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**Handling mark:** CZ-272-9/22

## **TERMS AND CONDITIONS OF CONTRACT**

**(hereinafter referred to as SWZ)**

**Classic procurement with a value equal to or above the EU thresholds**

**Open procedure**

**concerns proceedings for the supply of specialized software under the project named:  
"Centre for Sustainable Management of Minerals and Energy" – divided into parts**

**Conducted in accordance with the provisions of the  
Public Procurement Law Act**

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Approved

Cracow, on: 2<sup>nd</sup> December 2022

## I. Ordering Party

Mineral and Energy Economy Research Institute, Polish Academy of Sciences

ul. Wybickiego 7A, 31-261 Kraków

Telephone number: (+48) 12 632-33-00

Website address: <https://min-pan.krakow.pl/>

E-mail address: [centrum@min-pan.krakow.pl](mailto:centrum@min-pan.krakow.pl)

### **NOTICE:**

*The Ordering Party informs that the object of its activity is to conduct scientific research in the fields of technical sciences, earth sciences and economic sciences on the broadly understood management of mineral resources and energy management, and to disseminate the results of this research. The Ordering Party is authorized to confer the degree of Doctor of Technical Sciences in the discipline of mining and engineering geology. The Ordering Party, as a scientific unit, is not a commercial entity.*

## II. Website of the ongoing proceedings

1. Website of the conducted proceedings: <https://min-pan.krakow.pl/>
2. Website where amendments and clarifications to the content of the SWZ and other procurement documents directly related to the proceedings will be made available for the award of the contract: <https://platformazakupowa.pl/pn/minpankrakow>.
3. The announcement and its amendments, if any, will be made public in the Official Journal of the European Union.
4. The procedure will be conducted using the procurement platform available at: <https://platformazakupowa.pl/pn/minpankrakow>.

## III. Designation of the proceedings

1. The proceeding to which this document relates is entitled: Supply of specialized software within the framework of the project under the name: "Centre for Sustainable Management of Minerals and Energy". The proceedings in question are marked as: CZ-272-9/22.
2. Contractors in all communications with the Ordering Party should refer to the to the name of the proceeding indicated above and its designation.

## IV. Mode of contract award

1. The public procurement proceedings are conducted under the provisions of the Public Procurement Law of September 11, 2019. (t.j. Dz. U. z 2021 r. poz. 1129 z późn. zm.) hereinafter referred to as the "PPL Act" for contracts with a value above the EU thresholds.
2. The Ordering Party does not provide for selection of the most advantageous offer with the opportunity to conduct negotiations.

## V. Description of the object of the contract

1. The object of the order is the supply of specialized software within the framework of the project under the name: "Centre for Sustainable Management of Minerals and Energy". A detailed description of the object of the order is contained in Appendix 1 to the SWZ.
2. CPV codes (Common Procurement Vocabulary): a. 48000000-8 - software packages and information systems.

## **VI. Information about the division of the contract into parts, variant tenders and other provisions.**

1. The Ordering Party has divided this contract into parts.
2. The Ordering Party allows for the possibility of submitting partial tenders, ie: A contractor may submit a bid for one or more parts. A Contractor may submit only one tender within a given part.
3. The contract may be awarded to one Contractor for one or more parts of the contract.
4. The Ordering Party does not anticipate the possibility of awarding the contract referred to in Article 305 item. 1 in conjunction with Article 214 par.1 item. 8 of the Pzp Act.
5. The Ordering Party does not provide for requirements regarding employment of persons referred to in Article 95 par.1 of the Pzp Act.
6. The Ordering Party does not permit submission of variant tenders.
7. The Ordering Party does not provide for requirements concerning employment of persons referred to in Article 96 par. 2 item. 2 of the Pzp Act.
8. The Ordering Party anticipates settlements in foreign currencies.
9. The Ordering Party does not provide for reimbursement of costs of participation in the public procurement procedure.
10. The Ordering Party does not reserve the obligation for the contractor to personally perform key tasks related to the work of deployment and installation.
11. The Ordering Party does not anticipate concluding a framework agreement.
12. The Ordering Party does not anticipate an electronic auction.
13. The Ordering Party does not foresee the possibility of submitting a tender in the form of electronic catalogs.
14. The Ordering Party does not anticipate the possibility of tendering exclusively by the contractors referred to in Article 94 of the Pzp Act.
15. The Ordering Party does not provide for the procurement referred to in Article 214 par.1 item.7 of the Pzp Act. .
16. The Ordering Party does not reserve the obligation for the contractor to conduct a site inspection and check the documents necessary for the execution of the contract, as referred to in Article 131 par. 2 of the Pzp Act.
17. The Ordering Party does not stipulate an obligation for the Contractor to submit a performance bond.

