

Part 0 PROCUREMENT DOCUMENTATION

pursuant to Section 33 of Act No. 134/2016 Coll., on Public Procurement, as amended (hereinafter referred to as the "PPA" or the "Act")

Public Contract:

"High-efficient combined heat and power facility utilizing renewable sources (OHB II - line K1) "

Over-the-limit utilities contract for construction works awarded in a negotiated procedure with prior publication as per provisions of Section 60 of the PPA



SAKO Brno, a.s.

registered address: Jedovnická 4247/2, 628 00 Brno

ID No: 60713470

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1. IDENTIFICATION DATA OF THE CONTRACTING AUTHORITY AND OTHER ENTITIES

1.1. Contracting authority

Name of the contracting authority	SAKO Brno, a.s.
Registered address of the contracting authority	Jedovnická 4247/2, 628 00 Brno
ID of the contracting authority	60713470
Profile of the contracting authority:	https://zakazky.sako.cz/

1.2. Representative of the contracting authority

The contracting authority's representative in matters related to the award of this public contract is MT Legal s.r.o., a law firm, with its registered office at Jakubská 121/1, 602 00 Brno, ID number 28305043 e-mail: **vz@mt-legal.com**. Pursuant to the provisions of Section 43 of the PPA, the contracting authority's representative is authorized to carry out actions related to this procurement procedure and is also authorized to receive any objections from the participant pursuant to Section 241 et. seq. of the PPA (without prejudice to the authorization of the statutory body or any other authorized person of the contracting authority). The contracting authority's representative is also in charge of communication pursuant to Section 2 .

1.3. Information on the procurement procedure

The public contract will be awarded in a negotiated procedure with prior publication pursuant to Section 60 et seq. of the PPA.

The negotiated procedure with prior publication takes place in several stages, first the requests to participate are submitted (proof of compliance with the qualification criteria) and, after their evaluation, the contracting authority will reduce the number of participants pursuant to Section 61 (5) and Section 111 of the PPA and Art. 7 of the qualification documentation (0.b to the procurement documentation), and will subsequently invites the selected qualified participants to submit their indicative tenders. The indicative tender may only be submitted by a participants invited by the contracting authority to submit the indicative tender (a participant who has demonstrated compliance with the qualification and, as the case may be, has succeeded in the process of reducing the number of participants in the procurement procedure).

Subsequently, the contracting authority will negotiate the indicative tenders with the participants in the procurement procedure (the contracting authority may amend or supplement the procurement terms and conditions during the negotiations, except for the minimum technical conditions pursuant to Section 3.3 of the tender documentation and pursuant to Section 61 (10) of the PPA).

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Following the conclusion of the indicative tender negotiations, the contracting authority shall invite the participants to submit their (final) tenders. A tender may only be submitted by a participant in the procurement procedure, who is invited to submit a tender.

If the term "**tender**" is used in the text of this procurement documentation, it shall be understood as both the indicative tender pursuant to Section 61 (5) of the PPA and the (final) tender pursuant to Section 61 (11) of the PPA, unless stated otherwise.

The procurement documentation shall be drafted in two language versions – Czech and English. Shall there be a discrepancy between the two language versions, the Czech language version of the procurement documentation shall prevail.

The procurement documentation does not contain information that is the result of a indicative market consultation.

The following parts of the procurement documentation were drawn up by an entity other than the contracting authority:

Parts of procurement documentation drawn up by another entity	Identification of the entity
Organizational and legal parts of the procurement documentation	MT Legal .s.r.o. law firm, registered office at Jakubská 121/1, 602 00 Brno, ID 28305043
Technical requirements (Part III)	Ramboll Group A/S, Rambøll Danmark, registered office at Hannemanns Allé 53, DK-2300 Copenhagen S, Denmark
Environmental Impact Assessment Study (EIA study) (Part II.j)	Bucek s.r.o., registered office at Táborská 191/125, Židenice, 615 00 Brno, ID 28266111
Building part of the technical documentation, (Part III Appendix A9 Technical Specifications for Building)	ALEF BRNO spol. s r.o., Smetanova 341/3, 602 00 Brno, ID 46981594
Zoning Permit Documentation (Part II.j)	TENZA, a.s., Svatopetrská 35/7, 617 00 Brno, ID 25570722
Layout and 3D model (Part III, Appendices D1-D4)	Complex Project, s.r.o., Svatopetrská 35/7, 617 00 Brno, ID 05032881

2. COMMUNICATION BETWEEN THE CONTRACTING AUTHORITY AND THE PARTICIPANTS

The public contract is procured fully in electronic manner using the certified electronic tool E-ZAK (hereinafter referred to as the "*electronic tool*"), available at <https://zakazky.sako.cz/>. All actions taken within this procurement procedure, as well as all communication between the

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contracting authority (or its representative) and the Participant, will take place electronically, in particular by means of the electronic tool.

