

# TENDER DOCUMENTATION

issued pursuant to Section 28 paragraph (1) letter b) of Act No. 134/2016 Coll., on Public Procurement, as amended (hereinafter the "Act"),

for preparation of bids for above-threshold public contract for supplies

contracted within the *negotiated procedure with prior publication* pursuant to Section 60 et seq. of the Act

NAME OF THE PUBLIC CONTRACT:

## Helium Liquefier System - REISSUE



**FZU**

Institute of Physics  
of the Czech  
Academy of Sciences



FACULTY  
OF MATHEMATICS  
AND PHYSICS  
Charles University



ÚOCHB <sup>AV</sup>/<sub>ČR</sub>  
IOCB PRAGUE

## TENDER DOCUMENTATION

This Tender Documentation (hereinafter the "TD") forms a basis for bidders (hereinafter the "Bidder" or "Bidders") to prepare their bids in a procurement procedure (hereinafter the "Procurement Procedure") seeking public contract (hereinafter the "Public Contract") pursuant to the Act. The rights, obligations and terms and conditions stipulated herein are governed by the Act.

**Public Contract name:** **Helium Liquefier System - REISSUE**

**Association of Contracting Authorities** (in alphabetical order):

### **Contracting Authority 1**

<b>Name:</b>	Fyzikální ústav AV ČR, v. v. i. (Institute of Physics of the Czech Academy of Sciences)
<b>Registered offices:</b>	Na Slovance 1999/2, 182 00 Praha 8, Czech Republic
<b>Identification No.:</b>	68378271
<b>Tax Identification No.:</b>	CZ68378271
<b>Person authorized to represent the Contracting Authority:</b>	RNDr. Michael Prouza, Ph.D., Director

and

### **Contracting Authority 2**

<b>Name:</b>	UNIVERZITA KARLOVA, Matematicko-fyzikální fakulta (Charles University, Faculty of Mathematics and Physics)
<b>Registered offices:</b>	UNIVERZITA KARLOVA Ovocný trh 560/5, 116 36 Praha 1, Czech Republic
	Unit "Matematicko-fyzikální fakulta" Ke Karlovu 2027/3, 121 16 Praha 2, Czech Republic
<b>Identification No.:</b>	00216208
<b>Tax Identification No.:</b>	CZ00216208
<b>Person authorized to represent the Contracting Authority:</b>	doc. RNDr. Mirko Rokyta, CSc., Dean of Faculty of Mathematics and Physics

and

### **Contracting Authority 3**

<b>Name:</b>	Ústav organické chemie a biochemie AV ČR, v. v. i. (Institute of Organic Chemistry and Biochemistry of the Czech Academy of Sciences)
<b>Registered offices:</b>	Flemingovo nám. 542/2, 160 00 Praha 6, Czech Republic
<b>Identification No.:</b>	61388963
<b>Tax Identification No.:</b>	CZ61388963
<b>Person authorized to represent the Contracting Authority:</b>	prof. RNDr. Jan Konvalinka, CSc., Director

(Hereinafter together referred to as the "Contracting Authority" for the purposes of this TD)

The following member is acting for the Association within the scope of this Procurement Procedure on the basis of a joint procurement contract:

**Contracting Authority 1:** **Fyzikální ústav AV ČR, v. v. i.** (Institute of Physics of the Czech Academy of Sciences)

**Contact person:** Mgr. Václav Kafka  
Telephone: +420 266 052 751; +420 727 875 254  
E-mail: [kafkav@fzu.cz](mailto:kafkav@fzu.cz)

**Substitute of the Contact person:** Vladimír Levandovský  
Telephone: +420 266 052 591  
E-mail: [levandovsky@fzu.cz](mailto:levandovsky@fzu.cz)

#### **Provision of explanation of TD:**

Request for explanation of this TD can be submitted electronically – in particular via the electronic tool **eGORDION v. 3.3 - Tender arena** (<https://tenderarena.cz>). Public Contract details can be found at: <https://tenderarena.cz/dodavatel/seznam-profilu-zadavatele/detail/Z0001082>.

The Contracting Authority will not respond to inquiries submitted in any other way than in electronic form in accordance with Section 211 (3) of the Act. Furthermore, the Contracting Authority will not provide explanations for telephone inquiries.

The Contracting Authority shall publish the answers to all requests for explanation of this TD on the Contracting Authority Profile at <https://www.e-zakazky.cz/profil-zadavatele/74e987e1-b4a1-4571-b8b6-2cd93fe6f932>.

