

Condition:

Part II of the Terms of Reference contains general provisions regarding Part I of the TOR. Unless Part I of the TOR itself provides otherwise, its provisions should be applied before the provisions of Part II, in particular when there is a discrepancy between them.

1. The Ordering Party / Business name and Address

Grupa Azoty Zakłady Chemiczne „Police” S.A. ul. Kuźnicka 1, 72-010 Police NIP [Official Taxpayer’s Identity Number]: 851-02-05-573; Registry Court: District Court Szczecin-Centrum, 13th Commercial Division of the National Court Register; KRS [National Court Register Number]: 0000015501; Share capital: 1 241 757 680.00 PLN, paid up in full

2. Course of Proceedings / Terms and Conditions of Awarding the Order

- 2.1. The Order shall not be subject to the Public Procurement Act of 29th January 2004.
- 2.2. The procedure shall be carried out as a tender, possibly accompanied by negotiations (including an electronic auction), pursuant to internal regulations binding in Grupa Azoty Zakłady Chemiczne “Police” S.A.
- 2.3. The procedure shall be carried out pursuant to terms and conditions of the Grupa Azoty’s Purchasing Platform available under the address <https://platformazakupowa.grupaazoty.com>
 - 2.3.1. Detailed information and instructions for the participation in the tender through the Grupa Azoty’s Purchasing Platform (including the electronic auction) shall be included in an invitation to participate in the tender / electronic auction.
 - 2.3.2. Participation in tenders / auctions with the use of the Purchasing Platform is available to registered users only.
 - 2.3.3. A user might be a natural person, a natural person conducting business activity, a legal entity or an unincorporated body provided that it has approved the Terms of Service and registered at the Grupa Azoty’s Purchasing Platform.
 - 2.3.4. Registration and participation to tenders at the Purchasing Platform is free of charge.
 - 2.3.5. Electronic auctions carried out through the Purchasing Platform shall not be considered auctions in the meaning of the Civil Code.
 - 2.3.6. Bidder shall be bound with its latest commercial bid submitted in the tender and in the electronic auction whether or not it is outbid by another Bidder.
 - 2.3.7. Bidder shall be bound with its bid submitted in the auction throughout the time and under the terms and conditions as specified in the rules of the respective auction.
- 2.4. Submitting a bid by the Bidder shall be equal to the approval of any and all terms and conditions included in the TOR.
- 2.5. Formal documents and technical part of the bid shall be evaluated by the Ordering Party.
- 2.6. Terms and conditions of the performance of the order, including commercial conditions shall be negotiated separately by way of an electronic auction or in other form as defined by the Ordering Party. The negotiations may be carried out in several stages.
- 2.7. The Ordering Party hereby stipulates that this TOR might be used only in accordance with the purpose

hereof, might not be sent and copied in order to be used contrary to the purpose hereof, might not be provided to third parties, might not be used for purposes other than stipulated herein.

3. Subject Matter of the Order

The detailed description of the scope of works has been included in Part I of the TOR, Clauses “A” and “B”, as well as in Part IV of the TOR, if included.

4. General Terms and Conditions of the Procedure

- 4.1. The bid may be submitted by a natural person, a legal entity or an unincorporated body as well as entities acting jointly provided that they fulfill the conditions specified herein.
- 4.2. The possibility of submitting variant or partial bids has been determined in Part I of the TOR, Clauses “C” and “D”.
- 4.3. Deadlines for the order completion have been determined in Part I of the TOR, Clause “F”.
- 4.4. The necessity of a site inspection has been determined in Part I of the TOR, Clause “G”.
 - 4.4.1. In each case, the site inspection may be carried out only upon handing over by the Bidder’s authorized representative to the Ordering Party’s representative of a Confidentiality Clause (Appendix No. 5 to the TOR) signed by legally authorized Bidder’s Representatives.
 - 4.4.2. The fact of completing the site inspection before preparing a bid shall be confirmed with a mutually signed note constituting the Appendix No. 4 to the TOR. The site inspection date shall be agreed with the Ordering Party’s Representative(s) as listed in Part I of the TOR, Clause “G” - from Monday to Friday between 8.00-14.00 hrs CET.
- 4.5. Only Bidders fulfilling the following conditions may participate in the tender:
 - 4.5.1. are authorized to participate in legal transactions in compliance with the regulations of law in the field covered with the order;
 - 4.5.2. have suitable authorizations necessary to take certain actions, provided that such authorizations are required by the law or specific provisions;
 - 4.5.3. have necessary knowledge and experience as well as economical and technical capability and personnel capable of completing the order;
 - 4.5.4. are in financial condition assuring them to complete the order;
 - 4.5.5. are not subject to exclusion from the procedure according to the Article 24 of the Public Procurement Law;
 - 4.5.6. would accept terms and conditions of the order without reservations after becoming familiar with them.
- 4.6. Bidders not fulfilling the aforementioned conditions may be excluded from the tender by the Ordering Party, as well as the following kinds of Bidders:
 - 4.6.1. Bidders who, throughout the last three years prior to the commencement of the procedure, have done damage to Grupa Azoty by not processing an order or by processing it inappropriately, or who have taken part in an auction carried out by Grupa Azoty and, after winning it, did not confirm the price or did not sign / did not perform a contract,

