Correction 2, 17.09.2015

TERMS OF REFERENCE

Delivery of an automatic fiber placement system

Case ref No.: 75/DE/Z/15

Open tender

with the estimated contract value over EUR 207 000

Warszawa, August 2015

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# § 1. Name (business name) and address of the Awarding Entity

# Instytut Lotnictwa

# Al. Krakowska 110/114

# 02-256 Warszawa

# [www.ilot.edu.pl](http://www.ilot.edu.pl)

# 

# Phone: + 48 22 846 00 11 ext. 841

# Fax: +48 22 046 65 67

# e-mail: [edyta.sitnik@ilot.edu.pl](mailto:edyta.sitnik@ilot.edu.pl); [maciej.marzec@ilot.edu.pl](mailto:maciej.marzec@ilot.edu.pl)

# § 2. Type of the contract award procedure

# The contract award procedure shall be conducted as open tender under Article of 29 January 2004 Public Procurement Law (Journal of Laws of 2013, (907 as amanded), hereinafter referred to as the “PPL”, with the contract value exceeding the amount of 207 000 Euros. For matters not regulated in the following specification which are vital for the order conditions, hereinafter referred to as the Terms of Reference (ToR) regulations of the Civil Code shall apply.

# § 3. Definition of the subject matter of contract

# The subject of the contract is the delivery of an automatic fiber placement system. The system will lay pre-impregnated, thermoset, thermoplastic glass and carbon fibre tapes. The system needs to be capable to lay unsaturated (dry fibre) tapes.

# If the description of the subject of the contract shows indirectly or directly the origin (brand, trade mark, supplier ) of the applience’s components, it means describing the standard and technical properties. The Awarding Entity allows for offering the appliance of equivalent components on the condition that they will guarantee reaching technical parameters not worse than the ones presented in the description of the subject matter – Appendix 2 to these Terms of Reference.

# If in the following description of the subject of the order there are references to the norms, relevant equivalent norms are acceptable provided that the used norms shall guarantee the maintenance of the standards at the level not lower than the requirements described by the presented norms.

# The detailed description of the subject matter of the order is included in Appendix 2 to these ToR.

# The subject of the order is described in Common Procurement Vocabulary as CPV code:

# 31720000-9 Electromechanical equipment

# 42994230-1 Laminators

# 38636110-6 Industrial lasers

# 48421000-5 Facilities management software packane

# 48421000-5 Facilities management software package

# 80510000-2 Specialist training service

# The Awarding Entity provides for option clause. The option clause is based on the possibility of purchasing of the subject matter of the contract together with the rights to use under the terms of § 5 of appendix 4 to ToR, by leasing. Where the Awarding Entity decides to use the option clause for the realization of the subject matter of the contract, the Economic Operator is obliged to sign the contract with the Lessor chosen in accordance with the Public procurement law of 29 January 2004 Public Procurement Law with the proviso that leased automatic fiber placement system will be compliant with the tender in terms of technical parameters and remuneration.

Based on the above mentioned proviso and model contract (appendix 4 to ToR) within a scope of the subject matter of the contract, the contract provisions will be agreed beetwen the Lessor and Economic Operator without the Awarding Entity.

The Awarding Entity shall inform the Economic Operator about the decision of using the option clause before the date of payment of the first tranche mentioned in §6.4 of appendix 4 to ToR.

# § 4. Information about suplementary contracts

# The Awarding Entity envisages the award of supplementary contracts which shall be granted on the basis of a seperate open agreement or agreements under the Article 67, Law 1 (7). A supplementary contract can be awarded within 3 years form the date of signing the basic order. A suplementary contract can be awarded after fulfilling the conditions of the previously quoted regulations of the law. The value of the suplemetary contract shall not exceed 20% of the basic contract value.

# § 5. Contract execution date

# Required contract execution date: up to 12 months after the date of awarding the contract.

# § 6. Conditions for participation in the award procedure and description of how complience with the conditions is evaluated

# The tendors that may participate in the award procedure are the Tendors that meet the conditions for participation in the award procedure referred to in Article 22 (1) which refer to:

# have the necessary knowledge and experience, i.e. in the last three years before the expiry date of the tender submission , and if the entire period they have been in operation is shorter – in that period they have made at least 2 deliveries of an automatic fiber system with a laser source of heat, at the value of not less than 3,000,000 PLN gross each.

# are in an economic and financial position ensuring completing the order, i.e. have the financial means or creditworthiness of the minimum of 5 000 000 PLN

# Economic Operators who participate in the procedure of awarding the public procurement shall be excluded in the case of occurance of indications persuant to Article 24, (1),(2) and (2a) and Art. 24b,(3) of PPL.

