



File reference number: CEZAMAT/91/DmGMiG/2022

Appendix 3
to the request for quotation

AGREEMENT NO. CEZAMAT/91/DmGMiG/2022

concluded on in Warsaw by and between: **Politechnika Warszawska (Warsaw University of Technology)**, 00-661 Warsaw, Plac Politechniki 1, NIP: 525-000-58-34, REGON: 000001554, represented by Mr. Mariusz Wielc – Director of Centrum Zaawansowanych Materiałów i Technologii (Centre for Advanced Materials and Technologies) CEZAMAT, hereinafter referred to as the "Contracting Authority"
and

..... with its registered office in, NIP:, REGON:, entered into kept by, under the KRS number, which is represented by -, hereinafter referred to as the "Economic Operator / Contractor".

Article 1. Subject and duration of the agreement

1. The subject of the agreement involves the delivery of a reader for various plate formats together with a PC computer and licences for software (3 licences), hereinafter referred to as the "equipment", in accordance with the tender of the Economic Operator constituting Appendix 1 to the agreement and with the description of the subject of the contract (technical specification of the equipment) constituting Appendix 2 to the agreement.
2. Licences for the supplied software should be open, non-exclusive, allowing the software to be installed on 3 computer stations.
3. Together with the equipment, the Economic Operator shall provide technical documentation in Polish or English, an operating manual in Polish or English in electronic or paper form, a CE certificate, a document confirming ISO 13485 certificate for the equipment.
4. The subject of the agreement also includes:
 - 1) provision of a telephone hotline and online support for the Contracting Authority,
 - 2) configuration of the equipment and its start-up,
 - 3) conducting the instruction for the Contracting Authority's employees.
5. The Economic Operator shall perform the subject of the agreement described in Article 1(1) - (4) within the time limit specified in the Economic Operator's tender, however not later than 60 days from the date of signing the agreement.
6. The the time limit for the performance of the subject of the agreement shall be the date of signing the final acceptance report by both Parties.
7. The place of performance of the contract shall be Centrum Zaawansowanych Materiałów i Technologii (Centre for Advanced Materials and Technologies) CEZAMAT, 02-822 Warsaw, ul. Poleczki 19, premises indicated by the Contracting Authority.

**Warsaw University
of Technology**

ul. Poleczki 19
02-822 Warsaw
tel. 22 182 12 17
sekretariat@cezamat.eu

Article 2. Conditions of delivery

1. The Economic Operator shall deliver the equipment to the Contracting Authority's registered office: Centrum Zaawansowanych Materiałów i Technologii (Centre for Advanced Materials and Technologies) CEZAMAT, 02-822 Warsaw, ul. Poleczki 19, using the Economic Operator's own transport, at its own expense and risk.
2. The Economic Operator shall deliver the equipment subject to the agreement, together with all accessories necessary for its assembly and start-up, in a single delivery.
3. The delivery should include all materials and accessories necessary for assembly, installation and testing of the equipment and for operation in accordance with its intended purpose, including power supply cables.
4. The Economic Operator shall notify the Contracting Authority of the delivery date at least 4 days before that date.
5. Delivery shall take place on working days between 8.30 and 15.30. The Contracting Authority may refuse to accept the delivered equipment on days considered by the Contracting Authority as free from work and on weekdays outside the hours 08.30 - 15.30.
6. The Economic Operator shall be responsible for the delivered equipment until the Parties sign the final acceptance report.
7. If the equipment subject to the agreement is delivered to a place other than that indicated in Article 1(7) of the agreement as the place of contract performance, the Contracting Authority shall not be responsible for this equipment.
8. In the situation referred to in paragraph 7, the Economic Operator shall arrange for equipment to be brought into the place indicated in Article 1(7) of the agreement no later than within 2 days from the date of delivery. Should the Economic Operator fail to meet the time limit referred to in the preceding sentence, the Contracting Authority may contract out this task to another company at the expense and risk of the Economic Operator.
9. After delivery of the equipment, a representative of technical service of the Economic Operator shall assemble, start-up and test the delivered equipment.
10. Completion of operations referred to in paragraph 9 with a positive test result shall be confirmed by a technical report signed by the Contracting Authority's representative and the Economic Operator's representative.
11. After completion of the installation and testing process, as well as after conducting the instruction for the Contracting Authority's employees, the representatives of the Economic Operator and the Contracting Authority shall sign the final acceptance report.
12. Should any quantitative or qualitative shortages be revealed during acceptance of the subject of the agreement, the Contracting Authority shall refuse to sign the report. The report shall be signed after the Economic Operator has delivered and installed a complete and defect-free subject of the agreement.
13. In any case, the Economic Operator shall be fully responsible for the part of the contract which it entrusts to Subcontractors.
14. The Economic Operator shall be fully liable for non-performance or improper performance of the obligations under the agreement, including

