

Appendix 6 – Material provisions of the contract

Unofficial translation. The Polish language version shall prevail.

A description of the subject-matter of the contract

I The subject-matter and scope of the study

The subject-matter of the contract is to develop basic and detailed designs, together with the preparation of Construction Specifications and obtaining building permits for the task **“The construction of a bridge for pedestrians and cyclists over the Vistula”**

Location of the structure:

The structure will be located on the following plots:

- Cadastral district 50401 – plots No. 9/1, 10, 8,
- Cadastral district 50403 – plot No. 18,
- Cadastral district 50404 – plots No. 3, 4/7, 1/3, 4/6,
- Cadastral district 41504 – plot No. 1,
- Cadastral district 41505 – plot No. 5,
- Cadastral district 41508 – plots No. 2/1, 3/1, 1

Name and CPV codes:

code – 71322300 – 4: Bridge-design services:

The subject-matter of the contract includes:

1. Preparatory works, including the performance of geological and engineering surveys in the planned locations of supports, obtaining maps for design purposes,
2. Submitting complete design documentation to the Contracting Authority (basic design, detailed design with detailed designs for the reconfiguration of utilities conflicting with the designed bridge and the Construction Specifications) together with the building permit,
3. Completing the necessary arrangements, obtaining decisions and exemptions on behalf of the Contracting Authority, in particular:
 - a. Environmental permit,
 - b. Decision on the site location of a public-purpose project,
 - c. Written and graphic extracts from the local development plan,
 - d. Arrangements with the Regional Water Management Authority on the exemption from the prohibition arising from Article 88 l of the Water Law,
 - e. Arrangements with the Voivodeship Authority of Land Melioration and Water Facilities on the exemption from the prohibition arising from Article 88 n of the Water Law,
 - f. Water-law permits along with drawing up the water and wastewater management plan,
 - g. Approving the geological and engineering documentation,
 - h. Assessment by the Roads & Public Transport Department – the Traffic Engineer of the target traffic arrangement design
 - i. Transport review,
 - j. Arrangements with the administrators of the embankment and of the area,
 - k. Obtaining the guidelines of the Capital City Monument Conservator,
 - l. Permit of the Head of the Heritage Protection Department for the works,
 - m. Arrangements with the Regional Water Management Authority concerning the marking of the water route,
 - n. Arrangements with the Public Space Aesthetics Division regarding the colours of the bridge,

- o. Permit for the clearing of trees, including the arrangements for the design of replacement plantings,
 - p. Arrangements for the solutions enabling the connection of the bridge with Bulwary Wiślane and Wybrzeże Szczecińskie, conducted with Investors in both tasks in terms of interference with the completed projects,
 - q. Obtaining the conditions for the reconfiguration of conflicting utilities, together with arrangements for detailed designs,
4. Developing a concept for the erection of the structure,
 5. Preparing the bills of quantities,
 6. Drawing up investor's cost calculation,
 7. Preparing specifications for work completion and acceptance,
 8. Performing complete calculations, including the structure erection phase,
 9. Preparing a preliminary schedule of construction works,
 10. Project management.

II Substantive scope

A. Preparatory works

1. Stock taking of the existing condition of works,
2. Detailed geological and engineering surveys,
3. Preparing a map for design purposes,
4. Obtaining and submitting to the Contracting Authority current extracts from the land register for all plots covered by the project,
5. Obtaining technical conditions for the construction or reconfiguration of the essential technical infrastructure, reconfiguration of utilities conflicting with the designed bridge.

B. Basic design with a building permit.

1. Developed in line with the currently binding provisions of the Construction Law (Journal of Laws of 2016, item 290, consolidated text, as amended), the Regulation of the Minister of Infrastructure on the detailed scope and form of design documentation, the technical specifications for work completion and acceptance and the functional-utility programme (Journal of Laws of 2013 No. 0 item 1129 consolidated text, as amended) and the Regulation of the Minister of Transport, Construction and Maritime Economy of 25 April 2012 on the detailed scope and form of basic designs (Journal of Laws of 2012, item 462, as amended) along with the statement on documentation completeness and any information and elements necessary to obtain a building permit.
2. Obtaining a building permit for and on behalf of the Contracting Authority.
3. The basic design will be divided into the following stages:
 - a) Stage 1: The construction of a bridge for pedestrians and cyclists over the Vistula (within the scope facilitating the obtaining of an occupancy permit and the safe use of the passageway)
 - b) Stage 2: The construction of elements which do not constitute the main structure and usable space of the bridge, including the development of the surrounding areas.

C. Detailed designs:

1. A detailed design should supplement and provide details for the Basic Design in the scope and level of accuracy necessary to prepare detailed bills of quantities, the investor's cost calculation and the implementation of construction works. Design solutions should be unambiguous, clearly showing the adopted solutions.
2. The detailed designs should include:
 - 1) all designs for individual disciplines resulting from the scope of the contract, divided into:
 - a) the bridge part
 - b) the road part,
 - c) parts for individual discipline designs of technical infrastructure and reconfiguration of utilities, and also parts for individual discipline designs of particular utilities agreed on

with network administrators. The design should also include lighting, drainage, environmental protection equipment, including equipment for utilising earth masses, the waste management design – the respective disciplines in separate files.

- 2) the collective drawing of utilities,
 - 3) bills of quantities – a compilation of the planned works in the order of their technological completion, calculating and providing the agreed quantities, specifying the basis for determining the detailed description of works prepared on the basis of the design documentation and the technical specifications for work completion and acceptance. The bill of quantities is divided into disciplines.
 - 4) Detailed specifications for work completion and acceptance for all disciplines,
 - 5) The conceptual design for structure erection, with a division into transport and erection sections.
 - 6) all other documents resulting from the applicable regulations, ordinances and administrative decisions,
 - 7) a clause on documentation completeness,
 - 8) an option for installing automatic traffic measuring devices.
3. The form and scope of the design documentation and the technical specifications for work completion and acceptance should be in line with the applicable provisions of the Regulation of the Minister of Infrastructure of 2 September 2004 (Journal of Laws of 2013 No. 0 item 1129 consolidated text, as amended) on the detailed scope and form of design documentation, the technical specifications for work completion and acceptance, and the description of the subject-matter of the contract.
 4. Furthermore, the design documentation should contain a list of all prepared design studies.
 5. The design documentation should be also prepared in an electronic form (filed in a pdf format and in an editable form according to the provisions of the agreement). The file format should facilitate scaled printing.
 6. The designer shall submit to the Contracting Authority design documentation required by the Public Procurement Law, on the basis of which the Contracting Authority will be able to conduct a contract award procedure for construction works.
 7. The investor's cost calculation developed by the Designer should specify the bridge and road section, the electric (lighting) section, the section referring to the reconfigured utilities by network and type.
 8. Each design section is subject to the Contracting Authority's approval.
 9. Design solutions referring to utilities should be agreed on with the respective network administrators.
 10. The costs incurred by ZDM due to changes to design solutions introduced at the stage of implementing construction works, arising from the improper performance of the contract shall be borne by the designer. ZDM shall charge the designer with the incurred and documented costs.
 11. The Contracting Authority reserves the right to resign from any design section.

III Project architect's supervision

1. Project architect's supervision shall be performed during the implementation of construction works within the time provided for in the agreement concluded with the contractor.
2. Within the project architect's supervision, the Economic Operator is obliged to:
 - a) supervise, during the implementation of construction works, the compliance of technical, material and utility solutions with the design documentation. Should the contractor carry use equivalent materials or utilities, i.e. with parameters at least equal to the ones presented in the design documentation constituting the subject of this agreement – the Economic Operator shall verify and accept the parameters of the materials or devices
 - b) agree on and introduce replacement solutions in relation to those provided for in the design documentation, unless the change is accepted by the Contracting Authority,

- c) supplement the missing design documentation and to explain any doubts arising during the implementation of the works to the contractor.
 - d) introduce necessary changes to the design documentation,
 - e) participate in technical and site meetings. It is assumed that the number of visits of the designer(s) to the site will depend on reasonable requirements specified from time to time by the Contracting Authority or an Engineer (supervision inspector) acting on its behalf.
 - f) participate, at the request of the Contracting Authority or the Engineer (supervision inspector), in the acceptance of construction works and the final acceptance of the project.
3. Supervision activities will be performed by the Designer at each request of the Contracting Authority. The duties of the Designer also include participation in coordination meetings.

