



**MARKET REPORT ON THE ONLINE
RETAILERS AND ECOMMERCE
PLATFORMS IN THE FOOD AND
BEVERAGE INDUSTRY IN THE US**

**BRIEFING/CONTRACTUAL CONDITIONS
CALL FOR BIDS
FROM SERVICE COMPANYS
JUNE 2024**

**ICEX ESPAÑA EXPORTACIÓN E INVERSIONES E. P. E.
TRADE COMMISSION OF SPAIN IN NEW YORK**

CONTENTS

1.	BACKGROUND	3
2.	THE REQUEST (the ask)	4
3.	PURPOSE OF THE CONTRACT	7
4.	APPLICABLE LEGISLATION AND JURISDICTION TO CONTRACT	7
5.	CONTRACT TERM	7
6.	CONTRACT BUDGET	7
7.	PAYMENT AND INVOICING	8
8.	CONSULTANT PROFILE AND REQUIREMENTS	8
9.	CONTENT OF PROPOSALS	10
10.	PRESENTATION OF PROPOSALS	11
11.	EVALUATION CRITERIA	13
12.	OBLIGATIONS	15
13.	CANCELLATIONS	17
14.	APPLICABLE LEGISLATION	17
15.	JURISDICTION	17
16.	EUROPEAN FUNDING	17
17.	ORGANISATIONS	18

ICEX España Exportación e Inversiones E.P.E. (hereinafter ICEX) represented by the Trade Commission of Spain in New York (TCNY) invites suitably experienced and qualified service companies to submit their proposals for a market report on the online retailers and ecommerce platforms in the food and beverages industry in the USA. The report should include in-depth analysis of the fitting online marketing opportunities and promotional activities to increase the presence, sales, and awareness of Spanish food and beverages in the USA.

ICEX aims to hire a service company (hereinafter the Company) to carry out this market research report in accordance with the terms and conditions set out below.

1.-	Contracting Authority:	ICEX España Exportación e Inversiones, E.P.E.
2.-	Case Number:	X054-37-2024
3.-	Scope of the contract:	To select a suitably experienced and qualified service company to carry out a market report on the online retailers and ecommerce platforms in the food and beverages industry in the USA that includes in-depth analysis of the fitting online marketing opportunities and promotional activities to carry out in those mentioned online retailers and ecommerce platforms to increase presence, sales, and awareness of Spanish food and beverages in the USA.
4.-	Submission of tenders:	<p>The 3 separate documents that represent the proposal must be sent via email EXCLUSIVELY to tenders@icex.es by 11:59pm East Coast Time (NY) on July 18, 2024.</p> <p>Attachments should not exceed a total of 4MB in size; in the event that they are larger, a tried and tested file transfer service should be used.</p>

1. BACKGROUND

ICEX, the Spanish agency for the promotion of trade and investment

ICEX (www.icex.es), the Spanish agency for the promotion of trade and investment, is a Spanish public body established in 1982 whose main purpose is to promote the internationalization of the Spanish economy. ICEX is attached to the Ministry of Economy, Commerce and Business (MINECO <https://portal.mineco.gob.es/>) and is responsible for developing and implementing the Ministry's international economic policy. However, ICEX is not part of the state administration and has a degree of operational and budgetary autonomy.

Since its foundation, ICEX has played an important role in the modernization of the Spanish economy. ICEX's original mandate was to promote the export of Spanish products to international markets, and it has had much success, gaining a great deal of experience in the pursuit of this objective. The current catalogue of promotional activities includes: the organization of trade missions, events promoting Spanish produce, aiding the participation of Spanish companies at international trade fairs, and market research and reports, among other services.

Furthermore, ICEX has gradually developed other products and services aimed not only at supporting exporters but also at others involved in the international distribution chain for Spanish products, such as importers, distributors, and members of the press.

Thanks to ICEX's success and Spain's increasing integration into the international economy, ICEX's mandate has been extended and updated to also include boosting the competitiveness of Spanish companies, especially SMEs, and attracting direct foreign investment to Spain. Regarding the first of these objectives, ICEX has developed various informative, educational, and promotional programs to improve the tools available for enhancing the competitiveness of SMEs in foreign markets.

