

## INVITATION TO PRE-QUALIFICATION

in the procedure entitled:  
*"Selection of the EPC Contractor for the Waste-to-Energy Plant.  
Employer - Recycling Park Sp. z o. o. "*

### Employer

**Recycling Park Sp. z o. o.**

Kamionka 21  
64-800 Chodzież  
Polska

Warsaw, 17 November 2023

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**Recycling Park Sp. z o.o.**

Kamionka 21, 64-800 Chodzież (wielkopolskie voivodship)

share capital: PLN 552 000,00, NIP no.: 764-25-92-968, REGON no.: 300798767

entered into the register of entrepreneurs kept by the District Court -

Poznań Nowe Miasto and Wilda in Poznań

IX Commercial Department of the National Court Register under the no.: 0000303394

phone: +48 67 350 53 82

recyclingpark@eneris.pl

[www.eneris.pl](http://www.eneris.pl)



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## 1. EMPLOYER

### 1.1 Employer's information

NAME:	Recycling Park sp. z o. o.
REGISTERED OFFICE:	in Kamionka
REGISTERED ADDRESS:	Kamionka 21, Chodzież 64-800, Poland
ENTERED INTO:	the register of Entrepreneurs of the National Court Register kept by the District Court Poznań - Nowe Miasto and Wilda in Poznań, IX Economic Department of the National Court Register, under KRS number 0000303394, NIP 7642592968 and REGON 300798767, with a share capital of PLN 552 000.
CORRESPONDENCE ADDRESS:	Kamionka 21, Chodzież 64-800, Poland
E-MAIL:	recyclingpark@eneris.pl

- 1.2 The Employer is a special purpose vehicle belonging to the ENERIS capital group ("ENERIS Group"). ENERIS Group is one of the largest Polish capital groups operating in the sector of environmental protection, specializing in the development and operation of infrastructure in the domain of waste, water and sewage and modern energy management. The ENERIS Group is involved in and has the potential to build and finance effective and innovative solutions dedicated to the individual needs of municipalities and industry. ENERIS Group provides services for the collection, transport and treatment (including recycling, recovery and landfilling) of all waste – from municipal waste, to hazardous waste, including the recycling of batteries and accumulators. The ENERIS Group cooperates with entities from every industry, as well as public institutions (e.g. local government units or medical facilities).

## 2. DEFINITIONS

- 2.1 **Bidding Documents** – all documents made available to the Contractors by the Employer in Stage II of the Procedure (after the completion of Stage I of the Procedure, i.e. Pre-qualification), which are necessary to select the Contractor with whom the Employer will conclude the Contract, including the Instructions to Contractors, description of the object of the Procurement (including, among others, the document entitled "Functional and Utility Program" with appendices) and the Draft EPC Contract developed on the basis of the "*Contractual Conditions for Electrical and Mechanical Works, and for Building and Engineering Works Designed by the Contractor, 4th English-Polish edition unchanged 2008 with errata (translation of the first edition 1999) - ISBN 83-86774-28-2*" (the so-called "Yellow FIDIC Book");



- 2.2 **Preliminary Documentation** – documents that the Employer will make available to Contractors who sign confidentiality declarations, to conduct a Technical Dialogue in Stage I of the Procedure (i.e. after Inviting Contractors meeting the conditions for participation in the Procedure and not subject to exclusion in Stage II of the Procedure in accordance with section 9 of the Invitation);
- 2.3 **Consultant** - Sweco Polska sp. z o.o. with its registered office in Poznań;
- 2.4 **Financing Party** - an entity or entities that will co-finance or co-fund the implementation of the Investment;
- 2.5 **Investment** - construction of a Waste-to-Energy Plant in Kamionka, Chodzież municipality;
- 2.6 **Consortium** – two or more entities/persons jointly applying for the award of the Contract, or jointly implementing the Contract;
- 2.7 **Bid** – document prepared by the Contractor at Stage II of the Procedure in accordance with all the requirements described in the Bidding Documents and submitted to the Employer;
- 2.8 **Procedure** – this bidding procedure entitled "Selection of the EPC Contractor for the Waste-to-Energy Plant. Employer - Recycling Park sp. z o.o. in Kamionka" covering Stage I (Prequalification and Technical Dialogue) and Stage II (submission of Bids and Auction);
- 2.9 **Application** – request for admission to participate in the Procedure, submitted by the Contractors in Stage I of the Procedure;
- 2.10 **Contractor** – a natural person, a legal person, an organizational unit without legal personality, or a Consortium consisting of such persons, who applies for the award of the Contract, submitted an Application or Bid or concluded the Contract;
- 2.11 **Employer** - Recycling Park sp. z o.o. with its registered office in Kamionka;
- 2.12 **Procurement** or **Contract** - the EPC Contract concluded between the Employer and the selected Contractor, developed on the basis of the FIDIC Yellow Book;
- 2.13 **Invitation** – this invitation to pre-qualification for the Procedure of selection of the Contractor with whom the Employer will sign the Contract.

