

**The organizer of the contest introduced changes into the Attachment 12 to the Competition Rules on 08.08.2017**

**In this version of the document the changes are included - marked in yellow.**

**Attachment 12 to the Contest Regulations**

**DRAFT OF THE CONTRACT<sup>1</sup>**

Contract Agreement for the delivery of a design documentation and author supervision over the investment: „The scientific and didactic Ochota Campus building (PSYCHOLOGY, COGNITIVE SCIENCE, PSYCHOPHYSIOLOGY)” in Warsaw (**„Contract Agreement”**)

concluded on ..... 2017 between:

University of Warsaw in Warsaw, ul. ....

represented by:

.....

(„Contracting Authority”)

and

.....

represented by:

.....

(„Designer”)

**§ 1. Definition**

The following terms used in the Contract Agreement are to be understood as follows:

- 1) Designer – should be understood as a contractor whose bid was considered the best in the public procurement procedure for the delivery of full documentation necessary to initiate the

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<sup>1</sup> Projekt umowy będzie załącznikiem do dokumentacji w postępowaniu w trybie negocjacji bez ogłoszenia. Zapisy projektu umowy będą podlegały negocjacom. Zamawiający określił jako istotne postanowienia dotyczące zakresu opracowania pracy konkursowej, praw autorskich, płatności, kar umownych oraz odstąpienia od umowy.

public procurement procedure for the award of a construction works contract (including investment cost estimates, drafts and technical specifications for the execution and acceptance of construction works) and the realization of the investment (in particular multifunctional projects: conceptual, construction together with the land development project and media connection projects , executive projects), and author supervision over the implementation, and as a result of which the following Contract Agreement has been concluded;

- 2) Contracting Authority – should be understood as a University of Warsaw;
- 3) Parties – should be understood as jointly the Contracting Authority and the Designer;
- 4) The subject of the Contract Agreement – should be understood as legal actions and obligations under this Agreement, and referring to the Designer;
- 5) Design Documentation – should be understood as preliminary design, construction design together with the land development project and media connection projects in the form required to be agreed in the ZUD, implementing projects, technical specification for the execution and acceptance of construction works, worksheet, safety and health information, design energy characteristics, estimated investor and bill of quantities;
- 6) Concept – should be understood as concept chosen in the contest, which is the basis for further works ;
- 7) Preliminary Design - should be understood as the concept chosen in the contest, through the implementation of a multidisciplinary conceptual design, is the basis for further design work carried out in accordance with §5 of the Contract Agreement;
- 8) Construction design – should be understood as building permit documentation carried out in accordance with the provisions of the Construction Law and the Regulation of the Minister of Transport, Construction and Maritime Economy of 27 April 2012 regarding the detailed scope and form of the building permit documentation (Polish Journal of Laws of 2012, pos. 462) and the requirements set forth in this Contract Agreement;
- 9) Executive Design – should be understood as study carried out in accordance with the Regulation of the Minister of Infrastructure dated September 2, 2004 on the scope and form of the building permit documentation, performance technical specifications and acceptance of the works, and the functional-utility program (Polish Journal of Laws No. 202, item. 2072, as amended.) specifying the scope and form of the final detailed design and the requirements of this Contract Agreement;
- 10) Technical specification of the performance and acceptance of construction works – should be understood as a study carried out in accordance with the Regulation of the Minister of Infrastructure dated September 2, 2004 on the scope and form of the building permit documentation, technical specifications of the performance and acceptance of the works, and the functional-utility program (Polish Journal of Laws No. 202, item. 2072, as amended.) specifying the scope and form of the technical specification of the performance and acceptance of construction works and the requirements of this Contract Agreement;
- 11) Bill of quantities - should be understood as a study carried out in accordance with the Regulation of the Minister of Infrastructure dated September 2, 2004 on the detailed scope and form of the building permit documentation, technical specifications of performance and acceptance of the works, and the functional-utility program (Polish Journal of Laws No. 202, item. 2072, as amended.) specifying the scope and form of the bill of quantities and the requirements of this Contract Agreement;

Contest for creating architectural concept of „The scientific and didactic building Ochota Campus (PSYCHOLOGY, COGNITIVE SCIENCE, PSYCHOPHYSIOLOGY)“ in Warsaw

- 12) Project Cost Estimate - should be understood as a study carried out in accordance with the Regulation of the Minister of Infrastructure dated May 18, 2004 on setting forth the methods and principles for drafting a project cost estimate, calculating planned cost of project works and planned cost of construction works specified in the functional-utility program (Polish Journal of Laws No. 1389, as amended.) and the requirements of this Contract Agreement;
- 13) Construction Law - shall be understood as the Act of July 7, 1994, Construction Law (i.e. Polish Journal of Laws of 2017, No. 2032);
- 14) Project – should be understood as a project for implementation the Subject of the Contract Agreement;
- 15) Functional Utility Program (PFU) – should be understood as information about the Project and how it is performed presented in the Competition Regulations. The PFU is Attachment 1 to the Contract Agreement;
- 16) Object – should be understood as the scientific and didactic Ochota Campus building (psychology, cognitive science, psychophysiology) University of Warsaw and all land development elements indicated in the terms of reference, which are the subject of Design Documentation.
- 17) Offer – should be understood as a bid submitted by the Designer after the contest and in the course of the public procurement procedure, conducted in negotiated mode without the announcement to which the Designer was invited in the contest award. The Offer is Attachment 2 to the Contract Agreement.

