



BCT – Bałtycki Terminal Kontenerowy Sp. z o.o.

ul. Kwiatkowskiego 60

81-127 Gdynia

Tel.+48 601 690 707

Tel.+48 795 501 455

e-mail: mfilewicz@bct.gdynia.pl

e-mail: mjacznik@bct.gdynia.pl

Internet site: www.bct.gdynia.pl

Office hours: 8.00-16.00

Terms of Reference (ToR)
CONCERNING THE SUPPLY OF THE FOLLOWING EQUIPMENT:
2 units of Straddle Carriers

1. Introduction:

1.1. Terms used in these Tender Specifications shall have the following meaning:

1.2.1. “BCT” or “the Contracting Party” – BCT Bałtycki Terminal Kontenerowy Sp. z o.o.

1.2.2. “Procedure” – the procedure carried out by the Contracting Party
based on these Tender Specifications

1.2.3. “TOR” (“Tender Specifications”) – these Tender Specifications

1.2.4. “TDT” – Transport Technical Supervision – polish government technical approval
authority

1.2.5. “TOC” - Taking Over certificate – issued by TDT

2. Contract awarding procedure

2.1. Contract will be awarded in the **open tender procedure**, in accordance with art. 70 (1) – 70 (5)KC of the Civil Code Law of 23 April 1964. The Contracting Party shall have the right to change the contents of the TOR and the schedules thereto.

2.2 This procedure has been assigned with the following reference number:

No. EU/04/SC /ZZ/2011; EU/17/SC/ZZ/2011

In contacts with the Contracting Party, the contractors should always mention the above reference number.



3. Subject matter of the contract

3.1. The Contracting Party will award a contract for delivery of **2 units of Straddle Carriers (SC)**

3.2. Detailed description of the subject matter of the contract has been attached as **schedule 5** “

Technical Specification of Straddle carrier (SC)“, an integral element of these TOR.

3.3. The Contracting Party **does not accept** partial bids for individual elements of the Contract.

3.4. The Contracting Party's requires that the Contractor provide a warranty for delivered **Straddle Carrier x 2 units** .

- at least 24 months for each of Straddle Carrier and its elements, after the technical acceptance (TOC)
- at least 1 year for parts repaired during DLP – Defect Liability Period for each of Straddle Carrier ;
- at least 5 years of painting and galvanizing system of each of Straddle Carrier , starting from the TOC date;
- at least 5 years on steel construction of each of Straddle Carrier , starting from the TOC date;

Detailed warranty conditions have been provided in the model agreement – Schedule 4.

3.5. The Contractor shall cover the cost of delivery to a place specified in Tender Specification (TOR).

4. Time-limits for completion

4.1 The Contracting Party requires that the Contractor delivers the fully erected **2 units of Straddle Carriers** in accordance with the delivery time-table given in the Contract - within **9 months** from the date of signature of the contract.

4.2 The address of delivery is: str. Kwiatkowskiego 60, 81-127 Gdynia, Poland.

5 Requirements that must be met to be admitted to the tendering procedure and the description of scoring

5.1 The contract can be awarded to the Contractors:

- 5.1.1 who have authorisations to perform a specified activity or an operation, if such authorisations are required by law;
- 5.1.2 who have knowledge and experience as necessary to carry out the contract;
- 5.1.3 who have technical potential and resources which enable them to carry out the contract;



- 5.1.4 whose economic and financial standing guarantees proper execution of the contract;
- 5.1.5 Contractors excluded from the proceedings:
- Contractors who within 3 years before the commencement of procedure inflicted a loss by not performing a contract or performing it unduly, and the loss was not voluntarily remedied until the day of commencement of the proceedings, unless non-performance or undue performance resulted from circumstances for which the contractor was not responsible;
 - Contractors with regard to whom either liquidation was started or bankruptcy announced;
 - Contractors, who have not provided confirmation they are not in arrears with payment of taxes and social contribution;

The evaluation is carried out using the “met – not met” formula, based on the information contained in delivered documents and statements. It must follow unambiguously from the documents delivered that the Contractor meets the requirements. Failure to meet any of the criterion results in exclusion from the tendering procedure.

