



**Appendix 5 to the Invitation –Specimen of the Agreement  
Competition for tender No. 2/2025**

**AGREEMENT NO. ....**

for the **“supply of a complete converter device together with training services, necessary for the implementation of the “SAT2Rescue” project** - Secured SATCOM-based solution enhancing emergency services and search & rescue missions , co-funded by the European Union (“EU”) represented by the European Union Agency for the Space Programme –a body delegated by the European Commission (Project 101180110 - SAT2Rescue - HORIZON-EUSPA-2023-SPACE, 4.10.2024).

hereinafter referred to as the “Agreement”, concluded on ..... 2025/date of the last electronic signature of the Party, in Warsaw, by and between:

**Exatel S.A.** with its registered office in Warsaw /04-164/, ul. Perkuna 47, registered in the District Court for the capital city of Warsaw in Warsaw, XIV Commercial Division of the National Court Register under KRS number: 0000044577, Tax Identification Number [NIP]: 5270104568, Business Registry Number [REGON] 011986640, with share capital of PLN 576,854,559.00 fully paid up, BDO: 000250055, being a large entrepreneur within the meaning of the Act of 8 March 2013 on the prevention of excessive delays in commercial transactions, hereinafter referred to as the **“Contracting Party”** or **“EXATEL”**, represented by:

.....,  
.....,

and

..... with its registered office at ....., registered ..... under KRS number: ....., Tax Identification Number [NIP] ....., being ..... entrepreneur within the meaning of the Act of 8 March 2013 on the prevention of excessive delays in commercial transactions, Business Registry Number [REGON] ....., hereinafter referred to as the **“Contractor”**, represented by:

.....,  
.....,

hereinafter collectively referred to as the **“Parties”**.

This Agreement is hereby concluded in connection with the implementation of the project by the Employer: **“SAT2Rescue” project** - Secured SATCOM-based solution enhancing emergency services



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and search & rescue missions, co-financed by the European Union ("EU") represented by the European Union Agency for the Space Programme - the body delegated by the European Commission (Project 101180110 - SAT2Rescue - HORIZON-EUSPA-2023-SPACE, 4.10.2024)". **Project implementation period: 36 months.**

## § 1

### Definitions

Terms and expressions used in the Agreement shall have the meanings assigned to them below:

- 1) Failure - a problem that prevents the Employer from performing business functions, i.e. work at full capacity.
- 2) Business Day – a day from Monday to Friday that is not a public holiday in accordance with the Public Holidays Act of 18 January 1951.
- 3) Final Acceptance Report - a document signed without reservations by individuals authorised to do so by the Parties to the Agreement, confirming the completion of the entire subject of the Agreement, the template of which is included in Appendix 3 to the Agreement.
- 4) Device – complete converter equipment (hereinafter: "Device") in the form of two narrowband units of 1RU size with integrated power supplies, which can be interconnected in a point-to-point topology, supplied by the Contractor in accordance with the requirements of the Employer described in detail in Appendix 1 to the Invitation, together with the necessary software installed on it (if such is necessary for the proper operation of the Device).
- 5) Acceptance Tests - activities aiming at the verification of the correctness of the operation of the Device in the environment of the Employer and constituting the basis for acceptance of the subject of the Agreement.

## § 2

### Subject of the Agreement

1. The subject of the Agreement is the supply of the Device in accordance with the Tender constituting Appendix 1 to the Agreement (hereinafter the "Tender").
2. The Contractor undertakes to provide remote training in the configuration and operation of the Equipment by the equipment manufacturer, for a group of at least 8 users designated by the Employer at the stage of implementation of the subject of the Agreement, amounting to at least 3 hours.
3. The aforementioned training shall take place via an electronic communication tool/platform indicated by the Employer.
4. The Parties unanimously represent that they undertake to keep the terms of this Agreement and the manner of its execution in confidentiality.
5. The Contractor represents that there are no restrictions or obstacles preventing and/or restricting the parties from entering into this Agreement.

6. The subject of the Agreement shall be completed within ..... from the date of conclusion of the Agreement.
7. The Contractor shall, within 30 days from the date of delivery of the Device, provide the Employer with a service consisting of remote support of the Equipment's configuration by the manufacturer of the Equipment for at least 8 hours.
8. The delivery of the Equipment shall take place at the Employer's registered office, Warsaw, ul. Perkuna 47, on days [ Monday - Friday], between the following hours [ 8:00 a.m. and 4:00 p.m. ].
9. The Employer allows for the possibility of extending the deadline for completion of the Subject of the Agreement in the event of circumstances that the Contractor could not foresee at the stage of submitting the offer, which result from difficulties in the electronic equipment supply market. The deadline for performance referred to in the sentence above may be extended at the written request of the Contractor, with justification of the reason for changing the deadline, which the Contractor shall submit within two working days from the date of gaining knowledge of the circumstances that affect the deadline for the performance of the Subject of the Agreement. For this purpose, the Parties shall sign an appropriate annex to this Agreement.
10. The Contractor guarantees that the delivered Subject of the Agreement shall **at the time of delivery** be brand new, free of defects and purchased from the official distribution channel of the manufacturer.
11. The supplied Equipment shall be covered by a warranty (hereinafter "Warranty"), in accordance with the provisions of § 3 of the Agreement.