## **§ 2. The subject of the Contract Agreement**

- 1) Contractor Authority orders and the Designer undertakes to execute the Design Documentation, including all the designs and documents necessary for the execution of the public procurement procedure of the construction works for the execution of the Project, and the supervision of the author during the execution of the Project, under the terms and conditions specified in the Contract Agreement and the applicable law.
- 2) The Designer also undertakes to transfer to the Contractor Authority the copyright ownership including copyrights dependent rights to the Design Documentation executed in accordance with the provisions of § 14.
- 3) The Design Documentation shall be prepared based on the terms and conditions described in the Contract Agreement, the PFU and the Designer’s Offer. The Offer is Attachment 2 to the Contract Agreement.
- 4) The Designer shall be obliged to:
  - a) preparing a map for design purposes;
  - b) prepare greens specifications,
  - c) drawing up a water-legal operation, drainage and trench protection project, if necessary,
  - d) preparing of composition of finishing materials,
  - e) performing all other research, specialized technical expertise (eg building acoustics, fire conditions) and deviations from the technical requirements required by law, which, according to the Designer, are necessary for the Design Documentation,

- f) developing of a fire scenario, computerized CFD fire simulation, and firefighting control matrix complies with the fire scenario,
- g) preparing the project of removing possible media collisions within the Contracting Authority's plot,
- h) performing an analysis of the impact zones of the planned development on neighboring sites;
- i) obtaining all necessary legal provisions necessary for the implementation of the Design Documentation;
- j) obtaining all approvals, permits and decisions (including the decision on environmental conditions of investments) required before submitting the application for a building permit, except for the owner's consent, whose collection is within the scope and at the cost of the Contracting Authority;
- k) preparing the building permit application, submitting the application (the application is signed by the Contracting Authority), submitting any additions and explanations required by the authorities under the authorization procedure of that application and collecting the approved Construction Design together with the final building permit decision, on the basis of the power of attorney signed by the Contracting Authority;
- l) forwarding to the Contracting Authority complete Design Documentation from the point of view of the purpose to be achieved, the design work should be coordinated in the industry and signed by the designers in the scope of the law;
- m) developing an analysis of the cost of operating the building in descriptive and tabular way, with details of the individual cost components including the consumption of heat and electricity and their size over 10 years; the analysis will be presented in Stage 4;
- n) granting at the tenderer's request explanations and answers to the queries of potential contractors concerning the Design Documentation performed during the conducted public procurement procedure for the execution of construction works;
- o) participation in the final acceptance procedure of the Project and the procedure for obtaining the final use permit decision.

### **§ 3. General obligations of the Designer**

- 1) The Designer shall be obliged to execute the Design Documentation in accordance with the best technical knowledge, skills and best design practice.
- 2) The Designer should know, understand and assess the needs of the Contracting Authority and seek to satisfy them to the fullest extent.
- 3) The Design Documentation shall be made subject to the provisions of Polish law, in particular the Construction Law and its implementing acts, including the Regulation of the Minister of Infrastructure of 12 April 2002 on the technical conditions to be met by buildings and their location, as well as norms and standards.
- 4) The Design Documentation shall constitute a description of the subject of the order in the procurement awarding procedure for the execution of construction works and, therefore, should be made with consideration of the provisions included in the Act of 29 January 2004: Public Procurement Act and its implementing acts, including the Regulation of the Minister of

Infrastructure of 2 September 2004 on the scope and form of the design documentation, technical specifications of the performance and acceptance of the works and the function-and-utility program. When preparing the Design Documentation, the Designer should take into account the limitations imposed by the provisions of the Public Procurement Law, relating in particular to the possibility of the use of trademarks, patents, origin, as well as standards.

- 5) The Designer is obliged to take into account the requirements specified in the Contest Regulations of the contest, which was before award of the public contract, and particular pointed in the Functional Program and in accordance with his own offer, the Contest Jury and Ordering Party's recommendations to the contest design submitted under the conditions provided for in the Contest Regulations.

#### **§ 4. Works stages and dates of implementation**

- 1) The Parties agree that the Subject of the Contract Agreement shall be implemented in the following stages:
  - a) Stage 1 comprising the preliminary work, completed with the acceptance of the Preliminary Design (Multi-branch Conceptual Design – MCD);
  - b) Stage 2 comprising the work related to the preparation of the Construction Design completed with the obtaining a final decision on a building permit;
  - c) Stage 3 comprising the work related to the preparation of Executive Designs together with Technical specification of the performance and acceptance of construction works, materials, design of **fixed elements of** interior and equipment and the book of rooms, completed with the acceptance of the Executive Designs, together with the Technical specifications of the execution and acceptance of works, materials, interior design and equipment and the book of rooms;
  - d) Stage 4 comprising the work related to workload and investment cost estimates completed with the acceptance of workload and investment cost estimates;
  - e) Stage 5 comprising the work related to the author's supervision.
- 2) The Designer shall start work immediately after signing the Contract Agreement.
- 3) Within two weeks from the date of signing the Contract Agreement the Designer shall present a detailed Project Work Schedule taking into account the following deadlines for the execution of the Subject of the Contract Agreement:
  - a) submission the Preliminary Design (Multi-project Conceptual Design – MCD) to the Contracting Authority within 12 weeks from the date of signing the Contract Agreement,
  - b) submission the Construction Design and the completed application for the building permit to the Contracting Authority within 20 weeks from the approval of the Preliminary Design (Multi-branch Conceptual Design – MCD);
  - c) submission the Executive Designs, materials, design of interior and equipment and the book of rooms to the Contracting Authority within **24 weeks** from the acceptance of the Construction Design,
  - d) submission of a complete Technical Specification for the execution and acceptance of construction works to the Contracting Authority within **9 weeks from the acceptance of the Executive Design,**

