

SPECIFICATION OF CONTRACT TERMS AND CONDITIONS

in the contract award procedure, conducted **using electronic means of communication via the eProcurement Platform available at <https://itb.ezamawiajacy.pl>** in the basic mode as defined in Art. 275(1) of the Act of September 11, 2019 - Public Procurement Law (consolidated text Journal of Laws 2023 item. 1605, as amended), the subject matter of which is:

"Delivery of an instrument set for direct measurement of frost heave."

TO.260.09TA.2024

**APPROVED BY
ADVISOR TO THE DIRECTOR**

mgr inż. (MSc. Eng.) Katarzyna Strycharz

WARSAW, 25.06.2024

The Specification of Essential Terms of the contract includes:

CHAPTER I: INSTRUCTIONS FOR CONTRACTORS.

CHAPTER II: TENDER FORM AND OTHER FORMS:

II.1 TENDER FORM,

II.2 FORM OF THE DECLARATION ON THE ABSENCE OF GROUNDS FOR EXCLUSION AND ON COMPLIANCE WITH THE TENDER PARTICIPATION REQUIREMENTS,

II.3 FORM OF THE CONTRACTOR'S DECLARATION ON THE VALIDITY OF INFORMATION ABOUT ABSENCE OF GROUNDS FOR EXCLUSION,

CHAPTER III: DESCRIPTION OF THE SUBJECT MATTER OF THE CONTRACT.

CHAPTER IV: DRAFT PROVISIONS OF A PUBLIC PROCUREMENT CONTRACT.

This Specification of the Contract Terms and Conditions shall be hereinafter referred to as the "Specification of the Contract Terms and Conditions", "SCTC" or "specification".

Contractors are obliged to provide the reference number [TO.260.09TA.2024](#) in all communications with the Contracting Authority.

CHAPTER I: Instructions for Contractors.

1. Contracting Authority.

Name: Instytut Techniki Budowlanej (Building Research Institute)

Address: Warsaw ul. Filtrowa 1, 00-611

Phone: /+48/ 22 825 04 71

Contracting Authority's website address: www.itb.pl

The address of the website where amendments and clarifications to the contents of SCTC and other procurement documents directly related to the contract award procedure shall be made available at: <https://bip.itb.pl/artykuly/POST%C4%98POWANIA-PZP>

2. Reference number of the procedure.

The procedure to which this SCTC pertains bear the following designation: TO.260.09TA.2024
Contractors should refer to the above designation in all contacts with the Contracting Authority. The procedure is conducted under the title: **"Delivery of an instrument set for direct measurement of frost heave"**

3. Contract awarding procedure.

- 3.1. The contract award procedure is conducted in the basic mode referred to in Art. 275 point 1 of the Act of September 11, 2019 - Public Procurement Law (Journal of Laws 2023, item. 1605, as amended)
- 3.2. The Contracting Authority does not envisage selecting the most advantageous tender with the possibility of conducting negotiations.
- 3.3. Whenever the term "Act" or "PPL" is used in this SCTC, it should be understood as the Public Procurement Law referred to in point 3.1.

4. The subject matter of the contract.

- 4.1. The subject matter of the contract is **"Delivery of an instrument set for direct measurement of frost heave"**.

The scope of the contract includes:

- a) delivery of a chamber: Warsaw Ksawerów 21 Building G.
 - b) delivery of the following items with the chamber:
 - full documentation (including user manuals in Polish and/or English, calibration certificates for sensors) and software licence,
 - warranty document with warranty service – 24 months from the final acceptance, along with technical support for the software,
 - c) transport with insurance of the goods to the registered office of the Contracting Authority in Warsaw (with unloading and carry-in delivery to the place indicated by the Contracting Authority).
- 4.2. Names and codes specified in the Common Procurement Vocabulary (CPV) relevant to the subject matter of the contract: 38970000-5 Research, testing and scientific technical simulator,
38400000-9 Instruments for checking physical characteristics.
 - 4.3. A detailed definition of the scope of the subject matter of the contract is contained in Chapter III of this SCTC.

- 4.4. The Contracting Authority excludes the possibility of submitting partial or variant tenders. Delivery of the subject matter of the contract concerns one device. Dividing it into parts is impossible. The absence of division into parts does not distort competition in the procedure.
- 4.5. The Contracting Authority does not allow submission of variant tenders.
- 4.6. Place of delivery: Warsaw ul. Ksawerów 21 Building G.
- 4.7. **the Contracting Authority requires that specification sheets** or another equivalent document confirming the compliance of the equipment offered with SCTC be delivered with the tender, and in the event that the document in question does not refer to a particular feature indicated in the description of the subject matter of the contract (it is not contradictory), the Contracting Authority requires submission of (the Contractor's own) declaration of compliance with the remaining features. If the contractor fails to submit the above-mentioned proof or the proof submitted is incomplete, the Contracting Authority shall call for its submission or supplementation within the prescribed time, in accordance with Art. 107 (2) of the Public Procurement Law.
- 4.8. In the event that in the description of the subject matter of the contract, reference is made to standards, technical assessments, technical specifications and reference systems referred to in Art. 101 para. 1-3 of the PPL, the Contracting Authority, in accordance with Art. 101 para. 4 of the PPL shall allow the use of equivalent solutions.
- 4.9. Additional information:
- The Contracting Authority does not plan to hold an electronic auction.
 - The Contracting Authority does not allow the possibility of submitting tenders in the form of electronic catalogues or attaching electronic catalogues to the tender.
 - The Contracting Authority shall not conduct procedure in order to conclude a framework agreement.
 - The Contracting Authority shall expect settlements in Euro.
 - The Contracting Authority shall not limit the possibility of applying for the award of the contract only to the contractors referred to in Art. 94 of the PPL.
 - The procedure shall be held in Polish. Acting pursuant to Art. 20 para. 3 and 4, the Contracting Authority hereby informs that they:
 - have prepared the contents of SCTC in English, which has been made available on the Platform of the procedure.
 - allow the submission of a tender in English, the documents in question, preparation of SCTC, the contract.
- 4.10 The Contracting Authority shall cancel the procedure if there is a material change in the circumstances which makes the conduct of the procedure or the performance of the contract contrary to the public interest, which could not have been foreseen earlier.

5. **Contract completion date.**

The Contracting Authority requires that the contract be completed within: - **up to 20 weeks from the date of concluding the contract.**

6. **Information on the means of electronic communication, information on the technical and organizational requirements for preparing, sending and receiving electronic correspondence.**

- 6.1. In the procedure in question, the Contracting Authority allows the parties to the procedure to provide each other with declarations, applications, notifications and information:

electronically to the e-mail address: zamowienia@itb.pl or via the Platform located at: <https://itb.ezamawiajacy.pl> in the "Correspondence" section.

- 6.2. Declarations, requests, notices or information which are received by the Contracting Authority shall be considered as documents submitted on time if their legible contents reach the Contracting Authority before the deadline. The date of receipt of declarations, applications, notifications and information shall be the date of their upload on the Platform.
- 6.3. General rules for the use of the Platform, subject to point 8 of this Chapter:
 - 6.3.1. Application to participate in the procedure requires the Contractor to log in to the System on the ITB subdomain <https://itb.ezamawiajacy.pl> or <https://oneplace.marketplanet.pl>.
 - 6.3.2. The Contractor, after selecting the "join the procedure" option, will be redirected to <https://oneplace.marketplanet.pl>, where they will be notified to log in or to create a free account. The Contractor creates an account by following the steps of the registration process: provides an e-mail address, sets a password, then repeats the password, enters the code from the image, accepts the terms of use and clicks the "register" command.
 - 6.3.3. The account is automatically registered by:
 - signing the application form with an electronic signature (qualified, personal or trusted profile)
 - or
 - contact the phone number provided in the confirmation
 - or
 - if the user does not sign the application or make a phone contact. Your account will be activated **within a maximum of 6 working hours**.
 - 6.3.4. After creating an account, the Contractor shall have an opportunity to submit a Tender in the procedure. Communication between the Contracting Authority and the Contractors, in particular notifications and information, is provided using electronic means of communication via the Procurement Platform. The date of submitting the certificates and information is the date of sending them via the "Messages" section.
- 6.4. The Contractor may request the Contracting authority to clarify the contents of SCTC. The application should be sent through the Purchasing Platform via:
 - 6.4.1. "Ask a question" action (before accessing the procedure). In order to ask the Contracting Authority a question, the Contractor is to click the ASK A QUESTION button with the left mouse button. This opens a window in which the Contractor's data should be completed, i.e. Name and email address, subject and content/subject of the question, after filling in the indicated fields along with the required verification code from the image, the Contractor clicks the CONFIRM action. Then, the Contractor gets confirmation of sending the question through the system message "Question sent".
 - 6.4.2. "Messages" tile (after joining the procedure) available in the procedure. In order to send a message to the Contracting Authority, the Contractor should click on the action "Create new message", fill in the subject and content/subject of the question, and then click on the action "Send".
- 6.5. The Contracting Authority shall provide explanations immediately, but no later than 2 days before the deadline for submission of tenders, provided that the request for clarification of the contents of the SCTC was received by the Contracting Authority no later than 4 days

before the deadline for submission of tenders. If the request for clarification of the contents of the SCTC is received after the expiry of the deadline referred to above, or concerns the explanations provided, the Contracting Authority may provide explanations or leave the request without examination. The extension of the deadline for submitting tenders does not affect the elapse of the deadline for submitting a request for clarifying the content of the SCTC.

