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| **JAGIELLONIAN UNIVERSITY IN CRACOW****PUBLIC PROCUREMENT DEPARTMENT****Ul. Straszewskiego 25/2, 31-113 Cracow****tel. +4812-432-44-50, fax +4812-663-39-14;****e-mail:** **bzp@uj.edu.pl**[**www.uj.edu.pl**](http://www.uj.edu.pl)[**www.przetargi.uj.edu.pl**](http://www.przetargi.uj.edu.pl) |  |

**Cracow, August 14, 2019**

**Invitation to tender hereinafter referred to as the „Invitation” or „I”**

1. **Name (company) and address of the Ordering Party**
	1. Jagiellonian University, ul. Gołębia 24, 31-007 Cracow.
	2. Case handling unit:
	3. Public Procurement Department of the Jagiellonian University in Cracow,
	ul. Straszewskiego 25/2, 31-113 Cracow
		1. phone +4812-432-44-50; fax +4812-432-44-51 or +4812-663-39-14;
		2. e-mail: bzp@uj.edu.pl
		3. website:[www.uj.edu.pl](http://www.uj.edu.pl)
		4. announcements and information publication place: [www.przeatrgi.uj.edu.pl](http://www.przeatrgi.uj.edu.pl)
		5. Public Procurement Department of the Jagillonian University in Cracow,
		ul. Straszewskiego 25/2, 31-113 Cracow is open from Monday to Friday,
		from 7:30 am to 3:30 pm, excluding official days off .
2. **Procurement mode**
	* + 1. A procurement procedure is handled under the mode of a procedure as applicable to the announcement of invitation to tender based on the Article 4d item 1 clause 1 of the Act of January 29, 2004 – Public Procurement Law (i.e. Journal of Law
			of 2018 item 1986 as amended) and Act of April 23, 1964 – Civil Code (i.e. Journal
			of Law of 2019 item 1145 as amended).
			2. The records specified in the Invitation shall be applicable to the actions undertaken
			by the Ordering Party, hereinafter referred to as the Ordering Party and by the Interested Party, hereinafter referred to as the Contractor, in the procurement procedure.
3. **Description of the procurement subject**
4. The subject of the procurement shall be delivery of a ceramic chamber being an exact replacement of the chamber operating in Kicker magnet, installed in the storage ring
of SOLARIS synchrotron of the energy of 1,5 GeV. Manufacturer’s marking: COSY.002.16.01.00.AS and F599-152-004.
5. The Ordering Party hereby informs that the ceramic chamber installed in SOLARIS synchrotron was designed with the purpose of performing a Kicker type magnet by BUDKER Institute of Nuclear Physics, being the owner of all intellectual property and industrial property rights including but not limited to copyrights, patents, trademarks, designs, etc. to the chamber’s design. Since the Ordering Party in not in the possession of the intellectual and industrial property rights to the technical documentation of the ceramic chamber, the Tenderer shall obtain a consent of Budker Institute of Nuclear Physics for its usage with the purpose of performing a ceramic chamber for NCPS SOLARIS UJ. The Contractor shall declare to be in the possession of the subject-matter permit (the Addendum No. 2 to the offer). It must be documented by the Contractor upon the request of the Ordering Party.
6. The ceramic chamber must meet all the technical parameters to ensure proper operation
of Kicker magnesium. Upon the delivery of the ceramic chamber, all required certificates and documents describing the results of handled tests must be delivered, including at least the following:
7. Device’s guarantee card,
8. Operating and maintenance manual,
9. Materials certification for materials used for the performance of ceramic parts,
10. Materials certification for materials used for the performance of metal parts,
11. Results of the leak proof test,
12. Results of the tail gas analysis test,
13. Protocol from the heating process,
14. Protocol from the measurement of parameters characteristic for a ceramic chamber guaranteeing the correct operation with the magnet.
15. The Ordering Party shall reserve the right to carry out, in liaison with Budker Institute
of Nuclear Physics, additional tests of the chamber prior to its shipment to the Ordering Party, in particular titanium coating quality tests, whereas the purpose
of the subject matter tests may be only the verification related to the conformity of chamber parameters with the requirements specified in the technical documentation drafted by Budker Institute of Nuclear Physics.
16. It is obligatory to secure the ceramic chamber in such a way so that it was protected against any damaging in transit. The Tenderer shall also cover all the costs related to the transport to NCPS SOLARIS and its insurance. The costs shall be included
by the Tenderer in the offer price.
17. Guarantee: minimum 12 months as of the delivery date.
18. Designation of the object of contract according to the code of the Common Procurement Vocabulary CPV: 38540000-2 machines and apparatuses for testing and measuring.
19. **Order execution date**

The order must be executed within 25 weeks as of the conclusion hereof, with the option of its earlier execution by the Ordering Party.