### 3. PROCEDURE

- 3.1 The provisions of the Act of 11 September 2019 shall not apply to the award of the subject Contract, i.e. the provisions of the Public Procurement Law (Journal of Laws of 2023, item 1605, "Public Procurement Law").
- 3.2 The procedure shall be an open proceeding with prequalification. The Employer shall forward this Invitation to Prequalification to potential Contractors interested in submitting Applications and participating in the procedure.



Prequalification is Stage I of the procedure, only the Contractors who successfully pass Stage I - i.e. Prequalification, will be invited to the subsequent stages of the Procedure.

- 3.3 Stage II of the Procedure will be preceded by a Technical Dialogue, which the Employer will conduct with the Contractors invited to Stage II of the Procedure for the purpose of finalizing the Bidding Documents. The exact purpose of the technical dialogue, which will be carried out in Stage I of the Procedure, is specified in the Preliminary Documentation.
- 3.4 The Procurement procedure for the selection of the EPC Contractor shall be conducted by means of a bidding procedure pursuant to Article 70(1) et seq. of the Act of 23 April 1964 - Civil Code (consolidated text: Journal of Laws of 2022, item 1360, as amended. – hereinafter referred to as the "CC"), in accordance with the provisions of this Invitation to the prequalification procedure, the Preliminary Documentation and the Bidding Documents. The Employer conducts this Bidding Procedure in accordance with the principles set out in section 3.5.
- 3.5 The following principles shall apply to the Procedure:
- a) **Openness** - in particular understood as placing an announcement of a bidding procedure (auction) in the press or on the Internet. The decision on the scope of publicizing information about the planned conclusion of the contract is made by the Employer;
  - b) **Non-discriminatory description of the subject of the procurement** - in particular, understood as a prohibition on including in the Procedure documents provisions that may prefer specific Contractors and, in the event of the need to indicate specific trademarks, patents or origin, an obligatory admission of equivalent solutions;
  - c) **Equal access for economic operators from all Member States;**
  - d) **Mutual recognition of diplomas, certificates and other documents evidencing qualifications, in accordance with Polish law;**
  - e) **Relevant deadlines** – in particular, understood as setting deadlines for the submission of Bids, enabling the Contractors to become familiar with the terms of the Procedure (including the Bidding Documents), as well as to prepare and submit the Bid,
  - f) **A transparent and objective approach** - in particular understood as the obligation to exclude from the preparation and conduct of the bidding persons in relation to whom there are prerequisites analogous to those specified in Art. 56 para. 2 or 3 of the Public Procurement Law, i.e. **conflict**



of interest<sup>1</sup>, and exclusion from the proceedings due to a final conviction for an offense described in Art. 56 para. 3 of the Public Procurement Law<sup>2</sup>.

3.6 The notice of the prequalification was published on the following website: <https://eneris.pl/aktualne-postepowania-ofertowe>. Information about the Procedure was also made public through LinkedIn account used by ENERIS Group. On November 17<sup>th</sup> 2023 the notice was also sent to the Supplement to the Official Journal of the European Union. <https://ted.europa.eu/TED/main/HomePage.do?lang=pl>.

3.7 The proceedings shall be conducted in Polish, however, at the request of interested Contractors, the Employer shall make available draft translations into English of those documents for which they have been developed, provided that in the event of any discrepancies between the Polish and English language versions, the Polish version shall prevail. The Application, the Bid and all documents and correspondence related to the Application or the Bid should be drawn up in Polish.

## 4. PLANNED SCHEDULE OF THE PROCEDURE

### 4.1 Stage I of the Procedure – Prequalification and Technical Dialogue

- 1) Announcement of the Procedure / Invitation to participate in the Prequalification;
- 2) Employer's explanations to the Contractors' inquiries regarding the Invitation to the Prequalification;
- 3) Signing a confidentiality statement with the interested Contractors and making the Preliminary Documentation available to them by the Employer;
- 4) Submission of Applications by the Contractors;

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<sup>1</sup>**Conflict of interest** occurs when persons performing activities related to the preparation, performance or award of the contract:

- 1) apply for the award of this contract;
- 2) are married, in a relationship of kinship or affinity in the direct line, kinship or affinity in the collateral line to the second degree, or are related by reason of adoption, custody or guardianship, or are in cohabitation with the contractor, his legal representative or members of the management bodies or supervisory bodies of the contractors applying for the award of the contract;
- 3) within a period of 3 years prior to the commencement of the procurement award procedure, they were in an employment or contractual relationship with the Contractor, received remuneration from the Contractor on another basis or were members of the management or supervisory bodies of Contractors applying for the award of the procurement;
- 4) have such a legal or factual relationship with the Contractor that there is reasonable doubt as to their impartiality or independence in connection with the procurement procedure on account of their direct or indirect financial, economic or personal interest in the specific outcome of that procedure.