It has also been key in the expansion of Spain's direct foreign investment in international markets, coordinating the different policies and types of support provided by public entities in Spain to offer companies a broad range of assistance. Regarding the second objective, ICEX has played an important role in improving the business environment in Spain, analyzing and adopting best practices in international trade and therefore encouraging foreign investors to develop and expand their projects in Spain.

To achieve its mission, ICEX has an extensive network of professionals who specialize in this field. These professionals work at ICEX's headquarters in Madrid, at the 31 Territorial and Provincial Trade Offices based in different Spanish cities, and at the almost 100 Economic and Commercial Offices established in Spain's Embassies and Consulates worldwide.

Industry specific information

Companies in the Spanish food and beverage industry have faced challenges entering the USA market, which has its own regulatory framework and market conditions. The United States is one of the top destinations for Spanish exports, where food and beverages represent a significant portion of total Spanish exports to the country.

The food and beverage industry in the USA is governed by strict regulations related to food safety, labelling, and marketing. To successfully enter this market, Spanish businesses need to navigate these regulations and adapt their strategies accordingly.

The USA is one of the largest ecommerce markets in the world. The COVID-19 pandemic has accelerated the shift to online shopping, significantly impacting the food and beverage retail sector. Consumers have increasingly turned to online platforms to purchase their groceries and other food products.

Given the growing trend of online shopping in the USA, it is crucial for Spanish food and beverage exporters to capitalize on these opportunities. Partnering with leading online retailers and ecommerce platforms can help increase the presence, sales, and awareness of Spanish products in the USA.

2. THE REQUEST (the ask)

ICEX is seeking to support the presence and online sales of Spanish food and beverages in the USA through online retailers and ecommerce platforms. For this reason, ICEX wishes to commission a market report on the online retailers and ecommerce platforms in the food and beverages industry in the USA that includes in-depth analysis of the fitting online marketing

opportunities and promotional activities to carry out in those mentioned online retailers and ecommerce platforms to increase presence, sales, and awareness of Spanish food and beverages in the USA.

The study shall include three sections and an appendix:

- A. **Report about online retailers of food and beverage in the United States.** The study will present an overview of the main ecommerce markets and retailers, including pure online and offline companies, supermarkets, and independent stores, selling B2B and B2C in the food and beverage industry. eBay and Amazon.com USA will not be included in the analysis.
- B. **20 Best.** Among the existing ecommerce marketplace platforms and e-tailers, the awarded Company will select those that are most suitable to sell Spanish food and beverages. A minimum of 20 ecommerce marketplaces and online stores should be included. For each of these stores, the report will include detailed information in fact sheet format with the Spanish food and beverages in the portfolio and suggestions for Spanish products that could be sold through these online retailers and ecommerce platforms.

These fact sheets will include at least the following information for each of the top 20 online retailers and platforms:

- ✓ Contact details.
 - ✓ Information about the activity and performance: number of visits, number of shoppers, sales, average spend per visit and any other information that could provide information on the suitability of the retailer to sell Spanish food and beverage in the USA.
 - ✓ Information about the Spanish products in the portfolio: product categories and estimated number of results when searching by “Spanish”, type of products, and existence of a “Spain” category in the menu.
 - ✓ Market position of the online retailer. Most of Spanish food and beverages are naturally positioned as speciality, fine or gourmet food. The report will include information about these categories for the retailers.
 - ✓ Suitability of the online store or ecommerce platform for ICEX to develop digital promotions and ecommerce marketing activities.
 - ✓ Potential of the online store to carry out promotional campaigns that will help achieving the objectives set by ICEX.
- C. **Top 10.:** For those online stores and ecommerce marketplaces listed in section B, the Company will select a minimum of ten that will offer the best opportunities for online marketing and promotional activities for ICEX to increase the presence, sales, and awareness of Spanish food and beverages in the USA.

The study will analyse and assess the different options that each platform offers for digital promotions and ecommerce marketing, as well as other more creative marketing and promotional campaigns that can be proposed to achieve ICEX objectives. The information provided about these marketing and promotional activities will include details such as:

- Type of marketing activities and how they work
- Potential impact
- Estimated costs
- Best practices to carry out promotions or campaigns successfully implemented and case studies
- Other information of interest

Amongst those Top 10 selected ecommerce platforms and online retailers, there should be no less than two (2) for B2B food and beverages and at least two (2) B2B for wine.

