



**Ref.No 11692/20.11.2024**

**HERAKLION PORT AUTHORITY S.A.**

**SUBCONTRACTS AND SUB-CONCESSIONS  
REGULATIONS**

Heraklion, November 2024

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## I. SUBCONTRACTS REGULATION

1. This Regulation sets out the basic principles governing the procedure followed by the company under the corporate name "Heraklion Port Authority S.A." (hereinafter "HPA") for the conclusion of Subcontracting contracts between HPA and third parties, in accordance with article 12 of the Concession Agreement dated 30.01.2024 between HPA and the Greek State, which was ratified by Law 5126/2024 (Government Gazette A' 115/2024), as well as for any works to be undertaken in the Concession Assets granted to it under the same Agreement.
2. Taking into account the provisions of the above Concession Agreement, HPA, with its Board of Directors' decision no. 11688/20.11.2024 (agenda item no. 3 of the 16th Board Meeting held on 14.11.2024), approved this Regulation for the awarding of Subcontracts.
3. By applying this Regulation, HPA fulfils its obligation under the Ratifying Law (Article eighth par. 2) to adhere to the principles of transparency, publicity, equal treatment and non-discrimination in awarding contracts within its scope (hereinafter the "Subcontracts") ensuring their smooth execution, promoting healthy competition and optimising the allocation of available resources, in conjunction with the implementation of the terms of the Concession Agreement.

### Article 1

#### Definitions

<b>Awarding procedure:</b>	means the procedure for selecting a Subcontractor.
<b>Candidate:</b>	means the economic operator submitting a bid or expression of interest within the framework of an awarding procedure conducted by HPA.
<b>Company:</b>	means the Heraklion Port Authority S.A. (HPA).
<b>Concession Agreement:</b>	is the "Concession Agreement dated 30.01.2024 concerning the use and exploitation of certain areas and assets within the Port of Heraklion", signed between the Greek State and Heraklion Port Authority S.A. and ratified by Law 5126/2024 (Government Gazette A' 115/2024).
<b>Concession Assets (or Concession Area):</b>	means the areas, infrastructures, superstructures and buildings described in Article 3.3 of the Concession

Agreement.

**Concession Duration:** means the duration of the Concession Agreement as defined in Article 4.5 of the said Agreement.

**Contractor:** is the Economic Operator, to whom, after completing the awarding process, HPA awards a Subcontract.

**Contractors' Register:** is the Register described in article 6.B.1 of this Regulation.

**Direct Award:** is the procedure described in Article 6.C of this Regulation.

**Estimated Contract Value:** means the value of the Subcontract, as estimated by HPA, according to Article 5 of the Regulation.

**HR (Hellenic Republic) Governmental Body** means, according to Article 2.4 of the Concession Agreement, the Hellenic Republic and/or each respective body, force, agency or authority of the Hellenic Republic, responsible for the rights and obligations of the Hellenic Republic concerning the Concession Agreement, according to the laws and administrative regulations of the Hellenic Republic, for the respective measures, functions, competences or regulatory powers, and/or being competent in the regard referred to in the relevant laws or regulations, as in force from time to time.

**Open Call for Tender Participation:** is the procedure described in Article 6.A of this Regulation.

**Prequalification tender procedure:** is the procedure described in Article 6.B of this Regulation.

**Services (core and ancillary) required to be provided by HPA:** means the main ("Core Services") and ancillary services that HPA is obliged to provide under the Concession Agreement, and which are listed in Article 11 para. 1 and 2 of the Concession Agreement.

**Subcontract:** means any contract of HPA with contractors, service-providers (including but, without limitation, a provider of management services) or any other third party, whether affiliated or unaffiliated to HPA, for the provision of the core and ancillary services that HPA is obliged to provide under the Concession Agreement and which are listed in Article 11 para. 1 and 2 of the Concession Agreement, as well as the execution of works on the Concession Assets.

## **Article 2**

### **Subject of the Regulation – Scope**

This Regulation is drafted according to the provisions of Article 12 para. 2 of the Concession Agreement and defines the basic principles governing the procedure followed by HPA for concluding contracts with contractors, service providers (including, but without limitation, providers of management services) or any other third party, whether affiliated or unaffiliated with HPA (the "Subcontractors"), which have as their object the provision of the core and/or ancillary services that HPA is obliged to provide pursuant to Article 11 para. 1 and 2 of the Concession Agreement, as well as the execution of any work on the Concession Assets.

## **Article 3**

### **Basic principles of the award procedure**

- 1.** During the process for the awarding of a Subcontract, HPA adheres to the principles of transparency, proportionality, publicity, non-discrimination and equal treatment, so that all Candidates, if they meet the respective conditions according to HPA's needs, have equal opportunities and rights and any discrimination against them is avoided, with the ultimate aim being that the corresponding contracts are concluded based only on open, transparent, competitive and impartial procedures.
- 2.** Each Candidate's offer must include information regarding their specialized knowledge, experience and expertise concerning the subject of the Subcontract. It should also include all necessary information to identify its direct and indirect shareholders, as well as the individuals who are the actual beneficiaries of its shares, along with a consent statement for the transfer of this information by HPA to the Hellenic Republic, if requested.
- 3.** HPA is entitled, by a specially justified decision, to cancel the awarding procedure of a Subcontract, wholly or partially, at any stage, to postpone the related tender, or to avoid awarding it by declaring it unsuccessful, when in its judgment, the conditions for sufficient and healthy competition are not met or its operational needs or general conditions of the decision to conduct it have changed, or other serious reasons arise, without this giving rise to any third-party claim.
- 4.** Offers will be evaluated with the main criterion being the economic benefit to HPA from the awarded Subcontract, after weighing the potential risks inherent in each proposal. In any case, HPA reserves the right to specify the above criterion at the final selection stage and

to consider additional criteria if required by the specific Subcontract, in compliance with the principles of equal treatment and non-discrimination of Candidates. Any Subcontract will be concluded, renewed, extended or modified only on reasonable market terms.

