

TERMS OF REFERENCE FOR

**Servicing the Sciex TripleTOF 5600+ mass spectrometer  
for the Faculty of Chemistry of the University of Gdańsk**

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## I. Name and address of the Contracting Authority

University of Gdańsk,  
80-309 Gdańsk, ul. Jana Bażyńskiego 8,  
Tax Identification Number [NIP] 584-020-32-39, Company's Statistical Number [REGON] 000001330,  
Fax (58) 523-31-10, Email: [sekretariatdzp@ug.edu.pl](mailto:sekretariatdzp@ug.edu.pl)  
Website: [www.ug.edu.pl](http://www.ug.edu.pl)

## II. Award procedure

1. Legal basis: Act of 29 January 2004 - Public Procurement Law, (consolidated text of the Journal of Laws of 2019, item 1843, as amended), hereinafter referred to as the "**Law**".
2. The procedure is conducted through an open tender procedure pursuant to Article 39 of the Act on an estimated value below the thresholds set out in the regulations issued according to Article 11 sec. 8 of the Law.
3. Pursuant to Article 24aa of the Law, the Contracting Authority shall first evaluate the tenders basing on the tender evaluation criteria specified in Chapter XIV, and then examine whether the Contractor whose tender was found to be the most advantageous one is not subject to exclusion and meets the conditions for participation in the procedure based on the declarations and documents specified in Chapter VII.

A tendering Contractor shall be obliged to prepare a tender in accordance with the Law and the Terms of Reference, hereinafter referred to as the "**ToR**".

## III. Description of the subject matter of the contract

1. Classification code of the Common Procurement Vocabulary (CPV): 50411000-9 (Repair and maintenance services of measuring apparatus).
2. The subject matter of the contract is servicing the Sciex TripleTOF 5600+ mass spectrometer, hereinafter referred to as the service provided for the Faculty of Chemistry of the University of Gdańsk.
3. The subject matter of the contract is set out in detail in Appendix 1a to the ToR.
4. Guarantee for all delivered, installed, replaced equipment, parts, components, materials shall be valid for not less than 12 months. Detailed provisions concerning the guarantee are contained in § 7 of the Draft Agreement – Appendix 4 to the ToR.
5. Requirements concerning employment of persons by the Contractor or Subcontractor under an employment agreement:
  - Pursuant to Article 29 sec. 3a of the Law, the Contracting Authority shall require the Contractor or Subcontractor to employ under an employment agreement within the meaning of the Act of 26 June 1974 - Labour Code (consolidated text of the Journal of Laws of 2018, item 917, as amended), taking into account the regulations concerning the minimum remuneration for work established on the basis of Article 2 sec. 3-5 of the Act of 10 October 2002 on the minimum remuneration for work (consolidated text of the Journal of Laws of 2018, item 2177, as amended), the persons who provide servicing when performing the contract in question.

The detailed requirements are described in § 6 of Appendix 4 to the ToR.

## IV. Contract completion deadline

1. Contract completion deadline: until 31 December 2022. If the gross amount of the Agreement has not been used in full during the term of the Agreement, this deadline may be extended pursuant to § 11 sec. 1 pt. 3 letter b) of the Draft Agreement – Appendix 4 to the ToR.
2. The said deadline shall cover 3 stages and must not be longer than:
  - Stage I - up to 6 weeks from the date of signing the Agreement, but no later than until 30 December 2020;
  - Stage II - no earlier than from 15 October 2021, but no later than until 15 December 2021;
  - Stage III - no earlier than from 15 October 2022, but no later than until 15 December 2022.

The deadline for stage I is one of the criteria for evaluation of tenders - Chapter XIV of the ToR.

## V. Conditions for participation in the procedure

1. The Contractors who may apply for the award of the contract are those meeting the conditions in respect of:
  - 1) Competence or qualifications allowing to pursue a specific professional activity, where this is provided for in separate regulations.  
*The Contracting Authority does not specify in this respect any requirements the fulfilment of which the Contractor is obliged to specially demonstrate.*
  - 2) Economic or financial situation.  
*The Contracting Authority does not specify in this respect any requirements the fulfilment of which the Contractor is obliged to specially demonstrate.*
  - 3) Technical or professional abilities.  
*The Contracting Authority does not specify in this respect any requirements the fulfilment of which the Contractor is obliged to specially demonstrate.*
2. The Contractors who may apply for the award of the contract are those not subject to exclusion from the procedure under Article 24 sec. 1 and sec. 5 pt. 1, 4 and 8 of the Law.
3. In the case of Contractors applying jointly for the award of the contract pursuant to Article 23 sec. 1 of the Law, the conditions for participation in the procedure specified in pt. 1 subparagraph 2 and 3 should be met by at least one of these Contractors or all these Contractors jointly.
4. In order to confirm the fulfilment of the conditions referred to in pt. 1 subparagraph 3), the Contractor may rely on the abilities or situations of other entities – in accordance with Article 22a of the Law. In that case the Contractor shall comply with the provisions of Chapter VII.
5. Rules for evaluation of the fulfilment of the Contracting Authority's conditions:  
The fulfilment of the conditions to be met by the Contractors shall be evaluated according to the formula "**fulfils - does not fulfil**" on the basis of documents described in Chapter VII.

## VI. Grounds for exclusion referred to in Article 24 sec. 5 of the Law

1. The Contracting Authority shall exclude the Contractor from the contract award procedure:
  - 1) in relation to whom liquidation proceedings have been initiated, satisfaction of creditors by liquidation of the Contractor's assets is provided for in the arrangement under the restructuring procedure approved by the court or the court has ordered liquidation of the Contractor's assets under Article 332 sec. 1 of the Act of 15 May 2015 - Restructuring Law (consolidated text of the Journal of Laws of 2019, item 243, as amended) or whose bankruptcy has been declared, except for the Contractor who, after the declaration of bankruptcy, entered into an arrangement approved by a valid court decision, if the arrangement does not provide for satisfaction of creditors by liquidation of the assets of the bankrupt, unless the court ordered liquidation of its assets under Article 366 sec. 1 of the Act of 28 February 2003 – Bankruptcy law (consolidated text of the Journal of Laws of 2019, item 498, as amended);
  - 2) who, for reasons attributable to this Contractor, has failed to perform or improperly, to a significant extent, performed the previous agreement concerning a public procurement contract or concession agreement concluded with the Contracting Authority referred to in Article 3 sec. 1 pt. 1 to 4, which caused the termination of the agreement or an award of damages;
  - 3) who has breached the obligations concerning the payment of taxes, fees or social or health insurance premiums, which the Contracting Authority is able to prove by appropriate evidence, except for the case referred to in Article 24 sec. 1 pt. 15 of the Law, unless the Contractor has paid the due taxes, fees or social or health insurance premiums including interest or fines, or has entered into a binding agreement on the repayment of these dues.
2. The Contractor shall be excluded in the case referred to in pt. 1 subparagraph 2 – if 3 years have not elapsed since the date of occurrence of the event giving rise to the exclusion.

