

AGREEMENT NR MKUO/ProNatura/ZO/46/23

concluded on _____ 2023 in Bydgoszcz between:

Międzygminnym Kompleksem Unieszkodliwiania Odpadów ProNatura Sp. z.o.o. with its registered office at st. Ernsta Petersona 22, 85-862 Bydgoszcz, entered into the National Court Register kept by the District Court in Bydgoszcz, 13th Commercial Division of the National Court Register under the number 0000296965, with the NIP number 9532559741, REGON: 340378577, BDO: 000010322, share capital 29,997,000, zł PLN contributed entirely by the City of Bydgoszcz,

represented by:

Konrad Mikołajski - President of the Management Board,

Jarosław Bańkowski - Vice-President of the Management Board,

hereinafter referred to as the **Purchaser**,

and

.....
.....

represented by:

.....
.....

hereinafter referred to as the **Contractor**,

hereinafter referred to separately as the "**Party**" and jointly as the "**Parties**",

The representatives of the Parties declare that they are fully authorized to conclude this Agreement, the validity of which does not depend on its confirmation by any other entity or body of the other Party, and that their authorizations have not expired or been limited.

Parties on the basis of the inquiry submitted by the Purchaser (in accordance with Article 2(1)(1) of the Act of September 11, 2019 Public Procurement Law - consolidated text, Journal of Laws of 2022, item 1710, as amended , hereinafter referred to as the PPL; the provisions of this Act do not apply to this contract) and the selection of the bid, the Contractors enter into an agreement with the following wording:

§ 1

1. The subject of the contract **is the delivery of 65 m3 of plastic rings of the SNOWFLAKE type, constituting the filling of one scrubber and hereinafter referred to as "Products"**, in accordance with the request for proposals of _____, 2023 and the Contractor's price offer of _____ 2023, constituting an attachment respectively number 1 and 2 to this agreement.
2. All attachments listed in par. 1 are an integral part of this agreement.
3. If the Contractor uses other entities (including subcontractors or carriers) in the performance of this Agreement, the Contractor shall be liable for their actions and omissions as for its own acts and omissions.
4. The Contractor undertakes to perform this contract with the utmost care, taking into account the professional nature of its business.

§ 2

1. The Contractor shall deliver to the Municipal Waste Thermal Treatment Plant in Bydgoszcz, Products within the period specified in § 5 of the Agreement, independently or through a carrier, on a weekday during the Purchaser working hours, i.e. between 7.00 and 15.00 to the address: st. Ernsta Petersona 22, 85-862 Bydgoszcz. In each case, the Contractor is obliged to ensure their completeness and inviolability, including adequately securing the shipment. The exact delivery date will be agreed between the parties by e-mail three days in advance.
2. The delivery of the Products will be confirmed by a delivery and acceptance protocol signed without reservations by representatives of both Parties.
3. The Purchaser is not obliged to check the quality of the delivered Products immediately after receipt or at a later date.
4. In the event of any quantitative shortages, defects or other irregularities in the delivered Products, the Contractor is obliged without undue delay, but not later than within 14 days, to deliver the Products in accordance with the order and free from any defects. In such a case, the period specified in § 5 shall not be extended, and the provisions of this section shall apply accordingly.

5. The delivered Products should comply in particular with the parameters specified in the Purchaser's request for proposals (Appendix 1) and the Contractor's offer (Appendix 2), the provisions of generally applicable law and comply with the standards applicable to this type of products.
6. The Contractor is obliged to immediately inform the Purchaser about any obstacles in the implementation of this agreement.
7. The Purchaser shall not be liable towards third parties for the obligations incurred by the Contractor in connection with the performance of this contract.

§ 3

1. Cooperation in the implementation of this contract, including acceptance activities, will be performed on behalf of the Purchaser: Sylwester Krzyzanowski, phone no. 502 559 916, e-mail address: s.krzyzanowski@pronatura.bydgoszcz.pl.
2. Cooperation in the implementation of this contract will be conducted on behalf of the Contractor:.....
Persons indicated in sec. 1 and 2 are not authorized to amend this agreement.
3. The Parties to the contract undertake to immediately notify any change of address or telephone number. A change of contact details does not constitute a change to this agreement and may take place by informing the other Party in writing or by e-mail.
4. In the event of failure to fulfill the obligation specified in par. 3 above, letters delivered to the address indicated in this agreement shall be deemed effectively delivered.

§ 4

1. The total lump-sum remuneration of the Contractor for the performance of the subject of the contract (including the cost of transportation, duties and taxes) is: PLN gross (in words: PLN gross:), including VAT, in accordance with the currently applicable regulations.
2. The remuneration referred to in sec. 1 above will be payable to the Contractor within 30 days from the date of conclusion of the contract on the basis of a properly issued invoice, by transfer to the bank account indicated on the invoice, subject to the possibility of using the so-called mechanism by the Purchaser split payment in accordance with applicable regulations, if the Contractor uses a Polish NIP for transaction purposes. The invoice should contain, if technically possible, the number of this agreement.
3. The day of payment shall be deemed by the Parties to be the day of debiting the Purchaser's bank account with the amount of remuneration due to the Contractor.