### § 3

#### Warranty

1. The Contractor shall ensure that the supplied Device shall be covered by the manufacturer's warranty and the manufacturer's technical support (which may also be performed by entities authorised by the manufacturer), for a period of ..... months, which shall commence from the date of delivery of the Device by the Contractor, which shall be confirmed in the Final Acceptance Report signed by both Parties without any reservations, the specimen of which constitutes Appendix 3 to the Agreement.
2. The warranty service for the supplied Equipment, under the warranty referred to in para. 1, shall be provided on the following basis:
  - 1) The Contractor shall provide the service available **for 7 days a week, 24 hours a day for 5 days a week (Monday – Friday), between the following hours [ 8:00 a.m. and 4:00 p.m.,** and shall be provided via phone or e-mail or via the IT tool/website of the manufacturer of the Device indicated by the Contractor.
  - 2) time of removal: failure (including defects or faults) shall be agreed in each case between the Employer and the Contractor and recorded in the Diagnosis Report, the template of which is included in Appendix 4 to the Agreement;

- 3) the fact of removing the Failure shall be confirmed by the Failure Removal Report drawn up in accordance with the specimen constituting Appendix 2 to the Agreement;
  - 4) all costs related to the fulfilment of the warranty for the Equipment shall be incurred by the Contractor. **However, in the event that the Equipment must be sent for repair, the Ordering Party shall send the Equipment for guarantee repair to the Contractor with prepaid (by itself) freight, and the Contractor shall send the Equipment to the Ordering Party with prepaid (by itself) freight.**
3. Irrespective of the rights under the warranty, the Employer shall have the rights under the statutory warranty for defects in the subject of the Agreement.
4. The Contractor undertakes to provide the Employer with all the necessary documents required to exercise its guarantee rights and to provide the Employer, not later than on the day of signing the Final Acceptance Report and also later on each change of these data, with all the data necessary for the Employer to exercise its guarantee rights, such as telephone numbers and e-mail addresses for receiving notifications.
5. In the event that the Contractor provides the Employer with software, together with the Device, under the guarantee the Employer shall have the right to download corrections, updates and new versions of the software in a manner that does not infringe upon the rights of the creators and copyright owner and does not restrict the Employer's rights to use the software. **All software distributed to Employer shall be licensed under Contractor's End User License Agreement (EULA).**

#### § 4

##### Contractor's representations

1. The Contractor represents and warrants that:
  - 1) has read the whole documentation indicated in this Agreement including the documentation relating to the implementation of the project indicated in the introduction to this Agreement and is engaged in business activities covering the subject of this Agreement;
2. The Contractor represents that **delivered** the Equipment, which is the subject of the Agreement, shall be brand new, free from material defects, defects in workmanship as well as free from any physical defects and legal defects, and that no proceedings are pending against the Equipment and that they are not subject to any security interest and are in full compliance with the Tender.
3. Furthermore, the Contractor declares that the Equipment supplied:
  - 1) will be complete,
  - 2) will have the legally required approvals and certificates,
  - 3) will come from an authorised sales network,
  - 4) will be covered by a full warranty service,
  - 5) will not require any additional investment or expenditure and will be ready to use,

- 6) will have access data for downloading the Software (in the case of the Software in the electronic form or covered by an annual subscription), the licence (written or electronic licence agreement) and all required licence and activation keys (if the Contractor delivers the Device with the Software). The Contractor shall provide the necessary documents and media no later than on the date of acceptance of the Equipment by the Employer.
4. The Contractor represents that the supplied Equipment has not been and will not be, during the performance of the Contract, equipped with any backdoors that would allow the Contractor or third parties to remotely interfere with the Equipment, including changing its behaviour or disabling certain functionalities.
5. The Contractor represents that the supplied Equipment shall meet all functional requirements included in the Description of the Subject of the Contract, constituting Appendix 1 to the Invitation, which was confirmed by the Contractor in the submitted Tender.
6. At the moment of handover any software installed on the Equipment is legal and that the licences provided to the Employer under the Agreement are sufficient for the legal use of that software.
7. The Contractor undertakes to comply with the legal requirements of occupational health, safety and environmental legislation and any occupational health, safety and environmental policies applicable to its organisation.
8. Subcontracting.
  - 1) In the course of performing the subject of the Agreement, the Contractor may use third parties as its subcontractors, subject to the following conditions:
    - a) subcontracting a part of the subject of the Agreement to subcontractors shall not exclude the Contractor's liability to the Employer for the performance of that part of the subject of the Agreement. The Contractor shall be liable for the acts, failures and negligence of its subcontractors and its employees to the same extent as if they were failures or negligence of its own employees,
    - b) The Contractor shall be liable for the payment of remuneration to its subcontractors.

## § 5

### Representations by the Employer

1. In order to enable the Contractor to fulfil its obligations, the Employer undertakes, to the extent required for the proper performance of the Agreement:
  - a) to cooperate with the Contractor in the performance of the Agreement,
  - b) to allow the Contractor access to the Location indicated in § 2 of the Agreement, in compliance with the security rules specified in the Agreement,
  - c) to comply with its obligations set out in the Agreement in a timely manner, in particular with respect to the payment of the agreed remuneration.
2. The Employer shall provide the Contractor with access to all design documentation and information which is in the Employer's possession and which is necessary for the performance of this



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Agreement. The Employer designates its employee in the person of ....., tel. +48 ....., e-mail address: ....., who will be responsible for cooperation with the Contractor.

3. The Employer declares that it is the end user of the purchased Device and, if necessary, shall sign a relevant Statement to that effect, which it shall receive from the Contractor.

## **§ 6**

### **Safety rules in the performance of the Agreement**

1. The Contractor shall be liable for damage caused to the Employer through the fault of the Contractor. In particular, the Contractor shall be liable for any damage caused by non-performance or improper performance of the Subject of the Agreement.

## **§ 7**

### **Remuneration**

1. For performing the subject of the Agreement, the Contractor shall receive the maximum net remuneration of PLN/EUR/USD ..... (in words: .....).

2. The Employer shall effect payment of the remuneration specified in para. 1 in the currency compliant with the tender submitted by the Contractor, or if the Parties agree otherwise, the Employer shall pay the remuneration specified in para. 1 in Polish zlotys after conversion according to the average exchange rate of the National Bank of Poland binding on the date of issuance of the invoice by the Contractor.

3. VAT shall be added to the net remuneration specified in para. 1 at the rate resulting from the applicable legal regulations.

4. The payment of the remuneration specified in the Agreement shall be made on the basis of a correctly issued invoice, by transfer to the Contractor's bank account indicated in the invoice, within 30 days from the date of delivery of the invoice in the electronic form sent to: [kancelaria1@exatel.pl](mailto:kancelaria1@exatel.pl). The invoice referred to in the preceding sentence may be issued at the earliest on the day the Parties sign the Final Acceptance Report without reservations.

