

Negotiation procedure with prior publication

under Act No 343/2015 on public procurement and on amendments to certain laws, as amended.

Procurement Ref. No: 19-0149-RKSZ

**Replacement of Hydraulic Assemblies of Turbo-compressor Units ES
CS01**

Procurement Documents

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Preamble

This order award procedure is governed by the relevant provisions of Act No 343/2015 on public procurement and on amendments to certain laws, as amended and other laws of the Slovak Republic.

I. General public procurement information

1. Identification details of the Contracting Entity

Registered name: **eustream, a.s.**
Registered office: Votrubova 11/A, 821 09 Bratislava, Slovakia
Legal form: Joint-stock company incorporated in the Commercial Register, Bratislava I District Court, Section: Sa, File no.: 3480/B
Company ID: 35 910 712
Tax ID: 2021931175
VAT ID: SK2021931175
Bank account: VÚB, a.s.
IBAN: SK72 0200 0000 0000 0110 1153
Website: www.eustream.sk
Contracting Entity profile: <https://www.uvo.gov.sk/vyhľadavanie-profilov/zakazky/10199>
Contact person: Martin Mikula, Procurement Expert
Telephone: +421 (2) 6250 7161
E-mail: martin.mikula@eustream.sk
hereinafter referred to as "Contracting Entity"

2. Method of procurement

This Contract is to be awarded through a public procurement procedure under Act No 343/2015 on public procurement and on amendments to certain laws, as amended ("Public Procurement Act" or "PPA").

3. Method of public procurement

Negotiation procedure with prior publication under Article 94 and 95 of PPA ("Tender Procedure").

4. Designation of the subject of the Contract according to CPV:

Main CPV code: 42124340-9

Main CPV code, supplementary vocabulary: KA06-7

5. Type of the subject of the Contract

Goods ☒

Service ☐

Works ☐

6. Specification of the subject of the Contract

The subject of the Contract is the replacement of hydraulic assemblies of two identical electrically operated radial centrifugal turbo-compressor units, type 650-21-2, unit power 25 MW ("ES Turbo-compressor").

The purpose of the replacement of hydraulic assemblies of the ES Turbo-compressor Units is to reduce the nominal flow rate within a turbo-compressor to the half of the current nominal flow rate and to decrease the current maximum compression ratio while reaching the highest possible compressor efficiency. Any modifications of the existing external layout of the ES Turbo-compressor units, particularly those requiring an amendment of the valid integrated permit and/or building permit issued for the existing ES Turbo-compressor units (such as

structural modifications or any modifications involving any change of the existing foundations of the ES Turbo-compressor Units) are not allowed. Possible exceptions from this rule may include inevitable minor modifications of the oil lubrication system and/or the oil gas seal system of the ES Turbo-compressor Units.

The replacement of the hydraulic assemblies of the turbo-compressor units will include the engineering, design, manufacture, supply and installation of the complete turbo-compressor hydraulic assemblies to the site of performance, i.e. Veľké Kapušany Compressor Station 01.

A detailed specification of the subject of the Contract is provided in Annex 1 "Specification" to the Commercial Terms and Conditions for Contract Performance ("Contract Agreement") in Annex 1 to these Procurement Documents.

7. Place of performance of the Contract

The site of performance of the Contract will be the site of eustream, a.s. at the Compressor Station KS01, 079 48 Veľké Kapušany, Slovak Republic.

8. Time for completion of the Contract

- 8.1 The Contract Agreement will become valid and effective as of the date when signed by both contracting parties.
- 8.2 The time for completion of the Contract is 12 months of the date when the Contract Agreement is concluded.
- 8.3 A time schedule for the performance of the Contract Agreement defining the performance milestones is set out in Annex 2 to the Contract Agreement.

9. Group of Suppliers

- 9.1 A group of suppliers may also be a tenderer in this Tender Procedure if all members of the group of suppliers have demonstrated compliance with the selection criteria as per Article 37 (3) of the Public Procurement Act ("Group of Suppliers").
- 9.2 Where the tender is submitted by a Group of Suppliers, the Contracting Entity will communicate with the representative of this group authorised to communicate with the Contracting Entity in the Tender Procedure.
- 9.3 In case that the tender submitted by the Group of Suppliers is accepted, the Contracting Entity will:
 - a) Require that all members of the Group of Suppliers authorise one member to represent the whole Group of Suppliers to liaison with the Contracting Entity regarding the performance of the Contract Agreement;
 - b) Require that all members of the Group of Suppliers undertake the commitment to perform the Contract Agreement jointly and severally;
 - c) Require that during the performance of the Contract Agreement, each member of the Group of Suppliers separately issues invoices to the Contracting Entity for its performances provided to the Contracting Entity under the Contract Agreement;
 - d) Not require the formation of any legal form of entity by this Group of Suppliers, but it will require that the members of the Group of Suppliers appropriately regulate their mutual relations so that they are able to duly perform the Contract Agreement; in such case the Contracting Entity will be entitled to ask the Group of Suppliers to prove how their mutual relations are regulated.

10. Contract Agreement

- 10.1 The outcome of the Tender Procedure will be a Contract for Work for the replacement of hydraulic assemblies of two ES Turbo-compressor Units ("Contract Agreement").
- 10.2 The Contract Agreement constitutes Annex 1 to these Procurement Documents, which contains the complete text of the Contract for Work including its annexes ("CCTC").

- 10.3 CCTC will be negotiated between the Contracting Entity and the tenderers in the tender negotiation process.
- 10.4 The Contracting Entity reserves the right to amend CCTC based on the results of the negotiations with the tenderers whereas the final CCTC text will be identical for all tenderers taking part in the Tender Procedure.
- 10.5 A tenderer is required to specifically indicate any deviations from the Technical Specification in Annex 1 to CCTC in the Technical Deviation Table. Such deviations will be negotiated between the Contracting Entity and the tenderers in the tender negotiation process. The final contents of the Technical Deviation Table will be agreed with each tenderer individually during the tender negotiation process; the agreement will be based on the individual characteristics of the technical solution proposed by a tenderer in its tender and will be subject to compliance of the technical solution with the Contracting Entity's requirements for the subject of the Contract. A Technical Deviation Table template is provided in Annex 5 to the Procurement Documents.

11. Price determination method

- 11.1 The price of the subject of the Contract must be denominated in EUR net of VAT. Tenderers are required to submit their quotations using Annex 3 to CCTC and in accordance with the itemisation set out therein.
- 11.2 The Contracting Entity excludes the possibility of any adjustments of the price of the subject of the Contract based on a change of the exchange rate of EUR to foreign currencies, or on a change of the mutual exchange rate of any other currencies ("exchange rate clause"). The Contracting Entity reserves the right not to accept tenders allowing for a price change based on an exchange rate clause.
- 11.3 The price of the subject of the Contract quoted by a tenderer in its tender must be inclusive of any and all economically justified costs of the tenderer for the subject of the Contract (e.g. transport costs, etc.), subject to the scope and conditions specified in CCTC.
- 11.4 Where the tenderer has its registered seat in the territory of the Slovak Republic, the price for the subject of the Contract must be determined in compliance with the provisions of Act No 18/1996 on prices, as amended. Where the tenderer has its registered seat outside the territory of the Slovak Republic, the price must be determined in the customary manner recognised in international business, or in compliance with the price regulations valid in the country of residence of the tenderer.
- 11.5 The Contracting Entity reserves the right to exclude a tender from the Tender Procedure if the price for the subject of the Contract quoted in the tender is not determined in compliance with the requirements specified in this Article.