- 4.6.2. Bidders (i) under the liquidation, bankruptcy or reconstruction proceedings; (ii) declared bankrupt; (iii) who, after being declared bankrupt, have entered into arrangement approved by a legally binding decision of a court, provided that such an arrangement states that creditors shall be satisfied by way of liquidation of the bankrupt's assets. The aforementioned shall not refer to the Grupa Azoty Companies,
- 4.6.3. Bidders being natural persons / legal entities whose officers were convicted by a valid judgment for bribery, offence against trading or other offence committed for financial gain or who did damage to the Company which was confirmed with a judgment of a court or with other ruling of a suitable authority or an insurance company,
- 4.6.4. Bidders who did not submit required statements or did not fulfill other requirements as determined in the TOR or in another document describing requirements for the Bidder's participation to the tender.
- 4.6.5. Bidders who performed actions connected with preparing the tender or used the help of persons participating in such actions for the purpose of bid preparation, with an exception of the Grupa Azoty Companies and authors of local zoning plans should the subject matter of the tender be project studies resulting from the local zoning plans prepared by such authors,
- 4.6.6. Bidders who are in arrears in payments of taxes, fees or social or health security contributions, except for cases when such Bidders obtained a lawful exemption, deferral, payment in installments or suspension in full of the execution of decision of the competent authority,
- 4.6.7. Bidders who submitted untrue information having impact on the tender result,
- 4.6.8. Bidders who did not submitted a bid deposit (if required), including the prolonged bid validity period, or who did not agree to prolong the bid validity period,
- 4.6.9. legal entities whose officer was convicted by a valid judgment for offence committed in connection with a tender, offence against employee rights, as well as for tax offence or participation in an organized group or an association formed for the commission of an offence or a tax offence,
- 4.6.10. collective entities who were excluded from participation in tenders by a court based on regulations regarding the liability of collective entities for acts prohibited under penalty;
- 4.6.11. entities subject to exclusion for other reasons pursuant to peremptory rules of law, tender characteristics or on other basis determined in the TOR.
- 4.7. The obligation regarding submission of a bid deposit has been determined in Part I of the TOR, Clause "H".
- 4.7.1. The Bidder entering the tender shall submit the bid deposit within a deadline determined at the Grupa Azoty's Purchasing Platform as a bid submission date.
- 4.7.2. The Bidder whose bid has not been secured with a bid deposit submitted in an acceptable form may be excluded from the tender without being called by the Ordering Party to supplement its bid in this scope.
- 4.7.3. The bid deposit must be valid throughout the whole bid validity period, i.e. the period between the bid submission date revealed at the Grupa Azoty Purchasing Platform and the bid validity expiry date.
- 4.7.4. The bid deposit may be submitted in one of the aforementioned forms, at the Bidder's discretion:
- 4.7.4.1. in the money:
- 4.7.4.1.1. the bid deposit in the money shall be submitted to the Ordering Party's bank account kept by PKO BP S.A., SWIFT: BPKOPLPW, IBAN No.:
- a. PLN: 14 1020 4795 0000 9402 0003 5261,
- b. EUR: 40 1020 4795 0000 9502 0136 5584,
- c. USD: 35 1020 4795 0000 9702 0136 5576,
- latest on the bid submission date,
- 4.7.4.1.2. the bid deposit submission date shall be the date of crediting the Ordering Party's bank account,
- 4.7.4.1.3. the Bidder may not claim any statutory interest on the submitted bid deposit,
- 4.7.4.1.4. the bid deposit submitted in the money shall be kept by the Ordering Party at the bank account,
- 4.7.4.1.5. the confirmation of submitting of the bid deposit in the form of an original document or a copy certified conform to original shall be enclosed to the bid,
- 4.7.4.1.6. it is recommended that the bank transfer name should include the number and the full or shortened name of the tender.
- 4.7.4.2. in the form of a bank or insurance bond:
- 4.7.4.2.1. prior to submitting the bid, the Bidder shall provide the Ordering Party with a draft bond for the Ordering Party's approval - by submitting a question via the Purchasing Platform. Such a question shall be submitted latest 2 weeks prior the bid submission date. The answer shall be addressed solely to the asking Bidder. Submitting a bond not approved by the Ordering Party may result in recognizing that the Bidder has not submitted the bid deposit in the required amount and form,
- 4.7.4.2.2. the respective bond shall include the guarantor's obligation to irrevocably and unconditionally pay the amount equal to the bid deposit to the Ordering Party upon the first written request (without the need of accepting the Ordering Party's claims by the Bidder) stating that at least one of circumstances for forfeiting of the bid deposit as determined in item 4.7.6 below has occurred,
- 4.7.4.2.3. the respective bond shall remain valid at least throughout the bid validity period,
- 4.7.4.2.4. the respective bond shall be executed and construed according to the laws of Poland. Any and all disputes regarding the relevant documents shall be settled by a common court with the jurisdiction over the Ordering Party's registered seat,
- 4.7.4.2.5. the bid deposit submission date shall be the delivery date of the original bank or insurance bond to the Ordering Party's premises, room 15.