- 6.6. The Contracting Authority shall provide the Contractors with the contents of the questions (without disclosing the source of the inquiry) along with explanations or information about the modification of the SCTC via the eProcurement Platform.
- 6.7. The Contracting Authority informs that in the case of any doubts related to the terms of use of the Platform, the Contractor should contact the provider of the ICT solution ITB eProcurement Platform phone: +48 22 2572223 (helpline available on working days, from 9.00 to 17.00) e-mail: oneplace@marketplanet.pl
- 6.8. The Contracting Authority defines the acceptable electronic signature format as:
 - 6.8.1. documents in the "pdf" format are recommended to be signed in the PAdES format,
 - 6.8.2. it is permitted to sign documents in a format other than "pdf", in which case a separate signature file will be required. Therefore, the Contractor shall be obliged to attach a separate signature file in addition to the signed document.
- 6.9. The Contracting Authority specifies the necessary hardware and software requirements allowing the eProcurement Platform to be operated, i.e.:
 - 6.9.1. Constant access to the Internet with a guaranteed bandwidth of no less than 512 kb/s;
 - 6.9.2. A PC or MAC computer meeting the requirements of the installed operating system and the requirements of the web browser used;
 - 6.9.3. Any web browser installed in a manufacturer-supported version which supports TLS 1.2;
 - 6.9.4. Installation of Acrobat Reader or another program that supports .pdf files.
- 6.10. The Contracting Authority specifies the acceptable formats of the transmitted data, i.e. files up to 2GB in txt, rtf, pdf, xps, odt, ods, odp, doc, xls, ppt, docx, xlsx, pptx, csv, jpg, jpeg, tif, tiff, geotiff, png, svg, wav, mp3, avi, mpg, mpeg, mp4, m4a, mpeg4, ogg, ogv, zip, tar, gz, gzip, 7z, html, xhtml, css, xml, xsd, gml, rng, xsl, xslt, TSL, XMLsig, XAdES, CADES, ASIC, XMLenc.
- 6.11. The Contracting Authority specifies the necessary hardware and software requirements allowing correct submission of an electronic signature:
 - 6.11.1. The browser recommended for submission of the tender is MS Internet Explorer or Firefox in the version supported by the manufacturer.
 - 6.11.2. Launching the electronic signature software also requires installing Java version 1.8.0 65 or later, necessarily in the 32-bit version, which allows the user to accept session cookies and supports encryption. It is also necessary to add the website address of the eProcurement platform (ezamawiacy.pl) to the exception site list in Java. Note: this requires administrative privileges on the computer.
 - 6.11.3. The next step is to install a dedicated Szafir SDK component and the Szafir Host application, which is responsible for handling the electronic signature functionality in the eProcurement platform. The Szafir SDK extension can be downloaded at <http://www.elektronicznypodpis.pl/informacje/aplikacje/>. After installing the Szafir SDK extension and the Szafir Host application, the current page should be reloaded.
 - 6.11.4. Before starting the eProcurement platform, first connect the reader with the

cryptographic card to the computer.

6.11.5. For information on how to properly prepare your work station, please visit:
<https://oneplace.marketplanet.pl/przygotuj-stanowisko-pc-wykonujac-ponizsze-kroki>

6.12. The Contracting Authority specifies information on the coding and time of data receipt, i.e.:

6.12.1. The file attached by the Contractor on the eProcurement Platform and saved, is visible in the System as encrypted – UTF8 encoding format. The ability to open files is available only following the decryption by the Contracting Authority after the tender opening deadline has been reached.

6.12.2. The indication of the time of receiving data by the Platform is the date and the exact time (hh:mm:ss) generated according to the local time of the server synchronized with an appropriate time source.

6.13. In the case of depositing a tender bond in the form of a surety or guarantee:

6.13.1. When submitting a tender in electronic form or in electronic form bearing a qualified electronic signature, trusted signature or personal signature, the original tender bond document (surety or guarantee) bearing the electronic signature of persons authorized to issue it, the Contractor shall submit it by attaching it to the eProcurement Platform in the "Preparation of the tender" section, then the "Documents for the tender" subsection, by selecting the "Drag here or Select a file from the disk" command.

7. Forms in which documents should be submitted during the procedure.

7.1. The tender, declarations on the absence of grounds for exclusion and on compliance with the tender participation requirements (Appendix II.1 of the SCTC) drawn up in electronic form by the Contractor should be signed with a qualified electronic signature, a trusted signature or a personal signature by the person or persons authorized to represent or by an attorney-in-fact.

7.2. The tender, declarations on the absence of grounds for exclusion and on compliance with the tender participation requirements (Appendix II.1 of the SCTC), documents referred to in point 9, submitted to confirm the fulfilment of the condition for participation in the procedure, and a possible commitment of the entity providing resources referred to in Art. 118 para. 3 of the Act, is prepared in electronic form, in the data formats specified in the provisions issued pursuant to Art. 18 of the Act of February 17, 2005 on the Computerisation of Entities Performing Public Tasks (Journal of Laws of 2023, item 57), taking into account the type of data transferred. Data formats are indicated in point 6.

7.3. Information, declarations or documents, other than those specified in points 7.1-7.2, provided in the procedure (such as explanations of the contents of the tender submitted, explanations regarding an abnormally low price, other letters addressed to the Contracting Authority) shall be prepared in electronic form, in data formats specified in regulations issued pursuant to Art. 18 of the Act of February 17, 2005 on the Computerisation of Entities Performing Public Tasks, or as a text entered directly into a message transmitted by means of electronic communication.

7.4. Electronic documents shall be transmitted in the procedure using the means of communication indicated in point 6.

7.5. If electronic documents in the procedure, transmitted by means of electronic communication, contain information constituting a business secret within the meaning of the provisions of the Act of April 16, 1993 on Combating Unfair Competition (Journal of Laws of 2022, item 1233), the Contractor, in order to maintain the confidentiality of this information, shall transmit it in a separate and properly designated file. The Contractor should make a

reservation in a manner leaving no doubts about which of the information contained in the tender constitutes a business secret. The Contracting Authority reminds that information constituting a business secret within the meaning of the provisions on combating unfair competition shall not be disclosed if the Contractor, no later than the deadline for submission of tenders in the procedure, reserved that they cannot be made available and demonstrated that the reserved information constitutes a business secret.

- 7.6. If the subjective evidence (including declarations on the absence of grounds for exclusion and on compliance with the tender participation requirements and the document submitted to confirm the fulfilment of the condition for participation in the procedure), other documents, or documents confirming the authorization to represent, respectively, the contractor, contractors jointly applying for award of a public contract, the entity providing resources under the terms specified by Art. 118 of the Act, hereinafter referred to as "documents confirming the power of representation", were issued by authorized entities other than the contractor, the contractor jointly applying for the award of the contract, the entity providing resources or the subcontractor, hereinafter referred to as "authorized entities", **this document shall be submitted in electronic form.**
- 7.7. If the subjective evidence (including declarations on the absence of grounds for exclusion and on compliance with the tender participation requirements, the document submitted to confirm the fulfilment of the condition for participation in the procedure), other documents or documents confirming the power of representation, were issued by authorized entities as a document in paper form, **a digital representation of this document bearing a qualified electronic signature, trusted signature or personal signature shall be provided, certifying the conformity of the digital reproduction with the document in paper form.**
- 7.8. Confirmation of the compliance of the digital reproduction with the paper document referred to in point 7.7 shall be made by the contractor, the contractor jointly applying for the award of the contract, respectively, in terms of documents confirming the power of representation, which relate to each of them.
- 7.9. The certification of the compliance of the digital reproduction with the paper document referred to in 7.7 may also be made by a notary.
- 7.10. A digital representation should be understood as an electronic document being an electronic copy of the contents recorded in paper form, allowing one to read and understand these contents, without the need for direct access to the original.
- 7.11. Subjective evidence (including declarations on the absence of grounds for exclusion and on compliance with the tender participation requirements, a document submitted to confirm the fulfilment of the condition for participation in the procedure) and the obligation of the entity providing the resources, and the power of attorney are to be provided in electronic form and bear a qualified electronic signature, trusted signature or personal signature.
- 7.12. If the subjective evidence (including declarations on the absence of grounds for exclusion and on compliance with the tender participation requirements, the document submitted to confirm the fulfilment of the condition for participation in the procedure), and the obligation of the entity providing the resources not issued by the authorized entities or the power of attorney, were drawn up as a document in paper form and provided with a handwritten signature, a digital representation of this document shall be provided bearing a qualified electronic signature, trusted signature or a personal signature, confirming the compliance of the digital representation with the document in paper form.
- 7.13. Confirmation of the agreement of the digital representation with the document in paper form referred to in point 7.12 above, is conducted in the case of:

- 1) subjective evidence - by the contractor, contractor jointly applying for the award of the contract, entity providing resources or subcontractor, respectively, in terms of subjective evidence concerning each of them;
 - 2) obligations of the entity providing the resources – respectively the contractor or the contractor jointly applying for contract award;
 - 3) powers of attorney - principal.
- 7.14. The certification of the agreement of the digital representation with the paper document referred to in point 7.12 may also be made by a notary.
- 7.15. In the case of submitting an electronic document in the compression data format in the procedure, affixing a file containing compressed documents with a qualified electronic signature, trusted signature or personal signature is tantamount to affixing a properly qualified electronic signature, trusted signature or personal signature to all documents contained in this file respectively.
- 7.16. If the subjective evidence, or other documents confirming the authorization to represent, have been issued by authorized entities as an electronic document, a certified printout of the visualization of the content of this document shall be provided.
- 7.17. The certified printout referred to in point 7.16 shall contain, in particular, the document's identifier or date of printout, as well as the handwritten signature of the contractor, the contractor jointly applying for the award of the contract, the entity providing resources or the subcontractor or the participant in the tender, confirming the compliance of the printout with the contents of the electronic document.
- 7.18. The Contracting Authority may request that the original or a notarized copy be produced only if the submitted copy is illegible or raises doubts as to its authenticity.