1. **Information on communication manner between the Ordering Party
and the Contractors and declarations and documents submittal, as well as indication of persons authorized to communicate with the Contractors**
	1. It is permissible to communicate in writing or via e-mail.
	2. It is recommended to communicate electronically via the following e-mail address: alicja.rajczyk@uj.edu.pl
	3. Shall the Ordering Party or the Contractor submit any documents or information
	by e-mail, each Party shall immediately confirm its receipt upon the request of the other Party.
	4. Prior to the submittal of offers, remarks may be sent to the Ordering Party by the Contractors as regards the content of the Invitation. In justified cases, the Ordering Party by taking into consideration the remarks sent, may amend the content
	of the Invitation and prolong the deadline for the submittal of offers as appropriate.
	5. Alicja Rajczyk, e-mail: alicja.rajczyk@uj.edu.pl, shall be a person entitled as regards the communication on any substantive and formal issues.
2. **Description of offers preparation manner**
3. The Contractor shall submit an offer for the entire subject of the order and calculate
the price for the entire subject of the order.
4. The offer along with the addendums being an integral part hereof, shall be drafted by the Contractor in line with the content of the provisions of the Specification, i.e. according to the content of the offer form and its Addendums attached to the Specification.
5. The offer must be signed and drafted in Polish or English and submitted in writing or sent electronically to the e-mail address specified in the Invitation.
6. It is recommended that all pages of the offer and its addendums were signed by
the person (persons) authorized to submit declarations of will on behalf of the Contractor, whereas the signature (signatures) at the offer’s form and its addendums (declarations) and certified true copies of documents shall be furthermore affixed with the company seal and name stamp of the Contractor.
7. Any revisions or amendments to the content of the offer must be signed by the person (persons) signing the offer and affixed with the revision dates.
8. The Contractor shall be liable to submit a POA to the offer in case it is signed by a proxy.
9. The Interested party shall have the right to reserve, at least by the day of conclusion hereof, that no information related to the tender constituting a company’s secret under
the meaning of Article 11 item 4 of the Act of April 16, 1993 on combating unfair competition (i.e. Journal of Law no. 153 item 1503 as amended) may be disclosed.
10. Any expenses related to the preparation and submittal of the offer shall be incurred
by the Contractor.
11. By submitting an offer, the Contractor undertakes to execute the subject hereof in compliance with all the requirements of the Ordering Party as specified in the Invitation and its Addendums.
12. **Place, manner and deadline for the submittal and opening of offers**
13. Offers are to be submitted to the Public Procurement Department of the Jagiellonian University in Cracow, ul. Straszewskiego 25/2, 31-113 Cracow **by August 22, 2019**
**by 1:00 am** in writing or sent by e-mail to the following e-mail: bzp@uj.edu.pl with a designation enabling for the identification of the Contractor and with designation
of the subject and number of the procedure by indication ***„An offer for delivery
of backup vacuum chamber for Kicker magnet for SOLARIS National Synchrotron Radiation Centre, case ref. no 80.272.277.2019***”.
14. Announcement of information on the submitted offers and offered prices as well as
on any other essentials elements of submitted offers shall be public and take place as of **August 22, 2019,** at 01:05 pm in the Public Procurement Department of UJ,
ul. Straszewskiego 25/2, 31-113 Cracow.
15. **Description of the price calculation manner**
	1. The lump sum of the offer shall be expressed in Polish zloty (PLN) or EUR. The price shall include all costs required for the execution hereof, in particular any expenses related to the tests, packaging, transport and insurances in transit. Delivery terms: DAP Cracow (Incoterms 2010).
	2. Should the seat of the Contractor be premised outside the territory of Poland, VAT and any possible customs duties (if applicable) shall be added by the Contractor to the price, for the purpose of evaluation and comparison of the offers.
	3. Price indexation is not stipulated for the primary scope of the subject of the Agreement, whereas the calculated price shall be a lump sum for the primary scope of the procurement.
	4. Neither pre-payments nor advance payments are stipulated for executing the subject of the procurement, and the payment shall be made in accordance with the provisions of the Agreement.
16. **Description of actions and criteria to be taken into consideration by the Ordering Party upon the selection of the best offer**
	1. The Ordering Party shall choose the best offer out of all valid offers submitted
	to the procurement, while taking into consideration upon the evaluation and comparison of the submitted offers, in particular the price of the subject of the procurement, guarantee period, options right duration period and extra characteristics and terms of the offer.
	2. During the course of the research and evaluation of the offers, the Ordering Party may request the Contractors to submit explanations as regards the content of the submitted offers, as well as negotiate the content and prices of the offers with observance
	of the applicable rules pertaining to the transparency and fair treatment of the Contractors.
17. The Ordering Party shall correct any obvious typographical errors and obvious accounting errors in the content of the offer, with consideration of the accounting consequence of corrections made, as well as and any errors consisting in non-compliance of the offer with the requirements of the Invitation, not contributing to essential changes to the content of the offer, and immediately notify the Contractor whose offer was corrected about the hereinabove.
18. The Ordering Party shall have the right to reject an offer, in particular, if it was submitted
after the offers submittal date or if it is non-compliant with the requirements of the Invitation, or should there be any other reasonable circumstances effecting in non-compliance of the offer with the existing legislation.
19. The Ordering Party shall reject the offer submitted by:
* a Contractor being a natural person being lawfully convicted for the following crime:
	1. being the subject of Art. 165a, Art. 181-188, Art. 189a, Art. 218-221, Art. 228-230a, Art. 250a, Art. 258 or Art. 270-309 of the Act of June 6, 1997 – Penal Code (Journal of Law 553, as amended) or Art. 46 or Art. 48 of the Act of June 25, 2010 on the sport (Journal of Law of 2016 item 176),
	2. of a terrorist nature being the subject of Art. 115 §20 of the Act of June 6, 1997 – Penal Code,
	3. fiscal,
	4. being the subject of Art. 9 or Art. 10 of the Act of June 15, 2012 on effects of the assignment of work to foreigners who stay within the territory of the Republic of Poland (Journal of Law 769) against the law;
* a Contractor whose member of the Management Board or Supervisory Board, partner in a general partnership or limited liability partnership or a general partner in a limited joint-stock partnership or a proxy was convicted for crimes being the subject of the hereinabove - lit. a - d;
* a Contractor who has been issued a legally-binding decision of the court or a final administrative decision of the court on default of payment of taxes, fees or social or health insurance premiums, unless the Contractor proceeded with the payment of taxes, fees and social or health insurance premiums due along with any applicable interests or fines or entered into a binding agreement on the repayment of dues;
* a Contractor who has entered into an Agreement with other Contractors with the aim of disrupting the competition between the Contractors in the procurement procedure which may be proved by the Ordering Party under applicable means of proof;
* a Contractor being a collective entity who has been adjudicated by the court with a ban of participating in public procurements, based on Act of October 28, 2002 on liability of collective entities for prohibited acts under the fine penalty (Journal of Laws of 2015 item 1212, 1844 and 1855 and of 2016 item 437 and 544);
* a Contractor who was adjudicated with a ban of participating in public procurements under the title of preventive measures;
* a Contractor in relation to whom a liquidation was initiated, satisfaction of creditors was stipulated under the arrangement approved by the court in restructuring procedure by liquidation of his assets or in relation to whom
a liquidation of assets was adjudicated by the court under Art. 332 item 1 of the Act of May 15, 2015 – Restructuring Law (Journal of Law of 2015, item 978 as amended) or whose bankruptcy was announced, except for the Contractor who after the announcement of bankruptcy, entered into arrangements approved by a legally-binding decision of the court, provided the arrangements do not stipulate for the satisfaction of creditors by liquidation of assets of the Bankrupt Person, unless the liquidation of assets was adjudicated by the Court under Art. 366 item 1
of the Act of February 28, 2003 – Bankruptcy Law (i.e. Journal of Law of 2015 item 233 as amended),
* a Contractor who has intentionally seriously infringed upon the performance of his professional obligations contributing to discredit of honesty, in particular
if the Contractor as a result of intentional actions or gross violation failed to execute or unduly executed the order what may be proven by the Ordering Party under applicable means of proof,
* a Contractor who due to reasons on his side failed to execute or improperly executed, to a significant extent, the former Agreement on public procurement or Concession Agreement concluded with the Ordering Party being the subject of Art. 3 item 1 clause 1–4 of the Act on PPL, thus effecting in the termination of the Agreement or adjudication of the compensation,
* a Contractor who has violated the obligations related to the payment of taxes, fees or social or health insurance premiums what may be proven by the Ordering Party under the applicable means of proof, except for the instance specified
in Art. 24 item 1 clause 15 of Act of PPL, provided the Contractor proceeded
with the payment of taxes, fees and social and health insurance premiums due along with any attributable interests and fines or in case a binding arrangement on the repayment of dues was concluded.
1. The Ordering Party shall invalidate the procurement procedure in particular if no offer
is submitted, if all submitted offers are rejected, if the price of the best offer exceeds the amount which may be assigned by the Ordering Party for the financing of the order, or should there be any other justified circumstances effecting in invalidity of the Agreement on the procurement.
2. The Ordering Party shall notify at the same time all Contractors participating
in the tender on the decision taken in the procedure by giving factual substantiation.
3. **Information on formalities to be met after the selection of the offer for the conclusion of the Agreement**

The Ordering Party shall immediately release an information on the procurement at the website of the Bulletin of Public Information by providing the name (company) or name and surname of the entity chosen for the conclusion of the agreement for the execution of the order, or information on abstaining from the procurement..

