

## **PUBLIC CONTRACTS REVIEW BOARD**

### **Case 2167 – CT2072/2024 – The Supply, Delivery and Commissioning of Various Mobile Equipment for WasteServ Malta. Lot 3: Five (5) Telehandlers, including a three (3) year Service Agreement**

**29<sup>th</sup> October 2025**

The Board,

Having noted the letter of objection filed Dr Austin Gauci Maistre on behalf of FSGM Partners acting for and on behalf of RCV Handling Machinery Ltd, (hereinafter referred to as the appellant) filed on the 15<sup>th</sup> September 2025;

Having also noted the letter of reply filed by Dr Luca Zammit acting for Wasteserv Malta Limited (hereinafter referred to as the Contracting Authority) filed on the 26<sup>th</sup> September 2025;

Having also noted the letter of reply filed by Dr John Gauci acting for United Equipment Co. (UNEC) Ltd (hereinafter referred to as the Recommended Bidder) filed on the 24<sup>th</sup> September 2025;

Having heard and evaluated the testimony of the witness of Ing. Ramon Vella, Company Representative, as summoned by Dr Austin Gauci Maistre acting for RCV Handling Machinery Ltd, the appellant;

Having heard and evaluated the testimony of the witness Mr Daniel Tabobe (Chairperson of the Evaluation Committee) as summoned by Dr Luca Zammit, acting for Wasteserv Malta Limited, the Contracting Authority;

Having taken cognisance and evaluated all the acts and documentation filed, as well as the submissions made by representatives of the parties;

Having noted and evaluated the minutes of the Board sitting of the 15<sup>th</sup> October 2025 hereunder reproduced.

#### **Minutes**

#### **Case 2167 CT2072/2024 –The Supply, Delivery and Commissioning of Various Mobile Equipment for WasteServ Malta. Lot 3: Five (5) Telehandlers, including a three (3) year Service Agreement**

The tender was issued on the 16<sup>th</sup> of April 2024, and the closing date was the 25<sup>th</sup> of April 2025.

The estimated value of tender Lot 3, excluding VAT, was € 737,500.

On 15 September 2025, RCV Handling Machinery Ltd. (C44801) filed an appeal against Wasteserv Malta Limited, the Contracting Authority, and the Recommended Bidder, United Equipment Co. (UNEC) Ltd. (10827), in accordance with Regulation 270 of the Public Procurement Regulations.

A deposit of €3,687.50 was paid.

There were five bids.

On the 15<sup>th</sup> of October 2025, the Public Contracts Review Board (PCRB), composed of Mr Kenneth Swain as Chairman, Dr Vincent Micallef and Dr Ing. Damien Gatt, as members, convened a public hearing to consider the appeal.

The attendance for this public hearing was as follows:

**Appellant – RCV Handling Machinery Ltd. (C44801)**

Dr Austin Gauci Maestre – Legal Representative

Mr Renald Curmi – Company Representative

Ing. Ramon Vella – Company Representative

**Contracting Authority – Wasteserv Malta Ltd**

Dr Luca Zammit - Legal Representative

Mr Daniel Tabone – Chairperson

Mr Louis Cordina – Procurement Manager

Mr Karl Mizzi – Evaluator

Mr Andre Mizzi- Evaluator

Mr Dylan Debono- Evaluator

Ms Rebecca Xuereb- Secretary

**Recommended Bidder – United Equipment Co. (UNEC) Ltd. (10827)**

Dr John L Gauci – Legal Representative

Mr Gilbert Bonnici – Company Representative

Mr Robert Azzopardi – Company Representative

**Opening Statements**

Mr. Kenneth Swain, Chairman of the Public Contracts Review Board (PCRB), formally welcomed the parties present, including representatives from the Appellant, RCV Handling Machinery Ltd.; the Contracting Authority, Wasteserv Malta Ltd.; and the Recommended Bidder, United Equipment Co. (UNEC Ltd).

**Initial Submissions**

***Initial Submissions by Dr. Austin Gauci Maestre (Appellant)***

Dr. Gauci Maestre stated that RCV Handling Machinery Ltd. were objecting to the machinery of the Recommended Bidder for being technically non-compliant. Witness Ing. Vella would verify that the machinery was non-compliant. They requested further information, which is written in their appeal, regarding the Vance WSC735.

