

AGREEMENT No. ____/2017 (draft)

concluded on, 2017 in Sopot, Poland

between:

Institute of Oceanology, Polish Academy of Sciences in Sopot, ul. Powstancow Warszawy 55, 81-712 Sopot, NIP (tax identification number) 5851004839, hereinafter referred to as the CONTRACTING AUTHORITY, represented by:

..... -

and

business entitywith its registered office in,, hereinafter referred to as the CONTRACTOR represented by:

..... -

as follows:

§ 1

1. The basis for the conclusion of this agreement is procedure No. IO/ZN/2/2017 under art. 30a of the Act of 30 April 2010 on the Principles of Financing Science (Journal of Laws of 2014 item 1620, as amended) and art. 4d paragraph 81 of the Act of 29 January 2004 the Public Procurement Law (Journal of Laws of 2015, item 2164, as amended).
2. The Contract is funded from project “Modelling of the impact of the agricultural holdings and land-use structure on the quality of inland and coastal waters of the Baltic Sea set up on the example of the Municipality of Puck region - Integrated info-prediction Web Service WaterPUCK” from the BIOSTRATEG III Program within the NCBiR funds.

§ 2

1. The subject of the agreement is the **delivery of Membrane Inlet Mass Spectrometer (MIMS) for the Contracting Authority – the Institute of Oceanology, Polish Academy of Sciences in Sopot ul. Powstancow Warszawy 55, 81-712 Sopot** in accordance with the submitted bid of (date) and the Contract awarding notice of (date), constituted an integral part of the Agreement.
2. The Appendix no 1 to the Agreement contains the description of the device.
3. The subject of the procedure includes delivery of a control unit (laptop) with software needed for device operation within the declared bid price (net value).
4. All elements of the procedure (including control unit and operating system installed on the unit) should be fully compatible with each other and enable full usage of the equipment.
5. The Contractor shall install software needed for device operation on the control unit. Additionally, the Contractor shall provide the Contracting Authority with the installation version of the software on data carrier (e.g. USB stick, CD).
6. The Contractor shall provide installation of the device and training of the users in the registered office of the Contracting Authority within the declared bid price (net value).
7. Subject of agreement must be new, meet all the functional and technical requirements specified by the Contracting Authority, free from defects or damage, not used, free of third-party rights.
8. The Contractor shall provide the Contracting Authority with:
 - a) complete documentation (including at least one copy of the operating manual) in Polish and/or in English,
 - b) all licenses for software delivered within execution of the Agreement (including operating system installed on control unit), if required for usage,
 - c) warranty or other documents, if required for the exercise of rights by the Contracting Authority,
 - d) the installation version of the software needed for device operation on data carrier (e.g. USB stick, CD).

§ 3

1. The subject of the agreement referred to in § 2 will be delivered not later than within **12 weeks** from the date of signing the agreement.
2. The place of delivery of the subject of the agreement: under the agreement and within the offered price the Contractor shall deliver the object of the agreement (pack and insure for delivery of the device to the place of destination) to the register office of the Contracting Authority: **ul. Powstancow Warszawy 55, 81-712 Sopot, Poland**.

§ 4

1. According to the submitted bid, the Contractor's remuneration for the performance of the agreement amounts to total (gross) of..... PLN/EURO/USD (say: PLN/EURO/USD 00/100), net value: PLN/EURO/USD (say: PLN/EURO/USD 00/100).
2. The costs of customs duties and VAT will be settled and paid by the Contracting Authority, provided that the Contractor is an entity with its registered office outside the territory of the Republic of Poland and if it is required pursuant to the relevant tax and customs provisions.
3. The amount referred to in paragraph 1 includes including cost of the object of the agreement (including control unit, documentation and software), cost of packaging and transport to the place of destination, cost of insurance during delivery to the place of destination, cost of installation and training as well as cost of warranty and warranty service.
4. The Parties agreed that the payment for the execution of the agreement will take place on the basis of the invoices delivered to the Institute of Oceanology, Polish Academy of Sciences in Sopot in two parts:
 - a) First installment: **80% of remuneration** – after delivery of the equipment to the register office of the Contracting Authority following the signing the acceptance protocol of the equipment by the Contracting Authority without reservations
 - b) Second installment: **20% of remuneration** - after successful installation of the equipment and training of the users following the signing the final acceptance protocol of the subject of the procedure by the Contracting Authority without reservations.
5. Payment will be transferred from the account of the Contracting Authority to the Contractor's account in (Bank name).....; (Account Number).....; Swift: within 14 days from the date of signing of the respective acceptance protocol without reservations and after receipt of the invoice properly issued by the Contractor.
6. The Contractor is entitled to statutory interest for the delay in payment.