## **VII. Deadline for execution of the contract**

1. The Ordering Party anticipates that the order should be completed within up to 7 working days, counted from the date of conclusion of the Agreement, constituting Appendix No. 6 to the SWZ, hereinafter referred to as the "Agreement".
2. In the case of licenses, the Ordering Party reserves the right to download, install and use, free of charge, patches and updates issued for the delivered Software by the Software producer for a minimum period of 12 months, calculated from the date of first installation.
3. In cases when in the detailed description of the subject matter of the contract, trademarks, patents, origin, source or a particular process that characterizes the products or services provided by a particular Contractor are indicated, which would lead to a preference or elimination of certain contractors or products, it means that the Ordering Party cannot describe the subject matter of the contract using sufficiently precise terms and this is justified by the specificity of the subject matter of the contract. In such situations, any indication of trademarks, patents, origin, source or specific process, should be read with the words "or equivalent."
4. In the event that references to standards, technical evaluations, technical specifications and reference systems are used in the description of the subject of the contract, referred to in Article 101 par. item. 2 and par. 3 of the Pzp Act, the Ordering Party shall, in accordance with Article 101 (4) of the PPL Act pursuant to Article 101 par. 4 of the Pzp Act allows the use of equivalent solutions.
5. Whenever a standard, technical evaluation, technical specification or technical reference system is indicated in this SWZ, it shall be assumed, that the phrase "or equivalent" is used in reference to them.
6. By equivalent solutions, the Ordering Party understands such a solution, which to an equivalent degree meets the conditions specified in the Terms of Reference.
7. The Contractor who invokes equivalent solutions specified by the Ordering Party shall be obliged to prove in his tender, in particular by means of the said means of proof referred to in Articles 104-107 of the Pzp Act, that the solutions proposed by him in an equivalent degree meet the requirements specified in the description of the subject matter of the contract.
8. Evidence, in particular with the subject means of proof referred to in Article 104-107 of the Pzp Act, confirming that the solutions proposed by the Contractor in an equivalent degree meet the requirements specified in the description of the subject matter of the contract are not subject to supplementation.
9. The Ordering Party shall not allow negotiations to improve the content of tenders submitted in response to the contract notice.
10. The Ordering Party shall select the most advantageous tender from among non-rejectable tenders submitted in response to the contract notice, based on the adopted tender evaluation criteria. The Ordering Party will award the contract to the Contractor whose Tender obtains the highest number of points.
11. The procurement is intended to be co-financed with funds from the European Union under the project entitled: "Center for Sustainable Management of Raw Materials and

Energy" - a project co-financed by the European Regional Development Fund under the Regional Operational Program of the Malopolska Region for 2014-2020.

### VIII. Qualification of contractors

1. Contractors that are not subject to exclusion from the proceedings and fulfill the conditions for participation in the proceedings may apply for the award of the contract.
2. Contractors are subject to exclusion from the proceedings:
  - 1) against whom there are circumstances specified in Article 108 par.1 of the Pzp Act. Article 109 par.1 item.1 and item. 4-10 of the Pzp Act and Article 7 par. 1 of the Law on Special Solutions for Preventing Support for Aggression against Ukraine and Serving to Protect National Security (Journal of Laws, item 835), April 13, 2022.
3. The Ordering Party shall apply the conditions for participation in the proceedings:
  - 1) **ability to act in business;**  
The Ordering Party does not impose any conditions in this respect.
  - 2) **economic and financial standing;**  
The Ordering Party does not impose any conditions in this respect.
  - 3) **authority to conduct a specific business or professional activity:**  
The Ordering Party does not impose any conditions in this respect.
  - 4) **technical or professional capacity;**  
The Ordering Party does not impose any conditions in this respect.

