demand, in whole or in part, and must be presented in accordance with Annex VIII. This performance bond will be enforced in favor of **INDOTEL** in the event of a breach of the Contract by the Awardee, in whole or in part, as well as in the other cases provided for in the Concession Contract.

7.3.4 In the event that for reasons of Force Majeure, the Awardee is prevented from fulfilling the obligations of the Minimum Expansion Plan, the Awardee may request **INDOTEL** a single extension of the term originally established for the deployment. If the extension for fulfillment is approved, the Awardee shall extend the validity of the Performance Bond for the same period.

7.3.5 Upon completion of its purpose, the guarantee shall be returned to the Awardee thirty (30) business days after confirmation of (i) compliance with the Minimum Expansion Plan and all obligations placed on the Awardee under the Contract, (ii) that there are no outstanding pecuniary obligations, including but not limited to fines or penalties, and (iii) the non-existence of liability or claim pending before **INDOTEL** from its employees, suppliers or third parties in general.

7.3.6 The insurance through surety bond policies or bank guarantees will be extended in favor of **INDOTEL**, to be granted by an institution of recognized solvency established in the Dominican Republic, subject to the supervision and oversight of the Superintendency of Insurance or the Superintendency of Banks, as applicable, and which has a risk rating equal to or greater than "A" by the international rating agencies Fitch or Moody's.

7.3.7 The amount of the guarantees will be reviewable annually by **INDOTEL** at its sole discretion, according to the payments made by the Awardee and the obligations fulfilled according to the MEP, and by virtue thereof it will have the power to consider whether to maintain the amounts or to reduce them in proportion to the objectives achieved to **INDOTEL's** satisfaction.

7.3.8 The enforcement of the guarantee by **INDOTEL** is independent of the rest of the actions that may legally proceed against the Awardee, so it does not limit or restrict any other right that **INDOTEL** may have against the Awardee that failed to comply with its obligations under the Contract and the laws in force in the Dominican Republic.

7.3.9 The omission in the submission of any of these performance bonds, or when it is insufficient, shall entail the automatic rejection of the Awardee without the need for any judicial or extrajudicial proceeding whatsoever. In this case, the Bid Bond shall be enforced.

7.3.10 The submission of the Performance Bond does not exempt the Awardee from the other responsibilities that it must fulfill as a provider of public telecommunications services in accordance with the General Telecommunications Law and the regulations that complement it.

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7.3.11 All expenses generated by contracting the Performance Bond shall be borne exclusively by the Awardee.

7.3.12 The Awardee undertakes to renew the Guarantees indicated above, as often as necessary during the term of the Concession. If for any circumstance the Awardee does not proceed to renew any of the Guarantees of Performance Bond in sixty (60) calendar days before its expiration, so that there is uninterrupted coverage, will be penalized in the terms established in the concession contract or addendum, as appropriate.

CHAPTER VIII. Additional Conditions for Bid Formulation and Estimation

8.1 Additional Conditions of the Bids

8.1.1 The Financial Bid constitutes a total and non-modifiable amount for the award of the Concession and Licenses for the use of one or several of the frequency Bands within the 700 MHz, 2340-2400 MHz and 3600-3700 MHz for the provision of public telecommunications services nationwide.

8.1.2 For the formulation of its Technical and Financial Bid, the Bidder shall consider that, if awarded, it shall be responsible for:

- a) Revenues from the operation of the service, which should take into account interconnection agreements with other operators.
- b) Supply all equipment, applications and everything required for the correct operation of the service.
- c) The investment necessary for the deployment of infrastructure required to comply with the Minimum Expansion Plan and Obligations To-Do so established in accordance with the minimum requirements indicated in Annex V.
- d) Perform its traffic and bandwidth calculations and estimates, supply, integrate, install and test all hardware and software equipment, infrastructure, civil works and operation and maintenance expenses, respecting the environmental conditions and characteristics of the Concession area, as accurately as possible and according to its technology.
- e) Provide everything necessary to carry out the installation work, transportation, travel expenses, materials, etc., either directly or through subcontracting.
- f) During the Concession period, guarantee the safety and proper use of the equipment, as well as cover the respective insurance policies so that the system will be replaced in case of disaster.
- g) Assume all corresponding payments, including, but not limited to, those accrued for concession fees, licenses, permits, use of the radio spectrum, taxes, tributes or others necessary for the operation and maintenance of the service, including charges for interconnection to the public network, as well as the use of the space segment, if applicable.
- h) Comply with the quality and continuity standards of the public telecommunications service established by **INDOTEL**.
- i) Provide free access (sponsor data) to its prepaid mobile internet users to the Unique State Portal and its services.

8.1.3 By submitting a Bid the Bidder accepts all the terms and conditions, without exception, of the General Bid Specifications, the Concession Contract, its Technical Bid,

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including the Minimum Expansion Plan, Obligations to do, and its Financial Bid.

CHAPTER IX. General Considerations

- A. Deadlines. Unless otherwise stipulated in this General Bid Specifications, the computation of time periods shall be made in calendar days.
- B. Currency. All Bids must be formulated in Dollars of the United States of America.
- C. Claims, Challenges and Controversies. In the cases in which the participating Bidders are not satisfied with the process or the result of the Bidding, they will have the right to appeal the process in accordance with the terms and forms provided by the Law.
- D. Complementary spectrum. The Awardee may request from **INDOTEL**, in accordance with the provisions of the Authorizations Regulation for Telecommunication Services, the allocation of frequencies for point-to-point radio links in the frequencies intended for such uses in the National Frequency Allocation Plan approved by Decree No. 266-23.
- E. Migration. The frequencies being tendered will be assigned in such a way that it will not be necessary for the Awardee to incur costs related to the migration of previously authorized systems to third parties.
- F. Use of Awarded Blocks: The Awardee(s) shall provide the authorized public services in compliance with all the provisions established by the National Frequency Allocation Plan (PNAF, for its acronym in Spanish), especially those related to the frequencies awarded in this Public Bidding.
- G. Model of Adhesion Contracts: The Awardee(s) shall submit the model contracts for the provision of public services it intends to offer for review to **INDOTEL**.
- H. No transfer. The Awardees of this Public Bidding may not transfer the rights of use of the frequencies assigned to them nor the Authorization(s) issued as a result of this Public Bidding, during the three (3) years following the execution of the Contract. Upon expiration of said term, the Awardee may transfer these rights under the condition that the transferee assumes all the obligations of the Contract and any surviving obligations associated with this Public Bidding.

CHAPTER X. Annexes

The Bidders shall also be subject, in submitting their Bids, to the annexes to this Specifications, which are considered an integral part of the same and are listed below:

ANNEX I: Bidders' Cover Letter

ANNEX II: Affidavit signed by the Chief Executive or Legal Representative of the Bidder.

ANNEX III: Affidavit for Bidders submitting Bids as a Consortium, certifying their commitment to become a legal entity of the Dominican Republic in case they are

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awarded the Public Bidding.

ANNEX IV: Minimum Expansion Plan

ANNEX V: Financial Bid Submission Form.

ANNEX VI: Bid Maintenance Guarantee Model.

ANNEX VII: Price Performance Bond Model.

ANNEX VIII: Performance Bond Model for Minimum Expansion Plan Obligations.

ANNEX IX: Draft of the Concession Contract.

**THE ANNEXES ARE ONLY AVAILABLE IN SPANISH AND CAN BE FOUND AT
INDOTEL'S WEBSITE (WWW.INDOTEL.GOB.DO) IN RESOLUTION NO. 100-2023.**