***Initial Submissions by Dr. Luca Zammit (Contracting Authority).***

Dr. Luca Zammit claimed that the information used by the Appellant was found online. The Evaluation Committee, in order to maintain fairness and impartiality, could not rely on online searches but was obliged to obtain information directly from the economic operators. If the Evaluation Committee were influenced by external sources, this would prejudice its impartiality.

During the evaluation, the principle of proportionality was applied as regulated by the Public Procurement Regulations. The Evaluation Committee assessed the information submitted by the Recommended Bidder, which differed entirely from that provided by the Appellant, and was satisfied with the submissions before taking its decision.

The decision was subsequently approved by the DCC. They acted under the direction of the Department of Contracts, not to disclose technical specifications that were not publicly available.

***Initial Submissions by Dr. John L. Gauci (Recommended Bidder)***

Dr. Gauci noted that the Appellant had cited an incorrect tender title. The Appellant's allegations were based on online documents. The documents submitted by the Recommended Bidder were in the Board's possession, enabling it to verify compliance with the tender requirements.

The Contracting Authority was asked for the Recommended Bidder's conformity documents; however, it did not disclose further information.

The Chairman stated that the Board noted the issue concerning the incorrect tender title. All parties agreed that the correct tender was '*Tender for the Supply, Delivery and Commissioning of Various Mobile Equipment for Wasteserv Malta – Lot 3*'. The recommendation letter had incorrectly referred to another title: '*Tender for the Supply, Delivery, Wrapping and Commissioning of Various Heavy Trucks for Wasteserv – Lot 3*'.

***Witness Testimony***

***Ing. Ramon Vella (ID No. 281485M) – Summoned by Dr. Austin Gauci Maestre.***

Ing. Vella, a mechanical engineer and operations manager with RCV, stated that he had found the specifications of the Vance WSC735 online, as only the make and model were known for the appeal. Regarding Lot 3 of the tender, they objected to the engine submitted by the awarded bidder and to the type of gearbox, as no information was provided, even though clause 2H specifies that the gearbox must be power shift.

He also referred to clause 4C, quoting:

*'The equipment must be able to hold weight at 4 metres extension, with fork parallel to the ground of more than 1200kg.'*

Mr. Swain intervened, referring to Regulation 270, stating that every appeal or grievance must be substantiated in detail. In the interest of transparency, since there were no objections from the Contracting Authority or the Recommended Bidder, the Chairman allowed the questioning. However, when the witness referred to sections of the tender document, he was to indicate the page number for clarity. The details regarding the engine and gearbox should have been included in the appeal.

Mr. Vella referred to Lot 3, clause 4D, where the requested machine had to have a minimum power of 100 HP. According to the technical literature online, the machine has a Yuchai 73.5 horsepower

engine (98.56 kilowatts). Clause 2H requires a power shift gearbox, which is not mentioned anywhere online.

Clause 4C requires that the machine *'must be able to hold weight at 4m extension with forks parallel to the ground of 1200 kg or more'*; however, according to the specifications of the Vance WSC735, the extended telehandler reaches only 3.8 metres. These specifications were submitted with the appeal on page 2, quoting:

*'Capability, maximum outrage 3.8 meters.'*

Clause 4E requests that the *'lifting height shall be more than 7 meters'*; however, according to the specifications online, the lifting height is 6.95 meters. Clauses 4C, 4D, and 4E are demonstrated by a diagram on page 3, which was shared with all parties.

The point about clause 4E was clarified in clarification 7, question 1, and he quoted:

*'Considering Wasteserv already accepted several alterations from the original specifications. Do you accept a maximum reach of 6.93 meters which is slightly below the defined 7 meters?'*

The answer was that the lifting height shall be more than 7 meters.

*Cross-Examination by Dr. John Gauci*

Dr. Gauci confirmed that Ing. Ramon Vella was a mechanical engineer and that all declarations mentioned were downloaded from the internet.

**Mr. Daniel Tabone (ID No. 203197M) – Summoned by Dr. Luca Zammit**

Mr. Tabone, a Chief Officer with Wasteserv responsible for the fleet under which the tender was issued, explained that about a year ago, there had been an appeal before the PCRB, which had recommended that the Contracting Authority avoid artificially narrow specifications and promote wider competition, without prejudice to operations. Mr. Tabone was the Chairperson of the Evaluation Committee for this tender.