All documents sent via this electronic tool shall be considered duly delivered on the day of their delivery to the user account kept by the addressee in the E-ZAK electronic tool. Delivery of documents will not be affected by whether the document has been read by the addressee or whether the electronic tool has sent a notification to the addressee to the contact e-mail address stating that a new message has been delivered to the user account in the electronic tool or not.

The contracting authority advises the contractor of the fact that in order to make full use of the electronic tools it is necessary to make and complete the so-called contractor registration (to be able to log in the E-ZAK system it is necessary to get registered in the FEN.cz Central Contractor Database (CDD) system at <https://fen.cz/#/registrace> providing all details and instructions for the registration). The manual for the contractor registration in the electronic tool is provided in the user manual entitled " *E-ZAK, version 5 - electronic tool for public procurement and electronic auction hall - user manual for E-ZAK system contractors.* " The contracting authority advises that the registration does not take place immediately and is subject to acceptance by the system administrator within a period of up to 48 hours on business days; in case of deficiencies in the application for registration, the registration may also be refused.

Terms and conditions and information concerning the electronic tool, including information on the use of the electronic signature, are available at <https://ezak.e-tenders.cz/data/manual/EZAK-Manual-Dodavatele.pdf>.

The contractor is always responsible for becoming properly and timely familiar with the documents sent by the contracting authority via the electronic tool, as well as for accuracy of the contact details provided by the contractor. Pursuant to the PPA, the contracting authority requires that the tenders be properly encrypted and the encryption should be carried out by means of the electronic tool.

In case of answers to any questions regarding the user control of the electronic tool, the user support may be contacted (tel.: +420 538 702 719, e-mail: **podpora@ezak.cz**, **usually available on business days between 8 a.m. to 5 p.m.**).

3. INFORMATION ON THE SUBJECT OF THE PUBLIC CONTRACT, OTHER TERMS AND CONDITIONS

3.1. Subject of the public contract

The subject of the public contract is the design and construction of the high-efficient combined heat and power facility utilizing renewable sources (OHB II - line K1).

3.2. Classification of the subject of the public contract (CPV)

45222100-0 | Waste-treatment plant construction work

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45251140-4 | Thermal power plant construction work
42320000-5 | Waste incinerators
45251250-8 | District-heating plant construction work
45200000-9 | Works for complete or part construction and civil engineering work
45220000-5 | Engineering works and construction works
45232140-5 | District-heating mains construction work
51135110-1 | Installation services of waste incinerators
45222000-9 | Construction work for engineering works except bridges, tunnels, shafts and subways

3.3. Minimum technical conditions

Pursuant to Section 61 (4) of the PPA, the contracting authority defines requirements that represent (unchangeable) minimum technical conditions; the minimum technical conditions are all the requirements of the contracting authority as defined under Section 2 (Guarantee Data) , Part II.h Guarantees (all data and minimum or maximum values are based on Tables 1 to 4 under Section 2 "GUARANTEE DATA").

The contracting authority shall not change or supplement the minimum technical conditions pursuant to Section 61 (10) of the PPA.

3.4. Estimated value of the public contract

The estimated value of the public contract determined pursuant to the provisions of Section 16 et seq. of the PPA amounts to CZK 2.3 billion excl. VAT. The contracting authority expressly stipulates that it does not anticipate the expected value to be exceeded in the indicative tenders and/or in the final tenders submitted by the participants and an exceeded expected value in the final tenders submitted by the participants may be a reason for cancelling the procurement procedure.

3.5. Reserved change in obligation and change in the scope of required performance

Pursuant to Section 100 (1) of the PPA, the contracting authority reserves a right to change obligations under the public contract to the extent defined in the procurement documentation, in particular Part I. of the procurement documentation – Contract (wording of the draft contract).

