

Contracting Entity: *Odvoz a likvidácia odpadu, a.s.*

Title of the contract: *ENGINEERING AND CONSTRUCTION & TECHNOLOGICAL SUPERVISION OF MODERNISATION AND GREENING OF WtEP*

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REQUIRED CONDITIONS OF PARTICIPATION AND THE MEANS OF DEMONSTRATING THEM

The following conditions of participation must be fulfilled by the supplier

1. CONDITIONS OF PARTICIPATION PURSUANT TO SECTION 32 OF THE PUBLIC PROCUREMENT ACT **(RELATING TO PERSONAL STATUS):**

1. Condition of participation:

1.1 In accordance with Section 32(1) of Act No. 343/2015 Coll. on Public Procurement and on Amendments and Supplements to Certain Acts, as amended (hereinafter referred to as "Act No. 343/2015 Coll."), only those who meet the following conditions of participation relating to personal status may participate in the public procurement:

- a) **neither he, nor his statutory body, nor a member of the statutory body, nor a member of the supervisory body, nor a proxy** has been legally convicted of an offence of corruption, an offence of damage to the financial interests of the European Communities, an offence of money laundering, an offence of establishment, the offence of establishing, organising or supporting a criminal group, the offence of establishing, organising or supporting a terrorist group, the offence of terrorism and certain forms of participation in terrorism, the offence of human trafficking, an offence the substance of which is related to business or the offence of rigging public procurement and public auctions,
- b) **no registered arrears** of social insurance premiums and the health insurance company does not register any overdue claims against him/her according to special regulations (Social Insurance Act, Health Insurance Act) in the Slovak Republic and in the country of his/her registered office, place of business or usual place of residence,
- c) **no tax arrears registered** with the tax office and customs office under special regulations (the Tax Administration Act and the Customs Act) in the Slovak Republic and in the country of his registered office, place of business or usual place of residence,
- d) **has not declared bankrupt, his assets are not under restructuring, in liquidation** the insolvency proceedings against him / her have not been dismissed for lack of assets or the insolvency proceedings have not been annulled for lack of assets,
- e) is entitled to supply goods, carry out construction work or provide a service,
- f) **has not been banned from participating** in a public procurement procedure confirmed by a final decision in the Slovak Republic and in the country of its registered office, place of business or usual place of residence,

1.2 In accordance with Section 32(2) of Act No. 343/2015 Coll., the supplier shall demonstrate compliance with the conditions of participation pursuant to Section 32(1):

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- a) point (a) by submitting a documented extract from the criminal record not older than three months,
- b) point (b) by submitting a certificate from the health insurance company and the social insurance institution not older than three months,
- c) point (c) by submitting a certificate from the local tax office and the local customs office not older than three months,
- d) point (d) by submitting a certificate from the competent court not older than three months,
- e) point (e) by submitting a proof of authorisation to supply goods, works or services corresponding to the subject of the contract,
- f) point (f) by submitting an affidavit.

1.3 Pursuant to Section 32(3) of Act No. 343/2015 Coll., if the contracting authority or contracting entity is entitled to use data from public administration information systems pursuant to a special regulation, then the supplier is not obliged to submit documents pursuant to Section 32(2) of Act No. 343/2015 Coll. NOTICE:

The Contracting Entity does NOT currently have access to public administration information systems pursuant to Act No. 177/2018 Coll. on certain measures to reduce the administrative burden through the use of public administration information systems and on amendments and supplements to certain acts (Anti-Bureaucracy Act), therefore the supplier CANNOT proceed pursuant to Section 32(3) of the Public Procurement Act. The supplier MUST submit with the bid documents pursuant to Section 32(2) of the Public Procurement Act or prove to the Contracting Entity valid registration in the list of economic operators maintained by the Public Procurement Office or registration in a similar register in the country of the supplier's registered office (e.g., in the Czech Republic - Seznam kvalifikovaných dodávateľů) to the extent of the registered facts.

1.4 The Office shall keep a list of economic operators that have demonstrated compliance with the conditions of participation of a personal status pursuant to Section 32 of Act No 343/2015 Coll. and who have applied to be entered in the list of economic operators. An economic operator in a public procurement procedure may prove compliance with the conditions of participation of a personal status referred to in the first sentence by entry in the list of economic operators (or entry in a similar list of another Member State to the extent of the facts entered).

Link to information for the suppliers on the list of economic operators:

🔗 <https://www.uvo.gov.sk/zaujemcauchadzac/registre-o-hospodarskych-subjektochvedene-uradom/informacie-k-zoznamu-hospodarskych-subjektov-2ff.html>

The group of suppliers shall demonstrate compliance with the conditions for participation in the public procurement relating to:

- a) personal status **for each member of the group separately**. The authorisation to supply goods, to carry out works or to provide a service shall be demonstrated by a member of the group only in relation to that part of the subject of the contract which it is required to provide.

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- b) financial and economic status shall be demonstrated jointly (i.e. it is sufficient if at least one member of the group of suppliers demonstrates this condition of participation, it is not necessary for all members of the group of suppliers to demonstrate it).
- c) technical or professional competence is demonstrated jointly (i.e. it is sufficient if at least one member of the group of suppliers demonstrates this condition of participation, it is not necessary for all members of the group of suppliers to demonstrate it).

The group of suppliers may use the resources of the participants of the group of suppliers or other persons pursuant to Section 33(2) of Act No 343/2015 Coll., as well as the capacities of the participants of the group of suppliers or other persons pursuant to Section 34(3) of Act No 343/2015 Coll.

