

Open Commercial Competition

Procurement Reference Number: 22-0180-OVS

***Sale of the Gas Generators and Power Turbines SGT-A35 /
Industrial RB 211 24G DLE and RT 62***

Tender Specifications

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1. GENERAL INFORMATION

1.1. Promoter

Business name: **eustream, a.s.**
Registered office: Votrubova 11/A, 821 09 Bratislava, Slovak Republic
Legal form: a joint-stock company incorporated in the Commercial Register of the City Court Bratislava III., section: Sa, entry no.: 3480/B
Company ID: 35 910 712
Tax ID: 2021931175
VAT ID: SK2021931175
Web: www.eustream.sk
Contact person: Martin Mikula, Procurement Expert
Phone: +421 (0)2 6250 7161
Mobile: +421 (0) 905 962 107
E-mail: martin.mikula@eustream.sk

(hereinafter referred to as “**Promoter**”)

1.2. Competition

- 1.2.1. This competition is an open commercial competition (hereinafter referred to as “**Competition**”) pursuant to Article 281 and subsequent ones of the Act No. 513/1991 Coll. The Commercial Code as amended (hereinafter referred to as “**Commercial Code**”) and it is a call for submission of proposals for concluding a contract pursuant to Article 281 of the Commercial Code.
- 1.2.2. This Competition is governed by relevant provisions of the Commercial Code and other laws of the Slovak Republic (hereinafter referred to as “**SR**”).
- 1.2.3. This Promoter’s procedure is no public procurement procedure pursuant to the Act No. 343/2015 Coll. On Public Procurement And On Amending And Supplementing Some Acts (hereinafter referred to as “**Public Procurement Act**”), and these Tender Specifications thus do not do not establish any rights and/or obligations arising from the said act including special rights to apply revisions proceedings pursuant to the Public Procurement Act.
- 1.2.4. The terms “Promoter”, “Competition”, “Bidder”, “Bid” or “Tender” and other ones used in these Tender Specifications, or that may be used within mutual communication, may not be construed in line with the legal definition pursuant to the Public Procurement Act or any other interpretation thereof. Nevertheless, rights of Bidders resulting from other generally binding legal regulations applicable within the Slovak Republic remain unaffected.
- 1.2.5. If not expressly provided for otherwise, a tender is understood a proposal of an economic entity (hereinafter referred to as “**Bidder**” or “**Tenderer**”) for conclusion of a contract including documents for proving competences for fulfilling the contract and documents for proving the participation conditions.
- 1.2.6. The tender has to be elaborated in accordance with these Tender Specifications, such tender deems a Bidder’s proposal for concluding a contract pursuant to Article 43a of the Act No. 40/1964 Coll. The Civil Code as amended (hereinafter referred to as “**Bid**” or “**Tender**”).
- 1.2.7. Upon submission of the Bid, the Bidder expresses its consent to the conditions of the Competition.
- 1.2.8. This Competition is being carried out by electronic means by means the internet information system JOSEPHINE (hereinafter referred to as “**JOSEPHINE**”), provider of which is the company PROEBIZ s.r.o., organizational unit of a foreign entity, Šulekova 2, 811 06 Bratislava, Slovakia (contact: - tel.: +421 220 255 999 - e-mail: houston@proebiz.com) (hereinafter referred to as “**Provider**”).
- 1.2.9. The JOSEPHINE system is a web application at the domain <https://josephine.proebiz.com>.

1.3. Communication in the Competition

- 1.3.1. The communication and information exchange within this Competition, including submission of documents

proving compliance with participation conditions, Bids, requests for clarification of Competitions conditions and Tender Specifications, provision of clarifications, call for explanation of documents or Bids, submission of explanations or supplementing documents and other communication between the Promoter and Bidders (hereinafter referred to as “**communication**”), shall be carried out in writing by electronic means, in the language or languages specified in paragraph 1.5 hereof.

- 1.3.2. The communication shall be carried out by means of the communication tool of the JOSEPHINE system.
- 1.3.3. Link to the Competition: <https://josephine.proebiz.com/sk/tender/56795/summary>
- 1.3.4. In order to use the JOSEPHINE system without problems, you should use one of the following supported Internet browsers:
 - Mozilla Firefox version 13.0 or higher;
 - Google Chrome;
 - Microsoft Edge;
- 1.3.5. The security level required for electronic communication means during the course of this Competition is determined by the security level of the registration and authentication of users (i.e. Competition participants) into the JOSEPHINE system that ensures the security of communication between the Promoter and Bidders.
- 1.3.6. Rules for delivery – a message deems delivered to a Bidder, if the addressee has objective possibility to acquaint the content thereof, i.e. as soon as the message reaches the sphere of Bidder’s disposition. The moment of sending, or disclosure of, a message in the JOSEPHINE system in accordance with the functionality of the system considers to be the moment of the message delivery.
- 1.3.7. If the Promoter is the message sender, then a notification of new message related to the Competition shall be sent immediately to e-mail(s) specified by a Bidder. The Bidder can log in to the system and the message will be displayed in the communication interface of the Competition. A Bidder can display the entire history of the communication with the Promoter in the communication interface of the Competition.
- 1.3.8. If a Bidder is the sender of a message, then, after logging in to the system and this Competition, it can send messages by means of the communication interface as well as attachments thereof to the Promoter. Such message deems delivered to the Promoter at the moment of its sending within the JOSEPHINE system in accordance with the appropriate functionality of the system.
- 1.3.9. The Promoter recommends to Bidder, who wish to be informed on eventual updates related to this Competition by means of notification e-mails, to click on the button “INTERESTED” within the Competition (in the right upper part of the screen). Notification mails are delivered also to a Bidder registered in electronic list of candidates within the Competition.
- 1.3.10. The Promoter provides for an unlimited and direct access by electronic means to the Tender Specification at the web link specified in paragraph 1.3.3 hereof, including attachments thereto, however, exempt for Attachment 3 hereto – Last Borescopic Inspection Reports, and Attachment 4 hereto – Last Overhaul Reports, which include information that may be of confidential nature.
- 1.3.11. In order to maintain information confidentiality, the Promoter limits the access to Attachments 3 and 4 hereto in the JOSEPHINE system and shall provide the access to those attachments only to those Bidders who will sign the Non-disclosure Agreement as per Attachment 7 hereto with the Promoter. Further information on provision of confidential information, how to get access to these documents and how to proceed in concluding the Non-disclosure Agreement, are specified in paragraph 1.7 hereof.
- 1.3.12. Any eventual clarifications or supplementing to these Tender Specifications or clarifications too participation conditions and/or other documents being a part of these Tender Specifications, shall be published within this Competition in the JOSEPHINE system by the Promoter as electronic documents at the web address specified in paragraph 1.3.3 hereof.

