



## Tender Conditions

(Hereinafter "Tender Conditions")

Concerning over-limit public procurement of supply tendered pursuant to Act no 134/2016 Coll., on Public Procurement, as amended (hereinafter the "Act") under title:

### **"Delivery of Complete Laser Technology Set I"**

**In an open tender**

<b>Contracting Authority:</b>	<b>MGM, spol. s r.o.</b>
<b>Registered seat:</b>	Čekanice 342, 390 02 Tábor
<b>Business ID:</b>	13516949
<b>Person authorized to act for the Contracting Authority:</b>	Karel Mikulanda, Executive Director

(Hereinafter the "Contracting Authority")

<b>Representative of Contracting Authority Pursuant to the relevant provisions of § 43 of the Act:</b>	<b>Naviga Assistance s.r.o.</b>
<b>Registered seat:</b>	U Pekařky 484/1a, 180 00 Prague
<b>Business ID:</b>	24244414
<b>Acting through:</b>	Ing. David Frolík, Executive Director

(Hereinafter "Representative of Contracting Authority")

Identification of potential persons other than the Contracting Authority who pursuant to the relevant provisions of § 36 (4) of the Act prepared a part of the tender documentation, and identification of the relevant parts of the tender documentation:

**Person 1 – Naviga Assistance s.r.o., business ID 24244414**

- Tender Documentation;
- Annex 1 to Tender Conditions, Draft Purchase Contract,
- Annex 3 to Tender Conditions, Affidavit Template



## **Tender Condition Table of Contents**

1.	Profile of Contracting Authority, Communication in Tender Proceeding .....	3
2.	Definition of Public Procurement Subject .....	3
3.	Bid Submission Deadline, Bid Preparation Requirements .....	4
4.	Bid Price Format .....	5
5.	Qualifications .....	5
6.	Evaluation Criteria .....	7
7.	Procedure before Contract Award .....	7
8.	Bid Submission Deadline .....	8
9.	Other Rights, Conditions and Facts Declared and Reserved by the Contracting Authority .....	8
10.	Annexes to these Tender Conditions .....	8

## **1. Profile of Contracting Authority, Communication in Tender Proceeding**

### **1.1. Profile of Contracting Authority**

The tender documentation is available on the profile of the contracting Authority on the relevant public procurement project tab on: [https://www.profilzadavatele.cz/profil-zadavatele/MGM--spol--s-r-o-\\_7490/](https://www.profilzadavatele.cz/profil-zadavatele/MGM--spol--s-r-o-_7490/)

### **1.2. Method of Communication in Tender Proceeding**

1.2.1. Communication between the Contracting Authority and the bidders in the course of the tender proceeding shall be in writing in compliance with the Act, especially with the relevant provisions of § 211 of the Act.

1.2.2. The Contracting Authority hereby notes that bid submission is also considered written communication, among others. Bid submission for this tender shall be exclusively via the electronic instrument of the Contracting Authority, EZAK (hereinafter "Electronic Instrument of the Contracting Authority") on the relevant public procurement project tab on: <https://zakazky.navigaassistance.cz/vz00000075>

1.2.3. The Contracting Authority explicitly notes that requests for clarifications, amendments of and changes in the tender documentation shall only be accepted in the electronic format (the Contracting Authority recommends use of EZAK, the Electronic Instrument of the Contracting Authority, for delivery of requests for clarifications, amendments or changes of the tender documentation) and answers shall be depersonalized and published in the contracting Authority's profile as amendments to the tender documentation (see the relevant provision of §§ 98 and 99 of the Act).

## **2. Definition of Public Procurement Subject**

### **2.1. Subject of Public Procurement**

2.1.1. The subject of this public procurement is delivery of a complete laser technology set comprising a disc diode laser source, a cutting head, an optical fiber and a cooler, including accessories (hereinafter "Supply" or "Goods") pursuant to the Technical Specification attached as Annex 2 hereto.

2.1.2. The supplied Goods must comply with the minimum technical parameter requirements defined by these Tender Conditions and Annex 2 hereto.

