**Regulations**

**of Granting The Right to Provide Tugboat Services in the Port Of Gdynia**

**by the Port of Gdynia Authority S.A.**

approved by the resolution of the Management Board of PoGA S.A. nr 129/VIII/2021 of 28 May 2021

**Art. 1**

**[Basic Information]**

1. These Regulations are based on 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 of the EU L 57 of 03.03.2017, p. 1) hereinafter referred to as "the Regulation" and the Act of 20 December 1996 on ports and harbours (Journal of Laws 2021 item 491) hereinafter referred to as "the Act."
2. The entity granting the right to provide tugboat services in the Port of Gdynia is Port of Gdynia Authority S.A. (hereinafter referred to as "PoGA") with its registered seat in Gdynia at 9 Rotterdamska Street, registered in the District Court Gdańsk-Północ in Gdańsk, VIII Economic Division of the National Court Register under KRS number: 0000082699, REGON: 191920577, NIP: 9581323524 with the share capital of PLN 112,285,300.00 paid in full.

**Art. 2**

**[Definitions]**

1. **Minimum requirements for tugboat services in the Port of Gdynia** (hereinafter referred to as the "Minimum Requirements") - the requirements established by PoGA, based on the provisions of the Regulation and the Act, which constitute the conditions for granting to Service Providers the right to provide tugboat services in the area managed by PoGA in the Port of Gdynia;
2. **Service Provider** - entrepreneur applying for being granted by PoGA the right to provide tugboat services in the Port of Gdynia;
3. **Application** - document, which submitted by the Service Provider initiates the process of verification of its compliance with the Minimum Requirements, the fulfilment of which is the condition for granting by Port of Gdynia Authority S.A. the right to provide tugboat services in Port of Gdynia.
4. **Regulations for Granting the Right to Provide Tugboat Services in the Port of Gdynia** (hereinafter referred to as the "Regulations") - containing the terms and conditions for granting the right to provide tugboat services to vessels calling at the Port of Gdynia for commercial purposes;
5. **Contract for provision of tugboat services in the Port of Gdynia** (hereinafter referred to as the "Contract") - the contract concluded by PoGA with the Service Provider who meets the Minimum Requirements, after verification of the Application submitted by the Service Provider to PoGA, based on which the Service Provider acquires the right to provide tugboat services in the area managed by PoGA, i.e. in the Port of Gdynia, and specifying the terms and conditions of providing these services by the Service Provider.

**Art. 3**

**[Applicability, publication and updating]**

The Minimum Requirements and the Regulations together with the appendices were published on 28.05.2021 on the website www.port.gdynia.pl in the tab "About the Port", sub-tab: "Supplementary aids", subpage "Regulations for granting the right to provide tugboat services in the Port of Gdynia by the Port of Gdynia Authority S.A." along with the appendix - "Minimum requirements for tugboat services in the Port of Gdynia ".

The Minimum Requirements are in force as of 01.09.2021, and the Regulations are in force as of the date of their publication.

**Art. 4**

**[The right to provide tugboat services in the Port of Gdynia]**

The right to provide tugboat services in the Port of Gdynia is acquired by the Service Provider meeting the Minimum Requirements, constituting **Appendix No. 1** to the Regulations, after the verification of the Application submitted by the Service Provider to PoGA and the conclusion of the contract for the provision of tugboat services in the Port of Gdynia between PoGA and the Service Provider.

**Art. 5
[Procedure for applying for the right to provide tugboat services in the Port of Gdynia]**

1. In order to be granted the right to provide tugboat services in the Port of Gdynia, the Service Provider shall submit to PoGA an application in writing, prepared using the template constituting

Appendix No. 2 to the Regulations, to the following address:

Zarząd Morskiego Portu Gdynia S.A.,

Dział Handlowy,

ul. Rotterdamska 9,

81-337 Gdynia.

The department authorized to contact the Service Providers is the Commercial Department,
e-mail: handlowy@port.gdynia.pl, phone number: +48 58 627 45 20.

