

## TERMS OF REFERENCE

*Concerns the proceedings conducted in a competitive procedure entitled:  
supply of a license for the system checking the safety of the vessel due to its stability and  
unsinkability*

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## CHAPTER 1 INSTRUCTIONS FOR CONTRACTORS

### Section I Ordering Party

**Marine Design Sp. z o.o.**  
**ul. Teofila Firlika 20,**  
**71-637 Szczecin**  
**KRS: 0000404280**  
**REGON: 321160270,**  
**NIP: 9552326804**  
**Company capital: 50,000.00 PLN**

**The website address of the Ordering Party:** <https://www.marinedesign.pl>

**Office hours:**

**Monday - Friday from 7:30 a.m. to 3:30 p.m.**

*The website address of the order*

*The website address of the procedure being conducted:*

<https://www.marinedesign.pl>

<https://bazakonkurencyjnosci.funduszeuropejskie.gov.pl>

*The website address, where changes and explanations of the content of the ToR and other procurement documents directly related to the contract award procedure will be available:*

<https://www.marinedesign.pl>

<https://bazakonkurencyjnosci.funduszeuropejskie.gov.pl>

### Section II Contract award procedure

1. The procedure is conducted without the application of the provisions of the Act of September 11, 2019 Public Procurement Law (Journal of Laws of 2021, item 1129) - hereinafter referred to as the PPL
2. The procedure is conducted in a competitive manner - Chapter 6, point 6.5.2 of the Guidelines on the eligibility of expenditure under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for 2014-2020 (hereinafter the "Guidelines")
3. The order carried out under the project " Creation of a common technology platform for office buildings on the water", RPZP.01.01.00-32-0027/20-00.
4. The Ordering Party provides for the possibility of conducting negotiations.
5. Type of contract: delivery

### Section III Subject of the order

1. The subject of the order is the supply of a license for the system checking the safety of the vessel due to its stability and unsinkability.
2. Main place or location for deliveries: Szczecin, Poland (NUTS code PL424).
3. Names and codes of Common Procurement Vocabulary (CPV):

	Code	Name
CPV	<b>4810000-9</b>	<b>Industrial specific software packages</b>

4. The contracting authority informs that the contract has not been divided into lots. Each Contractor will submit only one offer, alone or as a representative of the company or consortium. Submission of more than one offer by one Contractor will result in rejection of all its offers.
5. *Reasons for not dividing the procurement into lots:*
  - 1) the lack of division into lots does not affect competition;
  - 2) the lack of division into parts is dictated by technical reasons - elements of one system;
  - 3) the lack of division is dictated by technical reasons - the need to maintain full compatibility in order to be used for the implementation of the project.
6. The Ordering Party does not allow the possibility of submitting a variant offer.
7. Wherever the subject of the contract has been described by an indication of trademarks, patents or the origin of a source or a specific process, or standards, European technical assessments, approvals, technical specifications and technical reference systems, it is indicated that this only serves to define the desired performance standard. and determining the properties and technical requirements. The Ordering Party allows the Contractor to offer solutions equivalent to those described in this documentation, provided that they do not lower the standards, utility values specified in the documentation, have the required appropriate approvals, certificates or approvals, and ensure the performance of the contract in accordance with the expectations set out in the documentation. System solutions may only be replaced by equivalent system solutions which constitute complete solutions. Indication in the documentation of sample trademarks, patents or origin, standards, European technical assessments, approvals, technical specifications and technical reference systems is intended to clarify the expectations of the Ordering Party in relation to the subject of the contract and is only a quality standard for the subject of the contract. A contractor who refers to solutions equivalent to those described by the Ordering Party is obliged to prove that the proposed solutions to an equivalent degree meet the requirements set out in the description of the subject of the contract..
8. The Ordering Party provides for the possibility of conducting price negotiations with the contractor whose offer will be the most advantageous before awarding the contract, in particular when the price of the most advantageous offer exceeds the amount of funds allocated to the contract.
9. The Ordering Party does not provide for the reimbursement of costs of participation in the contract award procedure.
10. A detailed description of the subject of the contract, including the criteria used to assess equivalence, is included in Chapter 2 of ToR.