Possibility to use the Single European Document (formalised affidavit):

The supplier or members of the group of suppliers may temporarily replace the required documents with the Single European Document. In this case, the supplier / group of suppliers shall submit the temporarily replaced documents at the request of the Contracting Entity. The rules and recommendations for the use of the Single European Document are set out in Chapter 4 of this Annex.

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2. CONDITIONS OF PARTICIPATION PURSUANT TO SECTION 33 OF THE PUBLIC PROCUREMENT ACT

In his application for participation, the supplier shall provide the following information and documents to demonstrate his economic and financial status:

2. Condition of participation:

To assess the economic and financial capacity, the Contracting Entity applies the condition of participation pursuant to Section 33(1)(c) of the Public Procurement Act, concerning the financial health of the company (supplier) verified/established by the INDEX N05 index (Czech credit-scoring model) requires the supplier to submit a profit and loss statement for the last three completed financial years or a statement of income and expenses for the last three completed years, respectively for the years available depending on the establishment, start of operation or end of the tax period. The completed financial year shall be the year for which the applicant's financial statements have been approved.

The supplier - a legal entity established in the territory of the Slovak Republic, who s has published its financial statements in the Register of Financial Statements of the Slovak Republic:

- **does not submit any document to prove compliance with this condition of participation.**
- the value of the financial indicators required by the Contracting Entity from the financial statements published in the public part of the Register of Financial Statements is calculated by several analytical companies (e.g. FinStat, a.s.). The calculated value of the financial ratios is available on their websites or portals.

The supplier - a legal entity with its registered office in the territory of the Slovak Republic that is not obliged to publish its financial statements in the Register of Financial Statements of the Slovak Republic or with its registered office outside the territory of the Slovak Republic:

- **shall submit in the application for participation a profit and loss account or income and expenditure account for the last three completed financial years,** or for the years available depending on the establishment, start of operation or the end of the tax period.
- In the case that the documents are submitted by a supplier with registered office outside the territory of the Slovak Republic, he must submit documents equivalent to the profit and loss account or income and expenditure account for the last three completed financial years, or for the years available depending on the establishment, start of operation or the end of the tax period, which demonstrate compliance with this condition of participation, in the original language and at the same time translated into Slovak (this obligation does not apply to documents in Czech). In the event of differences in the content of the documents submitted in the original language and the translated documents, the official translation in the Slovak language shall prevail.
- In the case of suppliers - natural persons with registered office in the Slovak Republic, suppliers with registered office outside the Slovak Republic or legal persons with registered office in the Slovak Republic, who do not have their financial statements published in the

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Register of Financial Statements, the supplier is obliged to submit the following together with the financial statements:

- a) a declaration specifying the relevant lines of the profit and loss account or income and expenditure account, the values of which are included in the formulae for calculating the individual indicators, for each of the years under consideration,
- b) a declaration that the profit and loss account or income and expenditure account for the period requested that has been submitted, is the only version for the period requested and that the supplier has no other accounts filed for the period requested,
- c) in the case that the supplier has submitted correcting financial statements for the requested period, i.e. a profit and loss account or an income and expenditure account, the supplier is obliged to submit these correcting profit and loss accounts or income and expenditure accounts to the Contracting Entity.

The Contracting Entity shall calculate the required value of the data from the documents submitted (by plugging the data into the formulae set out in this Invitation), i.e. from the profit and loss account or income and expenditure account for the years requested.

In the case of suppliers - legal entities with registered office in the Slovak Republic that have their financial statements published in the Register of Financial Statements, the Contracting Entity shall verify the fulfilment of the participation condition on the publicly available websites of analytical companies engaged in economic analyses and evaluation of economic indicators of enterprises and shall include in the procurement documentation the evidence of fulfilment/non-fulfilment of this participation condition by the supplier or shall calculate them himself by entering the data from publicly available documents from the Register of Financial Statements into the formulas specified in this Invitation.

In the event that the supplier has several financial statements published in the public part of the register of financial statements for the last three completed years, or for the years that are available depending on the establishment, start of operation or end of the tax period, the Contracting Entity will consider only the financial statements that have been prepared and approved in accordance with Act No 431/2002 Coll. on Accounting as valid for the purpose of fulfilling the given participation condition. In this case, the Contracting Entity shall verify compliance with the participation condition directly from the financial statements in question, which have been drawn up, approved and published in the register of financial statements in accordance with Act No 431/2002 Coll. on Accounting, by entering the data from the financial statements into the formulae for calculating the INDEX N05 indicator.

The formula and the data to be entered into the formula for calculating the INDEX N05 indicator are given below.

The Contracting Authority also provides the specification of individual lines from the relevant statements, as it is possible that in some of the years under consideration the lines in the financial statements may have changed (both for legal and natural persons) or are numbered differently, in the case of legal or natural persons with registered office outside the territory of the Slovak Republic.

INDEX N05 - credit model used to assess the financial health of an enterprise. It is determined by comparing economic indicators from the balance sheet and profit and loss account for legal entities and from the statement of assets and liabilities and the income and expenditure account for natural person - entrepreneurs.

