

CONTRACT no. – TEMPLATE

concluded on in Sopot, Poland / concluded on the date of placing a signature by the last Party¹

between:

the Institute of Oceanology of the Polish Academy of Sciences (Instytut Oceanologii Polskiej Akademii Nauk), ul. Powstancow Warszawy 55, 81-712 Sopot, Poland, registered in Rejestr Instytutow Naukowych (Science Institute Register) under No. RIN-VII-14/98, with NIP (VAT No.) PL5851004839, REGON (Polish National Official Business Register) 000632467, hereinafter referred to as the CONTRACTING AUTHORITY, represented by:

.....

and

business entity with its registered office in
 registered in (name of the register and number)
 NIP [VAT No] REGON [National Official Register of Business Entities]
 hereinafter referred to as the CONTRACTOR, represented by:

.....

as follows:

§ 1

1. The contract is awarded based on the selection of the most favourable bid chosen in the procurement procedure in the area of science no. IO/ZN/8/2024 pursuant to article 11(5)(1) of the Act of 11 September 2019 on Public Procurement Law (the consolidated text in the Journal of Laws from 2024, Item 1320, as amended).
2. The contract is funded from the project "Transport and transformation of total alkalinity from continental rivers – missing elements for understanding pH variability in the Baltic Sea" (ALKALIS, agreement no. UMO-2023/49/B/ST10/02690, OPUS 25 call), funded by the Polish National Science Centre.

§ 2

1. The subject of the contract is **the delivery of an ocean pCO₂ sensor** for the Institute of Oceanology of the Polish Academy of Sciences in accordance with the submitted bid of (date) and the Contract Notice in the area of science dated with appendices (hereinafter referred to as 'the Contract Notice'), being an integral part hereof.
2. Under the contract the Contractor is obligated to transfer ownership of the subject of the contract and hand over the subject of the contract and the Contracting Authority is obligated to collect the subject of the contract and to pay the Contractor the price (the remuneration set in § 4 section 1 of the contract).
3. The delivered equipment must meet in particular following technical specification:
 - 1) measurement range of the sensor: 100–2200 µatm;
 - 2) sensor operating temperature: from -2 to 22°C;
 - 3) attached power cable;
 - 4) operating depth: at least 1 m;
 - 5) accuracy: ±0.5% of the measurement;
 - 6) sensor software;
 - 7) antifouling protection;
 - 8) internal data recording.
4. All elements of the subject of the order must be compatible with each other and must enable full use of the equipment.
5. Under the contract the Contractor shall deliver the subject of the contract to the Contracting Authority's register office - ul. Powstancow Warszawy 55, 81-712 Sopot, Poland (including packaging and insurance during delivery of the subject of the order).
6. The Contractor shall provide, within the specified period of time, a brand new device from current production, which meets all the functional and technical requirements specified by the Contracting Authority, is free from any defects and damage, without previous use and not subject to third party rights. The delivered device cannot be post-exhibition equipment (from the exhibition).
7. The Contractor declares that the subject of the contract will be free from legal defects and third party rights, there are no ongoing proceedings relating to the subject of the contract, and it is not the subject of security.
8. The Contractor shall provide the Contracting Authority with:

¹ In case of signing the contract with a qualified electronic signature

- a) complete documentation of the device (including at least one copy of the operating manual) in Polish and/or in English,
 - b) all licenses for software and firmware delivered within the execution of the contract, if required for usage,
 - c) the installation version of the software, described in section 3 point 6 above (e.g. on a carrier or a key and a link for self-download or access to the software with an account on the data processing portal),
 - d) warranty document or other documents, if required for the exercise of rights by the Contracting Authority.
9. In the event of concluding the contract with the Contractors jointly applying for the contract, such Contractors are jointly and severally liable for the performance of this contract.
 10. The Contractor states that he has fulfilled information obligations provided for in article 13 or 14 of the 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' or 'Regulation') towards natural persons from whom personal data were obtained directly or indirectly for the purpose of signing and performing this contract, in particular these persons were informed that their data would be made available to the Contracting Authority (the Institute of Oceanology of the Polish Academy of Sciences) and were familiarized with the clause contained in Chapter VIII of the Contract Notice in the area of science. The Contractor additionally declares that each time he provides the Contracting Authority with personal data, he will fulfill the obligation referred to in the first sentence.
 11. The Contracting Authority and the Contractor shall co-operate during the implementation of the contract, to ensure due performance of the contract.