5. HPA may exclude economic operators from participating in the tender procedure at its discretion. Indicatively, grounds for excluding an economic operator may include causing problems during another HPA process or contract, the occurrence of insolvency, failing to timely pay HPA amounts due under another contract, conviction of the economic operator or any person who is a member of its administrative, management or supervisory body or has powers of representation, decision-making or control therein by a criminal court decision for economic and other offences, etc.

#### **Article 4**

##### **Excluded contracts**

1. The provisions of this Regulation do not apply to procedures for awarding Subcontracts concluded by HPA in cases of:

- (a) urgent necessity caused by extraordinary and unforeseeable events directly affecting the proper operation and the complete provision of port services to port users or the safety of HPA, which would be jeopardised if the usual awarding procedures were applied.
- (b) contracts with a financial scope up to the amount of thirty thousand euros (30.000,00 €) (excluding any taxes).

2. The scope of this Regulation does not include contracts that do not concern the execution of port services and works described in Articles 11.1 and 11.2 of the Concession Agreement.

3. In all the above cases, HPA may directly award the contract or choose at its discretion any other awarding procedure it deems appropriate and advantageous.

#### **Article 5**

##### **Calculation of the estimated value of the Subcontract**

1. The calculation of the value of the Subcontract is based on the total payable amount, excluding VAT or other taxes, as estimated by HPA, including any option rights or any extensions of the contract, as defined in the contract documents.

2. For contracts that are of a periodic nature or are expected to be renewed within a specific time frame, the total amount is used as the basis for calculating the estimated contract value.

## **Article 6**

### **Methods of selecting Subcontractors**

The selection of Subcontractors will be done either through an open invitation for tender participation or through a prequalification tender procedure or by direct award. If the value of the Subcontract is equal to or higher than three hundred thousand Euros (€ 300,000.00), the open call procedure will be followed, while if the value of the Subcontract is less than three hundred thousand Euros (€ 300,000.00), the open invitation or prequalification tender procedure is followed alternatively, at HPA's discretion. Particularly:

#### **A. Open Invitation for Tender Participation**

1. An Open Invitation is defined as the procedure conducted in one or two phases, where any candidate may participate following an open Invitation.
2. The Invitation is posted on HPA's website and on any other publication media deemed appropriate to achieve maximum publicity. The invitation's text is published on HPA's website ([www.portheraclion.gr](http://www.portheraclion.gr)) at least ten (10) calendar days before the deadline for bid submission. In exceptional cases, this deadline may be shortened by half, i.e. to five (5) calendar days.
3. The Invitation includes a detailed description of the exact subject and basic terms of the Subcontract to be awarded.
4. Following the expiration of the deadline set for the expression of interest in the Invitation, the evaluation process follows and the result of the tender is approved and ratified by HPA. During this process, HPA may negotiate with one or more participants who has/have submitted a relevant offer, in order to improve the terms of the offer(s), for HPA's benefit.
5. If fewer than three offers meeting the tender criteria are submitted, allowing the respective financial offers to be opened, HPA reserves the right to declare the tender process unsuccessful, unless otherwise specified in the terms of the tender documents or/and the Regulation.

6. Any details of Subcontract awarding process, such as the selection criteria, the bid submission process, the participation terms and any other necessary regulations are determined by the decision of the competent company body, included in the invitation and constitute a binding regulatory framework for the conduct of the tender.

7. HPA may deviate from the above Open Invitation process for reasons of efficiency and expediting the procedures, when required by circumstances concerning the specific Subcontract due to urgent necessity or HPA's actual needs. In this case, all participants must be informed of the deviation.

## **B. Prequalification Tender Procedure**

### **B.1 Creation of a Contractors' Register**

1. For the creation of the Register, HPA shall publish an Invitation for expression of interest for registration in the Register. This Invitation shall include in detail the conditions, criteria and minimum capacity requirements that need to be met by the interested party in order to be registered in each contract category, as well as a detailed description of the exact subject of the category of contracts to be awarded.

2. The call remains published on the website of HPA in accordance with the deadline set and any interested party who meets the relevant criteria has the right within the deadline set to submit an expression of interest for registration in the Register, in accordance with the specific provisions of the Invitation. The Invitation may be of indefinite duration.

3. The Register shall be updated at least once a year.

4. Any details of the above procedures for the awarding of the Subcontract, the creation of each Register and the submission of offers, the selection criteria, the committees, the terms of participation as well as any other necessary regulations are determined by HPA's decision and are clearly included in the Invitation for expression of interest.

### **B.2 Awarding procedure**

1. For the awarding through this procedure, the Invitation shall be sent to entities registered in the Contractors' Register, in accordance with the provisions of the present Regulation.