<sup>2</sup>Persons who have been legally convicted of an offence committed in connection with the procurement procedure, referred to in Art. 228-230a, Art. 270, Art. 276, Art. 286, Art. 287, Art. 296, Art. 296a, Art. 297, Art. 303 or Art. 305 of the Act of 6 June 1997 - The Penal Code (Journal of Laws of 2022, item 1138, as amended), hereinafter referred to as the "**Penal Code**", are excluded from the procedure, provided that the conviction has not been erased.



- 5) Evaluation of the submitted applications, including in particular the fulfillment of the conditions for participation in the Procedure and the lack of grounds for exclusion from the Procedure;
- 6) Invitation of the Contractors to the next Stage of the Procedure together with an invitation to the Technical Dialogue. In the event of a large number of Applications submitted, the Employer expects to limit the number of Contractors invited to the next stage of the Procedure in accordance with the provisions of the Invitation to Prequalification - Selection Criteria;
- 7) Employer's explanations to the Contractors' inquiries regarding the content of the Preliminary Documentation;
- 8) Technical dialogue – the purpose of the dialogue is specified in the Preliminary Documentation.

#### **4.2 Stage II of the Procedure – submission of Bids and Auction:**

- 1) Providing Contractors qualified for Stage II of the Procedure with the entirety of the Bidding Documents;
- 2) Submitting inquiries to the Bidding Documents by the Contractors;
- 3) Providing explanations to the Contractor's inquiries;
- 4) Possible Technical Dialogue regarding the content of the Bidding Documents;
- 5) Invitation to submit Bids, including the possible provision of updated Bidding Documents to the Contractors (including the results of the technical dialogue stage and explanations provided to the Contractors' inquiries);
- 6) Submission of Bids;
- 7) Evaluation of Bids;
- 8) Optional Dutch auction (in order to reduce the price indicated in the Bids);
- 9) Selection of the Contractor;
- 10) Conclusion of the Contract between the Employer and the Contractor whose Bid is assessed as the most advantageous.

## **5. BRIEF DESCRIPTION OF THE SUBJECT OF THE CONTRACT**

- 5.1 The subject of the Contract, which the Employer intends to conclude with the Contractor, will be the performance of all activities aimed at implementing the "turnkey" Investment, i.e. in particular the design, deliveries, construction, start-up and commissioning of the facility for thermal processing of waste with energy recovery, with a capacity of **not less than 50 thousand tons and not more than**



**100 thousand tons per year**, pursuant to the Employer's Requirements specified in the Bidding Documents and pursuant to the administrative decisions held by the Employer. In accordance with the decision *on environmental conditions of the consent to the implementation of the investment project*, held by the Employer, waste with the following codes is permitted for processing in the plant:

- a) 20 03 01,
- b) 20 03 99,
- c) 19 12 10,
- d) 19 12 12,

in a total quantity not exceeding 100 000 Mg/year.

**The final decision as to the efficiency of the plant will be made by the Employer after conducting the Technical Dialogue with Contractors at Stage I of the Procedure.**

- 5.2 The assumed basic technological function of the Investment is thermal processing of waste with the cogeneration of heat and power.
- 5.3 The Employer shall require that the price of the Contractor's Bid includes the training of the plant's operator. In addition, the Employer will consider to cover in the Contract the optional right of the Employer to commission the Contractor the operation and maintenance services of the plant or the only the maintenance services of the plant (e.g. as part of an annual overhaul) for a specified period after the plant is put into use. The Employer will make a decision on this matter after conducting the Technical Dialogue in Stage I of the Procedure.
- 5.4 Detailed specification of the subject of the Contract, aimed at reaching the decision to participate in Stage II of the Procedure and submitting the Bids by the Contractors – will be included in the Bidding Documents, which will be made available to the Contractors after the completion of the Prequalification.
- 5.5 Currently, the Employer anticipates that the Procurement shall be completed within 34 (thirty-four) months from the date of its conclusion, this period may be shortened. The final dates of implementation will be set out in the Bidding Documents.

## 6. ELIGIBLE CONTRACTORS

- 6.1 Contractors interested in submitting Applications and participating in the Procedure shall:
  - a) not be subject to exclusion from the Procedure to the extent described in section 7 below,
  - b) meet the Conditions of Participation set out in section 7 below.





- 6.2 Insofar as the Contractor is subject to the Grounds for Exclusion set out in section 7 below, the Contractor may be excluded by the Employer at any stage of the Procedure. The Employer shall reject the Application or Bid submitted by the Contractor excluded from the Procedure.
- 6.3 The Employer shall evaluate the fulfillment of the Conditions for Participation described in the Invitation on the basis of statements and documents submitted by a Contractor using the meet/do not meet method.

