

**Annex II to the Invitation to Tender**

**Frontex/2021/0395/OP/MS**

## **Terms of Reference**

Framework Contract (FWC) for the supply of service weapons (compact 9x19 mm semi-automatic pistol), ammunition and accessories

- Lot 1 - Compact 9x19 mm semi-automatic pistol, accessories and training
- Lot 2 - Ammunition

## Contents

<b>1. General Information</b>	<b>3</b>
1.1. Acronyms, Terms and Definitions	3
1.2. Purpose	4
<b>2. Minimum technical requirements</b>	<b>5</b>
2.1. Minimum requirements	5
<b>3. Description of deliverables</b>	<b>6</b>
3.1. Deliverables per Lot	6
3.2. Estimated Contract Volume and indicative implementation plan for the Framework Contract	6
<b>4. Delivery, warranty and after sales support</b>	<b>7</b>
4.1. Place and time of delivery	7
4.2. Delivery of items and services purchased	7
4.3. Liquidated damages for late delivery	7
4.4. Specific requirements for the deliverables	8
4.5. Warranty	9
4.6. After sales support	9
4.7. Obsolescence management	10
4.8. Language	10
<b>5. Deliverables acceptance procedures</b>	<b>11</b>
5.1. Qualitative acceptance procedure	11
5.2. Quantitative acceptance procedure	14
5.3. Training acceptance procedure	14
<b>6. Implementation of the FWC</b>	<b>16</b>
6.1. Order Form establishment process	16
6.2. Performance guarantee	16
6.3. Payment	16
6.4. Contract management personnel	16
<b>Appendix 1 Sequence of activities stipulated in the Tender</b>	<b>18</b>

## 1. General Information

### 1.1. Acronyms, Terms and Definitions

Acronyms / Terms	Definition
Accessories	Holsters set, flashlights, and three magazines for each pistol - one in the pistol and two in addition, and the relevant manuals and additional documentation
Armourers toolset	Toolset, necessary for disassembly and reassembly of the pistol, if applicable
Agency	European Border And Coast Guard Agency
Break	The movement during which the trigger moves the sear (striker) to the point of release
Correctable malfunction	Malfunction possible to be corrected by the shooter with a malfunction drill
CWA 17094-2:2016 (E)	European Committee for Standardization, Police firearms technology - Part 2: Police pistol and support weapon - Recommendations. Published 21st of December 2016
C.I.P.	Commission internationale permanente pour l'épreuve des armes à feu portatives ("Permanent International Commission for the Proof of Small Arms")
Cleaning kit	Kit that includes, but not necessarily limited to, oil and barrel cleaning rod with brush
Date of final acceptance of the deliverables	The date of signature of the notice of the quantitative acceptance by both parties
DDP	Delivered Duty Paid (Incoterms® 2020)
EC	European Commission
EU	European Union
Frontex	European Border And Coast Guard Agency
FWC/FWCs	Framework Contract/Framework Contracts
Holster set	The holster set for the semi-automatic 9x19mm pistols includes: holster, platform to pistol mounted on the leg, belt mounting adapter, MOLLE mounting adapter, and magazine pouch
Malfunction	Correctable and non-correctable malfunction of pistol interrupting shooting and normal operation of the pistol
MS/MSs	Member State / Member States
Non-correctable malfunction	Malfunction requiring weapon repair by an expert in a weapons workshop
OF/OFs	Order Form / Order Forms
Over-travel	The distance a trigger moves after the sear (striker) releases
Pistol spare parts kits	Set consisting of extractor, firing pin, all springs, pins, screws used in the pistol, optic mount cover with screws, trigger set and spare sights set kit
ToR	Terms of Reference
Trigger set	Trigger with trigger bar, connector/disconnector (when it's applicable)
Trigger pull weight	Maximum force required to the trigger to make a shoot including pre-travel, Break and over-travel of the trigger
Pre-travel	The movement of the trigger which happens before the sear (striker) moves
SAAMI	Sporting Arms and Ammunition Manufacturers' Institute
SAC	Schengen Associated Country

## 1.2. Purpose

Frontex coordinates and organises joint operations and rapid border interventions to assist Member States at the external borders, including in humanitarian emergencies and rescue at sea. Frontex may carry out operations on the territory of non-EU countries neighbouring at least one Member State, in case of migratory pressure at a non-EU country's border.

