

Świnoujście, 14.03.2024

REQUEST FOR PROPOSAL NO HK/01/03/2024**CONTRACTING AUTHORITY:****Name:** HKScan Poland Sp. z o.o.**Address:** Wrzosowa 9, 72-602 Świnoujście**Tax ID No (NIP):** 855 152 49 44**Contact person details:**

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In connection with the planned implementation of the project entitled "**Implementation of solutions supporting robotization, digitization, and automation is an opportunity for the development of HKScan Poland Sp. z o.o.**" within the framework of the National Recovery and Resilience Plan A 2.1.1. Investments supporting robotisation and digitisation in enterprises, a company named **HKScan Poland Sp. z o.o.** acting in accordance with the principle of fair competition and equal treatment of economic operators, hereby announces a request for proposal (RFP) in line with the principle of competitiveness described in appendix No 6 to the tender regulations entitled: "*Principle of competitiveness*".

The Contracting Authority is not obliged to apply the provisions of the Act of 11 September 2019 - Public Procurement Law (consolidated text, Journal of Laws of 2022, item 1710, as amended), hereinafter referred to as the "PPL".

1. Description of the subject matter of the contract

1.1. Name of the subject matter of the contract and quantity: Frying Line that includes 1 pc. Of Automatic frying machine with grease recovery and 1 pc. Chiller – industrial cooler

1.2. Specification of the subject matter of the contract (description of parameters, characteristics, requirements):

A detailed description of the subject matter of the contract is included in **Appendices No 1 – 6b** to this request for proposal, entitled Specification of the subject matter of the contract (hereinafter referred to as: "*SSMC*"), constituting an integral part of this RFP.

The subject matter of the contract must comply with the requirements described above. If these are not met, the Economic Operator's bid will be rejected.

1.3. Condition: the subject matter of the contract must be new

1.4. Category: supplies

1.5. CPV codes: 42215200-8 Maszyny do przetwarzania żywności

1.6. Minimum required period of guarantee: 12 months

1.7. Equivalence: if any fragment of the description of the subject matter of the contract mentions manufacturers' names, proper names, trademarks, patents or the origin of the materials or equipment used for the performance of this contract which imply or might imply a specific manufacturer, this must not be understood as a preference for the choice of that manufacturer or its materials, but as a suggestion to deliver characteristics (technical and qualitative parameters) that are not inferior to those included in the description. In such a case, the Contracting Authority allows the submission of equivalent bids that provide for the performance of this contract using other

materials or equipment, as long as they guarantee technical, operational and quality parameters that are not inferior to those assumed. An economic operator that is planning to use equivalent solutions is required to demonstrate that the equipment offered by it meets the requirements specified by the Contracting Authority. The burden of proving that a product is equivalent to the assumptions set out by the Contracting Authority lies with the bidder.

2. Conditions of participation in the procedure.

The procedure is open for economic operators that meet the following conditions:

2.1. Submission of a complete bid using (as a prerequisite) the bid form attached as appendix **No 7** to this RFP, in a manner and by a deadline consistent with the requirements described in this RFP,

2.2. Absence of the following grounds for exclusion from the procedure:

2.2.1. absence of personal or capital ties with the contracting authority – personal or capital ties shall mean mutual relations between the Economic Operator and the Contracting Authority or persons authorised to incur liabilities on behalf of the Contracting Authority or persons performing activities related to the preparation and conduct of the contractor selection procedure on behalf of the Contracting Authority, consisting in particular in:

2.2.1.1. participation in a private/civil partnership as a partner;

2.2.1.2. holding at least 10% of shares or stocks (unless a lower holding threshold is required by law);

2.2.1.3. acting as a member of a supervisory or management body, proxy or attorney-in-fact;

2.2.1.4. being married, being in a direct kinship or affinity or in a secondary kinship or affinity up to the second degree, or being in a relationship involving adoption, custody or guardianship, or being in cohabitation with an economic operator, its legal representative, or with members of the management or supervisory bodies of economic operators competing for the contract;

2.2.1.5. being in such a legal or factual relationship with an economic operator that creates a reasonable doubt as to their impartiality or independence in relation to the contract award procedure.