- 4.7.5. The bid deposit shall be returned to: (i) entities who have not won the tender - within 14 days after announcing the tender outcome, and (ii) the winning Bidder - within 14 days after the signature of the contract and submitting of a required performance bond. The bid deposit submitted in the money shall be returned by a wire transfer to a bank account specified in the bid.
- 4.7.6. The bid deposit submitted by the winning Bidder shall be forfeited to the benefit of the Ordering Party if:
- 4.7.6.1. the Bidder withdraws its bid;
- 4.7.6.2. the Bidder modifies its bid after the bid submission date unless the bid is modified in response to the Ordering Party's request
- 4.7.6.3. the Bidder refuses to sign a contract under terms and conditions as determined in the bid submitted by such a Bidder,
- 4.7.6.4. the Bidder fails to provide a required performance bond on a timely basis,
- 4.7.6.5. concluding the contract becomes impossible due to reasons attributable to the Bidder.
- 4.7.7. Should the Bidder fail to provide a required performance bond (if required) in the form, amount and date as determined in the contract, the bid deposit shall be withheld in order to create a performance security in the form of a deposit
- 4.8. The obligation regarding submitting a performance security has been described in Part I of the TOR, Clause "I". Additional requirements regarding the performance bond may also be determined in the contract which would be concluded with the winning Bidder.
- 4.8.1. Should the security be required, the Contractor shall establish a performance security to the benefit of the Ordering Party within 30 (thirty) days after the mutual contract signature date, in a form of a deposit or a bank or insurance bond amounting to 10% of estimated or agreed remuneration, valid throughout the contract execution period which shall also include the warranty and statutory warranty period.
- 4.8.2. The performance security shall be established in order to cover any possible claims for failure to perform or incorrect performance of the contract and, for this purpose, the bank or insurance bond established to the benefit of the Ordering Party shall fulfill the following conditions:
- 4.8.2.1 include the Guarantor's obligation to irrevocably and unconditionally pay due amounts upon first demand for payment;
- 4.8.2.2 amount to the required value, i.e. 10% of estimated or agreed remuneration;
- 4.8.2.3 remain valid throughout the contract execution period which shall also include the warranty and statutory warranty period, plus 30 days.
- 4.8.3 Failure to fulfill the aforementioned conditions shall constitute a basis for deduction of amounts up to the required performance security value from invoices issued by the Contractor which shall be kept as a deposit.
- 4.8.4 The unused part of a security referred to in Clauses 4.8.1 and 4.8.2 or a deposit referred to in Clause 4.8.3 shall be returned within 30 days after the execution of the contract is completed and the contract is recognized as properly performed.
- 4.8.5 The Ordering Party shall have the right to use the established security to satisfy its claims if the Contractor fails to fulfill or incorrectly fulfills its contractual obligations, in particular if the Contractor:
- 4.8.5.1. fails to pay contractual penalties or compensation as specified in the contract on a timely basis,
- 4.8.5.2. fails to fulfill other obligations arising under the contract concluded with the Contractor.
- 4.8.6. Should the Ordering Party use the performance security to satisfy its claims, The Contractor shall immediately renew the security up to the full agreed value.
- 4.8.7. The Contractor's failure to fulfill the condition referred to in Clause 4.8.6 above shall constitute a basis for deduction of amounts necessary to reach the agreed security value from invoices issued by the Contractor and for keeping it as a deposit.
- 5. Documents Confirming Fulfilling of Conditions of Participation to the Procedure**
- 5.1. Bidders applying for the contract shall include to their bids documents specified in Part I of the TOR, Clause "L". In particular, bidders must prove that they:
- 5.1.1. have suitable authorizations to perform certain activity or actions should it be required by the law and are not excluded according to the Article 24 of the Public Procurement Law. In order to confirm that they fulfill this condition, Bidders shall submit the following documents:
- 5.1.1.1. an up-to-date extract from a suitable register or an up-to-date certificate that the Bidder has been entered in the Business Activity Register, should such an entry be required by the law, issued not earlier than 14 days prior to the bid submission date (**in case of two or more Bidders applying for the contract jointly, the aforementioned documents shall be submitted by each of them and shall come together with a consortium agreement and a power of attorney granted to the consortium leader as referred to in Chapter 6 hereof**);
- 5.1.1.2. an up-to-date certificate issued by a respective Tax Office and a respective branch of the Social Insurance Company or Farmer's Social Insurance Fund confirming that the Bidder does not fall behind with payments of taxes, fees and social and health security contributions or an official certificate that the Bidder has obtained a lawful exemption, deferral, payment in installments or suspension in full of the execution of decision of the competent authority, issued not earlier than 3 months prior to the bid submission date (**in case of two or more Bidders applying for the contract jointly, the aforementioned documents shall be submitted by each of them**);
- 5.1.2. fulfill the conditions regarding required knowledge and experience as well as suitable technical capability and personnel capable of completing the order (**in case of two or more Bidders applying for the contract jointly, their**