# In the case when Economic Operators take part in the awarding procedure jointly they must fulfill conditions jointly provided that the condition of each of them must comply with the rule of being non-explicable from the procedure of granting a public procurement pursuant to Art. 24,( 1),(2) and (2a), Law 3 of PPL.

# EVALUATION METHOD: Evaluation of fulfilling the above conditions required for the Tender will be made by applying the rule : ‘’fulfills - does not fulfill’’.

**§ 7. List of statements and documents to be submitted by Contractors to confirm that they meet the conditions for participation in the award procedure under Article 22, (1) and that they are not subject to the exclusion pursuant to Article 24 ,(1), (2), (2a) and Article 24 b, (3).**

1. In order to prove that the Economic Operator meets the conditions specified in Article 22 (1) of the PPL, it is necessary to submit:
   1. statement of a tender about fulfilling conditions of participating in the procedure mentioned in Article 22, Law 1 of PPL according to the conntents described In Appendix 1a to the Terms of Reference (ToR).
   2. the list of completed and, in the case of periodical or permanent services, also main deliveries in progress during the last three years or with the period of a shorter activity – in that period together with showing the values, objects, entities that the deliveries were made for, the completing dates with the aim of proving the fulfillment of the condition referring to knowledge and experience. To the list should be attached proofs showing if the jobs were done property – according to the rules described in **Appendix 3 to the Terms of Reference**.

Proofs can be:

* certificates, but for periodical deliveries which are still in progress or continuous the certificate should be issued not earlier than 3 months before the date of submitting tenders

or

* the Economic Operator’s statement if, for justified objective reasons, they are unable to obtain a certificate.

If for justified, objective reasons the Economic Oparator is unable to obtain a proof (statement) of a properly made delivery, they can - together with the tender – submit a statement issued by themselves, including explanations, proving occurance of objective causes preventing them from obtaining the above mentioned statement from the entity they provided their services to.

In the case when the Awarding Entity is the entity for whom the deliveries presented in the delivery list were previously made the Economic Oparator does not need to submit proofs.

In the case of showng the delivey value In currency different than PLN, the tendors need to present the value of the supply in PLN in the list of supplies of goods by calculating the cost with the average exchange rate by Polish National Bank with the date referring to the time of submittting tenders on which, according to the Economic Operator, the order was completed in the time necessary for fulfilling the conditions of participating in the procedure.

1. Information form a bank or a credit union confirming the amount of the possed financial means or credit capacity issued within three months before the deadline for submitting the tenders (in the scope necessary for proving the condition described in § 6.1 (3) of the ToR.
2. In order to evidence that there are no grounds for excluding the Economic Operator from the contract award procedure they should sumit:
3. The statement of no grounds for exclusion in the circumstances referred to in Article 24 (1) and (2a) based on the form constituting **Appendix No.1b of these ToR.**
4. The statement of the Economic Operator confirming membership to a capital gorup under the Law of 16 February 2007 ,The Act on Protection of Competition and Customers, (Journal of Laws of 2007, No. 50, item 331 , as amended) if the Economic Operator belongs to a capital group within the meaning of the above law - as specified in **Annex 1c to these ToR**,
5. The statement of the Economic Operator confirming no membership in a capital gorup under the Law of 16 February 2007 , The Act on Protection of Competition and Customers, (Journal of Laws of 2007, No 50, item 331 , as amended) if the Economic Operator does not belong to a capital group within the meaning of the meaning of the above law - as specified in **Appendix 1d to the ToR,**
6. The current copy from a relevant register or the central register and information about economic activity, if seperate regulations require an entry in the registry in order to evidence that there are no grounds for excluding the Economic Operator from the contract award procedure in the circumstances referred to in Article 24 Law 1 (2) issued not earlier than 6 months before the deadline for submitting the tenders,
7. The current certificate issued by the competent head of the tax office confirming that the Economic Operator is not in arrears with the payment of taxes, or the certificate that the Economic Operator has obtained – in accordance with the legal provisions – the exemption, the deferment or the spread of payments in arrears or the withholding in whole of the execution of the decision of the competent body – issued within 3 months before the deadline for submitting the tenders.
8. The current certificate issued by a proper Social Insurance Institution or Farmers Insurance Institution confirming absence of the bidder’s arrears in payment of fees and contributions for health and social insurance - issued not earlier than within 3 months before the deadline for submitting tenders.
9. The current information from the National Criminal Register in the scope specified In Article 24 (1) (4-8) of the Act, issued within 6 months before the deadline for submitting the tenders.
10. The current information from the National Criminal Register in the scope specified In Article 24 (1) (9) of the Act, issued within 6 months before the deadline for submitting the tenders.
11. The current information from the National Criminal Register in the scope specified in Article 24 (1) (10) and (11) of the Act, issued within 6 months before the deadline for submitting the tenders.