5. The remuneration referred to in para. 1 above shall include all costs related to the performance of the subject of the Agreement, including all fees, costs and expenditures of the Contractor, necessary for the performance of the subject of the Agreement, incurred by the Contractor in connection with the performance of the Agreement.

6. In the case of delivery of the Device from a Contractor from outside the EU, the Employer shall pay the required customs duties and taxes on its own.

7. The Contractor shall not be entitled to transfer its rights and obligations under this Agreement to a third party without the prior written consent of the Employer. The consent in each case must be given under pain of being null and void.

8. The date of payment shall be the date on which the Employer's bank account is debited.

9. The invoice shall include, in addition to the required data, the number of the Agreement to the performance of which the payment of remuneration is related.

10. The Employer shall effect payments on the basis of invoices using the split payment mechanism. The aforementioned split payment mechanism consists in splitting the amount paid by one of the Parties into two parts:
- a) the net amount will go to the Contractor's bank account,
  - b) the amount of the Value Added Tax (VAT) shall be transferred to a dedicated bank account of the Contractor - for the settlement of the Value Added Tax (VAT).
11. The split payment mechanism described in para. 10 above does not apply to foreign entities.
12. The payment will be made to the Contractor's bank account indicated on the invoice, opened in connection with the conducted business activity.
13. The Employer shall be entitled to withhold the payment to the Contractor, without any negative consequences (in particular, it shall not be a delay or default in the payment), in the event that it is not possible to make the payment on the basis of the invoice using the split payment mechanism, in particular if the Contractor fails to provide the bank account number allowing the separate payment of VAT.
14. The Contractor undertakes to inform the Employer in writing about the change of the aforementioned bank account number within 7 days of the occurrence of the change. The transfer or change of the aforementioned bank account number shall not necessitate the conclusion of an annex to the Agreement.
15. The Employer declares that it is a VAT taxpayer - Tax Identification Number (NIP) 5270104568.

## **§ 8**

### **Acceptance of the Subject of the Agreement**

1. The Contractor undertakes to perform the subject of the Agreement within the time limit referred to in § 2(6) of the Agreement.
2. The deadline referred to in para. 1 shall include the time necessary for the Contractor to deliver the Device and for the Employer to carry out Acceptance Tests.
3. The Contractor shall be obliged to inform the Employer in the electronic form to the addresses indicated in § 13 of the Agreement of the actual delivery date, including the delivery of its individual components, at least 2 Business Days in advance.
4. Within 10 Business Days after completion of the Acceptance Tests with a positive result, a Final Acceptance Report shall be drawn up and signed by the Parties, unless, in the case of Acceptance Tests with a negative result within the same period of time, the Employer informs the Contractor about its refusal to sign the Final Acceptance Report. Together with the information on the refusal to sign the Final Acceptance Report, the Employer shall provide the Contractor with a written report, which shall list the non-conformities discovered during the Acceptance Tests.
5. Should any nonconformities of a material nature be discovered, the Contractor shall, at its own expense and within the period agreed with the Employer, however, not exceeding ~~10~~ 20 Business Days from the date of submission of the above report to the Contractor, rectify the non-conformities and resubmit the Device for acceptance.

6. Minor non-conformities (non-conformities that do not render the Device inoperable or do not affect the ability to use its functionality in a manner consistent with the Technical Documentation) shall not give rise to a refusal to sign the Final Acceptance Report without reservations and shall be remedied within 14 days from the date of transmission of the report referred to above by the Employer.

7. The transfer of risk for accidental loss or damage shall take place upon the signing of the Final Acceptance Report.

8. The ownership shall be transferred to the Employer upon signing the Final Acceptance Report, **and remuneration** with the proviso that if the Employer fails to meet the deadline for payment of the remuneration specified in the Agreement, the ownership shall revert to the Contractor at the end of the 14th day following the ineffective expiry of the payment deadline, and the licences granted shall expire.

## § 9

### Liability

1. In the event of withdrawal from the Agreement by the Contractor or withdrawal from the Agreement by the Employer for reasons attributable to the Contractor, the Employer shall be entitled to charge the Contractor with a contractual penalty amounting to **20% 10%** of the net value of the total remuneration specified in § 7(1) of the Agreement.

2. Should the Contractor experience delays in implementing the subject of the Agreement in relation to the deadline specified in § 2(6), the Employer shall have the right to charge the Contractor with a contractual penalty amounting to 1% of the net value of the total remuneration specified in § 7(1) of the Agreement for each commenced day of delay.

3. The Employer may impose a contractual penalty in the amount of PLN 15,000.00 (in words: fifteen thousand zlotys) in the event of a breach of the rules of protection of Protected Information by the Contractor for each case of such a breach.

4. In the case of remuneration defined in EUR/USD, the Employer shall convert the penalty described in the sentence above into Polish zlotys, on the basis of Article 30(2)(2) of the Accounting Act, at the average exchange rate of the National Bank of Poland on the day preceding the date of issuing the debit note.

5. **Contractual penalties may be cumulated. The Contractor's liability for contractual penalties is limited to 60% of the remuneration specified of the net value of the total remuneration specified in § 7(1) of the Agreement.** The reservation of contractual penalties shall not exclude the possibility of claiming damages on general terms in excess of the amount of the reserved penalties.

6. The Employer shall be entitled to deduct the contractual penalties due to it from the remuneration due to the Contractor, without the need to obtain the Contractor's consent, based on a debit note issued by the Employer.

7. If the deduction referred to in para. 6 is not made, the contractual penalty shall be payable on the basis of a debit note issued by the Employer within 14 days from the date of delivery of the note to the Contractor.