2.2.2. Not being excluded from the procedure pursuant to Article 5k of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (O.J. EU No L 229 of 31.7.2014, page 1; hereinafter referred to as: Regulation 833/2014), as amended by Council Regulation (EU) 2022/576 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (O.J. EU No L 111, 8.4.2022, page 1; hereinafter referred to as: Regulation 2022/576);

2.2.3. Not being excluded from the procedure pursuant to Article 7(1) of the Act of 13 April 2022 on specific solutions to counteract the support of aggression against Ukraine and to protect national security (Journal of Laws, item 835).

The absence of the above-mentioned grounds for exclusion shall be confirmed by signing and submitting a bid form constituting appendix No 7 to this request for proposal, which incorporates representations confirming the absence of the above-mentioned ties and exclusions.

2.3. Holding a licence to pursue specific activities or actions, if such an obligation is imposed on an economic operator by law (fulfilment of the condition will be confirmed by signing a bid form, which incorporates this representation).

- 2.4. Having the necessary knowledge and experience to perform the contract or securing subcontractors with the necessary knowledge and experience to perform the contract (fulfilment of the condition will be confirmed by:
 - 2.4.1. signing a bid form, which incorporates this representation).
 - 2.5. Having adequate technical capability to perform the contract or securing subcontractors with appropriate technical capability to perform the contract (fulfilment of the condition will be confirmed by signing a bid form, which incorporates this representation).
 - 2.6. Having the staff capable of performing the contract or securing subcontractors with the staff capable of performing the contract (fulfilment of the condition will be confirmed by signing a bid form, which incorporates this representation).
 - 2.7. Being in an economic and financial position enabling the performance of the contract within the prescribed deadline (fulfilment of the condition will be confirmed by signing a bid form, which incorporates this representation).
3. **Evaluation of bids with evaluation criteria and a description of the scoring method** – after the bid submission deadline, the contracting authority will first assess the validity of the submitted bids, i.e. it will verify whether:
- 3.1. the bids have been submitted on time and in a manner consistent with the requirements set out in this RFP.
 - 3.2. the bids are complete, i.e. whether all required fields have been completed and all required appendices have been attached, and
 - 3.3. the conditions of participation in the procedure have been met.

Invalid bids will be rejected, while valid bids will be evaluated on the basis of the following criteria:

- 3.4. **Criterion: net price** of the entire contract performance, **in PLN/other currency*** (criterion weighting: 80%) - max. 80 points.

* if price is denominated in a foreign currency, it will be converted using the average exchange rate of the National Bank of Poland (NBP) applicable on the day of publication of the RFP.

Points under the criterion will be awarded in accordance with the following formula:

$$P n = (P \text{ min}/P r) \times 100 \times 80\%$$

P min – the lowest price offered in the valid bids under consideration

P r – price of the bid under consideration

P n – number of points awarded to the bid

Abnormally low price: if the price offered differs by more than 30% from the arithmetic mean of the prices of all valid bids that have not been rejected, or if the submitted bid raises the Contracting Authority's doubts as to the Bidder's capability of performing the subject matter of the contract, the Contracting Authority will ask the Bidder to provide explanations within a set deadline, which will also obligate the Bidder to submit evidence regarding the calculation of the price or cost. The Contracting Authority shall examine these explanations in consultation with the economic operator and may reject the bid only if the explanations (and accompanying evidence) submitted by the economic operator do not justify the price or cost quoted in its bid.

- 3.5. **guarantee period (not shorter than 12 -months (criterion weighting: 20%) – max. 20 points**

Points under the criterion will be awarded in accordance with the following formula:

$$G n = (G r /G \text{ max}) \times 100 \times 20\%$$

G max – the longest guarantee period offered in the valid bids under consideration

G r – guarantee period of the bid under consideration

G n – number of points awarded to the bid

The Contracting Authority will award the contract to the Economic Operator whose bid meets all the requirements contained in the Request for Proposal and obtains the highest score - a maximum of 100 points. The points will be rounded to 2 decimal places. In the event that more than one bid receives the same score, the number of points obtained under the “net price” criterion will be decisive.