If an application is made jointly by several Economic Operators, the above documents need to be submitted by each Economic Operator applying jointly procuring the contract.

1. If – in the case of the Economic Operator with its registered office outside the territory of the Republic of Poland instead of the documents mentioned in item 2, they should submit:
   1. items 4), 5) 6) and 8) – the Economic Operator shall submit a document or documents issued in the country where the Economic Operator has its registered office or place of residence, which documents confirm respectively that:
      1. winding up procedure has not been instituted against the Economic Operator or that their bankruptcy has not been declared;
      2. that the Economic Operator is not in arrears with the payment of taxes, charges, contributions for social and health insurance, or that the Economic Operator has obtained – in accordance with the legal provisions – the exemption, the deferment or the spread of payments in arrears or the withholding in whole of the execution of the decision of the competent body;
      3. no decision prohibiting the Economic Operator from competing for contracts has been issued;

and

* 1. item 7 and 9 – the Economic Operator shall submit the certificate issued by the court or administrative body competent for the place of residence or residence of a person to whom the documents refer in the scope specified in Article 24 (1) (4-8), (10) and (11) of the Act;

1. The documents referred to in item 3.1 a,c and 3.2 shall be issued within 6 months before the deadline for submitting the tenders.
2. The document referred to in item 3.1b shall be issued not earlier than 3 months before the dealine for submitting tenders.
3. If no documents referred to in points 1 and 2 are issued in the country being the place ofresidence of such a person or in the country in which the Economic Operator has the registered office or place of residence, then the documents are replaced with the document including the declaration – which also specifies the persons authorised to represent the Economic Operator – made before a competent court, administrative body, or the body of the professional or economic self-government competent – respectively – for the country being the place of residence of such a person or the country in which the Economic Operator has the registered office or place of residence, or made before a notary public. The provisions included in item 4 and 5 shall apply respectively.
4. If – in the case of the Economic Operator with its registered office on the territory of the Republic of Poland - the persons referred to in Article 24.1 (5-8), (10), (11) of the Act reside outside the territory of the Republic of Poland, the Economic Operator shall submit a judicial record of these persons issued by a competent judicial or administrative authority from the place of residence within the scope specified in Article 24.1, (5-8), (10), (11) issued not earlier than 6 months before the deadline for submitting tenders, but in the case when such documents are not issued in the place of residence of these persons – they shall be replaced by a certificate authenticated by a notary the appropriate judiciary, administrative, professional or business organization body from the place of residence by a notary.
5. In the case the document submitted by the Economic Operator with their registered office or place of residence outside the territory of the Republic of Poland rises any doubts, the Awarding Entity may apply to the appropriate authorities of the place of residence or the registered office with a request to provide the necessary information referring to the submitted document.
6. If the Economic Operator showed in the submitted documents, mentioned in § 7.1 of these ToR that they rely on the resorses of other Economic Operators, regardless of legal character of their relationship, the Economic Operatior shall prove the Awarding Entity that they will have the necessary resources during the performance of the contract by submitting a **statement** written by the other Economic Operators about providing all the resources necessary to complete the order. The written statement will include: 1) specifying the entity that will make the resources available. The written statement will include: 1) specifying the entity that will make the resources available and the means of using them in the process of completing the order; b) the period for which the resources will be made available to the Economic Oparator; c) the character of the legal relationship which will link the Economic Oparator with the entity making the resources available during the process of completing the order.

# § 8. Information about statements and documents to be submitted by the Economic Operator (additional documents)

1. Completed and signed Tender Form – as presented in **Appendix 1 to the ToR** of which it is an integral part – shall be a **technical documentation of the system which shall include at least all the minimal parameters required by the Awarding Entity.**
2. In the case of Economic Operators jointly tendering towards the public procurement the tender shall be signed by an appointed authorised person.
3. In the case when the Economic Operator intends to subcontract part of the agreement, The Awarding Entity demands to appoint to the subcontracted part – according to the contents presented in **Appendix No. 1 to these ToR.**

# § 8.1 Economic operators jointly tendering for awarding a public procurement under Article 23

1. Economic Operators may jointly tender for awarding a public procurement. In that case they shall appoint an authorised person to represent them in the proceedings for awarding a public procurement or represent them in settling the agreement.
2. Economic Operators jointly tendering, make a document of their fulfilment of the conditions for participating in the procedure for awarding the public procurement, as said in § 6 of these ToR on the basis of the documents mentioned in § 7 of these ToR and they attach documents described in §8 on the grounds described in the above paragraphs.
3. All correspondence shall be handled only with an authorised person as said in § 1.