12. Source of funds

The Contracting Entity intends to finance the Contract in question from the European Union Fund INEA/CEF/ENER/M2016/1291691 No: 6.2.1-0019-SKPL-W-M-16.

13. Communication

- 13.1 The provision of clarifications, delivery of input documents and other communication ("communication") between the Contracting Entity and the tenderers will be conducted in the state Slovak language or the English language and in an appropriate manner ensuring that the information in a tender and the selection criteria are complete and accurate and that any confidential information and personal data contained in those documents are adequately protected.
- 13.2 The Contracting Entity will communicate with tenderers and candidates via the communication interface of the JOSEPHINE system in accordance with Article 20 of the Public Procurement Act. ("JOSEPHINE"). This method of communication is to be used in respect of any communication and notices between the Contracting Entity and tenderers / candidates.
- 13.3 JOSEPHINE is the public contact award process electronisation software used for the purposes of this public procurement. The JOSEPHINE web-based application is located at <https://josephine.proebiz.com>.

- 13.4 In order to ensure the smooth use of the JOSEPHINE system, one of the following supported browsers should be used:
- Microsoft Internet Explorer version 11.0 or higher;
 - Mozilla Firefox version 13.0 or higher;
 - Google Chrome; or
 - Microsoft Edge.
- 13.5 Delivery rules: a document will be deemed effectively delivered to the tenderer / candidate if the addressee objectively had an opportunity to become aware of its contents, i.e. as soon as the document became available for the tenderer's / candidate's disposal. A document will be deemed effectively delivered via the JOSEPHINE system at the moment when the document was sent via the system in accordance with its functionality.
- 13.6 Where the sender is the Contracting Entity, a notification will immediately be sent to the e-mail address specified by the candidate / tenderer for that purpose to inform the candidate / tenderer that a new document/message concerning the Contract is existing. When the candidate / tenderer logs in to the system, the communication contents (list of documents and messages) will be displayed within the communication interface of the Contract. The candidate / tenderer may view the whole history of its communication with the Contracting Entity in the communication interface.
- 13.7 Where the sender is the candidate / tenderer, after logging in to the system and accessing the procurement concerned, the candidate / tenderer may send messages and required enclosures to the Contracting Entity via the communication interface. Such post will be deemed effectively delivered to the Contracting Entity at the moment when sent via the JOSEPHINE system in accordance with its functionality.
- 13.8 The Contracting Entity advises that candidates wishing to receive e-mail notifications of Contract related updates should tick the **"I'M INTERESTED"** check box (in the top right part of the screen) for the Contract concerned. Notification e-mails will also be delivered to candidates included in the electronic candidate list for the Contract.
- 13.9 The Contracting Entity provides unlimited and direct access by electronic means to the Procurement Documents, including the following Annexes: Annex 1: Commercial and Contractual Terms and Conditions (Contract Agreement); Annex 2: Tenderer's Declaration of Honour for the purposes of paragraph 1.2.1 of the Procurement Documents; Annex 3: Tenderer's Declaration of Honour for the purposes of Article 2 of the Procurement Documents; Annex 4: Proposal for Fulfilment of Criteria; Annex 5: Technical Deviation Table; Annex 6: Non-disclosure Agreement; Contract Agreement Annex 1: Technical Specification; Contract Agreement Annex 2: Contract Schedule; Contract Agreement Annex 3: Price Specification; Contract Agreement Annex 4: Text of Advance Payment Bond Bank Guarantee; Contract Agreement Annex 5: Text of Performance Bond Bank Guarantee; Contract Agreement Annex 6: Text of Defect Liability Bond Bank Guarantee; Contract Agreement Annex 6: Text of Maintenance Bond Bank Guarantee; Contract Agreement Annex 8: Internal Rules; Contract Agreement Annex 9: SUBCONTRACTOR List; Technical Specification Annexes 14.1, 14.2 and 16.
- In order to maintain the confidentiality of information, the Contracting Entity has limited the access to Annexes 1-13 and 15 to the Technical Specification to those candidates only which sign a Non-disclosure Agreement with the Contracting Entity. For further information about the provision of confidential information and about how access to those documents can be obtained and about the process of signing the Non-disclosure Agreement please refer to paragraph 16 of this Article I of the Procurement Documents.
- 13.10 The Contracting Entity will publish the Procurement Documents and any explanations thereof and supplements thereto and clarifications of the requirements specified in a call for tenders, the selection criteria of the public procurement, the information document or any other accompanying documentation in form of electronic documents in the relevant section of the Contract in the JOSEPHINE system.
- 13.11 Notices and documents to be exchanged between the Contracting Entity and candidates / tenderers in connection with the application of revision procedures will be delivered electronically via the communication interface of the JOSEPHINE system. The delivery and withdrawal of objections addressed

to the Office for Public Procurement ("OPP") will be governed by Article 170 (8) (b) of PPA.

13.12 Language of the Tender Procedure

- 13.12.1 Based on the provisions of Article 21 (6) of the Public Procurement Act, the tenders and other documents in public procurement are to be submitted in the state language, i.e. in the Slovak language. Where the document is produced in a foreign language, it must be accompanied by its official translation into the official language of the relevant country. This does not apply to tenders, proposals and documentation produced in the Czech language. If a difference is found in their content, the certified translation into the official language will prevail.
- 13.12.2 The Contracting Entity reserves the right to disregard documents submitted in a language other than the state (Slovak) language and not accompanied by a translation into the state (Slovak) language, except for documents submitted in the Czech language.

13.13 Explanation and supplementation of the Procurement Documents

- 13.13.1 Any requests for explanation must be submitted to the Contracting Entity via the JOSEPHINE system in the Slovak language and/or the English language and/or the Czech language; the Contracting Entity will otherwise not be obligated to provide any explanation.
- 13.13.2 The Contracting Entity will without undue delay provide explanations in accordance with Article 48 of PPA to all the candidates / tenderers to which the Procurement Documents have been provided via the JOSEPHINE system, or publish the explanations on its profile, provided that the requests for explanations must be submitted in good time in advance. A request for explanation will be deemed submitted in good time if submitted via the JOSEPHINE system in the Slovak language or the English language 12 days before the time limit for the submission of tenders at the latest. The Contracting Entity is not obligated to provide any explanation to request for explanation delivered at a later time.