This shall not affect the right of the contracting authority to modify the scope of the subject of performance during the procurement procedure (while maintaining the minimum technical conditions), for example in the case of options under as per items in part 1.2. " *Požadované opce/Required options*", sheet "*Vstupy_Inputs* " (p. 3 of the relevant .pdf document), of the Binding form of the Economic Model, which forms Part 0.d to the Procurement documentation.

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3.6. Requirements of the contracting authority concerning further negotiations

Except for requirements indicated pursuant to Section 3.3 of the procurement documentation as the minimum technical conditions, all other requirements (except for the requirements concerning the course of the procurement procedure) are intended to be negotiated with participants during the procurement procedure, at any time according to the requirement of the contracting authority.

3.7. Further requirements

A participant who demonstrates compliance with the qualification and will be invited to submit an indicative tender pursuant to the provisions of Section 61 (5) and (6) of the PPA, is obliged to take into account the above minimum technical conditions under Section 3.3 in the submitted indicative tender. The contracting authority stipulates that more detailed conditions and details regarding the conditions of performance will be further negotiated with the qualified participants who submit indicative tenders in the next stage of the procurement procedure, while the contracting authority will be entitled to specify further binding procurement conditions, which the participants shall respect in their tenders pursuant to Section 61 (10) of the PPA. This is without prejudice to the contracting authority's right to proceed pursuant to Section 19.3 of the procurement documentation.

The time, place and method of submitting the indicative tenders will be specified in the next stage of the procurement procedure, i.e. in the invitation to submit indicative tenders pursuant to the provisions of Section 61 (5) of the PPA sent to qualified participants, while for the submission of indicative tenders and tenders is subject to Section 11 and 12 of the procurement documentation.

3.8. Subcontracting

The contracting authority requires that the participant in the procurement procedure should submit a list of subcontractors in the indicative tender, if known to the participant at that time, and should indicate which part of the public contract each of the subcontractors will perform (in doing so, the participant shall respect the limits set by the procurement terms and conditions). If the subcontractors are known to the participant only after the submission of the indicative tender or the final tender, they shall give such information to the contracting authority only when the subcontractors are known to the participant, if invited to do so. This is without prejudice to the contractor's sole responsibility for providing proper performance.

3.9. Further information/requirements of the contracting authority - protection of confidential information

The part of the procurement documentation that cannot be disclosed pursuant to Section 96 (1) of the PPA due to the procedure pursuant to Section 36 (8) of the PPA shall be provided in a different suitable manner once the contractor has adopted reasonable

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measures to ensure confidentiality of information that the contracting authority provides or discloses during the procurement procedure. Reasonable measures are understood as entering into the Non-Disclosure Agreement according to Part 0.f to the procurement documentation. Without entering into the Non-Disclosure Agreement (Part 0.f of the procurement documentation), it is not possible

- provide the participant with the procurement documentation in full (information according to Annex No. 1 to the Non-Disclosure Agreement will not be provided; information under this point will only be provided to a participant who demonstrates compliance with the contracting authority's qualification requirements and who has gone through the process of reducing the number of participants in the procurement procedure,
- to negotiate with the participant the indicative tender,
- to conclude the contract for the performance of the subject of the public contract with the participant.

A request for part of the procurement documentation, which was not provided pursuant to Section 96 (1) of the PPA may be addressed to the representative of the contracting authority referred to under Section 1.2 of the procurement documentation by e-mail, a data message or by means of the electronic tool. Attached to the request will be a duly signed Non-Disclosure Agreement on the Protection of Confidential Information in accordance with Annex Part 0.f of the procurement documentation (either with a valid electronic signature based on a qualified certificate or in the form of conversion of the originally signed paper document).

The contracting authority shall provide the signed Non-Disclosure Agreement and the protected part of the procurement documentation within 3 business days from the delivery of the duly signed draft by the contractor, however,

- only by a qualified participant in the procurement procedure who was invited to submit an indicative tender, and
- no earlier than together with the dispatching of the invitation to submit indicative tenders.

4. TIME AND PLACE OF THE PUBLIC CONTRACT EXECUTION

The Contracting authority preliminary expects that the public contract execution will begin immediately after the entry into force of the contract with the selected contractor.

The place of executing the public contract is the premises at the registered address of the contracting authority or, as the case may be, other places defined by the contracting authority.

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Further details are set out in the appendices to the procurement documentation.

