

Annexe No. 2

AGREEMENT no: ZZ/58/005/D/22
for the execution of the order regarding: Delivery of optical sensors with assembly
in a floating dock at the Myklebust Verft AS Shipyard in Norway

concluded in Gdańsk on2022

by and between:

Gdańsk University of Technology, Faculty, with headquarters: ul. Gabriela Narutowicza 11/12, 80-233 Gdańsk, NIP: 584-020-35-93, REGON: 000001620, hereinafter referred to in the Agreement as: the Ordering Party, represented by:

.....

and

....., hereinafter referred to as the Contractor represented by:

.....

As a result of the selection of the Contractor's offer as the most advantageous after the Awarding Entity conducted the public procurement procedure entitled "Delivery of optical sensors with installation in a floating dock at the Myklebust Verft AS Shipyard in Norway" pursuant to Art. 11 sec. 5 p. 1 of the Public Procurement Law, without applying the provisions of the Act of 11 September 2019 Public Procurement Law (Journal of Laws of 2019, item 2019, as amended), the following Agreement was signed:

§ 1. Subject matter of the contract and documentation

1. The Ordering Party orders and the Contractor accepts for execution a public procurement entitled:
Delivery of optical sensors with assembly in a floating dock at Myklebust Verft AS Shipyard in Norway.
2. The detailed scope of the Subject matter of the Agreement is specified in the documentation referred to in section 4 of this section.
3. The scope of the Subject matter of the Agreement also includes the performance by the Contractor of any work, including supplies and services that are directly or indirectly related to the performance of the Subject matter of the Agreement and in accordance with the entire documentation of the Subject matter of the Agreement made available to the Contractor, regardless of the form of such disclosure, are needed on the spot of the service for the performance of the Subject matter of the Agreement.
4. When performing the Subject matter of the Agreement, the Contractor undertakes to implement it in accordance with:

- a) the Agreement,
- b) Detailed specification of the Subject matter of the Agreement,
- c) Generally applicable laws, including the laws of the country where the service is provided,
- d) The rules of industry technical knowledge,
- e) Other publicly available documents regarding the Subject matter of the Agreement, provided that the Contractor could read them at the latest on the day of submitting the offer, regardless of the form of the documents themselves and the way they were made available to the Contractor.

5. The Parties unanimously agree that the documents mentioned in sec. 4 (hereinafter jointly referred to as the Documentation of the Subject matter of the Agreement), as well as the provisions and principles indicated therein, should be read in a mutually complementary manner, using the methods of interpretation commonly used in legal transactions, including interpretation methods other than linguistic interpretation. The Parties agree that the above-mentioned Documentation does not prioritize its individual elements, and all its elements remain equally valid for the performance of the Agreement. The Parties agree that they will try to supplement and explain any contradictions and deficiencies in the content of the Documentation, bearing in mind, above all, the purpose of the Agreement, which is the performance of the Subject matter of the Agreement in the shape planned by the Ordering Party and within the time specified in the Agreement.

6. Regardless of the above obligations, the Contractor declares that before signing the Agreement they have read all the documentation of the Subject matter of the Agreement available to them and they do not raise any objections to it in terms of its completeness and the possibility of implementing the Subject matter of the Agreement based on it in accordance with the requirements of the Ordering Party and within the time specified in the Agreement.

§ 2. Contacts between the parties. Staff

1. During the performance of the Agreement, the Parties will contact via e-mail on working matters, and in writing on other matters.
2. The Contractor's written correspondence addressed to the Ordering Party shall be addressed to: Politechnika Gdańska, Wydział Inżynierii Mechanicznej i Okrętownictwa (Gdańsk University of Technology, Faculty of Mechanical Engineering and Ship Technology), ul. G. Narutowicza 11/12, 80-233 Gdańsk. The Contractor's correspondence delivered in a different manner than indicated above shall be deemed undelivered.
3. The Ordering Party's written correspondence addressed to the Contractor shall be addressed to:
4. The Parties will notify each other of the change of their correspondence address. Failure to notify about the change means that the correspondence sent to the current address is considered delivered.
5. Throughout the term of the Agreement, the parties are obliged to ensure contact only with persons who have comprehensive knowledge of the Subject matter of the Agreement.

