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| **PUBLIC PROCUREMENT OFFICE****Jagiellonian University** **ul. Straszewskiego 25/2, 31-113 Kraków****tel. +4812-432-44-50, fax +4812-432-44-51 lub +4812-663-39-14;****e-mail:** **bzp@uj.edu.pl** **,** [**www.uj.edu.pl**](http://www.uj.edu.pl)[**http://przetargi.adm.uj.edu.pl/ogloszenia.php**](http://przetargi.adm.uj.edu.pl/ogloszenia.php) |  |

Krakow, 12th January 2018 r.

**SPECIFICATION OF ESSENTIAL TERMS AND CONDITIONS OF THE PUBLIC PROCUREMENT (hereinafter referred to as the ‘SETCPP’)**

1. **Full name (company name) and address of the Purchaser.**
	1. Jagiellonian University, ul. Gołębia 24, 31-007 Kraków.
	2. Unit assigned to the Tender Procedure:
	3. Public Procurement Office of the Jagiellonian University,

ul. Straszewskiego 25/2, 31-113 Kraków;

* + 1. tel. +4812-432-44-50; fax +4812-663-39-14;
		2. e-mail: bzp@uj.edu.pl
		3. website: [www.uj.edu.pl](http://www.uj.edu.pl)
		4. place of publication of announcements and information:<http://www.przetargi.uj.edu.pl/ogloszenia-o-postepowaniach>
1. **Contract Award Procedure.**
	* + 1. The procedure is carried out as an open tender procedure, pursuant to the regulations of the Act of 29 January 2004 ‘Public Procurement Law’, hereinafter referred to as the ‘PPL’ (consolidated text: Polish Journal of Laws of 2017, item 1579, as amended), and the estimated value of this procurement is higher than so-called ‘EU thresholds’.
			2. The Public Procurement procedure is conducted by the evaluation committee appointed to perform the procedure for the award of Public Procurement.
			3. Provisions of the aforementioned Public Procurement Law (PPL) and regulations related thereto, enacted on the basis of the PPL, shall apply to actions undertaken by both the Purchaser and the prospective Contractors in connection with the procedure aiming at awarding the Contract. With regard to issues not governed by that Law, provisions of the Act of 23 April 1964, Civil Code (Polish Journal of Laws of 2017 item 459, as amended) shall apply.
2. **Description of the Object of Public Procurement.**
	1. The object of the order includes design, manufacturing, delivery and installation with testing of:

**Part I:**

A complete ultra-high vacuum (UHV) research system for photoelectron spectroscopy (PES) and X-ray absorption spectroscopy (XAS) using total electron yield (TEY) and total fluorescence yield (TFY) methods.

**Part II:**

The photoelectron spectrometer,working in angle-resolved, angle-integrated and spin-resolved modes, together with its pumping system integrated with the analysis chamber.

at National Synchrotron Radiation Center SOLARIS in Krakow. The scope of the delivery includes also Factory Acceptance Tests (FAT), Site Acceptance Tests SAT), as well as training of SOLARIS personnel.

* 1. The detailed description of the object of the contrac, divided into 2 parts, determining required parameters and technical-functional features, or its minimal/maximal range, as well as other important features are included in the Annex A for Part I and Annex B for Part II to the SETCPP being its integral part. Appendixex C are common for both Parts of the object of the delivery and contain a description of already existed installations at NCPS SOLARIS.
	2. The object of the contract must be delivered as a brand new one, including all its parts and accessories.
	3. In order to proove that the offered by the Contractor object of the contract (regards both Parts) meets the Purchaser’s requirements, the Contractors submitting the bids, shall declare, that UHV parts and components of the object of the contract will be produced by the enities which had established and maintenances the quality assurance systems compliant with ISO 9001:2008 standard with respect to production of ultrahigh vacuum components.
	4. The Contractor shall offer the Object of the Public Procurement that is compliant with the requirements specified in the SETCPP.
	5. The Contractor shall assure minimum 12 months quality warranty for the Object of the Public Procurement. The warranty time will be counted from the next day after completed SAT of the end station. In case the SAT will not be completed due to lack of the synchrotron radiation at SOLARIS, the warranty time start next day after the deadline for SAT completion ends. The detailed conditions regarding warranty are stated in the contract template below.
	6. The description of the Object of Public Procurement consistent with the wording of the Common Procurement Vocabulary (CPV) is CPV: 38540000 Machines and apparatus for testing and measuring, 33114000-2 spectroscopy apparatus, 38530000-9 diffraction apparatus, 42122450-9 vacuum pumps.
1. **Lead time of the Public Procurement and Contract.**

The contract must be completed within 14 months from the date of its signing. The detailed milestones of the project implementation are stated in the contract draft as below.

1. **Terms and conditions of participation in the tender procedure.**
	1. Competences or authorizations to conduct a specific professional activity, if it results from separate provisions - the Purchaser does not set a condition in this respect.
	2. Economic or financial situation - the Purchaser does not set a condition in this respect.
	3. Technical or professional capacity – only the Contractors which prove that they meet the below requirements may participate in the tender procedure:
	4. **Regarding the Part I** of the scope of the object of public procurement:
		1. They posseses necesarry knowledge and expierence, i.e. during the past 3 years counting back from the deadline for submission of the offers, or if the companies activity time is shorten – within that time, they had completed at least 1 (one) delivery (contract) for design and delivery of the UHV system used for electron spectroscopy at research laboratories, of the minimum value 1 900 000 PLN net (one milion nine hundred thousand PLN net 00/100).
	5. **Regarding the Part II** of the scope of the object of public procurement:
		1. They posseses necesarry knowledge and expierence, i.e. during the past 3 years counting back from the deadline for submission of the offers, or if the companies activity time is shorten – within that time, they had completed at least 1 (one) delivery (contract) for design and delivery of a photoelectron spectrometer, working in angle-resolved, angle-integrated and spin-resolved modes, together with its pumping system integrated with the UHV analysis chamber for research laboratories, of the minimum value 1 600 000 PLN net (one milion six hundred thousand PLN net 00/100).
	6. The Contractor may, in order to confirm the fulfillment of the conditions for participation in the tender, rely on the technical or professional abilities of other entities, regardless of the legal nature of the relationships that it has with that entity.
	7. For conversion into PLN of the value indicated in the documents submitted to confirm compliance with the conditions for participation in the procedure, the Purchaser will apply the average rate published by the National Bank of Poland on the date of publication of the tender announcement.
2. **The basis for exclusion of the Contractors from contract award proceedings:**
	1. The Purchaser will exclude from the Tender Procedure the Contractors to which at least one of the following circumstances applies:
	2. a contractor that has failed to prove compliance with conditions for participation in the proceedings or has not been invited to negotiations or to submit initial tenders or tenders, or has failed to prove a lack of grounds for exclusion;
	3. a contractor who is a natural person validly convicted for the following offences:
3. referred to in Article 165a, Articles 181 to 188, Article 189a, Articles 218 to 221, Articles 228 to 230a, Article 250a, Article 258 or Articles 270 to 309 of the Act of 6 June 1997 - the Penal Code (Polish Journal of Laws of 1997, item 553, as amended) or Article 46 or Article 48 of the Act of 25 June 2010 on Sports (Polish Journal of Laws of 2016, item 176);
4. an offence of a terrorist nature referred to in Article 115, paragraph 20 of the Act of 6 June 1997 - the Penal Code;
5. a fiscal offence;
6. the offence specified in Article 9 or Article 10 of the Act of 15 June 2012 on the Effects of Entrusting the Performance of Work to Foreigners Staying on the Territory of the Republic of Poland in Breach of Law (Polish Journal of Laws of 2012, item 769);
	1. a contractor, where an acting member of its managing or supervisory body, partner in a registered or professional partnership or a general partner in a limited or a limited joint-stock partnership, or its procurator has been validly convicted for the offence referred to in subparagraph 1.2 above;
	2. a contractor against which a valid court judgement or final administrative decision on being in arrears with taxes, fees or premiums for social and health security was issued, unless the Contractor has paid the due taxes, fees or premiums for social and health security along with interest or fines or has concluded a binding agreement on the payment of the aforesaid dues;
	3. a contractor that, as a result of a deliberate action or gross negligence, has misled the awarding entity while presenting the information on not being subject to exclusion, meets the conditions for participation in the proceedings or objective and non-discriminatory criteria, hereinafter referred to as "selection criteria", or who concealed this information or is not able to produce the required documents;
	4. a contractor that as a result of recklessness or negligence provided misleading information to the awarding entity which could materially affect the decisions taken by the awarding entity in the contract award proceedings;
	5. a contractor that had illicitly influenced or attempted to influence the actions of the awarding entity or acquire confidential information which could give it an advantage in the contract award proceedings;
	6. a contractor that participated in preparing contract award proceedings or whose employee and also any person performing work under a contract of mandate, a contract for specific work, contract of agency or another contract for providing services, participated in preparing such proceedings, unless the resultant distortion of competition may be eliminated by some other means than exclusion of a contractor from participating in the proceedings;
	7. a contractor that along with other contractors concluded an agreement aiming to distort competition between contractors in the contract award proceedings, which the awarding entity is able to demonstrate through relevant evidence;
	8. a contractor which is a collective entity in respect of which a court adjudicated a prohibition against competing for public contracts under the Act of 28 October 2002 on the Liability of Collective Subjects for Acts Prohibited under Punishment (Polish Journal of Laws of 2015, items 1212, 1844 and 1855; 2016, items 437 and 544);
	9. a contractor in respect of which a preventive measure in the form of prohibition from competing for public contracts has been adjudicated;
	10. contractors which, while being part of the same capital group, within the meaning of the Act of 16 February 2007 on the Protection of Competition and Consumers (Polish Journal of Laws of 2015, items 184, 1618 and 1634), submitted separate tenders, tenders for one lot or requests for participation in the proceedings, unless they can demonstrate that the existing links between them do not prejudice fair competition in contract award proceedings.”
	11. with respect to which liquidation has been opened, the arrangement in restructuring proceedings approved by the court provides for satisfaction of creditors by liquidation of its assets or the court has ordered liquidation of its assets under Article 332, paragraph 1 of the Act of 15 May 2015 - Restructuring Law (Polish Journal of Laws of 2017, item 1508, as amended), or whose bankruptcy was declared, except a contractor that after being declared bankrupt entered into an arrangement approved by a valid court ruling, where the arrangement does not stipulate satisfaction of creditors by liquidation of the bankrupt's assets, unless the court has ordered liquidation of these assets under Article 366, paragraph 1 of the Act of 28 February 2003 - Bankruptcy Law (Polish Journal of Laws of 2016, item 2171, as amended);
	12. that has culpably seriously violated its professional duties, which undermines its integrity, in particular when the Contractor as a result of a deliberate action or gross negligence had failed to perform or had improperly performed the contract, which the awarding entity is able to demonstrate through relevant evidence;
	13. which for reasons attributable to the Contractor, had failed to perform or had improperly performed to a significant extent any previous public procurement agreement or a concession contract concluded with the awarding entity referred to in Article 3, paragraph 1, subparagraphs 1 to 4, which had led to termination of the agreement or contract or ordering of damages;
	14. who has violated its tax, fees or premiums for social and health security payment obligations, which the awarding entity is able to demonstrate through relevant evidence, except in the case referred to in paragraph 1, subparagraph 15, unless the Contractor has paid the due taxes, fees or premiums for social and health security along with interest or fines or has concluded a binding agreement on the payment of the aforesaid liabilities.
7. **List of declarations and documents, which the Contractors are obliged to deliver in order to confirm compliance with terms and conditions of participation in the tender procedure and lack of the basis for exclusion from the procedure thereof.**

If during the tender procedure, the Contractor do not submit declarations or documents indispensable for conducting the procedure, submitted declarations or documents are incomplete, contain errors or raises the Purchaser’s doubts, the Purchaser will call on the Contractor to submit, complete, or correct the documents thereof in a defined time limit. However, if despite of delivery of the documents as above, the Contractors application for participation in the procedure would be rejected or cancellation of the procedure is otherwise necessary, the Purchaser will not call on the Contractor for submission of documents thereof.