5. SITE VISIT

The contracting authority will enable a visit to the place of the public contract execution during the period for the submission of indicative tenders or even during the period for the submission of final tenders. The date and time of the site visit will be determined depending on the course of the procurement procedure. The purpose of the site visit is for the contractors to become familiar with the place of future execution. During the site visit, the contractors' representatives may ask questions, however, the answers provided orally are informative only and can not be considered binding. This is without prejudice to the contractor's authorization to request an explanation of the procurement documentation pursuant to Section 16 of this procurement documentation.

The site visit will only be enabled to those participants who prove compliance with the qualification requirements set out by the contracting authority and who will be invited to submit their indicative tenders and, as the case may be, the final tenders (if the site visit takes place within the time-limit for submission of final tenders). Further information will be provided by the contracting authority in the invitation to submit indicative and final tenders.

6. CONDITIONS AND REQUIREMENTS FOR PREPARING AND SUBMITTING THE REQUEST TO PARTICIPATE

6.1. Conditions for submitting the requests to participate in electronic form

The request to participate may only be submitted in electronic form, using the electronic tool according to Section 2 of the procurement documentation. The request to participate shall be encrypted in accordance with the legal requirements and the electronic tool.

Address for submitting the request to participate: <https://zakazky.sako.cz/>

6.2. Other requirements for the request to participate (language, content)

The requirements for the language of the request to participate are the same as the requirements for the language of the indicative tender (Section 8.3) save for documents for which submission is required exclusively in Czech or Slovak or their translation into Czech is required pursuant to the relevant provisions of the PPA.

The contracting authority recommends submitting the request to participate in the following structure :

- cover sheet with identification data of the contractor (Section 28 (g) of the PPA);
- list of contents of the request to participate;
- contract according to Part 0.b of the procurement documentation (Section 5.5

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of the Qualification documentation) in case of joint participation of the contractors;

- documents proving contractor's compliance with the qualification;
- documents for the purposes of reducing the number of participants according to Part 0.b of the procurement documentation (Section 7 of the qualification documentation);
- other documents that the contractor deems appropriate.

6.3. Time-limit for submitting the request to participate

The time-limit for submitting the requests to participate is set out in the contract notice.

7. NUMBER OF PARTICIPANTS ENGAGED IN THE INDICATIVE TENDERS NEGOTIATIONS

7.1. The contracting authority will evaluate participants' compliance with the qualification, and if at least 5 or more participants comply with it, it will reduce their number pursuant to Section 111 of the PPA in accordance with Section 7 of the qualification documentation, which forms Part 0.b of the procurement documentation.

7.2. The contracting authority shall exclude from participation in the procurement procedure those participants who have not demonstrated compliance with the qualification or have not been selected when reducing the number of participants in the procurement procedure. The contracting authority will invite the non-excluded participants in the procurement procedure to submit their indicative tenders.

8. CONDITIONS AND REQUIREMENTS FOR PREPARING AND SUBMITTING THE INDICATIVE TENDERS

8.1. The invitation to submit indicative tenders will be preceded by a stage during which participants' compliance with the qualification will be evaluated (see e s is assessed on the basis of requests to participate (see the adjustment and requirements in the qualification documentation, which forms Part 0.b to the procurement documentation).

8.2. An indicative tender may only be submitted by a participant who has been invited to submit an indicative tender. The invited participants in the procurement procedure may not submit a joint indicative tender.

8.3. The indicative tender shall be prepared in Czech, Slovak or English.

8.4. The indicative tenders may only be submitted in electronic form, using the electronic tool according to Section 2 of the procurement documentation. The tender shall be encrypted in accordance with the legal and the electronic tool

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requirements. The address for submitting electronic indicative tenders will be provided in the invitation to submit indicative tenders pursuant to Section 61 (5) of the PPA.

9. REQUIREMENTS FOR THE INDICATIVE TENDERS

9.1. Indicative tenders submitted by several contractors in case of joint participation of contractors shall meet the following requirements:

- a) One of the contractors shall be designated as the lead participant responsible for the public contract and this designation will be confirmed by the submission of a power of attorney to represent all the other participants.
- b) In the indicative tenders, the contractors shall demonstrate the specific division of activities (not responsibilities) in performing the public contract; this is without prejudice to the joint and several liability of the contractors submitting a joint request to participate in accordance with Part 0.b of the procurement documentation (qualification documentation).

Other conditions, including the required structure of documents for the indicative tender, will be set out in the invitation to submit indicative tenders pursuant to Section 61 (5) of the PPA.