8. **The total liability of the Contractor for any loss or damage to the property of any element different to the deliverable items under the Order, shall be limited to the total remuneration specified in § 7(1) of the Agreement.**

## § 10

### Withdrawal from the Agreement

1. The Employer may withdraw from the Agreement in the event of non-performance or improper performance of an obligation by the Contractor. In such a case, the Employer shall call upon the Contractor in writing to perform the Agreement within a period of not less than **7 14** days. In the case of ineffective expiry of the aforementioned deadline, the Employer shall have the right to withdraw from the Agreement within 30 days, counting from the expiry of the deadline specified for the performance of the obligation referred to in the preceding sentence.

2. The withdrawal from the Agreement shall contain a justification, shall be in writing under **pain law** of being null and void, and shall be promptly delivered to the other Party to the Agreement.

3. The obligation to maintain confidentiality of information shall not be affected by the withdrawal from the Agreement.

4. The Contractor shall, immediately after being served with the written notice of withdrawal from the Agreement by the Employer on withdrawal from the Agreement, shall refrain from any further performance of the subject of the Agreement.

## § 11

### Confidentiality

1. During the term of the Agreement and after its termination or expiry, the Contractor **and Employer** undertakes to keep **Exatel S.A.'s the other party's** Protected Information confidential with, at least as much care as it takes to protect its own Confidential Information. Confidential Information means all information, documents and materials relating to the **Employer's party's** business to which **the Contractor the other party** has gained access in connection with the performance of this Agreement. Protected Information of **Exatel S.A. of a party** is, in particular, financial, organisational, technological information, personal data and other information that has economic value and may be considered confidential or has been made available to the other Party subject to confidentiality.

2. **The Contractor A party** receiving Protected Information of **Exatel S.A. the other party** may disclose it only to its authorised employees and advisors (e.g. tax advisors, lawyers).

3. **The Contractor A party** shall be entitled to disclose **Exatel S.A. the other party** Protected Information to its employees and Subcontractors, only if this is necessary for the performance of the Agreement. In such a case, **the party Contractor** shall be liable for a breach of the confidentiality rules by its employees and Subcontractors as if these were its own acts or omissions. The obligation to



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maintain confidentiality of the Protected Information of ~~Exatel S.A.~~ a party shall not apply in the event that the Protected Information of ~~Exatel S.A.~~ the party:

4. The obligation to maintain the confidentiality of the Protected Information of Exatel S.A. does not apply in the case of Protected Information of Exatel S.A.:

- a) is or becomes publicly known without ~~the Contractor~~ receiving party breaching its obligation of to maintain confidentiality under this Agreement;
- b) is received from a third party without breach of the third party's confidentiality obligation;
- c) is disclosed with the prior written consent of the ~~Employer~~ disclosing party;
- d) is developed independently, and the ~~Contractor~~ receiving party can prove this;
- e) is disclosed at the request of the competent state and local government authorities or court in accordance with mandatory legal provisions.

5. In the event that ~~the Contractor~~ at party is obliged by an order of a court or state administration body to disclose information or materials, or the necessity to do so arises from the legal regulations, the ~~Contractor~~ party shall immediately notify the ~~Employer~~ other party of this fact in writing and inform the recipient of the information or materials of their confidential nature.

6. The ~~Contractor~~ partie's undertakes to use ~~Exatel S.A.~~ the other party's. Protected Information exclusively for the purpose of performing the Agreement.

7. In the event of expiry or termination of the Agreement, the ~~Contractor~~ party shall return all documents and other materials concerning the ~~Employer~~ other party and, in particular, documents and materials and other data concerning the ~~Employer~~ other party constituting Protected Information of ~~Exatel S.A.~~ the other party that the ~~Contractor~~ party has received during the term of the Agreement, in connection with or on the occasion of its performance within a maximum period of 10 (ten) days from the date of receipt of a request from the ~~Employer~~ other party.

## § 12

### Force majeure

1. The Parties shall not be liable for any non-performance or improper performance of their obligations under the Agreement if such a non-performance or improper performance is due to Force Majeure.

2. For the purposes of this Agreement, Force Majeure shall mean an extraordinary, external event that could not have been foreseen and prevented. The notion of Force Majeure shall not include any events resulting from a Party's failure to exercise due diligence within the meaning of Article 355 § 2 of the Civil Code. The Party invoking Force Majeure should notify the other Party in writing within 7 (seven) days of the occurrence of an event constituting a case of Force Majeure, under pain of losing the right to invoke Force Majeure.



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### **§ 13**

#### **Communication**

1. The Parties shall hereby authorise the following individuals to communicate directly with each other on matters relating to the performance of the Agreement:

1) on the part of the Purchaser : ....., tel. +48 ....., e-mail address: .....

2) on the part of the Contractor: ....., tel. ...., e-mail address: .....

2. The above-mentioned individuals shall be responsible for the day-to-day supervision of the correctness and punctuality of the performance of the Agreement, the acceptance of the subject of the Agreement or making comments/clarifications and corrections to the subject of the Agreement presented for Acceptance and signing the Acceptance Report for the Equipment, without the right to amend the provisions of the Agreement or incurring obligations in the performance of the provisions of the Agreement.

3. A change of the person indicated in para. 1 shall not constitute an amendment to the Agreement, but only requires that the other Party be informed in writing.

### **§ 14**

#### **Copyright**

1. The Contractor declares that, pursuant to the provisions of copyright law or on the basis of agreements concluded with entitled persons, it is or will be entitled, on the date of transfer to the Employer, to the following rights. The Contractor represents that under the provisions of copyright law or under agreements concluded with authorised persons, it is or will be entitled, as at the date of transfer to the Employer, which shall take place on the date of the signing of the Final Acceptance Report by the Parties, to copyright and related rights in the works to be created by the Contractor under the performance of the Agreement, in all fields of exploitation indicated in the Agreement. For the avoidance of doubt, the Parties agree that Works shall also be understood as works created by individuals used by the Contractor in the performance of the Agreement.

2. The Contractor represents that during the performance of the Agreement, it shall not infringe upon any intellectual or industrial property rights of third parties.

