

# **PUBLIC CONTRACTS REVIEW BOARD**

## **Case 2185 – SPD3/2025/011 – Tender for the Supply, Delivery and Installation of Specialised Internal Blinds for the Gozo Museum, Victoria, Gozo**

**24<sup>th</sup> November 2025**

The Board,

Having noted the letter of objection filed Dr Elian Scicluna for and on behalf of Camilleri Paris Mode Limited, (hereinafter referred to as the appellant) filed on the 19<sup>th</sup> September 2025;

Having also noted the letter of reply filed by Dr Tatiane Scicluna Cassar acting for Ministry for Gozo (hereinafter referred to as the Contracting Authority) filed on the 29<sup>th</sup> September 2025;

Having heard and evaluated the testimony of the witness Mr Mark Camilleri (Representative of Camilleri Paris Mode Limited) as summoned by Dr Elian Scicluna acting for Camilleri Paris Mode Limited;

Having heard and evaluated the testimony of the witness Mr Andrew Camilleri (Representative of Camilleri Paris Mode Limited) as summoned by Dr Elian Scicluna acting for Camilleri Paris Mode Limited;

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 20<sup>th</sup> November 2025 hereunder reproduced.

### **Minutes**

#### **Case 2185 597- SPD3/2025/011 – Tender for the Supply, Delivery and Installation of Specialised Internal Blinds for the Gozo Museum, Victoria, Gozo.**

The tender was issued on the 15<sup>th</sup> of April 2025, and the closing date was the 19<sup>th</sup> of May 2025.

The estimated value of the tender, excluding VAT, was €230,000

On the 19<sup>th</sup> of September 2025 Camilleri Paris Mode Ltd. (MT1153-9237) lodged an appeal against Ministry for Gozo and Planning – the Contracting Authority, in accordance with Regulation 270 of the Public Procurement Regulations. The appellant objected since the tender was not technically compliant.

A deposit of €1150 was paid.

There were Ten Bids.

On the 20<sup>th</sup> of November 2025, the Public Contracts Review Board (PCRB), composed of Mr. Kenneth Swain as Chairman, Dr Vincent Micallef and Mr. Lawrence Ancilleri, as members, convened a public hearing to consider the appeal.

The attendance for this public hearing was as follows:

**Appellant – Camilleri Paris Mode Limited. (MT1153-9237).**

Dr Elian Scicluna – Legal Representative.

Mr. Mark Camilleri – Company Representative.

Mr. Paul Camilleri – Company representative.

Mr. Andrew Camilleri – Company representative.

**Contracting Authority – Ministry for Gozo and Planning.**

Dr Tatiane Cassar – Legal Representative.

Mr. Mario Saliba -- Director, Programme Implementation – Head of the Contracting Authority.

Mr. John Paul Borg – Chairperson.

Mr. Joseph Farrugia – Secretary.

Ing. Daniela Attard – Evaluator.

Mr. Joseph Vella – Evaluator.

Mr. Isaac Grima – Evaluator.

Mr. Marnol Sultana -- Assistant Director (Sectoral Procurement).

**Recommended Bidder – De Valier Co Ltd. (C16713).**

Perit Maria Mckenna – Company Representative.

**Opening Statements.**

Mr. Kenneth Swain, Chairman of the Public Contracts Review Board, welcomed the parties present – namely, the Appellant, Camilleri Paris Mode Limited, the Contracting Authority, Ministry for Gozo and Planning and the Recommended Bidder, De Valier Co Ltd.

**Initial Submissions.**

**Initial Submissions by Dr. Elian Scicluna (for the Appellant).**

Dr. Scicluna, representing Camilleri Paris Mode Ltd., stated that an obligation letter was submitted on 9 September 2025. Camilleri Paris Mode Ltd. believes that the Evaluation Board's decision was incorrect, particularly after being informed that their offer was not technically compliant. All the requested documentation was submitted, and Camilleri Paris Mode Ltd. offered the cheapest compliant bid. The witness, Mr. Mark Camilleri, would provide detailed technical testimony regarding the blinds and the EN17037 certificate that had been requested.

**Initial Submissions by Dr. Tatiane Cassar (for the Contracting Authority).**

Dr. Cassar stated that the Contracting Authority's decision was based on the points outlined in their reply. The appellant was considered administratively compliant but not technically compliant due to failure to meet the standard set out in E 2.4.

