



Republic
of Poland

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INVITATION TO TENDER -Specification of Important Terms of Procurement (ToR)

Procedure number: **EU/39/ FL/ZZ/2025**

Procurement proceedings for the supply of equipment:

Delivery of One (1) High-Capacity Forklift Truck 25 Tons

For the project entitled:

" Equipping the BCT intermodal terminal with modern reloading devices"

as a part of the investment E2.1.3 "Intermodal Projects "of the National Recovery Plan

Project no: KPOD.09.09-IW.02-0033/24

Approved:



I. Name and address of the Contracting Authority

BCT - Baltic Container Terminal Ltd.
Kwiatkowskiego St. 60
81-127 Gdynia tel+48 58 350 60 30 e-mail:
zaopatrzenie@bct.ictsi.com
mfilewicz@bct.ictsi.com
website address: www.bct.ictsi.com

Office hours: 8.00-16.00

I. PROTECTION OF PERSONAL DATA

(1) Pursuant to Article 13 (1) and (2) of Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 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", the Contracting Authority informs that:

- a. The administrator of the personal data submitted as part of these Proceedings is BCT -
Bałtycki Terminal Kontenerowy Sp. z o.o. having its headquarters in Gdynia at 60 Kwiatkowskiego Street;
Contact with the Data Protection Officer is possible via e-mail address:
dandruczyk@bct.ictsi.com
- b. personal data provided as part of this Proceeding will be processed pursuant to Article 6(1)(c) of the RODO for purposes related to the Proceeding;
- c. Recipients of personal data provided in the Proceedings will be persons or entities to whom the Proceedings documentation will be made available, may be transferred to the Program Operator, to an international organization, including authorized bodies of the European Union and the Financial Mechanism Office in Brussels.
- d. personal data provided in the Proceedings will be stored for a period of 4 years from the date of completion of the Proceedings, and if the duration of the contract exceeds 4 years, the storage period shall cover the entire duration of the contract. In the case of the conclusion and execution of a contract, the storage of personal data also includes the period necessary to secure any claims arising from the contract, unless specific provisions provide otherwise;
- e. with respect to the personal data provided as part of the Proceedings, decisions will not be made by automated means, pursuant to Article 22 of the DPA;
- f. The persons whose personal data will be provided in the Proceedings have:
 - i. The right to access your personal data under Article 15 of the RODO;
 - ii. The right to rectify your personal data under Article 16 of the RODO, however, the exercise of the right to rectification may not result in a change in the outcome of the Proceedings, for the award of a public contract, or a change in the provisions of the contract to an extent inconsistent with the

ToR and shall not compromise the integrity of the Protocol and its Annexes, iii. the right to request the Controller to restrict the processing of personal data on the basis of Article 18 of the RODO, subject to the cases referred to in Article 18(2) of the RODO, but the right to restrict processing shall not apply with respect to storage, to ensure the exercise of legal remedies or to

protect the rights of another natural or legal person, or for compelling reasons of public interest of the Union

European Union or a Member State, iv. the right to lodge a complaint with the President of the Office for the Protection of Personal Data, in the event of a violation of the provisions of the RODO in the processing of personal data provided in the course of this Procedure;

g. persons whose personal data will be provided in the Proceedings shall not be entitled to:

- i. The right to erasure of personal data in connection with Article 17(3)(b), (d) or (e) of the RODO,
- ii. The right to portability of personal data referred to in Article 20 of the RODO,
- iii. The right to object, to the processing of personal data on the basis of Article 21 RODO, as the legal basis for the processing of personal data provided under this

The procedure is Article 6(1)(c) of the RODO

- 1) Pursuant to Article 16 of the RODO, the right to rectify your personal data (exercising the right to rectification may not result in changing the outcome of the public procurement procedure or altering the provisions of the contract to an extent inconsistent with the principles of equal treatment and fair competition, and may not affect the integrity of the protocol and its annexes);
- 2) Pursuant to Article 18 of the RODO, the right to request the controller to restrict processing of personal data, subject to the duration of the public procurement procedure or competition and the cases referred to in Article 18(2) of the RODO (the right to restrict processing does not apply with respect to storage, to ensure the exercise of legal remedies or to protect the rights of another natural or legal person, or for compelling reasons of public interest of the European Union or of a Member State);
- 3) You have the right to lodge a complaint to the supervisory authority about the processing of your personal data by the administrator that does not comply with RODO. The authority responsible for the complaint in question is the Office for Personal Data Protection, 2 Stawki Street, 00-193 Warsaw.

III. MODE OF CONTRACT AWARD

1. Procurement procedure conducted by open tender pursuant to Article 70 (1) - 70 (5) KC of the Act of April 23, 1964 Civil Code (consolidated text of 2023 Journal of Laws 2023 Item 1610 as amended).
2. This proceeding is conducted in accordance with the principles of fair competition, equal treatment, transparency, and objectivity.
3. The contracting authority does not allow partial bids (indivisible subject matter).
4. The terms used in the Request for Proposal have the following meanings:
 - a. "BCT" or "Ordering Party" - BCT Bałtycki Terminal Kontenerowy Sp. z o.o.
 - b. "Proceedings" - the proceedings conducted by the Employer pursuant to this Request for Proposal Offer -Specification of essential terms of the order (ToR)
 - c. "Request" this Request for Proposal - the Terms of Reference (ToR) and its attachments
5. This proceeding is marked with the sign - No. EU/39/ FL /ZZ/2025. Contractors should refer to the above-mentioned sign in all communications with the Contracting Authority.
6. This proceeding is conducted in Polish the Contracting Authority allows, however, communication and submission of bids, means of evidence in one of the languages used in international economic trade, i.e. English.

7. The purchaser reserves:

- a. The right to cancel the proceedings without giving any reason and without incurring any legal and financial consequences of such cancellation;
- b. the right to withdraw from the proceedings, at any stage of the proceedings, without giving reasons and without suffering any legal and financial consequences of such withdrawal;
- c. the right to amend the ToR (each of its elements), including the terms and conditions of the procedure, before the deadline for submission of final tenders without giving any reason and without incurring any legal and financial consequences of the amendment. In such case, the Contracting Authority shall immediately post information about the changes made to the ToR on the Contracting Authority's website and extend the time for submitting tenders accordingly.
- d. The right to conduct additional negotiations with the selected Contractor who obtained the highest number of points according to the evaluation of the supplier selection criterion in accordance with Schedule 7 to the ToR.

8. In matters not regulated, the provisions of the Civil Code shall apply.

9. The Contracting Authority does not expect to conclude a Framework Agreement.

10. The contracting authority does not provide for an electronic auction.

11. The contracting authority does not allow the submission of variant bids.

IV. DESCRIPTION OF THE SUBJECT MATTER OF THE CONTRACT

1. The subject matter of the order is the supply of a one /1/ unit of

Delivery of One (1) High-Capacity Forklift Truck 25 Tons
under the project

"Equipping the BCT intermodal terminal with modern handling equipment".

- a. The subject of the order includes the supply of equipment. A detailed description of the subject matter of the order is contained in **Schedule 5 titled "Technical Specification"** which are an integral part to this Terms of Procurement (ToR).