6. As of the date of signing this contract, the following persons are responsible for electronic contacts in working matters, managing the implementation and cooperation in the performance of the contract:

a. on the part of the Contractor:

....., e-mail:, tel.

b. on the part of the Ordering Party:

....., e-mail:, tel.

....., e-mail:, tel.

7. The Parties agree that the effectiveness of the delivery of correspondence in the form of electronic mail will not depend on obtaining from the addressee of the correspondence confirmation of receipt or reading of the message.

8. The Parties undertake to inform each other about the change of persons referred to in sec. 6, however, the change of these persons does not require a change of the contract, but only the notification of the other Party by electronic means.

§ 3. Declarations, obligations and commitment of the Contractor

1. The Contractor declares that the Subject matter of the Agreement has been presented to them by the Ordering Party in an unambiguous and comprehensive manner, taking into account its scope, using sufficiently precise and understandable terms, and when submitting the offer, the Contractor took into account all the requirements and circumstances that may affect its submission.

2. The Contractor declares that when calculating the amount of their remuneration for the performance of the Subject matter of the Agreement, they took into account all the parameters and market conditions known and predictable by an experienced Contractor throughout the period of the performance of the Subject matter of the Agreement and the properties of the Subject matter of the Agreement.

3. The Contractor declares that they are aware of the effects and significance of the fact that the Subject matter of the Agreement is being implemented as part of the research project entitled "*A Floating Dock Digital Twin towards Efficient, Safer and Autonomous Docking Operations*" implemented as part of the POLNOR 2019 Call program, contract number: NOR / POLNOR / DigiFloDock / 0009 / 2019-00.

4. The Contractor declares that they are aware of the effects and significance of the fact that the purpose of the Agreement is to build a measurement system that, for the purposes of the research project being carried out, will allow to measure and record the stresses of the hull of the dock during docking operations, and all works will be performed on the Myklebust floating dock in Norway, Gursken.

5. Considering the fact that all works will be carried out on the premises not belonging to the Ordering Party and in a place fully controlled by a third entity (shipyard), which is a partner of the project implemented by the Ordering Party, the Contractor declares that at the stage of works all works at the dock, will be consulted with the appropriate persons from the shipyard where the works are to be carried out, and during all works they will ensure the safety of employees and equipment - both their own and those belonging to the shipyard.

6. The Contractor undertakes to provide all necessary material, equipment and tools needed to perform the complete Subject matter of the Agreement.
7. The Contractor declares that the Agreement is concluded voluntarily, and the resulting content of the obligation is fully accepted by them.
8. The Contractor is obliged to comply with generally applicable regulations on site, in particular with regard to safety and occupational hygiene, fire protection, as well as environmental protection regulations and other regulations and rules in force at the shipyard, and to follow the instructions of the persons supervising the work in this area.
9. Before submitting the Subject matter of the Agreement for acceptance, the Contractor shall be obliged to tidy up the place of work and restore it at least to the condition before the commencement of works to the extent enabling further uninterrupted use of the dock by the shipyard in accordance with its intended use with the full functionality of the Subject matter of the Agreement completed.
10. The Contractor undertakes to carry out works related to the Subject matter of the Agreement on days and at times agreed with the shipyard. The above is without prejudice to the provisions of par. 5 of the Agreement.

§ 4. Declarations and obligations of the Ordering Party

1. The Ordering Party undertakes, in accordance with the provisions of the Agreement, to commence the acceptance of works from the Contractor and to carry out such acceptance.
2. The Ordering Party is obliged to timely pay the remuneration due to the Contractor.