2.1.3. The Contracting Authority requires original, new and never before used Goods.

### **2.2. Assumed Value of Public Procurement**

The Contracting Authority has defined the expected value of the public procurement in the amount of **CZK 3,150,000.- exclusive of V.A.T.**

### **2.3. CPV codes:**

38636110-6 Industrial lasers

### **2.4. References in Tender Documentation**

2.4.1. Where the Tender Documentation or its annexes refer to a particular supplier or product, patents for inventions, utility patterns, trademarks or goods origins, it is when technical condition specification cannot be sufficiently exact or comprehensible. The Contracting Authority permits equivalent alternative offers for every such reference.

2.4.2. Where the Contracting Authority specifies technical conditions in the tender documentation through reference to standards or technical documents then their application in this tender proceeding is governed by the relevant provisions of §§ 90 and 91 of the Act.

### **2.5. Further Requirements Related to the Public Procurement Subject**

The Contractor agrees that they and their subcontractors are liable to contribute to and permit controlling of the spent funds as follows from Act no 320/2001 Coll., on Financial Control in Public Administration, amending certain other acts, as itself amended.

### **2.6. Contractual Terms and Conditions**

2.6.1. The submitted bid shall include a filled out draft contract. The draft contract includes all applicable business and payment terms.

2.6.2. The bidder shall not be entitled to modify any provisions of the draft contract and its annexes apart from those requiring filling out and amendment by the bidder and **highlighted in yellow**.

2.6.3. The draft contract attached to the bid and all other annexes to the bid need not be signed by the bidder in the bid submission stage – the submission itself through the electronic Instrument of the Contracting Authority (E-ZAK) shall be deemed a sufficient expression of the bidder's will to submit a bid. The public procurement contract shall be signed by the selected contractor, or the person authorized to act in their name, if the contract is awarded to them and the contractor shall become party to the commitment resulting from the tender.

## **2.7. Time and Places of Public Procurement Supply**

2.7.1. The delivery shall be completed within 120 calendar days from the purchase contract execution.

2.7.2. The place of the public procurement supply shall be the relevant site of the Contracting Authority on the address: Čekanice 342, 390 02 Tábor.

## **2.8. Variant Bids**

The Contracting Authority does not permit variant bids.

# **3. Bid Submission Deadline, Bid Preparation Requirements**

## **3.1. Bid Submission Deadline**

3.1.1. The current deadline for bid submission is always specified in the Contracting Authority's profile and in the electronic Instrument of the Contracting Authority, E-ZAK, in the relevant field on the present public procurement tab.

3.1.2. Bids not delivered within the bid submission deadline or in the manner specified in the tender documentation shall not be considered submitted and shall be disregarded.

## **3.2. Bid Requirements**

3.2.1. "Bid" means data or documents submitted by the bidder to the Contracting Authority on the basis of the relevant tender conditions, including but not necessarily limited to the draft contract (including the compulsory annexes) and other documents required by the Contracting Authority (especially qualification requirement compliance proving documents).

3.2.2. The bid shall be submitted in Czech or in English based on these tender conditions, or the tender documentation, potential technical documents are also acceptable in German.

3.2.3. The Contracting Authority requires exclusively written bid submissions, in the electronic format, via the Electronic Tool of the Contracting Authority: <https://zakazky.navigaassistance.cz/vz00000075>

## **3.3. Bid Compilation**

3.3.1. The Contracting Authority recommends the following order of parts of the electronic bid and qualification requirement compliance proving documents of the bidder:

1. Bid content – the filled out purchase contract including annexes pursuant hereto;
2. Eligibility and qualification requirement compliance proving documents pursuant to Article 6 hereof;
3. Filled out Annex 2 hereto – Technical Specification,
4. The actual bid with detailed descriptions of the offered components of the set, including submission of the relevant product data sheets,
5. Other potential papers and documents if considered useful by the bidder or if required by law or by these tender conditions.

5.3.2. The electronic format of the bid may use any of the generally accessible formats and programs such as Microsoft Office, Adobe Reader, Open Office etc.

