***CONTRACT No. …………………***

*concluded on the date indicated in the electronic signatures, in Warsaw, between:*

***The International Institute of Molecular and Cell Biology in Warsaw,*** *located at ul. Księcia Trojdena 4, 02-109 Warsaw, NIP: 526-22-78-704, REGON: 013082798, represented by:*

*……………………………..,*

*………………………………,*

*hereinafter referred to as the "Ordering Party" or the "Party",*

*and*

*…………….., …………….., …………….., …………….., …………….., …………….., share capital: …………….. PLN, represented by:*

*…………………………………,*

*…………………………………,*

*hereinafter referred to as the "Contractor" or the "Party",*

*with the following content:*

*This Agreement has been concluded with the Contractor as a result of the public procurement procedure No. ADZ.261.32.2024 conducted in the form of an open tender, as referred to in the Act of 11 September 2019, Public Procurement Law.*

 ***1***

***Subject of the Contract***

1. *The subject of the contract (the "Subject of the Contract") is the sale, delivery, installation, and commissioning of a brand new mass photometer ("System"). As part of the performance of the Subject of the Contract, the Contractor, after completing the installation, will conduct training for the representatives of the Ordering Party. The training provided by the Contractor under the performance of the Subject of the Contract will last one (1) business day – on a date agreed with the Ordering Party.*
2. *The Subject of the Contract is detailed in the Description of the Subject of the Contract ("OPZ") and in the Contractor's Offer submitted as part of the tender procedure ("Offer"), which constitute Annex No. 1 and Annex No. 2 to the Agreement, respectively. The Contractor undertakes to comply with the requirements, norms, and standards indicated in the aforementioned documents while performing the Subject of the Contract.*
3. *The Contractor is obligated to observe the regulations, organizational orders, safety instructions, and health and safety regulations, including fire protection, in force at the Ordering Party's premises and is liable for any breaches thereof and damages caused by the Contractor or by its employees or persons acting on its behalf or for its benefit (including employees and associates of such persons), regardless of the legal relationship between such persons and the Contractor.*
4. *The Contractor declares that:*
	1. *The System and its components are brand new, complete, operational, and free from any physical or legal defects that would limit their proper functioning and use; they are not refurbished, demonstrative, or ex-display devices;*
	2. *The System, its components, and materials used for the performance of the Subject of the Contract are authorized for commercial circulation in the European Union and possess certificates authorizing their use in the European Union, as well as a declaration of conformity with harmonized standards, and necessary attestations confirming compliance with the relevant regulations in force within the European Union;*
	3. *The System and its components are not encumbered by any third-party rights, are not subject to any enforcement, judicial, or other proceedings before any adjudicating body, nor are they subject to any security measures;*
	4. *The Contractor possesses the necessary expertise and all required information and permits as mandated by law in fields related to the performance of the Subject of the Contract, with the diligence required from an entity professionally engaged in activities or performing tasks constituting the Subject of the Contract;*
	5. *The Contractor assumes full responsibility for the actions and/or omissions of persons employed by the Contractor in the execution of the Agreement, including actions and/or omissions of other entities acting on its behalf and for its benefit in connection with the performance of the Subject of the Contract, as if they were the Contractor's own actions and/or omissions;*
	6. *The Contractor will not execute the Agreement with the participation of subcontractors, suppliers, or entities referred to in Article 5k of Council Regulation (EU) No. 833/2014 of 31 July 2014, concerning restrictive measures in view of Russia's actions destabilizing the situation in Ukraine, and in Article 7(1) of the Act of 13 April 2022 on special solutions in the scope of counteracting support for aggression against Ukraine and serving to protect national security, where the payments to such entities for subcontracting or supply exceed 10% of the Contract Price;*
	7. *There are no other circumstances that could limit the rights of the Ordering Party arising from the Agreement.*

 ***2***

***Value of the Subject of the Contract***

1. *The remuneration for the proper execution of the Subject of the Contract, hereinafter referred to as the "Contract Price," is the gross amount of ……………………. PLN (in words: ………………………..).*
2. *The Contract Price consists of a net amount of …………………… PLN (in words: …………………..) and VAT at the rate of ………………..%, amounting to …………………. PLN (in words: …………………………...)..*
3. *The Contract Price is a fixed price and shall not be subject to any changes by the Parties during the performance of the Agreement unless such a change is provided for in the Agreement. The Contract Price includes all tax, material, and personnel costs related to or for the purpose of performing the Agreement. The Contractor shall bear all other costs of any nature that may arise in connection with the performance of the Subject of the Contract.*
4. *The Contractor shall issue an invoice after the written acceptance by the Ordering Party, without reservations, of the entire Subject of the Contract, confirmed by both Parties through a delivery-acceptance protocol, prepared in accordance with the template constituting Annex No. 3 to the Agreement.*
5. *All payments related to the performance of the Subject of the Contract shall be made based on a correctly issued invoice. A copy of the delivery-acceptance protocol mentioned in section 4 shall be attached to the correctly issued invoice.*
6. *The invoice must contain all the data required by Polish law, specifically: Date of issue, Invoice number, Seller's details, Buyer's details, NIP number, Payment term, Payment method, Delivery address, Date of delivery or completion of the service (or date of payment received), Name of the goods or service, Quantity, Unit of measure, Unit price excluding tax, Value of the goods (services) excluding tax, VAT rate, Net sales value, Total amount due, Shipping and packaging costs, Delivery terms.*
7. *Payment shall be made by bank transfer to the Contractor’s bank account specified on the invoice, which is consistent with the Contractor’s accounts listed in the register of VAT taxpayers, within twenty-one (21) days from the receipt of a correctly issued invoice by the Ordering Party.*
8. *In accordance with the Act of 9 November 2018 (i.e., Journal of Laws 2018, item 2191) on electronic invoicing in public procurement, concessions for construction works or services, and public-private partnerships, the Contractor has the right to send a structured electronic invoice through the ICT system using the Contractor's account.*
9. *The sending of other structured documents, as referred to in the Act mentioned in the above section, requires the consent of the Ordering Party each time.*
10. *If the Contractor uses the option to send a structured invoice via the ICT system, as referred to in section 7 above, the Contractor shall inform the Ordering Party by email at: secretariat@iimcb.gov.pl with a confirmation of receipt, at least two (2) days before issuing the invoice.*
11. *The payment date shall be considered the date on which the Ordering Party's account is debited.*
12. *The Contractor may not assign claims arising from this Agreement to third parties without the written consent of the Ordering Party.*
13. *The Ordering Party prefers the original invoice to be submitted electronically by sending it to the following address:* *secretariat@iimcb.gov.pl*
14. *The Ordering Party declares that it is an enterprise other than a micro, small, or medium-sized enterprise within the meaning of the provisions of Annex No. 1 to Commission Regulation (EU) No. 651/2014 of 17 June 2014, declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, and has the status of a large enterprise within the meaning of Article 4(6) of the Act of 8 March 2013 on counteracting excessive delays in commercial transactions, while also being a public entity within the meaning of that Act.*
15. *No later than one (1) month after the signing of the Agreement by both Parties, the Contractor is obliged to submit to the Ordering Party a certificate of tax residence. The Contractor is also obliged to submit an updated certificate in each subsequent year of the Agreement’s duration along with the declaration of the beneficial owner, in accordance with Article 4a point 29 and Article 24a section 18 of the Act of 15 February 1992 on corporate income tax, the template of which constitutes Annex No. 5 to the Agreement.*
16. *In the event of a change in tax status affecting the validity of the submitted certificate referred to in section 16 above, the Contractor shall immediately notify the Ordering Party of any such change.*
17. *The amounts due to the Contractor may be reduced by the income tax, which the Ordering Party is obligated to withhold, in accordance with applicable Polish law and international agreements, including in cases where the Contractor fails to submit the tax residence certificate along with the beneficial owner declaration by the date of payment. [[1]](#footnote-1)*