damage caused by persons authorised thereby, persons acting in its name and/or on its behalf.

Article 3. Remuneration and terms of payment

1. For performing the subject of the agreement, the Economic Operator shall be entitled to remuneration in the amount of PLN/EUR net (in words: PLN/EUR net).
2. VAT at the current rate of%¹ shall be added to the remuneration specified in paragraph 1, which will give a gross remuneration of PLN/EUR (in words: PLN/EUR gross).
3. The remuneration referred to in paragraphs 1 and 2 constitutes the maximum value of the Contracting Authority's liability for the remuneration due to the Economic Operator.
4. The Economic Operator's remuneration, determined on the basis of paragraphs 1 and 2, shall cover all costs related to performance of the subject of the agreement, including the cost of brand new equipment as described in Article 1(1) - (4) of the agreement and the Economic Operator's tender as well as all materials and accessories necessary for assembly and start-up of the equipment, costs of assembly, installation and testing of the equipment, cost of instruction for employees, costs of licence for software, costs of technical and operating documentation, packaging, transport, including unloading and bringing to the place of contract performance indicated in Article 1(7) of the agreement, costs of insurance, costs related to maintenance services, costs related to the express warranty and applicable implied warranty for defects.
5. If the equipment is to be delivered from a country outside the European Union, the Economic Operator shall deliver the equipment within the European Community, i.e. after customs clearance.
6. Settlement of performance of the subject of the agreement shall be made once, after the completion of the subject of the agreement, on the basis of a VAT invoice issued by the Economic Operator.
7. The Economic Operator shall be entitled to issue a VAT invoice after the final acceptance report is signed by the representatives of the Parties in accordance with the provisions of Article 2(11) of the agreement.
8. Payment shall be made within 30 days from the date of issue of a correct VAT invoice, by transfer to the bank account indicated in the invoice. The Economic Operator shall promptly deliver a correctly issued VAT invoice no later than within 3 working days from the date of issue. The date of payment shall be the date when the Contracting Authority's account is debited with due payment.
9. The VAT invoice should include:
10. name of the subject of the agreement,
11. number of the agreement,
12. number of Economic Operator's account,
13. payment time limit in accordance with paragraph 8,
14. indication of the Warsaw University of Technology, 00-661 Warsaw Pl. Politechniki 1 as the purchaser, and Centrum Zaawansowanych Materiałów i

Technologii (Centre for Advanced Materials and Technologies) CEZAMAT, 02-822 Warszawa, ul. Poleczki 19 as the recipient.

15. In the case of intra-Community acquisition of goods or imports of goods, upon receipt of a correctly issued invoice, the Contracting Authority shall pay VAT to the tax office in Poland, in accordance with applicable regulations.
16. The Contracting Authority allows the submission of a structured electronic invoice – meeting the requirements for sending an electronic invoice via the platform referred to in Article 2(32) of the Act of 11 March 2004 on the tax on goods and services.
17. If the Economic Operator uses the option to send a structured invoice via the ICT system referred to in paragraph 11, it shall inform the Contracting Authority thereof by e-mail to the following address: with acknowledgement of receipt, at least 2 days before the invoice is issued.