Lack of delivery of any of the required documents and statements included in point 6 assuring compliance with the conditions for participation in the proceedings before the submission deadline brings an effect of exclusion from the proceedings.

6 List of statements and documents that must be delivered by the Contractors to prove that they meet the criteria for being admitted to the tendering procedure

6.1 . To prove the fact of meeting the requirements for being admitted to the tendering procedure, the Contractors must provide the following documents (together with the Contractor’s bid):

6.1.1. the Contractor’s Statement – **Schedule 3a and 3b**.

6.1.2. The list of 2 delivery corresponding to tender subject made within last 3 years before the deadline for bid submission; the list must mention the subject-matter and the date of delivery and the recipients and documents to confirm that the delivery were accepted. The Contractor will be considered as meeting the Contracting Party’s criterion of knowledge and experience ,if, within the above period, duly delivered at least 2 units of **Straddle Carrier**.

The Contracting Party may, at its sole discretion, independently verify whether the Contractor’s statement is true; if the information given by the Contractor is not true, then the Contracting Party may exclude such Contractor from the tendering procedure.



- 6.1.3. a valid certificate confirming the entry to the company registration or a valid extract from any other register (if a separate legislation requires such an entry to be made), issued not earlier than 6 months before the bid submission deadline;
- 6.1.4. a certificate from the head of a local tax office confirming that the Contractor is not in arrears with tax payments or a certificate confirming that the Contractor has been awarded a tax exemption, or was allowed to pay taxes at later dates or by installments, or the execution of a decision of a competent authority was suspended – such certificate being issued not earlier than 3 months before the bid submission deadline;
- 6.1.5. a certificate from a local branch of the Social Insurance Company (ZUS) or from the Farmers' Social Security Fund (KRUS) confirming the Contractor is not in arrears with the health or social insurance contributions and duties, or a certificate that the Contractor has been awarded an exemption, or was allowed to pay them at later dates or by installments, or the execution of a decision of a competent authority was suspended – such certificate being issued not earlier than 3 months before the bid submission deadline;
- 6.1.6. if the Contractor's registered office or place of residence is outside Poland, then, instead of documents referred to in point 6.1.3, 6.1.4, 6.1.5, the Contractor shall submit document(s) that have been issued in the country of the Contractor's registered office or place of residence, confirming that:
- the Contractor is not under liquidation or has not been declared bankrupt- such documents being issued not earlier than 6 months before the bid submission deadline;
 - the Contractor is not in arrears with payment of taxes, duties, social and health contributions, or that the Contractor has been awarded an exemption, or was allowed to pay them at later dates or by instalments, or the execution of a decision of a competent authority was fully suspended – such documents being issued not earlier than 3 months before the bid submission deadline.
- 6.1.7. Financial statements and, if such financial statements needs auditing by a certified auditor in accordance with the accounting law, also the auditor's opinion on the financial statement, or, in case of Contractors not obliged to draw up financial statements, other documents that confirm the turnover, liabilities and receivables – for a period not shorter than the last financial year ; the Contractor will be considered as meeting the Contracting Party's criterion of economic and financial standing guaranteeing proper execution of the contract, if the Contractor's current ratio (current assets / current liabilities) for the last financial year **was at least 0.9**. The Contracting Party accepts the financial statements in other currencies, however, for the purposes of comparing the bids, the value of sales revenues in a foreign currency will be converted into PLN using the exchange rate (given in the Average Exchange Rate Table of



the National Bank of Poland NBP (available at the NBP official Internet site: <http://www.nbp.pl/>) valid for the date of the tender announcement, which will be published on the website, company premises and Journal of European Union. The Contracting Party may, at its sole discretion, independently verify whether the Contractor's statement is true; if the information given by the Contractor is not true, then the Contracting Party may exclude such Contractor from the tendering procedure.