technical and personal capability as well as qualifications and experience would be evaluated jointly), and for that purpose the Bidder shall:

- 5.1.2.1. prove that throughout the last five years prior to the bid submission date (or throughout the period as specified in Part I of the TOR) it has completed at least one order orders identical or similar to the subject matter hereof and submit a list of completed orders executed according to a specimen constituting Appendix No. 3 to the TOR, as well as documents confirming the correct completion of such orders. It shall be required for documents submitted by the Bidders confirming the correct completion of orders to include:
 - ✓ statement that the Bidder submitting a bid in this tender has actually performed the services referred to in the documents,
 - ✓ indication of an entity to the benefit of which the services were performed,
 - ✓ indication of the time limits of performance (commencement and completion dates),
 - ✓ indication of the place of performance,
 - ✓ opinion by an entity to the benefit of which the services were performed confirming that they were performed correctly;
- 5.1.2.2. indicate a person / persons / group of persons dedicated to handle the future contract and submit a list of persons executed according to a specimen constituting Appendix No. 2 to the TOR (in case of two or more Bidders applying for the contract jointly, one collective document shall be presented).
 - ✓ All persons shall have the Polish language skills enabling them to communicate fluently in speaking and in writing. This requirement may be changed by the Ordering Party provided that the Bidder hires, at its own expense, a translator / interpreter in order to assure constant and fluent translations in contacts between the Bidder's and the Ordering Party's personnel;
- 5.1.2.3. have up-to-date ISO 9001:2015 Quality Management System Certificates and, optionally, ISO 14001:2015 Environmental Management System Certificates. In order to confirm fulfilling of this condition, the Bidder shall submit copies of up-to-date Certificates. **Lack of Certificates shall not constitute a basis for rejecting of a bid.**
- 5.1.3. fulfill the conditions regarding economical and financial situation that would assure the completion of the order (in case of two or more Bidders applying for the contract jointly, their economical and financial situation would be evaluated jointly - for this purpose, the required documents shall be submitted by Bidders who, on behalf of all Bidders acting

jointly, would be proving fulfilling of this condition), i.e. the Bidder shall:

- 5.1.3.1. have financial resources or creditworthiness. In order to confirm fulfilling of this condition, the Bidder shall submit an information issued not earlier than 3 months prior to the bid submission date by a bank or a cooperative savings and credit union keeping the Bidder's account which would confirm the amount of the Bidder's financial resources or creditworthiness;
- 5.1.3.2. be covered with third party liability insurance in the field of conducted business activity amounting at least to the bid value. In order to confirm fulfilling of this condition, the Bidder shall submit a paid up policy or, in case of lack thereof, other document confirming that the Bidder is covered with third party liability insurance in the field of conducted business activity related to the subject matter of the order;
- 5.1.3.3. prior to the signature of the contract for the execution of the order, the winning Bidder shall provide the Ordering Party with a paid up third party liability insurance policy in the field of conducted business activity related to the subject matter of the order amounting at least to the bid value.
- 5.2. Should the Bidder have the registered seat or place of residence outside the Republic of Poland, such a Bidder shall, in exchange for the documents referred to in Clauses 5.1.1.1 - 5.1.1.2 above, submit a document or documents issued in its country of origin, confirming respectively that:
 - 5.2.1. it is not subject to liquidation proceedings and was not declared a bankrupt;
 - 5.2.2. was not disqualified from applying for the contract;
 - 5.2.3. it does not fall behind with payments of taxes, fees, social and health security contributions or that it has obtained a lawful exemption, deferral, payment in installments or suspension in full of the execution of decision of the competent authority;
 - 5.2.4. information regarding the tax residency.
- 5.3. The documents referred to in Clauses 5.2.1 and 5.2.2 above shall be issued not earlier than 6 months prior to the bid submission date. The document referred to in Clause 5.2.3 above shall be issued not earlier than 3 months prior to the bid submission date.
- 5.4. Should the documents referred to in Clause 5.2 above be not issued in a country of origin of a person or in a country where the Bidder has the registered seat or place of residence, they shall be replaced by a document including a suitable statement issued by a notary public, a competent court, a competent administration body or a professional or business association governing body, operating respectively in a country of origin of a person or in a country where the Bidder has the registered seat or place of residence.
- 5.5. Should the Bidder submit documents including values expressed in currencies other than Polish Złoty (PLN), the Ordering Party shall convert these values to Polish Złotys according to an exchange rate of the National Bank of Poland as of the date of publishing the tender announcement. The same exchange rate shall be

adopted by the Ordering Party while converting any and all other financial data.