Article 4. Representatives of the Parties.

1. Supervision over the performance of the agreement on behalf of the Contracting Authority shall be exercised by, e-mail:, tel.
2. Supervision over the performance of the agreement on behalf of the Economic Operator shall be exercised by, e-mail:, tel.
3. Parties' representatives indicated in paragraphs 1 and 2 are authorised to supervise and manage the performance of the agreement.
4. A change of persons indicated in paragraphs 1 or 2 shall take place through a written notice to the other Party sent not later than 3 days before the change is made and shall not constitute an amendment to the content of the agreement.

Article 5. Express warranty

1. The Economic Operator warrants the subject of the agreement for the period of 24 months from the date of signing the final acceptance report by the Parties.
2. The provisions of this Article constitute a warranty statement within the meaning of Article 577 and Article 5771 @ of the Act of 23 April 1964 – the Civil Code. The agreement is a document confirming the express warranty within the meaning of Article 5772 @ of the Civil Code.
3. In the event of destruction or loss of the warranty document, the Contracting Authority shall not lose its rights under the express warranty if it proves the existence of the warranty obligation by means of other evidence.
4. During the warranty period, as part of the remuneration referred to in Article 3(1) of the agreement, the Economic Operator shall provide software updates and shall perform maintenance of the equipment within the framework of an annual visit (2 maintenance visits during the warranty period).
5. If the Economic Operator replaces the device being the subject of the agreement or its component, the warranty period shall run anew for this device or its component.
6. Under the warranty, the Economic Operator shall cover the costs of repair of the delivered subject of the agreement and costs of replacement of defective components, subassemblies or the whole subject of the agreement, if

- necessary. All costs related to the above operations, such as costs of spare parts, costs of transport, insurance, labour costs, possible costs of travel and stay of service technicians, as well as other costs shall be covered by the Economic Operator.
7. The Economic Operator shall remove defects in the delivered subject of the agreement within a time limit not longer than 14 calendar days from their notification. The time limit for defect removal shall commence on the day of notifying the Economic Operator of the defect and shall end on the day of handing over the subject of the agreement free from defects to an authorised representative of the Contracting Authority.
 8. If it is necessary to replace the device during the warranty period with a new one and the device is not available on the market, the Economic Operator undertakes to deliver a new device with not worse technical parameters than those being the subject of the agreement at the expense of the Economic Operator.
 9. If the Economic Operator refuses to fulfil or is delayed in fulfilling its obligations under the warranty beyond the time limit specified in paragraph 6 or fails to act with due diligence, the Contracting Authority shall have the right to perform the necessary repairs at the expense and risk of the Economic Operator without losing its rights under the warranty.
 10. The provisions of Article 6 (3)-(8) shall apply.

Article 6. Implied warranty for defects

1. The Contracting Authority shall exercise the rights under the implied warranty for defects of the subject of the agreement set forth in the Act of 23 April 1964 - the Civil Code, irrespective of the rights under the express warranty - any provisions included in the express warranty document and contrary to the provisions of Article 6 of the agreement shall be deemed ineffective against the Parties.
2. The period of implied warranty for defects shall be 24 months. The period of implied warranty for defects shall start from the date of signing the final acceptance report.
3. The period of implied warranty for defects shall be extended by the time limit for the removal of defects. The time limit for removing defects shall start on the day of notifying the Economic Operator of the defect, and shall end on the day of handing over the defect-free subject of the agreement to an authorised representative of the Contracting Authority.
4. The Contracting Authority shall notify the Economic Operator of each defect not later than within one month from the date of its discovery – by fax, e-mail or by writing to the Economic Operator’s address.
5. Defects disclosed within the period of implied warranty for defects shall be removed at the expense of the Economic Operator (which relates to all materials, parts, labour, transport, insurance, packaging, customs duties and operations carried out in relation to the removal of the defect in the subject of the agreement), within the time limits set each time by the Parties. If the Parties have not agreed on the time limit for the removal of defects, it shall be 14 calendar days from the date of notifying the defect.