***§ 3***

***Terms of Contract Performance***

1. *The Contractor undertakes to execute the Subject of the Contract in accordance with the criteria and technical parameters outlined in the OPZ.*
2. *The Contractor guarantees the execution of the Subject of the Contract within ……. weeks from the date of signing the Agreement, subject to section 10 below.*
3. *The place of performance of the Subject of the Contract is the headquarters of the Ordering Party located at ul. Ks. Trojdena 4 in Warsaw. The Contractor shall perform the Subject of the Contract using transportation at its own expense and effort. The order also includes unloading, bringing in, and installing the System, as well as training the representatives of the Ordering Party.*
4. *At least three (3) days before the anticipated delivery, installation, and training, the Contractor shall notify the person responsible for the implementation of the contract provisions on the part of the Ordering Party of the delivery date.*
5. *The delivered System must be packaged in such a manner as to prevent damage or deterioration during transport to the destination.*
6. *The Contractor shall install (arrange the entire System) in the room indicated by the Ordering Party, taking into account the room's dimensions and the layout of existing installations: electrical, plumbing, and ventilation.*
7. *Before installation, the Contractor shall carry out the necessary measurements of the room required for the proper execution of the Subject of the Contract.*
8. *The Contractor shall deliver with the System a signed warranty card or other proof of the System's warranty, along with other necessary documents.*
9. *The proper execution of the Subject of the Contract shall be confirmed by a delivery-acceptance protocol signed by both Parties after the delivery, installation, commissioning, and training of the Ordering Party's representatives on its operation.*
10. ***As part of the Contract Price, the Contractor is obligated to supply, upon the Ordering Party's request, consumables enabling the analysis of 1200 samples, to be delivered upon the Ordering Party’s demand no later than by the end of the year 2025. The maximum number of partial deliveries required by the Ordering Party within the period specified in the previous sentence is 4, with each delivery not being less than the consumables required for 300 samples. The maximum delivery period from the moment the request is sent to the email address indicated in §14 section 5, subpoint 5.2.1. of the Agreement shall not exceed 1 month.***

***§ 4***

***Warranty, Liability for Defects, and Service Conditions***

1. *The Contractor shall provide a 12-month warranty and liability for defects for the System and all components of the delivered System.*
2. *The warranty and liability for defects period commences on the date of signing the delivery-acceptance protocol for the Subject of the Contract without reservations.*
3. *The System shall be serviced by an authorized representative of the manufacturer or directly by the manufacturer.*
4. *The warranty covers the repair of the defective component or its replacement.*
5. *Jeżeli naprawiony element Systemu ulegnie ponownie usterce wówczas Wykonawca wymieni go na nowy.*
6. *The Contractor undertakes to remove any reported defects free of charge during the warranty period in accordance with the warranty conditions specified in the Offer, under the following conditions:*
	1. *Service response time shall be within 5 business days from the time the defect is reported to the commencement of the repair.*
	2. *The time specified in subpoint 6.1 includes remote diagnostics of the System, determination of the defect, and the method of addressing it.*
	3. *Repaired or replaced components that fail during the warranty period will be covered by a warranty consistent with the duration of the warranty as stipulated in the Agreement.*
	4. *Basic level servicing of the System by the users (after training) will not void the warranty.*
7. *All defect reports shall be submitted to the Contractor via email at: …………………, or by phone at …………………………………., with an acknowledgment of receipt sent by return email to: …………………………,*
8. *In the event of a change in phone number or address, the Contractor is obligated to notify the Ordering Party 7 days in advance, under the penalty of considering the defect report properly made.*
9. *The warranty and liability for defects do not apply in the following cases:*
	1. *The Ordering Party uses the System for any purpose other than that specified in the Agreement (unless agreed with the Contractor);*
	2. *The Ordering Party continues to use the System after filing a warranty claim with the Contractor;*
	3. *The defect occurred because the Ordering Party did not follow the Contractor's oral or written instructions regarding the storage, start-up, installation, use, and maintenance of the System, or (in the absence of such instructions) did not adhere to good commercial practices in this regard;*
	4. *The Ordering Party disassembles, opens, alters, or repairs the System or attempts to carry out any of these actions without prior consent from the Contractor;*
	5. *The defect arose as a result of normal wear and tear, intentional damage, negligence, or abnormal storage or operating conditions, or the System differs from the description or Specification as a result of changes made to ensure compliance with applicable legal or regulatory requirements.*