**VII. List of declarations and documents confirming the fulfilment of conditions for participation in the procedure, lack of grounds for exclusion and requirements of the Contracting Authority**

1. In order to preliminarily confirm that the Contractor is not subject to exclusion and fulfils the conditions for participation in the procedure referred to in Chapter V, the Contractor shall attach the following documents to its tender:
  - 1) the declaration signed by the person(s) authorised to represent the Contractor in accordance with the form of representation specified in the registration document being appropriate to its organisational form valid as of the date of submission of tenders, hereinafter referred to as the **“Single Document” – Appendix 2 to the ToR** to the extent indicated by the Contracting Authority.
    - If Contractors apply jointly for the award of the contract, the Single Document shall be submitted by each of the Contractors applying jointly for the award of the contract. The declarations may be submitted by a legal representative on behalf of all Contractors applying jointly for the award of the contract, however, they must concern all Contractors applying jointly for the award of the contract and should confirm the fulfilment of the conditions for participation in the procedure and that there are no grounds for exclusion to the extent in which each of the Contractors demonstrates the fulfilment of the conditions for participation in the procedure and that there are no grounds for exclusion.
    - The Contractor who intends to subcontract a part of the contract shall be obliged to include information on the subcontractors in the Single Document in order to demonstrate that there are no grounds for excluding them from the procedure.
2. In order to confirm that there are no grounds for exclusion of the Contractor from participation in the procedure under Article 24 of the Law, the Contracting Authority shall demand the Contractor to provide:
  - 1) a certificate from the competent head of the tax office confirming that the Contractor is not in arrears with the payment of taxes to be issued not earlier than 3 months before the deadline for submission of tenders, or any other document confirming that the Contractor has entered into an agreement with the competent tax authority on the repayment of such dues including any possible interest or fines, and in particular that the Contractor has been exempted from paying, such outstanding payments have been postponed or divided into instalments in accordance with the law, or the execution of a decision of a competent authority has been stopped in its entirety;
  - 2) a certificate from a competent local organisational unit of the Social Insurance Institution or Agricultural Social Insurance Fund or any other document confirming that the Contractor is not in arrears with payment of social or health insurance premiums, to be issued not earlier than 3 months before the deadline for submission of tenders, or any other document confirming that the Contractor has entered into an agreement with the competent authority on the repayment of such dues including any possible interest or fines, and in particular that the Contractor has been exempted from paying, such outstanding payments have been postponed or divided into instalments in accordance with the law, or the execution of a decision of a competent authority has been stopped in its entirety;
  - 3) an official copy of the relevant register or of the Central Register and Information on Business Activity, if separate regulations require an entry in the said register in order to confirm that there are no grounds for exclusion under Article 24 sec. 5 pt. 1 of the Law, subject to the provisions of Article 26 sec. 6 of the Law and pt. 17 subparagraph 4;
  - 4) the Contractor’s declaration confirming that no final court judgment or final administrative decision has been issued as to being in arrears with the payment of taxes, fees or social or health insurance premiums or, if such a judgment or decision has been issued – documents proving payment of these dues including any interest or fines or that the Contractor has entered into a binding agreement on the repayment of these dues - **Appendix 5 to the ToR**;
  - 5) the Contractor’s declaration confirming that the Contractor belongs or does not belong to the same capital group; if belonging to the same capital group, the Contractor may submit, together with the declaration, documents or information proving that relationships with another contractor do not result in distortion of competition in the contract award procedure.

**The Contractor shall provide the Contracting Authority with a declaration confirming that the Contractor belongs or does not belong to the same capital group within 3 days of the date on publication of the information referred to in Article 86 sec. 5 of the Law.**

While submitting the declaration, the Contractor may provide evidence proving that the relationships with another contractor shall not result in distortion of competition in the contract award procedure. Template of the declaration confirming that the Contractor belongs or does not belong to the same capital group is attached as **Appendix 3 to the ToR.**

In the case of Contractors submitting a joint tender (applying jointly for the award of the contract), the documents listed in subparagraph 1) to 5) shall be submitted by each of the Contractors. These documents may be submitted by a legal representative on behalf of all Contractors applying jointly for the award of the contract, however, they must concern all Contractors applying jointly for the award of the contract.

**The documents listed in pt. 2 subparagraph 1) to 4) shall be submitted at the Contracting Authority's request (according to the provision of pt. 6) by the Contractor whose tender was evaluated as the best one.**

3. Contractor's reliance on the abilities or situations of other entities - in accordance with Article 22a of the Law:
  - 1) In order to confirm the fulfilment of the conditions referred to in Chapter V pt. 1 subparagraph 3), the Contractor may, where appropriate and in respect of the contract, rely on the technical and/or professional abilities of other entities, regardless of the legal nature of the legal relationships between the Contractor and them.
  - 2) The Contracting Authority shall evaluate whether the professional abilities made available to the Contractor by other entities allow the Contractor to demonstrate that the conditions for participation in the procedure are fulfilled and shall examine whether there are grounds for exclusion of that entity under Article 24 sec. 1 pt. 13 to 22 and sec. 5 pt. 1), 4) and 8) of the Law.
  - 3) With regard to the conditions concerning professional qualifications or experience, Contractors may rely on the abilities of other entities, if such entities provide the service, for the provision of which those abilities are required;
  - 4) The Contractor who relies on the abilities or situations of other entities must prove to the Contracting Authority that it will have at its disposal the necessary resources of those entities when performing the contract, in particular by producing an undertaking on the part of those entities to place the resources necessary for the performance of the contract at its disposal.
  - 5) In order to evaluate whether the Contractor relying on the abilities or situations of other entities pursuant to the rules defined in Article 22a of the Law will have the necessary resources to the extent enabling proper performance of the public procurement contract and evaluation whether the relationships between the Contractor and these entities guarantee actual access to their resources, the Contracting Authority shall demand to provide such documents that specify in particular:
    - a) the extent of resources of another entity made available to the Contractor;
    - b) the use of resources of another entity by the Contractor when performing the public procurement contract;
    - c) the extent and duration of participation of another entity in the performance of the public procurement contract;
    - d) whether the entity, which the Contractor relies on in respect of the conditions for participation in the procedure concerning professional qualifications or experience, will provide the service to which the indicated abilities relate.
  - 6) The Contracting Authority shall require the Contractor, who relies on the abilities or situations of other entities pursuant to the rules defined in Article 22a of the Law, to produce the documents listed in pt. 3 subparagraph 1 to 4 in respect of those entities.
  - 7) If the technical or professional abilities the entity referred to in Article 22a sec. 1 of the Law do not confirm that the Contractor fulfils the conditions for participation in the procedure or there are grounds for exclusion of such entities, the Contracting Authority shall require the Contractor to perform the following actions within the time limit specified by the Contracting Authority:

- a) to replace that entity with another entity or other entities, or
- b) to undertake to perform the relevant part of the contract in person, if the Contractor demonstrates the technical or professional abilities referred to in Chapter V.

