

TENDER DOCUMENTATION

within the meaning of (Czech) Act No. 134/2016 Coll., on public procurement, as amended (hereinafter referred to as the "Act")

PUBLIC CONTRACT

„Ultrastable optical cavity for increasing the coherence of intercity photonic link transmission lasers”

Below-the-limit public contract for supplies
Procured in open procedure in over-the-limit regime

Address of the public contract on the contracting authority's profile:
https://zakazky.cesnet.cz/contract_display_364.html

Project:

Quantum engineering and nanotechnology (QUEENTEC)

(<https://www.cesnet.cz/en/science#queentec-quantum-engineering-and-nanotechnologies-121>)

Project registration number: CZ.02.01.01/00/22_008/0004649
Operational Programme Johannes Amos Comenius (<https://opjak.cz/en/>)

Contracting authority:

| | |
|--|---|
| Name: | CESNET, zájmové sdružení právnických osob (CESNET, interest association of legal entities) |
| Registered seat: | Generála Píky 430/26, 160 00 Prague 6 |
| ID: | 63839172 |
| Registered: | in the Register of Associations, file No. L 58848 kept by the Municipal Court in Prague |
| Address of the contracting authority's profile | https://zakazky.cesnet.cz/ |
| Data Box ID (CZ): | gn35eaq |

Reference No: VZ-2024-010

Table of Contents:

| | | |
|------------|---|-----------|
| 1. | Basic information | 3 |
| 2. | Preliminary market consultations, persons involved in the preparation of the tender documentation | 4 |
| 3. | Subject of the public contract | 4 |
| 4. | Time and place of performance of the public contract | 6 |
| 5. | Inspection of the place of performance..... | 7 |
| 6. | Qualification requirements for participants | 7 |
| 7. | Terms and Conditions of the contracting authority | 10 |
| 8. | The manner of price specification in the bid | 11 |
| 9. | Evaluation criteria and rules for the evaluation of bids (§ 114 et seq. of the Act) | 11 |
| 10. | Conditions and requirements for the preparation and submission of bids..... | 13 |
| 11. | Deadline for submission of tenders (§ 57 of the Act)..... | 14 |
| 12. | Opening of bids | 14 |
| 13. | Other conditions for conclusion of the contract (§ 104 of the Act) | 14 |
| 14. | Explanation, modification or amendment of the tender documentation..... | 14 |
| 15. | Reservations and notices from the contracting authority | 15 |
| 16. | Conflict of interest pursuant to Act No. 159/2006 Coll., on Conflict of Interest, as amended, and restrictive measures in relation to international sanctions..... | 15 |
| 17. | Information on personal data processing | 16 |
| 18. | List of Annexes | 16 |

1. Basic information

1.1. Contracting authority profile, E-ZAK electronic tool, communication and delivery

- 1.1.1. All communications and actions relating to this procurement by the contracting authority or the evaluation committee (e.g. provision of clarifications, amendments or additions to the tender documentation, requests by the evaluation committee for clarification or additions to data, documents, notices of exclusion, notices of selection of the supplier, etc.) will be carried out through the contracting authority's electronic procurement tool E-ZAK (<http://zakazky.cesnet.cz/>, hereinafter referred to as the "E-ZAK system"). The contracting authority requests that all communication and actions by the participants (e.g. requests for clarification, amendments or additions to the tender documentation, clarification or addition of data, documents, objections, etc.) are also carried out via the E-ZAK system.
- 1.1.2. At the same time, for the avoidance of doubt, the contracting authority would like to point out to the participants (suppliers) that, in accordance with general legal provisions, the date of delivery of legal acts is the date on which
- the message will be delivered by the contracting authority to the participant's registered account in the -EZAK system (i.e. the moment from which the participant will be able to read the message in the E-ZAK system);
 - the message will be delivered by the participant (supplier) to the contracting authority in the E-ZAK system (i.e. the moment from which the contracting authority will be able to read the message in the E-ZAK system).

In view of this and for the purpose of substitutability, the contracting authority recommends that suppliers have multiple contact persons (email accounts) in their registered account in the E-ZAK system.

- 1.1.3. Detailed instructions on how to use the E-ZAK system can be found at https://zakazky.cesnet.cz/manual_2/ezak-manual-contractors-cdd-pdf, which also contains detailed instructions on how to use it and contacts for user support.
- 1.1.4. To be able to submit a bid, the supplier must be registered as a supplier in the E-ZAK system (link "Contractor sign up" on the website <https://zakazky.cesnet.cz/>) and the user of the supplier must have the appropriate authorization (permission) to submit the bid.
- The Contracting Authority informs and recommends the suppliers that they can test the settings of the browser and the system from which the bid will be sent, including a test of sending an electronic tender - for detailed information see https://zakazky.cesnet.cz/test_index.html.
- 1.1.5. The tender documentation is provided exclusively in electronic form with unlimited remote access via the E-ZAK system.

1.2. Contact of the contracting authority in matters relating to the procurement procedure:

Preferred communication tool: E-ZAK system, see the address of the public contract on first page and also section 1.1. of this tender documentation.