1. The Port of Gdynia (PoGA) verifies the submitted Application based on the provisions of the Minimum Requirements. Having considered the Application, the Port of Gdynia (PoGA) issues the decision on granting or refusing to grant the right to render tugboat services in the Port of Gdynia to the Service Provider. The decision on granting the Service Provider the right to provide tugboat services in the Port of Gdynia or refusing to grant this right shall be issued within the period not exceeding four months from the receipt of the complete Application. The above mentioned decision shall be notified to the Service Provider by PoGA in writing. In case PoGa decides to grant the right to provide tugboat services in the Port of Gdynia to the Service Provider, PoGA invites the Service Provider to conclude the Contract, providing the Service Provider a model contract. The decision refusing to grant the right to render tugboat services in the Port of Gdynia to the Service Provider must contain a justification.
2. In the case of Service Providers jointly applying for the possibility of rendering tugboat services in the Port of Gdynia, the Minimum Requirements should be met by all such Service Providers.
3. All actions taken and proceedings conducted on the basis of the Regulations shall be conducted in Polish.

**Art. 6**

**[List of documents attached to the Application confirming the compliance
with Minimum Requirements]**

1. In order to confirm that the Minimum Requirements are met, PoGA requires the Service Provider to submit the following documents with the Application:
2. A statement that the Service Provider meets the Minimum Requirements;
3. A certificate/attestation of a competent tax office confirming that the Service Provider is an active VAT taxpayer and that they are not in arrears with payment of taxes, issued not earlier than 3 (say: three) months before the submission of the Application, or another document confirming that the Service Provider concluded an agreement with a competent tax authority on payment of these amounts together with any interest or fines, obtained an exemption, deferral or spread into instalments of overdue payments or suspension in full of the execution of a decision of the competent authority, as provided by law;
4. A certificate issued by a competent local organisational unit of the Social Insurance Institution (Zakład Ubezpieczeń Społecznych) or the Agricultural Social Insurance Fund (Kasa Rolniczego Ubezpieczenia Społecznego) or another document confirming that the Service Provider is not in arrears with payment of social or health insurance premiums, issued no earlier than 3 (three) months before the submission of the Application or another document confirming that the Service Provider has come to an agreement with a competent authority on the repayment of those amounts with interest or fines, if any, has obtained an exemption, deferral or division into instalments of overdue payments as provided for by law or a suspension in full of the execution of a decision by a competent authority;
5. Certificates for ship towing vessels referred to in items 3 and 10 of the Minimum Requirements;
6. Insurance documents: the insurance document (policy or certificate) referred to in item. 5 of the Minimum Requirements, corresponding in content to the conditions presented in that item, proof of premium payment or confirmation of premium payment issued by the insurance company and the General Insurance Terms and Conditions (GITC);
7. Clean criminal record certificate of the persons authorized to represent the Service Provider (including those listed in the National Court Register (members of management boards, proxies)) from the National Criminal Register or an equivalent certificate from a competent judicial or administrative authority of the country of origin of the person, issued not earlier than 3 (in words: three) submitting the Application;
8. A document confirming the rules of representation of the Service Provider, unless PoGA can obtain it through free and publicly available databases, in particular public registers within the meaning of the Act of 17 February 2005 on the computerization of the activities of entities performing public tasks (i.e. Journal of Laws of 2020, item. 346 as amended), and the Service Provider has indicated their internet addresses; if the Service Provider has indicated the availability of these documents in databases, PoGA will download them on its own; PoGA may, after downloading these documents, require the Service Provider to provide a translation of the document into Polish (if available in another language);
9. Power of attorney to represent the Service Provider, if the authorization to represent the Service Provider does not derive from the document confirming the principles of representation of the Service Provider; the power of attorney must be submitted in the form of the original or a notarized copy;
10. Power of attorney to represent the Service Provider or Service Providers applying jointly for participation in the proceedings; the representative must be authorized to represent Service Providers in the proceedings or to represent them in the proceedings and to conclude the Contract; the power of attorney must be submitted in the form of the original or a notarized copy.
11. If the Service Provider has its registered office or place of residence outside the territory of the Republic of Poland in another European Union Member State, instead of the documents referred to in article 1 points 1 – 2 they shall submit a document or documents issued in the country where the Service Provider has its registered office or place of residence, confirming respectively that they are an active VAT taxpayer, that they are not in arrears with payment of taxes, fees, social security or health insurance premiums or that they have concluded an agreement with a competent authority on payment of those amounts due together with any interest or fines, they obtained an exemption, deferment or spread into instalments of overdue payments or suspension in full of the execution of a decision of a competent authority, as provided for by the law. Along with the documents indicated above, the Service Provider shall submit their sworn translation into Polish.
12. The documents referred to in article 1 and 2 shall be submitted by the Service Provider in the original or certified to be a true copy of the original by the Service Provider or an authorized representative of the Service Provider.
13. If the Service Provider intends to provide tugboat services in the Port of Gdynia with subcontractors' participation, the Service Provider is obliged to attach to the Application a statement on subcontractors' compliance with the Minimum Requirements and to document subcontractors' compliance with the Minimum Requirements by enclosing documents referred to in article 1 points 1-8 or documents referred to in article 2 if the subcontractor has its registered office or place of residence outside the territory of the Republic of Poland in the territory of another European Union Member State.
14. In case of doubts regarding the content of the document submitted by the Service Provider, PoGA may request the competent authorities of the relevant country in which the Service Provider has its seat or residence, or the place of residence of the person to whom the document pertains, to provide the necessary information on the document.
15. PoGA may request clarification from the Service Provider as to the content of submitted documents.
16. If a Service Provider has submitted an Application that contains deficiencies, PoGA may call on the Service Provider to supplement the Application. In the course of verifying the Application, PoGA may call the Service Provider to supplement the Application if the Service Provider has submitted an incomplete Application.
17. If the deficiencies referred to in article 6 are not supplemented within the period indicated by PoGA, not shorter than 30 days, the Application shall be deemed as not submitted.