#### **Justification for the negotiated procedure with prior publication:**

The Contracting Authority is awarding the Public Contract by negotiated procedure with prior publication for the reason set out in Section 60 (2) of the Act. A previous open procedure was cancelled pursuant to Section 127 (1) of the Act. At this point in time, the Contracting Authority is objectively unable to define the precise terms and conditions for the performance of the Public Contract in such a way as to be able to draw up a Purchase Contract, the wording of which is guaranteed to be acceptable by a supplier. It is therefore awarding the Public Contract by negotiated procedure with prior publication, the aim of which is to find a solution that would ensure consensus between the Contracting Authority's and Bidders' ideas on the actual form of the Purchase Contract. The text of the Purchase Contract will be the subject of negotiations on indicative bids and will be finalised on the basis of the results of these negotiations.

#### **Rules and estimated timetable for the negotiated procedure with prior publication**

The negotiated procedure with prior publication will be conducted in two phases - a qualification phase and a tendering phase. During the tendering phase, the Contracting Authority may negotiate with Bidders.

In the qualification phase, Bidders shall submit requests to participate and demonstrate that they meet the qualifications set out in Article 3 of this TD.

The deadline for submitting a request to participate is indicated in paragraph 2.9.1 hereof.

After the deadline for the submission of requests to participate, the Contracting Authority will assess the fulfilment of the qualifications in the Procurement Procedure by those Bidders who have duly submitted a request to participate. The Contracting Authority will exclude those Bidders who fail to demonstrate the qualifications set out in Article 3 of this TD.

The Contracting Authority shall, after having assessed the qualifications, send an invitation to submit

indicative bids to all Bidders who have duly demonstrated that they meet the qualifications. Only those Bidders who have been invited by the Contracting Authority to submit an indicative bid may do so in this second (tendering) phase. The Contracting Authority will not reduce the number of Bidders invited to submit an indicative bid.

Estimated date of dispatch of the invitation to submit indicative bids: half of May 2024  
Estimated end of the deadline for submission of indicative bids: end of May 2024

The Contracting Authority reserves the right not to act on the indicative bids and to award the Public Contract on the basis of the indicative bid in accordance with the provisions of Section 61 (8) of the Act. The Contracting Authority will proceed in this way only if the contents of the indicative bids show that, despite the current assumption of the Contracting Authority, it is not necessary to proceed further as the Contracting Authority's ideas and needs are fully met.

In the event that the Contracting Authority does not exercise its right to award the Public Contract on the basis of the indicative bids, it will send an invitation to the Bidders who have submitted indicative bids to negotiate the indicative bids. On the basis of the indicative bids received, the Contracting Authority will discuss them with the Bidders.

The Contracting Authority envisages that the negotiations will take place in one or more rounds. The Contracting Authority reserves the right to meet the Bidders separately or jointly, in person at its registered office in Prague or remotely. The Contracting Authority will describe the subject matter, method and detailed rules of each meeting, including the manner of its conclusion, in the invitation to the meeting.

The negotiations with the Bidders are expected to be concluded by June 2024.

At the end of the meetings, the Contracting Authority will invite the Bidders to submit final bids reflecting the changes and modifications agreed at the meetings.

Estimated date of dispatch of invitations to submit final bids: June 2024  
Estimated end of the deadline for submission of final bids: June 2024

After the deadline for submission of final bids, the final bids will be assessed and evaluated and, on the basis of this assessment and evaluation, a Bidder will be selected and awarded the Public Contract.

Estimated end of the Procurement Procedure (conclusion of the Contract): June 2024

## **1 DEFINITION OF THE SUBJECT-MATTER OF THE PUBLIC CONTRACT**

### **1.1 Classification of the subject matter of the Public Contract**

Classification (CPV) of this Public Contract corresponds to item:

- CPV code: 42511200-3 – Machinery for liquefying air or other gases

### **1.2 Description of the subject matter of the Public Contract**

The subject matter of this Public Contract is supply (acquisition) of equipment for helium liquefaction, i.e. an open cycle process system where warm helium gas enters the system and is refrigerated to produce a liquid helium product stream (hereinafter the "Equipment"). More detailed specification of the subject matter is provided in Article 4 below.