- 6.1.8. from the bank where the Contractor has its main bank account, the statement about the Contractor's creditworthiness or confirming the level of funds available to the Contractor, issued not earlier than 3 months before the bid submission deadline; the Contractor will be considered as meeting the Contracting Party's criterion of economic and financial standing guarantying proper execution of the contract, if the Contractor's creditworthiness is not less than **USD 1,5 mln**. The Contracting Party accepts the bank statement in other currencies, however, for the purposes of comparing the bids, the information in a foreign currency will be converted into PLN using the exchange rate given in the Average Exchange Rate Table of the National Bank of Poland NBP (available at the NBP official Internet site: <http://www.nbp.pl/>) valid for the date of the tender announcement, which will be published on the website, company premises and Journal of European Union. The Contracting Party may, at its sole discretion, independently verify whether the Contractor's statement is true; if the information given by the Contractor is not true, then the Contracting Party may exclude such Contractor from the tendering procedure.
- 6.1.9. an insurance policy or any other insurance document that confirms that the Contractor has a business liability insurance (including a payment slip that confirms that the insurance premium under the insurance contract has been paid). The Contractors will be considered as meeting the Contracting Party's criterion of economic and financial standing guarantying proper execution of the contract, if the Contractors' business liability insurance is not less than **USD 1,5 mln** per one and all events. The Contracting Party accepts the relevant statements in other currencies, however, for the purposes of comparing the bids, the information in a foreign currency will be converted into PLN using the exchange rate given in the Average Exchange Rate Table of the National Bank of Poland NBP opening (available at the NBP official Internet site: <http://www.nbp.pl/>) valid for the date of the tender announcement, which will be published on the website, company premises and Journal of European Union. The Contracting Party may, at its sole discretion, independently verify whether the Contractor's statement is true; if the information given by the Contractor is not true, then the Contracting Party may exclude such Contractor from the tendering procedure.



6.2 In case of Consortium each member of the Consortium should provide no grounds for exclusion - Statement 3a , other conditions should meet together.

7 Information about the method of communication between the Contracting Party and the Contractors, including the method of delivery of statements and documents; persons authorized to communicate with the Contractors

7.1 Any information, requests, notifications and questions (hereinafter referred to jointly as the “Correspondence”) both from the Contracting Party and from the Contractors shall be in writing and in the Polish or the English language; they shall be delivered to the following address:

BCT – Bałtycki Terminal Kontenerowy Sp. z o.o.

ul. Kwiatkowskiego 60

81-127 Gdynia

tel. +48 601 690 707

tel. +48 795 501 455

fax : 48 58 741 59 0

e-mail: mfilewicz@bct.gdynia.pl

e-mail: [mjaczniak@bct.gdynia.pl](mailto:mjacznik@bct.gdynia.pl)

Addressing any correspondence to a Contracting Party’s address other than the above may result in the Contracting Party’s failure to comply with the deadlines and, in such case, the fault will be attributed to the Sender.

7.2 The Contracting Party agrees that the Correspondence may be delivered by fax (the fax number has been given in point 7.1. of the TOR) or by e-mail (to the e-mail address given in point 7.1. of the TOR). The Correspondence is deemed delivered on time, if the contents reached the Contracting Party before the deadline of offer submission and if the receipt has been confirmed in writing.

7.3 The date of becoming aware of the contents of the correspondence is the date on which the contents became available to the parties. The date means working days, during the office hours, i.e. from 8.00 to 16.00 of the local time (specific for the Contracting Party’s registered office). The date of becoming aware of the contents of faxes or e-mails sent outside the office hours is the next working day.



- 7.4 The person authorized to contact the Contractors is the Procurement Manager of BCT Malgorzata Filewicz , phone: +48 601 690 707 or EU Projects Coordinator of BCT – Marlena Jacznik , phone: +48 795 501 455 .
Above person will forward Contractor’s questions to member of the Project Team responsible for particular area.
- 7.5 The Contractors may ask the Contracting Party, in writing, to explain the specific points in the TOR. The Contracting Party shall provide the answer as soon as possible – max. 5 working days, by sending questions and answers to all the participants and placing them on company website , provided that the question is delivered to the Contracting Party at least 6 days before the bid submission deadline.
- 7.6 Questions should be sent to the address given in point 7.1. of the TOR
- 7.7 The principles of the exchange of information between the Contracting Party and the Contractors (and vice versa) have been described in points 7.1. – 7.3. of the TOR
- 7.8 The answer becomes automatically an integral part of the TOR. In case the answer differs from the TOR, the later letter containing the Contracting Party’s statements shall prevail.
- 7.9 In justified cases the Contracting Party may, at any time before the bid submission date, modify the TOR – as the reaction to the answers from the Contractors or at its own initiative. The scoring criteria, however, cannot be modified.
- 7.10 . In a situation described in point 7.9. the Contracting Party shall extend the period for bid submission taking into account the amount of time which is necessary to make the modifications of bids in response to the modifications of the TOR. The above shall apply only if a modification results in the modification of the TOR.