1.4. Registration and Authentication into the JOSEPHINE System

- 1.4.1. **Participation of a Bidder in this Competition is not possible without its proper authentication according to this paragraph 1.4 hereof!**

- 1.4.2. For the purpose of tender submission in this Competition, it is necessary that the Bidder registers with the JOSEPHINE system otherwise the Bidder shall be granted with no access to this Competition within the JOSEPHINE system and thus shall be able to submit neither tender nor any other documents within the Competition. A Bidder has an option to register with the JOSEPHINE system by means a password or also personal card equipped with an electronic chip and security personal code (eID).
- 1.4.3. Submission of tenders is allowed only to authenticated Bidders. The authentication can be done in the following ways:
- a) In the JOSEPHINE system by registration and logging in by means of personal card equipped with an electronic chip and security personal code (eID). The company, which Bidder's statutory officer registers by means of eID, is registered. The JOSEPHINE system Provider performs the authentication within business days within the time 8:00 – 16:00 hours. The Bidder is notified of the authentication completion by an e-mail.
 - b) By uploading the qualified electronic signature (e.g. eID signature) of the Bidder's statutory officer to the user's card after the registration and logging in to the JOSEPHINE system. The JOSEPHINE system Provider performs the authentication within business days within the time 8:00 – 16:00 hours. The Bidder is notified of the authentication completion by an e-mail.
 - c) By uploading a document proving the person of Bidder's statutory officer to the user's card after the registration, which is signed by an electronic signature of the Bidder's statutory officer or was created upon qualified conversion thereof. The JOSEPHINE system Provider performs the authentication within business days within the time 8:00 – 16:00 hours. The Bidder is notified of the authentication completion by an e-mail.
 - d) By uploading a power of attorney to the user's card after the registration, which is signed by an electronic signature of the Bidder's statutory officer or was created upon qualified conversion thereof. The JOSEPHINE system Provider performs the authentication within business days within the time 8:00 – 16:00 hours. The Bidder is notified of the authentication completion by an e-mail.
- 1.4.4. An authenticated Bidder can, after opening the JOSEPHINE system, choose a tendering procedure in the list presented therein, log in using logging information acquired within the authentication process and then it can upload its tender into the form dedicated to tender receiving, which can find in the card "Bids and requests".
- 1.4.5. Further information on registration and authentication into the JOSEPHINE system is presented at the web site <https://josephine.proebiz.com/>, link "Library of Manuals and Links", which is located in right on upper screen bar of the JOSEPHINE basic screen and left from language selection icon.
- 1.4.6. In case of any questions regarding registration and authentication to the JOSEPHINE system, the support of the Provider can be contacted at the contact specified in paragraph 1.2.8 hereof, or at other contacts specified at the web site: [Support - proebiz.com](mailto:Support-proebiz.com).

1.5. Language of the Competition

- 1.5.1. The communication language in this Competition is the Slovak and/or Czech and/or English languages.
- 1.5.2. Bids, proposals and other documents in the Competition are submitted in the Slovak language, and can be submitted also in the Czech or English languages as well whereas no translation thereof into is required.
- 1.5.3. A document submitted within a Bid in other than Slovak, Czech and/or English language must be submitted along with its translation into the Slovak language.
- 1.5.4. The Promoter reserves right not to take into account documents submitted in a language other than Slovak, Czech and/or English language, not concurrently translated into the Slovak language.

1.6. Clarification and supplementing of the Tender Specifications

- 1.6.1. Requests for clarification have to be delivered to the Promoter via the JOSEPHINE system, or by an e-

mail to the address of the Promoter's contact person specified in paragraph 1.1 hereof, in Slovak, Czech and/or English language no later than 5 business days prior to the expiry of the period for Bid submission according to paragraph 5.4.1 hereof, otherwise the Promoter is not obliged to provide for a clarification.

- 1.6.2. The Promoter will publish any eventual clarifications of or supplementing to these Tender Specifications or clarifications of participation conditions hereof, and other documents being a part of the Tender Specifications, in the JOSEPHINE system at the address specified in paragraph 1.3.3 hereof.