6. Defects shall be removed at the place where the subject of the agreement is used, save when prevented by the nature of the defect.
7. If the defects must be removed in a place other than the place of use of the subject of the agreement, the Economic Operator shall be responsible for the transport and shall bear the cost of transport. The Economic Operator shall be responsible for the transport and shall bear the cost of transport from the moment of handing over the defective product to its authorised representative until the moment of receiving the defect-free subject of the agreement by the authorised representative of the Contracting Authority.
8. A report shall be drawn up on acceptance of the subject of the agreement after removal of the defect.
9. If the defect in the subject of the agreement cannot be removed, the Contracting Authority shall have the right, at its option, to:
 - 1) withdraw from the agreement for reasons attributable to the Economic Operator, regardless of the nature and size of the defect, by placing the subject of the agreement at the disposal of the Economic Operator and demanding the reimbursement of remuneration and payment of the contractual penalty referred to in Article 7(2)(1) of the agreement; the right to withdraw from the agreement may be exercised not later than within 30 days from the expiry of the time limit referred to in paragraph 2;
or
 - 2) demand the replacement of the subject of the agreement with the one free from defects.
10. If the Economic Operator does not remove the defect within the time limit specified in paragraph 5, or if, after the removal of the defect, the subject of the agreement still shows defects, the Contracting Authority may contract out the repair at the expense and risk of the Economic Operator.

Article 7. Contractual Penalties

1. In the event of non-performance or improper performance of the subject of the agreement, the Economic Operator shall pay the Contracting Authority contractual penalties in accordance with the terms and in situations specified below, and these penalties may be cumulative.
2. The Economic Operator shall pay the Contracting Authority the contractual penalties referred to in points (1) - (3) regardless of whether the damage has actually occurred:
 - 1) in case of termination of the agreement or withdrawal from the agreement by the Contracting Authority for reasons attributable to the Economic Operator, the Economic Operator shall pay the contractual penalty in the amount of 15% of the total net remuneration referred to in Article 3(1) of the agreement;
 - 2) for delay in the performance by the Economic Operator of the subject of the agreement, the Economic Operator shall pay the contractual penalty equal to 0.2% of the total net remuneration referred to in Article 3(1) of the agreement, for each day of delay in relation to the time limits specified in the agreement or determined on its basis;
 - 3) for delay in the performance by the Economic Operator of its obligations under the granted express warranty and the applicable implied warranty for defects, the Economic Operator shall pay the contractual penalty in the