8 Requirements concerning the tender bond

The Contractor must provide a tender bond. Below there is a list of general tender bond requirements that must be met by the Contractors:

8.1 The amount of tender bond is USD 46 200, in words: forty six thousand and two hundred USD), or the equivalent of this amount in PLN or EUR using the exchange rate given in the Average Exchange Rate Table of the National Bank of Poland (NBP) (available at the NBP official Internet site: <http://www.nbp.pl/>) valid for the day of publication of a tender in the Official Journal of the European Union (or sequentially following business day if the announcement was over the weekend).

8.2 At the discretion of the Contractor, the tender bond may be provided:

1) in cash, by a bank transfer to the following bank account:

USD PL 31 1240 3523 1787 0000 4334 9285

PLN PL 02 1240 3523 1111 0000 4334 9269

Swift: PKOPPLPW

Bank PEKAO SA

81-212 Gdynia Hutnicza 3A

with the following designation in the "Title" field:

tender bond – tender procedure no. EU/ 04/SC/ZZ/2011; EU/ 17/SC/ZZ/2011 regarding the supply of 2 units of Straddle Carriers

2) as bank guarantees;

8.3 The tender bond provided in cash shall be kept by the Contracting Party on a bank account.



- 8.4 In case of tender bonds provided in cash (paid by a bank transfer), together with its bid, the Contractor shall provide the certified true photocopy of the tender bond payment, including the bank transfer confirmation. In other cases, an original document issued for the Contracting Party must be delivered. The documents referred to in point 8.2.1 of the TOR must be valid for the whole period in which a tenderer is bound by its tender.
- 8.5 In case of providing a tender bond in the form of a bank transfer, such tender bond is deemed paid on the date of crediting the Contracting Party's bank account specified in point 8.2. of the TOR
- 8.6 The tender bond:
- 1) must be provided before the bid submission deadline;
 - 2) must cover the whole period in which a tenderer is bound by its tender;
- 8.7 The term of validity of the tender bond shall start on the bid submission date and must include the bid opening date.
- 8.8 Contractors who do not provide the tender bonds in the amount defined in point 8.1. or in the form defined in point 8.2. shall be excluded from the tendering procedure. A Contractor shall also be excluded from the tendering procedure if, together with its bid, it has not provided the bank transfer confirmation confirming that the tender bond was paid.
- 8.9 Rules on the withholding and the return and of the tender bond and circumstances justifying such return have been specified in Article 70⁴ of the Civil Code.

9 Period of validity

- 9.1 The period of validity of the bid is 60 days.
- 9.2 The period starts on the bid submission deadline.
- 9.3 The Contractor, at its sole discretion or at the Contracting Party's request, may extend the period of validity; the Contracting Party may, only once and at least 3 days before the lapse of the period of validity, request the Contractors to agree for the extension of such period for a given period of time (not longer than 60 days). A refusal to agree does not result in the loss of the tender bond.