1.7. Provision of confidential information for the purpose of Bid preparation

- 1.7.1. Attachment 3 hereto – Last Borescopic Inspection Reports, and Attachment 4 hereto – Last Overhaul Reports, are of confidential nature and thus both they are encrypted and the content thereof is protected by passwords.
- 1.7.2. The Promoter shall provide for the passwords for accessing attachments 3 and 4 hereto to a Bidder exclusively upon the Non-disclosure Agreement (hereinafter referred to as “NDA”), wording of which constitutes Attachment 7 hereto, and which must be signed between the Promoter and Bidder in the manner specified in this paragraph 1.7 hereof even prior to disclosing respective confidential documents to the Bidder.
- 1.7.3. A Bidder opens the file comprising Attachment 7 – NDA, hereto and saves a copy thereof to its local disc (or other medium). The Bidder completes the information required therein to the local copy of NDA and saves the file.
- 1.7.4. The Bidder may sign the NDA either by a qualified electronic signature, or it may print it out and sign it in in paper form.
- 1.7.5. If the Bidder sign the NDA electronically, it sends the signed document in PDF format to the Promoter as an attachment by means of mail communication within the JOSEPHINE system (**WARNING! Not by an e-mail from any other mail server!**) whereas it specifies an abbreviation “NDA” to the header of such mail message.
- 1.7.6. If the Bidders sign the NDA in paper form, it shall create an electronic document of the signed paper original one in PDF format upon the guaranteed conversion pursuant to legal regulations applicable in the Bidder's country so that such electronic document has the validity of the original one. The Bidder shall send so created electronic document to the Promoter in the way specified in paragraph 1.7.5 herein above.
- 1.7.7. The Promoter shall provide the Bidder with the passwords for accessing Attachments 3 and 4 hereto via the mail communication tools of the JOSEPHINE system no later than within the first business day following the day on which a mail message containing the signed NDA in electronic form is delivered to the Promoter.
- 1.7.8. Subsequently, the Promoter will, without undue delay, sign the NDA in a paper form and send one signed original counterpart thereof back to the Bidder either via the JOSEPHINE system in an electronic form (in PDF format) created upon guaranteed conversion of the original document (having validity of the original), or by the post or a courier in a paper form whereas in this case will send to the Bidder also a scan of the both parties signed NDA.
- 1.7.9. If a Bidder send to the Promoter via the JOSEPHINE system an electronic document not created upon the guaranteed conversion of the signed NDA pursuant to applicable legal regulations, or if a Bidder refuses to sign the NDA, the Promoter shall not provide the passwords for accessing Attachments 3 and 4 hereto to such Bidder.

2. SUBJECT-MATTER OF THE COMPETITION

2.1. Kind of Subject-Matter of the Competition

Goods

Service

Civil Works

2.2. Description of Subject-Matter of the Competition

2.2.1. The sale of the following surplus equipment constitutes the Subject-Matter of this Competition:

Item No.	Description	Quantity (pcs)
1	Gas Generator SGT-A35 / Industrial RB 211 24G DLE, S/N: 1790-802, equipped with long DLE combustors and hydraulic starter	1,00
2	Gas Generator SGT-A35 / Industrial RB 211 24G DLE, S/N: 1790-834, equipped with long DLE combustors and hydraulic starter	1,00
3	Power Turbine RT 62, S/N: MO 900	1,00
4	Power Turbine RT 62, S/N: MO 967	1,00
5	LOT Transport Stand LOT26426 for DLE Gas Generator SGT-A35 / Industrial RB 211 24G DLE	1,00
6	LOT Transport Stand LOT26426 for DLE Gas Generator SGT-A35 / Industrial RB 211 24G DLE	1,00
7	MVP Bag LOT28152 for DLE Gas Generator SGT-A35 / Industrial RB 211 24G DLE	1,00
8	MVP Bag LOT28152 for DLE Gas Generator SGT-A35 / Industrial RB 211 24G DLE	1,00
9	Special tools for GG operation & maintenance (set)	1,00
10	Special tool for PT operation & maintenance (set)	1,00

(hereinafter referred to as “**Contract Subject-Matter**” or “**Goods**”).

- 2.2.2. The Goods are in sole ownership of the Promoter, not encumbered by any third-party rights, and the Promoter sells them because they became surplus.
- 2.2.3. The Goods are specified in detail in Attachment 1 hereto (hereinafter referred to as “**Specification**”).
- 2.2.4. The Goods were properly operated and maintained in accordance with respective manuals of the manufacturer for operation and maintenance (hereinafter referred to as “**O&M Manuals**”). The number of fired hour and starts of each individual GG and PT, as well as other details, are specified in the Specification.
- 2.2.5. The GG’s and PT’s have been de-commissioned. The GG’s are currently in disassembled condition, preserved and stored in temperature controlled indoor warehouse on transports stands in transportation MVP bags, whereas they have been disassembled by qualified personnel. The PT’s will be disassembled in July 2024 and stored in temperature controlled indoor warehouse as well.
- 2.2.6. Reports of the last borescopic inspections of the GG’s constitute Attachment 3 hereto.
- 2.2.7. Reports of the last GG overhauls constitute Attachment 4 hereto.
- 2.2.8. Every one GG and PT is for sale individually. The Bid may be submitted for each individual GG and/or PT or for any combination thereof according to Bidder’s discretion.