4. Contractors applying jointly for the award of the contract:

- 1) Contractors may apply jointly for the award of the contract pursuant to Article 23 of the Law. In this case the Contractors shall appoint a legal representative to represent them in the award procedure or to represent them in the procedure and conclude a public procurement contract agreement.
  - 2) The provisions concerning the Contractor shall apply accordingly to the Contractors referred to in subparagraph 1.
  - 3) If the tender of the Contractors referred to in subparagraph 1, is selected, the Contracting Authority shall demand, prior to concluding the public procurement contract agreement, to provide the agreement regulating cooperation between those Contractors – Chapter XVI pt. 7 subparagraph 1).
5. If the Contractor is represented by a legal representative (a one-time power of attorney for a given specific procedure may be issued), the tender must be accompanied by the power of attorney in the original or as a copy certified by a notary public (unless the power of attorney for the persons representing the Contractor results from registration documents) specifying the date of issue, the extent of the power of attorney, the period of time for which it was issued and must be signed by the persons authorised to represent.
6. In accordance with Article 26 sec. 2 of the Law, prior to awarding the contract, the Contracting Authority shall request the Contractor whose tender was evaluated as the best one to submit within a specified time limit, not shorter than 5 days, the declarations and documents confirming that the conditions for participation in the procedure are fulfilled, that the services offered meet the requirements specified by the Contracting Authority and that there are no grounds for exclusion, as defined herein, to be valid as of the day of the submission thereof.
7. If it is necessary for ensuring that the award procedure is conducted appropriately, the Contracting Authority may, at each stage of the procedure, require the Contractors to submit all or some of the declarations or documents confirming that they are not subject to exclusion, fulfil the conditions for participation in the procedure, and if there are reasonable grounds to believe that the declarations or documents submitted previously are no longer valid, to submit valid declarations or documents.
8. If the Contractor failed to submit the Single Document referred to in pt. 1 subparagraph 1, declarations or documents confirming fulfilment of the conditions for participation, that there are no grounds for exclusion, or other documents listed in this Chapter, the declarations or documents are incomplete, contain errors or raise doubts indicated by the Contracting Authority, the Contracting Authority shall, pursuant to Article 26 sec. 3 of the Law, require the Contractor to submit, supplement or correct them or to provide explanations within the time limit indicated by it, unless, despite submitting, supplementing or correcting them or providing explanations, the Contractor's tender is subject to rejection or it would be necessary to cancel the procedure.
9. The documents or declarations referred to in this Chapter, other than powers of attorney referred to in pt. 6 and the Single Document referred to in pt. 1 subparagraph 1, must be submitted in the original or as a copy certified to be true copy.
10. Certification of true copy shall be done by the Contractor, an entity on whose ability or situation the Contractor relies under the rules defined in Article 22a of the Law, by the Contractors applying jointly for the award of the public procurement contract or the Subcontractor - in accordance with the form of representation specified in the registration document being appropriate for its organisational form – with regard to the documents or declarations concerning each of them.
11. Certification of true copy shall be done by affixing a handwritten signature to a hard copy of the document or a hardcopy the declaration.
12. The documents must be issued within the time limits set out above, with the provision that the document issued at an earlier date shall also be valid, if it is confirmed by the issuing authority within the required deadline.

13. Pursuant to Article 26 sec. 4 of the Law, the Contracting Authority shall also require the Contractor to submit explanations concerning the declarations or documents referred to herein within the time limit specified by the Contracting Authority.
14. If the Contractor failed to submit the required powers of attorney or submitted defective powers of attorney, the Contracting Authority, pursuant to Article 26 sec. 3a of the Law, shall require the Contractor to submit them within the deadline indicated by the Contracting Authority, unless, despite submitting them, the Contractor's tender is subject to rejection or it would be necessary to cancel the procedure.
15. Contractors having their registered offices or places of residence abroad:
  - 1) If the Contractor has its registered office or place of residence outside the territory of the Republic of Poland, it shall submit, instead of the documents referred to in pt. 3, a document or documents issued in the country where the Contractor has its registered office or place of residence confirming respectively that:
    - a) it is not in arrears with the payment of taxes, fees or social or health insurance premiums or that it has entered into an agreement with the competent authority on the repayment of such dues including any possible interest or fines, and in particular that the Contractor has been exempted from paying, such outstanding payments have been postponed or divided into instalments in accordance with the law, or the execution of a decision of a competent authority has been stopped in its entirety – to be issued not earlier than 3 months before the deadline for the submission of tenders;
    - b) no liquidation proceedings have been initiated or bankruptcy has been declared against it – to be issued not earlier than 6 months before the deadline for the submission of tenders.
  - 2) If in the country where the Contractor has his registered office or place of residence or where the person to whom the document refers is domiciled, the documents referred to in subparagraph 1 shall not be issued, they shall be replaced by a document containing respectively the Contractor's declaration indicating the person or persons authorised to represent the Contractor, or a declaration of the person to whom the document was to refer, made before a notary public or before a judicial or administrative or professional or economic self-government body competent in respect of the Contractor's registered office or place of residence competent in respect of the Contractor's registered office or place of residence or place of residence of this person. The requirements concerning the date of issue of the documents specified in subparagraph 1 shall apply accordingly.
16. Additional information:
  - 1) The contract award procedure shall be conducted by the Contracting Authority in Polish. Documents drawn up in a foreign language must be submitted together with their translation into Polish;
  - 2) If the Contractor indicates in the Single Document availability of the declarations or documents referred to in pt. 2 and 3 as well as in pt. 16 subparagraph 1 in electronic form at specific internet addresses of publicly available and free databases, the Contracting Authority shall download the declarations or documents indicated by the Contractor from these databases on its own;
  - 3) In the event referred to in subparagraph 2, the Contracting Authority shall require the Contractor to produce Polish translation of the documents indicated by the Contractor and downloaded by the Contracting Authority on its own;
  - 4) If the Contractor indicates the declarations or documents referred to in pt. 2 and 3 as well as in pt. 16 subparagraph 1) which are in the possession of the Contracting Authority, in particular the declarations or documents held by the Contracting Authority pursuant to Article 97 sec. 1 of the Law, the Contracting Authority, in order to confirm that the conditions for participation in the procedure are fulfilled and that there are no grounds for exclusion, shall use the declarations or documents it holds, provided that they are up-to-date. The Contractor is obliged to indicate in Appendix 2 to the ToR (Single Document) the procedure number (or reference number) to which it submitted these declarations and documents.
17. The Contractor who is subject to exclusion under 24 sec. 1 pt. 13 and 14 as well as 16 to 20 or sec. 5 pt. 1, 4 and 8 of the Law, may provide evidence that the measures taken by the Contractor are sufficient to prove its reliability, and in particular to prove that the damage caused by a crime or a fiscal offence has been remedied, financial compensation for the harm caused or remedying the



damage has been paid, exhaustive explanation of the facts has been provided and that it has cooperated with law enforcement authorities as well as that specific technical, organisational and manpower measures being appropriate for prevention of further crimes or fiscal offences or improper conduct of the Contractor have been taken. The provision of the first sentence shall not apply if the Contractor, being a collective entity, has been prohibited from applying for the award of the contract by a final court judgment and the period of validity of that prohibition specified in the judgment has not expired yet.

18. To the extent not provided for in the ToR, the provisions of the Regulation of the Minister of Development of 26 July 2016 on the types of documents that may be required by the contracting authority from the contractor in the contract award procedure (Journal of Laws of 2016, item 1126, as amended) shall apply.