## **3.4. Further Requirements for Bid Preparation**

3.4.1. If a document is required by the law of the Czech Republic the bidder may submit an equivalent document pursuant to the law of the country in which that document is issued, accompanied with a Czech translation. If the given document is not issued pursuant to the applicable law system then it may be replaced with an affidavit.

3.4.2. A document in Slovak and education credentials (certificates) in Latin or English may be submitted without translation into Czech.

3.4.3. The obligation to submit a document may be fulfilled by reference to the corresponding information maintained by the information system of public administration or a similar system maintained by another EU Member State permitting unlimited remote access. Such reference must include the Internet address and data for log in and retrieval of the required information, where necessary. The Contracting Authority shall not incur any costs in connection with retrieval and check of thus provided information.

3.4.4. The method of bid encoding and submission (i.e. how the bid is to be submitted), the acceptable bid formats, the issues of the bidder registration in the Electronic Instrument of the Contracting Authority and all other information of technical nature in the sense of the relevant provisions of § 211 (4) of the Act can be found on the web site of the provider of the electronic Instrument of the Contracting Authority, E-ZAK <https://zakazky.navigaassistance.cz/manual.html>.

In case on need for assistance in the above questions there is user technical support of the Electronic Instrument of the Contracting Authority (hotline and helpdesk) on <https://www.ezak.cz/kontakt>. In the case of the need for any clarification concerning the method of bid submission the bidders may use the FAQ tab of the operator of the E-ZAK electronic instrument on <https://www.ezak.cz/faq>.

## 4. Bid Price Format

4.1. The bidder shall specify the bid price in the relevant section of the draft Purchase Contract. The price shall be denominated in CZK or EUR in the following format:

- a) Bid price exclusive of value added tax (V.A.T.),
- b) Separate V.A.T. Rate and amounts, and
- c) Bid price inclusive of V.A.T.

4.2. Unless otherwise specified by the contract terms, the bid price shall include all costs necessary for due implementation of the public procurement subject, including related costs.

4.3. The Contracting Authority shall only permit bid price change in response to a normative change of V.A.T. rate corresponding to the nature of the supply, including in the case of interpretation discrepancies to the detriment of the selected contractor, without prejudice to the provision of the previous paragraph.

## 5. Qualifications

The contractor shall qualify for the contract award if they are able to prove compliance with the:

- a) Basic qualification requirements pursuant to § 74 of the Act;
- b) Professional qualification requirements pursuant to § 77 of the Act and Art. 5.2 of the Tender Conditions;
- c) Technical qualification requirements pursuant to § 79 of the Act and Art. 5.3 of the Tender Conditions.

### 5.1. Basic Qualification Requirements

5.1.1. The bidder shall not qualify pursuant to § 74 of the Act if:

- a) In the past 5 years before the present tender proceeding commencement in the country of their registered seat they were convicted of an offence for a criminal act specified in Annex 3 of the Act or a similar criminal act pursuant to the legislation of the country of their registered seat, spent convictions are disregarded,
- b) They are in arrears in relation to taxes mature in the Czech Republic or in the country of their registered seat,
- c) They are in arrears in relation to health insurance premiums and penalty mature in the Czech Republic or in the country of their registered seat,
- d) They are in arrears in relation to social security premiums and penalty mature in the Czech Republic or in the country of their registered seat,

- e) They are under liquidation, bankruptcy decision pursuant to other legislation or in a similar situation pursuant to the law of the country of their registered seat.

5.1.2. The contractor shall prove compliance with the basic qualification requirements pursuant to § 75 (1) of the Act by providing:

- a) An excerpt from criminal record in relation to § 74 (1) (a) of the Act,
- b) A confirmation of the competent tax office in relation to § 74 (1) (b) of the Act,
- c) A written affidavit concerning excise tax in relation to § 74 (1) (b) of the Act,
- d) A written affidavit in relation to § 74 (1) (c) of the Act,
- e) A confirmation issued by the competent district social security administration in relation to § 74 (1) (d) of the Act,
- f) Excerpt from the Commercial Register, or a written affidavit if not entered in any commercial register, in relation to § 74 (1) (e) of the Act.

