

RULES

governing an e-auction on the Purchasing Platform of ORLEN

The Rules are subject to electronic approval by using the box “Accept the Auction Rules” in the “Portal of supplier – my auctions”. If the Rules are not accepted as stated above, one cannot take part in an Auction.

Definitions:

1. **Auction** – electronic bidding organised on the Auction Platform of ORLEN, aimed at selecting the best Bid placed by Bidders in accordance with criteria set out earlier by an Organiser;
2. **Chat** – panel for direct text communication with an Organiser, accessible through a Console of every Bidder, enabling communication between the Organiser and all or particular Bidders. Chat makes it possible for Bidders to communicate only with the Organiser;
3. **Tie-break** – mechanism for expanding the Basic Duration of Auction;
4. **Auction step** – monetary value or other value by which one can increase or decrease a Bid;
5. **Console** – interface for Bidders including a set of information resulting from configuration of an Auction. A Bidder can place Bids by means of a Console, communicate with an Organiser and monitor his standing at the Auction;
6. **Notice** – statement placed on the Purchasing Platform of ORLEN before every Auction, which specifies terms and conditions of an Auction and Bids placed and which is subject to the same approval as the Rules. The notice with the Rules together form the basis for carrying out a particular Auction;
7. **Bidder** – prospective supplier/recipient of goods or provider of services, registered on the Purchasing Platform of ORLEN and taking part in an Auction;
8. **Bid** – declaration made by a Bidder including a parameter or parameters which is/are subject to bidding during an Auction;
9. **Organiser** – company or group of several companies from the ORLEN S.A. Capital Group interested in purchasing/sales goods or services, organising and carrying out an Auction;
10. **Purchasing Platform of ORLEN** – set of web business applications accessible for registered users through the e-protocol https, used by an Organiser to carry out the process for selection of suppliers/recipients with whom contracts for supply/reception of goods or provision of services will be concluded;
11. **Auction Platform of ORLEN** – (hereinafter referred to as the **System**) web auction application, accessible on the Purchasing Platform of ORLEN through the e-protocol https, to which an Organiser has rights and which is exploited by him and to which a Bidder gains access;
12. **Basic Duration of e-Auction** – Auction time calculated from its start to the time when it is finished, without taking into account extension time of the Auction resulting from tie-breaks;
13. **Rules** – present Rules on the e-Auction carried out on the Purchasing Platform of ORLEN;

§ 1. Subject of the Rules

1. The Rules aim at determining detailed principles of an Auction and its course.
2. In addition, the Rules include declarations and commitments of a Bidder towards an Organiser.
3. The Rules with a Notice are subject to approval by Bidders before every Auction, irrespective of their approval during earlier Auctions.
4. A Bidder declares that he has read the Rules and will accept them without reservation. Otherwise, he will not take part in an Auction.
5. A Bidder ensures that Bids and other declarations within an Auction will be made on his behalf by a person who possesses sufficient powers.