Frontex as the decentralised body of the European Union established by the Regulation (EU) 2019/1896 of 13 November 2019 on the European Border and Coast Guard (OJ L 295, 14.11.2019, p. 1, hereinafter the "Regulation") having its own legal personality, in accordance with art. 55.7 in connection with art. 82 and Annex V of the Regulation, being directly applicable in the Polish legal system and in line with the provisions of the Headquarters Agreement between the Republic of Poland and the Agency, as well as the Act of June 13, 2019 on the performance of economic activity in the field of production and trade in explosives, weapons, ammunition, and products and technology for military or police purposes (Journal of Laws of 2020, item 1545), is entitled for the acquisition of service weapons and ammunition.

The Regulation 2019/1896 foresees in its Articles 5 and 54 the establishment of a European Border and Coast Guard standing corps that shall be part of Frontex.

Operational staff from the standing corps will support EU and Schengen countries in tasks such as:

- border control at land, sea and air borders;
- border surveillance;
- collecting and sharing information on situation at EU's borders and beyond;
- search and rescue activities;
- returning people who do not have the right to stay in the EU;
- fighting cross-border crime, including migrant smuggling, document fraud and terrorism.

The Article 82 of the Regulation 2019/1896, among others, stipulates that Frontex statutory staff of the European Border and Coast Guard standing corps can perform their tasks during a deployment, which may require the use of force, including carrying and use of service weapons.

Service weapons and ammunition may be used in cases of legitimate self-defence and in legitimate defence of members of the teams or of other persons in accordance with the national law of the host Member State in line with relevant principles of international human rights law and the Charter of Fundamental Rights of the EU.

The purpose of this FWC is to provide Frontex with the capacity to acquire service weapons, ammunition and accessories for the operational activities and training of European Border and Coast Guard standing corps, as listed in Table 1 of 3.1 Deliverables per Lot **Error! Reference source not found.**, according to the terms and conditions described in this Tender .

This Terms of Reference and Technical Specifications are an integral part of the subject FWC.

[ToR-1] The Contractor shall comply to all the requirements of this Terms of References and its appendices.

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## 2. Minimum technical requirements

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### 2.1. Minimum requirements

[ToR-2] The Contractor shall:

- a. Comply with the Specific Terms of the ToR as per Part A in Annex V - Compliance Matrix. Each Specific Term has a unique identifier Reference Number in the Annex II and in the Matrix;
- b. Comply with the minimum Technical Requirements and Product Specifications of the Tender as per Part B of Annex V - Compliance Matrix. Each minimum Technical Requirement has a unique identifier Reference Number in the Matrix<sup>1</sup>.

The minimum requirements are identified by the use of the word “shall” and have a unique identifier Reference Number.

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<sup>1</sup> The minimum requirements in the Compliance Matrix, in addition to the unique identifier Reference Number, they also have a Paragraph number indicated that they are integral part of chapter 2 of the ToR.

### 3. Description of deliverables

#### 3.1. Deliverables per Lot

This procurement procedure is divided into two (2) Lots, as per Table 1.

[ToR-3] The Contractor shall deliver goods and services listed below in line with the placed Order Forms:

Table 1 - Indicative quantities and plan of implementation

No.	FWC for the supply of service weapons (compact 9x19 mm semi-automatic pistol), ammunition and accessories	Estimated quantity to be ordered				
		2021	2022	2023	2024	TOTAL
LOT-1						
1.1	Pistols					
1.1.1	Compact 9x19 mm semi-automatic pistols including cleaning kit, pistol' s case, and owner's manual and other documentation	1,000	500	500	500	2,500
1.1.2	Pistol spare parts kits	100	50	50	50	250
1.1.3	Armorer's tools sets	20	20	20	20	80
1.2	Accessories, including manual and other documentation, for each accessory, where applicable					
1.2.1	Three magazines' set for each pistol	1,100	550	550	550	2,750
1.2.2	Holsters set for the semi-automatic 9x19mm pistols	1,100	550	550	550	2,750
1.2.3	Flashlights	1,100	550	550	550	2,750
1.3	Training					
1.3.1	Training per group of 15 armourers	2	2	2	2	8
1.3.2	Training per group of 15 shooting instructors	1	1	1	1	4
LOT-2						
2.1	9x19 mm Full Metal Jacket (FMJ) Ammunition	1,600,000	500,000	500,000	400,000	3,000,000
2.2	9x19 mm Deformation Ammunition	350,000	100,000	100,000	80,000	630,000

Note: Frontex may order the supplies in sets with different configurations, based on the needs identified at the moment of ordering, or separately.

