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Cracow, 09th March 2023

To all Contractors

*Subject: proceedings for the award of a contract conducted by means of invitation to tender based on the Article 11 item 5 clause 1 of the Act of September 11, 2019 - Public Procurement Law (consolidated text Dz. U. of 2022, item 1710 as amended), and the Act of April 23, 1964 - Civil Code (consolidated text Dz. U. of 2022, item 1360 as amended), the subject of which is delivery of a magnetic levitation chopper for the NSRC SOLARIS,
Case ref. no: 80.272.22.2023*

The modification of the Invitation

Dear Sirs

The Ordering Party informs that the Contractor has submitted the request, in which a potential Contractor proposed to modify the content of the AGREEMENT'S TEMPLATE - Attachment No. 2 to the Invitation.

The Ordering Party announced the content of the modifications proposed by the contractor and refers to them:

I. Modification 1 proposed by the Contractor:

The Contractor proposed to change § 3 sec. 3 of the AGREEMENT'S TEMPLATE as follows (the proposed modifications were marked in red):

3. The remuneration referred to in sec. 1 above shall be paid as follows:
 - 3.1 **The first payment** in the amount of **30%** of the value of the remuneration referred to in **§ 3 item 1** will be paid, as an advance payment after the conclusion of the Agreement. The payment shall be made upon delivery to the Ordering Party of the corresponding invoice, together with an irrevocable, payable on first demand and unconditional bank or insurance guarantee for the same amount, valid for the period from the date of crediting the Ordering Party's payment to the Contractor's account up to and including 60 days from the date on which the delivery date falls in accordance with in accordance with § 2 sec. 1 of the Agreement. **The Contractor can set the first payment to 0% of the value of the remuneration referred to in § 3 item 1, in this case no bank or insurance guarantee is needed.**
 - 3.2 The **second payment of the remaining share 70%** of the remuneration referred to in **§ 3 item 1** shall be paid after completion of the delivery in accordance with § 2 sec. 1 of Agreement.

Answer of the Ordering Party to the modification 1 proposed by the Contractor:

The Ordering Party accepts the Contractor's right to resign from the advance payment. The Contractor may issue an invoice for the entire amount of the remuneration after completed delivery. The modification proposal is therefore accepted by the Contracting Authority in the following wording:

3. The remuneration referred to in sec. 1 above shall be paid as follows:
 - 3.1 The first payment in the amount of 30% of the value of the remuneration referred to in § 3 item 1 will be paid, as an advance payment after the conclusion of the Agreement. The payment shall be made upon delivery to the Ordering Party of the corresponding invoice, together with an irrevocable, payable on first demand and unconditional bank or insurance guarantee for the same amount, valid for the period from the date of crediting the Ordering

Party's payment to the Contractor's account up to and including 60 days from the date on which the delivery date falls in accordance with in accordance with § 2 sec. 1 of the Agreement. The Contractor may resign from the advance payment, then no bank or insurance guarantee is required.

- 3.2. The second payment of **70%** of the remuneration referred to in **§ 3 item 1** shall be paid after completion of the delivery in accordance with § 2 sec. 1 of Agreement. In case of resignation from the advance payment, the payment of the entire remuneration referred to in § 3 sec. 1 of the Agreement shall occur after the delivery of the subject of the contract in accordance with § 2 sec. 1 of the Agreement.

II. Modification 2 proposed by the Contractor:

The Contractor proposed to change § 7 sec. 1 of the AGREEMENT'S TEMPLATE as follows (the proposed modifications were marked in red):

§7

PARTIES LIABILITY

1. 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. **Except in the case of gross negligence or willful misconduct, Supplier's total liability under the Agreement shall be limited to and shall in no event exceed five million (5,000,000) CHF per claim and per all claims in a year.**

Answer of the Ordering Party to the modification 2 proposed by the Contractor:

§ 7 sec. 1 of the AGREEMENT'S TEMPLATE has been modified as follows:

§7

PARTIES LIABILITY

1. 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. Except in the case of gross negligence or willful misconduct, Supplier's total liability under the Agreement shall be limited to and shall in no event exceed five million (5,000,000) EUR per claim and per all claims in a year.

III. Modification 3 proposed by the Contractor:

The Contractor proposed to change § 11 sec. 3 of the AGREEMENT'S TEMPLATE as follows (the proposed modifications were marked in red):

3. Except the right to withdrawal from the Agreement in full **according to above reasons**, the Ordering Party reserves the right to withdraw from the Agreement **without reasons**, only to the extent of its part indicated thereby, including the unexecuted part of it, retaining ownership and other rights of the remaining part of the subject of the Agreement. To the extent to which the Ordering Party did not withdraw from the Agreement, the provisions of the Agreement, in particular related to the payment and guarantee shall become effective, this applies only that the part of the Agreement from which the Ordering Party did not withdraw was properly performed. **In such a withdrawal, the Ordering Party shall compensate cost accrued at the Contractor for the executed part of the Agreement.**

Answer of the Ordering Party to the modification 3 proposed by the Contractor:

§ 11 sec 3 of the AGREEMENT'S TEMPLATE has been modified as follows:

3. Except the right to withdrawal from the Agreement in full according to above reasons, the Ordering Party reserves the right to withdraw from the Agreement without reasons, only to the extent of its part indicated thereby, including the unexecuted part of it, retaining ownership and other rights of the remaining part of the subject of the Agreement. To the extent to which the Ordering Party did not withdraw from the Agreement, the provisions of the Agreement, in particular related to the payment and guarantee shall become effective, this applies only that the part of the Agreement from which the Ordering Party did not withdraw was properly performed. In such a withdrawal, the Ordering Party shall compensate cost accrued at the Contractor

for the executed part of the Agreement, up to the amount of 10 000 EUR. The Parties may also dissolve the Agreement by their unanimous consent.

Sincerely
Miroslaw Wolak