**VIII. Information on the method of communication between the Contracting Authority and the Contractors, on the method of provision of declarations or documents, as well as indication of the persons authorised to communicate with the Contractors**

1. Communication between the Contracting Authority and Contractors shall take place through a postal operator within the meaning of the Act of 23 November 2012 – Postal Law (consolidated text of the Journal of Laws of 2018, item 2188 as amended), personally, by a messenger, fax or by electronic means of communication within the meaning of the Act of 18 July 2002 on the provision of services by electronic means (consolidated text of the Journal of Laws of 2019, item 123, as amended).
2. If the Contracting Authority or Contractor provides declarations, requests, notices and information by electronic means of communication, each party shall, at the request of the other party, immediately confirm receipt thereof. Declarations, documents, requests, notices, cancellations, information as well as questions shall be deemed to have been delivered on time if they have reached the Contracting Authority in such a way to make it possible for the Contracting Authority to read them.
3. The person authorised to contact the Contractors is:  
*Aneta Kawala – an employee of the Public Procurement Department of the University of Gdańsk, Email: [sekretariatdzp@ug.edu.pl](mailto:sekretariatdzp@ug.edu.pl), between 07.00 am and 3.00 pm from Monday to Friday.*
4. In accordance with Article 38 of the Law, the Contractor may submit a request to the Contracting Authority to clarify the content of the ToR. The Contracting Authority is obliged to provide explanations immediately, but no later than 2 days before the deadline for submission of tenders, provided that the Contracting Authority received the request for clarification of the content of the ToR not later than by the end of the day on which half of the set deadline for submission of tenders expires.
5. If the request for clarification of the content of the ToR was received after the expiry of the deadline for submission of the request referred to in pt. 4 or it concerns the explanations that have already been provided, the Contracting Authority may provide explanations or disregard the request. Extension of the deadline for submission of tenders shall not affect the deadline for submission of the request.
6. The content of enquiries together with explanations and changes in the content of the ToR, without disclosing the source of the enquiry, shall be provided by the Contracting Authority to the Contractors who have received the ToR and published on the website: [www.ug.edu.pl](http://www.ug.edu.pl), where the ToR is made available.
7. No information, explanations or answers to the enquires addressed to the Contracting Authority shall be provided orally or by phone.
8. The Contractor who has downloaded an electronic version of the ToR from the Contracting Authority's website shall be obliged to monitor it at the same place from which it was downloaded, because all information about the procedure is published there.
9. If there is discrepancy between the content of the ToR and the content of answers provided, the content of the letter containing the subsequent statement of the Contracting Authority shall be deemed binding.

## IX. Deposit requirements

1. The Contracting Authority requires to pay a deposit of: **PLN 2,000.00** (say: two thousand zlotys 00/100),  
The deposit shall be paid by the Contractor before the deadline for submission of tenders.
2. Depending on the Contractor's choice, the deposit may be paid in one or more of the following forms:
  - 1) cash;
  - 2) bank sureties or sureties provided by savings and credit union, however, a surety provided by the savings and credit union is always a cash surety;
  - 3) bank guarantees;
  - 4) insurance guarantees;
  - 5) sureties provided by entities referred to in Article 6b sec. 5 pt. 2 of the Act of 9 November 2000 on the establishment of the Polish Agency for Enterprise Development (consolidated text of the Journal of Laws of 2019, item 310, as amended).
3. The deposit paid in cash should be transferred to the following bank account:  
BANK PEKAO S.A. IV/O Gdańsk Nr **54 1240 1271 1111 0000 1492 5434** with a description:  
**Wadium do postępowania nr J711.291.1.112.2020.AK (Deposit for the procedure No. J711.291.1.112.2020.AK)**  
The deposit paid in cash shall be deemed effective if the funds have been credited to the Contracting Authority's bank account indicated above before the deadline for submission of tenders (i.e. before the day and time set as the deadline for submission of tenders).
4. The surety and guarantee referred to in pt. 2 should be valid throughout the term of validity of the tender. The provisions of such a deposit document should indicate an unconditional obligation of the guarantor to pay, at each written request of the Contracting Authority submitted within the term of validity of the tender, the full amount of the deposit to the Contracting Authority in the circumstances defined in Article 46 sec. 4a and sec. 5 of the Law. Together with a tender, the Contractor must send the original deposit document in electronic form provided with a qualified electronic signature of the persons authorised to issue it by compressing it together with the files constituting the tender (Chapter XI) into one archive file (ZIP).
5. The tender of the Contractor who fails to pay the deposit or pays it incorrectly shall be rejected.
6. The deposit for Contractors applying jointly for the award of the contract may be paid by one of those Contractors, several of them or all of them jointly.
7. Any possible postponement of the deadline for the submission of tenders shall be tantamount to postponing the deadline for the payment of the deposit.
8. The Contracting Authority shall retain the deposit with interest if:
  - 1) In response to the request referred to in Article 26 sec. 3 and 3a of the Law, the Contractor, for reasons attributable to the Contractor, failed to submit the declarations or documents confirming the circumstances referred to in Article 25 sec. 1 of the Law, the declaration referred to in Article 25a sec. 1 of the Law, the powers of attorney or did not agree to correct the mistake referred to in chapter XV pt. 4 subparagraph 3), which resulted in the impossibility to select the tender submitted by the Contractor as the most advantageous one.
  - 2) The successful Contractor has refused to sign the public procurement contract agreement under the conditions set out in the tender.
  - 3) Conclusion of the public procurement contract agreement has become impossible for reasons attributable to the Contractor whose tender was selected.
9. Return of the deposit:
  - 1) The Contracting Authority shall return the deposit to all Contractors immediately after selection of the most advantageous tender or cancellation of the procedure, except for the Contractor whose tender was selected as the most advantageous one, subject to pt. 8 subparagraph 1).
  - 2) The Contracting Authority shall return the deposit to the Contractor whose tender was selected as the most advantageous one immediately after the conclusion of the public procurement contract agreement.
  - 3) The Contracting Authority shall immediately return the deposit at the request of the Contractor who withdrew its tender before the deadline for submission of tenders.
  - 4) If the deposit was paid in cash, the Contracting Authority shall return it together with interest resulting from the agreement concerning the bank account on which it was kept, reduced by the

costs of maintaining the bank account and bank commission for transferring the money to the bank account indicated by the Contractor.

10. The Contracting Authority shall demand that the deposit be paid once again by the Contractor to whom it was returned pursuant to Article 46 sec. 1 of the Law, if as a result of resolving an appeal its tender was selected as the most advantageous one. The Contractor shall pay the deposit within the deadline specified by the Contracting Authority.

#### X. Tender validity term

1. The tender shall be valid and binding for 30 days, counting from the expiry of the tender submission deadline - Article 85 of the Law.
2. The Contractor, at its own discretion or at the request of the Contracting Authority, may extend the tender validity period, with the provision that the Contracting Authority may only once, at least 3 days before the expiry of the tender validity period, ask the Contractors to agree on extension of this period by a specified period of time, but not longer than 60 days.