2.3. **Goods Viewing**

- 2.3.1. The Promoter shall allow each Bidder to view the Goods in the location of its storing at the following address: eustream, a.s., Compressor Station 02 Jablonov nad Turňou, 049 43 Jablonov nad Turňou, Slovakia (GPS: [48.581181, 20.666666](https://www.google.com/maps/place/48.581181,20.666666)).
- 2.3.2. The Goods viewing is possible till deadline for Bid submission according to paragraph 5.4.1 hereof.
- 2.3.3. It is necessary to agree a particular date for Goods viewing with the Promoter; for this purpose, you can contact the following Promoter’s persons:

Mr. Gabriel Baláž, tel.: +421905944503, e-mail: gabriel.balaz@eustream.sk; or

Mr. Juraj Ozábal, tel.: +421918627023, e-mail: juraj.ozabal@eustream.sk;

3. COMMERCIAL AND CONTRACTUAL TERMS AND CONDITIONS

3.1. Contract

3.1.1. Kind of contract to be signed for the Competition Subject:

A purchase contract (hereinafter referred to as “**Contract**”);

3.1.2. The detailed wording of the Contract is specified in Attachment 2 hereto.

3.1.3. Some provisions are specified as alternative options in the Contract. In such case, the Bidder can choose the best matching option, or the option that matches Bidder’s position towards respective note specified at each such optional provision in the Contract.

3.2. Exporting Restrictions

3.2.1. The Promoter acknowledges that the goods may be subject to exporting and/or use of restrictions pursuant to applicable legal regulations in force in SR, the European Union (hereinafter referred to as “**EU**”), the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as “**UK**”) and/or the United States of America (hereinafter referred to as “**USA**”). The Bid must not be in the contrary to these restrictions.

3.2.2. Because of aforementioned restrictions that may apply to the Goods, it is required that every Bidder submits in its Bid a declaration on the end-location and end-use of the Goods according to paragraph 5.1.4, letter c) hereof.

4. PARTICIPATION CONDITIONS

4.1. Personal Position

4.1.1. Every Bidder must meet the following participation conditions relating the personal position:

a) The Bidder is an economic entity performing a business;

For proving the compliance with this participation condition, a copy of a document on Bidder’s authorization to do business (e.g. an extract of Commercial register or incorporation register, etc.), or other relevant document proving that the Bidder is an economic entity performing economic activity, is to be submitted.

b) At the time of this Competition, the Bidder is not in bankruptcy, settlement, winding up or restructuring, nor has the proposal for bankruptcy against the applicant been rejected due to lack of assets, and the Bidder is not in a similar situation according to the regulations in force in the country of its registered office or place of business, and at the time of submission offer, there are no reasons why the Bidder should get into such or a similar situation or other insolvency during the performance of the Contract;

For proving the compliance with this participation condition, a solemn declaration of the Bidder pursuant to Attachment 5 hereto is to be submitted.

c) The Bidder is not listed in the sanction lists of the SR, EU, UK and/or USA, is not directly or indirectly owned by persons listed on the said sanction lists, nor is it directly or indirectly controlled by such persons, nor does it act in their interests or on the basis of their instructions, and does not have a registered office in or is not a resident of any country being subject to export restrictions on the Competition Subject according to the legislation of the SR, EU, UK and/or USA, and in case of a legal entity, is not even established under the law of such country;

For proving the compliance with this participation condition, a solemn declaration of the Bidder pursuant to Attachment 5 hereto is to be submitted.

4.2. Financial and Economic Position

Not applicable in this Competition.

4.3. Technical and Professional Competences for Contract Fulfilment

Not applicable in this Competition.

4.4. Submitting the documents proving compliance with participation conditions

- 4.4.1. Documents proving compliance of Bidders with participation conditions are submitted within their Bids.
- 4.4.2. Every Bidder must submit documents proving its compliance with participation conditions into the Competition in an electronic form along with its tender by expiry of the period for Bid submission according to paragraph 5.4.1 hereof via the JOSEPHINE system. Further information on submitting the Bids is specified in paragraph 5.4 hereof.
- 4.4.3. All documents submitted by a Bidder for the purpose of proving the compliance with participation conditions must meet (besides others) requirements according to paragraph 5.5 hereof. Otherwise, the Promoter reserves right to disregard such submitted documents.

4.5. Assessment of the compliance with participation conditions

- 4.5.1. Electronic documents proving compliance with participation conditions have to meet respective requirements specified in paragraph 5.5 hereof. Otherwise, such documents shall not be deemed valid and shall be disregarded.
- 4.5.2. In assessing the compliance with participation conditions, the Promoter is entitled to request a Bidder for an explanation of or supplementing the submitted documents.
- 4.5.3. The Promoter reserves right to disqualify a Bidder from the Competition, who has committed a breach of its contractual obligation under a preceding contract signed with the Promoter.

5. CONTENTS, PREPARATION AND SUBMISSION OF BIDS

5.1. Contents of Bid

5.1.1. A Bid has to include at least the following documents:

- a) A cover letter of Bid according to paragraph 5.1.2 hereof;
- b) Documents proving Bidder's compliance with participation conditions according to paragraph 5.1.3 hereof;
- c) Price offer according to paragraph 5.1.4 hereof;

5.1.2. Cover letter of Bid

The cover letter of a Bid should include at least the following information: business name and registered office or address of the Bidder, list of all documents submitted within the Bid specifying number of pages therein as well as the total number of pages within the Bid.

5.1.3. Documents proving compliance with participation conditions

5.1.3.1. A Bid must include documents proving Bidder's compliance with participation conditions to the extent specified in Article 3.2 hereof.