2. Designation in the Common Procurement Vocabulary (CPV):

42414130-1 Full Name: Stackable Cranes

42414140-4 Full name: Container Handling Cranes

3. The Contractor, in conducting the order, shall comply with the occupational safety and health regulations published at www.bct.ictsi.com The contractor shall bear all costs associated with the preparation of the bid.
4. The contracting authority does not allow partial bids.
5. The Ordering Party requires the Contractor to provide a warranty for the supplied **High-Capacity Forklift Truck 25 Tons**
 - a. Warranty term of a minimum of 2 years for each equipment and components after technical acceptance,
 - b. Warranty term of a minimum of 1 year for parts repaired // replaced during the warranty period,
 - c. Warranty term of a minimum of 5 years for the paint coating of each equipment
 - d. Warranty term of a minimum of 5 years for the steel structure of each equipment
 - e. Warranty term of a minimum of 5 years for the galvanization system of each equipment
 - f. Software upgrades Throughout DLP

All warranty terms are calculated from the date of signing the final acceptance protocol.

Detailed terms and conditions of the warranty are set forth in the model contract - Schedule No. 4 to this request for proposal.

6. The Contractor undertakes to deliver the subject matter of the contract to the place indicated by the Purchaser, i.e. Gdynia, 60 Kwiatkowskiego St. Under the terms of DAP Incoterms 2020.
7. General requirements for the subject of the contract:
 - a. The subject matter of the contract must be free of any encumbrances and rights of third parties,
 - b. delivery and insurance of the subject of delivery during its transport, and installation is responsible for Contractor
 - c. all elements of the subject of the order will be secured in such a way that they cannot be damaged during transportation. Any damage to the subject of the order during transportation shall be the responsibility of the Contractor
8. The Supplier of the subject of the contract must ensure readiness to provide warranty and post-warranty support services. All services provided by the Supplier under warranty must be performed by qualified persons. The response time of the Supplier's service to the Ordering Party's notification will not exceed 48h. Within this period, the Supplier's personnel must determine the cause and method of removal of the defect/error and establish with the Ordering Party a deadline for removal of the defect/error (not to exceed 14 working days, in case of possible unavailability of parts/components it may be extended).
9. The subject matter of the contract has been defined in an unambiguous and exhaustive manner, using sufficiently precise and comprehensible terms, taking into account all requirements and circumstances that may affect the preparation of the tender, by indicating objective technical, qualitative, functional characteristics and standards specified in some places by exemplary trademarks, patents or origin. In all places in this Request for Proposal where an exemplary trademark, patent or origin is used, it is justified by the specifics of the subject matter of the contract

and the contracting authority cannot describe the subject matter of the contract with sufficiently precise terms, and in any case allows solutions equivalent to those described.

10. The evidence in question - technical documentation (Note! the offer must contain references to all points of the detailed description of the subject of the order contained in the Technical Specifications. We recommend copying all the requirements and on their basis prepare the technical specification of the offered subject of the contract).

V. CONTRACT COMPLETION DATE

1. The term of the contract -till 30th of June 2026
2. The Contracting Authority requires that the Contractor deliver the subject of the contract in accordance with the delivery schedule contained in the Contract, but no later than 30th of June 2026
3. The place of delivery of the order is BCT Baltic Container Terminal; Gdynia, 60 Kwiatkowskiego Street.

VI. CONDITIONS OF PARTICIPATION IN THE PROCEEDINGS

1. The following contractors may compete for the award of this contract
 - a. meet the conditions for participation in the proceedings, as specified in this request
 - b. are not subject to exclusion in accordance with Article 7(1) in conjunction with Article 7(9) of the Law of April 13, 2022 on special solutions to prevent support for aggression against Ukraine and to protect national security (Journal of Laws of 2022, Item. 835) and in accordance with Article 5k of Regulation 2022/576 to Council Regulation (EU) No. 833/2014 of July 31, 2014 concerning restrictive measures in connection with Russia's actions destabilizing the situation in Ukraine (Official Journal of the EU No. L 229 of 31.7.2014, p. 1)
2. The conditions for participation in the proceedings concern:
 - a. To have the competence or authority to conduct a specific professional activity,
The contracting authority requires that contractors engaged in business or professional activities be registered in one of the professional or commercial registers kept in the country where they have their registered office or place of residence.
 - b. To have financial and economic capacity in terms of:
 1. The condition with regard to financial standing, will be met if the Contractor demonstrates 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 has achieved a minimum annual sales revenue of at least **900 000 USD** each year.
 2. The condition with regard to financial standing, will be met if the Contractor demonstrates that he has financial resources or creditworthiness of not less than

200 000 USD.

c. Possess the technical or professional ability to:

1. This condition, in terms of experience, will be considered fulfilled if the Contractor demonstrates that in the last 3 years before the deadline for submission of tenders (and if the period of activity is shorter - in this period) he has duly performed at least three (3) units of **High-Capacity Forklift Truck 25 Tons each year** corresponding in kind and value to the delivery constituting the subject of the contract. Delivery corresponding in its kind to the service constituting the subject of the contract is considered to be the realization of deliveries of equipment together with documents confirming proper performance of the service (proof may be references or other documents confirming proper performance of the service). The fulfilment of this condition will be evaluated on the basis of the list of deliveries submitted with the bid.

3. The contracting authority does not set other conditions for participation.
4. The evaluation of the fulfilment of the conditions for participation in the proceedings will be conducted in accordance with the "meets"/"does not meet" formula, based on the information contained in the documents and statements referred to in Chapter XI.
5. Contractors may jointly bid for the contract. None of the Economic Operators jointly applying for award of the contract may be subject to exclusion from the proceedings. In the case of Economic Operators applying jointly for the award of the contract, the conditions for participation in the proceeding specified in item VI.2. should be met jointly by all Economic Operators, subject to the condition described in item 6.2. letter c). The Contracting Authority requires that in the case of Contractors jointly applying for the award of the contract, at least one of such Contractors should demonstrate deliveries representing at least 60% of the total number of deliveries/pieces required in the wording of the ToR. In such case, the contractors shall appoint a proxy to represent them in the procurement proceedings or represent them in the proceedings and conclude a public procurement agreement. The power of attorney in writing (original or certified copy) shall be attached to the bid.

VII. GROUNDS FOR EXCLUSION FROM THE PROCEEDINGS

1. The proceedings are open to Contractors who are not subject to exclusion from the proceedings pursuant to Article 7 (1) (1-3) of the Law of April 13, 2022 on special solutions to prevent support for aggression against Ukraine and to protect national security (Journal of Laws of 2022, item 835 - "Specustawa"). Based on:
 - a. Article 7 (1) (1) of the Specust Law, the Contracting Authority shall exclude a Contractor listed in the lists specified in Regulation 765/2006 and Regulation 269/2014, or listed on the basis of a decision on listing resolving the measure referred to in Article 1 (3) of the Specust Law,
 - b. Article 7(1)(2) of the Specust Law, the Contracting Authority shall exclude a Contractor whose beneficial owner within the meaning of the Act on Anti-Money Laundering and Countering the Financing of Terrorism of March 1, 2018 (consolidated text, Journal of Laws of 2022, item 593 and 655) is a person listed in the lists set forth in Regulation 765/2006 and Regulation 269/2014, or listed or being such a beneficial owner as of February 24, 2022, insofar as he or she has been included in the list on the basis of a decision on inclusion in the list resolving the application of the measure referred to in Article 1(3) of the Specust Law,
 - c. Article 7 (1) (3) of the Specust Law, the Contracting Authority shall exclude a Contractor whose parent entity within the meaning of Article 3 (1) (37) of the Accounting Act of September 29, 1994 (Journal of Laws of 2021, Item 217, 2105 and 2106) is an entity listed in the lists set forth in Regulation 765/2006 and Regulation 269/2014, or listed or being such a parent entity as of February 24, 2022, insofar as it has

been listed on the basis of a listing decision resolving the measure referred to in Article 1(3) of the Specust Law.