2. The evaluation procedure shall be carried out in accordance with the provisions of Article 6A para. 4, 5 and 6.

### **C. Direct award**

1. The direct award procedure is followed, at HPA's absolute discretion, in cases where HPA's interest or the conditions of a Subcontract require negotiation with a specific Subcontractor, when:

- a tender process or a prequalification procedure yielded no result;
- the Subcontract to be awarded is an integral part of a previously awarded and existing (initial) Subcontract, the award of which to a third party would pose risks to the effective and efficient performance of the initial one;
- the Subcontractor has irreplaceable standards or proprietary technology and resources; and
- in cases of urgency or when there is an imminent danger to the HPA's interests.

2. The non-competitive procedure is permitted in cases expressly mentioned in this Regulation, requiring prior notification to the Board of Directors members with justified reasoning for the urgent necessity of its application.

## **Article 7**

### **Guarantees**

1. HPA may require economic operators participating in the tendering process to provide appropriate guarantees at any stage of the awarding and conclusion process of Subcontracts.

2. If deemed necessary by HPA, it may require the submission of a participation guarantee letter as a prerequisite for participating in the tendering process. Furthermore, it may require the declared contractor to provide a guarantee letter for the proper execution of the contract for the signing of the Subcontract.

3. Any specific issue, especially regarding the form, amount, and required content of guarantee letters, is determined in the respective invitation.

## **Article 8**

### **Duration of Subcontracts**

1. Subcontracts of any type are always concluded as fixed-term contracts.
2. The duration of these contracts in any case shall be longer than the Concession Duration.
3. By HPA's decision following a request of the subcontractor, the duration of Subcontracts of any type may be renewed for a period not exceeding one year and in any case never exceeding the initial duration of the contract if this is less than one year, without prejudice to the provisions of Articles 8.2 and 8.5 of this Regulation, in the following cases:
  - If there is an objective reason justifying such renewal, and/or
  - If the renewal is justified to safeguard HPA's interest and in the light of the subcontractor's investment.
4. A renewal of the Subcontract can be agreed only following submission by the Subcontractor to HPA of a written request at least (1) month before the expiration of the contract, unless otherwise provided in the contract.
5. A renewal of the duration of the Subcontract cannot be granted in the following cases:
  - The Subcontract during its renewal period is not governed substantially by the same terms and conditions.
  - The contractor to the Subcontract has materially breached terms of the contract.

## **Article 9**

### **Grounds for exclusion of candidates**

1. In accordance with Annex 12.2 of the Concession Agreement ("Mandatory Principles for Subcontractors and Sub-concessionaires"), a candidate Subcontractor or a member of a consortium or joint venture that is a candidate Subcontractor is excluded from participation in the awarding procedure and, if it takes part in it, is automatically excluded, in case HPA establishes that there is a final conviction by final judgement against it or against a member of the administrative, management or supervisory body of that Candidate or against a person having powers of representation, decision-making or control therein for one of the following reasons:

- (a) participation in a criminal organisation, as defined in article 2 of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42-45);
- (b) corruption, as defined in article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (OJ C 195, 25.06.1997, p. 1-11) and article 2(1) of the Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (OJ L 192, 31.07.2003, p. 54-56), as well as corruption as defined in Greek legislation and/or the law of the country of incorporation/registered seat (as appropriate) of the Candidate;
- (c) fraud, within the meaning of articles 2 and 3 of the Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.07.2017, p. 29-41);
- (d) terrorist offences or offences linked to terrorist activities, as defined in articles 2-12 of Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.03.2017, p. 6-21) or inciting, aiding or abetting or attempting to commit such offence, as referred to in article 14 thereof;
- (e) money laundering or financing of terrorism, as defined in article 1(3) of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 05.06.2015, p. 73-117), as amended and in force, which was transposed into Greek law with law 4557/2018 (Government Gazette A139/30.07.2018);
- (f) child labour and other forms of human trafficking, as defined by article 2 of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.04.2011, p. 1-11), as transposed into Greek law with law 4198/2013 (Government Gazette A215/11.10.2013) and/or

(g) breach of any applicable obligations in the fields of environmental, social and labour law established by EU law, national law, collective agreements or by the international environmental, social and labour law conventions listed in Part II of Annex 12.2, as may be amended, supplemented, restated and/or substituted from time to time, and specifically:

- ILO Convention 87 on Freedom of Association and Protection of the Right to Organise,
- ILO Convention 98 on the Application of the Principles of the Right to Organise and Collective Bargaining,
- ILO Convention 29 on Forced Labour,
- ILO Convention 105 concerning the Abolition of Forced Labour,
- ILO Convention 138 on the Minimum Age,
- ILO Convention 111 on Discrimination (Employment and Occupation),
- ILO Convention 100 on Equal Remuneration,
- ILO Convention 182 on Worst Forms of Child Labour;
- Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on substances that deplete the Ozone Layer,
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention),
- Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention),
- Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (UNEP/FAO) (PIC Convention) and its 3 regional Protocols.

**2.** A Candidate is excluded from participating in the Subcontract awarding procedure, and if they participate, they are automatically excluded, if this Candidate or a member of their administrative/management/supervisory body or any other person with powers of representation, decision-making, or control therein, have violated their obligations regarding the payment of taxes or social security contributions, as established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of the country in which the Candidate is established and/or with those of the Hellenic Republic.