#### XI. Description of tender preparation

1. The tendering Contractor shall be obliged to prepare its tender in Polish, in a manner consistent with the ToR and the Law.
2. The tender is:  
**- the tender form** - Appendix 1 to the ToR,
3. The Contracting Authority shall require the Contractor to fill in Appendix 1 to the ToR - the tender form by providing:
  - 1) Gross price in PLN/EURO for servicing the Sciex TripleTOF 5600+ mass spectrometer;
  - 2) Detailed pricing for three stages of service provision - the table in pt. 2 of Appendix 1 to ToR;
  - 3) Deadline for completion of the Stage I of the contract specified in pt. 3 of Appendix 1a to the ToR.  
This deadline shall be one of the criteria for evaluation of tenders.
4. If the tender price is quoted in a foreign currency, the Contracting Authority shall convert the currency into Polish zlotys in accordance with the average exchange rate calculated and announced by the National Bank of Poland on the tender opening day.
5. The tender must be submitted in writing, signed by the person(s) authorised to make declarations of will on behalf of the Contractor, in accordance with the form of the Contractor's representation specified in the registration document being appropriate to the organisational form of the Contractor or the legal representative, otherwise it shall be null and void.  
*If the tender is submitted by the Contractors applying jointly for the award of the contract, those Contractors shall submit one of the aforementioned documents that must be signed in such a way as to legally bind all Contractors applying jointly for the award of the contract.*
6. The tender must be prepared in Polish using a typewriter, a computer, in legible handwriting, using indelible ink or in another durable and legible way.
7. The Contractor must not change the content of **Appendix 1 to the ToR** - the Contracting Authority's template - without the consent of the Contracting Authority expressed as part of the explanations provided.
8. In case of any changes that make the content of the tender inconsistent with the ToR, such tender shall be rejected pursuant to Article 89 sec. 1 pt. 2 of the Law – as inconsistent with the ToR.
9. All places where the Contractor has made corrections (resulting from its mistake) must be initialled by the person(s) signing the tender.
10. All pages of the tender, together with the Single Document, should be numbered consecutively and permanently bound.
11. The tender, together with the Single Document referred to in pt. 1 subparagraph 1 of Chapter VII, must be submitted in a non-transparent sealed envelope, guaranteeing that it will remain intact until the opening date and **addressed to the Contracting Authority at the address shown below:**

Name (company) of the Contractor  
Address of the Contractor

Public Procurement Department  
of the University of Gdańsk,  
80-309 Gdańsk, ul. Jana Bażyńskiego 8, pok. 115

**TENDER**

procedure No. J711.291.1.112.2020.AK:

Servicing the Sciex TripleTOF 5600+ mass spectrometer for the Faculty of Chemistry of the University of Gdańsk

do not open before 13.11.2020r. - 11.00 am

12. Each Contractor may submit only one unambiguous tender in accordance with the subject matter of the contract within the time limit specified below.
13. The Contractor may, before the expiry of the deadline for submission of tenders, modify or withdraw its tender.
14. If changes have been made in the tender, the Contractor shall make a written statement on the change of the tender, specifying the extent of such changes. The aforementioned statement must contain the name and address of the Contractor and must be signed in accordance with the provisions set out in pt. 5. This statement shall be submitted by the Contractor in accordance with the rules set out in pt. 11 by the deadline specified in Chapter XII pt. 1, and the statement must be designated with the following clause: "Change of the tender".
15. If the tender is withdrawn, the Contractor shall make a written statement on withdrawal of the tender. The statement on withdrawal of the tender must contain the name and address of the Contractor, the content of the Contractor's statement on withdrawal of the tender and must be signed in accordance with the provisions set out in pt. 5 The aforementioned statement shall be submitted by the Contractor by the deadline specified in Chapter XII pt. 1, and the statement must be designated with the following clause: "Withdrawal of the tender".
16. The Contracting Authority hereby informs that, pursuant to Article 8 in conjunction with Article 96 sec. 3 of the Law, the tenders submitted in a public procurement procedure are public and shall be made available from the moment of their opening, except for information constituting a business secret within the meaning of Article 11 sec. 4 of the Act of 16 April 1993 on Combating Unfair Competition (consolidated text of the Journal of Laws. of 2018, item 419, as amended), if the Contractor, no later than by the deadline for submission of tenders, stipulated that they cannot be made available and proved that the proprietary information constitutes a business secret. The Contractor cannot stipulate that the information referred to below (Article 86 item 4 of the Law) should not be disclosed.
17. If the information contained in the tender constitutes a business secret within the meaning of the provisions of the Act on Combating Unfair Competition, with regard to which the Contractor stipulates that it cannot be made available to other participants in the procedure, it must be designated with the following clause: "Information constituting a business secret", and attached to the tender. It is recommended that this information should be permanently and separately bound. Failure to unambiguously indicate which information constitutes a business secret shall mean that any and all declarations/statements or documents submitted during the term of this procedure are public without any reservations.
18. Stipulation with regard to the information which does not constitute a business secret within the meaning of the Act on Combating Unfair Competition shall be regarded as ineffective and shall result in its declassification.
19. In accordance with Article 11 sec. 2 of the Act on Combating Unfair Competition of April 16th 1993, the term "business secret" should be understood as technical technological, organisational or other information of economic value which, as a whole or in a particular combination and set of elements thereof is not generally known to persons normally dealing with this type of information or is not easily accessible to such persons, provided that the person authorised to use or dispose of the information has taken all due care to maintain its confidentiality. By stipulating the business secret, the Contractor shall be obliged to attach to the tender a written justification for the information stipulated as proprietary in it. The purpose of the justification is to prove that the conditions specified in the provision referred to above are met, i.e. that the stipulated information:
  - 1) is of technical, technological or organisational nature in the company or constitutes other information of economic value;

- 2) is not generally known to persons who normally deal with this type of information or is not easily accessible to such persons;
- 3) actions have been taken in relation to the information in order to keep it confidential.

## **XII. Place and date of submitting and opening of tenders**

1. Tenders must be submitted to the following address:  
Public Procurement Department of the University of Gdansk, ul. Jana Bażyńskiego 8, 80-309 Gdańsk, room 115, 1<sup>st</sup> floor, during business hours from 7.00 am to 3:00 pm **until 13.11.2020r. 10.00 am.**
2. The Contracting Authority shall register the consecutive number of the tender, date and time of receipt thereof.
3. If the tender has been submitted in person - the Contractor shall receive a written confirmation of submission of the tender with an indication of the date (day, time) of submission thereof and the number (symbol) assigned to it.
4. The date of submission of a tender shall be the date on which the tender reached the Contracting Authority.
5. If the tender has been sent by mail or courier service, the Contracting Authority shall consider the date on which the tender was in the possession of the Contracting Authority as the date of submitting the tender.
6. If the tender is submitted after the deadline, the Contracting Authority shall act in accordance with the provisions of Article 84 sec. 2 of the Law.
7. Tenders shall be opened:  
in the building of the Rector's Office of the University of Gdańsk, ul. Jana Bażyńskiego 8, 80-309 Gdańsk, room 109, 1<sup>st</sup> floor **on 13.11.2020r. at 11.00 am.**
8. Immediately before the opening of tenders, the Contracting Authority shall state the amount it intends to allocate to finance the contract.
9. Immediately after the opening of tenders, the Contracting Authority shall publish the following data on its website [www.ug.edu.pl](http://www.ug.edu.pl), on which the ToR information is made available:
  - 1) the amount it intends to allocate to finance the contract;
  - 2) the companies and addresses of Contractors who submitted their tenders on time;
  - 3) the price, the deadline for the completion of the contract, the guarantee period and the payment terms contained in the tenders.