14. Registration and authentication

- 14.1 For the purpose of submission of an application for participation and tender as well into this Tender Procedure, it is necessary that every candidate registers for the JOSEPHINE system, otherwise a candidate shall not get access into this Tender Procedure in the JOSEPHINE system and shall be able to submit neither its application for participation nor tender nor any other document within this Tender Procedure. A candidate may register for the JOSEPHINE system using a password or an identification card with an electronic chip and a personal security code (eID).
- 14.2 Only authenticated candidates will be allowed to submit tenders. The candidate authentication may be executed in the following ways:
- a) Through the JOSEPHINE system using a password or an identification card with an electronic chip and a personal security code (eID). A company will be authenticated in the system based on registration by the company's statutory representative using his/her eID. The authentication will be executed by the provider of the JOSEPHINE system on business days between 08:00 and 16:00;
 - b) By uploading a qualified electronic signature (e.g. the eID signature) of the company's statutory representative to the user's card after the registration and logging in to the JOSEPHINE system. The authentication will be executed by the provider of the JOSEPHINE system on business days between 08:00 and 16:00;
 - c) By uploading to the user's card after registration a power of attorney that has been either signed by the electronic signatures of a statutory representative and the authorised agent, or certified through the qualified conversion procedure. The authentication will be executed by the provider of the JOSEPHINE system on business days between 08:00 and 16:00;
 - d) By waiting for the authentication code which will be sent as a registered letter to the candidate company's address, to the hands of its statutory representative. The time limit for this procedure is normally 3 business days and this time needs to be taken in account when entering the application for participation in the public procurement or a tender.
- 14.3 The authenticated candidate should log in to the JOSEPHINE system and select the relevant procurement

in the list of procurements displayed, and enter its tender using the designated tender delivery form available in the "Tenders and Applications" folder.

The participation of a candidate in this Tender Procedure will not be possible without the candidate's proper authentication, as described in this Article 14!

15. Inspection of turbo-compressor units

- 15.1 The Contracting Entity will allow each candidate / tenderer to inspect the ES-25MW electrical motor driven turbo-compressor units which are presently available in a dismantled state at Veľké Zlievce Compressor Station KS 03, 991 23 Veľké Zlievce, Slovakia, GPS: 48.179623,19.465756, and which are identical to the turbo-compressor units used in the site of performance of the Contract, i.e. KS01.
- 15.2 The Contact Person for inspection visits is: Ing. Milan Milošovič, Project Manager, E-mail: milan.milosovic@eustream.sk, tel.: +421 (0)37 625 5314, M: +421 (0)905 202 688. The Contracting Entity reserves the right to change the contact person when and as necessary.
- 15.3 An inspection visit may take place at a time between the announcement of the Tender Procedure and the end of the time limit for the submission of tenders for the Tender Procedure, subject to prior notice to be given at least two business days before the planned visit to KS 03. Every inspection visit will be recorded in form of written minutes.

16. Provision of confidential information for tender preparation purposes

- 16.1 A candidate may register for the JOSEPHINE system using a password or an identification card with an electronic chip and a personal security code (eID).
- 16.2 Since the ES Turbo-compressor Units whose hydraulic assemblies are to be replaced under the Contract being procured are classified as critical infrastructure assets of the energy sector and gas sub-sector at the national/EU level within the meaning of Act No 45/2011 on Critical Infrastructure, a part of the information to be provided by the Contracting Entity to the candidates / tenderers for the purposes of this Tender Procedure is confidential. Moreover, these are documents of a technical nature that are protected by copyright under applicable laws and, as such, they must not be disclosed, made available, copied or otherwise distributed to third parties. Such confidential information is contained in Annexes 1 to 13 and 15 to the Technical Specification. The Contracting Entity wishes to maintain the confidentiality of such information, while the information is necessary for the preparation of tenders for this Tender Procedure. The Contracting Entity has, therefore, taken measures to maintain the confidentiality of some of such information that need to be provided to the candidates for the preparation of tenders. Such measures include limiting the access to documents containing confidential information by encrypting such documents, namely the following Annexes to the Technical Specification:

Annex 1: Compressor assembly;

Annex 2: Housing assembly;

Annex 3: Compressor rotor;

Annex 4: Compressor 650-21-2;

Annex 5: Coupling assembly;

Annex 6: Oil pump;

Annex 7: PID oil system, 25 MW compressor Hall E;

Annex 8 Compressor distribution lines;

Annex 9 Data Sheet API 617;

Annex 10: Guaranteed parameters;

Annex 11 Maximum power output of the electric drive motor;

Annex 12: Report No TPK/07/2008 on the delineation of the explosion hazard area;

Annex 13: Vibration monitoring system and control system accumulator limits;

Annex 15: Drawings of the existing lubrication system and the oil seal.

A specific access code ("access key") will be required to open the encrypted documents. The Contracting Entity will provide a candidate / tenderer with the access key(s) for the access to such documents only on the basis of the Non-disclosure Agreement in Annex 6 to these Procurement Documents ("NDA"), which must be concluded between the Contracting Entity and the candidate / tenderer using the procedure described in these Procurement Documents before any provision of access to the said confidential information by the Contracting Entity to the candidate / tenderer.

16.3 Procedure to obtain the access key to access documents containing confidential information.

A candidate / tenderer will obtain the access key to be able to access the Annexes 1 to 13 and 15 of the Technical Specification, which contain confidential information, through the following procedure:

- 16.3.1 The candidate / tenderer will complete the registration and authentication, as described in paragraph 14 of this Article I of the Procurement Documents;
- 16.3.2 The candidate / tenderer will log in to <https://josephine.proebiz.com> using the access data obtained in the registration and authentication process described in paragraph 14 of this Article I of the Procurement Documents;
- 16.3.3 The NDA text is provided in Annex 6 to these Procurement Documents.
- 16.3.4 The candidate / tenderer will print out and sign the NDA form in two (2) original counterparts. The candidate / tenderer will then convert the signed paper NDA document into an electronic document using either qualified conversion (within the meaning of the Ordinance of the Office of the Deputy Prime Minister of the Slovak Republic for Investment and Informatisation No 331/2018 on qualified conversion, or a different method provided for in laws in effect in the candidate's / tenderer's country of residence). The candidate / tenderer will send the resulting electronic document to the Contracting Entity as an e-mail enclosure using the e-mail communication functionality of the JOSEPHINE system (**ATTENTION! Do not e-mail from any other mail server!**), indicating "NDA" in the subject field of the e-mail.
- 16.3.5 The candidate / tenderer will also send two signed original copies of NDA in the paper form (by post or courier service) to the below address of the Contracting Entity:
eustream, a.s.
Mr Martin Mikula, Procurement Expert
Votrubova 11/A
821 09 Bratislava
Slovak Republic
- 16.3.6 The Contracting Entity will provide the access key to the candidate / tenderer no later than the first working day following the receipt by the Contracting Entity via the JOSEPHINE system of the e-mail containing the NDA enclosure in the qualified conversion form.
- 16.3.7 Upon receipt of the two original paper-form copies of NDA signed by the candidate / tenderer, the Contracting Entity will without undue delay sign the NDA copies and return one paper-form counterpart, signed by both parties to NDA, to the candidate / tenderer by post or courier service, along with sending a scan of the NDA copy signed by both parties to the candidate / tenderer through the JOSEPHINE system.
- 16.3.8 If a candidate / tenderer refuses to enter into NDA with the Contracting Entity, the Contracting Entity will not provide any access key to the candidate / tenderer.
- 16.3.9 If a candidate / tenderer sends the Contracting Entity via the JOSEPHINE system an electronic document not produced from the signed NDA through a qualified conversion in accordance with applicable laws, the Contracting Entity will nevertheless provide any access key to the candidate / tenderer only after the receipt of the original NDA copy in the paper form.