* 1. **Declarations obligatory submitted with the bid:**
	2. In order to attest compliance with terms and conditions of participation in the Tender Procedure and lack of the basis for exclusion of the Contractor from the procedure, as mentioned in sections 5) and 6) of the SETCPP above, the Contractor has to submit the European Single Procurement Document (hereinafter called: ESPD), which template has been attached as Annex no 1 to the bid form.

In order to fill in the ESPD, the Contractor has to complete the following steps:

* download the ESPD file from the website: [www.przetargi.uj.edu.pl/ogloszenia-o-postepowaniach](http://www.przetargi.uj.edu.pl/ogloszenia-o-postepowaniach) and save it on a local computer hard disc
* import the ESPD file into the UE website service: <https://ec.europa.eu/growth/tools-databases/espd/filter?lang=en> and fill the text accordingly,
* The completed ESPD, according to the above instructions, must be printed and signed by an entity to which the ESPD concerns. Please be aware that ESPD service do not archive imported files. The Purchaser informs that an instruction (only in Polish) for completing the ESPD is available on the Polish Procurement Office website: <https://www.uzp.gov.pl/__data/assets/pdf_file/0015/32415/Jednolity-Europejski-Dokument-Zamowienia-instrukcja.pdf>
	1. The Contractor which relies on capacities or standing of other entities, shall prove the lack of grounds for exclusion from participation in the procedure of the said entities, as well as fulfilment by them of the conditions for participation in the proceedings, to the extent the Contractor relies on their resources. Therefore the Contractor together with a bid shall also submit the ESPD , as mentioned in point 1.1 above, concerning the said entities.
	2. In case of two or more contractors jointly applying for participation in the procedure, the ESPD as mentioned in point 1.1 above shall be submitted by each of the contractors jointly competing for a contract.
	3. **Additional declaration obligatory submitted with the bid in case the Contractor relies on capacities or standing of other entities.**

A Contractor that relies on capacities or standing of other entities must demonstrate to the Purchaser that it will have necessary resources of these entities at its disposal when performing a contract, in particular by presenting a written commitment of these entities to share the resources necessary to perform the contract, the draft of which is the Annex no 3 to the bid form below. The content of the written commitment shall indisputably and unambiguously indicate the scope of the other entity commitment, in particular present what kind of resources or standings are going to be involved, the way there are going to be used and time limits.

* 1. **The declarations which has to be submitted by all Contractors within 3 days after publication of a list of the submitted bids at the Purchaser’s website.**

The Contractors shall submit a declaration whether they belong to the same capital group with other Contractors participating in the procedure, using the template of declaration being the Annex no 2 to the SETCPP. The basis for the declaration shall be the list of bids published on the Purchaser’s website.

* 1. **Documents and declarations, valid at their submission date, which has to be submitted by the Contractor whose bid had been evaluated as the best one. The documents and declarations shall be submitted on the Purchaser request within a specific time limit not shorter than 10 days.**

According to the art. 24aa of the PPL act, the Purchaser will first evaluate the bids and then examine whether the Contractor whose offer has been evaluated as the best one is subject to exclusion or fulfils the conditions for participation in the procedure.

Therefore, before awarding a contract the Purchaser will ask the the Contractor whose offer has been evaluated as the best one, to submitt within stated deadline not shorten than 10 days, of the following doceumnts and declarations:

* 1. Documents prooving that the deliveries mentioned in the ESPD have been dully completed. The requred document may be a reference list or any other document of the delivery recipient/client, or if for a justified reason it is not possible to obtain such a document, the Contractor’s selfdeclaration.
	2. A certificate from the National Criminal Register in the scope defined in the point 6) subpoints 1.2, 1.3 and 1.10 of the SETCPP issued not earlier than 6 months before the deadline for submission of the offer is.
	3. A certificate of the head of the competent tax office confirming that the Contractor is not in arrears with the payment of taxes, issued not earlier than 3 months before the deadline for submission of the bids, or a certificate stating that the Contractor entered into agreement with a competent tax authority with respect to payment of the above obligations, including eventual interest or fines, in particular an exemption, deferment or the right to pay the outstanding payments in installments, as provided for by the law, has been granted, or that the execution of a competent authority’s decision has been suspended.
	4. A certificate issued by the local organizational unit of the Social Insurance Institution or the Agricultural Social Insurance Fund, or other document confirming that the Contractor is not in arrears with the payment of the social security or health insurance premiums, issued not earlier than 3 months before the deadline for submission of the bids, or a certificate stating that the Contractor entered into agreement with a competent authority with respect to payment of the above obligations, including eventual interest or fines, in particular an exemption, deferment or the right to pay the outstanding payments in installments, as provided for by the law, has been granted, or that the execution of a competent authority’s decision has been suspended.
	5. An excerpt from the relevant register or from central records and business information, if separate regulations require an entry in the register or records, in order to confirm the absence of grounds for exclusion based on the point 6) subpoint 1.13 of The SETCPP.
	6. If the Contractor has its registered office or place of residence outside the territory of the Republic of Poland, instead of the documents referred to in point 7) 4.4.2, the Contractor shall submit information from the relevant register or, in the absence of such register, another equivalent document issued by the competent judicial authority or administrative administration of the country in which the contractor has its registered office or place of residence is of the person to whom the information or document relates, (issued not earlier than 6 months before the deadline for submission of tenders).
	7. If the Contractor has its registered office or place of residence outside the territory of the Republic of Poland, instead of the documents referred to in point 7) 4.4.3 - 7) 4.4.5 of these SETCPP, has to submit a document or documents issued in the country in which the contractor is established or has its place of residence, confirming respectively that:
	8. The Contractor has no outstanding taxes, charges, social and healthcare insurance payments, or stating that the Purchaser entered into agreement with a competent authority with respect to payment of the above obligations, including eventual interest or fines, in particular an exemption, deferment or the right to pay the outstanding payments in installments, as provided for by the law, has been granted, or that the execution of a competent authority’s decision has been suspended (issued not earlier than 3 months before deadline for submission of the bid).
	9. The Contractor is not in the process of liquidation or bankruptcy (issued not earlier than 6 months before deadline for submission of the bid).
	10. If in the country in which the concerned person has its place of residence, or in which the Contractor’s registered office is established, the documents stated in the point 7) subpoints 5 and 6 above are not issued, the Contractor shall replace them with a selfdeclaration. The declaration shall by done be the Contractor and specify a person or persons authorized to represent the Contractor, or it shall be a self declaration of a concerned person, made before a notary, relevant judicial or administrative authority, or a professional or commercial body in the country in which the Contractor resides or in which its registered office is established, or in which the concerned person has its place of residence. The deadlines of the selfdecalrations are the same as required in the point 7) subpoints 5 and 6 above.
	11. In case of any doubts as to the content of the document submitted by the contractor, the Purchaser may request the competent authorities of the country in which the contractor has the registered office or place of residence of the person whom the document concerns, to provide necessary information regarding this document.
1. **Information about communication rules between the Purchaser and the Contractors, submission of declarations and documents; as well as persons authorized to contact with the Contractors.**
	1. It is allowed to communicate by exchanging registered letters, fax letters, or e-mails except the bid and required appendixes, which shall be submitted as a oryginal in a written form (hardcopy) prior to the deadline set by the Purchaser.
	2. A person duly authorized to contact the Contractors as per formal and technical scope is: Alicja Rajczyk, tel. +4812-663-10-68, e-mail: alicja.rajczyk@uj.edu.pl ; bzp@uj.edu.pl tel. +4812-663-39-42; fax +4812-663-39-14
	3. The Public Procurement Office of the Jagiellonian University, at ul. Straszewskiego 25/2, 31-113 Kraków, working hours are: from Monday to Friday from 7:30 to 15:30, excluding public holidays.
2. **Requirements Regarding a Bid Bond.**
3. Not later than on the date of submitting bids and before the deadline for submitting bids, the Contractor shall lodge a bid bond respectively to each Part of the tender in the amount of:
* **Part I:** 50 000 PLN (in words: fifty thousand 00/100 PLN)
* **Part II:** 50 000 PLN (in words: fifty thousand 00/100 PLN)
1. The bid bond may be lodged in one or several of the following forms:
	1. cash;
	2. bank or savings and loan cooperative societies [spółdzielcza kasa oszczędnościowo-kredytowa] sureties; the latter always regarded as cash surety;
	3. bank guarantees;
	4. insurance guarantees;
	5. sureties granted by entities specified in Article 6b paragraph 5 (2) of the Act of 9 November 2000 on the establishment of the Polish Agency for Enterprise Development (Polish Journal of Laws 2014 item 1804 and 2015 item from 2007, as amended).
2. The bid bond in cash shall be lodged by means of a bank transfer to the following bank account of the Purchaser: for polish zloty IBAN: PL nr 98 1240 2294 1111 0010 3561 9764, SWIFT: PKO PP LPW. As a moment of bid bond submission in cash, shall be deemed the moment when the required amount is assigned on the above bank account.
3. The Purchaser shall return the bid bonds to all Contractors, with the exception of the bid bond of the successful Contractor, immediately upon the selection of the best Bid or the invalidation of procurement procedure. The bid bond shall be returned to the successful Contractor immediately after the procurement Contract is signed.
4. The Purchaser shall immediately return the bid bond upon request of the Contractor who withdraws the bid before the deadline for submitting bids.
5. The Purchaser shall request the Contractor, whose bid bond has been returned, to pay the bid bond again if, following the examination of its appeal, its bid is selected as the best Bid. The Contractor shall pay the bid bond within the time limit defined by the Purchaser.
6. If the bid bond is lodged in cash, it shall be returned along with the interest resulting from the bank account agreement, where it was kept, reduced by the cost of keeping the bank account and a commission charged by the bank for the money transfer to the bank account indicated by the Contractor.
7. The Purchaser shall retain the bid bond together with interest if theContractor — in response to the call referred to in Articles 26.3 and 26.3a — has failed to submit, due to reasons attributable to the Contractor:

- any declarations or documents referred to in Article 25 para. 1 of the PPL,

- the declaration referred to in Article 25a para. 1 of the PPL ,

- required power of attorney,

- or if the Contractor has not granted its consent to correct of an error referred to in Article 87 section 2 point 3 of the PPL, which resulted in impossibility of selecting — as the best one — the tender submitted by the Contractor.