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Calculation for legal entities (domestic and foreign):

BS = balance sheet or equivalent document of the foreign legal entity

P&L = profit and loss account or equivalent document of a foreign legal entity

Formula for calculating INDEX N05 for legal entities:

Calculation in the format of the 2014 financial statements:
Y1 - Assets/ Foreign resources = (I.1 BS) / (I. 1 BS – I.80 BS)
Y2 - EBIT/Cost Interest = (I.49 P&L + I.57 P&L+ I.61 P&L) / I.49 P&L
Y3 - EBIT/Assets = (I.49 P&L+ I.57 P&L+ I.61 P&L) / (I.1 BS)
Y4 - Total Revenue/Assets = (I.3 P&L+ I.4 P&L+ I.5 P&L+ I.8 P&L+ I.46 P&L) / (I.1 BS)
Y5 - Current assets/Short-term debt = (I.33 BS) / (I.122 BS + I.139 BS)
 INDEX N05 = 0.13*Y1+0.04*Y2+3.97*Y3+0.21*Y4+0.09*Y5 meaning INDEX N05= 0.13 * $\frac{\text{Assets}}{\text{Foreign resources}}$ + 0.04 * $\frac{\text{EBIT}}{\text{Cost Interest}}$ + 3.97 * $\frac{\text{EBIT}}{\text{Assets}}$ + 0.21 * $\frac{\text{Revenue}}{\text{Assets}}$ + 0.09 * $\frac{\text{Current assets}}{\text{Short - term debt}}$ <u>*In case the company does not take loans, the indicator Y2 will be 9. In order to avoid a misleading result, the maximum value of the Y2 indicator is 9.</u>

Calculation in 2014 financial statements format micro:
Y1 - Assets/Foreign Resources = (I.1 BS) / (I.1 BS – I.25 BS)
Y2 - EBIT/Cost Interest = (I.31 P&L+ I.36 P&L+ I.38 P&L) / (I.31 P&L)
Y3 - EBIT/Assets = (I.31 P&L+ I.36 P&L+ I.38 PLA) / (I.1 BS)
Y4 - Total Revenue/Assets = (I.2 P&L+ I.3 P&L+ I.6 P&L+ I.28 P&L) / (I.1 BS)
Y5 - Current assets/Short-term debt = (I.14 BS) / (I.38 BS+ I.44 BS)
 INDEX N05 = 0.13*Y1+0.04*Y2+3.97*Y3+0.21*Y4+0.09*Y5 meaning INDEX N05= 0.13 * $\frac{\text{Assets}}{\text{Foreign resources}}$ + 0.04 * $\frac{\text{EBIT}}{\text{Cost Interest}}$ + 3.97 * $\frac{\text{EBIT}}{\text{Assets}}$ + 0.21 * $\frac{\text{Revenue}}{\text{Assets}}$ + 0.09 * $\frac{\text{Current assets}}{\text{Short - term debt}}$ <u>*In case the company does not take loans, the indicator Y2 will be 9. In order to avoid a misleading result, the maximum value of the Y2 indicator is 9.</u>

Calculation for natural persons-entrepreneurs:

A&L = statement of assets and liabilities or equivalent document of a foreign natural person-entrepreneur

I&E = income and expenditure account or equivalent document of a foreign natural person-entrepreneur

Formula for calculating INDEX N05 for a natural person-entrepreneur:
Y1 - Assets/ Foreign Resources = (I. 15 A&L, this is total assets) / (I. 20 A&L, i.e. total liabilities)

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Y2 - EBIT/Cost interest = (I.10 I&E cost interest charged to other expenses + income tax is not recorded in the statements but can be found in the tax return and it is the tax liability line from the tax return + I.12 I&E, i.e. the difference between income and expenses) / from I.10 I&E cost interest charged to other expenses.

Y3 - EBIT/Assets = (from I. 10 I&E, expense interest charged to other expenses + income tax is not recorded in the statements, but can be found in the tax return, and this is the tax liability line from the tax return) / (I. 15 I&E, this is total assets)

Y4 - Total Income/Assets = (I.04 I&E, i.e. Total Income) / (I.15 I&E, i.e. Total Assets)

Y5 - Current Assets/Short-Term Debt = (I. 04 I&E, i.e. inventories + I. 08 I&E receivables total + I. 09 I&E, i.e. financial assets) / (from I. 17 I&E current liabilities due within 1 year + from I. 18 current bank loans, i.e. current account credits, authorised overdrafts, or parts of loans due within 1 year)

INDEX N05 = 0.13*Y1+0.04*Y2+3.97*Y3+0.21*Y4+0.09*Y5

meaning

INDEX N05 = 0.13 * $\frac{\text{Assets}}{\text{Foreign Resources}}$ + 0.04 * $\frac{\text{EBIT}}{\text{Cost Interest}}$ + 3.97 * $\frac{\text{EBIT}}{\text{Assets}}$ + 0.21 * $\frac{\text{Revenue}}{\text{Assets}}$ + 0.09 * $\frac{\text{Current Assets}}{\text{Short - Term Debt}}$

*In case the company does not take loans, the indicator Y2 will be 9. In order to avoid a misleading result, the maximum value of the Y2 indicator is 9.

Specified ranges of values (general economic analyses) applicable to domestic and foreign legal entities and natural persons-entrepreneurs:

>1.6 - prosperous company

>0.9 and <1.6 - medium prosperity

<0.9 - not prosperous company

Minimum level required:

supplier

The condition of economic and financial standing shall be fulfilled by the supplier whose value of the economic indicator INDEX N05 in each year of the reference period is higher than 0,90 (rounded to 2 decimal places). The reference period shall be the last three completed financial years or the years available since the establishment or start of the activity, i.e. the tenderer shall demonstrate that the INDEX N05 has not fallen below 0,9 at any time (in any year) during the reference period of the last three financial years.

Important notice!!!!

In accordance with Section 33(3) of Act No. 343/2015 Coll., the Contracting Entity requires that the supplier and another person whose resources are to be used to demonstrate the financial and economic status are jointly liable for the performance of the contract. To this end, the Contracting Entity requests that the contract required pursuant to Section 33(2) of Act No. 343/2015 Coll. include, among other things, a provision making it unquestionably clear that the supplier and any other person whose resources are to be used to demonstrate the financial and economic status are jointly

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responsible for the performance of the contract entered into with the Contracting Entity. To avoid any ambiguity, the Contracting Entity states that joint liability for the performance of the contract means, in particular, the liability for the monetary obligations of the Provider (the successful supplier) that may arise against the Contracting Entity on the basis of the contract.