2. Contractors who are not subject to exclusion from the proceedings pursuant to Article 5k of Regulation 2022/576 to Council Regulation (EU) No. 833/2014 of July 31, 2014 concerning restrictive measures in connection with Russia's actions destabilizing the situation in Ukraine (Official Journal of the EU No. L 229 of 31.7.2014, p. 1) may participate in the proceedings. Based on:
 - a. Article 5k prohibits the award or continued performance of any public contract or concession falling within the scope of the Public Procurement Directives, as well as the scope of Article 10(2).
1, 3, paragraphs 6(a)-(e), 8, 9 and 10, Articles 11, 12, 13 and 14 of Directive 2014/23/EU, Articles 7 and 8, 10(b)-(f) and (h)-(j) of Directive 2014/24/EU, Article 18, Art. 21 (b)-(e) and (g)-(i), Articles 29 and 30 of Directive 2014/25/EU, and Article 13 (a)-(d), (f)-(h) and (j) of Directive 2009/81/EC for or with:
 - i. Russian citizens or natural or legal persons, entities or bodies based in the Russia;
 - ii. legal persons, entities or bodies, more than 50% of whose ownership rights directly or indirectly belong to the entity referred to in point (a) of this paragraph; or
 - iii. natural or legal persons, entities or bodies acting on behalf of or under the direction of the entity referred to in paragraph (a) or (b) of this paragraph,
 - iv. including subcontractors, suppliers or entities on whose capacity one relies within the meaning of the public procurement directives, in case they account for more than 10% of the contract value.
3. The contract may not be awarded to entities related to him personally or by capital, i.e. in a situation in which the Contractor (conflict of interest)
 - a. participates in a company as a partner in a civil partnership or partnership, holding at least 10% of shares (unless a lower threshold is required by law), serving as a member of a supervisory or management body, proxy, attorney,
 - b. is married, in a relationship of consanguinity or affinity in a direct line, consanguinity or affinity in a lateral line up to the second degree, or a relationship of adoption, guardianship or custody, or in cohabitation with the contractor, its legal deputy or members of the management or supervisory bodies of contractors bidding for the contract,
 - c. remains with the contractor in such a legal or factual relationship that there is reasonable doubt as to their impartiality or independence in connection with the procurement procedure.
4. A contractor may be excluded by the Contracting Authority at any stage of the procurement process.

VIII. DECLARATIONS AND DOCUMENTS TO BE PROVIDED BY CONTRACTORS IN ORDER TO CONFIRM THE FULFILMENT OF THE CONDITIONS FOR PARTICIPATION IN THE PROCEEDINGS AND TO DEMONSTRATE THE ABSENCE OF GROUNDS FOR EXCLUSION

1. In order to confirm that there are no grounds for exclusion from the proceedings, referred to in point. VII of the Request and in order to confirm the fulfilment of the conditions for participation in the proceedings referred to in point VII.2, the Contractor is obliged to submit with the bid:
 - a) Statement that it meets the conditions for participation in the proceedings. The statement in question shall be submitted by the Contractor on the template attached as Exhibit 3.1 to this Request for Proposal,

- b) A statement that the Contractor is not subject to exclusion including under Article 7 (1) - (3) of the Law of April 13, 2022 on Special Solutions to Counteract Support for Aggression against Ukraine and to Protect National Security and Article 5k of Regulation 2022/576 to Council Regulation (EU) No. 833/2014 of July 31, 2014 concerning restrictive measures in connection with Russia's actions destabilizing the situation in Ukraine (Official Journal of the EU No. L 229 of 31.7.2014, p. 1). The Contractor shall submit on the template constituting Schedule No. 3.2 to this Inquiries,
- c) Statement regarding the prohibition of conflict of interest (on the absence of capital or personal relations) according to the template of Schedule No. 3.3 to this Request for Proposal,
- d) current copy or information from the National Court Register or the Central Registration and Information on Business Activities,
- e) List of deliveries in the last 3 years before the deadline for submission of tenders, and if the period of activity is shorter in this period, of the required deliveries (in accordance with the requirements of item 6.2 letter c. of this Request for Proposal), specifying their value, subject, dates of execution and recipients, together with documents confirming that these services were performed properly. If the Contractors jointly apply for the award of the contract, this document shall be submitted by at least one of them,
- f) The financial statement or a part thereof, if the preparation of the statement is required by the regulations of the country in which the Economic Operator has its registered office or place of residence, and if it is subject to audit by an auditing firm in accordance with the provisions on accounting, also with the report on the audit of the financial statement, respectively, and in the case of contractors not required to prepare a financial statement, other documents specifying in particular revenues and assets and liabilities - for a period not exceeding the last 3 financial years, and if the period of operation is shorter - for this period; The contracting authority will consider as fulfilled the condition of being in an economic and financial situation that ensures the proper performance of the contract of Contractors who, during the period under review, achieved sales revenues of at least **900 000 USD** each year.

The contracting authority allows the submission of a report in another currency, with the proviso that for the purpose of comparing bids, the value given in a foreign currency will be converted into USD according to the National Bank of Poland's (NBP) Table of Average Exchange Rates as of the bid opening date (available on the NBP's official website: <http://www.nbp.pl/>).

- g) information from a bank or a cooperative savings and loan association confirming the amount of the contractor's funds or creditworthiness, in a period no earlier than 3 months before its submission;

The contracting authority allows submission of information in another currency, with the proviso that for the purpose of comparing bids, the value given in foreign currency will be converted into USD according to the National Bank of Poland's (NBP) Table of Average Exchange Rates as of the bid opening date (available on the NBP's official website: <http://www.nbp.pl/>).

2. The Contracting Authority shall not call for submission of subjective means of proof if it can obtain them by means of free and publicly available databases, in particular public registers within the meaning of the Act of 17.02.2005 on informatization of the activities of entities performing public tasks, provided that the Contractor indicated in the statement referred to in Article 125 paragraph 1 the data allowing access to these means. The Contractor shall not be required to submit subjective means of evidence that the contracting authority has, if the Contractor indicates these means and confirms their correctness and validity.

3. If the Economic Operator has its registered office or place of residence outside the Republic of Poland, in order to confirm that the person acting on behalf of the Economic Operator is authorized to represent him, he shall submit an excerpt or information from the appropriate National Court Register, Central Register of Business Activity and Information or other appropriate register issued in the country where the Economic Operator has its registered office or place of residence.