### **1.3 Term**

Anticipated commencement: immediately after Contract conclusion

Anticipated completion: handover of Equipment for transportation no later than 16 months after Contract conclusion

#### **1.4 Place of installation of the Equipment**

The 'Cryopavilon' building at the premises of the Department of Low-Temperature Physics of the Charles University Faculty of Mathematics and Physics at V Holešovičkách 747/2, Praha 8, Czech Republic.

#### **1.5 Estimated value**

Estimated value of the Public Contract is **1,295,000.00 USD excl. VAT**.

Considering the available funds of the Contracting Authority, the maximum permissible level for the bid price is 1,445,000.00 USD excl. VAT. The Contracting Authority stipulates as a condition of the Public Contract that the bid price may not exceed this limit.

## **2 REQUIREMENTS REGARDING THE DRAWING UP OF A REQUEST TO PARTICIPATE / INDICATIVE BID / FINAL BID**

- 2.1** Requests for participation / indicative bids / final bids shall be submitted in electronic form only, in accordance with the provisions of Section 211 (3) of the Act, using the electronic tool Tender arena. Bids in paper form are not permitted. Other form of delivery is not considered proper submission.
- 2.2** The Tender arena electronic tool used for the submission of a request for participation / indicative bid / final bid in electronic form is available at <https://tenderarena.cz>. Bidders may find at this link also a guide for using the Tender arena electronic tool (via link "Help" in footer) and helpdesk contact details.
- 2.3** To be able to submit a request for participation / indicative bid / final bid, the Bidder must be registered as a contractor in the **Central Contractor Database** through the **FEN.cz** system. The link to register is <https://cdd.fen.cz/#/>. Registration takes up to 48 hours (on working days) after all required documents have been submitted (either by post or electronically). Registration in the FEN.cz system is not charged. Detailed information on the registration to the Central Contractor Database through FEN.cz system is available at <https://cdd.fen.cz/#/faq>.
- 2.4** The Bidder must have a personal computer with a minimum of the following performance: CPU 1 GHz, 1024 MB memory, 20 GB hard drive, the computer must be connected to the Internet at a minimum connection speed of 2 Mbps (DOWNLOAD) / 512 Kbps (UPLOAD). The computer must have an Internet browser installed (Mozilla Firefox 73.0 and higher, Google Chrome 80.0.3987.106 and higher, Opera 66.0.3515.72 and higher, Microsoft Edge 80.0.361.54 and higher, Internet Explorer 11.657.18362.0 and higher).
- 2.5** The Contracting Authority points out that it bears no responsibility for any technical conditions on the Bidder's side. The Contracting Authority recommends Bidders to consider especially the speed of their Internet connection when submitting requests for participation / indicative bids / final bids so that they are submitted within the time limit for submission. This means the final submission of the request for participation / indicative bid / final bid to the Tender arena electronic tool after uploading all the attachments that make up the request for participation / indicative bid / final bid.
- 2.6** The request for participation / indicative bid / final bid may be prepared in Czech or English language.

**2.7** The request for participation / indicative bid / final bid in electronic form shall not exceed 200 MB and it must be processed through acceptable file formats, i.e. Microsoft Office (DOC(X), XLS(X)), Open Office formats, PDF, JPEG, GIF, or PNG.

**2.8** The Contracting Authority does not specify the *award period* for this Procurement Procedure.

## **2.9 Requests to participate**

2.9.1 Requests to participate shall be submitted no later than on **May 20, 2024, by 11:00 am**.

2.9.2 The request to participate must include **identification data of the Bidder**, i.e. primarily: business name, registered office, legal form (if the Bidder is a legal person), or the business name or name and forenames (if the Bidder is a natural person), as well as the identification number, if assigned to the Bidder.

2.9.3 A Bidder may submit only one request to participate in the Procurement Procedure. A Bidder who has submitted a request to participate in the Procurement Procedure may not also be the person through whom another Bidder demonstrates qualification.

2.9.4 In the case several Bidders jointly participate in the Procurement Procedure, they will also identify the person who shall be authorized to represent them in contact with the Contracting Authority during the Procurement Procedure.

