



RULES AND REGULATIONS
for the Conduct of a Preliminary Market Consultation
at ENSEMBLE3 Sp. z o.o.

§1

Definitions

Whenever these Rules and Regulations refer to:

- a) Market Consultation or Consultation - this shall mean the preliminary market consultation referred to in Article 84 of the PPL Act;
- b) Information - this shall mean information about the intention to conduct a preliminary Market Consultation;
- c) PPL Act - this shall mean the Act of 11 September 2019. - Public Procurement Law (consolidated text: Journal of Laws of 2023, item 1605, as amended);
- d) Rules and Regulations - this shall mean these Rules and Regulations for the conduct of a Preliminary Market Consultation;
- e) Participant - this shall mean an entity participating in a Market Consultation conducted by the Contracting Authority;
- f) Contracting Authority - this shall mean Ensemble3 Sp. z o.o.;
- g) Public procurement - this shall mean a planned procedure for the award of a public contract.

§ 2

General provisions for the conduct of Market Consultation

1. The Rules and Regulations set out the rules for the conduct by the Contracting Authority of a Market Consultation prior to the conduct of a procurement procedure.
2. A Preliminary Market Consultation shall be conducted on the basis of and in accordance with Article 84 of the PPL Act.



3. The Consultation shall be conducted in a manner that ensures transparency, fair competition and equal treatment of the Participants and the solutions they offer.
4. All actions referred to in these Rules and Regulations shall be performed for and on behalf of the Contracting Authority by a person or persons designated by the Contracting Authority.
5. A Market Consultation shall be open to the public. The Contracting Authority shall not disclose, during or after the Consultation, information constituting a trade secret within the meaning of the Act on Combating Unfair Competition, if the Participant, no later than with the submission of the information to the Contracting Authority, has stipulated that the information provided constitutes a trade secret and may not be made available to other entities.
6. The contractor for the public contract to which the Consultation relates shall be selected during a separate public procurement procedure conducted under the provisions of the PPL Act.
7. Information on the conduct of a Market Consultation shall be published in each Procurement Notice to which the Market Consultation relates.
8. The Contracting Authority shall inform Participants that participation in a Consultation is considered as involvement in the preparation of a Public Procurement Procedure and the consequent need to take this into account when filling in the Single European Procurement Document form. The Contracting Authority shall take the necessary measures to ensure that the participation of Participants in the planned Public Procurement Procedure does not distort competition, in particular it shall communicate to the other economic operators the relevant information it has communicated or obtained in connection with the involvement of Participants in the preparation of the Procedure and shall set an appropriate deadline for the submission of tenders.
9. The notice and conduct of a Market Consultation shall not commit the Contracting Authority to conduct the procedure with or award the contract to which the Market Consultation relates.

§3

Purpose of a Market Consultation

A Market Consultation shall be conducted in order for the Contracting Authority to obtain information to the extent necessary for the preparation of a Public Procurement and to inform economic operators of its plans and requirements for the Procurement.



§ 4

Subject of a Market Consultation

1. The subject of a Market Consultation shall be, in particular:

a) technical, technological, legal, performance, organisational, commercial, economic and logistical issues relating to the performance of the contract;

b) the latest, most advantageous, cheapest and best technical, technological, legal, performance, organisational, commercial, economic and logistical solutions in the field which is the subject of the Procurement;

c) information relating to the performance of the contract and its costs as required by the Contracting Authority;

d) collecting the information needed to prepare the Public Procurement documentation, in particular:

1/ a description of the subject of the contract;

2/ an estimate of the contract value;

3/ the conditions for participation in the procedure;

4/ the assessment criteria;

5/ the material provisions of the Public Procurement contract.

2. In the course of the Consultation, the Contracting Authority shall be entitled to limit or extend the scope of the subject of the Consultation to issues of its choice, provided that, in its judgement, this shall allow all relevant information for the planned Public Procurement to be obtained.

3. The subject matter of the Procurement, the procedure, the date and place for submitting an application to participate in the Market Consultation and the method of communicating with the participants and the expected duration of the Market Consultation shall be specified by the Contracting Authority in the Information.