## **XIII. Description of the method to calculate the price**

1. The tender price must be expressed in Polish zloty (PLN) or EUR.
2. The Contracting Authority requires the Contractor to fill in the detailed pricing - pt. 2 of Appendix 1 to the ToR – stating: the gross price in PLN/EURO for individual stages of the service provision. The total gross price in PLN/EURO (specified in the column 3 for each item) should be moved to point 1 of the tender form - Appendix 1 to the ToR.
3. The total gross price in PLN/EURO from pt. 1 of the tender form - Appendix no. 1 to the ToR shall constitute the Contractor's remuneration for servicing the Sciex TripleTOF 5600+ mass spectrometer.
4. If the tender price is quoted in a foreign currency, the Contracting Authority shall convert the currency into Polish zlotys in accordance with the average exchange rate calculated and announced by the National Bank of Poland on the tender opening day.
5. The method of accounting for servicing the Sciex TripleTOF 5600+ mass spectrometer for the University of Gdansk is specified in § 4 of the Draft Agreement.
6. The price in PLN must include due VAT in accordance with the Act of 11 March 2004 on the Goods and Services Tax (consolidated text of the Journal of Laws of 2020, item 106, as amended), all anticipated costs of complete performance of the subject matter of the contract, it must take into account the requirements of the ToR and include all the costs to be incurred by the Contractor for proper and compliant with regulations in force performance of the subject matter of the contract. Auxiliary consumables, such as the detector control panel or the complete detector, labour and travel costs are to be included in the tender price. The financial consequences of any errors shall be borne by the Contractor, who must foresee all circumstances that may affect the contract price.

7. If the Contractor submits a tender, the selection of which would lead to a tax obligation on the part of the Contracting Authority pursuant to the provisions of the Act on the Goods and Services Tax, the Contracting Authority shall add value added tax, which it would be obliged to account for in accordance with those provisions, in order to make it possible to evaluate such a tender. When submitting such a tender, the Contractor shall inform the Contracting Authority whether the selection of its tender will lead to the tax obligation on the part of the Contracting Authority, indicating the name (type) of the goods or services, the supply or provision of which will lead to this obligation, and indicating their value without the tax amount.
8. Contractors are obliged to round prices to full groszes, i.e. to two decimal places, with the provision that the end of the price less than 0.5 grosz is to be ignored, and the end of the price equal to 0.5 grosz and above is to be rounded up to 1 grosz.
9. Settlements between the Contracting Authority and the Contractor shall be made exclusively in Polish zlotys.
10. The Contractor should offer an unambiguous price in the submitted tender. Quoting a variant price within "a price range" or containing conditions and reservations shall result in rejection of the tender.
11. The tender price shall not be negotiable or subject to any change.
12. Any and all corrections in the calculations made by hand, without using a correction tape/liquid, by crossing out the previous wording in such a way as to make it readable, should be initialled in accordance with the legal status of the Contractor, i.e. by the person(s) signing the tender.

#### **XIV. Description of criteria used by the Contracting Authority when selecting a tender**

1. When selecting the most advantageous tender, the Contracting Authority will be guided by the following criteria:

##### **1) (P) Tender price – 60% of the weight**

The Contracting Authority shall evaluate a tender basing on the gross price in PLN quoted by the Contractor in its tender form - Appendix 1 to the ToR.

Points for the "Tender price" criterion shall be awarded according to the following formula:

$$C = (C_n/C_o) \times 60$$

where:

C - number of points awarded to the evaluated tender,

C<sub>n</sub> - the lowest gross price quoted in PLN from among submitted tenders that do not subject to rejection;

C<sub>o</sub> - gross price in PLN of the evaluated tender.

The maximum number of points that may be awarded for the "Gross Price" criterion is 60.

##### **2) (D) Deadline for completion of Stage I of providing the service – 40% of the weight**

The Contracting Authority shall evaluate a tender basing on the deadline for completion of Stage I of providing the service indicated by the Contractor in its tender form – Appendix 1 to the ToR. The deadline must be expressed in weeks, but it cannot be longer than 6 weeks from the date of signing the Agreement and must be specified in one of the five (optional) variants listed in the table below.

Failure to indicate one of the provided variants or indicating several variants simultaneously in the tender form - Appendix No. 1 to the ToR shall be regarded as an inconsistency of the tender with the ToR and shall result in its rejection under Article 89 sec. 1 pt. 2 of the Law.

Points for the "Deadline for completion of Stage I of providing the service" criterion shall be awarded according to the following formula:

$$T = T_1, T_2, T_3, T_4 \text{ or } T_5$$

where:

T - the number of points awarded to the evaluated tender under the "Deadline for completion of Stage I of providing the service" criterion,

T<sub>1</sub>, T<sub>2</sub>, T<sub>3</sub>, T<sub>4</sub>, T<sub>5</sub> – points for individual contract completion deadlines, awarded according to the following table:

Deadline for completion of Stage I of providing the service	Points
T1 – up to 2 weeks	40
T2 – up to 3 weeks	30
T3 – up to 4 weeks	20
T4 – up to 5 weeks	10
T5 – up to 6 weeks	0

The maximum number of points that may be awarded for the “Deadline for completion of Stage I of providing the service” criterion is 40.

2. The Contracting Authority shall consider the tender with the highest number of points calculated according to the formula  $P = C + T$  to be the most advantageous one.
3. The Contracting Authority shall evaluate the submitted tenders basing solely on the aforementioned criteria.
4. The maximum number of points which may be obtained after calculating the number of points awarded for the criteria is 100.
5. The Contracting Authority shall round the results to two decimal places.
6. If the most advantageous tender cannot be selected due to the fact that two or more tenders produce the same balance of price and other tender evaluation criteria, the Contracting Authority shall select the tender with the lowest price from among these tenders, and if tenders with the same price have been submitted, the Contracting Authority shall invite the Contractors who submitted these tenders to submit additional tenders within the deadline specified by the Contracting Authority – Article 91 sec. 4 of the Law.

#### **XV. Selection of the most advantageous tender and information on the outcome of the procedure**

1. Evaluation, comparison and selection of the most advantageous tender shall be carried out by the evaluation committee appointed by the Contracting Authority. The evaluation shall be based on the tender evaluation criteria specified in Chapter XIV.
2. The Contracting Authority shall award the contract to the Contractor who is not subject to exclusion from the procedure, whose tender is not subject to rejection and has been evaluated as the most advantageous one basing on the tender evaluation criteria.
3. When examining and evaluating tenders, the Contracting Authority may request the Contractor to clarify the content of the tender submitted. It is unacceptable to conduct negotiations between the Contracting Authority and the Contractor concerning the tender submitted and, subject to pt. 4, make any changes in it (Article 87 sec. 1 of the Law).
4. The Contracting Authority shall correct – immediately notifying the Contractor whose tender has been corrected - obvious clerical and accounting mistakes pursuant to Article 87 sec. 2 of the Law according to the following rules:
  - 1) an obvious clerical error – an indisputable, unquestionable mistake concerning words, for example:
    - a) visible misspelling of a word;
    - b) an obvious grammatical error;
    - c) an unintentional omission of a word or part of a word;
    - d) an obvious factual error, e.g. 31th November;
    - e) a discrepancy between the price written in figures and in words. In the event of such a discrepancy, the Contracting Authority shall adopt the price written in figures, taking into account the method to calculate the price as described in the ToR and the fact that the amount written in words appears at the end of this process.
  - 2) an obvious computational error, including the computational consequences resulting from the corrections made – an error concerning arithmetical operations on numbers, e.g.:
    - a) incorrect calculation of the VAT rate correctly stated in the tender;