#### Section IV Order completion date

Term of the contract: up to 14 calendar days from the date of signing the contract.

#### Section V Grounds for exclusion

1. The Ordering Party will exclude the contractor from the contract award procedure:
  - 1) which is related to the Ordering Party by capital, whereby capital ties are understood as interrelationships between the Ordering Party or persons authorized to incur obligations on its behalf or persons performing activities on its behalf related to the preparation and conduct of the contractor selection procedure and the contractor, in particular on:
    - a) participating in the company as a partner in a civil partnership or partnership,
    - b) owning at least 10% of shares or stocks, unless a lower threshold does not result from legal provisions or has not been defined by the MA of the RPO WZ,
    - c) acting as a member of the supervisory or management body, proxy,
    - d) being married, in relationship of kinship or affinity in a straight line, kinship of the second degree or affinity in the lateral line or in relation to adoption, care or guardianship, or

- remaining in a relationship other than indicated in point (a). a-d if they violate the principles of competition (including the principles of spending public funds described in chapter 2 point 4) of the Guidelines
- 2) The Ordering Party will also exclude the contractor from the contract award procedure:
    - a) which is listed in the lists referred to in Regulation 765/2006 and Regulation 269/2014 or entered into the list on the basis of a decision on entry in the list determining the application of the measure referred to in article 2. 1 point 3 of the Act of April 13, 2022 on special solutions in the field of counteracting supporting aggression against Ukraine and serving the protection of national security (Journal of Laws of 2022, item 835);
    - b) whose real beneficiary within the meaning of the Act of 1 March 2018 on counteracting money laundering and financing terrorism (Journal of Laws of 2022, items 593 and 655) is a person listed in the lists specified in Regulation 765/2006 and the Regulation 269/2014 or entered on the list or being such a real beneficiary from February 24, 2022, provided that it was entered on the list on the basis of a decision on entry in the list determining the application of the measure referred to in Art. 1 point 3 of the Act of April 13, 2022 on special solutions in the field of counteracting supporting aggression against Ukraine and serving the protection of national security (Journal of Laws of 2022, item 835);
    - c) whose parent company within the meaning of Art. 3 sec. 1 point 37 of the Accounting Act of 29 September 1994 (Journal of Laws of 2021, items 217, 2105 and 2106) is an entity listed in the lists specified in Regulation 765/2006 and Regulation 269/2014 or entered into the list or being such a parent entity from February 24, 2022, provided that it was entered on the list on the basis of a decision on entry in the list determining the application of the measure referred to in Art. 1 point 3 of the Act of April 13, 2022 on special solutions in the field of counteracting supporting aggression against Ukraine and serving the protection of national security (Journal of Laws of 2022, item 835)
  2. The contractor may be excluded by the Ordering Party at any stage of the contract award procedure.

#### **Section VI List of required documents confirming no grounds for exclusion**

1. The Contractor is obliged to attach to the offer the declaration of non-exclusion valid as at the date of submission of tenders, according to the template constituting Appendix 2 to the ToR.
2. The declaration shall be null and void, in writing, or in electronic form with a qualified electronic signature, or a trusted signature or a personal signature. In the case of submitting a joint offer, the above-mentioned the declaration is submitted by each of the Contractors submitting a joint offer. It is also allowed to submit a scan of the declaration signed by an authorized person.

#### **Section VII Form of submitting an offer**

1. In the procurement procedure in question, communication between the Ordering Party and the Contractor takes place via the postal operator within the meaning of the Act of 23 November 2012 - Postal Law (i.e. Journal of Laws of 2020, items 1041, 2320), in person, via a messenger, or using electronic means of communication within the meaning of the Act of 18 July 2002 on the provision of electronic services (i.e. Journal of Laws of 2020, item 344), subject to the following points:
  - 1) the offer with attachments must be submitted:
    - a. in writing, under pain of nullity, to the address of the Ordering Party given in Section 1, or
    - b. in an electronic form, which is understood as documents bearing a qualified signature, a trusted signature or a personal signature in one of the following ways:
      - by e-mail to the following address: [elzbieta.mitura@marinedesign.pl](mailto:elzbieta.mitura@marinedesign.pl) or

- via the Competitiveness Database website.