A clarification note was sent to the appellant, but their reply did not satisfy the tender requirements; in fact, the appellant indicated "Not Available". These requirements were specific and essential, as the blinds were intended for a museum and had to protect valuable artefacts, making precision crucial. The Contracting Authority's objection was based not only on technical non-compliance—although the Board could have stopped there—but also on five additional non-compliant points. Since the bid was not technically compliant, financial evaluation did not take place, and the price was not considered. Completeness of documentation does not equate to technical compliance. The appellant had stated that certain requirements could not be met, yet most other bidders were compliant.

### **Witnesses.**

#### **Mr. Mark Camilleri (ID no. 538976M), summoned by Dr. Elian Scicluna.**

Mr. Camilleri, a fifth-generation member of the family business and Director responsible for Sales and Finance, explained that the company has existed for 130 years and has worked with blinds for the past 25 years.

CPM believed that the "Building Standard Certificate" should not have been required in the tender, as it had nothing to do with the supply of blinds. He referred to EN17037:2018, stating that it is a building standard, not a product standard, and relates to "Daylight in Buildings". It is intended to assist designers and architects in assessing available daylight based on factors such as building orientation, window shape and size, nearby structures, surrounding trees, or skylights. These factors affect interior lighting but have nothing to do with the product itself, and this was explained during the clarification stage.

He added that this standard can only be assessed once the building is complete, as measurements must be taken over long periods, considering seasonal daylight variations.

Page 7 of the standard refers to EN14501 as the recommended standard for blinds. This standard was not mentioned in the tender. CPM chose to use Silent Gliss products, as CPM is licensed to work on and modify their blinds locally. They have collaborated for 25 years. CPM sent the clarification requests to Silent Gliss for technical assistance; Silent Gliss responded that several requirements were unnecessary—for example, the requirement that the fabric be removable for cleaning. The supplied material, composed of PVC and fibreglass, was wipeable and could be cleaned in place. Although removable, removal was unnecessary. CPM had successfully implemented Silent Gliss blinds in other museums in Malta, and the witness intended to present corresponding lists. Dr. Tatiane Cassar objected, arguing that these documents had not been submitted with the tender. The Chairman noted that the lists had been provided three days prior to the hearing and were admissible as supporting documentation referred to during the session.

Mr. Camilleri stated that Silent Gliss had provided a list of museums using their products, with catalogues and pictures included on pages 20/21.

Dr. Cassar argued that the practices of other museums were irrelevant, as the tender required specific standards and specifications.

The Chairman replied that the appellant was supporting their grievance, and the Board would evaluate all evidence.

Mr. Camilleri clarified that although the “Commercial Solutions” catalogue was presented during the hearing, the catalogue for the M-screen materials had been submitted earlier. CPM had installed Silent Gliss systems at Palazzo Falson in Mdina, St John’s Co-Cathedral, the Grandmaster’s Palace in Valletta, and the Victor Pasmore exhibition.

He insisted that EN17037 was an architectural standard unrelated to blinds and that the appropriate certificate should have been EN14501, which concerns light transmission, UV and infrared rays, and glare reflection.

Referring to specific tender requirements:

- **E9** required:

*“The winding tube in aluminium allows the manual or mechanical insertion of the fabric and must facilitate the maintenance of the fabric. The Contracting Authority specifically required that the fabric could be removed to facilitate maintenance of the fabric.”*  
He stated that although the fabric could be removed, doing so was unnecessary.

- **E10** required:

*“Lateral side guides are to be in stainless steel.”*

Their product uses stainless steel coated in PVC with varying thicknesses, as supplied by Silent Gliss.

- **F10** required:

*“The blind to have a resistance to sheer as per DIN 53.300.”*

The witness explained that in the material there is the warp for threads that goes from top to bottom and the weft that goes from left to right. The Contracting Authority argued that the sheer strength had nothing to do with the warp and the weft. However, tests on all kinds of materials are made by using the warp and the weft, to check the strength of the material. ‘Sheer strength’ is used by the architects to check the concrete or the iron and not for woven goods.

**G6** required tubular motors diameter of 35mm or 45mm running on 230V.

The witness explained that it depended on the size of the windows. It was also requested to have 39 revolutions per capacity; however, the motors could be set on installation stage and are not subject to a number of revolutions. They could all be done to stop at 39 however, if the window is wider, the blind would stop higher than on a narrower window.