§ 2. Principles of Auction

1. A Bidder notes and accepts that planned Auction is held within the purchasing/sales process carried out by an Organiser and forms one of negotiation stages within the meaning of Article 72 of Civil Code and ipso facto provisions on a bid within the meaning of Article 66 as well as on an auction and tender within the meaning of Article 70¹ - 70⁵ of Civil Code shall not apply.
2. Therefore, a Bid placed in the course of an Auction shall remain valid, and a Bidder shall be bound by it, also after its end until the date of being bound by the Bid laid down in a Notice.
3. An Organiser may apply the following types of Auctions:
 - according to **English principle** of a descending/ascending auction it means that each subsequent Bid made by a particular Bidder will be accepted only when its value is lower/higher than value of a Bid which is currently leading at an auction,
 - according to **dynamic principle** of a descending/ascending auction it means that each subsequent Bid made by a particular Bidder will be accepted only when its value is lower/higher than value of a Bid previously made by this Bidder,
 - according to **Japanese principle** – an Organiser lays down minimum and maximum values for a bidden parameter. Bidding takes place in particular timeframes. In subsequent timeframes the system proposes subsequent values of a bidden parameter, based on a step configured by the Organiser. Each subsequent value of a bidden parameter is increasingly favourable to the Organiser of the auction. An entity who will offer the best value of the parameter for the Organiser will win the auction,
 - according to **Dutch principle** - an Organiser lays down minimum and maximum values for a bidden parameter. Bidding takes place in particular timeframes. In subsequent timeframes the system proposes subsequent values of a bidden parameter, based on a step configured by the Organiser. Each subsequent value of a bidden parameter is increasingly favourable to Bidders. An entity who will place the first Bid will be a winner of the auction.
4. A type of applied Auction and its all terms and conditions will be set out by an Organiser in a Notice, made known to Bidders a day before the Auction at the latest. A Notice may include:
 - a. purpose of the application of Auction (for example: to create a short list of suppliers, to identify the preferred supplier for final negotiations or to decide which supplier should ultimately be awarded the contract)
 - b. subject of the Auction i.e. determination and description of planned purchase/sale of goods or service, including an execution period,
 - c. bidden parameter of a Bid and if price is the parameter, also currency shall be set out,
 - d. asking price/starting value of a bidden parameter of a Bid,
 - e. way of presenting values of Bids,
 - f. criteria for evaluation of Bids, including rules on converting parameters of a Bid into points providing that they are applied,
 - g. auction step,
 - h. date and time of starting as well as date and time of closing the Auction,
 - i. basic duration of the Auction,
 - j. number of minutes left to the end of the Auction enabling commencement of a Tie-break in the event of making a new Bid at this particular time,
 - k. time by which the Auction will be extended,
 - l. maximum number of Tie-breaks,

- m. period of being bound by a Bid.
- 5. During an Auction a Bidder will be informed what position in a ranking his last Bid occupies or what position is occupied by an aggregated Bid of a particular Bidder – the option is accessible depending on a model of an auction chosen by an Organiser.
- 6. As regards a multi-unit Auction, an Organiser may admit placing Bids for units selected by a Bidder.
- 7. Prices used during Auctions and given in Bids are net prices, without relevant VAT.
- 8. A Bidder shall not pay any charges for participation in an Auction.
- 9. A Bidder shall not pay any charges for getting advice and clarifications from an Organiser on operation of the Auction Platform of ORLEN and for participation in on-line trainings as well as training auctions.

§ 3. Auction Platform of ORLEN

- 1. An Auction will be carried out with the use of the Auction Platform of ORLEN which is described on the Purchasing Platform of ORLEN – Regulations and procedures of the purchasing process – Instructions Module of Auction Bidder.
- 2. While entering into an Auction, to ensure its smooth operation, including elimination of a risk of errors, a Bidder should familiarise himself with necessary information on a planned course of the Auction and with operation of IT instruments serving for placing Bids. In particular, a Bidder should familiarise himself with instructions, manuals made accessible to him during preparation of the Auction as well as participate in a training auction providing that it is organised.
- 3. A Console enables a Bidder to view the following information – if an Organiser makes such options accessible – during an Auction:
 - a. position (place in a ranking) of a Bid;
 - b. index of a Bid which is leading at an auction (yellow hammer);
 - c. value of one's own Bid;
 - d. signalling of a new and the best Bid placed at an Auction;
 - e. value of a Bid which is leading at an Auction.
- 4. During multi-unit Auctions, a Bidder will see on a Console only such units in which he places Bids.
- 5. The Auction Platform of ORLEN can be used only by Bidders for purposes related to their business activities. By accepting the Rules of the Auction Platform of ORLEN, a Bidder confirms that he is such an entity and undertakes to use the Auction Platform of ORLEN for purposes directly connected with his business activity.
- 6. Any actions which hinder the functioning or which cause destabilisation of the Auction Platform of ORLEN are unacceptable.

§ 4. Course of Auction

- 1. A Bid shall be regarded as such which has been placed correctly and accepted at the time when the information "Accepted" is displayed on a Console.
- 2. If several Bids with the same parameter are placed, the system will set a ranking of Bids in order of the time of placing a Bid.
- 3. Basic Duration may be extended by Tie-breaks.
- 4. If for technical reasons during an Auction at least 1/3 of Bidders notifies an error in connection with the System, an Organiser may stop the Auction and set another date for the Auction, informing Bidders about this fact. Results of unfinished and cancelled Auction shall be annulled.
- 5. If less than 1/3 of Bidders have a technical problem at the Purchasing/Sales Auction of ORLEN which is carried out, an Organiser may continue the auction or to proceed in accordance with the provisions of 5 this paragraph.