Referring to a point raised by Ing. Vella, the data sheets submitted were not the same as those presented to the Board. The data sheet of the Recommended Bidder referred to one engine model number, whereas the specifications submitted to the Board listed a different engine model. Furthermore, the document submitted by the Appellant contained two different figures on separate pages. Mr. Tabone asked which figure the Appellant was relying on for its arguments.

The Evaluation Committee was fully aware that the products might require customisation and evaluated based on what was submitted. The Committee clarified submissions and only gave final acceptance once all specifications were confirmed as compliant.

The horsepower calculations were expressed in kilowatts, converting to 99.99 horsepower, or 101.29 horsepower in metric conversion, which is consistent with the specification.

Regarding clause 2H (power shift), the Recommended Bidder's data sheet stated that the gearbox was a power shift system.

Mr. Tabone emphasised that the document submitted by the Appellant to the Board was not the same as the literature submitted by the Recommended Bidder and evaluated by the Committee; therefore, the two could not be compared.

Dr. Zammit asked why the Committee did not provide the graph to the Board. Mr. Tabone replied that this was up to the Recommended Bidder, as the literature contained their proprietary specifications.

*Cross-Examination by Dr. Austin Gauci Maestre*

Mr. Tabone stated that in the document submitted by the Appellant, the first page listed a maximum lifting height of 7 meters, while the second page quoted a height of 6.95 meters. He agreed that of the three height indications, two were less than 7 meters.

Dr. Gauci Maestre asked how the conversion between kilowatts and horsepower had been calculated. Mr. Tabone said there had been a clarification during the process, and the formula had been shown.

Dr. Gauci Maestre used the formula and found 98.56 horsepower when using 73.5 kilowatts, but the Evaluation Committee used a different figure submitted by the recommended bidder—74.5 kilowatts—as the engine model differed.

The engine model number was YCF 3600-S500 (36A300). Mr. Tabone believed that the documents submitted by the Recommended Bidder and those by the Appellant contained anomalies, as the models were different.

Regarding clause 4C (*'with forks parallel to the ground of 1200kg or more'*), an assessment was carried out, and the specifications were confirmed as compliant.

Mr. Tabone explained that they used the diagrams, drew the boom at 4 meters, and noted that it aligned with the lower diagram submitted by the Recommended Bidder. In clause 4D, the boom reached 4 meters, and in clause 4E, the maximum lifting height diagram showed exactly 7 meters. However, applying the principle of proportionality, they determined that the specifications were met.

Dr. Gauci Maestre asked which load chart was correct, as two different charts existed for the same product. Mr. Tabone explained that the engine model numbers were different, meaning they were not the same product.

Mr. Tabone added that part of the contract conditions required CE marking for all engines purchased. By law, the Evaluation Committee relied on the information provided by the bidder.

*Cross-Examination by Dr. John Gauci*

Mr. Tabone stated that, as Chairperson, he selected evaluators who either had written the tender themselves or were part of the department responsible for implementing the contract. The evaluators, three engineers, found that the Recommended Bidder's submission complied with the specifications. Many companies are capable of customisation.

Dr. Gauci noted discrepancies between the documents submitted by the Appellant and those of the Recommended Bidder. Mr. Tabone confirmed that the online document contained three different figures, and the Committee had to determine which one to rely on.

*Re-Cross-Examination by Dr. Austin Gauci Maestre*

Mr. Tabone said that this was a case of customisation, as the information on the website and that submitted differed. In his view, the Recommended Bidder should be given the opportunity to meet the required specifications, and the Evaluation Committee would ensure compliance. Mr. Tabone assumed that both products were certified and approved by the manufacturer, and if the manufacturer stated that the load diagram met the requirements, the Committee accepted that.

## **Final Submissions.**

### ***Final Submissions by Dr. Austin Gauci Maestre (Appellant).***

The Appellant alleged that this particular model's specifications were publicly issued by the manufacturer. In this bid, different specifications were submitted to ensure compliance, but certain customisations regarding 'load and reach' were highly technical and significant. God forbid that in every tender we would need to contact suppliers to alter the load chart. Publicly available specifications exist, and acting against them is problematic.

Dr. Gauci Maestre assumed from the testimonies that one product was customised, and the other was not, and the Board needed to determine whether the claimed customisation was valid for evaluation purposes.

### ***Final Submissions by Dr. Luca Zammit (Contracting Authority)***

The online document submitted by the Appellant listed 7 meters in two instances and 6.95 in two others regarding maximum lifting height. The Evaluation Committee did not consider or evaluate this document, as it was not requested. However, since this document was the basis of the objection, its internal contradictions undermined its credibility.

