

*The Polish language version is binding on all parties involved:*

<https://aquapark.lodz.pl/bip/zamowienia-publiczne/ogloszenie-o-dialogu-technicznym/>

**THE TERMS OF REFERENCE FOR CARRYING OUT THE TECHNICAL DIALOGUE**  
**preceding the procedure for granting a concession for construction works entitled:**  
***"Development of a hotel facility on a property owned by Aqua Park Lodz Limited Liability Company, in the form of a concession for construction works".***

**§ 1**

**Scope of application of the Terms of Reference**

The Terms of Reference specify the rules of conducting by the Contracting Authority - Aqua Park Lodz Limited Liability Company with its registered office in Lodz - a technical dialogue preceding the planned procedure for granting a concession for construction works entitled: *"Construction of a hotel function facility on the real estate of Aqua Park Lodz Limited Liability Company in the form of a concession for construction works"*.

**§ 2**

**Definitions**

Wherever these Rules and Regulations refer to

1. **the PPL Act** - is understood as the Act of 29 January 2004 Public Procurement Law;
2. **the Act on Concessions** - means the Act of 21 October 2016 on the concession contract for works or services;
3. **Dialogue** - is understood as a technical dialogue governed by the provisions of Articles 31a-31c of the PPL Act;
4. **Announcement** - means the announcement of the Dialogue;
5. **Concession award procedure** - shall be understood as the planned concession award procedure for construction works entitled: *"Development of a hotel function development on the real estate of Aqua Park Lodz Limited Liability Company in the form of concession for construction works"*;
6. **Project** - means a project consisting in the development of a hotel facility on the real estate owned by the Contracting Authority, which will be executed in the form of a concession for construction works, pursuant to the provisions of the Act on Concessions;
7. **Terms of Reference** - shall mean these Terms of Reference of Conducting the Dialogue;
8. **Participant** - means an entity participating in the Dialogue conducted by the Contracting Authority;

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9. **the Contracting Authority** - means Aqua Park Lodz Limited Liability Company with its registered office in Lodz (94-208), at al. Unii Lubelskiej 4.

### § 3

#### General provisions

1. Any and all activities within the framework of the Dialogue referred to in these Terms of Reference, in the name and on behalf of the Contracting Authority, shall be conducted by Andrzej Pirek, President of the Management Board.
2. Dialogue does not oblige the Contracting Authority to initiate the Licensing Procedure covered by the Dialog.
3. Dialogue shall be conducted on the basis of and in accordance with Articles 31a-31c of the PPL Act, in compliance with the principles of fair competition.
4. Dialogue is conducted in a manner ensuring observance of the principle of transparency, fair competition and equal treatment of potential contractors and solutions offered by them. If the Contracting Authority makes any materials available to Participants as part of the Dialogue, including documentation, studies, presentations, etc., the Contracting Authority shall ensure equal access to the aforementioned materials to all Participants through the publication of the materials referred to in item 4 on its website, and after the end of the Dialogue - during the Concession Grant Procedure - to all entities interested in granting concessions or other forms of private partner engagement.
5. The Dialogue shall be conducted in Polish. If the information is provided in another language, the Participant shall ensure its translation into Polish.
6. The dialogue shall be of a public nature. The Contracting Authority shall not disclose in the course of the Dialogue or after its completion any information constituting business secret within the meaning of the Act on counteracting unfair competition, if the Participant, not later than at the time of providing the information to the Contracting Authority, stipulated that the information provided constituted business secret and could not be disclosed to other entities.
7. The selection of the concessionaire will be made during a separate procedure for granting concession for construction works conducted pursuant to the provisions of the Act on Concessions.
8. Information on the use of Dialogue shall be published in the announcement of the Concession Proceedings covered by Dialogue.

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#### **§ 4**

##### **Purpose and object of the Dialogue**

1. The purpose of the Dialogue is to obtain information necessary for the Contracting Authority to prepare concession documents, including a description of the object of concession, specify the value of the concession contract and specify the terms and conditions of the contract for the execution of the project consisting in the development of a real estate owned by the Contracting Authority through a hotel facility, which will be executed in the form of a concession for works, pursuant to the provisions of the Act of 21 October 2016 on the concession contract for works or services.
2. The object of the Dialogue may include in particular:
  - a. technical, technological, legal, implementation, organizational, commercial, economic and logistic issues related to the implementation of the Project,
  - b. estimation of the value of the concession contract,
  - c. the latest, most advantageous, best technical, technological, legal, organisational, commercial, economic and logistic solutions in the area covered by the planned concession,
  - d. gathering information for the preparation of concession documents.
3. In the course of the Dialogue, the Contracting Authority shall be entitled to restrict or extend the scope of the Dialogue to issues of its choice, provided that, in its opinion, this will enable it to obtain all information relevant to the planned concession award procedure.

