

Sopot, 22th of February 2011

Name (company name) and address of The Contracting Authority:

THE INSTITUTE OF OCEANOLOGY
OF THE POLISH ACADEMY OF SCIENCES
IN Sopot

Powstańców Warszawy 55 Street

81-712 Sopot

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Number of contract award procedure: IO/ZP/3/2011

referring to: the public contract award procedure for delivery of software allowing to: prepare 2D and 3D numerical simulations of ecological models of ecosystems and spectral wind - wave models together with the numerical tool for the assessment of sand transport rates, related initial bed level changes and morphological evolution

THE SPECIFICATION OF ESSENTIAL TERMS OF THE CONTRACT

PROCEDURE FOR AWARDING THE CONTRACT: OPEN TENDERING PROCEDURE

valuable under amounts which require the dispatch of a notice to the Publications Office of the European Union, taking into consideration the applicable provisions of the Community law, according to the regulation of Prime Minister (Journal of Laws of the 23rd December 2009 (Dz. U. of 2009, No. 224, item 1795).

conducted on the basis on The Act of 29 January 2004 – Public Procurement Law (consolidated version: Dz.U. of 2010, No. 113, item 759, as amended)

for delivery of:

of software allowing to: prepare 2D and 3D numerical simulations of ecological models of ecosystems and spectral wind - wave models together with the numerical tool for the assessment of sand transport rates, related initial bed level changes and morphological evolution

CPV: 48460000-0

Analytical, scientific, mathematical and forecasting computer software

**for THE INSTITUTE OF OCEANOLOGY OF THE POLISH
ACADEMY OF SCIENCES IN Sopot**

I. DESCRIPTION OF THE OBJECT OF THE CONTRACT

1. The object of the Contract is constituted by the delivery of software allowing to: prepare 2D and 3D numerical simulations of environmental models of marine ecosystems and spectral wind - wave models together with the numerical tools for the assessment of sand transport rates, related initial bathymetry bed level changes (CPV code: 48460000-0 *Analytical, scientific, mathematical and forecasting computer software*) fulfilling the technical requirements defined in this Specification of Essential Terms of the Contract with the grant of license for the software and personnel training for the Contracting Authority Institute of Oceanology Polish Academy of Sciences, Powstańców Warszawy 55 Street, 81-712 Sopot.
2. Detailed functional and technical requirements of the software are as follows:

Lp.	Specification of required parameters and properties of the software
1	All programs and tools shall be fully operated through a Windows integrated Graphical User Interface
2	All programs and tools shall support Windows XP/Vista/Windows 7 (used by the Contracting Authority)
3	The software shall allow to simulate physical, chemical or biological processes in marine coastal or deep water areas and present them in the form of results of mathematical calculations following schemes based on the newest achievements of oceanology and maritime engineering and in the form of graphical 2D and 3D presentations in the form of drawings, profiles and tables
4	All applications (programs and tools) included in the software shall be connected by the interfaces allowing the user to easily access and use particular modules and jointly cooperate between them. It shall allow the user to easily formulate and modify initial and border conditions and simulate the biological, chemical and settling processes. The user shall have the option of edit, view, modify and create new conditions of the ecological processes simulation, including the formulations of the processes, also to introduce new constants and variables to simulations
5	Shall be capable of simulating the spatial distributions of state variable concentrations in a 2D or 3D domains such as: distribution of sea flows, advective transport of passive substances, biological, physical and chemical transformation processes and settling processes in coastal areas, also sedimentation and sand transport
6	Delivered as parts of software programs, modules and numerical tools shall save their output in files, that can be easily shared with others using build - in interfaces to other delivered with the software programs, modules and tools
7	The software shall include open and general tools allowing to adapt models of water ecosystems to evaluate water quality, eutrophication processes, heavy metals concentration, state of the system's ecology
8	The software shall include applications - simulation tools to model 2D and 3D distributions of free surface flows and streams and associated sedimentation and water quality processes that can be used for:
a.	assessment of hydrographic conditions for design, construction and operation of hydro engineering structures in stratified waters,
b.	coastal and oceanographic circulation studies, including fine sedimentation dynamics,
c.	optimization of sewage coastal outfalls,
d.	environmental impact assessment of marine infrastructures,
e.	ecological modelling including optimization of aquaculture systems,
f.	lake hydrodynamics and ecology,
g.	coastal and marine restoration projects,
h.	analysis and optimization of cooling water recirculation and desalination processes

3. Additional software delivery conditions:

- 3.1. The delivered software shall hold commercial license given for unlimited period of time allowing to use all delivered programs and tools and models prepared on the basis of them in the commercial purposes,

- 3.2. The given license has to be networked allowing simultaneously to access and use all delivered programs and its particular modules or tools by at least 3 users,
- 3.3. The Contractor shall secure within the given price for the delivered software to render additional services including delivery of software updates and upgrades, technical support services and telephone and e-mail help desk services within the range of exploitation and utilization of the software within the period of 2 years from the date of issue of the installation and start up of the software at the seat of the Contracting Authority,
- 3.4. The Contractor undertakes to provide and render within the given price for the delivered software at least two-day staff training on the operation and utilization of the software at the seat of Contracting Authority in Polish or English language,
- 3.5. The Contractor shall also within the offer price for the delivered software provide at least 10 student and academic licenses allowing to use all delivered programs and tools and models prepared on the basis of them in the non-commercial purposes. Each student and academic license shall be given for the period at least 6 months from the date of the license issue, which may be issued within the period of 3 years from the date on which the contract is signed,
- 3.6. The delivered software being the subject of the current Public Procurement and contract shall be new, free from any defects and third party rights and shall fulfill all operational and technical requirements without any additional purchases and investments.
- 3.7. The delivered software shall work on the computers of following minimal technical requirements: Processor: Pentium, AMD or compatible of frequency 2 GHz or higher , memory at least 1 GB for XP/2 GB for Vista/Windows 7, hard drive capacity at least 20 GB, graphics resolution and monitor working in resolution at least 1024 x 768, graphic card with own video memory at least 32 MB, CD/DVD Rom Drive.
4. The Contractor shall hold copyright and intellectual property rights regarding the delivered software within the range of its use by the Contracting Authority or shall hold appropriate licenses allowing to use the delivered software within the range of its use by the Contracting Authority.
5. The Contracting Authority demands at least 2 years warranty on the whole of the delivered software, counting from the date of the delivery, installation, activation and start up of the whole of the software at the seat of the Contracting Authority. Expected time of service response - not longer than 48 hours during the working days, counting from the defect notification.
6. The subject of the Public Procurement includes also:
 - 6.1. Delivery of the media copies of the software to the seat of the Contracting Authority.
 - 6.2. Assist in installation of the software and its activation and start up at the seat of the Contracting Authority.
 - 6.3. Staff training on the operation and utilization of the software at the seat of the Contracting Authority.
7. The Contracting Authority shall not allow any supplementary contracts.
8. The Contracting Authority shall not allow for submitting partial bids. The Contractor offer shall be complete and has to cover all elements specified above. In case the offer will not satisfy at least one requirement of those included in the current specification the offer will be excluded as not fulfilling the Specification requirements.
9. The Contractor shall prepare its offer accordingly to the Specification requirements. The proposals of alternative resolutions will not be considered. The Contracting Authority shall not allow for submitting any alternative tender offers.
10. The Contracting Authority shall not allow the execution of any framework contract.
11. The Contracting Authority shall not provide for any electronic auction.
12. The procedure shall be carried out as an open tender, pursuant to the regulations under the Act of 29 January 2004 "Public Procurement Law", hereinafter referred to as the "PPL" (consolidated text: Polish Journal of Laws of 2010 No. 113 item 759, and as amended), valuable over the sum of 14.000 euro and under amounts which require the dispatch of a notice to the Publications Office of the European Union, taking into consideration the applicable provisions of the Community law, according to the regulation of Prime Minister (Journal of Laws of the 23rd of December 2009 (Dz. U. of 2009, No. 224, item 1795).

II. Lead time of the Public Procurement and Contract.

The Public Procurement and Contract shall be performed within **5 weeks, counting from the date of Contract award**, i.e. from the date on which the contract is signed. The subject of the contract shall be executed in two following stages:

Stage I - delivery, installation and initialization of the software at the seat of the Contracting Authority (IOPAN) in Sopot, no later than 10 days after concluding the contract,

Stage II - The Contractor undertakes to provide at least two-day staff training of The Contracting Authority personnel regarding the operation of the software in Polish or English language at the seat of the Contracting Authority in Sopot within **5 weeks** from the date on which the contract is signed.

III. Terms and conditions of participation in the Tender Procedure and a description of the method of assessment of compliance therewith.

1. The Contracting Authority indicates that eligible to compete for a contract shall be contractor who meets the following conditions:
 - a) holding authorizations to perform specific activities or actions, if such authorizations are required by the law;
 - b) having knowledge and experience in the form of properly performed and accomplished deliveries, or - in the case of periodic or continuous deliveries - also still lasting deliveries, at least two deliveries of *scientific software allowing to prepare numerical simulations of environmental models of ecosystems* during the period of last three years or in the case of shorter period of business operation - in this period,
 - c) having appropriate technical potential and personnel capable of performing a contract,
 - d) having economic and financial standing – adequate to execute a contract.
2. The Contracting Authority establishes the following method to be used for the evaluation of the fulfillment of conditions for participation in the procedure:
 - 2.1. regarding the condition indicated in point no III 1.a.) - the fulfillment of condition will be evaluated on the basis of submitted by the Contractor declaration specified in point IV.1.1. of Specification. If the Contractor submits declaration that Contractor meets condition indicated in point no III 1.a.), i.e. holding authorizations to perform specific activities or actions, if such authorizations are required by the law; The Contracting Authority will state the condition is fulfilled.
 - 2.2. regarding the condition indicated in w point no III 1.b.) - the fulfillment of condition will be evaluated on the basis of submitted by the Contractor documents and declarations specified in point IV.1.1. and point IV.1.2. If the Contractor submits declaration that Contractor meets condition indicated in point no III 1.b.) and list of performed and accomplished deliveries or - in case of periodic or continuous deliveries - also still lasting deliveries, containing at least two deliveries of *scientific software allowing to prepare numerical simulations of environmental models of ecosystems*, during the period of last three years or in the case of shorter period of business operation - in this period, with indication of the value, subject, performance dates and recipients of these deliveries, as defined in Appendix No 5. - The Contracting Authority will state the condition is fulfilled. Documents confirming that such deliveries had been properly performed should be attached to the list. If the Contractor doesn't have at his disposal adequate resources, the Contractor shall prove The Contracting Authority, that he will have at his disposal resources that are necessary for the Contract performance, in particular by providing for this purpose an obligation of these entities in writing to give the Contractor up necessary resources for the period of their use during contract performance.
 - 2.3. regarding the condition indicated in point no III.1.c.) - the fulfillment of condition will be evaluated on the basis of submitted by the Contractor declaration specified in point IV.1.1. If the Contractor submits declaration that Contractor meets condition indicated in point no III.1.c.), i.e. has appropriate technical potential and personnel capable of performing a contract, The Contracting Authority will state the condition is fulfilled.
 - 2.4. regarding the condition indicated in point no III. 1.d.) - the fulfillment of condition will be evaluated on the basis of submitted by the Contractor declaration specified in point IV.1.1. If the Contractor submits declaration that Contractor meets condition indicated in point no

III.1.d.), i.e. has economic and financial standing – adequate to execute a contract, The Contracting Authority will state the condition is fulfilled.

3. The Contractor shall be allowed to rely on the knowledge, experience and persons capable of performing the contract or financial capabilities of other entities, irrespective of the legal nature of relations between them. In such case, the Contractor shall be obliged to provide evidence to The Contracting Authority indicating that he has at his disposal resources that are necessary for the Contract performance, in particular by providing for this purpose an obligation of these entities in writing to give the Contractor up necessary resources for the period of their use during contract performance.
4. The assessment of condition fulfillment specified in point III.1 will be carried out in accordance with the formula: "fulfilled or not fulfilled", on the basis of submitted documents and declarations.

IV. Documents and declarations required from Contractors as evidence that they have satisfied the participation requirements for the procurement procedure specified in the point no III.

1. The Contractor should submit the following documents to confirm compliance with conditions specified in the point no III:
 - 1.1. declaration of the Contractor that Contractor meets conditions specified in the point no III – according to the specimen form being Appendix no. 3 to the Specification,
 - 1.2. declaration of the Contractor – list of properly performed and accomplished deliveries or - in case of periodic or continuous deliveries - also still lasting deliveries, containing at least two deliveries of *scientific software allowing to prepare numerical simulations of environmental models of ecosystems*, during the period of last three years or in the case of shorter period of business operation - in this period, with indication of the value, subject, performance dates and recipients of these deliveries, as defined in Appendix No 5. Documents confirming that such deliveries had been properly performed should be attached to the list.
2. The Contracting Authority may call on The Contractors who did not submit statements, declarations or documents, or the Contractors who did not submit plenipotentiaries, or the contractors who submitted declarations or documents, that contain errors or those who submitted defective plenipotentiaries to provide the correct documents or statements in a defined time limit unless, despite the supplement, the offer (tender) of the Contractor is rejected or the cancellation of the procedure is necessary. The declarations or documents, submitted on request of the Contracting Authority, shall confirm that the contractor satisfies the conditions for participation in the public tender procedure and shall confirm the fulfillment by supplies, services or works of conditions specified by the awarding entity, not later than on the day when the time limit for submission of the requests to participate in the public tender procedure expires.

V. Exclusion of the Contractor and a description of the method of assessment by The Contracting Authority of compliance of the lack of the grounds of exclusion.

1. According to article no. 24 item 1 of Public Procurement Law Act dated the 29th January 2004 The Contracting Authority will exclude from contract award procedures:
 - a) contractors who caused damage by failing to perform a contract or by performing a contract improperly, if such damage was stated by a legally valid decision of the court in the past 3 years prior to the launch of the procedure;
 - b) contractors against whom the winding up procedure has been started or whose bankruptcy has been declared, except for contractors who, upon bankruptcy declaration, entered into a composition approved by a valid court decision, unless such a composition provides for payment to the creditors by a liquidation of the assets of the bankrupt entity;
 - c) contractors who are in arrears with payment of taxes, charges or social insurance or health insurance premiums, with the exception of cases where they have been legally exempted, their outstanding payments have been deferred or divided into instalments or the execution of a decision of a competent authority has been stopped in its entirety;
 - d) natural persons, who have been validly sentenced for an offence committed in connection with a contract award procedure, offence against the rights of people performing paid work, against the natural environment, for bribery, for an offence against economic turnover or for any other

- offence committed with the aim of gaining financial profits, as well as for treasury offence or an offence of participation in organized crime group or in a union aimed at committing an offence or treasury offence;
- e) registered partnership whose partner has been validly sentenced for an offence committed in connection with a contract award procedure, offence against the rights of people performing paid work, against the natural environment, for bribery, for an offence against economic turnover or for any other offence committed with the aim of gaining financial profits, as well as for treasury offence or an offence of participation in organized crime group or in a union aimed at committing an offence or treasury offence;
 - f) professional partnership whose partner or member of the management board has been validly sentenced for an offence committed in connection with a contract award procedure, offence against the rights of people performing paid work, against the natural environment, for bribery, for an offence against economic turnover or for any other offence committed with the aim of gaining financial profits, as well as for treasury offence or an offence of participation in organized crime group or in a union aimed at committing an offence or treasury offence;
 - g) limited partnership and limited joint-stock partnership whose general partner has been validly sentenced for an offence committed in connection with a contract award procedure, offence against the rights of people performing paid work, against the natural environment, for bribery, for an offence against economic turnover or for any other offence committed with the aim of gaining financial profits, as well as for treasury offence or an offence of participation in organized crime group or in a union aimed at committing an offence or treasury offence;
 - h) legal persons whose active member of the managing body has been validly sentenced for an offence committed in connection with a contract award procedure, offence against the rights of people performing paid work, against the natural environment, for bribery, for an offence against economic turnover or for any other offence committed with the aim of gaining financial profits, as well as for treasury offence or an offence of participation in organized crime group or in a union aimed at committing an offence or treasury offence;
 - i) collective entities, with respect to whom a court has issued a decision prohibiting them from competing for contracts under the provisions concerning the liability of collective entities for tort under the liability to penalty.
2. The Contracting Authority will evaluate lack of grounds for exclusion the Contractor due to non-fulfillment of conditions referred in point V on the basis of declaration and documents specified in the point VI according the following rules:
 - 2.1. for grounds for exclusion indicated in point no V a) and from c) to i) on the basis of declaration of the Contractor that there are no grounds for exclusion listed in point VI.1.1;
 - 2.2. for grounds for exclusion indicated in point no V b) on the basis of declaration of the Contractor that there are no grounds for exclusion listed in point VI.1.1. and documents listed in point VI.1.2.
 3. The assessment of condition for lack of grounds for exclusion will be carried out in accordance with the formula: "excluded or not excluded".
 4. The Contracting Authority will immediately inform the excluded Contractor, providing him factual and legal grounds.
 5. The tender offer submitted by the Contractor excluded from the current public procurement will be considered as rejected.

VI. Documents and declarations required from Contractors as evidence that they have satisfied the requirements of the lack of the grounds of exclusion from the award procedure specified in the point no V.

1. The Contractor should submit the following declaration and documents to confirm the lack of grounds for exclusion from contract award procedures:
 - 1.1. declaration of the Contractor that there are no grounds for exclusion according to Article no. 24 item 1 of Public Procurement Law Act dated the 29th January 2004 – Appendix no 4,
 - 1.2. current extract from the relevant register if separate legal provisions require entry in the register in order to prove absence of grounds for exclusion on the basis on Article 24 item 1 point 2 of Public Procurement Law Act, issued no earlier than 6 months before the lapse of the

deadline for submitting tender offers and in the case of natural persons, a declaration specified within the range of Article 24 item 1 point 2 of Public Procurement Law Act.

2. If the Contractor's registered office or place of residence is located outside of Poland, instead of the documents specified in point no 1.2. the Contractor submits a document or documents issued in the country in which his registered office or place of residence is located, confirming that no bankruptcy proceedings against him have been commenced and that he has not declared bankruptcy.
3. If the country of origin of the person or the country in which the Contractor has its registered office or place of residence does not issue the document specified in item 2, it shall be replaced by a document containing a statement made before a notary public, competent court, administrative body or professional or commercial self-governing body of the country of origin or the country in which the Contractor has its registered office or place of residence is located.
4. The document specified above should be issued not earlier than 6 months before the lapse of the deadline of tender offers submission.
5. The Contracting Authority may call on The Contractors who did not submit statements, declarations or documents, or the Contractors who did not submit plenipotentiaries, or the contractors who submitted declarations or documents, that contain errors or those who submitted defective plenipotentiaries to provide the correct documents or statements in a defined time limit unless, despite the supplement, the offer (tender) of the Contractor is rejected or the cancellation of the procedure is necessary. The declarations or documents, submitted on request of the Contracting Authority, shall confirm that the contractor satisfies the conditions for participation in the public tender procedure and shall confirm the fulfillment by supplies, services or works of conditions specified by the awarding entity, not later than on the day when the time limit for submission of the requests to participate in the public tender procedure expires.

VII. Requirements regarding the offer - list of demanded documents, statements, declarations and other appendices required from Contractors.

1. The offer shall include:
 - 1.1. Filled offer (tender) form - the tender statement - prepared accordingly to the specimen form being the Appendix No 1 to the current Specification,
 - 1.2. Filled Price and tender offer form for the software offered by the Contractor - prepared accordingly to the specimen form being the Appendix No 2 to the current Specification,
 - 1.3. Declarations and statements mentioned in point No IV and VI of the current Specification,
 - 1.4. A detailed description of the object of current public procurement - offered software including all the technical and functional parameters in English or Polish languages. On the basis of tender offer and the technical and functional specifications The Contracting Authority will evaluate if the tender offer satisfies minimal parameters and technical and functional requirements, referring to the entire object of public procurement specified in the current Specification.
 - 1.5. The power of attorney if the Contractor is not providing his tender offer personally or the person who is acting in his name is not authorized to represent the Contractor accordingly to the relevant abstract from the register or other documents specified in point no VI.1.2. The power of attorney shall be submitted in the original, copy or extract certified or issued by the public notary together with the document (submitted in the original or copy certified by the mandatory) presenting the right of the mandatory to act in the name of the Contractor in case the mandatory is not authorized to represent the Contractor accordingly to the documents specified in point no VI.1.2. (the relevant abstract from the register). The power of attorney document shall clearly present the range of activities of the plenipotentiary.
 - 1.6. The power of attorney in case of several Contractors jointly applying for the award of the contract. The power of attorney shall be submitted in the original, copy or extract certified or issued by the public notary. The power of attorney document shall clearly present the range of activities of the plenipotentiary.

VIII. Requirements regarding the offer - description of the tender offer preparation.

1. The tender offer shall be written in Polish or English language, typed on a computer, typewritten or written by hand in a legible manner (accordingly to the specimen forms attached to the current Specification).
2. The Contracting Authority states that it is not allowed to lodge the tender offer electronically.
3. In case there is specimen form for the statements or declaration of the Contractor - appendix to the current Specification - they shall be prepared according to the content of such specimen.
4. All shall the specimen forms - appendices to the current Specification shall be drawn up by the Contractor as stipulated by the provisions set forth in this Specification without any changes or amendments, in case some of the date will not refer to the Contractor it shall be written " not refers".
5. The Contractor shall prepare its offer accordingly to the Specification requirements. The proposals of alternative resolutions will not be considered. The Purchaser shall not allow for submitting any alternative bids.
6. The Contracting Authority shall not allow any supplementary contracts.
7. The Contracting Authority shall not allow for submitting partial bids.
8. The prices of all elements of the public procurement order shall include any rebates and discounts that the Contractor envisages to grant.
9. Each page of the tender offer shall hold succeeding number and signed by the Contractor or person authorized by him.
10. Any changes and amendments in the consent of the tender offer shall be signed and dated by the by the Contractor or person authorized by him.
11. The Contractor shall submit all requested documents in the original or copies. The documents submitted as copies have to be "CERTIFIED TRUE COPIES" confirmed by the Contractor or person authorized by him.
12. Accordingly to the Contracting Authority decision it is allowed to submit the statements and other documents in the current public tender procedure in Polish or English language.
13. The Contractor shall bear all costs related to the preparation and submission of the tender offer.
14. The tender offer shall be appropriately secured in order to avoid any changes and amendments in its consent.
15. The documents and materials provided with the tender offer shall not be returned by the Contracting Authority.
16. The tender offer shall be submitted in the closed envelope with the Contractor identification data and presentation of the public procurement subject:

"The tender offer for delivery of the of software allowing to: prepare 2D and 3D numerical simulations of ecological models of ecosystems and spectral wind - wave models for the Contracting Authority Institute of Oceanology Polish Academy of Sciences,

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do not open before 01.03.2011, 10.00 am"

17. In case of lack of such information the Contracting Authority is not responsible for its consequences such as: opening of the tender offer before the deadline for submitting tender offers or not opening during the public opening of tender offers.
18. In case of lack of specified above statements and demanded declarations or submitting the tender offer differently then presented in the description of the tender offer preparation (i.e. copies of documents not confirmed by the Contractor as "CERTIFIED TRUE COPIES") may result in the exclusion of any Contractor or rejection of the tender offer accordingly to the Public Procurement Law regulations,
19. In case the tender offer is submitted by a consortium, i.e. by Contractors jointly seeking the contract award, the tender offer shall fulfill following requirements:
 - 19.1. In case the tender offer is submitted by Contractors jointly seeking the contract award the tender offer specimens shall be signed by all Contractors jointly seeking the contract award

- 19.2. In case the tender offer is submitted by Contractors jointly seeking the contract award the copies of documents shall be confirmed by the Contractor who is providing such document,
- 19.3. In case the tender offer is submitted by Contractors jointly seeking the contract award the Contractors shall be obliged to submit an applicable power of attorney, granted by all other partners or members of the consortium to the one person authorizing to represent them in the public procurement procedure or signing a relevant contract.
- 19.4. The tender offer shall be signed in the manner establishing the binding obligation for all Contractors acting jointly.
- 19.5. Each Contractor, separately or jointly as the member of consortium, is entitled to submit only one tender offer that shall cover the whole of the subject of public procurement, in case of participation of more than one tender offer, the offers submitted with the participation of such Contractor shall be rejected.
20. The Contracting Authority statement that the tender offer includes false information, essential for the current public tender procedure will effect in rejection of the tender offer.
21. The Contractor should indicate the part of order which he is intending to assign to the subcontractors.
22. Information, which is regarded as a business secret of the Contractor enterprise, within the meaning of the provisions concerning the combating of unfair competition, shall not be disclosed, if the Contractor made a clear reservation as to their nondisclosure, if they are not clearly marked they will be considered as public ones.

IX. Information on how the Contractors shall communicate with the Contracting Authority, submit letters of declaration and documents; presentation of the Contact Persons authorized to contact the Contractors, Clarifications and amendments to the Specification.

1. Accordingly to the Contracting Authority decision it is allowed to submit the statements and other documents in the current public tender procedure in Polish or English language.
2. Accordingly to the Contracting Authority decision in the current public tender procedure - statements, applications, announcements and other information, with the exception presented in item 5 below, the Contracting Authority and The Contractor may pass in the written or by fax to:
 - the Contracting Authority address:

Institute of Oceanology Polish Academy of Sciences
 Powstańców Warszawy 55 Street
 81-712 Sopot
 tel. 058 73 11 823; 058 551 72 81
 Opening hours: Monday - Friday in hours 8:00 – 15:00.
 fax. (58) 551 21 30
 e-mail: office@iopan.gda.pl, www.iopan.gda.pl
3. If the Contracting Authority and The Contractor are passing the statements, applications, announcements and other information by fax, each party shall immediately certify its receive.
4. The Contracting Authority is not allowing to communicate using electronic means.
5. The following actions, accordingly to the Contracting Authority decision, cannot be made by fax:
 - a) changes / withdrawal of the tender offer,
 - b) providing of the complementary statements and documents, specified in article no 25 item 1 of the Public Procurement Law Act, on the basis of regulations included in article no 26 item 3 of that Act.
6. A person duly authorized to directly contact the Contractors: **Marcin Wichorowski, tel. +48 58 73 11 705, fax: +48 58 551 21 30, e-mail: wichor@iopan.gda.pl,**
7. Each Contractor may directly ask the Contracting Authority to clarify the content of the Specification and the Contracting Authority shall provide an explanation immediately, on condition that such a request is submitted with the Contracting Authority no later than until the end of the date on which half of the deadline for submitting bids elapses, accordingly to the regulation of article no 38 of the Public Procurement Law Act.

8. The Contracting Authority will present the content of explanations and / or questions and answers to all the Contractors who received the Specification and place them on the website where the Specification was provided, however without disclosing the source of the inquiry accordingly to the regulation of article no 38 of the Public Procurement Law Act.
9. In justified cases, the Contracting Authority may modify the content of the Specification any time prior to the deadline for submitting bids. Any modification to the Specification shall be promptly distributed among the Contractors who received the Specification, and should be placed on the website where the Specification was provided. Each modification of the Specification becomes its integral part and its binding for all Contractors. In case the modification of the content of the Specification leads to an alteration to the content of the public procurement notice, featured in the Public Procurement Bulletin the Contracting Authority shall extend the deadline for submitting applications for admission to participation in the procedure or a deadline for submitting bids by the period which is necessary to introduce alterations in applications or tender offers accordingly to the regulation of article no 12a of the Public Procurement Law Act. However, if such modification of the content of the Specification do not lead to an alteration to the content of the public procurement notice, the Contracting Authority may extend the deadline for submitting applications for admission to participation in the procedure or a deadline for submitting bids by the period which is necessary to introduce alterations in applications or tender offers. In such situation all rights and obligations of the Contracting Authority and The Contractor regarding to the previously established term shall refer to new term.

X. Description of a Tender Price Calculation Method.

1. The lump sum of the tender offer shall be include by the Contractor in the Price and tender specimen form being the Appendix No 2 to the current Specification. All particular prices and amounts values shall be expressed with accuracy to two decimal places.
2. The lump sum of the tender offer may be expressed in Polish zloty (PLN), United States dollar (USD) or EURO (EUR) currency and shall present amount (amounts) of the VAT tax due.
3. The total lump sum of the tender offer is amount expressed in Polish zloty (PLN), United States dollar (USD) or EURO (EUR) currency including amount (amounts) of the VAT tax due.
4. Accordingly to the article no 91 item 3a of the Public Procurement Law Act, if a tender offer has been submitted, the selection of which would result in a tax liability on the Contracting Authority under the regulations on the intra-community purchasing of goods, the Contracting Authority shall, in order to evaluate such a tender offer, add the value added tax (VAT) payable under the applicable regulations to the tender offer price. In such situation the Contractor shall present net amount (amounts) in the Price and tender specimen form.
5. The lump sum of the tender offer shall be presented digitally. The lump sum of the tender offer may be expressed in PLN, EUR or USD currency. In case of the offers submitted in the currency different than PLN or in case of necessity to compare tender offers submitted in different currencies, the Contracting Authority will recount the lump sums of the tender offers into PLN accordingly to the medium binding exchange rate published by the National Bank of Poland on the date of the tender offer opening.
6. The Contracting Authority states that it is registered as an EU VAT taxpayer performing an intra-community transactions purchasing of goods and services and holds EU VAT tax identification number - PL 585-10-04-839.
7. The total lump sum of the tender offer shall calculated on the basis of individual calculation of each Contractor with respect to the entire public procurement, taking into account all costs that are necessary for the completion of the public procurement, including commercial network license given for unlimited period of time for the software and additional programs of third parties in the range specified in the current Specification, price of the software copies media and costs on their delivery to the seat of the Contracting Authority, installation, start up and activation costs of the software at the seat of the Contracting Authority, costs of updates and upgrades and technical support services and telephone and e-mail help desk services within the range of exploitation and utilization of the software within the period of 2 years from the

date of issue of the installation and start up of the software at the seat of Contracting Authority, costs of rendering of the staff training on the operation and utilization of the software at the seat of Contracting Authority, costs of packaging, transport and insurance of the software, costs of warranty and warranty services, and costs of providing at least 10 student and academic licenses allowing to use all delivered programs and tools and models prepared on the basis of them in the non-commercial purposes for the period at least 6 months from the date of the license issue, which shall be included in the Contractor's tender offer.

8. The costs of duty and VAT tax shall be borne by the Contracting Authority in case the Contractor will be company or body with its seat outside the Poland.
9. The price of the tender offer shall include any rebates and discounts that the Contractor envisages to grant.
10. The price of all elements of the public procurement order shall be one and only, proposals of alternative or variant prices are not allowed.

XI. Requirements regarding the tender offer bond.

The tender offer bond in the current public tender procedure is not required by the Contracting Authority.

XII. The tender offer validity period.

1. The tender offer shall remain valid for a period of 30 days. The tender offer validity period commences upon the deadline for submitting tender offers and opening the offers.
2. The Contractor may, individually or on request of the Contracting Authority, extend the bid validity period, however the Contracting Authority may only once and no later than 3 days prior to the expiry of the bid validity period, ask the Contractors for consent to an extension of this period by a definite period, which shall not exceed 60 days.

XIII. Change and withdrawal of the tender offer

1. The Contractor may modify or withdraw tender offer after it has already been submitted, provided that a written notification of the modification or withdrawal is received by the Contracting Authority prior to the deadline for submitting the tender offers.
2. Such written notification of the modification or withdrawal of the tender offer has to be signed by the Contractor or its authorized plenipotentiary. The written notification shall be placed in the closed envelope, which shall additionally be marked "Modification" or "Withdrawal". The envelopes marked "Modification" shall be opened during the public opening of the Contractor tender offer, who made modifications and after recognition of the validity of the modification procedure, shall be attached to the Contractor main tender offer.
3. The withdrawn tender offer will be returned to the Contractor immediately without its opening.
4. The Contractor shall not modify or withdraw its tender offer after the deadline for submitting offers.

XIV. The place and deadline of tender offers submitting

1. The tender offers shall be submitted personally or by the post or courier - the date of receipt of the offer by the Contracting Authority is binding - in closed envelopes to the seat of the Contracting Authority - Institute of Oceanology Polish Academy of Sciences, Powstańców Warszawy 55 Street, 81-712 Sopot, room no 120, no later than on **March 1st, 2011, 9.30 a.m.**
2. The tender offer delivered after the term of submitting offers, despite the way it was delivered, will be returned to the Contractor immediately without its opening.

XV. The place and term of tender offers opening

1. The Contracting Authority shall publicly open the tender offers at 10:00 a.m. on March 1st 2011 in the conference room located at the seat of the Contracting Authority - Institute of Oceanology Polish Academy of Sciences, Powstańców Warszawy 55 Street, 81-712 Sopot.
2. The authorized plenipotentiaries of the Contractors may be present during the public opening of the tender offers.

XVI. The procedure of opening and evaluation of tender offers

1. The opening of the tender offer is public and open for publicity. The tender offers shall be opened accordingly to the regulation of article no 86 of the Public Procurement Law Act.
2. The tender offers withdrawn accordingly to the regulations of the current Specification will be returned to the Contractor immediately without its opening.
3. Directly before the opening of tender offers, the Contracting Authority shall make known the amount planned to finance the subject of the Public Procurement.
4. During the opening of the tender offers, the Contracting Authority will announce the names (companies) and addresses of Contractors, as well as offer price, period of completion of the Contract, warranty period, and terms and conditions of payment, contained in particular offers.
5. The tender offers will be evaluated on the basis of criteria and rules included in the current Specification and the Public Procurement Law Act.
6. The Contracting Authority shall promptly pass the information regarding the tender offer selection to the Contractors accordingly to the regulation of article no 92 of the Public Procurement Law Act.

XVII. Description of criteria that the Contracting Authority shall follow in the selection of a tender offer with their relevance and methods of offer evaluation.

1. On the basis of the evaluation criteria as specified under the Specification, the Contracting Authority shall select the best offer from among all valid and eligible offer submitted fulfilling the conditions included in the current Specification.
2. The Contracting Authority selection of the tender offer is based on the following criteria: lump sum price 100 %.
3. Points awarded for the lump sum price for the whole of the subject of Public Procurement shall be calculated according to the following formula:

$$C = (C_{low} : C_o) \times 100\%$$
 where
 C – score awarded to a particular Offer,
 C_{low} – the lowest tender offer price amongst all valid offers,
 C_o – a price as given by the Contractor whose score is being calculated.
4. The lump price for the whole of the subject of Public Procurement the Contractor shall include in the Price and tender form for the software offered by the Contractor - prepared accordingly to the specimen form being the Appendix No 2 to the current Specification, All singular prices and values shall be presented with accuracy to two decimal places.
5. The lump sum of the tender offer may be expressed in Polish zloty (PLN), United States dollar (USD) or EURO (EUR) currency and shall present amount (amounts) of the VAT tax due.
6. The total lump sum of the tender offer is amount expressed in Polish zloty (PLN), United States dollar (USD) or EURO (EUR) currency including amount (amounts) of the VAT tax due.
7. Accordingly to the article no 91 item 3a of the Public Procurement Law Act, if a tender offer has been submitted, the selection of which would result in a tax liability on the Contracting Authority under the regulations on the intra-community purchasing of goods, the Contracting Authority shall, in order to evaluate such a tender offer, add the value added tax (VAT) payable under the applicable regulations to the tender offer price. In such situation the Contractor shall present net amount (amounts) in the Price and tender specimen form.

8. The Contracting Authority states that it is registered as an EU VAT taxpayer performing an intra-community transactions purchasing of goods and services and holds EU VAT tax identification number - PL 585-10-04-839.
9. In case of the offers submitted in the currency different than PLN or in case of necessity to compare tender offers submitted in different currencies, the Contracting Authority will recount the lump sums of the tender offers into PLN accordingly to the medium binding exchange rate published by the National Bank of Poland on the date of the tender offer opening.
10. The total lump sum of the tender offer shall be calculated on the basis of individual calculation of each Contractor with respect to the entire public procurement, taking into account all costs that are necessary for the completion of the public procurement, including commercial network license given for unlimited period of time for the software and additional programs of third parties in the range specified in the current Specification, price of the software copies media and costs on their delivery to the seat of the Contracting Authority, installation, start up and activation costs of the software at the seat of the Contracting Authority, costs of updates and upgrades and technical support services and telephone and e-mail help desk services within the range of exploitation and utilization of the software within the period of 2 years from the date of issue of the installation and start up of the software at the seat of Contracting Authority, costs of rendering of the staff training on the operation and utilization of the software at the seat of Contracting Authority, costs of packaging, transport and insurance of the software, costs of warranty and warranty services, and costs of providing at least 10 student and academic licenses allowing to use all delivered programs and tools and models prepared on the basis of them in the non-commercial purposes for the period at least 6 months from the date of the license issue, which shall be included in the Contractor's tender offer.
11. The costs of duty and VAT tax shall be borne by the Contracting Authority in case the Contractor will be company or body with its seat outside the Poland.
12. The tender offer with the lowest price will receive the highest number of points - 100 points. The other offers shall receive lower number of points (accordingly to the presented above formula). The result will be treated as the point value of the tender offer.
13. In case the choice of the best tender offer will be impossible due to the fact of equal scores of the evaluation of the tender offers, the Contracting Authority shall be entitled to require that the Contractors provide additional offers to the contents of their offers previously submitted.
14. The financial settlement between The Contracting Authority and the Contractor will be made in Polish zloty (PLN), United States dollar (USD) or EURO (EUR) currency.

As the best tender offer shall be considered by The Contracting Authority the one with the highest number of points (the points for the price criteria).

XVIII. Inspection of the tender offers, determination of their compliance with the criteria, grounds for tender offers rejection

1. The tender offer submitted by the Contractor within the term established by the Contracting Authority will be the subject of evaluation on the basis of rules and criteria specified in the current Specification and the Public Procurement Law Act.
2. Before the evaluation of the tender offers the Contracting Authority shall verify if the Contractor meets the conditions of the participation in the current Public procurement specified in point III of the current Specification, if the tender offer is correctly signed or meets the rules and criteria specified in the current Specification.
3. Whilst examining and evaluating the tender offers, the Contracting Authority shall be entitled to require that the Contractors provide explanations to the contents of their offers submitted, however it is forbidden to carry on with any negotiations regarding the content of the tender offer.
4. The Contracting Authority shall correct in the content of tender offer:
 - a) any obvious misprints,

- b) computational errors together with the computational consequences of the corrections made,
 - c) other errors consisting in non-compliance of the tender offer with the provisions of the current Specification, with exception that such amendments made by the Contractor shall not cause any significant changes to the content of the tender offer.
5. The Contracting Authority shall promptly notify the Contractor whose tender offer was corrected.

XIX. Information on the formalities that shall be completed and complied with upon the selection of the tender offer in order to execute a Contract on Public Procurement.

1. The Contracting Authority shall promptly notify the Contractors which submitted their tender offers about:
 - a) choice of the best tender offer,
 - b) rejection of particular tender offers submitted by the Contractors,
 - c) exclusion of any Contractor,
 - d) the term specified on the basis of article no 94 item 1 or 2 of the Public Procurement Law Act, after which the contract of the current Public procurement may be concluded.
2. The Contracting Authority concludes the contract of the current Public procurement within the time limit not shorter than 5 days from the day on which the information on the selection of the best tender offer was dispatched, if such information was dispatched in the manner specified in the article no 27 item 2 of the Public Procurement Law Act, or 10 days - if it was dispatched in any other manner, with the exception of article no 94 item 2 of the Public Procurement Law Act (The Contracting Authority may conclude the contract of the current Public procurement prior to the expiry of the time limits, if under open tendering procedure only one tender offer was submitted, or in contract award procedure of a value less than the amounts specified in the provisions issued under Article 11 item 8, none of the tender offers was rejected and none of Contractors\$ was excluded).
3. The Contracting Authority will present the information regarding the choice of the best tender offer:
 - a) on the Contracting Authority website where the Specification was provided,
 - b) in the publicly accessible place (on the notice board) at the seat of The Contracting Authority.
4. The Contracting Authority shall conclude the contract of the current Public procurement with the Contractor following the conditions included in:
 - a) the current Specification of Essential Terms of the Contract,
 - b) submitted tender offer,
 - c) the contract template being the Appendix no 6 to the current Specification.
5. In case the tender offer chosen in the current Public procurement is submitted by two or more Contractors jointly seeking the contract award The Contracting Authority shall demand the agreement referring to the co-operation between them in the current Public procurement. The term of the agreement between the Contractors jointly seeking the contract award cannot be shorter than the term of the contract fulfillment.
6. In case the tender offer is submitted by Contractors jointly seeking the contract award the Contractors shall be obliged to submit an applicable power of attorney, granted by all other partners or members of the consortium to the one person authorizing to represent them in the public procurement procedure or signing a relevant contract
7. The Contracting Authority shall not conclude of any framework contract.

XX. Requirements on the due performance security of the Contract.

The Contracting Authority shall not assume the need for furnishing any security on due performance of the Contract.

XXI. Essential resolutions of the Contract

1. All essential resolutions of the Contract, important for the Contracting Authority are included in the Contract template being the Appendix No 6 to the current Specification.
2. The Parties agree that an annex to this Contract may be signed, provided that a necessity report is previously prepared and the lump sum character of the price is kept, in the following cases:
3. Any modification of provisions of the concluded contract with reference to the content of the tender offer, which was the basis for the choice of the Contractor, is prohibited, unless the following circumstances of the modification in the contract will appear:
 - in case of impossibility to start realization of the current contract or breaks in its realization, or delay in the delivery of the software due to reasons for which the Contractor may not be held responsible, the deadline of the Public procurement contract may be extended for a period of such circumstances. In case of such situation The Contractor shall immediately inform the Contracting Authority with the sufficient presentation of reason of such break or delay. In case the presented circumstances are justifiable The Contracting Authority taking into consideration contractual situation may sign the annex to the contract changing the deadline of the Public procurement contract realization,
 - technical changes to the software lying on the manufacturer's side, causing no deterioration in performance and software features, which changes would not increase the price of software,
 - a change of the names or addresses of Parties, changes arising from the transformation of the legal status of the Party,
 - the changes are necessary due to the actions of the administration authorities or other governmental bodies which are connected with the realization of the current contract,
 - an amendment of legal regulations referring to the subject of the current contract,
 - due to other reasons beyond the control of the Parties, caused by the so-called 'force majeure', including a fire, flood, etc.,
 - the necessity of conducting such a modification in the contract arises from the circumstances for which none of the Parties may be held responsible and they were unexpected, and such changes are favourable for the Contracting Authority and they will be accepted by the Contractor.

XXII. Information on legal remedies to which the Contractor shall be entitled during the Contract Award Procedure.

1. Contractors, tender participants, and other entities shall be entitled to legal remedies arising from the article no 180 and following of the Public Procurement Law Act if they have, or had, a legal interest in winning the procurement or if they suffered, or are likely to suffer, losses in the event of a breach of the Act by the Purchaser with regard to public procurement procedure in the current case and limitations arising from the procurement value.
2. In current public procurement procedure the appeal shall be available solely in case of proceedings concerning: description of the assessment of compliance with tender conditions, exclusion of the appealing Contractor from the contract award procedure, rejection of a tender offer of the appealing Contractor.
3. The appeal shall specify which action of the Contracting Authority is in breach with the Act or has been neglected, and shall include a concise presentation of charges, specify the demand raised, and present the factual and legal circumstances which justify the appeal.
4. The appeal shall be submitted to the Chief Officer of the National Chamber of Appeal within the terms specified in article no 182 and following of the Public Procurement Law Act in written or electronic form, affixed, in the latter case, with the secure electronic signature verifiable by means of a valid qualified certificate. The appeal registration fee shall be paid no later than on the date of the deadline for appeals, and a relevant receipt shall be enclosed with the appeal.

5. The Appellant shall deliver a copy of the appeal to the Contracting Authority in such a manner as to enable it to examine its contents before the deadline for appeals. It shall be assumed that the Contracting Authority is able to examine the appeal before the deadline if the copy is submitted before the deadline for appeals through one of the means defined in article no 27 item 2 of the Public Procurement Law Act.
6. The Parties and Participants of the appeal procedure shall be entitled to a court complaint against the judgment of the Chamber. The complaint shall be submitted to the district court having jurisdiction over the registered office or place of residence of the Contracting Authority.
7. The complaint shall be submitted through the agency of the Chief Officer of the National Chamber of Appeals within 7 days of the receipt of the judgment, with a copy of the complaint delivered to the opponent of the complaint at the same time. The deposition of complaint in a public post office is equivalent to its submission.

XXIII. Final resolutions

1. Any financial obligations between the Contractor and the Contracting Authority shall be settled in Polish zloty (PLN), United States dollar (USD) or Euro (EUR) – depending on the content of the best tender offer.
2. To the matters not settled herein in the current Specification for the Contractors appropriate provisions of Public Procurement Law Act dated the 29th of January 2004 (consolidated text Journal of Laws of 2010 No. 113, item 759 and as amended) and civil code shall apply.

Sopot, date 22th of February 2011

Signatures of the Tender Board:

Chairman *leave of absence*

Member *[Signature]*

Member *[Signature]*

Member (Secretary) *A. Polwinski*

Approved *[Signature]*