5.1.4. Price offer

The price offer must include at least the following documents:

- a) A price proposal in which the following information has to be specified at least: Bidder's identification (business name, registered office address, the register in which the Bidder is incorporated or registered, including the number under which the Bidder is registered, company ID, tax ID, VAT ID, contact to the Bidder – phone

number and e-mail), Promoter's identification (business name, address), identification of the Goods (items), for which the Bid is submitted, according to the Specification and quantity thereof, unit price free of VAT, sub-total price for each item of Goods free of VAT and total price of the Bid (i.e. sum of prices for all items of the Goods, for which the Bidder submits the Bid) free of VAT;

- b) The solemn declaration according to Attachment 6 hereto that the Bidder accepts the Contract presented in Attachment 2 hereto, or the Bidder specifies its comments on the Contract directly into the document in editable DOCX format highlighted in "change tracking" mode;
- c) A Bidder's declaration on the end-location and end-use of the Goods, which must include the following information as minimum:
 - (i) Bidder's identification as the Buyer (business name, registered office address, the register in which the Bidder is incorporated or registered, including the number under which the Bidder is registered, company ID, tax ID, VAT ID);
 - (ii) Accurate address of the location where the Goods will be finally located and used (hereinafter referred to as „**Destination**“);
 - (iii) The purpose for which the Goods shall be used, including the indication whether the Goods shall be used for military, or non-military purpose;
 - (iv) Identification of the end-user of the Goods (hereinafter referred to as "**End-User**") to the following extent at least: business name, registered office address, the register in which the End-User is incorporated or registered, including the number under which the End-User is registered, company ID, tax ID, VAT ID;
 - (v) Information whether the Goods will be subject to an inspection and/or repair/overhaul prior to delivery to the End-User; if yes, then also the place of such inspection/repair/overhaul and assumed time of duration thereof;

If the End-User is not yet known to the Bidder, or if the Goods are subject to an overhaul prior to delivery to the End-User (even either if End-User is known), the Bidder shall be deemed the End-User.

If the Bidder has its registered office within an EU member country, the Destination has to be within any of the EU member countries. If the Bidder has its registered office within a third country (i.e. out of any EU member countries), the Destination may be within any country to which the transfer of the Goods is not banned pursuant to applicable legal regulations in force in SR, EU, UK and/or USA.

5.1.5. **Other documents**

Within the Bid, the Bidder may submit also any other documents that the Bidder considers necessary according to its own discretion.

5.2. **Instructions for preparation of a tender**

- 5.2.1. Any and all Bidder's solemn declarations submitted within a Bid have to be elaborated in accordance with legal regulations applicable in country of Bidder's residence and must be signed by the Bidder, Bidder's statutory body or a member of Bidder's statutory body or by a person authorized to act on behalf of the Bidder in obligation relations. The authorization of such person must be in accordance with submitted documents on business conduct authorization, or power of attorney respectively, which the Bidder submits within its Bid. Otherwise, such solemn declaration shall not deem valid and shall be disregarded.
- 5.2.2. A Bidder may submit, within a Bid, also copies of proofs and/or documents in an electronic form. The Promoter can request a Bidder, at any time in course of this Competition, for submission of the original of respective document, officially verified copy thereof or a qualified conversion of a paper document into electronic form thereof, if having a doubt about the authenticity of such document, or if needed in order to ensure proper Competition process. In such event, the Bidder is obliged to submit the respective original document(s) within a period specified by the Promoter, otherwise within 2 business days upon receipt of relevant request.
- 5.2.3. Electronic documents submitted within a Bid have to comply with requirements specified in paragraph 5.5

hereof. Otherwise, the Promoter has right to deem such documents void and disregard them.

5.2.4. A Bid has to be prepared in accordance with these Tender Specifications and has to include all information, proofs and documents required in these Tender Specifications and all information specified in the Bid must be truthful.

5.3. **Method of price determining**

5.3.1. The Promoter requires that a Bid is prepared, and also the price for the Contract Subject-Matter is determined upon the commercial and contractual terms and conditions specified in the Contract that constitutes Attachment 2 hereto, including attachments thereto).

5.3.2. The price for the Contract Subject-Matter has to be specified in EUR without any VAT and with accuracy to 2 decimal places. It is required that the price proposal is submitted in the form of a price proposal according to paragraph 5.1.4 hereof.

5.3.3. The Promoter excludes herewith any possibility to change the price for the Contract Subject-Matter in dependence on any exchange rate change of EUR towards any other currency or mutual exchange rate change of any other currencies (so called "exchange rate clause").

5.3.4. The price for the Contract Subject-Matter has to be determined, in case of a Bidder with registered office in the Slovak Republic, in accordance with provisions of the Act no. 18/1996 Coll. On Prices as amended. If the Bidder has its registered office outside of the Slovak Republic, the price has to be determined in the manner common in international trade relations, otherwise, in accordance with price legal regulations applicable in the country of Bidder's registered office.

5.3.5. Payment terms and tax essentials are specified in the Contract.

5.4. **Submission of Bids**

5.4.1. Bids must be submitted into the Competition no later than by expiry of the period for Bid submission that shall expiry on: **July 08, 2024 at 14:00 hour CEST.**

5.4.2. Bids are submitted into the Competition only electronically through the JOSEPHINE system located on the web address <https://josephine.proebiz.com/>. The exact link to the Competition is specified in paragraph 1.3.3 hereof. Information how to get access into the JOSEPHINE system is presented in paragraph 1.4 hereof.

5.4.3. A Bid submitted in any other way shall be deemed undelivered.

5.4.4. An electronic Bid is to be inserted by uploading the required proofs and documents as attachments into the JOSEPHINE system by means of a bidding form on bookmark "Bids and Requests". Instructions regarding inserting and uploading the Bid are specified in Provider's manual at the address: [Skratany_navod_ucastnik.pdf \(proebiz.com\)](#) in Slovak, and at the address: [Participants_manual.pdf \(proebiz.com\)](#) in English. It is required that the Bidder uploads also its own price offer according to paragraph 5.1.4 hereof as an attachment (instructions how to upload attachments into a Bid are specified at the aforementioned internet address).

