

**CONTRACT**

No of Proceedings: ZZ/02/019/D/18

concluded on ..... 2018

between:

Gdańsk University of Technology, Faculty of Applied Physics and Mathematics, registered in Gdansk,  
ul. Narutowicza 11/12

represented by:.....

acting on the basis of the power of attorney for the Rector of Gdańsk University of Technology

**hereinafter referred to as the 'Ordering Party'**

and .....

NIP: ....., REGON .....

KRS/CEIDG:.....

Represented by:.....

**hereinafter referred to as the 'Contractor',**

to whom the Contract is awarded without the provisions of the Act of 29 January 2004 on Public Procurement Law (Journal of Laws of 2017, item 1579, as amended), hereinafter referred to as the PPL, pursuant to art. 4d para. 1 point 1 of this Act.

The Contractor declares that as of the date of concluding this contract, the information is consistent with the documents presented at the time of its conclusion.

**§ 1**

**OBJECT OF THE CONTRACT**

1. The object of the contract is the delivery of a *Compact laboratory gas mixer for accurate control and large dynamic mixing ratio of two gases and (vaporized) fluid*, in accordance with the conditions specified in the Notice of Planned Procurement No. ZZ / / 019 / D / 18 of ..... .. and in the offer dated ....., submitted by the Contractor, constituting attachments to this Contract and being an integral part thereof.
2. The Contractor declares that the object of the Contract is brand new, comes from current production, is free from all defects and damages, without previous use and is not subject to the rights of third parties.

**§ 2**

**PRICE AND TERMS OF PAYMENT**

1. For the performance of the object of the Contract in accordance with the Contractor's offer of....., the price is determined in the amount: ..... PLN / USD \*  
in words ..... PLN / USD \*.

2. The Ordering Party provides for the possibility of granting an advance payment on the performance of the Contract in the amount of 70% of the price indicated in section 1 of this paragraph, which is:

a) ..... PLN / USD \*  
in words. .... PLN / USD \*.

The advance payment will be made once within 21 days from the date of signing the Contract,

b) the remaining 30% of the price mentioned in section 1 of this paragraph in the amount of:

..... PLN / USD \*  
in words ..... PLN / USD \*

shall be paid by the Ordering Party to the Contractor within 21 days after receiving the object of the Contract and after signing the protocol of delivery and acceptance without reservations, but not later than on the date presented in §3 section 1 of this Contract.

3. In the case of submitting an offer in a currency other than PLN, the offer price shall be converted into PLN according to the exchange rate of the National Bank of Poland, Table A, valid on the day set as the deadline for submission of tenders.
4. If the Contractor is established outside the territory of the Republic of Poland, they will issue an invoice in the net price. The Ordering Party shall pay VAT to the Tax Office in accordance with the provisions on intra-Community acquisition of goods in the amount corresponding to the territory of the Republic of Poland.
5. Payment for the invoice for each of the above-mentioned cases shall be made by the Ordering Party, to the Contractor's account:.....
6. The above price includes all price-generating elements resulting from the scope and manner of implementation of the object of the Contract, including transport costs to the headquarters of the Ordering Party and specialized training for users.
7. The date of debiting the Ordering Party's account shall be deemed to be the day of payment.

### **§3**

#### **DATES, GUARANTEE AND CONDITIONS FOR IMPLEMENTATION OF GUARANTEE AND WARRANTY RIGHTS**

1. The deadline for delivery of the object of the Contract: up to ..... months from the date of payment of 70% of the order value.
2. The Contractor shall provide the object of the Contract to Gdańsk University of Technology, Faculty of Applied Physics and Mathematics with headquarters in Gdańsk, ul. Narutowicza 11/12, Building of the Nanotechnology Center A.
3. The name, technical parameters and price of the object of the Contract, delivered to the Ordering Party must comply with the offer of the Contractor. In the case of delivery of a defective product or not meeting the order conditions, the Ordering Party shall not sign the final acceptance protocol.
4. The object of the Contract shall be delivered by the Contractor in a packaging protecting against damage.
5. The delivery must take place on business days of the Ordering Party, from 7.30 a.m. to 3.00 p.m. after a prior telephone call, made at least 24 hours in advance.
6. The costs of packaging, insurance, loading, unloading, transport, bringing to the place indicated by the Ordering Party, installation and training of personnel on the side of the Ordering Party shall be borne by the Contractor and they have been included in the offer price.
7. The acceptance of the object of the Contract in terms of compliance with the offer shall be performed by an employee authorized by the Ordering Party: ....., writing down the delivery and acceptance protocol with the Contractor.
8. In the case of reservations regarding the implementation of the object of the Contract or the identified defects of the object of the Contract, the parties shall determine the manner and date of removal of the irregularity. The deadline shall not be longer than 14 calendar days. The occurrence of the abovementioned circumstances does not revoke the rights of the Ordering Party and the consequences of the Contractor related to failure to meet the deadline for performance of the Contract specified in § 3 section 1 of the Contract and liability for non-performance or improper performance of contractual obligations.
9. A person authorized to represent the Contractor in matters related to the performance of the Contract is ..... . The person authorized to represent the Ordering Party in matters related to the performance of the contract is .....
10. The Ordering Party and the Contractor shall immediately notify each other about any change of the designated persons. Damage caused as a result of failure to fulfil this obligation is charged to the obligated party.