2.9.5 The request to participate must be submitted in the following structure:

- a) Cover sheet** setting out the basic identification data of the Bidder (please refer to Annex No. 1 hereto);
- b) documents proving fulfilment of the qualification** in the structure as set out in Article 3 of the TD; all documents proving fulfilment of the qualification may be presented in a plain copy (as scanned image) OR Bidders may substitute the submission of documents proving fulfilment of the qualification by an affirmation (for the purposes of the bid, Bidders may use Annex No. 2 and Annex No. 3 hereto) or by the European Single Procurement Document;
- c) description of the subject of performance of the Public Contract** - the Bidder shall prepare and submit a document describing the actual subject of performance of the Public Contract and demonstrating that the Contracting Authority's requirements are met;

## **2.10 Indicative bids**

2.10.1 Only a Bidder who has been invited by the Contracting Authority may submit an indicative bid.

2.10.2 The indicative bid must be submitted in the following structure:

- a) Cover sheet** setting out the basic identification data of the Bidder and the data for evaluation;
- b) statement defining the bid price** in the structure according to Article 5 hereof including a detailed itemized budget;
- c) draft contract** as specified in the invitation to submit indicative bids;
- d) affidavit** of commitment to comply with the principles of socially responsible procurement and environmentally responsible procurement signed by a person authorized to act on behalf of the Bidder (please refer to Annex No. 4 hereto);
- e) other documents** specified in the invitation to submit indicative bids.

## **2.11 Final bids**

The final bid must be submitted in the following structure:

- a) **draft Purchase Contract** prepared by the Bidder and modified on the basis of the negotiations on the indicative bid;
- b) other documents specified in the invitation to submit final bids.

### 3 QUALIFICATIONS

#### 3.1 Bidders must demonstrate the fulfilment of

- a) basic qualification according to Section 74 of the Act,
- b) professional qualification according to Section 77 of the Act and
- c) technical qualification according to Section 79 of the Act.

**For the purposes of the request to participate, it is sufficient to submit a written affirmation** (Annex No. 2 hereto), as stated below in point 3.6.1 of this TD.

#### 3.2 Time of proving the fulfilment of the qualification

The Bidder is obliged to prove the fulfilment of the qualification within the deadline for submission of requests to participate specified in point 2.9.1 of this TD.

#### 3.3 Basic qualification

##### 3.3.1 Basic qualification shall **not** be met by a Bidder who:

- a) was convicted by final judgement in the country of its registered office / residence of a crime specified in Annex No. 3 to the Act or another similar crime pursuant to the law of the country of its registered office / residence in the past five years preceding the commencement of the Procurement Procedure (expunged convictions are disregarded),
- b) has outstanding tax arrears registered in tax records in the Czech Republic or in the country of its registered office / residence,
- c) has outstanding arrears in respect of payments and penalties of public health insurance in the Czech Republic or in the country of its registered office / residence,
- d) has outstanding arrears in respect of payments and penalties of social security contributions and contribution to the national employment policy in the Czech Republic or in the country of its registered office / residence,
- e) is in liquidation, has been declared insolvent, in respect of whom the receivership has been imposed under another legal regulation or it is in a similar situation pursuant to the law of the country of its registered office / residence.

##### 3.3.2 Bidders shall prove fulfilment of the basic qualification in relation to the Czech Republic by submitting:

- a) a copy of an entry in the Criminal Records in respect of Section 74 (1) a) of the Act (from the country of its registered office / residence),
- b) confirmation from a relevant tax office in respect of Section 74 (1) b) of the Act (from the country of its registered office / residence and from Czech Republic),
- c) a written affirmation regarding excise duty in respect of Section 74 (1) b) of the Act,
- d) a written affirmation in respect of Section 74 (1) c) of the Act,
- e) a confirmation from a relevant district social security administration in respect of Section 74 (1) d) of the Act (from the country of its registered office / residence and from Czech Republic),
- f) a copy of an entry in the Commercial Register, or a written affirmation in the event that the Bidder is not incorporated in the Commercial Register, in respect of Section 74 (1) e) of the Act.

- 3.3.3 If the Bidder is a legal person, both this legal person and every member of its governing body shall meet the condition specified in paragraph 3.3.1 point a). Where a legal person is a member of the governing body of the Bidder, the condition specified in paragraph 3.3.1 point a) shall be met by
- a) this legal person,
  - b) every member of the governing body of this legal person and
  - c) the person representing this legal person in the governing body of the Bidder.
- 3.3.4 If the Bidder is a branch of a business of
- a) a foreign legal person, the condition specified in paragraph 3.3.1 point a) shall be met by this legal person as well as the head of the branch,
  - b) a Czech legal person, the condition specified in paragraph 3.3.1 point a) shall be met by the persons referred to in paragraph 3.3.3 as well as the head of the branch.