5.1.3. If the contractor is a legal entity then the condition pursuant to paragraph 1 letter a) must be fulfilled by the legal entity and at the same time each member of the statutory body of the legal entity. If a member of the statutory body of the contractor is a legal entity then the condition pursuant to paragraph 1 letter a) must be fulfilled by

- a) The legal entity
- b) Each member of the statutory body of the legal entity, and
- c) The person representing the legal entity in the statutory body of the contractor.

## **5.2. Professional Qualification Requirements**

5.2.1. The contractor shall prove compliance with the professional qualification requirements by submission of an excerpt from the Commercial Register in compliance with § 77 (1) of the Act,

5.2.2. These documents need not be submitted by the contractor coming from a country the legislation of which does not require any similar professional qualification.

## **5.3. Technical Qualification Requirements**

5.3.1. To prove technical qualification criteria compliance the Contracting Authority requires pursuant to § 79 (2) (b) of the Act from the contractor to submit a list of selected deliveries provided in the past 3 years before the present tender commencement, including the price and the date of the delivery and identification of the client.

The minimum level for the technical criterion fulfillment is specified as the scope of at least 2 major deliveries of a similar device, i.e. of a laser technology set consisting of a disc diode laser source, a cutting head, an optical fiber and a cooler, worth at least **CZK 1,500,000.- exclusive of V.A.T.**

5.3.2. To prove technical qualification criteria compliance the contractor is entitled to use reference orders implemented together with other contractors or as a subcontractor, in the scope in which the contractor contributed to the order implementation. In such case the contractor shall be liable to prove that in the context of the documented reference project the contractor implemented independently the same part of the subject of that delivery as corresponds to the requirements of the Contracting Authority for this part of the technical qualification.

## **5.4. Form of Documents**

The contractor shall submit plain copies of the qualification requirement compliance proving documents. Before the contract award the Contracting Authority shall request from the selected contractor original copies of or converted qualification documents, unless already submitted in the bidding stage. Qualification documents issued in a language other than Czech or Slovak shall be provided with a Czech translation. This does not exclude the possibility to submit the bid in another language permitted by this tender documentation. Documents in Slovak and education credentials in Latin shall be submitted without translation. Documents proving basic qualification requirement compliance pursuant to § 74 and professional qualification requirement compliance pursuant to § 77 (1) shall prove compliance with the required criterion in 3 months before the tender proceeding commencement at the latest.

### 5.5. Qualification Requirement Compliance Proving through Other Persons

The contractor may prove compliance with a certain part of technical qualification requirements pursuant to Art. 5.34 of the tender conditions through other persons, unless otherwise specified in the tender conditions. In such case the contractor shall be liable to submit to the Contracting Authority:

- a) Documents proving compliance with the basic qualification requirements pursuant to § 74 of the Act by the other person,
- b) Documents proving compliance with the professional qualification requirements pursuant to § 77 (1) of the Act by the other person,
- c) Documents proving compliance with the missing part of qualification by the other person – especially documents proving compliance with the technical qualification requirements pursuant to § 79 (2) (b),
- d) A written commitment of the other person to provide the supply forming part of the public procurement or the thing or right which the contractor shall be entitled to use for the public procurement implementation, at least in the scope in which the other person proved compliance with qualification requirements for the contractor's sake.

### 5.6. Optional Replacement of Document Submission for Qualification Compliance Proof with Affidavit

In compliance with § 86 (2) of the Act the Contracting Authority hereby confirms that the contractor may replace certain qualification proving documents with an affidavit attached to the bid. The Contracting Authority may request submission of the original copies of the above mentioned documents any time in the course of the proceeding. In the case of the winning bidder the original copies of the qualification document shall always be required before the contract award. In the case of an affidavit in place of a document required from a subcontractor or a third party then the affidavit must be given by the subcontractor or the third party themselves.