§ 5

Organisation of Market Consultation

1. The Contracting Authority may invite to participate in the Consultation Participants selected from among all entities that submit a properly drafted application and, if applicable, additional statements



or documents requested by the Contracting Authority in the Information, acting in accordance with the Rules and Regulations for the Conduct of the Preliminary Consultation. In inviting to participate in the Consultation, the Contracting Authority shall have regard to the purpose of the Consultation and ensuring its effectiveness. The Contracting Authority shall be entitled to specify in the Information the terms and conditions of the invitation to participate in the Consultation.

2. If a Participant fails to enclose the required statements or documents with the application to participate in the Consultation before the time limit specified by the Contracting Authority, the Contracting Authority shall have the right to call upon such Participant to supplement the documentation.

3. The Contracting Authority shall set out in the Information a template for the application to participate in the Consultation.

4. The Contracting Authority shall communicate with the Participants by means of correspondence sent to the e-mail address provided by each Participant or by means of a telephone by calling the contact telephone number provided.

5. The Participants invited to participate in the Market Consultation shall be informed by the Contracting Authority of such invitation.

§ 6

Conduct of a Market Consultation

1. For the purpose of conducting a Market Consultation, the Contracting Authority may appoint a Committee.

2. A Market Consultation shall be conducted in Polish (in justified cases, the Contracting Authority allows a Consultation to be conducted in English) and shall be of an open nature, unless they concern information constituting a trade secret within the meaning of Article 11(2) of the Act on Combating Unfair Competition, if the Participant, no later than at the time of submitting the information to the Contracting Authority, has reserved and properly justified that the information provided may not be made available to other entities.

3. A Market Consultation may be conducted in any form chosen by the Contracting Authority that does not violate the principles of transparency, fair competition and equal treatment of the Participants. The form of the Market Consultation shall be decided by the Contracting Authority in the Information or in the invitation to participate in a Market Consultation sent to the Participants.



4. In particular, a Market Consultation can take the form of:

- a) an exchange of correspondence in electronic form;
- b) telephone or video conference calls;
- c) one-to-one meetings with the Participants, on a topic and in a manner and on dates defined by the Contracting Authority;
- d) a group meeting with the Participants, on a topic defined by the Contracting Authority and in a manner and on dates defined by the Contracting Authority.

5. In the course of a Market Consultation, the Contracting Authority may use experts and advisers with the expertise necessary to conduct the Market Consultation. These persons shall be bound by the confidentiality rules set out in paragraph 2.

6. The Contracting Authority may at any time terminate a Consultation with a selected Participant if it considers that the information provided by the Participant is not useful to achieve the purpose of the Consultation.

7. A Consultation shall continue until the Contracting Authority considers that the purpose of the Consultation has been achieved or considers that it is no longer appropriate to continue the Consultation. The Contracting Authority shall not be obliged to give reasons for its decision.

8. The Contracting Authority shall announce the end of a Market Consultation immediately by posting the relevant information on its website.

9. The Contracting Authority shall keep minutes of the Market Consultation, including at least information on the conduct of the Market Consultation and the entities that participated in the Market Consultation. The minutes and appendices shall be public, subject to the provisions of paragraph 2.

10. Correspondence, minutes, letters, studies and all other documents relating to a Market Consultation shall remain at the disposal of the Contracting Authority. The Contracting Authority may return to the Participant, at the Participant's request, samples, equipment or other materials provided as part of a Market Consultation.



§ 7.

Protection of personal data obtained in the course of a Market Consultation

If the Contracting Authority obtains personal data in connection with the conduct of a Consultation, the Contracting Authority shall be the controller of such data, and such data shall be processed in accordance with the provisions relating to the protection of personal data, in particular those arising from the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons in relation to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) and the provisions of the Act of 10 May 2018 on the protection of personal data (consolidated text: Journal of Laws of 2019, item 1781).

§ 8

Costs of a Market Consultation

1. Each Participant in a Consultation shall independently bear all costs incurred in connection with the preparation for and his/her participation in the Consultation.
2. Participants in a Consultation shall not be entitled to any claims in respect of the preliminary Market Consultation against the Contracting Authority, including, in particular, reimbursement of the costs of preparation for and participation in the Consultation.

The Rules and Regulations shall come into force upon publication on the Contracting Authority's website within the relevant Information about the intent to conduct a preliminary Market Consultation.