II. Basic steps of the Public Procurement process

1. Submission of the application for participation in the Tender Procedure and evaluation of the fulfilment of selection criteria;
2. Initial tenders (call for initial tenders, submission of initial tenders, negotiation of initial tenders);
3. Final tenders (call for final tenders, submission of final tenders, opening of final tenders, evaluation of tenders);
4. Evaluation of final tenders;
5. Notification on the result of tender evaluation;
6. Review of the conduct of the controlled Contracting Entity by the Office for Public Procurement prior to the conclusion of the Contract;
7. Conclusion of the Contract.

Detailed information on each of the above steps in the Tender Procedure is provided in the other sections of these Procurement Documents.

1. Submission of an application for participation in the Tender Procedure and evaluation of the fulfilment of selection criteria

A candidate / tenderer will submit its application for participation in the Tender Procedure in an electronic form within the time limit for the submission. The application for participation is to be prepared electronically in accordance with Article 49 (1) (a) of PPA and entered in the JOSEPHINE system located at <https://josephine.proebiz.com>.

The application for participation must be submitted no later than the end of the time limit for the submission of applications for participation, which will expire on: **04/11/2019 at 13:00 CEST**

The application for participation is to be entered by completing the application form and attaching to it the required documents and posting the application dossier to the JOSEPHINE system, which is available at <https://josephine.proebiz.com>.

The application for participation submitted via the JOSEPHINE system must be accompanied by the required documents in an electronic form, including:

- a) Cover letter with the following scope of information:
 - Registered name and registered office of the candidate / tenderer;
 - Name, surname and title, and telephone and e-mail of the contact person.
- b) Documents demonstrating the fulfilment of the selection criteria laid down in Article 1.1 hereof, or the Single European Procurement Document duly completed and signed by the candidate.

All submitted electronic documents must comply with the requirements as per Article V, paragraph 6 of these Procurement Documents.

Any documents issued in a paper form must be submitted for the Tender Procedure in form of electronic documents of PDF format, produced either by means of the qualified conversion of the original paper documents in accordance with the Ordinance of the Office of the Deputy Prime Minister of the Slovak Republic for Investment and Informatisation No 331/2018 on qualified conversion, or such different method provided for in laws in effect in the candidate's / tenderer's country of residence which is able to guarantee the authenticity of the document (s) converted (hereinafter "qualified conversion"). The Contracting Entity reserves the right to disregard any copies of documents issued in a paper form that have been submitted for the Tender Procedure in a form other than electronic documents produced through the qualified conversion of the original paper documents.

Where the application for participation contains confidential information, the candidate must visibly identify such information in the application for participation in the manner specified in Article V, paragraph 5 of these Procurement Documents so that the confidential information is clearly identifiable.

When the application for participation has been successfully uploaded to the JOSEPHINE system, an informational notification e-mail will be sent to the candidate (namely to the e-mail address of the candidate's user

who have uploaded the application for participation).

A candidate may withdraw its application for participation at any time until the expiry of the time limit for the submission of applications for participation. To withdraw its application for participation, a candidate will proceed identically to the uploading procedure (click the "Withdraw Application for Participation" button and submit a new application for participation).

A candidate may only submit one application for participation. A candidate must not be a member of a Group of Suppliers submitting an application for participation in the same Tender Procedure. The Contracting Entity will exclude any candidate who is at the same time a member of a Group of Suppliers.

The risk of delayed delivery/entry of the application for participation will be fully borne by the candidate. Electronic access to any application for participation submitted after the expiry of the time limit for the submission of applications will be disabled.

1.1 Selection criteria of the Tender Procedure

To be able to participate in this Tender Procedure, each candidate must meet the selection criteria specified in Articles 1.1.1, 1.1.2 and 1.1.3.

1.1.1 Personal status, as referred to in Article 32 of PPA

Only an entity meeting the following selection criteria concerning personal status may participate in this public procurement:

- a) It is not subject to any bankruptcy, restructuring or liquidation proceedings, or to the suspension or dismissal of bankruptcy proceeding on the grounds of insufficiency of assets;
- b) It is authorised to deliver goods, perform construction works or provide the service;
- c) It is not subject to a prohibition on participation in public procurement confirmed by a final order in the Slovak Republic or in the state of residence, place of business or habitual residence;

The candidate will demonstrate the fulfilment of the selection criteria specified in Article 1.1.1 as follows:

- a) For the purposes of paragraph (a), by presenting a certificate of a competent court not older than three months;
- b) For the purposes of paragraph (b), by presenting a certificate of its authorisation to supply goods or perform construction works or provide services which correspond to the subject of the Contract;
- c) For the purposes of paragraph (c), by presenting a Declaration of Honour as per the specimen set out in Annex 2 to these Procurement Documents.

1.1.2 Technical and professional competence, as referred to in Article 34 of PPA

The subject of this Contract is specific and technically complex, and the minimum standards of quality for the subject of the Contract are prescribed by the applicable laws and standards referred to in the specification of the subject of the Contract. In order to ensure that the subject of the Contract is delivered with a sufficient level of quality, the Contracting Entity requires that the candidates / tenderers must demonstrate that they have experience with contracts equivalent or similar to the subject of this Contract and, accordingly, the adequate technical and personal resources for the proper delivery of the subject of the Contract. To that end, the Contracting Entity requires that a candidate must demonstrate its technical and professional competence by submitting the following references:

- a) Based on Article 34 (1) (a) of PPA, a list of contracts (references) for the last 15 years. For this selection criterion to be fulfilled, at least one reference must be submitted where the subject of the contract was the supply/replacement/modification of hydraulic assemblies of at least one radial centrifugal turbo-compressor with a nominal output of at least 10 MW, including the following information as minimum:
 - i. Customer name and subject of the reference contract;

- ii. A brief description of the subject of the reference contract, type of turbo-compressor (i.e. radial centrifugal or different), nominal coupling power, suction and delivery pressure, efficiency before and after the modification of hydraulic assemblies, type of medium conveyed;
- iii. Price of the subject of the reference contract;
- iv. Start and completion dates of the reference contract;

The Contracting Entity reserves the right to disregard references failing to include all the above information. The Contracting Entity reserves the right to check the accuracy of information in any candidate's reference with the relevant customers and where the candidate's customer does not confirm at the Contracting Entity's request the accuracy of information indicated in the reference, the Contracting Entity reserves the right to disregard the reference.

1.1.3 Quality assurance measures

The Contracting Entity requires that the candidates must demonstrate that they have implemented and maintain a quality management system, since the implementation and maintenance of a quality management system is one of fundamental prerequisites for the successful delivery of the subject of the Contract with the required quality. A candidate is, therefore, required to demonstrate that it has implemented at least the following quality assurance measures:

- The candidate has implemented and maintains a quality management system conforming to STN EN ISO 9001: "Quality management systems".

A candidate will demonstrate the fulfilment of the selection criteria as per this Article 1.1.3 by submitting a copy of a valid quality management certificate according to STN EN ISO 9001 "Quality Management Systems". If the candidate has objectively not been able to obtain the relevant certificate within the specified time limits, the Contracting Entity will accept submission by the candidate of other evidence of equivalent quality assurance measures to the extent it demonstrates that the proposed quality assurance management measures conform to STN EN ISO 9001.