***§ 5***

***Post-Warranty Service***

1. *After the expiration of the warranty and liability for defects period mentioned in § 4 of the Agreement, i.e., from month 13 to month 36 from the installation date, the Contractor shall provide post-warranty service within the Contract Price.*
2. *To avoid any doubt, the Parties confirm that this Agreement also constitutes a service contract covering post-warranty service.*
3. *The System shall be serviced by an authorized representative of the manufacturer or directly by the manufacturer.*
4. *As part of the service contract, the Contractor is obligated to perform repairs of defects and malfunctions, supply parts necessary for the repairs, and carry out periodic inspections required to maintain the System in a condition that ensures its proper use.*
5. *The Contractor undertakes, as part of the service contract, to:*
	1. *espond to service requests within 5 business days from the time of sending the notification to the email address indicated in § 4 section 7 of the Agreement.*
	2. *The time specified in subpoint 4.1 includes remote diagnostics of the System, determination of the defect, and the method of addressing it.*
6. *All defect reports shall be submitted to the Contractor via email to the address indicated in § 4 section 7 of the Agreement.*

***§ 6***

 ***Contractual Penalties***

1. *In the event of termination of the contract by the Contractor or the Ordering Party due to reasons attributable to the Contractor, the Contractor shall pay a penalty of 5% of the Contract Price.*
2. *The Ordering Party reserves the right to seek additional compensation from the Contractor under the general principles of the Civil Code if the amount of the damage exceeds the amount of the contractual penalties imposed..*

***§ 7***

***Copyrights***

1. *The Contractor guarantees to the Ordering Party that the execution of the Subject of the Contract will not result in any infringement by the Contractor and/or the Ordering Party of any proprietary copyrights, trademarks, patents, design solutions, know-how, or other protected rights.*
2. *The Contractor assumes full responsibility for any third-party claims related to the execution of the contract, particularly concerning the infringement of any copyrights, trademarks, patents, design solutions, or other protected rights, provided that the Ordering Party has adhered to the licensing conditions of the products delivered by the Contractor under the Agreement, with the following stipulations:*
	1. *The Contractor shall not be liable for any indirect, special, or consequential losses or damages;*
	2. *The Ordering Party is obligated to mitigate losses;*
	3. *The Contractor's liability is limited to the coverage provided by its insurance policies.*
3. *The Contractor guarantees that the Ordering Party is granted a perpetual, non-exclusive, territorially unlimited, and non-transferable license for the software delivered with the System.*
4. *The Ordering Party may use the software delivered with the System in accordance with the standard licensing terms provided by the software manufacturer.*
5. *The licenses mentioned above are granted to the Ordering Party within the Contract Price referred to in § 2 section 1 of the Agreement.*

***§ 8***

***Personal Data Protection***

1. *In the course of performing the Agreement, the Parties will process the data of individuals designated for ongoing contact, including the data of employees and collaborators. To avoid any doubt, each Party processes the data of individuals designated by the other Party for the ongoing execution of the Agreement as a separate and independent data controller, in accordance with Article 6(1)(f) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (hereinafter referred to as the “Regulation”), meaning based on the legitimate interest of the controller, which is ensuring contact in ongoing matters related to the cooperation between the Parties and the performance of the Agreement.*
2. *The scope of personal data shared between the Parties includes: name, surname, business email address, business phone number, and the position held within the organization of one of the Parties.*
3. *Each Party agrees to process the personal data provided by the other Party in accordance with the applicable data protection laws, particularly in accordance with the provisions of the Regulation.*
4. *Each Party is obligated to fulfill the information obligation towards the individuals designated for contact by the other Party (“Authorized Persons”), whose data it processes. The information clause for the Contractor is attached as Annex No. 4 to the Agreement.*
5. *The Parties commit to continuously monitor changes in data protection regulations and adjust the methods of processing personal data, including internal procedures and data protection measures, to comply with current legal requirements.*
6. *In the event of disputes, claims, or complaints related to the processing of the Authorized Persons’ personal data in connection with the performance of the Agreement, the Parties are obligated to inform each other and support each other in providing explanations, supplying documents, and performing other actions necessary for defense against such claims.*
7. *The Parties commit to promptly inform each other of any identified personal data security breaches concerning the Authorized Persons, if such a breach could impact the fulfillment of obligations by the other Party or could result in the other Party’s liability.*

***§ 9***

***Force Majeure***

1. *The Parties shall not be held liable for non-performance or improper performance of the Agreement caused by force majeure (hereinafter: "Force Majeure"). For the purposes of this Agreement, Force Majeure shall mean an extraordinary event, independent of the Parties, external, unforeseeable, and unavoidable, which occurred after the effective date of the Agreement. Force Majeure includes, but is not limited to, natural disasters such as hurricanes, earthquakes, floods, as well as other events such as war, riots, radioactive contamination, epidemic threats (including those resulting in the imposition of restrictions in the country of the Ordering Party or the Contractor after the effective date of the Agreement that affect the timely and proper performance of the Subject of the Agreement), etc.*
2. *The concept of Force Majeure does not include any events that result from the failure of the Parties to exercise due diligence as defined in Article 355 § 2 of the Civil Code.*
3. *The Party affected by Force Majeure shall promptly notify the other Party in writing of the occurrence of Force Majeure and its anticipated impact on the performance of the Agreement.*
4. *If Force Majeure persists for no longer than 30 days from the date of notification to the other Party, the Parties are obligated to enter into negotiations to modify (or establish new) deadlines for the performance of the Agreement, the scope of the Contractor's obligations, or the Contract Price, provided that the Parties may agree to terminate the Agreement by mutual consent.*
5. *If Force Majeure continues for more than 30 days from the date of notification to the other Party, either Party may withdraw from the Agreement in whole or in part within 60 days from the date of notification to the other Party, unless the Parties mutually agree to terminate the Agreement by mutual consent or enter into negotiations to modify (or establish new) deadlines for the performance of the Agreement, the scope of the Contractor's obligations, or the Contract Price.*
6. *In the event of circumstances of Force Majeure affecting the performance of contractual obligations, neither Party shall be entitled to claim damages or contractual penalties.*