- 5.6. Fulfilling of the aforementioned conditions shall be evaluated based on documents / statements submitted together with a bid.

6. Bidders Applying for the Contract Jointly

- 6.1. Bidders applying for the contract jointly shall fulfill the conditions for participation and submit the documents confirming fulfilling thereof in line with the provisions of the Chapter 5 above. Moreover, such Bidders shall establish a Proxy to represent them in the tender or to represent them in the tender and sign the suitable contract. It is recommended that the Proxy should be one of the Bidders applying for the contract jointly.
- 6.2. Any and all correspondence shall be conducted solely with the Proxy.
- 6.3. Bidders applying for the contract jointly shall present the Ordering Party with a cooperation agreement between such entities, which shall include the following provisions:
- 6.3.1. indication of an economical purpose which shall be the performance of the order,
- 6.3.2. leader's rights, obligations, authorization to commit in the name of all Contractors executing the contract jointly and in the name of each of them separately as well as an authorization to issue invoices, accept payments from the Ordering Party and to accept commands on behalf and in the name of all Contractors executing the contract jointly,
- 6.3.3. indication of the cooperation agreement validity period which shall be at least equal to the contract execution period plus the warranty and statutory warranty period,
- 6.3.4. specification of a manner of cooperation between the Bidders after the contract for the order processing is concluded and of scopes of works anticipated to be performed by each Bidder,
- 6.4. The bid shall include the consortium agreement referred to above as well as the power of attorney granted to the consortium leader.

7. Subcontracting

The Ordering Party requires the Bidder to indicate parts of the order which the Bidder intends to entrust to subcontractors. The aforementioned shall be specified in the Bid Form constituting Appendix No. 1 to the TOR.

8. Supplementary Information and Additional Reservations

- 8.1. Any and all information included herein are intended solely for the purpose of preparation of bids and shall in no case be used in any other manner or made available to persons not participating in the tender.
- 8.2. While preparing a bid, the Bidder shall study thoroughly any and all documents consisting in the TOR. The risk of not fulfilling any of the conditions imposed by the TOR shall be borne solely by the Bidder.
- 8.3. Bidders shall bear any and all costs connected with preparing and submitting their bids regardless of the outcome of the tender.
- 8.4. Any and all statements made by the employees of Grupa Azoty Zakłady Chemiczne "Police" S.A. during the course of proceedings shall not constitute a bid in the meaning of the Civil Code and therefore accepting

thereof by the Bidder shall not result in an assumption that any contract has been concluded. Only obtaining by the Bidder of an order / contract signed by the authorized representatives of Grupa Azoty Zakłady Chemiczne "Police" S.A. constitutes a confirmation of the contractor's selection and is equal to entrusting the task to be performed under the agreed terms and conditions.

- 8.5. The Ordering Party makes a reservation that technical solutions, trade names, business names, logos, trademarks presented in construction drawings / designs included in the TOR may be subject to legal protection pursuant to relevant provisions of law.
- 8.6. The use or misuse of markings or any elements of drawings referred to in Clause 8.5 without the consent of a copyright holder may constitute a violation of third party copyrights.
- 8.7. The Ordering Party makes a reservation that, should a construction drawing be made available during the course of the tender, it shall not constitute a "work" in the meaning of Article 1 of the Copyright and Related Rights Act (consolidated text: Journal of Laws of 2017, item 880, as amended), as "an elaboration based solely on an implementation of technical knowledge, even highly-specialized, shall not be construed as a work in the meaning of the copyright law, provided that its contents is predetermined by the objective conditions and technical requirements and the nature of performed (solved) technical problem (task)." (ruling by the Court of Appeal in Poznań, ACa 490/06). The Ordering Party shall make such a drawing available only for the purpose of bid preparation and therefore it may not be used for any purpose other than the participation in the tender.
- 8.8. Proposed technical solutions presented in submitted bids must be patent clear and may not violate any third party rights. The bidder shall include a relevant statement in submitted bid.