# § 9. Information about the method of communication between the Awarding Entity and the Economic Operators and the method of providing the statements and documents, and about the persons authorised to communicate with the Economic Operators

1. The persons entitled to contact the Economic Operators are: Edyta Sitnik and Maciej Marzec, email: [edyta.sitnik@ilot.edu.pl](mailto:edyta.sitnik@ilot.edu.pl); [maciej.marzec@ilot.edu.pl](mailto:maciej.marzec@ilot.edu.pl)
2. In the procedure the correspondence between the Economic Operators and the Awarding Entity is handled by means of electronic mail. Any and all statements, requests, notifications and other information should be sent to: [edyta.sitnik@ilot.edu.pl](mailto:edyta.sitnik@ilot.edu.pl); [maciej.marzec@ilot.edu.pl](mailto:maciej.marzec@ilot.edu.pl)
3. Electronic form must not be used in, under pain of invalidity, for the following: submitting a tender, changing a tender, notifying the Awarding Entity about withdrawing the tender submitted by the Economic Operator.
4. The Awarding Entity can request the Awarding Entity to explain the contents of these ToR.
5. The Awarding Entity shall provide the explanations immediately, yet not later than 6 days before the deadline for submitting the tenders, provided that the request for explaining the contents of the Terms of Reference was received by the Awarding Entity not later than until the end of the day on which half of the time-limit for submitting tenders elapses.
6. The Awarding Entity shall publish on its website: [www.ilot.edu.pl](http://www.ilot.edu.pl) (Tenders & Announcements in the section related to Case ref. No. 75/DE/Z/15) the contents of questions together with explanations.
7. The Awarding Entity does not envisage the organisation of any meeting with the Economic Oparators.
8. In justified cases, the Awarding Entity may modify the contents of these Terms of Reference before the expiry of the deadline for submitting the tenders. The modification made in that manner shall be immediately provided to all Economic Operators who have received the Terms of Reference and the Awarding Entity shall publish it on the website on which the Terms of Reference have been made available. In the case when the change leads to alterations in the content of the open tender announcement published in Official Journal of the European Union, the Awarding Entity will issue an announcement about additional information, information about incomplete procedure or an amendment and its publication on the website.
9. Modifications are binding for the Economic Operators in each case.
10. The Awarding Entity shall extend the deadline for submission of tenders if due to modifications of the content of the ToR addition time is essential for making changes in tenders. The Awarding Party will promptly inform all the Economic Operators who received the ToR about extending the time of submitting tenders along with placing the information on the website: [www.ilot.edu.pl](http://www.ilot.edu.pl)

# § 10.Requirements concerning the tender bond

1. The tender bond shall be **100 000 PLN** (one hundred thousand zlotys).
2. The tender bond has to lodged before the deadline for submission of tenders.
3. The tender bond may be lodged in one or a few forms presented below depending on the choice of the Economic Operator:
4. cash paid to the Awarding Entity’s bank account: Bank PKO S.A.: 90 1240 6247 1111 0000 4977 2760 marked: **Supply of the automated fiber placement system, Case ref No. 75/ED/Z/15.**
5. a bank surety or a surety of a credit union provided that a surety of a credit company is always a monetary one,
6. bank guarantees,
7. insurance guarantees,
8. guarantees given by entities persuant to Article 6b, (2) of Law 5 about establishing The Polish Agency for Enterprise Development Journal of Laws official journal, year 2007, item 907, year 2008 No 116, item 730 & 732 , No 227, item 1505 and year 2010 No. 96, item 620).
9. The provision of the tender bond in cash shall be considered bt the Awarding Entity as effective when the tender bond is in the Awarding Entity’s bank account persuant the Law 3 (1)
10. Tender bond lodging in forms described in Law 3 (2-5) must include a guarantor's undertaking resulting form occurances as said in Article 46,(4a) and (5) of PPL, but:
    1. in the case when Economic Operators apply jointly procuring the contract the documents have to comply with all the Awarding Entity’s claims within the scope of the public contract or abandoning each of them,
    2. the documents shall include a clause of the tender bond payment for the Awarding Entity unconditionally and at first request,
    3. the documents shall be submitted in originals.