Other possible means of communication:

- e-mail: zakazky@cesnet.cz (Legal department)
- data box (ID: gn35eaq)

- 1.3. The term "participant" in this tender documentation means a participant in the procurement procedure within the meaning of § 47 of the Act. The term „participant“ also includes terms such as tenderer, bidder, competitor etc. General definition of supplier is contained in § 5 of the Act.
- 1.4. For avoidance of doubt, the term „bid“ used in this tender documentation also includes other similar term as „offer“, „quotation“, „tender“ etc.

2. Preliminary market consultations, persons involved in the preparation of the tender documentation

- 2.1. The contracting authority did not carry out preliminary market consultations in the preparation of this procurement.
- 2.2. No persons outside the contracting authority were involved in the preparation of the tender documentation.

3. Subject of the public contract

- 3.1. The subject of this public contract is the supply of **ultrastable optical cavity for increasing the coherence of intercity photonic link transmission lasers** (hereinafter referred to as "Equipment" or also „Optical Cavity”), including a warranty and technical support, in accordance with the requirements set out in this tender documentation.

3.2. CPV classification of the subject of the public contract

CPV codes:

- 38433000-9 - Spectrometers
- 38400000-9 - Instruments for checking physical characteristics
- 38410000-2 - Measuring instruments
- 32581130-9 - Data transmission equipment for special applications

3.3. Technical requirements for the Equipment:

- 3.3.1. Complete system consisting of high-finesse Fabry-Perot cavity, temperature-controlled vacuum housing, vacuum pump, laser source, optics, and control electronics
- 3.3.2. Output wavelength **1542 nm** with **PM fibre** optical connector **FC/APC**
- 3.3.3. Linewidth **1 Hz**
- 3.3.4. Allan Deviation at 1 s with no drift removal **smaller than 3×10^{-15}**
- 3.3.5. Daily laser drift **less than 20 kHz**
- 3.3.6. Daily frequency variation with linear drift removed **less than 500 Hz**
- 3.3.7. Mounting 19" rack max. 14U
- 3.3.8. Power supply AC 230V

3.4. Warranty

- 3.4.1. The contracting authority requires warranty for at least **2 years** starting on the day of delivery (handover) of the Equipment. Price for warranty will be included in the total bid price.
- 3.4.2. Within the warranty, the contracting authority requires a guarantee of the proper functionality of the Equipment according to the information declared by the supplier / manufacturer of the Equipment. In the event of a manufacturing defect that arises or becomes apparent during the warranty period, the contracting authority requires:
 - defect diagnosis and solution proposal within 30 days from reporting of the defect / malfunction at the latest
 - repair within 45 days from reporting of the defect / malfunction at the latest and, if it is not carried out within this period, a free loan of spare Equipment of the same type for the duration of the repair. The warranty shall not run (shall be suspended) from the time of reporting the defect/malfunction until delivery of the repaired equipment.
- 3.4.3. Defected / malfunctioning Equipment shall be handed over in the registered seat of the contracting authority or shall be send by the contracting authority to any address provided by the supplier.

3.4.4. The supplier shall bear all the costs related to the repair and provision of the spare Equipment.

3.5. Technical support

3.5.1. The contracting authority also requires technical support for at least **2 years** starting on the day of delivery (handover). Price for technical support will be included in the total bid price.

3.5.2. Within technical support, the contracting authority requires:

3.5.2.1. Provision of comprehensive documentation for hardware and software operation.

3.5.2.2. A response time for remote support within 5 business days.

3.5.2.3. Remote support for the initialization of the system and operator training for at least one workday.

3.5.2.4. Regular security patches, software updates and system upgrades to ensure ongoing security and performance.

3.5.2.5. The option of chargeable remote diagnostics and reconfiguration, or on-site visit from a supplier technician.

3.6. The information and data provided in this tender documentation, including its annexes, define the binding requirements of the contracting authority for the qualification of suppliers and for the performance of the public contract. The participant is obliged to fully and unconditionally respect these requirements when preparing its bid. Failure to accept or modify the requirements of the contracting authority set out in the tender documentation may be considered as non-compliance with the tender conditions, resulting in the exclusion of the participant from further participation in the tender procedure.

3.7. **The contracting authority draws the participants' attention to the fact that, in accordance with the Act, it is not possible, except in the cases referred to in § 46 par. 1 of the Act, to change the bids after the deadline for submission of bids, even during any clarification of bids in the context of the assessment of the conditions of participation in the procurement procedure, the assessment of the exceptionally low bid price and the evaluation of bids, etc. by the contracting authority or the evaluation committee. In view of this, the contracting authority recommends that, in the event of any uncertainties, suppliers make use of the possibility to submit a request for clarification of the tender documentation to the contracting authority (see Section 14 of this tender documentation).**

At the same time, the contracting authority informs the suppliers that it is not entitled to negotiate with the participants on the submitted bids.