#### 3.2. Estimated Contract Volume and indicative implementation plan for the Framework Contract

The FWCs awarded on the basis of this procurement procedure shall cover the purchase of the supplies and services listed in Section 3.1, Deliverables per Lot.

Frontex will launch the first OFs after the signature of the FWCs to cover the needs for an estimated number of 1,000 officers, including reserve. Frontex may need to launch additional OFs to complement and support future development of the European Border and Coast Guard standing corps.

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## 4. Delivery, warranty and after sales support

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### 4.1. Place and time of delivery

[ToR-4] The Contractor shall deliver the supplies to Frontex storage facilities in Warsaw (Poland) or to other location in Warsaw (Poland) notified by Frontex, within the maximum delivery time stipulated in paragraph 4.2 Delivery of items and services purchased together with all corresponding documentation and, where applicable, certificates as per the DDP (Incoterms® 2020).

The Frontex storage facilities delivery address is:

Frontex  
Plac Europejski 6,  
00-844 Warsaw - Poland

[ToR-5] The Contractor shall include the cost of the delivery in the price.

[ToR-6] The Contractor shall deliver during working hours (Monday - Friday 09:00-17:00 excluding holidays).

[ToR-7] The Contractor shall agree with Frontex the exact delivery date and time at least 48h before the delivery.

[ToR-8] The Contractor shall address customs and all import related issues at the Contractors cost, if needed.

### 4.2. Delivery of items and services purchased

Frontex will establish the default delivery deadline for the FWC using the declared lead time by the Contractor at the time of bidding.

Lead time is defined as time between the signing of the OF and the date of the final acceptance of all the deliverables, as described below in para. 5 - Deliverables acceptance procedures.

Frontex will put this deadline on each OF.

#### 4.2.1. Delivery of items and services purchased under Lot 1.

Delivery of items under Lot 1 shall happen within the following maximum terms:

[ToR-9] The Contractor shall deliver the pistols and accessories of Lot 1 as described in chapter 3 Description of deliverables in line with the submitted offer under the FWC.

[ToR-10] The Contracting Authority stresses the fact that as minimum requirement the Lead Time shall not be more than 365 calendar days and offers with indicated Lead Time exceeding the 365 calendar days will be rejected. This requirement is also technical award criterion.

[ToR-11] The Contractor shall be ready to deliver the trainings for shooting instructors and trainings for armourers within 30 calendar days after the first delivery of pistols. The exact dates of the training sessions shall be mutually agreed by both parties (Frontex and Contractor).

#### 4.2.2. Delivery of items under Lot 2.

[ToR-12] The Contractor shall deliver any items purchased under Lot 2 as described in chapter 3 Description of deliverables in line with the submitted offer under the FWC.

[ToR-13] The Contracting Authority stresses the fact that as minimum requirement the Lead Time shall not be more than 365 calendar days and offers with indicated Lead Time exceeding the 365 calendar days will be rejected. This requirement is also technical award criterion.

### 4.3. Liquidated damages for late delivery

See Article II.14 of the draft contract.

## 4.4. Specific requirements for the deliverables

### 4.4.1. Supplies

- [ToR-14] The Contractor shall deliver goods:
- a. New and unused;
  - b. Fully compliant with the requirements and technical specifications as described in the Annex V - Compliance Matrix;
  - c. Free of any defect and of state of the art quality;
  - d. Packed in appropriate way depending on the nature of the supply. The packages shall allow a quick identification of the type of the supply, quantity and features (e.g. serial number, Lot, expiration dates, etc.);
  - e. Labelled with all the information required in the Annex V -Compliance Matrix and the relevant storage, transportation, use, manufacturer and/or legal requirements toward specific supplies.

### 4.4.2. Training services

- [ToR-15] The Contractor shall deliver the training sessions for armourers and shooting instructors as per Table 1 - Indicative quantities and plan of implementation of the ToR.
- [ToR-16] The Contractor shall deliver the training sessions for armourers and shooting instructors in Warsaw. In case of a different location in the EU is selected by Frontex or the contractor, it shall be mutually agreed by both parties. In case that due to the COVID-19 situation, the trainings cannot be performed as described, an alternative solution shall be mutually agreed by both parties (Frontex and Contractor).
- [ToR-17] The Contractor shall cover the costs for the trainings, including travel and accommodation of the trainers, rental costs for shooting range, bullets, pistols, cleaning equipment, armourers toolsets, and all other necessary equipment.
- [ToR-18] The Contractor during the trainings shall use the same model of pistol with the offered one.