1. **Sample Agreement is attached in Addendum 2 to the Specification**
2. **Information on personal data processing – pertaining to a Contractor being
a natural person**

In accordance with Art. 13 item 1 and 2 of the Resolution of the European Parliament
and the Council (EU) 2016/679 of April 27, 2016 on the protection of natural persons under the personal data processing and free movement of personal data and repeal
of the directive 95/46/WE (general resolution on data protection, hereinafter referred to as the „General Resolution”), the Jagiellonian University in Cracow hereby informs,
as follows:

1. **The Administrator** of your personal data is the Jagiellonian University in Cracow,
ul. Gołębia 24, 31-007 Cracow, represented by the University President of UJ.
2. **The following Data Protection Inspector was appointed by Jagiellonian University in Cracow**, ul. Gołębia 24, 31-007 Cracow, room no. 31. Contact with the Inspector
is possible via [e-mail](file:///E%3A%5C06%20ToDo%5CAppData%5CLocal%5CAppData%5CLocal%5CMicrosoft%5Cwasm%5CAppData%5CLocal%5CMonika%5CDesktop%5Ce-mail): iod@uj.edu.pl or by phone: 12 663 12 25.
3. Your personal data will be processed **based on Art. 6 item 1 letter c of the General Resolution with the purpose of participation in the public procurement procedure within the area of science, case ref. no. 80.272.277.2019**
4. Providing your personal data is needed under the statutory requirement as specified in the provisions of the Act of January 29, 2004, Public Procurement Law (i.e. Journal of Law of 2018 item 1986 as amended, hereinafter referred to as „PPL”) with regard to the participation in the public procurement procedure.
5. The consequences related to the failure to provide personal data arise out of Act on PPL.
6. Recipients of your personal date shall be individuals or entities to whom
the documentation related to the procedure will be disclosed based on Art. 8 and Art. 96 item 3 of PPL.
7. Your personal data will be stored in accordance with Art. 97 item 1 of PPL
for the period of: at least 4 years as of the public procurement procedure’s end date or until the lapse of the deadline for the possibility of controlling the project
co-financed or financed under the financial means of the European Union or durability
of the project or other agreements or liabilities arising out of the handled projects.
8. **You shall have the right to**: access the content of your data, clarify your data, limit your data processing – in the events and on terms as specified in the General Resolution.
9. **You shall not have the right to:** remove your personal data, relocate your personal data or raise an objection against your personal data processing, since the legal basis
for the processing of your personal data shall be Art. 6 item 1 letter c of the General Resolution.
10. You shall have the right to submit a **claim to the President of the Personal Data Protection Office,** should you acknowledge that processing of your personal data violates upon the provisions of the General Resolution.
11. **Taking advantage** of the entitlement to rectify or complete your personal data as specified in Art. 16 of the General Resolution, may neither effect in the change of the public procurement procedure’s result nor change the provisions of the Agreement within the scope non-compliance with the Act on PPL, or violate the integrality of the protocol related to the public procurement procedure and its addendums.
12. In the event the execution of duties specified in Art. 15 item 1-3 of the General Resolution, with the purpose of executing your entitlements as specified in clause 6 and 8 hereinabove and with the purpose of obtaining copies of data subject to processing, would require an incommensurable effort, **the Ordering Party shall have the right to ask you** to provide extra information aimed at defining the request, in particular to provide the name or date of initiated or finished public procurement procedure.
13. **Submit** a request on the limitation of your personal data processing as specified in Art. 18 item 1 of the General Resolution shall not effect in the limitation of your personal data processing until the end of the public procurement procedure.

**Addendums to the Specification:**

Addendum 1 – sample of the offer form

Addendum 2 – sample of the Agreement

**OFFER FORM**

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*ORDERING PARTY –* **Jagiellonian University**

 **ul. Gołębia 24, 31 – 007 Cracow;**

*Case handling unit –* **Public Procurement Department of UJ**

ul. Straszewskiego 25/2, 31-113 Cracow

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Name (Company) of the Contractor –

………………………………………………………………………………….,

Address of the seat – …………………………………………………,

Address to the correspondence –

……………………………………………………………………………………,

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

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

NIP - .................................................; REGON - .................................................;

*With reference to the invitation to tender for choosing a Contractor for delivery of backup vacuum chamber for kicker magnet for SOLARIS National Synchrotron Radiation Centre, we would like to submit the following offer:*

1. we do hereby offer the execution of the subject of the procurement for the total net amount of ……...................... EUR\*/PLN\*, (say: .................................................................. EUR\*/PLN\*)
2. we do hereby offer the deliver the subject of the procurement within 25 weeks as of the moment of the procurement, i.e. conclusion of the agreement,
3. we do hereby declare to offer the delivery of the subject hereof with the manufacturer’s guarantee for the period of: …….. (minimum 12 months) as of the delivery date,
4. we do hereby declare to get acquainted with the specification and acknowledge
to be bound by the terms and rules of the procedure specified herein.
5. the offer shall consist of ........................ subsequently numbered pages,
6. the addendums to the offer form shall be the following:

Addendum 1 – A declaration of the Contractor,

Addendum 2 – A declaration of the Contractor on having a permit of Budker Institute of Nuclear Physics to use technical documentation of the ceramic chamber for the purpose of performing a ceramic chamber for NCPS SOLARIS UJ.

others ................................................................. .

*Town .................................................. date ........................................... 2019.*

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

*(seal and signature of the person authorized to make declarations
on behalf of the Contractor)*

**Addendum 1 to the offer form**

*(Company’s stamp of the Contractor)*

**DECLARATION**

By submitting an offer *for delivery of backup vacuum chamber for kicker magnet for SOLARIS National Synchrotron Radiation Centre*, I do hereby declare that there are no premises specified in clause 9)5. „Invitation to Tender” effecting in the rejection of the offer.

*Town .................................................. date ........................................... 2019.*

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

*(a stamp and signature of the person authorized to make declarations on behalf of the Contractor)*

**Addendum 2 to the offer form**

**DECLARATION**

By submitting an offer *for delivery of backup vacuum chamber for kicker magnet to SOLARIS National Synchrotron Radiation Centre*, I hereby declare that …………………… (Contractor’s name) obtained a permit of Budker Institute of Nuclear Physics for use of the technical documentation of ceramic chamber for the purpose of performing a ceramic chamber for NCPS SOLARIS UJ.

*Town .................................................. date ........................................... 2019.*

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

*(a seal and signature of the person authorize to make declarations on behalf of the Contractor)*

**Addendum 2 to the Invitation**

**THE AGREEMENT 80.272.277.2019**

**Concluded in Cracow as of ................ 2017, by and between:**

**Jagiellonian University in Cracow with headquarters at ul. Gołębiej 24, 31-007 Cracow,
NIP 675-000-22-36, hereinafter referred to as the „Ordering Party”, represented by:**

**1. ………… –……………., within the financial countersignature of the Finance Officer of UJ**

**and ………………………,**

**, hereinafter referred to as the „Contractor”, represented by:**

* + 1. **………..**

As a result of a procedure held under the mode of a procedure related to the invitation to tender based on Art. 4d item 1 clause 1 of the Act of January 29, 2004, Public Procurement Law (i.e. Journal of Law of 2018, item 1986 as amended), hereinafter referred to as **„PPL”** and Act of April 23, 1964 – Civil Code (i.e. of May 16, 2019, Journal of Law of 2019, item 1145), hereinafter referred to as **„CC”,**the Agreement was concluded, whereas:

**§ 1**

**SUBJECT OF THE AGREEMENT AND OBLIGATIONS**

1. The subject of the Agreement (hereinafter referred to as the „Agreement”) shall be delivery
of a spare vacuum chamber for Kicker magnet to SOLARIS National Synchrotron Radiation Centre of UJ (NCPS SOLARIS), delivered by Budker Institute of Nuclear Physics with headquarters in Russia, under the framework of an Agreement concluded under the mode
of a single hand procurement of October 15th, 2012, Agreement no. CRZP/UJ/353/2012.
The subject of the Agreement shall be delivery of a ceramic chamber to the address specified in the order as well as removal of the defects and repairs within the guarantee period.
2. A detailed description of the subject of the Agreement shall be included in the invitation
to submitting offers as of ………….. hereinafter referred to as the **„Invitation”** along
with the Addendums and in the offer of the Contractor, constituting an integral part hereof.