### IX. Contractors appearing jointly (consortium)

1. Contractors may jointly apply for the award of the contract.
2. Contractors appearing jointly shall appoint a proxy to represent them in the procurement proceedings or represent them in the proceedings and conclude a public procurement agreement.
3. All correspondence shall be conducted exclusively with the proxy.
4. None of the contractors appearing jointly (consortium member) may be subject to exclusion from the proceedings. Fulfillment of the conditions for participation in the procedure in relation to contractors acting jointly will be evaluated jointly.
5. In the event of joint bidding by contractors, the ESPD and subjective means of evidence shall be submitted by each of the contractors jointly bidding for the contract. These documents should confirm the absence of grounds for exclusion and the fulfillment of the conditions for participation in the procedure to the extent that each of the contractors demonstrates the fulfillment of the conditions for participation in the procedure.
6. In the event that the highest tender is submitted by contractors acting jointly, as well as if the Ordering Party exercises the right referred to in Article 126 par.1 of the Pzp Act, each of the contractors shall present subjective means of evidence to confirm the absence of grounds for exclusion. Other subjective means of evidence may be submitted jointly..

7. If a tender of contractors jointly bidding for the contract is selected, the ordering party may demand a copy of the agreement governing the cooperation of these contractors before concluding the public procurement contract.
8. Contractors who submitted a joint tender shall be jointly and severally liable for the execution of the order.

#### **X. ESPD. Subject evidence.**

1. The contractor shall submit with the tender:
  - 1) statement on not being excluded and fulfilling the conditions for participation in the procedure.
2. The statement referred to in paragraph 1 must be submitted in the form of a European Single Procurement Document, prepared in electronic form (electronic form with qualified electronic signature) in accordance with the model of the standard form specified in Commission Implementing Regulation (EU) 2016/7 of January 5, 2016 establishing a standard form for the Single European Procurement Document (Official Journal of the EU L 3 of 06.01.2016, p. 16), hereinafter also referred to as "ESPD". The template of the ESPD constitutes Attachment No. 4 to the SWZ.
3. The Ordering Party informs that it has developed a template ESPD in electronic form (using the ESPD tool). The Contractor may use the ESPD tool or other available tools or software to complete the ESPD and create an electronic document.
4. The Ordering Party requires that the ESPD be submitted by:
  - 1) contractor,
  - 2) in the event of contractors applying jointly for the award of the contract - by each of the contractors,
  - 3) in the event of relying on shared resources - also by the entity providing the resources.
5. In order to confirm that the Contractor fulfills the conditions for participation in the procedure and that there are no grounds for exclusion, the Ordering Party, before selecting the most advantageous tender, shall notify the Contractor whose tender was evaluated the highest, to submit, within a specified period, not less than 10 days, valid on the date of submission of subjective evidence.
  - A.** In order to confirm that there are no grounds for exclusion, the Ordering Party requires submission of:
    - 1) information from the National Criminal Register in the scope of:
      - a) Article 108 par. 1 item. 1 and 2 of the Pzp Act,
      - b) Article 108 par. 1 item. 4 of the Pzp Act, regarding a decision prohibiting the applicant from competing for a public contract as a criminal measure, made no earlier than 6 months prior to its submission.
    - 2) a statement by the contractor, within the scope of Article 108 (1) (5) of the PPL Act, that a contractor is not a member of the same capital group within the meaning of the Act on Competition and Consumer Protection of February 16, 2007 (Journal of Laws of 2021, item 275), with another contractor who