Frontex will cover the travel and accommodation costs of the trainees.

#### 4.4.2.1. Training for armourers

- [ToR-19] The Contractor shall provide twice per year a training session for the armourers with minimum duration of one day and maximum three days, each time for a group of 15 trainees. This requirement is also a technical award criterion.
- [ToR-20] Training for armorers shall include theoretical sessions and practical hands-on exercises.
- [ToR-21] This training shall render armorers to:
- Completely disassemble and reassemble the pistols and magazines;
  - Replace any part of the pistols provided in spare part list;
  - Perform maintenance and diagnostic of the pistols;
  - Install and adjust sights.

#### 4.4.2.2. Training for shooting instructors

- [ToR-22] The Contractor shall provide once per year a training session for the shooting instructors with minimum duration of one day and maximum three days, each time for a group of 15 trainees. This requirement is also a technical award criterion.
- [ToR-23] Training for shooting instructors shall include theoretical training and practical hands-on exercises.
- [ToR-24] The Contractor shall design the training session to prepare trainers to train operators of the pistol and shall include following minimum elements:
- a. Safety instructions for handling, loading and operating the pistols;
  - b. Handle, load and operate the pistols;



- c. Using the pistol on the shooting range;
- d. The pistols field strip and maintenance.

#### 4.4.3. Manuals and other Documentation

[ToR-25] The Contractor for each pistol, shall deliver Owner's manual and additional documentation, including, but not necessarily limited to:

- a. Pistol safety rules (safe handling of pistols);
- b. Operation of the pistol;
- c. Loading and unloading procedures;
- d. List of Serial Number and date of production of the pistols;
- e. Disassembly and reassembly procedures;
- f. Cleaning and maintenance.
- g. Functional description of the equipment;
- h. Detailed technical parameters;
- i. Complete parts list;
- j. Price list of all the spare parts of the pistol;
- k. Maintenance procedures;
- l. Procedures for fault finding and repair at user's level.

[ToR-26] The Contractor for each of the accessories, shall deliver manuals and other documentation, where applicable.

#### 4.4.4. Registration

[ToR-27] The Contractor (Lot 1) shall provide administrative support to Frontex, on the pistols' registration in the country of registration.

### 4.5. Warranty

[ToR-28] The Contractor shall warrant that the supplies delivered in performance of the FWCs shall be free of any defect, shall be of state of the art quality, shall meet all applicable minimum requirements and minimum quality levels listed in Annex V - Compliance Matrix of the supplies concerned, and shall meet all other applicable commitments made by the tenderer in its tender.

[ToR-29] The Contractor shall repair or replace under EXW (Incoterms® 2020) rules any good under warranty and deliver them at Frontex Headquarters storage facility in Warsaw (Poland) under Contractor DDP (Incoterms® 2020) rules.

[ToR-30] The Contractor shall cover the goods with warranty, specifically:

- a. For the pistol only: at least for a period of 5 years, following the date of final acceptance of the deliverables of each order.
- b. For the accessories, the cleaning kit, the armourers toolset, kit of spare parts, and the pistol's case: at least for a period of 2 years, following the date of final acceptance of the deliverables of each order.
- c. For the ammunition: at least for a period of 3 years, following the date of final acceptance of the deliverables of each order.

These requirements are also technical award criteria.

Frontex will not consider the following situations as covered by the warranty:

- a. by failure of the user to operate or maintain the supplies in accordance with the applicable manuals and other documentation;
- b. by not suitable use of the product, due to *force majeure*.

### 4.6. After sales support

[ToR-31] The Contractor shall adhere to the following process during the warranty period:

- a. Frontex notifies the Contractor regarding the failure / malfunction issuing by email a warranty claim. The form of the warranty claim shall be mutually agreed by Frontex and the Contractor;
- b. Frontex ships the defected product / accessory to the premises of the Contractor, under Contractor's shipping expenses and arrangement (special transportation<sup>2</sup> totally managed by the Contractor);
- c. Within 15 calendar days after the date of the warranty claim was issued, the Contractor shall provide by email to Frontex a relevant failure report, describing the nature of the defect, and the estimated resolution method (repair or replacement by new and same type and model as per the offered one). Any parts used for the repair shall be original equipment manufacturer parts.
- d. After the resolution, the Contractor shall ship (special transportation totally managed by the Contractor) the repaired or replaced product to Frontex Headquarters not later than 30 calendar days from the date when the respective warranty claim was issued, and the Contractor shall issue a repair report. The repair report shall include:
  - i. Reference to the warranty claim;
  - ii. Nature and description of failure;
  - iii. Resolution method (repair or replacement by new);
  - iv. Date of dispatch;
  - v. If the defect product is repaired:
    - 1) Description of preformed service / repair activities;
    - 2) List of replaced parts, with reference to their part numbers, if applicable;
    - 3) Description of verification procedure and their results (for recertifying the product ready for use).
- e. After receiving the repaired or replaced product, Frontex will inform by email the Contractor within 15 calendar days on the acceptance or not of the respective resolution. In case of:
  - i. acceptance, Frontex will consider the warranty claim closed;
  - ii. non-acceptance, Frontex will notify by email the Contractor, providing the appropriate justification, and return the defect product to the Contractors' premises, under Contractor's shipping expenses and arrangement. In such a case, the Contractor shall replace the defected product by a new one, and ship the new product not later than 10 calendar days from the date of the above-mentioned non-acceptance notification.

[ToR-32] The Contractor shall prolong the warranty period by the time between the date of issuing the warranty claim, and the date of receiving at the Frontex Headquarters the repaired or replaced product, under the condition that the resolution is accepted by Frontex.

[ToR-33] The Contractor shall be liable for a penalty for each day exceeding the lead time. The penalty per day shall be 0.1 % of the respective product's purchase value.

#### 4.7. Obsolescence management

[ToR-34] The Contractor shall make sure that the products delivered under the FWC are not obsolete and in active support from their vendor.

[ToR-35] The Contractor shall cover any cost of the implementation of the resolution of possible obsolescence during the respective warranty period as described in paragraph 4.5 Warranty.

#### 4.8. Language

[ToR-36] The Contractor shall deliver all the documentation within the contract in English language. Moreover, Frontex and the Contractor shall conduct all communication, whether written or spoken, in English.

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<sup>2</sup> Special transportation-conditions and requirements for the transportation of weapons and/or ammunition, based on national or international legislation.

## 5. Deliverables acceptance procedures

Frontex will accept the products delivered following the formal acceptance procedure.

The acceptance procedure is divided in two parts:

- a. The qualitative acceptance procedure which verifies that the deliverables perform based on the Acceptance Test Form as described in paragraph 5.1 Qualitative acceptance procedure;
- b. The quantitative acceptance procedure which verifies that the number and the type of delivered items corresponds to the number of the order ones as per paragraph 5.2 Quantitative acceptance procedure.

### 5.1. Qualitative acceptance procedure

#### 5.1.1. Acceptance test Form

[ToR-37] The Acceptance Test Form will have the same structure as the Part B of the Annex V - Compliance Matrix including a column where the Contractor shall describe the proposed verification method for each requirement (if applicable) and a short description of each of the verification methods. Those verification methods can include but not limited:

- i. external verification tests;
- ii. documentation review;
- iii. testing;
- iv. demonstration;
- v. visual inspection.

[ToR-38] The Contractor shall submit to Frontex the Acceptance Test Form at least 30 calendar days before the contractual delivery deadline of the first orders of the pistols, their accessories (Lot 1), and ammunition (Lot 2).

Frontex will send comments, if any, on the Contractor's Acceptance Test Form, within 5 calendar days of the date of the submission.

[ToR-39] The Contractor shall execute the acceptance tests once both Frontex and Contractor agree on the content of the verification methods and the relevant descriptions in the Acceptance Test Form.

[ToR-40] If the Contractor has offered a pistol or a certain accessory with a specification that meets and exceeds a number of the minimum requirements (for example the warranty period), which is also scored as per Table 1 and 2 of the Tender Specifications, then the verification method shall refer to the relevant offered requirements, and not the minimum ones.

#### 5.1.2. External verification tests

[ToR-41] After the agreement of the Acceptance Test Form by both parties, and before the delivery of the pistols and their accessories, the Contractor shall organise and perform the external verification tests in order to prove the following requirements in the technical specifications of Lot 1:

Table 2 - Requirements to be verified at the external verification tests

No	Paragraph of the Technical Specifications	Requirement	Notes regarding the scoring Table 1 of Lot 1 in the Tender Specifications (Annex I)
1	2.2.2.7	Error! Reference source not found.	For performance greater than 100 sequential shots (min