**The originals of the guarantee or provision shall be submitted with the tender.**

1. The Awarding Entity informs that pursuant to Article 46 (4a) of PPL, The Awarding Entity is obliged to keep the tender bond with the interest if after in response for their call the Economic Operator shall not submit documents or declarations pursuant to Article 26 (3) for reasons imputable to the Economic Operator pursuant to Article 25 (1) the power of attorney the list of entities belonging to the same capital group referred to in Article 24 , Item 2 (5) or information about the fact that they do not belong to a capital group or did not give permission for correcting a mistake referred to in Article 87 Item 2 (3) which resulted in the lack of possibility to choose the tender submitted by the Economic Operator as the most adventegous one.
2. The Awarding Entity informs that pursuant to Article 46 (5) of PPL, The awarding Entity is obliged to withold the tender bond with the interest if the Economic Operator whose tender is chosen:
3. refused to sign the public tender agreement in compliance with the conditions described in the tender;
4. did not submit the required guarantee of a correct performance of that agreement;
5. concluding an agreement became impossible for reasons attributable to the Economic Oparator.

# § 11 Period of tender validity

The Economic Operators are bound by the tender for the period of **60 days** after the deadline for submitting the tenders.

# § 12. Description of how to prepare tender

1. The Economic Operator is entitled to submit one tender.
2. The content of the tender needs to be pursuant to the ToR subject to Article 87. 2 (3) of PPL.
3. The tender must be signed by a person/persons authorised to represent the Economic Oparator. The tender and all the attached documents should be signed by a person/persons authorised to represent the Economic Operator indicated in the register or the record. If the tender and all the attached documents are signed by a person/persons not indicated in the register or the record, to the tender should be attached the power of attorney for the person/persons given by a person/persons included in the regicter or record. The power of attorney should indicate authorisation of representing the Economic Operator participating in the award procedure or representing the Economic Operator in the procedure and concealing the agreement of awarding the public procurement.
4. The tender must be typed in Polish or handwritten in unerasable ink.
5. The pages should be affixed together and numbered in a way not allowing them to be disassembled.
6. Documents prepared in foreign languages shall be submitted with their translations into Polish.
7. The documents constituting the tender shall be presented in originals or certified true copies by the Economic Operator with reservations that the statements described in § 7 Article 1 (1) and Article 2 (2) and (3) .an obligation of the entity about making available of their own resources persuant § 7.9. Authorisation shall be submitted by the Economic Oparator in original or a notarized certified copy. Certified true copies of all documents shall be certified by a person/ persons authorised to represent the Economic Operator. In the case of Economic Operators apply jointly procuring the contract and in the case of other entities whose resources the Economic Operator relies on principles pursuant to Article 26, Law 2b of PPL, documents related to the Economic Operator or the entities are certified true copies made by the Economic Operator or the entities.
8. All the places in the tender where the Economic Operator made corrections or amandements shall be initialled by a person authorised to a presentation.
9. Template forms shall be filled in strictly according the guidelines included in these ToR.
10. The Awarding Entity does not allow for any changes in the contents of the attached template forms.
11. No documents included in the tender shall be returned by the Awarding Entity.
12. Is is required to place the tender in a sealed envelope with the following inscription:

TENDER for: **a delivery of an automated fibre placement system, Case ref No. 75/DE/Z/15**

Deliver to: building X2, room 1.1B. Do not open before **30.09.2015,** at 10.15.

1. The Economic Operator covers all costs connected with preparing and submitting the tender.
2. Any failure of complying with the rules pursuant to items 1-13 subject to item 5 and 11 may result in rejecting the tender.