## 7. GROUNDS FOR EXCLUSION. CONDITIONS FOR PARTICIPATION IN THE PROCEDURE

- 7.1 The Employer has the right to exclude from the Procedure the Contractors (**Grounds for Exclusion**):
- 1) in relation to whom the circumstances indicated in Art. 7 para. 1 of the Act of 13 April 2022 on special solutions in the field of counteracting the support of aggression against Ukraine and serving to protect national security (Journal of Laws of 2022, item 835, as amended) apply,
  - 2) who, within the last 3 years before the commencement of the Procedure, caused damage to the Employer or another entity (in particular any of the companies belonging to the ENERIS Group) by not performing an agreement of a similar nature as this Contract or by performing it improperly, and this damage was not voluntarily repaired until the date of commencement of the Procedure, unless the non-performance or improper performance is a consequence of circumstances for which the Contractor is not responsible;
  - 3) for whom liquidation has been opened, composition or bankruptcy proceedings have been initiated, or enforcement proceedings which may negatively affect the Contractor's financial capacity are pending against them;
  - 4) who are in arrears in payment of taxes, fees or social or health contributions,
  - 5) who have provided false or misleading information affecting or likely to affect the outcome of the Procedure;
  - 6) who are in a dispute with the Employer or another company in the Employer's capital group, particularly if the dispute relates to contracts performed by the Contractor for the Employer;
  - 7) for whom there is a conflict of interest within the meaning described in section 3.5 f) of this Invitation, which cannot be effectively eliminated in any other way than by excluding the Contractor.

The assessment of the Grounds for Exclusion shall take place on the basis of the documents and statements presented by the Contractor referred to in section 8.



- 7.2 In the case of Contractors jointly tendering for the contract (**Consortium**), none of these Contractors shall be subject to exclusion from participation in the Procedure. If the grounds for exclusion occur in relation to any of the members of the Consortium, the Employer shall exclude the entire Consortium from participation in the Procedure, unless the members of the Consortium who are not subject to exclusion submit a document amending the consortium agreement to the Employer, which will evidence that the consortium member subject to exclusion has been replaced by another entity (not subject to exclusion) or that the Consortium without the excluded member independently meets the conditions for participation in the Procedure.
- 7.3 The Employer allows the extension of the composition of the Consortium after the Contractor has been qualified for Stage II of the Procedure (after the completion of the Prequalification), provided that the additional member or members of the Consortium are not subject to exclusion from the Procedure, in which case the Contractor will allow the Employer to examine the Grounds for Exclusion in relation to the additional member of the Consortium before the deadline for submitting Bids.
- 7.4 Contractors meeting the following Conditions of Participation may apply for the Contract:
- 1) **the Contractor's experience** in the implementation of similar contracts, i.e. the Contractor shall demonstrate that in the last 10 (ten) years before the deadline for submitting Applications – and if the time of conducting business activity is shorter, within this time:
    - (i) it has duly performed at least 1 (one) contract consisting in the execution of the basic design of the complete processing line of a waste treatment plant with energy recovery, including at least:
      - waste feeding segment,
      - combustion and energy recovery segment, including at least a grate furnace, steam recovery boiler,
      - segment for the generation and output of power and heat (cogeneration),
      - flue gas treatment system,
      - auxiliary facilities (water treatment plant, compressor room)with a capacity of not less than 40 000 Mg/year, which facility has been utilized (has been operating) for a period of at least 2 (two) years prior to the commencement of this Procedure (i.e. publication of this Invitation),

and



(ii) it has duly performed at least 1 (one) contract consisting in the comprehensive execution of the construction (including all works, deliveries, assembly and commissioning completed by taking over for operation) of the full processing line of the waste conversion system with energy recovery, including at least:

- waste feeding segment,
- combustion and energy recovery segment, including at least a grate furnace, steam recovery boiler,
- segment for the generation and output of power and heat (cogeneration),
- flue gas treatment system,
- auxiliary facilities (water treatment plant, compressor room)

with a capacity of not less than 40 000 Mg/year, which facility has been utilized (has been operating) for a period of at least 2 (two) years prior to the commencement of this Procedure (i.e. publication of this Invitation),

#### Note 1

Waste is defined as: waste generated in households, excluding end-of-life vehicles, as well as RDF and pre-RDF, and waste not containing hazardous waste from other waste generators, which due to its nature or composition is similar to waste generated in households, i.e. waste from group 20 and group 19.12 excluding hazardous waste; mixed municipal waste remains municipal waste even if it has undergone waste treatment operations that have not significantly changed its properties.

#### Note 2

If, as part of one project (facility), the Contractor performed both the activities specified in section 7.4 subsection 1) tir. (i) (i.e. design) and the activities specified in section 7.4 subsection 1) tir. (ii) (i.e. construction execution), it may present such a facility to meet both conditions specified above, i.e. in tir. (i) and in tir. (ii), provided that the scope of works performed by this Contractor included both the activities specified in section 7.4 subsection 1) tir. (i) and in tir. (ii).

