Case no: DZ/0270/ZP-25/2024

**TERMS AND CONDITIONS OF CONTRACT**

*PUBLIC PROCUREMENT PROCEEDINGS CONDUCTED PURSUANT TO THE PROVISIONS OF THE PUBLIC PROCUREMENT LAW OF 11 SEPTEMBER 2019. (i.e. Journal of Laws of 2024, item 1320, as amended).*

**SUPPLY OF AN ELECTRIC VACUUM INDUCTION FURNACE WITH A MELTING WEIGHT OF 250 KG**

**APPROVAL:**

Gliwice 17.12.2024.

Done:

Tomasz Smykala

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**Contracting Authority :**

Łukasiewicz Research Network - Upper Silesian Institute of Technology

44-100 Gliwice, ul. Karola Miarki 12-14, Tel.

E-mail: sekretariat@git.lukasiewicz.gov.pl | www.git.lukasiewicz.gov.pl

NIP: 6312691891, REGON: 000026867

District Court in Gliwice, 10th Commercial Division of the National Court Register no. 0000846236

**Contact person:**

Tomasz Smykala tel. 32 23 45 173, email: [tomasz.smykala@git.lukasiewicz.gov.pl](mailto:tomasz.smykala@git.lukasiewicz.gov.pl)

Site of proceedings: <https://platformazakupowa.pl/pn/git>where changes and clarifications as well as other documents relating to the procedure will be entered.

1. **Definitions**
   1. **SWZ** - Terms of Reference;
   2. **Proceedings** - proceedings for the award of a public contract for the supply of a vacuum induction furnace with a melting weight of 250 kg - for Łukasiewicz Research Network - Upper Silesian Institute of Technology, 44-400 Gliwice, ul. Karola Miarki 12-14
   3. **PZP** Act - the Act of 11 September 2019. - Public Procurement Law (i.e. Journal of Laws of 2024, item 1320, as amended);
   4. **Economic Operator** - a natural person, a legal person or an organisational unit without legal personality who offers to supply the subject of the contract or applies for the award of the contract, has submitted a tender or has concluded a public procurement contract;
   5. **Offer (bid)** price - the price for the performance of the subject matter of the contract offered by the Economic Operator who has submitted a bid, whereby it is the price within the meaning of Article 3(1)(1) and (2) of the Act of 9 May 2014 on information on the prices of goods and services (i.e. Journal of Laws 2023 item 168, as amended), even if it is paid to a person who is not an entrepreneur.
2. **Award mode:**

* The procedure will be conducted as an open tender in accordance with Articles 132 - 139 of the PPL Act;
* In this procedure - pursuant to Article 139(1) of the PPL Act - the Contracting Authority shall first examine and evaluate tenders, and then qualify the economic operator whose tender was awarded the highest mark in terms of lack of grounds for exclusion and meeting the conditions for participation in the procedure - the so-called "*reverse procedure*". In this situation, Economic Operators are not obliged to submit with their tender the statement referred to in Article 125(1) of the PPL Act (JEDZ) - this statement will be required only from the Economic Operator whose tender will be the highest evaluated.
* The estimated value of the contract is higher than the amount indicated in the Announcement of the President of the Public Procurement Office of 1 January 2021 on the current EU thresholds, their equivalents in PLN, the PLN equivalent of the amounts expressed in the euro and the average PLN exchange rate in relation to the euro constituting the basis for conversion.
* In matters not regulated by the content of this Terms of Reference (hereinafter: SWZ), the provisions of the Polish Public Procurement Law (PZP) and its implementing acts shall apply.

# Description of the subject of the contract.

***General conditions concerning the subject matter of the contract***

* 1. The Contractor's tasks include the supply of a complete vacuum induction furnace with a melting weight of 250 kg as part of the Ordering Party's existing line for the semi-industrial simulation of smelting, casting, solidification of steel and alloys (LPS-A).
  2. The equipment supplied must be new and manufactured no earlier than 2024.
  3. The Contractor shall bear all costs associated with the delivery of the equipment to the Purchaser's premises and its installation, including carrying out installation work and minor construction work, necessary electrical connections.
  4. The contractor shall provide a min. 24 months manufacturer's warranty.

***Installation and configuration work under the contract***

1. Physical installation and configuration of new equipment at the customer's premises (Gliwice, ul. Karola Miarki 12-14, hall no. 7).
2. The client will ensure that the hall is prepared for the installation of the equipment himself.
3. Area available for machine foundation including all components 8000 x 6000 mm, height 5.5 m
4. The contractor will provide training in programming and operation of the workstation for min. 4 persons.

Other information on the subject of the contract is contained in the appendices to this SWZ:

CPV code:   
**Main subject:** 42942200-3 Vacuum ovens,

1. **Contract completion date.**

The Contractor undertakes to perform the Subject of the Contract, within a period of up to twelve months from the date of signing of the contract, and the contract shall be deemed signed on the date of the last signature of the person signing the contract (qualified signature). In the case of a handwritten signature, the date of signing the contract shall be deemed to be the date of conclusion of the contract, which shall be indicated in the contract's compary.

1. **Additional information on proceedings :** 
   1. **Information on partial bids:** The Contracting Authority does not allow partial bids - the bid must be submitted for the entire contract described in the technical specifications. The contract is indivisible and must be carried out in its entirety by one Economic Operator or by Economic Operators acting jointly.
   2. **Information on the possibility of submitting variant bids** - the Contracting Authority does not allow for the possibility of submitting a variant bid, referred to in Article 92 of the PPL Act, i.e. a bid which provides for a different method of contract execution than the one specified in these Terms of Reference.
   3. **Information on anticipated** procurement of **additional supplies** - The Contracting Authority does not anticipate awarding a contract consisting of procurement of additional supplies, as referred to in Article 214(1)(8) of the PPL Act.
   4. **Information on the framework agreement** - this procedure is not being conducted with a view to concluding a framework agreement.
   5. **The draft provisions of** the public procurement contract, which will be introduced into the content of this contract, are contained in the appendix to this SWZ (draft contract provisions).
   6. **Information on the possibility of settlement in foreign currencies** - The Contracting Authority will settle accounts with Contractors in the Polish currency (PLN) or the euro (EUR).
   7. **Information on reimbursement of costs in the procedure - The costs of** participation in the procedure, in particular the costs of preparing a tender, shall be covered by the Economic Operator. The Contracting Authority does not provide for reimbursement of costs of participation in the procedure (except for the situation referred to in Article 261 of the PPL Act).
   8. **Advances -** The Contracting Authority does not envisage granting advances for the performance of the contract.
   9. **Framework agreement -** The Contracting Authority does not envisage concluding a framework agreement as referred to in Articles 311-315 of the PPL Act.
   10. **Information on anticipated selection of the most advantageous offer with the use of electronic** auction - The Contracting Authority does not anticipate holding an electronic auction in this procedure, as referred to in Articles 227-238 of the PPL Act.
   11. **Information on the meeting of Economic Operators in order to clarify the contents of the Terms of Reference and the site inspection** - the Contracting Authority informs that it does not intend to convene a meeting of Economic Operators, and it does not provide for the obligation to hold a site inspection and to check the documents necessary for the performance of the contract which are available at the Contracting Authority's premises. However, the Contracting Authority allows for the possibility of conducting a site inspection by prior arrangement (by phone or e-mail) - Mr Harald Kania tel. 32 23 45 130 harald.kania@git.lukasiewicz.gov.pl.
   12. **Electronic catalogues -** The contracting authority does not allow the submission of tenders in the form of electronic catalogues.
   13. **Information concerning the performance bond -** The Contractor shall be obliged to provide the performance bond referred to in item. 24.4 SWZ.
   14. **Equivalent solutions.**
       1. The Contracting Authority shall allow offering solutions equivalent to those specified in the Terms of Reference and in the tender documentation, marking such indications or references with the words "or equivalent" or "or equivalent" respectively, provided that the parameters are not worse than those specified in the description of the subject of the contract.
       2. Equivalence consists in the possibility to offer a contract item with no worse technical parameters, configurations, normative requirements, etc. In the detailed description of the subject of the order (OPZ), some manufacturer-specific dimensions may be given. Proper names of manufacturers of materials and equipment given in the detailed description should be understood as the preferred type in terms of defining minimum quality requirements. They are not binding and equivalent elements may be supplied, which have at least the same or better standards, technical; quality, functional parameters, as long as they are identical in terms of subject matter and purpose and do not lower the standards specified in the description of the subject of the contract.
       3. The Contracting Authority obliges contractors to demonstrate equivalent solutions to be used in relation to the tender documentation. Pursuant to provisions of art. 101 item 5 of the PPL Act, the Contractor who refers to equivalent solutions (in the situation where the description of the subject matter of the contract refers to standards, technical evaluations, technical specifications and technical reference systems referred to in art. 101 us.t 1 item 2 and item 3 of the PPL Act) is obliged to prove in the offer that the construction works offered by him meet the requirements specified in the ToR. Failure to indicate these elements will be treated as selection of the elements described in the ToR.
   15. The provisions of the Act of 10 May 2018 on the protection of personal data (consolidated text of the Journal of Laws 2019, item 1781, as amended) and the Regulation of the European Parliament and of the Council (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) (Official Journal of the EU L 119 of 04.05.2016), hereinafter referred to as RODO, apply to the conducted proceedings.
2. **Communication between the Contracting Authority and Economic Operators.**
   1. **Information on the means of electronic communication by which the Contracting Authority will communicate with contractors.**
      1. Communication between the Contracting Authority and Economic Operators will take place only via electronic means within the meaning of the Act of 18 July 2002 on provision of electronic services (Journal of Laws 2024 item 1513 as amended).
      2. The preferred means of communication is the Purchasing Platform: <https://platformazakupowa.pl/pn/git>.
      3. The contracting authority does not accept the use of means of communication other than electronic communication.
      4. When transmitting statements, requests, notices and information by electronic means of communication, the Contracting Authority or the Economic Operator may require the other party to acknowledge their receipt immediately.
      5. Immediately after the opening of the submitted tenders, the Procuring Entity will post information on the Procurement Portal regarding:

* the names or forenames and places of business or residence of the Economic Operators whose tenders have been opened;
* prices included in the bids.
  + 1. The Awarding Authority will publish information about the selection of the most advantageous offer or the cancellation of the procedure on the Procurement Portal.
    2. A document sent using the Purchasing Platform shall be deemed to have been delivered to the Contractor in such a way as to enable the Contractor to become acquainted with its contents, on the date of its transmission to the Purchasing Platform.
  1. **Explanation of the content of the ToR**
     1. An economic operator may request the Contracting Authority to clarify the content of the CSF.
     2. The Contracting Authority will provide explanations no later than 6 days before the deadline for submission of tenders, provided that a request for clarification of the ToR is received by the Contracting Authority no later than 14 days before the deadline for submission of tenders, by 17-01-2025 (by the end of the day) - if a request for clarification of the ToR is received after the indicated deadline, the Contracting Authority is not obliged to provide explanations.
     3. All clarifications, modifications to the content of the SWZ and other information related to this procedure, the Contracting Authority will post exclusively on the Tender Platform.
     4. In justified cases, the Contracting Authority may, prior to the deadline for submission of tenders, amend the content of the CSG. In such a case, each amendment introduced by the Awarding Entity shall become a part of the ToR. The Purchaser shall make the changed content of the CSF available on the Purchasing Portal.

1. **Information on the technical and organisational requirements for drafting, sending and receiving electronic correspondence.**
   1. The Bidder intending to submit a bid is obliged to read the Instructions for Users (Contractors) of the Tender Platform - available at <https://platformazakupowa.pl/strona/45-instrukcje> and accept the Rules and Regulations for the use of the Tender Platform available at: https://platformazakupowa.pl/strona/1-regulamin.
   2. Submission of a bid via the Tender Platform implies acceptance of the Rules and Regulations referred to in clause. 7.1.
   3. Technical requirements related to the use of the Tender Platform - are indicated on the website of the Tender Platform - at: <https://platformazakupowa.pl/strona/45-instrukcje>
   4. Technical support for the operation of the Tender Platform is provided by its provider, i.e. Open Nexus Sp. z o.o., Bolesława Krzywoustego 3, 61-144 Poznań, under telephone number 22 101 02 02, cwk@platformazakupowa.pl.
   5. The methods of submitting an offer via the Procurement Platform and of confirming the submission of an offer (depending on the choice of the option with or without logging in) are described in the User Instructions of the Procurement Platform.
2. **Description of how to prepare the offer.**
   1. The bid must be prepared in accordance with the requirements of the Terms of Reference - under pain of rejection of the bid. The bid should be made on the bid form attached to the SWZ or with its content.
   2. The proceedings shall be conducted in Polish and English. All letters (clarifications, amendments, summons, etc.) shall be drawn up in Polish and English. The contract shall be drawn up in Polish and English. The Contracting Authority shall conduct the procedure in two languages pursuant to Article 20(3) of the Act on Public Procurement, because of the possibility to expand the circle of contractors and due to the specialist subject matter of the contract. In the case of any discrepancies between the two language versions (resulting from the translation of the documentation), the Polish language version shall prevail.
   3. The contracting authority permits the submission of the tender, subject and object evidence in English.
   4. The Contracting Authority indicates the pdf standard as the preferred standard for the submission of tenders. The Contracting Authority further points out that, when using an external signature, it is important to bear in mind the obligation to attach to the file constituting the offer also the signing file, which is generated automatically when the signature is applied.
   5. A tender and its annexes must be drawn up in electronic form and signed with a qualified electronic signature - by the person(s) authorised or empowered (under a power of attorney) to represent the Economic Operator - otherwise being null and void.
   6. By qualified electronic signature, the Ordering Party means - a signature issued by a qualified trust service provider, which is an entity providing certification services - an electronic signature that meets the security requirements set out in the Act of 5 September 2016 on trust services and electronic identification (i.e. Journal of Laws 2024, item 422, as amended).
   7. The tender must be signed by the person(s) authorised to represent the Economic Operator.
   8. Authorisation (power of attorney) to sign the bid and to certify documents as true copies of the original should be attached to the bid if it does not result from the Economic Operator's registration documents.
   9. Submitting an offer on a data carrier (e.g. CD, pendrive) is unacceptable, as such a form does not constitute electronic communication within the meaning of the Act of 18 July 2002 on electronic provision of services.
   10. The offer, together with other required documents and statements, must be submitted via the offer form available at <https://platformazakupowa.pl/pn/git> in this procedure.
   11. Once you have completed the bid submission form and added all the required attachments, click on the "Proceed to Summary" button.
   12. The date and time of transmission of tenders, notices, electronic documents, statements or electronic copies of documents or statements and other information shall be deemed to be the date and time of their receipt on the Tender Platform displayed in the Procuring Entity's account.
   13. The tender and all annexes (documents or statements) shall constitute a single whole.
   14. Each Economic Operator may submit only one tender.
   15. The Ordering Party informs that in the case of sending electronic documents compressed by the Contractor, only data formats indicated in the Regulation of the Council of Ministers of 12 April 2012 on the National Interoperability Framework, minimum requirements for public registers and information exchange in electronic form and minimum requirements for ICT systems (Journal of Laws of 2017, item 2247) are allowed. **The above means that the Ordering Party does not allow sending electronic documents (including the offer) compressed e.g. with the .rar format.** The Contracting Authority indicates the .zip or .7z format as preferred.
   16. The Contracting Authority will not require proof of payment of stamp duty for the power of attorney issued (according to the Ministry of Finance, the submission of a power of attorney document in a public procurement procedure is not subject to stamp duty).
   17. A contractor may amend or withdraw his/her bid by using the Bid Submission Form available at https://platformazakupowa.pl/pn/git. An amendment to a tender is understood as the submission of a new tender and the withdrawal of a previous tender before the closing date for submission of tenders.
   18. If the Contractor is logged in, the withdrawal of the offer is immediately followed by the submission of a new offer.
   19. If the bid has been submitted by an Economic Operator who is not logged in, the withdrawal of the bid must be confirmed by clicking on the link sent in the e-mail, which must match the e-mail address provided during the original submission of the bid or by logging in and clicking "confirm bid". The withdrawal of the offer is confirmed by clicking on "Withdraw offer".
   20. 6. The protocol of the procurement procedure with appendices, including the Economic Operator's bid with appendices, shall be open, except for information constituting a company secret within the meaning of the provisions on unfair competition, if the Economic Operator, when submitting such information, stipulated that it cannot be disclosed and proved that the reserved information constitutes a company secret.
   21. Information constituting a business secret should be grouped together and constitute a separate part of the offer - a separate electronic file or files. The file(s) should be marked 'business secret' or otherwise (the file name should clearly indicate that the data contained therein constitutes a business secret).
   22. If the Contractor fails to prove that the reserved information constitutes a company secret in the meaning of art. 11 sec. 2 of the act of 16.04.1993 on counteracting unfair competition (i.e. Journal of Laws of 2020r. item 1913 as amended), the Contracting Authority shall consider the reservation of secrecy to be ineffective, of which it shall inform the Contractor.
   23. Minutes of the proceedings after the opening of the submitted tenders, an Economic Operator who wishes to benefit from the principle of openness must make a written request to this effect to the Contracting Authority.
   24. By submitting a bid, you accept all the terms and conditions contained in this SWZZ.
3. Description of price calculation:
   1. The contractor will quote the bid price on the bid form. The price will be calculated using the attached assortment and price forms.
   2. The bid price is the gross value (bid price) calculated according to the following formula:

Net unit price + VAT = gross unit price   
Gross unit price \* estimated quantity = gross value   
Sum of individual values = bid price

* 1. The price of the offer should be given in monetary units valid in Poland, i.e. Polish zlotys, with two decimal points or euro. Rounding should be done according to generally accepted accounting principles of rounding, i.e. numbers below 5 are not rounded, while numbers 5 and above are rounded up, e.g: 1.235 should be 1.24; 1.234 should be 1.23.
  2. In order to select the most advantageous offer, the Contracting Authority will take the gross price expressed in PLN (offer price) into consideration for comparison of offers.
  3. If an Economic Operator provides a price in Euro, the Contracting Authority will convert the prices (net and gross) into PLN, as a basis for conversion the Contracting Authority will use the average exchange rate of the National Bank of Poland (NBP) as of the date for submitting tenders, published at https://nbp.pl/statystyka-i-sprawozdawczosc/kursy/tabela-a/.
  4. The tender price must include all costs and components relating to the performance of the contract, including in particular transport, packaging, delivery preparation activities, charges under applicable customs and tax law.
  5. The Economic Operator, when submitting a tender - in the tender form constituting an annex to the SWZ, shall inform the Contracting Authority whether the selection of the tender will result in the Contracting Authority's tax obligation, indicating:
* the name (type) of the good or service the supply of which will give rise to liability to tax;
* the value of the goods or services subject to the customer's tax liability, excluding the amount of tax;
* the rate of value added tax that, to the knowledge of the Contractor, will apply.
  1. An error in the calculation of the price will result in the rejection of the tender subject to Article 223(2) of the Public Procurement Law.
  2. If a tender is submitted, the selection of which would lead to the creation of a tax obligation for the Contracting Authority in accordance with the provisions on value added tax on intra-Community acquisitions of goods, the Contracting Authority, for the purpose of evaluating such a tender, will add to the price presented in it the value added tax that it would be obliged to pay in accordance with the applicable regulations.
  3. The correct determination of the VAT rate is the responsibility of the Contractor. The applicable VAT rate should be adopted in accordance with the Value Added Tax Act of 11 March 2004 (i.e. Journal of Laws 2021 item 685, as amended).

1. **Information on joint bidding by economic operators for the award of the contract.**
   1. Contractors may compete jointly for the award of the contract.
   2. Economic Operators competing jointly for the contract must appoint a proxy to represent them in the procurement procedure or to represent them in the procedure and conclude the public procurement contract - this does not apply to a civil law partnership, if the authority/authorisation to act on behalf of the partnership results from the partnership agreement appended to the tender, otherwise all partners sign the tender.
   3. A tender must be signed in such a way as to legally bind all Economic Operators acting jointly (by each of the Economic Operators or a proxy).
   4. In the case of joint bidding by Economic Operators for the contract, a statement on the grounds for exclusion from the procedure and on meeting the conditions for participation, referred to in art. 125 item 1 of the PPL Act, is submitted by each of the Economic Operators jointly bidding for the contract. This document is a preliminary confirmation of the lack of grounds for exclusion (each of the Economic Operators submitting a tender jointly may not be subject to exclusion) and meeting the conditions for participation in the procedure.
   5. All correspondence shall be conducted exclusively with the entity acting as a proxy of the Economic Operators (leader) submitting a joint bid.
2. **Information on subcontractors.**
   1. The contractor may entrust part of the contract to a subcontractor.
   2. The economic operator who intends to perform the contract with a subcontractor must indicate in the tender which part (scope of the contract) will be performed on its behalf by the subcontractor and indicate the name of the subcontractor if it is already known. For this purpose, an appropriate item of the offer form, constituting Annex 1 to the SWZ, should be filled in.
   3. The Contracting Authority shall require the Economic Operator, prior to commencing performance of the contract, to provide, if already known, the names and contact details of the subcontractors and contact persons involved in the performance of the contract. The Contractor shall be obliged to notify the Contracting Authority of any changes in the data referred to above during the performance of the contract, and shall also provide information on any new subcontractors to whom he intends to entrust the performance of the contract at a later stage.
   4. If the change or resignation of a subcontractor relates to an entity whose resources the Economic Operator invoked on the basis of provisions of art. 118 item 1 of the Act in order to prove meeting the conditions for participation in the procedure, the Economic Operator shall be obliged to prove to the Contracting Authority that the proposed other subcontractor or the Economic Operator independently meets them to a degree not lower than that of the subcontractor whose resources the Economic Operator invoked during the procurement procedure.
   5. Entrusting a part of the contract to subcontractors does not relieve the Contractor of responsibility for the proper performance of that contract.
3. **Use by the contractor of the resources of other entities in order to confirm the fulfilment of the conditions for participation in the procedure.**
   1. An economic operator may, in order to confirm the fulfilment of the conditions for participation in the procedure, in appropriate situations and with regard to a specific contract or a part of it, rely on the technical or professional abilities of the entities providing the resources, regardless of the legal nature of the relationship between them (concerns the conditions for participation in the procedure laid down by the Contracting Authority).
   2. An Economic Operator relying on the capacities of the entities providing resources shall submit, together with the tender, a commitment of the entity providing the resources to make available to it the necessary resources for the purpose of performing a given contract, or other subjective evidence confirming that the Economic Operator, while performing the contract, will have at its disposal the necessary resources of those entities**.**
      1. A commitment from the entity providing the resources that the relationship between the Economic Operator and the entities providing the resources guarantees genuine access to those resources and specifies in particular:

* the extent of the resources of the providing entity available to the Economic Operator;
* the manner and period in which the resources of the entity making the resources available are made available to the Economic Operator and used by him in performing the contract;
  1. The Contracting Authority shall assess whether the technical or professional capacities made available to the Economic Operator by the entities making the resources available make it possible for the Economic Operator to prove that he fulfils the conditions for participation in the procedure, as well as it shall examine whether there are any grounds for exclusion provided against that entity to the Economic Operator.
  2. If the technical or professional abilities of the entity providing resources do not confirm that the Economic Operator satisfies the conditions for participation in the procedure, or there are grounds for exclusion with regard to that entity, the Contracting Authority shall demand that the Economic Operator replaces that entity with another entity or entities within the time limit specified by the Contracting Authority, or demonstrates that he fulfils the conditions for participation in the procedure on his own.
  3. An economic operator may not, after the deadline for submission of tenders, rely on the capacities of resource providers if, at the stage of submission of tenders, the economic operator has not relied on the capacities of the resource providers to a given extent.