3.8. Socially Responsible Procurement - the requirements and obligations of the contracting authority to comply with the principles of socially and environmentally responsible procurement and support of innovation

3.8.1. The contracting authority is interested in awarding the public contract in accordance with the principles of socially responsible procurement, which, in addition to the emphasis on purely economic parameters, also take into account the related impacts of the contract, particularly in the social and environmental field.

3.8.2. In order to fulfil the aspects of socially responsible procurement, the contracting authority requires that the selected contractor ensure compliance with all relevant valid and effective regulations, in particular with the labour law (legal employment, decent working conditions, fair remuneration, working hours, rest periods, paid overtime, etc.), legislation concerning employment and health and safety at work and environmental legislation throughout the implementation of the public contract and in relation to all persons involved in the performance of the subject of the public contract. The contracting authority requires the selected contractor to ensure proper compliance with waste disposal obligations and the environmentally sound disposal of packaging from the goods supplied and of unwanted

materials and goods (in particular through recycling and circular economy practices, where possible).

3.8.3. The contracting authority also requires that the selected supplier

- ensure the proper and timely fulfilment of financial obligations towards its subcontractors through whom it will provide the performance of the subject of the public contract, or part thereof;
- assure its subcontractors a fair contractual terms comparable to the terms set out in the contract concluded on the basis of this procurement.

3.8.4. The contracting authority further states that, given the nature and purpose of this procurement, the contracting authority has concluded that it is not in a position to set any specific conditions and requirements relating to the principles of socially responsible procurement, environmentally responsible procurement and innovation. For each of these areas, the contracting authority states:

a) In relation to the principles of socially responsible procurement:

Considering the subject of the performance and the target group of users of the subject of the public contract, the contracting authority requires that the performance be provided by a professionally competent specialized supplier who has experience in similar deliveries and is familiar with this highly technical and innovative area. The contracting authority has consistently considered setting specific requirements related to the social area, however, due to the need for a highly specific technical solution and the importance of the outcome of the procurement, the contracting authority has not found it possible to use requirements that would in any way accentuate social issues (employment of people disadvantaged in the labour market, including people with a criminal record; support for training, apprenticeship and retraining; support for participation of social enterprises in public procurement; support for participation of SMEs; contribution to the local economy, community, etc.). On the other hand, the contracting authority does not restrict in any way the entities operating in the social areas mentioned above and which meet the tender conditions to participate in the tender procedure. The contracting authority also tries to facilitate the participation of SMEs, or enterprises less experienced in public procurement, in particular by providing as much information as possible, by providing draft forms and documents to be completed as annexes to the tender documentation; that is supposed to simplify the submission of tenders for these enterprises.

b) In relation to the principles of environmentally responsible procurement:

Similarly as in case a), the contracting authority considered options to accentuate environmental issues (e.g. environmentally friendly solutions, circular public procurement, etc.) and did not find any options to set specific environmental requirements beyond the requirements mentioned above.

c) In relation to innovation:

In the view of the contracting authority, the set out technical terms themselves ensure that the contracting authority receives an innovative (but already proven in operation) solution at high technical level. However, given that the requested Equipment is intended not only for research but also for some operational purposes and that proper operation is a condition for the intended use of the Equipment, it is not possible at this point in time to give space to unproven innovative solutions.

Anyway, the contracting authority also adds that the support of innovation and education is one of its main activities and the public contract in question is part of this activity.

4. Time and place of performance of the public contract

4.1. Delivery deadline

The selected supplier must deliver the Equipment **no later than 30 weeks from the conclusion of the contract (order)**. A shorter delivery time will be positively scored in the evaluation of bids (see Article 9 of this tender documentation).

The supplier shall indicate the binding delivery deadline in his bid (on the Cover sheet of the bid, see Annex 1 of this tender documentation); the deadline shall become part of the contract.

4.2. Place of performance

- a) Delivery: the registered seat of the contracting authority.
- b) Services: the place (manner) of performance is determined by their nature (i.e. support remotely by phone, by e-mail, by chat etc.; repairs within the warranty – equipment sent by mail or handed over in registered seat of the contracting authority, repairs carried out at a location of the supplier's choice).

5. Inspection of the place of performance

- 5.1. With regard to the subject matter and manner of performance - not applicable (not needed).

6. Qualification requirements for participants

In this procurement, the contracting authority requires each participant to demonstrate:

- basic eligibility (§ 74 - § 76 of the Act and paragraph 6.1. below)
- professional eligibility (§ 77 of the Act and paragraph 6.2. below)