8. Grounds for exclusion of the Contractor

- 8.1. **Pursuant to Art. 108 para. 1 of the PPL, a Contractor shall be excluded from the contract award procedure if:**
- 1) they are a natural person who has been finally convicted of the following crimes or offences:
 - a) participation in an organized criminal group or association aimed at committing a crime or a fiscal offense referred to in Art. 258 *participation in an organized group or criminal association* of the Criminal Code,
 - b) human trafficking referred to in Art. 189a *human trafficking* of the Criminal Code,
 - c) as referred to in Art. 228 *use of electronic auction, exclusions -30a*, Art. 250a *electoral bribery* of the Criminal Code, in Art. 46 *liability of the Contracting Authority*-48 of the Sport Act of June 25, 2010 (Journal of Laws of 2022, item 1599 and 2185) or in Art. 831_54 para. 1-4 of the Act of May 12, 2011 on the Reimbursement of Medicines, Foodstuffs for Special Nutritional Purposes and Medical Products (Journal of Laws of 2023, item 826),
 - d) financing offences of terrorist nature, referred to in Art. 165a *financing an offence of terrorist nature* of the Criminal Code, or the offense of thwarting or obstructing the determination of the criminal origin of money or concealing its origin, referred to in Art. 299 *money laundering* of the Criminal Code,
 - e) of a terrorist nature, as referred to in Art. 115 *determining the conditions ensuring that the contractors have the economic or financial capacity to perform the contract* § 20 of the Criminal Code, or aimed at committing this crime,

- f) entrusting the performance of work to a minor foreigner, as referred to in Art. 9 exclusions of classical procurement, sectoral procurement or competitions from the Act, para. 2 of the Act of 15 June 2012 on the Effects of Entrusting Work to Foreigners Residing on the Territory of the Republic of Poland (Journal of Laws of 2021, item 1745),
 - g) against the economic turnover referred to in Art. 296-307 of the Criminal Code, the offense of fraud referred to in Art. 286 *fraud* of the Criminal Code, an offense against the credibility of documents referred to in Art. 270–277d of the Criminal Code, or a fiscal offense,
 - h) as referred to in Art. 9 *employing foreigners staying in the Republic of Poland illegally* para. 1 and 3 and Art. 10 *employment of foreigners residing illegally in the Republic of Poland in the conditions of special application* of the Act of 15 June 2012 on the effects of entrusting work to foreigners residing on the territory of the Republic of Poland contrary to the provisions – or for a corresponding prohibited act specified by the provisions of foreign law;
- 2) if an incumbent member of its management or supervisory body, a partner in a general partnership or a partnership, or a general partner in a limited partnership or limited joint-stock partnership or a proxy has been legally convicted of an offense referred to in point 1;
 - 3) for whom a final court judgment or final administrative decision has been issued on arrears in the payment of taxes, fees or social security or health insurance contributions, unless the contractor made the payment of due taxes, fees or social security or health insurance contributions together with interest or fines before the deadline for submission of tenders or has concluded a binding agreement on the repayment of these receivables.
 - 4) against whom a ban on applying for the award of public contracts has been validly declared;
 - 5) if the contracting authority is able to conclude, on the basis of reliable evidence, that the economic operator has entered into an agreement with other economic operators aimed at distorting competition, in particular if, belonging to the same capital group within the meaning of the Act of 16 February 2007 on Competition and Consumer Protection, they have submitted separate tenders, unless they prove that they have prepared these tenders independently of each other;
 - 6) if, in the cases referred to in Art. 85 *exclusion from the procedure of the entity previously involved in the preparation of the procedure* para. 1, there occurred distortion of competition resulting from the prior involvement of this contractor or an entity that belongs along with the contractor to the same capital group within the meaning of the Act of February 16, 2007 on Competition and Consumer Protection, unless the resulting distortion of competition can be eliminated in a way different than by excluding the contractor from participation in the contract award procedure.

8.2. Pursuant to Art. 7 para. 1 of the Act of 13 April 2022 on Special Solutions in the Field of Counteracting the Support of Aggression Against Ukraine and Protecting National Security, the following are excluded from the procedure in question:

- 1) The contractor and the participant in the competition recorded in the lists referred to in Regulation 765/2006 and Regulation 269/2014 or entered on the list on the basis of a decision on entry to the list determining the application of the measure referred to in Art. 1 point 3;
- 2) The contractor and the participant in the competition, whose ultimate beneficial owner within the meaning of the Act of March 1, 2018 on Counteracting Money Laundering and Terrorist Financing (Journal of Laws of 2022, item 593 and 655) is a person named in the

lists referred to in Regulation 765/2006 and Regulation 269/2014 or entered on the list or being such an ultimate beneficial owner from March 24, 2022, if they were entered on the list on the basis of a decision on entry to the list determining the application of the measure referred to in Art. 1 point 3;

- 3) The Contractor and the participant in the competition, whose parent company within the meaning of Art. 3 para. 1 of the Accounting Act of September 29, 1994 (Journal of Laws of 2021, item 217, 2105 and 2106) is an entity listed in the lists referred to in Regulation 765/2006 and Regulation 269/2014 or entered on the list or being such a parent entity from February 24, 2022, if they were entered on the list on the basis of a decision on entry to the list determining the application of the measure referred to in Art. 1 point 3

A person or entity subject to exclusion pursuant to point 8.2 who, during the period of exclusion, applies for the award of a public contract or participates in the procedure for the award of a public contract, shall be subject to a financial penalty of up to PLN 20,000,000.

8.3. The Contracting Authority, in addition, shall exclude the Contractor if the conditions set out in Art. 109 Article para. 1 point 1) and 4 of PPL, have materialised, i.e.:

- 1) when they have violated the obligations regarding the payment of taxes, fees or social or health insurance contributions, except for the case referred to in Art. 108 para. 1 point 3, unless the contractor made the payment of due taxes, fees or social or health insurance contributions together with interest or fines before the deadline for submission of applications for admission to participate in the procedure or before the deadline for submission of tenders or has concluded a binding agreement on the repayment of these receivables.
- 2) a Contractor in respect to whom a liquidation or bankruptcy procedure have been initiated, whose assets are being administered by a liquidator or a court, who has entered into an arrangement with creditors, whose business activities are suspended or in any other similar situation arising from a similar procedure provided for in the law of the venue where the procedure was initiated.

8.4. The Contractor may be excluded by the Contracting Authority at any stage of the contract award procedure.

8.5. The Contractor shall not be excluded in the circumstances specified in point 8.1. subpoints 1, 2, 5 and 6 or in point 8.3. (with the exception of subpoint 1) if they prove to the Contracting Authority that they have met the following conditions jointly:

- 1) they have repaired or have undertaken to repair the damage caused by the offense, misdemeanour or their wrongful conduct, including doing so through pecuniary compensation;
- 2) have fully explained the facts and circumstances related to the offense, misdemeanour or their wrongful conduct and the damage caused by it, have actively cooperated with the competent authorities, including law enforcement authorities, or the contracting authority;
- 3) have taken specific technical, organisational and personnel measures, appropriate for the prevention of further offences, misdemeanour or wrongful conduct, in particular:
 - a) they have severed all links with people or entities responsible for the contractor's wrongful conduct,
 - b) have reorganised the personnel,
 - c) have implemented a reporting and control system,

- d) have set up internal audit structures to monitor compliance with legal regulations, internal regulations or standards,
 - e) have enacted internal regulations on liability and compensation for non-compliance with legal regulations, internal regulations or standards.
- 8.6. The Contracting Authority assesses whether the actions taken by the contractor referred to in point 8.5 are sufficient to demonstrate the contractor's reliability, taking into account the importance and special circumstances of the contractor's actions. If the actions taken by the contractor referred to in point 8.5 are not sufficient to demonstrate their diligence, the contracting authority shall exclude the contractor.
- 8.7. In the cases referred to in point 8.3, subpoints 1, 4–5 or 7, the Contracting Authority shall not exclude the contractor if the exclusion would be clearly disproportionate, in particular if the amount of outstanding taxes or social security contributions is small or the economic or financial situation of the contractor referred to in para. 1 point 4 is sufficient for the fulfilment of the contract.

9. Conditions for participation in the procedure that must be met by Contractors:

- 9.1. Application for contract award is permitted for contractors who meet the conditions for participation in the procedure concerning:
- 1) **the legal capacity to be a party to economic transactions;**
The Contracting Authority does not set a specific condition in this respect.
 - 2) **the right to conduct a specific business or professional activity, if such result from separate provisions, i.e.:**
The Contracting Authority does not set a specific condition in this respect.
 - 3) **economic or financial situation;**
The Contracting Authority does not set a specific condition in this respect.
 - 4) **technical or professional capabilities:**
The Contracting Authority does not set a specific condition in this respect.

10. Documents and declarations required to confirm the absence of grounds for exclusion and the Contractor's compliance with the tender participation requirements

- 10.1. Each Contractor must attach to the tender a declaration valid as of the date of submitting tenders regarding the lack of grounds for exclusion and meeting the conditions for participation in the procedure in accordance with the contents of the form contained in Chapter II.2 of the SCTC.
- 10.2. The declaration referred to in para. 1, is evidence confirming the absence of grounds for exclusion and meeting the conditions for participation in the procedure as of the date of submission of tenders, temporarily replacing the subjective evidence required by the contracting authority.
- 10.3. **The Contracting Authority shall call on the Contractor whose tender has received the highest rating to submit within the prescribed period, no less than 5 days from the date of the call:**
- the Contractor's declaration on the validity of the information contained in the declaration referred to in point 10.1, in the scope of the grounds for exclusion from the procedure indicated by the Contracting Authority.
- 10.4. The Contractor shall not be obliged to submit a document confirming the fulfilment of the condition for participation in the procedure specified in point 9.1. subpoint 4), which is in the possession of the Contracting Authority, if the contractor indicates this document and confirms the correctness and validity of the information contained therein.