**Cross-Examination by Dr. Tatiane Cassar.**

Dr. Cassar asked why CPM had not sought clarification before the evaluation if they believed the requirement was superfluous.

Mr. Camilleri replied that the requirement itself was superfluous, since the standard applied to buildings, not blinds.

Dr. Cassar insisted that the Ministry, as the client, could not have its requirements challenged. CPM had not clarified because they could not provide a standard that depended on architectural design factors such as glazing dimensions, orientation, room depth, and shading devices. EN17037 could not be met by a single component such as roller blinds; EN14501 would have been the appropriate standard. Dr. Cassar asked whether blinds affect incoming light. The Chairman intervened, instructing Dr. Cassar not to debate with the witness and to address such arguments in her final submissions.

Mr. Camilleri reiterated that EN17037 included many requirements and that Dr. Cassar was referring to only one. Regarding cleaning, he repeated that although the blinds could be removed, the material was wipeable and could be cleaned in place.

Dr. Cassar asked whether CPM believed they were compliant when they answered for E10: *“Side guides are not to block wind; they are to vertically align fabric when travelling.”* Mr. Camilleri replied that internal blinds are not exposed to wind and that they were compliant, as their product used 316 stainless-steel shrouds with a blocking device.

**Witness: Mr. Andrew Camilleri (ID no. 43983M), summoned by Dr. Elian Scicluna.**

Mr. Andrew Camilleri is responsible for project sales. Before the evaluation stage, he met the architect and visited the museum site, which was still under construction. He arrived late for the meeting; the other bidders, including De Valier and the Chairperson, had already left. This was an onsite meeting. He toured the building with the architect and another individual. His two concerns were the wiring for the motors and the fact that the blinds were to be attached to the bulkhead instead of the ceiling.

**Cross-Examination by Dr. Tatiane Cassar.**

Dr. Cassar asked for confirmation that when he arrived, the meeting had already ended, the Chairperson was not present, and no minutes had been taken.

He confirmed this and said he met Architect Ms. Joanna Spiteri Staines and another person.

**Final Submissions by Dr. Elian Scicluna.**

Dr. Scicluna emphasised that the tender’s standard had been misinterpreted. EN17037 requires a building-level assessment and cannot be fulfilled by a blind’s supplier.

The witness clearly explained that although the blinds could be removed, they were designed to be cleaned in place. CPM’s offer was technically compliant and also the lowest compliant bid. CPM could not understand how the recommended bidder, De Valier Co. Ltd., was considered technically compliant.

She stated that the CPM offer was compliant, and CPM had demonstrated extensive museum

experience in Malta and abroad, using high-quality Silent Gliss materials. The Evaluation Committee's decision was unjust, the evidence was not fully assessed, and transparency was lacking.

#### **Final Submissions by Dr. Tatiane Cassar.**

Dr. Cassar argued that Mr. Camilleri had admitted that they deliberately chose not to submit the required documentation. Even Dr. Scicluna had acknowledged the reasons they were not compliant and did not submit what was required.

The Contracting Authority sought a service provider for blinds, and the appellant failed to provide the necessary documents. Although CPM argued architectural reasons, other bidders complied. The clarification note was returned marked "non-available". CPM objected to all the requirements, stating what should have been requested instead, but bidders cannot dictate tender specifications. Since the tender concerned a museum holding valuable artefacts, the Contracting Authority had to be precise. CPM could not provide what was required, accepting their submission would have placed the Contracting Authority in breach of the Public Procurement Regulations.

#### **Conclusion of the Hearing.**

With no further arguments presented, Chairman Mr. Kenneth Swain thanked the 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 20<sup>th</sup> November 2025.

Having noted the objection filed by Camilleri Paris Mode Limited (hereinafter referred to as the Appellant) on 19<sup>th</sup> September 2025, refers to the claims made by the same Appellant with regard to the tender of reference SPD3/2025/011 listed as case No. 2185 in the records of the Public Contracts Review Board.