6.1. Requirements for demonstrating basic eligibility

| | The basic eligibility shall be met by the supplier (§ 74 of the Act): | Method of proving compliance with the conditions of basic eligibility in relation to the Czech Republic (§ 75 of the Act): |
|---|---|---|
| 1 | who has not been convicted of a criminal offence listed in Annex 3 to the Act or a similar criminal offence under the law of the country of the supplier's seat in the last 5 years prior to the start of the procurement procedure; obliterated convictions shall not be taken into account; | <p><i>By submitting an extract from the criminal record.</i></p> <p><u>Note:</u></p> <ul style="list-style-type: none"> 1) <i>If the participant is a legal entity, the participant shall provide an extract from the Criminal Records Register in relation to the legal entity itself as well as in relation to all statutory bodies (e.g. Ltd./LLC etc.) or all members of the statutory body (e.g. joint stock company etc.).</i> 2) <i>If the participant's statutory body or a member of the participant's statutory body is a legal person, the participant shall provide a criminal record extract in relation to both the legal person itself and the person representing the legal person on the participant's statutory body or each member of the legal person's statutory body.</i> 3) <i>If the participant in the procurement procedure is a branch of</i> <ul style="list-style-type: none"> a) <i>a foreign legal person, the legal person and the head of the branch of the enterprise must meet said basic eligibility requirement;</i> b) <i>Czech legal person, the persons referred to in point 2) and the head of the branch of the enterprise must fulfil said basic eligibility requirement.</i> |

| | | |
|---|---|--|
| 2 | who has no tax arrears due in the Czech Republic <u>nor</u> in the country of its registered seat; | <i>Submission of:</i> 1) Confirmation from the competent tax authority <i>and</i> 2) a written affidavit in relation to excise duty (if not included in confirmation referred to in 1). |
| 3 | who does not have any arrears due of insurance premiums or penalties for public health insurance payable in the Czech Republic <u>nor</u> in the country of its registered seat; | By submitting a written affidavit . |
| 4 | who does not have any arrears due of insurance premiums or penalties for social security and state employment policy contributions payable, in the Czech Republic <u>nor</u> in the country of its registered seat; | By submitting a confirmation from the relevant social security administration office . |
| 5 | <ul style="list-style-type: none"> - which is not in liquidation, - against whom a bankruptcy decision has not been issued, - in respect of which compulsory administration / receivership has not been ordered pursuant to another legal regulation, - nor is in a similar situation under the law of the country of the supplier's registered seat. | By submitting an extract from the Commercial Register (Register of Companies etc.) or by submitting a written affidavit if the applicant is not registered in the Commercial Register. |

* *Note.: Evidence of basic eligibility must show that the required eligibility criterion has been met no later than 3 months before the date of the start of the procurement procedure - i.e. the relevant extract/certificate/affidavit must not be older than 3 months before the start of the procurement procedure.*

6.2. Requirements for the demonstration of professional eligibility

6.2.1. The Supplier shall demonstrate professional eligibility in relation to the Czech Republic by submitting an extract from the Commercial Register (Register of Companies etc.) or other similar register, if another legal regulation requires entry in such a register.

6.2.2. The documents referred to in paragraph 6.2.1. do not have to be provided by the supplier if the legislation of his country of registered seat does not require similar professional competence.

6.3. Possible ways of demonstrating qualification (eligibility)

6.3.1. For the purpose of proving qualification, the contracting authority shall preferably require (and accept) documents recorded in the system that identifies documents to prove fulfilment of the qualification (eCertis system).

6.3.2. A participant may prove its qualification by:

- the documents referred to in paragraphs 6.1. and 6.2. above (plain copies of documents are sufficient) and/or
- submission of an affidavit of qualification by the participant (the draft in Annexes 2 and 3 to this tender documentation may be used) and/or
- submission of an extract from the list of qualified suppliers (see paragraph 6.4. below) and/or
- submission of a certificate from an approved system of certified suppliers (see paragraph 6.5. below) and/or

- submission of the European Single Procurement Document (ESPD; see paragraph 6.6. below)
- by reference to the corresponding information held in a public administration information system or in an equivalent system held in another Member State which allows unrestricted remote access (see paragraph 6.7.2 below for details; see also § 45 of the Act)

6.4. Extract from the list of qualified suppliers

- 6.4.1. The supplier may prove (part of the) qualification by submitting an extract from the list of qualified suppliers (§ 226 et seq. of the Act). This extract replaces the document(s) proving:
- basic eligibility according to § 74 of the Act, or according to paragraph 6.1. of this tender documentation; and
 - professional eligibility pursuant to § 77 of the Act, or pursuant to paragraph 6.2. of this tender documentation, to the extent that the information in the submitted extract demonstrates compliance with the specified professional eligibility criteria.

The extract from the list of qualified suppliers must prove compliance with the required eligibility criterion no later than 3 months before the date of the start of the procurement procedure (i.e. the extract must not be older than 3 months before the start of the procurement procedure).

6.5. System of certified suppliers

- 6.5.1. The supplier may demonstrate the relevant part of the qualification by submitting a certificate issued in an approved system of certified suppliers (§ 233 et seq. of the Act). The supplier shall be deemed to be qualified to the extent indicated on the certificate.

6.6. European Single Procurement Document (§ 87 of the Act)

- 6.6.1. The supplier may replace the required documents with the European Single Procurement Document within the meaning of § 87 of the Act. The European Single Procurement Document means a written affidavit of the supplier on the demonstration of its qualification, including demonstration through another person, replacing documents issued by public authorities or third parties on the form made available in the eCertis information system.
- 6.6.2. The draft for the European Single Procurement Document is set out in Commission Implementing Regulation (EU) 2016/7 of 5 January 2016 establishing the standard form for the European Single Procurement Document, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016R0007>
- 6.6.3. The European Single Procurement Document confirms that the conditions for participation in this procurement procedure have been met.
- 6.6.4. The supplier is not obliged to submit to the contracting authority documents certifying the facts contained in the European Single Procurement Document if it informs the contracting authority in which other procurement procedure it has already submitted them.