§ 5. Deadlines for the performance of the Subject matter of the Agreement

1. The Parties agree on the date of performance of the entire Subject matter of the Agreement as follows:
 - a) commencement - immediately after signing the Agreement
 - b) delivery of optical sensors, fiber optic cable and connectors to Myklebust Verft AS Shipyard in Norway - within 70 days from the date of conclusion of the contract
 - c) completion of the installation of optical sensors in the ballast tanks of the floating dock of Myklebust Verft AS Shipyard in Norway (scope specified in point 5.2. from a) to e) and i) of the detailed specification of the Subject matter of the Agreement) - within days from the dock being made available by the shipyard. The Contractor will receive information about the planned date of making the dock available 72 hours prior to it, which will take place between 15 April 2022 and 30 October 2022.
 - d) the scope specified in point 5.2. from f) to j) of the Detailed specification of the Subject matter of the Agreement - maximum 10 days from the commencement of the provision of the service specified above
 - e) making the device available for collecting data from sensors for a period of 14 days - within 6 months from the date of completion of the sensor assembly service in the dock in order to conduct additional tests, with the Contractor receiving a notification of the initial date of making it available at least 7 days in advance.

§ 6. The Contractor's remuneration and terms of payment

1. The total gross remuneration of the Contractor for the proper and timely performance of the Subject matter of the Agreement is PLN (in words: Zlotys), including the VAT due at the rate of... ..%.
2. The Contractor's remuneration for the performance of the Agreement is a lump sum and includes all the costs and profit of the Contractor in connection with the implementation of the complete Subject matter of the Agreement.
3. The Contractor's remuneration for the performance of the Subject matter of the Agreement is not subject to indexation throughout the term of the Agreement.
4. The Ordering Party shall pay the Contractor only for the actually performed elements of the Subject matter of the Agreement.
In the event of failure to perform any elements, the remuneration will be reduced by the value of the elements not performed. In the event of such a situation, the Ordering Party will be entitled to submit to the Contractor a unilateral statement on the reduction of remuneration by an amount corresponding to the ratio of the value of the elements made in full to the elements that were to be made, but were not.
5. The Contractor's remuneration will be paid in partial payments as follows:
 - a) Upon completion and receipt of the delivery of optical sensors, fiber optic cable and connectors to the Shipyard (stage 1) - the amount of
 - b) Upon completion of the installation of optical sensors in the Shipyard's floating dock (stage 2) - the amount of
 - c) After the device for collecting data from sensors is made available (stage 3) - the amount of
6. The basis for issuing each partial invoice will be a Partial Acceptance Protocol of the Subject matter of the Agreement signed by both parties, confirming the proper performance of the given part of the Agreement.
7. All invoices will be payable within 30 days from the date of delivery to the Ordering Party of a correctly issued invoice.
8. The Ordering Party is required to receive electronic invoices issued by the Contractor via the electronic invoicing platform, if the Contractor has sent a structured invoice via this platform.
9. The amount due to the Contractor resulting from the invoice will be payable in the form of a transfer from the Ordering Party's account to the Contractor's account indicated on the invoice.
10. The invoice should be issued to: Politechnika Gdańska, Wydział Inżynierii Mechanicznej i Okrętownictwa / Gdańsk University of Technology, Faculty of Mechanical Engineering and Ship Technology, 80-233 Gdańsk, ul. Narutowicza 11/12. NIP: 584-020-35-93.
11. The date of payment is the date of submitting the payment instruction from the Ordering Party's bank account.
12. The bank account for payment indicated on the invoice must be the account referred to in Art. 96b sec. 3 point 13 of the Act on tax on goods and services and be on the so-called White List of VAT taxpayers (Article 96b of the VAT Act).
13. The Contractor is obliged to immediately inform the Ordering Party of any changes

in the scope of data disclosed in the White List.