- b) incorrect summation of the net value and the amount of VAT in the tender;
  - c) incorrect result of a mathematical operation resulting from addition, subtraction, multiplication and division.
- 3) other errors/mistakes making the tender inconsistent with the ToR that do not result in significant changes in the content of the tender.
5. If the price quoted, or its essential components, appear to be abnormally low in relation to the subject matter of the contract and raise the Contracting Authority's doubts as to the possibility of performing the subject matter of the contract in accordance with the requirements specified by the Contracting Authority or those resulting from separate regulations (art. 90 sec. 1 of the Law) and in the situations described in Article 90 sec. 1a of the Law, the Contracting Authority shall take actions referred to in the aforementioned regulations.
6. The obligation to prove that the tender does not contain an abnormally low price lies with the Contractor pursuant to Article 90 sec. 2 of the Law.
7. The Contracting Authority shall reject the Contractor's tender, if at least one of the prerequisites specified in Article 89 sec. 1 of the Law occurs, including the Contractor's tender, if it has failed to provide explanations or if the evaluation of explanations together with the evidence submitted confirms that the tender contains an abnormally low price in relation to the subject matter of the contract – Article 90 sec. 3 of the Law.
8. The Contracting Authority shall cancel the public procurement procedure in the cases described in Article 93 of the Law.
9. The Contracting Authority shall immediately inform all Contractors of the outcome of the procedure by publishing it on its website, pursuant to Article 92 of the Law.

**XVI. Provisions relating to the signing a public procurement contract award agreement and information concerning the formalities to be completed after selecting the tender in order to conclude the public procurement contract agreement**

1. The Contracting Authority shall provide the Contractors with the Draft Agreement for review – **Appendix 4 to the ToR**. The Contractor may put its initials on the last page of the Draft Agreement attached to the ToR, thus accepting it, and attach this Draft to the tender or only provide a declaration concerning the content of the Draft Agreement included in the tender form - **Appendix 1 to the ToR**.
2. The agreement with the selected Contractor shall be concluded not earlier than after 5 days from the date of sending the notice on selecting the most advantageous tender, subject to Article 94 Article 94 sec. 2 pt. 1 letter a of the Law.
3. The place where the Agreement is concluded shall be the registered office of the Contracting Authority. The Agreement shall be sent to the Contractor (by courier service) or presented to it in the registered office of the Contracting Authority to be signed by the Contractor, depending on the arrangements made by the Parties.
4. The Contractor shall be obliged to sign the Agreement within the time limit set by the Contracting Authority and to send it immediately back by courier service to the Contracting Authority (to the address of the Public Procurement Department of the University of Gdańsk, 80-309 Gdańsk, ul. Jana Bażyńskiego 8), but no later than within 5 days of its receipt.
5. The public procurement contract agreement may also be concluded after the expiry of the tender validity period if the Contracting Authority has provided the Contractors with information on the selection of a tender before the expiry of the tender validity period, and the Contractor has agreed to conclude the Agreement on the terms and conditions specified in the submitted tender.
6. If the Contractor referred to in Chapter II pt. 3 refuses to conclude the Agreement, the Contracting Authority shall examine whether the Contractor, from among the remaining Contractors, who submitted the best tender is not subject to exclusion and whether it fulfils the conditions for participation in the procedure.
7. By the date of signing the Agreement, the Contractor shall be obliged to provide:
- 1) a copy of the agreement regulating the cooperation between the Contractors applying jointly for the award of a public procurement contract - Article 23 sec. 4 of the Law;



- 2) Contractor's declaration or a document confirming compliance with the requirement to employ persons who provide servicing (containing personal data, email) - this refers to the provisions of § 6 sec. 1) of Appendix 4 to the ToR – Draft Agreement.
8. Amendments to the provisions of the concluded Agreement and conditions for their introduction to the Agreement are described in § 11 of the Draft Agreement - **Appendix 4 to the ToR.**
9. Apart from other cases specified in generally applicable regulations, and in particular in the Civil Code, the Contracting Authority may withdraw from the Agreement pursuant to the provisions of § 12 of the Draft Agreement – **Appendix 4 to the ToR.**
10. Pursuant to Article 145a of the Law, the Contracting Authority may terminate the Agreement in accordance with the provisions of § 13 of the Draft Agreement - **Appendix 4 to the ToR.**

#### **XVII. Performance bond requirements**

The Contracting Authority shall not require a performance bond.

#### **XVIII. Subcontractors**

1. The Contracting Authority allows the use of subcontractors.
2. The Contractor who intends to subcontract a part of the contract shall be obliged to include information on the subcontractors in the Single Document (Chapter VII pt. 1 subparagraph 1) in order to demonstrate that there are no grounds for excluding them from the procedure.
3. Subcontracting a part of the contract shall not release the Contractor from responsibility for proper performance of this contract
4. The Contractor shall be liable for acts or omissions of subcontractors just as for its own actions or omissions.
5. The subcontracting agreement must be in writing and for a fee, and must specify what part of the subject matter of the public procurement contract will be performed by the Subcontractor.
6. The deadline for payment of the Subcontractor's remuneration provided for in the subcontracting agreement must not be longer than 30 days from the date of delivery to the Contractor of an invoice or a bill confirming the completion of the tasks contracted to the Subcontractor.
7. Employing a subcontractor in the situation where the Contractor declared in the tender that the contract would be performed using only its own resources, or changing a subcontractor, according to the rules specified in § 12 of the Draft Agreement, shall be possible if the Contractor notifies the Contracting Authority about it, indicating the reason, the company of the subcontractor and the extent of the subcontract, which requires the prior approval of the Contracting Authority.
8. If a part of the contract is subcontracted during the performance of the contract, the Contractor shall, at the request of the Contracting Authority, submit the Single Document or the documents listed in Chapter VII pt. 3 subparagraph 1 to 4 confirming that there are no grounds for exclusion applicable to that subcontractor.
9. If the Contracting Authority finds that there are grounds for exclusion applicable to a given subcontractor, the Contractor shall be obliged to replace this subcontractor or refrain from contracting a part of the contract to the subcontractor.
10. Employing or changing a subcontractor must not violate the provisions of the ToR and the Agreement basing on which the Contractor's tender was selected.

#### **XIX. Information on anticipated contracts referred to in Article 67 sec. 1 pt. 6 and 7 of the Law**

The Contracting Authority does not anticipate the possibility of awarding the contracts referred to in Article 67 sec. 1 pt. 6 of the Law.

#### **XX. Additional information**

1. The Contracting Authority shall not accept partial tenders.
2. The Contracting Authority shall not accept variant tenders. If a tender contains proposals for alternative or variant solutions – the tender shall be rejected.
3. The Contracting Authority does not intend to conclude a framework agreement or to establish a dynamic purchasing system.