6.7. General provisions for qualification

- 6.7.1. It shall be sufficient to submit the documents required in this part of the tender documentation in a plain copy; however, the contracting authority is entitled to require the submission of an original or an officially certified copy of the document (§ 46 par. 1 of the Act). Before concluding the contract, the contracting authority shall require the selected supplier to submit documents of qualification if they have not already been submitted in the procurement procedure or are not available to the contracting authority (the contracting authority notes that in the invitation to submit them, the contracting authority may require the submission of originals or certified copies of the documents).
- 6.7.2. The obligation to submit a document may also be fulfilled by the participant by reference to the corresponding information held in a public administration information system within the meaning of Act No. 365/2000 Coll., on public administration information systems, as amended (CZ), or in a similar system held in another Member State which allows

unrestricted remote access. Such a link must contain the Internet address and the details for logging in and retrieving the requested information, if such details are necessary. In the Czech Republic, this includes in particular an extract from the Commercial Register, an extract from the public part of the Trade Register or an extract from the list of qualified suppliers.

- 6.7.3. In the event of a change in the qualification of a participant, the participant shall proceed in accordance with § 88 of the Act.
- 6.7.4. **If the qualification was obtained abroad, it shall be proved by documents issued according to the legal regulations of the country where it was obtained, to the extent required by the contracting authority.**
- 6.7.5. In the case of joint participation of suppliers, each supplier shall demonstrate the basic and professional eligibility pursuant to paragraphs 6.1. and 6.2. of this tender documentation separately.
- 6.7.6. In the case of documents in a language other than the language specified by the contracting authority (paragraph 10.3. of this tender documentation), the participant shall attach a translation of the documents into the specified language. If the contracting authority has doubts as to the accuracy of the translation, it shall be entitled to request the submission of a certified translation of the document by an interpreter registered in the list of experts and interpreters.
- 6.7.7. If the required document is not issued under the applicable law, it may be replaced by a written affidavit from the participant.
- 6.8. Consequence of failure to demonstrate qualification
- 6.8.1. If a participant fails to demonstrate that it meets the qualification requirements in full (required) extent, it may be excluded from participation in the procurement procedure pursuant to § 48 of the Act. If it is a selected supplier, then in accordance with § 48 par. 8 of the Act, it must be excluded from the procurement procedure for these reasons.

7. Terms and Conditions of the contracting authority

- 7.1. Except for the terms and conditions set out in other parts of this Tender Documentation (in particular, but not limited to, paragraphs 3.3. to 3.5. and article 8.), the contracting authority requires the following terms and conditions:
- 7.1.1. The advance payment for the delivery of the Equipment, if required, must not be more than 50 % of the total price of the equipment;
- 7.1.2. The payment for the warranty (see paragraph 3.4. above) can be included in the purchase price of the Equipment.
- 7.1.3. The payment for the technical support (see paragraph 3.5. above) will be paid in arrears (monthly, quarterly, annually).
- 7.1.4. The invoices must contain reference to the contract and identification number of the project (see the front page of this tender documentation).
- 7.1.5. If the supplier fails to meet the offered delivery time (see paragraph 4.1. of this Tender Documentation), the contracting authority will be entitled to a contractual penalty of:
- EUR 50 for each started day of delay for delays of between 1 and 30 days;
 - EUR 100 for each started day of delay over 30 days.
- At the same time, the contracting authority shall have the right to withdraw from the contract in the event of a delay of more than 30 days.
- 7.1.6. If the supplier fails to meet the deadlines under the warranty (see paragraph 3.4. of this Tender Documentation), the contracting authority will be entitled to a contractual penalty of:

- EUR 10 for each started day of delay in delivering the defect diagnosis (paragraph 3.4. of this tender documentation, first indent)
- EUR 50 for each started day of delay in delivering the repaired equipment or replacement equipment for free loan (paragraph 3.4. of this tender dossier, second indent)

At the same time, the contracting authority shall have the right to withdraw from the contract within the range of warranty in the event of a delay in delivering the repaired equipment or equipment for free loan of more than 30 days. In such case the contracting authority shall also be entitled to a refund of the price of the warranty not provided:

- at the rate of 0,5 % of the total purchase price of the Equipment for each month of not provided warranty, i.e. for each month remaining till the end of the originally agreed warranty (if the price of the warranty is included in the purchase price of the Equipment) or
- at a pro rata rate of the total price of the warranty for each month of not provided warranty, i.e. for each month remaining until the end of the originally provided warranty (if the price of the warranty is set separately).