**3.** HPA reserves the right to control, evaluate and monitor the compliance of any Candidate with its applicable obligations under international environmental, social and labor

conventions, as well as the right to exclude from the subcontracting process a Candidate who, at its absolute discretion, does not have the ability to comply with the above obligations.

## **Article 10**

### **Commitments of Candidates by the Concession Agreement**

When submitting their bid, each Candidate will declare that:

- (a) It has been fully informed and agrees to comply without any exception with all the terms of the aforementioned Concession Agreement between HPA and the Greek State ratified by Law 5126/2024 (Government Gazette A' 115/2024), concerning its position as a Candidate and Subcontractor and that it understands that this Regulation has also been set for the purpose of implementation of the relevant provisions of the above Agreement, so that the provisions of this Agreement apply if no corresponding provisions have been included in this Regulation, and its provisions prevail in case of a conflict with the terms of this Regulation. Furthermore, it accepts that any violation of the terms and restrictions set to HPA by the provisions of the Concession Agreement constitutes grounds for termination of the Subcontract.
- (b) It has understood and accepts that transparency in its financial transactions with HPA in the context of the implementation of the Subcontract has a direct impact on the Greek State's rights deriving from the Concession Agreement with HPA.
- (c) It accepts that, in case of termination the above Concession Agreement, within sixty (60) days from such termination, the Greek State will be entitled to step into the Subcontract, under the same terms and conditions that apply to HPA.
- (d) If the Subcontract is assigned to it, it accepts and agrees to notify HPA in writing of any change to their ownership status and control structure, up to the level of the ultimate beneficial owners of its shares, within fifteen (15) days from the occurrence of the change, otherwise, in addition to HPA's right to terminate the Subcontract and claim compensation for the pecuniary and moral damage caused by the above omission, to also pay the penalty provided for in the Subcontract. In any case, it acknowledges and accepts that the HR Governmental Body may at any time request and evaluate information regarding the Subcontractor's ownership status and control structure up to the level of its final beneficial owners, and any failure to provide such information will allow the Greek State to request the termination of the relevant contract.

- (e) If the Subcontract is assigned to it and requested by the HR Governmental Body, HPA will be entitled to terminate the Subcontract if, due to the ownership status or the control of the relevant Subcontractor, the HR Governmental Body expresses concerns or objections to the engagement of the Subcontractor related to national security, without maintaining any claim against HPA or the Greek State, due such a termination.
- (f) It promises that, at the request of the Greek State, it will deliver to it any written confirmation regarding the above issues, in a form and content reasonably satisfactory to the Greek State, otherwise the Greek State will be entitled to request HPA to terminate the Subcontract, without the Subcontractor maintaining any claim against HPA or the Greek State, because of such a termination.

## **Article 11**

### **Fundamental obligations of subcontractors**

1. With the Subcontract, the Subcontractor will acknowledge and accept that, due to the fundamental legal nature of the Port Zone as a public asset in the common use, it shall be required, throughout the duration of the Subcontract, to:
  - (a) operate the assets of the Port that it may manage in accordance with the purpose of their use as public assets,
  - (b) to provide users of its services equal access based on the principles of objectivity and non-discrimination;
  - (c) not to adopt or apply rules or practices in the provision of services by it that exclude or limit the rights of any person in any material respect, directly or indirectly;
  - (d) to abide by and uphold the principles of reasonableness and proportionality in its dealings with users.
2. The Subcontractor, when providing access to the assets it manages, may distinguish between different groups of users, as well as between the various assets provided to it, only to the extent that such distinctions are justified by objective criteria and are in line with the principles of reasonableness, objectivity and non-discrimination.
3. Any further subcontracting by the Subcontractor to third parties, for the whole scope or part of the scope of the Subcontract, without HPA's prior written consent, which is provided at HPA's absolute discretion, is prohibited.

**Article 12**  
**Basic terms of Subcontracts**

A draft or copy of the Subcontract that will be drawn up, shall be submitted to the HR Governmental Body, as it is defined in the Concession Agreement.

**Article 13**  
**Dispute Resolution**

Disputes arising between HPA and its counterparties regarding the conclusion, interpretation of terms, execution and termination of Subcontracts, as well as disputes arising from the interpretation and application of this Regulation, fall under the jurisdiction of the courts of Heraklion and are adjudicated under the ordinary procedure, unless the Subcontract subjects such disputes to arbitration.

**Article 14**  
**Final provisions**

1. The right to the final interpretation of the provisions of this Regulation belongs exclusively to HPA.
2. This Regulation replaces any previous similar regulation and any other decision of HPA governing similar matters.
3. This Regulation has been drafted both in Greek and English. In case of discrepancies, the Greek version prevails.