- 10.5. If the contractor has not submitted the declaration referred to in point 10.1, the documents indicated in point 10.3, other documents or declarations submitted in the procedure or they are incomplete or contain errors, the contracting authority shall call on the contractor to submit, correct or supplement them within the prescribed period, unless:
- 1) the contractor's tender is subject to rejection regardless of their submission, supplementation or correction or
 - 2) there exist grounds for the annulment of the procedure.
- 10.6 The Contractor shall submit subjective evidence upon the call referred to in point 10.3, valid on the date of their submission.
- 10.7 The Contracting Authority may request contractors to provide explanations regarding the contents of the declaration referred to in point 10.1 or the subjective evidence submitted or other documents or declarations submitted in the procedure.
- 10.8 If the declaration made by the contractor referred to in point 10.1 or subjective evidence raises doubts of the contracting authority, they may ask the entity that is in possession of information or documents relevant in this respect for the assessment of the contractor's fulfilment of the conditions for participation in the procedure or the absence of grounds for exclusion to submit such information or documents directly.
- 11. Information for Contractors who submit a tender jointly (consortium)**
- 11.1 Contractors may jointly apply for the award of the contract. In such case, the Contractors shall appoint a legal representative to represent them in the contract award procedure, or to represent them in the procedure and to conclude the public procurement contract.
- 11.2 In the case of Contractors jointly applying for the award of the contract, none of them may be excluded, while the conditions for participation in the procedure are to be met jointly. The provisions of point 9.1 shall apply accordingly.
- 11.3 In the event of joint application for the award of the contract by the contractors, the declaration referred to in point 10.1 shall be submitted by each of the contractors. These declarations confirm the lack of grounds for exclusion and the fulfilment of the conditions for participation in the procedure to the extent to which each of the Contractors demonstrates fulfilment of the conditions for participation in the procedure.
- 12. The method of communication between the Contracting Authority and the Contractors.**
- 12.1 The Contracting Authority appoints the following persons to maintain communication with the Contractors: Beata Kowalska phone number +48 22 57 96 317, e-mail: zamowienia@itb.pl
- 12.2 Communication between the Contractors and the Contracting Authority and between the Contracting Authority and the Contractors shall take place only through the eProcurement Platform on the terms indicated in point 6, subject to point 12.3. This applies in particular to the submission of tenders, calls addressed to the Contractors, including the submission of subjective documents, explanations, explanations regarding an abnormally low price and supplements to documents and the Contractors' responses to the above-mentioned calls, submission of other declarations, including the extension of tender validity.
- 12.3 At the same time, the Contracting Authority shall allow the Contractors to submit applications for clarification of the contents of the SCTC and copies of documents submitted as part of legal protection measures (appeal, accession, procedural documents) to the following e-mail address: zamowienia@itb.pl
- 12.4 The Contractor may request the Contracting Authority to clarify the contents of the SCTC. The Contracting Authority shall provide explanations immediately, but no later than 2 days

before the deadline for submitting tenders, provided that the request for clarification of the contents of the SCTC was received by the Contracting Authority no later than 4 days before the deadline for submitting tenders. In order to streamline the procedure for explaining the contents of the SCTC, questions should also be sent in the form of editable files (in the doc. format).

- 12.5. If the Contracting Authority does not provide explanations within the period referred to in point 12.4, they extend the deadline for submitting tenders by the time necessary for all interested contractors to familiarize themselves with the explanations necessary for proper preparation and submission of tenders.
- 12.6. If the request for clarification of the contents of the SCTC has not been received within the period referred to in point 12.4, the Contracting Authority shall not be obliged to provide explanations of the SCTC nor to extend the deadline for submitting tenders.
- 12.7. The extension of the deadline for submitting tenders referred to in point 12.5 does not affect the deadline for submitting a request for clarification of the contents of SCTC.
- 12.8. The contents of inquiries, along with explanations, is made available by the Contracting Authority, without disclosing the source of the inquiry, on the website of the procedure.
- 12.9. The Contracting Authority does not intend to convene a meeting of all Contractors.

13. The date through which the Contractor shall be bound by the submitted tender.

- 13.1. The Contractor shall be **bound by the tender until 02.08.2024**, with the first day of the offer binding period being the day on which the deadline for submitting tenders expires.
- 13.2. The Contracting Authority does not require depositing a tender bond.
- 13.3. If the selection of the best tender does not take place before the expiry of the deadline indicated in point 13.1, and the procedure is not cancelled, the Contracting Authority will ask the contractors once for consent to extending this deadline by the period indicated by the Contracting Authority. The period will not be longer than 30 days.
- 13.4. The extension of the tender validity period referred to in point 13.3 requires the contractor to submit a written declaration of consent to the extension of the tender validity period.

14. Description of the method of preparing tenders.

- 14.1. The Contractor may submit only one tender. The tender must cover the entire procurement.
- 14.2. The tender should be signed in accordance with the rules of representation applicable to the Contractor or through a proxy. The tender should be prepared in accordance with the content of the "TENDER" form (Chapter II.1 of this SCTC).
- 14.3. Along with the tender, the following should be submitted:
 - 1) The declaration required by the provisions of point 10.1.
 - 2) A power of attorney to represent all the Contractors that jointly apply for the award of the contract, or a cooperation agreement, which will result in the power of attorney referred to above;
 - 3) Documents from which the right to sign the tender or to sign other declarations or documents submitted with the tender is derived,
 - 4) Obligation of the entity making resources available to provide the Contractor with necessary resources for the implementation of a given contract or other subjective evidence confirming that the contractor will have the necessary resources of these entities when performing the contract – *if applicable* (in the case of using the resources of a third party).

- 5) **The specification sheet** or another equivalent document confirming the compliance of the device offered with the SCTC and in the event that a given document does not refer to a given feature indicated in the description of the subject matter of the contract (it is not contradictory) to the submission of (the Contractor's own) declaration on meeting the remaining features. The Contracting Authority informs that this document may be supplemented pursuant to Art. 107 para. 2 of PPL.
- 14.4. The Contracting Authority requests the Contractor to indicate in the tender the part of the procurement which is intended to be entrusted to subcontractors and to name subcontractor companies, if known. The above-mentioned indication is to be made in the Tender Form.
- 14.5. The tender, declarations and documents for which the Contracting Authority has specified templates in the form of appendices to this SCTC should be prepared in accordance with these templates, regarding the contents and description of columns and rows.
- 14.6. The Contractor may withdraw the tender until the expiry of the deadline for submission of tenders.
- 15. Place and deadline for submitting tenders.**
- Tenders should be **submitted by: 04.07. 2024 until 10:00 via the eProcurement Platform of the Contracting Authority.**
- 16. Place, date and mode of opening tenders.**
- 16.1 The tenders shall be opened using **the eProcurement Platform** at **<https://itb.ezamawiajacy.pl> on 04.07.2024 at: 10:15**
- 16.2 The Contracting Authority, at the latest before the opening the tenders, shall make available on the website of the pending procedure information on the amount it intends to allocate to finance the procurement.
- 16.3 The Contracting Authority, immediately after opening the tenders, shall make available on the website of the procedure conducted information on:
- 1) trade names or forenames and surnames as well as registered offices or places of business or places of residence of contractors whose tenders have been opened;
 - 2) prices included in the tenders.
- 16.4 In the case of a system failure that results in the inability to open tenders within the time limit specified by the Contracting Authority, the opening of tenders shall take place immediately after the failure has been removed. In such a case, the Contracting Authority will inform about the change of the opening date of the tenders on the website of the procedure conducted.
- 17. Description of the method of calculating the tender price.**
- 17.1 The tender price should be expressed in PLN and stated in the "Tender" Form.
- 17.2 The tender price should include all costs related to the proper execution of the contract, including taxes, fees and other possible charges.
- 18. Criteria for the selection of the most advantageous tender.**
- 18.1 When selecting the most advantageous tender, the Contracting Authority shall be guided by the following criteria for the evaluation of tenders:
- price – **100%**
- 18.2 The Contracting Authority shall evaluate the tenders on the basis of the criteria set out above based on the following formula:

$$Q_{Pi} = C_{Pmin}/C_{Pi} \cdot 100$$

where:

Q_{Pi} – the number of points awarded to the evaluated tender

C_{Pmin} – the lowest price offered in the procedure

C_{Pi} - the price included in the evaluated tender

It is assumed that 1% = 1 point. The maximum number of points that can be obtained is 100.00 points.

- 18.3 The contract shall be awarded to the Contractor who has received the highest number of points.
- 18.4 If an tender has been submitted, the selection of which would lead to the creation of a tax obligation for the Contracting Authority pursuant to the Value Added Tax Act of March 11, 2004 (Journal of Laws of 2021, item 685), for the purpose of applying the price criterion, the Contracting Authority shall add to the price presented in this tender the amount of value added tax that it would be obliged to settle.
- 18.5 In the tender referred to in point 18.4, the Contractor shall be obliged to:
- 1) inform the Contracting Authority that the selection of its tender will lead to creating a tax obligation for the Contracting Authority;
 - 2) indicate the names (types) of goods or services, the delivery or provision of which will give rise to a tax obligation;
 - 3) indicate the value of the goods or services subject to the Employer's tax obligation, without the tax amount;
 - 4) indicate the rate of the value added tax that, according to the Contractor's knowledge, will be applicable.
- 18.6. A contract shall be signed with the selected Contractor on the conditions set out in Chapter IV of the SCTC.
- 18.7. The Contracting Authority does not plan to hold an electronic auction.
- 19. Information on the formalities which should be completed after selecting the tender in order to conclude the public procurement contract.**
- 19.1. The Contracting Authority shall issue a call for signing the contract, setting the deadline (no longer than 3 days from sending the call) and the place of signing. Failure of the Contractor's representative to appear at the appointed time and place shall be considered to be evasion of concluding the contract.
- 19.2 The Contracting Authority does not require depositing a performance bond.
- 20. Advice on legal remedies.**
- 20.1. The Contractor and another entity are entitled to legal remedies if they have or had an interest in obtaining a given contract and have suffered or may suffer damage as a result of a breach of the provisions of this Act by the Contracting Authority.
- 20.2 Letters in appeal procedure shall be submitted in written or electronic form, but the appeal and the commencement of appeal procedure, submitted in electronic form, require affixing a trusted signature.
- 20.3 Letters in paper form shall be submitted through the postal operator, within the meaning of the Postal Law Act of November 23, 2012, in person, through a messenger, and letters in electronic form are submitted using electronic means of communication.

