

Contract No.....

signed on .....in Warsaw, between the Civil Aviation Office, located in Warsaw, Marcina Flisa Street 2, further called the “Contracting authority”, represented by:

**Mr. Grzegorz Mroczek – Director General of the Civil Aviation Office**

and

.....

**registered in the Business Activity Register under the number: KRS:**

represented by:

.....

.....

further called the “Provider”.

As a result of the procedure for awarding a public contract in an unrestricted tender, conducted in compliance with Article 39 of the Public Procurement Act of 29<sup>th</sup> January 2004 (Prawo Zamówień Publicznych) (Journal of Laws of 2007, No 223, item 1655 with later amendments), further called the Pzp, the following Contract has been signed:

§ 1

1. The contract covers:

- a. granting by the Provider to the contracting authority the license for temporary use of computer software with an examination program assessing, in compliance with ICAO requirements, the level of English language proficiency of pilots who conduct operations in the international air space, which is an aviation personnel examination system English language proficiency module, further called by the contracting authority SEPL-ET.
- b. installation, implementation and configuration of the computer software on Civil Aviation Office servers by the Provider.
- c. training by the Provider examiners, raters and administrators of the system, in compliance with the detailed description of the purchase order (attachment No 1 to SEOCR) and offer dated.....(attachment No 3 to SEOCR). The training shall be conducted at the contracting authority’s premises.

2. The completion of order defined in § 1 point 1b and 1c shall be fulfilled not later than 30 days from the date of signing the contract by both parties.

3. This contract terminates:

- a) after 3 years from the date of its signing, or
- b) when the total remuneration for contract delivery, defined in § 3 point 1 has been used up prior the contract termination date stated in point a.

4. The Provider is obliged to:

- a) install the computer software on the Civil Aviation Office servers, together with the evaluation/examination test,
- b) deliver a training package connected with conducting examinations,
- c) train two system administrators, according to contracting authority demands.

5. The SEPL-ET computer software delivery to the contracting authority shall be confirmed by signing a receipt of good's delivery (sample – attachment no 6 to SEOCR) signed by representatives of the contracting authority and the Provider, after the contracting authority has checked its proper functioning.

6. The verification and operational tests of SEPL-ET system shall begin within 2 working days from the date of notifying its readiness and shall be completed within a maximum of 5 working days from the day of starting the tests.

7. In the case when the contracting authority does not start the verification of the SEPL-ET system within 2 working days from the date of notifying its readiness or does not complete the tests within 5 working days from the day of starting the tests, the Provider is authorized to unilaterally sign the receipt, and signed in such manner has the power of a formal receipt of the contract item.

8. If the contracting authority, during tests, demonstrates errors in software functioning, the time allocated for testing the software is suspended until noncompliance is removed and resumed after its rectification.

## § 2

1. Persons participating in the completion of the order, which is the item of this contract, are:

for the contracting authority:

- 1. Tomasz Grzegorzczuk – Vice – Director of Flight Personnel Department,
- 2. Zygmunt Cal – Head of IT Division,
- 3. Jolanta Jasińska – Head of the Training Division

for the Provider:

- 1. Project Manager - .....
- 2. ....

## § 3

1. The total value of the contract cannot exceed the value of.....euro including VAT, in words:.....including VAT.

2. The payment defined in point 1 covers the entire amount that the contracting authority is required to pay for delivering the contract within 3 years and includes all remuneration, costs,

insurance, installation, implementation, tests, maintenance and rectifications and conducting the training package, all together with VAT.

3. The remuneration shall be delivered in quarterly periods.
4. The quarterly remuneration shall be calculated proportionally to the number of examinations conducted in the given period, basing on a report delivered by the Provider and accepted by the contracting authority.
5. The contracting authority predicts that during the period of 3 years from the date of signing the contract 1700 candidates shall be tested.
6. All payments will be settled in euro.
7. For the completion of training sessions for CAO examiners, raters and administrators, in accordance to §1 point 1c of this contract, the contracting authority shall pay an amount of..... euro.
8. All payments shall be conducted by the contracting authority to the Provider's bank account no.....within 14 days from the date of delivering the VAT invoice to the CAO accounting division.

#### § 4

The Provider is obligated to deliver to the contracting authority full documentation containing safety rules proving system confidentiality, defining rules of test actualization so that it is updated with ICAO requirements at all time of the agreement duration, for each group of system users (administrators, examiners, raters), and this documentation should contain requirements on technological infrastructure.

#### § 5

1. If the delivery of the contract items defined in § 1 point 2 is delayed:
  - a. by a maximum of 14 days – the Provider shall pay the contracting authority an agreed penalty of 1% of the contract value for each day of delay.
  - b. exceeds 14 days - the Provider shall pay the contracting authority an agreed penalty of 20% of the contract value. In such a case the contracting authority reserves the right to terminate the contract due to the Provider's fault. In this case the Provider shall be paid remuneration equal to the value of the part of the contract delivered. The settlement shall be conducted in the same manner as for the entire contract.
2. The penalties specified above do not cumulate, that means, that if the delay, described in this contract in § 1, point 2 exceeds 14 days, the only demanded penalty is that defined in point 1b above; the penalty of point 1a is not added.
3. The penalty has to be paid not later than 14 days from the date of forwarding by the contracting authority to the Provider a note saying that the above mentioned penalty is

imposed. The Provider is obliged to written notification the contracting authority about the fact of receiving the note.