**§ 2**

**CURRENCY AND VALUE OF THE AGREEMENT**

1. The Ordering Party shall pay a remuneration in the amount of ……………………….. net
for the executed and picked-up Subject of the Agreement.
2. The amount of net remuneration shall be increased by an appropriate amount of VAT at the rate provided by the regulations being in force on the invoice date. However, in case provided in proper regulations this tax shall be incurred by the Ordering Party itself to the account of the proper Tax Office in Poland.

**§ 3**

**AGREEMENT EXECUTION DEADLINE AND TERMS**

1. The Contractor shall be liable to deliver the subject hereof within the period of 25 weeks
as of the moment of conclusion hereof, i.e. date specified in the recitals of the Agreement.
The delivery date shall be deemed to be the date of signing of the handing over protocol
by the Ordering Party without any claims, with reservation of the provisions of item 16 hereinbelow.
2. The delivery of the subject of the Agreement shall be made in the form of Delivered At Place (DAP) Cracow in accordance with the regulations of Incoterms 2010 to the following address:

Narodowe Centrum Promieniowania Synchrotronowego SOLARIS

Ul. Czerwone Maki 98

30-392 Kraków, Poland.

1. The subject of the Agreement must be delivered in proper packaging securing the content against damaging in transit. Shock watch indicators should be placed inside and outside (in a well visible place) of the packaging.
2. The Contractor shall notify the Ordering Party via e-mail (to the address: andrzej.marendziak@uj.edu.pl) on the planned delivery date, at least upon
5 days notice and ask for the indication of the precise delivery address.
3. The persons responsible for the receipt of the devices from the side of the Ordering Party shall
be individuals specified in §4 item 1.
4. Upon the delivery, the Contractor shall provide the following documents
in Polish and English:
	1. Device’s guarantee card,
	2. Operating and maintenance manual,
	3. Materials certificates for the materials for the performance of ceramic parts,
	4. Materials certificates for materials used for the performance of metal parts,
	5. Results of the leak proof test,
	6. Results of the test from the analysis of tail gases,
	7. Protocol from the heating process,
	8. Protocol from the measurement of parameters characteristic for the ceramic chamber guaranteeing the correctness of its operations with the magnet,
5. The Contractor, not later than as of the shipment day of the subject hereof, shall inform
the Ordering Party on the shipment by providing the name of the courier company/ carrier
and the tracking number.
6. The Ordering Party shall undertake to receipt the delivered subject hereof within 15 working days
as of the delivery date. During the receipt, the Ordering Party shall proceed with the heating
of the chamber, tightness test and analysis of the tail gases as well as with other actions handled for the evaluation in terms of meeting the technical parameters by the delivered subject
of the Agreement. The Ordering Party shall have the right to refuse to pick up the receipt
in the event the delivered subject of the Agreement fails to meet the requirements, in particular, when during the performance o tests and heating, the coating of the titanium in the chamber shall fall off the walls.
7. After proceeding with the heating and performing tests being the subject of item 6 hereinabove, the Ordering Party shall draft an appropriate handing over protocol including the results
of the tests and shall disclose it to the Contractor.
8. The Ordering Party shall immediately inform the Contractor in writing on any defects or failures to the subject hereof reported directly after the delivery (i.e. visual appraisal)
or during the aforementioned heating and tests.
9. In the event of occurrence of any defects or faults to the subject hereof reported directly following the delivery or as a result of heating treatment or tests held, the Ordering Party shall be entitled
to appoint an additional deadline to the Contractor for the performance of the subject hereof,
yet not shorter than 2 weeks.
10. The Parties set forth that the Ordering Party shall document the faults/defects, in particular by photographing them.
11. Signing of the handing over protocol by the Ordering Party without any claims, after performing the heating and tests, shall be mutually deemed by the Parties as a release of the object to the Ordering Party under the provisions of Art. 548 §1 of the CC. The subject matter moment shall also be deemed to be the signing of the handing over protocol in the situation specified in item 16 hereinunder.
12. The Parties hereby agree that in the event any faults or defects to the subject hereof are noticed by the Ordering Party during the presence of the means of transport handling the delivery, the Ordering Party shall have the right to demand such subject hereof to be taken back by the means of transport upon the cost and risk of the Contractor. The Contractor shall acknowledge that the supplier to deliver the subject hereof will be informed on such
an entitlement of the Contractor, and if such a solution is extra payable at the supplier,
the Contractor shall cover all expenses related thereto. In the event when despite the records
of item 14, the supplier refused to pick up the subject hereof, in relation to which
a damaging/fault was reported by the Ordering Party or if the faults/defects have been noticed within 15 working days (item 8 hereinabove), the Parties shall mutually agree that such
a faulty/damaged subject of the Agreement will be stored (withhold) in the warehouse
of the Ordering Party upon the cost and risk of the Contractor. With the aim of avoiding any doubts, the Parties agree that it will not be tantamount to the release of the subject hereof
to the Ordering (risk of additional loss or damage shall be born by the Contractor).
13. In the event, the supplier was no longer present (means of transport) at the side o the Ordering Party when noticing the faults/ defects, the Contractor having received a notice from
the Ordering Party, shall ensure as soon as possible – upon his costs and risk – the receipt and transport of the faulty/ damaged subject hereof to the Ordering Party (NCPS SOLARIS). It shall not pertain to the instance when the Contractor based on information received from the Ordering Party shall state that the fault/damage may be removed at the site of NCPS SOLARIS. Then, the Contractor shall remove the fault/defect within the period specified in item 11*.*
14. In the event the Ordering Party shall acknowledge that the noticed damage/fault is not essential, i.e. in particular enable for the use of the subject hereof (device) in accordance with its designation, the Ordering Party may at his own discretion:
	1. use the entitlements stipulated in the paragraphs hereinabove or
	2. sign the handing over protocol by describing the noticed damage/ fault in short. In the event specified in letter b) the delivery shall be deemed to be handled within a due time, while the Ordering Party shall have the right to encumber the Contractor with a remuneration in relation to which the fault/defect shall reduce the value of the subject hereof (device) or demand that the fault be removed at the Contractor’s cost.

**§ 4**

**CONTACT PERSONS**

1. The contact person for the purpose of the execution hereof from the side of the Contractor shall be ………………………………………….
2. The contact person on the side of the Ordering Party shall be: …………………,
e-mail: ………………………..….., mobile: ……………………………. .
3. The Parties hereby authorize the hereinabove persons to make arrangements on their behalf under the Agreement which shall not constitute its change and to handle the receipts, including signing of the handing over protocol.

**§ 5**

**PAYMENT TERMS**

The remuneration being the subject of §2 item 1 shall be payable in parts, as follows:

* 1. **First payment** in the amount of up to **50%** of the remuneration value being the subject of § 2 item 1 shall be payable as an advance payment after the conclusion of the Agreement.
	The payment shall be made following the delivery of appropriate pro-forma invoice
	to the Ordering Party along with irrevocable, payable at first notice and unconditional bank guarantee or insurance guarantee for the same amount, valid for the period as of the day
	of its handing over to the Ordering Party up to 60 days counting as of the day when the payment date falls in accordance with §3 item 1.
	2. **Second payment** in the amount of 50% of the remuneration, being the subject
	of §2 item 1 shall be handled after the receipt of the subject of the Agreement by the Ordering Party in accordance with the provisions of §3.