10. TIME-LIMIT FOR THE SUBMISSION OF INDICATIVE TENDERS

The address for submitting indicative tenders will be provided in the invitation to submit indicative tenders pursuant to Section 61 (5) of the PPA.

The indicative tenders shall be submitted no later than the time-limit defined in the invitation to submit indicative tenders pursuant to Section 61 (5) of the PPA. The participant is responsible for timely delivery of the indicative tender.

11. NEGOTIATIONS CONCERNING INDICATIVE TENDERS

11.1. In the event that, according to the choice (reservation) of the contracting authority, the public contract will not be awarded on the basis of the indicative tenders pursuant to Section 61 (8) of the PPA, the contracting authority will negotiate the indicative tenders with the participants in the procurement procedure with the aim of improving the indicative tenders in favour of the contracting authority. Any terms and conditions of performance contained in the indicative tenders may be the subject of negotiations. The contracting authority may also negotiate the procurement terms and conditions of the public contract. Unless agreed otherwise , negotiations with the participants will be held in the order of time of their

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submission of indicative tenders starting with the participant who submitted the indicative tender as the first, to the participant who submitted the indicative tender as the last. In the event of the same time of the indicative tender submission, the order of the negotiations with these participants will be determined by drawing lots.

- 11.2.** The contracting authority shall conduct negotiations with the participants in the procurement procedure in the Czech or Slovak language. However, the contracting authority reserves the right to negotiate with the participants in English. The contracting authority shall inform the participants in the procurement procedure of this fact sufficiently in advance before each specific meeting (at the latest in the invitation to the meeting); in such a case, the participant shall arrange for an interpreter at its own expense if the participant is unable to communicate in English at the level required for negotiating the subject of the public contract and related terms and conditions.
- 11.3.** The contracting authority is entitled to change or supplement the procurement terms and conditions during the negotiations, except for the minimum technical conditions pursuant to Section 3.3 of the procurement documentation. The contracting authority will inform the participants in the procurement procedure in writing (such as in the form of a protocol or in another suitable manner) of such a change or supplement to the procurement terms and conditions and will provide the participants with a reasonable time to modify their indicative tenders. If the contracting authority does not request submission of a modified indicative tender, the participant shall take into account the changed or supplemented procurement terms and conditions in its tender submitted after the end of the negotiations on the basis of the invitation to submit (final) tenders.
- 11.4.** The participant will be duly invited to each meeting no later than 5 days in advance, unless the date of the next meeting is agreed as part of meetings. The participant will be invited to each meeting in the form of a request (invitation), in which at least the date and venue of the meeting shall be specified with at least a generally defined subject matter of the meeting. The invitation may include an invitation to more than one meeting. The obligation to invite the participant to the negotiations in the form of a request (invitation) will not apply if the participant acknowledged the date and venue of further negotiations at a previous meeting. The contracting authority reserves the right to change the date of such a meeting. One negotiation may be divided by the contracting authority into several rounds or phases.
- 11.5.** A maximum of five persons (participants' representatives) may attend one meeting, at least one of whom shall be demonstrably authorised to represent the participant in the meeting (e.g. on the basis of a power of attorney), unless the contracting authority (especially at the request of the participant) allows for a higher number of participants.
- 11.6.** The contracting authority is entitled to stipulate no later than 5 business days (unless it agrees with the participant on a different date) before each subsequent

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meeting that the next meeting will be the final meeting. After the final meeting, the contracting authority will invite the participants to submit their (final) tenders.