To this end, the Purchaser shall require the successful Bidder to submit, no later than the signing of the Contract (as part of the provision of assistance for the signing of the Contract), a signed Adherence Agreement in the wording provided by the Purchaser. The wording provided may be supplemented by provisions governing the relationship between the successful Bidder (Obligor) and the person referred to in Section 33(2) of the Public Procurement Act (Acceding Obligor).

Possibilities to use the Single European Document:

The supplier or the person whose capacities will be used by the supplier to demonstrate compliance with a given condition of participation may temporarily replace the required documents with the Single European Document. In this case, the supplier shall submit the temporarily replaced documents at the request of the Contracting Entity. The rules and recommendations for the use of the Single European Document are set out in Chapter 4 of this Annex.

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3. CONDITIONS OF PARTICIPATION PURSUANT TO SECTION 34 OF THE PUBLIC PROCUREMENT ACT

In the application for participation, the supplier shall submit the following information and documents to demonstrate (professional) technical competence:

3. Condition of participation:

List of services provided (pursuant to Section 34(1)(a) of Act No. 343/2015 Coll.) **of the same or similar nature as the subject of the contract for the preceding 15 years from the announcement of the public procurement** (the so-called “decisive period”), **indicating the prices, delivery periods and customers;** if the customer was the contracting authority/contracting entity, then the document is the reference issued pursuant to Section 12 of Act No. 343/2015 Coll.

Minimum level required:

This condition of participation shall be fulfilled by the supplier, if he proves that he has provided services within the last 15 years from the date of announcing the public procurement:

- design (at least two stages of design documentation), and / or implementation, and / or commissioning, and / or construction supervision activities for **at least 3 investment projects during the operation of the enterprise or the construction of new technologies (so-called greenfield project), which included:**
 - a) **connection of new** technological units of energy equipment in electricity production plants or WtEPs with a capacity of at least 5 MWh or with an investment value of at least EUR 5 million without VAT or
 - b) **connection of new** technological units on infrastructure (in the field of [energy-electricity¹ pursuant to Act No. 251/2012 Coll. on energy and on amendment and supplementation of certain acts in the currently effective wording or by a heat production facility² pursuant to Act No. 657/2004 Coll. on heating energy and on amendment and supplementation of certain acts in the currently effective wording](#)) with built-in technologies with an investment value of at least EUR 5 mil. without VAT or
 - c) connection of new technological energy units in production enterprises with combustion boilers/[furnace](#) with an investment value of at least EUR 5 million without VAT.

For the purposes of this condition of participation, energy equipment/energy units means electricity equipment, [gas equipment, pipelines for the transport of fuels or for the transport of crude oil and equipment for the distribution of liquefied gaseous hydrocarbons \(according to section §2 \(b\) first and ninth points according to Section 12\(1\) of Act No.251/2012 Coll. on Energy and on Amendments and Supplements to Certain Acts, as amended\)](#) or energy equipment in the heating industry [according](#)

¹ [electrical energy equipment equipment used for the generation, storage, connection, transmission, distribution or supply of electricity or the provision of flexibility,](#)

² [a heat generating plant, a plant for converting various forms of energy into heat or for capturing waste heat or energy from the surroundings^{1\(b\)}, excluding a plant for capturing energy from ventilation air; it includes the structural part and the process equipment,](#)

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(pursuant to Act No. 657/2004 Coll. on Thermal Energy and Amendments and Supplements to Certain Acts, as amended).

Implementation means the direct implementation of the installation of the technologies and their commissioning. The contracting authority shall not accept the reference experience of a candidate/person pursuant to Section 34(3) of the Public Procurement Act, if the person was the general contractor/subcontractor of a certain part of the work who hired subcontractors for the installation of the technologies and their commissioning, because the installation of the technologies and their commissioning was actually carried out by someone else/capacities of another entity. The contracting authority shall also not accept a reference that was the subject of the execution of the construction readiness or construction part of the reference work that included the technological units. In assessing whether the conditions of participation have been met, the contracting authority shall examine the implementation of the installation of the technologies and their commissioning directly by the person (capacity of the person) submitting such a reference for recognition.

In the list submitted, the supplier shall indicate for the service provided:

- a) the name of the customer (i.e. the other party);
- b) the contact person of the customer/responsible employee and the contact details (for the purpose of verifying the information provided)
- c) The time and place of provision of the service; and
- d) description of the performance of the contract, including a specific description of the technology being replaced / installed, identification of the enterprise in which the technology was replaced / installed, the investment value of the technology.

If the subject of the reference includes also services of a different nature (other activities / services / works) than the required reference services, the Contracting Entity requires to **separate** the provision of services of the required nature **from other services** in the list of services / reference provided that are not of the required nature (i.e. to indicate comprehensively what was the subject of the reference service and to separate - describe in more detail the reference-relevant activity, including the expression / separation of the investment value of the energy / technology equipment from the other investment / technology equipment / works (it is the investment value of the energy / technology equipment, not of the works / project as a whole).

The contracting authority shall take into account from the list of services provided only those parts of the services provided which were provided during the reference period, if the services were started and / or completed outside the reference period (i.e. not later than 15 years from the date of publication of the notice on announcement of the public procurement in the Official Journal of the EU, relevant services must be provided (e.g. start and completion of the service provision for the LUD or start and completion of the service for the BPD/TDI) that are subject to this condition of participation have been provided). In this case, the supplier is obliged to explicitly indicate for such services provided (references) a precise indication/description of what was the subject of the services in the relevant period.