The above payments shall be handled as follows:

* 1. The advance payment being the subject of item 1 letter a) shall be handled within 30 days
	as of the moment of receipt of a correctly issued pro-forma invoice along with the bank and insurance guarantee.
	2. The payment being the subject of item 1 letter b) hereinabove shall be handled within 30 days as of the moment of receipt of a correctly issued invoice by the Ordering Party and signing
	of the applicable handing over protocol by the Ordering Party, with reservation of provisions of §3 item 16 letter b) in the event the invoice is delivered prior to the delivery of the subject hereof or in the event it will be impossible to determine the invoice delivery date, the payment date shall be counted as of the date of signing of the applicable handing over protocol by the Ordering Party.

The Ordering Party shall have the right to withhold the execution of the payment in total or in part, as well as demand the advance payment to be returned by the Contractor or guarantor, in the event the delivered subject of the Agreement fails to meet the required technical parameters,
if it was damaged in transit or failed to be delivered within a due time.

In the event the delivered subject of the Agreement does not meet the technical requirements,
in particular if it failed to reach the parameters as declared by the Contractor in the offer, used for the evaluation of the quality criteria if the offer in accordance with SIWZ, the Ordering Party shall be entitled at his own discretion to reduce the remuneration attributable
to the Contractor as appropriate:

* to the amount of the offer as proposed by other Contractor participating in the procurement procedure whose offer was appraised lower due to a lower quality parameters declared,
or
* by the amount specified by the independent valuator appointed for that purpose, or
* by the amount set mutually by the Parties hereof.

The remuneration attributable to the Contractor shall be payable by transfer from the bank account of the Ordering Party to the bank account of the Contractor as specified in the invoice.

The payment place shall be the bank of the Ordering Party.

The Ordering Party shall return to the Contractor a bank or insurance guarantee being the subject
of item 1 letter a) hereinabove within 30 days after the lapse of the maturity period.

**§ 6**

**INVOICING**

1. The Ordering Party shall be VAT payer and shall have NIP number (Tax Identification Number):

 PL 675-000-22-36.

1. The Contractor is not VAT payer within the territory of the Republic of Poland and shall have VAT register number: ……………………...
2. The Buyer specified in the invoice shall be:

 Uniwersytet Jagielloński

 ul. Gołębia 24, 31-007 Cracow

 NIP: PL 675-000-22-36

1. The following shall be specified in the invoice: formula and delivery place, i.e. DAP Cracow, payment date, weight and customs tariff code of the delivered devices.
2. The invoices shall be issued in writing to the address specified in §9 item 2 letter a)
of the Agreement.
3. In the case of issuing electronic invoices (in accordance with the Act, dated 9th November 2018 *on electronic invoicing in public procurement, concessions for works or services and public-private partnership (Journal of Laws of 23 November 2018)* **the Contractor must enter in the "reference" field required by the Electronic Invoicing Platform following e-mail address: k.tokarz@uj.edu.pl**.

**§ 7**

**QUALITY GUARANTEE AND WARRANTY FOR DEFECTS**

1. The Contract shall undertake to deliver the subject hereof free of defects and faults. The liability under the warranty title shall cover both faults being the effect of reasons on the side of the subject hereof as of the moment of its release to the Ordering Party as well as any other physical faults formed due to reasons on the side of the manufacturer or Contractor, provided the faults are disclosed within the warranty validity period specified herein below. The Parties set forth that
the provisions and obligations of the Contractor indicated in the paragraph shall constitute
a modification of rules of the Civil Code only in relation to the quality guarantee, as regards issues it is related to (other regulations of the Civil Code pertaining to the quality warranty shall be applicable).
2. The Contractor shall ensure that the delivery of the subject hereof covered by the quality guarantee for the period as of the date of release of the subject hereof to the Ordering Party (§3 item 13)
to the lapse of ………………. months (minimum 12) confirmed by an applicable handing over protocol.
3. The Ordering Party may at any time request the Contractor to remove a fault or defect under
the quality warranty. The Ordering Party shall undertake to meet the basic maintenance terms
as specified by the Contractor or manufacturer of the elements of the subject hereof in the records of the guarantee card and/or maintenance instructions delivered by the Contractor, in accordance with §3 item 6 letter a) of the Agreement.
4. The Ordering Party shall notify the Contractor without any unnecessary delay in one or several out of the following ways: in writing, by e-mail, phone or fax on any defects or faults formed
in the subject hereof.
5. In the event of any fault being noticed in the delivered subject hereof, the Contractor shall be liable to an immediate and free of charge repair or replacement of the faulty element without any risk or costs for the Ordering Party. Any repairs shall be made as soon as possible, yet not later than within 30 calendar days as of the date of sending the application by the Ordering Party to the Contractor, unless otherwise agreed by the Parties.
6. In line with the preference of the Ordering Party, any repairs arising out the warranty shall be made at the place of the installation of the subject hereof in NCPS SOLARIS. After receipt of the application, the Contractor shall decide, while taking into consideration the type and scope
of the reported fault/defect, if the repair may be performed at the seat of NCPS SOLARIS. In case of repair of the subject hereof outside the installation place, the Contractor shall also be liable
to cover all the expenses related thereto, in particular costs related to disassembly, transport to the place of the repair and back, as well as costs related to the re-installation of the faulty element. In case any of the elements were already repaired, the Ordering Party shall reserve the right to demand a free of charge replacement of the subject matter part by the Contractor, to a part being free of defects, should it be subject to another (second) fault.
7. The Parties shall enable for the possibility of performing a repair of the noticed defect or fault by employees of the Ordering Party or third parties liaising with them, to the cost and risk
of the Contractor and based on the instruction given by the Contractor. In particular, it shall pertain to minor and uncomplicated defects and faults which cost of the repair is lower than the cost of delegating an employee of the Contractor to the seat of NCPS SOLARIS. The appraisal
of the relevance and level of complexity of the repair in this case shall finally depend
on the Ordering Party, and its removal by the Ordering Party or third party shall not release liability under the guarantee or warranty title specified in the paragraph and in the commonly applicable provisions. Each repair commissioned to the employees of the Ordering Party or third parties shall require the approval of the Contractor in writing, via e-mail or fax.
8. In the event the Contractor fails to discharge his duties within the deadline specified in item 5 hereinabove, the Ordering Party, with reservation of the right to apply contractual liabilities specified in §11 item 1 letter d), may appoint in writing a suitable extra period
for the performance of liability by the Contractor, yet not shorter than 5 working days.
If the Contractor fails to discharge his liabilities within the extra deadline assigned,
the Ordering Party shall be entitled at his discretion to make a repair at the cost and risk of the Contractor, maintaining at the same time the entitlements attributable under the Agreement. In such cases, the Ordering Party shall have the right to engage other entity to the removal of the defect (faults), and the Contractor shall be liable to cover any expenses related thereto within 30 days as of the receipt of the notice along with the proof of payment.
9. The repairs under the warranty title shall be rendered by the Contractor, manufacturer or authorized service or individuals to the cost and risk of the Contractor.
10. In case of a defect or fault contributing to lack of possibility of using the subject of the Agreement with the purpose agreed by the Parties, including in particular for the performance of the researches by the Ordering Party (NCPS SOLARIS), the warranty period being the subject of item 2 hereinabove shall be automatically extended for the entire subject hereof, along with each element by the repair period, i.e. period between being noticed on the fault/defect and removal of the said defect/notice (by repair or replacement of the element).
11. Should the defect or fault not contribute to impossibility of using the subject hereof and performing tests, the warranty period being the subject of item 2 hereinabove shall be automatically extended only in relation to parts of the subject hereof which were repaired,
by the repair period, i.e. period between being noticed on the fault/defect and removal
of the said fault/defect (by repair or replacement of the element).
12. The warranty terms given by the Contractor or manufacturer shall be specified in the delivered guarantee cards being the subject of  3 item 6 letter a) of the Agreement. In the event
of failure to deliver the guarantee cards or operating manuals of the subject hereof, the basis for claims under the guarantee title shall be the content of the Agreement and Civil Code. In such case, the Contractor shall provide a guarantee directly to the Ordering Party. The Parties hereby decide that in case of a non-conformity between the provisions of the Agreement and provisions of the guarantee cards or in other documents related to the execution of the quality guarantee manufactured by the Contractor or by the manufacturer, the records of the Agreement shall prevail. The provisions of the Agreement shall be applicable also if the aforementioned documents fail to meet appropriate regulations.
13. Regardless of the entitlements arising out of the quality guarantee, specified in the hereinabove clauses, the Ordering Party may at any time turn to the Contractor for removal of the defect or fault based on the warranty under Art. 556 to Art. 576 of the Civil Code.
The warranty shall cover both faults formed due to reasons on the side of the subject
of the Agreement as of the moment of its release to the Ordering Party as well as any other physical faults formed due to reasons on the side of the manufacturer or Contractor, provided
the defects are reported within the period of warranty validity period. The warranty for defect shall also cover legal defect of the subject of the Agreement.
14. In the event of execution of entitlements under the guarantee by the Ordering Party,
the course of the period for the execution of the entitlements under the warranty title shall be subject to suspension as of the day of being noticed by the Contractor on the defect (fault). The same shall pertain to the event of execution of entitlements by the Ordering Party under the warranty (course of the period for the execution of entitlements under the guarantee title shall be subject to a suspension as of the day of being noticed by the Contractor on the fault (defect).
15. The Parties agree that at any time the warranty period shall amount to …………….. months (minimum 12) as of the date of release of the subject hereof to the Ordering Party (§3 item 13).
16. The Contractor shall declare and acknowledge to understand that the Ordering Party is not an expert within the scope of the delivered subject of the Agreement, hence in the event of formation of a defect (fault), any expenses related to the explanation of the reasons of its occurrence (either under the guarantee or warranty), and in particular the costs of appropriate expertise shall be incurred by the Contractor. It shall be deemed that the fault (defect) was formed due to reasons for which the Contractor or manufacturer is held liable.