9. Providing Information and Requirements Regarding the Communication

- 9.1. Communication regarding technical and detailed issues shall be carried out in a manner as described in Part I of the TOR, Clause "J".
- 9.2. The Ordering Party will neither provide any information regarding the number and contents of submitted bids nor will the Ordering Party provide the information on the winning Bidder to other Bidders.
- 9.3. Information on formal issues regarding the TOR shall be provided by the Ordering Party in writing, after reporting thereof in writing at the Grupa Azoty's Purchasing Platform.
- 9.4. Technical issues connected with the Purchasing Platform shall be reported to the Platform's Helpdesk under the telephone number +48 71 787 35 34; +48 71 787 37 27; +48 71 787 37 57; e-mail: helpdesk@logintrade.net
- 9.5. Statements, applications, notifications and information regarding this tender shall be provided by the Ordering Party and Bidders in writing, through the Grupa Azoty's Purchasing Platform, except for the obligation referred to in Clauses 12.2 and 12.3 hereof.

10. Bid Submission

- 10.1. Every Bidder may submit one bid only.
- 10.2. The bid shall be prepared strictly according to the requirements specified herein.
- 10.3. The bid must be signed by persons authorized to represent the Bidder (or Bidders applying for the

- contract jointly). This shall mean that if the document(s) describing the legal status of the Bidder(s) or granting the power of attorney state that the Bidder(s) should be represented by more than one person acting jointly, the documents enclosed to the bid must be signed by all these persons.
- 10.4. The authorization to sign the bid must derive directly from the documents enclosed to the bid. This shall mean that if such an authorization does not derive directly from a document describing the legal status of the Bidder (an extract from a suitable register or a certificate that the Bidder has been entered in the Business Activity Register), the bid must include a power of attorney (original document or notary certified copy) issued by duly authorized persons.
- 10.5. Document specimens enclosed hereto shall be filled in by the Bidder and enclosed to the bid or prepared by the Bidder in accordance with the TOR.
- 10.6. The bid must be executed in Polish language unless the TOR provides otherwise. Documents issued in a language other than Polish must be accompanied by Polish translations, certified by a sworn translator.
- 10.7. All inscribed pages of the bid must be numbered. Such pages should bear initials of a person (or persons, should two or more persons be authorized to represent the Bidder jointly) signing the bid in accordance with the contents of a document describing the legal status of the Bidder or the contents of a power of attorney enclosed to the bid.
- 10.8. Documents enclosed to the bid may be presented as originals or copies certified by the Bidder conform to original. The conformity to original of any and all inscribed pages of the copies of documents enclosed to the bid must be certified by a person (or persons, should two or more persons be authorized to represent the Bidder jointly) signing the bid in accordance with the contents of a document describing the legal status of the Bidder or the contents of a power of attorney enclosed to the bid.
- 10.9. The Ordering Party may require the Bidder to present an original document or a notary certified copy thereof if a copy submitted by the Bidder is illegible or gives rise to reasonable doubts regarding its verity.
- 10.10. During the procedure run through the Grupa Azoty's Purchasing Platform, any and all documents must have form as determined by the Purchasing Platform or be scanned and enclosed as a separate file, e.g. in pdf format. Bidders required by the Ordering Party to do so shall provide their bids in original to the Ordering Party's premises, by sending thereof in a closed envelope to the address specified in Clause 12.3.
- 10.11. The bid must include:
- 10.11.1. the Bid Form executed according to the Appendix No. 1 to the TOR;
 - 10.11.2. descriptive section of the bid including the scope of works and detailed description of proposed solutions;
 - 10.11.3. documents determined in Part I of the TOR, Clause "L".
 - 10.11.4. other documents not referred to above, yet in the Bidder's opinion necessary for the correct performance of the subject matter of the order.
- 10.12. The Bidder may reserve in its bid (by way of a statement included in the Bid Form) that the Ordering Party may not reveal information considered the trade secret in the meaning of regulations regarding counteracting unfair competition provided that such information would be clearly marked in the bid and described as "classified".
- 10.13. Throughout the evaluation of bids, the Tender Committee may require the Bidder to present clarifications regarding the contents of submitted bid. Therefore, the Bidder shall name a person authorized to take decisions and contact the Ordering Party throughout the course of the proceedings. The bid shall include the contact data of such a person.
- 11. Clarifications and Changes to the TOR Contents**
- 11.1. Within the specified deadlines, the Bidder may request the Ordering Party to clarify the contents of the TOR. The Ordering Party shall provide the clarification promptly unless the request to clarify the contents of the TOR has been received after the deadline.
- 11.2. Clarifications regarding substantial issues which may have impact on the contents of bids shall be passed through the Grupa Azoty's Purchasing Platform. Clarifications shall be made available through the platform's communication system to all participants to the tender. While providing clarifications, the Ordering Party will not reveal which Bidder had asked the question provided that it was drawn up through the "question to a purchaser" form in a way rendering the identification impossible, with NO SIGNATURE option. If the question is signed, the answer may be provided together with the data identifying the questioner (the Bidder).
- 11.3. The Ordering Party reserves the right to amend, modify or supplement the contents of the TOR. Such a change may take place at any time before the bid submission date. Should such a change be effected, a relevant notification shall be passed to all Bidders through the Grupa Azoty's Purchasing Platform and shall be binding.
- 11.4. The Ordering Party may change the bid submission date due to important reasons. The Ordering Party shall promptly inform all Bidders through the Purchasing Platform of every change to the bid submission date.
- 11.5. Should Part III of the TOR include the Draft Contract and unless Part I of the TOR clearly provides otherwise, the Ordering Party shall approve submitting of comments to the Draft Contract as follows:
- 11.5.1. comments to the Draft Contract (Part III of the TOR) shall be submitted through the Purchasing Platform within the deadline set to submit questions as revealed at the Purchasing Platform.
 - 11.5.2. Ordering Party's approval or refusal to include the suggested changes in the Draft Contract shall be announced to Bidders on an ongoing basis through the Purchasing Platform,
 - 11.5.3. the final version of the Contract shall include all changes approved and announced by the Ordering Party.
- 12. Place, Date and Manner of Bid Submission**
- 12.1. The bid shall be submitted through the Purchasing Platform until the date specified in the inquiry.