## II. SUB-CONSESSIONS REGULATION

1. This Regulation records the basic principles governing the procedure followed by the company under the corporate name "Heraklion Port Authority S.A." (hereinafter "HPA") for the conclusion of Sub-concession contracts by which HPA delegates to third parties any part of the rights granted to HPA by the Greek State under the Concession Agreement dated 30.01.2024, which was ratified by Law 5126/2024 (Government Gazette A' 115/2024).
2. Taking into account the provisions of the above Concession Agreement, HPA, with its Board of Directors' decision no. 11688/20.11.2024 (agenda item no. 3 of the 16th Board Meeting held on 14.11.2024), approved this Regulation for the awarding of Sub-concession Contracts.
3. By applying this Regulation, HPA fulfils its obligation under the Ratifying Law (Article eighth par. 2) to adhere to the principles of transparency, publicity, equal treatment and non-discrimination in awarding contracts within its scope (Sub-Concessions, as defined in the Concession Agreement) ensuring their smooth execution, promoting healthy competition and optimising the allocation of available resources, in conjunction with the implementation of the terms of the Concession Agreement.

### Article 1

#### Definitions

<b>Awarding procedure:</b>	means the procedure for selecting a Sub-Concessionaire.
<b>Candidate:</b>	means the economic operator submitting a bid or expression of interest within the framework of an awarding procedure conducted by HPA.
<b>Company:</b>	means the Heraklion Port Authority S.A. (HPA).
<b>Concession Agreement:</b>	is the "Concession Agreement dated 30.01.2024 concerning the use and exploitation of certain areas and assets within the Port of Heraklion", signed between the Greek State and Heraklion Port Authority S.A. and ratified by Law 5126/2024 (Government Gazette A' 115/2024).
<b>Concession Assets (or Concession Area):</b>	means the areas, infrastructures, superstructures and buildings described in Article 3.3 of the Concession



Agreement.

<b>Concession Duration:</b>	means the duration of the Concession Agreement, as defined in Article 4.5 of the said Agreement.
<b>Contractor:</b>	is the Economic Operator, to whom, after completing the awarding process, HPA awards a Sub-Concession.
<b>Contractors' Register:</b>	is the Register described in article 6.B.1 of this Regulation.
<b>Direct Award:</b>	is the procedure described in Article 6.C of this Regulation.
<b>Estimated Contract Value:</b>	means the value of the Sub-Concession, as estimated by HPA, according to Article 5 of the Regulation.
<b>HR (Hellenic Republic) Governmental Body</b>	means, according to Article 2.4 of the Concession Agreement, the Hellenic Republic and/or each respective body, force, agency or authority of the Hellenic Republic, responsible for the rights and obligations of the Hellenic Republic concerning the Concession Agreement, according to the laws and administrative regulations of the Hellenic Republic, for the respective measures, functions, competences or regulatory powers, and/or being competent in the regard referred to in the relevant laws or regulations, as in force from time to time.
<b>Minor Sub-Concessions:</b>	means any contract between HPA and third parties for the concession to these third parties to use any areas (whether inside or outside buildings) or to provide services within the Concession Area, with the exception of Designated Sub-Concessions and Sub-Concessions in respect of (i) the operation of all or any substantial part of any of the Sectors or (ii) any of the services listed in Articles 11.1 and 11.2 of the Concession Agreement where the cost to HPA of constructing the relevant new infrastructure has exceeded € 300,000 per annum or the revenue from providing those services has exceeded € 300,000 per annum.
<b>Open Call for Tender Participation:</b>	is the procedure described in Article 6.A of this Regulation.
<b>Prequalification tender procedure:</b>	is the procedure described in Article 6.B of this Regulation.
<b>Services (core and</b>	means the main ("Core Services") and ancillary services

**ancillary) required to be provided by HPA:**

that HPA is obliged to provide under the Concession Agreement, and which are listed in Article 11 para. 1 and 2 of the Concession Agreement.

**Sub-Concessions:**

is any contract between HPA and service-providers or any other third party, whether affiliated or unaffiliated to HPA (with the exception of Minor Sub-Concessions), by which HPA grants, in accordance with Article 12.3 of the Concession Agreement, any part of the rights that have been granted to HPA under the Concession Agreement.

## **Article 2**

### **Subject of the Regulation – Scope**

This Regulation is drafted according to the provisions of Article 12 para. 2 of the Concession Agreement and defines the basic principles governing the procedure followed by HPA for concluding contracts for the concession to third parties (service-providers or other third parties) of any part of the rights granted to HPA under the Concession Agreement, i.e. the right to possess, use, manage, maintain, improve and exploit the Concession Assets and performing Works thereupon.

## **Article 3**

### **Basic principles of the award procedure**

1. During the process for the awarding of a Sub-Concession, HPA adheres to the principles of transparency, proportionality, publicity, non-discrimination and equal treatment, so that all Candidates, if they meet the respective conditions according to HPA's needs, have equal opportunities and rights and any discrimination against them is avoided, with the ultimate aim being that the corresponding contracts are concluded based only on open, transparent, competitive and impartial procedures.

2. Each Candidate's offer must include information regarding their specialized knowledge, experience and expertise concerning the subject of the Sub-Concession. It should also include all necessary information to identify its direct and indirect shareholders, as well

as the individuals who are the actual beneficiaries of its shares, along with a consent statement for the transfer of this information by HPA to the Hellenic Republic, if requested.

3. HPA is entitled, by a specially justified decision, to cancel the awarding procedure of a Sub-Concession, wholly or partially, at any stage, to postpone the related tender, or to avoid awarding it by declaring it unsuccessful, when in its judgment, the conditions for sufficient and healthy competition are not met or its operational needs or general conditions of the decision to conduct it have changed, or other serious reasons arise, without this giving rise to any third-party claim.