4. The resolutions of § 5 point 1 are not applicable if the delay in delivering the contract lies mainly on the side of the contracting authority, or if the delay was caused by outside circumstances – force majeure.

## § 6

In accordance with Article 145 Pzp, if the circumstances change essentially and lead to a situation where the delivery of the contract does not lie in the public interest, which was unforeseen when signing the contract, the contracting authority may cancel the contract within 30 days from the date of being informed of the above circumstances. In such a case the Provider may only demand payment for the delivered part of the contract. Such remuneration shall be delivered in accordance with this paragraph that is within 14 days from the date of cancelling the contract.

## § 7

1. The Provider is responsible for the appropriate functioning of the Flight Personnel Examination System, the contract item; if defects or non-compliance of technical-operational parameters with the contracting authority's SEOCR are found, the Provider is responsible for their immediate rectification.

2. As stated in the provisions of the Civil Code, the Provider is responsible for all damages, this including costs of legal proceedings and other economic liabilities, if these should directly or indirectly result from defects of the items delivered under this contract.

3. During the validity period of the contract all malfunctioning and operational defects in the Flight Personnel Examination System shall be rectified free of charge by the Provider.

4. The Provider shall be informed by e-mail, fax or telephone of all malfunctions and operational defects in the Flight Personnel Examination System with a short description of the malfunction and a demand to rectify them. Information about defects or malfunctions delivered personally or by telephone shall be confirmed in writing and sent by fax within 48 working hours.

5. The Provider is obliged to react to the claim immediately when informed.

6. The Provider shall not be responsible for defects which are caused solely by the contracting authority, its employees and persons authorized by the contracting authority to operate the System. The Provider is not responsible for defects which are the result of improper use of the Flight Personnel Examination System, if used by unauthorized persons and if operated not in accordance with Provider's recommendations and instructions.

7. The time required to recover full operational capacity of the system cannot exceed 2 working days, counted from the day of accepting the claim as justified.

8. After rectifying the defect in the Flight Personnel Examination System the Provider, within a maximum of 2 working days, is obliged to update the documentation and install the system again.

## § 8

1. The Provider states that is entitled to copyrights to the product and training programmes and is entitled to grant to the contracting authority the license to use computer software and conduct trainings that are items of this contract provided it does not breach the rights of third parties.
2. The Provider, within the contracted remuneration (with VAT) grants the license to use computer software to contracting authority, once the Receipt of goods delivery is signed. The license is granted under conditions of license granted by the producer or the company authorized to selling it. The license entitles contracting authority to use computer software and training programmes on own behalf and for own needs, in fields of operation and by rules defined in this point. License also includes all amendments and actualization done by the producer or the company entitled to, within duration of the contract. Within the rules of using the software that is the item of this contract, the contract regulations and the Copyright and related rights Act regulations are applicable.
  - 1) The license granted by the Provider entitles contracting authority to use computer software on hardware belonging or used to contracting authority in fields of operation stated below:
    - a) installation on Civil Aviation Office servers,
    - b) using on computer stands in CAO examination centers in Poland,
    - c) on electronic data carrier (e. g. DVD) in order to safe and fill conducted sessions,
    - d) on portable computers (laptops) when conducting examination sessions in Poland, outside CAO headquarter and examination centers.
  - 2) The license will be valid once the receipt of goods delivery is signed for the period of three years.
  - 3) Contracting authority declares that shall not extend the rights to use the Provider's license.
  - 4) The Provider confirms that has the rights to command the license and confirms that there are no obstacles for granting the license allowing to use the computer software in compliance with law, according to the rules provided in this contract.
  - 5) The Provider absolves contracting authority from any liability arising from possible claims of third parties coming as a result of incompliance of declarations included in this contract. In case of settling these liabilities by the contracting authority, the Provider for the contracting authority's summon, shall repay the sum of covered claims and all connected expenses, direct and indirect, including costs of legal service, costs of court and arbitration proceedings etc.
  - 6) Activities mentioned in art. 74 item 74 points 1) and 2) of the Copyright and related rights Act of February 4, 1994 (Journal of Laws of 2006, No. 90, item 631) do not require the Provider's approval in as far as art. 75 item 1 of this act.

## § 9

The Provider and authorized persons, who in his name participate in completion of the order, are obliged to maintain in secrecy all acquired information which must be protected in

accordance with legal regulations in force on the territory of the Republic of Poland, as stated in the Personal Data Protection Act (Journal of Laws of 2002, No 101, item 926 with later amendments).

§ 10

- 1. All changes in this contract shall be done in writing, otherwise void, in accordance with Article 144 of Pzp.
- 2. Contracting authority allows the possibility of changes of this contract in case of statutory change of value added tax rate (VAT).
- 3. Contracting authority also allows the possibility of change of this contract in as far as changes of ICAO regulations will change.

§ 11

The Polish law herein The Public Procurement Act, Civil Code and the Copyright and related rights Act of February 4, 1994 (Journal of Laws of 2006, No. 90, item 631) shall be applicable to this contract. Any disputes arising from this contract shall be settled by a common court of Warsaw.

§ 12

The contract has been done in four identical copies, two copies for each party.

Contracting Authority	Provider
.....	.....
.....	.....

Attachments to the contract:

- Attachment No 1: Detailed description of the purchase order
- Attachment No 2: Filled offer form
- Attachment No 3: Receipt of goods delivery