4. The Contractor, who is a resident within the meaning of the tax law and an active VAT payer, declares that the bank account indicated on the VAT invoice will each time be the account reported to the competent tax authorities and included in the list of VAT payers referred to in Art. 96b sec. 1 of the Act on tax on goods and services, kept by the Head of the National Revenue Administration (the so-called white list of VAT taxpayers). In the event of a change in the above state of affairs or untrue statement as in the preceding sentence, the Purchaser will be entitled to make a payment to the bank account included in the list in question, which will constitute the proper performance of the Agreement, and in the event that the list in question does not contain the Contractor's account number - to refrain from with payment until it is disclosed and will not be considered to be in arrears.
5. The Purchaser declares that it is a large enterprise within the meaning of Art. 4 point 6 in relation to joke. 4 point 5 a contrario of the Act of March 8, 2013 on counteracting excessive delays in commercial transactions (consolidated text, Journal of Laws of 2022, item 893, as amended) in connection with joke. 2 of Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain types of aid compatible with the internal market pursuant to Art. 107 and 108 of the Treaty (Official Journal UE L No. 187, p. 1) a contrario.

§ 5

Deadline for the contract: 3 months from the date of award of the contract, i.e. signature of the contract, no longer than August 18, 2023.

§ 6

1. The Contractor declares that the delivered Products will be brand new and of appropriate quality and functionality, free from physical defects, in particular technological, material or workmanship defects, and that they are free from encumbrances and third party rights.
2. The delivered Products should meet the qualitative requirements of products admitted to trading and general use.
3. In the event of damage to the Purchaser and caused by the improper quality of the delivered subject of the order, all costs related to the appointment of an expert and technical assessment will be covered by the Contractor.

§ 7

1. The Parties have the right to claim contractual penalties in the following cases:

- 1) The Purchaser has the right to claim contractual penalties for:
 - a) withdrawal from the contract for reasons for which the Contractor is responsible - in the amount of **10%** of the gross value of the subject of the contract referred to in § 4 section 1;
 - b) delivery of defective or non-conforming Products in the amount of **15%** of the gross value of the delivered defective Products;
 - c) delays for which the Contractor is responsible in delivering the order in relation to the date indicated in § 5 - in the amount of **1%** of the gross value of the subject of the contract referred to in § 4 section 1 for each day of delay, but not more than **10%** of the gross value of the subject of the contract;
 - d) withdraw from the contract due to the lack of delivery of the subject of the contract by August 18, 2023. if the amount due for the delivery item has been paid in advance (prepayment) - in the amount of the prepayment increased by **10%** of the gross value of the subject of the contract referred to in § 4 section 1;
- 2) For withdrawal from the contract for reasons for which the Purchaser is responsible, the Contractor has the right to claim a contractual penalty in the amount of **10%** of the value of the subject of the contract referred to in § 4 section 1.

2. The Contractor shall pay the Purchaser a contractual penalty within **10 days** from the date of the Purchaser's request to pay the penalty. In the event of a delay in payment, the Purchaser, unless otherwise stipulated by the mandatory provisions of law, may deduct the penalty due to it from any receivables due to the Contractor from the Purchaser.

§ 8

1. The Purchaser reserves the right to claim supplementary damages exceeding the amount of reserved contractual penalties referred to above, on general terms.
2. All rights of the Purchaser reserved in this contract in the event of non-performance or improper performance of the contract by the Contractor are independent of each other and may be claimed jointly or separately at the Contractor's discretion.

§ 9

1. In addition to the cases listed in the provisions of the Civil Code, the parties have the right to withdraw from the contract in the following situations:
 - 1) The Purchaser has the right to withdraw from the contract in the part not performed:
 - a) if the Contractor's company is dissolved,
 - b) if an order is issued to seize the Contractor's property, unless the Contractor demonstrates that it will not affect the possibility of proper performance of this Agreement
 - c) due to the lack of delivery of the subject of the contract by August 18, 2023. if the amount due for the delivery item has been paid in advance (prepayment).
 - 2) The Contractor has the right to withdraw from the contract if the Purchaser refuses to accept the Products for the third or subsequent time for unjustified reasons.
2. In the cases indicated in par. 1, the Contractor is entitled to remuneration only for the part of the contract actually and duly performed until the date of withdrawal.
3. Withdrawal is understood as a written statement submitted to the other Party expressing an unambiguous intention to withdraw from the contract, within 5 days after becoming aware of the reason for withdrawing from the contract.

§ 10

1. Any changes and additions to this agreement may be made with the consent of both parties in the form of a written annex under pain of nullity.
2. The Parties are obliged to immediately inform each other about the change of contact details, under the pain of considering the information and statements sent in accordance with the existing data as effectively delivered. A change of contact details does not constitute a change to this agreement and may be effected by informing the other party of this fact by e-mail.

§ 11

1. In the event of a dispute arising in connection with this agreement, the parties shall strive to reach an amicable settlement, i.e. through negotiations and conclusion of an agreement.
2. If it is impossible to settle the dispute amicably within a reasonable time, the court exclusively competent to hear disputes arising in connection with this contract, in particular regarding its validity, conclusion, performance, termination or withdrawal from it, and any claims (including damages) related thereto the common court in Bydgoszcz will be competent.

§ 12

The Contractor may not transfer its claims against the Purchaser under this contract without the prior written consent of the Purchaser, under pain of ineffectiveness of such assignment.

§ 13

Matters not covered by this agreement are subject to the provisions of Polish law, including the Civil Code.

§ 14

The agreement has been drawn up in two identical copies, one for each of the parties.

PURCHASER

CONTRACTOR

Attachments:

1. Ordering Purchaser's inquiry
2. Contractor's offer