§ 7. Warranty for defects

1. The Contractor provides the Ordering Party with a warranty for defects in the Subject matter of the Agreement for the period of **24 months** counted from the date of signing by the parties of the Partial Acceptance Protocol of the Subject matter of the Agreement in the scope of Stage 2.
2. All rights of the Ordering Party under the warranty are irrespective of the rights of the Ordering Party on account of the granted guarantee. If the Ordering Party does not indicate which rights it uses, it is considered to be exercising its rights under the warranty.
3. In the event of becoming aware of the existence of a defect, the Ordering Party shall report the existence of the defect by e-mail to the e-mail address: or phone:
4. As part of the Agreement, the Contractor shall ensure that he will start repairing the reported defects at the site of failure no later than hours (the so-called reaction time) from the notification referred to in sec. 3 of this paragraph.
5. In the notification of the defect, the Ordering Party calls on the Contractor to remove the defect within 24 hours. The parties may jointly set a different time for removing the defect, in particular if the time for removing the defect within the above-mentioned deadline is impossible due to the scope of the work to be performed, the availability of materials or the availability of the place of work. However, each time an extended deadline for removing a defect requires the consent of the Ordering Party.
6. If the Ordering Party has demanded the removal of the defect, indicating the deadline for its removal, and the Contractor has not responded to this request within ... hours, it is considered that the request was considered justified.
7. In the event of the Contractor's refusal to remove the defect or in the event of its ineffective removal, the Ordering Party, regardless of the degree of severity of the defect, may, at its own discretion:
 - a) charge the Contractor with a contractual penalty in accordance with the provisions of the Agreement, calculated as for delay in removing the defect, or
 - b) reduce the Contractor's remuneration by the amount corresponding to the value of the Subject matter of the Agreement with a defect to the value of the Subject matter of the Agreement without a defect, or
 - c) order the removal of the defect to another entity at the expense and risk of the Contractor.
8. All costs related to the Contractor's service of the warranty period shall be borne by the Contractor.
9. The Ordering Party's rights under the warranty may not be in any way conditioned by other documents of the Contractor, including the documents of the manufacturers of devices and materials provided by the Contractor.
10. The Contractor may not refuse to remove the defect also in a situation where the removal of the defect involves excessive costs or significant inconvenience for the Contractor.

§ 8. Quality guarantee.

1. The Contractor provides the Ordering Party with a quality guarantee for the entire Subject matter of the Agreement, as well as its individual elements for the period of 24 months, counted from the date of signing by the Parties of the Partial Acceptance Protocol of the Subject matter of the Agreement in the scope of Stage 2.
2. The Contractor, by submitting the Subject matter of the Agreement for the Final Acceptance, is obliged to issue warranty cards to the Ordering Party. It is also permissible to submit warranty cards in a foreign language with a translation into Polish - the decisive content is then the Polish version.
3. The provisions of the warranty cards issued by the Contractor may not contain provisions less favorable to the Ordering Party than the provisions of this Agreement. In the event of a conflict between the provisions of the Agreement and the warranty card issued by the Contractor, the provisions of the Agreement shall apply.
4. If the warranty card issued by the manufacturer provides for a longer warranty period than this Agreement, it is considered that a longer warranty has been granted for the period in compliance with the period specified in the warranty card.
5. In the event of at least two unsuccessful attempts to repair the same element of the Subject matter of the Agreement, the Ordering Party is entitled, instead of requesting another repair, to request replacement of the element with a new one, free from defects. The replacement will take place within the time limit set by the Ordering Party, not shorter than 7 days.

§ 9. Insurance

1. The Contractor undertakes to have the following Agreement insurance for the entire duration of this Agreement: Statutory occupational protection insurance - danger degree 5 and Statutory liability insurance, with an insurance sum of no less than NOK 20 million.
2. If the Contractor will use subcontractors for the performance of the Subject matter of the Agreement, the insurance policies must also cover these subcontractors.
3. The contractor may not commence the works without presenting the valid insurance, referred to in sec. 1.

§ 10. Acceptances

1. After completion of a given stage of works making up the Subject matter of the Agreement, the Contractor shall submit it for Partial Acceptance.
2. Along with the submission of the Subject matter of the Agreement for Acceptance, the Contractor shall provide the Ordering Party with, respectively:
 - a) For Stage 1 - protocol of delivery of sensors and cables to the shipyard.
 - b) For Stage 2 - a protocol of tank tightness tests together with confirmation of the acceptance of installation works by the shipyard and a protocol of test readings from sensors.