V Documentation requirements:

1. The design documentation must be consistent with the design documentation selected by way of the conducted competition and in line with the requirements set in competition regulations.
2. The design documentation should take into account the requirements specified in the currently binding regulations, programme assumptions, technical conditions issued by infrastructure utilities owners, assessments, arrangements and conclusions from the conducted geological surveys. The design documentation cannot adopt solutions of a particular company but solutions with specific technical parameters, which must be specified in study.
3. The price offered for design works should cover all the activities and resulting costs, including charges imposed by offices and institutions due to arrangements on design works and payments related to obtaining technical conditions for the supply of utilities, the purchase of maps and base-maps, extracts from land registers, the costs of essential surveys and other unspecified costs.
4. The documentation should be complete with respect to its intended use. It should contain the required confirmations of design solutions to an extent specified by law, the required assessments, arrangements, consents and permits to an extent specified by law and a description of surveys and documentation comprising the complete subject-matter of the contract. It should include the Economic Operator's declaration signed by the designers responsible for meeting the requirements stating that the documentation was performed in line with the agreement, currently binding regulations and is complete as regards its objective.
5. The Economic Operator is obliged to signal the problems arising at each stage of the contract performance and actively participate in meetings devoted to such problems and in solving them.
6. During the design the Economic Operator shall specify the exposure class of the facility as at least XF4 and XD3 (according to PN-EN 206-1) and the corrosion rate for environment C5-I (as per PN-EN ISO 12944-2). The facility should be designed in a way ensuring high durability. The use of de-icing devices on the facility should be planned. UV-resistant, frost-resistant and vandal-resistant materials should be used.
7. The Economic Operator undertakes to perform the subject-matter of the contract in line with the state of the art, binding regulations and standards.
8. The Economic Operator responsible for the documentation is obliged to provide answer to all questions of tenderers participating in the contract award procedure for construction works referring to the prepared design documentation.
9. The Economic Operator shall present to the Contracting Authority the original applications, with all attachments, for issuing ordinances and administrative decisions and copies of requests for technical conditions and arrangements. The copy should be delivered to the Contracting Authority with a confirmation of the application or request date.
10. If any remarks are made in respect of the materials attached to the applications and requests by the entities which issue assessments, arrangements, ordinances and administrative decisions, the Economic Operator is obliged to immediately correct or supplement the materials and submit the corrected materials to the relevant entities. Copies of the materials with confirmations of the date of their submission shall be delivered by the Economic Operator to the Contracting Authority.

11. Applications for issuing administrative decisions and the related correspondence will be directed to the relevant bodies following the approval of the Contracting Authority. The issued administrative decisions, original applications and the remaining correspondence conducted on behalf of the Contracting Authority, should be immediately submitted with attachments to the Contracting Authority.
12. The Economic Operator is obliged to submit, at the request of the Contracting Authority, a schedule of time limits, works and expenditures in a graphic form for particular documentation items, including project architect's supervision.
13. The Economic Operator is obliged to submit a list of persons designated for contract performance and a copy of construction authorisations (if required), and certificates of affiliation with the respective professional chambers for people who are to perform their functions immediately after the conclusion of the agreement.
14. The Economic Operator is obliged to coordinate work with other projects planned for implementation in the area.
15. The Economic Operator is obliged to answer questions relating to design solutions included in the design documentation also in the period between the acceptance of the last elements of the documentation by the Contracting Authority and the completion of construction works.
16. Answers and explanations relating to design documentation will be provided immediately, not later than within 24 hours.
17. Introducing changes in and supplementations to the design documentation within 7 days after the Contracting Authority's request.
18. The designer shall check the implementation of the construction works at least twice a month in respect of their compliance with the design documentation. The designer shall inform the Contracting Authority immediately of any identified irregularities.
19. The Contracting Authority shall require that the documentation be delivered in folders (durable, with handles, properly closed).
20. The number of documentation copies:
 - 1) Basic design, land development design – **5 copies**
 - 2) Detailed designs by discipline – **5 copies** (1 copy with original arrangements)
 - 3) The conceptual design for fitting technology – **2 copies**
 - 4) Bills of quantities for works from all disciplines (by discipline) – **2 copies**
 - 5) Investor's cost calculation by discipline – **2 copies**
 - 6) Cost calculation form for the bid – **2 copies**
 - 7) Geological and engineering surveys – **4 copies**
 - 8) The documentation in electronic form – **on a DVD (text in a pdf or doc file, drawings in a PDF, DWG and DXF files, investor's cost calculation in a pdf file and in an editable version – excel and ath, cost calculation form for the bid in a pdf file and in an editable version – excel and ath, bill of quantities in a pdf, excel and ath files) – 3 copies**
The electronic form should be in line with the list of all design studies essential for carrying out construction works.
Within the submitted documentation, the designer will also submit the computational part with all calculations, including the finite element method model. Live load: people 5 kN/m², tested with the service vehicle with a weight of 3.5 t. The bridge must be designed in such a way so as to ensure both the ultimate limit states and the serviceability limit state i.e. deflection and natural frequency (user comfort criteria).

NOTE: All original arrangements and assessments should be included in the 1st (investor's) copy of the design.

21. The electronic version should contain a complete documentation (all drawings presented in the documentation, descriptions and computations, arrangements, assessments, etc.)

VI. Deadlines:

- In line with § 2 of the agreement

VII. Settlement of the subject-matter of the contract

- In line with § 3 of the agreement

In the event of a failure to meet the obligations resulting from project architect's supervision, in particular for a failure to meet the deadlines for:

- **supplementing a missing design solution,**
- **introducing changes at the request of the Contracting Authority**
- **providing explanations or answers to questions related to the design documentation**
- **site inspection,**

The remuneration shall be reduced for each failure to meet the obligations mentioned above by 0.2% of the total remuneration for project architect's supervision specified in the agreement.

The designer, within project architect's supervision, when requested by the Contracting Authority, is obliged to appear at the construction site on the next day at the latest.

The Economic Operator shall transfer to the Contracting Authority proprietary copyrights to the design documentation.

VIII. Legal regulations

The design documentation and solutions included therein should be in line with the binding legal regulations, in particular with:

1. the Regulation of the Minister of Infrastructure on the detailed scope and form of design documentation, the technical specifications for work completion and acceptance and the functional-utility programme (Journal of Laws of 2013 No. 0 item 1129 consolidated text, as amended)
2. the Regulation of the Minister of Transport, Construction and Maritime Economy of 25 April 2012 on the detailed scope and form of basic designs (Journal of Laws of 2012, item 462, as amended)
3. the Public Procurement Law Act (Journal of Laws of 2015, item 2164, consolidated text, as amended).
4. the Building Law Act (Journal of Laws of 2016 item 290, consolidated text, as amended)
5. the design and development standards for the bicycle system in the City of Warsaw constituting an annex to Ordinance No. 2165/2012 of the Mayor of Warsaw of 1 March 2012.
6. Ordinance No. 1539/2016 of the Mayor of Warsaw of 12 October 2016 on creating favourable conditions for pedestrian traffic in the area of the City of Warsaw.
7. the Regulation of the Minister of Transport and Maritime Economy of 30 May 2000 on the technical conditions for road engineering facilities and their location (Journal of Laws no. 63 item 735 of 2000, as amended)
8. the Regulation of the Minister of Transport and Maritime Economy of 2 March 1999 on the technical conditions for public roads and their location (Journal of Laws of 2016, item 124)
9. the Act on Public Roads (Journal of Laws of 2016, item 1440, consolidated text)
10. the Regulation of the Minister of Infrastructure of 3 July 2003 on the detailed technical conditions for road signs and signals and road-traffic safety devices, and the conditions of their deployment on roads (Journal of Laws of 2003 No. 220, item 2181 as amended)
11. The Regulation of the Minister of Infrastructure and the Minister of Internal Affairs and Administration of 31 July 2002 on road signs and signals (Journal of Laws of 2002, No. 170, item 1393, as amended).
12. the Act of 18 May 2005 amending the act – Environmental Protection Law and other Related Acts (Dz.U. of 2005 No. 113, item 954, as amended)