The Board noted that these specifications were not included in the appeal but were nevertheless addressed, demonstrating that in terms of law and procedure, the Evaluation Committee fulfilled all requirements.

### ***Final Submissions by Dr. John Gauci (Recommended Bidder)***

Dr. Gauci described the proceedings as a '*fishing expedition*', as there were no specific allegations in the appeal beyond a claim of non-conformity in the Recommended Bidder's submission. After hearing the witnesses, no such proof was presented. The Appellant's objections should therefore be dismissed.

The Appellant's final submissions appeared to question whether customisation would occur. However, the process was still in the pre-contract phase; any such issues would be considered only post-contract.

## **Conclusion of the Hearing**

With no further submissions, Mr. Kenneth Swain thanked all parties and formally concluded the session.

End of Minutes

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**Hereby resolves:**

The Board refers to the minutes of the Board sitting of the 15<sup>th</sup> October 2025.

Having noted the objection filed by RCV Handling Machinery Ltd (hereinafter referred to as the Appellant) on 15<sup>th</sup> September 2025, refers to the claims made by the same Appellant with regard to the tender of reference CT2072/2024 listed as case No. 2167 in the records of the Public Contracts Review Board.

Appearing for the Appellant: Dr Austin Gauci Maistre

Appearing for the Contracting Authority: Dr Luca Zammit

Appearing for the Recommended Bidder: Dr John Gauci

Whereby, the Appellant contends that:

- a) The Appellants respectfully contend that the award of the tender is vitiated by manifest error and breach of applicable procurement rules. On the basis of the manufacturer's own publicly available technical literature and specifications, it is evident that the Vanse WSC735 does not, and cannot, meet the mandatory technical requirements expressly set out in the Tender. These mandatory specifications were clearly defined by the Contracting Authority and were intended to ensure that the supplies procured would be fit for purpose, safe, and consistent with the operational needs of the Authority.
- b) It is a well-established principle that only bids which are fully compliant with the published technical specifications may be deemed admissible. A contracting authority cannot waive or dilute these requirements. By erroneously considering the Vanse WSC735 as technically compliant, despite objective evidence to the contrary, the Authority has in effect altered the substance of the tender conditions post-submission and granted an unlawful competitive advantage to the successful bidder.
- c) The Appellants emphasise that this objection is based on the manufacturer's own official and publicly available documentation, which demonstrates clear divergences between the technical capabilities of the Vanse WSC735 and the specifications mandated by the tender document. Such divergences concern essential requirements and not merely minor or ancillary features. As such, the admitted bid is materially non-compliant and ought to have been rejected outright at the technical evaluation stage.
- d) By awarding the contract on the basis of a non-compliant offer, the Contracting Authority has committed a manifest breach of procurement law and deprived compliant bidders of a fair and level playing field.

This Board also noted the Contracting Authority's Reasoned Letter of Reply filed on 26<sup>th</sup> September 2025 and its verbal submission during the hearing held on 15<sup>th</sup> October 2025, in that:

a) ***Unfounded Allegations -***

Based on the Appellant's submitted appeal, the Contracting Authority notes that the Appellant does not explain why or how the recommended bidder's offer is allegedly non-compliant specifically with the tender dossier itself, by referencing its criteria rather than by reference to publicly available documentation. To avoid any ambiguity and ensure full transparency, the Contracting Authority has already prepared and submitted all relevant documentation to the PCRB and is ready to explain all that is necessary before the same Board to demonstrate that the recommended bidder's offer fully complies with the tender requirements.

b) ***Evaluation Process and Rectification -***

The Evaluation Committee is bound to adjudicate tenders solely on the basis of the technical offers and supporting literature submitted by the bidders. Where the documentation provided is unclear or incomplete, the Contracting Authority cannot rely on online searches or external documentation but is rather obliged by law to seek clarifications, specifications or request rectifications directly from the bidder concerned. This process is regulated by Article 146 of the Public Procurement Regulations (S.L. 601.03 of the Laws of Malta), which empowers the Evaluation Committee to request clarification or optimisation of the submitted tender as it finds necessary, provided such requests do not alter the substance of the offer.