20.4 An appeal may be lodged against:

- 1) an action of the Contracting Authority inconsistent with the provisions of the Act, taken in the procedure for contract award, including the proposed provision of the contract;
- 2) omission of activities in the contract award procedure to which the Contracting Authority was obliged under the Act;

20.5 The Appellant shall provide the Contracting Authority with an appeal filed in electronic form or a copy of this appeal, if it was filed in writing, before the expiry of the time limit for lodging an appeal in such a way that they can read its contents before the expiry of this time limit. It shall be presumed that the Contracting Authority could have read the content of the appeal before the expiry of the deadline for its submission, if the appeal or its copy was provided before the expiry of the deadline for its submission using electronic means of communication.

20.6 An appeal shall be lodged:

- a) within 5 days from the date of sending the information about the Contracting Authority's activity constituting the basis for its submission - if it was sent using electronic means of communication or within 10 days - if they were sent in a different way;
- b) within 5 days from the date of publishing the notice in the Public Procurement Bulletin or the procurement documents on the website, in the case of contracts whose value is lower than the EU thresholds, when the subject of the appeal is the contents of the notice initiating the contract award procedure, the contents of the procurement documents
- c) within 5 days from the date on which the knowledge of the circumstances constituting the basis for its filing was acquired or, with due diligence, could have been acquired, if the appeal relates to activities other than those specified above in points a) and b).

20.7. An appeal should contain the elements indicated in Art. 516 para. 1 of PPL, in particular:

- 1) indication of the action or omission of the Contracting Authority, alleged to be non-compliant with the provisions of the Act;
- 2) a concise presentation of allegations;
- 3) a demand as to the manner of resolving the appeal;
- 4) an indication of the factual and legal circumstances justifying the appeal and evidence in support of the circumstances cited;

The appeal shall be accompanied by proof of payment of the appeal fee in the required amount, proof of providing the appeal or its copy to the Contracting Authority, and a document confirming the authorisation to represent the appellant.

20.8. The Chamber's decision may be appealed to the court by the parties and participants in the appeal procedure in accordance with Chapter III, Section IX of the PPL (Art. 579 et seq.).

21. Information clause of Art. 13 of GDPR to be applied by the Contracting Authority for the purpose related to the public procurement procedure, with which the Contractor is obliged to acquaint natural persons (in accordance with the declaration submitted in the Tender).

21.1 Pursuant to Art. 13 para. 1 and 2 of the General Regulation of the European Parliament and of the Council 2016/679 on the protection of personal data of April 27, 2016 (GDPR) The Contracting Authority hereby informs that:

1. The controller of your personal data provided by the Contractor is Instytut Techniki Budowlanej (Building Research Institute) with its registered office at 00-611 Warsaw, ul. Filtrowa 1.

2. Contact details of the personal data protection officer: Instytut Techniki Budowlanej (Building Research Institute); 00-611 Warsaw, ul. Filtrów 1; phone 22 5796466; e-mail: iod@itb.pl
3. Your personal data provided by the Contractor will be processed for the purpose related to the public procurement procedure entitled "**Delivery of an instrument set for direct measurement of frost heave**". Legal basis for the processing: Regulation of the European Parliament and of the Council 2016/679 GDPR Art. 6 para. 1(c).
4. The recipients of your personal data provided by the Contractor shall be persons or entities to whom the documentation of the procedure shall be made available pursuant to Art. 8 and Art. 96 para. 3 of the Act of September 11, 2019, – Public Procurement Law (Journal of Laws of 2023, item 1605, as amended), hereinafter referred to as the "PPL".
5. Your personal data provided by the Contractor shall be stored pursuant to Art. 97 para. 1 of the PPL, for a period of 4 years from the date of completing the contract award procedure, and if the duration of the contract exceeds 4 years, the retention period shall cover the entire duration of the contract.
6. The obligation of the Contractor to provide personal data relating directly to you is a statutory requirement set out in the provisions of the PPL, related to participation in a public procurement procedure; the consequences of failure to provide such data are derived from the PPL;
7. Your personal data provided by the Contractor shall not be used for automated decision-making, including profiling pursuant to Art. 22 of GDPR.
8. This clause applies to personal data provided by the Contractor, which the Instytut Techniki Budowlanej (Building Research Institute) will obtain during this procedure and the performance of the contract.
9. The Contractor's employees and other persons (you) whose data has been made available by the Contractor have:
 - pursuant to Art. 15 of GDPR, the right to access this shared personal data. In this case, the Contracting Authority may require the person making the request to indicate additional information to clarify the name or date of the completed contract award procedure;
 - pursuant to Art. 16 of GDPR the right to rectify his/her personal data*;
 - pursuant to Art. 18 of GDPR, the right to request the controller to limit the processing of personal data, including personal data contained in the protocol of the procedure or appendices to this protocol, from the date of completing the contract award procedure. The Contracting Authority shall not make this data available, unless there occur conditions referred to in Art. 18 para. 2,
 - the right to file a complaint to the President of the Personal Data Protection Office, if you decide that the processing of personal data relating to you violates the provisions of GDPR;
10. The Contractor's employees (you) are not entitled to:
 - in accordance with Art. 17 para. 3(b), (d), or (e) of GDPR: the right to erase personal data;
 - the right to transfer personal data as referred to in Art. 20 of GDPR;
 - pursuant to Art. 21 of GDPR, the right to object to the processing of personal data, since the legal basis for the processing of your personal data is provided under Art. 6 para. 1(c) GDPR.

11. In the event that the performance of the obligations referred to in Art. 15 para. 1–3 of GDPR would require a disproportionate effort from Instytut Techniki Budowlanej (Building Research Institute), then it may require the data subject to indicate additional information to clarify the request, in particular the name or date of the public procurement procedure or competition.
12. Submitting the request referred to in Art. 18 para. 1 of GDPR, does not limit the processing of personal data until the completion of the procedure of public procurement procedure or competition.**
13. The protocol of the procedure is public and made available on request, with the exception of personal data of special categories referred to in Art. 9 para. 1 of GDPR.

**Explanation: exercising the right of rectification may not have the effect of changing the outcome of the public procurement procedure or amending the provisions of the contract to an extent inconsistent with the PPL and may not violate the integrity of the protocol and its appendices.*

***Explanation: the right to restrict processing does not apply to data storage, in order to ensure the exercise of legal remedies or to protect the rights of another natural or legal person, or for important reasons of public interest of the European Union or a Member State.*

CHAPTER II.1 – TENDER FORM

Procedure No. TO.260.09TA.2024	TENDER
--------------------------------	---------------

**To: Instytut Techniki Budowlanej (Building Research Institute)
ul. Filtrowa 1
00-611 Warsaw**

Referring to the announcement of the public procurement procedure, conducted in the basic mode and entitled "**Delivery of an instrument set for direct measurement of frost heave**"

WE, THE UNDERSIGNED

acting for and on behalf of

NIP: _____ KRS: _____ voivodeship: _____

{name (business name) and exact address of the Contractor(s); KRS, REGON, NIP in the case of tender submitted by entities acting jointly, indicate the names (trading names) and exact addresses of all partners of a civil law partnership or members of a consortium}

company's status 1: micro small medium

(check as appropriate for the Contractor)

1. **WE SUBMIT A TENDER** for the performance of the subject matter of the contract in accordance with the Specification of the Contract Terms and Conditions.
2. **WE HEREBY DECLARE** that we have acquainted ourselves with the Specification of the Contract Terms and Conditions and consider ourselves bound by the provisions and rules of procedure specified therein.
3. **WE HEREBY DECLARE** that the selection of our tender *will/will not* lead to the creation of tax obligation for the Contracting Authority under the Value Added Tax Act.

Indicate the following name (type) of goods or services, the delivery or provision of which will lead to its creation, indicate their value without the amount of tax, indicate the rate of value added tax which, to my knowledge, will be applicable.

.....

4. **WE HEREBY TENDER** to perform the subject matter of the contract for the amount:
net: EURO (in words:)
VAT% gross:Euro (in words in euro:), according to the table below:

¹ Cf. Commission Recommendation of May 6, 2003 concerning the definition of micro, small and medium-sized enterprises (Journal of Laws L 124, 20.05.2003, p. 36). This information is required for statistical purposes only.

Micro-enterprise: an enterprise which employs fewer than 10 personnel and whose annual turnover or annual balance sheet total does not exceed EUR 2 million.

Small enterprise: an enterprise which employs fewer than 50 personnel and whose annual turnover or annual balance sheet total does not exceed EUR 10 million.

Medium-enterprises: enterprises which are neither micro nor small and which employ fewer than 250 employees and which annual turnover does not exceed EUR 50 million, and/or an annual balance sheet total does not exceed EUR 43 million.

The model of the device being offered	Manufacturer	Quantity	Net value of the tender	VAT rate (%)	Gross value of the tender
1	2	3	4	5	6
		1	%	

The tender should be accompanied by specification sheets or another equivalent document confirming the compliance of the offered device with the SCTC.