A candidate may use the technical and professional capacities of another person/entity to prove its own technical and professional competence, irrespective of their legal relationship. In such case, the candidate must demonstrate that it will actually use in performing the Contract the capacities of such other person whose competence is being used to demonstrate the candidate's technical and professional competence. The candidate will demonstrate this by submitting a written agreement made with the person whose competence is being used to demonstrate the candidate's technical and professional competence. Such written agreement must clearly indicate the commitment of such person to provide its capacities throughout the duration of the contractual relationship. The person whose capacities are being used to demonstrate technical and professional competence must not meet the grounds for exclusion specified in Article 40 (6) sub-paragraphs (a) to (h) and Article 40 (7).

1.2 European Single Procurement Document

Based on Article 39 of PPA, the European Single Procurement Document ("ESPD") may be used by a candidate to provisionally substitute documents demonstrating the fulfilment of the selection criteria specified by the Contracting Entity.

Documents demonstrating the fulfilment of criteria must be submitted along with the candidate's application for participation in this Tender Procedure. A candidate may enclose with its application for participation either all documents demonstrating the fulfilment of selection criteria, or merely a duly completed ESPD. Where the candidate submits with its application for participation only ESPD, the Contracting Entity will be entitled to request such candidate at any time during the Tender Procedure to submit the relevant documents demonstrating the fulfilment of selection criteria. The Contracting Entity will request the submission of documents demonstrating the fulfilment of selection criteria from the winning tenderer or the tenderers taking the first three places in the final ranking of tenders before the conclusion of the Contract Agreement, unless such tenderers have already submitted the documents or have already been requested by the Contracting Entity to submit the documents.

1.3 Evaluation of fulfilment of selection criteria

- 1.3.1 Each tenderer must provide documents demonstrating the fulfilment of selection criteria in the manner specified in paragraph 1.1 of this Article. The Contracting Entity will evaluate the fulfilment of selection criteria by the individual candidates through a committee set up for this purpose ("Committee").
- 1.3.2 In assessing whether the conditions of participation are met, the Committee is entitled to ask a candidate to clarify or supplement the submitted documents.
- 1.3.3 If the candidate fails to demonstrate the fulfilment of the selection criteria in the manner and to the extent specified in paragraph 1.1 of this Article, the candidate will be excluded from the Tender Procedure.
- 1.3.4 In assessing whether or not the conditions of participation are met, the Contracting Entity will proceed in accordance with Article 40 of PPA.
- 1.3.5 A candidate that has submitted an application for participation for the Tender Procedure and fulfilled the conditions of participation specified in Article 16 paragraph 1.1 hereof and has not been excluded from the Tender Procedure will be invited by the Contracting Entity to submit an initial tender.

2. Initial tenders

2.1 Submission of initial tenders

- 2.1.1 An initial tender may be submitted for this Tender Procedure only by a tenderer that has been invited to do so by the Contracting Entity. The Contracting Entity will send the invitation to tender to all tenderers that have fulfilled the conditions of participation and have not been excluded from the Tender Procedure; the call for initial tenders will be sent via the JOSEPHINE system located at <https://josephine.proebiz.com/>.
- 2.1.2 A tenderer must submit the initial tender in an electronic form within the time limit for the submission of initial tenders. The initial tender is to be prepared electronically in accordance with Article 49 (1) (a) of PPA and entered in the JOSEPHINE system located at <https://josephine.proebiz.com/>. All electronic documents submitted within the tender must comply with the requirements as per Article V, paragraph 6 of these Procurement documents.
- 2.1.3 The time limit for the submission of initial tenders will be indicated in the call for initial tenders.
- 2.1.4 The electronic initial tender is to be entered by completing the tender form and attaching to it the required documents and posting the tender dossier to the JOSEPHINE system, which is available at <https://josephine.proebiz.com/>.
- 2.1.5 The initial tender submitted via the JOSEPHINE system must be accompanied by the following documents at least:
 - a) Initial tender cover letter with the following scope of information:
 - Registered name and registered office of the tenderer;
 - Name, surname and title, and telephone and e-mail of the contact person.
 - b) The tenderer's Declaration stating that the tenderer accepts the Contract Agreement and has no comments to the CCTC. A tenderer submitting its comments and suggestions is required to make the submission by incorporating the comments and suggestions directly into the CCTC document, both in the editable MS Word (DOC/DOCX) format and the PDF format, in the form of colour-highlighted tracked changes (text revision).
 - c) Properly filled-in Annex No. 3 of the Contract Agreement: Specification of CONTRACT PRICE;
 - d) Attachment No. 10 of the Specification: Guaranteed parameters, with added guaranteed parameters thereto within all required operation points of the compressor;
 - e) Properly filled-in Attachment No. 14.1 of the Specification: List of software, with added list of the supplied software and hardware products pursuant to Attachment No. 14.2 of the Specification;
 - f) Any other documents up to tenderer's discretion, needed for presenting and clarifying the offered technical solution and for demonstration of its compliance with the requirements specified in these Procurement Documents (particularly, but not exclusively, in the Specification);
 - g) Completed Proposal for Fulfilment of Criteria form in the PDF format as well as in the editable format

XLSX (MS Excel). The Proposal for Fulfilment of Criteria form is set out in Annex 4 to these Procurement Documents.

- h) If a tenderer did not elaborate itself its tender it shall specify within the tender the person whose services or background documents has used in elaborating the tender. The tenderer shall specify the information as per the preceding sentence to the following extent: name and surname, business name, address of his/her residence, registered office or place of business and identification number/code (ID), if such ID has been granted.
- 2.1.6 Where the initial tender contains confidential information, the tenderer must visibly identify such information in the tender in the manner specified in Article V paragraph 5 of these Procurement Documents so that the confidential information is clearly identifiable.
- 2.1.7 When the initial tender has been successfully uploaded to the JOSEPHINE system, an informational notification e-mail will be sent to the tenderer (namely to the e-mail address of the tenderer's user who have uploaded the initial tender).
- 2.1.8 A tenderer may withdraw its initial tender at any time until the expiry of the time limit for the submission of initial tenders. To withdraw its initial tender, the tenderer will proceed identically to the uploading procedure (click the "Withdraw Initial Tender" button and submit a new initial tender).
- 2.1.9 A tenderer may only submit one tender. A tenderer must not be a member of a Group of Suppliers submitting a tender in the same Tender Procedure. The Contracting Entity will exclude any tenderer who is at the same time a member of a Group of Suppliers.
- 2.1.10 The risk of delayed delivery of the tender will be fully borne by the tenderer. A tender submitted after the time limit for the submission of tenders will be returned to the tenderer unopened.
- 2.1.11 The Contracting Entity reserves the right to exclude from the Tender Procedure any tenderer whose initial tender does not meet the above mentioned requirements.