### **§4**

#### **GUARANTEE AND CONDITIONS FOR IMPLEMENTING WARRANTY RIGHTS**

1. The Contractor provides a ..... months guarantee for the delivered object of this Contract, counted from the date of signing the acceptance protocol without any reservations.
2. The Contractor's obligations under the guarantee shall consist in exchanging the object of the Contract for a new one free from defects, or in repairing it or refunding the price paid.
3. The need for repairs or replacements during the guarantee period shall be reported to the Contractor by persons authorized by the Ordering Party, by electronic means, to the e-mail address indicated in the Notice of Planned Procurement: .....
4. The Contractor is obliged to immediately confirm electronically the receipt of the Ordering Party's notification of the need to make a guarantee repair or replacement (guarantee complaint). If the Contractor does not confirm receipt of such notification, the Ordering Party shall presume that

their information has reached the Contractor, unless they prove that it was impossible for technical reasons.

5. In their complaint notification the Ordering Party is obliged to indicate the expected way of bringing the defective object of the Contract to compliance with the Contract (replacement or repair).
6. If the Ordering Party requests repair, the Contractor (or a service point indicated in the offer) shall be entitled to assess the possibility of on-site repair or the need to make repairs at the service point or replacement of a defective object of the Contract for a new one, free from defects.
7. As part of the guarantee, the Contractor undertakes to:
  - 1) fulfill the guarantee duties within no more than 10 working days, counted from the date and time of notification of the need for guarantee repair by the Ordering Party;
  - 2) replace the defective object of the Contract for a non-defective one, or repair of the defective object of the Contract within a reasonable time without undue inconvenience to the Ordering Party;
  - 3) remove the failure within no more than 5 calendar days from the date and time of starting the repairs. Transport of the equipment "to" and "from" guarantee repair and insurance during this period shall be at the expense and risk of the Contractor;
  - 4) if the date of repair specified in point 3) of this section cannot be met for reasons independent of the Contractor (written justification) repair time of the guarantee can be extended, with the consent of the Ordering Party, to 15 calendar days;
  - 5) If the guarantee duties are not met within the required period, the Ordering Party may entrust the repair to a third party at the expense and risk of the Contractor; the Contractor shall be liable for any and all costs of failure removal incurred by the Ordering Party; procuring substitute repair shall not result in loss of guarantee and warranty rights of the Ordering Party;
8. Guarantee repairs shall be made on the Ordering Party's premises, or the headquarters of the Contractor or at a service center indicated by the Contractor in the offer;
9. Contractor's Representative or a representative of the service point indicated in the offer evaluates, on the Ordering Party's premises, the possibility to make on-site repairs or states the need for repair at the service center or the headquarters of the Contractor.
10. The costs of transport and insurance and the risk of loss or destruction of the object of the Contract in connection with making a guarantee repair or replacement shall be borne by the Contractor.
11. Destruction or loss of the guarantee certificate shall not void the guarantee rights if the Ordering Party shall document otherwise the existence of the obligations of the Contractor under guarantee (purchase invoice, commissioning report).
12. The Ordering Party shall be entitled to cancel the Contract due to a defect of the object of the Contract, if, despite repairing it twice or replacement, the Contractor does not provide its compatibility with the Contract and it will continue to work incorrectly. In this case, the Contractor shall be obliged to refund the price paid within 14 days of the receipt of the notice of cancelling the Contract, and to pay the penalty, referred to in § 5 section 2 of the Contract.
13. The Ordering Party is entitled to rights under the warranty irrespective of the guarantee.
14. Liability of the Contractor under the warranty is not subject to any limitations or exclusions.