**Art. 7**

**[Description of how to prepare the Application]**

1. The content of the Application must comply with the terms of the Regulations.
2. The Application form and other statements must be signed by a person authorized to represent the Service Provider in a manner that allows the identification of that person.
3. It is recommended that all pages of the Application are numbered and connected in a way that prevents their accidental disassembly, and their total number may be specified in the Application Form.
4. The Service Provider should submit the Application in a closed envelope preventing accidental opening, marked as follows:

Sender:……………………………….

Service Provider name and address

Zarząd Morskiego Portu Gdynia S.A.

ul. Rotterdamska 9, 81-337 Gdynia, Dział Handlowy

Application for tugboat services in the Port of Gdynia

1. The Service Provider may amend or withdraw the Application. The amendment or withdrawal of the Application must be submitted according to the same rules as the submitted Application, i.e. in writing, in an envelope properly marked "AMENDMENT" or "WITHDRAWAL" and described in the manner indicated in article 4.
2. The Service Provider shall bear all costs associated with the preparation and submission of the Application. PoGA does not provide for reimbursement of costs of participation in the proceedings

**Art. 8
[Information and formalities to be completed following selection of applications in order to conclude a Contract]**

In case of Service Providers applying jointly for the provision of tugboat services in the Port of Gdynia, within the period preceding the signing of the Contract, the Service Providers shall be obliged to submit to PoGA the contract regulating the cooperation of those entities.

**Art. 9**

**[Information on legal remedies available to Service Providers in the course of proceedings]**

The Service Provider may lodge a complaint to the proper director of the maritime office regarding violation by the entity managing the port referred to in Art. 2a clause 1 of the Act of the provisions of the Regulation in accordance with article 43aa of the Act of March 21, 1991 on Maritime Areas of the Republic of Poland and Maritime Administration (Dz. U. of 2020, item 2135 and of 2021, item 234).

**Art. 10**

**[List of appendices]**

**Appendix 1** - Minimum requirements for tugboat services in the Port of Gdynia
**Appendix 2**- Template of Application Form

|  |  |
| --- | --- |
| APPENDIX 2 TO THE REGULATIONS | APPLICATION FORM for granting the right to provide tugboat services in the Port of Gdynia |

…………………………………….