***§ 10***

***Confidential Information***

1. *The Parties to the Agreement agree not to disclose to third parties or use for purposes other than the performance of the Agreement any confidential information and/or trade secrets obtained in connection with the execution of tasks covered by the Agreement, unless they obtain written consent from the other Party in each specific case.*
2. *The disclosure of confidential information and/or trade secrets as required by applicable law, court order, or administrative decision of a competent governmental authority is not subject to the above restrictions.*
3. *The obligations mentioned in this paragraph shall remain in effect even after the termination or expiration of the Agreement. The Parties are responsible for ensuring that their employees, agents, and any persons acting on their behalf comply with these obligations.*
4. *The obligations mentioned in this paragraph do not apply to public information as defined by the Act of 6 September 2001 on Access to Public Information.*

***§ 11***

***Zmiany Umowy***

1. *Any amendments to the Agreement require the mutual consent of the Parties expressed in writing under pain of nullity. In addition to cases of amendment resulting from the prior provisions of the Agreement, the Ordering Party anticipates the possibility of amending the terms of the Agreement under the following conditions:*
	1. *If there is a change in generally applicable laws affecting the performance of the Subject of the Agreement—in such a case, the Parties shall agree on amendments to the Agreement required by the new regulations;*
	2. *If there is a change in the applicable VAT rate that affects the Contract Price—in such a case, the net price of the Agreement shall remain unchanged, and the gross value specified in the annex shall be calculated based on the new regulations. The change in the Contract Price shall take effect from the date the new regulations come into force. The Contractor is obligated to demonstrate how and to what extent such a change affects the Contract Price;*
	3. *If there is a change in the applicable excise tax rate that affects the Contract Price—in such a case, the Contractor is obligated to demonstrate how and to what extent such a change affects the Contract Price. The net price of the Agreement, as specified in the annex to the Agreement, shall be calculated taking into account the new excise tax rate, and the gross value specified in the annex shall be calculated based on the revised net price of the Agreement. The change in the Contract Price shall take effect from the date the regulations come into force. The Contractor is obligated to demonstrate how and to what extent such a change affects the Contract Price;*
	4. *In the event of a change in the minimum wage or minimum hourly rate established under the Act of 10 October 2002 on the minimum wage, the Ordering Party allows for a change in the Contract Price—provided that the Contractor unequivocally demonstrates that such a change will affect the cost of performing the Subject of the Agreement;*
	5. *In the event of a change in the rules for social security or health insurance contributions, or the rate of social or health insurance contributions, the Ordering Party allows for a change in the Contract Price—provided that the Contractor unequivocally demonstrates that such a change will affect the cost of performing the Subject of the Agreement;*
	6. *In the event of a change in the rules for collecting and the amount of contributions to employee capital plans, as referred to in the Act of 4 October 2018 on Employee Capital Plans, the Ordering Party allows for a change in the Contract Price—provided that the Contractor unequivocally demonstrates that such a change will affect the cost of performing the Subject of the Agreement;*
	7. *If events of Force Majeure occur that prevent the timely performance of the Subject of the Agreement—in such a case, the Parties shall agree on an extension of the performance deadline, taking into account the actual duration of the Force Majeure event and its impact on the Subject of the Agreement;*
	8. *If there are reasons related to the operational activities of the Ordering Party or technical reasons on the part of the Ordering Party—in such a case, the Parties shall agree on the justification and possibility of amending the Agreement to extend the performance deadline for the Subject of the Agreement by the duration of the difficulties caused by the Ordering Party's operational activities or technical reasons on the part of the Ordering Party, without the right of the Contractor to claim compensation for this, provided that the Ordering Party is obligated to provide detailed explanations and demonstrate the impact on the possibility of fulfilling the Agreement.*
	9. *If the delivery of the System or its individual components that were to be delivered and installed under the Agreement becomes impossible for objective reasons, particularly due to the discontinuation of production of that component or its unavailability on the market after the effective date of the Agreement—the amendment to the Agreement may concern: (i) a change in the Contract Performance Deadline (if the delivery date of a given component affects the timely performance of the Subject of the Agreement for reasons beyond the Contractor's control) or (ii) a change in the Subject of the Agreement in terms of quantity or quality (including the introduction of substitute or equivalent solutions, the use of other technological solutions, etc.), provided that these changes guarantee that the System and its components meet the requirements described in the Agreement;*
	10. *If related to the use of new technologies or newer generation materials or devices that allow for more efficient operation and/or cost savings in the operation of the Subject of the Agreement.*
2. *No later than 30 days after the new regulations associated with the circumstances indicated in section 1 points 1.4 above come into force, the Contractor shall submit a written request to amend the Agreement concerning the amount of remuneration. The request should include comprehensive factual and legal justification and a detailed calculation of the Contractor's remuneration after the amendment of the Agreement. In particular, the Contractor will be required to demonstrate the link between the requested amount of increased contractual remuneration and the impact of the change in the minimum wage on the calculation of the offer price. The request should include only those additional costs of performing the order that the Contractor is required to bear due to the increase in the minimum wage. Costs resulting from wage increases for the Contractor's employees that are not necessary to adjust to the minimum wage increase will not be accepted.*
3. *No later than 30 days after the new regulations associated with the circumstances indicated in section 1 point 1.5 above come into force, the Contractor shall submit a written request to amend the Agreement concerning the amount of remuneration. The request should include comprehensive factual and legal justification and a detailed calculation of the Contractor's remuneration after the amendment of the Agreement. In particular, the Contractor will be required to demonstrate the link between the requested amount of increased contractual remuneration and the impact of the change in the rules for social or health insurance contributions or the rate of social or health insurance contributions on the calculation of the offer price. The request should include only those additional costs of performing the order that the Contractor is required to bear due to the change in the rules for social or health insurance contributions or the rate of social or health insurance contributions. Costs resulting from wage increases for the Contractor's employees that are not necessary to adjust to the changed rules for social or health insurance contributions or the rate of social or health insurance contributions will not be accepted.*
4. *No later than 30 days after the new regulations associated with the circumstances indicated in section 1 point 1.6 above come into force, the Contractor shall submit a written request to amend the Agreement concerning the amount of remuneration. The request should include comprehensive factual and legal justification and a detailed calculation of the Contractor's remuneration after the amendment of the Agreement. In particular, the Contractor will be required to demonstrate the link between the requested amount of increased contractual remuneration and the impact of the change in the rules for collecting and the amount of contributions to employee capital plans on the calculation of the offer price. The request should include only those additional costs of performing the order that the Contractor is required to bear due to changes in the rules for collecting and the amount of contributions to employee capital plans causing an increase in the contractor's costs. Costs resulting from wage increases for the Contractor's employees that are not necessary to adjust to the changes in the rules for collecting and the amount of contributions to employee capital plans will not be accepted..*
5. *The change in remuneration referred to in section 1 points 1.4 – 1.6 above, after meeting the conditions mentioned in sections 2 – 4 above and its acceptance by the Ordering Party, shall take effect on the date of the change in the regulations that form the basis for the Contractor's remuneration change. The amendment to the Agreement based on section 1 points 1.4 – 1.6 above shall result in a change in remuneration only concerning payments made after the date of the annex to the Agreement.*
6. *In the event of an amendment to the Agreement, the Parties shall draw up a Change Protocol containing the detailed justification for the proposed amendment, as agreed upon by the Contractor and the Ordering Party.*