1. The Purchaser shall also retain the bid bond together with interest, if the Contractor whose bid has been selected:
* refused to sign the public procurement contract on terms specified in the bid;
* the public procurement contract could not be signed due to a fault on the part of the Contractor.
1. If the bid bond is lodged in cash, a copy of the bank transfer, shall be enclosed to the Bid. If the bid bond is lodged in other form than bank transfer, the original proof that it was lodged must be attached to the Bid. In case the Contractor intends to demand return of the original of the bid bond document as above, it shall be attached in a separate envelope and a copy of the bid bond document, certified as conformed to the original, shall be attached to the bid.
2. If the bid bond is lodged in other form than bank transfer, **the origin proof that it was lodged has to clearly indicate the Purchaser’s right to keep the bid bond amount in cases as in the points 8 and 9. above**, or has to refer to the art. 46 sec. 4a and 5 of the PPL Act which regulate issues related to the right to retain the bid bond by the Purchaser.
3. **Bid Validity Period.**
4. The bids shall remain valid for a period of 60 days.
5. The Contractor may, individually or on request of the Purchaser, extend the bid validity period. However the Purchaser may only once and no later than 3 days prior to the expiry of the bid validity period, ask the Contractors for consent to an extension of this period by a definite period, which shall not exceed 60 days.
6. An extension of the deadline of the Bid Validity Period shall be permitted only with the simultaneous extension of the Bid Bond validity period, or if that is not possible, with lodging a new bid bond for the extended Bid Validity Period. If the extension of the Bid Validity Period is made after the selection of the best Bid, the only one who shall be obliged to lodge a new bid bond or to extend a bid bond is the Contractor whose Bid was chosen as the best Bid.
7. The bid validity period commences upon the deadline for submitting bids and opening the bids.
8. **Preparation of bids.**
9. Each Contractor is entitled to submit the bid that covers the whole Object of Public Procurement, i.e. two parts, or the bid for one of the chosen parts of the Object of the Public Procurement. The bid lump price shall be calculated respectively for each part of the Object of Public Procurement.
10. It is allowed to submit one offer by two or more entities, taking into account the provisions of art. 23 of the Public Procurement Law.
11. The Contractor has to attach to the offer a calculation of the lump price, prepared on the basis of an individual calculation with indication of unit prices of the contract elements defined by the Purchaser in Annex 2 to the bid form, along with a description of the Object of Public Procurement, which should contain at least the information specified by the Purchaser in the Annex No. 2 to the bid form. Given information will be used to verify the conformity of the parameters of the Object of Public Procurement with the requirements specified in the SETCPP, as well as for the needs of the evaluation of bids in accordance with the adopted assessment criteria.
12. The Contractor has to also indicate in its bid parts of the Object of the Public Procurement, which production the Contractor intends to entrust to the subcontractors, and indicate the subcontractors’ names/firms. The information shall be given according to the template as in the Annex no 4 to the bid form.
13. The Bid and its integral appendixes shall be prepared by the Contractor according to the requirements stated in the SETCPP, i.e. includes:
	1. The BID form filled in and signed by the Contractor and required appenixes to the bid form (preapared or filled in accordingly)
	2. The original of a power of attorney to sign a Bid, or its copy certified as conforming to the original by a notary, in case the Bid bond is signed by a proxy. In particular, it is required in case the bid is submitted by a few enitities jontly placing a bid (e.g. in the form of a consortium), and the bid is not signed by all entities.
	3. The proof that the bid bond has been submitted as required and on time,
14. A Bid must be prepared in Polish or English language.
15. If the Contractor submitting its bid reserves his right for not disclosure of his business secrets, in the meaning of the provisions on suppression of unfair competition, to other Contractors taking part in the tender, it must clearly state it in its bid. In order to do so, a clear declaration with a list of the restricted information and documents must be submitted, and a statement that the information and documents thereof are the Contractor’s business secret. The above mentioned declaration with the list of restricted information, as well as he documents marked as “Restricted” shall be enclosed at the end of the offer. The information referred to in the Article 86, sec. 4 of the PPL cannot be restricted as a business secret, i.e. name and address of the Contractor, price, contract completion deadline, warranty time and payment conditions, all stated in the bids.
16. It is recommended that each sheet of the Bid and Annexes thereto be signed by a person or persons duly authorized by the Contractor to make declarations of will for and on its behalf. In addition to a signature (signatures), a company stamp and name stamp of the Contractor or a legible signature shall also be placed at least on the Bid Form and Annexes (Letters of Declaration) thereto, as well as on copies of documents certified as conforming to the originals.
17. It is recommended that all sheets of the Bid and the Annexes thereto be explicitly numbered (in a consecutive numbering) and bound together so as to prevent single sheets from slipping out. The Contractor shall also draw up a Table of Contents and attach it to the bid.
18. Any corrections or amendments to the text of the Bid shall be signed by a person or persons, who signs the Bid, and provided with dates on which they were made.
19. The Contractor shall bear all costs related to the preparation and submission of the bid.
20. The Purchaser, only in order to make it easier to prepare a bid, attach o the SETCPP hereto a check list presenting a list of the required with a bid documents.

1. **Address and Deadline for Submitting Bids; Bid Opening.**
2. The bids shall be submitted to the Public Procurement Office of the Jagiellonian University in Krakow,ul. Straszewskiego 25/2, 31-113 Kraków, until 13:00 p.m. on **22nd February 2018**.
3. Any bid received after the deadline for submitting bids shall be returned unopened to the Contractor once the deadline for appeal has passed off. The Contractor shall be immediately informed about the above.
4. The Contractor shall place its Bid in an envelope addressed to the Purchaser at the address specified in paragraph 12).1 hereof. The envelope shall bear the following note: „Bid for design, manufacturing, and delivery of the PHELIX experimental station at SOLARIS Center”, 2 parts tender, case no. 80.272.3.2018. The bid regards part ….. - please do not open before 13.05 p.m. on **22nd February 2018**”. The Contractor’s address stamp shall also be placed on the envelope.
5. The Contractor may modify or withdraw its Bid after it has already been submitted, provided that a written notification of the modification or withdrawal is received by the Purchaser prior to the deadline for submitting bids.
6. The Contractor shall not modify or withdraw its Bid after the deadline for submitting bids.
7. The Purchaser shall publicly open the bids at 13.05 on 22nd February 2018. at the Public Procurement Office of the Jagiellonian University in Krakow, ul. Straszewskiego 25/2, 31-113 Kraków.
8. Directly before the opening of bids, the Purchaser shall make known the amount planned to finance the Object of the Public Procurement.
9. During the opening of the bids, the Purchaser will announce the names (companies) and addresses of Contractors, as well as bid price, period of completion of the Contract, warranty period, and terms and conditions of payment, contained in particular bids.
10. **Description of a Bid Price Calculation Method.**
	* + 1. The bid lump price should be stated in PLN or EUR and calculated on the basis of an individual calculation with the unit prices of specific elements, including all costs necessary for contract performance, including taxes discounts etc. that the Contractor intends to grant. The delivery conditions are: Delivered At Place Kraków ul. Czerwone Maki 98 according to Incoterms 2010.
			2. The total lump price calculated on the basis of the Contractor's individual calculation, taking into account the content of the SETCPP should correspond to the price specified by the Contractor in the bid form, respectively for each part of the Object of Public Procurement.
			3. Changes of the price are possible only in situations specified in the contract template constituting Annex No. 3 to the SETCPP.
			4. In the case of submitting bids in currencies other than PLN, for the purposes of comparing the offers in the Price criterion, the Purchaser shall convert the value of the bids to the average rate published by the National Bank of Poland on the day of submitting bids.
			5. Prices must be given and calculated rounded to two decimal places (rounding rule - less than 5, skip the tip, above and equal to 5 should be rounded up).
			6. If selection of the offer would lead to the creation of a tax obligation on behalf of the Purchaser in accordance with the provisions regarding value added tax, the Purchaser adds to the price the duty (in justified cases) and tax on goods and services, which would be required to settle in accordance with these provisions.
			7. The Contractor, when submitting the bids, informs the Purchaser whether the selection of the offer will lead to the creation of the tax obligation on behalf on the Purchaser (i.e payment of customs and / or VAT), indicating the name (type) of the goods or service whose supply or performance will lead to its creation, and indicating their value without the tax amount, and the tariff codes for the product offered.
11. **Description of criteria that the Purchaser shall follow in the selection of a bid with their relevance and methods of bid evaluation.**
	1. On the basis of the evaluation criteria as specified hereto, the Purchaser shall select the best bid from among all valid and eligible bids submitted.
	2. Bid Evaluation Criteria and their scoring are as follows:
	3. **Part I:**
		1. **The Bid price – criterion weight 60%.**

Points awarded for the Bid Price criterion shall be calculated according to the following formula:

P = (Plow / Peval) x 60

where:

P - score calculated for a particular Bid,

Plow – the lowest Bid Price amongst all valid bids,

Peval - a price as given by the Contractor whose score is being calculated,

Therefore the maximum number of points which a bid may receive is 60 points.

* + 1. **Warranty period - criterion weight 15%.**

Points awarded for the warranty period shall be calculated as follows:

12 months warranty offered – 0 points (it’s a minimum requirement).

24 months warranty offered – 10 points

36 months and more warranty offered – 15 points.

* + 1. **Quality – criterion weight 25%.**

Points awarded for quality of the Object of Public Procurements shall be calculated as follows:

**Additional preparation chamber - 10 points.**

10 points will be awarded for an additional preparation chamber attached to the transfer chamber, designed for performing reactions with gases, with 4-axes manipulator. The chamber should have at least two mounting flanges for leak valves, one mounting flange for a residual gas analyzer (RGA), one mounting flange for a four-axis manipulator, at least two spare mounting flanges DN 40 CF and one DN 63 CF. The four-axis manipulator should be equipped with a sample stage with a complete set of mechanical and electrical feedthroughs, feedthroughs for cooling liquid flow and compressed air ensuring the temperature control during the preparation process. The chamber should be adapted to work with relatively high pressure up to 800 mbar. The heating system should ensure durability of heating elements during annealing up to 1000°C in an oxygen-rich atmosphere. The pressure measurement system should be able to measure the absolute pressure. The manipulator should allow to connect at least four additional wires to the sample.

**Monochromator for UV source – 10 points.**

10 points will be awarded for a monochromator for UV source adapted for the monochromatisation of HeI and HeII radiation, with the equipment, bakeable ≥150°C.

**Additional EBV-type cell – 3 points.**

3 points will be awarded for an additional electron beam evaporator (EBV) with a shutter and temperature range up to 2300°C, with equipment.

**Additional effusion cell – 2 points.**

2 points will be awarded for an effusion cell (Knudsen-type cell) with a shutter and temperature range up to at least 1500°C, with equipment.

* 1. **Part II:**
		1. **The Bid price – criterion weight 60%.**

Points awarded for the Bid Price criterion shall be calculated according to the following formula:

P = (Plow / Peval) x 60

where:

P - score calculated for a particular Bid,

Plow – the lowest Bid Price amongst all valid bids,

Peval - a price as given by the Contractor whose score is being calculated,

Therefore the maximum number of points which a bid may receive is 60 points

* + 1. **Warranty period - criterion weight 20%.**

Points awarded for the warranty period shall be calculated as follows:

12 months warranty offered – 0 points (it’s a minimum requirement).

24 months warranty offered – 10 points.

36 months and more warranty offered – 20 points.

* + 1. **Quality – criterion weight 20%.**

Points awarded for quality of the Object of Public Procurements shall be calculated as follows:

**Integrated system of diffraction target regeneration in VLEED-type spin detector – 15 points.**

15 points will be awarded for an integrated system of diffraction target regeneration in VLEED-type spin detector without the need to move the target outside the detector chamber (iron evaporator, oxygen doser and heating the substrate).

**Integrated software enabling the presentation of data from the spectrometer in four dimensions – 5 points.**

5 points will be awarded for integrated data analysis software from the analyzer and spin detector enabling the presentation of data in four dimensions (energy, two components of the k vector, spin), together with API interface.