- 12.2. After the negotiation procedure carried out through the Purchasing Platform is completed, the Bidder shall, upon the Ordering Party's request, send / submit to the Ordering Party's premises (i) the original bid submitted in the tender; and (ii) the original final bid, as per the Clause 12.3 below.
- 12.3. The original bid shall be provided in a form preventing it from being accidentally disassembled and put in a non-transparent envelope (package) secured from being opened. The envelope (package) shall bear only the name (subject) of the tender and shall be directed / submitted / sent to the address:
**Biuro Przetargów
Grupa Azoty Zakłady Chemiczne „Police” S.A.
ul. Kuźnicka 1
72-010 Police; Poland**

13. Changes and Validity of Submitted Bid

- 13.1. Changes, amendments or modifications of submitted bids must be provided according to rules regarding bid submission through the Purchasing Platform, at the latest on the date specified in the inquiry. The Bidder may not withdraw a bid submitted through the Purchasing Platform.
- 13.2. Bids submitted by post or courier mail may be entered to the Purchasing Platform in the Bidder's name by a Grupa Azoty's employee, provided that they fulfill all requirements determined in the TOR; they may not, however, be returned, altered or withdrawn.
- 13.3. Bids submitted after the bid submission date will generally not be processed and will not be returned to the Bidder.
- 13.4. The Bidder declares that it shall be bound with its bid throughout the period of 120 days. The bid validity period shall start at the bid submission date.
- 13.5. In justified cases, the Ordering Party reserves the right to submit a one-time request to the Bidders to prolong the bid validity period by a definite duration, which shall be made by the Ordering Party at least 3 (three) days before the end of the bid validity period.

14. Place and Date of Bid Opening

- 14.1. Bids will be opened through the Grupa Azoty's Purchasing Platform on a date as specified in the tender / auction rules.
- 14.2. Bids will be opened without the participation of Bidders.

15. Bid Evaluation Criteria

- 15.1. Bids shall be evaluated by the Ordering Party based on criteria determined in Part I of the TOR, Clause "E".
- 15.2. Every criterion shall be expressed as a percent and all criteria shall sum up to 100% of available points.
- 15.3. The Ordering Party shall choose a bid which was awarded the highest number of points from among all not rejected bids submitted by Bidders not excluded from the tender.
- 15.4. The most favourable bid shall be the bid presenting the most favourable balance of all evaluation criteria. Should the same balance of all evaluation criteria be presented by two or more bids, the Ordering Party would choose the cheapest bid from among them.
- 15.5. Should choosing the most favourable bid in the tender become impossible due to the fact that two or more bids of the same value were submitted and

running an electronic action would not be possible, the Ordering Party shall call Bidders who have submitted their bids to submit final bids within the deadline set by the Ordering Party.

- 15.6. While submitting final bids, Bidders may not propose terms and conditions that would be less favourable to the Ordering Party than those proposed previously in the tender.

16. Description of the Manner of Price Calculation

- 16.1. The bid price is an amount specified by the Bidder in a form at the Purchasing Platform and in the Appendix No. 6 to the TOR - Commercial Terms/Price List.
- 16.2. The bid price must be expressed in Polish Zloty currency (PLN) unless clearly provided otherwise in Part I of the TOR and must be rounded off to two decimal places. The price must take account of all requirements resulting from these TOR and include any and all costs that would be incurred by the Bidder due to the correct and lawful performance of the subject matter of the order.
- 16.3. If not clearly provided otherwise, it shall be assumed that every bid price is a lump sum net price and that it includes any and all cost-generating factors arising in connection with the performance of the order.
- 16.4. For the purpose of evaluation and comparison of bids, Bidders shall assess the VAT in a suitable amount. The TOR shall be construed jointly with any possible modifications and changes made by the Ordering Party in compliance with the Chapter 11 (Clarifications and Changes to the TOR Contents).