It is also allowed to submit a scan of the offer signed by an authorized person and scans of attachments to the offer.

- 2) all documents submitted with the offer and at the request of the Ordering Party must be presented in the original or a copy certified "to be true to the original" by the Contractor (the person / persons authorized to represent the contractor listed in the registration document business activity) or an attorney;
2. The Ordering Party prefers to communicate using electronic means of communication when submitting the following documents:
    - 1) questions from contractors and explanations of the Ordering Party regarding the content of the ToR;
    - 2) requesting the contractor to explain the content of the offer and the contractor's response;
    - 3) summoning the contractor to supplement the offer;
    - 4) call for explanations regarding the elements of the offer affecting the amount of the price and the contractor's response;
    - 5) information about the correction of obvious spelling or accounting errors in the content of the offer;
    - 6) the Ordering Party request to consent to the extension of the tender validity period and the contractor's response,
    - 7) the contractor's declaration on the extension of the offer validity period,
    - 8) notification about the selection of the best offer,
    - 9) notification of cancellation of the procedure,
  3. All letters, documents, statements, etc. submitted during the procedure between the Ordering Party and contractors must be made in Polish or English.

#### **Section VIII Information on how the contracting authority communicates with contractors**

1. Communication between the Ordering Party and Contractors takes place using electronic means of communication.
2. The date of submission (receipt) of declarations, applications, notifications and information shall be the date of sending them by means of electronic communication.
3. Contractors may ask the Ordering Party to clarify the content of the ToR, directing their inquiries to the Ordering Party, indicating the procedure number specified in the ToR. Inquiries should be submitted by e-mail to the following address: [elzbieta.mitura@marinedesign.pl](mailto:elzbieta.mitura@marinedesign.pl).
4. The contractor as a professional entity is obliged to check messages and information sent by the Ordering Party, because the notification system may break down or the notification may end up in the SPAM folder.
5. The Ordering Party is obliged to provide explanations immediately, but not later than 2 days before the deadline for submitting tenders, provided that the request for clarification of the content of the ToR was received by the awarding entity no later than 4 days before the deadline for submitting tenders.
6. If the request for clarification of ToR has not been received within the time limit referred to in point 5, the Ordering Party is not required to provide explanations to the ToR and the obligation to extend the deadline for submitting tenders.
7. The content of the inquiries along with explanations shall be made available by the Ordering Party on the website where the procedure is being conducted.
8. Any explanations and modifications, including changes of dates, become an integral part of the specification of the terms of the contract and are binding for the Ordering Party and the Contractors.

#### **Section IX The deadline for being bound by the offer**

1. The contractor is bound by the offer no longer than 60 days from the deadline for submitting tenders, the first day of the tender binding date being the day on which the deadline for submitting tenders expires.
2. If the selection of the best offer does not take place before the end of the offer binding period referred to in point 1, the Ordering Party, before the expiry of the offer validity period, requests contractors to agree to extend this period for the period indicated by him, not longer than 30 days.
3. The extension of the offer validity period referred to in point 2, requires the contractor to submit a written declaration of consent to the extension of the offer validity period.

### Section X Requirements for the offer

1. The content of the offer must correspond to the content of the ToR.
2. The Contractor shall bear all costs related to the preparation and submission of the offer, including costs incurred for the acquisition of a qualified electronic signature, or incurred in connection with the acquisition or use of a trusted signature or a personal signature.
3. The contractor is obliged to obtain all information that may be necessary to prepare the offer and sign the contract.
4. The Ordering Party is not responsible for submitting the offer in a manner inconsistent with the ToR.
5. Due to the low risk of violating the integrity of the file and easier verification of the signature, the Ordering Party recommends, if possible, converting the files that make up the offer to the .pdf format and affixing them with a qualified PAdES signature.
6. The offer is made in Polish or English on the Offer Form - in accordance with Appendix 1 to the ToR. Along with the offer, the Contractor is obliged to submit:
  - a) the declaration referred to in Chapter 1, Section VI point 1 ToR;
  - b) documents providing the right to sign the offer; appropriate powers of attorney (if applicable);
7. Qualified signatures used by contractors to sign all files must meet the "Regulation of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market (eIDAS) (EU) No. 910/2014 - from 1 July 2016".
8. The tenders will be assessed according to the criteria and principles set out in Chapter 1, Section XIII of the ToR. Contractors will submit offers in accordance with the requirements of the ToR.
9. The offer with attachments should be submitted no later than on July 12, 2022, till 3:00 pm