#### **§ 5**

##### **Initiation of a Dialogue**

1. Dialogue shall be commenced on the day on which the Announcement is placed on the Contracting Authority's website.
2. The Ordering Party shall publish the Announcement on Dialogue and its object on its website.
3. The Advertisement shall indicate in particular
  - a. the purpose of the Dialogue,
  - b. the basic requirements for participation in the Dialogue (or the conditions for participation),
  - c. the date, place and manner of submission of the application to participate in the Dialogue,
  - d. the manner of communicating with the Participants.

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4. The Contracting Authority may also, irrespective of the publication of the Announcement on its website, inform selected entities of its intention to carry out a Dialogue. For this purpose, the Contracting Authority may, in particular, send information to selected entities in writing or electronically about the intention to carry out Dialogue.
5. Applications to participate in the technical dialogue should be submitted by **15 December 2019 until 1 p.m.** (the date of receipt of the application by the Contracting Authority shall be decisive):
  - a. by e-mail to the following address:  
**[dialog.techniczny@aquapark.lodz.pl](mailto:dialog.techniczny@aquapark.lodz.pl)**  
The topic of the email should be as follows:  
"Application for admission to the technical dialogue preceding the procedure for the award of concession for public works entitled: "Construction of a hotel building on the real estate of Aqua Park Lodz Limited Liability Company as a concession for public works"".
  - b. in writing to the address:  
**Aqua Park Lodz Sp. z o.o. with its registered office in Lodz at al. Unii Lubelskiej 4, 94-208 Lodz**  
The envelope should be labelled as follows: "Application for admission to the technical dialogue preceding the procedure for the award of concession for construction works entitled: "Development of a hotel facility on the real estate of Aqua Park Lodz Limited Liability Company in the form of concession for construction works".
  - c. in person, at the Contracting Authority's registered office with the application of the form as indicated in letter b.
6. The Contracting Authority is not obliged to invite parties to participate in the Dialogue who will submit the Application after the deadline. However, in justified cases, the Contracting Authority may invite entities, that submit their application to participate in the Dialogue after the specified deadline, to participate in the Dialogue.
7. Failure to participate in the Dialogue does not limit the rights and has no adverse effect on potential concessionaires in the planned procedure for awarding concession contracts for construction works.
8. The Announcement does not constitute an invitation to submit a tender in the meaning of Article 66 of the Civil Code, an announcement of a contract under the Act of 29 January 2004. The Public Procurement Law and the announcement of the procedure for concluding a contract under the Act of 21 October 2016 on Concession Contracts for Works or Services.

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## **§ 6**

### **Dialogue organisation**

1. The Contracting Authority shall invite to participate in the Dialogue participants who:
  - a. file a properly prepared Application to participate in the technical dialogue together with documents confirming that the signatories are authorised to represent the entity or entities interested in participating in the Dialogue, and
  - b. meet the condition of experience referred to in §6(2) of the Terms of Reference.
2. The Dialogue procedure is limited to entities that have experience in the field of:
  - a. designing an investment project of hotel facilities,
  - b. execution of an investment project of hotel facilities,
  - c. management of hotel facilities.
3. The Contracting Authority has specified the specimen of the "Application to participate in the technical dialogue", which is attached as Appendix 1 to the Announcement.
4. Participants invited to participate in the Dialogue shall be informed about this fact by the Contracting Authority in the manner specified in the Announcement.
5. The Contracting Authority shall communicate with the Participants by means of correspondence sent to the e-mail address provided by the Participant. At the request of the other party, each party shall immediately confirm the fact of receiving the correspondence.

## **§ 7**

### **The method of carrying out the Dialogue**

1. The technical dialogue shall be conducted in the form of separate meetings of the Contracting Authority's representatives with each participant of the Dialogue.
2. The Participant's participation in the Dialogue shall be equivalent to granting unconditional consent for the Contracting Authority to use the information provided in future concession documents.
3. The Contracting Authority may at any time resign from Dialogue with a selected Participant if it considers that the information provided by that Participant is not useful for achieving the purpose of the Dialogue.
4. During the Dialogue, the Contracting Authority may use the assistance of public authorities, experts and advisors who have the expertise necessary to prepare concession documents, including a description of the object of concession or the terms of the contract. These entities are

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obliged to maintain confidentiality in accordance with the principles set out in these Terms of Reference.

## **§ 8**

### **Termination of the Dialogue**

1. The Dialogue shall continue until the Contracting Authority recognizes that its purpose has been attained or that the continuation of the Dialogue is unreasonable. The Contracting Authority shall not be obliged to justify its decision.
2. The Contracting Party shall immediately inform about the termination of the Dialogue by posting information on its website, and in case of termination of the Dialogue after inviting selected Participants to participate in the Dialogue also by providing information to Participants.