1. **Documents to be submitted with the bid.**
   1. **A power of attorney to represent the Economic Operator (to be submitted if the authorisation of persons to sign the tender does not directly result from the registration documents)** applying for the award of a public contract. The power of attorney shall be submitted in electronic form and shall bear a qualified electronic signature, a trusted signature or a personal signature. If the power of attorney has been drawn up in paper form and bearing a handwritten signature, a digital version of the document (e.g. a scan) bearing a qualified electronic signature, a trusted signature or a personal signature certifying that the digital version is consistent with the document in paper form shall be submitted. Any certification may be done by the person(s) issuing the power of attorney or a notary public.
   2. **Letter of commitment of the entity providing the Economic Operator with resources** to make available to the Economic Operator the necessary resources for the performance of the contract or other subjective evidence confirming that during the performance of the contract the Economic Operator will have at his disposal the necessary resources of these entities (if the Economic Operator uses the abilities of other entities pursuant to the rules specified in art. 118 of the Act). The commitment or other subjective evidence within the described scope shall be submitted in an electronic form and signed with a qualified electronic signature. If the commitment (other means of proof) was issued in paper form and bearing a handwritten signature, a digital copy of the document shall be submitted, bearing a qualified electronic signature, a trusted signature or a personal signature certifying the conformity of the digital copy with the document in paper form.
   3. **Proof of payment of the deposit**:
      1. If a security deposit is provided in non-monetary form, an electronic proof of payment must be attached to the tender.
      2. If the deposit is paid in cash (bank transfer, etc.), the Awarding Authority asks for a confirmation of the transaction (not required).
   4. **The evidence in question pursuant to Article 105 of the PPL Act (submitted with the bid).**
      1. A completed technical specification of the subject of the contract (the form to be filled in is attached to this SWZ).
      2. Technical documentation (specification) of the equipment - or other analogous materials containing data of the equipment, confirming the parameters of the offered equipment. Technical description of the offered equipment together with its technical parameters, to the extent enabling the evaluation of the fulfilment of the Purchaser's requirements specified in this SWZ.

* Should the Economic Operator fail to submit or submit incomplete the above-mentioned means of proof (13.4.1 and 13.4.2), the Contracting Authority, pursuant to Article 107(2), provides for the possibility of calling upon the Economic Operator to supplement the said means of proof, subject to Article 107(3).
* The Contracting Authority shall accept equivalent means of proof if they prove that the supplies offered meet the requirements, characteristics or criteria specified by the Contracting Authority.
* The Contracting Authority may request clarification from the Economic Operators on the content of the evidence in question.
* A contractor who offers solutions equivalent to those indicated by the Contracting Authority as trademarks, patents, origin, source or a particular process, standards, is obliged to prove in the offer that the supply offered by him meets the requirements specified by the Contracting Authority, by attaching to the offer in particular the said means of proof referred to in Articles 104-107 of the PPL Act, proving that the proposed solutions to the standards in an equivalent degree meet the requirements specified in the description of the subject of the contract.
  1. **Economic Operators competing jointly for the award** of the contract are required to submit with their tender an appropriate power of attorney - this does not apply to a civil law partnership if the power to act on behalf of the partnership results from the partnership agreement appended to the tender, or if all partners sign the tender. The power of attorney may result either from the document under the same name or from the agreement of the Economic Operators competing jointly for the award of the contract.
  2. **Letter of commitment of the entity providing the Economic Operator with resources** to make available to the Economic Operator the necessary resources for the purposes of performing the contract or other subjective evidence (hereinafter referred to as the commitment) confirming that during the execution of the contract the Economic Operator will have at his disposal the necessary resources of these entities. The commitment within the scope described above shall be submitted in an electronic form and signed with a qualified electronic signature, trusted signature or personal signature. Where the undertaking has been drawn up on paper and bearing a handwritten signature, a digital representation of that document shall be provided bearing a qualified electronic signature, a trusted signature or a personal signature attesting the conformity of the digital representation with the paper document. The certification of the conformity of the digital reproduction with the document in paper form may be done by the entity providing the resources or a notary. The above-mentioned power of attorney shall be attached to the offer by the Economic Operator if he uses the abilities of other entities on the principles specified in Article 118 of the PPL Act.

1. **Grounds for exclusion from the procurement procedure, conditions for participation in the procedure.**
   1. **Contractors who:**
      1. are not subject to exclusion;
      2. meet the conditions for participation in the procedure laid down by the Contracting Authority in the contract notice and these Terms of Reference.
   2. **The Contracting Authority will exclude the Economic Operator(s) from the procedure in cases referred to in Article 108(1)(1)-(6) of the Act (obligatory exclusion grounds).**
      1. being a natural person who has been convicted of a criminal offence by final judgment:
2. participation in an organised criminal group or association with the aim of committing a criminal or fiscal offence referred to in Article 258 of the Penal Code,
3. trafficking in human beings as referred to in Article 189a of the Criminal Code,
4. referred to in Article 228-230a, Article 250a of the Penal Code, in Articles 46-48 of the Act of 25 June 2010 on sport (Journal of Laws of 2020, item 1133 and of 2021, item 2054) or in Article 54(1)-(4) of the Act of 12 May 2011 on reimbursement of medicines, foodstuffs for special nutritional purposes and medical devices (Journal of Laws of 2021, item 523, 1292, 1559 and 2054),
5. financing a terrorist offence referred to in Article 165a of the Penal Code, or the offence of preventing or hindering the ascertainment of the criminal origin of money or the concealment of its origin, as referred to in Article 299 of the Penal Code,
6. of a terrorist nature, as referred to in Article 115 § 20 of the Criminal Code, or with the aim of committing this offence,
7. entrusting work to a minor foreigner, referred to in Article 9(2) of the Act of 15 June 2012 on the results of employing foreigners unlawfully residing on the territory of the Republic of Poland (Journal of Laws, item 769 and of 2020, item 2023),
8. against economic turnover as referred to in Articles 296-307 of the Penal Code, an offence of fraud as referred to in Article 286 of the Penal Code, an offence against the reliability of documents as referred to in Articles 270-277d of the Penal Code, or a fiscal offence,
9. referred to in Article 9(1) and (3) or Article 10 of the Act of 15 June 2012 on the results of employing foreigners unlawfully residing on the territory of the Republic of Poland

- or for the relevant offence under foreign law;

* + 1. if an incumbent member of its management or supervisory body, a partner in a general partnership or partnership, a general partner in a limited partnership or a limited joint-stock partnership, or a proxy has been validly convicted of an offence referred to in point 14.2 ;
    2. against whom a final court judgement or a final administrative decision on overdue payment of taxes, fees or contributions for social or health insurance has been issued, unless the economic operator, respectively before the deadline for submitting requests to participate in the procedure or before the deadline for submitting tenders, has made the payment of due taxes, fees or contributions for social or health insurance together with interest or fines, or has concluded a binding agreement on the repayment of those receivables;
    3. who has been disqualified by a final decision from competing for public contracts;
    4. if the contracting authority can establish, on the basis of reliable grounds, that the economic operator has entered into an agreement with other economic operators aimed at distorting competition, in particular if they belong to the same group within the meaning of the Act on Competition and Consumer Protection of 16 February 2007 and have submitted separate tenders, partial tenders or requests to participate, unless they prove that they prepared those tenders or requests independently of each other;
    5. if, in the cases referred to in Article 85(1), there has been a distortion of competition resulting from previous involvement of that economic operator or of an entity which is a member of the same group with the economic operator within the meaning of the Act of 16 February 2007 on Competition and Consumer Protection, unless the distortion of competition caused thereby can be eliminated otherwise than by excluding the economic operator from participation in contract award proceedings.
  1. **The Contracting Authority will also exclude Contractors from the contract award procedure in the following cases - optional grounds for exclusion selected by the Contracting Authority, as provided for in Article 109(1) of the Act:**
     1. who has breached obligations relating to the payment of taxes, fees or contributions to social or health insurance, except for the case referred to in Article 108(1)(3), unless the economic operator has, respectively, before the deadline for submitting requests to participate in the procedure or before the deadline for submitting tenders, paid the due taxes, fees or contributions to social or health insurance, together with interest or fines, or has concluded a binding agreement on the repayment of those receivables (Article 109(1)(1));
     2. if an incumbent member of its management or supervisory body, a partner in a general partnership or partnership, or a general partner in a limited partnership or a limited joint-stock partnership, or a proxy, has been validly convicted of an offence or punished for an offence referred to in Article 1901(1)(2)(a) or (b) (Article 109(1)(3));
     3. in respect of which bankruptcy has been opened, whose assets are being administered by a liquidator or a court, which has entered into an arrangement with creditors, whose business activities are suspended, or is in any other similar situation arising from a similar procedure provided for in the legislation of the place where the procedure is opened (Article 109(1)(4));
     4. if there is a conflict of interest within the meaning of Article 56(2) which cannot be effectively eliminated other than by excluding the economic operator (Article 109(1)(6));
     5. who has unlawfully influenced or attempted to influence the actions of the contracting authority or has attempted to acquire or has acquired confidential information which may give him an advantage in the procurement procedure (Article 109(1)(9));
     6. In addition, the Contracting Authority will exclude from the proceedings a Contractor who is subject to exclusion pursuant to Article 7(1) of the Act of 13 April 2022 on special solutions to prevent support for aggression against Ukraine and to protect national security (Journal of Laws 2022, item 835), referred to in this paragraph as the "Act", that is:
        1. Contractor listed in the lists set out in Regulation 765/2006 and Regulation 269/2014 or included in the list on the basis of a decision on inclusion in the list ruling on the application of the measure referred to in Article 1(3) of the Act;
        2. Contractor whose beneficial owner within the meaning of the Act of 1 March 2018 on the prevention of money laundering and terrorist financing (Journal of Laws of 2022, item 593 and 655) is a person listed in the lists set out in Regulation 765/2006 and Regulation 269/2014 or listed or being such a beneficial owner as from 24 February 2022, provided that he or she has been listed on the basis of a decision on listing resolving the measure referred to in Article 1(3) of the Act;

