



**SUPPLY CONTRACT  
of ..... 2024**

concluded between:

**Flukar Spółka z ograniczoną odpowiedzialnością** with its registered office in Katowice (40-007) at ul. Uniwersytecka 13, NIP: 6842623029, REGON: 180706507, acting on the basis of entry in the National Court Register of Entrepreneurs under the KRS number 0000388847 represented by:

.....

.....

hereinafter referred to as the Contracting Authority,

and

.....

hereinafter referred to as the Supplier

of the following wording:

**§ 1**

**SUBJECT MATTER OF THE CONTRACT**

1. The subject matter of the Contract is the supply of equipment (hereinafter: Contract Subject) specified in the Description of the Subject of the Contract (hereinafter: DSC), constituting Annex No. 1 to hereto Contract.
2. The Supplier shall perform the Subject of the Contract in accordance with the requirements specified by the Contracting Authority and the principles of technical knowledge, and from the point of view of the purpose to which the Subject of the Contract serves, under the conditions specified in the Request for Tenders, constituting Annex No. 2 to hereto Contract.
3. The Supplier declares that it shall perform the subject of the Contract with its own resources; any outsourcing of part of the deliveries to third parties shall require each time the consent of the Contracting Authority.
4. The Supplier undertakes to supply the Subject of the Contract in accordance with the Supplier's offer, constituting Annex No. 3 to the Contract, and the Contracting Authority undertakes to accept the Subject of the Contract and pay the remuneration determined in accordance with the provisions of §4 of the Contract.
5. The Contracting Party shall inspect the Subject Matter of the Contract upon giving at least 5 days' prior notice.
6. The subject matter of the contact is co-financed within the framework of the project no. FENG.01.01-IP.02-1679/23 titled: Integrated environmental solutions for industry: development of innovative, pro-ecological lubricants and creation of a set of installations supporting closed-circuit economy realised within the framework of Programme European Funds for Modern Economy, Priority FENG.01. Support for entrepreneurs.

## **§2**

### **COMPLETION DATE**

1. The Parties agree that the delivery of the Subject of the Contract shall take place at the place indicated in the offer within the territory of the Republic of Poland (INCOTERMS DAP) no later than by 31 December 2025.
2. The date of delivery of the equipment shall be deemed to be the date on which the Final Acceptance Protocol is signed without reservations.

## **§ 3**

### **COMMISSIONING**

1. Commissioning of the Subject Matter of the Contract in whole or in part requires confirmation in the form of an acceptance protocol.
2. The Supplier undertakes to provide the conditions for acceptance of the Subject Matter of the Contract and the Parties undertake that persons authorised to act on behalf of the Parties will participate in the procedure for acceptance of the Subject Matter of the Contract.
3. The document confirming the acceptance of the entire Subject of the Contract is the final acceptance protocol signed by both Parties without reservation.
4. The Supplier is obliged to present complete technical documentation for the final acceptance.
5. In the event that the Supplier's representative fails to appear at the acceptance or unreasonably refuses to sign the final acceptance protocol, the Contracting Party shall be entitled to unilaterally sign said protocol.
6. If the Contracting Authority finds during commissioning activities that the equipment has significant defects in quality or quantity, the acceptance protocol shall indicate these defects and the deadline for their removal. After the expiry of the deadline for rectification of defects, the representatives shall recommence the acceptance activities.
7. If, during the acceptance activities, the Contracting Authority finds that the equipment has non-substantial defects, e.g. of an aesthetic nature, the Contracting Authority may, at its discretion, demand that these defects be removed by the Supplier or that the remuneration indicated in §4(1) be reduced, but not more than 10% of the remuneration specified in § 4(1).
8. As soon as the acceptance protocol is signed by the Contracting Authority's representative, all rights in relation to the Subject Matter of the Contract and all risks are transferred to the Contracting Authority.
9. Acceptance of the Subject Matter of the Contract by the Contracting Authority shall not relieve the Supplier of any liability under the warranty or guarantee.

## **§4**

### **REMUNERATION AND FINANCIAL SETTLEMENT**

1. For the delivery of the equipment specified in the price offer, the Parties stipulate a lump sum remuneration in the net amount of ..... (say: ..... zlotys).
2. The remuneration referred to in (1) does not include VAT, which will be added according to the applicable regulations.
3. The parties allow for the possibility of advance payments and stage payments up to a maximum of 90% of the value of the remuneration specified in § 4(1).
4. The final invoice is based on a final acceptance protocol signed without reservations.
5. The remuneration for the performance of the contract shall be payable within the time limits and to the bank account number stated on the invoices, with the proviso that the payment period shall not be shorter than 5 days. The payment period is calculated from the date of delivery of the invoice to the Contracting Authority.

6. The Contracting Authority declares that it authorises the Supplier to issue VAT invoices without the signature of the Contracting Authority's representative.
7. The Contracting Authority agrees that the Supplier may send invoices, duplicates of said invoices and their corrections in electronic form.
8. If the Supplier presents an incorrect VAT invoice, the Contracting Authority shall be entitled to withhold payment until a corrective invoice is received. The payment period will count from the date of receipt of the corrective invoice.

## **§5**

### **LIABILITY UNDER WARRANTY AND GUARANTEE**

1. The Supplier provides the Contracting Authority with a warranty and guarantee for the supplied equipment for a period of 12 months from the date of signing the Final Acceptance Protocol.
2. The Supplier shall be liable under the guarantee for physical defects that reduce the functional, technical and aesthetic value of the supplied equipment found in the course of acceptance activities and revealed during the guarantee period.
3. If defects or faults are discovered during the guarantee period, the Contracting Authority shall inform the Supplier, setting a realistic deadline for their removal, taking into account the technical complexity of the defects or faults.
4. Two unsuccessful attempts to rectify the defects shall entitle the Recipient to rectify the defects in accordance with the procedure set out in (5).
5. The Contracting Authority, in place of the Supplier and at the Supplier's expense, may order the rectification of defects which the Supplier has failed to rectify within the two previously set deadlines. The actual costs of rectifying the defects, together with a surcharge of 10% of their value, shall be charged to the Contracting Authority as a lump sum. The Contracting Authority will re-invoice the aforementioned costs to the Supplier with a payment term of 14 days from the date of delivery of the invoice.
6. The Supplier's liability under the warranty for physical defects shall apply to defects in the subject of the Contract existing at the time of delivery as well as to defects arising after delivery but due to reasons inherent in the subject of the Contract not disclosed at the time of delivery, and shall expire one year from the date of signing the final acceptance protocol.
7. The Contracting Authority shall notify the Supplier of the discovery of the defect within 30 days of its discovery.
8. Warranty claims may also be asserted after the warranty period has expired if the Contracting Authority has notified the Supplier of the existence of a defect during the warranty period.

## **§6**

### **WITHDRAWAL FROM THE CONTRACT**

1. If the delivery of the equipment is delayed for more than 60 days due to the fault of the Supplier, or if the deliveries contain defective products, the Contracting Authority, after a prior written request to the Supplier to rectify such breach and ineffective expiry of the set deadline, may withdraw from the contract, entrusting the rectification or further performance of the subject of the contract to another company at the expense and risk of the Supplier.
2. In addition, the Contracting Party may withdraw from the contract in the event of:
  - the declaration of bankruptcy of the Supplier or the filing of a bankruptcy petition by the Supplier
  - the issuance of an order for the attachment of a substantial part of the Supplier's assets or the relinquishment of the Supplier's assets for the benefit of creditors
  - the Supplier goes into liquidation, including in the event of liquidation for the purpose of conversion or restructuring.

**§7**  
**CONTRACTUAL PENALTIES**

1. The Parties agree that the Contracting Party may impose a contractual penalty on the Supplier:
  - in the event of a delay in removal of defects in the delivered equipment established at the final acceptance or during the warranty and guarantee period - in the amount of 0.2% of the net remuneration payable to the Supplier pursuant to § 4(1) of the Contract - for each day of delay
  - in the event of breach by the Supplier of its confidentiality obligations set out in § 8 of the Contract in the amount of PLN 100,000.00 for each breach
  - in the event that the Contracting Authority withdraws from the Contract in whole or in part for reasons attributable to the Supplier or if the Supplier withdraws from the Contract in whole or in part without a justifiable reason - in the amount of 10% of the net remuneration payable to the Supplier pursuant to § 4(1) of the Contract.
2. The total limit of liquidated damages charged to the Supplier may not exceed 15% of the net contractual remuneration.
3. The Supplier shall pay the contractual penalty to the Contracting Authority within 7 days from the date of the Contracting Authority's request to pay the penalty. In the event of delay in payment of the penalty, the Contracting Authority may deduct the penalty due from any amount due to the Supplier.
4. Irrespective of the contractual penalty, the Contracting Party shall be entitled to claim from the Supplier compensation exceeding the amount of the contractual penalties, caused by non-performance or improper performance of the obligation.

**§ 8**  
**CONFIDENTIALITY**

1. The Supplier undertakes, during the term of the Contract and after its termination, to keep confidential all information related to the performance of the deliverables and the Contracting Party's infrastructure, as well as all confidential information disclosed to the Supplier by the Contracting Party during the term of this Contract. "Confidential information" means all information relating to the Employer's business practices and methods, its customers, suppliers, prices and pricing strategies, products, product development plan, marketing strategies, in particular information constituting an enterprise secret within the meaning of Article 11(4) of the Act of 16.04.1993 on Combating Unfair Competition (Journal of Laws of 2003, No. 153 item 1503, as amended), contracts concluded with third parties and any other information that the Employer considers to be confidential.
2. The Supplier shall treat documentation made available under this Contract and created pursuant to this Contract as confidential and a business secret of the Contracting Authority. It shall not be permitted to communicate information concerning the content of the Contract to third parties, including the communication of this Contract in whole or in part, without the written consent of the other Party. Furthermore, the Parties undertake to keep confidential the information and documents concerning the other Party with which they become acquainted during the execution of this Contract.
3. The restrictions referred to in (1) and (2) above shall not apply to information:
  - a) which shall become publicly available without prejudice to the provisions of this Contract
  - b) which will be disclosed to a third party with the prior written consent of the other Party to disclose certain information to the third party identified in the consent
  - c) which disclosure would be required by law or by a decision of a competent court
  - d) whose disclosure is required by a stock exchange or authority
  - e) the disclosure of which is deemed necessary and appropriate by a Party to its subsidiaries, advisors or banks, provided that a similar obligation of confidentiality of such information is imposed on such

subsidiary, advisors or banks

f) which shall be disclosed for the purpose of the due performance of this Contract or the settlement of a dispute between the Parties in a court of law

g) covered by the usual range of references used by the Supplier

h) in its business activities, in particular such as the identification of the parties to the contract, the investor, the investment task, the general definition of the subject matter of the Contract, the total value of the Contract and the deadline for its execution.

4. During the term of this Contract and without limitation of time after its execution, termination or expiry, the Supplier shall refrain (except where required to do so by law) from:

- use of trade secrets or confidential information relating to the Contracting Authority
- disclose any business secrets or confidential information to any person.

5. The Supplier undertakes to inform its employees and associates who participate in or come into contact with the performance of the Contract of their obligations under this paragraph.

## **§9**

### **FORCE MAJEURE**

1. As used in the Contract, the term "Force Majeure" shall mean an external, sudden, unforeseeable and beyond the control of the Parties event, which occurs after the conclusion of the Contract, making it impossible to perform the Contract in whole or in part, either permanently or for a certain period of time, and which cannot be prevented or counteracted with the exercise of due diligence by the Parties.

2. The Parties consider the following in particular to be manifestations of Force Majeure:

- natural disasters, including: earthquake, hurricane, flood, storm and other extraordinary weather phenomena
- acts of state power, including: martial law, state of emergency, etc.
- acts of war, acts of sabotage, acts of terrorism and other similar events threatening public order
- strikes or other social unrest, including public demonstrations.

3. If Force Majeure prevents or will prevent one of the Parties from fulfilling any obligation under the Contract, that Party shall immediately, but no later than seven days after the occurrence of the Force Majeure, notify the other Party of the event or circumstances constituting a Force Majeure listing the obligations it cannot or will not be able to perform and indicating the anticipated period during which it will not be possible to perform the Contract. It should also endeavour to continue to perform its obligations to the extent reasonably practicable and take such action as is necessary to minimise the effects of the Force Majeure and its duration.

4. The Parties shall not be liable for the non-performance or improper performance of the Contract, in whole or in part, to the extent that this is caused by the occurrence of Force Majeure. In the event of Force Majeure of a prolonged nature resulting in non-performance of the Contract for a period of more than one month, the parties will negotiate to determine the further implementation or termination of the Contract.

## **§ 10**

### **AMENDMENTS TO THE CONTRACT**

1. Any amendment to hereto Contract, shall require an annex drawn up in writing under pain of nullity. This Contract may be amended in accordance with Section 3.2.4(4)(a)-(e) of the Guidelines for the eligibility of expenditure for the period 2021-2027 pursuant to Article 5(1)(2) of the Act of 28 April 2022 on the rules for the implementation of tasks financed from European funds in the financial perspective 2021-2027, including but not limited to:

- in the event of a change in the legal regulations in force on the date of signing the Contract with the Supplier, which will provide for new requirements as to how any obligation specified in the Contract is to be performed

- in the event of receipt of a decision from the Intermediate Body or the Managing Authority of the Operational Programme containing changes to the scope of the tasks, the deadlines for implementation or laying down additional provisions to which the Contracting Authority will be obliged.
2. The Contracting Authority provides for the possibility of amending the provisions of the concluded Contract in relation to the content of the offer on the basis of which the Supplier was selected, as regards the change of the date of completion of the subject of the Contract in the event of:
    - a) delays in resolving the Request for Tenders and signing the contract
    - b) culpable failure on the part of the Contracting Authority to provide the Supplier with documents necessary for the performance of the subject of the contract, insofar as the Contracting Authority was obliged to provide such documents to the Supplier
    - c) the occurrence of Force Majeure, i.e. an unforeseeable event beyond the control of the Contracting Parties
    - d) the occurrence of circumstances beyond the Supplier's or the Contracting Authority's control, provided that the change results from circumstances that the Supplier or the Contracting Authority could not foresee at the stage of publishing the Request for Tenders or submitting a tender or signing the contract, and is not attributable to them
    - e) suspension of deliveries by the Contracting Authority due to technological or organisational reasons which make it temporarily impossible to continue the delivery, by the duration of the suspension. The Contracting Authority will notify the Supplier of the suspension of work, indicating the reason for the suspension and the anticipated period of suspension
    - f) in the event that the Contracting Authority is required to make changes to the Subject of the Contract requiring the approval of the authority clearing the funding of hereto Contract
    - g) in the event that any changes need to be made to the subject matter of the Contract that require the approval of the authorities responsible for issuing decisions on the execution of works/the commissioning of installations
    - h) should the above-mentioned circumstances occur, the delivery period will be extended by the time necessary to eliminate the circumstances indicated in the individual points.
  3. The Contracting Authority provides for the possibility of amending the provisions of the concluded contract in relation to the content of the offer on the basis of which the Supplier was selected, in the scope of changing the scope of supplies:
    - a) in the event of force majeure, i.e. an unforeseeable event beyond the control of the Contracting Parties
    - b) in the event of the occurrence of circumstances beyond the control of the Supplier or the Contracting Authority, provided that the change is due to circumstances that could not have been foreseen by the Supplier or the Contracting Authority at the stage of publishing the Request for Tenders or submitting a tender or signing the contract and is not attributable to them
    - c) in the event that solutions are updated in the light of technical progress or changes in applicable regulations
    - d) in the case of reasonable changes to the scope and manner of performance of the contract
    - e) in the event of changes to the legal regulations in force at the date of signing the contract
    - f) in the case of receipt of a decision from the body financing the subject of the contract containing changes to the scope of the tasks, the deadlines for implementation or establishing additional provisions to which the Contracting Authority will be obliged.
  4. The Supplier's remuneration as set out in the Contract may change in the event of :
    - a) limitation of the scope of deliveries covered by the Contract by the Contracting Authority due to amendment of the Contract caused by factors that could not have been foreseen by the Contracting Authority at the time of concluding the Contract (e.g. the cancellation of some elements if such a cancellation is necessary for the proper performance of the subject of the contract or if the performance of such elements becomes unnecessary or pointless) - by the value of the unrealised part of the deliveries

- b) increase in the scope of deliveries covered by the Contract by the Contracting Authority due to an amendment to the Contract caused by factors that the Contracting Authority could not foresee at the time of concluding the Contract (e.g. if performance of additional work is necessary for proper implementation of the subject of the Contract) - by the value of the additional part of the deliveries
- c) tax changes resulting from legislation
- d) to make changes to the scope of supply affecting the value of the remuneration that are permissible and accepted by the contracting parties
- e) in the case set out in §3(7) of hereto Contract.

## §11 GDPR

In accordance with Article 13(1) and (2) of the General Data Protection Regulation of 27 April 2016, I hereby inform you that:

- 1) the controllers of the personal data provided as part of the performance of hereto contract (in particular name and surname, position, email address, telephone number) are the companies of the GRUPA FLUKAR S.A. - Flukar Sp. z o. o. with its registered office in Katowice, Polska Grupa Odzysku Sp. z o. o. with its registered office in Katowice, Espadon Sp. z o. o. with its registered office in Katowice, Eko Trade Organizacja Odzysku S.A. with its registered office in Katowice - contact details - **Flukar Sp. z o. o., ul. Uniwersytecka 13, 40-007 Katowice; [rodo@flukar.eu](mailto:rodo@flukar.eu)**
- 2) personal data will be processed for the purpose of performing the contract in accordance with Article 6(1)(b) of the aforementioned Regulation
- 3) providing personal data is voluntary, but necessary for the performance of the contract;
- 4) personal data will be stored until the completion of the contract, the expiry of the period for lodging a complaint and the storage period resulting from tax and accounting regulations in order to document the transaction; personal data may be transferred to entities or bodies authorised by law, entities or bodies to which the transfer of data is necessary for the performance of a particular activity. The controller may also entrust data to other entities that support the company's activities, e.g. IT, accounting, legal, human resources, insurance services, etc.
- 5) the data subject has the right of access to the content of his/her data and the right to rectification, erasure, restriction of processing, the right to data portability, the right to object
- 6) the data subject has the right to lodge a complaint with a supervisory authority if you consider that the processing of personal data concerning you breaches the provisions of the General Data Protection Regulation of 27 April 2016.

## §12 FINAL PROVISION

1. All and any changes and additions to hereto Contract and the annexes forming an integral part of the Contract shall require a written annex in order to be valid.
2. All and any notices and statements relating to the performance of the contract will be sent by e-mail to the following addresses of the parties:  
For the Contracting Party: [lucyna.korzekwa@flukar.eu](mailto:lucyna.korzekwa@flukar.eu), [pawel.szergowicz@flukar.eu](mailto:pawel.szergowicz@flukar.eu) .  
For the Supplier: .....
3. The Supplier agrees to deduct even unmatured receivables of the Contracting Authority from the Remuneration due to the Supplier.
4. The provisions of Polish law shall apply in respect to matters not covered by hereto Contract.
5. The Contract is drawn up in two counterparts, one for each of the Parties. The Contract is drawn up in two language versions, in the event of a discrepancy the Polish language version shall prevail.

6. Parties to the contract agree to submit any disputes arising out of the performance of hereto contract to the court having jurisdiction at the registered office of the Purchaser.

CONTRACTING AUTHORITY

SUPPLIER

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Annexes:

1. Description of the Subject Matter of the Contract
2. Request for Tenders
3. Successful Bid