### Section XI Opening of offers

1. *The opening of offers will take place on July 12, 2022, 3:30 pm.*
2. *Immediately after the opening of tenders, the Ordering Party provides information on the website of the ongoing procedure about:*
  - 1) *names or first names and surnames as well as places of business activity or places of residence of economic operators whose tenders have been opened;*
  - 2) *the prices or costs included in the offers.*

### Section XII The method of calculating the price

1. The contractor will specify the net and gross value for the task on the offer form. The Ordering Party requires all prices to be given in PLN or EUR. In the event that the bid prices are presented in EUR, the Ordering Party will convert this value for the purposes of evaluating the bids based on the average exchange rate of the National Bank of Poland for EUR on the date of commencing



the public procurement procedure (the Ordering Party considers the date of placing the contract notice as in the Competitiveness Base). If the average exchange rate of the National Bank of Poland is not published on that day, the contracting authority will adopt the average rate from the last table prior to the commencement of the procedure. In such a case, the settlement will be based on the average exchange rate of the National Bank of Poland for EUR on the day preceding the invoice.

2. The gross offer price must be expressed to two decimal places.
3. The price should be calculated on the basis of ToR.
4. All elements of the offer should include possible discounts applied by the Contractor, ie they must be included in the price of the offer.
5. All prices specified by the Contractor are binding and will be entered into the contract.
6. If an offer has been submitted, the selection of which would lead to the creation of a tax obligation for the contracting authority in accordance with the Act of March 11, 2004 on tax on goods and services (i.e. Journal of Laws of 2020, item 106, as amended), for the purpose of applying the price criterion, the contracting authority shall add to the price presented in this offer the amount of tax on goods and services that it would be obliged to settle. In such a case, the contractor is obliged to:
  - 1) informing the the Ordering Party that the selection of its offer will lead to the creation of a tax obligation for the the Ordering Party;
  - 2) indication of the name (type) of goods or services, the delivery or performance of which will lead to the emergence of a tax obligation;
  - 3) indication of the value of the goods or services subject to the the Ordering Party's tax obligation, without the tax amount;
  - 4) indication of the rate of tax on goods and services, which, according to the knowledge of the contractor, will be applicable.
7. The payment will be made in the following currency: PLN or EUR

### Section XIII Tender evaluation criteria

1. When selecting the most advantageous offer, the Ordering Party will be guided by the following criteria and their weights, and will evaluate the fulfillment of the criteria in the following way:

**gross price - 100%**

2. Method of evaluation of offers according to the adopted criteria (1% = 1 point):

Criterion 1 will be calculated using the following formula:

**Gross price = [(Pl: Pe) x 100%] x 100**

where:

**Pl - the lowest price (gross)**

**Pe - price resulting from the examined offer (gross)**

The offer with the lowest price will receive the maximum number of points within the criterion.

The sum of points received by the offer in criterion 1 will be the result obtained by the given offer.

3. As a result of the commission analysis and evaluation of the received offers, using the criteria specified in ToR, the most advantageous offer will be selected.
4. In the course of examination and evaluation of tenders, the Ordering Party may demand explanations from economic operators regarding the content of the submitted tenders and the means of proof or other submitted documents or statements.
5. The Ordering Party will correct the content of the offer:
  - 1) obvious typographical errors,
  - 2) obvious computational errors, taking into account the accounting consequences of the corrections made, and
  - 3) other errors consisting in the non-compliance of the offer with the procurement documents, not causing significant changes to the content of the offer, immediately notifying the Contractor whose offer has been corrected.