- submitted a separate tender, or a statement that a contractor is a member of the same capital group, together with documents or information confirming the preparation of a tender, independently of another contractor belonging to the same capital group. A specimen of the statement is attached as Appendix No. 5 to the SWZ;
- 3) certificate of the appropriate head of the tax office confirming that the contractor is not in arrears with payment of taxes and fees, within the scope of Article 109 par. 1 item. 1 of the Pzp Act, issued no earlier than 3 months before its submission; In the event of being in arrears with payment of taxes or fees - documents confirming that, respectively, before the deadline for submission of tenders, the contractor has paid the taxes or fees due, together with interest or fines, or has entered into a binding agreement on repayment of such receivables;
  - 4) certificate or other document of the appropriate field organizational unit of the Social Insurance Institution or the appropriate regional branch or the appropriate field office of the Agricultural Social Insurance Fund confirming that the contractor is not in arrears with payment of social and health insurance premiums, within the scope of art. 109 par. 1 item 1 of the PPL Act, issued no earlier than 3 months before its submission, and in the case of arrears in payment of social or health insurance premiums - documents confirming that, respectively, before the deadline for submission of tenders, the contractor has made payments of social or health insurance premiums due, together with interest or fines, or has entered into a binding agreement on repayment of such receivables,
  - 5) a copy or information from the National Court Register or the Central Register and Information on Business Activity, prepared no earlier than 3 months before its submission, if separate regulations require entry in the register or register;
  - 6) a statement on the timeliness of information contained in the statement referred to in Article 125 (1) of the PPL Act with respect to the grounds for exclusion from the proceedings indicated by the Ordering Party, according to the model constituting Appendix No. 7 to the SWZ.
6. If the contractor has its registered office or place of residence outside the Republic of Poland, instead of:
- 1) information from the National Criminal Register referred to in paragraph 5(A)(1) - shall submit information from a relevant register, such as a court register, or, in the absence of such a register, another equivalent document issued by a competent judicial or administrative authority of the country in which the contractor has its registered office or place of residence, to the extent referred to in paragraph 5(A)(1).
  - 2) certificate referred to in paragraph 5(A)(3), certificate or other document confirming that the contractor is not in arrears with payment of social or health insurance premiums referred to in paragraph 5(A)(4), or an extract or information from the

National Court Register or the Central Register and Information on Business Activity referred to in paragraph 5(A)(5) - shall submit a document or documents issued in the country in which the contractor has its registered office or place of residence, confirming, respectively, that:

- a) has not defaulted on its obligations to pay taxes, fees, or social or health insurance contributions,,
  - b) it has not been liquidated or declared bankrupt, its assets are not administered by a liquidator or a court, its business activities are not suspended, or it is not in any other such situation arising from a similar procedure provided for in the laws of the place where this procedure is initiated.
- 3) The document referred to in item 1 should be issued no earlier than 6 months before its submission. The documents referred to in item 2 should be issued no earlier than 3 months before submission.
- 4) If, in the state in which the contractor has its registered office or place of residence, the documents referred to in item 1 and 2 are not issued, or if these documents do not refer to all cases referred to in this point, they shall be replaced in whole or in part, respectively, by a document containing a statement of the contractor, indicating the person or persons authorized to represent him, or a statement of the person to whom the document was to refer, made before a notary or before a court, administrative body or a professional or economic self-government body competent for the contractor's registered office or place of residence. The provisions of item 3 shall apply.
7. The Ordering Party shall require the submission of the subjective evidence indicated in paragraph 5 above by:
- 1) the contractor,
  - 2) in the event of contractors applying jointly for the award of the contract - by each of the contractors
  - 3) in the event of reliance on shared resources - also by the entity providing the resources.
8. If a contractor is subject to exclusion due to the occurrence of circumstances indicated in the regulations applicable to the proceedings - the contractor shall submit evidence indicating that the prerequisites specified in Article 110 (2) of the PPL Act (self-cleaning) are fulfilled.
9. The subject evidence should be submitted in accordance with the provisions of the Decree of the Prime Minister of 30.12.2020 on the manner of preparation and transmission of information and technical requirements for electronic documents and means of electronic communication in a public procurement procedure or competition, i.e:
- 1) If the document was issued by an authorized entity other than the contractor (e.g., an administrative or judicial authority competent to issue it) as an electronic document - the contractor shall transmit the document,



- 2) If the document was issued by an authorized entity other than the contractor (e.g., an administrative or judicial authority competent to issue it) as a paper document - the contractor shall transmit an electronic copy of the document certified as a true copy of the original,
  - 3) If the document was issued by another entity (e.g., the contractor, the issuer of references) in electronic form with a qualified electronic signature -the contractor shall submit the document,
  - 4) If the document was issued by another entity (e.g., contractor, issuer of references) as a paper document - the contractor shall submit an electronic copy of the document certified as a true copy of the original.
10. Certification of conformity with the original is done by signing with a qualified electronic signature. Certification shall be made by a notary public or by the contractor (member of a consortium, entity providing resources - respectively, to the extent of the documents that concern each of them).
  11. In the event of transmission of an electronic document in a format that subjects data to compression, affixing a qualified electronic signature to a file containing compressed documents is equivalent to affixing a qualified electronic signature to all documents contained in the file.
  12. The Ordering Party allows the preparation and submission of subject evidence in Polish or English.
  13. If the values in the documents are given in a currency other than the Polish zloty, the ordering party will convert them at the exchange rate of the National Bank of Poland applicable on the date of publication of the contract notice.
  14. The ordering party shall not request for submission of subjective evidence if it can be obtained by means of free and publicly available databases, in particular public registers within the meaning of the Act on Informatization of the Activities of Entities Performing Public Tasks of February 17, 2005, provided that the contractor indicated in the statement referred to in Article 125 paragraph 1 the data allowing access to such means.