- amount of 0.1% of the total net remuneration referred to in Article 3(1) of the agreement for each day of delay in relation to the time limits specified in the agreement or determined on its basis;
- 4) in the amount of PLN 10,000 for each case of non-performance or improper performance of the contract other than those specified in points (1) and (2), in particular for delivery of a device inconsistent with the description of the subject of the contract or delivered in an improper quantity, or in case of non-acceptance of a previously submitted complaint under the express warranty or implied warranty for defects.
 3. The contractual penalties shall be payable within 14 days of the receipt by the Economic Operator of the respective request for payment.
 4. In the event of ineffective expiry of the time limit referred to in paragraph 3, the Contracting Authority may set off its claim for contractual penalties against the Economic Operator's financial claims against the Contracting Authority, including the claim for remuneration due under the agreement, to which the Economic Operator consents. The Contracting Authority shall notify the Economic Operator in writing of the set-off made, no later than on the day following the set-off.
 5. The maximum amount of contractual penalties that may be claimed by the Contracting Authority may not exceed 50% of the value of the remuneration specified in Article 3(1) of the agreement, provided that this limit shall not include the Contracting Authority's right referred to in paragraph @. 7.
 6. Charging the contractual penalties by the Contracting Party shall not release the Economic Operator from the obligation to duly perform the agreement.
 7. If, as a result of non-performance or improper performance of the subject of the agreement, a damage exceeding the amount of the reserved contractual penalty arises, or the damage arises for reasons other than those for which the contractual penalty has been reserved, the Contracting Authority reserves the right to claim additional compensation, up to the amount of the actual damage suffered, on general terms in accordance with the provisions of the Civil Code.
 8. Neither Party shall be held liable for any delay in performance of the agreement or for non-performance of its own obligations under the agreement if such delay or non-performance is caused by factors beyond the Parties' control, in particular by force majeure events, which shall be construed as catastrophic acts of nature (e.g. extreme frost), acts of legislative and executive authority (e.g. expropriation) and certain disorders of community life (e.g. street riots) excluding labour protests, announced pandemics and related restrictions preventing the performance of some or all of the Parties' contractual obligations.
 9. The occurrence and termination of the event caused by force majeure shall be promptly communicated to the other Party in writing. The date of notification of the occurrence of the event caused by force majeure shall be the date of receipt of the written notification by the other Party. The performance of the agreement shall be suspended for the duration of such event, with the term of the agreement being extended by the duration of the suspension.

Article 8. Early termination of the agreement

1. The Contracting Authority may terminate the agreement for reasons attributable to the Economic Operator, demanding payment of contractual penalties referred to in Article 7(2)(1) of the agreement. The reasons for termination of the agreement attributable to the Economic Operator are the following:
 - 1) revealing by the Contracting Authority of a legal defect in the subject of the agreement or its part,
 - 2) the situation referred to in Article 5(9) and/or Article 6(9)(1) of the agreement,
 - 3) delay in performance of the agreement or its part exceeding 30 calendar days.

Article 9. Final provisions

1. In the event of a dispute related to the performance of the agreement, the Parties shall strive to resolve it amicably, and if agreement is not reached, the Parties shall submit the dispute to the court of general jurisdiction competent for the registered office of the Contracting Authority.
2. The matters not covered by the agreement shall be in particular governed by the provisions of the Act of 23 April 1964 - the Civil Code.
3. If one or more of the provisions of the agreement proves invalid by virtue of law, or if its execution is impossible, the remaining provisions shall remain in force, and the Parties shall undertake discussions to amend or supplement the agreement accordingly.
4. The provisions of the agreement may be amended in the following cases:
 - 1) in the part concerning the methods of execution of particular operations described in the agreement if it is necessary to adjust these provisions to the current market or regulatory standards required for a correct and acceptable level of the delivery;
 - 2) in order to update the Economic Operator's data by changing in particular: the name of the company, address of the registered office, legal form of the Economic Operator;
 - 3) in case of changes in the applicable legal regulations relating to the agreement;
 - 4) in case of force majeure, which shall be construed as the circumstances referred to in Article 7(8) of the agreement, resulting in the need to change the original terms and conditions of performance of services provided for in the agreement, when the delivery under the existing terms and conditions would prevent the Economic Operator from complying with the material provisions of the agreement, despite the Economic Operator's best efforts;
 - 5) in the event of occurrence of circumstances, for objective reasons beyond the control of the Parties to the agreement, resulting in the necessity to change the original conditions for delivery and installation provided for in the agreement and/or in Appendix 2 to the agreement, when further performance of the subject of the agreement under the existing conditions would prevent the Economic Operator from complying with the material provisions of the agreement, despite the Economic Operator's best efforts;

5. Any amendments to this agreement shall be made in writing under pain of nullity.
6. This agreement has been drawn up in two equal copies, one for the Contracting Authority and one for the Economic Operator.

Appendices:

Appendix 1 – Economic Operator's tender form

Appendix 2 - Description of the subject of the contract (technical specification of the equipment)

THE CONTRACTING AUTHORITY

**THE ECONOMIC OPERATOR/
CONTRACTOR**