**Appendix no. 4**

**Supply agreement form**

concluded on ……………. in Ożarów Mazowiecki, Poland, by and between:

1. VIGO System S.A. with its registered seat in Ożarów Mazowiecki, Poland, a company incorporated under the laws of Poland, 129/133 Poznańska Street, 05-850 Ożarów Mazowiecki, Poland, entered into the Register of Entrepreneurs of the National Court Register maintained by the District Court for the Capital City of Warsaw in Warsaw, XIV Commercial Division of the National Court Register, under KRS no. 0000113394, having NIP no. 5270207340, REGON no. 010265179, with share capital of PLN 729,000.00 (fully paid) (hereinafter referred to as: “**VIGO or Contracting Party/ Purchaser**”), represented by:

- Łukasz Piekarski – Member of the Management Board;

and

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as: „**Supplier or Contractor**”), represented by:

- \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

VIGO and Supplier shall be individually referred to as “**Party**” and jointly as “**Parties**”.

(A) The purchase is carried out as part of the project "Sensors for industry 4.0 and IoT" as part of the Path for Mazovia / 2019 competition, application number for co-financing: MAZOWSZE / 0090/19, co-financing agreement of December 3, 2019, no. MAZOWSZE / 0090 / 19-00 concluded with the National Center for Research and Development;

(B) The contractor won the contract award procedure carried out by VIGO, i.e. submitted the best offer in response to the inquiry

SDM-WG / 19 of March17, 2021, (hereinafter referred to as: "Offer" and "Offer Inquiry"), which offer was selected by VIGO.

Parties concluded the following agreement:

1. **Subject of the agreement**
	1. Under this contract, the Contractor undertakes, as part of his business activities, to deliver to the seat of VIGO, ie: ul. Poznańska 129/133, 05-850 Ożarów Mazowiecki within the time limit referred to in point 2.1 of UV photolithography masks (365nm) (hereinafter referred to as: "Product"), in accordance with the specifications and requirements resulting from the Inquiry and attachments to the Inquiry (Inquiry The Offer with attachments and the Offer with attachments constitute Appendix No. 1 to this contract), and VIGO undertakes to collect the Product and pay remuneration to the Contractor. As part of the delivery, the Ordering Party will order the goods in batches within the time limits specified in point 2.1..

1.2. Implementation of the subject of the contract referred to in point 1.1 by the Contractor does not require the submission of any additional orders by VIGO. The Contractor's obligation to deliver the Products is updated upon the conclusion of this contract.

1.3 The Contractor is obliged to provide any permits, approvals or certificates required by law necessary to use the Products. The Contractor declares that the Products meet all technical standards required by law, correspond to the documentation prepared by the Ordering Party, as well as have been tested and tested for the functionality provided for in the Inquiry.

1.4 The delivered goods must meet the technical and quality requirements specified by the manufacturer of the product and be placed on the market in accordance with the regulations in force in the territory of the Republic of Poland.

1.5 The Contractor represents and warrants that he has all the necessary rights to the subject of the contract, including the right to sell the subject of the contract, and that by concluding this contract, he does not infringe any intellectual and industrial property rights of third parties.

1. **Delivery of products**
	1. Supplier shall deliver subject of the contract referred to in point 1.1 **by August 30, 2021 from the date of the contract. The contracting authority plans to execute orders in batches. The Contractor should deliver the ordered batch to the Ordering Party within 5 working days from the date of placing the order..**
	2. The delivery in accordance with point 2.1 above is deemed to have been made at the time of placing the ordered Products at the disposal of VIGO at the headquarters of VIGO. VIGO is not obliged to perform any other activities related to the delivery, in particular VIGO does not bear any costs of transport or insurance of the Products. All activities related to the delivery of the Product, including formalities and costs related to their transport, insurance or export, are borne by the Contractor**.**
	3. The delivery date is reserved for the benefit of the Contractor. This means that the Contractor may - after prior consent of the Ordering Party - deliver the Products also before the expiry of this period. However, the delivery of the Products will be made only on a business day, i.e. from Monday to Friday, excluding Saturdays, Sundays and public holidays in Poland, from 8:00 to 16:00.

2.4 The risk related to potential damage or loss of Products during transport shall be borne in full by the Contractor.

2.5 The Contractor shall deliver the ordered Products in packages that are secured in a way that prevents their removal and protects against damage. The Contractor will attach to the Products their documentation, certificates and other documents required by law.

2.6 In the absence of objections, the receipt of the Products will be confirmed by a delivery and acceptance protocol signed by the Parties after each delivery of individual batches, which will also be the basis for the payment of remuneration, in accordance with point 3.2 below (hereinafter: "Handover Protocol"), which the template is attached as Annex 2 to this contract.

2.7 In the event of VIGO's reservations or comments to the Products, VIGO shall present them to the Contractor, who will be obliged to immediately, but not later than within 5 working days, remove any non-conformities or defects. In such a situation, the Parties, instead of the Delivery and Acceptance Protocol, will sign a preliminary protocol in which VIGO's objections or comments to the Products will be specified (hereinafter referred to as: "Initial Protocol"). The Handover and Acceptance Protocol will be signed by the Parties only after the Contractor has removed any non-conformities or defects, in accordance with VIGO's reservations or comments.

2.8 The submission of reservations or comments to the Products by VIGO, including the signing of only the Preliminary Protocol by VIGO, does not make VIGO responsible for the Contractor's failure to meet the delivery date of any date (final or determined by individual orders) indicated in point 2.1 above - it is solely responsible for keeping it. The Contractor, including in particular the Contractor, will be obliged to pay a contractual penalty for failure to comply with it.

1. **Remuneration and payments**
	1. Under this agreement VIGO shall pay Supplier a remuneration in a total net amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_(in words: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_00/100) (hereinafter referred to as “**Remuneration**”). Remuneration is a lump sum for a full execution of this agreement. Supplier is not allowed to claim for increase of Remuneration.
	2. Payment for the delivery of one mask 4 'in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (in words: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 00/100) net.
	3. Payment for the delivery of one 5 'mask in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (in words: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 00/100) net.
	4. **The remuneration shall be paid within 30 days from the day of invoice properly delivered to the VIGO’s by bank transfer to the bank account indicated by the Contractor on the invoice. The invoice must be delivered on the following address: invoices@vigo.com.pl.**
	5. Remuneration due to Supplier under this agreement, in cases when it results from an applicable provisions of law, shall be increased by VAT tax, in an amount applicable at the day of invoice’s issuance.
	6. In the case of entities registered in the territory of the Republic of Poland, the Contractor's bank account must appear on the list of entities registered as VAT taxpayers available on the website: <https://www.podatki.gov.pl/wykaz-podatnikow-vat-wyszukiwarka> under pain of refusal to pay to until this provision is settled.
2. **Confidential Information**

4.1. The parties undertake to treat all information resulting from this agreement, as well as information obtained as a result of cooperation in the context of the performance of the agreement, as confidential information (hereinafter referred to as: "Confidential Information").

* 1. Confidential Information may not be transferred directly or indirectly to any third party, and within the organizational structures of the Parties, only employees, subcontractors and representatives whose access to Confidential Information is justified due to their position or participation will have access to this information in the performance of the contract.

4.3 Disclosure by any of the Parties of any Confidential Information other than those described in section 4.2 above to persons shall each time require the prior written consent of the representative of the other Party, unless such information is publicly available and its disclosure was not a result of a breach of the provisions of this Agreement, or the obligation or the right to disclose them results from this agreement or applicable law.

1. **Supplier’s responsibility and VIGO’s withdrawal right**
	1. Polish Civil Code, and in particular provisions regarding statutory warranty for Products, applies to Supplier’s responsibility for Products.
	2. In the event of improper or untimely performance of the contract by the Contractor, the Ordering Party may withdraw from the contract instead of the activities provided for in point 5.3. The withdrawal will only take place for reasons attributable to the Contractor, excluding reasons for which he is not responsible, force majeure and random events. The right of withdrawal is exercised by a declaration submitted to the Contractor in writing or in a documentary form (to the e-mail address indicated in point 7 below), within 30 days from the date of the expiry of the deadline for the proper performance of the contract not met by the Contractor. Before submitting the declaration of withdrawal from the contract, the Ordering Party will request in writing or in the form of a scanned letter sent to the e-mail address indicated in point 7 for the proper performance of the contract, setting an appropriate deadline referred to in point 2.7. As a result of submitting a declaration of withdrawal, this contract is treated as not concluded and the Contractor will pay the Ordering Party a contractual penalty of 10 % of the net Remuneration.
	3. In the case of delivery of goods after the deadline (final date or specified for subsequent batches) specified in point 2.1. The Ordering Party, instead of the provisions provided for in the above point, may charge the Contractor a contractual penalty in the amount of 0.5% of the net Total Remuneration for each commenced day of delay - not more than 10%. The Contractor agrees to deduct the contractual penalty calculated in this way from the Remuneration due
	4. In the event of a breach by the Contractor of the confidentiality obligation referred to in point 4, the Contractor shall pay the Ordering Party a contractual penalty of 10% of the net total remuneration - for each case of breach.
	5. The payment of the contractual penalties referred to in points 5.2-5.5 above does not exclude the claim by VIGO on general terms for damages exceeding the amount of the contractual penalty. Moreover, the payment of the contractual penalty in the event of the occurrence of one of the events indicated in points 5.2 - 5.5 above does not exclude the obligation to pay the contractual penalty in the event of another event.
2. **Permissible reasons for changing the contract**

**6.1 The Employer provides for the possibility of changing the concluded contract in relation to the content of the offer, on the basis of which the Contractor was selected, in the following cases:**

6.1.1. There will be a change in generally applicable laws to the extent that affects the performance of the Order, unless such change was known at the time the offer was made;

6.1.2. It is necessary to change the way of fulfilling the obligation, if such a change is necessary for the proper performance of the contract;

6.1.3. In the course of performance of the contract, there will be an objective need to prepare the product or perform the service, the performance of which will be agreed between the Parties, necessary (necessary) for the proper performance of the Order, which the Parties did not provide in the Description of the subject of the Order;

6.1.4. It is necessary to change the deadline for the performance of the contract in the event of circumstances or events preventing the performance of the contract within the prescribed period, which both parties had no influence on;

6.1.5 it is possible to use newer and more favorable technological or technical solutions for the Employer than those existing at the time of signing the contract. Solutions that meet the Employer's requirements to a greater extent from the point of view of maintenance costs, functionality, quality or utility should be regarded as more favorable for the Employer;

6.1.6. the change does not change the nature of the contract and the following conditions have been met cumulatively:

(i) the need to amend the contract is caused by circumstances that the Employer, acting with due diligence, could not foresee,

(ii) the value of the change does not exceed 50% of the value of the Order originally specified in the contract,

6.1.7. The contractor to whom the contracting authority awarded the contract is to be replaced by a new contractor:

(i) based on the contractual provisions referred to in Contract;

(ii) As a result of a merger, division, transformation, bankruptcy, restructuring or acquisition of the current Contractor or his enterprise, provided that the new contractor meets the conditions for participation in the procedure, there are no grounds for exclusion and this does not entail other significant changes to the contract,

(iii) As a result of the Purchaser's assumption of the Contractor's obligations towards its subcontractors.

1. **Communication**
	1. Parties hereby declare that communication between them connected with the execution of this agreement shall be made in written and/or electronic form, to the following addresses:
		1. for VIGO:

Dominik Nowak, e-mail dnowak@vigo.com.pl.

written form: 123/133 Poznańska Street, 05-850 Ożarów Mazowiecki, Poland;

* + 1. for Supplier:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_email: \_\_\_\_\_\_\_\_\_\_\_\_written form: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

7.2 A change of the addresses indicated in point 7.1 above does not constitute a change of form and does not apply to the written form under pain of nullity. The decision, however, in the event of a change, the Party affected by the change is entered in the notification of the fact to the other Party. In the absence of the other party to change the address, delivery to the previous address will be of good quality.

1. **Final provisions**
	1. Subject to clauses 5.5 and 7.2 above, any amendments to this agreement shall be made in writing or else shall be null and void.
	2. Transferring Supplier’s rights and/or duties resulting from this agreement to any other person or entity requires for its effectiveness prior written VIGO’s consent. Unless the consent in question is made in writing, the transfer shall be null and void.
	3. Attachment number 1 – Request for Proposals and its attachments as well as the Offer and its attachments, constitutes an integral part of this agreement. Attachment number 2 The Handover Protocol is an integral part of this contract.
	4. Any disputes resulting from a conclusion or execution of this agreement shall be resolved amicably. If the dispute in question cannot be resolved amicably, it shall be submitted to the court applicable for VIGO.
	5. If this agreement has been concluded in Polish and English language version, and if there is any discrepancy between these language versions, Parties hereby declare that the Polish version shall prevail.
	6. This agreement has been prepared in two identical copies, one for each Party.

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| --- | --- |
| For VIGO:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Łukasz Piekarski, Member of the Management Board | For Supplier:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

Attachments:

1. Inquiry with an offer

2. Handover protocol

**Annex 2 to the Agreement template**

**Protocol of Delivery and Acceptance**

To the contract of ........................... .. 2021

drawn up on ………………………………… ..

 THE CONTRACTING PARTY:

 ……………………………………………… ...

Name and surname of the representative:

1. ………………………………………

2. ………………………………………

3. ………………………………………

This protocol confirms that the Contractor has delivered to the registered office of the Ordering Party in Ożarów Mazowiecki:

……………………………………………………………………….

The transferred Subject of the Agreement is complete / incomplete in accordance with the provisions of the Agreement.

1. Delivery of goods on time YES / NO

2. Goods without defects and faults YES / NO

Comments: ……………………………………………………………………………………………………………………………… ……………

This protocol confirms that the Contractor has complied with the obligations specified in the contract.

 **THE CONTRACTING PARTY**