4. The Contracting Authority does not intend to select the most advantageous tender with the use of electronic auction system.
5. The Contracting Authority shall not accept equivalent tenders.
6. The Contracting Authority does not envisage granting advance payments within the meaning of Article 151a of the Law.
7. The costs of preparing and delivering the tender as well as of participating in the tender procedure shall be borne exclusively by the Contractor.
8. The Contracting Authority shall make the ToR available on the website [www.ug.edu.pl](http://www.ug.edu.pl) from the date of publication of the notice in the Public Procurement Bulletin until the deadline for submission of tenders.
9. The Contracting Authority may change the content of the ToR before the deadline for submission of tenders In particularly justified cases. The Contracting Authority shall make the change available on its website.
10. If a change in the content of the ToR leads to a change in the content of the contract notice, the Contracting Authority shall publish a notice of change in the Public Procurement Bulletin.
11. If additional time is necessary to introduce changes in tenders as a result of a change in the content of the ToR which does not lead to a change in the content of the contract notice, the Contracting Authority shall extend the deadline for submission of tenders and inform the Contractors to whom the ToR was provided as well as shall publish the relevant information on the Contracting Authority's website - Article 38 sec. 6 of the Law.
12. According to the provision of Article 8 of the Law and the regulation of the Law on access to public information, the contract award procedure is public. The Contracting Authority may limit access to information related to the procedure only in the cases specified in the Law.

## **XXI. Legal remedies**

1. During the course of the procedure, the Contractors shall be entitled to legal remedies listed in Chapter VI of the Law (Articles 179 to 198).
2. An appeal may be lodged in relation to:
  - 1) determination of the conditions for participation in the procedure;
  - 2) exclusion of the appealing party from the contract award procedure;
  - 3) rejection of the appealing party's tender;
  - 4) description of the subject matter of the contract;
  - 5) selection of the most advantageous tender.
3. The appeal should indicate the Contracting Authority's action or omission which is alleged to be inconsistent with the provisions of the Law, contain a concise statement of objections, specify the request and indicate the factual and legal circumstances justifying the appeal.
4. The appeal shall be lodged with the President of the National Chamber of Appeal in writing or in an electronic form with a secure electronic signature verified by a valid qualified certificate or equivalent means, meeting the requirements for this type of signature.
5. The appealing party shall send a copy of the appeal to the Contracting Authority before the expiry of the deadline for lodging the appeal in such a way as to enable the Contracting Authority to read it before the expiry of that deadline. It shall be presumed that the Contracting Authority could have read the appeal before the expiry of the deadline for lodging the appeal, if a copy thereof was sent before the deadline for lodging the appeal by electronic means of communication.
6. The Contractor may lodge the appeal within the time limits specified in Article 182 of the Law.

## **XXII. Information clauses concerning personal data**

1. The clause concerning the data processed for the purpose related to this public procurement award procedure being conducted through an open tender procedure and for performing the Agreement concluded as a result of the outcome of the aforementioned procedure to which the data subject is a party, or for taking actions at the request of the data subject before concluding the Agreement:
  - 1) In accordance with Article 13(1) and (2) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC

(General Data Protection Regulation) (OJ L 119, 04.05.2016, p. 1), hereinafter referred to as "GDPR", the Contracting Authority informs that:

- a) The data controller of your personal data is the University of Gdańsk, 80-309 Gdańsk, ul. Jana Bażyńskiego 8, hereinafter referred to as the Contracting Authority.
  - b) The data controller has appointed the Data Protection Officer who can be contacted at the telephone number (58) 523 24 59 or email address: [poin@ug.edu.pl](mailto:poin@ug.edu.pl)
  - c) Your personal data will be processed:
    - pursuant to Article 6(1)(c) of the GDPR for the purpose related to this public procurement award procedure being conducted through an open tender procedure.
    - pursuant to Article 6(1)(b) of the GDPR - after selecting the most advantageous tender - for performing the Agreement concluded as a result of the abovementioned procedure, to which the data subject is a party, or for taking actions at the request of the data subject before concluding the Agreement.
  - d) The recipients of your personal data will be persons or entities to whom the procedure documentation shall be made available in accordance with Article 8 and Article 96 sec. 3 of the Act of 29 January 2004 – Public Procurement Law (Journal of Laws of 2019, item 1843), hereinafter referred to as the "PPL Act" and based on the provisions of Articles 8, 10 and 11 of the Act of 6 September 2001 on Access to Public Information (consolidated text of the Journal of Laws of 2016, item 1764, as amended).
  - e) Your personal data will be kept for the period of time necessary to attain the objectives indicated in letter c) as well as to fulfil the archiving obligation under the legal regulations.
  - f) Your obligation to provide personal data directly concerning you is a statutory requirement specified in the provisions of the PPL Act together with the implementing rules, including the Regulations of the Minister of Development of 26 July 2016 on the types of documents that may be required by the contracting authority from the contractor in the contract award procedure (Journal of Laws of 2016, item 1126, as amended), related to participation in the public procurement award procedure and conclusion of a public procurement contract agreement; the consequences of not providing certain data shall result from the PPL Act\*.
  - g) with regard to your personal data, decisions shall not be taken by automated means, pursuant to Article 22 of the GDPR.
  - h) you have:
    - under Article 15 of the GDPR, the right of access to your personal data;
    - under Article 16 of the GDPR, the right to rectify your personal data\*\*;
    - under Article 18 of the GDPR, the right to request from the data controller a restriction of personal data processing, subject to the cases referred to in Article 18(2) of the GDPR\*\*\*;
    - the right to lodge a complaint with the President of the Office for Personal Data Protection, if you believe that the processing of your personal data violates provisions of the GDPR;
  - i) you have no:
    - right to delete personal data under Article 17(3)(b), (d) or (e) of the GDPR;
    - right to transfer personal data, as referred to in Article 20 of the GDPR;
    - right to object to the processing of personal data under Article 21 GDPR, as the legal basis for the processing of your personal data is Article 6(1)(b)(c) of the GDPR.
- \* **Explanation:** this refers to the collection of personal data from the data subject.
- \*\* **Explanation:** exercising the right of rectification must not result in a change in the outcome of the public procurement contract award procedure or in a change of the Agreement provisions to the extent inconsistent with the PPL Act and must not affect integrity of the protocol and its appendices.
- \*\*\* **Explanation:** the right to restriction of processing shall not apply to 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.
- 2) Should it be necessary for the Contractor to process the personal data, in respect of which the Contracting Authority is the data controller, in connection with the performance of this contract, the Contractor shall be obliged, at the request of the Contracting Authority, to conclude a personal data processing agreement within the meaning of Article 28 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27.04.2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) prior to processing the personal data.

**XXIII. Appendices to the ToR**

Appendix 1 – tender form;

Appendix 1a – Detailed description of the subject matter of the contract;

Appendix 2 – Single Document;

Appendix 3 – Declaration that there are no grounds for exclusion under Article 24 sec. 1 pt. 23;

Appendix 4 – Draft Agreement;

Appendix 5 – Declaration that there are no grounds for exclusion under Article 24 sec. 5 pt. 8.

Appendix 6 – Acceptance protocol.