10 Description of the bidding procedure

- 10.1 A Contractor is allowed to submit only one bid.
- 10.2 The offer may be submitted in person or by courier, by courier service or the Polish Post Office by the deadline indicated in the tender documents.
- 10.3 The bid shall contain the documents and statements listed in the table DOCUMENTS TO BE INCLUDED IN THE BID. The documents that have been included in the bid but were not required by the Contracting Party will not be taken into account for the bid evaluation purposes. The Contracting Party asks not to include such documents in the Contractors' bids.
- 10.4 In order to avoid any accidental decomposition of the bid, it is recommended that all the pages of the bid, including schedules and other documentation, are stapled, numbered and, all the pages containing and text, initialized by a person who has signed the bid documentation.
- 10.5 All the corrections must be initialized by the person who have signed the bid documentation. The correction should be made by crossing out the wrong entry and by entering the correct text above or beside.
- 10.6 The bid and any other documents for which the Contracting Party drew up models (attached to the TOR) must be drawn up according to such models.
- 10.7 The contents of the bid must be in accordance with the provisions of the TOR,
- 10.8 The Contracting Party requests the Contractor to specify the execution of which part of the bid will be subcontracted.
- 10.9 It is necessary to submit original and/or certified true photocopies of documents (in the latter case – certified by a person authorized to represent the Contractor), except for the power of attorneys which can be certified true copies by a person/persons who granted the power of attorney or by a public notary.
- 10.10 Documents and the statements should be made in the Polish or in the English language.
- 10.11 Each of the documents mentioned in the table DOCUMENTS TO BE INCLUDED IN THE BID must be signed on the last page and initialed on all previous pages - by a person authorized to represent the Contractor.



10.12 The bid documents must be placed in two closed envelopes:

- the internal envelope with the name and the address of the Contractor,
- the external envelope with the name and the address of the Contracting Party,

and designated as follows:

*”BID for supply of 2 units **Straddle carriers**”*

no. EU/04/SC/ZZ/2011;EU/17/SC/ZZ/2011

DO NOT OPEN before 06th of May 2014 at 02:00 pm!

10.13 After the bid submission deadline, all materials and documents delivered shall not be returned.

10.14 The Contractor shall cover all costs in connection with drawing up and submission of the bid and with the participation in the tendering procedure.

10.15 The Contracting Party does not accept partial bids.

10.16 The Contracting Party does not conclude a Framework Agreement.

10.17 The Contracting Party will not use the electronic auction.

10.18 The Contracting Party does not accept variant bids.

10.19 The Contracting Party may nullify the tendering proceedings without giving grounds for its decision.

10.20 The Contracting Party may close the tendering proceedings without selecting a bid.

10.21 The Contracting Party may carry out further negotiations with the selected Contractor, who has received the highest evaluation based on Supplier’s Selection Criteria- schedule 6 of TOR

10.22 The Contractor may, before the bid submission deadline, change or withdraw its bid.

10.23 Changes, if any, must be submitted in accordance with the same rules as those applied to the bid itself, i.e. in a closed envelope, with the following designation: ZAMIANA [*CHANGE*].

10.24 The bid can be withdrawn by submitting a written notification (in accordance with the same rules as those applied to changes) with the designation: WYCOFANIE [*WITHDRAWAL*] on the envelope. Together with the bid withdrawal notification, the Contractor must submit a document that confirms the Contractor’s right to be a party to the legal transaction; the notification must be signed by an authorized representative of the Contractor.



- 10.25 The Contracting Party shall correct any manifest editorial errors, manifest calculation errors (taking into account any consequential calculation corrections) and any other errors that consist in discrepancies between the bid and the TOR, such errors not resulting in any material changes of the bid contents; the Contracting Party shall immediately inform the Contractor about such corrections being made. In the case the Contractor does not raise any objections within 3 days from the notification, the Contractor's bid will be evaluated taking into account the corrections. A calculation error is any incorrect result of a mathematical operation assuming that all its components are correct.
- 10.26 After the opening, the access to all bids is free to all contractors; only the company's secrets (within the meaning of the unfair competition counterfeiting law) are not disclosed, provided that the Contractor requested such non-disclosure not later than on the bid submission deadline. Within the meaning of Article 11.4 of the Act of 16 April 1993 on counterfeiting the unfair competition (Journal of Laws no. 47 of 8 June 1993, item 211, as amended), the company's secret is any not publicly disclosed technical, technological or organizational information or any other information of economic value, as to which the company took all necessary steps to protect its secrecy and requested, when submitting the bid, not to disclose it to any other participants to the procedure.