2.2 Opening of initial tenders

Opening of the initial tenders will be performed in accordance with Article 52 of PPA as follows:

- 2.2.1 The opening of tenders will be carried out by electronic means.
- 2.2.2 Opening of the initial tenders will be done by a committee established by the Contracting Entity in accordance with Article 51 of the PPA for evaluating tenders in this Tender Procedure ("Committee").
- 2.2.3 The opening of the initial tender will not be public and tenderers are not allowed to attend it. At opening the initial tenders the Contracting Entity shall not announce any information on initial tenders and shall not send the tenderers any minutes of opening the initial tenders pursuant to Article 52, paragraph 3 of the PPA.

2.3 Evaluation of initial tenders

Detailed information on the evaluation of initial tenders can be found in Article III paragraph 1 of these Procurement Documents.

2.4 Negotiations on initial tenders

- 2.4.1 The Contracting Entity will negotiate the submitted initial tenders and the terms of the Contract, including without limitation the technical, administrative and financial conditions, with the tenderers. The Contracting Entity is obligated to ensure the equal treatment of all tenderers during the negotiations. The Contracting Entity will not provide information in any manner favouring some tenderers. The Contracting Entity will not disclose any confidential information obtained during the negotiations without the consent of the tenderer.
- 2.4.2 The Contracting Entity will negotiate the submitted tenders with the tenderers. The negotiations will take place with each tenderer separately at the registered seat of the Contracting Entity.
- 2.4.3 The term and place of the negotiations will be specified in the invitation to negotiation, which will be delivered by the Contracting Entity to the tenderers by electronic means.

- 2.4.4 The Contracting Entity reserves the right to conduct the negotiations in several successive stages in order to reduce the number of initial tenders to be negotiated, based on the award criteria laid down in Article 95 (6) of PPA.
- 2.4.5 The Contracting Entity will notify tenderers in writing of the termination of the negotiations and invite them to submit their final tenders.

3. Final tenders

3.1 Submission of final tenders

- 3.1.1 The final tender in this Tender Procedure may only be submitted by a tenderer that has been invited to do so by the Contracting Entity. The Contracting Entity will send the call for final tenders via the JOSEPHINE system located at <https://josephine.proebiz.com/>.
- 3.1.2 A tenderer must submit the final tender in an electronic form within the time limit for the submission of final tenders. The final tender is to be prepared electronically in accordance with Article 49 (1) (a) of PPA and entered in the JOSEPHINE system located at <https://josephine.proebiz.com/>. All electronic documents submitted within the tender must comply with the requirements as per Article V, paragraph 6 of these Procurement documents.
- 3.1.3 The electronic final tender is to be entered by completing the tender form and attaching to it the required documents and posting the dossier to the JOSEPHINE system, which is available at <https://josephine.proebiz.com/>.
- 3.1.4 The final tender submitted via the JOSEPHINE system must be accompanied by the following documents at least:
- a) Final tender cover letter with the following scope of information:
 - Registered name and registered office of the tenderer;
 - Name, surname and title, and telephone and e-mail of a contact person
 - b) The tenderer's Declaration of Honour stating that if the tenderer is successful in the Tender Procedure, the tenderer will sign a Contract Agreement with the Contracting Entity with the text set out in the annex enclosed with the call for final tenders (i.e. the Contract for Work resulting from the negotiations with the tenderers). The Declaration of Honour must be signed by the tenderer and its statutory body or authorised person empowered to act on the tenderer's behalf in contractual matters (the specimen declaration will be set out in an annex to the call for final tenders).
 - c) Properly filled-in Annex No. 3 of the Contract Agreement: Specification of CONTRACT PRICE
 - d) Attachment No. 10 of the Specification: Guaranteed parameters, with added guaranteed parameters thereto within all required operation points of the compressor;
 - e) Properly filled-in Attachment No. 14.1 of the Specification: List of software, with added list of the supplied software and hardware products pursuant to Attachment No. 14.2 of the Specification;
 - f) Any other documents up to tenderer's discretion, needed for presenting and clarifying the offered technical solution and for demonstration of its compliance with the requirements specified in these Procurement Documents (particularly, but not exclusively, in the Specification);
 - g) Completed Proposal for Fulfilment of Criteria form in the PDF format as well as in the editable format XLSX (MS Excel).. The Proposal for Fulfilment of Criteria form is set out in Annex 4 to these Procurement Documents.
 - h) If a tenderer did not elaborate itself its tender it shall specify within the tender the person whose services or background documents has used in elaborating the tender. The tenderer shall specify the information as per the preceding sentence to the following extent: name and surname, business name, address of his/her residence, registered office or place of business and identification number/code (ID), if such ID has been granted.

- 3.1.5 Where the final tender contains confidential information, the tenderer must visibly identify such information in the tender in the manner specified in Article V paragraph 5 of these Procurement Documents so that the confidential information is clearly identifiable.
- 3.1.6 When the final tender has been successfully uploaded to the JOSEPHINE system, an informational notification e-mail will be sent to the tenderer (namely to the e-mail address of the tenderer's user who have uploaded the final tender).
- 3.1.7 A tenderer may withdraw its final tender at any time until the expiry of the time limit for the submission of final tenders. To withdraw its final tender, the tenderer will proceed identically to the uploading procedure (click the "Withdraw Final Tender" button and submit a new final tender).
- 3.1.8 A tenderer may only submit one tender. A tenderer must not be a member of a Group of Suppliers submitting a tender in the same Tender Procedure. The Contracting Entity will exclude any tenderer who is at the same time a member of a Group of Suppliers.
- 3.1.9 The risk of delayed delivery of the tender will be fully borne by the tenderer. A tender submitted after the time limit for the submission of tenders will be returned to the tenderer unopened.
- 3.1.10 The Contracting Entity reserves the right to exclude from the Tender any tenderer whose final tender does not meet the above mentioned requirements.

3.2 Date and place of submission of final tenders

The time limit for the submission of final tenders will be indicated in the call for final tenders.

3.3 Opening of final tenders

The opening of tenders will be performed in accordance with Article 52 of PPA as follows:

- 3.3.1 The opening of tenders will be carried out by electronic means.
- 3.3.2 The place and date and time of the opening of final tenders will be indicated in the call for final tenders.
- 3.3.3 The opening of tenders will be performed by a committee established by the Contracting Entity under Article 51 of PPA for the evaluation of tenders in this Tender Procedure ("Committee").
- 3.3.4 As the final ranking of tenders in the Tender Procedure shall not be identified in an automated manner upon and electronic auction, the Contracting Entity is obliged, upon Article 52 paragraph 2 of the PPA, to enable all tenderers, who have submitted their final tenders within the deadline for final tender submission, their participation in the opening of the final tenders. The Committee will verify the integrity of the offer and will announce business names, registered offices or places of business conduction of all tenderers and their proposals for meeting the Contract awarding criteria stipulated by the Contracting Entity for evaluation of tenders, which can be expressed by a number. Other information presented in tenders shall not be announced.
- 3.3.5 Within 5 working days of the date of opening the final tenders the Contracting Entity shall, upon Article 52 paragraph 3 of the PPA, send a minutes of final tender opening possessing the information announced at final tender opening pursuant to paragraph 3.3.4 hereof to all tenderers who have submitted their tenders within the deadline for tender submission.

3.4 Evaluation of final tenders

Detailed information on the evaluation of final tenders can be found in Article III paragraph 1 of these Procurement Documents.

III. General information relating to initial and final tenders

1. Rules for the evaluation of tenders

- 1.1. The Committee will evaluate the tenders in compliance with the provision of Article 53 of PPA.

- 1.2. The Committee will evaluate the tenders with regard to how they meet the Contracting Entity's requirements for the subject of the Contract or concession and in case of doubts, it will verify the accuracy of the information and evidence provided by the tenderers. If the Committee identifies any discrepancies or ambiguities in the information or evidence provided by a tenderer, the Committee will send a written request for the explanation of the tender and, where appropriate, for the submission of evidence. Any explanation of a tender must not result in any change in the tender. Correction of obvious writing or counting mistakes will not constitute a change in the tender.
- 1.3. If an exceptionally low tender is encountered, the Committee will proceed in accordance with Article 53 of PPA. If a tender for a specific contract appears to be exceptionally low in relation to the goods, construction works or service concerned, the Committee will request the tenderer in writing to explain the parts of the tender relevant to the quoted price.
- 1.4. The Contracting Entity will exclude a tender if
 - a) The tenderer has not deposited the security required under the specified conditions, if any;
 - b) The tender does not meet the requirements for the subject of the Contract specified in the documents necessary for the preparation of the tender;
 - c) The tenderer has not delivered explanations of the tender requested under paragraph 1.2 of this Article within:
 - i. Two business days from the date of sending the request for explanation, unless the Committee has determined a longer time limit, if the communication is carried out by electronic means;
 - ii. Five business days from the date of sending the request for explanation, unless the Committee has determined a longer time limit, if the communication is carried out in a way other than referred to in the first paragraph;
 - d) The explanation of the tender submitted by the tenderer as to its contents is not in compliance with the requirement in paragraph 1.2 of this Article;
 - e) The tenderer has not delivered a written substantiation of the exceptionally low tender within five business days as of the receipt of the request, unless the committee determined a longer period;
 - f) The explanation of the exceptionally low tender and the evidence submitted by the tenderer do not sufficiently justify the low level of prices or costs, particularly with regard to the matters referred to in Article 53 (2) of PPA;
 - g) The tenderer has provided false or distorted information which has a substantial impact on the evaluation of tenders;
 - h) The tenderer has attempted to improperly influence the public procurement process.
- 1.5. If the tenderer substantiates its exceptionally low tender by obtaining a state aid, it must be able to prove within a reasonable period determined by the Committee that the state aid was provided to it in compliance with the internal market rules of the European Union; failing that, the Contracting Entity will exclude the tender.
- 1.6. When evaluating the tenders that were not excluded, the Committee will proceed using the criteria specified in the Contract Notice and the process specified in these Procurement Documents.

2. Award criteria and rules for their application

- 2.1. The tenders will be evaluated in accordance with Article 44 (3) (b) of PPA on the cost basis using the cost efficiency approach, particularly in respect of life-cycle costs, i.e. the net present value of total costs of ownership ("NPV").
- 2.2. Each tender will be evaluated against the following criterion:

Net present value of total costs of ownership (NPV)	100%
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- 2.3. The subject of evaluation will be the net present value of total costs of ownership of the two ES Turbo-compressor Units with the new hydraulic parts over their total expected lifetime, i.e. 20 years.
- 2.4. The total costs of ownership of the turbo-compressor units include the following Contracting Entity's costs:

- a) Capital expenditure amounting to the price of the subject of the Contract offered by a tenderer in this Tender Procedure;
- b) Operating costs on electricity consumed by the ES Turbo-compressor drives, which will be calculated on the basis of the guaranteed isentropic efficiency and hydraulic flow rates of compressor hydraulic assemblies for the three guaranteed operation points of the ES Turbo-compressor as per the Technical Specification, as indicated by the tenderer. The total annual electricity consumption will be calculated on the basis of 4,380 operating hours per year in total for the two ES Turbo-compressor Units. The total number of operating hours will be divided among the three guaranteed points on an equal basis (i.e. into thirds).

2.5. Net present value (NPV) will be determined using the following formula:

$$NPV = CAPEX + 489052 \frac{Q_1}{\eta_1} + 436256 \frac{Q_2}{\eta_2} + 379179 \frac{Q_3}{\eta_3}$$

where:

NPV – net present value of the total costs of ownership [EUR];

CAPEX – cost of the replacement of hydraulic assemblies of the two ES Turbo-compressor Units (referred to as “CONTRACT PRICE” as per Article XV of the Contract Agreement) [EUR];

Q_1, Q_2, Q_3 – flow rates in the guaranteed points 1, 2, 3 [million std. m³/d];

η_1, η_2, η_3 – isentropic efficiency in the guaranteed points 1, 2, 3 [-];

The constants 489052, 436256 and 379179 are the integral co-efficient values by which the guarantee flow rates and efficiencies are to be multiplied to obtain the discounted costs of driving the ES Turbo-compressor Units in the 20th year of operation according to the general formula below:

$$NPV = CAPEX + \sum_{i=1}^{20} \frac{N_1 + N_2 + N_3}{(1 + d)^i}$$

d – discount factor;

i – current year;

N_1, N_2, N_3 - costs of driving in the guaranteed points 1, 2, 3 [EUR];

The costs, N are a function of $N = f(Q, \eta, H, C_E, h, \eta_{ELM})$, where

Q – flow rate in a given guaranteed point;

η – isentropic efficiency in a given guaranteed point;

H – isentropic work in a given guaranteed point;

C_E – price of electricity for driving the ES Turbo-compressor Units;

h – number of operating hours in a given guaranteed point;

η_{ELM} – electric motor efficiency in a given guaranteed point.

- 2.6. The final ranking of tenders will be based on the evaluation of the tenders using the net present value of total costs of ownership (NPV) criterion. The tender most acceptable to the Contracting Entity will be the one offering the lowest NPV, which will be ranked as the first. The other tenders will be ranked in an ascending order based on their achieved NPV. The tender with the highest NPV will be assigned the highest ordinal number.
- 2.7. The successful tenderer will be determined on the basis of the final ranking of the tenders. The successful tender will be the one ranked in the first place in the final ranking.

IV. Communication of the result and conclusion of the Contract

1. Communication of the result of the tender evaluation

- 1.1 The Contracting Entity will communicate the result of the tender evaluation in accordance with Article 55 of PPA.

2. Agreement conclusion

- 2.1 The Contracting Entity must not enter into a contract, framework agreement or concession contract with a tenderer or tenderers not entered in the Public Sector Partners Register while being subject to registration with the Public Sector Partners Register under Act No 315/2016, as amended, or those whose subcontractors or subcontractors are not entered in the Public Sector Partners Register while being subject to registration with the Public Sector Partners Register under a special law.
- 2.2 The Contracting Entity may enter into a contract, framework agreement or concession contract with the successful tenderer or tenderers no earlier than on the sixteenth day of the date of when the information on the result of tender evaluation was sent in accordance with Article 55 of PPA and the Office for Public Procurement's review of the Contracting Entity's conduct in this Tender Procedure under Article 169 of PPA completed, unless any request for remedy has been delivered, or if a request for remedy was delivered after the expiry of the time limit referred to in Article 164 (3) of PPA, and unless no objections under Article 170 of PPA have been delivered.
- 2.3 When concluding the Contract Agreement, the Contracting Entity will proceed in accordance with Article 56 of PPA.