§ 3

1. The subject of the contract referred to in § 2 will be delivered not later than within **20 weeks** from the date of signing the contract.
2. The place of delivery of the subject of the contract: the Contracting Authority's register office – **ul. Powstancow Warszawy 55, 81-712 Sopot, Poland.**

§ 4

1. According to the submitted bid, the Contractor's remuneration for the performance of the contract amounts to total (gross) of PLN/EUR (say:), including VAT PLN/EUR, net value: PLN/EUR (say:).
2. The costs of VAT and customs shall be accounted for and covered by the Contracting Authority, if the Contracting Authority has this obligation in accordance with applicable rules of law (laws on value added tax). If the Contracting Authority is obliged to fulfil this tax obligation under applicable rules of law on value added tax, the Contractor shall be entitled only to the net value of the goods for which the Contracting Authority has a tax obligation.
3. The amount referred to in section 1 includes all costs related to the performance of the contract, including but not limited to cost of the subject of the contract (with documentation, software and firmware), cost of packaging, transport to the place of destination and insurance during delivery to the place of destination, cost of warranty and warranty service, as well as cost of calibration (excluding costs of packaging, transport to the place of calibration and possible insurance of equipment during transport to the place of calibration), and cost of granting a license for software and firmware.
4. The Parties agree that the payment for the delivered subject of the contract will take place on the basis of the invoice delivered to the Institute of Oceanology of the Polish Academy of Sciences, following the signing the acceptance protocol by the Contracting Authority without reservations.
5. The Contractor is obligated to prepare and submit to the Contracting Authority - at delivery - a handover and acceptance protocol of the delivered goods.
6. Payment will be transferred from the account of the Contracting Authority to the Contractor's account specified on the invoice within 30 days counted from the date of acceptance of the subject of the agreement without reservations and after receipt of the invoice properly issued by the Contractor.
7. The day of debiting the Contracting Authority's account will be considered as the date of payment.
8. The Contractor is entitled to charge statutory interest for the delay in payment.
9. The account number specified by the Contractor on the invoice shall be consistent with the account number stated on the Polish list of VAT taxpayers (Wykaz podatników VAT, hereafter referred to as "the white list of VAT taxpayers"), unless in accordance with legal provisions the Contractor's account number is not subject to registration. (*does not apply to foreign entities*)
10. The Contracting Authority is entitled to verify whether the account number specified on the invoice is registered on the white list of VAT taxpayers. In case of absence of the account number or mismatch, the

Contracting Authority is entitled to withhold the payment until clarification of the matter. *(does not apply to foreign entities)*

11. The Contracting Authority has a right to demand a change of the account number specified on the invoice to the number registered on the white list of VAT taxpayers. The Contracting Authority is entitled to withhold the payment until the contractor changes the account number specified on the invoice to the number registered on white list of VAT taxpayers. *(does not apply to foreign entities)*
12. The Contractor commits that if he is removed from the register of active VAT taxpayers, he will immediately notify the Contracting Authority of this fact and will be issuing receipts for provided services. In the event of a breach of the above obligation, the Contractor consents to the Contracting Authority deducting from his remuneration an amount equivalent to VAT in respect of which the Contracting Authority has lost the right to deduct, plus interest paid to the Tax Office. *(does not apply to foreign entities)*
13. The Contracting Authority can make the payment using the split payment mechanism, regulated in Chapter 1a, Section XI of the Polish Act on Goods and Services Tax.