- 11.7.** In addition to face-to-face meetings, individual meetings may, based on the decision of the contracting authority, take place remotely, in the form of electronic communication, primarily through the electronic tool or video conference (using appropriate software for this purpose).
- 11.8.** The contracting authority will negotiate with the participants separately or jointly, at its discretion.
- 11.9.** The subject matter of the negotiations may be any and all aspects of the performance of the public contract based on the decision of the contracting authority while taking into account the purpose of the negotiations under Section 11.1 of the procurement documentation.
- 11.10.** With respect to each and every face-to-face meeting with the participant, i.e. the meeting in the physical presence of the contracting authority's representatives and the participant's representatives, the contracting authority shall draw up minutes or a protocol containing arrangements made during the meeting, the date of the meeting, the subject matter of the meeting and its outcome. Attached to this protocol will always be the list of participants in the meeting (attendance list), in which the participants in the meeting will be entered at the beginning of each meeting. The protocol/minutes of the meeting will usually be drawn up by the contracting authority at the venue of the meeting, but not later than 7 business days after the meeting. The participant is entitled to inspect the protocol of the meeting and to make extracts or copies thereof; the participant is entitled to request a copy of the protocol.
- 11.11.** In the case of a negotiation conducted remotely, the written communication/ video conference record between the participant and the contracting authority or, as the case may be, its representative, will serve as a record of the course of the negotiations, having the character of documentation pursuant to Section 216 of the PPA, for the validity of which no further authorisation is required.
- 11.12.** The contracting authority reserves the right not to conduct further negotiations with a participant who failed to attend a face-to-face meeting in at least two cases or did not respond properly to the specified requirements in writing in at least two cases, or if the person authorized to act on behalf of the participant was evidently unprepared for the meeting.
- 11.13.** The contracting authority reserves the right to stipulate additional terms and conditions for negotiating with the participants.
- 11.14.** The outcome of the indicative tender negotiations, bindingly approved by both parties to the negotiations (by the contracting authority and the participant in the procurement procedure) will be binding for the submission of the tender; however, the participant may also offer more favourable terms and conditions in its tender.

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12. REQUIREMENTS FOR THE PREPARATION AND SUBMISSION OF THE FINAL TENDER

- 12.1.** The final tender may only be submitted by a participant who has been invited to submit the tender. The invited participants in the procurement procedure may not submit a joint final tender.
- 12.2.** The participants in the procurement procedure shall submit only a complete **electronic form of the final tender**, using the electronic tool according to Section 2 of the procurement documentation. **The final tender shall be encrypted in accordance with the legal and the electronic tool requirements.**
- 12.3.** The same applies to the requirements for the language of the final tender as to the requirements for the language of the indicative tender (Section 8.3) .
- 12.4.** Further terms and conditions concerning the tender will be set out in the invitation to submit the final tenders.

13. TIME-LIMIT FOR THE SUBMISSION OF FINAL TENDERS

The time-limit for submitting the tenders will be provided in the invitation to submit the final tenders pursuant to Section 61 (11) of the PPA and Section 62 (4) of the PPA.

The final tender shall be submitted no later than the time-limit defined in the invitation to submit tenders pursuant to Section 61 (11) of the PPA. The participant is responsible for timely delivery of the final tender.

14. TENDER EVALUATION

The tenders will be evaluated in accordance with Section 114 et. seq. of the PPA on the basis of their economic advantageousness. The most economically advantageous tender is the tender which, in summary, meets the defined evaluation criteria best.

Pursuant to Section 116 of the PPA, the contracting authority specified the evaluation criteria and rules for tender evaluation, the details of which are set out in more detail in Part 0.c of the procurement documentation (Detailed definition of evaluation criteria and rules for tender evaluation).

15. BINDING NATURE OF THE CONTRACTING AUTHORITY'S REQUIREMENTS

The information and data specified in the procurement documentation define the binding requirements of the contracting authority for the performance of the public contract. However, the contracting authority advises that these may, in addition to the minimum technical conditions referred to under Section 3.3 of the procurement documentation, undergo changes during the indicative tender negotiations with the participants. The participant is obliged to fully and unconditionally meet the requirements arising from invitation to submit tenders in its final bid. Failure to accept the contracting authority's

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requirements shall be considered as non-compliance with the procurement terms and conditions.

Where the procurement terms and conditions contain references to trade names, first and last names, specific designations of goods and services which are characteristic of a particular person or his/her organizational unit, invention patents, utility models, industrial designs, trademarks or designation of origin, the contracting authority explicitly allows the use of other, qualitatively and technically similar solutions, which will ensure the functionality required by the contracting authority or functionality obvious to an expert (unless stated otherwise in the relevant case).

16. EXPLANATION, CHANGES OR SUPPLEMENTS TO THE PROCUREMENT DOCUMENTATION

The contractors may request an explanation of the procurement conditions.

Such requests shall be delivered to the contracting authority within the period specified under Section 98 (3) of the PPA (8 business days before the end of the time-limit of the relevant period in the relevant pending stage of the procurement procedure - e.g. the time-limit for submission of the requests to participate or the tenders).

The contracting authority advises that **all communication with the contracting authority within the procurement procedure concerning this public contract shall be conducted in electronic form only, in particular through the electronic tool , or**, as the case may be, through a data box or to the **email address of the contracting authority's representative** according to Section 1.2 of the procurement documentation.