No	Paragraph of the Technical Specifications	Requirement	Notes regarding the scoring Table 1 of Lot 1 in the Tender Specifications (Annex I)
			requirement), the relevant test results should be proved in order to be scored accordingly
2	Error! Reference source not found. Error! Reference source not found.	Error! Reference source not found.	
2.1	Error! Reference source not found.	Error! Reference source not found.	
2.2	Error! Reference source not found.	Error! Reference source not found.	
2.3	Error! Reference source not found.	Error! Reference source not found.	
2.4	Error! Reference source not found.	Error! Reference source not found.	
2.5	Error! Reference source not found.	Error! Reference source not found.	
3	Error! Reference source not found.	Error! Reference source not found.	For performance better than the minimum requirement (less than 2%), the relevant test results should be proved in order to be scored accordingly.
4	2.2.1.13	Error! Reference source not found.	
5	2.2.1.14	Error! Reference source not found.	For performance better than the minimum requirement (less than 50mm), the relevant test results should be proved in order to be scored accordingly.

No	Paragraph of the Technical Specifications	Requirement	Notes regarding the scoring Table 1 of Lot 1 in the Tender Specifications (Annex I)
6	2.2.1.15	Error! Reference source not found.	

[ToR-42] The Contractor shall perform the external verification tests with the same model of pistol and parts, configuration and parameters corresponding to the model that the Contractor has proposed to his offer.

[ToR-43] The Contractor shall execute the external verification tests in an expert laboratory. The expert laboratory shall fulfil the following conditions:

- It is located in the EU;
- It is accredited by a recognized accreditation body;
- It is certified according ISO/IEC 17025:2017 standard, or newer, *General requirements for the competence of testing and calibration laboratories*, or equivalent;
- It is able to recreate test methods and conditions according to the standards described in the technical specifications, required for the items in Lot 1;
- It is independent from the Contractor and manufacturers of the pistol and accessories to be tested;
- It possesses test equipment needed to carry out the required tests;
- It has already carried out commercially required test services for other organisations.

The Contractor has the right to submit to Frontex, at the same time with the submission of the Acceptance Test Form, the test results of previously executed external verification tests that may have in his/her possession and cover the verification requirements that the Acceptance Test Form describes for the offered pistol and accessories (Lot 1).

Frontex will accept these test results if:

- a. the date of issue of the tests is less than 5 years before the date of the submission of offers and;
- b. the conditions and the standards under which the performed tests are the same with the ones as of Table 2.

Frontex reserves the right to:

- a. witness / participate in the external verification tests (all expenses for Frontex staff will be covered by Frontex);
- b. request the Contractor to perform additional verification tests by another expert laboratory that Frontex will select. Frontex will cover the transportation and other expenses related to the additional verification tests. In this case Frontex will grant to the Contractor additional time needed for the implementation of the tests and will extend accordingly the deadline of the delivery.

### 5.1.3. All other verification tests

[ToR-44] For all verification methods other than the external verification tests, after the approval of the Acceptance test Form by Frontex, the Contractor shall invite Frontex to witness / participate in the verification procedures at the Contractor's premises in the EU, or in Warsaw.

If the verification procedures take place in a different location in the EU, than Warsaw, the travel and accommodation expenses of Frontex staff, will be covered by Frontex.

Frontex and the Contractor will commonly agree about the number of samples of pistols and accessories (Lot 1), and ammunition (Lot 2) that will execute the verification tests. This number of samples will be from 5 to 10.

[ToR-45] The Contractor shall include the number of samples in the tests' descriptions of the Acceptance Test Form.

During these verification tests:

- f. If at least 1 sample does not meet the requirements, Frontex may choose to check additional number of samples;
- g. Frontex may request from the Contractor any quality control documentation for all the pistols (not only for the samples).

#### 5.1.4. Qualitative acceptance tests protocol

After the execution of all the qualitative acceptance tests, Frontex and the Contractor will mutually sign the qualitative acceptance test protocol.

[ToR-46] After signing of the acceptance test protocol, the Contractor shall deliver all the contractual supplies to Frontex, as per paragraph 4.1, Place and time of delivery.

### 5.2. Quantitative acceptance procedure

After the delivery of the supplies, Frontex will proceed to the quantitative acceptance procedure as per paragraph 5 Deliverables acceptance procedures.

Frontex will invite the Contractor to witness / participate in the quantitative acceptance procedure on the place of the delivery and on a date that will be mutually agreed by Frontex and the Contractor. If due to force majeure, such as possible travel restrictions due to COVID-19 pandemic, the Contractor is not able to attend the quantitative acceptance procedure, the Contractor may witness / participate via Video Conference, to be arranged between Frontex and the Contractor.