* 1. The accuracy level of all calculations shall be two decimal places (without rounding).
	2. The bid which scores the highest number of total points shall be deemed as the best one.
	3. In case two or more bids presents the same balance of price and other evaluation criteria, which results in impossibility of indicating the best one, the Purchaser will choose from them the lowest price bid. However, if the two or more bids as above has the same price, the Purchaser will call the respective Contractors for submission of additional price offers in a given by the Purchaser deadline.
1. **Formalities which have to be completed after the best bid is chosen in order to sign the contract.**
	1. Before signing the contract the Contractor on the Purchaser’s request shall submitt:
	2. Incase the chosen bid was submitted by two or more entities jontly aplluying for a contract, the copy of the contract (s) regulating cooperation between thoses entities.
2. **Requirements concerning the security on due performance of the contract;**

The Purchaser does not require submission of the security on due performance of the Contract.

1. **Contract template- please see the Annex no 3 to the SETCPP.**
2. **Information on legal protection measures to which the Contractor shall be entitled during the tender procedure.**
	1. Contractors, tender participants, and other entities shall be entitled to legal remedies if they have, or had, a legal interest in winning the procurement or if they suffered, or are likely to suffer, losses in the event of a breach of the PPL Act by the Purchaser.
	2. Organizations registered by the Public Procurement Officer shall also be entitled to legal remedies with regard to public procurement notice and the specification of essential terms and conditions of the public procurement.
	3. The Purchaser informs that the detailed regulations for legal remedies are stated by Division 6, Articles 179–198 (g) of the PPL.
3. **General information.**
	1. The Purchaser allows to submit bids for one of the parts of the Object of the Public procurement.
	2. Information for the Contractor placing an offer on the number of parts of the order for which it can submit an offer: The Purchaser does not limit the number of parts for which the contractor may submit an offer.
	3. Information for the Contractor about the number of parts of the order in relation to which the order may be awarded to him: The Purchaser does not limit the number of parts to which the contract may be awarded to one contractor.
	4. The Purchaser does not envisage to sign a framework contract.
	5. The Purchaser foresees possibility to award the chosen Contractor additional purchases on the basis of the art. 67 sec.1 point 7 of the PPL. The possible future purchases may regard partial replacement of the delivered devices and items, increase of the number of delivered devices/items or development of existing devices/installations. The estimated value of the possible future direct purchases ordered according to the art. 67 sec. 1 point 7 of the PPL is **3 000 000 PLN net (i.e. without VAT).**
	6. The Purchaser shall not allow for submitting any alternative bids.
	7. Payments between the Purchaser and the Contractor will be in PLN or EUR depending on the currency of the chosen bid
	8. The chosen Contractor is obliged to sign the contract on time and at place indicated by the Purchaser, but not later than 30 days after the contract was submitted to the Contractor.
	9. No electronic auction is foreseen.
	10. The Purchaser does not provide reimbursement of the participation costs in the tender procedure.
	11. The original of the SETCPP signed by the Purchaser’s authorized representatives, which is the basis for any eventual appeals in respect to the SETCPP provisions, is available in a paper form in the Purchaser’s premises or in an electronic version on the website: [www.przetargi.uj.edu.pl](http://www.przetargi.uj.edu.pl)
4. **The list of appendixes to the SETCPP**

Annex A - Description of the subject of the contract for Part 1

Annex B - Description of the subject of the contract for Part 2

Annex C-1 - VAC1 - Guidelines for UHV components at SOLARIS.

Annex C-2 - VAC2 - Technologies and materials for UHV devices at Solaris.

Annex C-3 - WAT-CA1 Compressed air standards

Annex C-4 - WAT-CW1 Standards for cooling water

Annex C-5 - CS1 – Motion controls standards

Annex C-6 - EL1 - Minimum requirements for electrical installations.

Annex C-7 - MECH1 - Mechanical assumptions

Annex C-8 - MECH2 - Available area

Annex C-9 - NAME1 - Name convention

Annex No. 1 – The bid form with attachments.

Annex 2 – Template of declaration on belonging to or lack of belonging to the same capital group.

Annex No. 3 - The contract template.

**BID FORM**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

*The Purchaser –* **Uniwersytet Jagielloński**

**ul. Gołębia 24, 31 – 007 Kraków;**

*Unit assigned to this Tender Procedure –* **Jagiellonian University Procurement Office**

**Ul. Straszewskiego 25/2, 31 – 113 Kraków**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Name (company) of the Contractor –

………………………………………………………………………………….,

Registered office address –

……………………………………………………………………………………,

Mailing address –

……………………………………………………………………………………,

Tel. - ......................................................; fax - ......................................................;

E-mail: ..............................................................;

TAX ID - .................................................; Company ID: …………………………….

### *With reference to the tender procedure for design, production, delivery and installation of the PHELIX experimental station at SOLARIS center in Krakow, tender for 2 parts, , case no 80.272.3.2018, we hereby submit the following Bid:*

* 1. In the scope of part 1 we offer the execution of the whole subject of the basic order for the total net amount ................................. \*, plus VAT due in the amount of ... ... \* %, which gives the amount gross ... ....................... \* (in words: ......... .... \*),
	2. In the scope of part 2 we offer the execution of the whole subject of the basic order for the total net amount ................................. \*, plus VAT due in the amount of ... ... \* %, which gives the amount gross ... ....................... \* (in words: ......... .... \*),
	3. We declare that we offer a warranty on terms that meet the conditions and requirements resulting from the specification of essential terms of the contract, in particular in relation to their period, scope and form of implementation, where:
	4. We offer ............ ..- a monthly warranty period for the entire subject of the order in **Part No. 1**,
	5. We offer ............ ..- a monthly warranty period for the entire subject of the order in **Part No. 2.**
	6. We declare that the offered subject of the order has the following parameters scored in the substantive part:
		1. **For Part I:**
	7. **Additional preparation chamber** attached to the transfer chamber, designed for performing reactions with gases, with 4-axes manipulator. The chamber should have at least two mounting flanges for leak valves, one mounting flange for a residual gas analyzer (RGA), one mounting flange for a four-axis manipulator, at least two spare mounting flanges DN 40 CF and one DN 63 CF. The four-axis manipulator should be equipped with a sample stage with a complete set of mechanical and electrical feedthroughs, feedthroughs for cooling liquid flow and compressed air ensuring the temperature control during the preparation process. The chamber should be adapted to work with relatively high pressure up to 800 mbar. The heating system should ensure durability of heating elements during annealing up to 1000°C in an oxygen-rich atmosphere. The pressure measurement system should be able to measure the absolute pressure. The manipulator should allow to connect at least four additional wires to the sample. – **YES/NO\***
	8. **Monochromator for UV source** adapted for the monochromatisation of HeI and HeII radiation, with the equipment, bakeable ≥150°C. – **YES/NO\***
	9. **Additional EBV-type cell** with a shutter and temperature range up to 2300°C, with equipment. - **YES/NO\***
	10. **Additional effusion cell** (Knudsen-type cell) with a shutter and temperature range up to at least 1500°C, with equipment. – **YES/NO\***
		1. **For Part II:**

**2.1 Integrated system of diffraction target regeneration in VLEED-type spin** detector without the need to move the target outside the detector chamber (iron evaporator, oxygen doser and heating the substrate). – **YES/NO\***

**2.2 Integrated data analysis software** from the analyzer and spin detector enabling the presentation of data in four dimensions (energy, two components of the k vector, spin), together with API interface – **YES/NO\***

* 1. We undertake to complete the Object of the Public Procurement within deadline stated in the point 4) of the SETCPP.
	2. We declare that we offer the subject of the order in accordance with the requirements and conditions specified by the Purchaser in the SETCPP and we confirm the acceptance of the contractual terms and payment terms contained in the SETCPP and the contract template constituting an annex to the SETCPP,
	3. We declare that the choice of the offer in part ....... of the tender:

- it will not lead to the creation of a tax obligation on behalf of the Purchaser according

with provisions on tax on goods and services. \*

* 1. We declare that the choice of the offer in part ....... of the tender:

- will lead to the creation of a tax obligation on behalf of the Purchaser in accordance with

provisions on tax on goods and services. The above tax obligation will apply to ................................. .. ............ (Enter the name / type of goods or services that will lead to the creation of a tax obligation by the Employer in accordance with the provisions on tax on goods and services) included in the Object of the order.\*

* 1. We offer the invoices payment deadline: 30 days from delivery of an invoice – according to the requirements stated in the SETCPP (except the advanced payment deadline according to the contract template),
	2. In the case of awarding the order - we undertake to sign the contract at the place and time set by the Ordering Party.
	3. We ask for refund a bid bond onto the following bank account\*: ………………………………………………………(applies only to the Contractors, who lodged the bid bond by means of a bank transfer)\*,
	4. We declare that we consider ourselves bound by this Bid for the period 60 days from the date of the opening of the Bid,
	5. The person authorized to contact the Purchaser in the scope of the submitted offer, and
	in matters regarding the possible performance of the contract is: .......... ............... .., e-mail: ......................, tel .: ..................... .. (may be optional).
	6. The Bid consists of **………………\*** numbered sheets,
	7. This Bid Form is accompanied by the following Annexes:

Annex 1 – The Contractor's statement on meeting the conditions in the proceedings and on the lack of grounds for exclusion – the ESPD,

Annex No. 2 - calculation of the offer price and description of the subject of the order,
Annex No. 3 - written commitment of the third party (if applicable)\*

Annex No 4 – the list of subcontracted parts of the Object of Public procurement - if applicable \*

Annex No 5 – The third’s party statement on meeting the conditions in the proceedings and on the lack of grounds for exclusion (the ESPD), or the ESPD of all companies jointly placing a bid (e.g in the form of a consortium) - if applicable \*

Annex no 6 – the original of a power of attorney (s) to sign the Bid, or its copy certified as conforming to the original by a notary - if applicable

Annex no 7 - the proof of a bid bond submission on time and as required.

others – .................................................................\*.

***Attention! A space dotted out and / or marked with a ‘\*’ sign in the draft Bid Form and drafts of its Annexes shall be either filled out or crossed off by the Contractor in accordance with their content.***

*In ……………………………, on ……………………………………………… 2018*

*........................................................................*

*(stamp and signature of a person authorised to make declarations*

*of intent on behalf and in the name of the Contractor)*

**Annex no 2 to the Bid form.**

*(Company Stamp of the Contractor)*

**PRICE CALCULATION**

**Part I of the Object of the Public procurement:**

|  |  |  |  |
| --- | --- | --- | --- |
| **Pos.** | **Parts of the object of the contract** | **Net price** | **Gross price** |
| 1 | Design |  |  |
| 2 | Analitic vacuum chamber with equipment  |  |  |
| 3 | Preparation vacuum chamber with equipment |  |  |
| 4 | Loading chamber with equipment |  |  |
| 5 | Mechanical splitting chamber with equipment |  |  |
| 6 | Samples storage. |  |  |
| 7 | Samples transfer system. |  |  |
| 8 | Additional elements. |  |  |
| 9 | Delivery, installation, FAT, SAT, and training of SOALRIS personnel. |  |  |
| **Total** |  |  |

The Contractor has to attach to the offer:

1. A description of the offered Object of the contract, which should contain at least the information stated in points 1.1 to 1.3 on the following principles:
	1. Structural assumptions of the UHV system - system structure including characteristics of individual components and proposed technical solutions.
	2. Description of UHV system components, including the number of vacuum chambers, manipulators, additional radiation sources, preparation system, storage, splitting and sample transfer, ultra-high vacuum sample introduction system, complementary elements and the initial geometric layout of the UHV system.
	3. All technical solutions of the UHV system, allowing verification of the quality criteria for the evaluation of offers.