D. **Appendix.** Finally, the report will include a list of at least 5 PR and digital marketing agencies that can carry out ICEX digital promotion activities for Spanish food and beverages in the online stores and ecommerce platforms in the USA, including the following:

- Company overview
- Corporate history/number of years in business
- Services provided
- Industries and clients
- Food and beverage brands or companies in their portfolio
- Names and contact information of key food and beverage industry manager / business development manager (or similar decision-making function).

Deliverables

The selected Company will be expected to provide ICEX with the following documentation at the end of the contract:

- Report about online retailers and ecommerce marketplaces for food and beverages in the USA in PDF format (maximum of 20 pages).
- Presentation in MS PowerPoint (max. of 20 slides) of the main conclusions and learnings of the above report.
- Fact sheets of each of the 20 Best ecommerce platforms and online stores most suitable for Spanish products.
- Fact sheets of each of the Top 10 ecommerce platforms and online stores in the USA with in-depth profile and detailing the main digital promotion and ecommerce marketing activities for Spanish products.
- Appendix with a selection of at least 5 public relations and digital marketing agencies that can carry out ICEX ecommerce digital strategy for Spanish food and beverages in the USA with the information detailed above.

3. PURPOSE OF THE CONTRACT

To engage the services of a suitably experienced and qualified service company to produce a market report on the online retailers and ecommerce marketplaces in the food and beverage industry in the USA that includes in-depth analysis of the fitting online marketing opportunities and promotional activities to carry out in those mentioned online retailers and ecommerce platforms to increase presence, sales, and awareness of Spanish food and beverages in the USA.

4. APPLICABLE LEGISLATION AND JURISDICTION TO CONTRACT

- a. **Campaign contract.** Once the successful company has been selected, a **contract will be signed between ICEX and the Company** (hereinafter referred to as the Contract) which will include copyright and intellectual property clauses, activities to be carried out, payment terms and conditions, and other details.
- b. **Applicable legislation.** Spanish legislation shall be applicable to the contents of this tender. All works shall be governed by the terms of the agreement entered between the awardees Agencies and by the tender specifications, which shall be incorporated to the same, and in default of the above, Spanish legislation shall be applicable.

To solve any dispute, disagreement, issue or claim which may arise from the performance of the Agreement executed with the Awardee of this tender, the matter will be referred to the Ordinary Courts and Tribunals of Madrid (Spain), expressly waiving any other jurisdiction. The language used in any dispute shall be Spanish.

5. CONTRACT TERM

The contract will be effective from the date of signature until the delivery of all documents specified in the "Terms of Reference" included in section "Deliverables". A preliminary submission of the report will be required six weeks from the date of signature.

The project implementation schedule should not exceed three months from the date of signature. Once the contract expires, it cannot be renewed.

6. CONTRACT BUDGET

Base tender budget. The base tender budget for the preparation of the market report is set at \$70,000 (seventy thousand dollars), to include the Company's fees and any third-party costs, and excluding taxes, regardless of whether they are accrued.

Under no circumstances should bids exceed the contract budget.

All bids where fees (exclusive of taxes) exceed the base tender budget will be immediately excluded from this tender.

Bids must include a breakdown of fees quoted and applicable taxes.

The evaluation of fees proposed in bids will be based on the fees quoted, excluding taxes.

7. PAYMENT AND INVOICING

- a. **Contract amount.** The parties will only be bound by the content and amount stated in the Contract. The Company should not incur any expenditure on behalf of ICEX prior to the date of signature of the corresponding contract and without prior approval from ICEX, represented by the Trade Commission of Spain in New York.
- b. **Invoices.** Corresponding invoices are to be provided to ICEX, in pounds sterling (GBP) in accordance with the following schedule:
- An initial payment of 20% will be made after de submission of the preliminary report about online retailers and ecommerce platforms of food and beverages in the USA.
 - A second payment of 30% will be made after the submission of the preliminary collection of fact sheets of the 20 Best online retailers and ecommerce platforms of food and beverages in the USA.
 - A third payment, for the outstanding amount, will be made once the completed market report has been delivered and approved by ICEX.
- c. **Invoice details.** All invoices submitted to ICEX must be issued as follows:

ICEX España Exportación e Inversiones, E.P.E. CIF Q 2891001 F
c/o Trade Commission of Spain
405 Lexington Ave., 47th floor
New York, NY 10174

And must be sent electronically to nuevayork@comercio.mineco.es

ICEX's TAX exemption number, Q2891001F, must be quoted on all applicable invoices.
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- d. **Assignment of the contract.** Assignment of the contract to a third party is not permitted.

8. CONSULTANT PROFILE AND REQUIREMENTS

- a. **Company profile.** ICEX is seeking an experienced and qualified company to provide a proposal for a market report on the online retailers and ecommerce platforms in the food and beverages industry in the USA that includes in-depth analysis of the most appropriate online marketing opportunities and promotional activities to carry out in the mentioned online retailers and ecommerce platforms, to increase presence, sales and awareness of Spanish food and beverages in the USA. The Company must have the human and material resources necessary for the successful implementation of the project outlined in this briefing.

- i. **Meetings.** The Company must be able to hold meetings with ICEX, represented by the Trade Commission of Spain in NY, on both a regular and an ad hoc basis. These meetings may take place by video conference, if and as required.
 - ii. **Languages.** The report that is the object of this contract must be presented in English. Communication between ICEX and the Company will be in English and/or in Spanish.
- b. **Administrative requirements of the Company: Project references.** In order to evaluate the technical capability for undertaking the project, the Company must include a list of at least three reports with similar characteristics and/or scope carried out within the last five years, table of contents and the served client. The references submitted must indicate dates and also a brief description of the work carried out.
- c. **Administrative requirements for the Company: Project resources.** The Company must demonstrate that it possesses both the tangible and intangible resources necessary for the successful implementation of the campaign described in this briefing. To enable an effective evaluation of the capacity to undertake the campaign, the Company must detail all technical resources to be deployed and state the names of the core team that is to be responsible for the project.

The core team must comprise a minimum of three professionals who hold a university degree:

- A project manager with a minimum of 4 years' experience working in digital retail / ecommerce and no less than two years' experience in this field working in the USA. Proven track record in project management related to ecommerce, online retail. (Evidenced by way of Curriculum Vitae).
 - A senior consultant with no less than 4 years' experience and, at least, 2 years' experience in ecommerce for the food and beverages industry in the USA. This consultant must have validated his/her skills by successfully completing an industry-recognised digital marketing training for ecommerce platforms and online stores. (Evidenced by way of Curriculum Vitae).
 - A junior consultant with a minimum 2 years' experience in the USA market and knowledge of ecommerce in the USA. (Evidenced by way of Curriculum Vitae).
- d. **Administrative requirements for the Company: Financial solvency.** All participating companies must submit a solvency report that includes the financial accounts for the **last three financial years**. Financial solvency will be deemed established when the annual turnover, based on the best year of the last three (3) financial years available, and depending also on the date on which the tenderer was incorporated or commenced trading and the date on which the tender was submitted, equals or exceeds \$105,000. If it is not possible to prove economic and financial solvency by means of annual turnover, the tenderer may accredit such solvency by providing an undertaking to take out professional risk liability insurance for an amount equal to or greater than \$105,000.
- e. **Non-compliance.** Failure to comply with any of the requirements set out in this section will result in the disqualification of the Company in question. However, ICEX allows participating agencies to demonstrate compliance with the requirements set out in this briefing by subcontracting companies that do fulfil those requirements, by setting up joint ventures or by

entering into other business cooperation agreements that make it possible to show compliance with the solvency conditions specified. In this case, agencies must clearly indicate in their bid whether they are using any of these options to fulfil the requirements set out in these specifications, as well as provide documentation that legally demonstrates the scope and commitment of the relationship between the companies involved.

- f. **Conflict of interest.** The selected Consultant must guarantee that during the contract period it will not work either in whole or in part for other clients, whatever their nationality, who have interests that may conflict with those of ICEX in this market report.
- g. **Intellectual property.** The successful company will **exclusively assign the intellectual property rights** of the report it carries out in relation to this contract to ICEX.