The Employer does not allow combining experience for the purpose of demonstrating the fulfillment of individual participation conditions specified in tir. (i) or in tir. (ii), i.e., e.g. combining the design of the combustion and energy recovery segment within one contract, and designing the flue gas cleaning system within the second procurement.



- 2) **good financial condition adequate to the scope of the Investment being implemented under the EPC Contract**, i.e. they will have passed the financial and security verification under the procedures applicable to the Employer and demonstrate that they have:
- (i) financial resources or creditworthiness in the amount of not less than PLN 50 000 000.00 (fifty million), and
  - (ii) average annual operating revenues for the last 3 (three) financial years - and if the period of operation is shorter, then in this period - at a level not lower than PLN 250 000 000.00 (two hundred and fifty million).

Note 1

If Contractors submit documents containing data in currencies other than PLN, the Employer will convert them according to the average exchange rate of the National Bank of Poland as at the date of publishing the Procurement notice on the Employer's website. In the absence of an average exchange rate for a foreign currency on the date of publication of the Procurement notice, the Employer will adopt the closest exchange rate announced by the National Bank of Poland after the date of publication of the Procurement notice as the exchange rate.

Note 2

If the Contractor has a financial year defined otherwise than as a calendar year, the requirements in the Invitation for a financial year should be interpreted as 12 (twelve) months consecutive and constituting a full financial year.

- 3) **to have personnel with appropriate qualifications and experience** - the Contractor must demonstrate that it has at its disposal persons directed by the Contractor to perform the Contract, i.e.:

1 person to act as Contract Manager/Project Manager, who:

- has higher technical education,
- within the last 10 (ten) years prior to the deadline for submission of Applications, held the position of Contract Manager/Project Manager (within the meaning of the FIDIC contractual conditions or equivalent) or a function equivalent to the above mentioned, consisting in the management of the implementation of at least 1 (one) contract for the construction of a plant generating power or power and heat (it does not apply to wind power plants, hydroelectric power plants and photovoltaic power plants) with a value of min. PLN 100,000,000.00 (in words: one hundred millions) gross. The minimum required period



of performing the above function in managing the implementation of this contract is 24 (twenty-four) months.

Note 1

Conditions equivalent to FIDIC contract conditions are understood to mean, in particular, contract conditions created by adapting FIDIC contract conditions to the local laws of European Union countries or the European Economic Area, e.g. UAV contract conditions, UAV-GC (Netherlands), FABI-KVV (Belgium), VOB (Germany), JCT or GMB (United Kingdom).

- 7.5 Assessment of meeting the above-mentioned Conditions of Participation will be carried out on the basis of the documents and declarations referred to in section 8.
- 7.6 In the case of Contractors jointly applying for the award of the Contract it is acceptable that the fulfilment of the Conditions of Participation in the Procedure is confirmed by one of the Consortium Members or that the fulfilment of the Conditions of Participation in the Procedure is confirmed jointly (aggregation of potentials, including aggregation of experience of all Consortium Members applying for the award of the Contract).
- 7.7 To confirm compliance with the Conditions of Participation in the Procedure, the Contractor may rely on the resources of entities providing resources belonging to the same capital group as the Contractor. With regard to the conditions relating to education, professional qualifications or experience, the Contractors may rely on the capacities of entities providing resources, if these entities perform the construction works or services for which these capacities are required.
- 7.8 The Contractor, who relies on the capabilities or position of the entities providing the resources, submits, together with the Application for admission to participate in the Procedure, a commitment of the entity providing the resources to make the necessary resources available for the purpose of Contract implementation. The obligation of the entity providing the resources referred to in the preceding sentence confirms that the relationship between the Contractor and the entities providing the resources guarantees actual access to these resources and specifies in particular:
- a) the scope of resources of the entity providing the resources available to the Contractor;
  - b) the manner and period of making available to the Contractor and for its use the resources of the entity providing these resources during the performance of the Agreement;
  - c) the extent to which the entity providing the resources, on whose capacities regarding education, professional qualifications or experience the Contractor relies under the Conditions for Participation in the Procedure,



will perform the construction works or services to which the indicated capacities relate.

- 7.9 The entity that undertook to make the resources available is jointly and severally liable with the Contractor, who relies on its resources to confirm compliance with any of the Conditions for Participation in the Procedure, for damage suffered by the Employer as a result of failure to make these resources available.