Appearing for the Appellant: Dr Elian Scicluna

Appearing for the Contracting Authority: Dr Tatiane Scicluna Cassar

Whereby, the Appellant contends that:

- a) The Contracting Authority's interpretation of Standard EN17037:2018 (Daylight in buildings) as a product certification requirement is legally and technically erroneous. Our Client emphasises that the scope of the Standard EN17037:2018 is a performance standard at building level, setting parameters for:

- i. Adequate daylight provision;
  - ii. Exposure to sunlight;
  - iii. Protection from glare
  - iv. Quality of view out.
- b) Compliance with these criteria depends on architectural design and contextual conditions, namely glazing dimensions, orientation, room depth, shading devices, and so on. Standard EN17037 cannot be met by a single component, such as roller blinds. It is an architectural outcome standard, not a product certification. This is confirmed by technical guidance accompanying Standard EN17037, which requires simulation and building-level assessment. Furthermore, under Regulation 270(2) of S.L. 601.03 (Public Procurement Regulations), technical specifications must be "linked to the subject-matter of the contract" and proportionate. Requiring a product to "comply" with a building performance standard creates an impossible and disproportionate obligation, in breach of EU and Maltese procurement law. This principle was underscored by the Court of Justice in *Dyke Plastics NV v Fluvius (C-424/23)*, where it held that technical specifications must be proportionate, precise and relevant to the subject-matter of the contract, and by the CRB in Case 2125/2025, where the Board ruled that performance conditions which can only be satisfied post-construction should not be imposed as pass/fail criteria at tender stage.
- c) Notwithstanding the above, CM submitted full technical documentation for the Silent Gliss Multiscreen blinds proposed, which directly supports the objectives of EN17037:
  - i. Daylight & Glare Control: Visible Light Transmission ( $T_v \sim 11-29\%$ ) allows precise modulation of daylight and glare.
  - ii. Solar Control: Solar transmission and reflectance data ( $T_s \sim 14-21\%$ ,  $R_s$  up to  $69\%$ ) confirm excellent thermal and visual comfort contributions.
  - iii. Safety & Durability: Certified flame retardancy (B1, M1, BS 5867-2), light fastness, and dimensional stability.
- d) These attributes ensure the blinds provide all the functional contributions expected of shading products in EN17037-compliant buildings.
- e) PCM emphasises that blinds can mitigate glare and control daylight but cannot generate daylight, sunlight, or views where these are absent. Compliance with EN17037 is the responsibility of the architectural design, not the product supplier.
- f) CM also fails to understand how the preferred bidder could have been considered compliant with Clause E.2.4. No product carries an "EN17037 certificate" at tender stage, as certification depends on the final architectural design. It is therefore unclear what the awarded bidder could have submitted to satisfy this requirement. If the Contracting Authority accepted such evidence from the preferred bidder, then CM's detailed technical documentation was unfairly disregarded, resulting in unequal and non-transparent treatment.

- g) Moreover, EN17037:2018 itself provides different levels of performance (ex: minimum, medium, high, and in certain cases, maximum depending on daylight factors, glare protection, and view requirements. The tender specifications did not indicate which level of compliance was required, rendering the requirement inherently vague and leaving bidders without a clear and objective benchmark against which to prepare their submissions, Such vagueness breaches the principles of proportionality and equal treatment.

This Board also noted the Contracting Authority's Reasoned Letter of Reply filed on 29<sup>th</sup> September 2025 and its verbal submission during the hearing held on 20<sup>th</sup> November 2025, in that:

- a) First and foremost, while the Appellant was administratively compliant, the submission did not meet the required technical standards. Compliance with technical requirements is a prerequisite to progressing to the subsequent financial stage. Accordingly, as the Appellant was not technically compliant, the evaluation could not proceed further.
- b) In its correspondence dated 9<sup>th</sup> September 2025, the Contracting Authority informed the appellant that, following the requested clarifications, the submitted offer was deemed technically not compliant. The Authority clearly stated that "the main reason" for this noncompliance was that, in response to a clarification request, the bidder declared an inability to comply with the standard set out in Section E.2.4-EN17037:2018, or an equivalent standard on daylight buildings. In fact, in its bid, the appellant marked "Not Available", without providing any further explanation or assurance that the required standard could be met or achieved upon installation.
- c) At this stage, it is also important to point out, that the wording "main reason" stated in the Contracting Authority's letter above-mentioned, indicates that there were other grounds of noncompliance and not that single issue. While non-compliance with the standard mentioned in E.2.4, constituted one of the principal reasons for rejection, the Appellant's submission also failed to satisfy several additional technical standards. In particular, the Appellant also failed to meet the following mandatory technical specifications:
- i. E.9 required: The winding tube in aluminium allows the manual or mechanical insertion of the fabric and must facilitate the maintenance of the fabric. The appellant submitted in its bid that: "Fabric is attached to the barrel, no need to remove fabric for cleaning. The Contracting Authority specifically required that the fabric could be removed to facilitate maintenance of the fabric.
  - ii. E.10 required: Lateral side guides are to be in Stainless steel 316 4/6mm cables and equipped with block wind device. The Appellant submitted in its bid that "Side guides are not to block wind, they are to vertically align fabric when travelling. " While the Contracting Authority understands that such side guides will not be blocking wind, the tender specifications requested these side guides to be equipped with a block wind device.