*The Contractor, in part III (D) of the JEDZ - "Grounds for exclusion of an exclusionary nature", by marking the answer "NO", declares that it is also not subject to exclusion from the procedure on the basis of Article 7(1) of the Act of 13 April 2022 on special solutions to prevent support for aggression against Ukraine and to protect national security (Journal of Laws of 2023, item 129, as amended). In addition, the offer form contains the content of the relevant declaration.*

1. **Sanitation procedure (self-cleaning).**
   1. A contractor shall not be subject to exclusion in the circumstances specified in Article 108(1), (2) and (5) or Article 109(1)(7) to (9) if he proves to the Contracting Authority that he has fulfilled all the following conditions:
      1. has made good or has undertaken to make good the damage caused by the offence, misdemeanour or his/her wrongful conduct, including by making financial reparation;
      2. has fully explained the facts and circumstances of the offence, the misconduct or his/her wrongdoing and the damage it has caused, cooperating actively with the competent authorities, including the law enforcement authorities, or the contracting authority, as appropriate;
         1. has taken specific technical, organisational and personnel measures that are appropriate to prevent further offences, misconduct or improper conduct, in particular:
         2. has severed all links with persons or entities responsible for the wrongful conduct of the Contractor,
         3. reorganised the staff,
         4. implemented a reporting and control system,
         5. set up internal audit structures to monitor compliance with legislation, internal regulations or standards,
         6. has introduced internal regulations on liability and compensation for non-compliance with laws, internal regulations or standards.
   2. The Contracting Authority shall assess whether the actions taken by the Economic Operator as referred to in paragraph 1 of this chapter of the SWZ are sufficient to demonstrate his reliability, taking into account the seriousness and special circumstances of the Economic Operator's act. If the actions taken by the Economic Operator as referred to in paragraph 1 of this chapter of the SWZ are not sufficient to demonstrate his reliability, the Contracting Authority shall exclude the -Contractor.
   3. If the prerequisites of art. 108 item 1, 2 and 5 or art. 109 item 1 point 7-9 of the PPL Act apply to the Economic Operator, the Economic Operator is obliged to enclose with his tender a statement that he has the above-mentioned evidence and a commitment to present it upon the Contracting Authority's request.
2. **Conditions of participation referred to in Article 112(2) of the Act:**
   1. **capacity to act in business;**

* The contracting authority does not require confirmation of the above.
  1. **Entitlement to pursue a specific economic or professional activity;**
* The contracting authority does not require confirmation of the above.
  1. **economic or financial situation;**
* The contracting authority does not require confirmation of the above.
  1. **Technical or professional capacity.**
     1. The contractor must demonstrate that in the last 3 years before the deadline for submission of tenders, and if the period of operation is shorter - in this period, he/she has made/is making a minimum of 2 deliveries of a similar nature (covering both the supply and installation of the equipment), with a value of not less than: PLN 7,000,000.00
* The Contracting Authority makes a reservation that in the situation where a tender is submitted by two or more entities (Economic Operators submitting a joint tender) and similarly in the situation where an Economic Operator relies on resources of another entity on the principles specified in art. 22a of the Act, the abovementioned condition has to be complied with entirely by the Economic Operator (one of the Economic Operators submitting a joint tender) or the entity on whose capacity the Economic Operator relies - there is no possibility of summing up the experience.
* If an Economic Operator indicates, in order to prove the fulfilment of the conditions of participation, a currency other than PLN, the following currency shall be used for its conversion: average exchange rate of the National Bank of Poland as at the date of publication of the contract notice in the Official Journal of the European Union.

1. **Subjective evidence.**

**The Economic Operator whose bid will be the highest evaluated (before the selection of the most advantageous bid), in order to prove the absence of grounds (premises) for exclusion from the procedure indicated in the SWZZ, on the basis of Article 126(1) of the Act, will be called upon to submit the following subjective evidence (valid on the date of their submission):**

* 1. **The statement referred to in Article 125(1)** of **the Act** on not being excluded from the procedure and meeting the conditions for participation in the procedure. The statement referred to in paragraph 1 shall be made on the form of the Single European Procurement Document (JEDZ), prepared in accordance with the standard form set out in Commission Implementing Regulation (EU) 2016/7 of 5 January 2016 establishing a standard form for the Single European Procurement Document (Official Journal of the EU L 3 of 06.01.2016, p. 16), hereinafter referred to as the "Single Document". The Contracting Authority has included instructions for completing the JEDZ form in this SWZ.

Declarations shall be made, on pain of nullity, in electronic form bearing a qualified electronic signature.

* In the case of joint bidding by Economic Operators, the above statement is submitted by each of the Economic Operators. The statement confirms the lack of grounds for exclusion of that entity and the respective fulfilment of the conditions for participation in the procedure, to the extent to which each Economic Operator demonstrates compliance with the conditions for participation in the procedure.
* If the Economic Operator relies on the technical or professional abilities of entities making available their resources, the Economic Operator shall submit, together with the statement, also a statement of the entity making available the resources, confirming that there are no grounds for exclusion of that entity and that the conditions for participation in proceedings are fulfilled, respectively, to the extent to which the Economic Operator relies on its resources.
  1. to confirm the absence of grounds for exclusion in the scope referred to in Article 108 par. 1 and 109 par. 1 pt. 4, 7-10 of the PPL Act.
     1. a certificate from a competent head of a tax office confirming that the Economic Operator is not in arrears with payment of taxes, within the scope of art. 109 item 1 point 1 of the PPL Act, issued no earlier than 3 months before its submission, and in the case of arrears with payment of taxes or fees, together with the certificate the Contracting Authority demands documents confirming that by the deadline for submission of tenders the Economic Operator has paid due taxes or fees with interest or fines or concluded a binding agreement on payment of such receivables;
     2. a certificate or another document issued by a competent field organisational unit of the Social Insurance Institution (ZUS) or a competent regional branch or a competent field office of the Agricultural Social Insurance Fund (Kasa Rolniczego Ubezpieczenia Społecznego) confirming that the economic operator is not in arrears with payment of social and health insurance premiums, within the scope of art. 109 item 1 point 1 of the PPL Act, issued not earlier than 3 months before its submission, and in the case of arrears in payment of social and health insurance premiums - a certificate or another document issued not earlier than 3 months before its submission. 1 point 1 of the PPL Act, issued no earlier than 3 months before its submission, and in the case of arrears in payment of social or health insurance premiums, together with a certificate or other document, the Contracting Authority demands submission of documents confirming that, respectively before the deadline for filing requests to participate in the procedure or before the deadline for submitting tenders, the Economic Operator has paid due social or health insurance premiums with interest or fines or concluded a binding agreement on repayment of those receivables;
     3. Information from the National Criminal Register regarding:

1. Article 108(1)(1) and (2) of the PPL Act,
2. Article 108(1)(4) of the PPL Act, concerning the imposition of a ban on seeking   
   a public contract as a penalty measure,

- drawn up not more than six months before its submission.