# § 13. Information constituing company secrets

1. In the case when the tender, statements or documents mentioned in § 6-7 of these ToR include information constituting company secrets pursuant Article of April 16, 1993 of Combating unfair competition /(Journal of Laws, No. 153, item 1503 as amended/, the Economic Operator should in an unequivocal way as for the deadline of submitting tenders claim that they cannot be shared and indicate that the proprietary information constitue company secrets . The information shall be placed in a separate inside packaging, affixed together and numbered. Information concerning the price, date of completing the order or the guarantee period included in the tender cannot constitue company secrets.
2. **Where indicated in the tender that part of information/documents constitute company secrets the Economic Operator shall submit together with the tender written statements** in the following scope:
   1. what circle of persons/entitiesqithin the organizational structure have an Access to information/documentsreserved by the Economic Operator as company secrets? In the case when the circle of persons who have an access to confidential information/documents has been limited to a group of persons who have an access to the documents, have the persons been obliged in written to maintain the confidentiality of the information (agrement, written statement, procedures)? Do these liabilities provide for sanctions for disclosure of confidential data?. In the case of existing liabilities or appropriate procedures they should be proved by means of ducuments confirming the fact of concluding such an obligation/implementing the procedures.
   2. how are the documents/information protected for disclosure at the site of preserving them? Arethey kept in places with a restricted access? If so, All precautionary measures should be enumerated;
   3. were the proprietary information/documents publicised by the Economic Oparator in the past on websites, in folders or any or any other media?
   4. were the proprietary information/documents obtained by participating in public procurements financed by public funds including procedures for awarding public procurements ?
   5. in the case of completing an order by Economic Operators applying jointly procuring the contract with non-member third parties, the information within the scope described in item 1-4 shall be also related to these entities.
3. In the case when the Economic Operator does not submit a full explanation in the above mentioned scope or it will not be evident from the presented explanations that the documents constitue company secrets persuant to the Article of April 16, 1993 about combating unfair competition / Journal of Laws of 2003, No. 153, (15303 as amended) the Awarding entity **may** call for further explanations if the submitted information /documents constitue company secrets.

# § 14. Place and date of tender submission and opening

1. The tender shall be submitted to the Awarding Entity’s office: Instytut Lotnictwa,

Al. Krakowska 110/114, 02-256 Warszawa, building X2, first floor, room 1.1B by **30.09.2015, at 10.00.**

1. Tenders received by the Awarding Entity after the deadline suggested in item 1 shall be returned to the Economic Operator without opening after expiry of the time-limit set to lodge an appeal. The Awarding entity shall immediately inform the Economic Operator about submitting the tender after the deadline.
2. Tenders can be changed or withdrawn by Economic Operators provided that the Awarding Entity shall receive a written statement about the changes or withdrawing the tender before the deadline stated in these ToR. The statement about a change or withdrawal shall be delivered in a sealed envelope inscribed pursuant to § 12 Article 12 of there ToR with the mention Withdrawal or Tender change.
3. The signed request for withdrawing or changing a tender shall be submitted by a person who bears a written authorisation from an Economic Operator for withdrawing or changing the tender.
4. The public opening of tenders will take place **on 30.09.2015 at 10.15 local time** at the registered office of the Awarding Entity: Instytut Lotnictwa, Al.Krakowska 110/114, 02-256 Warszawa **in the conference hall No.4 , building X2, first floor**.
5. The opening of tenders shall be public.
6. Persons interested in participation in the tender opening are requested for their appearance at least 5 minutes before the time as described in item 5.
7. Immediately before tender opening the Awarding entity shall announce the amount they intend to spend to finance the order.
8. During the opening of tenders procedure the Awarding Entity shall give the names of companies and addresses of Economic Operators as well as information concerning prices, the time of completing the order, the duration of the guarantee and payment terms included in the tenders.
9. Information mentioned in items 8 and 9 are transferred promptly to the Economic Operators who were not present during the opening of tenders procedure, at their request.

# § 15.Description of the method of price calculation

1. Gross price for realization of the subject matter of the tender shall be given by the Economic Operator in PLN to two decimal points.
2. Prices given in the tender must take into account all the requirements of the Awarding Entity as described in these ToR.

3. Should an offer be submitted , the choice of which would lead to coming into existence tax obligation in due course about the value added tax for the Awarding Entity, they -for the purpose of assessing such an offer – add to the price presented in the offer prices of goods and services and their duty would be to account for the agreement according to these regulations. **The Economic Operator is obliged to inform the Awarding Entity if choosing the offer leads to coming into existance tax obligation pointing to the name (kind) of goods or service the delivery or provision of which will lead to coming into existance tax obligation also showing their values without the amount of the tax** (persuant to Article 1(3a) of PPL).

# § 16. Description of tender evaluation criteria which will be taken into account while choosing the tender together with giving the meaning of the criteria and the evaluation metod of tenders

1. The maximum score which the Economic Operators tendering jointly for awarding a public procurement in all tender evaluation criteria is 100 points. The Economic Operator shall use the following evaluation criteria:
2. Citerion: **the tender price – 90% of the total**. The maximum score :90 points

The Awarding Entity shall award points according to the following pattern:

C \* 90

Where:

C – the number of point in the criterion **price**

C*min* – the lowest offered price

C *tender* – the price of the examined tender

1. Criterion: **guarantee period – 10% of the total.** The maximum score is 10. The points shall be awarded in the following way: the Economic Oparator shall show in the tender form the warranty period for the system by choosing between 12 and 24 months. The Economic Oparator will be awarded accordingly: 0 to 10 points. In the case when the Economic Oparator does not fill in the data in the tender related to the warranty period, the Awarding Entity will conclude that the tender does not comply with these ToR and shall be rejected.
2. The calculations shall be made to two decimal points without rounding
3. If there is no possibility to choose the best tender because of the fact that two or more tenders show the same price balance and other criteria of the tender evaluation, the Awarding Entity will choose the tender with a lower price
4. The Awarding Entity will grant the order to the Economic Operator with the higest score according to the tender evaluation criteria.