- 7.1.7. If the supplier fails to meet the commitments under the technical support (see paragraph 3.5. of this Tender Documentation), the contracting authority will be entitled to a discount of 1 % from the monthly price for the technical support for each case of breach.
- 7.2. The contracting authority shall be entitled to set off its legitimate financial claims arising from paragraphs 7.1.5 to 7.1.7 of this Tender Documentation against its payable financial obligations towards the supplier.
- 7.3. The participant is obliged to include in the bid a draft contract for the performance of the public contract. The contract must cover the entire performance required by the tender documentation (as offered by the participant), including the terms and conditions for the provision of services. The draft contract must not be inconsistent with this tender documentation and the participant's offer.

8. The manner of price specification in the bid

8.1. Basic requirements of the contracting authority

- 8.1.1. The participant is required to indicate clearly the total bid price on the cover sheet of their bid (a draft cover sheet is attached as Annex 1 to the tender documentation).
- 8.1.2. The bid price may be quoted in Czech Crowns (CZK), Euros (EUR), US Dollars (USD) or British Pounds (GBP).
- 8.1.3. **The maximum price (excluding VAT): 190 000,- EUR or equivalent amount in CZK / USD/ GBP** (the rule set out in paragraph 9.3.3. applies to currency conversion).

Bids with a bid price higher than specified amount will be excluded from the procurement procedure.

- 8.1.4. The bid price shall include all parts of the performance in the required scope, i.e. delivery of the Equipment (including shipment), warranty and technical support for 24 months), excluding customs duties.

9. Evaluation criteria and rules for the evaluation of bids (§ 114 et seq. of the Act)

- 9.1. Bids will be evaluated on the basis of their economic profitability for the contracting authority according to the partial evaluation criteria and in the manner set out in this paragraph.
- 9.2. The contracting authority has set the following partial evaluation criteria ("PEC"):

| No. of PEC: | Name of the PEC: | Weight of the PEC: |
|-------------|--------------------------------------|--------------------|
| 1 | Total bid price | 70 % |
| 2 | Offered delivery time (weeks) | 15 % |
| 3 | Offered warranty period | 15 % |

9.3. **PEC No. 1 - Total bid price**

9.3.1. Within this PEC, the contracting authority will evaluate the total bid price (set as the price for delivery, for the warranty for the entire period offered and for the technical support for a period of 24 months), **in EUR excluding VAT**. The best bid within this evaluation criterion will be the bid with the lowest total bid price.

9.3.2. Each evaluated bid shall receive a score according to the following formula:

$$\text{Number of points} = \frac{\text{Total bid price in EUR excluding VAT of the best bid}}{\text{Evaluated total bid price in EUR excluding VAT}} \times 100 \quad \times \text{weight of the PEC (0,7)}$$

9.3.3. In the event that a bid is submitted in a currency other than EUR, the exchange rate published by the European Central Bank (see https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/index.en.html) valid on the last working day preceding the deadline for the submission of tenders shall be used to convert the price into EUR for the purposes of evaluation.

9.3.4. The bid price must not exceed the specified value (see paragraph 8.1.3.).

9.4. **PEC No. 2 - Offered delivery time (weeks)**

9.4.1. Within this PEC, the contracting authority will evaluate the delivery time offered by the participant in their bid **in weeks from conclusion of the contract / purchase order**). The best bid within this PEC will be the bid with the shortest delivery time.

9.4.2. Each evaluated bid shall receive a score according to the following formula:

$$\text{Number of points} = \frac{\text{Delivery time of the best bid}}{\text{Evaluated delivery time}} \times 100 \quad \times \text{weight of the PEC (0,15)}$$

9.4.3. The offered delivery time bid must not exceed 30 weeks (see also paragraph 4.1. above).

9.5. **PEC No. 3 - Offered warranty period**

9.5.1. Within this evaluation criterion, the contracting authority will evaluate the **offered warranty period in months**. The best bid within this PEC will be the bid with the longest offered warranty period.

9.5.2. Each evaluated bid shall receive a score according to the following formula:

$$\text{Number of points} = \frac{\text{Evaluated offered warranty period}}{\text{Offered warranty period of the best bid}} \times 100 \quad \times \text{weight of the PEC (0,15)}$$

9.5.3. The offered warranty period **must not be shorter than 24 months** (see also paragraph 3.4. above).

9.5.4. The **longest evaluated warranty period will be 60 months**, i.e. if any participant offers warranty period longer than 60 months, 60 months shall be used for the purpose of evaluating such bid.

9.6. **General rules and conditions**

9.6.1. The results of the calculations for each PEC will always be rounded to two decimal places according to standard mathematical rules.

- 9.7. The points for the individual PECs will then be added up for each tender and the final ranking of the bids will be determined on the basis of the total number of points. The bid with the highest total number of points will be selected as the most economically profitable (winner).
- 9.7.1. In the event of equality of the total number of points of two or more best bids, the lower bid price shall be decisive. In the event that even after that secondary evaluation more than one bid is ranked first, the ranking of the bids shall be decided by lot in the presence of the participants who submitted the bids.
- 9.7.2. The participants are required to indicate the values of the evaluated criteria on the cover sheet of their bids (the draft of the cover sheet – see Annex 1 of this tender documentation). The contracting authority points out that the values of the evaluated criteria may not be subsequently changed (not even within an explanation or clarification of the bid).