9. CONTENT OF PROPOSALS

- a. **Content of proposal.** Participating agencies must submit a proposal including **three (3) separate documents** (1.-Administrative Requirements; 2.-Technical Proposal and 3.-Financial Proposal), as detailed below. Proposals that do not include all these documents will be considered incomplete and will therefore be excluded.
- b. **Document 1: Administrative requirements for the Company (in PDF format).** All agencies submitting bids must provide an electronic file in PDF format, containing the following documents:
 - **Letter of acceptance.** All participating agencies must submit a letter of acceptance, signed by a legal representative of the company, accepting each of the terms and conditions stipulated in these specifications, including confirmation that the team fulfils all the minimum requirements established in the briefing without any reference to their names or resumes.
 - **Project References.** The dossier must detail projects of similar scale and scope, as indicated in **clause 7.b.**
 - **Letter confirming that the team fulfils all the minimum requirements established in the briefing without any reference to their names or CVS.**
 - **Financial solvency.** All participating agencies must submit **financial reports for the best of the last three (3) accounting years (2023, 2022 and 2021)**, as indicated in clause 7.d. If the bidder should choose to accredit financial solvency by taking out civil liability insurance, an undertaking to take out professional risk liability insurance for an amount equal to or greater than \$105,000 must be provided.
- c. **Document 2: Technical proposal of the Company (in PDF format).** All applicants must submit a detailed proposal, excluding any reference to price, and a work plan in line with the above strategy and objectives. Proposals that include details of project fees will not be considered and will automatically be excluded from the tender process.

- d. **Document 3: Financial proposal for the tender (MS Excel file) and professional team assigned to the project.** All participating companies must submit a financial proposal, including a detailed project budget and a breakdown of all costs, as per the table in Annex II (Excel file) of this brief.

Taxes, if applicable, must be indicated in a separate section of the proposal.

Proposals that exceed the base tender budget excluding taxes, as indicated in clause 5, will not be considered.

- **Project resources.** The dossier must detail the resources available for the project, as indicated in **clause 7.c**. In its proposal, the Company must provide details of the team of employees to be assigned to this contract (hereinafter referred to as the Team), specifying the professional qualifications and previous projects undertaken by Team members, as well as a description of the functions and tasks to be performed, so as to ensure that the Team has sufficient resources and is capable of carrying out the tasks required by the campaign.

The requirements set out in this section are mandatory, and companies that do not propose a team that meets all these requirements will be excluded. While the Company may meet the requirements set out in this briefing through subcontracting, joint ventures or other business cooperation arrangements, the proposal must give clear details of which functions are to be provided via subcontracting. ICEX expects all key Team members assigned to the contract by the Company to be committed to the campaign for the duration of the contract.

In the proposal, the Company must detail the role of each Team member assigned to this project. In addition, a detailed resume for each should be included, in line with the model included in Annex I (MS Excel file).

As any change in the key Team members assigned at the beginning of this project could affect the way it is run, express prior authorisation must be obtained from ICEX for any such amendments.

10. PRESENTATION OF PROPOSALS

a. **Invitation to tender.** ICEX, represented by the Trade Commission of Spain in NY will send this briefing to several potential companies. It will also be published on the Trade Commissions website (<https://www.icex.es/es/quienes-somos/donde-estamos/red-exterior-de-comercio/US/convocatorias>)

b. **Submission of proposals.** Agencies wishing to take part in the tender process must send the following documentation, in digital format, to the following e-mail address ONLY: tenders@icex.es by **11:59 pm on July 18 East Coast Time (NY)**. Proposals not received by the deadline will automatically be excluded.

- i. **Electronic files.** The bid must be presented in three separate electronic files, and the contents of these files must be as detailed in these general conditions. All files must be in digital format (PDF and MS Excel) only. Neither the e-mails nor the individual files sent

as attachments may exceed 4MB in size. In the case of larger files, participating agencies must use a previously verified file transfer service (e.g., WeTransfer, Dropbox or similar). They will be opened sequentially.

