



*Sworn translation from Polish*

**Attachment No. 3**

**To the Open Tender Conditions for the supply of elements to the stand  
for laboratory manufacture of the absorption materials**

**„Contract Performance Conditions”**

**Date and place of delivery**

1. The Seller shall be obliged to perform the subject of the contract at dates indicated as the „Date of Delivery” in the purchase order.
2. The Seller undertakes to inform the Awarding Entity on the on-going basis on the status of the timely execution of the procurement.
3. The Seller undertakes to deliver the subject of the contract to the Awarding Entity’s premises at the address: PIT-RADWAR S.A., Warsaw 04-051, 30, Poligonowa St. The cost of transport shall be borne by the Seller.

**Delivery method**

1. The Seller undertakes to provide new products, properly protected against any mechanical failure and the loss of quality parameters.
2. The Seller shall be liable (risk of loss, damage etc.) for the subject of delivery until its formal acceptance by the Awarding Entity i.e. upon signing the Acceptance Protocol by the Parties on the date of delivery.

**Terms and conditions of the Warranty and Guarantee**

1. The Seller shall grant to the Awarding Entity **the guarantee** for the subject of the contract for a period of ..... months starting from the date of signing the final acceptance protocol by the Awarding Entity.
2. Any defect of the devices being the subject of the procurement shall be removed by the Seller’s service within 14 days of the delivery of a faulty device by the Awarding Entity. Should a degree of the repair require the import of spare parts or dispatch of sub-assemblies to be repaired on the Producers of such sub-assemblies premises, the span of 14 days may be extended as appropriate. The Seller shall take care for the repair period to be as short as reasonably possible and shall keep the Awarding Entity informed on the current date of the device being repaired.
3. Under the guarantee period, any and all costs related to restoring the device to its full efficiency and fitness for use, shall charge the Seller.
4. The request for repairs shall be reported by the Awarding Entity to the Seller’s service in writing.
5. Upon the guarantee period, the Seller shall provide for the Awarding Entity the payable post-warranty service on the terms separately determined by the parties.

**Terms of payment**

1. For the subject of the contract, the Awarding Entity shall pay the Seller total price net in the amount of PLN ..... (say Polish zlotys: .....), (hereinafter: the "Price") to which VAT shall be added at the rate applicable on the invoice date.
2. The price includes all the costs related to the delivery of the subject of the procurement to the seat of PIT-RADWAR S.A.
3. The payment due to the delivery of the subject of the contract shall be effected within 30 days of the date of delivery of the devices with the invoice attached and upon signing the Acceptance Protocol by the Parties on the date of delivery.
4. In default of payment, the Awarding Entity shall be obliged to pay to the Seller statutory interest as applicable.



### **Technical Conditions**

1. The delivered subject of the procurement shall meet the requirements set forth in:
  - a) European Union Directives: 2004/108/WE (electromagnetic compatibility), 98/97/WE (safety of machinery), 73/23/EEG (electrical safety), 2000/14/WE (emission of noise);
  - b) PN-EN series technical standards, transposing the European harmonized standards,
  - c) the acts on the *system of conformity assessment* of 30 August 2002 (Journal of Laws 2016, item 655), including "CE" marking of the products;
2. Along with the delivery of the subject of the contract, on the acceptance date at latest, the Seller shall provide the following documents, in particular:
  - a) Warranty card,
  - b) Operation Manual in original supported by the translation into Polish,
  - c) CE Declaration in the Polish language version.

### **Contractual Penalties**

1. The Seller shall pay to the Awarding Entity a contractual penalty in the amount of 30% of the net value of the procurement, should the Awarding Entity withdraw from the procurement for the reasons attributable to the Seller.
2. The Awarding Entity shall charge a contractual penalty in the amount of 0,2% of the net value of the procurement for each day of the execution of delivery upon the timeframe determined in the procurement, not more however than 30% of the net value of the purchase order.
3. The Awarding Entity shall pay to the Seller a contractual penalty in the amount of 10% of the net value of the procurement if the Awarding Entity withdraws from the procurement for the reasons for which the Contractor is not liable and shall reimburse the Contractor the costs of delivery and services related to the performance of the procurement provided that the Seller documents that the Seller incurred the said costs prior to obtaining the Awarding Entity's statement on the withdrawal from the procurement and that the costs were dedicated to the performance of the procurement, wholly or in part.
4. The Seller shall pay to the Awarding Entity a contractual penalty in the amount of PLN 500,00 net (say Polish zlotys: five hundred, 00/100) for each commenced 24-hour day of exceeding the declared service response time (up to ..... hours) to the notification by the Awarding Entity of the device malfunction under the warranty- and after the warranty period.
5. The Parties are entitled to claim additional compensation exceeding the sums of the stipulated conventional penalties, pursuant to the provisions of the Civil Code.

### **Liability**

1. The Seller represents and warrants to have knowledge and experience indispensable for proper performance of the contract and the Seller undertakes to perform it with due diligence, subject to applicable laws.
2. The Seller assumes full responsibility for due performance of the present Contract.

### **Confidentiality**

1. The Parties mutually undertake not to disclose any information related to the business activities of the Contracting Parties, in particular the financial, economic, commercial, organizational, legal, technical and technological information, wholly or partly, to any third party and to use the same solely for the execution of the target of the procurement but not to use the said information without prior written consent of the other Party of the Contract.
2. Should the necessity to communicate the classified information between the Parties arise, the provisions of the Act of 5 August 2010 on the protection of undisclosed information (Journal of Laws of 2010 No. 182 item 1228) shall apply.
3. The Parties obligation to keep the undisclosed information secret also upon the completion of the subject of the Contract.

### **Force Majeure**

1. Each Party may be released from liability arising from non-performance or undue performance of the Contract if the said non-performance or undue performance results from the occurrence of



Force Majeure, i.e. external event, unpredictable and impossible to be prevented. In particular, such events as: war, natural disaster as earthquake or flood, explosion, fire, strike etc. shall be deemed the cases of Force Majeure.

2. Should the obstacle in the execution of the actions covered by this procurement take place due to the Force Majeure events, the affected party should notify immediately the other Party in writing of such circumstances and should document the same. Such being the case, the Parties shall agree as for the mode of proceeding and shall determine new terms for the performance of the subject of the Contract.
3. In failure to reach the agreement as referred to in section 2 above, the procurement may be terminated to an immediate effect which shall not exclude the possibility to sue the claims arising prior to the occurrence of Force Majeure.

\*\*\*\*\*

*I, the undersigned, ANNA CICHOCKA, M.A., in my capacity as Sworn Translator of English at the Provincial Court, entered into the register of the Minister of Justice in Warsaw under No. TP/89/2005, the Republic of Poland, certify the above to be a true, correct and accurate copy of the document drawn up in Polish.*

*Warsaw, 22 August 2018*

*Number of characters w/ spaces: 7.884*

*Rep. No. 189/2018*

