

Current report no. 61/2017

Date prepared: 29.06.2017

Issuer's abbreviated name: POLIMEX-MOSTOSTAL

Subject: The conclusion of a material agreement

Legal basis: Article 17(1) of Regulation (EU) No. 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC.

The Management Board of Polimex-Mostostal S.A. having its registered address in Warsaw (hereinafter referred to as the "**Company**") informs that today PGNiG TERMIKA S.A. having its registered address in Warsaw (hereinafter referred to as the "**Employer**") and Mitsubishi Hitachi Power Systems Europe GmbH having its registered office in Germany as the consortium leader, Mitsubishi Hitachi Power Systems Ltd. having its registered office in Japan, Mitsubishi Hitachi Power Systems Europe Ltd. having its registered office in London and the Company as the consortium members (hereinafter jointly referred to as the "**Contractor**") concluded an agreement the subject matter of which is the delivery and assembly of a combined gas and steam plant on the premises of the Żerań Power Plant in Warsaw (hereinafter referred to as the "**Contract**").

The Contract Price for the performance of all the obligations resulting from the Contract, including all deliveries, services and construction works (including granting by the Contractor all rights and consents to the Employer) has been determined as a lump price pursuant to Article 632 §1 of the Civil Code and amounts to PLN 982,281,952.84 (in words: nine hundred and eighty-two million two hundred and eighty-one thousand nine hundred and fifty-two zlotys 84/100) and EUR 111,938,759.89 (in words: one hundred and eleven million nine hundred and thirty-eight thousand seven hundred and fifty-nine euro 89/100). The foregoing figures are inclusive of VAT (hereinafter referred to as the "**Contract Price**"). The remuneration shall be paid after the Employer have accepted all the stages of Contract execution provided for in the Contract. The Employer shall make an advance payment for the benefit of the Contractor towards the execution of the Contract in the amount of 15% of the Contract Price expressed in PLN and 15% of the Contract Price expressed in EUR. The share of the Company as a consortium member shall be 26.01% of the Contract Price, i.e. 381.3 million zlotys.

The Contractor has undertaken to cause the plant commissioning report to be signed within 36 months from the day of concluding the Contract.

The Contract provides for contractual penalties, including but not limited to penalties for: (i) a failure to sign the plant commissioning report within the specified time limit in the amount of 0.03% up to 0.15% of the Contract Price, (ii) for a failure to comply with the time limits for executing the individual stages specified in the Contract in the amount of 0.05% of the net value of a given state for each day of delay in its execution, (iii) for a failure to comply with the time limit for undertaking removal of a defect in the amount of PLN 100,000 for each commenced day of delay, (iv) for a failure to meet the guaranteed technical parameters at the specified level as indicated in the Contract in the amount of PLN 1,200,000 up to PLN 7,000,000 for each exceedance of a parameter by the specified value. The maximum total amount of the contractual penalties specified in items (i) – (iii) shall amount to 15% of the net Contract Price, while that of the contractual penalties specified in item (iv) shall amount to 20% up to 50% of the net Contract Price, depending on the parameter not met. The maximum total value of all the contractual penalties described in the Contract may not exceed 30% of the net Contract Price, except for certain contractual penalties charged in accordance with item (iv). The Employer has the right to demand supplementary damages in excess of the stipulated contractual penalty indicated in item (i) up to the value of 50% of the Contract Price. The euro exchange rate for the purposes of charging contractual penalties has been determined in the Contract.

The consortium members shall bear joint and several liability towards the Employer for the obligations resulting from the Contract and for providing a security. Further, the consortium members shall bear joint and several liability towards the Employer for the recourse claims of the Employer related to the satisfaction of claims pursued by third parties (including subcontractors) resulting from damage or outstanding payments that arise out of or in connection with the execution of the Contract, for which any of the Consortium Members is to be held responsible. The maximum liability of each Party for a failure to perform or improper performance of the Contract or tort liability shall not be higher than 100% of the Contract Price. The foregoing limitation shall not apply to intentional damage or damage resulting from a gross negligence. Further, the foregoing limitation shall not apply to the aforementioned recourse claims, as well as the Contractor's liability arising from Articles 435 and 436 of the Civil Code.

The Contractor shall be obliged to obtain a performance bond in one or several forms provided for in Article 148, section 1 of the Public Procurement Act in the amount of 10% of the Contract Price. Further, the Contractor shall be obliged to obtain an advance payment security in the form of an irrevocable and unconditional advance payment bank guarantee in the amount of the advance payment made, payable on the first written demand of the Employer without the required approval of the Employer's claims by the Contractor. The advance payment bank guarantee shall expire automatically the moment the whole amount of the advance payment has been settled.

The period of the Contractor's liability resulting from the quality guarantee and the implied warranty for physical defects of the object of the Contract shall be 24 months starting from the date of signing the plant commissioning report, with the proviso that the period of the Contractor's liability resulting from the quality guarantee and the implied warranty for physical defects in the case of the elements and structures specified in the Contract shall be 60 months starting from the date of signing the plant commissioning report.

The Employer may suspend the execution of the Contract for good reasons. Both the Employer and the Contractor may withdraw from the Contract or its part on the terms and condition stipulated therein within 100 months from the day of concluding the Contract, but not later than within 24 months from the date of signing the plant commissioning report.

The Contract shall be concluded upon signature by the Parties.

The other provisions of the Contract shall be characteristic of this type of agreement.