Furthermore, the Appellant never confirmed that the cables will be in stainless steel 316 4/6mm.

- iii. F.10 required: The blind to have a resistance to sheer as per DIN 53.300. On the other hand, the Appellant mentioned only tear strength-warp and tear strength-weft, which is not the same as sheer strength which was requested in the tender.
  - iv. G.6 required: Tubular motors diameter of 35 mm or 45 mm, run on 230 V and have mechanical limit stops with 39 revolutions of capacity. However, the Appellant only replied to part of the request and did not confirm that the Tubular motors diameter would be of 35mm or 45mm.
- d) In addition to all of the above, the Appellant also failed to complete and submit one of the mandatory declarations, which also constituted an important requisite of the tender bid. The Authority also takes note of the Appellant's statement that requiring a product to comply with a building performance standard is impossible and a disproportionate obligation in breach of EU and Maltese procurement law." The Authority respectfully disagrees with this argument as other bidders successfully provided the required specifications and declarations, both at bidding and clarification stage demonstrating that the requirements, although demanding, were neither impossible nor disproportionate. The Appellant's inability to meet these standards cannot be generalized to suggest that compliance was unattainable for all bidders. Therefore, this argument is unfounded. With respect to the Appellant's submission of "full technical documentation for the Silent Gliss Multiscreen blinds", the Contracting Authority wishes to clarify that providing all documents, does not in itself ensure compliance. Upon review, it was determined that the Appellant's submission failed to fully meet the technical criteria and specifications set out in the tender. Completeness of submission alone does not equate to technical compliance.
- e) Regarding the Appellant's assertion that "compliance with EN17037 is the responsibility of the architectural design, not the product supplier; " the Authority clarifies that this statement is also incorrect. Other bidders were able to provide the required specifications in full, demonstrating that compliance is within the responsibility and capacity of the product supplier. The arguments put forward by the Appellant regarding the preferred bidder are further unfounded, relying entirely on assumptions and lacking concrete evidence. Assertions such as fails to understand how the preferred bidder could have been considered compliant" and "it is unclear what the awarded bidder could have submitted" are purely speculative. Without supporting evidence, these claims cannot constitute valid grounds for challenging the Contracting Authority's decision. In this regard, the Authority refers to a recent decision of this Honourable Board Honourable Board (Case No. 2036-MGP EQ 41/2024, decided on the 29th of November, 2024) whereby several grievances were not considered due to the Appellant's failure to provide any supporting proof.
- f) This precedent highlights the importance of substantiating claims with evidence, which is equally relevant in the present matter. The Contracting Authority would like to clarify and asserts once

again that the preferred bidder fully met all the required specifications outlined in the quotation document and found that the preferred bidder adhered to all the requirements set forth in the tender process.

- g) The Appellant alleges breach of proportionality, unequal treatment in the evaluation process and also claims that the Contracting Authority failed to properly evaluate evidence. The Contracting Authority firmly rejects these three assertions in toto. All bidders were evaluated in strict accordance with applicable laws, regulations, and tender requirements, with the same criteria applied uniformly to all bidders. The Technical Evaluation Committee verified that the preferred bidder satisfied all requirements, whereas the Appellant's submission failed to meet multiple technical standards. Claims of unfairness based on assumptions, without evidence, are therefore unfounded. In addition to this, the Contracting Authority conducted a thorough review of all documentation and found that the Appellant's documentation did not include replies to what the Technical Evaluation Committee specifically requested and thus, it did not meet the required standards in substance.
- h) Moreover, the primary goal of public procurement legislation is to ensure that services or supplies meet required standards at the best possible price. At the same time, the valuable works of art in the Museum must be afforded proper protection and safeguarding. In this context and in light of the evaluation, the offer submitted by De Valier Co. Limited which proved to be the most economically advantageous, is confirmed to be compliant on administrative, technical, and financial grounds. Therefore, for the reasons mentioned above, the respondent Contracting Authority humbly requests that this Honourable Board should reject and dismiss all arguments submitted by the Appellant, thereby dismissing the objection in toto and to re-confirm the decision of the Evaluation Committee for the reasons given.