Within the statutory period of 3 business days, the contracting authority shall publish an explanation of the procurement documentation, including the exact wording of the request, on the contracting authority's profile.

The contracting authority is entitled to publish on the contracting authority's profile under the conditions of Section 98 (1) of the PPA, explanations to the procurement documentation also on its own initiative. Pursuant to the provisions of Section 99 of the PPA, it may also publish a change or supplement to the procurement documentation in this manner.

17. TERMS AND CONDITIONS FOR CONCLUDING THE CONTRACT WITH THE SELECTED CONTRACTOR

17.1. The contractor who has been identified by the contracting authority (committee) as the selected contractor shall submit the following at the request of the contracting authority under the terms and conditions of Section 2 of the procurement documentation (i.e. in electronic form)

- a) original qualification documents, unless the contracting authority stipulates otherwise in connection with the current legal regulations, unless they have

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been submitted in this form during the procurement procedure, in electronic form (see Section 2 of the procurement documentation);

- b) documents concerning concluded insurance contracts according to the binding wording of the draft contract) pursuant to Part I. of the procurement documentation (that is Professional liability insurance pursuant to Part II.g to the procurement documentation);

The contracting authority advises that requirements under letter (b) may undergo changes (also in the form of the additional requirements) following the draft contract negotiations during indicative tender negotiations (the final form of these requirements will be set out in the invitation to submit the final tenders).

17.2. If the selected contractor is a legal entity, the contracting authority shall identify the data on its beneficial owner in accordance with the provisions of Section 122 (4) of the PPA. If it is not possible to identify the data on the beneficial owner in accordance with the procedure pursuant to the provisions of Section 122 (4) of the PPA, the contracting authority shall invite the selected contractor to submit an extract from similar records of the beneficial owners or to provide

- a) identification data of all persons who are the beneficial owners and
- b) to submit documents in electronic form evidencing the relationship of all persons referred to under point (a) to the contractor, with such documents being, for example
 - 1. extract from the Commercial Register or another similar register,
 - 2. list of shareholders,
 - 3. decision of the statutory body on the payment of profit share,
 - 4. deed of foundation, articles of incorporation or statutes.

all this in accordance with Section 2 in electronic form.

18. AWARD PERIOD AND SECURITY

The contracting authority sets out the requirement for the award period (Section 40 of the PPA) and the provision of security (Section 41 of the PPA).

Period during which the participants may not withdraw from the procurement procedure (award period): 5 months from the end of the time-limit for the submission of (final) tenders.

Amount of the required security: CZK 20,000,000

Form of the security:

- (a) pecuniary security - depositing a sum of money into the contracting authority's account, or

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b) irrevocable and unconditional bank guarantee - security document in electronic form (pursuant to the provisions of Section 2029 et seq. of Act No. 89/2012 Coll., Civil Code, as amended) or

c) suretyship insurance in electronic form (pursuant to the provisions of Section 2868 of Act No. 89/2012 Coll., Civil Code, as amended):

The security shall be provided in Czech crowns.

a) Deposit of pecuniary security:

The document demonstrating the deposit of the pecuniary security to the account specified by the contracting authority is also a bank statement of the participant's account which shows that the contractor transferred the amount corresponding to the required security to the account, or the bank's confirmation of the amount corresponding to the required security listed below. Data required for depositing the pecuniary security are as follows:

bank institution:	Komerční banka
account number and bank code:	79033621/0100
	IBAN CZ8701000000000079033621
variable symbol:	contractor 's ID number (or its equivalent).

The pecuniary security shall be credited to the account within the time-limit for submission of tenders. Unless the contractor stipulates otherwise, the pecuniary security will be returned to the account from which it was paid by the contractor provided that legal terms and conditions are met.

b) Provision of a bank guarantee:

Security in the form of a bank guarantee shall be provided by submitting an electronically signed guarantee document in electronic form containing the obligation to pay the security to the contracting authority under the terms and conditions set out under Section 41 (8) of the PPA. This guarantee document shall be submitted as the original document in the tender (e.g. a scanned signed guarantee document is not sufficient). If the legal terms and conditions for returning the security are met, the contracting authority shall provide the contractor or the bank designated by the contractor, at its request, with information on meeting the terms and conditions for returning the security provided in the form of bank guarantee.