5.4.5. With regard to the need of authentication of each Bidder prior to inserting its Bid into the Competition within the JOSEPHINE system, it is not required that the Bidder signs its Bid by any electronic signature. However, this does not affect the obligation of a Bidder to sign certain particular documents (e.g. solemn declarations), if required so anywhere in these Tender Specifications.

5.4.6. Also documents as specified in paragraph 5.1 hereof have to be attached to a Bid submitted by means of the JOSEPHINE system. All documents within a Bid must comply with requirements specified in paragraph 5.5 hereof.

5.4.7. A Bid is submitted at the moment of uploading thereof into the JOSEPHINE system, i.e. after completion of uploading the entire content of the Bid (including all and any documents included into the Bid by the Bidder) upon pushing the button "Send envelope". If a Bidder hits the button "Send envelope" only a while prior to expiry of the period for Bid submission, there may happen (depending on the time remaining by

expiry of the period for Bid submission, volume of files uploaded within the Bid and Bidder's internet connection speed) that the whole content of the Bid will not be uploaded by the expiry of the period for Bid submission. In such event, the whole Bid shall be uploaded into the JOSEPHINE system, however, it shall be deemed a Bid submitted after expiry of the period for Bid submission. In such case the Bid shall not be made available pursuant to paragraph 5.4.10 hereof.

- 5.4.8. A Bidder may withdraw from its submitted Bid by expiry of the period for Bid submission. In withdrawing from a Bid, the Bidder proceeds similarly as at inserting the first Bid (by clicking on the button "Remove", and by inserting a new Bid).
- 5.4.9. A Bidder is bound by its Bid by expiry of the Bid binding period specified in paragraph 8.1 hereof. Any eventual extension of such period shall be notified to Bidders upon electronic communication within the JOSEPHINE system.
- 5.4.10. A Bid submitted after the expiry of the period for Bid submission shall not be made available.
- 5.4.11. A Bidder is allowed to submit only single-one Bid. If a Bidder submits more Bids within the period for Bid submission, the Promoter takes into account only the Bid submitted as the last whereas other Bids thereof are considered as submitted after expiry of the period for Bid submission.

5.5. **Requirements for submission of electronic documents**

- 5.5.1. The requirements specified in this paragraph 5.5 hereof relate generally to any documents that a Bidder submits into this Competition regardless whether within a Bid or within any explanation or supplementation of submitted documents or Bid.
- 5.5.2. Neither encoding nor encryption of electronic documents submitted within a Bid (including documents and proving compliance with participation conditions in this Competition) is required.
- 5.5.3. If not specified otherwise elsewhere in these Tender Specifications, electronic documents are submitted in the PDF format secured against any modification thereof so that they can be opened without any limitation and made available after the expiry of relevant period for submission of such documents (i.e. the period for Bid submission or period for submission of explanation or supplementing documents) in Adobe Reader program.
- 5.5.4. In cases when required so in these Tender Specifications or attachments hereto, or if required by the Promoter at any time in course of this Competition, electronic documents are submitted also in other formats as specified in relevant sections in these Tender Specifications or in relevant request of the Promoter.
- 5.5.5. Documents issued in a paper form, if submission of the original document or a verified copy thereof is required, must be submitted as electronic documents in PDF format (secured against any modification thereof) created by means of qualified conversion of the original documents in paper form pursuant to legal regulations applicable in the country of Bidder's residence, which guarantees the authenticity of the converted documents (hereinafter referred to as the "**qualified conversion**").
- 5.5.6. Documents issued by a public authority in an electronic form (if submission of original document is required) must be signed by a qualified electronic signature of the issuer pursuant to legal regulation applicable in the country of Bidder's residence.
- 5.5.7. If a Bidder has its registered office or a place of business conduct in the EU territory and submits in its Bid any document according to paragraph 5.5.6 hereof signed by a qualified electronic signature or by a signature based on a qualified certificate, such qualified certificate must be issued by a certification service provider listed in a list maintained pursuant to a specific legal regulation (the Resolution of the Commission 2009/767/ES as amended). At the same time, an electronic signature based on a qualified certificate, or a qualified electronic signature, must be of a format pursuant to a specific legal regulation (the Resolution of the Commission 2011/130/EU as amended).
- 5.5.8. If a Bidder has its registered office or a place of business conduct in a third country outside of the EU territory and submits in its Bid any document according to paragraph 5.5.6 hereof signed by a qualified electronic signature or by a signature based on a qualified certificate issued by a certification service

provider other than the one according to paragraph 5.5.7 hereof, the certificates issued by a provider of certification services in the third country as qualified certificates will be recognized (in accordance with provision of Article 7 of the Directive of the European Parliament and Council 1999/93/ES) as legally equivalent to the certificates issued by a certification service provider based within the EU territory, if:

- a) the certification service provider meets the conditions specified in the Directive of the European Parliament and Council 1999/93/ES and is accredited within a program of voluntary accreditation implemented within an EU member country, or
- b) a certification service provider based in the commonwealth, who meets conditions specified in the Directive of the European Parliament and Council 1999/93/ES, guarantees the certificate, or
- c) the certificate or the provider of the certification services is recognized upon a bilateral or multilateral agreement between EU and the third country or international organizations.

A Bidder is obliged to prove the fulfilment of the conditions for recognizing the certificates according to this paragraph in its Bid, otherwise the Promoter has right to disregard respective document.