3. The Contractor declares that the Works shall constitute original works subject to copyright protection under the provisions of copyright law, and furthermore that the above-mentioned Works at the time of transfer of rights to them to the Employer shall be free of any legal defects and unencumbered for the benefit of third parties.

4. The Contractor shall transfer, unlimited in terms of time and territory, as part of the remuneration for the performance of the Subject of the Agreement as of the moment of acceptance of the Subject of the Agreement by the Ordering Party or, in the event that the works arise in the course of providing warranty or post-warranty service, at the moment of the Employer's acceptance

of the Subject of the Agreement or post-warranty service as of the moment of the signing of the report by the Parties, within the framework of the remuneration for the provision of the warranty or post-warranty service, to the Employer copyrights to the Works in the following fields of exploitation:

- a) permanent or temporary reproduction of the computer programme in whole or in part by any means and in any form, the Contractor, as the authorised party, agrees to the extent that reproduction of the computer program is necessary for the introduction, display, use, transmission and storage by the Employer;
- b) translation, adaptation, rearrangement or any other changes to the computer programme, while retaining the rights of the person who made these changes;
- c) distribution, including lending or leasing, of a computer program or a copy thereof;
- d) within the scope of recording and multiplication of the Work - production of copies of the Work by a specified technique, including printing, reprography, magnetic recording and digital technique;
- e) within the scope of trading in originals or copies on which the Work has been recorded - marketing, lending or hiring of original copies of the Work.
- f) within the scope of dissemination of the Work in a manner other than that specified in item e) above - public performance, exhibition, display, reproduction, as well as broadcasting and re-broadcasting, and also making the Work available to the public in such a manner that everyone can have access to it at a place and time of their own choosing.

5. The Parties agree that the transfer of the author's economic rights to the Work referred to above shall be equivalent to the transfer of the right to the exclusive use of the Work by the Customer.

6. Together with the transfer of author's economic rights, as part of the remuneration for the performance of the subject of the Agreement, the Contractor shall transfer ownership (sale) of the media on which the Works have been recorded.

7. The provisions contained above, in this paragraph, shall apply to updates (any changes/modifications) of the Works created by the Contractor in the performance of the Agreement.

8. During the period from submission to acceptance of the subject of the Agreement, the Customer shall be entitled to carry out tests and analyses related to its subject in order to verify the correctness of its performance.

9. The Contractor represents that it grants the Employer the permission to use and dispose of the rights to process Works (in particular to make abridgements, cuts, rearrangements, translations, adaptations, rearrangements or any other changes) that are the subject of the Agreement, and to which the economic copyright has been transferred to the Employer, with the right to authorise third parties to do so. The Contractor shall not retain the right to authorise the exercise of derivative copyrights on those compilations of the Works which have been created by the Employer or for its benefit by third parties acting on its instructions.

10. If any third party or public authority makes any claim to the Employer in connection with the Employer's use of the Works in respect of which the Employer has acquired copyright under this Agreement, including, in particular, with (i) claims for damages; (ii) claims for payment; (iii) claims for alleged infringement of goods protected by law, author's economic rights the Contractor shall

indemnify the Employer against liability (pursuant to Art. 392 of the Civil Code) against a third party asserting such claims in connection with the Contracting Party's use of the Works and concerning the infringement of such third party's industrial or intellectual property rights concerning the Works, in particular by covering all claims and entering into all court and arbitration proceedings on this account in the place of the Contracting Party.

11. The Contractor shall also have the obligation to make sure that no possible claim affects the performance of the Agreement - that is, to allow for the immediate use of the subject of such a claim by the Employer for the purposes of the Agreement.

12. In the event that, after the Contractor has transferred the copyrights to Works created under the Agreement, new fields of exploitation to these Works arise, the Contractor shall, at the request of the Employer, conclude an annex to the Agreement transferring the copyrights to the Employer in the new fields of exploitation, on the terms and conditions specified in the Agreement and as part of the remuneration provided for in the Agreement.

13. The Contractor shall warrant that the persons entitled by virtue of personal copyright shall not exercise such rights against the Employer.

14. ~~Notwithstanding the provisions stated hereinabove, the Contractor shall grant an indefinite licence to use the System in the course of its business activities.~~ All software distributed to the Employer shall be licensed under Contractor's End User License Agreement (EULA).

~~15. The Contractor shall irrevocably and unconditionally waive the right to terminate the licence, and in the event that the licences would be granted by third parties, the Contractor shall submit a written statement by the licensor to the Employer on the date of conclusion of the agreement, confirming that the licence is granted for an indefinite period of time and that the licensor waives the right to terminate the licence.~~

## § 15

### Personal data protection

1. Each of the parties to the Agreement declares that it is a personal data controller within the meaning of Regulation (EU) 2016/679 of the European Parliament and of the Council 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 the repeal of Directive 95/46/EC (General Data Protection Regulation), hereinafter referred to as GDPR, in relation to the personal data of the Employees indicated in the Agreement. The personal data provided for the purposes of the Agreement shall be ordinary data and shall include, in particular, the name, surname, position held, telephone and e-mail.

2. The personal data of the individuals referred to in paragraph 1 shall be processed by the Parties pursuant to Article 6(1)(f) of the GDPR (i.e. the processing is necessary for the purposes of the legitimate interests pursued by the data controllers) only for the purpose and to the extent necessary to perform the tasks related to the execution of the concluded Agreement.