§ 5

1. **Warranty period of the subject of the procedure** (including i.a. control unit) is months counted from the date of final acceptance of the subject of the agreement without reservations.
2. The Contractor shall be liable to the Contracting Authority for any physical and legal defects of the delivered equipment (particularly involving any non-compliance with the description of the Subject of the agreement), as well as damage suffered during transport.
3. In the case of non-compliance of equipment, in particular in the case of lack of required and offered technical performance or functionality, and in the case of delivery of damaged equipment, the Contracting Authority may refuse to accept it. In such a situation the Contracting Authority shall inform the Contractor by mail, by fax or electronic mail, on the observations of the Contracting Authority as to the irregularities sending a protocol and call the Contractor to remedy the defects within the specified time or to provide defect-free equipment.
4. In the case of irregularities found in the delivered equipment, in particular lack of required and offered technical performance or functionality after the commencement of individual analysis, the Contracting Authority shall notify the Contractor of the irregularities within 7 days from the date of disclosure in writing, by fax or electronically. The notification should be accompanied by: a complaint report including the request detailing the method of the removal of the irregularities and equipment acceptance protocol.
5. Irregularities indicated by the Contracting Authority and referred to in the paragraphs 3 and 4 above shall be removed by the Contractor at its own expense, in the manner specified by the Contracting Authority, no later than 21 days from the date, on which the irregularities were claimed, subject to longer period for removal of defects upon agreement with the Contracting Authority.
6. Shall the Contractor fail to respond to the notice of the irregularities within 7 days of its receipt, it will be tantamount to recognition of the complaint and Contractor's commitment to immediately remove the irregularities.
7. If the irregularities cannot be removed, the Contractor shall deliver the defect-free equipment within 21 days of filing the complaint for the remuneration provided for hereto.

§ 6

1. **The Contractor shall pay to the Contracting Authority stipulated penalties in the amount of:**
 - a) **5% of the net value of remuneration for non-performance by the Contractor the whole agreement or the improper performance of the agreement;**
 - b) **10% of the net value of the remuneration for the withdrawal by the Contractor or by the Contracting Authority from the agreement for reasons attributable to the Contractor.**

2. The Contracting Authority reserves the right to claim compensation in excess of the above penalties under the general rules of the Polish Civil Code.
3. The Contracting Authority shall be entitled to deduct stipulated penalties from the remuneration payable to the Contractor.

§ 7

1. In the event of a substantial change in circumstances resulting in a situation, where the execution of the agreement is no longer in the public interest, which could not have been foreseen at the time of the conclusion of this Agreement, the Contracting Authority may cancel the agreement within 30 days of becoming aware of those circumstances. In such a case the Contractor may only claim the remuneration for the actually delivered goods.
2. The Contracting Authority reserves the right to withdraw from the agreement within 15 days of re-delivery of malfunctioning equipment by the Contractor or failing to meet the required and offered technical specification or if the defects are not removed – following a formal notice to the Contractor to fulfil the obligations in accordance with § 5 sections 5 and 7 of the Agreement and setting an additional term to remove the irregularities.

§ 8

1. Any changes or additions to this agreement shall be in writing under pain of nullity.
2. The Contracting Authority anticipates possibility of changes in the Contract, especially in occurrence of following circumstances:
 - a) changes will be advantageous to the Contracting Authority in terms of Agreement realisation, especially they will advance date of delivery of the object of the Agreement, lower the cost incurred by the Contracting Authority of execution, maintenance or usage of the object of the agreement or increase its usefulness;
 - b) changes in the deadline for completion of the agreement - in the case where it is impossible for the Contractor to meet the deadline for execution of the agreement for reasons beyond the control of the Contractor;
 - c) in the event of force majeure, such as occurrence of a random event caused by external factors, which could not have been predicted with certainty, in particular, a direct threat to life or health of people or risk of significant damage;
 - d) changes to the agreement are necessary due to the changes in the relevant legislation;
 - e) changes to the agreement are necessary due to actions taken by the administrative bodies or institutions authorized to issue decisions or other commanding or supervisory acts related to the delivery of the object of agreement.

§ 9

The Contractor may not assign claims arising from this agreement to a third party without the written consent of the Contracting Authority.

§ 10

Any disputes arising in connection with the execution of this agreement shall be settled by negotiation and in the case of failure to reach an agreement, disputes shall be settled in court by the court having jurisdiction over the Contracting Authority's registered office.

§ 11

1. The Parties agree that Polish law shall apply to the execution of this Agreement.
2. In matters not covered by the provisions of this Agreement the Polish Civil Code shall apply.

§ 12

1. The agreement was drawn up in three counterparts, 2 copies for the Contracting Authority and one copy for the Contractor.
2. In the case of the preparation and signing of the English version of the agreement, the Polish version is the basis for the interpretation of the agreement.

THE CONTRACTING AUTHORITY

THE CONTRACTOR

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Appendices to the Agreement:

Appendix No. 1 – Description of the device

Appendix No. 2 – the Bid form

Appendix No. 3 – Technical Specifications of equipment

DESCRIPTION OF THE DEVICE

1. Detects air gases in water including stable isotopically labeled gases 0-100 amu (0-200 amu or 0-300 amu optionally available);
2. Can be applied to CO₂, CH₄, DMS, and other low molecular weight dissolved gases;
3. Circulating refrigerated/heated water bath ($\pm 0.01^\circ\text{C}$ stability);
4. Peristaltic Pump;
5. Inlet, complete: tubing, valves, membrane assembly (minimum 2);
6. Faraday and SEM detectors;
7. Direct measurement of dissolved N₂, O₂, and Ar concentrations in environmental water samples;
8. Does not require headspace equilibration;
9. Analysis time of 90 seconds per raw water sample;
10. Precision of dissolved N₂, O₂, and Ar measurements (triplicate samples): 0.1%;
11. Precision of gas ratio (N₂/Ar and O₂/Ar) measurements (triplicate samples): 0.03%;
12. Sample volume as small as 5 ml at stated precision;
13. Isotope ratio (¹⁵N/¹⁴N and ¹⁸O/¹⁶O) measurement on dissolved N₂ and O₂;
14. Isotopic composition of (28,28,30) N₂ with additional standardization unit.