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Rules for converting other currencies to EUR:

In the case of projects the investment value of which is expressed in a currency other than Euro, the exchange rate of the National Bank of Slovakia (NBS), current on the date of publication of the tender notice in the Official Journal of the EU, shall be used to convert this currency into Euro. In the Letter of Reference, the supplier shall indicate the investment value of the project in the original currency as well as converted at the appropriate exchange rate in Euro.

The Contracting Entity (or a person authorised by him) will verify the information and the truthfulness of the data with the customer indicated in the list.

Possibilities to use the Single European Document:

The supplier or the person whose capacities will be used by the supplier to demonstrate compliance with a given condition of participation may temporarily replace the required documents **with** the Single European Document. In this case, the supplier shall submit the temporarily replaced documents at the request of the Contracting Entity. The rules and recommendations for the use of the Single European Document are set out in Chapter 4 of this Annex.

Note:

If the customer ordering the services was the contracting authority or contracting entity under the Public Procurement Act, then pursuant to Section 12(2) of the Public Procurement Act: **Reference for the purposes of this act is an electronic document that contains confirmation of the supply of goods, the execution of works or the provision of a service.**

Pursuant to Section 12(1) of Act No. 343/2015 Coll., the following shall apply: The Register of References is a public administration information system administered by the Office for Public Procurement, which keeps records of references from contracting authorities and contracting entities. This means that **this registration only applies to performances provided to the state or to the public sector or to so-called sectoral entities (contracting entities).** The reference according to Section 12 of Act No. 343/2015 Coll. is not issued for services provided to private companies (commercial market) or sectoral entities operating outside the Slovak Republic (it is sufficient to list the reference services provided to these entities with a description according to the above requirements).

4. Condition of participation:

Pursuant to Section 34(1)(g) of the Public Procurement Act, the supplier shall demonstrate the availability and professional competence of key experts who will participate in the implementation of Stages 1 and 2 of the Description of the Subject of the Contract (condition of participation pursuant to Section 34(1)(g) of the Public Procurement Act). No 343/2015 Coll.).

In the application for participation, the supplier must demonstrate that he has at his disposal (either as his own employee or as an employee of another company that has contractually committed itself to entrust the expert in question with the performance of certain activities corresponding to the

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expertise of the expert during the performance of the contract (a person pursuant to Section 34(3) of the Public Procurement Act)) persons holding the positions listed below who have the experience (experience or qualifications) listed below. To this end, the supplier shall submit a CV for each key expert in the application for participation containing information in the extent necessary to demonstrate the professional experience of the key expert (i.e. at least his/her information about completed studies, work experience and acquired authorisations and language knowledge).

A list of key experts and their competence requirements (minimum level required), which the supplier must demonstrate in the application for participation:

Key Expert	Requirement for an expert	Method of demonstration
Project's Principal Engineer [PPI]	<p>At least 15 years (180 months) of experience in management positions (design team leader, expert implementation team leader, responsibility for technology commissioning, or technical supervision team leader) in the construction / renovation of technological units of power plants or WtEPs.</p> <p>Management position means that the person is directly responsible for the design / implementation / supervision of the work / project in terms of the objective of the contractual commitment.</p>	<p>This shall be demonstrated by the submission of a CV containing the necessary information (details of work activities at the given position and contact details of the person who can confirm the information). ATTENTION! The practical experience of this expert is subject to a qualitative evaluation of the final offer. The contracting authority insists that the position of this key expert can only be held by one natural person and therefore recommends that interested parties consider the appropriate selection of the expert also in the light of the qualitative assessment of the final tender.</p>
Project's Deputy Principal Engineer	<p>At least 15 years (180 months) of experience in management positions (design team leader, expert implementation team leader, responsibility for technology commissioning, or technical supervision team leader) in the construction / renovation of technological units of power plants or WtEPs.</p> <p>Management position means that the person is directly responsible for the design / implementation / supervision of the work / project in terms of the objective of the contractual commitment.</p>	<p>This shall be demonstrated by the submission of a CV containing the necessary information (details of work activities at the given position and contact details of the person who can confirm the information). ATTENTION! The practical experience of this expert is subject to a qualitative evaluation of the final offer. The contracting authority insists that the position of this key expert can only be held by one natural person and therefore recommends that interested parties consider the appropriate selection of the expert also in the light of the qualitative assessment of the final tender.</p>
Expert in complex architectural and engineering services	<p>Possesses professional competence (authorised architect's licence or authorization of the civil engineer for the performance of complex architectural and engineering services and related technical consultancy)</p>	<p>This shall be demonstrated by submitting a valid authorisation to carry out the activity of the key expert in question.</p>