## **XI. Subcontracting.**

1. The Ordering Party allows the participation of subcontractors in the execution of the contract. Entrusting parts of the contract to subcontractors does not relieve the contractor of responsibility for the proper execution of the contract.
2. The Ordering Party demands that the contractor indicate in the tender the parts of the contract, the performance of which he intends to entrust to possible subcontractors and that the contractor specify the companies of the subcontractors, if they are already known.

## **XII. Description of tender preparation.**

### **General requirements**

1. The contractor may submit one tender for a given Part of the proceedings.

2. The tender should be prepared in Polish. The ordering party also allows for the possibility of submitting a tender in English. The documents and statements or documents required according to the SWZ may be prepared in Polish or English.
3. Under pain of invalidity, the Contractor shall prepare its offer in electronic form and affix a qualified electronic signature.
4. The tender shall be signed by the person(s) authorized to represent the Contractor in accordance with the rules of representation of the Contractor or in accordance with the power of attorney granted.
5. The contractor shall bear all costs associated with the preparation and submission of the tender.

### **Contents of the offer**

6. The tender consists of:
  - 1) Tender Form prepared on the basis of the template constituting Appendix No. 2 to the SWZ;
  - 2) Declaration required by the provisions of Chapter X, paragraph 1, item 1 of the SWZ, drawn up on the basis of the model constituting Appendix No. 4 to the SWZ.
  - 3) Power of attorney indicating the proxy of contractors acting jointly (in case of submitting a tender by a consortium);
  - 4) Power of attorney to sign the tender (if a proxy is used);
  - 5) Evidence, in particular the subject evidence referred to in Articles 104-107 of the Pzp Act, confirming that the solutions proposed by the Contractor in an equivalent degree meet the requirements specified in the description of the subject of the contract (in case equivalent solutions are offered).
7. Powers of attorney or Subject evidence should be submitted in accordance with the provisions of the Prime Minister's Decree of December 30, 2020 on the manner of preparation and transmission of information and technical requirements for electronic documents and means of electronic communication in a public procurement procedure or competition, i.e.:
  - 1) If the document was issued by an authorized entity other than the contractor (e.g., an administrative or judicial authority competent to issue it) as an electronic document - the contractor shall transmit the document,
  - 2) If the document was issued by an authorized entity other than the contractor (e.g., an administrative or judicial body competent to issue it) as a paper document - the contractor shall provide an electronic copy of the document certified as a true copy of the original,
  - 3) If the document was issued by another entity (e.g., a contractor, a reference issuer) in electronic form with a qualified electronic signature - the document shall be transmitted,
  - 4) If the document was issued by another entity (e.g., a contractor, a reference issuer) as a paper document - the contractor shall provide an electronic copy of the document certified as a true copy of the original.

8. Certification of conformity with the original is done by signing with a qualified electronic signature. The certification shall be made by a notary public or the contractor (member of a consortium, resource provider - respectively, in the scope of documents that concern each of them), and in the case of a power of attorney, the certification shall be made by a notary public or the principal.
9. In the event of transmission of an electronic document in a format that subjects data to compression, affixing a qualified electronic signature to a file containing compressed documents is equivalent to affixing a qualified electronic signature to all documents contained in the file.