- c) For Stage 3 - confirmation of the execution of measurements.
3. The Contracting authority, subject to sec. 4 of this paragraph, proceeds to the acceptance no later than 24 hours from the receipt of the complete notification and completes the acceptance or submits comments within 48 hours from the date of acceptance. The acknowledgment of the acceptance referred to in this section is the signing of the Partial Acceptance Protocol by both Parties (separately for each stage).
4. If the works presented for final acceptance have defects or are incomplete, the Ordering Party:
- a) refuses to accept it in whole or in part, if the defects are significant, i.e. they prevent or seriously impede the use of the Subject matter of the Agreement or its elements in accordance with its intended purpose,
 - b) accepts, if the defects are insignificant, at the same time the Ordering Party may, at its own discretion: demand removal of insignificant defects during the warranty period for defects or at a different date or unilaterally reduce the Contractor's remuneration by the amount corresponding to the value of the works with defects to the same value of works without defects.

§ 11. Withdrawal from the contract and substitute performance

1. In the event of a substantial change in circumstances causing the performance of the contract to fail in the public interest, which could not be foreseen at the time of concluding the Agreement, the Ordering Party may withdraw from the Agreement within 30 days of becoming aware of the above circumstances. In such a case, the Contractor may only demand the remuneration due to them for the performance of part of the contract until the date of withdrawal.
2. The Ordering Party, regardless of the rights it is entitled to under the law and other provisions of the Agreement, may also withdraw from the contract in whole or in part for reasons relating to the Contractor within 30 days of learning about the existence of the basis for withdrawal in the event of:
- a) the Contractor's delay in the performance of all or part of the Subject matter of the Agreement by more than 14 days, without setting an additional date for performance,
 - b) enforcement proceedings initiated against the Contractor or a request made to open the Contractor's liquidation proceedings, if the initiation of these proceedings or submission of these requests creates a risk of non-performance or improper performance of the Agreement by the Contractor, in the opinion of the Ordering Party,
 - c) lack of legal capacity on the part of the Contractor or lack of legal bodies or the inability to continue the performance of the contract, including due to the involvement of technical or professional resources of the Contractor in other economic undertakings of the Contractor, which, in the opinion of the Ordering Party, creates a risk of delays in the performance of the Agreement, or the risk of non-performance or improper performance of the Agreement by the Contractor,
 - d) The Contractor in a way other than the above-mentioned grossly neglects their contractual obligations, after prior appointment of an additional Contractor, a period not

shorter than 10 days, to remedy the deficiencies found, subject to the rigor of withdrawal from the Agreement in the event of failure to remedy these deficiencies.

3. In the event that the Ordering Party finds the circumstances referred to in sec. 2 of this paragraph, the Ordering Party may, after the ineffective expiry of the designated deadline for remedying the deficiency or without its expiry, when its appointment is not required by the Agreement, instead of submitting a declaration of withdrawal from the Agreement, order the Contractor to suspend the works related to the performance of the Subject matter of the Agreement and entrust the Subject matter of the Agreement without the authorization of the Court to another an entity selected by them to perform activities that the Contractor did not perform on time or commission another entity to complete the performance of the contract to the extent that it was not performed by the Contractor, at his expense and risk (substitute performance of the Contract). The Ordering Party may, at its own discretion, deduct the costs of the substitute performance of the Contract from the Contractor's remuneration or claim them from the Contractor, with the parties agreeing that the deduction will be allowed before the actual incurring of these costs, after their estimation by the Ordering Party, including by obtaining cost estimates or offers for the performance of works. as a substitute contractor.

§ 12. Contractual penalties and other forms of compensation

1. Notwithstanding other provisions of the Agreement providing for contractual penalties, the Parties agree that the Ordering Party is entitled to require the Contractor to pay the following contractual penalties:
 - a) for delay in the performance of a given stage of the Subject matter of the Agreement - in the amount of 2% of the total gross remuneration for the performance of the Subject matter of the Agreement for each day of delay;
 - b) for withdrawal from the Agreement by the Ordering Party for reasons attributable to the Contractor - in the amount of 20% of the total gross remuneration for the performance of the Subject matter of the Agreement;
2. The Ordering Party has the right to deduct the charged contractual penalties from the Contractor's remuneration, subject to different regulations in the law.
3. The maximum amount of contractual penalties calculated on the basis of this Agreement shall not exceed 20% of the Contractor's total gross remuneration for the performance of the Subject matter of the Agreement.
4. The Ordering Party has the right to pursue claims for damages on general principles up to the amount of the incurred damage exceeding the amount of the contractual penalties reserved. In particular, the Parties agree that if, as a result of improper performance of the Agreement by the Contractor, there is a downtime of the dock, the Ordering Party will be able to demand that the Contractor repair the damage suffered by the Shipyard on this account.