§ 5

1. The Contractor is liable to the Contracting Authority under implied warranty for defects in the subject of the contract, under the conditions specified in the Civil Code. The Contracting Authority does not agree to exclude or limit the Contractor's liability under implied warranty. If a provision on the exclusion or limitation of the above is included on the VAT invoice, the Contracting Authority may return the invoice to the Contractor. In the latter case, it is assumed that the invoice was not issued correctly.
2. Warranty period for the subject of this contract is **months** counted from the date of acceptance of the subject of the contract without reservations.
3. The Contractor shall be liable to the Contracting Authority for any physical and legal defects of the delivered equipment (particularly involving any non-compliance with the description of the subject of the contract), as well as damage suffered during transport.
4. In case of irregularities found in the equipment, in particular in case of lack of required and offered technical performance or functionality, and in case of delivery of damaged equipment, the Contracting Authority may refuse to accept it. In such a situation the Contracting Authority will inform the Contractor, in writing or electronically, about the observations regarding the irregularities, sending a written protocol, and will call the Contractor to remove the defects within the specified time limit or to provide a defect-free equipment.
5. In case of irregularities found in the delivered equipment, in particular in case of lack of required and offered technical performance or functionality, after the commencement of individual analysis, the Contracting Authority shall notify the Contractor of the irregularities, in writing or electronically, within 5 days from the date of disclosure. A complaint protocol containing a request on how to remove the identified irregularities and a device acceptance protocol must be attached to the notification.
6. In case of irregularities found in the delivered equipment after signing the acceptance protocol and before the deadline for payment of remuneration referred to in § 4 section 6, in particular the lack of appropriate quality and in the event of delivery of defective, damaged or non-compliant devices, the Contracting Authority has the right to refuse to pay the Contractor's remuneration and demand he removes the defects. The Contracting Authority will notify the Contractor, in writing or electronically, of any irregularities found within 3 days from the date of their disclosure. The notification should include a request on how to remove the identified irregularities. A delivery and acceptance protocol regarding the delivered equipment must be attached to the notification. The remuneration will be paid to the Contractor after he removes defects or faults. Removal of defects or faults will be confirmed in a protocol signed by the Parties. Payment made within 5 days from the date of signing a protocol on the removal of defects or faults in accordance with the provisions of this section is deemed to have been made on time.
7. Irregularities indicated by the Contracting Authority and referred to in the paragraphs 4 – 6 above shall be removed by the Contractor at his own expense, in the manner specified by the Contracting Authority, within a period not longer than 21 days from the date on which the irregularities were claimed, subject to longer period for removal of defects upon agreement with the Contracting Authority.
8. The Contractor's failure to respond to the notification of identified irregularities within 7 days from the date of its receipt will be tantamount to the acceptance of the complaint and the Contractor's obligation to immediately remove the identified irregularities.
9. If the revealed irregularities cannot be removed, the Contractor shall deliver a defect-free equipment within 21 days of filing the complaint for the remuneration provided for hereto.
10. The contractor is released from liability under the quality guarantee if he proves that the defects resulted from improper operation of the equipment (inconsistent with the manual).
11. The Contractor is obliged to calibrate the sensor (in a place determined by the Contractor and the Contracting Authority) after 12 months counted from the date of signing the acceptance protocol by the

Contracting Authority without reservations (but no later than within a month after that period). In a justified case, the Contractor and the Contracting Authority may agree to set a different date of calibration. The costs of packaging and transport to the place of calibration, as well as possible insurance of the equipment during transport to the place of calibration, will be borne by the Contracting Authority.

§ 6

1. The subject of the contract shall be performed by the Contractor without / with the assistance of a subcontractor (*delete as appropriate*) in the scope of
2. The Contractor may perform the subject of the contract with the assistance of a subcontractor, provided that he concludes a subcontract with a subcontractor in writing under pain of nullity.
3. Execution of part of the contract may be subcontracted by the Contractor to subcontractors not listed in section 1 in the course of performing the subject hereof only by written consent of the Contracting Authority and provided it does not amend the terms and conditions of the Contract Notice.
4. Entrusting a part of the contract to subcontractors shall not release the Contractor from liability for due performance of this part of the contract. The Contractor shall be liable for the actions, omissions, and negligence of subcontractors as for his own actions, omissions, and negligence.
5. The Contractor shall notify the Contracting Authority of every planned change in subcontracting (including the intention to subcontract work to a new subcontractor, a change of the scope of work performed by a subcontractor, a change of a subcontractor, or resigning from a subcontractor) within a time limit that enables the Contracting Authority to exercise its rights resulting from this contract.

§ 7

1. The Contractor shall pay to the Contracting Authority stipulated penalties in the amount of:
 - a) 0.2% of the net value of the contract as is defined in § 4 section 1 of this contract for each day of default in delivery of the subject of the contract;
 - b) 0.2% of the net value of the contract as is defined in § 4 section 1 of this contract for each day of default in removal of defects found during or after the acceptance of the subject hereof;
 - c) 20% of the net value of the remuneration as is defined in § 4 section 1 of this contract for the withdrawal from the contract by the Contractor for reasons not attributable to the Contracting Authority;
 - d) 20% of the net value of remuneration as is defined in § 4 section 1 of this contract for the withdrawal from the contract by the Contractor for reasons attributable to the Contractor, especially as defined in § 8 section 2 of the contract.
2. The maximal amount of contractual penalties that the Contracting Authority may charge is 20 % of the net value of remuneration (set in § 4 section 1 of the contract).
3. The above-mentioned contractual penalties shall be paid by the Contractor to the bank account of the Contracting Authority within 14 days from the submission of a request for payment by the Contracting Authority.
4. The Contracting Authority reserves the right to claim compensation exceeding the amount of the above penalties under the general rules of the Polish Civil Code.
5. The Contracting Authority shall be entitled to deduct stipulated penalties from the remuneration payable to the Contractor.