- e) submission of a complete other Design Documentation (workload and investment cost estimates), to the Contracting Authority within 9 weeks from the acceptance of the Executive Designs.
- 4) Within 5 days of submitting the Project Work Schedule the Contracting Authority shall accept the Project Work Schedule or submit its comments. Within 5 days of receipt of the comments, the Designer shall carry out changes, or if they are not justified from the point of view of knowledge or present design practice, s/he shall refer to the comments of the Contracting Authority.
- 5) Approved Project Work Schedule shall constitute the basis to manage the design process, and the deadlines presented herein shall not be subject to change. The changes are acceptable and shall not be treated as a change to the Contract Agreement in case they do not refer to deadlines specified in paragraph 2, and after obtaining the consent of both parties.
- 6) The Parties provide that all stages of the Contract Agreement will be executed within **81 weeks** since it was signed. **The supervisory services will be delivered during the construction works. The foreseen period of construction works is 30 months.**

#### **§ 5. Stage 1 Preparatory works**

- 1) The Designer shall carry out the preparatory works necessary for the proper implementation of the Subject of the Contract Agreement, in particular will establish and perform necessary studies and pre-design analyzes.
- 2) The Designer shall obtain all necessary for starting desining materials and documents, including administrative decisions, if required by law, arrangements, maps, etc..
- 3) The Designer shall develop based on PFU and the contest design, Preliminary Design (Multi-branch Conceptual Design – MCD) including drawings and descriptive part.
- 4) The drawing part of the Preliminary Design will include at least: development plan, projections of development, sections, elevations, perspectives or visualizations to the extent necessary to illustrate the project, functional schemes.
- 5) The descriptive part of the Preliminary Design will include at least:
  - a) general description of the investment project - land use rules, architectural (also aesthetic), programmable and functional, technical and technological principles;
  - b) preliminary description of the individual technical solutions for construction, installations and technological solutions;
  - c) summary of basic investment parameters such as: total area; net area; volume.
- 6) Within 2 days from the date of submission of the Preliminary Design to the Contracting Authority, the Parties shall set a date for the meeting to discuss this project. This date should be set no later than 1 week after submission of the Preliminary Design.
- 7) The Contracting Authority shall convey its comments and recommendations to the Preliminary Design, which the Designer shall be obligated to take into account, unless these comments are impossible to act upon legal regulations in force, or are incompatible with the PFU or the Offer. The Designer may present alternatives to the submitted comments that are subject to review by the Contracting Authority.

- 8) The Preliminary Design shall be approved by the Contracting Authority. The approved Preliminary Design is the basis for the development of the Construction Design.

## **§ 6. Stage 2**

- 1) The Designer shall develop the Construction Design as stipulated in the Regulation of the Minister of Transport, Construction and Maritime Economy of 27 April 2012 concerning the detailed scope and form of a construction design.
- 2) The Designer shall be responsible for obtaining the opinions, approvals and permits necessary for submitting a complete and correct building permit application.
- 3) Within one week of the date of submitting the Construction Design to the Contracting Authority, the Parties shall determine the date of the meeting to discuss the project. This date should be set no later than two weeks from the submission of the Construction Design.
- 4) The Contracting Authority shall convey its comments and recommendations to the Construction Design which the Designer shall be obligated to take into account, unless these comments are impossible to act upon in accordance with the technical knowledge, legal regulations in force or are incompatible with the PFU or the Offer. The Designer may present alternatives to the submitted comments that are subject to review by the Contracting Authority.
- 5) Together with the Construction Design the Designer shall present an **initial** estimate of the Project implementation costs.
- 6) The Construction Design shall be approved by the Contracting Authority. The approved Construction Design is the basis for the submitting the complete building permit application.
- 7) The Designer shall be responsible for obtaining the building permit, including for the completeness of the application, provision of information and explanations required by competent authorities necessary for obtaining opinions, approvals and administrative decisions. In the event of a need to make supplements or amendments to the design documentation at a request of the administration agency issuing a relevant administrative decision, the Designer shall immediately make such amendments.

## **§ 7 Stage 3**

- 1) The Designer shall develop Executive Designs and Technical specification for the performance and acceptance of works on the terms and within the scope defined in the ordinance of the Minister of Infrastructure dated September 2, 2004 on the scope and form of the design documentation, technical specifications for the performance and acceptance of the works and functional-and-utility program.
- 2) The basis for the development of Executive Designs shall be the Constructing Design along with the comments and recommendations by the Contracting Authority.
- 3) The Executive Designs shall be submitted by branches within the deadlines resulting from the accepted Project Works Schedule as referred to §4 par. 3.
- 4) Within 21 days from the date of approval of the Preliminary Design, the Designer shall submit for approval to the Contracting Authority a documentation organization system regarding Executive Designs, which takes the following into account:

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- a) the structure of the documentation, i.e. division by industries/branches and volumes, notebooks, folders, etc.
  - b) the rules of describing volumes, notebooks, folders, pictures,
  - c) the rules of numbering drawings,
  - d) other elements, as far as the Designer intends to use these solutions.
- 5) The Executive Designs shall be submitted in the form specified in the approved documentation organization system.

#### **§ 8. Stage 4**

- 1) The Designer on the basis of the Construction Design and the Executive Designs will elaborate the Bill of quantities, Safety and Health Information, Investor Costs and Analysis of the building's operating costs.
- ~~2) The Designer shall prepare the Schedule of the execution of construction works, indicating the stages of their execution and estimated periods of work in the given stage.~~
- 3) The submitted studies referred to in paragraph 1 shall be subject to acceptance by the Contracting Authority in accordance with the Project Works Schedule.