* + 1. Declaration of an Economic Operator, within the scope of provisions of art. 108 item 1 point 5 of the PPL, on not being a member of the same capital group in the meaning of the Act of 16 February 2007 on competition and consumer protection, with another Economic Operator who submitted a separate tender, a partial tender or an application to participate in the procedure, or a declaration of belonging to the same capital group together with documents or information confirming preparation of a tender, a partial tender or an application to participate in the procedure independently of another Economic Operator belonging to the same capital group. **A specimen statement for the Economic Operator is included in Appendix 5 to the CSF.**
    2. Statement of the Economic Operator on the validity of the information contained in the statement referred to in Article 125 (1) of the PPL Act, regarding the grounds for exclusion from the procedure indicated by the Contracting Authority, referred to in:

1. Article 108(1)(3) of the PPL,
2. Article 108(1)(4) of the PPL Act, relating to the award of a prohibition   
   to tender for a public contract as a preventive measure,
3. Article 108(1)(5) of the PPL Act, concerning the conclusion with other contractors of an agreement aimed at distorting competition,
4. Article 108(1)(6) of the PPL Act,
5. Article 109(1)(7) to (10) of the PPL Act.

***A model declaration for the Contractor is included in Appendix 6 to the SWZ.***

* + 1. An extract from the appropriate register or from the central register and information on business activity, if separate regulations require an entry in the register or register, in order to confirm the lack of grounds for exclusion on the basis of art. 109 par. 1 item 4 of the Act. The contracting authority will not call for submission of the above if it can obtain the above by means of free and generally available databases, registers, in particular public registers within the meaning of the Act of 17 February 2005 on Informatisation of the Activity of Entities Performing Public Tasks, provided that the economic operator indicated in the statement referred to in art. 125 par. 1 the data enabling access to those means;

**An economic operator may be excluded by the contracting authority at any stage of the procurement procedure.**

* 1. If the Economic Operator has its registered office or place of residence **outside the Republic of Poland**, instead of:

1. information from the National Criminal Register - shall submit information from a relevant register, such as a court register or, if there is no such register, another equivalent document issued by a competent judicial or administrative authority of the country in which the Economic Operator has its registered office or place of residence, within the scope referred to in § 2 item 1 point 1 of *the Regulation on subjective evidence measures,*

The document should have been issued no earlier than 6 months before submission.

1. an extract or information from the National Court Register or from the Central Register   
   and Information on Business Activity referred to in § 2 item 1 point 6 of *the Regulation on subjective evidence* - shall submit a document or documents issued in the country in which the Economic Operator has its registered office or place of residence, confirming that:

* it has not gone into liquidation or has not been declared bankrupt, its assets are not being administered by a liquidator or by the court, it has not entered into an arrangement with its creditors, its business activities are not suspended or in any other similar situation arising from a similar procedure provided for in the legislation of the place where the procedure is initiated.

The document should have been issued no earlier than 3 months before submission.

If in the country where the Economic Operator has its registered seat or place of residence the documents referred to in art. 4 item 1 of *the Regulation on subjective evidence are* not issued, or if such documents do not refer to all cases referred to in art. 108 item 1 points 1, 2 and 4, art. 109 item 1 points 1, 2 let. a and b and point 3 of the PPL Act, they shall be replaced respectively in their entirety or in part by a document containing a declaration of the Economic Operator, indicating the person or persons authorized to represent him, or a declaration of the person to whom the document refers, made under oath, or - if in the country where the Economic Operator has its registered seat or place of residence there are no provisions on declaration under oath - made before a court or administrative body, notary, professional or economic self-government body proper for the seat or place of residence of the Economic Operator.

The contents of Articles 126(2) and (3), 127 and 128 of the PPL Act shall be applied by the Contracting Authority accordingly.

1. **Confirmation of the fulfilment of the conditions for participation in the procedure.**
   1. In order to confirm possession of **technical or professional abilities** specified in item 16.4, before selecting the most advantageous **tender,** the Contracting Authority shall call upon the **Economic Operator whose tender was awarded the highest** mark to submit, within the specified deadline, a list of at least 2 deliveries together with evidence specifying whether those deliveries were made properly, where the evidence in question shall be references or other documents prepared by the entity for which the deliveries were made, and if the Economic Operator, for reasons beyond its control, is not able to obtain such documents - a statement by the Economic Operator. In addition, the Contractor shall show the above information in the JEDZ form (Part IV C, point 1b).
2. **Deposit requirements.**
   1. The offer must be secured with a bid bond in the amount of: PLN 200,000.00 or in Euros - according to the exchange rate quoted by the NBP 1 Euro = 4.2622 as at 18.12.2024 - https://nbp.pl/statystyka-i-sprawozdawczosc/kursy/tabela-a/
   2. The bid security must be paid before the deadline for submission of tenders and must be maintained uninterruptedly until the expiry of the deadline for being bound by the tender, with the exception of the cases referred to in this chapter of the SWZZ.
   3. Forms of deposit: the deposit may be provided at the choice of the Economic Operator in one or more of the following forms:
3. money;
4. bank guarantees;
5. insurance guarantees;
6. sureties granted by entities referred to in Article 6b(5)(2) of the Act of 9 November 2000 on the establishment of the Polish Agency for Enterprise Development (i.e. Journal of Laws of 2024, item 419, as amended).
   1. The deadline for the payment of the deposit is the deadline for the submission of tenders.
   2. A deposit paid in cash should be paid by bank transfer to the following bank account: **14 1240 1343 1111 0000 2337 4270**

Note: A deposit in this form shall be deemed to have been duly paid when the funds are credited to the account of the Awarding Authority before the deadline for submission of tenders.

* 1. A bid bond submitted in non-monetary form must be submitted with the bid via the purchasing portal - in a separate, separate file. The original of the guarantee or surety must be provided in electronic form.
  2. Note: In the case of Economic Operators competing jointly for the award of the contract, the content of the security deposit document must ensure the possibility to satisfy the interests of the Contracting Authority, which means that obtaining a guaranteed payment of the security deposit must cover all the grounds for retaining the security deposit indicated in the Act, referred to in Article 98(6) of the Act, i.e. acts or omissions of all Economic Operators competing jointly for the award of the contract.
  3. **Ex officio return of deposit:**

The Contracting Authority shall return the security deposit immediately, but no later than within 7 days from the date on which one of the circumstances referred to in Article 98(1)(1)-(3) of the Act occurs.

* 1. **Return of the deposit at the request of the Contractor:**
  2. The Contracting Authority shall return the security deposit to the Economic Operator without delay, but no later than within 7 days of the request:

1. who has withdrawn a tender before the deadline for submission of tenders;
2. whose bid was rejected;
3. after the selection of the most advantageous tender, with the exception of the Economic Operator whose tender was selected as the most advantageous;
4. after the cancellation of the procedure, in the event that an appeal against the cancellation has not been decided or the time limit for lodging such an appeal has not expired.

Note: The submission of a request for the return of the security deposit shall result in the termination of the legal relationship with the Contractor, together with the Contractor's loss of the right to use the legal remedies referred to in the Act and the SWZZ.