c) Provision of suretyship insurance:

Security in the form of a suretyship insurance shall be provided by submitting a written declaration by the insurer in electronic form containing the obligation to pay the suretyship to the contracting authority under the terms and conditions set out under Section 41 (8) of the PPA. Provided that the relevant insurance company requires the original written statement in order to provide the performance under the suretyship insurance, the security shall be provided in the form of suretyship insurance by submitting an electronically signed

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guarantee document in electronic form by the insurance company. If the legal terms and conditions for returning the security are met, the contracting authority shall provide the contractor or the insurance company designated by the contractor, at its request, with information on meeting the terms and conditions for returning the security provided in the form of suretyship insurance.

19. CONTRACTING AUTHORITY'S RESERVATIONS

- 19.1.** The costs incurred by participating in the procurement procedure shall be borne by the participant.
- 19.2.** The contracting authority reserves the right to change, supplement or modify the procurement conditions, save for the minimum technical conditions pursuant to Section 61 (4) of the PPA.
- 19.3.** In accordance with Section 61 (8) of the PPA, the contracting authority reserves the right not to negotiate over the indicative tender and may award the public contract on the basis of indicative tenders. If such a decision is made, the indicative tenders will be considered as final tenders.
- 19.4.** The contracting authority reserves the right to cancel the procurement procedure pursuant to the relevant provisions of the PPA.
- 19.5.** The contracting authority does not allow for the submission of multiple tenders by one participant.
- 19.6.** The contracting authority reserves the right to proceed pursuant to Section 46 of the PPA, if there is a need to clarify the requests to participate or the indicative tenders or to supplement them and the participant is entitled to amend the request to participate or the indicative tender so as to meet the requirements of the contracting authority.
- 19.7.** The contracting authority may verify the credibility of the provided data and documents and may also obtain it itself, for example from third parties or from publicly available sources. The participant is obliged to provide all the necessary cooperation in this regard.
- 19.8.** The contracting authority reserves the right to exclude from the procurement procedure a participant who, directly or via a subcontractor through which the participant demonstrates its compliance with qualification, breaches the provisions of Section 4b of Act No. 159/2006 Coll., on Conflict of Interests, as amended.
- 19.9.** The contracting authority advises that the selected contractor is in accordance with Section 2 (e) of Act No. 320/2001 Coll., on Financial Control, as amended, an entity obliged to cooperate during the exercise of the financial control.
- 19.10.** In the event that some data in the participant's documents/information is provided in a currency other than CZK, without this being contrary to the procurement

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documentation, the foreign exchange rate announced by the Czech National Bank as of the date of commencement of the procurement procedure shall be used for conversion to CZK.

- 19.11.** The Contracting Authority preliminarily assumes that a part of the financing will be provided from the Modernization Fund and related program HEAT within the project „Modernization of WtE plant of the SAKO Brno in order to increase processing capacity and operational efficiency“, reg.n. 7210200001.

20. INFORMATION ON DATA PROCESSING

- 20.1.** Pursuant to Article 13 of Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (hereinafter referred to as the "GDPR") and Act no. 110/2019 Coll., on the processing of personal data, as amended, the contracting authority acting as a data controller hereby informs the participants in the procurement procedure about their data processing or the purposes of conducting the procurement procedure pursuant to the PPA.
- 20.2.** The contracting authority may process data of the contractors and their subcontractors (from among natural persons engaged in business), members of statutory bodies and contact persons of the contractors and their subcontractors, persons through which the contractor demonstrates compliance with qualifications, members of the the contractor's implementation team and the contractors' beneficial owners.
- 20.3.** The contracting authority will only process such data to the extent necessary to conduct the procurement procedure and only for the period stipulated by legal regulations, in particular the PPA. Data subjects are entitled to exercise their rights under Articles 13 to 22 of the GDPR in writing at the registered address of the contracting authority.
- 20.4.** The contracting authority transfers the data for processing to the contracting authority's representative as the data processor for the purposes of administering the procurement procedure pursuant to Section 43 of the PPA.

21. LIST OF APPENDICES

The following appendices form a part of this procurement documentation:

Part 0.a – Table of Contents

The procurement documentation includes all documents listed in the document and entitled as "Part 0.a - Table of content.xlsx "and documents explicitly referred to in any document forming the procurement documentation.

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SAKO Brno, a.s.
legally represented by
MT Legal s.r.o., law firm