## **§ 9**

### **Minutes of the Dialogue**

1. The Contracting Authority shall draw up minutes of the Dialogue, including at least the following:
  - a. information on holding the Dialogue;
  - b. information about the parties who participated in the Dialogue;
  - c. information on the potential impact of Dialogue on concession documents, including the description of the object of concession or the terms of the agreement.
2. The protocol and its attachments are public, subject to the information referred to in § 3.6 of the Terms of Reference.
3. Correspondence, minutes, letters, studies, opinions and any other documents related to the Dialogue shall remain at the disposal of the Contracting Authority and shall not be returned after the termination of the Dialogue. The Contracting Authority may upon request return to a Participant samples, equipment or other materials provided in connection with Dialogue.

## **§ 10**

### **Costs and remedies**

1. Each participant of the Dialogue shall bear all costs incurred in connection with the preparation for and his or her participation in the Dialogue. Participants shall not be remunerated for their participation in the Dialogue.

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2. Dialogue participants shall not be entitled to any claims against the Contracting Authority, including in particular reimbursement of costs of preparation for and participation in Dialogue.
3. Dialogue participants and other entities are not entitled to appeal remedies specified in the PPL Act.

## **§ 11**

### **Personal data**

Aqua Park Lodz Limited Liability Company with its registered office in Lodz (94-208), al. Unii Lubelskiej 4 (the Contracting Authority) processes the data contained in the applications for participation in the technical dialogue, located in publicly available registers (National Court Register, Central Records and Information on Economic Activity of the Republic of Poland, National Criminal Register) in order to conduct the procedure for the conclusion of a concession contract under the Act of 21 October 2016 on the Concession Contract for Works or Services. Such information may include data which are personal data within the meaning of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and the repeal of Directive 95/46/EC (general data protection regulation). In view of the above, the Contracting Authority informs that:

1. The administrator of personal data (hereinafter referred to as "Administrator") is Aqua Park Lodz Limited Liability Company with its registered office in Lodz (94-208), al. Unii Lubelskiej 4, entered into the Register of Entrepreneurs kept by the District Court for Lodz-Śródmieście in Lodz, XX Commercial Division of the National Court Register under KRS No.: 0000196146, NIP: 727-261-66-58, REGON: 47323046900000, REGON: 47323046900000.
2. In the course of proceedings in matters related to your personal data, you should contact us by e-mail at the following address: [fala@aquapark.lodz.pl](mailto:fala@aquapark.lodz.pl)
3. Personal data contained in the applications are processed on the basis of Article 6(1)(c) of RODO, i.e. processing is necessary to fulfil the legal obligation of the Administrator. The purpose of personal data processing is to conduct, on behalf of the Administrator, a technical dialogue preceding the planned procedure for granting a concession for construction works entitled: "Development of a hotel facility on the real estate of Aqua Park Lodz Limited Liability Company in the form of a concession for construction works", and then the procedure for concluding a concession contract pursuant to the Act of 21 October 2016 on the concession contract for construction works or services. Processing of personal data for the aforementioned needs is



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within the scope of the statutory activity of the Contracting Authority and is necessary to enable the Contracting Authority to fulfil its obligations.

4. The recipient of your personal data will be authorized employees of the Contracting Authority, persons applying for access to technical dialogue documentation and proceedings for the conclusion of concession contract for construction works, the National Appeal Chamber, the Tax Office, the Social Insurance Institution, banks, enforcement authorities, common courts.
5. Your data will be stored for the following period:
  - a. personal data provided in the technical dialogue - for a 4-year period from the date of completion of the technical dialogue,
  - b. personal data provided within the framework of the proceedings for concluding concession contract - for a period of 4 years from the date of concluding the proceedings for concluding concession contract,
  - c. personal data necessary to conclude the concession contract (data provided by the concessionaire) - for the duration of the concession contract and the time of archiving and the time necessary for the statute of limitations of claims.
6. You have the right to access the content of your data and the right to correct, delete, limit the processing, the right to transfer data, the right to object to the processing.
7. You have the right to lodge a complaint with the supervisory authority if you consider that the processing of your personal data violates the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals 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) or the provisions of the Act of 10 May 2018 on the protection of personal data.
8. The provision of personal data by you is a statutory requirement. You are obliged to provide them, and the consequence of not providing personal data may be an inability to participate in technical dialogue and proceedings for the conclusion of a concession contract.
9. Data provided by you will not be subject to profiling.
10. Data Administrator does not intend to transfer personal data to a third country or an international organisation,
11. The Contracting Authority shall make every effort to ensure all physical, technical and organizational measures to protect personal data against accidental or deliberate destruction, accidental loss, alteration, unauthorized disclosure, use or access, in accordance with all applicable laws.
12. Participant fulfilling the information obligations resulting from Article 13 or Article 14 of the RODO with respect to natural persons from whom personal data were obtained directly or