#### **§ 9. Stage 5**

- 1) In the course of the performance of constructing works in order to build the Object based on the Design Documentation, the Designer shall be obliged to provide project architect's supervision services in the scope required by the provisions of the building code, as well as consisting of:
  - a) opinionating and discussing the contractor construction works' documentation in the scope relating to the Design Documentation,
  - b) clarifying doubts of the contractor of the construction works regarding the Design Documentation,
  - c) drafting additional drawings if the Design Documentation does not sufficiently explain technical solutions,
  - d) assessing the compliance of the works performed with the Design Documentation and the guidelines of the Designer,
  - e) supporting the Contracting Authority in the technical assessment of the occurrence of circumstances relating to the necessity of conducting additional, supplementary or completion construction works,
  - f) on-going advisory services to the contractor in issues related to the implementation of the works,
  - g) participation in the acceptance of construction works.
- 2) The services referred to in paragraph 1 shall be provided from the moment of transferring the works to the contractor to the completion of the construction of the Object.
- 3) The services shall be provided in the form of:
  - a) visits at the building site at least once a week, however, the Contracting Authority may agree to a lower frequency of visits, the visit shall be understood as a visit of industry designers required by the Contracting Authority;
  - b) participation in the meetings of the construction site, unless the subject of the meetings will be issues related to the provision of services referred to in paragraph 1, or the Contracting Authority agrees to the Designer not participating in the meeting,



- c) promptly informing the Contracting Authority and the contractor of the perceived errors and faults in the execution of works involving the deviations from the Design Documentation.

#### **§ 10 Designer's obligations regarding obtaining decisions, opinions and arrangements**

- 1) The Designer shall be obliged to obtain administrative decisions, opinions, permits or arrangements and the right to dispose of the property for construction purposes, as long as they are required by law and if they are necessary for the proper performance of the Subject of the Contract Agreement, especially the Designer shall develop complete applications for environmental decisions and building permit decision, as well as receive that decision .
- 2) In order to comply with the obligation set out in paragraph 1, the Contracting Authority shall provide the Designer or a person designated by him, with the power of attorney to act on behalf of and for the Contracting Authority as an investor to the extent necessary for the proper performance of the obligation.
- 3) The Contracting Authority shall be obliged to cooperate with the Designer in order to obtain decisions, opinions or arrangements referred to in paragraph 1.

#### **§ 11. Cooperation of the Parties during the performance of Design Documentation**

- 1) The Contracting Authority shall be obliged to immediately provide information, and answer inquiries by the Designer necessary for the implementation of the Subject of the Contract Agreement.
- 2) The Designer shall be obliged to consecutively **deliver** a progress report from the works, not less frequently than once a weeks, and to present it to the Contracting Authority **during co-ordination meetings**, paying particular attention to the identification of potential obstacles to the timely completion of the Subject of the Contract Agreement.
- 3) During the execution of the Agreement, the Parties shall meet at co-ordination meetings at least once a month.
- 4) The Contracting Authority and the Designer are entitled to convene additional meetings, if either Party considers it necessary. Due to the conditions of the schedule and the progress of design activities, the exact time of the meeting shall be informed by the Designer, at least a week before the specified date of the meeting.
- 5) The meetings shall be held at the premises of the Contracting Authority or by agreement of the Parties in the form of a teleconference call or by any other means of communication.
- 6) The proposed design solutions at every step of the performance of the Subject of the Contract Agreement shall be subject to consultation with the Contracting Authority. The Contracting Authority may provide additional guidance and instructions regarding the proposed solutions, however, not contrary to the PFU and the Offer, as well as knowledge of the design and the law provisions. The guidelines and instructions should be given in such a time as to make it possible for them to be taken into account during the performance of the next Stage of the Subject of the Contract Agreement.

## § 12. Acceptances/Approval

- 1) The Design Documentation shall be subject to acceptance and approval by the Contracting Authority under the terms specified appropriately for the type of documentation mentioned in §§5-9 of the Contract Agreement and listed below.
- 2) The Designer shall present for acceptance one copy of the Design Documentation drafted and one copy in electronic form on electronic media agreed by the Parties.
- 3) Handing over the Design Documentation shall occur based on the delivery-and-acceptance protocol comprising a list of documents to be handed over.
- 4) The Contracting Authority shall, within 14 days from the date of transfer of the relevant part of the Design Documentation, submit the comments to the submitted Design Documentation. Designer within 7 days, and for the Execution Project and Technical specification of execution and acceptance of works within 14 days, is obliged to enter the Contracting Authority comments, unless they are not possible to enter according to the technical knowledge, the law in force, or are incompatible with the PFU, Offer or approved Construction Design. Documentation with the comments of the Contracting Authority included is a subject to its acceptance within 7 days of the date of its submission.
- 5) After arrangements and acceptance of the Design Documentation by the Contracting Authority at a given stage, the Designer shall hand over:
  - a) Multidisciplinary **initial** design - in 4 copies for paper version and 2 copies in electronic version on CD;
  - b) Multidisciplinary Construction Design - in 5 copies for paper version and 2 copies in electronic version on CD. In case of changes to the Construction design during the procedure of obtaining the building permit, the Designer shall provide one more copy of the documentation with these changes. In addition, the Designer is obliged to scan the original building design approved by the Faculty of Architecture (copy no 1 or no 2) and transfer it to the Contracting Authority in pdf format,
  - c) Executive projects, **design of fixed elements of interior** and room book - in 5 copies for paper version and 2 copies in electronic version on CD,
  - d) map for design purposes - in 1 copy for paper version and 1 copy in electronic version on CD,
  - e) Bill of quantities broken down into industries and possible objects - in 3 copies for paper version and 2 copies in electronic version on CD,
  - f) Project cost estimate broken down into industries and possible objects - in 1 copy for paper version and 2 copies in electronic version on CD,
  - g) Technical specifications of the performance and acceptance of construction works - in 5 copies for paper version and 2 copies in electronic version on CD,
  - h) initial energy characteristics attached to all copies of the Construction Design,
  - i) opinions and agreements not included in the Construction Design - in 5 copies for paper version and 2 copies in electronic version on CD,
  - j) original building permit with a final clause.
- 6) The electronic version of the documentation should be done in a format that allows reading and printing of files:

- a) text files: .doc and .pdf extensions,
  - b) graphic files: extension: .dwg and .pdf,
  - c) spreadsheets: extension: .xls and .pdf,
  - d) cost estimates and quotas: extension: .xls, .ath and .pdf.
- 7) The Designer shall attach to the Design Documentation prepared for each stage a statement that the Design Documentation is made in accordance with the Contract Agreement, the legal regulation in force and standards, as well as that it is complete.
  - 8) The Contracting Authority shall accept the submitted Design Documentation for a given stage or report comment to it in the manner specified appropriately for the given type of documentation in § 5-9.
  - 9) The receipt of the approved Design Documentation shall be at each stage confirmed by a protocol of receipt of a given stage signed by both Parties. Signing the acceptance protocol shall be the basis for issuing the invoice for a given stage.
  - 10) Failure to obtain approval of Design Documentation shall have such an effect that in case it is necessary to carry out amendments to the Design Documentation or to repeat actions by the Designer in order to adjust this document to the requirements of the Contracting Authority, all costs incurred under this reason shall be borne by the Designer and he shall not be entitled to additional remuneration, this does not exclude the pursuit of compensation under general principles.

### **§ 13. Verifications of cost of performing construction works**

- 1) The Designer shall be obliged to perform the Design Documentation according to the expected investment budget of 116 775 000 PLN gross.
- 2) At each step of performing the Subject of the Contract Agreement, the Designer shall be obliged to determine the costs of construction works to such an extent as this is possible at each stage.
- 3) Should the adopted design solutions exceed the amount referred to in paragraph 1, the Contracting Authority shall have the right to refuse to approve the Design Documentation and the Designer shall be obliged to implement changes that will allow for the erection of the Object within the amount mentioned above.

### **§ 14. Copyrights**

- 1) The Designer undertakes to transfer to the Contractor Authority the copyright ownership including the dependent rights to the Design Documentation and the Concept, without any time or territorial restrictions, on all known fields of exploitation, and in particular the following fields of exploitation:
  - a) the right to fix and reproduce documentation in any form and technology on any medium,
  - b) the right to make an independent or by way of order to any third party any change, modification of the contents of the Design Documentation and execution of the dependent rights to the Design Documentation,
  - c) the right to distribute the work by public display, display, reproduction and broadcasting in any system, format or record and in the context of telecommunications services using any

systems and devices, and using the available technology, and making the work publicly available. So that everyone can have access to it at the place and at the time of their choice,

- d) the right to perform construction works on the basis of documentation (performance of a depend (subsidiary) work),
  - e) storage of computer or other device, sharing via multimedia and computer network, including internet, uploading, downloading, digitizing, using in multimedia.
- 2) Notwithstanding the provisions of par. 1 the Designer shall transfer to the Contracting Authority the right and authorize the Contracting Authority not to summon the execution of the dependent rights to the Design Documentation on the date of payment for such Design Documentation or for a specific part thereof. This entitlement includes in particular:
- a) the right to modify the Subject of the Contract Agreement including the right to correct, revise and change its elements,
  - b) the right to make modifications and changes to the objects resulting from the execution of an investment created on the basis of the Subject of the Contract Agreement and in particular on the basis of Design Documentation.
- 3) The Designer authorizes the Contracting Authority to decide on the manner and form of use and disposal of the Design Documentation or part thereof.

~~4) Within the remuneration referred to in § 16, in connection with the provisions of para. 1 (b), 2 and 3, the Designer and authors participating in the project undertake not to exercise the copyrights personal rights to the extent that this will result from the transfer of the copyrights, and undertake to obtain an obligation from a third party other than the Designer entitled to the part of the Design Documentation, to make a statement of obligation not to exercise personal copyright.~~

- 4) The Designer bears sole responsibility for any claims by third parties for possible infringement of his or her own copyright, both property and personal, in connection with the execution of the Subject of the Agreement. The Designer declares that the use by the Contracting Authority in the Design Documentation, as described in this paragraph, will not infringe any third party rights, in particular copyrights and will not in any way claim any claims against the Contracting Authority nor against the Its behalf and on behalf of third parties, including in particular the use of the Design Documentation in the manner indicated in this paragraph shall not prejudice the right to the integrity of the form and content of the work and its fair use.
- 5) The Designer declares and warrants that the transfer of copyrights is in a state free from the burden and rights of third parties and includes any subsequent changes to the design documentation made by the designer. The Designer undertakes to remedy any damage, including covering all costs, expenses, in particular reasonable costs of legal service that the Contracting Authority may incur or for which the Contracting Authority may become liable or to whom remedies may be required in connection with any claim or proceeding against him, resulting from defects and including legal defects of the Design Documentation. The Contracting Authority will notify the Designer of any claim in respect of which the Designer will be obliged to make good the damage sustained by the Contracting Authority, and the Designer shall be obliged to take all actions required by law to defend against such a claim. If the relevant actions are not taken by the Designer within 14 days of receipt by the Designer of the notice, or shorter if the shorter time period is the result of a rule or judgment or a court order,

or the decision of another authority before which the proceedings are pending). Self defend yourself against such a claim with the help of your chosen legal advisor or law firm at the expense and risk of the designer. In such a case, the Contracting Authority will issue a VAT invoice to the Designer for the performance and the designer will be obliged to pay a 30-day payment, and pay the indemnity