IX. INFORMATION FOR CONTRACTORS JOINTLY APPLYING FOR THE AWARD OF THE CONTRACT (CIVIL PARTNERSHIPS/CONSORTIA)
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1. Contractors may jointly apply for the award of the contract. In such case, Economic Operators shall appoint a proxy to represent them in the proceedings or to represent them and conclude a public procurement contract. The power of attorney should be attached to the bid.
2. In the case of a bid by Contractors jointly bidding for the contract (consortium):
 - a. In the Bid Form, indicate the companies (names) of all Contractors jointly bidding for the contract;
 - b. The bid must be signed in such a way that it legally binds all Contractors jointly applying for the contract. The person signing the bid must be legally authorized to represent. The authorization must result from the content of the power of attorney attached to the bid - the content of the power of attorney should precisely define the scope of the authorization;
 - c. A statement that the Contractor is not subject to exclusion under Article 7 (1) - (3) of the Law of April 13, 2022 on Special Solutions to Counteract Support for Aggression against Ukraine and to Protect National Security and Article 5k of Regulation 2022/576 to Council Regulation (EU) No. 833/2014 of July 31, 2014 concerning restrictive measures in connection with Russia's actions destabilizing the situation in Ukraine (Official Journal of the EU No. L 229 of 31.7.2014, p. 1). shall be submitted by each of the Contractors jointly applying for the contract.
 - d. Statements confirming the absence of grounds for exclusion shall be submitted by each of the Contractors jointly bidding for the contract.
 - e. Statements of Contractors jointly bidding for the contract should be submitted with the bid under pain of nullity, in writing.
 - f. Statements confirming the fulfilment of the conditions for participation in the proceedings to the extent that each contractor demonstrates the fulfilment of the conditions for participation in the proceedings. Statements of Contractors jointly applying for the award of the contract should be submitted with the bid under pain of nullity, in writing.
 - g. All Contractors jointly bidding for the contract will be jointly and severally liable for the performance of the contract;
 - h. Contractors jointly bidding for the contract shall appoint from among themselves a directing Contractor (leader), authorized to bind, receive orders and instructions for and on behalf of each, as well as all partners;
 - i. The Contracting Authority may, under joint and several liability, require performance of the contract in its entirety by the leader or by all Contractors jointly bidding for the contract jointly or each individually.
3. In the case of Contractors doing business in the form of a civil partnership, the provisions on the bid of Contractors jointly bidding for the contract (consortium) shall apply accordingly.

X. METHOD OF COMMUNICATION AND CLARIFICATION OF THE CONTENTS OF THE INQUIRY

1. Communication in the contract award procedure, including the announcement of the Request for Quotation - Terms of Reference (ToR), submission of tenders, exchange of information and transfer of documents or statements between the contracting authority and the contractor, shall be in writing. The contracting authority shall allow communication using electronic mail communication.
2. Communication shall be in Polish language Ordering party allows the possibility of communication in English.
3. The bid, shall be submitted, under pain of invalidity, in writing bearing a handwritten signature to the address of the Procuring Entity indicated in item. 1 of this Request for Proposal.
4. Correspondence, all information, requests, notifications, information, and questions transmitted via e-mail shall be provided by the Contracting Authority and Contractors to the following address: e-mail: zaopatrzenie@bct.ictsi.com and mfilewicz@bct.ictsi.com
5. The person submitting the bid should be the person authorized to represent the Contractor.
6. The bid must be prepared with due diligence for the bidding entity and an appropriate time interval until the end of bid acceptance. A bid submitted after the bidding deadline will be considered invalid.
7. The offer must be submitted on time within the meaning of Article 61 par. 1 of the Civil Code (a declaration of intent to be made to another person is made when it has reached him in such a way that he could learn its contents. Cancellation of such a statement is effective if it occurred simultaneously with the statement or earlier.

XI. DESCRIPTION OF BID PREPARATION, FORMAL REQUIREMENTS FOR SUBMITTING STATEMENTS AND DOCUMENTS

1. A contractor may submit only one bid.
2. The offer must be made under pain of invalidity, in writing (to preserve the written form of a legal action it is sufficient to affix your handwritten signature to the document covering the content of the statement of intent).
3. The contractor shall transmit the bid through a postal operator within the meaning of the Act of November 23, 2012. - Postal Law (Journal of Laws of 2022, item 896, 1933 and 2042), in person or through a messenger.
4. The bid must be written in Polish or English signed by an authorized person.
5. Contractors shall bear all costs associated with the preparation and submission of their bids.
6. Contractors shall present a bid in accordance with all the requirements specified in the Terms of Reference (ToR).
7. The bid shall be submitted on the Bid Form - in accordance with Schedule No. 1. Along with the bid, the Contractor shall be obliged to submit:
 - 1) Material and price form - in accordance with Schedule 2
 - 2) Statements referred to in Chapter VIII in Terms of Reference (ToR):
 - a. Statement that it meets the conditions for participation in the proceedings. The statement in question
The Contractor shall submit on the template attached as Exhibit 3.1 to this Request for Proposal,
 - b. Statement that the Contractor is not subject to exclusion, including on the basis of Article 7 (1) - (3) of the Law of April 13, 2022 on special solutions to prevent support for aggression against Ukraine and to protect national security and Article 5k of Regulation 2022/576 to Council

Regulation (EU) No. 833/2014 of July 31, 2014 concerning restrictive measures in connection with Russia's actions destabilizing the situation in Ukraine (Official Journal of the EU No. L 229 of 31.7.2014, p. 1). The Contractor shall submit on the template attached as Exhibit 3.2 to this Request for Proposal,

- c. Statement regarding the prohibition of conflict of interest (on the absence of capital or personal relations) according to the model of Schedule No. 3.3 to this Request.
- 3) The initialled Framework Model Agreement (attached as Exhibit 4 to this Request for Proposal),
 - 4) The subject means of evidence referred to in item. IV item 11 of this Request for Proposal,
 - 5) in order to confirm that the person acting on behalf of the contractor is authorized to represent him, a copy or information from the National Court Register, the Central Register of Business Activity and Information or other relevant register,
 - 6) power of attorney or other document confirming the power to represent the Economic Operator, if a person whose power to represent the Economic Operator does not arise from other documents submitted with the bid (e.g., an excerpt or information from the National Court Register, Central Register of Business Activity and Information or other relevant register), prepared under pain of nullity, in writing (i.e., in electronic form with a qualified electronic signature) or in electronic form with a trusted signature or personal signature //if applicable//,
 - 7) power of attorney or other document confirming the power of attorney for the proxy appointed by the Economic Operators jointly applying for the award of the contract to represent them in the proceedings or to represent them in the proceedings and to conclude the public procurement contract, if the tender is submitted by the Economic Operators jointly applying for the award of the contract, prepared under pain of invalidity, in electronic form (i.e. in electronic form with a qualified electronic signature) or in electronic form with a trusted signature or personal signature //if applicable//,
 - a. List of supplies in the last 3 years before the deadline for submission of tenders, and if the period of activity is shorter in this period, the required supplies, i.e., at least 3 pcs of equipment supplies each year corresponding in kind and value to the supply constituting the subject of the contract. A supply corresponding in its kind to the service constituting the subject of the contract shall be deemed to be the realization of deliveries of the equipment, together with documents confirming due performance of the service (in accordance with the requirements of item 6.2 letter c. of this ToR document), specifying their value, object, dates of execution and recipients, together with documents confirming that the services were duly performed. If the Economic Operators apply jointly for the award of the contract, this document shall be submitted by at least one of them
 - b. financial statements, or parts thereof, confirming that during the audited period they have generated revenues for sales of at least 900 000 USD each year. If the preparation of the report is required by the regulations of the country in which the Contractor has its registered office or place of residence, and if it is subject to audit by an auditing firm in accordance with the provisions on accounting, also with the report on the audit of the financial statements, respectively, and in the case of contractors not required to prepare financial statements, other documents specifying in particular revenues and assets and liabilities - for a period not exceeding the last 3 fiscal years, and if the period of operation is shorter - for this period,

The contracting authority allows the submission of a report in another currency, with the proviso that for the purpose of comparing bids, the value given in a foreign currency will be converted into USD according to the National Bank of Poland's (NBP) Table of Average Exchange Rates as of the bid opening date (available on the NBP's official website: <http://www.nbp.pl/>).

