

The Public Contracts Review Board  
Notre Dame Ditch  
Floriana FRN 1601.



16<sup>th</sup> July 2021

**Our Ref. C1 [21-02722]**

Dear Sirs,

**RE: CT 2032/2020 Tender for the Supply Polymer I/A Tips For Irrigation/Aspiration Handpiece**

We act on behalf of our clients Messrs Class Medical Limited ("Class") of UBT 13/14, Ind. Estate, San Gwann. SGN3000, Malta (janica.cachia@classoptical.com), with reference to the letter of the 9th July 2021 sent to our clients informing them that their offer had been rejected by the Central Procurement and Supplies Unit – Ministry for Health ("Contracting Authority"), and that the tender had been awarded to ProCare Ltd ("ProCare") on the basis that the latter's offer was "*the cheapest priced offer satisfying the administrative and technical criteria*". A copy of the said letter is being hereto attached and marked as Doc A.

Our clients feel aggrieved by this decision and are hereby filing an appeal from this decision in terms of law and this on the following grounds:

**Ground of Objection**

In terms of the Technical Specifications established in the relative Tender Document, specific reference is being made to article 1.1 of Section 3 on page 17 of the Tender Document (a copy of the relative page is being hereto attached and marked as Doc B), the product specifications had to be the following:

- Disposable Polymer tips
- Sterile
- Individually packed
- Angled or curved polymer tips
- For irrigation/aspiration handpiece
- To be compatible with Alcon infiniti machine

Class is hereby making specific reference to two of the abovementioned specifications, namely: [1] that the disposable tips have to be made of Polymer and [2] that they have to be compatible with the Alcon infiniti machine.

Whilst it is true to say that ProCare's offer satisfied the element of price in that it was the cheapest, one cannot say the same about the technical criteria.

**[1] The I/A tips to made of Polymer**

The product offered by ProCare is manufactured by Micro Surgical Technology INC (MST). MST have no I/A tips manufactured out of Polymer, but only out of silicone which makes them non-compliant with the relative technical specifications. Attached for your perusal please find a copy of the technical brochure for I/A products manufactured by MST which is being marked as Doc C, which clearly states that the tips are made of silicone (vide page 16).

Consequently, once the technical specifications clearly state that the I/A tips need to be made of polymer it should follow that the product offered by ProCare did not meet the technical specifications.

**[2] The I/A tips to be compatible with Alcon infiniti machine**

Apart from the lack of conformity with the technical specifications referring to material used to manufacture the tips, the product offered by ProCare doesn't conform to the technical criteria in that it has not been validated for use with the Alcon infiniti machine.

Attached for your perusal please find a list of the approved I/A and validated accessories for the Alcon Infiniti machine as can be seen on page 180 of the attached Operator's Manuel of the Infiniti Visions System, a copy of which is being hereto attached and marked as Doc D.

From the said documentation it should have transpired that the product offered by ProCare does not in effect satisfy the technical criteria and hence should have been discarded.

In view of the fact that the second cheapest offer after that of ProCare was that of Class, even since they were the only two companies who participated in the relative tender, it should follow that the tender should be awarded to Class in that the product offered by Class does in effect satisfy all the conditions including that of the technical criteria.

**Request**

For the above reasons it is submitted and requested that this Board decides that the decision taken by the Contracting Authority communicated to Class by means of a letter dated 09<sup>th</sup> July 2021, be revoked on the basis that that the product offered by the successful bidder ProCare did not satisfy the technical criteria requested, and furthermore decide that the tender should be awarded to Class having made the cheapest priced offer that furthermore satisfies the administrative and technical criteria vide Dok E.

It is also requested that the Chairman of the evaluation committee of the Contracting Authority be called as witnesses, and that a copy of the Product Data Sheet of the product offered by ProCare be made available to Board.

**CAMILLERI CASSAR**  
ADVOCATES

Enclosed for your perusal please find evidence of the payment effected by Bank Transfer of the amount of €573 (Doc F) as per instructions contained in the letter received by clients of the 9th July 2021.