6. In the case referred to in point 5 subpoint 3, the Ordering Party shall set the contractor an appropriate time limit to consent to the correction of a mistake in the offer or to questioning its correction. Failure to reply within the prescribed time limit shall be deemed consent to the correction of the error.
7. If the total price of the offer submitted on time is lower by at least 30% than the contract value plus VAT, determined before the initiation of the procedure or the arithmetic average of the prices of all non-rejected offers, the contracting authority will request explanations. in terms of calculating the price or cost, or their essential components, in order to determine whether the offer does not contain an abnormally low price. The contractor is responsible for proving that the offer does not contain an abnormally low price or cost.
8. The offer of the contractor who did not provide explanations within the prescribed period, or if the submitted explanations together with evidence do not justify the price given in the offer, shall be rejected as an offer with an abnormally low price.

#### **Section XIV Basis of rejection of offers**

1. The Ordering Party rejects the offer if:
  - 1) was submitted after the deadline for submitting tenders;
  - 2) was submitted by the contractor:
    - a) subject to exclusion from the procedure or not meeting the conditions for participation in the procedure, or
    - b) who has not submitted a declaration or means of proof within the prescribed period, confirming the lack of grounds for exclusion, or other documents or statements,
  - 3) is invalid on the basis of separate provisions;
  - 4) its content is inconsistent with the terms of the contract;
  - 5) has not been prepared or submitted in a manner compliant with the technical and organizational requirements for preparing or submitting tenders using electronic means of communication specified by the Ordering Party;
  - 6) was submitted under the conditions of an act of unfair competition within the meaning of the Act of April 16, 1993 on combating unfair competition;
  - 7) it contains an abnormally low price or cost in relation to the subject of the contract;
  - 8) it contains errors in the calculation of the price or cost;
  - 9) the contractor has not expressed its consent in writing to extend the tender validity period;
  - 10) the contractor did not express a written consent to the selection of his offer after the expiry of the offer binding period;

#### **Section XV Formalities that must be completed after selecting an offer in order to conclude a procurement contract**

1. The Ordering Party will conclude a procurement contract with the Contractor whose offer will be considered the most advantageous.
2. If the offer submitted by Contractors jointly applying for the contract is selected, the Ordering Party reserves the right to demand an agreement regulating the cooperation of these Contractors before concluding a procurement contract.
3. If the contractor whose offer has been selected as the most advantageous, refrains from concluding a procurement contract, the contracting authority may re-examine and evaluate the offers from among the offers of other contractors in the procedure and select the most advantageous offer or cancel the procedure.
4. The contractor will be obliged to sign the contract within the time limit indicated by the Ordering Party.

#### **Section XVI Information on the processing of personal data**



1. The Ordering Party informs that the contract award procedure is open to the public.
2. The protocol with attachments is open to the public and made available upon request. Tenders with attachments shall be made available upon request immediately after the opening of tenders. In the event that the submission of a request relating to the right referred to in Art. 18 sec. 1 of the Regulation 2016/679, will restrict the processing of personal data contained in the protocol or attachments to this protocol, from the date of completion of the contract award procedure, the contracting authority does not provide this data, unless the conditions referred to in Art. 18 sec. 2 of Regulation 2016/679.
3. Pursuant to Art. 13 sec. 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 regulation on data protection) (Journal of Laws UE L 119 of 04/05/2016, page 1), hereinafter referred to as "GDPR", I would like to inform you that:
  - a) the administrator of your personal data is Marine Design Sp. z o.o., ul. Teofila Firlika 20, 71-637 Szczecin, POLAND.
  - b) Your personal data will be processed on the basis of art. 6 sec. 1 lit. c GDPR for the purposes related to the above-mentioned public procurement procedure
  - c) the recipients of your personal data will be persons or entities to whom the documentation of the proceedings will be made available;
  - d) your personal data will be stored for a period of 2 years from December 31 of the year following the submission of the statement of expenditure to the European Commission, which includes the final expenditure relating to the Project;
  - e) the obligation to provide your personal data directly concerning you is a statutory requirement related to participation in the public procurement procedure;
  - f) in relation to your personal data, decisions will not be made in an automated manner, in accordance with art. 22 GDPR;
  - g) you have:
    - pursuant to Art. 15 GDPR, the right to access your personal data;
    - pursuant to Art. 16 GDPR, the right to rectify your personal data;
    - pursuant to Art. 18 GDPR, the right to request the administrator to limit the processing of personal data, subject to the cases referred to in art. 18 sec. 2 GDPR;
    - the right to lodge a complaint to the President of the Personal Data Protection Office, if you feel that the processing of your personal data violates the provisions of the GDPR;
  - you are not entitled to:
    - in connection with Art. 17 sec. 3 lit. b, d or e GDPR, the right to delete personal data;
    - the right to transfer personal data referred to in art. 20 GDPR;
    - pursuant to Art. 21 GDPR, the right to object to the processing of personal data, as the legal basis for the processing of your personal data is art. 6 sec. 1 lit. c GDPR.
4. The disclosure referred to in point 2 applies to all personal data, except for the data referred to in Art. 9 sec. 1 of the Regulation 2016/679 collected in the course of the contract award procedure.
5. If a person whose personal data is processed by the contracting authority uses the right referred to in Art. 15 sec. 1-3 of the Regulation 2016/679, the contracting authority may request the person requesting additional information to specify the name or date of the completed procurement procedure.
6. The use by the person whose personal data is processed, of the right to rectify or supplement the personal data referred to in art. 16 of the Regulation 2016/679, may not infringe the integrity of the protocol of the procedure and its attachments.
7. Information constituting a business secret within the meaning of the provisions on combating unfair competition shall not be disclosed, if the contractor, along with the provision of such information, stipulated that it cannot be disclosed and has demonstrated that the proprietary information constitutes a business secret.