* 1. **Retention of security deposit.**

The Contracting Authority shall retain the security deposit with interest and, in the case of a security deposit submitted in a form other than in cash, shall demand payment of the security deposit from the guarantor or surety, as appropriate, if:

1. The Economic Operator, in response to the call referred to in Art. 107 par. 2 or Art. 128 par. 1 of the Act, for reasons attributable to the Economic Operator, has failed to submit subject matter evidence or subject matter evidence confirming the circumstances referred to in Art. 57 or Art. 106 par. 1, the statement referred to in art. 125 par. 1, other documents or statements or did not agree to correct the mistake referred to in art. 223 par. 2 item 3 of the Act, which resulted in the inability to select the tender submitted by the Economic Operator as the most advantageous one.
2. The contractor whose tender was selected refused to sign the public procurement contract under the terms of the tender;
3. It will become impossible to conclude a contract for this public procurement for reasons attributable to the Economic Operator.
4. If the Economic Operator is an entity which is not subject to the regime of Polish law and to the jurisdiction of Polish courts, the wording of the guarantee must state that disputes arising from the deposit are subject to Polish law and to Polish jurisdiction.
5. **Method and deadline for submission of bids .**
   1. The tender and its annexes must be submitted via the procurement portal: [https://platformazakupowa.pl/pn/git.](https://platformazakupowa.pl/pn/git)
   2. **Deadline for submission of tenders: 31-01-2025 at 10:00.**
6. **Deadline for bidding.**

The binding period of the tender is: 90 days. The time limit for being bound by the tender shall commence with the expiry of the deadline for submission of tenders, as specified in clause 20.2 of this SWZ. The date on which the bid is bound is stated in the bid form.

1. **Opening of bids.**
   1. **The bids will be opened on 31-01-2025 at 10:30am** via the Purchasing Portal by decrypting the submitted bids by the Procuring Entity.
   2. The contracting authority does not foresee an open/public opening of tenders.
   3. Prior to the opening of tenders at the latest, the Awarding Authority will make available on the Purchasing Portal information on the amount it intends to allocate to the financing of this contract (gross amount, including VAT).
   4. Immediately after the opening of tenders, the Procuring Entity will make information available on Purchasing Portal:
      1. the names or forenames and places of business or residence of the economic operators whose tenders have been opened;
      2. prices included in the bids.
2. **Description of the criteria for evaluating the tenders, together with the weighting of these criteria and the method of evaluating the tenders.**
   1. In selecting the most advantageous tender, in each part, the Contracting Authority will be guided by the following criteria:

**Offer price (gross) - 70%.**

assessment follows the formula:

Pc = Cn/Cb \* 70

where the individual letters stand for:

Pc - the obtained value of the criterion "offer price",

Cn - the lowest bid price among all the bids considered and not rejected,

Cb - bid price of the tested offer,

**guarantee for the subject of the contract - 30%.  
The Contracting Authority shall define the minimum and maximum length of the quality guarantee period, ranging from 24 months to 72 months, for which it will calculate the score in the above criterion.**Should the Bidder offer a warranty period shorter than 24 months, the Contracting Authority shall reject the bid as not meeting the terms of the contract. If the Economic Operator does not indicate any warranty period in his offer, the Contracting Authority shall assume that the Economic Operator does not offer a warranty, and shall reject his offer as not meeting the terms of the contract. The Contractor may offer a warranty period longer than the maximum of 72 months, in which case the Contracting Authority shall calculate the maximum value of 72 months and enter the warranty period resulting from the contents of the tender into the contract. Contractors shall offer the length of the guarantee period in full months (within the range of 24 to 72 months).

Gw =Gb/Gn \* 30

where the individual symbols stand for:

Gw - number of points for the criterion "guarantee for works",

Gb - the guarantee of the tested offer,

Gn - the longest guarantee among all the bids considered and not rejected,

**The total bid evaluation will be calculated from the formula O = Pc + Gw**

* 1. The valid bid (not subject to rejection) that obtains the highest score (sum of all points) in all criteria will be considered the most advantageous bid.
  2. If tenders with the same price are submitted, the Contracting Authority will call on the Economic Operators who submitted these tenders to submit additional tenders containing the new price within the time limit specified by it.

1. **Information on formalities to be completed after the tender selection in order to conclude the public procurement contract.**
   1. The public procurement contract can only be concluded with the Economic Operator whose tender is selected as the most advantageous, after the expiry of the time limits specified in Article 264(1) of the Act.
   2. If an appeal is lodged, subject to the exceptions provided for in the Act, the Contracting Authority may not conclude the contract until the National Board of Appeal (hereinafter referred to as the NAC) has announced its judgment or decision ending the appeal proceedings.
   3. Following the selection of the most advantageous tender, in order to conclude the public procurement contract, the Contractor will be obliged to:
      1. submitting a power of attorney document for the person concluding the contract on behalf of the Economic Operator, if the power to represent the Economic Operator does not arise from the Economic Operator's registration documents, if the Contracting Authority can obtain it using free and publicly available databases, or the power of attorney document was not submitted earlier during the procurement procedure,
      2. Submission of a certified copy of the insurance policy - referred to in draft contractual provisions §4.1(i). (Annex No. 3);
   4. The contractor is required to provide a performance bond under the following conditions:
      1. The economic operator whose tender is selected as the most advantageous shall be obliged to provide a performance bond in the amount of: 5.00 % of the total (gross) price quoted in the tender,
      2. The performance bond must be submitted in one or more of the forms specified in Article 450(1) of the PPL Act,
      3. The Contracting Authority does not accept the possibility of submitting a performance bond in the forms specified in Article 450(2) of the PPL Act,
      4. The performance bond lodged in the form of a surety or guarantee must contain the Guarantor's or Surety's wording to make irrevocable and unconditional payment of the amount of the obligation at the first request for payment if the contractor fails to perform the subject of the contract or performs it with undue diligence. The Guarantor (Surety) may not make payment subject to any additional conditions or the submission of any documentation,
      5. the period of validity of the performance bond must cover the entire period of performance of the contract and 30 days after its completion,
      6. The amount of 30.00 % of the security will be retained by the Purchaser to secure claims under the warranty or guarantee,
      7. the period of validity of the security for claims under the warranty or guarantee must cover the entire warranty period and 15 days following the expiry of that period,
      8. if the period for which the security is to be lodged exceeds 5 years, the security in cash is lodged for the whole of that period, and the security in a form other than cash is lodged for a period of not less than 5 years, with a simultaneous undertaking by the contractor to extend the security or provide new security for a further period. If the security provided in a form other than cash is not extended or a new security is not lodged no later than 30 days before the expiry of the existing security, the right of the Contracting Authority to pay out the amount of the security must be evident from the content of the guarantee or surety,
      9. If a surety or guarantee is submitted that does not contain the above-mentioned elements or has any additional reservations, the Contracting Authority will consider that the contractor has not provided performance bond,
      10. a performance bond paid in cash should be paid by bank transfer to bank account No. 14 1240 1343 1111 0000 2337 4270 - confirmation of the transfer should be provided to the Contracting Authority before the contract is signed.
      11. if the performance bond is provided in a form other than money, it must be submitted to the Contracting Authority before the contract is signed.
   5. in the case of selection of the most advantageous tender submitted by Economic Operators jointly applying for the award of the contract, submission of the agreement regulating the cooperation of these entities (e.g. consortium agreement, civil partnership agreement),
   6. The Contracting Authority envisages the possibility of amending the provisions of the concluded contract in relation to the content of the offer on the basis of which the Contractor was selected, in accordance with the conditions specified in the attached model contract.