Regards,

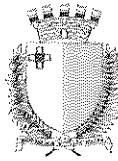


~~Dr Stefan Camilleri LL.D.~~

Advocate for Class Medical Limited  
(stefan@camillericassar.com)

Doc A

DIPARTIMENT TAL-KUNTRATTI  
Notre Dame Ravelin  
Floriana FRN1600 – MALTA



DIPARTIMENTI KONTRATTI  
Notre Dame Ravelin  
Floriana FRN1600 – MALTA

Telephone: (0356) 220122  
(0356) 220133  
Fax: (0356) 224688  
e-Mail: info@contracts@gov.mt

9<sup>th</sup> July 2021

**Class Medical Limited**  
**TID152049**

**REFERENCE: CT2032/2020**

**SUBJECT: TENDER FOR THE SUPPLY POLYMER I/A TIPS FOR  
IRRIGATION/ASPIRATION HANDPIECE**

Dear Sir/Madam,

Thank you for participating in the above-mentioned tender procedure. However, I regret to inform you that the tender submitted by your company was not successful since the criteria for award of this tender was the cheapest priced offer satisfying the administrative and technical criteria.

The tender was recommended for award to TID152067 ProCare Ltd for the amount of €109,800.00 excluding VAT, this being the cheapest priced tender satisfying the administrative and technical criteria.

If you intend to object to this decision, the Public Procurement Regulations allow for an official objection which in this case has to be lodged electronically with the Public Contracts Review Board by sending an email on: [info.pcrb@gov.mt](mailto:info.pcrb@gov.mt) by noon of Monday 19<sup>th</sup> July 2021 against a deposit of €573.

Payments are to be made through bank transfer in terms of the following details:

Name of Account Holder	Cashier Malta Government
Name of Bank	Central Bank of Malta
Address of Bank	Castille Place, Valletta
Account Number	40001EUR-CMG5-001-H
BIC	MALT MT MT
IBAN Code	MT55MALT011000040001EURCMG5001H
Bank Code	01100

The official schedule can be accessed on the website: [www.etenders.gov.mt](http://www.etenders.gov.mt).

DIPARTIMENT TAL-KUNTRATTI  
Notre Dame Ravelin  
Floriana FRN1600 – MALTA



DEPARTAMENTI KONTRATTI  
Notre Dame Ravelin  
Floriana FRN1600 – MALTA

Telephone: (0356) 220222  
(0356) 220333  
Fax: (0356) 224681  
e-Mail: info@contracts@gov.mt

Although we have not been able to make use of your services on this occasion, I trust that you will continue to take an active interest in our initiatives.

Yours sincerely,

Jacqueline Camilleri  
f/Director General (Contracts)



Bank of Valletta

Bank of Valletta p.l.c

Registration Number: C 2833

Registered Office: 58 Zachary Street, Valletta VLT 1130 - Malta

Pay third party

Reprinted by: Mrs. Audrey Meli

Reprinted on: 15/07/2021 - 12:16

Document ID: 9162728

DOC F

Transaction details

Date: 15/07/2021

From: Internet Banking

Transaction ID: 103273858

Status: Registered

Transaction: Pay third party

Beneficiary name: CASHIER MALTA GOVERNMENT

Relation: Administrative Services

Reason: Other

Payment details: CLASS MEDICAL LTD TID 152049 REFERENCE CT2032/2020 SUBJECT TENDER

Currency: EUR - Euro

Deposit to account: MT55MALT011000040001EURCMG5001H

Beneficiary account type: Valid IBAN of country - Malta

Bank name: Other bank

Bank address / Bank's BIC: Let the bank apply the beneficiary bank BIC

Beneficiary address: Yes

Address line 1: DIPARTIMENT TAL KUNTRATTI

Address line 2: NOTRE DAME RAVELIN

City: FLORIANA

Postcode: FRN 1600

Country: Malta

Withdraw from account: Class Medical OD (EUR) 4002566890 8

Charges should be paid by: Shared - I pay BOV charges; CASHIER MALTA GOVERNMENT pays the beneficiary bank charges

Amount: EUR 573.00

Receiving bank to get the money as: same-day priority payment

To be effected on: as soon as possible

Credited amount: EUR 573.00

Debited amount (excluding charges): EUR 573.00

Estimated amount to be withdrawn from account: EUR 581.00

Transaction charge: EUR 8.00

Creator: Mrs. Audrey Meli

Authorised by: Mrs. Audrey Meli, Mr. Anton Magro

Result: Your instructions have been processed successfully.