The above Contractor's request must be submitted using the bid form, otherwise the full bid will be disclosed. The Contracting Party recommends that the Contractor places all the company's secrets in a separate, internal envelope with the following designation: "the company's secret", or clips them or staples separately from other publicly available bid components and also designates them as "the company's secret".

The numbering of pages of the "restricted part" of the bid must be such so as to enable their inclusion to the corresponding part of the "unrestricted part" of the bid.

Note:

The Contractor may not request non-disclosure of the company's name and the addresses of the subcontractors, the information concerning the price and the contract delivery date, warranties and the payment conditions, which are not the company's secret. If the Contractor's non-disclosure request concerns such information as the above, the Contracting Party shall have the right to reject the bid.



11. Documents to be included in the bid

| item | document |
|------|---|
| 1. | the Bid Form – <i>Schedule 1</i> |
| 2. | the Bid Subject and Price Form – <i>Schedule 2</i> |
| 3. | the Contractor's Statement – <i>Schedule 3a and 3b</i> |
| 4. | the initialed <i>Framework Specimen Agreement</i> – <i>Schedule 4</i> |
| 5. | The authorization to sign the Bid, unless the right to sign the Bid has already been granted in other documents submitted together with the Bid. |
| 6. | The authorization to represent all parties that apply jointly for being awarded the contract, or a cooperation agreement under which such authorization has been granted. The legal representative can be appointed only to represent the Contractors during the procedure or for representing them and for signing the contract. |
| 7. | A valid certificate confirming the entry to the company or a valid extract from any other similar register (if a separate legislation requires such an entry to be made), issued not earlier than 6 months before the bid submission deadline. |
| 8. | A certificate from the head of a local tax office confirming that the Contractor is not in arrears with tax payments or a certificate confirming that the Contractor has been awarded a tax exemption, or was allowed to pay taxes at later dates or by installments, or the execution of a decision of a competent authority was suspended – such certificate being issued not earlier than 3 months before the bid submission deadline. |
| 9. | A certificate from a local branch of the Social Insurance Company (ZUS) or from the Farmers' Social Security Fund (KRUS) confirming the Contractor is not in arrears with the health or social insurance contributions and duties, or a certificate that the Contractor has been awarded an exemption, or was allowed to pay them at later dates or by installments, or the execution of a decision of a competent authority was suspended – such certificate being issued not earlier than 3 months before the bid submission deadline. |
| 10. | <p>If the Contractor's registered office or place of residence is outside Poland, then, instead of documents referred to in point 7,8,9 the Contractor shall submit document(s) that have been issued in the country of the Contractor's registered office or place of residence, confirming that:</p> <p>the Contractor is not under liquidation or has not been declared bankrupt such documents being issued not earlier than 6 months before the bid submission deadline;</p> <p>the Contractor is not in arrears with payment of taxes, duties, social and health contributions, or that the Contractor has been awarded an exemption, or was allowed to pay them at later dates or by installments, or the execution of a decision of a competent authority was fully suspended – such documents being issued not earlier than 3 months before the bid submission deadline.</p> |



| | |
|-----|--|
| 11. | Financial statements and, if such financial statements needs auditing by a certified auditor in accordance with the accounting law, also the auditor's opinion on the financial statement, or, in the case of Contractors not obliged to draw up financial statements, other documents that confirm the turnover, profit, liabilities and receivables for a period not shorter than the last financial year. |
| 12. | From the bank where the Contractor has its main bank account, the statement about the Contractor's creditworthiness or confirming the level of funds available to the Contractor, issued not earlier than 3 months before the bid submission deadline. |
| 13. | An insurance policy or any other insurance document that confirms that the Contractor has a business liability insurance (including a payment slip that confirms that the insurance premium under the insurance contract has been paid). |
| 14. | The list of deliveries which correspond, by their type, to the subject-matter of this procedure (as referred to in 6.1.2). |

12 Place and date of the bid submission and opening

12.1. The bids should be delivered in person or by post to the **BCT** registered office at: str. Kwiatkowskiego 60, Gdynia 81-127, Poland, room no.322 , not later than **May 6th 2014 at 09:00 am** of the local time.