### **Method of tender submission**

10. The tender, together with the required documents, declarations, must be submitted through the purchasing platform, in electronic form under pain of invalidity bearing an electronic signature with a valid qualified certificate.
11. The Contractor, by registering on the purchasing platform, accepts the terms and conditions of its use set forth in the Terms and Conditions when registering and recognizes them as binding. The use of the purchasing platform is free of charge.
12. Technical and organizational requirements for drafting, sending and receiving electronic correspondence, are specified in the regulations of the online platform [platformazakupowa.pl](https://platformazakupowa.pl) Open Nexus sp. z o.o. at: <https://platformazakupowa.pl/strona/1-regulamin>
13. The Ordering Party may also communicate with contractors by e-mail: [bfras@minpan.krakow](mailto:bfras@minpan.krakow).
14. Wykonawca składa ofertę w formie elektronicznej za pośrednictwem platformy pod adresem <https://platformazakupowa.pl/pn/minpankrakow>.
15. Instructions for the use of the purchasing platform regarding, in particular, the submission of requests for clarification of the content of the SWZ, the submission of tenders, the sending and receiving of documents, and other actions taken in this procedure using the purchasing platform can be found in the "Instructions for Contractors" tab on the website at: <https://platformazakupowa.pl/strona/45-instrukcje>
16. The contractor may, before the deadline for submission of tenders, change or withdraw the tender. The method of amending or withdrawing a tender is by deleting the files that make up the tender. For this purpose, in the "Attachments" tab, the Contractor uses the "Delete" command after selecting the appropriate attachment.
17. The contractor, after the deadline for submission of tenders, may not effectively amend or withdraw the submitted tender (attachments).
18. The Ordering Party is not liable for incorrect or untimely tender submission. It is recommended that you set up a Contractor profile and start submitting your tender well in advance.
19. In the event that contractors submit documents containing data expressed in currencies other than PLN, the Ordering Party will adopt the average exchange rate

of the National Bank of Poland (NBP) in effect on the date of submission of tenders as the conversion rate of the currency in which the value was estimated.

#### **Corporate confidentiality**

20. If electronic documents, transmitted by means of electronic communication, contain information that constitutes a business secret within the meaning of the provisions of the Act on Combating Unfair Competition of April 16, 1993 (Journal of Laws of 2020, item 1913), the Contractor, in order to maintain the confidentiality of this information, shall transmit it in a separate and appropriately marked file, together with the simultaneous marking of the command " Appendix constituting a business secret " and then, together with the files constituting the non-confidential part, this file shall be encrypted.
21. Failure to mark is treated as a transfer of documents subject to disclosure.
22. In the event of reserving information that constitutes a business secret, the contractor shall be obliged to submit with such information a demonstration that the reserved information constitutes a business secret. Failure to demonstrate is tantamount to a failure to reserve a business secret.

### **XIII. Tender bond**

1. The Ordering Party does not stipulate an obligation to pay a tender bond.

### **XIV. Place, date of submission and opening of tenders**

1. The tender must be submitted using the purchasing platform available at: <https://platformazakupowa.pl/pn/minpankrakow> by 9th December 2022 at 11:00 am.
2. The date and time of submission of a tender shall be understood as the date and time of its receipt by the Ordering Party.
3. The tenders will be opened on 9th December 2022, at 12:00.
4. The Ordering Party does not provide for holding a public tender opening session with the participation of contractors, as well as broadcasting the opening session via electronic tools.
5. Due to the use of mandatory electronic means of communication, both for the submission of tenders and the Ordering Party's communication with Contractors, the opening of tenders will not be public.
6. In the event of a failure of the information and communication system that makes it impossible to open tenders by the date specified by the ordering party, the opening of tenders will take place as soon as the failure is fixed.
7. In the event of a modification of the tender opening date, the Ordering Party will announce such change on the website of the proceedings.

## **XV. Persons authorized to communicate with contractors**

1. The person authorized to contact with the contractors is: Beata Fraś, tel: +48 660012011, e-mail: [fras@meeri.pl](mailto:fras@meeri.pl)
2. The Contractor may request the Ordering Party to clarify the content of the SWZ. The Contracting Authority is obliged to provide explanations immediately, but no later than 2 days before the deadline for submission of tenders, respectively, provided that the request for clarification of the content of the SWZ was received by the Ordering Party no later than 4 days before the deadline for submission of tenders. Questions regarding the SWZ may be requested via the purchasing platform available at: <https://platformazakupowa.pl/pn/minpankrakow>.
3. If a request for clarification of the content of the SWZ is not received by the deadline referred to in paragraph 2, the Ordering Party is not obliged to provide clarification of the SWZ and the obligation to extend the deadline for submission of tenders, respectively.
4. The contents of the queries, together with the explanations, shall be made available by the Ordering Party, without disclosing the source of the query, on the website of the conducted proceedings and on the purchasing platform available at: <https://platformazakupowa.pl/pn/minpankrakow>.