4. Deadline for and method of bid submission:

4.1. The bid submission deadline expires on: 15.04.2024 The date of the Contracting Authority’s receipt of a bid shall be decisive. Bids delivered to the Contracting Authority after the bid submission deadline will be rejected.

4.2. Bids should be submitted in the following format:

4.2.1. electronically, to the following e-mail address: michal.grochowski@hkscan.com

- 4.3.** Bids should be submitted on a special bid form, attached as appendix **No 7** to this request, by completing all fields marked with an asterisk (obligatory) on the form.
- 4.4.** A bid must be signed by persons authorised to submit bids on behalf of the Bidder (e.g. in accordance with their powers to represent the company as entered in the relevant register or on the basis of their power of attorney or other documents, which should be attached to the bid if they are not available in public registers).
- 4.5.** A bid should be accompanied by a document enabling the verification of whether the subject matter of the contract meets the parameters set out in the Description of the subject matter of the contract (e.g. a specification sheet/technical specification or other document making it possible to verify the featured parameters). The submitted documents must contain all parameters listed in the description of the subject matter of the contract – if they provide no possibility to compare all the parameters, the bid will be rejected.
- 4.6.** During the examination and evaluation of bids, the Contracting Authority may ask the Economic Operators to provide explanations regarding the content of the submitted bids.
- 4.7.** Bid validity period: at least 30 days from the expiry of the bid submission deadline.
- 4.8.** All documents and representations shall be made in Polish or English.
- 4.9.** All costs associated with the preparation and submission of a bid are borne by the bidder, regardless of the outcome of the procedure.
- 4.10.** In justified cases, the contracting authority reserves the right to cancel the request for proposal at any time.
- 4.11.** Once the bid submission deadline has expired, the contracting authority will evaluate the bids and select the most advantageous one and will announce the results of the procedure via the channel used to make the request for proposal public.
- 4.12.** If the successful bidder withdraws from signing the agreement, the Contracting Authority reserves the right to propose the conclusion of the agreement to the bidder whose bid is the most advantageous among the remaining submitted bids.
- 4.13.** The Contracting Authority reserves the right to modify the RFP and the bid form if the RFP contains errors, there is a need to make changes and/or additions, or a need to answer questions from potential contractors. In such a case, the contracting authority will:
- 4.13.1. make the necessary changes to the RFP and communicate the scope of changes on the platform used to publish the RFP.
- 4.13.2. extend the bid submission deadline by the time required to modify the bids, if this is necessary due to the scope of introduced changes.
- 4.14.** Questions to the request for proposal: The contracting authority admits questions regarding the request for proposal. Questions should be sent to the following e-mail address: michal.grochowski@hkscan.com The Contracting Authority will answer the questions by e-mail and

on the platform used to publish the RFP, provided that questions are received no later than 7 days before the bid submission deadline. If a question about the content of the contract is received after the above-mentioned deadline or concerns issues that have already been explained or information that is contained in the request for proposal, the Contracting Authority may either provide explanations or leave the questions unanswered.

- 4.15. Acceptability of bids for lots:** The contracting authority shall not accept bids for lots. The Economic Operator does not allow for the possibility of submitting bids for lots due to the need to maintain the integrity of the subject matter of the contract: the Frying Line, which is to be operated under industrial conditions and in a single production process. Bids that do not cover the full scope of the subject matter of the contract will be rejected.
- 4.16. Supplementary contracts:** The Economic Operator whose bid has been selected in the procedure resulting from the terms and conditions of this RFP may be awarded supplementary contracts, for an amount not exceeding 50% of the value of the base contract specified in the agreement concluded with the Economic Operator, provided that such contracts are consistent with the subject matter of the basic contract.
- 4.17.** The submission of a bid in response to the request for proposal means that the bidder has accepted the rules set out in this RFP.