4. Offers will be evaluated with the main criterion being the economic benefit to HPA from the awarded Sub-Concession, after weighing the potential risks inherent in each proposal. In any case, HPA reserves the right to specify the above criterion at the final selection stage and to consider additional criteria if required by the specific Sub-Concession, in compliance with the principles of equal treatment and non-discrimination of Candidates. Any Sub-Concession will be concluded, renewed, extended or modified only on reasonable market terms.

5. HPA may exclude economic operators from participating in the tender procedure at its discretion. Indicatively, grounds for excluding an economic operator may include causing problems during another HPA process or contract, the occurrence of insolvency, failing to timely pay HPA amounts due under another contract, conviction of the economic operator or any person who is a member of its administrative, management or supervisory body or has powers of representation, decision-making or control therein by a criminal court decision for economic and other offences, etc.

#### **Article 4**

##### **Excluded contracts**

1. The provisions of this Regulation do not apply to procedures for awarding Sub-Concession concluded by HPA in cases of:

- (a) urgent necessity caused by extraordinary and unforeseeable events directly affecting the proper operation and the complete provision of port services to port users or the safety of HPA, which would be jeopardised if the usual awarding procedures were applied.

2. In all the above cases, HPA may directly award the contract or choose at its discretion any other awarding procedure it deems appropriate and advantageous.

3. The provisions of this Regulation do not apply to procedures for the awarding Minor Sub-Concession Contracts, which are awarded according to the Minor Sub-Concessions Regulation.

## **Article 5**

### **Calculation of the estimated value of the Sub-Concession**

1. The calculation of the value of the Sub-Concession is based on the total payable amount, excluding VAT or other taxes, as estimated by HPA, including any option rights or any extensions of the contract, as defined in the contract documents.

2. For contracts that are of a periodic nature or are expected to be renewed within a specific time frame, the total amount is used as the basis for calculating the estimated contract value.

## **Article 6**

### **Methods of selecting Sub-Concessionaires**

The selection of Sub-Concessionaires will be done either through an open invitation for tender participation or through a prequalification tender procedure or by direct award. If the value of the Sub-Concession is equal to or higher than three hundred thousand Euros (€ 300,000.00), the open call procedure will be followed, while if the value of the Sub-Concession is less than three hundred thousand Euros (€ 300,000.00), the open invitation or the prequalification tender procedure is followed alternatively, at HPA's discretion. Particularly:

#### **A. Open Invitation for Tender Participation**

1. An Open Invitation is defined as the procedure conducted in one or two phases, where any candidate may participate following an open Invitation.

2. The Invitation is posted on HPA's website and on any other publication media deemed appropriate to achieve maximum publicity. The invitation's text is published on HPA's website ([www.portheraclion.gr](http://www.portheraclion.gr)) at least ten (10) calendar days before the deadline for bid submission. In exceptional cases, this deadline may be shortened by half, i.e. to five (5) calendar days.

3. The Invitation includes a detailed description of the exact subject and basic terms of the Sub-Concession to be awarded.
4. Following the expiration of the deadline set for the expression of interest in the Invitation, the evaluation process follows and the result of the tender is approved and ratified by HPA. During this process, HPA may negotiate with one or more participants who has/have submitted a relevant offer, in order to improve the terms of the offer(s), for HPA's benefit.
5. If fewer than three offers meeting the tender criteria are submitted, allowing the respective financial offers to be opened, HPA reserves the right to declare the tender process unsuccessful, unless otherwise specified in the terms of the tender documents or/and the Regulation.
6. Any details of Sub-Concession awarding process, such as the selection criteria, the bid submission process, the participation terms and any other necessary regulations are determined by the decision of the competent company body, included in the invitation and constitute a binding regulatory framework for the conduct of the tender.
7. HPA may deviate from the above Open Invitation process for reasons of efficiency and expediting the procedures, when required by circumstances concerning the specific Sub-Concession due to urgent necessity or HPA's actual needs. In this case, all participants must be informed of the deviation.

## **B. Prequalification Tender Procedure**

### **B.1 Creation of a Contractors' Register**

1. For the creation of the Register, HPA shall publish an Invitation for expression of interest for registration in the Register. This Invitation shall include in detail the conditions, criteria and minimum capacity requirements that need to be met by the interested party in order to be registered in each contract category, as well as a detailed description of the exact subject of the category of contracts to be awarded.
2. The call remains published on the website of HPA in accordance with the deadline set and any interested party who meets the relevant criteria has the right within the deadline set to submit an expression of interest for registration in the Register, in accordance with the specific provisions of the Invitation. The Invitation may be of indefinite duration.
3. The Register shall be updated at least once a year.

4. Any details of the above procedures for the awarding of the Sub-Concession, the creation of each Register and the submission of offers, the selection criteria, the committees, the terms of participation as well as any other necessary regulations are determined by HPA's decision and are clearly included in the Invitation for expression of interest.

## **B.2 Awarding procedure**

1. For the awarding through this procedure, the Invitation shall be sent to entities registered in the Contractors' Register, in accordance with the provisions of the present Regulation.