### **3.4 Professional qualification**

- 3.4.1 Bidders shall prove fulfilment of the professional qualification according to Section 77 (1) of the Act in relation to the Czech Republic by submitting a copy of an entry in the Commercial Register or other similar records provided that registration in such records is required pursuant to another legal regulation.
- 3.4.2 Bidder is not obliged to submit the document specified in paragraph 3.4.1 if legal regulations in the country of its registered office / residence do not require such professional qualification.

### **3.5 Technical qualification**

Fulfilment of the technical qualification pursuant to Section 79 (2) b) of the Act will be demonstrated by a Bidder, who submits a list with at least 3 major supplies provided over the past five years before the commencement of this Procurement Procedure, including price and date of delivery and the identification of customer of the supply (supplies). Supply and installation of a Helium Liquefier System with min. liquefaction capacity 35 liters/hour with nitrogen pre-cooling and 15 liters/hour without nitrogen pre-cooling with financial value of at least 500,000.00 USD excl. VAT shall be considered a significant supply (if the value is stated in another currency, it will be converted at the exchange rate published by the European Central Bank on the day of the commencement of the Procurement Procedure).

### **3.6 Authenticity and age of documents**

- 3.6.1 **Bidders** shall submit all requested documents (a scanned image of a plain copy of a document is sufficient) and **are entitled**, for the purposes of the Bid, **to submit an affirmation** (Bidders may use Annex No. 2 hereto) **or a European Single Procurement Document** instead of these documents, or to submit an extract from the list of qualified suppliers pursuant to Section 228 of the Act.
- 3.6.2 The documents demonstrating basic qualification under Section 74 of the Act shall demonstrate the fulfilment of the required qualification criterion not later than 3 months before the date of the commencement of this Procurement Procedure.
- 3.6.3 Where the Contracting Authority requires a document to be submitted, the Bidder shall submit

it in Czech or English language, or it shall be submitted along with its translation into one of these languages.

#### 4 TECHNICAL SPECIFICATION OF THE SUBJECT MATTER

4.1 The TD specifies the minimum technical requirements that have to be met by the Bidders in the table below. It is permitted that Bidders supply the same or higher level solution, than those described in the technical specification, but it must always comply with the minimum requirements as set forth herein.

<b>A. Helium liquefier</b>	
1	fully automated
2	CE certified
3	Liquefaction capacity with nitrogen pre-cooling min. 45 liters/hour. (Compressor power: max. 100 kW; Compressor voltage: 230/400 V, 3 phase at 50 Hz - Continental Synchronous Area standard)
4	Liquefaction capacity without nitrogen pre-cooling min. 18 liters/hour. (Compressor power: max. 100 kW; Compressor voltage: 230/400 V, 3 phase at 50 Hz - Continental Synchronous Area standard)
5	Maximum dimensions (L x W x H) [mm]: 2000 x 1400 x 2700
6	The sound (acoustic) pressure level of the cold box must not exceed 85 dB(A)
7	The internal automatic purifier must be able to clean helium containing up to 10% of air impurities
8	A set of spare parts and maintenance kits for the liquefier for the first 5000 hours of operation
9	Cryogenic transfer line connection from the cold box to the helium storage tank (Wessingthon Cryogenics CH3000 in the case the Seller uses the MFF UK's already installed components/units listed in the table in paragraph 4.4)
<b>B. Compression station</b>	
10	Liquefier's compressor: a single water-cooled compressor, CE certified, with oil removal system and acoustic blanket
11	Sound (acoustic) pressure level max. 85 dB(A)
12	Compressor power: max. 100 kW; Compressor voltage: 230/400 V, 3 phase at 50 Hz - Continental Synchronous Area standard
13	Maximum dimensions (L x W x H) [mm]: 3000 x 1350 x 2500
14	A set of spare parts and maintenance kits for the compressor for the first 5000 hours of operation
<b>C. Monitoring and control</b>	
15	The monitoring station enabling remote monitoring and control of the Equipment via the web interface, 3 laptops that will be used for the above
16	Helium gas analysis system continuously monitoring contaminants in the recovered impure helium gas

4.2 All items which shall form a part of the Equipment must comply with all requirements arising from technical or safety standards valid in the Czech Republic for these types of equipment. Performance required hereunder shall include handover of complete documentation to the Equipment. The Contracting Authority requires that the entire Equipment and all its parts are brand new, not re-used.