13. the Act of 3 October 2008 on the disclosure of information on the environment and its protection, on the participation of society in environmental protection and environmental impact assessment (Journal of laws of 2016, item 353, consolidated text)
14. the Water Law Act (Journal of laws of 2015, item 469, consolidated text, as amended)
15. the Notice of the Marshal of the Sejm of the Republic of Poland of 10 September 2014 on the announcement of the consolidated text of the Act on the protection of monuments and monument maintenance (Journal of Laws of 2014, item 1446, consolidated text, as amended)
16. The Regulation of the Minister of Culture and National Heritage of 14 October 2015 on the performance of renovation works, restoration works, construction works, conservator's examination, architectural examination and other works within a listed monument, as well as archaeological investigation and search for monuments (Journal of Laws of 2015, item 1789)
17. the Act of 16 April 2004 on construction products (Journal of Laws of 2016, item 1570, consolidated text)
18. Regulation of the European Parliament and of the Council (EU) No. 305/2011 of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council directive 89/106/EEC
19. Commission communication in the framework of the implementation of Regulation (EU) No 305/2011 of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC on harmonised standards (OJEU 2015/C 378/03) A list of harmonised standards (June 2016)
20. Commission Implementing Regulation (EU) No. 1062/2013 of 30 October 2013 on the format of the European Technical Assessment for construction products
21. Commission Delegated Regulation (EU) No. 157/2014 of 30 October 2013 on the conditions for making a declaration of performance on construction products available on the website
22. Commission Delegated Regulation (EU) No. 568/2014 of 18 February 2014 amending Annex V to Regulation (EU) No. 305/2011 of the European Parliament and of the Council as regards the assessment and verification of constancy of performance of construction products
23. Commission Delegated Regulation (EU) No 574/2014 of 21 February 2014 amending Annex III to Regulation (EU) No. 305/2011 of the European Parliament and of the Council on the model to be used for drawing up a declaration of performance on construction products
22. the Road Traffic Law Act (Journal of Laws of 2012, item 1137, consolidated text, as amended)
23. the Civil Code (Journal of Laws of 2016, item 380, consolidated text, as amended)
24. Polish industry standards and European industry standards

The Economic Operator shall perform the structural calculations on the basis of standards in the following order:

- a. PN-EN 1990 – Eurocode – Basis of structural design
- b. PN-EN 1991 – Eurocode 1 – Actions on structures
- c. PN-EN 1992 – Eurocode 2 – Design of concrete structures
- d. PN-EN 1993 – Eurocode 3 – Design of steel structures
- e. PN-EN 1997 – Eurocode 7 – Geotechnical design
- f. ISO 21542:2011 “Building construction -- Accessibility and usability of the built environment”

VIII. Requirements for the Economic Operator

The human resources of the Economic Operator should include a person holding a building licence in the field of bridge construction without limitations, with professional experience in the field of preparing design documentations for bridge facilities with a length of at least 200 m over undammed free-flowing water of similar conditions to those in Warsaw.

PRICING FORM:

For the design works

No.	Name	Net price	Gross price
1	Basic design and obtaining of the building permit		
2	Detailed designs		
3	Detailed designs – utilities		
4	The concept for the erection of the structure		
5	Construction Specifications		
6	Bills of quantities and cost assessment		
7	Specifications for Work Completion and Acceptance		
	Total items 1-7:		
8	Architect's supervision		
	Total items 1-8:		

The total gross price of the proposal is:

Say:

TEMPLATE OF AGREEMENT DPZ/..../...../...../17

concluded on in Warsaw by and between:

the City of Warsaw, pl. Bankowy 3/5, 00-950 Warszawa, NIP [*Tax Identification Number*] 525-22-48-481 for and on behalf of which the following entities act jointly pursuant to the Agreement reached on

the Architecture and Spatial Planning Department of the City of Warsaw, ul. Marszałkowska 77/79, 00-683 Warszawa, and

the Municipal Road Authority, ul. Chmielna 120, 00-801 Warszawa, appointed by way of a resolution of the Warsaw City Council of 26.04.1993 No. XLV/259/93 on the formation of the Municipal Road Authority, operating pursuant to the resolution of the Warsaw City Council of 29.05.2008 No. XXXIV/1023/2008 on the statute of the Municipal Road Authority, as the entity performing on behalf of the Parties to the aforementioned Agreement the single-source procedure of awarding procurement contracts to an economic operator who won the competition, and having been granted the power of attorney authorising the Municipal Road Authority to represent the Architecture and Spatial Planning Department of the City of Warsaw in matters related to the subject-matter of the agreement, on the basis of the mentioned Agreement,

represented by:

pursuant to power of attorney No. by
..... - Director of the Municipal Road Authority

and pursuant to power of attorney No. by
.....

hereinafter referred to as the „**Contracting Authority**”

and

REGON [*Business Registry Number*]: NIP [*Tax Identification Number*]:

..... KRS [*National Court Register*]:

represented by:

1.
2.

hereinafter referred to as the “**Economic Operator**”,

hereinafter referred to jointly as the “**Parties**”

Following the conclusion of the single-source procedure of awarding a public procurement contract, an agreement has been concluded pursuant to Article 66, in conjunction with Article 67 par. 1 point 2 of the Act of 29 January 2004 – Public Procurement Law (Dz. U. [Journal of Laws of 2015 item 2164 as amended), hereinafter the "Agreement", reading as follows:

§ 1

The subject-matter of the Agreement

1. The Contracting Authority hereby commissions and the Economic Operator undertakes to:
 - 1) draw up the design documentation entitled "The construction of a bridge for pedestrians and cyclists over the Vistula" divided into implementation stages according to the description of the Subject-Matter of the Contract,
 - 2) obtain the building permit for the construction of individual stages of the task,
 - 3) perform the project architect's supervision during the construction works carried out on the basis of the designs referred to in pt. 1.
2. The detailed scope of the contract is defined in the "Description of the Subject-Matter of the Contract."
3. The subject-matter of the Agreement includes:
 - 1) developing a basic design as agreed upon with the Contracting Authority, along with seeking all arrangements required by law, studies, exemptions and approvals which are indispensable to obtain the building permit,
 - 2) obtaining the building permit by the Economic Operator on behalf of the Contracting Authority,
 - 3) drawing up detailed designs, including relocation designs for utilities conflicting with the designed bridge.
 - 4) preparing Construction Specifications,
 - 5) preparing bills of quantities for the works,
 - 6) drawing up the investor's cost calculation,
 - 7) preparing the concept for the fitting and the preliminary schedule of construction works,
 - 8) holding social consultations, if necessary,
 - 9) performing project architect's supervision over the implementation of the works.
4. The Economic Operator undertakes to perform the abovementioned works in line with the Description of the subject-matter of the Contract appended hereto, the principles of technical knowledge, the binding law, decisions, opinions, arrangements and recommendations of the Contracting Authority, as well as in line with the Design concept prepared by the Economic Operator selected by way of the competition.
5. In the case of the occurrence of mutually exclusive provisions or guidelines in the documents being part hereof, the following hierarchy of significance shall apply:
 - 1) the Agreement,
 - 2) the Negotiations Report,
 - 3) the Description of the Subject-Matter of the Contract,
 - 4) letter of the Regional Water Management Authority No. NZW/072/712016 dated 05.04.2016
 - 5) the design concept selected by way of the competition,
 - 6) the Economic Operator's proposal,
 - 7) the Terms and Conditions of the Competition.
6. The provisions included in the documents referred to in par. 5 should be treated as mutually complementary. In the case of the occurrence of two or more contradictory requirements, the requirement included in a document listed higher in the hierarchy shall be binding.
7. Whenever the design documentation or study is referred to herein and in the Description of the Subject-Matter of the Contract, they shall mean studies set forth in par. 3 points 1-7 and studies developed during the project architect's supervision works.