5. Deadline for and manner of the contract performance and contractual penalties

- 5.1.** The contract shall be completed by: 8 months after signing the purchase agreement.
- 5.2.** Place of the contract performance: **HKScan Poland Sp. z o.o. ul. Wrzosowa 9, 72-602 Świnoujście**
- 5.3.** Proper performance of the contract shall be understood as: **the successful delivery of devices, supervision of installation, commissioning, startup, crew training, and documentation delivery in compliance with the specified requirements. This includes the successful completion of the SAT (Site Acceptance Test) and machine handover, confirmed by both parties through the signing of the handover and acceptance protocol, without any reservations.**
- 5.4.** The Contracting Authority will deduct from the sum payable to the Economic Operator a penalty of 1% of the net contract value for each commencing week of delay, starting from the first week of delay and not exceeding 10% of the net contract value, to which the Economic Operator agrees by submitting a bid in response to this RFP.

6. Material contractual provisions - an agreement for the performance of the contract concluded between the Contracting Authority and the selected contractor should include, in particular, the following information:

- 6.1.** the name of the subject matter of the contract consistent with this request for proposal and the submitted bid,
- 6.2.** a date of completion of the contract which is not more distant than the deadline specified in this request for proposal,
- 6.3.** the price and the other conditions, criteria and requirements evaluated during the procedure, as declared in the bid selected in the procedure,
- 6.4.** payment methods.

7. Conditions for amending material contractual provisions - the Contracting Authority reserves the right to amend the agreement concluded as a result of the Request for Proposal in the following cases:

- 7.1.** where, due to reasons beyond the Contracting Authority's control and despite its having exercised due diligence, the performance of the contract is impossible or significantly delayed, e.g. in the event of force majeure which renders the performance of the subject matter of the contract impossible within the time limits specified in the agreement, if the value of the amendments does not exceed 50% of the contract value.

"Force majeure" means external events that are unforeseeable, unexpected and beyond the Parties' control, occur after the signing of the Agreement and render the performance of the same impossible.

- 7.2. where the amendments pertain to the execution of additional supplies, services or works that have been conducted by the existing contractor and are not covered by the basic contract, provided that they have become necessary and the following cumulative conditions are met:
 - 7.2.1. a change of the contractor cannot be made for economic or technical reasons, in particular those involving the interchangeability or interoperability of the equipment, services or installations ordered under the basic contract,
 - 7.2.2. a change of the contractor would result in a major inconvenience or an increase in costs for the contracting authority,
 - 7.2.3. the value of each subsequent amendment does not exceed 50% of the contract value originally stipulated in the agreement;
 - 7.3. where the amendment does not alter the nature of the agreement and the following cumulative conditions are met:
 - 7.3.1. the need to amend the agreement is due to circumstances which the contracting authority, despite exercising due diligence, could not have foreseen,
 - 7.3.2. the value of each amendment does not exceed 50% of the contract value originally stipulated in the agreement,
 - 7.4. where the economic operator to which the contract has been awarded by the contracting authority is to be replaced by a new contractor:
 - 7.4.1. on the basis of contractual provisions,
 - 7.4.2. as a result of a merger, division, transformation, bankruptcy, restructuring or acquisition of the existing contractor or its enterprise, provided that the new contractor meets the conditions for participation in the contract award procedure, there are no grounds for excluding the contractor from the procedure and this does not entail other significant changes to the agreement,
 - 7.4.3. as a result of the contracting authority taking over the contractor's obligations towards its subcontractors. In the event of a change of subcontractor, the contracting authority may conclude an agreement with the new subcontractor without changing the terms and conditions of the contract, taking into account the payments made for the work carried out to date.
 - 7.5. where there are discrepancies or ambiguities regarding the meaning of terms used in the agreement which cannot be otherwise removed and the amendment will enable the removal of such discrepancies and clarification of the agreement so as to make its interpretation unambiguous to the parties, without changing the nature of the agreement;
 - 7.6. where the amendment does not alter the overall nature of the agreement and the total value of the contract is lower than the EU thresholds and lower than 10% of the value of the original agreement - in the case of service or supply contracts, or lower than 15% - in the case of works contracts;
 - 7.7. in the event of changes in generally applicable legislation, insofar as they affect the performance of the agreement,
 - 7.8. in the event of changes in the project implementation schedule, in particular where there is a need to extend/postpone the deadlines for completion of individual tasks and stages, caused by objective factors that are beyond the contracting authority's and the contractor's control, which prevent the performance of the contract within the originally specified deadlines, and affect the quality of performance of the subject matter of the agreement,
- 8. Conditions for possible withdrawal from the conclusion of the agreement:**
- 8.1. either Party may withdraw from the Agreement in writing in the event of a material breach of the Agreement by the other Party. A material breach of the Agreement shall be understood as:
 - 8.1.1. the Contractor's delay in performing the subject matter of the agreement exceeding 30 business days, after the Contractor has been called upon to cease the breach and set an additional 14-day time limit to that effect (the right to withdraw from the Agreement for this reason is vested in the Contracting Authority only);
 - 8.1.2. failure by the Contracting Authority to cooperate in performing the subject matter of the agreement that lasts longer than 30 business days, after the Contracting Authority has been