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	according to Act No.138/1992 Coll., as amended (or equivalent legal standard (authorisation to perform the activities of an architect) in force in the country of the candidate's registered office or in the country of origin of the person),	
Expert in statics of building and load-bearing structures	At least 10 years (120 months) of experience in a position where he / she was responsible for statics (member of the design team responsible for statics, member of the implementation team of experts responsible for statics, or member of the construction supervision team responsible for statics) in construction / renovation projects of technological units of energy facilities or WtEPs.	This shall be demonstrated by the submission of a CV containing the necessary information (details of work activities at the given position and contact details of the person who can confirm the information).
Expert in civil infrastructure structures (engineer specialising in civil or engineering constructions)	At least 10 years (120 months) of experience in a position where he / she was responsible for the design/ <u>implementation /construction supervisions</u> of civil structures (member of the design team, member of the implementation team of experts, or member of the construction supervision team) in construction / renovation projects: <ul style="list-style-type: none"> - technological units of energy facilities or - on infrastructure with embedded technologies with an investment value of at least EUR 5 million without VAT or - in the construction of technological units in production plants with combustion boilers. 	This shall be demonstrated by the submission of a CV containing the necessary information (details of work activities at the given position and contact details of the person who can confirm the information).
Expert in technical, technological and energy equipment for buildings (engineer for technical, technological and energy equipment for buildings)	At least 10 years (120 months) of experience in a position where he / she was responsible for the technical, technological and energy equipment of buildings (member of the design team responsible for the given area, member of the implementation team of experts responsible for the given area, or member of the construction supervision team responsible for the given area) in projects for the construction / reconstruction of technological units of energy facilities or WtEPs.	This shall be demonstrated by the submission of a CV containing the necessary information (details of work activities at the given position and contact details of the person who can confirm the information).
Boiler technology expert	At least 10 years (120 months) of experience in a position where he / she was responsible for boiler technology (member of the design team responsible for the given area, member of the implementation team of experts responsible for the given area, or member of the construction supervision team responsible for the given area) in construction / renovation projects of technological units of energy facilities or WtEPs.	This shall be demonstrated by the submission of a CV containing the necessary information (details of work activities at the given position and contact details of the person who can confirm the information). ATTENTION! The practical experience of this expert is subject to a qualitative evaluation of the final offer. The contracting authority insists that the position of this key expert can only be held by one natural person and therefore recommends that interested parties consider the appropriate selection of the expert also in the light of the qualitative assessment of the final tender.

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Expert in mechanical engineering and technological processes	<p>At least 10 years (120 months) of experience in a position where he / she was responsible for the mechanical part and technological processes (except for boiler or flue gas technology) (member of the design team responsible for the given area, member of the implementation team of experts responsible for the given area, or member of the construction supervision team responsible for the given area) in projects for the construction / reconstruction of technological units of energy facilities or WtEPs.</p> <p>Alternative: At least 10 years (120 months) of experience in a managerial position (e.g. Technical Director) where he / she was responsible for the operation of power plants with a capacity of more than 10 MW or for the operation of an industrial chemical / petrochemical / metallurgical technology involving at least 2 combustion boilers in continuous operation).</p>	<p>This shall be demonstrated by the submission of a CV containing the necessary information (details of work activities at the given position and contact details of the person who can confirm the information). ATTENTION! The practical experience of this expert is subject to a qualitative evaluation of the final offer. The contracting authority insists that the position of this key expert can only be held by one natural person and therefore recommends that interested parties consider the appropriate selection of the expert also in the light of the qualitative assessment of the final tender.</p>
Expert in flue gas cleaning technology processes	<p>At least 10 years (120 months) of experience in a position where he / she was responsible for flue gas cleaning technological processes (member of the design team responsible for the given area, member of the implementation team of experts responsible for the given area, or member of the construction supervision team responsible for the given area) in construction / renovation projects of technological units of energy facilities or WtEPs.</p>	<p>This shall be demonstrated by the submission of a CV containing the necessary information (details of work activities at the given position and contact details of the person who can confirm the information). ATTENTION! The practical experience of this expert is subject to a qualitative evaluation of the final offer. The contracting authority insists that the position of this key expert can only be held by one natural person and therefore recommends that interested parties consider the appropriate selection of the expert also in the light of the qualitative assessment of the final tender.</p>
Project manager	<p>At least 10 years (120 months) of experience as a project manager in construction / renovation projects of technological units of energy facilities or WtEPs.</p>	<p>This shall be demonstrated by the submission of a CV containing the necessary information (details of work activities at the given position and contact details of the person who can confirm the information).</p>
Expert in permitting procedures and legislation in the Slovak Republic	<p>At least 3 references / proofs of experience / projects for complex management of permitting processes under the conditions of the Slovak legislation for energy installations with power over 1 MW. Complex management means drawing up / completion of documentation (at least of stage 1) submitted for administrative proceedings (e.g. EIA, land-use decision, building permit, final approval) and its submission to the competent authorities or representation of the investor before the competent authorities during the entire permitting procedure (i.e. at least 1 entire process of at least 1 permitting procedure).</p>	<p>This is demonstrated by the submission of a CV and 3 letters of reference (without the Client's confirmation) with the necessary scope of information (details of work activities in the given position and contact details of the person who can confirm the information).</p>

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Expert in electrical and power engineering	At least 10 years (120 months) of experience in a position where he / she was responsible for electrical installations and power engineering (member of the design team responsible for the given area, member of the implementation team of experts responsible for the given area, or member of the construction supervision team responsible for the given area) in construction / renovation projects of technological units of energy facilities or WtEPs.	This shall be demonstrated by the submission of a CV containing the necessary information (details of work activities at the given position and contact details of the person who can confirm the information).
Expert in MAR (I&C)	At least 10 years (120 months) of experience in a position where he / she was responsible for electrical installations and power engineering MAR or I&C (member of the design team responsible for the given area, member of the implementation team of experts responsible for the given area, or member of the construction supervision team responsible for the given area) in construction / renovation projects of technological units of energy facilities or WtEPs.	This shall be demonstrated by the submission of a CV containing the necessary information (details of work activities at the given position and contact details of the person who can confirm the information).