(place, date)

…………………………………

(company stamp of the Service Provider)

**Data concerning the Service Provider\*:**

*\* In case of Service Providers applying jointly for the right to provide tugboat services, all entities applying jointly for the right to provide tugboat services in the Port of Gdynia (consortium members) should be entered in the Service Provider data.*

Name: ......................................................................................................................................................

...................................................................................................................................................................

Registered office/address:........................................................................................................................

…………………………………………………………………………………………………………………………………………………………….

NIP:.................................................................REGON:..............................................................................

website: ....................................................................................................................................................

phone number/fax number: .....................................................................................................................

email address: ...........................................................................................................................................

**Mailing address** for correspondence *(to be completed if correspondence is to be sent to an address other than the Service Provider's registered office) \*\*:*

*\*\* In case of Service Providers applying jointly for the right to provide tugboat services in the Port of Gdynia, the data of the Plenipotentiary (consortium leader) should be entered*.

...................................................................................................................................................................

...................................................................................................................................................................

**We hereby declare that the correspondence forwarded by Port of Gdynia Authority S.A. (PoGA) to the above address will be delivered to the Service Provider effectively.**

**PORT OF GDYNIA AUTHORITY S.A.**

**ul. Rotterdamska 9**

**81-337 Gdynia**

Application

We hereby apply for the right to provide tugboat services for vessels calling at the Port of Gdynia for commercial purposes, in accordance with the requirements stipulated in the Minimum requirements for tugboat services in the Port of Gdynia:

1. We declare that we and our subcontractors\* *(\*delete as appropriate)* meet the requirements indicated in the Minimum requirements for tugboat services in the Port of Gdynia and will continue to do so during the term of the contract for the provision of tugboat services in the Port of Gdynia.
2. We declare that the tugboat services provided by us shall be organized in a manner compliant with the following description:…………………………………………………………………………………………………..

……………………………………………………………………………………………………………………………………………………

……………………………………………………………………………………………………………………………………………………

1. We hereby declare that tugboat services in the Port of Gdynia will be provided with the use of the following tugboats, which will ensure service to all vessels, including the largest ones, capable of entering the Port of Gdynia with respect to current navigation conditions: ..................................................... ............................................................................................................................................................
2. We declare commencement of tugboat services in the Port of Gdynia as of ....................................
3. We hereby declare that
4. we have obtained all necessary information to prepare the Application from PoGA;
5. we are liable to PoGA and/or other parties for any damage caused by our activities;
6. PoGA is authorized to verify the documents certifying the professional qualifications of our personnel (referred to in item 1) of the Minimum Requirements);
7. we are also responsible for the actions of subcontractors whose services we use\*\* (\*\* delete as appropriate);
8. we are familiar with of Granting The Right to Provide Tugboat Services in the Port Of Gdynia and we do not raise any objections thereto and accept the conditions contained herein;
9. none of the persons authorized to represent the Service Provider has been convicted or sanctioned for serious crimes or serious violations of applicable European Union and Polish law;
10. no sanctions have been imposed on Service Provider for serious crimes or serious violations of applicable European Union and Polish law;
11. if PoGA decides to grant ............................................ (name of the entity) the right to provide tugboat services in the Port of Gdynia, we undertake to enter into the Contract at the place and time indicated by PoGA;
12. The application has been submitted on .......................... pages signed and numbered consecutively from ...... to .........;
13. the information included in the Application on the pages from ...... to ............. constitute a trade secret within the meaning of the Act on Combating Unfair Competition and as such may not be made available to other participants in these proceedings; \*\*\*

 *(\*\*\* - If none of the information constituting the application is a business secret, please put a dash in the dotted line where it appears)*.

1. We have fulfilled the information obligations provided for in Article 13 or Article 14 of the GDPR in relation to natural persons from whom we have directly or indirectly obtained personal data in order to apply for the right to provide tugboat services in the Port of Gdynia in the present proceedings;

6. The following documents form an integral part of the Application:

 .................................................................................

.................................................................................

 ..........................................................................................

*Signatures of the persons authorized to provide services*

 *on behalf of the Service Provider and stamp(s)*