## **§ 5**

### **CONTRACTUAL PENALTIES AND WITHDRAWAL FROM THE CONTRACT**

1. In the event of a delay in delivery, the CONTRACTOR shall pay a contractual penalty of PLN 50 for each day of delay.
2. For delay in commencing repair or for late repair, the CONTRACTOR shall pay a contractual penalty in the amount of:
  - PLN 50 for each day of delay, counting from the date specified in §4, section 7 point 1) or in §4 par. 7 point 3) of the Contract, for each violation.
3. With the exception of the case referred to in art. 145 of the Public Procurement Law, for the withdrawal from this contract by one of the parties, the party on which the reasons for this withdrawal lie shall pay the other party a contractual penalty of 10% of the gross price referred to in § 2 section 2 of the Contract.
4. In the event of non-performance of the Contract within 14 days from the end of the period agreed in the Contract, the ORDERING PARTY may withdraw from the Contract without setting an additional deadline. In this case, the CONTRACTOR shall pay the ORDERING PARTY the contractual penalty referred to in section 3 of this paragraph.
5. The Ordering Party shall be entitled to claim damages exceeding the amount of the contractual penalty, if the contractual penalty does not cover the entire damage suffered, as well as if the damage is caused by a different title under the rules set out in the Civil Code.

6. The Contractor agrees to deduct the contractual penalty from the price they are entitled to.

**§ 6**  
**OTHER DELIVERY CONDITIONS**

1. For contacts in matters relating to the performance of this Contract the ORDERING PARTY appoints: .....  
and the CONTRACTOR appoints: .....
2. The parties shall immediately notify each other of any change of the designated persons. Any damage resulting from failure to do so shall be charged to the obliged party.

**§ 7**  
**FINAL PROVISIONS**

1. It is forbidden to introduce important changes to the provisions of the Contract in relation to the content of the offer.
2. The Ordering Party provides for the possibility of changing the provisions of the concluded Contract in relation to the contents of the offer, concerning:

**The deadline:**

The deadline for performance of the Contract may change if one of the following circumstances occurs, provided that it has an impact on the date of completion of the entire object of the Contract. Circumstances that may change the date may be due to:

- a) delays caused by the Ordering Party;
- b) force majeure (natural disasters, hurricane, flood, transport disasters, fire, explosions, war, strike and other extraordinary events whose occurrence is beyond the reach and control of the Ordering Party or Contractor);
- c) appearance during the performance of the Contract, of unpredictable formal and legal obstacles, not attributable to the parties, including those concerning official decisions;

In the aforementioned circumstances, the Parties shall set new contract terms, however, the scope of the change of date must be proportional to the reason for it.

In the event that the force majeure causes the Contractor to postpone the performance of the Contract by more than 30 days, the Ordering Party has the right to withdraw from the contract for reasons attributable to the Contractor.

Change in the object of the Contract

It is allowed to change the provisions of the Contract in relation to the content of the offer, based on which the Contractor was selected in the event that due to circumstances not attributable to the Contractor, the object of the Contract will not be available on the market at the time of the fulfilment of the Contract or its production has been discontinued

It is allowed then, with the prior written consent of the Ordering Party, to provide substitutes with technical parameters at least equal to, or better than, those presented in the Contractor's offer, at the price resulting from the Contractor's offer. The obligation to inform the Ordering Party in writing that it is necessary to exchange the offered item for another one due to the lack of its availability on the market and to obtain the Ordering Party's written consent to the proposed change rests with the Contractor.

3. All changes and additions to this Contract must be made in writing, otherwise shall be null and void, with the application of art. 144 of the Public Procurement Law.
4. The CONTRACTOR may not assign claims or transfer rights and obligations under this Contract to third parties without the prior written consent of the ORDERING PARTY.
5. Working days of the Ordering Party shall mean days from Monday to Friday, excluding Saturdays and public holidays.
6. In matters not covered by this Contract, the provisions of the Civil Code shall apply, unless the provisions of the Public Procurement Law provide otherwise.
7. The court in Gdańsk shall be appropriate in disputable cases.
8. This Contract has been drawn in 2 identical copies, one for each Party.

.....  
ORDERING PARTY

.....  
CONTRACTOR