1. **Contractors' remedies.**
   1. The principles, time limits and manner of use of legal remedies are regulated in detail by the provisions of Section IX of the Act - Legal Remedies (Articles 505 - 590 of the Act).
   2. Legal protection measures are available to the Economic Operator and any other entity, if it has or had an interest in obtaining the contract and has suffered or may suffer damage as a result of the infringement of provisions of the Act by the Contracting Authority.
   3. Organisations on the list referred to in Article 469(15) and the SME Ombudsman shall also be entitled to legal remedies against the notice initiating the procurement procedure and the procurement documents.
   4. The appeal is against:
      1. an action taken by the contracting authority in the course of a procedure for the award of a contract, the conclusion of a framework agreement, a dynamic purchasing system, a system for the qualification of economic operators, or a competition contrary to the provisions of the Act, including a draft contractual provision;
      2. omission of an action in the procurement procedure, the conclusion of a framework agreement, a dynamic purchasing system, a system for qualifying economic operators or a competition, which the contracting authority was obliged to perform under the Act;
      3. failure to conduct a procurement procedure or organise a competition under the Act, despite the fact that the contracting authority was obliged to do so.
   5. The appeal shall be lodged with the President of the Chamber.
   6. Written submissions in appeal proceedings shall be made in writing or in electronic form or in electronic form, except that an appeal and a statement of defence lodged in electronic form shall require a trusted signature.
   7. The appellant shall transmit to the contracting authority an appeal filed electronically or in electronic form, or a copy thereof if filed in writing, before the expiry of the time limit for lodging an appeal in such a way that the contracting authority may become acquainted with its contents before the expiry of that time limit.
   8. In accordance with Section 515 of the Act, an appeal shall be brought:

"1. The appeal shall be lodged:

1) for contracts the value of which is equal to or exceeds the EU thresholds, within:

a) 10 days from the date of communication of the information on the contracting authority's action constituting the basis for lodging the complaint, if the information was transmitted via electronic means of communication

b) 15 days from the date of communication of information on the contracting authority's action constituting the basis for lodging the complaint, if the information was communicated in a manner other than that specified in letter a;

2) for contracts whose value is below the EU thresholds, within:

a) 5 days from the date of communication of information on the contracting authority's action constituting the basis for lodging the complaint, if the information was transmitted by means of electronic communication,

b) 10 days from the date of communication of information on the contracting authority's action constituting the basis for lodging the complaint, if the information was communicated in a manner other than that specified in letter a.

(2) An appeal against the contents of the notice launching the procurement procedure or contest or against the contents of the contract documents shall be brought within the time limit:

1) 10 days from the date of publication of the notice in the Official Journal of the European Union or posting of the contract documents on the website, in the case of contracts the value of which is equal to or exceeds the EU thresholds;

2) 5 days from the date of publishing the announcement in the Public Procurement Bulletin or the contract documents on the website, in the case of contracts whose value is lower than the EU thresholds.

(3) An appeal in cases other than those referred to in paragraphs 1 and 2 shall be lodged within the time limit:

1) 10 days from the day on which knowledge of the circumstances giving rise to the claim was acquired or could reasonably have been acquired by exercising due diligence, in the case of contracts the value of which is equal to or exceeds the EU thresholds;

2) 5 days from the day on which knowledge of the circumstances giving rise to the claim was acquired or could have been acquired with due diligence, in the case of contracts whose value is lower than the EU thresholds.

(4) If the contracting authority has not published a notice of the intention to conclude a contract or has not sent the economic operator a notice of the selection of the most advantageous tender or has not invited the economic operator to submit a tender under a dynamic purchasing system or framework contract despite such an obligation, the appeal shall be lodged no later than within the deadline:

1) 15 days from the date of publishing the notice of the outcome of the procedure in the Public Procurement Bulletin or 30 days from the date of publishing the notice of contract award in the Official Journal of the European Union, and in the case of awarding a contract by negotiated procedure without an announcement or a sole-source contract - the notice of the outcome of the procedure or the notice of contract award, including the justification of awarding a contract by negotiated procedure without an announcement or a sole-source contract;

2) 6 months from the date of conclusion of the contract, if the contracting authority:

(a) it has not published a contract award notice in the Official Journal of the European Union, or

(b) published an award notice in the Official Journal of the European Union which does not contain a justification for the award of the contract by negotiation without a call for tenders or by direct agreement;

3) one month from the date of conclusion of the contract, if the contracting authority:

a) failed to publish a notice of the outcome of the procedure in the Public Procurement Bulletin, or

(b) has published in the Public Procurement Bulletin a notice of the outcome of the procedure which does not contain a justification for awarding the contract by negotiation without an announcement or by direct agreement."

* 1. Parties and participants in the appeal proceedings have the right to lodge a complaint to the court against the Chamber's ruling and the ruling of the President of the Chamber referred to in Article 519(1) of the Act. The complaint shall be lodged with the District Court in Warsaw - the Public Procurement Court, referred to as the "Public Procurement Court".
  2. The complaint shall be lodged through the Chairman of the Chamber within 14 days of the day of delivery of the Chamber's ruling or the President of the Chamber's decision referred to in Article 519(1), at the same time sending a copy of the complaint to the complaint's opponent. Lodging of the complaint in a postal facility of the designated operator in the understanding of the Act of 23 November 2012. - Postal Law Act of 23 November 2012 shall be tantamount to lodging a complaint.
  3. An appeal in cassation to the Supreme Court may be brought against the court's judgment or the decision terminating the case.

1. **Information on data protection - RODO**

Pursuant to Article 13(1) and (2) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) (Official Journal of the EU L 119 of 04.05.2016, p. 1), hereinafter "RODO", I inform you that:

* 1. The controller of your personal data is: GIT 44-100 Gliwice ul. Karola Miarki 12-14
  2. In matters related to personal data protection you can contact the Data Protection Officer at GIT 44-100 Gliwice ul. Karola Miarki 12-14 - Adam Cichuta contact: e-mail: [adam.cichuta@git.lukasiewicz.gov.pl](mailto:adam.cichuta@git.lukasiewicz.gov.pl) phone: 32 2582 041 w 33
  3. Your personal data will be processed on the basis of Article 6(1)(c) of the RODO for the purpose related to the subject public procurement procedure conducted under the basic non-negotiated procedure, pursuant to Article 275(1) of the Act of 11 September 2019. - Public Procurement Law (consolidated text: Journal of Laws of 2023, item 1605), hereinafter the PPL;
  4. The recipients of your personal data will be persons or entities to whom the documentation of the proceedings will be made available on the basis of Article 18 and Article 74(1) of the PPL Act;
  5. Your personal data will be stored, in accordance with Article 78(1) of the PPL Act, for a period of 4 years from the date of completion of the contract award procedure, and if the duration of the contract exceeds 4 years, the storage period shall cover the entire contract duration; subject to applicable laws and regulations of the Contracting Authority;
  6. the obligation for you to provide personal data concerning you directly is a statutory requirement specified in the provisions of the PPL Act, related to participation in the public procurement procedure; the consequences of failure to provide certain data result from the PPL Act;
  7. decisions will not be taken by automated means with regard to your personal data, in application of Article 22 RODO; you have:
* On the basis of Article 15 RODO, the right of access to personal data concerning you\*\*;
* pursuant to Article 16 RODO, the right to the rectification of your personal data \*\*\*;
* pursuant to Article 18 RODO, the right to request the controller to restrict the processing of personal data, subject to the cases referred to in Article 18(2) RODO \*\*\*\*;
* The right to lodge a complaint with the President of the Office for Personal Data Protection if you consider that the processing of personal data concerning you violates the provisions of the RODO;  you are not entitled to:
* in connection with Article 17(3)(b), (d) or (e) RODO, the right to erasure of personal data;
* The right to data portability as referred to in Article 20 of the RODO;
* pursuant to Article 21 RODO, the right to object to the processing of your personal data, as the legal basis for the processing of your personal data is Article 6(1)(c) RODO.
  1. you are not entitled to:

1. in connection with Article 17(3)(b), (d) or (e) RODO, the right to erasure of personal data;
2. The right to data portability as referred to in Article 20 of the RODO;
3. pursuant to Article 21 of the RODO, the right to object to the processing of your personal data, as the legal basis for the processing of your personal data is Article 6(1)(c) of the RODO.

*\* Explanation: this information is required if there is an obligation for the controller or processor to appoint a Data Protection Officer.*

*\*\* Explanation: the exercise of the right of rectification may not have the effect of altering the outcome of the public procurement procedure or of amending the provisions of the contract to an extent incompatible with the PPL Act, and may not affect the integrity of the protocol and its annexes.*

\*\*\* Clarification: the right to restrict processing does not apply in relation to storage, to ensure the exercise of legal remedies or to protect the rights of another natural or legal person, or on compelling grounds of public interest of the European Union or of a Member State.

1. **Appendices:**
   1. Offer form;
   2. Draft contract provisions;
   3. Technical specifications of the subject of the contract;
   4. Template for the JEDZ statement + filling instructions;
   5. Group Statement;
   6. A statement that the information contained in the JEDZ is up to date;
   7. Model declaration of business secrecy - if applicable;
   8. A commitment from a third party - if applicable;
   9. Model list of completed deliveries.