3. Each Party acknowledges that it has been informed by the other Party that:

a) the relevant Party is the controller of its personal data;



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- b) the Party in question may contact the controller by writing using the address of the relevant Party set out in the recitals of the Agreement;
  - c) its personal data is processed because it is necessary for the performance of the Agreement by the relevant Party and necessary for the purposes of the legitimate interests pursued by the relevant Party (Art. 6(1)(f) of the GDPR), in particular in terms of ensuring efficient and ongoing contact during the performance of the Agreement and safeguarding and asserting potential claims arising from the Agreement;
  - d) the provision of personal data is not mandatory, however, failure to do so shall render, the Party concerned unable to perform the Agreement;
  - e) the data shall be stored for no longer than necessary, i.e. until the end of the period of limitation of potential claims under the Agreement or the expiry of the obligation of their retention under the law;
  - f) to the extent necessary and required, the Party concerned shall transfer the personal data of the other Party to third parties, including entities performing IT, legal, accounting, commercial, advisory and insurance services on behalf of the Party concerned;
  - g) the Party concerned does not intend to transfer the other Party's data to a third country or to international organisations;
  - h) the Party shall have the right to request from the Party in question access to its data, rectification, portability and deletion of data and restriction of processing, as well as to object to the processing of data;
  - i) if the processing of the data were to be based on the consent of the data subject, such consent may be withdrawn at any time, but the withdrawal of the consent shall not affect the lawfulness of the Party's processing of the data until the consent is withdrawn or in circumstances where the Party processes the data on a basis other than the consent of the other Party;
  - j) in connection with the processing of personal data by the Party in question, it is entitled to lodge a complaint with the President of the Office for Personal Data Protection;
  - k) the Party concerned shall not make automated decisions, including decisions resulting from profiling, against the other Party, based on its personal data.
4. The Contractor represents that the Contractor's representatives, employees, associates and other persons whose personal data have been or will be provided to the Employer for the purpose of concluding, implementing and monitoring the performance of the Agreement have been or will be informed by the Contractor that the Employer is the controller of their personal data within the meaning of the Regulation of the European Parliament and of the Council (EU) 2016/679 of April 27, 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and the repeal of Directive 95/46/EC, referred to as the "General Data Protection Regulation" and that they have read or will read the information on the rules of their processing by the Employer, constituting Appendix 5 to this Agreement.

## § 16

### Conditions for introducing material changes to the Agreement

1. The Employer envisages the possibility of introducing material changes to the provisions of the Agreement under the following conditions:

1) The date or scope of implementation of the subject of the Agreement may be changed in the following situations:

- a) In the case of a change in the implementation deadlines arising from the project co-financing agreement agreed with the financing institution;
- b) In the case of the occurrence of circumstances beyond the Contractor's control, at its justified request, provided that the change is due to circumstances that could not have been foreseen by the Contractor at the stage of submitting its offer and is not its fault;
- c) The suspension of testing by the Employer due to the occurrence of technical or organisational reasons that make it impossible to continue the implementation of the subject of the Agreement, by the duration of the suspension. The Employer shall notify the Contractor of the suspension of testing, indicating the reason for the suspension.
- d) The need to introduce changes to the subject of the agreement as a consequence of circumstances that the Employer could not have objectively foreseen at the moment of concluding the agreement by the time necessary to introduce such changes.

2) The Contractor's remuneration specified in the agreement may be subject to change in the following cases:

- a) a change in the rate of value added tax;
- b) a change in the amount of the minimum remuneration for work or the amount of the minimum hourly rate, established on the basis of the Act of 10 October 2002 on the minimum remuneration for work;
- c) a change in the principles of being subject to social insurance or health insurance or the amount of the social or health insurance premium rate, or;
- d) a change in the principles of collecting and the amount of payments to employee capital plans referred to in the Act of 4 October 2018 on employee capital plans - if these changes affect the costs of performing the subject of the agreement by the Contractor.

3) The Employer also reserves the possibility of amending the agreement in the event of:

- a) a change in the applicable legislation affecting the subject and terms of the agreement and a change in the legal or factual situation of the Contractor and/or the Employer resulting in the impossibility to perform the subject of the agreement;
- b) the emergence of extraordinary circumstances, being "force majeure" resulting in the impossibility to perform the subject of the agreement or threatening a gross loss, which were not foreseen by the Parties at the time of conclusion of the agreement - force majeure shall

- be understood as extraordinary events and circumstances, unforeseeable, independent of the will of any of the Parties to the agreement;
- c) the occurrence of extraordinary circumstances which are not “force majeure”, threatening a gross loss, which the Parties did not foresee when concluding the agreement;
- d) receipt of a decision from the Project Managing Institution containing changes to the scope of tasks, deadlines for completion or establishing additional provisions to which the Employer will be obliged.
2. The agreement may be amended on the initiative of the Employer and/or the Contractor by submitting a proposal for amendment in writing to the other party, which should include:
- 1) The scope of the proposed change together with a detailed description of the change and its nature;
  - 2) the justification for the change, i.e., inter alia, the description of the factual circumstances authorising the introduction of the change including the basis for the change, i.e., the legal basis resulting from the provisions of the agreement and information and evidence confirming that the circumstances justifying the change to the agreement have been met;
  - 3) the cost of the change and its impact on the amount of the remuneration;
  - 4) the time of implementation of the change and the impact of the change on the date of completion of the agreement.
3. Either Party to the Agreement may request an amendment to the Agreement.
4. The Party requesting an amendment to the deadline for the performance of the agreement or individual services shall demonstrate that due to the circumstances - justifying the amendment - it is impossible to meet the original deadline.
5. If the request for the amendment is submitted, the other Party shall respond to it within 5 business days from the date of receipt of the request.
6. First of all, the other Party may:
- 1) accept the change request;
  - 2) call upon the Party requesting the change to supplement the request or to provide additional explanations, together with a relevant justification for such a call;
  - 3) propose to undertake negotiations of the content of the Agreement within the scope of the requested change;
  - 4) reject the change request.
7. The Parties shall prepare a report on the negotiations of the content of the amendment to the Agreement presenting the course of the meeting and its findings.
8. Changes to the amount of the Remuneration pursuant to para. 1 (2) shall be made according to the principles described below:
- 1) in the event of the occurrence of the circumstance referred to in paragraph 1(2)(a), the gross price of a given element of the subject of the Agreement shall be changed by the value of the difference between the new value of the value added tax (determined on the basis of the new value added tax rate) and the previous value of the value added tax (determined on the basis of the value added tax

rate). In such a situation, the gross price referred to in the preceding sentence shall include the rate and value of tax resulting from the regulations in force on the date of issuing the invoice. The net price of the subject of the agreement shall not be changed;