§ 2

Agreement completion date

1. The works shall commence on: **the date of signing hereof.**
2. The design documentation shall be prepared and submitted to the Contracting Authority (§ 1 par. 3 points 1-8) by

3. The project architect's supervision over the construction works shall end on the date of the completion of construction works performed in line with the design documentation constituting the subject-matter of the Agreement.
4. The Economic Operator shall submit to the Contracting Authority a detailed schedule of works and expenditures for the performance of design works within 14 days of signing hereof.
5. The schedule of works and expenditures will include all activities, along with the time necessary to obtain the required arrangements, exemptions and permits.

§ 3

The Economic Operator's remuneration and settlement of works

1. The Parties have agreed upon the following fixed remuneration for the performance of the subject-matter of the Agreement:
 - 1) for the performance of tasks set forth in § 1 par. 3 point 1-8 (design documentation):
 - PLN net (say:)
 - 23% VAT PLN (say:)
 - gross: **PLN** (say:)
 - 2) for the performance of tasks set forth in § 1 par. 3 point 9 (project architect's supervision):
 - PLN net (say:)
 - 23% VAT PLN (say:)
 - gross: **PLN** (say:)
2. The remuneration for the performance of the subject-matter of the Agreement has been agreed by the Parties on the basis of negotiations held according to the single-source procurement procedure.
3. The amounts defined in par. 1 include all the costs related to the performance of the task arising directly of the documents referred to in § 1 par. 5, and costs which were not included in the said documents but which are necessary for the performance of a given task, in particular the costs of multi-shift work system and work on public holidays, the cost of land-surveying services and the costs of transferring proprietary copyright to the design documentation and documents drawn up during the performance of the task for the needs of the design documentation, costs of all arrangements, exemptions, permits and studies required to obtain them (i.a. a water-law permit, exemptions from the bans set forth in the Water Act, etc.), the cost of maps for design purposes, all administrative documents, the costs of geological and engineering surveys, etc.
4. The Contracting Authority allows the submission of partial invoices.
5. The Economic Operator has the right to submit partial invoices and a final invoice after interim work acceptance and the final work acceptance of individual task-performance stages, confirmed by interim and final work acceptance reports by the Contracting Authority, subject to par. 6.
6. Partial payments as regards the performance of works set forth in § 1 par. 3 points 1-8, shall be made on the basis of an acceptance report of the percentage ratio of completed works, not exceeding 80% of the remuneration set forth in par.1 point 1. The remaining amount to be settled shall be paid upon the submission of documentation being the subject-matter of the Contract, including the legally binding building permit, to the Contracting Authority and upon delivery of a statement on documentation completeness, on the preparation of documentation in the scope indispensable for the accomplishment of the purpose it serves, on the compliance of the documentation with the Agreement, legal regulations in force, principles of technical knowledge and standards, and that the documentation is free of any claims and rights of third parties.
7. The Economic Operator shall provide the performance of project architect's supervision over the prepared design documentation within the remuneration set forth in § 3 par. 1 point 2, on the principles referred to in § 6 hereof and in the Description of the Subject-Matter of the Contract.

8. The final acceptance report will be drawn up upon the completion of the task set forth in § 1 par. 1 point 1 and point 2 in the scope in line with the Description of the Subject-Matter of the Contract referred to in § 1 par. 3 point 1-8.
9. The VAT invoices will be issued on the basis of the signed interim and final work acceptance report.
10. The prices provided in the proposal shall be subject to indexation on the principles set forth in § 14 par. 1 point 9 of the Agreement.
11. The invoice shall be issued to the City of Warsaw, Pl. Bankowy 3/5, 00-950 Warszawa, NIP 525-22-48-481, whereas the invoice recipient and the payer is the Municipal Road Authority, ul. Chmielna 120, 00-801 Warszawa.
12. The payment for properly performed works shall be made by the Municipal Work Authority within 21 days of the submission of a correctly issued VAT invoice on the basis of interim and final work acceptance reports to the Office of the Municipal Road Authority, together with the statements referred to in par. 14, by transfer to the following bank account number:
.....
in the Bank;
13. The payment date shall be the date of debiting the bank account of the Contracting Authority.
14. The Contracting Authority shall pay a part or whole of the due remuneration for the accepted construction works upon the delivery of written statements by the Economic Operator (certified by subcontractors) of no arrears in payments to subcontractors taking part in the performance of the accepted construction works.
15. In the case of submitting an incorrect invoice or failure to submit written statements referred to in par. 14, the payment period set forth in par. 12 runs anew of the date of submitting the relevant document required by law in order to correct the errors or correct statements listed in par. 14 herein.
16. Prior to the direct payment, the Contracting Authority is obliged to enable the Economic Operator to submit remarks concerning the validity of direct payment of remuneration to a subcontractor or a further subcontractor.

§ 4

Indexation of the remuneration

1. The Economic Operator's remuneration may be subject to indexation in line with the principles and in the scope set forth in § 14 par. 1 point 9. The payment of remuneration for works which was made after the payment date agreed in the schedule is subject to indexation on the same principles as in the case of payments made in compliance with the above schedule.

§ 5

Copyright

1. Pursuant to this Agreement, upon the delivery of the study to the Contracting Authority, referred to in § 1 par. 1 point 1 and 2 herein, and upon the delivery of studies drawn up during the performance of project architect's supervision referred to in § 1 par. 1 point 3 herein, the Economic Operator shall transfer proprietary copyright to the study within the fields of use set forth in Article 50 and 61 of the Act on Copyright and Related Rights, including:
 - 1) with regard to recording and reproducing the studies - photocopying, scanning, copying on CD or DVD drives, copying into portable storage devices,
 - 2) with regard to circulating the original or copies of the recorded study:
 - a) for the Contracting Authority's own use and for the use of its affiliate entities, for the purpose of the Contracting Authority's statutory activity, including the handing over of the study or its part, and its copies to:
 - other contractors, as the basis or a starting material for developing other design studies,
 - contractors taking part in the public procurement award procedure, as part of the Terms of Reference,
 - contractors, as the basis for the performance and supervision of construction and design works,

- third parties taking part in the investment procedure;
 - b) the use of the study or any part thereof for presentations
 - c) downloading the study or parts thereof to the computer memory in any number of the Contracting Authority's workstations and work stations of affiliate entities,
 - d) saving the documentation into the Contracting Authority's server in order to perform duties arising from the Public Procurement Law under which the Contracting Authority is obliged to allow the contractors to upload procurement documents, including the documentation, via the Internet.
 - e) the reproduction of the study or its part using any method,
 - f) the use of the design documentation in the contract award procedure for the performance of construction works on the basis thereof.
- 3) with regard to disseminating the works by means other than stipulated in point 2 – public display and public sharing in such a way so that it is accessible to everyone in a given location and time.
2. Upon the submission of all the studies performed hereunder, the Contracting Authority shall be entitled to further develop or commission to develop documents and studies prepared by the Economic Operator, including, in particular, introducing changes, alterations and adaptations, whereas the disposal and use of the study is not subject to obtaining consents, including the Economic Operator's consent. The Economic Operator shall not be entitled to grant permissions for the exercise of dependent copyright in relation to studies covered by this Agreement. The Contracting Authority is responsible for introducing changes, alterations or adaptations, unless their introduction and implementation is contracted to the Economic Operator or they are approved by the Economic Operator.
3. In the event the Economic Operator engages employees, subcontractors or other persons or entities in the works on the development of the study, the Economic Operator undertakes to deliver declarations of cooperating persons or entities on the transfer of copyright to the Contracting Authority within the scope stipulated herein.
4. The Contracting Authority may transfer the proprietary copyright to other persons or grant these persons a licence to use the study.
5. The transfer of proprietary copyright to the study for fields of use listed in par. 1 and a permit for the exercise or for the commissioning to exercise dependent copyright shall be performed within the remuneration for the performance of the Subject-Matter of the Contract referred to in § 3 par 1.
6. The Economic Operator is not entitled to additional remuneration for the use of the study within any separate fields of use or for the exercise or commissioning to exercise dependent copyright.
7. The transfer of proprietary copyright will result in the transfer of the ownership of all the copies of the study free of charge.
8. The Contracting Authority undertakes not to remove the markings indicating the authors of the study.
9. The Economic Operator declares that the submitted documentation shall not infringe any right of thirds parties. In the case of reporting any claims towards the Contracting Authority on the infringement of rights of third parties, the Economic Operator undertakes to satisfy the claims in full.