5. **WE HEREBY DECLARE** that we accept the contract completion deadline in accordance with point 5 of the SCTC, i.e.:
up to 20 weeks from the date of concluding the contract.
6. **WE HEREBY DECLARE** that warranty/service shall be provided during the period:
..... months (**min. 24 months from the date of receipt of the device**).
7. **WE HEREBY DECLARE** that we have acquainted ourselves with the provisions of the contract specified in the Terms of the contract and undertake, in the event of the selection of our tender, to conclude a contract in accordance with this tender, under the conditions specified in the Specification of the Contract Terms and Conditions, at the place and time specified by the Contracting Authority.
8. **WE SHALL PERFORM THE CONTRACT** on our own*/with the participation of the following subcontractors (please specify)..... who shall perform the following parts of the contract*:
9. **WE HEREBY ACCEPT** the terms of payment specified by the Contracting Authority in the draft provisions of the contract.
10. **WE HEREBY DECLARE** that – with the exception of the information and documents contained in the tender, and in the documents submitted with the tender, listed in the file this tender and all appendices thereto are public and do not contain information constituting a business secret within the meaning of the provisions on combating unfair competition.
11. **WE HEREBY DECLARE that we consider ourselves** bound by this tender for the period indicated in point 13.1 of the SCTC.
12. **WE HEREBY DECLARE that** we shall fulfil the information obligations provided for in Art. 13 of GDPR in relation to natural persons from whom I have directly or indirectly obtained personal data for the purpose of applying for public procurement procedure in this procedure.**
13. APPENDICES to this tender are the following:
 - the form of declaration on the absence of grounds for exclusion and on compliance with the tender participation requirements;
 - specification sheet(s) of the device offered;
 -

INFORMATION FOR THE CONTRACTOR:

A qualified electronic signature, trusted signature or personal signature must be affixed to the tender form by the person or persons authorized to represent the company and provided to the Contracting Authority along with the document(s) confirming the right to represent the Contractor by the person signing the tender.

* - delete as appropriate

** If the Contractor does not provide personal data other than this directly related to them or there is an exemption from the application of the obligation to provide information, pursuant to Art. 13 para of GDPR, the Contractor does not submit the declaration (removal of the contents of the declaration, e.g. by crossing it out).

CHAPTER II.2

<i>TO.260.09TA.2024</i>	DECLARATION on the absence of grounds for exclusion and on compliance with the tender participation requirements
-------------------------	---

WE, THE UNDERSIGNED ²

.....

acting for and on behalf of

.....

{name (business name) and exact address of the Contractor}

by submitting a tender in the public procurement procedure No. **TO.260.09TA.2024** conducted in the basic mode entitled "**Delivery of an instrument set for direct measurement of frost heave**", we declare that **we meet the conditions for participation in the procedure** indicated in point 9 of Chapter I of the SCTC and **are not subject to exclusion**:

- a) from the procedure in question pursuant to Art. 108 para. 1 and Art. 109 para. 1 point 1 and 4 of the PPL,
- b) from the procedure in question pursuant to Art. 7 para. 1 of the Act of April 13, 2022 on special solutions in the field of counteracting the support of aggression against Ukraine and protecting national security

In addition, we hereby declare as follows³:

1) We declare that there are grounds for our exclusion from the procedure on the basis of Art. of the PPL (state the applicable grounds for exclusion from among the aforementioned ones).

At the same time, we declare that in connection with the above circumstance, pursuant to Art. 110 para. 2 of the PPL, I have taken the following corrective measures⁴:

.....

2) We declare that in order to demonstrate the fulfilment of the conditions for participation in the procedure, specified by the Contracting Authority, we rely on the resources of the following entity/entities:

.....

..... in the

following scope

(indicate the entity and specify the appropriate scope for the indicated entity)

² Note: in the case of Contractors applying for the award of the contract jointly, the declaration is submitted separately by each of the Contractors jointly applying for the contract.

³ Individual declarations submitted/signed only if the circumstances are met in relation to the Contractor

⁴ The Contractor may also attach relevant documents.

CHAPTER II.3

<p>TO.260.09TA.2024 Procedure No.</p>	<p>DECLARATION OF THE CONTRACTOR on the validity of the information contained in the declaration referred to in Art. 125 para. 1 of the Act, with regard to the grounds for exclusion from the procedure indicated by the Contracting Authority.</p>
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Declaration in the procedure entitled "**Delivery of an instrument set for direct measurement of frost heave**"

WE, THE UNDERSIGNED

.....

acting for and on behalf of

.....

.....

{name (business name) and exact address of the Contractor(s)}

hereby declare that the information contained in the declaration referred to in Art. 125 para. 1 of the Act, with regard to the grounds for exclusion from the procedure, submitted along with the tender on

.....

A qualified electronic signature, trusted signature or personal signature must be affixed to the tender form by the person or persons authorized to represent the company and provided to the Contracting Authority alongside document(s) confirming the right to represent the Contractor by the person signing the tender.

CHAPTER III – DESCRIPTION OF THE SUBJECT MATTER OF THE CONTRACT in the procedure entitled

"Delivery of an instrument set for direct measurement of frost heave"

Description of the device:

REQUIRED COMPOSITION OF THE TEST STAND

1. **A chamber for investigating soil capacity for frost heave** – a complete device having a climatic chamber with a capacity of at least 200 litres (possibility of placing 9 samples in the chamber simultaneously), the chamber should be able to achieve air temperature in the range of -16 to -22°C, additionally maintaining water temperature in the range of 3 to 4.5°C. The amplitude of the air temperature during the test should not exceed 0.3°C, the amplitude of the water temperature during the test should not exceed 0.1°C. The device must meet the requirements of BS812:124:2009 standard. - (1 piece)
2. **Moulds and mould lids** – a mould with accessories for preparing samples (1 piece)
3. **Copper moulds for samples** – a mould intended for investigating samples in the chamber (9 pieces)
4. **Ceramic disc** – a ceramic disc, with 100-micron pores (1 piece)
5. **Discs** – discs with a diameter of 95 mm and a height of 5 mm. (9 pieces)
6. **Sample extrusion cylinder** – (1 piece)
7. **Short sample extruder** - (1 piece)
8. **Long sample extruder** – (1 piece)
9. **Calibration accessories** – accessories required to calibrate the device (a set of tampers, filler – 25 kg, sand fractions 600/300, 2.36/1.18 mm (25 kg), 2.36/5.00 mm (25 kg), waxed paper.

I. Conditions of acceptance:

1. Transportation with insurance of the goods to the registered office of the Contracting Authority in Warsaw (with unloading and carry-in delivery to the place indicated by the Contracting Authority). The Contractor shall deliver the subject matter of the contract within 20 weeks from the date of concluding the contract.
2. The Contractor shall attach full documentation (including operating instructions in Polish and/or English, calibration certificates for sensors) and a software license to the subject matter of the contract.

II. Warranty and service terms

1. Warranty document with warranty service – 24 months from the final acceptance and technical support for the software.
2. The Contractor shall ensure the availability of spare parts for a minimum of 10 years from the date of the final acceptance of the subject matter of the contract.

CHAPTER IV

Draft Provisions of the Contract

concluded on in Warsaw between:

Instytut Techniki Budowlanej – Instytut badawczy (Building Research Institute), with its registered office at Warsaw (00-611) ul. Filtrowa 1, entered into the Register of Entrepreneurs maintained by the District Court for the capital city of Warsaw in Warsaw, XII Commercial Division of the National Court Register, under KRS number 0000158785; NIP: 525 000 93 58; REGON: 000063650, hereinafter referred to as the "Contracting Authority" represented by:

.....

and

the company with its registered office in

..... NIP:,

REGON: acting on the basis of..... represented by hereinafter referred to as the Contractor,

as a result of the selection of the tender in the public procurement procedure conducted in the basic mode pursuant to Art. 275(1) of the Public Procurement Law Act of September 11, 2019 (consolidated text in Journal of Laws of 2023, item 1605, as amended), a contract with the following provisions was concluded:

§ 1

Subject matter of the contract, completion deadline

1. The subject matter of the contract is the **delivery of an instrument set for direct measurement of frost heave** (hereinafter: "Device") in accordance with the Contractor's tender constituting Appendix No. 1 to the contract and the Description of the contract subject matter constituting Appendix No. 2 to the contract.
2. The subject matter of the contract includes:
 - a) delivery of the device,
 - b) delivery of the following items along with the chamber:
 - full documentation (including user manuals in Polish and/or English, calibration certificates for sensors) and software licences,
 - warranty document with warranty service – 24 months from the final acceptance along with technical support for the software,
 - c) transport with insurance of the goods to the registered office of the Contracting Authority in Warsaw (with unloading and carry-in delivery to the place indicated by the Contracting Authority).
3. The supplied Device must be brand new, free of any physical and legal defects and must not be subject to any third-party rights.
4. The Contractor undertakes to deliver the subject matter of the contract within 20 weeks from the date of concluding the contract. The date of signing the acceptance report without significant defects shall be considered the date of contract performance.
5. The Contractor shall, within 7 days from the date of concluding the contract, provide the Contracting Authority with the technical documentation/installation requirements as regards the necessity to conduct installation works, among others, electrical power supply (determination of electrical power requirements), other required utilities, etc., in paper form or by sending it to the

e-mail address indicated in the contract. The Contracting Authority, according to the requirements provided by the Contractor, shall prepare the area (room) for the device and accessories necessary for proper operation.

§ 2

Remuneration

1. The value of the subject matter of the contract, constituting the total remuneration of the Contractor for the proper execution of the subject matter of the contract, in accordance with the Contractor's tender, which constitutes Appendix No. 1 to the contract, is PLN net (in words: EURO) with VAT % ,which is..... PLN gross (in words:).

The due VAT shall be paid in accordance with the regulations in force on the day of issuing the invoice. An invoice issued by a domestic supplier in a foreign currency should have the VAT converted into Polish zlotys.