**§ 8**

**THIRD PARTIES LIABILITY**

The Contractor shall be fully liable for the compensation of any personal or material damages, which may be formed in relation to third parties, caused by the Contractor in relation to and upon execution hereof.

**§ 9**

**CORRESPONDENCE**

1. Any correspondence between the Parties shall be made in writing. The written form shall be acknowledged by the Parties also to be information sent via e-mail by individuals specified in §4 of the Agreement and individuals entitled to represent the Parties (in accordance with the status of the institution, company register or other documents such as i.e. POA).
2. Any deliveries of the letters shall be made to the following addresses of the Parties:
3. Narodowe Centrum Promieniowania Synchrotronowego SOLARIS

ul. Czerwone Maki 98

30-392 Kraków

 and

1. ………………………………………
2. The Parties undertake to inform each other every time by a registered mail on the change of the correspondence address as specified in item 2, within 7 days as of the change, under the pain of acknowledging the correspondence to be effectively delivered to the present address.

**§ 10**

**ASSIGNMENT OF RIGHTS AND OBLIGATIONS**

Any rights and obligations of the Contractor arising out of the Agreement shall not be assigned or in any other way transferred by him to any third parties without prior consent of the Ordering Party in writing under the pain of being null and void. In particular, the Contractor shall not have the right to assign the obligations arising out of the Agreement to any third parties without prior consent of the Contractor under the pain of being null and void.

**§ 11**

**CONTRACTUAL PENALTIES & LIABILITIES**

1. The Ordering Party shall be liable to demand a payment of the contractual penalties from the Contractor in case of the following:
2. withdrawals from the Agreement by Contractor or by the Ordering Party due to reasons on the side of the Contractor not being the effect of an action i.e. force majeure, in the amount of 10% of the remuneration net as set forth in § 2 item 1 of the Agreement.
3. delay in the delivery of the subject hereof of more than 4 weeks, in the amount of 1,5% of the remuneration net as set forth in § 2 item 1 of the Agreement for each full week of the delay counting as of the delivery date in accordance with the Agreement (§3 item 1), yet not more than 12% of the total remuneration of the Contractor net as specified in §2 item 1. In the event of disclosure of any defects/ faults during the course of the receipt of the subject hereof, including in particular during the course of the heating or tests (§3 item 8), the contractual penalty stipulated in letter b) shall not apply, provided the subject hereof (faulty) was delivered within the period not contributing to its accrual.
4. delay of more than 7 calendar days in the removal of defects or faults detected noticed during
the course of the receipt in relation to the deadline appointed by the Ordering Party in accordance with §3 item 11 of the Agreement, in the amount of 0,2% of the value
of the remuneration net as set forth in §2 item 1, counted for each day of a delay, yet no more than 10% of the value of remuneration net of the Contractor (§2 item 1).
5. delay in the removal of defects or faults noticed within the warranty or guarantee period,
in the amount of 0,2% of the value of remuneration net as set forth in §2 item 1. The penalty shall be applicable for each day of the delay in relation to the period (day) set forth in accordance with the content of §7 item 5 of the Agreement or envisaged in the guarantee terms, yet no more than 20% of the value of remuneration net of the Contractor (§2 item 1).
6. violation of the provisions specified in §18 (Confidentiality) in the amount of …………… *(20 000 PLN or its equivalent in EUR, if the Agreement is expressed in Euro)* net for each case of the violation.
7. The Contractor shall be entitled to request payment of a contractual penalty from the Ordering Party in the event of withdrawal from the Agreement by the Contractor or by the Ordering Party due to the exclusive fault of the Ordering Party not formed by the operation of force majeure,
in the amount of 10% of the remuneration net as set forth in § 2 item 1 of the Agreement.
8. In the event of a delay in the payment of remuneration being the subject of § 2 item 1
of the Agreement, in relation to payment dates determined under the Agreement, upon the request of the Contractor, the Ordering Party shall pay interests in the amount of 7%
per year, calculated for each day of a delay.
9. Shall the Contractor state that the delivery is impossible (or is unlikely) within a set time period, the Contractor shall be liable to immediately inform the Ordering Party. The Parties may then agree as regards the new delivery date.
10. The Ordering Party shall have the right to deduct any possible contractual penalties from
the invoice due and seek compensation on the general terms over the reserved contractual penalties.
11. Claim as regards the payment of contractual penalties shall become effective as of the day
of occurrence of the calculation basis as specified in the Agreement.
12. Payment of contractual penalties shall not release the Contractor from liability of executing
the Agreement.