Upon the transfer of proprietary copyright to the documentation, the Economic Operator transfers to the Contracting Authority the ownership of all the carriers on which the documentation has been recorded.

§ 6

Obligations of the Economic Operator

1. 1. The Economic Operator shall be obliged in particular to:
- 1) perform the subject-matter of the contract in compliance with the contractual provisions and the principles of technical knowledge, and in line with the binding legal regulations and standards,
 - 2) seek the arrangements, exemptions, agreements and approvals as may be required under the applicable regulations and indispensable for the proper performance of the subject-matter of the Agreement, including an exemption from the bans listed in Articles 88l and 88n of the Water Act of 18 July 2001 (Journal of Laws of

2015, item 469, as amended) along with a water and wastewater management plan, a statement regarding an opinion on the need to conduct an environmental impact assessment, and, where necessary, obtain an environmental decision, an investment location decision and a decision on underground infrastructure reconfiguration, along with the coordination of arrangements regarding the designed utilities, make arrangements with the Regional Water Management Authority concerning the conditions of conducting inter-embankment work (vessels, etc.), make arrangements with the Voivodeship Authority of Land Melioration and Water Facilities concerning the conditions of conducting embankment work, perform geological and engineering surveys, and obtain a permit for the clearing of trees, including the arrangements for the design of replacement plantings,

- 3) make arrangements with the Signalisation and Lighting Department of the Road Management Authority regarding lighting design solutions,
 - 4) make arrangements with the Road Maintenance and Repair Department of the Road Management Authority regarding road cross-sections,
 - 5) make arrangements with the Property Management Authority concerning the possible connection of the bridge to the Vistula Embankments, and with the Municipal Road Investment Management Authority concerning the possible connection with Wybrzeże Szczecińskie,
 - 6) obtain the final acceptance of the results of the study developed by the Contracting Authority, prior to their submission to the competent body, the pre-construction notification or the construction permit,
 - 7) comply with patent rights and licences,
 - 8) provide clarifications regarding the documentation and solutions stipulated therein,
 - 9) notify the Contracting Authority of any problems or circumstances that may affect the quality or the completion date of any element of the study or other works constituting the subject-matter of the contract,
 - 10) provide the Contracting Authority with an opportunity to verify and inspect, on an ongoing basis, the progress of work related to the development of the study,
 - 11) obtain, at its own account and cost, any opinions, arrangements and materials that may be necessary for the development of the study, including those contained in the resources of the competent institutions,
 - 12) provide to the Contracting Authority the studies forming the subject-matter of the contract, in the amount conforming with the description of the subject-matter.
 - 13) promptly furnish, but not later than within 7 days following a suitable notification, any missing documents, with the aim of obtaining administrative decisions that must be sought by the Economic Operator,
 - 14) perform any other actions or work which may prove indispensable to the proper performance of the objective hereof, including those that have not been listed above or in the description of the subject-matter of the contract.
2. The Contracting Authority shall prepare the documentation and shall perform the project architect's supervision for the remuneration laid down in § 3 (1). As part of the project architect's supervision, the Economic Operator shall be obliged in particular to:
- 1) provide clarifications regarding the documentation and solutions stipulated therein, within 24 hours after submitting a request by the Contracting Authority;
 - 2) promptly comply with the instructions given by the Representative of the Contracting Authority;
 - 3) notify the Representative of the Contracting Authority of any problems or circumstances that may affect the quality or the completion date of the study,
 - 4) inspect at least twice a month the compliance of any work conducted with the design documentation;
 - 5) promptly (i.e. not later than within 24 hours of the request) report to the construction site at which the works are conducted on the basis of the design documentation, as well as perform and present to the Contracting Authority, within the time limits set by the latter, any improvements or supplements arising from the incompliance of the study with the actual status, or from design errors.

3. Should any defects be identified in the study, they shall be removed at the Economic Operator's cost.
4. The Economic Operator shall be held liable towards the Contracting Authority if any defects occur in the documentation, affecting its value or usefulness in terms of the objective specified in the Agreement, or arise in connection with the circumstances and purpose. It shall in particular be held liable for any solutions contradicting the parameters set forth in the applicable standards or regulations.
5. The Economic Operator shall be responsible for any damage sustained by the Contracting Authority or third parties, arising from documentation defects, if the defects are revealed upon expiry of the warranty period, and the Contracting Authority could not, by acting with due diligence, identify them prior to such expiry.
6. The Economic Operator shall be obliged to organise technical meetings at the design stage, in order to discuss the progress achieved in the project work. Such meetings shall be organised in the City of Warsaw. If any such meetings are held outside the Capital City of Warsaw, the Economic Operator shall organise transport for its representatives, both ways, at its own cost.
7. The Economic Operator shall not place in any element of the design documentation, or in the Construction Specifications, regarding any work not included in such specifications, any trademarks, patent marks or information on the origin, the source or specific processes, which characterise the product or service supplied by a given economic operator.
8. The Economic Operator shall provide the Contracting Authority with the design documentation and any possible improvements or supplements thereto, in paper and electronic pdf format, and in other editable electronic formats, including dwg, dxf, doc, docx, xls, xlsx, xml, rtf, stl, dat (with a note regarding the software version used to generate a given file) in the numbers defined in the description of the subject-matter of the contract. The Economic Operator shall submit complete design documentation, together with the required calculations.
9. The services shall be settled by the persons listed in Appendix ... to the Agreement, entitled "The list of employees providing services" appointed by the Economic Operator, hereinafter referred to as "the Employees providing services".
10. The Economic Operator undertakes to ensure that the Employees providing services in the agreement implementation period be hired under an employment agreement, within the meaning of the Act of 26 June 1974 – The Labour Code U. [Journal of Laws of 2014 item 1502, as amended).
11. Each time, at the request of, and within the period specified by, the Contracting Authority, not shorter, however, than 3 working days, the Economic Operator undertakes to submit for inspection copies of the employment agreements concluded by the Economic Operator with the Employees providing services. To this end, the Economic Operator shall be obliged to obtain from employees a consent to the processing of their personal details, in compliance with the provisions on personal data protection.
12. Failure on the part of the Economic Operator to submit copies of the employment agreements concluded by the Economic Operator with the Employees providing services, within the period set by the Contracting Authority in compliance with Par. 11, shall be treated as a failure to comply with the obligation to hire the Employees providing services under employment agreements.

§ 7

Subcontracting

1. The Economic Operator shall be authorised to sub-contract only a certain part (scope) of the contract indicated in the negotiations. These shall be performed by the sub-contractors indicated by the Economic Operator in the course of negotiations, subject to Par. 6.
2. Prior to commencing the implementation of the subject-matter of the contract, the Economic Operator shall indicate the names, or the first names and surnames, and contact details of the subcontractors and contact persons involved in the implementation of the subject-matter of the contract, if these are already known to the Economic Operator.

The Economic Operator shall notify the Contracting Authority of any changes to the data referred to in the preceding clause, and shall provide information on any new subcontractors whom it intends to engage in the implementation of a certain part of the contract at a later date.

- 3. If any change to, or resignation from, the subcontractor concerns an entity whose resources have been referred to by the Economic Operator, on the principles laid down in Article 22a (1) of the Public Procurement Law, with the aim of proving the compliance with the conditions concerning admission to the proceedings, the Economic Operator shall be obliged to prove to the Contracting Authority that another proposed subcontractor, or the Economic Operator itself, is able to meet such conditions to the extent not lower than the subcontractor whose resources have been referred to by the Economic Operator in the contract award procedure.
- 4. The subcontractors must be authorised to perform the commissioned part of work.
- 5. If the subcontractor is entrusted with the implementation of a certain part of the contract regarding construction work or services that are already in progress, the Economic Operator, at the request of the Contracting Authority, shall submit a statement of satisfying the conditions laid down in Article 22 (1) of the Public Procurement Law, and that no exclusion premises apply, as arising under Article 24 (1) of the Public Procurement Law (statements or documents confirming the lack of grounds for exclusion that might apply to that subcontractor (beyond the EU thresholds).
- 6. If the Contracting Authority finds that there are grounds for exclusion that might apply to the subcontractor, the Economic Operator is obliged to substitute this subcontractor or resign from entrusting the part of contract awarded to the subcontractor.
- 7. Entrusting the performance of a part of the contract to subcontractors shall not release the Economic Operator from the responsibility for the due performance of the Contract.
- 8. The Economic Operator shall ensure that all the agreements with subcontractors are concluded in writing and copies of each agreement with subcontractors shall be submitted to the Contracting Authority, at the Contracting Authority's request.
- 9. The Economic Operator shall be held liable for actions, omissions, negligence and misconduct of every Subcontractor, in the same manner as if the Economic Operator's own employees or its representatives were responsible for the actions, omissions, negligence or misconduct.
- 10. The Economic Operator is responsible for informing Subcontractors of the terms hereof in writing.
- 11. Should the Economic Operator fail to comply with the requirements arising from the provisions included in par. 1-10 herein, the Contracting Authority is entitled to take all necessary measures to enforce the performance of a given agreement on the Economic Operator and all the Subcontractors, including the withdrawal from the Agreement with the Economic Operator for which the Economic Operator is liable. The right to withdraw may be exercised within 30 days of being informed of events constituting the grounds for withdrawal.
- 12. The Contracting Authority shall not allow agreements concluded between subcontractors and further subcontractors.