- c. information from a bank or a cooperative savings and loan association confirming the amount of the contractor's funds or creditworthiness of not less than **200 000 USD** in the period no earlier than 3 months before its submission;

The contracting authority allows the submission of information in another currency, with the proviso that for the purpose of comparing bids, the value quoted in a foreign currency will be converted into USD according to the National Bank of Poland's (NBP) Table of Average Exchange Rates as of the bid opening date (available on the NBP's official website: <http://www.nbp.pl/>).

8. The bid should be signed by a person authorized to represent the Contractor, in accordance with the form of representation of the Contractor specified in the register or other document appropriate for the given organizational form of the Contractor, or by an authorized representative of the Contractor.
9. Certification of conformity with the original is done in the case of:
 - a. documents confirming the power of representation - respectively, the Contractor, jointly applying for the award of the contract or a subcontractor in terms of subjective evidence or documents confirming the power of representation that apply to each of them;
 - b. other documents - the Contractor or the Contractor jointly applying for the award of the contract, respectively, to the extent of the documents that concern each of them.
10. Certification can also be done by a notary.
11. The bid should be made in Polish or English Each document comprising the bid should be legible.
12. If a bid contains information that constitutes a business secret within the meaning of the Act of April 16, 1993 on Combating Unfair Competition (Journal of Laws of 2020, item 1913), the Bidder should, no later than the deadline for submission of bids, stipulate that it cannot be made available and demonstrate that the reserved information constitutes a business secret.

Recommendations:

Any information that the Contractor reserves as a business secret should be submitted in a separate envelope with the simultaneous marking of the command "Annex constituting a business secret".
13. All costs associated with participation in the proceedings, in particular with the preparation and submission of the bid shall be borne by the Contractor submitting the bid. The Contracting Authority does not provide for reimbursement of costs of participation in the proceedings.
14. The bid and the other statements and documents for which the Contracting Authority has specified templates in the appendices to the Request for Proposal should be prepared in accordance with the contents of these templates. The bid should include the documents and statements listed in item XI, point. XI item 7 of this ToR. Documents not required by the Contracting Authority and attached to the bid will not be taken into account during bid evaluation. The Contracting Authority requests that they not be attached.
15. In order to exclude accidental decomposition of the bid, it is recommended that all pages of the bid with the attachments and documents that make up the bid be bound together, the pages numbered, and the pages containing the content be initialled by the persons signing the bid.
16. All places where corrections are made must be initialled by the person signing the bid in his own hand. Corrections should be made by legibly crossing out the erroneous entry and inserting above or beside the correct one.
17. The bid and other documents for which the Contracting Authority has specified templates in the form of annexes to the Specification of Essential Terms of Procurement (ToR) should be prepared in accordance with these templates.
18. The content of the bid must correspond to the content of the ToR.

19. The Contracting Authority requires the Contractor to indicate in the bid a part of the contract, the performance of which he will entrust to subcontractors.
20. Documents may be submitted in the form of an original or a copy certified as true to the original by a person authorized to represent the Contractor except for powers of attorney, which may be certified as true to the original by the person or persons granting the power of attorney or notarized.
21. The documents and statements should be prepared in Polish or English. Additionally, Contractor requires the submission of an offer in electronic form / on pen drive /.
22. The offer should be placed in two sealed envelopes:
 - a. The inner envelope should have the name and address of the Contractor
 - b. The outer envelope should bear the name and address of the Purchaser:
and be marked as follows:

"OFFER for the supply of **High-Capacity Forklift Truck 25 Tons** - One (1) unit

No. EU/39/FL/ZZ/2025

DO NOT OPEN before hours!".

23. After the deadline for submission of bids, materials and documents submitted as part of the bid are not returnable.
24. The contractor may, before the deadline for submission of bids, change or withdraw the bid.
25. Amendments must be submitted according to the same rules as the submitted bid, i.e., in a closed envelope appropriately labelled, marked CHANGE and submitted before the deadline for submission of bids.
26. Withdrawal of a bid from the proceeding shall be made by submitting a written notification (according to the same rules as making changes) with the word WITHDRAWAL written on the envelope.
27. The notice of bid withdrawal must be accompanied by a document authorizing the Contractor to act in legal transactions, and the notice must be signed by an authorized representative of the Contractor.
28. Any information constituting a business secret within the meaning of Article 11 (2) of the Act of April 16, 1993. on counteracting unfair competition (stating that a business secret is understood as technical, technological, organizational information of an enterprise or other information having economic value, which as a whole or in a particular juxtaposition and set of its elements is not generally known to persons normally dealing with this type of information or is not readily available to such persons, provided that the person authorized to use or dispose of the information has taken, with due diligence, actions to keep it confidential. The information (e.g., the information, the documents, etc.) that the Contractor reserves as a business secret should be submitted separately (in a separate file) with the simultaneous marking "Annex constituting a business secret".
29. The Contractor should make the relevant disclaimer on the bid form. Otherwise, the entire bid will be disclosed. The Contracting Authority recommends that the information reserved as a business secret be submitted by the Contractor in a separate inner envelope marked "business secret", or stapled (stapled) separately from the other, non-confidential elements of the bid and marked "business secret". The numbering of the pages of the "non-

confidential part" of the offer should allow them to be attached to the appropriate place of the "non-confidential part" of the offer.

Attention:

The Contractor may not reserve information concerning the company name and addresses of contractors, as well as information concerning the price, contract completion date, guarantee period and payment terms contained in the bid and which do not constitute a business secret. If confidentiality of such information is reserved, the Contracting Authority reserves the right to reject the bid.

30. The Contractor may request the Contracting Authority to clarify the content of the Request for Quotation - Terms of Reference (ToR).
31. The request for proposals may be amended before the deadline for submission of tenders. The Procuring Entity shall inform in the request for proposals about the scope of the changes. The Procuring Entity shall extend the deadline for submission of tenders by the time necessary to introduce changes in tenders if it is necessary due to the scope of the changes.
32. The Contracting Authority will promptly respond in writing to the question posed, sending questions and answers to all participants in the proceedings, provided that the question is received by the Contracting Authority at least 6 days before the deadline for submission of tenders.
33. Questions should be submitted electronically to the email address specified in Section X, Item 4 of the Request.
34. The Contracting Authority allows Contractors to ask questions for clarification of the content of the Request for Proposal in English.
35. In justified cases, the Contracting Authority may amend the Request for Proposal before the deadline for submission of tenders.
36. The content of the provided response shall automatically become the content of the Request to the extent that it relates to it. In case of discrepancies between the content of the Request and the content of the provided answers, the content of the letter containing the subsequent statement of the Contracting Authority shall be accepted as binding. The Contracting Authority will extend the deadline for submission of tenders, taking into account the time necessary to introduce changes in tenders resulting from modifications to the contents of the Request for Proposal. The above shall apply only if the modification results in a change in the content of the Request for Proposal or causes the need for additional time for bid preparation. The person authorized to contact the Bidders is:

Małgorzata Filewicz mfilewicz@bct.ictsi.com, Adam Kaliszewski akaliszewski@bct.ictsi.com

Zdzisław Mejer zmejer@bct.ictsi.com

XII. BOND

1. The Ordering Party requires a BID BOND (security deposit) in the amount of **30,000** (in words: thirty thousand 00/100 USD) or the equivalent of this amount in PLN /EUR converted into USD according to the National Bank of Poland (NBP) Average Exchange Rates Table as of the date of deposit (available on the official website of the NBP: <http://www.nbp.pl/>).
2. The BID BOND must be paid before the deadline for submission of bids and must be maintained continuously until the expiration of the bid-binding period referred to in item. 15 item 1 of the Request.
3. The deposit may be paid at the option of the Contractor in one or more of the following forms:
 - a. money,
 - b. bank guarantees,
 - c. insurance guarantees,
 - d. Sureties granted by entities referred to in art. 6b par. 5 item. 2 of the Act of November 9, 2000 on the establishment of the Polish Agency for Enterprise Development (consolidated text: Journal of Laws of 2023, item 462).