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 Appellant's grievances.

**a) The Grievance Concerning Standard EN17037:2018**

The principal issue raised by the Appellant concerns the requirement under Clause E.2.4, namely compliance with Standard EN17037:2018 – Daylight in Buildings. The Appellant's position is that this standard is a building-performance benchmark and not a product-level standard, and therefore cannot be satisfied or certified by a blinds supplier.

The Board notes, however, that the tender specifications expressly required compliance with EN17037:2018 (or equivalent). Once published, these requirements formed part of the binding rules of the procurement process.

If the Appellant believed that this requirement was:

- technically impossible,
- disproportionate,
- unrelated to the subject-matter of the contract, or
- incapable of being satisfied by any bidder,

then the Public Procurement Regulations provide a very specific and exclusive remedy — Regulation 262 of S.L. 601.03, which allows any economic operator to challenge ambiguous, erroneous, or disproportionate technical specifications during the tender publication stage.

The Appellant did *not* avail itself of this remedy. It submitted a bid fully aware of the requirement and later responded to the Contracting Authority’s clarification request with the explicit indication “Not Available”, without offering any equivalent standard, explanation, or supporting evidence that the requirement could nonetheless be met.

Having elected to participate without first challenging the specification, the Appellant effectively accepted the conditions of the tender as issued. A bidder cannot, after submitting a bid, retroactively dispute the validity of the technical specifications merely because compliance proves difficult or inconvenient. This is a long-standing principle of public procurement and fully consistent with the principle of **self-limitation**, whereby both the Evaluation Committee and this Board are bound to apply the published tender requirements as they stand.

Accordingly, the Board finds that the Contracting Authority was correct to classify the Appellant’s reply as **technically non-compliant** with Clause E.2.4.

**b) Additional New Grounds Raised by the Contracting Authority**

The Board notes that in its reasoned rejection letter, the Contracting Authority identified one principal ground of non-compliance, namely the failure to meet the requirement under Clause E.2.4 (EN17037:2018 or equivalent).

In its later reply before this Board, the Contracting Authority sought to rely on additional grounds of non-compliance relating to Clauses E.9, E.10, F.10 and G.6, as well as to an allegedly incomplete mandatory declaration.

The Board does not accept this approach.

The principles of transparency, due process, and the right of every tenderer to mount an effective appeal require that an economic operator must be placed in a position to understand, *from the rejection letter itself*, the reasons for which its bid was disqualified.

Where the Contracting Authority chooses to specify only certain grounds for rejection, it is bound by those grounds and may not, at a later stage in these proceedings, seek to widen the basis for exclusion.

In the present case, the rejection letter referred only to the Appellant's failure to comply with EN17037:2018. No mention was made of other alleged shortcomings.

While the Board expresses no view as to whether those additional points would have constituted valid grounds of disqualification had they been properly notified, the Board cannot consider arguments that were *not* included in the rejection letter.

Accordingly, the Board assesses the appeal solely on the basis of the ground expressly communicated to the Appellant — non-compliance with Clause E.2.4.

**c) Final Assessment**

Having carefully examined the Appellant's documentation, the clarifications submitted, the testimony of the witnesses, and the applicable regulatory framework, the Board finds that the Contracting Authority correctly determined that the Appellant did not meet the requirement under Clause E.2.4.

Once this mandatory technical requirement was not met, the bid could not proceed further in the evaluation process.

The Board also finds that the Appellant's arguments concerning the appropriateness or proportionality of the standard cannot be entertained at appeal stage, as the Appellant failed to exhaust the remedies provided by Regulation 262 during the tender publication period.

For these reasons, the Board concludes that the sole notified ground for rejection was valid and lawfully applied, and the appeal cannot be upheld.

**The Board,**

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

- a) Does not uphold Appellant's Letter of Objection and contentions,
- b) Upholds the Contracting Authority's decision in the recommendation for the award of the tender,
- c) Directs that the deposit paid by Appellant **not** to be reimbursed.

**Mr Kenneth Swain**  
Chairman

**Dr Vincent Micallef**  
Member

**Mr Lawrence Ancilleri**  
Member