8. By business secrets within the meaning of Art. 11 sec. 2 of the Act of April 16, 1993 on Combating Unfair Competition (i.e. Journal of Laws of 2020, item 1913), it is understood to be technical, technological, organizational information of a company or other information of economic value that is not disclosed to the public, and which, as a whole, or in a specific set and set of their elements are not commonly known to people who usually deal with this type of information or are not easily accessible to such people, provided that the person authorized to use the information or dispose of it has taken, with due diligence, actions to maintain its confidentiality, i.e. when submitting the offer, he stipulated that the information may not be disclosed to other participants in the procedure and demonstrated that the proprietary information constitutes a trade secret. Any information constituting a business secret that the Contractor reserves as a business secret should be sent in a legible manner that allows for their identification as a business secret.
9. Disclosure of the non-proprietary content of the offers will be made according to the following rules:
  - the person concerned is obliged to apply to the Ordering Party for the content of the report and / or attachments to the report,
  - The Ordering Party will determine, taking into account the trade secret reservation submitted in the offer, the scope of information that may be made available,
  - after carrying out the above activities, the Ordering Party shall immediately provide the applicant with the report and / or attachments to the protocol.

### **Section XVII Annulment of the procedure**

1. The Ordering Party shall cancel the procurement procedure if:
  - 1) no offer has been submitted
  - 2) all offers were subject to rejection
  - 3) the price of the best offer or the offer with the lowest price exceeds the amount that the Ordering Party intends to spend on financing the contract, unless the Ordering Party may increase this amount to the price of the best offer
  - 4) there has been a significant change in circumstances causing that the conduct of the procedure or the performance of the contract is not in the public interest, which could not have been foreseen earlier
  - 5) the procedure is encumbered with an irremovable defect that prevents the conclusion of a public procurement contract that cannot be canceled
  - 6) the contractor has failed to provide the required performance bond guarantee of the contract or has refrained from concluding a public procurement contract,
2. The Ordering Party shall simultaneously notify all Contractors who applied for the award of the contract about the cancellation of the contract award procedure, stating the factual and legal justification by publishing information on the website of the procedure being conducted.
3. Moreover, the Ordering Party reserves the right to cancel the procedure without giving any reasons.

## **CHAPTER 2 DETAILED DESCRIPTION OF THE SUBJECT OF THE CONTRACT**

The subject of the contract is the delivery of a perpetual software license in the form of a system that checks the safety of the vessel due to its stability and unsinkability.