### 5.7. Joint Bid

In the case of a joint bid of multiple contractors the basic qualification requirement compliance pursuant to § 74 of the Act and the professional qualification requirement compliance pursuant to § 77 (1) of the Act shall be proven by each contractor separately.

## 6. Evaluation Criteria

**6.1.** The bids shall be evaluated according to their economic benefit pursuant to § 114 (2) sentence 2 of the Act by the lowest total bid price in CZK exclusive of V.A.T.

**6.2.** The best bid shall be the bid of the bidder offering the **lowest total bid price in CZK exclusive of V.A.T.** To assess this criterion the data from the "Total Bid Price" field from the eZak system will be used.

**6.3.** The bids shall be evaluated in CZK. The conversion of bid prices denominated in EUR to CZK shall be based on the exchange rate EUR/CZK announced by the Czech National Bank as at the bid submission deadline.

## 7. Procedure before Contract Award

**7.1.** The selected contractor shall be liable to submit original copies of or converted qualification documents pursuant to Art. 5 above herein, unless already provided with the bid.

The documents proving basic qualification requirement compliance pursuant to § 74 of the Act must prove fulfillment of the required criterion at the latest in 3 months before the tender proceeding commencement date.

**7.2.** If the real owner data pursuant to the Act on Certain Measures against Legalization of Proceeds from Criminal Activity and Financing of Terrorism cannot be found in the real owner data record then the selected contractor, who is legal entity, is liable to submit pursuant to § 122 (5) of the Act the following before the contract award:

- (a) Identification data of all persons who are their real owners pursuant to the Act on Certain Measures against Legalization of Proceeds from Criminal Activity and Financing of Terrorism,
- (b) Documents showing the relationships of all persons pursuant to letter a) to the Contractor; these documents include but are not limited to the following:
  - (i.) Excerpt from the Commercial Register or equivalent evidence;
  - (ii.) List of shareholders;



- (iii.) Decision of the statutory body about profit share distribution;
- (iv.) Articles of Incorporation, Articles of Association or Statutes.

**7.3.** The Contracting Authority notifies the bidders already at this stage that the above document shall be required from the selected contractor before the contract award in the form of electronic original copies of authorized converted printed documents. Details shall be specified in the call delivered to the selected contractor after the winning contractor selection.

## **8. Bid Submission Deadline**

In compliance with § 40 of the Act the Contracting Authority hereby defines the period before the bid submission deadline in the length of 60 calendar days.

## **9. Other Rights, Conditions and Facts Declared and Reserved by the Contracting Authority**

The Contracting Authority hereby reserves the following rights and defines the following further conditions:

**9.1.** The bidders are liable to refrain from any actions that might disturb transparency and non-discriminatory progress of the tender proceeding, including but not limited to actions as a consequence of which fair competition among the bidders to the present tender might be disturbed.

**9.2.** The Contracting Authority wants to award the public procurement contract in compliance with the principles of socially responsible public procurement contract awards. Responsible public procurement is a process in the course of which the Contracting Authority purchases products, services and construction works they need, obtaining maximum value for money and working for public and economic benefit with minimization of negative environmental impacts. Details are further specified in the draft contract.

**9.3.** The Contracting Authority hereby notes that in the context of the tender proceeding, for the purpose of assurance of legal progress of the tender, the process includes personal data processing in the sense of the Regulation of the European Parliament and of the Council (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation – GDPR). The data controller will be MGM, spol. s r.o. as the public procurement contracting authority.

**9.4.** The bidders are hereby informed that the subject of the tender is co-financed from the funds of the Operation Program Business and Innovation for Competitiveness as part of the project titled: *“Streamlining of Technology of High-Speed 3D Laser Cutting Using Fiber Laser Sources, Registration number CZ.01.1.02/0.0/0.0/19\_262/0019187”*

## **10. Annexes to these Tender Conditions**

The following annexes form an integral part of these Tender Conditions:

- Annex 1, Draft Purchase Contract,
- Annex 2, Technical Specification,
- Annex 3, Affidavit Template