- 5.5.9. Documents issued by a Bidder in an electronic form (e.g. a solemn declaration), if submission of original document is required, must be signed by an electronic signature of the Bidder or a person authorized to act on behalf of the Bidder. Such electronic signature must meet at least the requirements specified for the improved electronic signature pursuant to the Directive of the European Parliament and Council 1999/93/ES.
- 5.5.10. If a Bidder uses for signing a document according to paragraph 5.5.6 hereof a qualified electronic signature of other format than specified in the Resolution of the Commission 2011/130/EU, the electronic signature or electronic document carrier must include also information that must enable the Promoter to verify such electronic signature based on a qualified certificate online, free of charge and understandable in Slovak, Czech or English.
- 5.5.11. If a Bidder uses for signing a document according to paragraph 5.5.9 hereof an electronic signature of a format other than specified in the Resolution of the Commission 2011/130/EU, the electronic signature or electronic document carrier must include also information that must enable the Promoter to verify such electronic signature online and free of charge, or the tenderer is obliged to specify such information in its tender enabling the Promoter to verify such electronic signature online and free of charge (e.g. web address/link to a free software application). Otherwise, the Promoter has right to disregard respective document.
- 5.5.12. The Promoter reserves right to disregard a document that will be submitted into the Competition in contrary to the requirements specified in this paragraph 5.5 hereof.

6. OPENING AND ASSESSMENT OF TENDERS

6.1. Tender Opening

- 6.1.1. Tender opening is not public.
- 6.1.2. The Promoter will assess Bids in terms of compliance with participation conditions. The Promoter reserves right to request a Bidder for submission of supplementing information or documents, or to request for an explanation of a Bid. In such event, the Bidder will upload the requested information or documents as attachments into the JOSEPHINE system within the deadline specified in the relevant Promoter's request, otherwise the Promoter is entitled to reject Bid.

6.2. Criteria for evaluation of Bids and rules of their application

- 6.2.1. The assessment of Bids is non-public and the Promoter shall not provide Bidders nor otherwise publish any information on Bid assessment.
- 6.2.2. The Bids shall be assessed in terms of their compliance with requirements specified in these Tender Specifications and attachments thereto as well as upon the criterion specified in paragraph 6.2.4 hereof.

- 6.2.3. The Promoter has right to request a Bidder for an explanation of or supplementing the Bid. In such event, the Bidder is obliged to submit respective explanation and/or supplementing documents within the period specified by the Promoter, otherwise within two (2) business days.
- 6.2.4. The Tenders shall be evaluated upon the criterion: **Price – 100%** (hereinafter referred to as “**Criterion**”).
- 6.2.5. Upon the Criterion specified in paragraph 6.2.4 hereof, every item of the Contract Subject-Matter according to paragraph 2.2.1 hereof shall be evaluated separately.
- 6.2.6. In each item of the Contract Subject-Matter, the total price (without VAT) for the respective item of the Contract Subject-Matter specified in the Bidder's price offer shall be subject of evaluation upon the Criterion specified in paragraph 6.2.4 hereof (i.e. the price per 1 piece of the Goods in EUR/pc multiplied by the quantity of the Goods in pieces at the respective item of the Contract Subject-Matter).

6.3. **Negotiation**

- 6.3.1. The Promoter reserves right to invite selected Bidders to individual negotiations on price and other terms of the Contract. The negotiations will be carried out with every Bidder separately. The Promoter reserves right to limit number of selected Bidders whom will be invited to individual negotiations.
- 6.3.2. At the same time, the Promoter reserves right to conduct the individual negotiations with selected Bidders in several phases with an option to invite the Bidders to submit an updated Bid after each negotiation phase.
- 6.3.3. The Promoter reserves right to invite the Bidder for updating their Bids by means of an electronic auction. Information on course and conditions of such electronic auction shall be specified in an invitation to participation in the electronic auction.

7. **REJECTION OF BID, SIGNATURE OF THE CONTRACT, CANCELLATION OF COMPETITION**

7.1. **Rejection of Bid**

- 7.1.1. The Promoter reserves right to reject a Bid at any time in course of this Competition, if:
 - a) the Bid has not been prepared and/or submitted into the Competition in accordance with the conditions or rules of this Competition specified in these Tender Specifications, and/or is not in accordance with applicable legal regulations, and/or
 - b) the Bid does not meet any requirement for the Contract Subject-Matter and/or any other requirements specified in these Tender Specifications (including attachments thereto), and/or
 - c) the Bidder has provided untrue or distorted information with substantial affect to evaluation of Bids, and/or
 - d) the price for the Contract Subject-Matter is not determined in accordance with requirements specified in paragraph 5.3 hereof or there is reserved a possibility to change the price upon an exchange rate clause, and/or
 - e) the Bidder submitting the Bid did not submit an explanation of its Bid or supplementing documents, which it had been requested for, within the specified deadline, and/or
 - f) the Promoter has not recognized an explanation or supplementing documents submitted by the Bidder as sufficient or appropriate, and/or
 - g) the Bidder has submitted in its Bid proposals, remarks and/or comments to the Contract, which are not acceptable for the Promoter, and insists on such proposals, remarks and/or comments even despite of Promoter's notification of unacceptability thereof.
- 7.1.2. Regardless of anything else stated in these Tender Specifications, the Promoter reserves right to reject any Bid even without giving a reason.
- 7.1.3. The Promoter shall notify the Bidder in writing of rejecting its Bid without delay.