12.2. The bid documentation will be opened in **BCT** , registered office at: ul. Kwiatkowskiego 60, Gdynia 81-127 , room 323, floor III, **on May 6th 2014 at 02:00 pm** of the local time.

12.3. The bids received by the Contracting Party after the deadline will be returned to the Contractor without opening, after the period designated for lodging complaints.

12.4. Procedure for the bid opening and scoring.

12.4.1 The Contracting Party shall open the bids in place and on time referred to in 12.2.

The opening of bids is public.

12.4.2. Directly before the bid opening the Contracting Party gives the amount that it intends to spend under the contract. At the opening the following are announced: the business names and the addresses of the Contractors, the price, the contract delivery date, the warranty period and the payment conditions.



12.5. The Contracting Party:

- 1) shall exclude the Contractor if the Contractor does not comply with the requirements referred to in point 5 and 6 of the TOR, does not provide the tender bond as required, or in other cases defined in these Tender Specifications,
- 2) shall reject any bid which is not compliant with these specifications, legislation in force and fair competition principles.

12.6. Exclusions or rejections, if any, shall be immediately communicated to all Contractors (together with the justification of the decision taken).

13. Bid scoring

The bid price shall be specified in the Bid Subject and Price Form (*Schedule 2*). The price must be calculated taking into account all components that ensure proper and timely execution of the contract.

All the fields of the Price Form must be filled in by the Contractor.

In column 4 the Contractor shall enter the net unit prices (with two decimals) for a set or for a piece. **Net value** (column 6) is calculated by multiplying the values in column 4 and 5.

Gross value (column 8) of each item is calculated through increasing the net values with the VAT tax amount.

The bid price is the **gross value** given in the Bid Form. The price calculated in the Price Form must be copied into the Bid Form and there should be no discrepancies between the price calculated in the price form and the price given in the bid form. The bid price should be given with two decimals.

Grossing of tender offers of all the suppliers serves the purpose of price comparability for all domestic and foreign contractors.

“If a tender offer was submitted whose selection would lead to arising of a tax obligation of the ordering party in accordance with the regulations on the Value Added Tax in the scope of intercommunity purchase of goods, the ordering party, in order to assess such offer, shall increase the price presented in it by VAT payable in accordance with the applicable regulations”.

The Contracting Party accepts the bids with prices given in USD or EUR, however, for the purposes of comparing the bids, the bid price in a foreign currency, i.e. USD or EUR, will be converted into PLN using the exchange rate given in the Average Exchange Rate Table of the National Bank of Poland (NBP) (available at the NBP official Internet site: <http://www.nbp.pl/>) valid for the date of

the tender announcement, which will be published on the website, company premises and Journal of European Union . To avoid any doubts, the bid prices in PLN will be used only for comparing the bids and for awarding scores; all settlements with the Contractor will be in USD or EUR if tender is conducted in these currencies.

14. Description of the criteria used by the Contracting Party to award the contract, including weight of each criterion and the methods of the bid evaluation

The bid price shall include the delivery, installation and implementation of the equipment, as well as manuals and the service cost, VAT included.

Only the bids from the tenderers not excluded from the tendering procedure, such bids complying with the TOR conditions and not rejected, will be evaluated. The bid with the highest score will be selected; The Supplier Selection Criteria have been attached as Schedule 6 to the TOR.

The Contracting Party shall, as soon as possible, notify all the Contractors who were awarded the contract. The contract will be signed not earlier than 7 days after such notification.

15. Formal matters that must be complied with after the end of the selection procedure.

15.1 To sign the contract, the Contractor must appear at the Contracting Party's registered office on date advised by the Contracting Party. If the Contractor's registered office or place of residence is outside Poland, the contract can be sent by post/mail for signature.

15.2 If the contract is awarded to a consortium – the Contracting Party may, before signature of the contract, request the delivery of a cooperation contract concluded between the Contractors.

16. Requirements towards the performance bond

16.1. The Contracting Party requires to provide a performance bond (hereinafter referred to as the “Performance Bond”) to cover claims resulting from non-execution or improper execution of the contract or claims under the quality warranty until the date of TOC .