§ 8

Representation

- 1. For the purpose of the performance of the Agreement, the Economic Operator shall appoint a design team.
- 2. The Economic Operator appoints the following person to assume the role of the manager of the design team referred to in par. 1.
- 3. The Contracting Authority shall authorise (the Economic Operator's representative) to act on behalf of the Contracting Authority in all matters related to the performance of the Subject-Matter of the Contract covered by this Agreement
- 4. The Contracting Authority hereby appoints as the authorised person on the part of the Contracting Authority to coordinate the works (arrangements and approval of solutions) and to carry out the acceptance inspection of the Subject-Matter of the Contract.

5. A change of the representatives of the Economic Operator and the Contracting Authority referred to herein shall not constitute an amendment to the Agreement. Any change of the representative of the Economic Operator is subject to a prior approval of the Contracting Authority in writing.

§ 9

Performance bond

1. In order to guarantee the due performance of the Agreement, the Economic Operator has lodged a performance bond in the amount of 5% of the gross proposal value i.e. PLN (say:) in the form of
2. In the event of a change to the amount of the remuneration set forth in § 3 par. 1, in conjunction with § 14 par. 1 points 1 and 9, the Contracting Authority reserves the right to request an increase in the bond referred to in par. 1 hereof.
3. The performance bond shall be refunded within:
 - 1) 30 days of the date of the Practical Completion Acceptance Report for the Subject-Matter of the Contract signed by both Parties (70% of the bond's value).
 - 2) no later than 15 days after the expiry of the statutory warranty against defects (30% of the bond's value).
4. The Economic Operator shall be held liable for the defects of the subject-matter of the Agreement under statutory warranty within the period of 60 months of the date of the practical completion acceptance of the design documentation.
5. The date of signing the Practical completion Acceptance Report for the design documentation, being the Subject-Matter of the Contract, is the commencement date of the statutory warranty period for the design documentation.
6. The Final Acceptance Report for the subject-matter of the Agreement is the basis for releasing the bond arising from the statutory warranty in case of defects.
7. Should the bond be lodged in cash, the Economic Operator shall transfer the due amount to the Contracting Authority's bank account.
8. The Contracting Authority shall keep the paid-in bond in an interest-bearing bank account and return the bond with interest arising from the bank account agreement, less the costs of running the bank account and the bank fee for the money transfer into the bank account indicated by the Economic Operator.
9. The Performance bond in other forms i.e. guarantee, surety should be in force as of the date of concluding the Agreement, and must include the following elements:
 - 1) The name of the Economic Operator, its registered office and address,
 - 2) The name of the Contracting Authority – the guarantee Beneficiary,
 - 3) The name of the Guarantor or Surety Provider,
 - 4) Indication of the debt to be secured with the guarantee,
 - 5) The obligation of the Guarantor to **irrevocable, unconditional payment payable on first demand of the Contracting Authority of each requested amount up to the maximum of the amount given in par. 1** in case the Economic Operator failed to perform the obligations hereunder, or in the case of undue performance of the obligations.
10. In the event of submitting a guarantee which does not include the above-listed elements, or including any additional restrictions limiting the rights to the guarantee of the Contracting Authority in an unjustifiable way (e.g. exclusion of claims arising from contractual penalties), the Contracting Authority shall deem the performance bond not lodged.
11. During the performance of the Agreement, the Economic Operator may change the form of the bond. The change of the bond's form shall be carried out without interrupting its continuity and reducing its amount.

12. In the event that the subject-matter of the Agreement is not performed within the contractual deadline or the practical completion acceptance report or the final completion acceptance report (after the 60-month statutory warranty period) has not been drawn up before the bond lodged in a form other than cash expires, no later than within 5 working days (i.e. Monday to Friday excluding public holidays), before the expiry date of the bond, the Economic Operator is obliged to extend the guarantee and/or surety in force, or submit a new guarantee and/or surety, or to make the payment of the full amount of the bond to the Contracting Authority's bank account valid for the period which is indispensable for signing the practical-completion acceptance report or final acceptance report.
13. Should the Economic Operator fail to carry out activities referred to in par. 12, the Contracting Authority is entitled to submit a bond payment notice for the full amount from the valid performance bond, and to withdraw from the Agreement due to the Economic Operator's fault. The Agreement may be rescinded within 30 days of the bond's expiry.
14. During the term of the Agreement, the Economic Operator shall continue the third-party liability insurance coverage within the scope of its operations for the minimum value of PLN

§ 10

Guarantee and statutory warranty

1. The Economic Operator shall issue a 36-month written guarantee to the Contracting Authority for the completed and handed over Subject-Matter of the Contract. The guarantee period will commence on the date of signing the practical-completion acceptance report. The Economic Operator shall be held liable under the guarantee on the rules laid down in the guarantee statement.
2. The Economic Operator shall be liable towards the Contracting Authority under statutory warranty in case of defects revealed within **60 months** of the date of the completion of the performance of the Agreement indicated in the practical-completion acceptance report concerning the subject-matter of the Agreement.
3. The statutory warranty period shall commence on the date of the practical-completion acceptance report.
4. The Contracting Authority is entitled to claim compensation under the statutory warranty and after the expiry of the statutory warranty period, if the defect covered by the statutory warranty was found before the expiry of the said period.
5. During the statutory warranty period, the Economic Operator is obliged to remove, free of charge, any defects revealed after the practical-completion acceptance of the design documentation, which may arise from incorrect completion of the design documentation or its part, or from any action, omission or negligence of the Economic Operator during the performance of the Contract.
6. The Economic Operator shall be held liable towards the Contracting Authority if any defects occur in the documentation, affecting its value or usability in terms of the purpose defined in the Agreement or arising from the circumstances and the documentation's purpose. In particular, it shall be held liable for any solutions in the documentation, that are incompliant with the parameters set forth in the applicable standards or regulations.
7. The Economic Operator shall be held liable for any damage sustained by the Contracting Authority or third parties, arising from documentation defects, if the defects are revealed after expiry of the warranty period, and the Contracting Authority was unable, by acting with due diligence, to detect them prior to such expiry.
8. The Contracting Authority will promptly inform the Economic Operator of the defects, upon their revealing. The Economic Operator is obliged to remove the defects within 7 days of the notification of their occurrence, unless the Contracting Authority consents to the extension of this period. The Contracting authority's consent to extend the removal shall not be valid unless in writing.
9. In case of a delay in the defect removal by the Economic Operator, within the deadline referred to in par. 8, and also in the case of incorrect performance of the Economic Operator's obligations arising from the statutory warranty, the Contracting Authority is entitled to commission the obligations to another substitute contractor

appointed by the Contracting Authority, at the expense and risk of the Economic Operator, and charge contractual penalties until the day of submitting the Subject-Matter of the Contract without defects to the Contracting Authority.