For the purposes of this condition of participation, energy equipment/energy units means electricity equipment, ~~gas equipment, pipelines for the transport of fuels or for the transport of crude oil and equipment for the distribution of liquefied gaseous hydrocarbons (according to section §2 (b) first and ninth points of Act No.251/2012 Coll. on Energy and on Amendments and Supplements to Certain Acts, as amended)~~ or energy equipment in the heating industry according pursuant to Act No. 657/2004 Coll. on Thermal Energy and Amendments and Supplements to Certain Acts, as amended). ~~according to Section 12(1) of Act No.251/2012 Coll. on Energy and on Amendments and Supplements to Certain Acts, as amended) or energy equipment in the heating industry (pursuant to Act No. 657/2004 Coll. on Thermal Energy and Amendments and Supplements to Certain Acts, as amended).~~

The supplier may demonstrate the fulfilment of the requirement for more than one key experts by one natural person (i.e. cumulative positions are allowed).

The supplier shall demonstrate compliance with the required prerequisites by submitting specified documents to the extent necessary to verify the specified requirements for the key expert concerned.

Rules for converting other currencies to EUR:

In the case of projects the investment value of which is expressed in a currency other than Euro, the exchange rate of the National Bank of Slovakia (NBS), current on the date of publication of the tender notice in the Official Journal of the EU, shall be used to convert this currency into Euro. In the Letter of Reference, the supplier shall indicate the investment value of the project in the original currency as well as converted at the appropriate exchange rate in Euro.

The Contracting Entity (or a person authorised by him) will verify the information and the truthfulness of the data with the customer indicated in the list.

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5. condition of participation:

By means of the filled in Annex 4 to the Contract for the provision of services and submission of relevant internal documents, the supplier shall demonstrate the method of supply chain management and tracking system to be used in the performance of the contract (condition of participation pursuant to Section 34(1)(k) of Act No. 343/2015 Coll.), if he uses subcontractors in connection with the provision of services to the Contracting Entity ((the definition of a subcontractor is set out in the Service Contract)).

The supplier must demonstrate/describe the specific systemic internal measures (including identification of the binding internal document) that he will apply to the selection of subcontractors participating in the performance of the contract. Internal arrangements means rules for the selection and / or contractual terms and conditions of subcontractors that:

- a) will ensure that, the subcontractor is paid on a monthly basis (invoices) for the work performed by him based on written records of work performance. The subcontractor's remuneration was paid through a transparent account set up for this purpose with access for the Client's representative. The Contracting Entity had the right to control the implementation of these internal arrangements, including the right to inspect the contractual relationships entered into with the subcontractors (including all addenda and statements of work) under which the subcontractors participate in the provision of the service;
 - the contracting Entity shall sign the NDA submitted by the supplier for this purpose;
- b) ensure that the subcontractors and their designated key experts participating in the performance of the contract **do not have a conflict of interest** as per clause 7.6. **Contracts on the provision of services.** The specific internal measure adopted must include specific procedures by which the future provider will review compliance with this obligation;
- c) **ensure that the software and hardware** used in the performance of this contract **have been officially purchased**. As the subject of the performance and the place of performance is critical infrastructure, the supplier must take such measures in the internal document that ensure that in providing the service he will not use software and / or hardware originating from countries against which the EU or the Slovak Republic has applied sanctions (due to possible misuse of data of a sensitive nature relating to critical infrastructure, we prohibit the use of software) and / or hardware from such countries.

By the condition of participation in question, the supplier does not demonstrate a specific subcontractor, but only the rules of selection / contractual conditions of cooperation / binding internal measures on the project that he will follow during the performance of the Contract on the Provision of Services and / or that he will require from subcontractors during the performance of the contract. These supply chain management rules shall be described by the supplier in Annex 4 to the Contract on the Provision of Services and shall be binding on the supplier throughout the duration of the contract. The Contracting Entity shall have the right to control their compliance in accordance with the relevant provisions of the draft Contract.

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The supplier shall demonstrate this condition of participation by submitting filled in Annex 4 to the Contract on the Provision of Services, including documents describing/implementing the declared measures (relevant internal documents referred to in Annex 4).

Possibilities to use the Single European Document:

The supplier or the person whose capacities will be used by the supplier to demonstrate compliance with a given condition of participation may temporarily replace the required documents with the Single European Document. In this case, the supplier shall submit the temporarily replaced documents at the request of the Contracting Entity. The rules and recommendations for the use of the Single European Document are set out in Chapter 4 of this Annex.

For all conditions of technical and professional competence:

To demonstrate technical or professional competence, the supplier may use the technical and professional competence of another person, regardless of their legal relationship. In this case, the supplier must demonstrate to the Procuring Entity that he will indeed use the capacities of the person (!) whose competence has been used to demonstrate technical or professional competence in the performance of the contract. The fact referred to in the second sentence shall be demonstrated by a written contract concluded with the person whose technical and professional capacities are intended to use to demonstrate his technical or professional competence. The written contract must show a specific commitment by the person concerned as to how he / she will provide his / her capacities to the supplier throughout the duration of the contractual relationship. [The Contracting Authority advises interested parties that it will examine/check the specificity of the commitment of the person's participation in the performance and the availability of the capacity by which the person will implement the commitment made³. The Contracting Authority will not accept a person's participation in the performance in the form of consulting or advising the successful tenderer, as it does not consider this to be sufficient to fulfil the purpose of the institute under Article 34\(3\) of the Act of the Public Procurement Act.⁴](#) The person whose capacities are to be used to demonstrate technical or professional competence must demonstrate compliance with the conditions of participation relating to personal status (Section 32 of the Public Procurement Act) and must not have grounds for exclusion pursuant to Section 40(7) and (8) of Act No. 343/2015 Coll.

Important notice!!!!