6. If an Organiser makes a decision during an Auction about its suspension, he shall inform through Chat about exact time of its suspension according to time of the Auction Platform of ORLEN. Time of the Auction Platform of ORLEN is displayed on a Console. Bids accepted by the system after determined time will not be taken into account.
7. An auction will be closed automatically if a new Bid is not placed within the time specified in the Notice to the closure of the Auction.
8. Closure of an Auction will be confirmed by an Organiser with information in the box Chat of the System.

§ 5. Closure of Auction and confirmation of Bids

1. After an Auction is finished, a Console will display a value of last Bid placed by a Bidder, his position in a ranking at the time of completion of the Auction as well as an icon with a yellow hammer if the Bidder has finished the Auction as a leader.
2. A Bidder may acquire confirmation of his own last Bid placed during an Auction from the tab "Completed" which is on the list of the Auction. To acquire the confirmation of a Bid the icon "Bidder's Report" needs to be used.
3. The placing of a final Bid by a Bidder is equivalent to its approval and confirmation of validity for the period validity period of Bid as indicated in the approved Notice, with no possibility of withdrawing the Bid which has been placed.
4. After an Auction, an Organiser shall carry out a process for selection of suppliers/recipients, based on the procedure stipulated in a Notice.
5. In the case of a decision on the cancellation or withdrawal from the auction Organizer via chat, and when this is not possible in a different form, it shall inform Bidders of the event.
6. In the event of making a decision about cancellation or withdrawal from an Auction, an Organiser shall inform Bidders via Chat about this fact.
7. In the event by the Organizer's decision to move or repetition of Auction, approved by the Bidders the rules retains legal power. The Organizer shall inform the Bidders for the new date and time of the Auction. The terms of validity and confirmation of the Bids will be delayed, equal to the time of move the Auction.

§ 6. Limitations, responsibility of an Organiser

1. A Bidder notes that a possibility of access to and of using the System depends on accessibility and quality of data connections ensured by providers of data transmission services, whose lines are exploited by a Bidder and Organiser. Thus, an Organiser shall not bear responsibility for problems and limitations arising from incorrect transmission of data.
2. An Organiser shall not be responsible for any damage caused as a result of incorrect functioning of the System, its errors, shortages, disruptions, defects, delays in working or transmission of information, computer virus or failure.
3. An Organiser shall not be responsible for any damage caused as a result of participation in an Auction by a third party posing as a Bidder. Particularly if this third party uses the System as a result of culpable loss as well as intentional or unintentional forwarding by a Bidder of information necessary to use the System, the Bidder shall be responsible for actions of such persons as for his own actions.
4. An Organiser shall not bear responsibility for any damage caused by conduct of a Bidder within the System.
5. An Organiser shall not bear responsibility for any damage arising from disclosure of a name of a Bidder who takes part in an Auction or content of his Bid.

§ 7. Assistance during Auction

1. During an Auction a Bidder may use technical assistance (service of the Auction Platform of ORLEN – Hot Line) in the course of the Auction at the telephone number: **+48 22 576-87-95**.
2. A Bidder notes that all telephone conversations carried out in the course of an Auction can be recorded.
3. In the event of notifying a technical problem five minutes before planned time of closing an Auction, an Organiser shall not bear responsibility for lack of possibility of giving the foregoing technical assistance.

§ 8. Final provisions

1. Non-acceptance of the Rules by using a relevant box in the System is equivalent to resignation from participation in an Auction arranged by an Organiser.
2. Admission of a Bidder to an Auction shall be subject to electronic acceptance of the Rules in the System. The Rules shall be accepted by the end of a training Auction (if organised) at the latest or by date set in another way.
3. An Organiser reserves the right to amend the Rules. Commenced Auctions shall be carried out in accordance with the Rules in the wording accepted by Bidders.
4. To all matters not settled herein relevant provisions of Polish law shall apply.
5. Any disputes which may arise from participation of a Bidder in an Auction arranged by an Organiser shall be referred for arbitration to a Polish common court of law having jurisdiction over the Organiser's registered office.