- 10.** The costs of substitute performance shall be covered by the Economic Operator in full at the demand of the Contracting Authority. The Contracting Authority is entitled to deduct the costs of substitute performance from any amounts payable to the Economic Operator by the Contracting Authority, including from the performance bond.
- 11.** The Contracting Authority's entitlements under the statutory warranty against the defects of the documentation shall expire for the Economic Operator upon the expiry of Economic Operator's liability for works performed on the basis of the design documentation being the subject-matter of this Agreement, no later, however, than 60 months of signing by the parties hereto the practical-completion acceptance report for the Subject-Matter of the Contract.
- 12.** The claims under the statutory warranty shall not limit or waive the rights of the Contracting Authority to claim compensation for damages incurred on the part of the Contracting Authority on general principles pursuant to the civil law.
- 13.** The Contracting Authority may exercise its entitlement under the statutory warranty against physical defects, notwithstanding the entitlements arising from the guarantee.
- 14.** The exercise of entitlements under the guarantee shall not affect the liability of the Economic Operator under the statutory warranty. However, should the Contracting Authority exercise the entitlements under the guarantee, the validity period of entitlements under the statutory warranty will be suspended as of the day of informing the Economic Operator of the defect. The period shall continue to run from the date on which the Economic Operator refuses to perform his duties arising from the guarantee or fails to perform them within the set deadline.

§ 11

Acceptance of works

- 1.** The Economic Operator shall hand over to the Contracting Authority a complete Subject-Matter of the Contract in compliance with the contractual provisions in the Contracting Authority's registered office within the deadline laid down in § 2 par. 2.
- 2.** The acceptance of the Subject-Matter of the Contract will be conducted on the basis of the practical-completion acceptance report. The VAT invoice, constituting the final settlement, will be issued against the practical-completion acceptance report, in line with § 3 herein.
- 3.** During the performance of the Subject-Matter of the Contract, the Contracting Authority shall conduct interim acceptance inspections on the basis of the percentage ratio of the completed works. The interim acceptance reports will be the basis for issuing partial invoices only, pursuant to § 3 above.
- 4.** The Contracting Authority is not obliged to inspect the quality of the design documentation upon its reception. The Contracting Authority shall submit reservations and remarks concerning the Subject-Matter of the Contract within 7 days of its submission by the Economic Operator. The Economic Operator is obliged to respond to reservations or supplement the subject-matter promptly, subject to § 6 par. 1 point 13. In case of the occurrence of defects of the Subject-Matter of the Contract during the construction works carried out on the basis of the Subject-Matter of the Contract, the Economic Operator is obliged to remove the defect within the period which will not affect the duration of the construction works carried out by the building contractor, no later than 7 days of the date of the request to remove the defects.
- 5.** The date of the completion of the Subject-Matter of the Contract shall be:
 - a) the date of delivery of the Subject-Matter of the Contract, if during the acceptance inspection the Contracting Authority does not report any reservations or remarks, and the practical-completion acceptance report is signed without reservations;
 - b) the date of signing the practical-completion acceptance report for the Subject-Matter of the Contract without

reservations, if the Contracting Party reports any reservations or remarks during the performance of inspection activities.

§ 12

Contractual penalties

1. The Economic Operator shall pay the following contractual penalties to the Contracting Authority:
 - 1) for the failure to meet the design-work commencement deadline referred to in § 2 par. 1, a contractual penalty amounting to 0.1% of the gross contractual remuneration listed in § 3 par. 1 hereinabove for each commenced day of delay, given that it shall not be higher than 10% of the gross contractual remuneration laid down in § 3 par. 1 above,
 - 2) for the failure to perform and deliver the design documentation to the Contracting Authority within the deadline set forth in § 2 par. 2 herein, a contractual penalty amounting to 0.2% of the gross contractual remuneration laid down in § 3 par. 1 herein for each day of the delay, starting from the date set forth in § 11 par. 5, given that it shall not be higher than 20% of the gross contractual remuneration laid down in § 3 par. 1 herein,
 - 3) for the failure to meet the deadline for the submission of the Budgeted Cost of Work Scheduled referred to in § 2 par. 4, a contractual penalty amounting to 0.05% of the gross contractual remuneration laid down in § 3 par. 1 herein for each commenced day of delay, given that it shall not be higher than 15% of the gross contractual remuneration laid down in § 3 par. 1 herein,
 - 4) for the failure to meet interim deadlines defined in the Budgeted Cost of Work Scheduled prepared by the Economic Operator, a contractual penalty amounting to 0.03% of the gross contractual remuneration set forth in § 3 par. 1 herein for each commenced day of delay, given that it shall not be higher than 15% of the gross contractual remuneration laid down in § 3 par. 1 herein for each instance of delay,
 - 5) for the delay in removing defects of the Subject-Matter of the Contract found during the acceptance inspection or during the contractual warranty period, a contractual penalty amounting to 0.2% of the gross contractual remuneration set forth in § 3 par. 1 herein for each commenced day of delay, starting from the date laid down in § 11 par. 4, given that it shall not be higher than 20% of the gross contractual remuneration laid down in § 3 par. 1 herein,
 - 6) for the withdrawal from the Contract by the Contracting Authority resulting from circumstances for which the Economic Operator is liable, or for the withdrawal from the contract by the Economic Operator for which the Contracting Party is not liable – a contractual penalty amounting to 20% of the gross contractual remuneration set forth in § 3 par. 1 hereinabove,
 - 7) for the failure to comply with the requirement of hiring Employees rendering services under employment agreements within the meaning of the provisions of the Labour Code, a contractual penalty amounting to the minimum remuneration for work established on the basis of the regulations on the minimum remuneration for work (in force at the time the Contracting Authority finds that the Economic Operator has failed to meet the requirement of hiring Employees rendering services under employment agreements within the meaning of the provisions of the Labour Code) and the number of months within the term of the Contract, during which the above requirement has not been fulfilled – for each person below the required number of Employees rendering services under employment agreements indicated by the Contracting Authority in the Terms of Reference.
 - 8) for the failure to pay or a delayed payment of remuneration payable to subcontractors or further subcontractors, a contractual penalty amounting to 5% of the gross contractual remuneration payable to subcontractors or further subcontractors, respectively, for each such instance,
 - 9) for the failure to submit to the Contracting Authority a certified copy of a subcontracting agreement or amendment thereof, a contractual penalty amounting to PLN 5,000.00 for each instance of non-submission,
 - 10) for placing trademarks, registered trademarks or the origin, source or special process which would identify products or services provided by a specific economic operator, unless an expert opinion is provided stating that

it has not been possible to describe the Subject-Matter of the Contract otherwise in the design documentation, a contractual penalty amounting to PLN 5,000.00 for each instance of placing a trademark, and in the case of losing a part of co-financing amount, a penalty amounting to the value lost by the Contracting Authority resulting from the placement of trademarks in the documentation,

11) for the failure to fulfill architect's supervision duties amounting to 0.2% of the gross contractual remuneration laid down in § 3 par. 1 point 2 herein for each instance of the failure to fulfil the duties.

2. The Economic Operator consents to the deduction of contractual penalties by the Contracting Authority from the submitted VAT invoices.
3. The payment of contractual penalties does not waive the right of the Contracting Authority to claim damages in excess of the agreed contractual penalties for the damage incurred, on general principles.
4. The sum of contractual penalties set forth in par. 1 shall not exceed 20% of the gross contractual remuneration referred to in § 3 par. 1 hereinabove. The Contracting Authority is entitled to accumulate contractual penalties arising out of different causes. The Contracting Authority is entitled to charge contractual penalties notwithstanding the exercise of the right to withdraw from the Agreement.
5. The contractual penalty should be paid within 14 days of the date of submitting a payment request by the Contracting Authority.
6. The payment of Contractual Penalties shall not exempt the Economic Operator from performing the obligations arising from the Agreement.