This Board also noted the Recommended Bidder's Reasoned Letter of Reply filed on 24<sup>th</sup> September 2025 and its verbal submission during the hearing held on 15<sup>th</sup> October 2025, in that:

a) ***The Objection is Vague, Speculative and a "Fishing Expedition" -***

The Objector's grievance is strikingly devoid of specifics. It makes broad insinuations that the Recommended Bidder's offered telehandler model (identified as the Vanse WSC735) does not meet "the tender specifications" - yet tellingly, the Objector fails to identify a single specific tender requirement that is allegedly not satisfied. Nowhere in the objection has the Objector pointed to which technical specification (e.g. capacity, dimensions, performance criterion, or any other parameter) is purportedly breached by the Recommended Bidder's bid. Such an unspecified allegation amounts to little more than an invitation for the Board to trawl through the Recommended Bidder's offer in the hope of discovering some non-compliance that the Objector itself has not clearly articulated. In legal terms, this is the very definition of a "fishing expedition." It is an improper attempt to cast vague doubt on the winning bid without any substantive evidence or clear factual premise. This Honourable Board has consistently disapproved of objections that lack clear and specific grounds. An objection that merely speculates or seeks information, without

delineating concrete reasons, fails to meet this basic threshold. Indeed, in a recent appeal, the Board noted that a grievance which lacked specific reasons and merely sought further information was nothing but "a fishing expedition" and that entertaining such a request would be prejudicial to the recommended bidder.

In summary, the objection as filed is intrinsically deficient. It provides no solid factual foundation and no identifiable breach of the tender requirements. It would be manifestly unfair and contrary to procurement rules to put the award in jeopardy based on so nebulous and unsubstantiated a complaint. The Objector's vague allegations should therefore be rejected at the outset as failing to meet the required standards of specificity and relevance for an objection. The Board should dismiss this groundless objection in limine for want of any clearly stated merit.

b) ***The Recommended Bidder's Offer Fully Conforms to the Specifications -***

Without prejudice to the above, and for the sake of completeness, the Recommended Bidder will address the Objector's insinuation regarding the telehandler model in question. The crux of the Objector's argument appears to be that publicly available information about the Vanse WSC735 telehandler (the base model offered by the Recommended Bidder) indicates that it might not meet certain tender specifications. The Objector seems to rely on generic data or specifications found online for the standard WSC735 model and assumes that this is sufficient to discredit the Recommended Bidder's offer. This line of argument is misguided and ignores the fundamental nature of the Recommended Bidder's proposal.

The Recommended Bidder's offer states that the telehandlers to be supplied will be customised and tailor-made by the manufacturer to meet or exceed all the tender requirements. Moreover, as will be ascertained by this Board, the detailed technical literature and clarification responses that were submitted with the Recommended Bidder's bid and during the evaluation process comprehensively demonstrate how the proposed offer will meet each tender specification. In view of the above, the Evaluation Committee's decision to accept the Recommended Bidder's offer as compliant is fully justified. The telehandlers offered by UNEC Ltd, as customised and documented in the bid, satisfy the tender's requirements. The Objector's attempt to prove otherwise by means of second-hand web information falls flat. It provides no legitimate basis to call into question the thorough evaluation carried out by the Contracting Authority.

c) ***The Objector Bears the Burden of Proof and Has Not Discharged It -***

In the present case, the Objector has manifestly failed to meet this burden of proof. It has come forward with nothing more than conjecture and references to publicly available information. The Objector has not produced any concrete evidence that the Recommended Bidder's offer violates a tender requirement. It has not identified any specific clause of the technical specifications that was supposedly breached, let alone furnished proof of such a breach. By contrast, the Contracting Authority's Evaluation Committee, after reviewing the actual bid and all supporting documents, found the Recommended Bidder to be compliant. That decision was grounded in evidence and

technical judgment. To overturn it, the Objector needed to present solid proof of an error or a nonconformity - a high threshold which is nowhere near satisfied by the Objector's generalisations and print-outs from the internet. Simply put, general insinuations drawn from extraneous sources do not meet the standard of proof required under our law.

This Board, after having examined the relevant documentation to this appeal and heard submissions made by all the interested parties including the testimony of the witnesses duly summoned, will now consider preliminary observations made by the Recommended bidder and the Appellant's grievances.