- ii. **Costs.** All costs incurred by the participating companies in preparation of the proposal, submissions and quotations will be borne by the company. Bid submission will not entail the payment of any fee or the reimbursement of any form of expense by ICEX.
 - iii. **Language.** Proposal must be written and submitted in English.
 - iv. **Acceptance of terms and conditions.** Submission of a proposal and participation in this tender implies the express acceptance of all clauses contained in these terms and conditions by the participating Company.
- c. **Modification of proposals.** Once a proposal has been submitted, ICEX will not accept the submission of any modifications, additions, or corrections, unless such modifications, additions or corrections are in response to a clarification requested by ICEX.
- d. **Clarification of proposals.** ICEX may invite participating company that complies with the administrative requirements of this tender document to clarify specific aspects of their technical or financial proposals. This must be done in writing.
- c. **Conformity of proposals.** All companies submitting a proposal should be aware that ICEX will review the documentation submitted by each company to ensure compliance with all the requirements set out in this tender document (Document 1). Failure to comply with any of the requirements set out in this tender document will result in the disqualification of the company in question.
- f. **Evaluation of proposals.** Document 1 (Administrative Requirements) will be opened and evaluated first. Once it has been verified that the participating Company complies with all the requirements set out in these specifications, Document 2 (Technical Proposal) will be opened, evaluated and assigned a score. Finally, Document 3 (Financial Proposal) will be opened, evaluated and assigned a score. Therefore, the price (fees) contained in the financial proposal will not be known until this final stage.
- g. **Selection of the company to be awarded the contract.** A decision will be taken as soon as possible after the published deadline for the submission of proposals. All participating companies will be notified of the decision by e-mail, and that decision will be published on the Trade Commissions website (<https://www.icex.es/es/quienes-somos/donde-estamos/red-exterior-de-comercio/US/convocatorias>), to enable the successful company to commence work as soon as possible.
- h. **Contact persons.** Queries regarding this tender must only be addressed in writing, by emailing tenders@icex.es by **11:59 pm July 15 East Coast Time USA (NY)** In the interest of fairness, questions posed by participating companies, as well as the answers provided by ICEX, may be shared with all other participating companies.

11. EVALUATION CRITERIA

The bids will be evaluated, and the contract awarded, in accordance with the following criteria:

TABLE 2. Evaluation criteria	
Evaluation Criteria	Scores (maximum)
I. Financial proposal	40
- The company submitting the lowest budget will receive the highest score, and the score for all others will be proportional.	40
II. Professional team assigned to the project	20
Years of experience and background exceeding the proposed key personnel expertise/ qualifications in 7.c, will be scored as follows:	
➤ Project Manager: having more than the minimum 4 years' experience working in digital retail / ecommerce. 2.5 points per additional year will be added to the score, up to a maximum of 10 points. If the experience is in the food and beverages industry in the USA, 3 points per additional year will be added to the score, with a maximum of 10. The total score for the Project manager will not exceed 10 points.	10
➤ Senior consultant: having more than 4 years' experience working in the ecommerce in food and beverages in the USA will add 2 points to the score per additional year, up to a maximum of 6 points.	6
➤ Junior consultant: having more than 2 years' experience working in the USA with a background in USA online retail will add 0.5 points to the score per additional year, up to a maximum of 4 points.	4
III. Technical Proposal	40
- ICEX will assess the quality of the project, assigning points to each of the components within the Technical Proposal, as described below.	
- Technical Proposals that do not receive at least 15 points for component III.1 will be automatically excluded.	
- ICEX will assess Technical Proposal responses as follows:	
Not enough information. The proposal lacks the basic information or details that would allow it to be appropriately evaluated.	0% of the maximum score
Partially compliant. The proposal states that the Company meets some, but not all, of the requirements and/or does not provide sufficient information or detail on how it will do so.	50% of the maximum score