The information listed above is required in order to verify the parameters of the offered subject of the order with the requirements specified in the SETCPP,
and also for the purpose of evaluating offers in accordance with the adopted assessment criteria.

The parameters of the UHV system for the PHELIX research station will be optimized in the design phase taking into account all the requirements of the technical specification.
The technical description must be provided in Polish or English.

1. I declare that the entities producing UHV parts of the order will have the Quality Control System implemented and maintained for the duration of the contract in this area in accordance with the ISO 9001: 2008 standard in the production of Ultra High Vacuum components and I undertake to submit a copy of all relevant documents at the request of the Purchaser during the performance of the order.

*In ……………………………, on ……………………………………………… 2018*

*........................................................................*

*(stamp and signature of a person authorised to make declarations*

*of intent on behalf and in the name of the Contractor)*

**Annex no 2 to the Bid form.**

*(Company Stamp of the Contractor)*

**PRICE CALCULATION**

**Part II of the Object of the Public procurement:**

|  |  |  |  |
| --- | --- | --- | --- |
| **Pos.** | **Parts of the object of the contract** | **Net price** | **Gross price** |
| 1 | Design |  |  |
| 2 | Charged Particles hemispherical electrostatic analizator with digital detector of electrons |  |  |
| 3 | VLEED type spin detector |  |  |
| 4 | Spectrometr’s pumping system |  |  |
| 5 | Delivery, installation, FAT, SAT, and training of SOALRIS personnel. |  |  |
| **Total** |  |  |

The Contractor has to attach to the offer:

1. A description of the offered Object of the contract, which should contain at least the information stated in points 1.1 to 1.3 on the following principles:
	1. Structural assumptions of the spectrometer - the spectrometer structure, including the characteristics of individual components and the proposed technical solutions.
	2. Description of the spectrometer components, hemispherical electrostatic analyzer of charged particles with digital electron detector and VLEED type spin detector and initial geometric layout of the spectrometer.
	3. All technical solutions of the spectrometer, allowing verification of the quality criteria for the evaluation of offers.

The information listed above is required in order to verify the parameters of the offered subject of the order with the requirements specified in the SETCPP,
and also for the purpose of evaluating offers in accordance with the adopted assessment criteria.

The parameters of the UHV system for the PHELIX research station will be optimized in the design phase taking into account all the requirements of the technical specification.
The technical description must be provided in Polish or English.

1. I declare that the entities producing UHV parts of the order will have the Quality Control System implemented and maintained for the duration of the contract in this area in accordance with the ISO 9001: 2008 standard in the production of Ultra High Vacuum components and I undertake to submit a copy of all relevant documents at the request of the Purchaser during the performance of the order.

*In ……………………………, on ……………………………………………… 2018*

*........................................................................*

*(stamp and signature of a person authorised to make declarations*

*of intent on behalf and in the name of the Contractor)*

**Annex no 3 to the Bid form.**

**Written commitment of an entity which makes available for the Contractor’s disposal the necessary resources for and and time of the performance of the contract, according to the art. 22a of the PPL.**

|  |  |
| --- | --- |
| Name | ...................................................................... |
| Addres  | …................................................................... |

I (or We) as signed below:

………………………………………………………………………………………………………………………………………………………………………………….

acting for and on behalf of: ……………………………………………………………………………………………………………………………………………………………………………….

hereby declares, for the purposes of the open tender procedure for design, manufacture, delivery and installation of the Phelix experimental station at NCPS SOLARIS in Krakow – 2 parts tender,

to **make available for the following Contractor’s my resources**:

………………………………………………………………………………………………………………………………………………………………………………….

(full name and address of the Contractor )

For the purposes of evaluation whether the above Contractor will have at its disposal my resources to the extent indispensable for a proper execution of the object of the contract,

as well as for evaluation whether legal links between a company/entity I represent and the Contractor ensures a real access to the resources, I (or We) hereby submit the following information:

1. The scope of the resources available for the Contractor:

………………………………………………………………………………………………………………………………………………………………………

………………………………………………………………………………………………………………………………………………………………………

………………………………………………………………………………………………………………………………………………………………………

1. The method/approach of the resources use for the purposes of the contract execution:

………………………………………………………………………………………………………………………………………………………………………

………………………………………………………………………………………………………………………………………………………………………

………………………………………………………………………………………………………………………………………………………………………

1. The legal nature of links between the company/entity I represent and the Contractor :

………………………………………………………………………………………………………………………………………………………………………

………………………………………………………………………………………………………………………………………………………………………

………………………………………………………………………………………………………………………………………………………………………

1. The scope and time of the company/entity I represent involvement in the contract execution: ………………………………………………………………………………………………………………………………………………………………………

………………………………………………………………………………………………………………………………………………………………………

………………………………………………………………………………………………………………………………………………………………………

*In ……………………………, on ……………………………………………… 2018*

*........................................................................*

*(stamp and signature of a person authorised to make declarations*

*of intent on behalf and in the name of the Contractor)*

**Annex no 4 to the Bid form.**

(*The Contractor’s stamp*)

**The Declaration**

**(List of the subcontractors)**

We hereby declare that:

We intend \* to outsource completion of the following parts of the Object of Public Procurement to the following companies/entities:

Company name: ……………………………….

Scope of subcontracting: ………………………………………………….

Company name: ……………………………….

Scope of subcontracting: ………………………………………………….

We do not intend \* outsource completion of the parts of the Object of Public Procurement.

**\*** *fill in according to the Contractor’s choice.*

If the Contractor will not fill in the above information, the Purchaser recognizes that the Contractor do not intend to outsource completion of the parts of the Object of Public Procurement.

*In ……………………………, on ……………………………………………… 2018*

*......................................................................*

*(stamp and signature of a person authorised to make declarations of intent on behalf and in the name of the Contractor)*

**Annex no 2 to the SETCPP**

*(Company Stamp of the Contractor)*

**Template of DECLARATION**

**(regarding capital ties)**

According to the art. 24 sec. 11 of the Public Procurement Law, the Contractor, within 3 days of posting on the website information referred to in art. 86 par. 5, provides the Purchaser with a declaration of belonging or non-affiliation to the same capital group referred to in art. 24 sec. 1 point 23 of the Public Procurement Law.

Referring to the information announced on ………………. 2017 on the Purchaser’s procurement website, as referred in the art. 86 sec. 5 of the PPL Act, we hereby declare that:

1. We do not belong to the same capital group with any of the contractors participating in the procedure thereof,\*

or

1. We belong to the same capital group with the following contractors participating in the procedure thereof,\*

A capital group shall be deemed in the meaning of the Act of 16th February 2007 of the Protection of Competition and Consumers.

The list of the Contractors belonging to the same capital group, participating in the procedure thereof:

1. …………………………..
2. …………………………..

Along with the statement, the Contractor may present evidence that their links with another Contractor will not distort competition in the contract award procedure.

*In ……………………………, on ……………………………………………… 2018*

*........................................................................*

*(stamp and signature of a person authorised to make declarations*

*of intent on behalf and in the name of the Contractor)*

**\***Choose the right option.

The declaration hereto may be sent via fax or e-mail within the deadline as above, and the original may be delivered as soon as possible personally, or by post or by a courier company.

**Annex no 3 to the SETCPP**

**CONTRACT**

**The present Public Procurement Contract, signed on ………………… in Krakow by and between:**

**Jagiellonian University**

**with the seat at ul. Gołębia 24, 31-007 Kraków, Poland (PL),**

hereinafter referred to as the **‘Purchaser’**;

represented by:

**………………………………………………………………..**

**with the financial countersignature of the Jagiellonian University Bursar.**

**and**

**.............................................**

hereinafter referred to as the **‘Contractor’.**

represented by

**……………………………………………..**

together called the **‘Parties’**

This Public Procurement Contract was concluded as a result of the open tender procedure, in accordance with the Act of 29th January 2004 on Public Procurement Law (consolidated text: Polish Journal of Laws of 2017, item 1579, as amended).

**§ 1**

**OBJECT OF THE CONTRACT/OBLIGATIONS**

1. The scope of the Contract covers:

**Part I** - design, manufacturing, delivery and installation of the Phelix experimental station UHV system (hereinafter called UHV system) at National Synchrotron Radiation Center SOLARIS in Krakow (hereinafter called as SOLARIS), together with performing of Factory Acceptance Tests, Site Acceptance Tests, and training of SOLARIS team during installation and tests.

**Part II -** design, manufacturing, delivery and installation of the photoelectrons spectroscopy system for Phelix experimental station (hereinafter called photoelectron spectroscopy system) at National Synchrotron Radiation Center SOLARIS in Krakow (hereinafter called as SOLARIS), together with performing of Factory Acceptance Tests, Site Acceptance Tests, and training of SOLARIS team during installation and tests.

1. In addition, under the remuneration the Contractor assures the required maintenance inspections once per year and for a period of 3 years after SAT, as well and 20 hours of remote assistance by phone or electronic means (like e-mail, Skype) for a period of 2 years after SAT completion. In case SAT cannot be carried out or completed due to SOLARIS reasons, the support periods referred to in the first sentence shall begin after 14 months from contract signing.
2. A detailed description of the Object of the contract is contained in the Specification of Essential Terms of the Tender (hereinafter called SETCPP) and its appendixes as well as in the Contractor’s offer.
3. The Purchaser orders and the Contractor undertakes to carry out all indispensable activities for the completion of the Object of the contract, described above.
4. The Contractor declares that the Object of the contract shall be manufactured using highest quality materials and highest workmanship’s standards, within the specified deadlines and maintained due diligence, having regard the professional character of its business activity and in accordance to the technical specification being part of the SETCPP and the Contractor’s offer.
5. The Contractor declares that his knowledge, experience, and resources are sufficient
to accomplish the Object of the contract.
6. The Purchaser’s authorized representatives has the right to visit the Contractor’s premises and/or production plants, including the subcontractor’s premises, at any time during the manufacturing process in order to make its control.
7. Documentation of the tender procedure no 80.272.3.2017, in particular the SETCPP with its appendixes as well as the Contractor’s offer, are an integral part of this contract.

**§ 2**

**DECLARATION OF INTENT**

The Parties understand that ongoing development and changes in synchrotron technologies may create new situations neither described nor expressly regulated in this Contract, which may have an impact on the Contract realization. As soon as such a situation occurs, the Parties will strive for mutual adjustment during the Contract period in order to fulfil changes in needs and demands of the other Party. The following Contract bases on the mutual trust between the Parties.

**§ 3**

**APPLICABLE CURRENCY AND CONTRACT VALUE**

1. For delivered and accepted Object of the contract, the Purchaser shall pay the Contractor the total sum of ………………… EUR net (…………………………), i.e. without VAT, including:

**Part I:**

* 1. Design of the experimental station UHV system - …………….EUR net (…………….),
	2. Analitic chamber with equipment - …………….EUR net (…………….),
	3. Preparation chamber with equipment - …………….EUR net (…………….),
	4. Loading chamber with equipment - …………….EUR net (…………….),
	5. Mechanical spliting chamber with equipment - …………….EUR net (…………….),
	6. Samples storage - …………….EUR net (…………….),
	7. Samples transfer system - …………….EUR net (…………….),
	8. Auxiliary elements - …………….EUR net (…………….),
	9. Delivery, installation, FAT, SAT and training of the users - …………….EUR net (…………….).