7.2. Disqualification of a Bidder from the Competition

7.2.1. The Promoter has right to disqualify a Bidder from this Competition, if the Bidder:

- a) has not adhered to the prescribed method of Bid submission, and/or
- b) the contents of the Bid cannot be made available, and/or
- c) has not proven its compliance with the participation conditions in this Competition, and/or
- d) has materially breached any other contract signed with the Promoter, and/or
- e) at the time of running this Competition, is in bankruptcy, settlement, winding up or restructuring at the time of this Competition or eAuction, or the bankruptcy petition against this Bidder was rejected due to lack of assets, or the Bidder is in similar situation pursuant to legal regulations applicable in the country of Bidder's residence or its place of business, or the Promoter has a justified reason to believe that the Bidder may get into a similar situation during the performance of the Contract, and/or
- f) is listed in sanction lists of SR, EU, UK and/or USA, or is directly or indirectly owned by persons listed on the said sanction lists, or is directly or indirectly controlled by such persons, or acts in their interests or on the basis of their instructions, or has a registered office in any country being subject to export restrictions on the Contract Subject-Matter according to the legal regulations applicable in SR, EU, UK and/or USA or, if the Bidder is a legal entity, is established under the law of such country, and/or
- g) is in a conflict of interest in relation to this Competition and/or fulfilment of the Contract, or the Promoter has a justified reason to believe that the Bidder may get into such conflict of interest during this Competition, eAuction and/or during fulfilment of the Contract, and/or
- h) has committed an action that is contrary to applicable legal regulations in the field of international sanctions and/or the fight against terrorism, money laundering or corruption, and/or has committed an action that is contrary to good morals, and/or
- i) had attempted to unduly influence this Competition.

7.2.2. The Promoter shall notify the Bidder in writing of disqualifying it from this Competition without undue delay.

7.3. Conclusion of the Contract

7.3.1. The Promoter will sign the Contract with the Bidder who, based on the Criterion specified in paragraph 6.2.4 hereof, has ranked first (1st) in at least one item of the Contract Subject-Matter according to paragraph 2.2.1 hereof, whereas the item (items), in which its Bid has ranked first (1st), shall be the subject-matter of such Contract. The Promoter will notify other Bidders of rejecting their Bids. The Promoter shall provide no other information.

7.3.2. The Promoter reserves right to select no one Bidder, or to sign the Contract with several Bidders.

7.4. Cancellation of the Competition

7.4.1. The Promoter reserves right to cancel this Competition whereas the reason of the cancellation shall not be notified to the Bidders. The Promoter will notify Bidders in writing of the Competition cancellation.

8. OTHER CONDITIONS OF THE COMPETITION

8.1. Bid binding period

8.1.1. The Bid binding period shall expire on **October 31, 2024**.

8.1.2. The Bid binding period shall expire also upon signing the Contract with the Bidder, or upon delivery of Bid rejection notification to the Bidder or upon delivery of Competition cancellation notification to the Bidder.

8.1.3. Within the Tender binding period, the Bidders are bound by their Tenders and cannot withdraw from them.

8.1.4. The Promoter may extend the Tender binding period in a justified case.

8.2. **Variant solution**

Submission of a variant solution is not allowed.

8.3. **Bid bond**

The Promoter requires no Bid bond from Bidders in order to assure the bindingness of their Bids.

8.4. **Costs of Bidders for participation in the Competition**

- 8.4.1. The participation of the Bidder in this Competition is voluntary and represents its own business risk.
- 8.4.2. All costs of the Bidder related to its participation in this Competition, as well as preparation and submission of the Bid and related communication between the Promoter and the Bidder, shall be borne in full by the Bidder.
- 8.4.3. The Promoter shall neither bear any liability nor provide for any compensation of any costs or damages to the Bidder in connection with its participation in this Competition regardless of the fact whether the Bidder's Bid is accepted in this Competition, or not, and this even either in the event of disqualifying the Bidder, rejecting the Bid and/or cancelling this Competition due to any reason.

8.5. **Relevant law and other legal information**

- 8.5.1. This Competition is governed by applicable legal regulations of the Slovak Republic.
- 8.5.2. If it is proven that the Bidder, whose Tender will be successful in this Competition and with whom the Contract should be concluded, submitted invalid certificates or documents within its tender or provided for false information, thereby misleading the Promoter and obtaining thus an undue advantage against other Bidders in the Competition, the Tender of such Bidder shall be rejected from the Competition.
- 8.5.3. If such conduct of the Bidder is proven only after conclusion of the Contract, the Promoter reserves the right to take steps leading to fair remedy including the right to file to a competent public authority or court a petition for determination of invalidity of so concluded Contract. The Bidder, who has acted in this way, is then responsible in full for all damages caused by its conduct.

8.6. **Personal data protection**

- 8.6.1. Upon submitting the Bid, the Bidder declares that provide personal data of concerned persons to the Promoter upon a reasonable legal basis whereas it has notified the concerned persons of such personal data provision to the Promoter and, at the same time, also of that the information on personal data treatment within Promoter's information systems are published at its registered web site (<http://www.eustream.sk>).
- 8.6.2. The Bidder shall demonstrate the existence of such reasonable legal basis upon Promoter's request at any time.

9. **LIST OF ATTACHMENTS**

- Attachment 1: Specification of the Goods;
- Attachment 2: Contract;
- Attachment 3: Last Borescopic Inspection Reports;
- Attachment 4: Last Overhaul Reports;
- Attachment 5: Solemn Declaration - Participation Conditions;
- Attachment 6: Solemn Declaration - Contract;
- Attachment 7: NDA;