- 6) With the moment of transferring the copyright of the property rights to the Design Documentation or a part thereof in accordance with para. 1 above the Contracting Authority grants to the Designer a free non-exclusive, territorial unlimited license, but limited time until the performance of the Contract Agreement in its entirety, to the extent necessary to perform the various stages of the Contract Agreement. The right to sublicense is subject to the prior written consent of the Contracting Authority. Licensing covers the following operating areas:
  - a) the right to fix and reproduce documentation in any form and technology on any medium;
  - b) the right to make changes or modifications to the contents of the Design Documentation or to any part thereof, indicated in a specific manner by the Contracting Authority, to the extent necessary for proper performance of the Contract Agreement;
  - c) the right to use and modify the transferred part of the Design Documentation, to implement the subsequent stages of the Contract Agreement;
  - d) the right to exercise subsidiary rights to the part of the Design Documentation provided to the extent necessary for the further performance of the Contract Agreement.
- 7) At the moment of the transfer of copyright of the property rights referred to in paragraph 1, the designer shall issue the copy of the Design Document or its part to the Purchaser.
- 8) Where reference is made to the Design Documentation, this applies both to the whole and to any part of it.
- 9) The transfer of copyright of property rights including the dependent rights mentioned in this Contract Agreement from Design to the Contracting Authority will take place at the moment of payment for the individual parts of the Design Documentation.
- 10) In situations described in point 1 and 2, when the necessity of developing changes into the documentation occurs, the Contracting authority will first ask the author of the design to carry out the works. When the author is not ready to perform additional works in the period given by the Contracting Authority or for the remuneration based on market prices acceptable by the Contracting Authority, the Contracting Authority has the right to procure the services from another designer.

## **§ 15. Designer's team**

- 1) The Designer shall provide, throughout the entire duration of the Subject of the Contract Agreement, personnel with appropriate powers and skills and in sufficient numbers for the correct and reliable performance of the Subject of the Contract Agreement.
- 2) The Designer will assure the participation of a team of at least the people indicated in the Application to participate in the contest in realization of the Subject of the Contract Agreement.
- 3) The Designer shall be responsible for the actions taken by persons within the team and for own omissions, regardless of the type of relationship between the Designer of these people.

## **§ 16. Remuneration**

- 1) The total remuneration of the Designer for the performance of the Subject of the Contract Agreement is the net amount of (net of value added tax) ..... PLN. The gross amount is .... PLN.
- 2) The Parties agree to the following remuneration for the actions:
  - a) to be performed within Stage 1 amounting to 10% of the total gross remuneration defined in paragraph 1;
  - b) to be performed within Stage 2 amounting to 30% of the total gross remuneration defined in paragraph 1;
  - c) to be performed within Stage 3 amounting to 50% of the total gross remuneration defined in paragraph 1;
  - d) to be performed within Stage 4 amounting to 5% of the total gross remuneration defined in paragraph 1;
  - e) to be performed within Stage 5 amounting to 5% of the total gross remuneration defined in paragraph 1.
- 3) The remuneration referred to in paragraph 2 for each stage shall include remuneration for the transfer of property copyrights including dependent rights to Subject of the Contract Agreement, Design Documentation and Concept, under the terms of § 14 of the Contract Agreement.
- 4) The remuneration due for the works covered by Stage 5 shall be paid out in parts every quarter, proportionately to the progress made in the construction works.
- 5) The remuneration shall be paid on the basis of a properly issued VAT invoice within 30 days of its receipt. The invoice must be accompanied by a copy of the acceptance of that stage.

## **§ 17. Warranty**

- 1) The Contracting Authority shall be granted entitlements by the Designer under warranty for physical and legal defects of the Design Documentation, regardless of the fact of obtaining approval by the Contracting Authority.
- 2) The responsibility of the Designer within the warranty for physical and legal defects of the Contract Agreement Subject shall expire at the end of the period of 36 months from the date of acceptance of Stage 5. The warranty starts on the date of receiving the authorized use permission.
- 3) In case of withdrawal from the Contract Agreement by either Party, the warranty for physical defects shall be valid for the Design Documentation made and received.
- 4) Should any errors or omissions be found in the documentation, the Contracting Authority shall specify a 21 day deadline to remove these errors or omissions. After this date, the Contracting Authority shall have the right to charge a contractual penalty according to the further provisions of this Contract Agreement or statutory rights under the warranty.
- 5) The provisions of paragraphs 1-4 do not exclude the claims referred to in art. 55 of the Law on Copyright and Related Rights.

## **§ 18. Contractual penalty**

- 1) The Designer shall pay contractual penalty in case of:
  - a) the delay in implementing the Design Documentation planned to be performed at a given stage in an amount equal to 0.5% of gross remuneration payable for a given stage, as defined in § 16 paragraph 2 of the Contract Agreement for each completed day of delay;
  - b) withdrawing from the Contract Agreement for reasons attributable to the Designer in the amount of 15% of the total gross remuneration as defined in § 16 paragraph 1 of the Contract Agreement.

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- 2) The Contracting Authority shall pay the Designer a contractual penalty amounting to 15% of the total gross remuneration as defined in § 16 paragraph 1 of the Contract Agreement in case of cancellation due to reasons attributable to the Contracting Authority, unless the delay will be due to reasons mentioned in §20 par. 1 let. a) or b) or §20 par. 4.
- 3) The Parties reserve the right to seek compensation under general rules in case the amount of penalty is lower than the amount of damage suffered.
- 4) The Contracting Authority shall be entitled to deduct the amounts accrued and contractual penalties payable from the Designer’s salary, on which the Designer agrees.

#### **§ 19. Designer’s insurance**

- 1) The Designer throughout the period of performance of the Subject of the Contract Agreement should provide insurance against civil liability for performance of the Contract Agreement for an insurance amount not lower than 3,000,000 PLN.
- 2) Within 10 days from the date of signing the Contract Agreement, the Designer shall present to the Contracting Authority a copy of an insurance policy or another insurance document confirming the conclusion of a contract of insurance, for the period not shorter than the term of Contract Agreement.
- 3) If the contract of insurance has been concluded for a term shorter than the term of the Contract Agreement, the Designer shall be obligated, within 30 days prior to the expire of the term of the contract of insurance, present a copy of an insurance policy or another insurance document confirming the conclusion of a contract of insurance for another term.
- 4) In the absence of an insurance contract or failure to provide the Contracting Authority with a copy of a policy or other insurance document confirming the conclusion of an insurance contract, the Contracting Authority is entitled to conclude an appropriate contract of insurance for the Designer at his expense.