2) in the event of the occurrence of the circumstance referred to in para. 1(2) (b) the price of a given element of the subject of the agreement shall be changed by the amount corresponding to the value of documented change of the Contractor's cost falling on a given price of an element of the subject of the agreement, resulting from a change in the amount of remuneration of individuals directly performing activities covered by a given price of an element of the subject of the agreement to the amount of the currently binding minimum remuneration for work or the amount of the minimum hourly rate, taking into account all regulatory liabilities from the amount of the change of the minimum remuneration or the amount of the minimum hourly rate of these individuals;

3) if the circumstance referred to in para. 1(2)(c) occurs, the prices for a given element of the subject of the agreement shall be changed by the amount corresponding to the change of the Contractor's cost for a given price of the subject of the agreement, which the Contractor shall be additionally obliged to incur in order to take this change into account, while maintaining the current net amount of remuneration for the individuals directly performing activities covered by a given price of the subject of the agreement;

4) in the event of occurrence of the circumstance referred to in Par. 1 (2) (d), the prices of a given element of the subject of the agreement shall be changed by the amount corresponding to the change of the Contractor's cost attributable to the given price of the element of the subject of the agreement, which the Contractor shall be additionally obliged to incur in order to take the change into account, while maintaining the current net amount of remuneration for the individuals directly performing the activities covered by the given price of the element of the subject of the agreement.

5) In the event of occurrence of circumstances referred to in para. 1 (2)(a - d), the condition for making a change in prices of an element of the subject of the agreement is submission of a request for change by the Contractor to the Employer, together with documents confirming the legitimacy of a change to a given price of an element of the subject of the agreement, and in particular:

a) detailed calculation of labour costs incurred for the performance of works covered by a given price of an element of the subject of the agreement, including: a list of names of individuals directly performing the works covered by a given price of an element of the subject of the agreement, together with an indication of the amount of their time commitment in the performance of these works for the Employer, i.e. the percentage share of works performed by these individuals for the benefit of the Employer in the total time worked by these individuals;

b) the amount of remuneration or the hourly rate of remuneration of the individuals referred to above and the related regulatory liabilities, or the amount of change in social or health insurance contributions paid to such persons, resulting from a change in the minimum remuneration or the minimum hourly rate, or the amount of change in the costs resulting from contributions to employee capital plans and the total amount of remuneration due to the Contractor in connection with the aforementioned changes affecting the performance of the subject of the agreement;

c) determination of the percentage of the elements of the price elements that make up a given price of an element of the subject of the agreement, with particular demonstration of the percentage of labour costs in a given price of an element of the subject of the agreement;

d) copies of documents confirming that the Contractor incurs labour costs in the amounts shown above.

6) On the basis of the documents submitted with the request referred to above, the Contractor should demonstrate that the change that has occurred has a direct impact on the cost of performing the work covered by a given element of the subject of the agreement and determine the extent to which it will affect the amount of a given price of an element of the subject of the agreement.

7) The Employer may require additional explanations from the Contractor regarding the submitted cost calculation, including, in particular, explanations aimed at a clear and comprehensive demonstration of how the changes in regulations referred to in para. 1 (2)(a - d) affected the cost of the Contractor's performance of the work covered by a given price of an element of the subject of the agreement.

8) A request for a change in the prices of an element of the subject of the agreement, concerning the circumstances mentioned in para. 1 (2) (a - d) should be submitted by the Contractor within 30 days from the date of entry of the regulations that are the cause of their changes into force. If the Contractor, within the period referred to in the preceding sentence, does not apply to the Employer for changes in the prices of an element of the subject of the agreement, then the Parties shall assume that the change in the regulations does not affect the cost of performance of the subject of the agreement by the Contractor;

9) The burden of proof that the circumstances listed in para. 1 (2)(a - d) affect the cost of performing the work covered by a given price of an element of the subject of the agreement shall be borne by the Contractor.

10) A change in the amount of prices of an element of the subject of the agreement in the amount indicated respectively in para. 1 (2)(a - d), under the condition that they are demonstrated by the Contractor in the manner described in this paragraph, shall take place as of the occurrence of the event referred to in paragraph (1) (2)(a - d).

11) In the event that the circumstance indicated in item 2 (a - d) will concern the Subcontractor with the help of which the Contractor performs the services included in the Subject of the Agreement, in such a case the Contractor shall be required to attach evidence to the application, confirming that the change in the prices of the element of the subject of the agreement in the amount indicated respectively in item 2 (a - d) has been included in the agreement linking the Contractor with such a Subcontractor.

9. The occurrence of any of the circumstances that may give rise to a change in the agreement shall not constitute an absolute obligation on the part of the Employer to make the change, nor shall it constitute an independent basis for any claim by the Contractor to make the change.

10. Amendments to the provisions of the Agreement shall be made in writing under pain of being null and void.



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11. Notwithstanding the foregoing, the Employer and the Contractor shall allow for the possibility of editorial changes to the agreement as well as changes following changes in the parties' data disclosed in public registers.

## § 17

### Final Provisions

1. Amendments to the provisions of the Agreement shall require the consent of both Parties and may be made only by means of a written annex or bearing a qualified signature, under pain of being null and void.

2. The Parties agree that in all matters not covered by the Agreement the relevant provisions of the Civil Code shall apply.

3. The common court of competent jurisdiction for the registered office of the Employer shall have jurisdiction to settle any disputes between the Parties.

4. The Agreement has been drawn up in two identical counterparts, one for each of the Parties.  
*/The Agreement has been drawn up using qualified signatures.*

5. The Agreement shall enter into force on the date of its conclusion.

6. Appendices to the Agreement are its integral part and include:

- 1) Appendix 1 - Contractor's Offer,
- 2) Appendix 2 - Specimen of the Failure Removal Report,
- 3) Appendix 3 - Specimen of the Final Acceptance Report,
- 4) Appendix 4 - Specimen of the Diagnosis Report
- 5) Appendix 5 - Exatel S.A. Information Clause.