2. The remuneration referred to in para. 1, includes all costs associated with the proper performance of the subject matter of the contract, including those related to the requirements set by the Contracting Authority in the specifications, in particular transport costs, insurance costs associated with the delivery, packaging, marking, customs fees, unloading, carry-in delivery, fiscal charges, costs of assembly, installation, commissioning of the device, training for selected employees of the Contracting Authority in the operation and maintenance of the device.
3. The payment of the amount due to the Contractor's account indicated on the invoice by bank transfer shall take place within 21 days of the receipt of a correctly issued invoice along with the acceptance report by the Contracting Authority. The invoice shall be issued based on the acceptance report signed without comments by both parties to this acceptance report.
4. The Contractor cannot assign any rights or claims, or transfer the obligations described herein, to a third party without a prior written consent of the Contracting Authority.
5. The Contracting Authority allows for the acceptance of an electronic (unstructured) invoice, provided that the Parties have previously signed the "Agreement on the acceptance of sending invoices in electronic format". A template of the aforementioned agreement shall be provided to the Contractor upon request. The Contracting Authority shall acknowledge the validity of the received electronic invoice if it is submitted under the conditions specified in the Agreement signed by both Parties.
6. The payment day is deemed to be the date of debiting the Contracting Authority's bank account.
7. The Contractor shall not be entitled to transfer the rights and obligations hereunder to any third party without a prior written consent of the Contracting Authority, to whom the rights and obligations apply. In any case, consent should be given in writing; otherwise, it shall be null and void.
8. The remuneration amount referred to in para. 1 shall exhaust all claims of the Contractor due to the performance of this Contract. The payment shall be made to the bank account indicated on the invoice, which is reported and entered in the Polish White List of bank accounts. If the account is not on this list on the day of payment, the Contracting Authority shall be entitled to withhold payment until the account is re-registered and appears on the list, which shall not affect the deadlines for the performance of this Contract and does not constitute a basis for charging penalties for untimely payment.
9. The Contractor shall permit payment using the Split Payment Mechanism by the Contracting

Authority.

§ 3

Conditions of delivery and acceptance of the subject matter of the contract

1. The acceptance of the Device shall specifically involve verifying its compliance with the requirements (parameters) specified in the Description of the Subject Matter of the Contract and ensuring its proper operation. This will be documented with an acceptance report, in accordance with the template provided in Appendix No. 4 attached hereto.
2. The Contractor undertakes to notify about the planned delivery of the Device and their readiness for the acceptance of the delivery at least one week in advance. The acceptance of the Subject matter of the Contract shall be conducted by a representative of the Contracting Authority within 4 working days after the performance ofby..... for the required parameters specified in the Description of the Subject Matter of the Contract and confirmed by both Parties through signing the Acceptance Report without comments.
3. The Acceptance Report of the Subject Matter of the Contract should be signed by at least one representative of each of the Parties to the contract. The persons authorised by the Parties to sign the Acceptance Protocol of the Subject Matter of the Contract are listed in para. 6.
4. If the Device does not operate correctly, lacks the features (parameters) specified in the Description of the Subject Matter of the Contract, or its warranty document is missing, the Contracting Authority shall establish a deadline for the Contractor to make the identified adjustments, remove defects, and/or provide the missing documents.
5. The failure to appropriately respond to the demands described in para. 4 shall entitle the Contracting Authority to either withdraw from the Contract in full or to demand a reduction in the cost of the Device delivered, proportionate to the value of defects which diminish the value of the Device. The right to withdraw or request a price reduction of the Device may be exercised within 21 days from the due date referred to in para. 4.
6. For the purposes of executing this Contract, the Parties appoint the following contact persons:
 - 1) The Contractor:, phone number:, e-mail address:
 - 2) The Contracting Authority:, phone number:, e-mail address:
7. The Parties undertake to notify each other about any alteration in the data included in para. 6. The notification is deemed valid from the moment it is delivered to the addressed Party.
8. Failure to notify about any changes to the data included in para. 7 results in the assumption that the letters addressed to the last correctly provided address were effectively served.
9. The alteration mentioned in para. 7 does not require the form of an annex.
10. Place of delivery, installation and commissioning of the device: Warsaw, ul. Ksawerów 21, Building G.
11. The Contracting Authority requires that the delivery of the device take place on a weekday (from Monday to Friday) between 8:00 AM and 2:00 PM.

§ 4

Ongoing cooperation

1. The Parties undertake to cooperate continuously, act reliably, strive to perform the contract properly, and inform each other promptly about all events that have or may have an impact on the execution of the subject matter of the contract.
2. In the case of potential improper performance of the Contract or exceeding of deadlines, the Contracting Authority may request the Contractor to provide explanations or specify any

deficiencies related to the performance of the Contract. In such a case, the Contracting Authority shall issue recommendations intended to remove said deficiencies, which shall be binding for the Contractor. The Parties undertake to cooperate diligently in order to remedy relevant deficiencies.

3. If the recommendations are not implemented within 14 days from the date of their issuance, or if the performance of the Contract continues to be unsatisfactory, the Contracting Authority reserves the right to terminate the Contract without setting an additional deadline for the Contractor to remove the violations, each time within 3 weeks from the occurrence of the aforementioned events

§ 5

Training

1. The Contracting Authority requires that online training in operating the Device and occupational health and safety rules be conducted.
2. The online training shall be held immediately after the acceptance of the Device by the Contracting Authority.
3. The Contracting Authority requires that the training take place on weekdays (from Monday to Friday) between 8:00 AM and 3:00 PM.
4. Conducting training is one of the conditions for signing the acceptance report.

§ 6

Warranty

1. The Contractor provides a-month warranty for the Device (in accordance with the Contractor's tender), starting from the date of signing the acceptance report, under the terms specified by the manufacturer's warranty subject to para. 2-3. The manufacturer's warranty document shall be delivered before conducting acceptance, at the latest.
2. The Contractor shall provide warranty service through the manufacturer or their authorized representative on the territory of Poland.
3. The required response time to the Contracting Authority's notification is up to 7 calendar days from the moment of reporting a mechanical failure.
4. Provided that spare parts and components are available, warranty repair or replacement of the defective device shall be completed within 10 working days from the date of informing the Contractor (via e-mail) about the defect of the device.
5. The warranty covers free repair, including the replacement of components with new ones, as well as transport costs.
6. The warranty document shall include contact details for the Contractor, enabling the Contracting Authority to report failures and defects.
7. Furthermore, the Contractor guarantees the Contracting Authority that the software or devices provided as part of the performance of this Contract are devoid of any mechanisms blocking their functions or other harmful programs.
8. During the warranty period, all costs related to the removal of defects or faults shall be borne by the Contractor.
9. The period of statutory warranty for defects is equal to the warranty period specified in para. 1.

§ 7

Copyrights

1. As regards any works or software being part of the Subject Matter of this Contract, the Contractor should obtain the necessary rights to use these works or software in order to grant the Contracting Authority a license, enabling the Contracting Authority to use the Device.
2. Under this Contract and without separate remuneration, the Contractor shall transfer the rights resulting from the license to the extent necessary to ensure the legal use of the software provided for the Device operation to the Contracting Authority.
3. The Contractor shall be obliged to immediately provide free updates or corrections to the software during the validity of the warranty period for the Subject Matter of the Contract.

§ 8

Contractual penalties

1. The Contractor shall pay contractual penalties to the Contracting Authority:
 - a) if the delivery of the Device is delayed beyond the deadline specified in § 1 para. 4 of the Contract, amounting to 1% of the gross contractual remuneration stated in § 2 para. 1 for each day,
 - b) for any delay in removing defects or faults covered by the warranty compared to the deadlines mentioned in the relevant warranty documents, amounting to 0.5% of the gross contractual remuneration stated in § 2 para. 1 for each day,
 - c) if the Contractor fails to perform the Contract, or if either Party withdraws from Contract due to the Contractor's fault, amounting to 20% of the gross contractual remuneration stated in § 2 para. 1.
2. The Contracting Authority shall have the right to deduct amounts receivable charged for contractual penalties from the Contractor's invoices on the basis of a debit note issued by themselves, taking into account the restrictions resulting from the applicable regulations.
3. The maximum amount of contractual penalties may not exceed 30% of the Contractor's gross remuneration for the performance of the contract in question.
4. The Contracting Authority reserves the right to claim supplemental damages in excess of the amount of the reserved contractual penalties on general terms.

§ 9

Amendments to the Contract

1. The Contracting Authority shall allow the possibility of amending contractual provisions in the following cases:
 - 1) changes regarding the Device offered in a situation where it has been withdrawn by the manufacturer, and a product with parameters not worse than those resulting from the contract is available, provided that the price of the above-mentioned product is not higher than the price accepted in this contract; the withdrawal of the Device from production by the manufacturer must be documented by the Contractor in writing; the amendment may result in an extension of the contract performance deadline,
 - 2) changes in the deadlines of contract performance for the following reasons:
 - a) circumstances independent of the Contractor or the Contracting Authority, which could not have been foreseen earlier
or
 - b) circumstances dependent on the Contracting Authority resulting in the inability to properly perform the delivery/installation of the Devices,
The change of the deadline referred to in point a) may only take place for the period during which the Contractor could not or was significantly limited in the ability to perform

contractual obligations, which must result from the explanations and evidence submitted. In the case referred to in point b), the Contracting Authority shall inform the Contractor about the inability to complete the delivery/installation at least 3 days before the date of the planned delivery/installation.

- 3) changes in the required parameters of the devices specified in the Description of the Subject Matter of Contract to more favourable parameters in connection with the emerging technical and technological changes, the results of research and analysis or changes resulting from the operational experience of the Contracting Authority.
 - 4) the occurrence of force majeure preventing the execution of the Subject Matter of the Contract, which, for the purposes of this Contract, is understood as an external event of a nature independent of the Parties, the effects of which the Parties could not have foreseen before the conclusion of this Contract, and which the Parties could not have avoided or prevented with due diligence, in particular: flood, fire and other natural disasters, riots, strikes, terrorist attacks, warfare, sudden breakdowns in weather conditions, sudden interruptions in the supply of electricity, radiation or contamination;
2. The circumstances indicated in paragraph 1 shall not constitute an absolute obligation of the Contracting Authority to make the above changes in the event of their occurrence. When assessing the need to introduce changes, the Contracting Authority shall take into account the circumstances objectively occurring in the course of market research, in particular common to all potential contractors, the efficiency and timeliness of contract performance, as well as the principles of fair competition and equal treatment of contractors.
 3. The Party requesting an amendment to the Contract is obliged to submit a request indicating the circumstances, including evidence substantiating introduction of amendments along with the proposed scope of changes.