10. Conditions and requirements for the preparation and submission of bids

10.1. Conditions for submission of bids

- 10.1.1. Bids may be submitted only in electronic form, via the electronic tool E-ZAK.

The address for the submission of electronic tenders is specified on the front page of this tender documentation (address of the public contract on the contracting authority's profile); bids shall be submitted via the respective link "submit a tender" (may be slightly different) after the supplier has logged into his user account.

- 10.1.2. A supplier may submit only one bid in this procurement procedure. The contracting authority shall exclude a participant who has submitted multiple bids individually or jointly with other participants.

10.2. Requisites of the bids

- 10.3. The bid shall be submitted in Czech, Slovak or English.

- 10.4. **In order to demonstrate its ability to provide the performance required by the contracting authority, the participant is required to clearly indicate in its bid how it meets the contracting authority's requirements, especially technical requirements set out in paragraph 3.3. above. For this purpose, suppliers are required to include in their bids, in particular, a filled-in checklist of technical requirements for the Equipment in accordance with the template in Annex 4 to this tender documentation. Suppliers may also add additional information to their bids, such as datasheets of the offered Equipment, etc. Submission of a bid that does not comply with conditions set out in this tender documentation is a reason for exclusion from the procurement procedure.**

- 10.5. The participant is required to provide a list of subcontractors in its bid and information on which part of the contract each subcontractor will perform.

- 10.6. The contracting authority asks the participants to ensure that the bid submitted by them includes (also) an electronic version that can be searched automatically (i.e. not just a scan). This applies in particular to the technical part of the tender; it does not apply to the documents by which the tenderer proves his qualifications and the relevant affidavits.

- 10.7. The contracting authority recommends that the bid be submitted in the following structure:
- a) completed cover sheet containing the identification data of the participant and the information necessary for the evaluation of the tender (see Section 9 of this tender documentation); the participant is recommended to prepare the cover sheet according to the draft set out in Annex 1 to this tender documentation);
 - b) the content of the bid, indicating the pages;
 - c) information and evidence of the supplier's qualification (see Section 6. of this tender documentation);
 - d) the required technical information (see paragraph 10.4. and paragraph 3.3. of this tender documentation);
 - e) length and details of the warranty;
 - f) details of the technical support;

- g) list of subcontractors and information on which part of the contract each subcontractor will perform (see paragraph 10.5. and also section 16. of this tender documentation);
- h) affidavits in accordance with the binding drafts set out in Annex 2 and Annex 3 to this tender documentation (affidavit on conflict of interest and affidavit on international sanctions);
- i) evidence (a plain copy is sufficient) of a person's authorization to act on behalf of the tenderer (e.g. power of attorney), if the legal acts are performed by a person other than the person authorized to act as the tenderer's statutory body or proxy;
- j) any other information necessary for the evaluation and assessment of the tender which the tenderer considers appropriate to include in the tender.

11. Deadline for submission of tenders (§ 57 of the Act)

- 11.1. **The deadline for the submission of tenders is specified in the Notice of opening of the Procurement Procedure (also Contract notice), published in the Public Procurement Bulletin (CZ), in TED (EU) and on the Contracting Authority's profile (see the address of the public contract on the contracting authority's profile on the front page of this tender documentation).** Bids received after the deadline will not be accepted to the procurement procedure.

12. Opening of bids

- 12.1. The opening of the electronic bids will be carried out by making the content of the bids available to the contracting authority in accordance with the settings of the contracting authority's E-ZAK system after the deadline for submission of bids. The opening of bids in electronic form shall be carried out without the presence of the participants' representatives.

13. Other conditions for conclusion of the contract (§ 104 of the Act)

13.1. Cooperation of the selected supplier prior to the conclusion of the contract

- 13.1.1. The selected supplier is obliged to provide the contracting authority with the necessary cooperation to conclude a contract for the performance of the public contract.
- 13.1.2. The selected supplier is obliged to submit to the contracting authority, upon written request made pursuant to § 122 paragraph 3 letter a) of the Act, documents proving qualification pursuant to paragraphs 6.1. and 6.2. of this tender documentation (see also paragraph 6.7.1. of this tender documentation).
- 13.2. A condition for the conclusion of the contract with the selected supplier will also be the verification of data on its beneficial owner(s) in accordance with the procedure under § 122 paragraph 5 et seq. of the Act.

14. Explanation, modification or amendment of the tender documentation

- 14.1. Although this tender documentation defines the subject of the public contract in the details necessary for the preparation of the bid, suppliers may request explanation (clarification) of the tender conditions. The written request must be delivered to the contracting authority within the time limit pursuant to § 98 paragraph 3 of the Act (8 working days before the end of the deadline for submission of bids).
- 14.2. The contracting authority asks the suppliers to send requests for explanation (clarification) of the tender documentation via the electronic tool E-ZAK. The relevant link for requesting an explanation (clarification) of the tender documentation' is available on the web address of this tender (see paragraph 1.1 of this tender documentation) after the supplier has logged into his user account.
- 14.3. The contracting authority is entitled to publish an explanation (clarification) of the tender documentation on its own initiative on the profile of the contracting authority under the terms

of § 98 paragraph 1 of the Act. According to § 99 of the Act, it may also publish a modification or amendment of the tender documentation.