The Ordering Party requires the offered system to have the following functionalities:

1. Entering the hull shape of the watercraft
2. Calculation of hydrostatic parameters and shape stability arms
3. Input of loading conditions and calculations of intact stability
4. Defining compartments and tanks, calculating the scaling of tanks

5. Defining the windage area and calculating the wind heeling arms
6. Creation, loading and editing of the database containing the stability criteria
7. Three-dimensional visualization of the hull of the watercraft
8. Visualization of the equilibrium state of the watercraft
9. Introduction of loading conditions and calculations of subdivision and damage stability
10. Simulation of sinking the vessel after unsealing a watertight compartment (eg after a collision with a mobile unit) in order to determine the required evacuation time of persons present on the vessel (including disabled persons), before the object obtains a significant heel preventing evacuation via a gangway.
11. Program service in the form of writing a list of instructions to be executed (scripts or macros) in order to automate repetitive tasks.
12. Recognition of the program by leading classification societies as a software providing reliable analysis results.

Licensing:

1. Perpetual license. Simulation of flooding the damaged compartment - license for a minimum of 12 months.
2. Manufacturer's technical support at least 12 months.
3. Server license installed on the ordering party's servers.
4. The Ordering Party requires that the offered software should have an active certificate of a classification society operating on the European market. The Contractor shall attach a copy of the relevant certificate to the offer under pain of rejection.

### CHAPTER 3 MODEL OF THE CONTRACT

concluded on..... in Szczecin between:

....., with headquarters at ....., ....., REGON number: .....

Tax ID: ....., represented by:

- .....

hereinafter referred to as the Ordering Party in the content of the contract and:

.....

Tax ID..... represented by:

.....

.....

hereinafter referred to as the Contractor in the content of the contract

As a result of the conducted procedure No. RPZP.01.01.00-32-0027/20-00 – ZK 001 in a competitive manner, in accordance with Chapter 6, point 6.5.2 of the Guidelines on the eligibility of expenditure under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the years 2014-2020, the following agreement was concluded:

#### § 1

1. The subject of the Agreement is the delivery of an indefinite, non-transferable software license ..... ("Subject of the Agreement").
2. A detailed description, quantity and other requirements of the Ordering Party in the scope of the Subject of the Agreement are included in the ToR, constituting Appendix No. 1 to the Agreement, as well as the Contractor's Offer of ..... together with Appendix No. 2 to the Agreement.

#### § 2

### **Duration of the Agreement and terms of implementation**

1. The software license delivery period is up to 14 calendar days from the date of concluding the contract.
2. Term of the license - an unlimited license, with the proviso that for the simulation of flooding the damaged compartment - the term of the license is 12 months from the date of installation.
3. The software license will be delivered in electronic form and will be installed on the Ordering Party's servers.
4. The contract is valid from the date of its signing by the last of the Parties for the performance of all the services resulting therefrom..

### **§ 3**

#### **Receipt of the Subject of the Agreement**

1. The delivery of the software license will be confirmed by the Ordering Party by providing the Contractor with a confirmation of the proper performance of the Subject of the Agreement to the Contractor's e-mail address indicated in the Agreement within 5 working days from the date of delivery.
2. The condition for acceptance is the performance of the subject of the contract in accordance with its terms.
3. If the Ordering Party finds that the Subject of the Agreement has been performed in a manner inconsistent with the Agreement, all reservations, defects and shortcomings. They will be sent to the Contractor's e-mail address indicated in the Agreement. In such a case, the Ordering Party shall set the Contractor an appropriate time limit, not longer than 3 (three) business days, to remedy the identified defects or shortages of the Subject of the Agreement.
4. The Contractor undertakes to remove defects within the time limit set by the Ordering Party, without the right to a separate remuneration for this.
5. The confirmation by the Ordering Party that the defects in the performance of the Subject of the Agreement have been removed by the Contractor, will constitute the basis for confirmation of the proper performance of the Agreement.
6. Confirmation of the proper performance of the Agreement will constitute the basis for settlement with the Contractor.
7. If the Contractor fails to remove the designated defects and shortcomings within the time limit specified in sec. 4, the Ordering Party may withdraw from the Agreement within 14 (fourteen) calendar days from the ineffective expiry of the period indicated for the removal of defects and deficiencies.