2. The evaluation procedure shall be carried out in accordance with the provisions of Article 6A para. 4, 5 and 6.

## **C. Direct award**

1. The direct award procedure is followed, at HPA's absolute discretion, in cases where HPA's interest or the conditions of a Sub-Concession require negotiation with a specific Sub-Concessionaire, when:

- a tender process or a prequalification procedure yielded no result;
- the Sub-Concession to be awarded is an integral part of a previously awarded and existing (initial) Sub-Concession, the award of which to a third party would pose risks to the effective and efficient performance of the initial one;
- the Sub-Concessionaire has irreplaceable standards or proprietary technology and resources; and
- in cases of urgency or when there is an imminent danger to the HPA's interests.

2. The non-competitive procedure is permitted in cases expressly mentioned in this Regulation, requiring prior notification to the Board of Directors members with justified reasoning for the urgent necessity of its application.

**Article 7**  
**Guarantees**

1. HPA may require economic operators participating in the tendering process to provide appropriate guarantees at any stage of the awarding and conclusion process of Sub-Concessions.
2. If deemed necessary by HPA, it may require the submission of a participation guarantee letter as a prerequisite for participating in the tendering process. Furthermore, it may require the declared contractor to provide a guarantee letter for the proper execution of the contract for the signing of the Sub-Concession.
3. Any specific issue, especially regarding the form, amount, and required content of guarantee letters, is determined in the respective invitation.

**Article 8**  
**Duration of Sub-Concessions**

1. Sub-Concessions of any type are always concluded as fixed-term contracts.
2. The duration of these contracts in any case shall be longer than the Concession Duration.
3. By HPA's decision following a request of the Sub-Concessionaire, the duration of a Sub-Concession of any type may be renewed for a period not exceeding one year and in any case never exceeding the initial duration of the contract if this is less than one year, without prejudice to the provisions of Articles 8.2 and 8.5 of this Regulation:
  - If there is an objective reason justifying such renewal, and/or
  - If the renewal is justified to safeguard HPA's interest and in the light of the Sub-Concessionaire's investment.
4. A renewal of the Sub-Concession can be agreed only following submission by the Sub-Concessionaire to HPA of a written request at least (1) month before the expiration of the contract, unless otherwise provided in the contract.
5. A renewal of the duration of the Sub-Concession cannot be granted in the following cases:
  - The Sub-Concession during its renewal period is not governed substantially by the same terms and conditions.
  - The contractor to the Sub-Concession has materially breached terms of the contract.

## Article 9

### Grounds for exclusion of candidates

1. In accordance with Annex 12.2 of the Concession Agreement ("Mandatory Principles for Subcontractors and Sub-concessionaires"), a candidate Sub-Concessionaire or a member of a consortium or joint venture that is a candidate Sub-Concessionaire is excluded from participation in the awarding procedure and, if it takes part in it, is automatically excluded, in case HPA establishes that there is a final conviction by final judgement against it or against a member of the administrative, management or supervisory body of that Candidate or against a person having powers of representation, decision-making or control therein for one of the following reasons:

- (a) participation in a criminal organisation, as defined in article 2 of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42-45);
- (b) corruption, as defined in article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (OJ C 195, 25.06.1997, p. 1-11) and article 2(1) of the Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (OJ L 192, 31.07.2003, p. 54-56), as well as corruption as defined in Greek legislation and/or the law of the country of incorporation/registered seat (as appropriate) of the Candidate;
- (c) fraud, within the meaning of articles 2 and 3 of the Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.07.2017, p. 29-41);
- (d) terrorist offences or offences linked to terrorist activities, as defined in articles 2-12 of Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.03.2017, p. 6-21) or inciting, aiding or abetting or attempting to commit such offence, as referred to in article 14 thereof;
- (e) money laundering or financing of terrorism, as defined in article 1(3) of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on



the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 05.06.2015, p. 73-117), as amended and in force, which was transposed into Greek law with law 4557/2018 (Government Gazette A139/30.07.2018);

- (f) child labour and other forms of human trafficking, as defined by article 2 of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.04.2011, p. 1-11), as transposed into Greek law with law 4198/2013 (Government Gazette A215/11.10.2013) and/or
- (g) breach of any applicable obligations in the fields of environmental, social and labour law established by EU law, national law, collective agreements or by the international environmental, social and labour law conventions listed in Part II of Annex 12.2, as may be amended, supplemented, restated and/or substituted from time to time, and specifically:
  - ILO Convention 87 on Freedom of Association and Protection of the Right to Organise,
  - ILO Convention 98 on the Application of the Principles of the Right to Organise and Collective Bargaining,
  - ILO Convention 29 on Forced Labour,
  - ILO Convention 105 concerning the Abolition of Forced Labour,
  - ILO Convention 138 on the Minimum Age,
  - ILO Convention 111 on Discrimination (Employment and Occupation),
  - ILO Convention 100 on Equal Remuneration,
  - ILO Convention 182 on Worst Forms of Child Labour;
  - Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on substances that deplete the Ozone Layer,
  - Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention),
  - Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention),

–Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (UNEP/FAO) (PIC Convention) and its 3 regional Protocols.

2. A Candidate is excluded from participating in the Sub-Concession awarding procedure, and if they participate, they are automatically excluded, if this Candidate or a member of their administrative/management/supervisory body or any other person with powers of representation, decision-making, or control therein, have violated their obligations regarding the payment of taxes or social security contributions, as established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of the country in which the Candidate is established and/or with those of the Hellenic Republic.
3. HPA reserves the right to control, evaluate and monitor the compliance of any Candidate with its applicable obligations under international environmental, social and labor conventions, as well as the right to exclude from the Sub-Concession awarding process a Candidate who, at its absolute discretion, does not have the ability to comply with the above obligations.