§ 13. Confidentiality clause

1. The Contractor is obliged to protect information and personal data obtained during the performance of the Subject matter of the Agreement in accordance with applicable regulations.
2. The Contractor undertakes to keep confidential all data and information obtained as a result of the performance of the Agreement, also after its performance, subject to different provisions of the Agreement or the requirements of applicable law. Each time this Agreement refers to the obligation of confidentiality, the Parties understand it as taking all available measures to protect the confidentiality of the Ordering Party.
3. Information provided and obtained by the Contractor in the course of the performance of the Subject matter of the Agreement is confidential, regardless of its form and medium, and regardless of how the Contractor gained access to this information. The provision of information made available and information obtained during the performance of the Agreement may only take place for the benefit of the Ordering Party, and to third parties only with the prior written consent of the Ordering Party. The Contractor will properly secure the information and media with the information he has at his disposal against unauthorized disclosure or loss.
4. The Contractor is obliged to ensure confidentiality also by persons participating with him in the performance of the Subject matter of the Agreement on the terms identical to those the Contractor is obliged to keep. The Contractor is responsible for the disclosure of confidential information by persons cooperating with the Contractor.
5. The contractor undertakes in particular to:
 - a. use the obtained data and information only for the performance of the Agreement and in the interest of the Ordering Party,
 - b. protect the obtained data and information against disclosure to third parties,
 - c. present to the Ordering Party, at their request, a personal list of people who will have access to data and information, including official positions and contact telephone numbers
 - d. destroy the obtained data and information after their use and when they become redundant for the purposes specified in the Agreement, in a way that prevents their reproduction, together with the submission, at the request of the Ordering Party, of an appropriate statement on this subject.

§ 14. Amendments to the Agreement

1. Each amendment to the Agreement must be made in writing, otherwise null and void.
2. The Agreement may be changed on the terms and in each case specified in Art. Sec. 454 and 455 of the PPL. The Ordering Party also provides for the possibility of changing the Agreement in the circumstances set out below.
3. The Parties may amend the Agreement in the scope of the deadline of performance of the Agreement in the event of:
 - a) suspension or delay of works due to force majeure - for the time in which force majeure paused or delayed the works,
 - b) the need to perform additional works - for the time necessary to perform these works,
 - c) the occurrence of unfavorable weather conditions which objectively for technological reasons make it impossible or seriously hinder the work - for the duration of such conditions,

d) the need to stop work in connection with the decision of the Shipyard in this regard due to its legitimate interest or needs,

4. The Contractor shall attach comprehensive factual and legal justifications as well as detailed calculations of the impact of circumstances justifying the change of the deadline on this date to each application for changing the date of performance of the Agreement. The Contractor is obliged to enclose with each application for the change of the deadline the documents proving the existence of reasons for the extension beyond the Contractor's control. The Ordering Party may request additional documents from the Contractor.

§ 15. Final provisions

1. Any disputes regarding the Subject matter of the Agreement, the parties will try to resolve amicably, and this provision does not constitute an arbitration clause.

If it is not possible to settle the dispute amicably, the parties shall refer the dispute to the common court competent for the seat of the Ordering Party.

2. The Contractor may not, without the written consent of the Ordering Party, transfer to a third party any liability resulting from the Agreement. All kinds of assignments, transfers and other legal actions with similar effects are prohibited without the prior consent of the Ordering Party.

3. In matters not covered by the Agreement, the provisions of the Civil Code, the PPL Act, as well as the provisions of other relevant acts will apply.

4. The Agreement was drawn up in two identical copies, one for each party.

5. The contract contains Annexes which constitute its integral part.

ORDERING PARTY

CONTRACTOR

Annexes:

1) Contractor's offer