**Part II:**

* 1. Desing of the photoelectrons spectroscopy system for Phelix experimental station - …………….EUR net (…………….),
	2. Charged Particles hemispherical electrostatic analizator …………….EUR net (…………….),
	3. VLEED spin detector - EUR net (…………….),
	4. Spectrometr’s pumping system
	5. Delivery, installation, FAT, SAT and training of the users - …………….EUR net (…………….).
1. The remuneration specified in sec. 1 includes all payments due to the Contractor, in particular all license fees the Contractor will have to pay to third parties, packaging costs, safe transportation, insurances, documentation, Factory Acceptance Test, customs clearance costs, Site Acceptance Test, warranties, export customs duties, and other costs that the Contractor have to bear in order to fulfil the Contract.

**§ 4**

**TIME SCHEDULE AND DELIVERY TERMS**

1. Implementation of the object of the contract shall be done in the following phases:

**Phase I:**

* 1. Completion of the final design of the UHV system according to the requirements stated in the SETCPP and in cooperation with the Purchaser and its submission for acceptation, not later than **2 months** after Contract signing. As part of this phase a start – up meeting at SOALRIS shall take place, during which the Parties discuss the detailed time schedule of the contract implementation, communication rules between parties, UHV system parameters and other important technical aspects. The design phase will end with a final design review meeting at SOLARIS. Between the two said meetings many iterations by email exchange or phone consultation will take place to solve all needed design issues.

The Purchaser shall accept the final design within 14 days from its delivery, or present its comments or objections to the design. In case the Purchaser’s comments or objections were presented, the Contractor shall correct the design documentation and deliver its new version or submit an appropriate explanation to the Purchaser, within 7 days from receiving the Purchaser’s notice. The Purchaser’s approval of the final design will be limited to examination of the documentation with respect to suitability of the design to the requirements defined by the technical specification attached to the SETCCP and does not influence the Contractor’s responsibility for the requested beamline specifications. The design will be submitted as soon as possible after its completion, divided into following sets: an analytic section, a preparation section, a transfer system section, remaining parts of the UHV system. The production stage of each part of the object of the contract requires prior written approval of the Purchaser.

* 1. Manufacturing, FAT and delivery of UHV system including required documentation not later than **12 months** after Contract signing.
	2. Installation, SAT and training not later than **14 months** from Contract signing.

**Phase II:**

* 1. Completion of the final design of the photoelectron spectroscopy system according to the requirements stated in the SETCPP and in cooperation with the Purchaser and its submission for acceptation, not later than **2 months** after Contract signing. As part of this phase a start – up meeting at SOALRIS shall take place, during which the Parties discuss the detailed time schedule of the contract implementation, communication rules between parties, photoelectron spectroscopy system parameters and other important technical aspects. The design phase will end with a final design review meeting at SOLARIS. Between the two said meetings many iterations by email exchange or phone consultation will take place to solve all needed design issues.

The Purchaser shall accept the final design within 14 days from its delivery, or present its comments or objections to the design. In case the Purchaser’s comments or objections were presented, the Contractor shall correct the design documentation and deliver its new version or submit an appropriate explanation to the Purchaser, within 7 days from receiving the Purchaser’s notice. The Purchaser’s approval of the final design will be limited to examination of the documentation with respect to suitability of the design to the requirements defined by the technical specification attached to the SETCCP and does not influence the Contractor’s responsibility for the requested beamline specifications. The design will be submitted as soon as possible after its completion, divided into following sets: hemispherical electrostatic analizator of charged particles, VLEED type spin detector. The production stage of each part of the object of the contract requires prior written approval of the Purchaser.

* 1. Manufacturing, FAT and delivery of UHV system including required documentation not later than **12 months** after Contract signing.
	2. Installation, SAT and training not later than **14 months** from Contract signing.
1. The installation work performed by the Contractor, will be carried out under the supervision of at least 1 employee of the Purchaser. Installation works shall be confirmed by a respective protocol.
2. Within 14 days from the date of Contract signing, the Contractor shall present the Purchaser a detailed time schedule of Contract implementation. The schedule must include the duration of all major activities related to the implementation of the Contract, including manufacturing, testing, delivery of the components and delivery of sets of guidelines documentation for the object of the contract.
3. Once per each two months the Contractor shall present the Purchaser short reports describing the progress of works, including the design I manufacturing stage, and any possible problems which may occur. A first report shall be delivered to the end of a second month counting from the date of the Contract signature.
4. The Contractor shall inform the Purchaser about the planned FAT deadlines of the object of the contract or its parts with at least 3 weeks in advance, in order to allow the Purchaser’s employees to participate in the tests thereof.
5. Completion of each phase of Contract realization as in the sec. 1 above has to be confirmed with an acceptance protocol signed by the Parties.
6. Delivery of the Subject of Contract shall be DDP Krakow ul. Czerwone Maki 98, 30-392 Kraków, according to Incoterms 2010, to the SOLARIS synchrotron hall. At least 30 days before the delivery deadline the Contractor shall submit written procedures/instructions of safe transport, unloading, assembly and disassembly of each part of the Object of the contract.
7. The Object of the contract must be delivered in an appropriate package which secures its contents against damages during transportation.
8. At the time of each delivery, the Contractor is obliged to provide the following documents:
	1. A list of the delivered devices and their quantities, including in particular: proper name of the device, manufacturer, year of manufacture, serial number, characteristic operational parameters,
	2. guarantee cards, manual/maintenance instruction in Polish or English language, including warranty cards of beamline components produced by the Contractor’s subcontractors.
	3. approvals, certificates, declarations of conformity, and other documents required under the SETCPP.

**§ 5**

**CONTACT PEOPLE**

1. The contact person on behalf of the Contractor shall be: …………………., e-mail: …………………., mobile …………………………………..
2. The contact person from the Purchaser’s site shall be SOLARIS employees:
	1. ……………………., e-mail: ……………………….., mobile: ………………………..,
	2. ……………………., e-mail:……………………….. , phone: ………………………...

**§ 6**

**TERMS OF PAYMENT**

1. The remuneration specified in the § 3 sec. 1 shall be paid in the following instalments:

**Part I and II:**

* 1. **The first payment** for the amount of **50%** of the Contract value shall be paid as an advanced payment after the Contract signing. The payment shall be done upon submission to the Purchaser an appropriate invoice/or proforma invoice together with an irrevocable, paid on the first demand and unconditional bank or insurance guarantee for the same amount. The bank guarantee shall be valid up to the end of the month when the final deadline for the SAT is, according to the § 4 sec. 1 point. 1.3 of the Contract.
	2. **The second payment** in the total amount not exceeding **40%** of the Contract value, will be paid after each delivery to SOLARIS within deadline stated in the § 4 sec. 1 point 1.2
	3. **The last payment** for the amount of **10%** of the Contract value, shall be paid after completed installation and successful SAT of the Object of the contract, including training of SOLARIS team and delivery of required according to the SETCCP documentation. In case SAT cannot be carried out or completed due to SOLARIS reasons, the payment becomes due after 2 months of the date of installation of the object of the contract, specified in the relevant acceptance protocol.
1. The advance payment referred to in sec. 1 pt. 1.1 will be completed within 14 days of the date of delivery of the appropriate proforma invoice together with the required bank or insurance guarantee. The payments as in the sec. 1 points 1.2 – 1.3 shall be paid within 30 days of delivery of the properly issued invoice to the Purchaser.
2. The condition for payment referred to in sec. 1 points 1.2-1.3 above, is a signed by Parties acceptance protocol as stated in the § 4 sec. 6.
3. The remuneration shall be paid from the Purchaser’s bank account to the Contractor`s bank account indicated on the invoice.
4. The place of payment shall be the Purchaser’s bank.
5. The Purchaser shall return the bank or insurance guarantees mentioned in sec. 1 point 1.1 within 14 days after expiry of their validity period.

**§ 7**

**TERMS OF INVOICING**

1. The Purchaser is a value added tax (VAT) payer, and its NIP (Tax Identification Number) is: PL 675-000-22-36.
2. The Contractor *is/is not* a value added tax (VAT) payer in the territory of the Republic of Poland and its VAT registration number is: ………………………
3. On the invoice, as the Purchaser, shall be indicated:

Uniwersytet Jagielloński

ul. Gołębia 24, 31-007 Kraków

Tax Identification Number: PL 675-000-22-36

1. On the invoice, the Contractor, shall also indicate the formula of supply: DAP Krakow according to INCOTERMS 2010, payment deadline, customs tarrif code (HS code) and net weight of the delivered devices.
2. Invoices shall be submitted in a written form as a hard copy, on the address indicated in the § 12 sect. 2 letter a of the Contract.

**§ 8**

**CONTRACTOR’S WARRANTY and MANUFACTURER’S GUARANTEE**

* + - 1. The Contractor undertakes to deliver the Object of the contract with no faults and defects. Liability under warranty for physical or legal defects, in the meaning of art. 556 to art. 576 of the Act of 23th April 1964 - Civil Code (Polish Journal of Laws of 2017, item 459 as amended) covers both defects resulting from causes inherent in the Object of the contract at the time of delivery to the Purchaser and any other physical defects, for which the manufacturer or the Contractor is responsible for, provided that the defects occur within the warranty period stated below.
			2. The Contractor ensure that the delivered Object of the contract shall be covered by the warranty valid for at least ……….. months from the date of successful completion of SAT, confirmed by an appropriate acceptance protocol. In case SAT cannot be carried out or completed due to SOLARIS reasons, the warranty period begins after 2 months from the date of completion of the installation of the entire object of the contract specified in the relevant acceptance protocol.
			3. The Purchaser undertakes to comply with the conditions of exploitation specified in the warranty cards and/or manual instruction provided by the Contractor according to the § 4 sec. 9 letter b.
			4. The Purchaser shall promptly notify the Contractor in writing or by e-mail/fax of any defect that has appeared in the Object of Contract.
			5. If defects are found, the Contractor shall immediately repair or exchange the faulty element at no costs and risks to the Purchaser. The warranty services shall be completed as quickly as possible, but not later than within 30 calendar days after the Purchaser’s notification, unless the Parties agreed upon a specific time for corrective actions.
			6. In case of warranty, it is preferred that all repairs should take place of installation at SOLARIS in Krakow. After the notification the Contractor, taking into consideration the kind and scope of the defect/fault, shall decide whether the repair can be done on the Purchaser’s site. If warranty service is impossible to perform on the place mentioned above, the Contractor shall cover all costs connected to it, in particular the costs of disassembly of faulty element, transport and re-assembly. In case a faulty element has already been repaired twice, the Purchaser reserves his right to demand from the Contractor its replacement for a new one and free of charge.
			7. The Parties foresees possibility to remove a defect by the Purchaser’s staff or by a third party, at risk and costs of the Contractor and according to the Contractor’s instructions. In particular it applies to minor and uncomplicated faults or defects, which removal costs are lower than delegation of the Contractor’s employee to SOLARIS. However, it is the Purchaser’s decision whether the defect is minor or uncomplicated. The repair action done by the Purchaser’s staff or a third party does not exempt the Contractor from warranty responsibility according to the rules stated hereof and in applicable law. Each repair action done by the Purchaser’s staff or third party shall be previously accepted by the Contractor in writing, by e-mail or fax.
			8. If the Contractor does not fulfil his obligations within the deadlines as referred in the sec. 5 above, the Purchaser may point out in a written form a suitable, at his discretion, deadline for completion of the Contractor's warranty obligations. The given additional deadline shall not be shorter than 5 working days. If the Contractor fails to fulfil his obligations within the additional deadline as above, the Purchaser is entitled to:
	1. demand the price reduction respectively to impaired value of the faulty element, or
	2. to rectify the fault at risk and expense of the Contractor, without altering of the Purchaser’s rights under the contract. In such a case the Purchaser may ask a third party to rectify the defect/fault and the Contractor is obliged to cover the third’s party remuneration within 30 days after the Purchaser’s request to do so, supplemented with a proof of payment.
		+ 1. In case a defect or fault is significant, i.e. makes impossible to operate the beamline according to its specifications, and the Contractor have not removed the defect or fault within stated deadline, or it is impossible to remove it by a third party, the Purchaser has the right to withdraw from the Contract with respect to its defected part. In such a case the Purchaser has the right to demand the return of the amount equal to the value of the defected element. The value of the defected element will be counted on the basis of the Contractor’s offer, or, if it is impossible, the Parties may mutually agree the value, or indicate an independent expert to do so.
			2. The warranty services will be provided by the Contractor, by the manufacturer or its authorized service or persons, at the expense of the Contractor.
			3. In case a significant defect or fault, which makes impossible to use the object of the contract for conducting the experiments, the warranty time for entire object of the contract as specified in sec. 2 above, shall be automatically extended by a period of repair, i.e. the time between the Purchaser’s notification and the time when the defect is remedied (either by repair or by replacement of an element).
			4. In case a defect or fault, which does not alter operation of the object of the contract and conducting the experiments, the warranty time for the defected element, as specified in sec. 2 above, shall be automatically extended by a period of repair, i.e. the time between the Purchaser’s notification and the time when the defect is remedied (either by repair or by replacement of an element).
			5. The Purchaser, independently from its rights under Contractor’s warranty as above in sec. 1-12, may at any time ask the Contractor or the manufacturer of the particular item to remove the defect under the manufacturer's guarantee. The terms and conditions of the guarantee given by the manufacturer are specified in the guarantee cards provided in § 4 sec. 9 lit. b) of the contract. In case when the Purchaser execute his rights under the guarantee given by the manufacturer, the period for exercising the rights under the contractor’s warranty for physical or legal defects shall be suspended from the date of notification to the Contractor of a defect.