***§ 12***

***Waloryzacja wynagrodzenia***

***CLAUSE REQUIRED UNDER ARTICLE 439 OF THE PUBLIC PROCUREMENT LAW - APPLIES ONLY IN SPECIFIC CIRCUMSTANCES THAT ARISE AFTER THE SIGNING OF THE CONTRACT.***

1. *The amounts payable to the Contractor, as referred to in § 2 section 1 of the Agreement, shall be adjusted to reflect increases or decreases in prices in accordance with this paragraph. To the extent that compensation for price increases or decreases is not covered by the provisions of this or other sections of the Agreement, it shall be deemed that the Contract Price includes such price increases or decreases.*
	1. *Indexation will be based on the monthly Consumer Price Index ("Index") announced by the President of the Central Statistical Office (GUS) in the form of a communiqué published in the GUS Knowledge Base, subject to the conditions specified in subpoints 1.1.1.–1.1.4. below:*
		1. *The indexation of the Contractor's remuneration will begin after the cumulative change in the Index, calculated from the date of the Agreement, reaches a level of +/- 10%,*
		2. *The Parties have the right to request a one-time indexation of the remuneration after the signing of the Acceptance Protocol.*
		3. *The total change in the Contractor's remuneration as a result of indexation introduced during the term of the Agreement shall not exceed +/- 10% of the Contract Price,*
		4. *In the event of the elimination of the Consumer Price Index or a change in the entity that officially determines it, the mechanism referred to in section 1 shall apply accordingly to the index and entity that, in accordance with applicable law, replaces the current Index or entity.*
2. *The remuneration resulting from the change will be calculated using the VAT rate applicable on the date the change is made.*
3. *The Parties shall draw up a protocol of agreement, which shall specify:*
	1. *The period for which the indexation is made;*
	2. *The value of the indexation amount;*
	3. *The value of the remuneration subject to indexation;*
	4. *The amount of remuneration before and after indexation;*
	5. *The total value of the change in remuneration as a result of indexation.*
4. *The protocol of agreement referred to in section 3 above shall be accompanied, as appropriate to the circumstances justifying the change in remuneration, by the Agreement Party's request for the indexation of the Contract Price, along with a demonstration of the impact of the Index change (subject to section 1 point 1.1.1) on the Contractor's remuneration as established in the Agreement.*
5. *Indexation of remuneration based on section 1 does not constitute an amendment to the Agreement and does not require the preparation of an annex.*
6. *In the event that the Contractor's remuneration is adjusted in accordance with the provisions of this paragraph, the Contractor is obligated to adjust the remuneration due to any subcontractor with whom it has entered into an agreement with a term exceeding 6 months, in a manner corresponding to the changes in costs related to the subcontractor's obligations.*

 ***13***

***Termination of the Agreement***

1. *In the event of a material breach of the terms of the Agreement by either Party, the non-breaching Party shall issue a notice demanding the cessation of the breach, specifying an appropriate period, not less than 14 days, for compliance.*
2. *If the breach is not remedied within the specified period, the non-breaching Party may terminate the Agreement in whole or in part within 30 days from the expiration of the aforementioned period by submitting a written statement with justification, under pain of nullity.*
3. *If the Ordering Party or the Contractor terminates the Agreement (in whole or in part, in accordance with the provisions of the Agreement) for reasons attributable to the Contractor, the Contractor shall be obligated to pay the contractual penalty referred to in § 6 section 1 of the Agreement.*
4. *Payment of the contractual penalty by the Contractor, as mentioned in section 3 above, shall be made within no more than 30 days from the date of termination of the Agreement by the Ordering Party or the Contractor.*
5. *If the Contractor terminates the Agreement for reasons attributable to the Ordering Party, the Ordering Party's liability shall be limited solely to payment for the portion of the Subject of the Agreement completed before the date of receipt of the Contractor's written notice of termination, up to a maximum of 100% of the Contract Price. Reimbursement of these costs shall occur within no more than 30 days from the date the Contractor presents documents to the Ordering Party confirming the costs incurred, along with justification for incurring them.*
6. *Within 30 days of receipt of the termination notice referred to above by the Contractor, the Parties shall proceed to settle mutual claims and issue the appropriate accounting documents in accordance with the agreements reached by the Parties.*
7. *If circumstances arise for which the Contractor is not responsible, making the performance of the Subject of the Agreement impossible or not in the public interest, and which the Parties, despite exercising all due diligence, could not have foreseen at the time of concluding the Agreement, the Ordering Party may terminate the Agreement within 30 days from the date of becoming aware of such circumstances.*
8. *Any provisions of the Agreement regarding termination do not exclude the possibility for either Party to exercise statutory grounds for terminating the Agreement*