Frontex will conclude the quantitative acceptance procedure within 10 working days and will provide a written notice of Acceptance, Partial Acceptance or Non-acceptance to the Contractor. The date of signature of the notice of acceptance by both parties is defined as the date of the final acceptance of the deliverables. It is not mandatory for the Contractor to witness / participate in quantitative acceptance procedure (physically present or via Video Conference), however, if the Contractor decides not to witness / participate it will accept the above mentioned written notice of Acceptance, Partial Acceptance or Non-acceptance.

In the event Frontex provides notice of partial or non-acceptance to the Contractor, Frontex will have the continuing right, at its sole discretion, to:

- refuse to pay any fees or other amounts associated with such supplies or services and return the supplies concerned to the Contractor at the Contractor costs, or require a new performance of the services concerned;
- accept such supplies or services on the condition that the Contractor reduces or discounts any fees or other amounts payable with respect thereto to reflect, to Frontex's satisfaction, the deficiencies present therein or the costs that Frontex is likely to incur to remedy such deficiencies or;
- terminate the contract and/or seek any and all available remedies, including damages.

[ToR-47] The Contractor shall deliver the potentially missing products, or replace or fix the deliverables which Frontex did not accept within 14 calendar days and present them for acceptance.

### 5.3. Training acceptance procedure

[ToR-48] Within 5 calendar days after the completion of each training session, the Contractor shall submit to Frontex a report on training session completion. The report shall comprise a comprehensive overview about the training, including at least the venue, exact dates of the training, subjects covered, teaching methods. The report shall include a signed attendance lists and assessment based on evaluation forms completed by participants.

The receipt of this duly completed and documented report is a prerequisite for the eligibility and payment of invoice.

Frontex will issue a written notice of Acceptance, Partial Acceptance or Non-Acceptance upon completion of the training session and after the submission of the report on training session completion by the Contractor.

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## 6. Implementation of the FWC

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### 6.1. Order Form establishment process

Frontex will implement this FWC through Order Forms (OFs).

An OF template is presented in Appendix to Annex III Draft framework supply contract.

When supplies covered by this FWC are needed, Frontex may issue and send to the Contractor an OF, providing all the necessary details not specified in the FWC (e.g. quantity, delivery destination(s), etc.). If the determination of some or all of these details require some form of concertation between Frontex and the Contractor, such concertation will take place before Frontex issue the OF.

[ToR-49] The Contractor shall send the counter-signed and dated OF back to Frontex within maximum five (5) working days.

Once the OF is signed by both parties, the performance of the order will start.

### 6.2. Performance guarantee

[ToR-50] The Contractor shall provide a performance guarantee constituted by a bank guarantee of 5% of the total value of the OF for every OF of an amount higher than 1.000.000€ (VAT not included) and for which the guaranteed maximum delivery time is longer than ninety (90) days, in accordance with the conditions laid down in the FWC.

Frontex will fully release such performance guarantee upon acceptance of the supplies or services covered by the OF, within a period of thirty (30) days following the provision of the notice of Acceptance by Frontex.

### 6.3. Payment

[ToR-51] The Contractor shall present all prices in Euro, excluding VAT.

[ToR-52] The Contractor shall make sure that any invoices indicate the Frontex's OF number to which it refers, and

[ToR-53] The Contractor shall send the invoices in pdf format to the following address: [invoices@frontex.europa.eu](mailto:invoices@frontex.europa.eu) with a copy to Frontex Contract Manager (FCM), as per paragraph 6.4.2 Frontex personnel.

In principle, Frontex will make all payments related to OFs within 30 calendar days after the provision by Frontex of the written notice of acceptance and upon receipt of the invoice, whichever comes later.

[ToR-54] In case the value of the OF is equal or superior to 100.000 EUR excluding VAT or other taxes, the Contractor may request a 30% advanced payment. The advanced payment request may be issued by the Contractor upon the signature of the OF. In such case, the Contractor shall issue an invoice for the advanced payment amount (pro-forma invoices are not accepted).

Frontex would pay such invoice within 30 calendar days of its receipt.

The contractor may issue separate invoice/s for the trainings delivered.

### 6.4. Contract management personnel

#### 6.4.1. Contractor's personnel

[ToR-55] The Contractor shall provide all necessary personnel to ensure the satisfactory performance of its obligations under the FWC, and

[ToR-56] The Contractor shall supervise and be fully responsible and liable for all the deliveries and services performed by its personnel and for their compliance with the terms and conditions of the FWC.