**§ 12**

**WITHDRAWAL FROM THE AGREEMENT**

1. Apart from the instances specified in the provisions of the Polish law, the Ordering Party shall have the right to withdraw from the Agreement within 30 days as of the moment of being noticed on the occurrence of one of the following circumstances:
2. being informed that the Contractor as a result of his insolvency fails to execute pecuniary liabilities for the period of at least 3 months,
3. a liquidation of the Contractor will be initiated,
4. a warrant on the seizure of the Contractor’s assets was issued,
5. The Contractor is delayed in the delivery of the subject hereof for the period of more than 4 weeks in relation to the period specified in §3 item 1 or with the removal of a repair of the subject hereof noticed upon the receipt, for the period of more than 7 calendar days in relation to the period appointed by the Ordering Party,
6. in the event of major financial problems of the Contractor, in particular debt collector seizures or other seizures handled by entitled entities of the total amount of more than PLN 200 000,00 (say: two hundred thousand Polish zloty) or equivalence of the amount in the currency
of the country where the seat the Contractor is premised,
7. in the event being the subject of § 13 item 3.
8. Withdrawal from the Agreement shall be made in writing under the pain of the declaration being null and void and shall include the appropriate statement of grounds.
9. To the extent to which the Party did not withdraw from the Agreement, the provisions
of the Agreement, in particular related to the payment and guarantee shall become effective.
10. In the event of withdrawal from the Agreement, the Parties shall reserve the right
to the enforcement of the contractual penalties.
11. The Contractor shall not have the right to the compensation for the withdrawal from Agreement due to reasons on the side of the Contractor.

**§ 13**

**FORCE MAJEOUR**

1. In the event of impossibility to execute obligations arising out of the subject-matter Agreement in relation to circumstances on which the Parties shall not have an influence and which could not have been foreseen (force majeure), the Parties shall be released from mutual liabilities, including liability for defects incurred or shall be entitled to change the dates of the Agreement’s execution.
2. The provisions being the subject of item 1 shall be applied respectively if the execution
of liabilities arising out hereof is impossible as a result of the force majeure which has affected
the subcontractors of the Contractor.
3. If as a result of operation of force majeure, the Agreement is not handled for the period of more than 4 weeks, each Party shall be entitled to a unilateral withdrawal from the Agreement without any consequences, by submitting an applicable declaration in writing to the second Party.
4. Each Party shall immediately inform the second Party on the formation
of circumstances being the subject of item 1.

**§ 14**

**COPYRIGHTS AND PATENTS**

1. The Contractor hereby declares that to his best knowledge, the execution
of obligations arising out hereof does not violate upon the intellectual property rights of any third parties, in particular especially that the execution of the Agreement does not violate upon
the attributable to Budker Institute of Nuclear Physics, al. Lavrentieva 11, Nowosybirsk, 630090 Russia, intellectual and industrial property rights to the project of the chamber which execution shall be the subject of the Agreement. The intellectual property rights and industrial property rights shall be understood as copyrights, patents, utility models, industrial designs, trademarks, etc.
2. The Contractor shall be liable and shall undertake to redress any damages arising out of the violation of the copyrights, patent rights and other intellectual property or industrial property rights which may arise out of the execution hereof and which does not arise out
of the fault of the side of the Ordering Party.
3. In case of documentation delivered under the framework of the Agreement, the Contractor under the remuneration and as of the moment of its receipt by the Ordering Party shall issue a license
to the Ordering Party for the use of the documentation for unlimited period of time and within the territory of the entire world. In the event, the Contractor does not have the property copyrights to the documentation – he shall ensure that the entity which is entitled to such rights will issue a license to the Ordering Party within the scope specified under the Agreement. In both cases,
the terms of the license shall enable the Ordering Party for the use of the documentation
for the purpose of using the subject hereof or its certain elements, maintenance and possible post-guarantee repairs, as well as for the didactic and educational purposes. For the purpose
of executing of the maintenance activities or post-warranty repairs, the Ordering Party may disclose the documentation to the third party, provided a confidentiality agreement was concluded.
4. The Contractor shall issue a license being the subject of item 3 hereinabove to the Ordering Party to the following:
5. saving, copying, entering into the memory of computers and services of computer networks;
6. multiplication by printing or recording at the magnetic data carrier in electronic form;
7. use in total or in part, including in particular for the purposes specified in 3 and jointly with other works, development by addition of various elements, update, modification, translation to other languages.
8. The Contractor shall undertake to abstain from the termination of the license given,
and in the event the termination would yet take place, then its period shall amount to 5 years.

**§ 15**

**BANK GUARANTEE/ INSURANCE GUARANTEE**

* + - 1. Irrevocable, payable on the first call and unconditional bank or insurance guarantee being
			the subject of §5 item 1 letter a) shall constitute a collateral of the advance payment given
			to the Contractor. The guarantee shall constitute a collateral against the return of the advance payment in the event of an improper execution of the Agreement or withdrawal from the Agreement by the Ordering Party or Contractor and shall be effective for the period as of the moment of its handing over to the Ordering Party up to 60 days inclusive as of the moment of the delivery date in accordance with §3 item 1.
			2. Any amendments to the Agreement or documents constituting an integral part hereof, in particular to the Addendums, made after the license issuance date, shall not release the Guarantor from liability against the Ordering Party under the title of the guarantees given.
			3. Validity of the guarantees may not be dependent upon the timely payment of premium or insurance premium by the Contractor.
			4. Liability of the Guarantor against the Beneficiary specified in the aforementioned guarantees may not be subject to limitation based on the documents used by the Guarantor, such as i.e. general terms of insurance or bank guarantees, by-laws, instructions, or agreements for the issuance f the license concluded between the Contractor and the Guarantor.
			5. In the event of prolonging the Agreement’s execution period, the Contractor shall be liable 14 days prior to the lapse of the collateral date to deliver an addendum to the letter of indemnity issued by the Guarantor prolonging the guarantee’s validity period or new collateral covering the extended period of the Agreement, and corresponding to the scope and provisions of the former collateral, under the pain of execution of the entitlements by the Ordering Party as arising out of the collateral. The costs related to the prolongation of the guarantee and possible addendums shall be incurred by the Contractor.
			6. In the event of disclosure upon a delivery and within the inspection period (§3 item 8) of defects of the subject hereof effecting in the necessity of sending it back for a repair, the Contractor shall be liable under the pain of using the right to return the advance payment by the Guarantor, to immediately deliver the addendum to the letter of indemnity (bank guarantee/ insurance guarantee) issued by the Guarantor, prolonging the bank or insurance guarantee validity period or new collateral covering the repair period appointed in accordance with §3 item 11 and extra 30 days period to the initially appointed deadline. The addendum to the letter of indemnity or delivery of the new collateral shall not be required, if the validity period of the former letter of indemnity (bank guarantee/insurance guarantee) shall cover the extra period (i.e. repair period and extra 30 days period). The cost related to the prolongation of the guarantee and any possible addendums shall be incurred by the Contractor.
			7. The Guarantor shall proceed with the payment in favour of the Ordering Party under the title of the guarantee given within the period of up to 5 working days as of the moment of delivery
			of a request to the Guarantor in writing for the payment of indemnity sum within
			the guarantee validity’s period, solely including the following:
1. Designation of the claim amount;
2. Bank account number to which the payment of the claim amount is to be made
by the Guarantor;
3. Signature of the person duly authorized to represent the Ordering Party;
4. Declaration that the Contractor’s failed or improperly performed obligations arising out hereof.
	* + 1. A request for payment of the amount of the claim under the title of the guarantee will be sent by the Ordering Party to the address of the Guarantor by courier or via key communicator SWIFT via intermediary of the bank holding the bank account of the Ordering Party at least as of the last day of the guarantee validity period by 11.59 pm. Shall the end of the request submittal period for the guarantee period fall on Saturday, a statutory day off or other day off when the Guarantor does not run operational activity, then the period shall be subject to prolongation to the nearest day when the Guarantor and the Ordering Party will run their business activity.
			2. The basis for the payment of the claim amount to the Ordering Party under the title of the guarantee may not be the following:
5. Confirmation of documents or evidences confirming the declaration of the Ordering Party specified in item 7 letter d) above;
6. Presentation of the evidence of the former call of the Contractor for payment of claim attributable to the Ordering Party and declaration stating that despite the call, the Contractor failed to satisfy the claim of the Ordering Party within the scope specified in item 7 letter d);
7. Indisputability of the requested claim;
8. Submittal of any declaration by the Contractor.