§ 10

Withdrawal/Termination of the Contract

1. In the event of a substantial change in circumstances causing the performance of the Contract to be against the public interest, which could not have been foreseen at the time of concluding this Contract, the Contracting Authority may withdraw from the Contract within 30 days of becoming aware of these circumstances.
2. The Contracting Authority shall have the right to withdraw from the Contract with immediate effect in the event that the Contractor commits gross negligence in the performance of obligations under the Contract, regardless of the Contracting Authority's right to demand payment of costs and contractual penalties by the Contractor on the terms described in the Contract.
3. The Contracting Authority shall have the right to withdraw from the Contract in the following cases:
 - a. gross violation of the provisions of the Contract by the Contractor, after a prior call to remedy the effects of the breach and properly perform the Contract issued by the Contracting Authority.
 - b. when the amount of contractual penalties exceeds 15% of the remuneration value.
 - c. when the liquidation of the Contractor has been announced,
 - d. in the event an order to seize the Contractor's property is issued,
4. The right to withdraw from the contract is exercised within 21 days from the date of the emergence of circumstances entitling to withdrawal from the contract.

§ 11

Data privacy notice

1. In connection with the performance of the Contract in question (solely for this purpose), the Contracting Authority and the Contractor shall process personal data. The scope and purpose of the processing of personal data by the Parties shall be different. There is no data entrustment process and each Party shall be entitled to the status of a separate Personal Data Controller.
2. The Parties undertake to comply with the requirements of the Regulation of the European Parliament and of the Council (EU) 2016/679 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 the Directive 95/46/EC (General Data Protection Regulation), hereinafter referred to as the GDPR, and the Personal Data Protection Act of May 10, 2018, as well as all laws and regulations regarding the processing of personal data. References to legislation shall also include any subsequent amendments thereto.
3. The Parties hereby declare that they shall provide sufficient guarantees to implement appropriate technical and organisational measures to ensure that the processing of personal data meets the requirements of the law and protects the privacy of data subjects.
4. The Parties hereby undertake to:
 - a) process personal data in a manner that ensures an adequate level of security, corresponding to the risk associated with the processing of personal data. The Parties shall secure personal data against their disclosure to unauthorized persons, removal by an unauthorized person, processing in violation of the law, damage, destruction, loss or unjustified modification;
 - b) exercise due diligence in the processing of personal data;
 - c) process personal data only for the purpose of performing this Contract.
5. Personal data shall be treated as protected information, and persons acting on behalf of the Parties have been authorised to process personal data, trained and obliged to keep personal data confidential.
6. During the processing of personal data, the Parties undertake to cooperate in the processing of personal data, including notifying each other promptly of all circumstances affecting or likely to affect the security of personal data processing.
7. Due to the fact that the Parties to the Contract, being two personal data controllers, share personal data, the Parties should fulfil the disclosure requirements. The disclosure requirements clause to be applied by the Employer is specified in *SCTC point 21*. Declaration required of the Contractor in the scope of complying with the disclosure requirements provided for in Art. 13 of GDPR is specified in point 12 in the "TENDER" form.

§ 12

Mediation

1. Pursuant to the provisions of Art. 591 para. 2 of the PPL, each of the parties to the agreement, in the event of a dispute arising from the performance of the contract in question, shall seek an amicable settlement of the dispute by mediation before referring the case to court.
2. The Parties unanimously declare that they consent to mediation in good faith.
3. The Party requesting mediation shall propose a mediator while taking into account the following rules. The other Party may agree to the proposed person or suggest another person.
4. Minimum conditions for conducting mediation:
 - 1) mediation shall be carried out by qualified mediators;
 - 2) the mediators undertake to conduct mediation in accordance with the rules and the Parties shall accept the following rules:

- a. mediation is voluntary; the Parties shall have the right to consent to mediation and resign from it at any stage of the mediation procedure,
 - b. mediation is confidential; mediators are obliged to keep the contents of declarations; details of mediation and the Parties' conduct during mediation confidential. The names of the Parties and the dates of meetings shall not be covered by confidentiality.
 - c. the mediator shall maintain impartiality and neutrality towards the Parties and the subject of the conflict,
 - d. the mediator presents the Parties with the principles and rules of mediation and receives their consent to mediation at the preliminary information meetings/mediation meeting.
- 3) The mediator may resign from conducting mediation when:
 - a. The party to the mediation is known to them privately or officially,
 - b. the conduct of the Party to mediation violates the safety of the mediator or other mediation participants.
 - 4) The mediator shall draw up the minutes of mediation. After the mediation, a copy of the minutes shall be delivered to the Parties and, at the request of the parties, may be sent to a relevant court together with the mediation settlement and the parties' request for approval of the settlement. If the mediation does not end with the signing of a settlement, the mediator shall only draw up the minutes of mediation for the Parties.
 - 5) The Parties undertake to cover the costs of the mediation in equal parts or according to the result of the mediation.
 - 6) The mediator shall not be liable for damages arising in connection with the mediation, as a result of their actions or omissions.
5. The Parties may agree on further conditions for conducting mediation.

§ 13

Confidentiality

1. The Contractor undertakes to keep all information regarding the Contracting Authority during the term of the Contract and after its expiration or termination strictly confidential, including:
 - a) information constituting a business secret - protected on the basis of the Act of April 16, 1993 on Combating Unfair Competition (Journal of Laws, 2021, item 1655, as amended);
 - b) information that may affect the functioning or safety status of the Contracting Authority.
2. The information referred to in para. 1 is hereinafter referred to as "Confidential Information".
3. Confidential Information may be made available only to persons providing a guarantee of secrecy and only to the extent necessary for the proper performance of the subject matter of the Contract.
4. Each person assigned to perform the works, **before commencing to render the subject matter of the contract**, must submit a letter of confidentiality and commit not to disclose to anyone information that could be obtained in the course of performing work related to the performance of the subject matter of the contract. The template of the obligation is attached as Appendix No. 3 to the Contract.
5. Disclosure of Confidential Information, regardless of the method of its disclosure, in the event that it is to be made for a purpose other than the proper performance of the Contract, is allowed only with a prior consent of the other Party, expressed in writing or else null and void. In the case of doubts, the intention to disclose Confidential Information should be consulted with a representative of the other Party.

6. In the event that a Party is obliged to disclose Confidential Information in whole or in part, to an authorized body, within the limits of applicable law, that Party is only required to inform the other Party about the obligation imposed on it.
7. If a Party becomes aware of any unauthorized disclosure of Confidential Information, it shall immediately notify the other Party in order to enable it to undertake appropriate preventive measures.
8. A Party shall be obliged to ensure the protection of Confidential Information according to the highest standards provided for by law, which includes ensuring the protection of ICT systems and networks in which Confidential Information of the other Party is processed, stored or transferred, as well as controlling the protection of Confidential Information and complying with the provisions on the protection of confidentiality of information.

§ 14

Final provisions

1. All correspondence shall be sent to the addresses indicated in the designation of the Parties. A change of address shall require informing the other Party in writing under pain of recognizing the declaration made to the previous address as duly served.
2. The law applicable to this Contract shall be the law of the Republic of Poland.
3. The Contract has been drawn up in two counterparts in Polish and English, with one copy for each Party.
4. The Contracting Authority shall be entitled to transfer all or part of the contractual rights or obligations to any entity. Hereby, the Contractor consents to such transfer of rights or obligations.
5. Within the limits set by the mandatory provisions of law, the invalidity of any of the provisions of the Contract, including the provisions contained in the Appendices, shall not affect the validity of the remaining provisions of the Contract. If certain provisions of the Contract are found to be invalid, the Parties shall seek replacement of the invalid provisions with provisions having the same economic effect.
6. The Parties agree that in the event of any disputes in connection with the Contract, they shall seek to resolve them amicably through negotiations. In the event of failure to reach an agreement by the Parties within 30 (thirty) days from the date of receiving the notice of dispute, each Party may submit the resolution of the dispute to a common court having jurisdiction over the registered office of the Contracting Authority.
7. In the event of a conflict between the provisions of the Contract and the provisions of the Appendices attached - the provisions contained in the Contract shall prevail. The Parties shall exclude the application of conflicting provisions of the Appendices regulating matters in a manner which is different from that of the Contract. If necessary, the Parties shall draw up a discrepancy report.
8. List of appendices:
 - 1) Contractor's tender of.....,
 - 2) Description of the Subject Matter of the Contract,
 - 3) Obligation to maintain confidentiality
 - 4) Template of the acceptance report for the Device.

Contracting Party

Contractor

.....
(place, date)

.....
(surname and forename of the person
submitting the declaration)

UNDERTAKING

I, the undersigned, undertake to:

- a) maintain confidentiality and not disseminate without the consent of ITB, in any form, any of the information available to me and pertaining to the Institute, to which I will have access in connection with the performance of my tasks for ITB, not intended for public dissemination, both during and after the performance of the work,
- b) not to disclose or use personal data that I have become acquainted with in connection with the performance of my tasks for ITB;
- c) not disseminate messages that could violate the name or interest of the Institute or its clients

I acknowledge that the information constituting the ITB secret includes, in particular:

- confidential information about customers of ITB,
- information about works carried out for the customers of ITB,
- any documents intended for ITB or originating from ITB that may be entrusted to me,
- working documentation,
- collections of correspondence and other files related to clients and cooperating companies,
- "internal use information" (non-public information the disclosure of which could affect the market value of ITB and its clients, as well as the property and security of entities which are not ITB clients),
- personal data of employees, guests and ITB's clients;
- information related to the technical security of ITB's facilities.

.....
(Legible signature of the person submitting the
declaration)

ACCEPTANCE REPORT

On

Contracting Authority:

Contractor:.....

The Contracting Authority hereby acknowledges the receipt, installation and commissioning of the Device, confirms the provision of training, in accordance with the description of the subject matter of the contract and the Contract.

- no comments/ with comments*
- complete/incomplete*

** Delete as appropriate*

NOTES:

.....
.....

On behalf of the Contracting Authority:

On behalf of the Contractor: