

Umowa nr/DN/2021
The Agreement No/DN/2021

zawarta w dniu 2021 r. pomiędzy:

concluded on, 2021 by and between:

Lotnicze Pogotowie Ratunkowe, z siedzibą w Warszawie przy ul. Księżycowej 5, kod pocztowy 01-934 Warszawa; wpisanym do Krajowego Rejestru Sądowego Stowarzyszeń, Innych Organizacji Społecznych i Zawodowych, Fundacji i Samodzielnych Publicznych Zakładów Opieki Zdrowotnej pod nr 0000144355, prowadzonego przez Sąd Rejonowy dla m.st. Warszawy, XII Wydział Gospodarczy Krajowego Rejestru Sądowego, REGON 016321074, NIP 522-25-48-391,

Lotnicze Pogotowie Ratunkowe with its seat in Warsaw, No 5 Księżycowa Str., 01-934 Warsaw, inscribe for National Court Register of Associations, Other Social Organization and Professional, Foundations and Public Plants of Sanitary Protections number 0000144355, guided by Regional Court for capital city Warsaw, XII Department of Economic National Court Register, REGON 016321074, NIP 522-25-48-391,

zwanym dalej **Zamawiającym**,
reprezentowanym przez: **Roberta Gałązkowskiego – Dyrektora**,
*hereby referred to as the **Awarding Entity**,*
represented by: **Robert Gałązkowski**,

a (and)

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

zwanym dalej **Wykonawcą**,
reprezentowanym przez:
*hereinafter referred to as the **Contractor**,*
represented by:

dalej zwanych **Stronami**,
*Hereinafter referred to as the **Parties**,*

Part A

GENERAL PROVISIONS

This Agreement (hereinafter referred to as the Agreement) is concluded as a result of the public procurement procedure conducted on a tender basis pursuant to Article 132 of the Act of 11 September 2019. Public Procurement Law (Journal of Laws item 2021 r. pos. 1129), procedure No. ZP/4/VII/2021 for „**Purchase on exchange 2 (two) brand new PT6A-66B engines for replacement for the Piaggio P.180 aircraft**” and on the basis of the offer of 2021 constituting Appendix No. 1 to the Agreement (hereinafter referred to as the Offer).

§ 1

SUBJECT OF THE AGREEMENT

1. The subject of the Agreement is the supply of two (2) brand new engines, PWC PT6A-66B type, Built Spec. No. BS1223 of left engine and Built Spec. No. BS1224 of right engine, powering the Piaggio P.180 aircraft, manufactured by Pratt & Whitney Canada (called thereafter P&WC, PWC), in configurations consistent with the Contractor's offer constituting Appendix No. 1, hereinafter referred to as new engines.
2. The supplied new engines:
 - a) will have been manufactured not earlier than the year preceding the date of supply,
 - b) engines will comply with all applicable Airworthiness Directives, mandatory service bulletins, mandatory modifications and other, not mentioned, actions affecting the airworthiness of the engine, in force at the date the engine ceases production.
3. In settlement of the supply of new engines, the Awarding Entity will provide the Contractor with other engines manufactured by Pratt & Whitney Canada:
 - a) left engine of P.180 type aircraft, Built Spec. No. BS1223, S/N PCE RW0213;
 - b) right engine of P.180 type aircraft, Built Spec. No. BS1224, S/N PCE RW0214;excluded from operation by the Awarding Entity in connection with the TBO limits., hereinafter referred to as replacement engines.
4. The delivery of one new engine and the return of one engine for replacement will be made no later than December 23, 2021, the delivery of the second new engine and the return of the second engine for replacement will be made by June 30, 2022, with the possibility of delay in delivery until December 16, 2022, if the conditions described in § 12 section 3 lit. g) are met. A detailed schedule of deliveries and returns is set out in Appendix No. 2.

§ 2

PRICES AND PAYMENT TERMS

1. The Contractor sets the price of the Agreement (hereinafter referred to as the Price) for the supply of two (2) new engines, less the value of two (2) replacement engines, in accordance with the description of the subject of the Agreement specified in § 1, at PLN..... (in words: PLN), according to the submitted Offer.
2. Price includes:
 - a) The cost of cargo insurance and the cost of transporting the new engines to the Awarding Entity (Incoterms 2020, DDP with VAT payable by the Awarding Entity) including loading.
 - b) The cost of cargo insurance and the cost of transporting replacement engines from the Awarding Entity to the Contractor (Incoterms 2020, EXW) including unloading.
3. The price includes all taxes and charges payable by the Contractor.

4. The equivalent of all the Contractor's obligations defined in the Agreement is the Price. Unit prices, at which the Parties will settle accounts in particular years of supplies, are in line with to the submitted Offer.
5. The terms of payment are as follows:
 - a) The settlement of the Agreement will take place in parts after the due execution of the supplies described in Appendix 2 at the unit prices specified in section 4;
 - b) Advance payment in the amount of PLN ... (in words: ... PLN) which constitutes 15 % of the Price shall be payable after signing the Agreement on the basis of a correctly issued invoice by the Contractor, with the following content: „Zaliczka na przygotowanie dostawy 2 silników typu PT6A-66B do samolotu Lotniczego Pogotowia Ratunkowego” and forwarded to the Awarding Entity;
 - c) partial invoicing for the part of the engine production process performed and confirmed by the Awarding Entity is allowed;
 - d) delivery of the first engine will be accounted for in the first instance from the advance described above;
 - e) Once the advance payment referred to in letter b) has been settled in full, payments for supplies of subsequent new engines shall be made on the basis of correctly issued invoices by the Contractor.
6. Invoices will be forwarded to the Awarding Entity immediately, but no later than within 7 (seven) days after the Awarding Entity signs the acceptance protocols for the new engine, according to the acceptance protocol sample form attached as Appendix No. 3.
7. Payments referred to in item 5 will be made within fourteen (14) days of receipt of the invoice by the Awarding Entity.
8. Payments will be made by bank transfer to the account indicated each time by the Contractor in the invoice.
9. In the event of delayed payment, the Awarding Entity shall pay the Contractor interest calculated for each day of delay at the rate of one month's WIBOR per annum prevailing on the last day of the payment period on the unpaid amount.
10. Each party to the Agreement shall pay the costs of bank charges at its bank.
11. The date of payment shall be the date on which the Awarding Entity's bank account is debited.

§ 3

DEADLINE FOR PERFORMANCE OF THE AGREEMENT

1. The Agreement will be implemented in accordance with the schedule described in Appendix No. 2.
2. The Agreement will be completed by 16 December 2022.

§ 4

OWNERSHIP RIGHT

1. Subject to the terms and conditions of the Agreement, the Contractor shall transfer to the Awarding Entity all its rights of use and deriving benefits and ownership of the new

engines, and the Awarding Entity shall transfer to the Contractor all its rights of use and deriving benefits and ownership of the replacement engines.

2. The Contractor warrants that it has ownership of the new engines, free from all liens, claims, encumbrances and security interests of any nature. The Awarding Entity warrants that it has ownership of the replacement engines, free from all liens, claims, encumbrances and security interests of any nature.
3. All fees, claims, duties and taxes incurred by the Awarding Entity up to the date on which the engine is handed over to the Contractor for replacement shall be borne by the Awarding Entity. The Awarding Entity shall in this respect indemnify the Contractor against all claims and losses which have arisen or may arise.
4. Ownership and all rights to use and benefit from new and replacement engines shall pass to the Party on the date on which it signs the protocol, a sample form of which is attached as appropriate: Appendix No. 3 or Appendix No. 4, as applicable.

§ 5

DOCUMENTATION

1. Each new engine supplied must be accompanied by the following documentation:
 - a) Certificate of airworthiness: *Transport Canada Form One*;
 - b) P&WC PT6A-66B Engine Technical Log Book (both with: Power Section Module and Gas Generator Module) including all relevant forms,
 - c) Engine maintenance records.
2. The records referred to in item 1 must show all applicable Airworthiness Directives, mandatory service bulletins, modifications and other unlisted activities affecting the airworthiness of the new engine that have been carried out.
3. The Awarding Entity does not agree to the use of parts with PMA (Parts Manufacturer Approval) in the completion of new engines, but to the use only of parts listed in the current Illustrated Parts Catalogue (IPC), corresponding to engine type and model PT6A-66B.
4. The Awarding Entity declares that the replacement engines will be delivered on acceptance by the Contractor:
 - a) will have all maintenance records and Engine Technical Log Book (both with: Power Section Module and Gas Generator Module and Engine maintenance records) kept from the date of manufacture of each engine;
 - b) will have all engine accessories according to the current IPC parts catalogue;
 - c) will be packaged and protected in accordance with the relevant instructions;
 - d) will be in an economically repairable condition and not have been subject to ingestion, malpractice, negligence or non-compliance with manufacturer's limitations and recommendations.
5. The replacement engines have been operated within the operating limits defined in the certificate of airworthiness issued by the PT6A-66B, engine manufacturer, as evidenced by the records of all maintenance activities and records of achieved operating conditions contained in the Engine Technical Log Book (both with: Power Section Module and Gas Generator Module and Engine maintenance records) of each engine, provided with the replacement engines. The Awarding Entity also declares that the engines have not been damaged by foreign object, erosion, corrosion, sulphidation, harmful rust or any other

damage due to operating environment in excess of the serviceable limits as per the applicable P&WC manuals, or have not been involved in an incident or accident. The Awarding Entity also declares that the parts incorporated, whether new or used, parts incorporated, whether new or used, on replacement engines meet all criteria for repair acceptable to civil aviation and have been maintained in a repair facility appropriately approved by the Aviation Authority to carry out maintenance in accordance with EU Part-145 or equivalent, and that all work has been carried out in accordance with the manufacturer's approved technical documentation. The term "Aviation Authority" means the national aviation authority responsible for the Part-145 maintenance facility located in a Member State of the European Union or the European Union Aviation Safety Agency for a maintenance facility located outside the European Union. The Awarding Entity indemnifies the Contractor against claims and damages arising from the Awarding Entity's breach of the above declarations in items 4 and 5.

6. The Awarding Entity declares that the new engines will be installed as complete engines on aircraft in service which are certified by the relevant airworthiness authority and that the new engines will be operated in accordance with the limitations and recommendations of the P&WC.

§ 6

SUPPLIES AND TRANSPORT

1. Supplies of new engines will be made in batches, in accordance with the schedule attached as Appendix No. 2, after the Awarding Entity has sent the order for supply of a particular batch to the e-mail address indicated by the Contractor.
2. The Contractor shall be responsible for the transport of new engines to the Technical Service Station in Warsaw, at ul. Księżycowa 5, hereinafter referred to as the "Awarding Entity's base" and the transport of replacement engines from the Awarding Entity's base to the Contractor, in particular:
 - a) The transport of new engines will be carried out according to the rules described in Incoterms 2020, DDP including loading, to the Awarding Entity's base. The Awarding Entity will assess the condition of the cargo prior to unloading;
 - b) Transport of replacement engines from the Awarding Entity's base will be carried out according to the principles described in Incoterms 2020, EXW including unloading.
3. The Contractor shall be responsible for the transport of new engines to the Awarding Entity's base, packed in new shipping crates in accordance with the requirements of the PWC PT6A-66B engine manufacturer's technical documentation.
4. The Awarding Entity shall proceed immediately, after the arrival of the transport at the Awarding Entity's base, at its own cost, risk and responsibility, to unload the shipping crates with new engines from the means of transport provided by the Contractor. In the event of significant damage to at least one of the shipping crates or the means of transport as a result of dropping or knocking of the crate with the engine, or the occurrence of significant overloads, or penetration of the packaging, or in the event of damage or lack of documentation, the Awarding Entity shall not proceed with the unloading and shall inform the Contractor of this situation so that the Parties can agree on a further course of action. Other damage to the shipping crate, which may be the

result of normal wear and tear or insignificant defects in workmanship or slight abrasions, shall not be grounds for delaying acceptance. If the transport arrives at the Awarding Entity's base on a day other than that specified by the Contractor in the notification referred to in item 8, the Awarding Entity may proceed with the unloading on the next working day following the delivery day, and the costs resulting from the delay shall be borne by the Contractor.

5. The shipping crates in which new engines will be delivered to the Awarding Entity's base will become the property of the Awarding Entity, and used shipping crates in which replacement engines will be returned to the Contractor will become the property of the Contractor.
6. The preparation for transport of the replacement engines shall be carried out by the Awarding Entity at his own cost, risk and responsibility. The Awarding Entity will pack the replacement engines in accordance with the requirements of the PWC PT6A-66B engine manufacturer's technical documentation.
7. The loading of shipping crates with engines for replacement on the means of transport provided by the Contractor will take place in the Awarding Entity's base, at the expense, risk and responsibility of the Awarding Entity.
8. The Contractor shall notify the Awarding Entity of the planned supply date of new engines to the Awarding Entity's base, by e-mail to: ..., at least three (3) full working days in advance.
9. The date of acceptance of the new engine shall be the date on which the Awarding Entity signs the protocol of acceptance of the new engine, a sample form of which is attached as Appendix No. 3.
10. Signed protocols of acceptance of new engines will be sent by the Awarding Entity to the Contractor at the electronic address within two (2) working days from the date of supply of the engine to the Awarding Entity's base.
11. The acceptance protocol will not confirm the functional check of the new engine - the functional checks will be performed when each engine is installed in the aircraft, and any possible irregularities found at that time in relation to the quality and technical condition of the new engine will be the subject of warranty claims.
12. The handover of engines for replacement will take place at the Awarding Entity's base in accordance with the schedule set out in Appendix No. 2, which will be confirmed in the shipping documentation for each engine separately.
13. In the event that the Contractor delays the supply of any of the engines, the Contractor shall pay the Awarding Entity a contractual penalty in the amount of PLN 500.00 (in words: five hundred zlotys) for each commenced day of delay for each unsupplied engine beyond the deadline specified in the schedule constituting Appendix No. 2, extended by a 30-day grace period, taking into account item 3.
14. It is permitted to deduct contractual penalties from the Contractor's remuneration, to which the Contractor agrees.

§ 7

WARRANTY

1. The Contractor shall provide the Awarding Entity, for each new engine, with a warranty for a period of 1000 flight hours or 24 months of operation, calculated from the date of acceptance by the Awarding Entity of each new engine, whichever comes first.
2. In the event that the quality of the new engine is inadequate, the Contractor undertakes to deal promptly with any warranty claims made by the Awarding Entity.
3. During the warranty period, the conduct of the Parties will be as follows:
 - a) The Awarding Entity, through an authorised representative of the Awarding Entity, shall immediately notify the entity indicated by the Contractor, in writing, of any malfunction of the new engine, by sending:
 - i. a warranty claim relating to the engine or a part thereof, accompanied by documentation relating to the defect,
 - ii. electronic files containing the engine operating parameters recorded during the abnormal operation of the engine to which the report relates;
 - iii. engine repair order within the scope of a submitted warranty claim, if any;
 - iv. Confirmation that the engine is ready for dispatch in the event that the Contractor finds it impossible to improve the engine at the Awarding Entity's base, if applicable.
 - b) The warranty notification form has been agreed upon by the Parties and is attached as Appendix No.5.
 - c) Contact details for the entity designated by the Contractor to handle the warranty applications are as follows: e-mail:, phone: The Contractor shall have the right to change the above data and undertakes to immediately notify the Awarding Entity of the change, during the warranty period, in the manner specified in § 14 item 16. The change of the above data shall be effective upon confirmation of receipt by the Awarding Entity and does not require an Annex to the Agreement.
 - d) All correspondence will be in English.
 - e) The Contractor shall ensure that notification of a malfunction or defect can be received from the Awarding Entity twenty-four (24) hours a day, seven (7) days a week.
4. Warranty claims do not cover wear and tear of parts in normal operation. The warranty shall also be excluded in the case of repairs and maintenance carried out by maintenance stations or other entities not having the appropriate Aviation Authority approval scope or in the case of malfunctions caused by the Awarding Entity's negligence or wilful misconduct.
5. If the warranty claim is rejected, the Contractor or the entity indicated by the Contractor shall prove the reason for the exclusion of the warranty and justify the reason for the exclusion in writing, within twenty-one (21) days of the rejection of the warranty claim.
6. The date of notification of a warranty defect shall be the date on which the warranty notification is sent to the Contractor or the entity indicated by the Contractor.
7. The Contractor undertakes to rectify the defect by repairing it or replacing the defective part or repairing the engine at a P&WC authorised service workshop.
8. If the defect can be remedied by replacing the part and the replacement of this part is within the scope of approval of Part-145 of the Awarding Entity, the Contractor or an

entity indicated by the Contractor shall send the replacement part to the Awarding Entity at its expense and risk.

9. If the defect can be rectified by performing the actions indicated by P&WC that fall within the scope of approval of the Awarding Entity's Part-145 organization then the Contractor or the entity indicated by the Contractor shall send a description of the actions indicated by P&WC that are necessary to rectify the defect.
10. In the case of warranty acceptance, the removal of the defect by repair or replacement of any parts that proved to be defective, including engine damage, the Contractor or an entity indicated by the Contractor shall provide new or repaired parts free of charge, and the Awarding Entity shall send the parts built to the Contractor. Reasonable costs of transport and labour for disassembly and assembly of the parts and other maintenance activities necessary to remove the defect shall be covered under the warranty by the Contractor.
11. In the event that the warranty is accepted, the removal of the defect requiring the engine to be removed from the airframe and sent for repair to a P&WC-authorized maintenance organization indicated by the Contractor, the cost of the necessary maintenance work for engine removal, preparation for transport, reasonable transport costs from the Awarding Entity to the maintenance organization repairing the engine, the cost of carrying out repairs and tests at the maintenance organization, packing and transport from the maintenance organization to the Awarding Entity, will be covered under the warranty by the Contractor.
12. The Contractor guarantees that, upon supply of the defective engine to a P&WC-authorized service organization, as indicated by the Contractor, maintenance operations to repair the engine will be undertaken without delay, including in particular:
 - a) engine reception;
 - b) acceptance inspection of the engine upon reception;
 - c) insertion for repair;
 - d) engine repair.

The period from receiving the engine to sending the repaired engine to the Awarding Entity shall not exceed 100 days. If the time limit described in the previous sentence is exceeded, the Contractor shall pay contractual penalties in the amount of PLN 1 000.00 (one thousand zlotys), for each commenced day of delay.

13. Should it be necessary for the engine or its parts to leave the customs territory of the European Union, the Contractor undertakes to place the engine in a Part-145 compliant maintenance organization, to carry out all the formalities and to cover all the costs associated with the engine(s) and/or parts leaving the customs territory of the European Union and returning to that territory. Following repair the Contractor will notify the Awarding Entity by e-mail to LPR.engines@lpr.com.pl of the scheduled supply date of the repaired engine to the Awarding Entity's base at least one full working day in advance.
14. All warranty repairs will be carried out by or under the supervision of maintenance organizations with the appropriate Part-145 approval scope, as required under Part 145.A.75. Parts repaired or replaced will be certified and documented in accordance with the requirements of *Commission Regulation (EU) No. 1321/2014 of 26 November 2014*, as amended.

15. The Awarding Entity does not agree to the use of PMA type parts when replacing parts performed under warranty activities, but only parts listed in the approved illustrated parts catalogue (IPC). However, in the event of unavailability of original parts (e.g. as a result of force majeure), the Contractor or an entity nominated by the Contractor may conditionally use such parts if the Contractor requests the Awarding Entity's approval in writing, giving detailed reasons, and receives the Awarding Entity's written approval within 10 days.
16. All parts replaced during warranty repairs on new engines will have current documentation attached in copies to the Engine Log Book:
 - for non-standard parts, an EASA Form 1 or FAA Form 8130-3 airworthiness certificate or Transport Canada Form One;
 - for standard parts, a Certificate of Conformity issued by the part manufacturer;
 within the meaning of:
 - *Commission Regulation (EU) No. 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on approvals of organizations and personnel involved in these tasks*, as amended from time to time;
 and/or within the meaning:
 - *COUNCIL DECISION of 7 March 2011 on the conclusion of an Agreement between the United States of America and the European Community on cooperation in the regulation of civil aviation safety (2011/719/EU), Official Journal of the European Union L 291/1 of 9.11.2011;*
 - together with *TECHNICAL IMPLEMENTATION PROCEDURES FOR AIRWORTHINESS AND ENVIRONMENTAL CERTIFICATION between the Federal Aviation Administration of the United States of America and the European Aviation Safety Agency of the European Union Revision 6, dated September 22, 2017 And Amendment 1 June 22, 2018 And Amendment 2 April 02, 2019;*
 and/or within the meaning:
 - *COUNCIL DECISION of 30 March 2009 on the signature of an Agreement on civil aviation safety between the European Community and Canada (2009/469/EC), Official Journal of the European Union L 153/10 of 17.6.2009 ;*
 - together with *TECHNICAL IMPLEMENTATION PROCEDURES FOR AIRWORTHINESS AND ENVIRONMENTAL CERTIFICATION Under The Agreement On Civil Aviation Safety Between The Government Of Canada And The European Union, Revision 4, 10 December 2018.*
17. The warranty does not cover wear and tear of parts due to normal use. The warranty shall also be excluded in the event of failure due to negligence or wilful misconduct of the Awarding Entity.
18. The warranty does not apply if the new engine has been exposed or subjected to:
 - a) any repair, installation, transport, storage, maintenance, operation, use other than in accordance with the OEM guidelines,
 - b) any modification, alteration or repair carried out by maintenance stations not having the appropriate Aviation Authority approval scope or by other entities not having the appropriate Aviation Authority approval scope,

- c) any accident, damage caused by foreign objects or improper use after supply to the Awarding Entity, unless the accident or impact of foreign objects is due to improper performance of the Agreement by the Contractor or an entity designated by the Contractor or if the improper use is due to incomplete or divergent recommendations of the technical data provided to the Awarding Entity,
 - d) the action of an electric arc.
19. Costs for delivered parts or components and their transport, incurred by the Contractor due to justified rejection of the warranty claim, shall be settled by the Awarding Entity by means of a separate procedure.
20. To the extent not covered by the Agreement, the warranty provisions of „PT6A-121, -66, -66B, Turbine Engines Series Installed in Piaggio Aero Aircraft, Warranty for New Engines and Extended Engine Service Policy“, Pratt & Whitney Canada, Issue Date: December 2009, insofar as they do not conflict with the provisions of this Agreement.

§ 8

FORCE MAJEURE

1. The Parties shall not be liable for any delay in the performance of the Agreement due to force majeure. By force majeure, the parties understand circumstances that could not have been foreseen at the time of concluding the Agreement, independent of the will of the party invoking the circumstances, the occurrence of which was beyond the control of the party invoking the circumstances and the occurrence of which could not have been prevented. Force majeure shall be considered in particular: natural disasters, catastrophes, military mobilisation, embargo, closing the borders making it impossible to fully or partially perform the Agreement for reasons not attributable to the Parties. The Parties clarify that the consequences of the COVID-19 pandemic existing at the time of the conclusion of this Agreement and the governmental and official measures taken up to that time have no influence on the performance of the Agreement and do not qualify as force majeure within the meaning of this article. Governmental and official measures in connection with the COVID-19 pandemic which are taken after the conclusion of this Agreement and which prevent a Party in whole or in part from properly performing its obligations under the Agreement shall qualify as force majeure within the meaning of this Article.
2. Under the pain of losing the right to invoke a case of force majeure, the Party affected by such an event is obliged to immediately notify the other Party of the event and inform it of the expected duration of the obstacle to the performance of the Agreement, describing in detail the occurrence of the force majeure. The Parties undertake to take immediate action to determine how to resolve the situation and how to perform the provisions of the Agreement.

§ 9

SUBCONTRACTORS

1. According to the declaration in the offer, the Contractor may entrust the following part of the Agreement to a subcontractor or subcontractors:

Part of the Agreement	Name (company) of subcontractor

2. Subcontracting a part of the Agreement to a subcontractor does not change the content of the Contractor's obligations towards the Awarding Entity for the execution of that part of the Agreement.
3. Entrusting a part of the Agreement to subcontractors does not relieve the Contractor from responsibility for its proper execution.
4. Pursuant to provisions of art. 462 item 7 of the Public Procurement Law, if a change or resignation of a subcontractor concerns the entity whose resources the Contractor invoked on the basis of provisions of art. 118 item 1 of the above mentioned Law in order to prove meeting the conditions for participation in the procedure, the Contractor shall be obliged to prove to the Awarding Entity that the proposed other subcontractor or the Contractor independently meets them to a degree not lower than that of the subcontractor whose resources the Contractor invoked during the procurement procedure.

§ 10

PERFORMANCE BOND

1. The Contractor has lodged a performance bond in the amount of 2% (say: two percent) of the Price, i.e. in the amount of PLN (in words: PLN.....) in the form of
2. During the performance of the Agreement, the Contractor may change the form of security into one or several forms referred to in Article 450(1) of the Act of 11 September 2019. Public Procurement Law. The change of the form of security must be made while maintaining the continuity of the security and without reducing its amount.
3. The performance bond paid in cash shall be paid by the Contractor by bank transfer to the bank account indicated by the Awarding Entity. The day on which the performance bond is paid in cash shall be considered the day of crediting the bank account referred to in the first sentence.
4. The Awarding Entity shall return part of the performance bond referred to in item 1 within thirty (30) days from the date of proper performance of the last of the contractual obligations. The amount left as performance bond for claims under warranty for defects or warranty guarantee shall be 30% (in words: thirty percent) of the performance bond amount and shall be returned no later than on the fifteenth (15th) day after the expiry of two years of the warranty for defects period or after the expiry of the last warranty, whichever occurs later.
5. Pursuant to art. 452 sec. 9 and 1 of the Public Procurement Law, if the existing performance bond provided in a form other than cash is not extended or new performance bond is not provided at least thirty (30) days before expiry of the existing performance bond, the Awarding Entity shall change the form of performance

bond into cash security by paying out the amount from the existing performance bond. The payment referred to in the previous sentence shall be made no later than on the last day of validity of the existing performance bond.

§ 11

WITHDRAWAL AND TERMINATION

1. During the whole term of the Agreement, the Awarding Entity shall be entitled to withdraw from the Agreement in whole or in part with immediate effect, within three (3) months of becoming aware of:
 - a) the lack of sufficient progress in the supply of new engines, resulting in particular in non-supply the engines on time, after a prior written request to the Contractor to correctly perform its contractual obligations within the period indicated by the Awarding Entity, but this period shall not be shorter than fourteen (14) days from the written request to the Contractor to correctly perform its contractual obligations and shall be entirely contained within the period of thirty (30) days referred to in the first sentence;
 - b) loss by the Contractor of the rights necessary to perform the Agreement;
 - c) seizure of the Contractor's assets to the extent preventing it from performing the Agreement;
 - d) breach of the provisions of the Agreement by the Contractor, after a prior written request to the Contractor to correctly perform its contractual obligations within the period indicated by the Awarding Entity, but this period shall not be shorter than fourteen (14) days from the written request to the Contractor to correctly perform its contractual obligations and shall be fully included in the period of thirty (30) days referred to in the first sentence.

The Contractor shall immediately, i.e. within twenty-four (24) hours, notify the Awarding Entity of the occurrence of any of the events described in letters b) and c) respectively. Provisions of § 11 item 7 in the event of withdrawal from the Agreement by the Awarding Entity shall apply accordingly.

2. The Awarding Entity shall have the right to withdraw from the Agreement during its entire term within thirty (30) days from the date of becoming aware of the occurrence of a material change of circumstances resulting in the performance of the Agreement not being in the public interest, which could not have been foreseen at the time of its conclusion, or further performance of the Agreement may endanger a material interest of national security or public safety. In the case referred to in the first sentence, the Contractor shall be entitled to:
 - a) remuneration due for the performance of a part of the Agreement, whereby the completed part of the Agreement shall be understood by the Parties as supplies completed by the date on which the Contractor received a notice of withdrawal from the Agreement, and
 - b) claiming compensation on general terms for damages incurred as a result of the Awarding Entity's withdrawal from the Agreement, not covered by the remuneration due for the performance of part of the Agreement.

Provisions of § 11 item 7 in the event of withdrawal from the Agreement by the Awarding Entity shall apply accordingly.

3. The Contractor may terminate the Agreement in the event of:
 - a) non-acceptance or refusal to accept any batch or part of a batch of new engines for reasons attributable to the Awarding Entity after thirty (30) days from the scheduled supply date,
 - b) failure of the Awarding Entity to make payment after thirty (30) days from the date resulting from § 2 and the supply schedule constituting Appendix No. 2, after prior written request of the Awarding Entity to correctly perform the contractual obligations within the deadline indicated by the Contractor, which deadline shall not be shorter than fourteen (14) days from the written request of the Awarding Entity, and the termination of the Agreement may not take place before the deadline indicated in the request to correctly perform the contractual obligations.
 - c) breach of the provisions of the Agreement by the Awarding Entity , after a prior written request to the Awarding Entity to correctly perform its contractual obligations within the period indicated by the Contractor, but this period shall not be shorter than fourteen (14) days from the written request to the Awarding Entity to correctly perform its contractual obligations and shall be fully included in the period of thirty (30) days referred to in the first sentence..
4. The termination of the Agreement shall be in writing under pain of nullity and must contain a justification. In addition, the termination notice shall be sent by e-mail to the address of the Contractor or the Awarding Entity.
5. If the circumstances referred to in item 1 occur, the Awarding Entity may demand that the Contractor pay a contractual penalty of 10 % (in words: ten percent) of the remuneration for the unfulfilled part of the Agreement.
6. Should the circumstances referred to in item 3 occur, the Contractor may demand that the Awarding Entity pay a contractual penalty equal to 10 % (in words: ten percent) of the remuneration for the unfulfilled part of the Agreement.
7. Should the circumstances referred to in section 3 occur, the Contractor shall be obliged to settle the received advance payment referred to in § 2 item 5 b), within 30 days of notifying the Awarding Entity of the withdrawal.

§ 12

AMENDMENT TO THE AGREEMENT

1. The Agreement may only be amended in writing, otherwise being null and void, after an Annex to the Agreement has been signed by both Parties.
2. Pursuant to Article 455(1)(1) of the Public Procurement Law, the Parties agree that the Agreement may be amended according to the terms and conditions specified in this paragraph.
3. The Awarding Entity shall allow the changes to the Agreement:
 - a) resulting from the degree of use of budget funds by the Awarding Entity and the deadlines for their disbursement;
 - b) resulting from changes in the Contractor's data (e.g. change of registered office, address, name of the entity) related to internal reorganisation within the framework of conducted activities or change resulting from transformation of

- entities on the part of the Contractor, e.g. by universal succession;
- c) resulting from changes in the applicable legislation affecting the subject matter and terms and conditions of the Agreement and changes in the legal or factual situation of the Contractor and/or the Awarding Entity resulting in the impossibility of performing the subject matter of the Agreement;
 - d) resulting from the occurrence of extraordinary circumstances (not being "force majeure"), threatening a gross loss, which were not foreseen by the Parties when concluding the Agreement;
 - e) changes in the configuration of the engines offered, not substantially changing the subject of the Agreement, but resulting from the need to adapt them to the current requirements of the Awarding Entity;
 - f) changes in the completeness of the engines offered due to technical progress, modernization of the engine type by the manufacturer and the need to adapt the subject matter of the Agreement to the changing requirements of the Awarding Entity resulting from changes in the applicable legislation;
 - g) changes in the supply schedule, which is attached as Appendix No. 2, resulting from changes in the Awarding Entity's needs or in the event of extension of the production period for new engines, with the mutual consent of the Parties, in the event of unforeseen circumstances that prevent or significantly impede the performance of the subject of the Agreement according to the schedule specified in Annex 2;
 - h) changes concerning the collection of replacement engines from the Awarding Entity, resulting from a change in the needs of the Awarding Entity or the Contractor;
 - i) changes concerning the date of performance of the Agreement, caused by technical reasons which could not have been foreseen by the Contractor or the Awarding Entity on the day of signing the Agreement;
 - j) changes concerning the deadline for completion of the Agreement caused by reasons not attributable to the Contractor, whereby the Contractor shall be liable for the actions of subcontractors as for its own actions;
 - k) resulting from changes in applicable legislation concerning the implementation of the Agreement;
 - l) in the event of a change to the terms of the warranty;
 - m) a change in the method of accounting for the Agreement or making payments to the Contractor resulting from a change in the market situation;
 - n) changes to the way transport is organised;
 - o) resulting from changes in the completeness of the engines tendered due to technical progress, modernisation of the engine type by the manufacturer and the need to adapt the subject of the Agreement to the changing requirements of the Awarding Entity resulting from changes in the applicable legislation;
 - p) resulting from changes in the supply schedule, which is attached as Appendix No. 2, resulting from changes in the Awarding Entity's needs or in the event of extension of the production period for new engines, with the mutual consent of the Parties, in the event of unforeseen circumstances that prevent or significantly impede the performance of the subject of the Agreement according to the

schedule specified in Annex 2;

- q) a change of the unit price for a given engine in case of a change in the picking of a replacement engine caused by a defect or damage to the replacement engine caused in particular:
- by a defect or damage to the replacement engine requiring workshop repair,
 - missing parts or accessories,
 - missing engine logbook or other required documentation, or
 - for any non-compliance with the requirements specified in § 5 sec. 4) and sec. 5).

The Awarding Entity shall inform the Contractor no later than seven (7) days before the date of transport of a given batch of replacement engines about the occurrence of the situation described in letter r). The Contractor shall, not later than thirty (30) days from the date of handing over by the Awarding Entity of the non-compliant engine for replacement, provide the Awarding Entity with information on the amount to be paid resulting from the loss of value of the engine for replacement in relation to that accepted in the Contractor's offer. After signing an addendum to the Agreement specifying the loss of value of a given replacement engine, payment shall be made within fourteen (14) days from the date of receipt by the Awarding Entity of a correctly issued invoice.

- r) at the unit price in the event of a change:
- i. the goods and services tax rate,
 - ii. the amount of the minimum remuneration for work or the amount of the minimum hourly rate, determined pursuant to the provisions of the Act of 10 October 2002 on the minimum remuneration for work,
 - iii. the rules for being subject to social security or health insurance or the rate of social security or health insurance contributions,
 - iv. the rules for the collection and amount of contributions to employee capital plans referred to in the Act of 4 October 2018 on Employee Capital Plans,
 - if these changes affect the costs of Agreement performance by the Contractor;
- s) in the event of a change in the payment terms for reasons beyond the control of the Contractor or the Awarding Entity, which reasons must be properly documented;
- t) in the event of a change in the settlement method for the Agreement or payment to the Contractor resulting from the market situation;
- u) in the event of the need to award additional orders, the implementation of which causes the need to extend the terms provided for the implementation of this contract, the Awarding Entity allows the possibility of changing the provisions of the concluded contract in the scope of extending the terms provided for the implementation of the contract, for the period necessary to perform additional orders;
4. Any changes to the content of the Agreement shall be in the form of a written Annex, otherwise being null and void.

§ 13

ENTRY INTO FORCE OF THE AGREEMENT

The Agreement shall enter into force on the date of its signature by the Parties.

§ 14

FINAL PROVISIONS

1. The Contractor and the Awarding Entity hereby declare and warrant to each other that each of them has the capacity and the right to conclude the Agreement.
2. Each Party shall comply with all applicable export, import and customs laws, regulations, orders or directives issued by competent authorities, including those of the European Union, the Federal Republic of Germany, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Canada, governing the transfer, export, import of goods, services or related technical data subject to this Agreement. The Parties agree to take the necessary steps to to the receipt of any necessary governmental license, permit or similar authorization or approval under all applicable laws where necessary to implement this Agreement.
3. The rights, privileges and obligations of the Parties to the Agreement may not be assigned or transferred to a third party without the prior consent of the other Party. However, the Contractor shall not refuse to give its consent to the transfer of the rights, privileges and obligations contained herein to the Awarding Entity's legal successor.
4. The Contractor declares that he is aware of the fact that the content of this Agreement, and in particular the subject of the Agreement and the amount of remuneration, constitute public information within the meaning of Article 1, item 1 of the Act of 06.09.2001 on access to public information (Journal of Laws, item 2176), which is subject to disclosure under the said Act, subject to item 4.
5. When processing personal data, the Contractor shall be obliged to apply the provisions of the Personal Data Protection Act of 10 May 2018 (i.e. Journal of Laws, item 1781) and the Regulation of the European Parliament and of the Council (EU) 2016/679 of 27 April 2016 on the protection of natural persons in relation to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (GDPR)).
6. The Contractor agrees to make available under the Personal Data Protection Act of 10 May 2018 and the Regulation of the European Parliament and of the Council (EU) 2016/679 of 27 April 2016 on the protection of natural persons in relation to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (GDPR), contained in this Agreement, personal data concerning him in the scope including his name and surname and, in the case of business activity, also in the scope of his company.
7. The Agreement shall be governed by and construed in accordance with the laws of Poland, and any provisions invoking the application of the laws of another jurisdiction are hereby expressly excluded. In the event of a dispute relating to the performance of the Agreement, the Parties will use their best endeavours to resolve the dispute amicably.
8. The competent court for disputes arising from the execution of this Agreement shall be the court with jurisdiction over the Awarding Entity's registered office.
9. The Agreement shall be binding on the Parties and their successors in title.

10. No waiver of any of the rights set forth in the Agreement shall be effective unless made in writing. A waiver of one of the rights shall not be deemed a waiver of any other right contained in the Agreement.
11. All correspondence between the Parties shall be made in writing by e-mail.
12. Contact details of the Parties:
- a) Contact details of the Parties:
e-mail address: ... , telephone number + 48 22 22 99 931.
 - b) Contractor:
e-mail address: ... , telephone number: ... ; ... , telephone number
13. The persons responsible for the performance of the Agreement are:
- 1. on the part of the Awarding Entity:
 - telephone number:
 - telephone number:
 - 2. on the part of the Contractor:
 - telephone number:
 - telephone number:
14. The Contractor shall be obliged to provide written information, at the time of signing the Agreement, whether the performance of the Agreement involves the supply of goods of strategic importance, referred to in art. 3 item 3 of the Act of 29 November 2000 on trade with foreign countries in goods, technologies and services of strategic importance for the state's security, and the maintenance of international peace and security (Journal of Laws item 509). 3 of the Act of 29 November 2000 *on foreign trade in goods, technologies and services of strategic significance for national security, and the maintenance of international peace and security* (Journal of Laws item 509), hereinafter referred to as the Act, by submitting a list of such goods. The submitted information constitutes Appendix No.6.
15. The information referred to in item 14 must include, in addition to the list of goods, the commodity control number determined in accordance with:
- a) Ordinance of the Minister of Entrepreneurship and Technology of 24 June 2019 on the list of armament for which a permit is required (Dz. U. pos. 1360) - for armament;
 - b) *Council Regulation (EC) No. 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual use items* (OJ EU 2009 L134/1 as amended) - for dual use items.
16. The Contractor shall immediately inform the Awarding Entity if any changes occur in relation to the information provided pursuant to items 12 and 13 and 14 and 15.
17. In the event that any provision of the Agreement ceases to be in force for any reason, the remainder of the Agreement shall remain valid and in full force and effect, provided that the remaining provisions in force do not prejudice any material interest of a Party to the Agreement. If the interest of a Party to the Agreement is affected by the severance of a provision of the Agreement, the Parties will attempt to mutually agree on substitute provisions.
18. The maximum amount of all accrued contractual penalties shall not exceed 3.5% (in words: three and a half percent) of the Price.

19. The Awarding Entity shall be entitled to claim damages on general terms in excess of the contractual penalties charged to the Contractor. To the extent permitted by applicable law, in no event shall the Contractor's liability exceed the amount of PLN [to be agreed between the Contractor and the Awarding Entity], whether based on Agreement, strict liability, fault, tort, negligence or any other asserted right. In no event shall a party be responsible for any special, incidental or consequential damages arising out of or in connection with this Agreement. Special, incidental or consequential damages include, without limitation, economic loss, loss of or damage to any property or person, or any other exemplary, punitive or similar damages.
20. The Agreement may be made available to third parties under the terms of the Act of 11 September 2019. - Public Procurement Law, the Act of 6 September 2001 on access to public information and under the terms of the Agreement.
21. The Agreement has been drawn up in four (4) identical copies, three (3) copies for the Awarding Entity, one (1) copy for the Contractor.
22. The Agreement has been drawn up in Polish and English versions, but in case of doubt the Polish version shall prevail.

APPENDICES TO THE AGREEMENT, WHICH FORM AN INTEGRAL PART THEREOF

Appendix No. 1 - Contractor's Offer.

Appendix No. 2 - Schedule for supply of new engines and return of replacement engines.

Appendix No. 3 – Sample form of Acceptance Protocol for a new engine.

Appendix No. 4 – Sample form of Acceptance Protocol for replacement engines.

Appendix No. 5 – Warranty Claim Form.

Appendix No. 6 – Contractor's declaration on supply of strategic goods.

.....
Zamawiający
Awarding Entity

.....
Wykonawca
Contractor

Appendix No. 2 to Agreement No. ... of ... 2021

Schedule for supply of new engines by Contractor and return of replacement engines by the Awarding Entity.

	Supply of new engines	Return of used engines
1 st engine	up to 17 December 2021	<i>(to be agreed with the Contractor)</i>
2 nd engine	up to 30 June 2022 r., but not later than 16 December 2022	<i>(to be agreed with the Contractor)</i>

Appendix No. 3 to Agreement No. ... of ... 2021u

PROTOKÓŁ ODBIORU / ODBIORU CZĘŚCIOWEGO)¹ SILNIKA NOWEGO SAMPLE FORM OF ACCEPTANCE/PARTIAL ACCEPTANCE PROTOCOL FOR A NEW ENGINE

Zgodnie z Umową nr („Umowa”) z dnia zawartą między Lotniczym Pogotowiem Ratunkowym („Zamawiający”) a („Wykonawca”), reprezentujący Zamawiającego niniejszym zaświadcza, że:

Pursuant to the Contract („Contract”) of Concluded between Lotnicze Pogotowie Ratunkowe (“The Awarding Entity”) and (“the Contractor”), the Awarding Entity’s representative hereby certifies that:

Zamawiający dokonał odbioru / odbioru częściowego)¹ silnika nowego, polegającego na sprawdzeniu kompletności i prawidłowości dokumentacji, silnika i opakowania silnika:

Awarding Entity has carried out a partial acceptance / acceptance) 1 new engine, consisting in checking the completion and correctness of documentation, engine and engine packaging:

typ i model silnika (*Engine type and model*): **PT6A-66B, BS 1223 / BS1224)¹**

numer seryjny (*Engine Serial Number (S/N)*):

Zamawiający stwierdził, że)¹:

The contracting authority stated that:

- Na podstawie przedstawionej dokumentacji produkcyjnej oraz okazanego stanu zaawansowania produkcji silnika s/n, stan zaawansowania produkcji wynosi%
- *Based on the production documentation presented and the production progress of the s/n ... engine shown, the production advancement stage is %*
lub / or
- Stan opakowania, zamocowanie na podstawie transportowej, ogólny stan silnika i wskaźnik wilgotności oraz kompletność dokumentacja zostały sprawdzone i są/ nie są zgodne z Umową.
- *The condition of the packaging, fastening on the transport base, general condition of the engine and humidity indicator as well as completeness of the documentation have been checked and do / do not comply with the Agreement.*

Uwagi (Remarks):

Zamawiający (The Awarding Entity)

Reprezentowany przez (*Represented by*):

Stanowisko (*Position*):

Podpis (*Signature*): _____

Data (*Date*):

)¹ Niepotrzebne skreślić

Appendix No. 4 to Agreement No. ... of ... 2021

PROTOKÓŁ PRZEKAZANIA SILNIKA NA WYMIANĘ
Sample form of Acceptance Protocol for replacement engines

TREŚĆ ZAŁĄCZNIKA DO UZGODNIENIA Z WYKONAWCĄ NA ETAPIE PODPISYWANIA
UMOWY

*CONTENT OF THE APPENDIX TO BE AGREED WITH THE CONTRACTOR AT AGREEMENT
SIGNATURE STAGE*

FORMULARZ ZGŁOSZENIA GWARANCYJNEGO
WARRANTY CLAIM FORM

TREŚĆ ZAŁĄCZNIKA DO UZGODNIENIA Z WYKONAWCĄ NA ETAPIE PODPISYWANIA
UMOWY

*CONTENT OF THE APPENDIX TO BE AGREED WITH THE CONTRACTOR AT AGREEMENT
SIGNATURE STAGE*

**OŚWIADCZENIE WYKONAWCY O DOSTAWIE TOWARÓW O ZNACZENIU
STRATEGICZNYM**

CONTRACTOR'S DECLARATION ON SUPPLY OF STRATEGIC GOODS

WYKONAWCA TREŚĆ ZAŁĄCZNIKA PRZEDSTAWI PRZED PODPISYWANIEM UMOWY

*THE CONTRACTOR SHALL SUBMIT THE CONTENT OF THE APPENDIX BEFORE THE
SIGNATURE OF THE AGREEMENT*