17. Bid Evaluation Procedure and Award Conditions

- 17.1. Throughout the examination and evaluation of bids, the Ordering Party may demand the Bidders to submit clarifications regarding the contents of submitted bids, including errors in calculation and typing errors.
- 17.2. The final selection and conclusion of the contract for order processing shall take place after completing the procedure run through the Grupa Azoty's Purchasing Platform and confirming the agreed terms and conditions in writing.
- 17.3. **The Ordering Party reserves the right to select the Bidder freely, negotiate terms and conditions of the order in a way and scope as described herein or cancel the tender without specifying reasons behind such a cancellation** at every stage of the proceedings and without bearing any legal and financial consequences, and the right to close the tender without selecting any of the bids should any reasons appear causing the conduct of the proceedings or performance of the contract being not in the interest of the Ordering Party.
- 17.4. In the case referred to in clause 17.3. above, the Ordering Party shall simultaneously notify all Bidders who have applied for the award of the contract.
- 17.5. In the case referred to in clause 17.3. above, Bidders who have submitted bids shall not be entitled to any claim for reimbursement of the costs of participation in the tender.
- 17.6. In order to ensure that the rules of business ethics are complied with, the Ordering Party may at any time request the Bidders to submit statements regarding conditions under which their employees are hired as well as whether they are not discriminated in any manner.

- 17.7. The Ordering Party may request the Bidder to submit documents confirming that waste management is carried out pursuant to the law in force.
- 17.8. The Ordering Party hereby makes a reservation that Bidders included in the List of Contractors / Suppliers / Bidders Who Caused Damage To Any Member of Grupa Azoty Zakłady Chemiczne "Police" S.A. Corporate Group Or Took Any Other Action Or Omission Against Grupa Azoty Zakłady Chemiczne "Police" S.A. Corporate Group (hereinafter referred to as the "Black List") may not participate to purchase proceedings organized by Grupa Azoty Zakłady Chemiczne "Police" S.A., and any bids submitted by such entities shall be rejected.
- 18. Bid Credibility Verification**
- 18.1. Throughout the bid evaluation process, the Ordering Party shall have the right to verify the credibility of documents, statements, lists, data and information presented by Bidders.
- 18.2. Should the Ordering Party discover during the verification process that the bid submission is an act of unfair competition, such a bid shall be rejected by the Ordering Party.
- 18.3. Should the Bidder present untrue information having impact on the tender result, such a Bidder may be excluded from the tender regardless of other consequences provided by the law.
- 19. Evaluation of Bid Compatibility with the TOR Contents**
- 19.1. The bid compatibility with the TOR contents shall be evaluated based solely upon the analysis of documents and statements included by the Bidder in its bid.
- 19.2. The Ordering Party shall call Bidders who have not submitted in the required time statements and documents confirming that (i) conditions for participation to the tender have been fulfilled and (ii) offered services fulfill the Ordering Party's requirements, or who have submitted documents with errors, to supplement their bids within the set deadline unless such bids would be subject to rejection even if supplemented or the tender would have to be cancelled.
- 20. General Information Regarding Formal Terms of the Contract / Order**
- 20.1. The winning Bidder selected in the tender shall be provided with an Order. Should it result from the contents of the TOR, a Contract would be concluded in writing.
- 20.2. The Contract / Order shall mandatorily include the Material Contract Terms as provided with the Draft Contract / General Rules for Execution of Contracts / General Rules for Orders unless the terms more favourable to the Ordering Party are agreed with the Bidder.
- 20.3. The Contract will be construed according to the laws of Poland, in particular to the provisions of the Civil Code and respective provisions of law.
- 20.4. The scope of Bidder's performance arising under the contract shall be the same as the Bidder's commitments made in the bid.
- 20.5. Bidders applying for the contract jointly shall bear joint and several liability for performing the contract. Moreover, Bidders applying for the contract jointly shall provide documents referred to in Chapter 6 above.
- 20.6. The Ordering Party requires the Bidder applying for an order to sign the contract / order immediately and to execute thereof in a timely and reliable manner, pursuant to the Code of Conduct for Business Partners binding at the Ordering Party's enterprise.
- 20.7. Any breach to the terms and conditions of cooperation may result in, among others, entering the Bidder to the Black List. Reasons underlying the entering of the Bidder to the Black List may be in particular:
- cancelling of a correctly submitted and binding bid,
 - failure to sign a contract due to the Bidder's fault,
 - untimely execution of the contract / order due to the contractor's fault,
 - causing damage to Grupa Azoty by executing the contract / order improperly,
 - bad / unacceptable quality of rendered services or provided goods,
 - Bidder's participation to price fixing,
 - Bidder's participation to other bad practice such as bribery, offence against trading, VAT-related fraud or other offences for financial gain.