## 8. LIST OF DECLARATIONS OR DOCUMENTS CONFIRMING THE FULFILMENT OF THE CONDITIONS FOR PARTICIPATION IN THE PROCEDURE, THE SELECTION CRITERIA AND THE LACK OF GROUNDS FOR EXCLUSION

- 8.1 To confirm that the Contractor is not subject to exclusion from the Procedure and meets the Conditions for Participation in the Procedure, the Contractor shall submit the following with the Application:

- 1) Contractor's declaration – a list of completed tasks (referred to in section 7.4 subsection (1) of the Invitation), performed not earlier than in the last 10 (ten) years before the deadline for submitting Applications, – and if the time of conducting business activity is shorter - during this time – corresponding to the scope specified in point 7.4 subsection (1) of the Invitation, together with their type, value, date and place of completion and entities for which they were performed, as well as enclosing evidence confirming that these services or works were performed properly, with the evidence being references or other documents prepared by the entity for which the services or works were performed, and if the Contractor is not able to obtain these documents for reasons beyond its control – other relevant documents;
- 2) Contractor's declaration – a list of personnel that the Contractor will assign to perform the Contract (referred to in section 7.4 subsection (3) of the Invitation), along with information on their professional qualifications, licenses, experience and education necessary to perform the Contract, as well as the scope of activities performed by them and information regarding the basis for employing these persons;
- 3) Contractor's declaration of not being subject to exclusion under Art. 7 para. 1 of the Act on special solutions in the field of counteracting the support of aggression against Ukraine and serving to protect national security;
- 4) Contractor's declaration on not being subject to exclusion from the Procedure in connection with the prerequisites described in section 7.1. subsections (2)-(6) of the Invitation;
- 5) Contractor's declaration re conflict of interest, i.e. on not being subject to exclusion from the procedure in connection with the prerequisites described in section 7.1. subsection 7) of the Invitation;



- 6) information from a bank or a cooperative savings and loan association confirming the amount of funds or creditworthiness of the Contractor to the extent specified in section 7.4 subsection 2) of the Invitation, in a period no earlier than 1 month before the deadline for submission of Applications;
- 7) declaration of the Contractor on the average annual revenue of the Contractor to the extent specified in section 7.4 subsection 2) of the Invitation, for a period not shorter than the last 3 (three) financial years, and if the period of business activity is shorter – for this period;
- 8) financial statement or a part of it (if on its basis it is possible to confirm that the Contractor meets the Conditions for Participation in the Procedure), if the preparation of the statement is required by the law of the country in which the Contractor has its registered office or place of residence, and if it is subject to examination by an expert auditor in accordance with the provisions on accounting, also with an opinion on the examined statement or a part of it, respectively, and in the case of Contractors not obliged to prepare financial statements, other documents specifying turnover and assets and liabilities - for a period not longer than the last 3 (three) financial years, and if the period of activity is shorter - for this period;
- 9) current extract from the relevant register or from the central register and information on business activity or other document confirming that no liquidation or composition or bankruptcy proceedings have been opened in relation to the Contractor.

## 9. SELECTION CRITERIA

- 9.1 The Employer will invite to Stage II of the Procedure – submission of Bids - those Contractors who submitted complete and undisputable Applications within the deadline specified in this Invitation and jointly: (a) confirmed the lack of Exclusion Grounds referred to in section 7 of the Invitation, and (b) meet the Conditions for Participation in the Procedure.
- 9.2 If the number of Contractors who submitted Applications for admission to participate in the Procedure and fulfilled the conditions referred to in section 9.1 does not exceed 5 (five) – the Employer will invite all Contractors to participate in Stage II of the Procedure – submission of Bids.
- 9.3 If the number of Contractors who submitted Applications for admission to participate in the Procedure and fulfilled the conditions referred to in section 9.1 is greater than 5 (five), the Employer reserves the right to invite to Stage II of the Procedure up to 10 (ten) Contractors who obtain the highest scores for meeting the conditions for participation regarding the Contractor's experience in accordance with the principles described in section 9.4 below. The Employer shall



decide independently on the final number of Contractors (over 5 Contractors) invited to the next stage of the Procedure.

- 9.4 The ranking list of Contractors shall be determined on the basis of additional scores awarded for completed contracts meeting the Contractor's experience requirement described in section 7.4 subsection 1) tir. (i) and (ii) of the Invitation.

The principle of awarding scores shall be that for:

- a) each reference task performed by the Contractor in accordance with the requirement specified in section 7.4 subsection 1) tir. (i) of the Invitation, the Contractor shall receive: 1 (one) point.
- b) each reference task performed by the Contractor in accordance with the requirement specified in item 7.4 subsection 1) tir. (ii) of the Invitation, the Contractor shall receive: 2 (two) points.

## 10. DESCRIPTION OF HOW TO PREPARE APPLICATIONS FOR PARTICIPATION IN THE PROCEDURE

10.1 Each of the Contractors and each of the members of the Consortium may submit/appear in only one Application.

10.2 In the event that the Employer receives more than one Application containing the same Contractor or member of the Consortium, only the Application that was submitted to the Employer first will be subject to verification, the remaining Applications submitted with the participation of such Contractor/member of the Consortium shall be rejected by the Employer.

10.3 It is required to submit the Application on the Prequalification Form, the template of which is attached as Appendix No. 1 to the Invitation.