## **XV. Method of calculating the price**

1. The Ordering Party does not allow price variances. The Contractor is obliged to provide a price for the realization of the entire subject of the contract.
2. The tender price should include all costs and components related to the execution of the subject matter of the order resulting from the SWZ, in particular from the Terms of Reference forming Appendix 1 to the SWZ, as well as those not included therein, and without which the subject matter of the order could not be carried out in accordance with its purpose.
3. The tender price is the gross price, i.e. the net price plus value added tax at the rate prescribed by law. The Contractor shall quote the price to the nearest penny.

## **XVI. Tender validity**

1. The contractor remains bound by the tender for a period of 90 days.
2. Tender term shall begin with the expiration of the deadline for submission of tenders, with the first day of the tender term being the day on which the deadline for submission of tenders expires.
3. Accordingly, tender term expires on 8th March 2023.
4. In the event that the selection of the most advantageous tender does not take place before the expiration of the tender validity period specified in the procurement documents, the ordering party shall, before the expiration of the tender validity period, request the contractors once to agree to extend this period by the period indicated by the ordering party, not exceeding 60 days.

5. Extension of the tender validity term referred to in paragraph 4 requires a written statement of consent by the contractor to extend the tender validity term.

## **XVII. Criteria of tender evaluation and selection of the most advantageous tender**

1. The Ordering Party will evaluate tenders using the following tender evaluation criteria:

<b>Criteria</b>	<b>Score (points)</b>
Gross tender price (C)	100

In the criteria entitled: "Gross tender price", the highest number of points, i.e. 100, will be awarded to the tender containing the lowest gross price among all non-rejectable tenders, and each subsequent tender according to the following formula:

$$\text{Gross tender price} = \frac{\text{The lowest gross price among all tenders subject to evaluation}}{\text{gross price of the evaluated tender}} \times 100 = \text{number of points}$$

### **NOTES:**

- 1) The maximum number of points that a Contractor's tender can obtain in this criteria is 100 points.
- 2) The gross tender price, is the price stated in the Tender Form, constituting Appendix No. 2 to the SWZ.
2. The Ordering Party will award the contract to the Contractor whose tender obtains the highest number of points.
3. The calculation of scores, according to the above criterion, will be calculated to two decimal positions.

## **XVIII. Draft contract provisions**

1. The template contract is attached as Annex 6 to the SWZ.

## **XIX. The Ordering Party's actions**

1. The Ordering Party shall apply the reverse procedure for the examination and evaluation of tenders referred to in Article 139 of the Pzp.
2. After submitting the tenders, the Ordering Party shall examine and evaluate the tender for each part, including the adjustment of mistakes in accordance with Article 223 of the Pzp Act.
3. After examining and evaluating the tenders, the Ordering Party shall, in accordance with Article 126 of the Pzp Act, request the contractor who submitted the highest-rated tender, for each part, to provide subjective evidence.

## **XIX. Information about the formalities that must be completed after the selection of the tender in order to conclude a public procurement contract**

1. The public procurement contract shall be concluded with the Contractor whose tender is evaluated as the most advantageous on the date indicated by the Ordering Party, taking into account Article 264 of the Pzp Act.
2. Contractor, shall be obliged to sign a contract at the place and date indicated by the Ordering Party.
3. Before signing the contract, the selected Contractor:
  - 1) will provide the Ordering Party with the information necessary to be included in the content of the contract, e.g., the names of authorized persons who will represent the Contractor at the signing of the contract, for contact during the execution of the contract, etc..;
  - 2) If a tender of Contractors bidding jointly for the contract is selected, the Ordering Party may require, before signing the contract, submission of a contract regulating their cooperation in the scope covering the execution of the contract. The content of the above agreement should in particular indicate: the principles of cooperation, the scope of participation and division of responsibilities of the Contractors in the execution of the contract.