4.3 Bidders must always comply with technical requirements stipulated herein; should a Bidder fail to comply with these, he shall be excluded from further proceedings. Bidders are obliged to prove guaranteed technical parameters to the Contracting Authority as specified herein, i.e. Bidders

shall submit detailed technical specification of the offered solution containing the guaranteed achievable parameters, which must demonstrate compliance with the minimum technical parameters specified in paragraph 4.1 hereof. Specified parameters must be achieved also during installation of the Equipment at the place of installation.

- 4.4** Since the Contracting Authority will operate the Equipment simultaneously with an existing helium liquefier at the place of installation, Bidders are allowed to connect the supplied system to the following already installed components/units:

A.	Helium Storage Tank CH3000 (Wessington Cryogenics Ltd., allowable pressure up to 2 Bar, filling capacity 3040 litres, height 2700 mm).
B.	Medium pressure pure helium storage unit (Ferox, volume 3 m <sup>3</sup> , allowable pressure up to 40 Bar)
C.	RS screw compressor (CRYOGENICS PLANTS AND SERVICES – Linde, gas flow: 240 SCFM)
D.	High pressure impure helium storage unit (Cryoservis, allowable pressure up to 200 Bar, volume 12 m <sup>3</sup> )
E.	Two gas bags, volume of 14 m <sup>3</sup> each, for the recovered impure gaseous helium
F.	Two high-pressure recovery compressors (Bauer, 30 m <sup>3</sup> /hour, pressure up to 220 Bar)

- 4.5** Should this TD refer to specific commercial trademarks / products or solution, or other designations or visual presentations having relation to a specific supplier / manufacturer, it shall be understood as delineation of an anticipated characteristics and Bidders are entitled to propose other technically or qualitatively compliant solution.

## **5 STRUCTURE OF THE BID PRICE**

- 5.1** Bidders are obliged to specify the total bid price, including all required performance, in the indicative bid and in the final bid; the total bid price is to be quoted in **USD excl. VAT**.
- 5.2** The **total bid price** must include the entire subject matter of the Public Contract and shall represent a fixed, binding amount as the maximum amount and **maximum admissible price**, including all fees and other costs that may be associated with the performance provided hereunder, such as packaging etc. At the same time, **the total bid price may not exceed 1,445,000.00 USD excl. VAT** and in the case of an indicative / final bid being submitted citing a higher bid price than this maximum value of the Public Contract, such bid may be **excluded** from the Procurement Procedure.
- 5.3** Bidders are obliged to submit a **detailed itemized budget** in the indicative (final) bid, which is the basis for the total bid price.

## **6 TERMS AND CONDITIONS, PAYMENT TERMS**

Terms and conditions incl. payment terms are expected to be subject to negotiation. An initial document in the form of a Draft Contract shall be attached to the invitation to submit indicative bids.

## **7 EVALUATION CRITERIA**

- 7.1** The indicative / final bids will be evaluated on the basis of their economic advantageousness. The Contracting Authority will evaluate the economic advantageousness of the bids on the basis of the criteria below.

## 7.2 The evaluation criteria are:

- 7.2.1 Total bid price – weight 90 %
- 7.2.2 Length of warranty period – weight 10 %

## 7.3 Evaluation method:

- 7.3.1 Within the evaluation criterion pursuant to paragraph 7.2.1, the Contracting Authority will evaluate the total bid price in USD excl. VAT, processed in accordance with Article 5 of the TD. The number of points awarded will be determined according to the formula below:

$$\text{Number of points} = \frac{1\,445\,000 - \text{Total bid price in USD excl. VAT}}{1\,000} \cdot 0,225$$

The maximum total bid price is 1,445,000.00 USD excl. VAT - Bidders who specify a higher total bid price will be excluded from the Procurement Procedure. If any Bidder states total bid price lower than 1,045,000.00 USD excl. VAT, total bid price of 1,045,000.00 USD excl. VAT will be taken into account for the purposes of evaluating the bid, but the total bid price actually stated will be considered legally binding.

*Bidders complete the data for this criterion in the Draft Contract.*

- 7.3.2 Within the evaluation criterion pursuant to paragraph 7.2.3, the Contracting Authority will evaluate the length of time for which the entire Equipment is covered by the warranty. The number of points awarded will be determined according to the formula below:

$$\text{Number of points} = \frac{\text{Length of warranty period in months} - 12}{3.6}$$

The minimum warranty period is 12 months - Bidders who specify a shorter period will be excluded from the Procurement Procedure. If any Bidder offers a warranty longer than 48 months, he will gain the maximum number of points within this criterion (10) whereas the warranty period actually stated will be considered legally binding.