#### **§ 20. Withdrawal and termination of the Contract Agreement**

- 5) The Contracting Authority shall be entitled to withdraw from the Agreement:
  - a) in the event of a material change in circumstances such that the performance of the Contract Agreement is not in the public interest, which could not be foreseen at the time of conclusion of the Agreement, the Contracting Authority may terminate the contract within 30 days of becoming aware of the circumstances or,
  - b) if the Designer fails to commence the performance of the Contract Agreement without a legitimate reason, within 14 days of the signing the Contract Agreement, or,
  - c) if he Designer fails to continue the works for consecutive 30 days, despite a request submitted in writing by the Contracting Authority requesting to resume works within seven days from the receipt of the letter, or;
  - d) in case of filing an application for bankruptcy, or liquidation proceedings are initiated against the Designer, or,
  - e) in case the Design Documentation presented at any stage contain errors or omissions and the Economic Operator was at least twice requested by the Contracting Authority to correct errors or omissions.
- 6) The withdrawal from the Contract Agreement shall be made in writing in order to be valid and shall include a justification.

- 7) Withdrawal from the Contract Agreement after the completion of a stage finished with acceptance confirmed with an acceptance protocol shall mean partial withdrawal from the Contract Agreement, i.e. from the stages following the acceptance of the last completed stage. In this case, the Designer is entitled to remuneration for completed and accepted stages, and the Contracting Authority is the owner of the Design Documentation received, in particular the Contracting Authority has the property copyrights, including the dependent rights referred to in § 14.
- 8) The Contracting Authority may refrain from performing certain works by the Designer. In such a case, the Parties will determine the value of the work that will not be realized and reduce the Designer's remuneration, taking into account the reasonable costs of the Designer related to the work from which the Contracting Authority resigned, incurred before the Contracting Authority's written notice of resignation..
- 9) The Contracting Authority may terminate the Contract Agreement if the Designer, despite a written request from the Contracting Authority for the proper performance of the Contract Agreement indicating the existing irregularities, continues to fail to execute the Contract Agreement properly and such condition lasts at least 30 days.

## **§ 21. Confidentiality**

- 1) The Designer undertakes to maintain the confidentiality of any data obtained by execution of the Contract Agreement, unless such information has become evident as a result of actions taken by a person not connected with the Designer, or the disclosure is required by decision of a public authority.
- 2) The Designer shall be required to maintain full confidentiality of the data transmitted and processed for use by the Contracting Authority. In addition, any information and documents provided by the Contracting Authority may be used only for the purpose of the implementation of the Object of the Contract Agreement and may not be released to third parties without the written consent of the Contracting Authority. In particular, the Designer may not, without the consent of the Contracting Authority, provide information on the Project to media representatives. The Designer is obliged immediately to submit copies of such orders to the Contracting Authority and to inform the Contracting Authority of any further proceedings before the requested information or documents. The provisions of this paragraph apply also indefinitely after the execution of the Subject of the Contract Agreement.

~~3) In case of any breach by the Designer of the provisions of paragraphs 1 or 2 of this section, the Contracting Authority shall be entitled to claim contractual penalty from the Designer in the amount of 2% of the gross amount of the remuneration referred to in § 16 paragraph 1 of the Contract Agreement.~~

## **§ 22. Amendments to the Contract Agreement**

- 1) Changes to the Contract Agreement may be made in writing under pain of nullity.
- 2) The Contracting Authority provides for the possibility of amending the provisions of the Contract Agreement in the circumstances specified in the Public Procurement Law and indicated below.
  - 1) An amendment to the Contract Agreement shall be if any of the following cases occurs:
    - a) the change in the deadline of the implementation of the Subject of the Contract Agreement which is the result of actions taken by administrative bodies, in particular:



- i. exceeding the deadlines outlined by the law in respect with issuing decisions, approvals, etc. by the administrative bodies;
  - ii. a refusal **or a delay** by the authorities **or other institutons like media providers, etc.** to issue required decisions, permits, agreements resulting from reasons other than errors in the Design Documentation;
  - iii. the need to obtain a court order, or other decision of the court or a body which was not anticipated at the conclusion of the Contract Agreement;
  - iv. delays in obtaining the right of the Contracting Authority to manage the area on which the Project will be implemented;
- b) a change of the deadlines of implementation of the Subject of the Contract Agreement in the event of having to introduce amendments to the Design Documentation resulting from the changes disclosed in the course of performance of the Contract Agreement with respect to the data presented in support of the PFU concerning the land on which the Object is to be built by the time necessary to make changes.
  - c) changes in the technical solutions adopted in the PFU or the Offer resulting from the changes disclosed in the course of performance of the Contract Agreement with respect to the data presented in support of the PFU concerning the land on which the Object is to be built;
  - d) changes in technical solutions adopted in the PFU or the Offer relating to the change of the budget of the Contracting Authority allocated to the implementation of the Project.
- 2) The Contracting Authority allows to revise the rescheduling of payment deadlines resulting from any amendments made to the Agreement, as far as they do not result in the necessity to pay interest or a larger amount of remuneration to the Designer.
- 3) In addition, the Contracting Authority allows implementing changes in the following cases:
- a) occurrence of force majeure, preventing the execution of the subject of Contract Agreement in accordance with the Tender Terms of Reference;
  - ~~b) extending the warranty period for any period of time.~~
- 4) The amendments referred to in paragraph 3 letter a, b may not lead to changes in the remuneration of the Designer. The changes referred to in paragraph 3 letter c may lead to changes in the remuneration, and the remuneration increase shall be possible only by the amount resulting from the increase in documented expenses of by Designer.
- 1) The above-mentioned catalogue contains changes that the Contracting Authority may agree to, however, it does not constitute the obligation to give such a consent.
- 2) The Contract Agreement may be changed if one of the circumstances indicated in art. 143 section 5 of the Act of 29 January 2004 Public Procurement Law,:
- a) a change in the rate of VAT on goods and services. The parties will establish a record of the Design Documentation made at the date preceding the change of VAT rate,
  - b) the minimum wage or the minimum hourly wage rate established pursuant to art. 2 sec. 3-5 of the Act of 10 October 2002 on Minimum Wages for Work (uniform text Journal of Laws of 2015, item 2008 and 2016, item 1265),
  - c) the rules of social security or health insurance or the rate of social security or health insurance premiums,
- provided that such changes affect the cost of performing the Contract Agreement by the Designer.
- 3) In the event of circumstances mentioned in paragraph 6, either Party may request the amendment of the Contract Agreement. If you submit a request to change the Contract Agreement, the Designer is obliged to submit:

- a) in the case specified in paragraph 8 (a), the valuation of the Documentation made at the date preceding the change of the rate of VAT together with the basis of this valuation. The Contracting Authority has the right to adjust the valuation accepted by the Designer;
  - b) in the case of paragraph 8 (b) or (c), the list of employees employed for the performance of the Contract Agreement for which the amendment applies together with the cost calculation resulting from that amendment, together with evidence of employment and changes in the costs thereof.
- 4) Only the remuneration for work not performed until the date of entry into force of the relevant provisions will be changed.

### **§ 23. Security on due performance of Contract Agreement**

- 1) The Designer shall lodge a security on due performance of Contract Agreement (“Security”), in the amount of ...% of the gross remuneration specified in § 16 paragraph 1, which amounts to ..... PLN (in Polish zloty: .....).
- 2) The Security is paid in by cash or in other form allowed by the law in the amount specified in paragraph 4 and by deductions from royalties for partially performed works covered by the Contract Agreement, in accordance with paragraph 5. The Security Document is an Attachment 1.d) to the Contract Agreement.
- 3) The Security serves to cover claims of the Contracting Authority for non-performance or improper performance of the Contract Agreement.
- 4) In accordance with the provisions of the Public Procurement Law, 30% of the Security will be lodged no later than the day of conclusion of the Contract Agreement in one of the form allowed by the Law (e.g. bank guarantee).
- 5) Remaining amount of 70% Security will be created by deduction from the subsequent receivables for partially performed works covered by the Contract Agreement, amounting to .... % of the amount of each gross invoice to a total amount of 70% of the total Security, ie up to the amount of ..... % of gross remuneration. In accordance with art. 150 sec. 6 of the Public Procurement Law, the full amount of the Security may not be later than half of the period for which the Contract Agreement was concluded.
- 6) The Contract Authority pays the deducted amounts to the bank account on the same day he makes the payment.
- 7) In the case of proper performance of the Contract Agreement, 70% of the Security will be repaid within 30 days of the performance of the Contract Agreement and its acceptance by the Contracting Authority to be properly performed. The contract will be recognized by the Contracting Authority as duly executed on the date of obtaining the authorized investment permit for „The scientific and didactic building Ochota Campus (psychology, cognitive science, psychophysiology)” in Warsaw. The remaining portion of the Security, ie 30% left to cover claims for warranty, will be returned no later than 15 days after the expiration of the warranty period, which is determined for a period of 36 months from the date of obtaining the authorized use permit, but not later than until 31/12/2025. This security will be reduced by the amount of any fees receivable by the Contract Authority due to the poor performance of the Designer’s obligations during the warranty period.

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- 8) The Security lodged in cash, the Contracting Authority returns with the interest arising from the bank account agreement on which it was kept, minus the costs of running the account and the bank commission for transferring money to the account of the Designer.
- 9) With the consent of the Contracting Authority, the Designer may change the form of the Security for one or several forms referred to in art. 148 sec. 1 Public Procurement Law.

**§ 24. Law of the Contract Agreement. Language of the Contract Agreement.**

- 1) This Contract Agreement shall be governed by Polish law.
- 2) Any matters not provided for in this Contract Agreement shall be subject to the provisions of law generally applicable in Poland, including the Civil Code and the Public Procurement Act.
- 3) The Design Documentation and all documents and materials produced as a result of executing the Subject of the Contract Agreement should be drawn up in Polish.

**§ 25. Disputes**

The disputes shall be settled by a court of general jurisdiction competent for the seat of the Contracting Authority.

**§ 25. Communication between the Parties**

- 1) Any notice, inquiry or information relating to or resulting from the performance of the Contract Agreement must be made in writing under pain of nullity.
- 2) Letters of the Parties should refer to the title of the Contract Agreement and its number. The date of receipt of the documents referred to in paragraph 1 above shall be considered by the Parties the day of their transfer via email or fax, if their content is immediately confirmed in writing, unless the Contract Agreement provides otherwise.
- 3) All correspondence should be sent to the following addresses:

for the Contracting Authority:

First and last names: .....  
Address: .....  
Telephone number: .....  
Fax number: .....  
e-mail: .....

for the Designer:

First and last names: .....  
Address: .....  
Telephone number: .....  
Fax number: .....  
e-mail: .....

- 4) A change of the data referred to in paragraph 3 above shall not constitute an amendment to the Contract Agreement and requires only a written notice to the other Party.

**§ 26. Final provisions**

- 1) The attachments constituting an integral part of the Contract Agreement are following:
  - a) PFU;
  - b) Offer;
  - c) Project Works Schedule;
  - d) The document od the safeguarding
- 2) The Contract Agreement is executed in two identical counterparts, one for each Party.

**Designer**

**Contracting Authority**