[ToR-57] During the implementation of the FWC and its OFs the Contractor shall nominate a Contract Manager (CM) for all contractual matters.



The CM will act as a single contractual contact point. All the correspondence related to the FWC (including the implementation of the OFs) will be addressed to him/her.

#### **6.4.2. Frontex personnel**

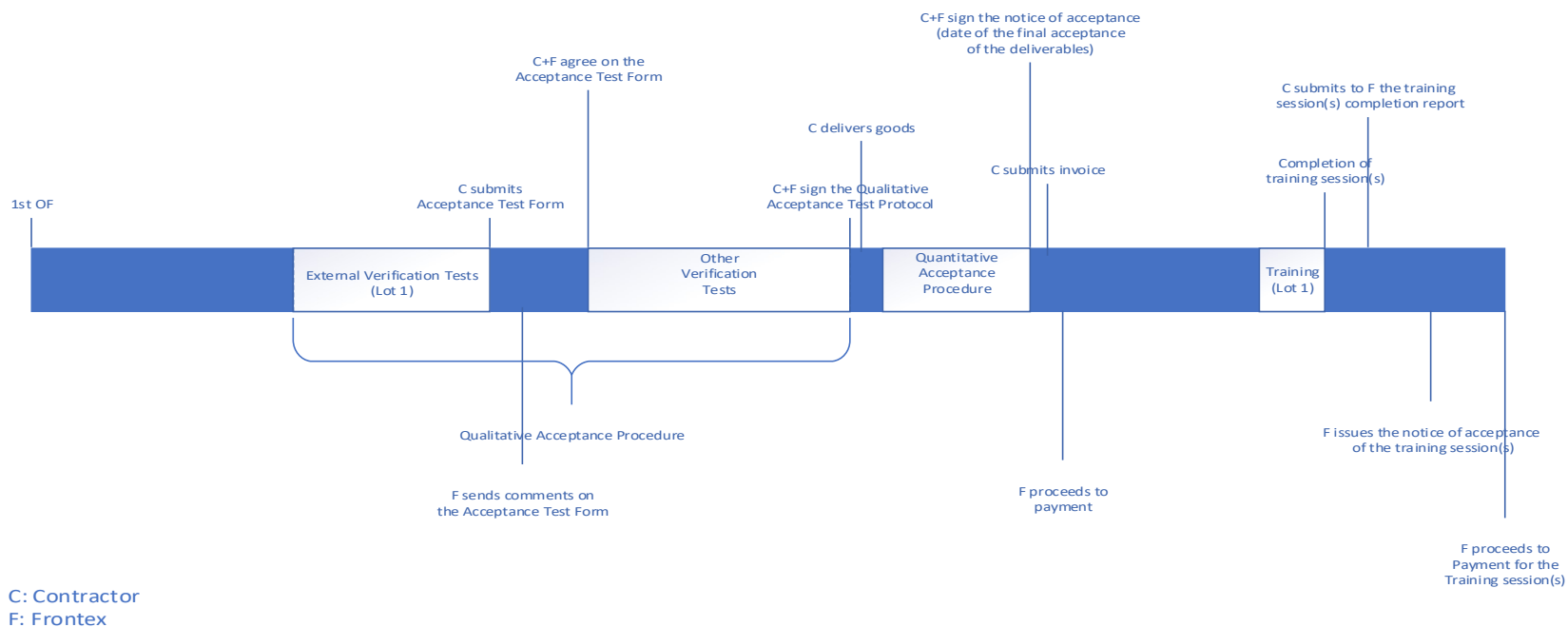
For the proper implementation of the FWC and its OFs Frontex will nominate a Frontex Contract Manager (FCM) upon the signature of the FWC, who will act as a single contact point for all the matters related to the FWC implementation, including the implementation of the OFs.

#### **Appendixes:**

Appendix 1: Sequence of activities stipulated in the Tender

## Appendix 1 Sequence of activities stipulated in the Tender

Figure 1 - Sequence of activities



### Notes:

1. The purpose of the above timeline is to assist the Contractor to have a visual overview of the contractual activities and doesn't replace the content of the Annex I and II of the Tender.
2. The above diagram shows the sequence of the activities, and it is not time-scaled
3. The above timeline begins with the sign of the OF and ends with the respective payments
4. The above diagram does not contain any activities related to warranty and after sales support