**Preliminary Observations: *The Objection is Vague, Speculative and a "Fishing Expedition"***

- The Board notes that Regulation 270 of the Public Procurement Regulations requires that every letter of objection must be substantiated in detail, setting out clearly and precisely the grounds upon which the objection is based. The Appellant's Letter of Objection, while identifying the equipment model Vanse WSC735, relied on general assertions referencing publicly available manufacturer specifications without providing detailed substantiation or identifying which specific tender requirements were allegedly breached.
- This Board has consistently held that vague objections fall below the legal threshold. In Case No. 1946-SPD3/2023/059 (5<sup>th</sup> December 2023), this Board stated that a grievance lacking specific reasons as required by Regulation 270 cannot be entertained. The Board further notes that in PCRB Case No. 2117 concerning MGP tender, this Board unequivocally stated: "*It is of note that the Appellant bases his third grievance on several assumptions, speculations and suppositions made by the Appellant and/or legal counsel to the Appellant which seem not to be concrete and well-founded complaints as this Board is accustomed to dealing with... This may be construed to be a fishing-expedition akin to a fisherman placing a very wide net in the sea hoping to catch anything that may come his way.*"
- The Appellant's challenge amounts to a fishing expedition, an invitation for this Board to trawl through the Recommended Bidder's submission in hopes of discovering some unspecified non-compliance. Such speculative objections undermine the integrity of the procurement process and are manifestly prejudicial to bidders who have complied with tender requirements.
- The Board therefore upholds the Recommended Bidder's preliminary observation that the objection does not meet the requisite legal standards, as per PPR Regulation 270.
- Notwithstanding the limited detail provided in the Letter of Objection, the Board observes that the Evaluation Committee and the Contracting Authority came very well prepared to the hearing, although it was their first time encountering these specific allegations, presenting comprehensive documentation and witness testimony that allowed the merits of the case to be properly analysed.

### **Grievance: Technical Non-Compliance of Vanse WSC735**

- The Appellant contends that the Vanse WSC735 does not and cannot meet the technical requirements set out in the tender. During the hearing, the witness Ing. Ramon Vella specifically mentioned alleged non-compliance with clauses 2H (power shift gearbox), 4C (load capacity at 4 metres), 4D (minimum 100 HP), and 4E (lifting height exceeding 7 metres), relying on publicly available manufacturer specifications.
- The Board notes that the Appellant's objection is based entirely on online documentation that was neither submitted by the Recommended Bidder nor evaluated by the Evaluation Committee. Witness testimony confirmed that engine model numbers in the online documentation differed from those in the Recommended Bidder's actual submission, rendering direct comparison inappropriate.
- The Board further notes that the Evaluation Committee properly discharged its duties by evaluating only the documentation submitted by bidders during the tender process. The Committee sought clarifications pursuant to Article 146 of the Public Procurement Regulations and confirmed compliance with all mandatory specifications before technical acceptance.
- The Board observes that witness testimony from Mr. Daniel Tabone established that the submitted specifications demonstrated: the power shift gearbox requirement was confirmed in the data sheet; horsepower calculations yielded 101.29 metric horsepower; and load diagrams confirmed compliance with clauses 4C and 4E when assessed using the principle of proportionality.
- The Board emphasizes that Evaluation Committees cannot rely on external online searches or third-party documentation when evaluating technical compliance. The Committee is obliged to evaluate solely on the basis of submitted documentation and seek formal clarifications where necessary.
- The burden of proof rests with the Appellant to demonstrate manifest error. The Appellant has failed to discharge this burden, presenting no concrete evidence that the Recommended Bidder's actual submission fails to meet tender requirements. The online documentation itself contained internal contradictions regarding key parameters.
- It is the opinion of this Board that the Evaluation Committee acted in a diligent, fair and proportionate manner, fully complying with applicable procurement regulations and in no way transgressing the principle of self-limitation.
- Therefore, the Board does not uphold the Appellant's grievance on this point.

**The Board,**

Having evaluated all the above and based on the above considerations, concludes and decides:

- a) Upholds the preliminary observations put forward by the Recommended Bidder regarding the Objector's failure to substantiate the objection in accordance with Regulation 270 of the Public Procurement Regulations,
- b) Does not uphold Appellant's Letter of Objection and contentions,
- c) Upholds the Contracting Authority's decision in the recommendation for the award of the tender,
- d) Directs that the deposit paid by Appellant **not** to be reimbursed.

**Mr Kenneth Swain**  
Chairman

**Dr Vincent Micallef**  
Member

**Dr Ing. Damien Gatt**  
Member