The supplier may use the capacities of another person only if that person will actually perform the services for which the capacities are required (i.e. that person will be a subcontractor participating

³ According to Article 79 of Directive 2014/25, a candidate may not rely on the capabilities of other entities in order to fulfil, in a purely formal manner, the conditions required by the contracting authority

⁴ The right to check the reality of participation also follows from the case law of the European Court of Justice, see the judgment of 10 October 2013, *Swm Costruzioni 2 and Mannocchi Luigino*, C 94/12, or the judgment of 2 December 1999, *Holst Italia*, C 176/98, or the judgment of 7 April 2016, *C 324/14 Partner Apelski Dariusz v Zarząd Oczyszczania Miasta*, or the judgment of 10 January 2023, *C- 469/22, Ambisig - Ambiente e Sistemas de Informação Geográfica SA v Fundação do Desporto*.

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in the performance and its change will be possible only for objective reasons demonstrated to the Contracting Entity in accordance with the relevant provisions of the Contract).

I.e. if the supplier does not have a key expert, the person employing the key expert will act as a person according to Section 34(3) of Act No. 343/2015 Coll. and at the same time this person will be a subcontractor participating in the performance by the fact that the expert will participate in the performance.

Important notice on all required conditions of participation!

It must be clear from the documents submitted that the supplier fulfils the conditions of participation:

- a) for documents pursuant to Section 32, Section 33 and Section 34(1)(g) and (k) of Act No. 343/2015 Coll. on the date of expiry of the deadline for submission of applications for participation,
- b) for documents pursuant to Section 34(1)(a) of Act No. 343/2015 Coll. as of the date of the public procurement announcement in Official Journal of the EU (i.e., the reference service must take into account the specified reference period).

Therefore, it is also permissible that the documents proving compliance with the conditions of participation pursuant to Sections 32, 33 and / or 34 of Act No. 343/2015 Coll. were issued after the date of submission of the offer or after the date on which the deadline for application for participation expired, however:

- a) in the case of documents pursuant to Sections 32, 33 and 34(1)(g) and (k) of Act No 343/2015 Coll., they must contain information on the fulfilment of the conditions of participation as of the date on which the deadline for the submission of applications for participation expired, or it must be otherwise evident from these documents that the condition of participation has been fulfilled as of the date on which the deadline for the submission of applications for participation expired;
- b) in the case of documents pursuant to Section 34(1)(a) of Act No. 343/2015 Coll., they must contain information on the fulfilment of the conditions of participation as of the date of the public procurement announcement, or it must be otherwise evident from these documents that the condition of participation has been fulfilled as of the date of the public procurement announcement - in other words, the decisive period of 15 years is assessed as of the date of the public procurement announcement in Official Journal of the EU.

The above does not preclude the obligation of the supplier to comply with the specified conditions of participation during the whole process of evaluation of tenders, i.e. from the expiry of the deadline for the submission of applications for participation to the signature of the contract with the successful supplier.

The documents and / or documents submitted by the supplier proving compliance with the conditions of participation must also show that the minimum level of the individual conditions of participation identified above has been met.

4. RULES AND RECOMMENDATIONS FOR THE USE OF THE SINGLE EUROPEAN DOCUMENT

Pursuant to Section 39(1) of Act No. 343/2015 Coll., the supplier may provisionally replace the documents to prove compliance with the conditions of participation determined by the Contracting

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Entity by submitting a Single European Document. In view of the use of the negotiated procedure with publication, the Contracting Entity will proceed to the verification of the fulfilment of the conditions of participation at the stage of evaluation of the applications for participation. The Contracting Authority shall therefore make use of his right under Article 39(6) of the Public Procurement Act and, in the case of submission of a Single European Document in the application for participation, after opening the request for participation, shall request the supplier to submit all the documents replaced by the Single European Document within a period of not less than 5 working days from the date of receipt of the request for submission of documents.

A supplier participating in a procurement on his own and not using the resources and / or capacities of other persons to prove that he fulfils the conditions of participation shall fill in and submit a single Single European Document (this is his right, not an obligation).

A supplier who participates in the procurement on his own but uses the resources and / or capacities of other persons to demonstrate fulfilment of the conditions of participation shall fill in and submit the Single European Document for his own person together with the filled in separate Single European Document(s) containing the relevant information for each of the persons whose resources and/or capacities are used by the supplier to demonstrate fulfilment of the conditions of participation (submission of the Single European Document is a right of the supplier/other person, not an obligation).

If the application for participation is submitted by a group of suppliers, the application for participation shall include **separate Single European Documents** with the required information for **each member of the group of suppliers** (it is the right of the member of the group of suppliers to submit the Single European Document, not an obligation).

The essentials related to the Single European Document are regulated by the provisions of Section 39 of Act No. 343/2015 Coll., Decree of the Public Procurement Office No. 155/2015 Coll., laying down the details of the Single European Document and its content and Commission Implementing Regulation E) 2016/7 of 5 January 2016 laying down the standard form for the Single European Procurement Document.

The Contracting Entity states that he DOES NOT ACCEPT information required to demonstrate fulfilment of the condition of participation specified in part IV: Conditions of participation, Section A to D) demonstrate by answering one question (α: Global figure for all conditions of participation), i.e. it is not possible to declare that the supplier fulfils all the required conditions of participation relating to economic and financial standing and technical or professional competence. The supplier must indicate in the relevant part IV. Conditions of Participation specific information on how the conditions of participation are to be fulfilled.

All documents required in this section must be submitted to the Contracting Entity as a scan of the original or as certified true copies of the document, unless otherwise expressly stated, via the JOSEPHINE system through which all communication with the Contracting Entity during the procurement process takes place.