**6) Appendix 6 – Contractor's End User's License Agreement EULA)**

**EMPLOYER**

**CONTRACTOR**



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Appendix 2 to Agreement No. ....  
- Specimen of the Failure Removal Report

**FAILURE REMOVAL REPORT - specimen**  
**concerning Agreement No. .... dated .....**  
**for .....**

drawn up in ..... on .....

Contractor
...

Employer
<b>Exatel S.A.</b> ul. Perkuna 47 04-164 Warszawa

**1. Date, time and type of failure notification**

A failure was notified on ..... at .....

**2. Description of the failure .....**

**3. Decision on acceptance\***

The Employer states that the removal of the failure on ..... at .....is:

- 1) accepted,
- 2) rejected.

**4. Replaced elements of the Device**

- 1) damaged elements of the Device.....
- 2) New elements of the Device.....

**5. Reasons for rejection (in case of rejection of acceptance): .....**

**6. Meeting the deadline for removal of failure\*:**

- 1) the deadline was met.
- 2) the deadline was NOT met.

**7. Notes and additional provisions: .....**

The report is drawn up in two identical copies, one for each party.

.....  
**Employer's representative**

\* Delete as appropriate

.....  
**Contractor's representative**



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Appendix 3 to agreement No. ....  
- Specimen of the Final Acceptance Report

**FINAL ACCEPTANCE REPORT - SPECIMEN**

concerning Agreement No. .... dated .....

for the supply of a device in the form of a converter, together with training services, necessary for the implementation of the "SAT2Rescue" project - Secured SATCOM-based solution enhancing emergency services and search & rescue missions

drawn up in ..... on .....

Contractor
...

Employer
Exatel S.A. ul. Perkuna 47 04-164 Warszawa

**1. Specified order items delivered on.....**

No.	Description of order items	Quantity	Notes

**2. Decision on acceptance**

The Employer concludes that:

1. specified in item ..... is accepted\*,
2. specified in item ..... is NOT accepted\*

**3. Reasons for rejection (in the case of rejection of the acceptance)**

.....



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#### 4. Meeting the deadline for the delivery

The subject of the contract was delivered on time\*.

The subject of the contract was **NOT** delivered on time\*.

#### 5. Notes and additional provisions

.....

.....

Employer's representative

.....

Contractor's representative

\*Delete as appropriate



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Appendix 4 to Agreement No. ....  
- Specimen of the Diagnosis Report

### DIAGNOSIS REPORT - SPECIMEN

concerning Agreement No. .... dated .....

for the supply of a device in the form of a converter, together with training services, necessary for the implementation of the "SAT2Rescue" project - Secured SATCOM-based solution enhancing emergency services and search & rescue missions

drawn up in ..... on .....

Contractor
...

Employer
<b>Exatel S.A.</b> ul. Perkuna 47 04-164 Warszawa

#### 1. Date, time and type of notification

Notification:..... was made on ..... at .....

#### 2. Description of the notification: .....

#### 3. Diagnosis after the diagnosis of the notification:

.....

#### 4. Information about the repair date for the notification:

.....

#### 5 Notes and additional provisions

.....

.....  
Employer's representative

.....  
Contractor's representative



Appendix 5 to Agreement No. ....  
GDPR privacy notice of EXATEL S.A.

## **EXATEL S.A. Information clause**

Information of EXATEL SA as the data controller

The controller of your personal data is EXATEL S.A. with its registered office in Warsaw (04-164) at ul. Perkuna 47 (hereinafter: "Controller" or "EXATEL").

Contact with the controller is possible in writing to the above-mentioned address of the controller's registered office or electronically using the following e-mail address: kontakt@exatel.pl. In all matters related to personal data protection, you may contact the Data Protection Officer appointed by the controller. Such contact may be made electronically at the e-mail address: odo@exatel.pl or in writing using the address EXATEL S.A., IOD, ul. Perkuna 47, 04-164 Warsaw.

[Data processing]

Your personal data has been made available to the controller by your employer, in connection with the performance of the contract/agreement between your employer and the controller.

The scope of your personal data processed by the controller includes your name and surname, business contact details (address for traditional correspondence, electronic mail, telephone number), as well as other identification data entered in relevant registers or indicated in powers of attorney or other documents (for the purpose of verifying your entitlement to conclude or perform a contract).

Your personal data will be processed for the following purposes:

- 1) performance of the contract/agreement binding the controller with your employer - the legal basis for the processing is the legitimate interest of the controller and your employer (Art. 6 (1) (f) of the GDPR ); the legitimate interest is to enable the controller to perform the contract/agreement efficiently on an ongoing basis,
- 2) to fulfil the controller's obligations to keep accounting evidence - the legal basis for processing is the necessity to fulfil the controller's legal obligation under accounting and tax law,
- 3) possibly to pursue claims or defend against claims related to the contract/agreement concluded by EXATEL with your employer - the legal basis for processing is the necessity of processing to fulfil the controller's legitimate interest; the legitimate interest of the controller is the controller's ability to pursue and defend against claims arising out of the contract/agreement with your employer.

[Data retention period]



Your personal data will be stored until the statute of limitations for claims under EXATEL's contract/agreement with your employer, or until the expiration of the obligation to store data under the law.

#### [Transfer of data]

Your personal data may be transferred to entities processing personal data on behalf of the administrator: IT service providers, entities providing accounting and archiving services, subcontractors supporting EXATEL in providing services to the contractor, with such entities processing data on the basis of an agreement with the administrator and only in accordance with the administrator's instructions.

#### [Your rights]

You have the right of access to your personal data and the right to request their rectification, erasure or restriction of their processing.

You have the right to object to the processing of your personal data by EXATEL, for reasons related to your particular situation.

In order to exercise the above rights, you should contact the controller or the Data Protection Officer using the contact details indicated above.

You have the right to lodge a complaint to the supervisory authority in charge of personal data protection in Poland, i.e. the Office for Personal Data Protection at ul. Stawki 2 in Warsaw.