 ***14***

***Final Provisions***

1. *The Agreement enters into force on the date of its signing by both the Ordering Party and the Contractor, and if the signatures are affixed on different dates, the Agreement enters into force on the date the last signature is affixed.*
2. *During the performance of the Subject of the Agreement, each Party is obligated, based on standard commercial diligence and using methods appropriate to their standard operations, to inform the other Party of any known risks, difficulties, or obstacles related to the performance of the Agreement, including any known circumstances on the part of the other Party that could objectively affect the quality, timeliness, or scope of work performed under the Subject of the Agreement. The Parties are also obligated to continuously inform each other of any known instances of breaches of the Agreement's provisions that apply to the Subject of the Agreement.*
3. *If any individual provisions of the Agreement prove to be invalid or unenforceable, this does not affect the validity of the remaining provisions. The invalid or unenforceable provisions shall be replaced by provisions that are legally permissible and as close as possible to the intent of the Parties as expressed in the Agreement and that are enforceable. The new regulation replacing the invalid or unenforceable provision, or filling any potential gap, shall be drafted by the Parties in writing.*
4. *Strony podejmą w dobrej wierze wysiłek w celu rozwiązania wszelkich sporów powstałych pomiędzy The Parties shall make a good faith effort to resolve any disputes arising between them from the application and/or interpretation of the Agreement. If a resolution is not achieved, the dispute shall be submitted to the competent court for the jurisdiction of the Ordering Party’s registered office..*
5. *The persons responsible for matters related to the performance of the Agreement are:*
	1. *On behalf of the Ordering Party:*
		1. *The person authorized to make arrangements during the performance of the Agreement, including signing Protocols, is ………………… (email: …………..) or another person designated by the Ordering Party;*
	2. *On behalf of the Contractor:*
		1. *The person authorized to make arrangements during the performance of the Agreement, including signing Protocols, is …………………………….(tel. …………………, email: ..............................) and/or ............................... (tel. ……………………………….) or another person designated by the Contractor.*
6. *The change of persons referred to in section 4 above does not require an amendment to the Agreement through the signing of an annex. Changes are made in writing or electronically, directed in the case of a change on the part of the Contractor to the person on the part of the Ordering Party, and in the case of a change on the part of the Ordering Party to the person on the part of the Contractor authorized to make arrangements according to section 4 above. The change is effective from the date the other Party receives notice of the change.*
7. *The persons referred to in section 4 above are not authorized to make any declarations of intent on behalf of the Parties that would result in or cause changes (to the terms or conditions) of the Agreement or the termination of the Agreement.*
8. *Matters not regulated by the Agreement shall be governed by Polish law.*
9. *To the extent that the Parties have reserved a written form for certain actions under the Agreement under penalty of nullity, this requirement is also met by performing actions or making declarations in electronic form, signed with a qualified electronic signature.*
10. *The Agreement is drawn up in two identical copies, one for each Party.*
11. *For the purposes of the Agreement, the Parties mutually understand a business day to mean a day from Monday to Friday, excluding public holidays.*
12. *The annexes form an integral part of the Agreement:*
	1. *Annex No. 1 - Description of the Subject of the Contract*
	2. *Annex No. 2 - Contractor's Offer*
	3. *Annex No. 3 - Acceptance Protocol Template*
	4. *Annex No. 4 - GDPR Clause*
	5. *Annex No. 5 - "Beneficial Owner" Declaration Template*

 ***ZAMAWIAJĄCY WYKONAWCA***

*Annex No. 1 –*

*Description of the Subject of the Contract*

***Annex No. 2 –***

***Contractor's Offer***

***Annex No. 3 to the Agreement***

***Template of the Acceptance Protocol for the Subject of the Agreement – SAT Test Results***

1. *This protocol confirms the proper execution of the Agreement No. ………………….., specifically ……………………. and the training of the Ordering Party's representatives.\**

***The SAT tests were conducted, covering the following aspects:***

1. ***Podstawowych parametrów:***
	1. *Basic functionality of the system verified.*
	2. *Laser safety checks completed.*
2. ***Image Quality***
	1. *Illumination uniformity.*
	2. *Clarity of AOD illumination area.*
	3. *Astigmatism test. Lateral focus stability.*
3. ***Autofocus***
	1. *Image quality of autofocus ring verified.*
	2. *Autofocus calibration completed.*
4. ***Noise Floor***
	1. *PBS Buffer solution: 6000 frames*
	2. *RMSD < 0.06%*
5. ***Mass Resolution***

*Standard Deviation of BSA peak at 66.5kDa α< 12kDa*

1. ***Mass Calibration***

*Linear calibration with standard calibration proteins*

*Fit from linear calibration R2 > 0.99*

*The Contractor has delivered, and the Ordering Party has received the following documents:*

* *Warranty cards (if required),*

***Remarks****: …………………………………………………………………………………………*

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

*Warsaw, on .........................*

*\* - strike out / fill in as appropriate depending on the part of the subject of the contract.*

*\* - odpowiednie skreślić / wypełnić w zależności od części przedmiotu zamówienia*

***Contractor Ordering Party***

***Annex No. 4 to the Agreement***

***INFORMATION CLAUSE IN CONNECTION WITH THE CONCLUSION OF A CIVIL LAW CONTRACT***

*Pursuant to Article 14(1) and (2) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), hereinafter referred to as "GDPR", we inform you that:*