called upon to cease the breach and set an additional 14-day time limit to that effect (the right to withdraw from the Agreement for this reason is vested in the Contractor only);

8.1.3. the Contracting Authority's delay in making payments specified in the agreement (the right to withdraw from the Agreement for this reason is vested in the Contractor only);

8.1.4. a material breach of obligations related to the protection of personal data and confidentiality.

9. Processing of Personal Data:

9.1. The Bidder consents to the collection and processing of its personal data by the Contracting Authority to the extent necessary for conducting this tender procedure, in accordance with:

9.1.1. 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 (hereinafter referred to as the "GDPR" or the "General Data Protection Regulation"),

9.1.2. national data protection legislation issued in connection with the above regulation, including the Act of 10 May 2018 on personal data protection (consolidated text: Journal of Laws of 2019, item 1781).

9.2. The Contracting Authority represents that it is the controller of the data referred to in this request for proposal. The Contracting Authority will process personal data to the extent and for the purpose of conducting the tender procedure and complying with the legal obligation pursuant to Article 6(1)(c) of the GDPR.

9.3. The provision of personal data is a prerequisite for participation in this procedure and a statutory requirement to comply with obligations arising from the law. Failure to provide personal data shall prevent the Bidder from participating in the tender procedure.

9.4. Data may be received, in particular, by Intermediate Bodies, Managing Authorities and other state and EU institutions, as well as entities engaged by the aforementioned entities in connection with auditing, settlement and control of an EU project, Tax Office, Bank, Law Firm, Poczta Polska [Polish Post], courier companies. Data may be also transferred/made available to service providers and subcontractors, such as e.g. IT specialists, accounting offices, consulting and advisory firms, which shall process the data only on a contractual basis and only in accordance with instructions they receive.

9.5. The Bidder has:

9.5.1. pursuant to Article 15 of the GDPR - the right of access to personal data relating to the Bidder,

9.6. pursuant to Article 16 of the GDPR, the right to rectification of the Bidder's personal data,

9.7. pursuant to Article 18 of the GDPR, the right to request the controller to restrict the processing of personal data, except for the cases referred to in Article 18(2) of the GDPR.

9.8. The Bidder has the right to lodge a complaint with a supervisory authority (Inspector General for the Protection of Personal Data or its legal successor - the President of the Personal Data Protection Office) at any time.

9.9. The processing period shall cover the period of compliance with obligations and the period of limitation of claims arising from the law, as well as the period of retention of project documentation in accordance with the provisions of the project funding agreement.

9.10. If an agreement or contract is concluded between the Bidder and the Contracting Authority, the data provided by the Bidder will be processed for the purpose of the performance and settlement of such agreement or contract.