15. Reservations and notices from the contracting authority

- 15.1. The costs associated with participation in the procurement procedure shall be borne by each participant itself, unless otherwise provided for in the Act.
- 15.2. The contracting authority has the right to cancel the procurement procedure in accordance with the relevant provisions of the Act (see § 127 of the Act).
- 15.3. The contracting authority may verify the veracity of the data and documents provided and may also collect them itself, for example from third parties or from publicly available sources. The participant is obliged to provide all necessary cooperation in this respect.
- 15.4. The contracting authority is entitled to use any information or documents provided by the participants in the procurement procedure if it is necessary for the procedure under the Act or if it results from the purpose of the Act.
- 15.5. If the tender documentation contains direct or indirect references to a particular supplier or products, or patents for inventions, utility or industrial designs, trademarks or appellations of origin, the contracting authority expressly allows the use of other, qualitatively and technically equivalent solutions that will fulfil the functionality required by the contracting authority or obvious to the expert (even in a different way).
- 15.6. In the event that there is a change in the information provided in the bid until the time of conclusion of the contract with the selected supplier, the respective supplier is obliged to inform the contracting authority of this change in writing without delay.
- 15.7. The contracting authority does not accept variations of the bid.
- 15.8. The contracting authority informs the participants, that the tender procedure, the performance of the contract and the subsequent control are subject to some specific legal regulations (in particular, but not exclusively, Act No. 320/2001 Coll., on financial control in public administration, Act No. 255/2012 Coll., on Audit, etc.).

16. Conflict of interest pursuant to Act No. 159/2006 Coll., on Conflict of Interest, as amended, and restrictive measures in relation to international sanctions

- 16.1. Pursuant to § 4b of Act No. 159/2006 Coll., on Conflict of Interest, as amended (hereinafter referred to as the "Conflict of Interest Act"), a company in which a public official referred to in § 2, paragraph 1, letter c) of the Conflict of Interest Act or a person controlled by him/her owns a share representing at least 25% of the shareholder's participation in the company, may not participate in procurement procedure under the Act as a participant or a subcontractor (third person) through which the tenderer demonstrates qualification. The contracting authority requires that the supplier is not in a conflict of interest pursuant to § 4b of the Conflict of Interest Act.

The participant shall submit an affidavit in its tender clearly indicating that it has not violated the requirement of § 4b of the Conflict of Interest Act. A draft of the affidavit is attached as Annex 2 to the tender documentation.

- 16.2. Pursuant to § 48a of the Act, the contracting authority may not award a public contract to a participant in a procurement procedure if it is contrary to international sanctions pursuant to the law regulating the implementation of international sanctions.

The supplier shall submit an affidavit in its bid which clearly shows that it and its subcontractors are not subject to international sanctions. A draft of affidavit is attached as Annex 2 to the tender documentation.

In relation to each subcontractor who will participate in the performance of the public contract to the extent of more than 10 % of the tender price, the participant shall submit an affidavit from such subcontractor or other person stating clearly that it is not subject to international

sanctions and providing data of beneficial owners of the subcontractor or other person. A draft affidavit is attached as Annex 3 to the tender documentation.

- 16.3. The contracting authority shall not award a public contract to a tenderer if it is in conflict with international sanctions under the law governing the implementation of international sanctions. For details, see § 48a of the Act.

17. Information on personal data processing

- 17.1. The contracting authority, in its position as a personal data controller, hereby informs the participants of the procurement procedure about the processing of personal data for the purpose of implementing the procurement procedure under the Act in accordance with Article 13 of Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (hereinafter referred to as "GDPR").
- 17.2. The contracting authority may process personal data of suppliers and their subcontractors (from among natural persons doing business), members of statutory bodies and contact persons of suppliers and their subcontractors, persons through whom the supplier proves qualification, members of the supplier's implementation team and beneficial owners of the supplier, within the procurement procedure. The contracting authority will process personal data only to the extent necessary for the implementation of the procurement procedure and only for the period of time provided for by the legal regulations, in particular the Act. Data subjects are entitled to exercise their rights under Articles 13 to 22 of the GDPR in writing at the address of the contracting authority's registered office
- 17.3. Detailed information on the processing of personal data by the contracting authority is contained on the contracting authority's website available at:

<https://www.cesnet.cz/en/gdpr>

18. List of Annexes

| | |
|---------|--|
| Annex 1 | Draft cover sheet of the bid |
| Annex 2 | Draft of affidavits of participant (on basic and professional eligibility, conflict of interest and international sanctions) |
| Annex 3 | Draft of affidavit of subcontractor (on international sanctions) |
| Annex 4 | Checklist of technical requirements for the Equipment |

Prague on (see digital signature)

Ing. Jakub Papírník
 director
 CESNET, interest association of legal entities