§ 8

1. If a major change of circumstances occurs that causes the performance of the contract to be no longer in the public interest, which could not have been foreseen upon the execution hereof, or if the further performance hereof may threaten the important interest of the state or public security, the Contracting Authority may withdraw from the contract within 30 days from becoming aware of such circumstances. In this event the Contractor may require exclusively the remuneration due to him for the completed part of the contract.
2. The Contracting Authority reserves the right to withdraw from the contract within 15 days from re-delivery of malfunctioning equipment by the Contractor or failing to meet the required and offered technical specification or if the defects are not removed – following a formal notice to the Contractor to fulfil the obligations in accordance with § 5 sections 7 and 9 of the contract and setting an additional term to remove the irregularities.

§ 9

1. Any changes or additions to this contract shall be introduced in writing under pain of nullity.
2. The Contracting Authority provides for the possibility of changing the contract, especially in occurrence of the following circumstances:
 - a) changes regarding the scope of the contract and remuneration - in case of possibility to perform the subject of the contract in a manner other than that provided for in the Contract Notice, and at the

same time beneficial for the Contracting Authority, consistent with the Project, which will not go beyond the specification of the subject of the contract contained in the Contract Notice, nor will it increase the Contractor's remuneration;

- b) changes regarding the subject of the contract, the scope of the contract, remuneration, payment and obligations of the Contractor – in case of circumstances not foreseen during signing of the contract, resulting in a need to reduce the order in a way not stipulated in the contract;
 - c) changes in the deadline for completion of the contract – in case it is impossible for the Contractor to meet the deadline for the execution of the contract for reasons beyond the control of the Contractor;
 - d) changes in the deadline for completion of the contract – in the event of force majeure, such as occurrence of a random event caused by external factors, which could not have been foreseen with certainty, in particular a direct threat to life or health of people or a risk of a significant damage, impacting the implementation of the contract;
 - e) changes to the contract are necessary due to actions taken by the administrative bodies or institutions authorized to issue decisions or other commanding or supervisory acts related to the implementation of the contract – in scope related to those actions;
 - f) changes to the contract are necessary due to changes in the relevant legislation – in scope related to those changes;
 - g) change of remuneration – in case of changes in value added tax (VAT) during the performance of the contract, including statutory change in tax rate or occurring a possibility to apply more favourable tax rate;
 - h) change in names or addresses of Parties to this contract, changes related to transformation of the Party – in scope related to those changes;
 - i) change of the subject of the contract – if the offered equipment is not and will not be available on the market or its production has been discontinued (the Contractor may offer more modern replacements with the same or better technical parameters at an unchanged price compared to the offer. The Contractor is obliged to inform the Contracting Authority in writing about the need to replace the equipment and to provide a confirmation of withdrawing the replaced equipment from the market).
3. The above changes cannot modify the general nature of the contract,
 4. The changes described in section 1 above can be introduced on the condition of proper proof of the circumstances set above by the Party interested in introducing changes.
 5. In case of changes resulting in a change of remuneration, the Contractor shall document the impact that the circumstances have had on amount of remuneration.
 6. In case of the change described in section 2 letter g) above, the net value shall remain the same, the gross price shall be determined in accordance with the new provisions.

§ 10

1. The Contractor commits to immediately inform the Contracting Authority in writing about any significant change in his situation during the period of execution of the contract (including the warranty period).
2. The Contractor may not assign claims arising from this contract to a third party without a written consent of the Contracting Authority.
3. The Parties agree that the contract shall be governed by and interpreted in accordance with Polish law (**if the contract is signed with a Contractor who is a foreign entity*).
4. Any disputes resulting from the performance of the contract shall be resolved in negotiations, and if no agreement can be reached, a dispute shall be resolved by a court competent for the registered office of the Contracting Authority.
5. Regulations of the Polish Civil Code shall apply to any issues not governed herein.
6. The contract has been drawn up in three copies, including two copies for the Contracting Authority and one copy for the Contractor. / The contract has been drawn up in an electronic form, signed by the Parties with a qualified electronic signature. (*delete as appropriate*)
7. In case of the preparation and signing of the English version of the contract, the Polish version is the basis for the interpretation of the contract.

THE CONTRACTING AUTHORITY

THE CONTRACTOR

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Appendices to the contract:

Appendix no. 1 – the Bid form (date)