V. Other conditions of the Tender Procedure

1. Period during which tenderers are bound by their tenders

The period during which tenderers are bound by their tenders ("tender validity period") will expire on **31/08/2020**. During the tender validity period, tenderers will be bound by their tenders and will not be allowed to withdraw them. The Contracting Entity may reasonably extend the tender validity period in justified cases (e.g. if review procedures are applied or if a tenderer files objections against the Contracting Entity's conduct, etc.).

2. Variants

Submission of variants is not allowed. If a variant is proposed in a tender, such variant will be disregarded in the evaluation of tenders.

If variants are proposed in a tender and it is not clear which of the submitted variants is the main solution, the variant listed in the first place in the list of submitted documents indicated in the cover letter will be included in the evaluation of tenders. If no variant is listed in the cover letter, the variant listed as the first in order in the tenderer's proposal for the fulfilment of the award criteria will be included in the evaluation of tenders.

3. Conditions for cancelling the Tender Procedure

The Contracting Entity may cancel this Tender Procedure if the circumstances referred to in Article 57 (1) or (2) of PPA arise.

4. Security

The Contracting Entity does not request any security or bank guarantee.

5. Confidentiality of information

A tenderer may identify certain parts of the documents and documentation submitted as confidential within the meaning of Article 22 of PPA. If the tenderer considers certain data, documents and documentation to be confidential or subject to its trade secret ("confidential information"), such data, documents and documentation must be clearly marked with the words "CONFIDENTIAL INFORMATION" in the header of every page of each

document. This is without prejudice to the provisions of PPA regarding the Contracting Entity's obligations to disclose certain documents, documentation or data within the meaning of PPA. If the requirements specified herein are not complied with, the Contracting Entity will bear no liability for any disclosure of the confidential parts of tenders.

6. Requirements applicable to the submission of electronic documents

- 6.1. The requirements laid down in this paragraph 6 are applicable generally to all documents that a tenderer will submit into the Tender Procedure regardless to whether within the application for participation, within the initial tender, final tender or within any clarification or supplementation of submitted documents or a tender.
- 6.2. Encoding or encryption of electronic documents is not required. If not specified otherwise elsewhere in these Procurement Documents, electronic documents (including documents possessing confidential information of a candidate or tenderer pursuant to paragraph 5 of this Article) are to be submitted in the format PDF secured against any their modification so that they can be opened without any restriction after expiration of appropriate deadline for submission of such documents (i.e. respective period for submission of applications for participation, period for submission of tenders or period for submission of a clarification or supplementation of documents or tender) by the programme Adobe Reader.
- 6.3. In the cases, if required so in these Procurement Documents including their annexes, or if required so by the Contracting Entity at any time in course of this Tender Procedure, electronic document are to be submitted also in other formats that are specified within appropriate provisions of these Procurement Documents or in appropriate request of the Contracting Entity.
- 6.4. Documents proving compliance with selection criteria, issued in the form of deed (i.e. paper form), must be submitted into this Tender Procedure in the form of electronic documents of PDF format produced either by means of the qualified conversion of the original paper documents in accordance with the Ordinance of the Office of the Deputy Prime Minister of the Slovak Republic for Investment and Informatisation No 331/2018 on qualified conversion, or such different method provided for in laws in effect in the candidate's / tenderer's country of residence, which is able to guarantee the authenticity of the document(s) converted (hereinafter "qualified conversion").
- 6.5. Documents proving compliance with selection criteria, issued in an electronic form must be submitted in the PDF format and signed by a qualified electronic signature of their issuer pursuant to applicable legal regulations.
- 6.6. The cover letter of a tender, declarations of honour and tenderer's proposal for fulfilment of criteria have to be signed by the tenderer or a person authorized to act on behalf of the tenderer. If these documents are issued in form of a deed (i.e. paper form) they have to be submitted in the form of electronic documents produced by the qualified conversion of the paper form. If these documents are issued in an electronic form it is required that they are signed by a qualified electronic signature of the tenderer pursuant to applicable legal regulations.
- 6.7. The qualified electronic signature of a candidate or tenderer, by which electronic documents submitted within this Tender Procedure are signed, must be in accordance with applicable legal regulations (e.g. Regulation of the Commission (EU) No. 2015/1506, otherwise in accordance with legal regulations applicable in the country of registered office or place of business of the candidate or tenderer). The Contracting Entity requires that the qualified electronic signatures used by candidates or tenderers for signing the electronic documents submitted within this Tender Procedure, are preferably of ASICS-S format.
- 6.8. If a candidate or tenderer has its registered office or place of business or place of his/her residence out of the Slovak Republic, it is required that such candidate or tenderer specifies in its tender also a web address (link) of free available software application by means of which the used qualified electronic signature can be verified free of charge.

- 6.9. The Contracting Entity reserves the right not to consider any document submitted into the Tender Procedure in contrary to the requirements specified in this paragraph 6 hereof.
- 6.10. Pursuant to the provision of Article 49, paragraph 4 of the PPA, the Contracting Entity shall disqualify a tenderer who
- a) has not complied with the stipulated manner of communication,
 - b) content of its tender cannot be made available or
 - c) has not submitted its tender in the required format of encoding, if needed for further treatment in tender evaluation.

VI. Additional information

1. Tenderers' costs of participation in the Tender Procedure

The Participation of tenderers in this Tender Procedure is voluntary and at their own business risk. All tenderers' costs related to their participation in this Tender Procedure and the preparation and submission of their tenders and the related communication between the Contracting Entity and the tenderer will be fully borne by tenderers. The Contracting Entity will not bear any liability and will not provide any compensation for any costs or damages incurred by a tenderer in connection with its participation in this Tender Procedure, whether or not the tenderer is successful in this Tender Procedure and whether or not this Tender Procedure is cancelled for any reason.

2. Applicable law and other legal information

This Tender Procedure will be governed by the applicable laws of the Slovak Republic. If it turns out that the tenderer whose tender is successful in the Tender Procedure and with which the Contract Agreement is to be signed submitted in its tender invalid certificates or documents or inaccurate information and thereby misled the Contracting Entity and gained an undue advantage over the other tenderers in the Tender Procedure, the tender of such tenderer will be excluded from the Tender Procedure. If such conduct of the tenderer is established only after the conclusion of the Contract Agreement, the Contracting Entity reserves the right to take necessary steps pursuant to applicable legal regulations in order to achieve a fair remedy, including the right to withdraw from the Contract Agreement or to file with a competent public administration authority or court a petition for the determination of invalidity of such concluded Contract Agreement. The tenderer acting in such way will then incur full liability for any damage caused by its conduct.

List of Annexes of the Procurement Documents

- Annex 1: Commercial and Contractual Terms and Conditions ("CCTC")
- Annex 2: Tenderer's Declaration of Honour for the purposes of paragraph 1.2.1 of the Procurement Documents;
- Annex 3: Tenderer's Declaration of Honour for the purposes of Article 2 of the Procurement Documents;
- Annex 4: Proposal for Fulfilment of Criteria;
- Annex 5: Technical Deviation Table;
- Annex 6: Non-disclosure Agreement ("NDA")