10.4 The following documents should be submitted with the Application:

- 1) power of attorney (if applicable):
  - (i) if the Application is submitted by Contractors jointly applying for the Contract - a power of attorney authorizing the Contractor submitting the Application to represent the other Contractors jointly applying for participation in the Procedure,
  - (ii) in the case of performing activities related to the submission of required documents by a person not listed in the corporate registration (identity) document of the Contractor or another entity - documents authorizing the person submitting the Application to act on behalf of the Contractor, respectively.

The original power of attorney document must be submitted.





The power of attorney should be accompanied by documents confirming the authority of the persons who signed it in order to represent the entity that granted the power of attorney (e.g., corporate registration documents, and in the case of modifications not visible in them - documents confirming the appointment of new persons to the representative body or as a proxy).

2) Documents and declarations described in section 8 of the Invitation.

10.5 The application and all attachments should be drawn up in Polish in a legible manner. Documents drawn up in a foreign language, must be submitted with a translation into Polish.

## 11. DESCRIPTION OF THE COMMUNICATION BETWEEN THE EMPLOYER AND CONTRACTORS AND THE CLARIFYING THE CONTENTS OF THE INVITATION

11.1 In the Procurement Procedure, communication between the Employer and Contractors shall take place by e-mail.

11.2 The Employer appoints the following person as authorized to communicate with Contractors:

Ewelina Buława – T: 883 379 938, E: [ewelina.bulawa@eneris.pl](mailto:ewelina.bulawa@eneris.pl).

11.3 Provision of the Preliminary Documentation to the Contractors will take place after the original declaration signed by the Contractor obliging it to maintain confidentiality (in accordance with the template provided by the Employer) is submitted to the Employer.

11.4 The Contractor may ask the Employer to clarify the contents of this Invitation.

11.5 If the request for clarification of the content of the invitation is received by the Employer later than 10 (ten) days before the expiration of time for submitting Applications, the Employer may not recognize the request and may not provide explanations.

11.6 Requests for clarifications should be sent by e-mail to the address indicated in section 11.2.

11.7 The address of the website, where information on the Procedure will be published, including modifications and explanations of the content of the Invitation and other public procurement documents directly related to the procurement procedure, is: <https://eneris.pl/aktualne-postepowania-ofertowe>.

## 12. DEADLINE, FORM AND PLACE FOR SUBMISSION OF APPLICATIONS

12.1 The Application must be submitted i) in writing by December 29, 2023, by 4:00 PM, at the office of ENERIS Surowce S.A. at 65 Koszykowa Street, in Warsaw (postal code: 00-667) or ii) in an electronic form via e-mail to: [recyclingpark@eneris.pl](mailto:recyclingpark@eneris.pl). The application and the attached documents submitted



in electronic form should be signed with the qualified electronic signature within the meaning of Polish law (the power of attorney and the obligation to provide resources must be signed with a qualified electronic signature by the entities preparing them).

- 12.2 In the case of submitting Applications in the standard written ("paper") form, the envelope should contain the name and address of the Employer, the name and address of the Contractor, and the following inscription: "*Application for participation in the procedure for the award of the Contract entitled Selection of the EPC Contractor of the Recycling Park Sp. z o.o. Waste-to-Energy Plant in Kamionka. Do not open until December 29, 2023, 4:01 PM*". In the case of submitting Applications in electronic form, within the meaning of Art. 78(1) of the Civil Code, the Application must be encrypted by the Contractor, and the password for access to documents should be provided in separate correspondence to the following address: [anna.sobiecka@eneris.pl](mailto:anna.sobiecka@eneris.pl).
- 12.3 Applications delivered after the deadline indicated above shall be immediately returned to the Contractor without opening.
- 12.4 The Employer does not provide for the public opening of Applications and public information on the number of submitted Applications.
- 12.5 The Contractor may introduce changes to the submitted Application and may withdraw the Application, provided that it does so before the deadline for submitting Applications.
- 12.6 The Employer reserves the right to call on the Contractor within the set time limit to submit explanations or complete the Applications in the scope of submitted declarations and documents. However, the right to completing Applications does not apply to documents and declaration evaluated in order to determine the ranking list of Contractors on the terms described in section 9.

### 13. REQUIREMENTS FOR THE BID BOND

The Employer shall require the submission of a bid bond by the Contractors invited to submit Bids, in the amount and by the date indicated in the submitted Bidding Documents.

### 14. BID EVALUATION CRITERIA

- 14.1 Due to the complexity of the Contract, the Employer does not determine a closed catalogue nor the significance (weight) of the Bid evaluation criteria at this stage of the Procedure. The Employer initially anticipates that the selection of the most advantageous Bid will be based on the following criteria:
  - a) The price for the execution of the entire Investment, or the execution price of the Investment per tonne of waste that can be processed in the plant (i.e. CAPEX divided by the nominal capacity of the plant of not less than 50 thousand Mg/year and not exceeding 100 thousand Mg/year),



- b) Nominal capacity of the plant,
- c) The period of warranty and guarantee provided,
- d) Guaranteed Technical Parameters of the group B.