The BID BOND paid in cash should be paid by bank transfer to the bank account of the Contracting Authority in the bank

PL31 1240 3523 1787 0000 4334 9285

SWIFT: PKOPPLPW, BANK PEKAO SA

marked: BID BOND deposit for securing the bid in the proceedings for "Supply:

High-Capacity Forklift Truck 25 Tons – One (1) unit

No. EU/39/FL/ZZ/2025 The payment of a BID BOND (security deposit) in money will be effective if credited to the Contracting Authority's bank account by the specified date. The Contracting Authority shall keep the BID BOND (security deposit) paid in cash in the bank account.

4. The content of a BID BOND (security deposit) paid in the form of: a bank guarantee, an insurance guarantee or guarantees provided by entities referred to in art. 6b par. 5 item. 2 of the Act of November 9, 2000 on the establishment of the Polish Agency for Enterprise Development should imply an unconditional obligation of the guarantor to pay the full amount of the BID BOND (security deposit) to the Ordering Party in circumstances, upon the first written request submitted by the Ordering Party within the bid validity period:
 - a. The Contractor, in response to the request referred to in item. XIII item 1 letter b. of the Request, for reasons attributable to him, did not submit subjective means of proof or subjective means of proof, statements, other documents, or did not agree to correct the error referred to in item XIII item 1 letter d. of the Request, which resulted in the inability to select the bid submitted by the Contractor as the most advantageous one. XIII item 1 letter d., which resulted in the inability to select the bid submitted by the contractor as the most advantageous one;

- b. Contractor whose bid was selected:
 - i. refused to sign a public procurement contract under the terms and conditions specified in the bid,
 - ii. failed to provide the required performance bond;
 - c. conclusion of a public procurement contract has become impossible for reasons attributable to the contractor whose bid was selected.
5. The BID BOND security deposit in the form of a guarantee or surety referred to in Section 11.2. items 2)-4) must be submitted to the Contracting Authority together with the Bid in the original in writing, i.e., bearing the handwritten signature of the persons authorized to issue it. The bid security must secure for the entire period of being bound by the bid. The bid of the Bidder who fails to pay the bid security or pays the bid security incorrectly, or fails to maintain the bid security continuously until the expiration of the bid binding period will be rejected.
 6. The content of a bid bond submitted in the form of a guarantee or surety, must include the following elements:
 - a. the name of the principal (the Contractor), the beneficiary of the guarantee/surety (the Ordering Party), the guarantor (the bank or insurance institution providing the guarantee/surety) and the indication of their seats,
 - b. identification of the claim to be secured by the guarantee/guarantee - definition of the subject matter of the contract,
 - c. the amount of the guarantee/guarantee,
 - d. an obligation of the guarantor/guarantor to pay unconditionally and irrevocably the amount of the guarantee/guarantee at the first written request of the Contracting Authority in the circumstances specified in point. XII item 4 of the Request.
 7. In the case of Economic Operators competing jointly for the award of the contract the Contracting Authority requires that the deposit payable in the forms referred to in item XII item 3 letter b., c, d. of the Request, all Economic Operators jointly tendering for the contract are listed, or it should be evident from the statement that the Economic Operator on whose behalf the guarantee/surety was issued acts on behalf of other Economic Operators jointly tendering for the contract, or there should be a wider range of liability of the guarantor/surety than just the one related to acts/inactions of the Economic Operator on whose behalf the guarantee/surety was issued.
 8. The ordering party shall return the BID BOND (security deposit) in the following situations
 - a. The expiration of the bidding period;
 - b. conclusion of the public procurement contract;
 - c. cancellation of the procurement procedure, except when the appeal against the cancellation action has not been resolved or the time limit for its filing has not expired.

XIII. BID EVALUATION RULES

OFFER EVALUATION

1. Provisions on the conduct of explanations by the Contracting Authority during the examination and evaluation of tenders:
 - a. In the course of examining and evaluating tenders, the ordering party may request clarifications from contractors regarding the content of submitted tenders and submitted documents or statements. It is unacceptable for the ordering party and the contractor to negotiate regarding the submitted tender and to make any changes to its content.

- b. The contracting authority may call on contractors to submit, supplement, correct or provide clarification of statements or documents within a specified period:
 - i. confirming the fulfilment of the requirements specified by the contracting authority in Chapter VIII of the request for quotation - (ToR),
 - ii. proxies,
 - iii. subjective evidence measures.
 - c. The contracting authority shall correct obvious clerical and obvious accounting errors in the bid, taking into account the accounting consequences of the corrections made, immediately notifying the contractor whose bid has been corrected.
 - d. The ordering party shall correct in the bid other errors consisting in the inconsistency of the bid, not causing significant changes in the bid, immediately notifying the contractor whose bid has been corrected. The bid of the contractor who, within the prescribed period from the date of delivery of the notice, disputed the principles of correcting the error is subject to rejection.
 - e. If the offered price or cost appears to be abnormally low in relation to the subject matter of the contract, i.e. differs by more than 30% from the arithmetic mean of the prices of all valid offers not subject to rejection, or raises doubts in the ordering party as to the possibility of performing the subject matter of the contract in accordance with the requirements specified in the request for quotation or arising from separate regulations, the ordering party shall demand from the contractor to submit explanations, including submission of evidence for the calculation of the price or cost, within a specified period. The contracting authority shall evaluate these explanations in consultation with the contractor and may reject that bid only if the explanations submitted, together with evidence, do not justify the price or cost quoted in that bid.
 - f. The ordering party shall reject the bid of the contractor who has not provided explanations or if the evaluation of the explanations together with the submitted evidence confirms that the bid contains an abnormally low price in relation to the subject matter of the contract.
2. The Contracting Authority will exclude Contractors who fail to demonstrate compliance with the conditions for participation referred to in Section 6.2 of the Request.
 3. The Contracting Authority excludes the Contractor:
 - a. if he fails to meet the conditions for participation in the proceedings provided for in section 6.2 of the ToR
 - b. if the contracting authority can establish, on the basis of reliable indications, that the Contractor has entered into an agreement with other Contractors to distort competition
 - c. who has culpably violated his professional obligations in a serious way that undermines his integrity, in particular, when the Contractor, as a result of deliberate action or gross negligence, has failed to perform or improperly performed the contract, as the contracting authority is able to demonstrate by means of relevant evidence;
 - d. if there is a conflict of interest within the meaning of para. VII item 3 of the Request, which cannot be effectively eliminated other than by excluding the contractor;
 - e. who, for reasons attributable to him, to a significant degree or extent has failed to perform or has improperly performed or long-term improper performance of a material obligation under a previous public procurement contract or concession agreement, which led to termination or withdrawal from the contract, compensation, substitute performance or exercise of rights under the warranty for defects;
 - f. who, as a result of deliberate action or gross negligence, misled the contracting authority when presenting information that he is not subject to exclusion, meets the conditions for participation in the proceedings or the selection criteria, which could have a significant impact on the decisions taken by the contracting

authority in the procurement procedure, or who concealed this information or is unable to provide the required subjective evidence;