**§ 17. Tender examination**

1. The Awarding Entity checks if the tender has been prepared In accordance with the applicable provisions and these ToR.
2. In the first place the Awarding Entity shall check if the tenders satisfy the formal requirements.
3. The Awarding Entity shall correct in the contents of the tender:
4. obvious writer’s mistakes;
5. obvious calculation mistakes together with calculation consequences of the corrected mistakes;
6. other mistakes resulting from non-complience of the tender with these ToR which does not impair considerably its contents;
7. the Awarding Entity shall inform promptly those Economic Operators whose tender has been corrected Operators about the corrections
8. During examination and tender evaluation the Awarding Entity can request explanations from the Economic Oparators reffering to the submitted tenders.
9. The Awarding Entity shall call the Economic Operators who at the appointed time did not submitt the tenders pursuant to Article 25 (1) of PPL or who did not submit authorization or who submitted the statements and documents required by the Awarding Entity as mentioned in Article 25 (1) including mistakes or who submitted inappropriate authorisations to submit them at the appointed time unless the tender is subject to exclusion or an anulement of the procedure would be necessary. The declarations and documents submitted at the request of the Awarding Entity shall confirm compying with the conditions of participation in the procedure and fulfilling the conditions of the Awarding Entity concerning the offered services not later than on the deadline.

**§ 18. Exclusion of the Economic Operator**

1. The Awarding Entity shall exclude the Economic Operators who do not comply with the conditions pursuant to Article 24 (1) nad (2) and Article 24b (3) of PPL subject to Article 26 (3) of PPL.
2. Persuant to Article 24 (2a) the Awarding Entity shall exclude from the public procurement procedure the Economic Operator who within 3 years before the procurement seriously violated the professional duties particularly if the Economic Operator - as a result of a deliberate action or gross negligence did not complete or improperly completed an order, which can be proved by measures of any kind. The Awarding Entity shall not exclude from the procedure an Economic Operator who will prove that they undertook certain technical, organizational and human resources means which are supposed to prevent further noncompliance with the duties in that case and in the future and they repaired the damages made due to noncompliance or ensured to repair them.
3. The tender of an excluded Economic Operator is regarded as a rejected one.
4. The Awarding Entity will immediately notify the Economic Operators who submitted their tenders about the most favourable one as well as tyhe rejected ones and the exclusion of Economic Operators providing factual and legal justification.

**§ 19. Rejection of the tenders**

1. The Awarding Entity rejects the tender if:
2. it is inconsistent with the law;
3. its contents does not comply with the contents of the ToR subject to the Article 87, law 2 (3) of PPL;
4. Submitting it is an act of unfair competition within the meaning of the provisions about combating unfair competition;
5. includes an abnormally low price as for the subject of the order;
6. was submitted by an Economic Oparator excluded for the proceedings for the public procurement;
7. contains mistakes in price calculation;
8. the Economic Oparator did not agree to correct the mistake referred to in Article 87, (2) 3 of PPL within 3 days from the date of receiving the notice
9. is invalid based on separate provisions.
10. Immediately after the selection of the most advantegous tender, the Awarding Entity shall notify the Economic Oparators who submitted the tenders about the Economic Oparators whose tenders were rejected stating factual and legal grounds.

**§ 20. Tender invalidation**

1. The Awarding Entity shall declare the tender procedure invalid in the following cases:
2. no tenders which would not qualify for rejection were submitted;
3. the price of the most favourable tender or the tender with the lowest price exceeds the amount which the Awarding Entity intends to devote for finalisation of the tender unless the Awarding Entity can increase the amount to the price of the most favourable tender;
4. in cases mentioned in Article 91 (5) of PPL additional tenders at the same price were submitted;
5. a singnificant change in circumstances occurs showing that conducting the oproceedings is not the public interest which could not be forseen beforehand;
6. tender procedure has a defect which makes it impossible to conclude an agreement of public procurement not subject to exclusion.
   * + 1. The Awarding Entity reserves the right to cancel the procurement procedure if appropriation form the budget of theEuropean Union, which the Awarding Entity intended to allocate to finance the whole contract or part of it is not granted to him.
       2. The Awarding Entity shall simultaneously notify about tender invalidation all Economic Operators who:
7. participated in the award procedure – in the case of tender invalidation before the deadline for submitting offers,
8. submitted offers – in the case of tender invalidation after the deadline for submitting offers – giving factual and legar justification.
   * + 1. In the case of the cancellation of the procurement procedure the Awarding Entity at the request of the Economic Operator who participated in the award procedure, informs them about initiating another procedure which relates to the same subject of the tender or covers the same subject of the tender.