## **Article 10**

### **Commitments of Candidates by the Concession Agreement**

When submitting their bid, each Candidate will declare that:

- (a) It has been fully informed and agrees to comply without any exception with all the terms of the aforementioned Concession Agreement between HPA and the Greek State ratified by Law 5126/2024 (Government Gazette A' 115/2024), concerning its position as a Candidate and Sub-Concessionaire and that it understands that this Regulation has also been set for the purpose of implementation of the relevant provisions of the above Agreement, so that the provisions of this Agreement apply if no corresponding provisions have been included in this Regulation, and its provisions prevail in case of a conflict with the terms of this Regulation. Furthermore, it accepts that any violation of the terms and restrictions set to HPA by the provisions of the Concession Agreement constitutes grounds for termination of the Sub-Concession.
- (b) It has understood and accepts that transparency in its financial transactions with HPA in the context of the implementation of the Sub-Concession has a direct impact on the Greek State's rights deriving from the Concession Agreement with HPA.

- (c) It accepts that, in case of termination the above Concession Agreement, within sixty (60) days from such termination, the Greek State will be entitled to step into the Sub-Concession, under the same terms and conditions that apply to HPA.
- (d) It acknowledges that, according to Articles 12.3, 12.4 and 12.5 of the Concession Agreement, for the conclusion of every Sub-Concession, the HR Governmental Body's prior consent in writing is required, and refusal of HR Governmental Body to provide the required consent shall not give rise to any claim of the Candidate against HPA.
- (e) If the Sub-Concession is assigned to it, it accepts and agrees to notify HPA in writing of any change to their ownership status and control structure, up to the level of the ultimate beneficial owners of its shares, within fifteen (15) days from the occurrence of the change, otherwise, in addition to HPA's right to terminate the Sub-Concession and claim compensation for the pecuniary and moral damage caused by the above omission, to also pay the penalty provided for in the Sub-Concession. In any case, it acknowledges and accepts that the HR Governmental Body may at any time request and evaluate information regarding the Sub-Concessionaire's ownership status and control structure up to the level of its final beneficial owners, and any failure to provide such information will allow the Greek State to request the termination of the relevant contract.
- (f) If the Sub-Concession is assigned to it and requested by the HR Governmental Body, HPA will be entitled to terminate the Sub-Concession if, due to the ownership status or the control of the relevant Sub-Concessionaire, the HR Governmental Body expresses concerns or objections to the engagement of the Sub-Concessionaire related to national security, without maintaining any claim against HPA or the Greek State, due such a termination.
- (g) It promises that, at the request of the Greek State, it will deliver to it any written confirmation regarding the above issues, in a form and content reasonably satisfactory to the Greek State, otherwise the Greek State will be entitled to request HPA to terminate the Sub-Concession, without the Sub-Concessionaire maintaining any claim against HPA or the Greek State, because of such a termination.

## **Article 11**

### **Fundamental obligations of Sub-Concessionaires**

1. With the Sub-Concession, the Sub-Concessionaire will acknowledge and accept that, due to the fundamental legal nature of the Port Zone as a public asset in the common use, it shall be required, throughout the duration of the Sub-Concession, to:
  - (e) operate the assets of the Port that it may manage in accordance with the purpose of their use as public assets,
  - (f) to provide users of its services equal access based on the principles of objectivity and non-discrimination;
  - (g) not to adopt or apply commercial rules, commercial or tariff policies or practices in respect of the assets that have been granted to it during the provision of services by it, that exclude or limit the rights of any person in any material respect, directly or indirectly;
  - (h) to abide by and uphold the principles of reasonableness and proportionality in its dealings with users.
2. The Sub-Concessionaire, when providing access to the assets it manages or charging fees and tariffs for the use of the said assets, may distinguish between different groups of users, as well as between the various assets granted to it, only to the extent that such distinctions are justified by objective criteria and are in line with the principles of reasonableness, objectivity and non-discrimination.
3. Any further Sub-Concession by the Sub-Concessionaire to third parties, for the whole scope or part of the scope of the Sub-Concession, without HPA's prior written consent, which is provided at HPA's absolute discretion, is prohibited.

## **Article 12**

### **Basic terms of Sub-Concessions**

No Sub-Concession according to this Regulation can be concluded without prior consent in written of the competent HR Governmental Body referred to in the above Concession Agreement.

**Article 13**  
**Dispute Resolution**

Disputes arising between HPA and its counterparties regarding the conclusion, interpretation of terms, execution and termination of Sub-Concessions, as well as disputes arising from the interpretation and application of this Regulation, fall under the jurisdiction of the courts of Heraklion and are adjudicated under the ordinary procedure, unless the Sub-Concession Contract subjects such disputes to arbitration.

**Article 14**  
**Final provisions**

1. The right to the final interpretation of the provisions of this Regulation belongs exclusively to HPA.
2. This Regulation replaces any previous similar regulation and any other decision of HPA governing similar matters.
3. This Regulation has been drafted both in Greek and English. In case of discrepancies, the Greek version prevails.