<p>Fully compliant. The proposal states that the Company fulfils all the stipulated requirements and provides the necessary information and details on how it will do so.</p> <p>75% of the maximum score</p>	
<p>Exceeds the requirements. The proposal proves that the Company is able to fulfil all the stipulated requirements, provides detailed information on how it will do so and excels in presenting actions or approaches that add value.</p> <p>100% of the maximum score</p>	
<p>III.1. Technical Proposal: Methodology and market report approach</p> <ul style="list-style-type: none"> ICEX will allocate points as follows: <ul style="list-style-type: none"> ➤ Appropriate and realistic implementation plan to fulfil the purpose of the contract successfully by the end of the contract. (Max. 10 points) ➤ Quality and accuracy of the proposed methodology to shortlist the 20 best ecommerce platforms and online retailers (Max.10 points). ➤ Quality and accuracy of the proposed methodology for identifying marketing opportunities and promotional activities that ICEX may consider implementing within the Top 10 ecommerce platforms and retailers (Max. 10 points). 	<p>30</p> <p>10</p> <p>10</p> <p>10</p>

<p>III.2. Technical Proposal: over and above significant improvements</p> <p>ICEX will evaluate the proposal for significant improvements and realistic promotional initiatives (with no additional cost) suggested within in the Technical Proposal, awarding a maximum of ten (10) points. Examples of these initiatives could include:</p> <ul style="list-style-type: none"> ➤ Identifying specific BtoC site(s) / platform(s) that can help Spain's food and beverage companies reach specialty consumers and offer both suppliers and sellers a valuable affordable promotional program. ➤ Identifying specific BtoB site(s) / platform(s) that can help Spain's food and beverage companies reach business clients, especially brands / companies thar are new, small and have limited resources. ➤ Unusual practical and realistic way of reaching and finding importers for new food or beverage products. 	<p>10</p>
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TOTAL	100

- **Abnormally low bids.** Financial proposals will be evaluated to determine whether or not they may be considered disproportionate or abnormal. Bids will be considered abnormally low if (a) they are 20% lower than the maximum budget permitted, when fewer than three tenders are presented, or if (b) they are 10% lower than the average of all the bids submitted in the case that there are three or more tenderers, the highest price being excluded for the calculation of said average. When a bid is considered to be abnormally low, the participating company will be asked to justify its bid and its terms and conditions within seventy-two (72) hours of receiving ICEX's notification. Once the claim has been received or this period of time has lapsed, ICEX will decide, if necessary and having obtained technical advice, whether or not the bid is to be considered abnormal and may exclude it accordingly.
- **Tie-breaking criteria.** In the event of a tie in the points obtained by two or more tenders, this will be resolved by applying the social criteria indicated below, and in the order specified. These will apply to staff working for the Company at the time of the deadline for the submission of proposals. The documentation supporting the tie-breaking criteria referred to in this clause must only be provided if a tie occurs, and not beforehand.
 - o Highest percentage of workers with disabilities or who are in a situation of social exclusion in the workforce of each of the tied companies, with priority given, if the percentages are equal, to the company with the highest number of permanent workers with disabilities, or the highest number of socially excluded workers.
 - o Lowest percentage of temporary contracts within the workforce of each of the tied companies.
 - o Highest percentage of women employed by each of the tied companies.
 - o If it is not possible to break the tie using the above criteria, lots will be drawn.

12. OBLIGATIONS

In terms of project management, the point of contact for the Company will be the Spanish Economic and Commercial Office in New York. In terms of invoicing, special care must be taken regarding the aspects established in clause 6, following the guidelines set by ICEX and adhering to the conditions established in the contract.

- a. **Technical quality.** The Company will be responsible for the technical quality of the work and services performed over the course of this contract. The Company will also be liable for the consequences of any errors, omissions, inadequate methodology or incorrect conclusions in the execution of the contract that may affect ICEX or third parties. Specifically, the consultant will be responsible for:

- Ensuring that both the implementation and the results of the work contracted comply with ICEX's quality specifications.
 - Compliance with the deadlines agreed with ICEX in each case.
 - Any omissions, errors, incorrect conclusions, or inadequate methodologies during the term of this contract.
 - The staff forming part of the project team appointed to carry out the work stipulated in the contract. The Company will bear sole responsibility for the conduct and work undertaken by the team working on the contract.
 - The processing of the information and data made available to it.
- b. **Preliminary report.** The Company must provide ICEX with a **preliminary report by the end of August 2024**, approximately halfway through the duration of the project.
- c. **Final report.** Furthermore, at the end of the campaign, the Company must submit a final report, comprising the following: (i) Report about food and beverages ecommerce in the USA and online retailers and platforms in PDF, (maximum of 20 pages); (ii) Presentation in MS Power Point (max. of 20 slides) of the main conclusions and learnings of the above report; (iii) Fact sheets of each of the 20 Best ecommerce platforms and online stores most suitable for Spanish products; (iv) Fact sheets of each of the Top 10 ecommerce platforms and online stores in the USA with in-depth profile which details the main digital promotions and ecommerce marketing activities; (v) Appendix with a selection of, at least, 5 public relations and digital marketing agencies that can carry out ICEX ecommerce digital strategy for Spanish food and beverages in the USA.
The final report must be submitted within three (3) months of the signing of the contract.
- d. **Copyright and information rights.** The intellectual and industrial property rights to the work carried out by the Company, as well as to all the information gathered by the Company on behalf of ICEX in relation to this contract will be owned by ICEX upon payment of all consultancy fees and any relevant expenses agreed herein, and no additional fee will be paid. Such rights will be global and valid for the maximum period of copyright protection for all types of files, in any format or language, and with all the effects determined by law.
- e. **Confidentiality.** The Company accepts the obligation to maintain professional secrecy regarding the information and documentation provided by ICEX for the performance of the services. This obligation will remain in force both during and after completion of the activities covered by the contract, until such time as said information enters the public domain or for any other legitimate reason ceases to be confidential. This clause does not apply to information which (i) is in the public domain, (ii) is already known to the party receiving it, (iii) is disclosed pursuant to a court order or legal obligation.
- i. The Company will only grant access to confidential information to those persons who require access to it to carry out the activities and services foreseen in the contract. The Company will be responsible for ensuring compliance with the confidentiality obligations by its staff and by persons or entities working in collaboration with the Company or subcontracted by the Company.

- ii. The Company also undertakes not to use confidential information belonging to ICEX and to which it has access for its own or private purposes or for any other purposes.
- iii. Failure to comply with the above obligations will entitle ICEX to institute civil or even criminal proceedings against the Company for any liability it may incur.

13. CANCELLATIONS

ICEX reserves the right to unilaterally terminate the contract if the services are not performed by the Company in accordance with the instructions received from ICEX, if any of the deadlines applicable to the Company are not met, or in the case of any breach of the obligations set out in the contract. This will be without prejudice to any additional claims for damages.

14. APPLICABLE LEGISLATION

The services shall be governed by the terms of the contract entered by the successful tenderer and by this briefing document, which will be incorporated herein. Failing this, Spanish legislation will prevail.

15. JURISDICTION

To resolve any dispute, disagreement, question or claim that may arise from the execution of the Contract signed with the awardee of this tender, the matter will be subject to ordinary jurisdiction. The parties, waiving any other jurisdiction that may otherwise be applicable, expressly submit to the Courts of the city of Madrid.

16. EUROPEAN FUNDING

The activities contemplated under this briefing may be subject to European Union's financing.

The successful tenderer will be obliged to comply with the following:

- In the working documents, as well as in the reports and in any type of medium which is used in the actions necessary for the subject of the contract, the EU emblem must appear in an obvious and noticeable way, in making explicit reference to the European Union.
- In any public dissemination or reference to the actions provided for in the contract, whatever the means chosen (brochures, posters, etc.), the following elements must be included in a noticeable manner: the emblem of the Union European in accordance with established graphic standards, as well as the reference to the European Union funding: "Eligible for co-financing with European Union Funds".

17. ORGANISATIONS

ICEX España Exportación e Inversiones, E.P.E. is a public business entity attached to the Spanish Ministry of Economy, Commerce and Business. It is represented in the US by the Trade Commission of Spain in New York. ICEX's mission is to promote Spanish exports, support the international expansion of Spanish companies and promote foreign investment in Spain.

The Trade Commission of Spain in New York is responsible for promoting trade and investment between Spain and the US within its sphere of competence.

New York on the date of the signature

ICEX Board of Directors
By Delegation (Resolution dated 30 September 2021) Official State Bulletin (BOE)
of 11 October 2021

Carlos Jimenez Aguirre
Senior Trade Commissioner
Trade Commission of Spain in New York