1. *The Data Controller (DC), meaning the entity deciding on the purposes and means of processing your personal data, is the International Institute of Molecular and Cell Biology in Warsaw, located at ul. Księcia Trojdena 4, 02-109 Warsaw (hereinafter referred to as DC).*
2. *For all matters related to the processing of your personal data, as well as in case of questions or concerns, you can contact the Data Protection Officer at the email address:* *iod@odosc.pl**.*
3. *The scope of processed personal data includes, in particular::*
	1. *First and last name;*
	2. *Email address;*
4. *The purpose of processing your personal data is:*
* *the conclusion and execution of a civil law contract or the undertaking of actions at your request prior to the conclusion of the contract.*
1. *Your personal data will be processed:*
	1. *When it is necessary for the performance of a contract or to take action at your request prior to the conclusion of a contract (in accordance with Article 6(1)(b) GDPR);*
	2. *When it is necessary to fulfill a legal obligation to which the controller is subject (in accordance with Article 6(1)(c) GDPR);*
	3. *When it is necessary for purposes resulting from legitimate interests pursued by the controller (Article 6(1)(f) GDPR);*
	4. *In other cases, your personal data will be processed only on the basis of prior consent within the scope and purpose specified in the consent (in accordance with Article 6(1)(a) GDPR).*
2. *The processing of personal data is primarily based on the Act of 23 April 1964 – the Civil Code (Journal of Laws of 2018, item 1025 as amended) and other generally applicable laws.*
3. *We require you to provide a specific scope of personal data, which is:*
	1. *Voluntary, but necessary for the conclusion and execution of the contract;*
	2. *Voluntary in cases where the processing of personal data is based on the consent of the data subject;*
	3. *Necessary for the DC to perform tasks imposed by applicable laws or to perform tasks carried out in the public interest or in the exercise of official authority. Failure to provide the data required by generally applicable laws will result in the inability to take action to properly consider the matter;*
4. *We guarantee that your rights under the General Data Protection Regulation (GDPR) will be respected. To exercise the following rights, please contact the Data Protection Officer via email at iod@odosc.pl:*
5. *The right to request access to your personal data, to rectify, delete, or restrict its processing;*
6. *The right to object to the processing of your personal data;*
7. *The right to data portability;*
8. *The right to withdraw consent to the processing of your personal data at any time without affecting the lawfulness of processing based on consent before its withdrawal..*
9. *If you believe that the processing of your personal data by the Controller is not in compliance with the applicable data protection laws, you have the right to lodge a complaint with the supervisory authority responsible for data protection, i.e., the President of the Office for Personal Data Protection (ul. Stawki 2, 00-193 Warsaw).*
10. *The disclosure of personal data by the Controller is based on previously concluded data processing agreements (in accordance with Article 28 GDPR) and applicable laws that may require the Controller to disclose such data. Your personal data may be disclosed to:*
	1. *Authorized entities by law—upon documented request;*
	2. *IT system providers collaborating with the Controller—to maintain continuity and accuracy of system operations;*
	3. *Legal offices, consulting, and service companies;*
	4. *Entities engaged in postal or courier activities—to deliver correspondence.;*
11. *Your personal data will be processed for the duration of the service contract and after the termination of the contract for the period specified by specific provisions, including the period required to establish, defend, or pursue claims, and the retention period required by supervisory authorities, in particular: the Social Insurance Institution (ZUS) and the Tax Office. Additionally, your data will be stored according to the unified records classification scheme.*
12. *Your personal data processed on the basis of consent will be stored until the consent is withdrawn. The withdrawal of consent does not affect the lawfulness of processing based on consent before its withdrawal.*
13. *Your personal data has been obtained from the contractor or another entity contacting the DC, with whom you have an employment contract or a civil law contract (including a contract of mandate, contract for specific work, or service provision agreement).*

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”*

*Data Controller*

***Załącznik Nr 5 do Umowy***

***OŚWIADCZENIE „BENEFICIAL OWNER” (WZÓR)***

*……….………………………………..*

***Miasto, DD.MM.RRRR | Place, dd/mm/yyyy***

***Od / podmiot otrzymujący płatność (dalej: „Odbiorca”) | From / payment recipient (hereinafter the „Recipient”):***

 *………………………………….………………………………..*

 ***Pełna nazwa prawna | Full legal name***

*………………………………….………………………………..*

***Adres | Address***

*………………………………….………………………………..*

***Rezydent podatkowy w (państwie) | Tax resident in (country)***

*………………………………….………………………………..*

***Numer identyfikacji podatkowej | Tax identification number***

*\*\*\**

***Do / podmiot wypłacający (dalej: „Płatnik”) | To / payment remitter (hereinafter the „Remitter”):***

***…………………….***

***(Pełna nazwa prawna) | Full legal name***

***……………………….***

***Adres | Address***

***Polska | Poland***

***Rezydent podatkowy w (państwie) | Tax resident in (country)***

***………………………………***

***Numer identyfikacji podatkowej | Tax identification number***

|  |  |
| --- | --- |
| ***Oświadczenie****Podpisujący, w związku z wypłatą / wypłatami …………………. (do uzupełnienia: dywidendy / odsetek / należności licencyjnych / należności z tytułu świadczonych usług / opłat z tytułu transportu morskiego / powietrznego towarów) na rzecz Odbiorcy przez Płatnika (dalej: „****Wypłacane Należności”****) niniejszym oświadcza/ oświadczają, że:*1. *w odniesieniu do Wypłacanych Należności:*
 | ***Statement****With reference to the sum / sums to be paid to the Recipient in respect of ……………….. (to be filled: dividends / interest / royalties / receivables for services rendered / sea / air freight charges)* ***(the “Remittances”****) by the Remitter, the Undersigned hereby declares/ declare that:* 1. *as regards the Remittances:*
 |
| * *Odbiorca jest podmiotem, na którym ciąży obowiązek podatkowy;*

*albo [do wyboru przez Odbiorcę tylko jedna możliwość]** *Wspólnicy Odbiorcy są osobami, na których ciążą obowiązki podatkowe.*
 | *☐**☐* | * *the Recipient is an entity liable to tax;*