§ 13

Withdrawal from the Agreement

1. The Contracting Authority is entitled to withdraw from the Agreement within 30 days of the occurrence of one of the following circumstances:
 - 1) In the event of a material change in circumstances resulting in the fact that the performance of the Agreement is not in the public interest, which was not possible to predict upon the conclusion hereof, or further performance of the Agreement could pose a threat to the material interest of national security or public security;
 - 2) The Economic Operator has not started performing the works for reasons attributable to the Economic Operator within 7 days of the Contracting Authority's request to initiate the works;
 - 3) The Economic Operator does not perform the work in line with the contractual provisions or fulfils the contractual obligations with gross negligence, despite reservations raised in writing by the Construction Site inspector or the Contracting Authority, including in particular, if the total value of contractual penalties reaches 10% of the gross contractual remuneration set forth in § 3 par. 1;
 - 4) The Contracting Authority has found that the circumstances referred to in § 7 par. 11 occurred;
 - 5) The Contracting Authority has found that the circumstances referred to in § 9 par. 13 occurred;
 - 6) The Economic Operator has resigned from the performance of the Agreement, in particular when the performance of works is ceased for a period longer than 7 days;
 - 7) The procedure of liquidation of the Economic Operator's company has been initiated;
 - 8) A seizure of all or part of the Economic Operator's property has been conducted following an enforcement procedure, which makes the performance of the Subject-Matter of the Contract impossible;
 - 9) If, as a result of avoidance to pay remuneration to a subcontractor or a further subcontractor by the Economic Operator, subcontractor or further subcontractor, respectively, the Contracting Authority has made numerous direct payments to a subcontractor or a further subcontractor, or if he made direct payments to the amount exceeding 5% of the value of this Agreement;
 - 10) The Contracting Authority is entitled to withdraw from the Agreement in the event of it being impossible to obtain all the decisions, permits, exemptions allowing the performance of construction works. In the event of

withdrawing from the Agreement or a part hereof by the Contracting Authority for reasons indicated in the first sentence, the Economic Operator is entitled to demand remuneration only for the performance of a part of the contract, and in particular the Economic Operator is not entitled to claim compensation for the payment of remuneration for ordered, purchased or delivered materials, devices etc. which have not been built in or attached to the subject-matter of the Agreement.

2. The Contracting Authority may terminate the Agreement, if one or more of the following circumstances occur:
 - 1) an amendment to the Agreement was made in breach of Article 144 par. 1-1b, 1d and 1e of the Public Procurement Law;
 - 2) upon the conclusion of the Agreement, the Economic Operator was subject to exclusion from the procedure pursuant to Article 24 par. 1 of the Public Procurement Law;
 - 3) The Court of Justice of the European Union has decided that within the framework of the procedure stipulated in Article 258 of the Treaty on the Functioning of the European Union, the Polish state has failed to fulfill obligations under the Treaties, Directive 2014/24/EU and Directive 2014/25/EU, on account of the fact that the Contracting Authority awarded a contract in breach of the European Union regulations.
3. In the case referred to in par. 1 and par. 2, the Economic Operator is entitled to only claim remuneration payable for the performance of a part of the Agreement, which does not comprise the parts performed in breach of the provisions hereof, in particular in the case of withdrawing from the Agreement pursuant to par. 1 point 3 herein.

§ 14

Amendments to the material provisions of the Agreement

1. All amendments hereto are subject to the agreement between both Parties expressed in writing, or otherwise they shall be null and void.
2. The Contracting Authority allows amendments to the Agreement in the event of the occurrence of the following circumstances which could not have been foreseen during the performance of the procedure:
 - 1) Changes to generally applicable legal regulations, local law in force, and requirements concerning the Contracting Authority, that are directly related to the rights and obligations of the Parties to the Agreement. The Agreement may be amended only to the extent necessary to adjust its provisions to the regulations in force at any given time,
 - 2) Changes with regard to the contract-performance dates along with the outcomes of introducing such changes, whereas the change may only result from the circumstances arising exclusively on the part of the Contracting Authority or circumstances beyond the control of the Contracting Party and the Economic Operator, extending the performance period by the time of making necessary arrangements with external institutions, issuing decisions or permits in line with the Administrative Procedure Code, and awarding additional contracts, the performance of which results in the change of the deadline for the performance of the main contract. A change in the deadlines laid down herein is possible only to the extent necessary for the Economic Operator to perform the subject-matter of the Agreement after the obstacles are removed,
 - 3) Changes with regard to the Subject-Matter of the Contract and the manner of performing the Subject-Matter of the Contract along with the outcomes of introducing such change (in particular, a change to the Economic Operator's remuneration calculated proportionally to the introduced changes), whereas the change may only be caused by circumstances which have occurred during the performance of the Subject-Matter of the Contract, affecting the scope or the manner of the performance of the Contract,
 - 4) A change to the scope of a part of the contract entrusted to Subcontractors,

- 5) The Parties allow for changes to the manner of performing the Agreement on account of the occurrence of force majeure. An amendment hereto shall only be allowed to such an extent that the Economic Operator would be able to perform the Agreement in compliance herewith, after the impact of force majeure is ceased.
"Force majeure" shall be understood as all external events which could not have been foreseen or prevented by the Party/ Parties to the Agreement, and which occur after the signing of the Agreement.
- 6) The changes resulting from the cessation of works by authorised entities, for reasons not arising from the Economic Operator's activity,
- 7) Changes resulting from the activities of administrative bodies and other entities with competence similar to administrative bodies, in particular infrastructure operators,
- 8) Changes arising from the rulings of common courts, administrative decisions, and decisions of administrative courts and bodies,
- 9) Pursuant to Article 142 par. 5 of the Public Procurement Law, in the event of a change to:
 - a. the rate of goods and services tax;
 - b. the amount of the minimum work remuneration established pursuant to Article 2 par. 3-5 of the Act of 10 October 2002 on the Minimum Work Remuneration;
 - c. the principles of eligibility to social insurance or health insurance or the amount of the social or health insurance contribution.

The amount of due remuneration payable to the Economic Operator is subject to change if the changes listed in 9(a)(b)(c) affect the costs of the performance of the Agreement by the Economic Operator.

- 9.1) The changes referred to in point 9 may be introduced only in the case the Parties to the Agreement (the Contracting Authority and the Economic Operator) unanimously agree that the indicated circumstances have occurred and that the introduction of changes is necessary and indispensable for the proper performance of the Agreement. A change to the remuneration may only be introduced after determining the factual and legal status and inspecting the documents which the Economic Operator submits in order to provide evidence that the change to the legal regulations affect the amount of due remuneration. The remuneration shall be increased/reduced respectively by the amount corresponding to the increase/reduction of documented costs referred to above from the date of the factual change to the costs of the performance of the Agreement by the Contracting Authority.
3. All the provisions listed in par. 2 constitute a catalogue of changes which the Contracting Authority may agree to. At the same time, they do not constitute an obligation to grant such a consent and they do not constitute grounds for any claims towards the Contracting Authority.
 4. Amendments hereto may also be made in the event of the occurrence of circumstances indicated in Article 144 par. 1 points 2-6 of the Public Procurement Law.

§ 15

Assignment

The Economic Operator shall not assign any liabilities arising from this Agreement to any third party without the prior written consent (Article 509 of the Polish Civil Code).

§ 16

Resolution of disputes

1. Should any dispute arise related to the performance of the Subject-Matter of the Contract, the Contracting Authority and the Economic Operator shall endeavour to resolve them amicably.

2. The potential disputes which the Parties are unable to solve amicably, as referred to in par. 1, shall be taken to a court with jurisdiction over the registered office of the Contracting Party.

§ 17

Applicable law

1. All amendments to the content of the Agreement shall be in writing or otherwise they shall be null and void.
2. In matters not stipulated herein, the provisions of the Polish Civil Code, the Building Law, the Public Procurement Law, the Act on Copyright and Related Rights and other applicable legal regulations shall apply.

§ 18

1. The Economic Operator declares that he is aware of the fact that the content hereof, and in particular the identification data, the Subject-Matter of the Contract and the amount of remuneration constitute public information within the meaning of Article 1 par. 1 of the Act of 6 September 2001 on Access to Public Information (consolidated text, Dz.U. *[Journal of Laws]* of 2015 item 2058, as amended), which is subject to disclosure as per the said Act (subject to par. 2).
2. On account of the business secret, the disclosure referred to in par. 1 shall not include information in § (Appendix 3 hereto) constituting technical, technological and organisational information of the company, or other information of economic value not disclosed to the public, in relation to which the entrepreneur took steps to keep the information confidential.

§ 19

Final provisions

The Agreement was drawn up in 5 identical counterparts – 3 for the Contracting Authority, and 2 for the Economic Operator.

THE CONTRACTING AUTHORITY

THE ECONOMIC OPERATOR