### **§ 4**

#### **Salary, payment terms**

1. For the performance of this contract, the Ordering Party shall pay the Contractor a remuneration in the amount of .....PLN / EUR net.
2. The remuneration referred to in sec. 1 will be payable within 21 days from the date of the protocol acceptance of the Subject of the Agreement, on the basis of an invoice.
3. In the event that the amount of remuneration referred to in para. 1 is determined in EUR, the payment will be made by the Ordering Party by transfer in PLN, after conversion according to the average exchange rate of the National Bank of Poland applicable on the day preceding the invoice, to the IBAN account: .....
4. The remuneration referred to in sec. 1 covers all costs related to the correct implementation of the order, including in particular the delivery of the license, installation on the Ordering Party's servers and providing technical support for the manufacturer at least 12 months from the date of correct installation, confirmed in the manner indicated in § 3 sec. 1 of the Agreement.
5. VAT will be calculated and transferred in accordance with the applicable legal regulations.
6. The basis for payment will be a VAT invoice issued by the Contractor.
7. Payment of the remuneration referred to in sec. 1 by bank transfer, to the Contractor's account indicated on the invoice.
8. The date of payment shall be the date on which the Ordering Party's bank account is debited.

### § 5

1. The Ordering Party may require the Contractor to pay a contractual penalty in the amount of 0.25% of the Contractor's net remuneration for the Subject of the Agreement, referred to in § 4 sec. 1 for each day of delay in exceeding the delivery date, referred to in § 2 sec. 1 of the contract.
2. The Ordering Party may require the Contractor to pay a contractual penalty in the amount of 10% of the net remuneration referred to in § 4 sec. 1 - due to withdrawal from the contract by any of the Parties for reasons attributable to the Contractor.
3. Contractual penalties resulting from the provisions of this contract shall be payable by bank transfer to the Ordering Party's bank account within 7 days from the date of the Contractor's call to pay them.
4. The reserved contractual penalty does not exclude the Ordering Party's right to claim damages exceeding the amount of the reserved contractual penalties on general terms.

### § 6

1. It is forbidden to make significant changes to the provisions of the Agreement in relation to the content of the offer on the basis of which the Contractor was selected, subject to the content of sec. 2 below.
2. Changing the provisions of the Agreement in relation to the content of the offer is possible through:
  - 1) change of the deadline for the performance of the Subject of the Agreement for a period corresponding to the suspension or delay of this deadline in the case of:
    - a) the occurrence of circumstances caused by force majeure, including the occurrence of a random event caused by external factors, which could not be foreseen with certainty, in particular directly threatening the life or health of people or threatening with damage to a significant extent or actions of third parties preventing the performance of the contract, which the actions are not a consequence of the fault of either party,
    - b) the occurrence of circumstances lying solely on the part of the Ordering Party or independent of both Parties, which resulted in the suspension of the performance of the Subject of the Agreement or a delay in its conclusion,
  - 2) a change in the method of performing the Subject of the Agreement or a reduction of the Remuneration in the event of:
    - a) when the legal status changes in the scope related to the Agreement, which will result in the necessity to change the manner of performing the Subject of the Agreement by the Contractor,
    - b) change of the catalog number or own name of the Equipment, with the proviso that it will meet the requirements specified in the inquiry constituting an appendix to this contract,
    - c) replacement of the Subject of the Agreement indicated by the Contractor in the Offer with another / other, with the same purpose and meeting / meeting all the requirements specified by the Ordering Party in the ToR, in particular, such a change is allowed in the event of the appearance of a newer generation Subject of the Agreement with better parameters, functional properties or other reasons more favorable to the Ordering Party; such a change may not increase the contractor's remuneration.
3. Amendments to the provisions of the Agreement shall be made in writing, otherwise null and void.

### § 7

1. In matters not covered by the contract, the provisions of the Civil Code and other generally applicable provisions of law shall apply.
2. Invalid or ineffective provisions of this contract shall be replaced by legally valid and fully effective provisions.
3. The Contractor may not assign the performance of the subject of this contract to a third party.
4. The Contractor may not transfer the claims arising from this contract to third parties without the prior consent of the Ordering Party expressed in writing, otherwise null and void.

5. The Contractor declares that he has the necessary resources to perform this contract.
6. The Contractor is obliged to inform the Ordering Party in writing about any change of his address data.
7. Any disputes that may arise in connection with the implementation of this contract, the parties will submit to the court competent for the Ordering Party.
8. The contract was drawn up in three identical copies, one for the Contractor, two for the Ordering Party.

**ORDERING PARTY**

**CONTRACTOR**