**§ 9**

**LIABILITY TOWARD THIRD PARTIES**

The Contractor is fully responsible for compensating personal injuries and material damages that may arise also to third parties and which are caused by the Contractor in conjunction with the execution of this Contract.

**§ 10**

**INSURANCE**

* + - 1. Subsequent to signing of this Contract and until the end of its realization, the Contractor is responsible for arranging the requisite civil liability insurance for its legal liability due to bodily injury, including death, and damage to property with respect to its responsibilities resulting from this Contract.
			2. On request, the Contractor must send copies of the insurance policy or other proof of valid insurance to the Purchaser on the address as in the § 12 sec. 2 letter a. If the Contractor does not fulfil this condition, the Purchaser has the right to take out an insurance and charge it to the Contractor.

**§ 11**

**SUBCONTRACTORS**

The Contractor shall be liable for actions and omissions of subcontractors to the same extent as for its own actions and omissions.

Subcontracts for fabrication of the Object of the contract shall not alter the Contractors obligation towards the Purchaser, resulting from the Contract.

**§ 12**

**CORRESPONDENCE**

* + - 1. Any correspondence between the Parties shall be made in writing. The Parties accepts information sent via email by persons stated in the § 5 of the contract or by persons authorized to represent the Party (according to the institution statute, register of companies or other document like power attorney) as done in writing.
			2. The mail correspondence shall be made at the below listed addresses of the Parties:
1. National Synchrotron Radiation Center SOLARIS

Ul. Czerwone Maki 98, 30-392 Kraków, Poland.

1. ……………………….
	* + 1. The Parties undertakes to inform each other by a registered letter about any change of its mailing address as in the sec. 2 above within 7 days from the change of it, otherwise the correspondence sent on the last known address shall be deemed as delivered.

**§ 13**

**TRANSFER OF THE CONTRACT**

* + - 1. Neither this Contract nor other rights and obligations hereunder shall be assigned or otherwise transferred to a third party by one Party without prior written consent of the other Party. In particular, the Contractor is not entitled to transfer its claims arising from this Contract to third parties without the prior written consent of the Purchaser.
			2. The Contractor has to receive a written consent of the Purchaser for transferring of its rights and obligations resulting from this Contract also in case of change of the legal form of the Contractor.

**§ 14**

**CONTRACTUAL PENALTIES**

1. The Parties reserves the right to count and demand contractual penalties for the improper or inconsistence with the Contract terms, performance of the contractual obligations.
2. If the Purchaser has selected two different Contractors for each part of the object of the order, the Contractor of the given part of the contract is not liable to a contractual penalty for delay in the contract caused by actions or omissions of the Contractor responsible for delivery of remaining part of the Object of the tender.
3. The Contractor shall pay the Purchaser a contractual penalty in following cases:
	1. withdrawal from the Contract by one of the Parties due to reasons attributed to the Contractor, in the rate of 5% of the total Contract price net according to the § 3 sec. 1 of the contract.
	2. partial withdrawal from the Contract by one of the Parties due to reasons attributed to the Contractor, in the rate of 5% of the net value of a cancelled part of the contract. The value of the cancelled part of the contract shall be determined on the basis of the Contractor’s offer. If it is impossible to estimate the value on the basis of the Contractor’s offer, the Parties shall mutually agree the amount or may indicate an independent expert in order to do so.
	3. default longer than 4 weeks in SAT of the PHELIX experimental station, as stated in the § 4 sec. 1 point 1.3. The penalty rate is 0,1% of the contract net value as stated in the § 3 sec. 1, counted for each day of default starting from its first day, but not more than 5% of the contract net value.
	4. default longer than 7 calendar days in removal of defects found during the warranty period. The penalty rate is 0,1 % net value of the defected part, estimated according to rules as in the letter b) above. The penalty shall be calculated for each day of default in respect to the deadline date as determined in accordance with § 8 sec. 5 of the Contract, but not more than 10% of the defected part net value.
4. The Purchaser has the right to deduct the eventual penalties from an invoice which has to be paid.
5. The Contractor may count the contractual penalty and the Purchaser is obliged to pay it, in case of withdrawal from the contract by the Contractor due to exclusive fault of the Purchaser, in the rate of 5% of the total Contract price net, as in the § 3 sec. 1.
6. On demand of the Contractor, the Purchaser shall pay the contractual penalty in annual rate of 8% of the remuneration which was not paid on time according to the § 7 sec. 4.
7. If the Contractor finds that the agreed time of delivery cannot be met (or appears unlikely to be met), then the Contractor must promptly notify the Purchaser about this circumstances. In this situation the Parties may agree a new date of delivery, but the Purchaser still reserves his right to claim contractual penalty for the delay.
8. The Parties reserves the right to demand compensation on the basis of general rules of Civil Code, over the contractual penalties.

**§ 15**

**REVOCATIONS**

* 1. Apart from the situations regulated by the act of 23rd April 1964 – Civil Code, the Parties may withdraw from the Contract within 30 days from the date of being informed of the occurrence of the following circumstances:
1. In case the Contractor due to its insolvency is not able to regulate its financial debts for a period of at least 3 months,
2. The liquidation proceedings in respect to the Contractor has started,
3. The charging order of the Contractor has been made,
4. The Contractor’s delay in delivery of the final design is longer than 21 days in respect to the deadline stated in the § 4 sec. 1 point 1.1, or delay in delivery of the corrected design after the Purchaser’s comments or objections is longer than 14 days in respect to the above deadline.
5. The Contractor’s delay in completion of the contract milestones as stated in the § 4 sec. 1 point 1.2 and 1.3 is longer than 4 weeks.
6. The delivered object of the contract does not meet the contractual requirements and in an additional given by the Purchaser deadline, not shorter than 30 days, the Contractor does not fulfil its contractual obligation.
7. In the event of major financial difficulties of the Contractor, in particular the occurrence of bailiffs or other claims of authorized bodies with a total value exceeding PLN 200,000.00 (in words: two hundred thousand zloty);
	1. The Contractor is not entitled to compensation for withdrawal from the Contract by the Purchaser due to fault of the Contractor.
	2. Any withdrawal from the Contract shall be done in writing under pain of nullity of such a statement and shall include a justification.
	3. In the case of withdrawal, the Parties retain the right to demand contractual penalties.
	4. The party which intends to invoke/plead the circumstances described above must notify the other party immediately in writing.
	5. The Purchaser reserves the right to withdraw from the Contract only with respect to some specified parts of the Subject of Contract, retaining the ownership of remaining parts of the Subject of Contract. To the extent that the Party has not withdrawn from the Contract the provisions of the Contract, in particular those concerning payments and warranty, shall remain in force.
	6. In case of withdrawing from Contract, the Parties agree, that already accomplished deliveries of the parts of the Object of the contract, which are free from defects have to be paid and remain the property of the Purchaser.

**§ 16**

**BANK / INSURANCE WARRANTY**

* 1. The irrevocable, paid on the first demand and unconditional bank or insurance guarantee, as mentioned in the § 6 sec. 1 point 1.1 is an advanced payment security according to the art. 151 a sec,. 6 and 7 of the PPL. The warranty shall secure return of the advanced payment in case the Contractor or the Purchaser withdraw from the contract. The warranty shall be valid until the end of the month when installation and SAT of the beamline is planned according to the contract.
	2. All changes of the contract and documents being its integral part, in particular its appendixes, done after the guarantees as above had been issued, do not release the Guarantor from liability towards the Purchaser resulted from issued guarantees.
	3. Validity of the guarantee as above cannot depend on the Contractor’s payments or partial payments toward the Guarantor.
	4. The Guarantor responsibilities resulting from guarantees hereto, cannot be limited by the Guarantor’s documents, such as: general conditions of bank/insurance guarantee, statutes, instructions, or contract between the Guarantor and the Contractor.
	5. In case the contract deadline is postponed, the Contractor shall deliver an annex to the guarantee letter or a new guarantee document postponing respectively the guarantee validity time, stated in the sec. 1. The annex or new guarantee document shall be delivered 14 days before expiry of the original guarantee validity deadline and its scope and conditions shall remain unchanged. If the Contractor fails to do so, the Purchaser has the right to make use of the original guarantee in order to get back the advance payment amount. Costs of the guarantee validity extension shall be borne by the Contractor.
	6. The Guarantor shall pay the Purchaser a requested amount under the issued guarantee within maximum 5 working days from delivery of the Purchaser’s written request. The request will be delivered within the validity time of the guarantee and includes exclusively the following information:
1. The request amount,
2. Bank account number for payment.
3. Signature of the person authorized to represent the Purchaser.
4. Declaration that the Contractor failed to fulfil its duties according to the contract or fulfilled them inadequately, or failed to fulfil or fulfilled inadequately its warranty obligations.
	1. The request for payment under the bank or insurance guarantee shall be sent by the Purchaser at the Guarantor’s address by a registered post letter or by a key SWIFT code via the Purchaser’s bank not later than on the last day of the guarantee validity time at …………………… (exact hour). If the last day of the guarantee validity time is Saturday or any other free of work day for the Guarantor, the deadline as above will be shifted to the following working day of the Guarantor office.
	2. Any payment under the guarantee thereof cannot depend on:
5. Confirmation by documents or any other proofs the Purchaser’s declaration as described in the sec. 6 letter d above,
6. Delivery of the proof that the Purchaser previously asked the Contractor for refund of the requested amount, and declaration that the Contractor failed its duties as described in the sec. 6 letter d) above.
7. Unquestionability of the requested amount,
8. Delivery of any statement by the Contractor.