14.2 The above criteria are subject to change.

14.3 The Bid evaluation criteria will be described in detail at the stage of the invitation for submission of Bids in the content of the Bidding Documents, which will be made available to the Contractors after the completion of the Prequalification, including after the closure of the Technical Dialogue for this stage of the Procedure. Bearing in mind the results of the Technical Dialogue, the Employer may, in the content of the Bidding Documents, apply all or only some of the Bid evaluation criteria described in section 14.1 or modify them accordingly.

14.4 The Employer shall award the Contract to the Contractor who is not subject to exclusion from the Procedure, meets the Conditions for Participation and whose Bid will be assessed by the Employer as the most advantageous.

## **15. THE RIGHT OF THE EMPLOYER TO ACCEPT OR REJECT ANY OR ALL APPLICATIONS OR BIDS**

15.1 The Employer reserves the right to accept or reject any Application or any Bid, as well as to cancel the Procedure at any time before selecting the most advantageous Bid, without incurring any liability to the Contractor or the obligation to inform the Contractor or Contractors about the reasons for such action of the Employer.

15.2 The Employer informs that the condition for concluding the Contract with the Contractor shall be obtaining a financial closing of the Investment.

15.3 In respect of the Procedure, including in connection with the content of the Invitation to Prequalification, Bidding Documents, the results of the evaluation of Applications, the selection of the most advantageous Bid, the rejection of Bids, the exclusion of the Contractor or the decision to cancel the Procedure, no legal remedies are available.

## **16. COSTS RELATED TO THE PREPARATION AND SUBMISSION OF THE APPLICATION, BID AND PARTICIPATION IN THE BIDDING PROCEDURE**

Each of the Contractors shall cover all costs and expenses incurred in connection with its participation in the Procedure, including costs related to the preparation and submission of the Application, Bid, participation in the Technical Dialogue or Auction, explanatory meetings before submission of the Bid, meetings devoted to clarifying the content of the Bid or preceding the signing of the Contract. The Employer shall not be liable for any such costs or expenses, regardless of the conduct (including possible cancellation) or outcome of the tender process.



## 17. GDPR INFORMATION CLAUSE

Pursuant to Art. 13 paragraph 1 and 2 of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Official Journal of the European Union L. 119, 2016 p. 89, as amended, hereinafter referred to as the "GDPR"), we inform you that:

- your personal data administrator (hereinafter: PDA) is Recycling Park sp. z o. o. with its registered office in Kamionka, Kamionka 21, Chodzież (64-800);
- the Data Protection Officer can be contacted at the following e-mail address: iod@eneris.pl or by post to the following address: IOD GRUPA ENERIS, Koszykowa 65, 00-667 Warsaw with the annotation "**Personal data**";
- Your personal data will be processed on the basis of Art. 6 para. 1 letter b of the GDPR for the purposes related to conducting a bidding procedure for the selection of the EPC Contractor for the Waste-to-Energy Plant. Employer - Recycling Park Sp. z o.o.;
- the recipients of your personal data may include:
  - other companies from the ENERIS Group,
  - third parties in connection with the performance of, for example: IT infrastructure support and maintenance services, legal advice, whereas such entities process data on the basis of a personal data processing entrustment agreement and only in accordance with the instructions of the PDA;
  - state authorities and institutions, when it results from applicable law, e.g. National Fund for Environmental Protection and Water Management (hereinafter: NFOŚiGW);
- providing your personal data is voluntary, but necessary for the proper conduct of the bidding procedure pursuant to Art. 70(1) et seq. of the Act of 23 April 1964 Civil Code (consolidated text: Journal of Laws of 2022, item 1360, as amended) and in accordance with the principles set out in the NFOŚiGW Programme;
- Your personal data will be processed for a period equal to the duration of the bidding procedure, or the period of limitation of claims resulting from the bidding procedure, or the period of preservation of documents related to the performance of the bidding procedure - depending on which of these periods is longer;
- decisions relating to your personal data will not be taken in an automated manner, pursuant to Article 22 of GDPR;



- you have a right to:
  - pursuant to Art. 15 of the GDPR: the right to access personal data relating to yourself,
  - pursuant to Art. 16 of GDPR: the right to rectify your personal data,
  - pursuant to Art. 18 of GDPR, the right to restriction of processing, except for cases referred to in Article 18 para. 2 GDPR,
  - pursuant to Art. 21 of GDPR: right to object to the processing of personal data,
  - the right to lodge a complaint to the President of the Office for Personal Data Protection, if you feel that the processing of your personal data violates the provisions of the GDPR;
- you are not entitled to the following:
  - in connection with Art. 17, paragraph (3) (b), (d), or (e) of GDPR: the right to erasure;
  - the right to transfer personal data as referred to in Art. 20 of the GDPR.

## 18. APPENDICES

Appendix No. 1 - Prequalification Forms

Appendix No. 2 - Code of Conduct for Business Partners of the Eneris Group