*or [the Recipient to tick only one alternative]** *the Recipient’s partners are persons liable to taxes.*
 |
| 1. *Odbiorca jest rezydentem dla celów podatkowych w ………. (do uzupełnienia właściwe państwo), gdzie podlega opodatkowaniu podatkiem dochodowym od całości swoich dochodów, bez względu na miejsce ich osiągania;*
2. *Odbiorca jest rzeczywistym właścicielem Wypłacanych Należności, tj. spełnia łącznie następujące warunki:*
* *otrzymuje Wypłacane Należności dla własnej korzyści, w tym decyduje samodzielnie o ich przeznaczeniu i ponosi ryzyko ekonomiczne związane z utratą Wypłacanych Należności lub ich części;*
* *nie jest pośrednikiem, przedstawicielem, powiernikiem lub innym podmiotem zobowiązanym prawnie lub faktycznie do przekazania całości lub części Wypłacanych Należności innemu podmiotowi;*
* *prowadzi rzeczywistą działalność gospodarczą w kraju siedziby. W szczególności:*
* *zarejestrowanie Odbiorcy wiąże się z istnieniem przedsiębiorstwa, w ramach którego Odbiorca ten wykonuje faktycznie czynności stanowiące działalność gospodarczą, w tym w szczególności Odbiorca posiada lokal, wykwalifikowany personel oraz wyposażenie wykorzystywane w prowadzonej działalności gospodarczej;*
* *nie tworzy struktury funkcjonującej w oderwaniu od przyczyn ekonomicznych;*
* *istnieje współmierność między zakresem działalności prowadzonej przez Odbiorcę a faktycznie posiadanym przez niego lokalem, personelem lub wyposażeniem;*
* *zawierane porozumienia są zgodne z rzeczywistością gospodarczą, mają uzasadnienie gospodarcze i nie są w sposób oczywisty sprzeczne z ogólnymi interesami gospodarczymi Odbiorcy;*
* *samodzielnie wykonuje swoje podstawowe funkcje gospodarcze przy wykorzystaniu zasobów własnych, w tym obecnych na miejscu osób zarządzających.*
1. *Wypłacane Należności (przychód) są uzyskiwane w związku z rzeczywistą działalnością gospodarczą i wiążą się z rzeczywistą działalnością gospodarczą w kraju siedziby Odbiorcy dla celów podatkowych.*
2. *Odbiorca nie posiada zakładu w Polsce.*
3. *Zgodnie z przepisami obowiązującymi w kraju siedziby Odbiorcy, Podpisujący jest uprawniony/ są uprawnieni do składania w imieniu Odbiorcy wiążących oświadczeń woli.****[[2]](#footnote-2)***
4. *Według mojej/ naszej najlepszej wiedzy nie są planowane zmiany dotyczące powyższego. W przypadku zmiany okoliczności faktycznych związanych z niniejszym oświadczeniem, Odbiorca niezwłocznie zawiadomi o tych zmianach Płatnika wydając stosowne oświadczenie.*

*Niniejsze oświadczenie jest wydane na żądanie Płatnika, zgodnie z przepisami ustawy z dnia 15 lutego 1992 r., o podatku dochodowym od osób prawnych, w celu udokumentowania spełnienia warunków uprawniających do zastosowania zwolnienia z podatku w Rzeczpospolitej Polskiej lub zastosowania obniżonej stawki podatku.*  | 1. *the Recipient is resident for tax purposes in ……….. (relevant country to be filled) where it is subject to taxation on its total income, regardless of the place where such income has been earned;*
2. *the Recipient is the beneficial owner of the Remittances i.e. it satisfies all of the following conditions at a time:*
* *receives the Remittances for his own benefit, independently makes a decision on how to use them and suffers the economic risk arising from loss of the Remittances in whole or in part;*
* *is not an intermediary, representative, custodian or other entity liable, whether legally or factually, to transfer the Remittances to another entity in whole or in part;*
* *carries on a genuine business activity in the country where it is established. In particular:*
* *the Recipient’s registration involves the existence of an enterprise within which the Recipient actually carries on operations qualifying as a business activity, including specifically it has space, qualified human resources and equipment/ facilities used for purposes of that business activity;*
* *is not part of a scheme operating with no commercial reasons;*
* *the scope of the Recipient’s activity is commensurate with the space, personnel or equipment/ facilities it actually holds;*
* *the arrangements made are in line with the actual business environment, are commercially justified and are not obviously contrary to the Recipient’s overall commercial interests;*
* *independently carries out its key business functions using its own resources, including managers present on the site.*

1. *The Remittances (revenue) are obtained in connection with a genuine business activity and are linked with the genuine business activity in the country where the Recipient is resident for tax purposes.*
2. *The Recipient has not permanent establishment in Poland*
3. *Under the law effective in the country where the Recipient is established, the Undersigned is/ are authorised to give binding statements of intent in the Recipient’s name.****3***
4. *To the best of my/ our belief, no changes in respect of the foregoing are planned. In case of any change of circumstances connected herewith, Recipient shall notify Remitter of these changes by issuing an appropriate statement without delay.*

*This statement has been issued upon a request of Remitter, pursuant to the provisions of Polish CIT Act of 15 February 1992, in order to substantiate that the requirements for application of a tax exemption or a reduced tax rate in the Republic of Poland have been met.*  |

*W imieniu | For[[3]](#footnote-3) …………………………………………*

*……………………………………………………..…………..*

*……………………………………………………..…………..*

*Imię, nazwisko, numer paszportu, stanowisko Podpisującego/ Imiona, nazwiska, numery paszportów, stanowiska, Podpisujących [do uzupełnienia przez Odbiorcę]
Name(s), surname(s), passport number(s), title(s) of the Undersigned [to be filled in by the Recipient]*

*……………………………………………………..…………..*

*……………………………………………………..…………..*

*……………………………………………………..…………..*

*Podpis Podpisującego/ Podpisy Podpisujących | Signature(s) of the Undersigned*

1. Postanowienia § 2 ust. 17-19 dot. wykonawców niemających siedziby w Polsce. [↑](#footnote-ref-1)
2. Punkt do usunięcia, jeśli Odbiorca jest osobą fizyczną / delete this point if the Recipient is and individual [↑](#footnote-ref-2)
3. Do usunięcia, jeśli Odbiorca jest osobą fizyczną / To be deleted if the Recipient is and individual [↑](#footnote-ref-3)