**§ 17**

**FORCE MAJEURE**

* + 1. In the event of a Party being prevented from fulfilling all the obligations under this Contract due to events over which the Party has no control and which the Party could not reasonably have been expected to foresee (force majeure), the Party shall be exempted from all liabilities, including damages, or permitted to reschedule the said assignment.
		2. Provisions listed in sec. 1 apply in cases when fulfilling the obligations resulting from this Contract is impossible due to force majeure affecting subcontractors of any of the Contractor.
		3. In the event of the Contract agreement being impeded due to force majeure in any significant manner for a period of more than two (2) months, a Party may unilaterally submit notification of Contract termination without liability for any cost whatsoever.
		4. If the conditions listed in sec. 1 exist and this clause comes into effect, the opposite Party must be notified without undue delay.

**§ 18**

**INFRINGMENT OF COPYRIGHT AND PATENTS**

1. The Contractor declares that to his best knowledge fulfilment of his obligations under this Contract do not infringe third parties’ IP rights.
2. The Contractor is responsible for and shall bear all the costs arising from any infringements of copyrights, patent rights or other intellectual property rights which may result from the obligations the Contract covers, and which do not result from the Purchaser’s negligence.
3. If delivered equipment is altered without the Contractor’s approval, the Contractor cannot be responsible for patent or copyright infringement claims related to unapproved changes.
4. In respect to documentation provided under the contract **and marked by the Contractor as confidential**, the Contractor shall, within the remuneration and on the date of its payment, provide the Purchaser with a license to use and dispose of this documentation. In the event that the Contractor does not have proprietary rights to such documentation – he shall transfer to the Purchaser an appropriate license. Both of the above licenses shall allow the Purchaser to use the documentation for:
	1. the use of the object of the contract or its particular elements, servicing and eventual post-warranty or others repairs, as well as for educational and didactic purposes. In order to perform service or post-warranty or others repairs, the Purchaser may make the documentation available to a third party provided that it has entered into a non-disclosure agreement (NDA contract) with it.
	2. use the documentation - in whole or in part - to conduct future public procurements or others tenderings at Solaris, as well as for the purposes of construction of other experimental stations. However such use of documentation by the Purchaser, requires a prior written consent of the Contractor.
5. The grant of the licence as referred in sec. 4 above includes the following fields of exploitation:
6. any recording and reproduction, copy to the memory of computers and servers of computer networks;
7. reproduction by printing or recording on magnetic media in an electronic form,
8. use in whole or in part, and combine with other works, the development by adding equal parts, updating, modification, translation into different languages
9. In respect to the documentation provided under this contract **which is not marked as confidential**, the Contractor shall, within the remuneration and on the date of its payment, provide the Purchaser with a license to use and dispose of this documentation. In the event that the Contractor does not have proprietary rights to such documentation – he shall transfer to the Purchaser an appropriate license. Both of the above licenses shall allow the Purchaser to use the documentation without limitation on the territory, time and number of copies, including the following fields of exploitation:
10. any recording and reproduction, copy to the memory of computers and servers of computer networks;
11. reproduction by printing or recording on magnetic media in an electronic form,
12. use in whole or in part, and combine with other works, the development by adding equal parts, updating, modification, translation into different languages
13. publication on the Purchaser website.
14. The Contractor under remuneration and on the date of its payment, transfers to the Purchaser all copyrights and related rights, including the exclusive right to authorize execution of derivative copyright, to the submitted control system software of the PHELIX experimental station, and its technical documentation, without any restriction to use in any time in the Republic of Poland and abroad.
15. Transfer of the copyrights as in the sect. 5 above, comprises the following fields of the exploitation of the software:
	1. Usage, displaying, transmission and storage, regardless of format, system or standard.
	2. permanent or temporary fixation or reproduction, in whole or in part, including the introduction to the computer memory, and permanent or temporary fixation or reproduction of records, including making copies and any use and disposal of these copies
	3. marketing, lending or rental of the original or copies,
	4. creating new versions and adaptations or any other change,
	5. public distribution, in particular, the distribution in such a way that everyone can have access to it in a place and at a time individually chosen by them, in particular by electronic communication within the local network and the Internet,
	6. the right to reproduce the source code and decompile, including the right to permanent or temporary reproduction, in whole or in part, without limiting the admissibility of these activities, in particular for use for the purposes of interaction with computer software or any other form of service,
	7. authorization to construct elaborations and make modifications and disposal and use of such elaborations in all fields of use specified in this agreement,
	8. the right to determine the name under which it will be used or distributed, including the right to be registered in the name of the Purchaser trademarks, which will be marked,
	9. the right to use for marketing or promotional purposes, as well as to mark or identify products and services and other forms of business, as well as for teaching purposes,
	10. the right to dispose of and make them available for use, including the granting of licenses to third parties, in all these fields of use in the Contract,
16. Regarding the elements of the control system software of the delivered object of the contract, in particular other software programs, which are indispensable for its proper running, and which copyrights does not belong to the Contractor, the Contractor shall transfer to the Purchaser the licenses to this software programs in the same scope as they were transferred to him by the copyright owner.

**§ 19**

**DISPUTES**

1. Disputes that may arise from the execution of this Contract shall be solved in an amicable way.
2. If an agreement cannot be established in a manner listed in sec. 1, all disputes resulting from this Contract shall be subject exclusively to the Polish court competent for the Purchaser’s place of residence.
3. Eventual invalidity of one or more of the Contract’s provision, does not affect the validity of the Contract as a whole. If such a situation occurs, the Parties will strive to replace an invalid part of the Contract with a new provision which is coherent with the objectives of this Contract and its other provisions.
4. In matters not stipulated herein, the Polish law apply, in particular, the act of 29th January 2004 – Public Procurement Law [Polish Journal of Laws of 2017, item 1579 as amended]) and of the act of 23rd April 1964 – Civil Code [Polish Journal of Laws of 2017, item 459 as amended]).

**§ 20**

**CHANGES AND SUPPLEMENTS**

1. Changes and supplements to the current Contract may only be made through a written document under pain of nullity, and signed by authorized representatives from both the Purchaser and the Contractor.
2. The Parties mutually consent to change the contract through an appropriate annex, with retaining the unchanged price, in following situations:
3. Change of the deadlines for the performance of the Contract, as stated in the § 4 sec. 1, by their extension due to force majeure as in the § 17.
4. Change of the deadlines for the performance of the Contract, as stated in the § 4 sec. 1, by their extension due to reasons attributable to the Purchaser, in particular in result of introduced on the Purchaser’s request changes in the technical parameters of the object of the contract, which requires shifting of the Contract end date. Amendment of the foregoing deadlines, has to be accepted by the Parties.
5. Change of the deadlines for performance of the Contract, as stated in the § 4 sec. 1, by their extension due to reasons attributable to the Purchaser, regarding the lack of preparation of the place of the delivery and installation of the PHELIX experimental station;
6. Change of deadlines for the contract by extending them in the event that two parts of the subject of the contract are carried out by two different Contractors and the delay of one of them in the performance of the contract adversely affects the timely performance of the contract by the other Contractor.
7. Change of the deadlines for performance of the Contract, as stated in the § 4 sec. 1, by their extension due to the subcontractor’s delays in performing of theirs contractual obligations in respect to the Contractor. Amendment of the foregoing deadlines, is made at the Contractor’s request and requires the Purchaser’s approval. The Purchaser may refuse acceptation when the foregoing amendment would expose him to an inconvenience associated with use of the synchrotron, or incurs losses related to e.g. a risk of losing the specific subsidy from Ministry of Science and Higher Education for the construction of the PHELIX beamline. In case the requested change of the contract deadline extends beyond the date of 15 June 2019, a prior consent of Ministry of Science and Higher Education to extend the project deadline for construction of the PHELIX beamline is the necessary condition.
8. Extension of the warranty time limit – pursuant to its extension by the manufacturer or the Contractor;
9. Improvement of quality or other parameters characteristic for the object of the Contract or changing the technology into equal one or better, increase in the efficiency of equipment and safety class – in the event when the object of the Contract offered by the Contractor is withdrawn from the market by the manufacturer or is not manufactured anymore;
10. Renovation solutions due to technological progress or changes in applicable laws,
11. Change of subcontractor, due to random events or other events favourable for the Purchaser; in case when the Contractor declared to use subcontractors for performing of the Contract.
12. The Parties mutually consent to change the contract through an appropriate annex, with a possible change of the Contractor’s remuneration, in the following situations:
	1. Changes in the amount of minimum wage or minimum hourly wage determined based on provisions of the Act of 10 October 2002 on the minimum wage,
	2. Changes of the rules on social insurance or health insurance, or changes of the rates of social security or health insurance contributions

- on the terms provided for in sec. 4-6 below and under the condition that these changes will affect the cost of contract performance by the Contractor.

* 1. referred to in the art. 144 sec. 1 points 2 – 6 of the PPL Act.
1. Any change of the Contractor’s remuneration in the cases referred to in the sec. 3 points a) and b) above will cover only a part of the remuneration, in respect of which there has been a change in the cost of performance of the contract by the Contractor, in connection with entry into force of the provisions ass referred to in sec. 3 points a) and b) above.
2. In the case of the change referred to in sec. 3 point a) above, the remuneration will be changed by the amount of salary increase of the Contractor’s employees directly involved in the contract implementation to the amount of the revised minimum wage or the amount of the minimum hourly wage. Only the part of the Contracor’s employees remuneration, which is directly connected with the contract implementation hereto, may be the basis for increase of the Contractor’s remuneration.
3. In the case of the change referred to in sec. 3 point b) above, the remuneration will be changed by the amount of increase in the total cost of the Contractor, implicated by the changes in respect to salaries of the Contractor’s employees involved in the contract implementation, under the condition that the basis of salaries (net amount) remain unchanged. Only the part of the Contracor’s employees remuneration, which is directly connected with the contract implementation hereto, may be the basis for increase of the Contractor’s remuneration.
4. In order to make the changes referred to in sec. 3 points a) and b) above, each Party may request the other Party for a change in the amount of remuneration payable to the Contractor, with a justification. The justification shall include in particular: a detailed calculation of the total amount by which the Contractor’s remuneration shall be changed, indication of the date on which the changes had occurred or from which they will come into force.
5. In the case of a change referred to in sec. 3 points a) and b) above if the application is made by the Contractor, he is obliged to attach to the application documents, which will indicate the extent to which these changes have an impact on the cost of implementing the Agreement.
6. The changes of payment conditions in such a way that part or all of the remuneration, as stated in the § 6 sec. 1 point 1.1 or 1.2, shall be paid after completed realization of the object of the contract, confirmed with final acceptance protocol, does not require a written amendment between the Parties. Any such a change of payment condition may be introduced on a written request of the Contractor.

**§ 21**

**SIGNING OF THE CONTRACT**

1. This Contract shall be valid from the date on which both Parties have signed the Contract.
2. The Contract has been written in four copies - two in Polish and two in English and each Party receives one copy in each language.

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The Purchaser The Contractor

Date: ……………………………… Date: ……………………………