## **XX. Information on legal remedies**

1. Legal remedies shall be available to the Contractor, as well as to any other entity, if it has or had an interest in obtaining a given contract and has suffered or may suffer damage as a result of violation by the Ordering Party of the provisions of the Pzp Act.
2. An appeal shall be allowed in the situations referred to in Article 513 of the Pzp.
3. The appeal should indicate the action or failure to act of the Ordering Party, which is alleged to be inconsistent with the provisions of the Pzp Act, contain a concise presentation of the charges, specify the demand for resolution of the appeal and indicate the factual and legal circumstances justifying the appeal.
4. The appeal shall be lodged with the President of the National Appeals Chamber (ul. Postępu 17a, 02-676 Warszawa).
5. Detailed regulation of legal remedies is contained in Section IX of the Pzp Act.
6. Source where to get information on filing appeals::  
Public Procurement Office Department of Appeals  
ul. Postępu 17a, 02-676 Warszawa  
Address e-mail: [odwolania@uzp.gov.pl](mailto:odwolania@uzp.gov.pl), Tel. +48 22458 78 01,  
Website: [www.uzp.gov.pl](http://www.uzp.gov.pl), Faks +48 22458 78 00

## **XXI. Information on personal data protection (RODO)**

1. The ordering party informs, pursuant to Article 13 and Article 14 of the Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 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 (RODO), that:
  - 1) The administrator of the personal data provided by you is the Institute of Mineral Raw Materials and Energy Economy of the Polish Academy of Sciences, 7A J. Wybickiego St., 31-261 Krakow, tel./fax: (+48) 12 632- 33-00/(+48) 12 632-35-24

email address: centrum@min-pan.krakow.pl, represented by the Director of the Institute - Prof. Krzysztof Galos, D.Sc. The personal data protection inspector is Ms. Maria Grala, contact with the personal data protection inspector is possible at: inspektorODO@min-pan.krakow.pl tel: (+48 12) 617-16-25,

- 2) Contractors' personal data will be processed on the basis of Article 6(1)(c) of the RODO, for the purpose related to the public procurement procedure;
- 3) The personal data of Contractors may be transferred to state authorities, banks, postal operators, entities providing legal, consulting, tax services for the administrator, and entities operating ICT systems, as well as other entities authorized under the Public Procurement Law (Article 74) for a certain period of time (Article 78).
- 4) Personal data is kept by the administrator for archiving purposes, in accordance with internal arrangements, as well as until the statute of limitations for possible claims or defense against possible claims;
- 5) have the right to access the content of their personal data and the right to rectify, erase, restrict processing, the right to data portability, the right to object subject to:
  - a) The exercise of the right to rectification or supplementation referred to in Article 16 of Regulation 2016/679 by the person to whom the personal data relate may not have the effect of changing the outcome of the procurement procedure or amending the provisions of the public procurement contract to an extent that is inconsistent with the Act,
  - b) In a procurement procedure, the submission of a request for restriction of processing, as referred to in Article 18(1) of Regulation 2016/679, does not restrict the processing of personal data until the conclusion of the procedure,
  - c) The Ordering Party shall make available the personal data referred to in Article 10 of Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 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) (Dz. Urz. EU L 119, 4.05.2016, p. 1, as amended)), hereinafter referred to as "Regulation 2016/679", in order to enable the use of the legal remedies referred to in the SWZ until the expiration of the deadline for their filing.
- 6) If it is determined that the processing of personal data violates the provisions of the RODO, Contractors have the right to lodge a complaint with the President of the Office for Personal Data Protection,
- 7) Provision of personal data is voluntary, but necessary for the purposes of the procurement procedure,
- 8) Decisions regarding the processing of personal data will not be made by automated means. The Administrator does not profile personal data.
- 9) Contractors' personal data will not be transferred outside the European Economic Area.



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**APPROVED**

### **List of appendices to the SWZ**

1. Appendix\_No\_1\_Description\_of\_the\_subject\_matter\_of\_the\_contract
2. Appendix\_No\_2\_Tender\_form
3. Appendix\_No\_3\_ESPD
4. Appendix\_No\_4\_Declaration\_of\_not\_being\_a\_member\_of\_a\_capital\_group
5. Appendix\_No\_5\_Statement\_the\_contractor\_on\_the\_update\_of\_the\_information\_contained\_in\_the\_declaration\_referred\_to\_in\_article\_125\_sect\_1\_of\_the\_Public\_Procurement\_Law
6. Appendix\_No\_6\_Contract\_template