*Bidders shall state the offered warranty period in whole calendar months and fill it in the Draft Contract.*

- 7.3.3 The number of points achieved within the individual criteria will be rounded to 2 decimal places. **Finally, bids will be ranked according to the number of points obtained in the sum of all the above criteria from highest to lowest. The winner is the Bidder whose bid gets the most points.**

## 8 ADDITIONAL REQUIREMENTS AND CONDITIONS

- 8.1 The Contracting Authority reserves the right to verify any information provided by Bidders using third parties and Bidders shall be obliged to provide the Contracting Authority with all necessary cooperation in this matter.

- 8.2** The Contracting Authority does not admit variants of bids.
- 8.3** The Contracting Authority reserves the right to change, specify or supplement the conditions of this Procurement Procedure.

## **9 COMMUNICATION DURING THE PROCUREMENT PROCEDURE**

- 9.1** During the Procurement Procedure, the Contracting Authority will communicate with Bidders in accordance with Section 211 of the Act.
- 9.2** For communication during the Procurement Procedure, the Contracting Authority prefers the use of the electronic tool Tender arena.
- 9.3** Documents within the Procurement Procedure shall be sent by the Contracting Authority through the Tender arena electronic tool accounts of the Contracting Authority and the Bidder or via e-mail (with a guaranteed electronic signature, if possible).
- 9.4** Bidders must be registered in the Central Database of Suppliers in order to be able to communicate with the Contracting Authority via the electronic tool. The registration is carried out in accordance with point 2.3 of this TD.
- 9.5** The Contracting Authority further emphasizes that in the case of communication carried out via the electronic tool, **the document is delivered as soon as the data message is received** to the electronic address of the recipient or recipients of the data message in the electronic tool.

## **10 PRELIMINARY MARKET CONSULTATIONS**

- 10.1** The Contracting Authority conducted market consultations according to Section 33 of the Act with following economic operator:

**Linde Engineering North America LLC**  
1585 Sawdust Rd, Suite 300, The Woodlands, TX 77380, USA  
Tax ID No.: 06-1249050

- 10.2** The above economic operator was subject to preliminary market consultation after the cancellation of the previous procurement procedure due to the fact that no bid was submitted, on the basis of the result of market research conducted by the Contracting Authority. Within the market research, this economic operator was identified as the only potential supplier of the required performance in terms of technical solution and price level.

During the preliminary market consultation, it was first verified that the economic operator is technically fully capable of ensuring the required performance. Subsequently, the economic operator was asked about the reason why he did not submit a bid within the previous procurement procedure and according to his statement, the reason was mainly the incompatibility of the wording of the draft contract with the company's contracting principles.

Therefore, in order to be able to negotiate the detailed wording of the contract, the Contracting Authority decided to apply the negotiated procedure with prior publication.

## **11 CONCLUSION**

- 11.1** Information and data provided herein (incl. all Annexes) define the binding requirements of the Contracting Authority with respect to the performance of the Public Contract. These requirements must be accepted by the Bidders in full and without reservation, respecting these requirements in preparation of their bid. Non-acceptance of these requirements / conditions (incl. those specified in the respective Annexes) shall be deemed to constitute failure to comply with the tender conditions.
- 11.2** Should this TD or its Annexes refer to specific commercial trademarks / products or solutions, or other designations or visual presentations having relation to a specific supplier / manufacturer, it shall be understood as delineation of an anticipated characteristics and Bidders are entitled to propose other technically or qualitatively fully compliant solution.
- 11.3** By submitting a bid, the Bidder confirms that he has fully acquainted himself with the TD to this Public Contract (incl. all Annexes), that the assignment is comprehensible and clear and that before submitting his bid, he has clarified any disputed provisions or technical ambiguities and agrees with and respects the conditions of the Public Contract.

**On behalf of the Contracting Authority:**

**LIST OF ANNEXES:**

1. Cover sheet
2. Affidavit on compliance with qualification requirements
3. List of major supplies
4. Affidavit according to § 6 paragraph 4 of the Act
5. Manual on how to submit a bid through the Tender arena electronic tool