- g. who unlawfully influenced or attempted to influence the actions of the contracting authority or attempted to acquire or obtained confidential information that could give him an advantage in the procurement procedure;
 - h. who, as a result of recklessness or negligence, provided misleading information, which could have had a significant impact on decisions made by the contracting authority in the procurement procedure.
4. The Contracting Authority will reject the bid of the Contractor that:
- a. Its content does not correspond to the content of this Request for Proposal. (ToR)
 - b. its submission constitutes an act of unfair competition within the meaning of the provisions on combating unfair competition;
 - c. will not pay the required deposit
 - d. contains an abnormally low price in relation to the subject matter of the contract;
 - e. was submitted by a contractor excluded from participation in the procurement proceedings
 - f. contains errors in price calculation
 - g. The Contractor, within the prescribed period, challenged the correction of the mistake referred to in item. 13 item 1 letter d. of this Tor document.
5. The contracting authority will cancel the contract award procedure if:
- a. No non-rejectable bids were submitted,
 - b. there has been a significant change in circumstances that makes the conduct of the proceedings or the performance of the contract not in the public interest, which could not have been foreseen earlier,
 - c. the proceedings have an irremovable defect that prevents the conclusion of a non-cancellable public procurement contract.
6. Information on the result of the procedure or cancellation shall be announced in the same way as the request for proposals was publicized, i.e., using the website of the Contracting Authority. Information on the selection of the most advantageous tender shall include the name and surname or the name of the selected contractor, its registered office (city), points awarded in the tender evaluation criterion.

XIV. METHOD OF PRICE CALCULATION

- 1. The Contractor shall specify the total price in the Bid Form (Schedule No. 1 to the Request for Proposal of the Terms of Reference (ToR)).
- 2. Unit prices for individual assortment items included in the order should be given in the Bid Form (Schedule No. 1)
 - 1) Each unit price must be stated so as to cover all costs and risks of the Contractor related to the implementation of the scope to which it applies. The Contractor may not add the cost of performing a given activity to the cost of performing other activities. The total price resulting from the bid should be given in the item under the name Total price for the execution of the order, Bid Form (Schedule No. 1)
- 3. The bid price will be converted into Polish zlotys (PLN) by the Contracting Authority to two decimal places for bid comparison.
- 4. The calculated gross bid price will be used to compare the bids submitted and for settlement during the execution of the contract.
- 5. The rate of Value Added Tax (VAT) applicable in Poland will be included by the Contractor in the gross bid price.

XV. TERM OF BINDING THE BID

1. The contractor will be bound by the bid for a period of 120 days from the deadline for submission of bids, i.e.,
2. The Contracting Authority shall select the most advantageous offer within the bidding period specified in the Request for Proposal. (ToR)
3. In the event that the selection of the most advantageous bid does not take place before the expiry of the bidding period referred to in paragraph 15.1. of the Request for Proposal (ToR) the Contracting Authority shall, before the expiry of the bidding period, ask the contractors once to agree to extend this period by the period indicated by the Contracting Authority, not exceeding 60 days.
4. Extension of the bid validity period referred to in item 15.1. of the Request shall require the contractor to submit a written statement of consent to extend the bid validity period. Extension of the bid binding period referred to in item 15.1. of the Request shall be made along with the extension of the bid bond validity period or, if this is not possible, with the payment of a new bid bond for the extended bid binding period.

XVI. METHOD AND DATE OF SUBMISSION AND OPENING OF TENDERS

1. The bid must be submitted by **OCTOBER 16, 2025 at 2:00 pm.**
2. The deadline for submission of an offer is determined by the time of its effective submission to the BCT office in Gdynia, 60 Kwiatkowskiego Street.
3. The opening of the bids is open to the public and will take place on **OCTOBER 16, 2025 at 2:10 p.m.**
4. Timely submission of a bid is determined by the date of submission of the bid to the BCT office (the Contracting Authority notes that the date of postmark is not equivalent to submission of a bid)
5. Immediately after the opening of bids, information about:
 - 1) the names or forenames and offices or places of business or residence of contractors whose bids have been opened; 2) the prices or costs contained in the bids; 3) Delivery time ;4) Warranty periods

XVII. METHOD OF PRICE CALCULATION

1. The Contractor is obliged to provide in the Material and Price Form (Schedule No. 2 to the Request for Proposal - Specification of Important Order Terms (ToR)) the total price taking into account all elements related to the correct and timely execution of the order.
2. The Contractor is obliged to fill in all vacant items of the Material and Price Form.
3. In column 4, the Contractor shall enter unit net prices to two decimal places per set or unit.
4. The net value (column 6) of each item is calculated by multiplying column 4 by column 5.
5. The gross value (column 8) of each item is calculated by adding the value of VAT to the net value.
6. The bid price is the gross value stated on the Bid Form. The calculated price on the Material and Price Form must be transferred to the Bid Form. There must be no discrepancy between the price calculated from the Price Form and the price stated on the Bid Form. The bid price must be stated to 2 decimal places.
7. The Contracting Authority allows bids to be submitted with prices quoted in USD, with the proviso that for the purpose of bid comparison, the bid price quoted in a foreign currency, i.e. USD/EUR will be converted into Polish Zloty (PLN) according to the National Bank of Poland's (NBP) Average Exchange Rate Table as of the bid opening

date (available on the NBP's official website: <http://www.nbp.pl/>). To avoid misunderstandings, bid prices in PLN will be used only to compare bids and award points to the bidder, while all settlements with the Contractor will be made in USD /EUR (depending on the currency from the BID Offer)

8. The rate of value-added tax (VAT) should be taken into account at the rate in effect on the date of submission of tenders. In Poland, the VAT rate is 23%.

XVIII. DESCRIPTION OF THE CRITERIA FOR EVALUATION OF TENDERS, TOGETHER WITH THE WEIGHTS OF THESE CRITERIA AND THE METHOD OF EVALUATION OF TENDERS

1. In selecting the most advantageous bid, the Contracting Authority will be guided by the following bid evaluation criteria:

- 1) Price (C) - criterion weight of 40 points;
- 2) Delivery time (D) - criterion weight of 20 points;
- 3) Warranty period (G) - criterion weight of 40 points;

2. Rules for evaluation of offers in the criterion Price (C) - weighting of 40 points.

$$C = \frac{\text{lowest gross price}^*}{\text{gross price of the evaluated offer}} \times 40$$

* out of all the non-rejectable bids submitted.

3. The basis for awarding points in the "price" criterion will be the gross bid price provided by the Contractor in the Bid Form.

4. Rules for evaluation of offers in the criterion Delivery time (D) - weighting of 20 points

The Contractor will receive 10 points for each 1 month reduction in terms,

5. Rules for evaluation of bids in the criterion Warranty period (G) - weighting of 40 points

The contractor will receive 10 points for each 6-month extension of minimum warranty terms.

The contracting authority requires equal extension of all the periods stipulated in this section for the extension of warranty periods the Contractor will receive a maximum of 40 points.