**§ 21. Notification of the procurement procedures results**

1. Immediately after the selection of the most advantegous tender, The Awarding Entity shall notify the Economic Operators who submitted their tenders about the most advantegous one stating the name (company) or first name and surname, the registered office or the home address of the Economic Oparator whose tender was chosen providing justification as well as the name (company) or first names and surnames, the registered office or home address of the Economic Operators who submitted their tenders as well as the total score of each tender in each tender criteria and the total score.
2. The Awarding Entity onforms the Economic Oparators about the date after which the public procurement agreement can be signed.
3. Additionally, the Awarding Entity shall publish the above information on their website: [www.ilot.edu.pl](http://www.ilot.edu.pl) and in a publicly accessible location in its own registered office.

**§ 22. Information concerning formalities which should be met following the selection of the tender to conclude the public contract agreement**

If the tender selected in the award procedure has been submitted by two or more Economic Oparators who compete jointly for the public contract award, the awarding Entity shall require the agreement regulating their cooperation to be submitted on the date of signing the agreement at the latest.

**§ 23. Tender form**

The model for the public proceurement contract (Model Agreement) is **Appendix 4** to these ToR.

**§ 24. Requirements securing proper completion of the agreement**

1. Before signing the contract the Awarding Entity will require to lodge a security of non-performance or undue performance of the Contract, equaling 10% of the total gross value of the order subject.
2. The security is used for a cover of claims for non-completion or improper completion of the tender.
3. A performance guarantee for the completion of the contract can be lodged by the Economic Oparator contributed in the form of :
   1. in cash
   2. bank surieties or guarantees of collective savings-loan fund provided that the suriety of collective savings-loan fund is always a financial surety;
   3. bank guarantees,
   4. insurance guarantees,
   5. the surieties given by other entities referred to in Article 6b (5) (2) of the Act on the establishment of the Polish Agency for Enterprise Development of November 9, 2000 (Journal of Laws, 2007, No.42, item 275, as amended).

4. The end-use security shall be paid to the bank account of the Institute of Aviation, Bank PKO S.A., Account No.: 90 1240 6247 1111 0000 4977 2760.

5. Securities provided in non-pecuniary forms shall be submitted in the originals. The contents of the guarantees shall clearly state the form of representing the Guarantor. The guarantee has to be signed by an authorised representative of the Guarantor. The signature has to be made in a form that permits identification, for example, a legible signature or placed with a name seal.

6. Non-pecuniary forms of securities will be issued with the period of validity 30 days longer than the term of the agreement is valid.

7. In the case the order is not completed on the date given in the Economic Oparator’s tender, the end-use security is valid till the date of actual completion of the order confirmed by work acceptance certificate.

**§ 25. Amendments to granting public procurement agreement**

According to Article 144(1) the Awarding Entity provides for changes in the Public procurement agreement when:

1. a change in the mandatory legislation occurs which influences the completion of the order subject;
2. The Economic Oparator will offer equipment with technical parameters better than the minimal technical parameters presented in the description of the tender subject provided that the payment for completing the order will not increase
3. A necessity of changing dates of completing the order will occur caused by objective factors related to the Awarding Etentity needs, independent of the Economic Operator provided that the remuneration paid to the Economic Operator will not increase.
4. Where the Awarding Entity decides to use the option clause based on the possibility of purchasing of the subject matter of the contract together with the rights to use by leasing, the method and terms of payment will be changed. The remuneration for the Economic Operator will be paid by the Lessor.

**§ 26. Information about the appeals procedures**

Persuant to Section VI of the law of January 26,2004, Public Procurement Law.

**§ 27. Appendices**

Appendix No. 1 – Tender Form;

Appanedix No. 1a - Model of the statement of Article 22 (1);

Appendix No. 1b – Model of the statement of Article 24 (1), (2a);

Appendix No. 1c – Model of the statement – Membership in a capital group;

Appendix No. 1d – The lack of membership in a capital group;

Appendix No. 2 – Technical requirements for the AFP System;

Appendix No. 3 – List of main supplies

Appendix No. 4 – Model Agreement