**§ 16**

**INSURANCE**

1. The Contractor shall be liable to be covered by a civil liability insurance in relation to the detriment to health or death and property damage related to liabilities arising out hereof, for the period as of the Agreement’s conclusion date to the Agreement’s execution end date.
2. Upon the request of the Ordering Party, the Contractor shall be liable to immediately send to the Ordering Party to the address as specified in §9 item 2 letter a) Agreement, a copy of the insurance policy and other equivalent proof of conclusion of a valid insurance. In the event the Contractor fails to perform the hereinabove obligation, the Ordering Party shall have the right to conclude an insurance agreement upon the Contractor’s cost.

**§ 17**

**SUBCONTRACTORS**

1. The Contractor shall be liable for actions and omissions of the subcontractors as well as for his own actions and omissions, whereas the execution of the subject hereof by the Contractor with participation of subcontractors shall require a prior consent of the Ordering Party expressed in writing under the pain of being null and void.
2. Agreements with subcontractors related to the execution of the Agreement may not have an influence on the Contractor’s obligations arising out hereof.

**§ 18**

**CONFIDENTIALITY**

1. In the event of being provided with any Confidential Information by the Ordering Party, the Contractor shall be liable to keep confidential and ensure the protection of the personal data to the extent at least equal to the level of protection applied towards the protection of his own Confidential Information, yet not to a lower extent than justified to a certain circumstance. The „Confidential information” shall be deemed by the Parties to be technical, technological and organizational information or any other information of economic value, in relation to which required actions were taken by the Ordering Party aimed at ensuring confidentiality or which were handed over with the observance of confidentiality.
2. The Contractor shall undertake in particular to the following:
3. not to disclose Confidential Information to any third parties, apart from his employees and coworkers with whom the subject hereof is being handled, unless such a disclosure of Confidential Information shall be essential for the execution, and if the aforementioned entities gave their consent for the compliance with the terms of confidentiality within the scope specified herein. The Contractor shall be liable for any violations made by the entities;
4. not to make any copies of the Confidential Information provided by the Ordering Party, except for copies required for employees and coworkers with whom the subject of the Agreement is being executed. Any copies shall be deemed to belong to the Ordering Party and shall be labeled as: „confidential”, „reserved” or any similar inscription;
5. not to use the Confidential Information disclosed for any other purposes others than the ones stipulated for the execution hereof;
6. after the end of the execution hereof, the Contractor shall be liable to immediately return all documents and information including Confidential Information, without storing any copies. Execution of the subject hereof shall not release the Contractor from the obligation to keep confidential any Confidential Information as entrusted on terms specified in the Agreement for the period of 5 years counting as of the Agreement termination date.
7. The Contractor shall not be liable for the disclosure of Confidential Information which:
8. were given to public notice in a manner not constituting the violation of the Agreement,
9. are known to the Contractor from other sources, without the obligation of keeping them confidential and without violation of the Agreement,
10. were independently developed by the employees of the Contractor,
11. were disclosed to public notice based on the permit of the Ordering Party in writing under the pain of being null and void.
12. The Contractor shall be liable to immediately inform the disclosing Party in writing on any instance related to the following:
13. violation of obligation related to the confidentiality of Confidential Information;
14. suspicion on the possibility of disclosure, passing or unauthorized use of Confidential Information;
15. loss, theft or unauthorized damaging of the carriers, documents or other materials including Confidential Information.
16. Upon the request of the Ordering Party, the Contractor shall immediately return all materials, information and documentation constituting Confidential Information, yet not later than within 7 (seven) calendar day as of the request submission date.
17. The obligation of keeping confidential information specified in the paragraph shall not be applicable, if the obligation related to the disclosure of Confidential Information by the Contractor arises out of the provisions of the law of Poland. In the event specified above, the Contractor shall be liable to disclose Confidential Information and immediately inform the Ordering Party on the occurrence.

**§ 19**

**DISPUTES**

1. Any disputes arising out hereof shall be amicably settled by the Parties.
2. In the event the agreement may not be reached under the mode specified in item 1, any disputes arising out hereof shall be settled by the competent court with the venue over the seat of the Ordering Party.
3. The possible invalidity of one or several provisions hereof shall not have an influence upon the validity of the entire Agreement, and in such case the invalid provision shall be replaced by the Parties with a provision being compliant with the purpose and other provisions of the Agreement.
4. Any issues not governed herein shall be governed by the provisions
of the law of Poland, and in particular by the provisions of the CC and PZP.

**§ 20**

**AMENDMENTS AND SUPPLEMENTS**

Any amendments and supplements to the Agreement must be made in writing under
the pain of being null and void and must be signed by the entitled representatives both of the Ordering Party and of the Contractor.

The Parties enable for the possibility of amending the Agreement following a prior drafting
of a relevant protocol of necessity by signing the Addendum to the Agreement, in one of the following instances:

necessity of prolonging the deadline for execution of the subject hereof due to reasons on
the side of the Ordering Party pertaining in particular to lack of preparation/changing the place of execution/delivery, and other reasons not on the side of the Parties, caused by the operation of force majeure under the meaning of §13,

necessity of prolonging the Agreement’s execution period due to reasons on the side
of the Contractor pertaining to i.e. failure of the subcontractors to discharge obligations in relation to the Contractor. Such a change shall require the approval of the Ordering Party. The Ordering Party may not express such a consent, especially in a situation of being imposed to inconveniences related to the use of the synchrotron, or if the prolongation of the Agreement’s execution date imposes him to a loss of a subsidy for the financing of the subject hereof.

Any changes not related to statutory provisions i.e. when due to organizational reasons it will be required to change the telephone/address data specified in the Agreement, when the bank account number of one of the Parties will be changed, shall be made by providing a written declaration of the Party, to whom certain changes pertain to, to the second Party.

**§ 21**

**SIGNING OF THE AGREEMENT**

1. The Agreement shall be effective as of the moment of its signing by the Parties hereof.
2. The „working days” shall be deemed by the Parties to be working days from Monday to Friday, excluding statutory days off within the territory of the Republic of Poland.
3. The Agreement was made in four counterparts, two in Polish and two in English. In the event of discrepancy as regards the interpretation hereof, the Polish language version shall prevail.

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*The Ordering Party The Contractor*