16.2. The Performance Bond amount shall be 10 % of the contract fee.

16.3. The Performance Bond can be provided by the Contractor in one or more forms:

1) in cash, by a bank transfer to the following bank account:

USD PL 31 1240 3523 1787 0000 4334 9285

PLN PL 02 1240 3523 1111 0000 4334 9269

Swift: PKOPPLPW

Bank PEKAO SA

81-212 Gdynia Hutnicza 3A

with the following designation in the “Title” field:

*performance bond – tender procedure no. EU/04/SC/ZZ/2011;EU/17/SC/ZZ/2011 regarding
the supply of 2 units of Straddle carriers*

2) as bank guarantee issued by a bank having its registered office or branch office in Poland or fronted in Poland .

16.4. The Performance Bond must be valid for the whole term of the Contract until final acceptance of Agreement, issued by TDT - TOC Taking Over Certificate.

17. Requirements towards the Warranty Bond

The Contracting Party requires the Contractor to submit the warranty bond, that shall be valid from final acceptance of Agreement, issued by TDT - TOC Taking Over Certificate till the end of the guarantee periods.

17.1 The Warranty Bond amount shall be 10 % of the contract fee.

The Warranty Bond can be provided by the Contractor in one or more forms:

1) in cash, by a bank transfer to the following bank account:

USD PL 31 1240 3523 1787 0000 4334 9285

PLN PL 02 1240 3523 1111 0000 4334 9269

Swift: PKOPPLPW

Bank PEKAO SA

81-212 Gdynia Hutnicza 3A

with the following designation in the “Title” field:

Warranty bond – tender procedure no. EU/04/SC/ZZ/2011;EU/17/SC/ZZ/2011 regarding the supply of 2 units of Straddle carriers

2) as bank guarantee issued by a bank having its registered office or branch office in Poland or fronted in Poland .

17.2 The Warranty Bond shall be submitted to the Contracting Party prior to the release of the Taking Over Certificate by TDT and the balance of Total Purchasing Price.

18. Important provisions that will be introduced to the public procurement contract, general terms and conditions or a specimen agreement, if the Contracting Party requires the Contractor to conclude the agreement under such conditions

The agreement concluded by the Contracting Party with the Contractor shall be based on the conditions provided for in the attached specimen agreement – **Schedule 4**.

19. Information regarding the legal remedies available to the Contractor during the tendering procedure

Throughout the tendering procedure the Contractors shall have the right to notify, in writing, the Contracting Party about any breaches of law or of the requirements contained in these specifications or of the principles of equal treatment of all contractors, or of principles of fair competition and transparency – within 3 days from the Contractors’ becoming aware of such facts. The fact of notifying about such breaches shall be immediately communicated to the other contractors.

The Contracting Party shall examine the information delivered and shall notify, in writing, all the contractors about whether it takes such information into account and, if yes, what steps it is going to take to remedy the situation. The Contracting Party shall have the right to annul or to modify the



activities carried out during the tendering procedure – in order to remedy the situation.

The Contracting Party's decision is final and no appeal against such decision is admissible.

20. Information concerning the foreign currencies that can be used in settlements between the Contracting Party and the Contractor (if the Contracting Party accepts settlements in foreign currencies)

The Contracting Party accepts the bids with prices given in USD or EUR, however, for the purposes of comparing the bids, the bid price in a foreign currency, i.e. USD or EUR, will be converted into PLN using the exchange rate given in the Average Exchange Rate Table of the National Bank of Poland (NBP) (available at the NBP official Internet site: <http://www.nbp.pl/>) valid for the date of the tender announcement, which will be published on the website, company premises and DZ.U European Union. To avoid any doubts, the bid prices in PLN will be used only for comparing the bids and for awarding scores; all settlements with the Contractor will be in USD or EUR, if the tender is conducted in these currencies.

Schedules:

1. the Bid Form.
2. the Bid Subject and Price Form.
- 3a & 3b. the Contractor's Statement
4. the Framework Specimen Agreement.
5. the Technical Specification of the Straddle Carriers.
6. the Supplier Selection Criteria Form.