6. The points awarded to bids in each bid evaluation criteria will be calculated to two decimal places, in accordance with the rules of arithmetic.

7. The total score of the tested bid (L) will consist of the sum of points awarded under each of the given bid selection criteria - Price (C) plus Quality (J) plus Delivery Time (D) plus Warranty Time (G) and will be calculated according to the following formula:

$$L = C + D + G$$

Where :

L - number of points awarded to the tested offer

C - number of points obtained by the examined offer in the criterion "Price"

D - number of points obtained by the examined offer in the criterion "Delivery time"

G - number of points obtained by the examined offer in the criterion "Warranty Period"

8. In the course of examining and evaluating tenders, the Contracting Authority may demand explanations from the Contractor regarding the content of the tender submitted, including the price offered.
9. The contracting authority will award the contract to the Contractor whose bid is found to be the most advantageous.
10. The Contracting Authority, for the purpose of evaluating a bid, the selection of which would lead to the Contracting Authority's tax liability in accordance with the provisions on tax on goods and services, will add to the price presented therein the tax on goods and services that it would be obliged to settle in accordance with these provisions.

XIX. INFORMATION ON THE CONTENT OF THE CONCLUDED AGREEMENT AND THE POSSIBILITY TO CHANGE IT
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1. The contracting authority shall enter into a contract, on a public procurement, with the Contractor whose bid is considered the most advantageous.
2. The Contracting Authority will enter into a contract with the Contractor under the terms and conditions specified in the attached model - Schedule No. 4.
3. The procurement contract shall be concluded in writing, as provided for in Article 78 of the Civil Code.
4. If the selected Contractor withdraws from the conclusion of the procurement contract, the contracting authority may conclude a contract with the Contractor who obtained the next highest number of points in the properly conducted procurement procedure
5. If a bid submitted by Bidders jointly applying for the contract is selected, the Contracting Authority reserves the right to demand a contract governing the cooperation of these Bidders before concluding a public procurement contract.
6. The selected Contractor, shall be obliged to conclude a public procurement contract under the terms and conditions set forth in the Framework Model Contract, attached as Schedule No. 4 to this Terms of Reference (ToR).
7. The Contracting Authority and the Contractor selected in the procurement procedure shall be obliged to cooperate in the execution of the public procurement contract for the proper performance of the contract.
8. The scope of the Contractor's performance under the contract shall be the same as his obligation contained in the bid.
9. It is not possible to make significant changes to the provisions of the contract in relation to the content of the offer on the basis of which the contractor was selected, unless:
 - a. were provided for in the form of clear, unambiguous contractual clauses,

- b. changes relate to the implementation of additional services, services or works from the existing contractor, not covered by the basic contract, if they have become necessary and all the following conditions are met:
 - i. change of contractor cannot be made for economic or technical reasons, in particular concerning interchangeability or interoperability of equipment, services, or installations, ordered under the basic contract,
 - ii. change of contractor would cause significant inconvenience or a significant increase in costs for the contracting authority,
 - iii. the value of the changes does not exceed 50% of the value of the contract originally specified in the contract,
- c. the amendment does not lead to a change in the general nature of the contract and the following conditions are met together:
 - i. the need to amend the contract is due to circumstances that the contracting authority, acting with due diligence, could not foresee,
 - ii. the value of the changes does not exceed 50% of the value of the contract originally specified in the contract,
- d. the Contractor to whom the Contracting Authority has awarded the contract is to be replaced by a new Contractor as a result of succession, assuming the rights and obligations of the Contractor, as a result of acquisition, merger, division, transformation, bankruptcy, restructuring, inheritance or purchase of the existing Contractor or its enterprise, provided that the new Contractor meets the conditions for participation in the procedure and this does not involve other significant changes to the contract, and is not intended to avoid the application of the principle of competitiveness, or
- e. the change does not lead to a change in the general nature of the contract, and the total value of the changes is less than EUR 140,000 in the case of supplies and at the same time is less than 10% of the value of the contract originally specified in the contract in the case of service contracts.

XX. PERFORMANCE BOND REQUIREMENTS

1. The Contracting Authority will demand a performance bond (hereinafter "Security") to cover claims for non-performance or improper performance of the contract, including contractual penalties, as well as claims under the quality guarantee.
2. The security is set at 10% of the bid price.
3. The security may be provided at the option of the Contractor in one or more of the following forms:
 - a) cash;
 - b) bank guarantees or guarantees of a cooperative savings and loan association, except that the obligation of the bank is always a monetary obligation;
 - c) bank guarantees;
 - d) insurance guarantees;
 - e) Sureties provided by entities referred to in Art. 6b par. 5 item 2 of the Act of November 9, 2000 on the establishment of the Polish Agency for Enterprise Development.
4. If the security is provided in cash, the Contractor may agree to credit the amount of the deposit against the security.

5. The security paid in money shall be paid by the Contractor by transfer to the bank account indicated by the Contracting Authority. If the security was paid in money, the Contracting Authority shall keep it in an interest-bearing bank account. The Contracting Authority shall return the security contributed in cash with the interest resulting from the bank account agreement on which it was kept, less the cost of operating the account and bank commission for transferring the money to the Contractor's bank account.
6. The performance bond, in all forms provided for in Section 3 of the Request for Proposal, should secure claims arising from non-performance or improper performance of the contract in such a same manner, which means that the security provided in a form other than money cannot secure the Ordering Party's claims in a less favourable manner than if the security was provided in money. The performance bond in the form of a guarantee/surety should be irrevocable, unconditional, and payable at the first written request of the Contracting Authority. The Contracting Authority shall not allow the payment of amounts under the guarantee/surety to depend on the submission of any additional documents or satisfaction of any conditions, other than the Contracting Authority's statement that the requested amount is due for non-performance or improper performance of the contract.
7. The Employer shall return the security within 30 days from the date of signing of the final equipment acceptance protocol and recognition of the delivery by the Employer as duly completed.

XXI. ADDITIONAL PROVISIONS

1. The provisions of the Public Procurement Law of September 11, 2019 do not apply in the present proceedings. Contractors are not entitled to appeal to the National Board of Appeals.
2. In the proceedings for the award of the subject contract, Contractors have the right to submit in writing to the Contracting Authority comments on the conduct of the proceedings in violation of the law, the terms of these specifications or violation of the principles of equal treatment of contractors, fair competition and transparency, within 3 days of becoming aware of them. The Contracting Authority shall immediately notify the other contractors of such comments. The Contracting Authority will consider the reported comments and will notify all contractors in writing of their consideration and the actions it is taking to rectify the deficiencies or not to consider them. The Contracting Authority reserves the right to rescind or modify the actions taken in the procedure to remove the identified deficiencies. The decision of the Contracting Authority on the recognition of comments is final and no appeal is available against it.

Schedules:

- | | |
|---------------------|---|
| 1. Schedule No. 1 | - Bid Form |
| 2. Schedule No. 2 | - Material and price form |
| 3. Schedule No. 3.1 | - Statement of fulfilment of the conditions for participation |
| 4. Schedule No. 3.2 | - Sanction Statement |
| 5. Schedule No. 3.3 | - Statement on the prohibition of conflict of interest |
| 6. Schedule No. 4 | - Framework Model Agreement |
| 7. Schedule No. 5 | - Detailed Item Description-Technical Specification |
| 8. Schedule No.6 | - General Terms |
| 9. Schedule No. 7 | - Criteria for Supplier Selection. |