**Minimum requirements for tugboat services in the Port of Gdynia**

The Port of Gdynia Authority S.A. (hereinafter: "PoGA") organizes towage services for vessels calling at the Port of Gdynia for commercial purposes in accordance with the provisions of Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on financial transparency of ports (Official Journal UE L 57 of 03.03.2017, p. 1) (hereinafter: the "Regulation") and the Act of 20 December 1996 on Sea Ports and Harbours (i.e. Journal of Laws 2021, item 491) (hereinafter: the "Act") by introducing these Minimum requirements for tugboat services in the Port of Gdynia.

It shall be a condition of rendering tugboat services of vessels calling at the Port of Gdynia for commercial purposes by entrepreneurs (hereinafter referred to as "Service Providers" or separately as "Service Provider") that they comply with these Minimum requirements for tugboat services in the Port of Gdynia and conclude an appropriate contract with PoGA. These Minimum requirements for tugboat services in the Port of Gdynia do not apply to entrepreneurs in case of towing of non-commercial vessels such as: pontoon, barge, hull, etc.

Interested Service Providers shall submit their applications to PoGA, based on which PoGA will make a decision on granting them the right to provide tugboat services in the Port of Gdynia and conclude a contract.

In the applications interested Service Providers should:

1) describe how they plan to organize the provision of their services in the Port of Gdynia,

2) make a statement that they and their subcontractors (with indication of these subcontractors) meet these minimum requirements,

3) document their and their subcontractors' compliance with these minimum requirements by attaching appropriate documents.

The Service Provider who commences tugboat services of vessels calling at the Port of Gdynia for commercial purposes is liable to PoGA and/or third parties for any damage caused by their activity. PoGA shall not be liable for any damage caused by the Service Provider's activity towards subcontractors, customers ordering the services or other entities. The Service Provider is fully responsible for its subcontractors and undertakes to ensure that these subcontractors comply with the procedures that apply to them.

**General Minimum Requirements for the Service Provider:**

The Service Provider should be of good reputation and comply with the applicable law. The Service Provider should be an entrepreneur registered in the Register of Economic Activities, the Register of Entrepreneurs of the National Court Register or the relevant economic register valid in a European Union member state and be a VAT payer. The Service Provider may not have any tax arrears or arrears in the payment of social security contributions, which must be proved by submitting appropriate certificates with the above mentioned application, not older than 3 months than the date of submitting the application. After the conclusion of the contract, the Service Provider is obliged to submit the above mentioned certificates to PoGA every 12 months, however they cannot be older than 3 months from the date of their submission.

**Minimum requirements for the service to be performed:**

1) Provision of personnel with the required professional qualifications guaranteeing the performance of towing services at the level required by generally applicable laws including but not limited to: international conventions, the act of August 18, 2011 on maritime safety (i.e. Journal of Laws of 2020, item 680, of 2021, item 234.), Regulation of the Minister of Maritime Economy and Inland Navigation of 27 April 2018. on training and qualifications of crew members of sea-going vessels, also taking into account possible future amendments to these regulations.

2) Holding a shipowner insurance policy in connection with the operation of vessels with a sum assured of at least the equivalent of PLN 500,000, which will cover:

a. damage done to other vessels or fixed and floating objects,

b. damage to third party property,

c. personal damage due to death, bodily injury or health disorder,

d. environmental damage caused by pollution, if it resulted from the event or accident covered by the insurance, minimum limit 500,000 PLN.

Equity shares/franchises in the shipowner's insurance may be set at the level not higher than PLN 250,000.

1. Disposition and on-going maintenance of efficient, adequately equipped tugboats to provide tugboat services in a number ensuring ongoing service to all vessels, including the largest vessels capable of entering the Port of Gdynia taking into account current navigational conditions.
2. Operational readiness to provide tugboat services to any entity requiring such services in accordance with Ordinance No. 9 of the Director of the Maritime Office in Gdynia of 16 July 2018. Port Regulations (Journal of Laws of Pomorskie Voivodeship item 2832), also taking into account possible future amendments to this Ordinance, in a 24-hour and year-round system.
3. Providing service for each entity ordering port tugboat service, maintaining high quality of services in the shortest possible time, while complying with generally applicable safety regulations, including but not limited to international conventions, the Act of 18 August 2011 on Maritime Safety (i.e. Journal of Laws of 2020, item 680, of 2021, item 234), legal acts issued by the Director of Maritime Office in Gdynia, also taking into account any future amendments to these regulations.
4. Ensuring transparency of the offered rates by publishing current pricelist for services on the website of the Service Provider, with the reservation that any possible changes to this price list must be published at least 2 months in advance before they become effective. Fees for tugboat services should be determined by the Service Provider in a transparent, objective and non-discriminatory manner and be proportionate to the cost of the service provided.
5. The Service Provider shall immediately report any environmental and other damage caused in relation to the provision of services in accordance with the applicable regulations, including "Manual on handling failures, defects, building disasters of facilities owned by the Port of Gdynia Authority S.A. and damage to ships, occurring in the Port of Gdynia Authority S.A." as well as "The plan of combating hazards and pollution of port waters for the Port of Gdynia Authority S.A.". In case of failure to report or late reporting of damages referred to above, the Service Provider shall be liable for any damage caused by late reporting or failure to report the damage.
6. The Service Provider will immediately inform PoGA of any safety deficiencies found in the pier area, such as missing pier safety equipment or inadequate maintenance of the harbour basin.
7. Guarantee to provide services during the contracted period.
8. Disposition of 2 tugboats adapted to carrying out rescue and firefighting actions within the area managed by ZPoGA. These units should have a firefighting vessel certificate with a minimum mark FFS 1a or equivalent and have a foam agent stock in quantity:

a. for FFS 1a and 3 markings in accordance with the regulations,

b. for classifiers 1 and 2 - not less than 5 m3.

11) Willingness to provide on behalf of itself directly to other entities (in particular shipowners, reloaders, cargo owners or entities operating cargo handling terminals) fire assistance services in the Port of Gdynia with the use of a fire vessel manned by firefighters of the Port Fire Department in accordance with the Rules and Regulations for Fire Fighting Vessel Services, technological instructions for cargo handling terminals and legal acts issued by the Director of Maritime Office in Gdynia.

PoGA reserves the right to **supplement** these minimum requirements in the manner provided for in Article 4(6) of the Ordinance with additional requirements, primarily in the area of port safety and security, including those relating to the fire-fighting equipment of the tug.

**Instructions for lodging complaints and termination:**

1. The Service Provider may lodge a complaint with the appropriate Director of the Maritime Office concerning a breach by the port management entity referred to in § 2a(1) of the Act of the provisions of the Regulation in accordance with Article 43aa of the Act of 21 March 1991 on Maritime Areas of the Republic of Poland and Maritime Administration (Journal of Laws 2020, item 2135 and 2021, item 234).
2. At the request of PoGA, the Service Provider shall be obliged to demonstrate its compliance with these minimum requirements. PoGA reserves the right to terminate the contract concluded with the Service Provider without notice should the Service Provider fail to take action to bring its business into compliance with these minimum requirements within 30 days of receiving a written request from PoGA.
3. PoGA reserves the right to terminate the agreement concluded with the Service Provider without notice if the Service Provider violates the terms and obligations specified in these minimum requirements intentionally, through gross negligence or repeatedly.