

## AGREEMENT (MODEL)

concluded in (...) on (...) (...) (hereinafter referred to as the "**Agreement**"), between:

**Wielkopolskie Muzeum Niepodległości [Greater Poland Museum of Independence]** entered in the Register of Cultural Institutions kept by Wielkopolska Province Government under number 27, based in Poznań at 12 Woźna Street, 61-777 Poznań, being an active VAT taxpayer, holding NIP no.: (...), REGON: (...) hereinafter referred to as the "**Ordering Party**", represented by:

(...) - (...)

and

Contractor <sup>1</sup> (...) **based** in (...) and **with** an address in (...) at (...), registered in the Register of Entrepreneurs of the National Court Register under the KRS number: (...), registration file kept by the District Court (...) in (...), (...) Commercial Division of the National Court Register, being an active VAT taxpayer, NIP: (...), REGON: (...), share capital of PLN (...) (fully paid up), hereinafter referred to as the "**Designer**" or the "**Contractor**", represented by:

(...)

(...)

or

Mr./Ms. (...), conducting a business under the business name (...), on the basis of an entry in the Central Register and Information on Business Activity, address (...), holding NIP (...) and REGON numbers, being/not being an active VAT taxpayer, hereinafter referred to as the "**Designer**"

hereinafter referred to each individually as a "**Party**", and both collectively as the "**Parties**".

In connection with the fact that the Designer was awarded the first<sup>2</sup> prize in the Competition conducted by the Ordering Party for the development of the artistic-spatial concept for the permanent exhibition of the Museum of the Greater Poland Uprising 1918-1919 in Poznań, the Parties conducted negotiation in the form of a sole-source contract, which resulted in the conclusion of this Agreement, with the following content:

### 1. DEFINITIONS:

The following terms in capital letters in the text of the Agreement will have the following meanings:

1. **Property** means the real estate located in Poznań covered by the Land and Mortgage Register No. (...), owned by (...), on which the Exhibition Order will be executed.
2. **Project Documentation** means the documentation that the Designer is obligated to produce under this Agreement to the extent necessary to complete the Exhibition Order comprehensively and taking into account all legal requirements, in particular the Post-Competition Concept and the multi-discipline Design Documentation. The degree of detail in the Design Documentation must be sufficient for the purposes of the Ordering Party's execution of the Exhibition Order, and the documentation must include in particular:
  - a) design of functional-spatial arrangement of the permanent exhibition;
  - b) 3D model of the permanent exhibition and all the exhibition spaces (e.g. SketchUp 3D model or a similar one),

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<sup>1</sup> in the case of a Consortium, "contractors," respectively;

<sup>2</sup> to be modified, if necessary, in the event of the conclusion of an agreement with the contractor who received the second prize (in accordance with the Regulations).

- c) all plans, cross-sections, drawings, diagrams and descriptions of the fabrication, installation and commissioning of all foreseen elements of the permanent exhibition, encompassing all disciplines, including those serving its operation;
- d) the design of all types of elements of the visual information system and all graphic elements of the permanent exhibition and the passageways of the permanent exhibition, including the method of presentation of texts with the designation of all expected types of texts;
- e) detailed designs and guidelines for all elements of the graphics discipline, specification of materials, typographies and designs of all the elements that are ready for production;
- f) list of all models and prototypes, workshop drawings, which are at the stage of public order fulfilment for the Exhibition to be performed by the contractor of the exhibition,
- g) a design of the protection system for the collections presented at the permanent exhibition
- h) lists of all exhibits provided by the Ordering Party, and of props and replicas designed by the Designer and necessary for the proper execution of the exhibition,
- i) design of the IT system encompassing:
  - exhibition content management system (CMS);
  - system for managing equipment (all the devices and lighting at the permanent exhibition);
  - design of content of multimedia systems, e.g. project elaborations and guidelines required for creating the content of digital audio and video multimedia systems encompassing: graphic designs of multimedia application interfaces, diagrams of functions and navigation, scenario of individual multimedia stations, graphic designs encompassing typography, arrangement, colour scheme and form of presentation of animated materials and infographics;
- j) design of execution of server room handling the permanent exhibition, together with specification of hardware, software and cabling;
- k) construction design encompassing all the necessary agreements and opinions required in order to obtain a building permit in the event of the permanent exhibition design requiring this.

3. **Implementation Documentation** means any documentation other than the Design Documentation necessary for the Ordering Party to organize a public procurement procedure for the Exhibition, in particular:

- a) bills of quantities for works and other works, investor's cost estimates and other documents necessary for the execution of works and other works (including all opinions and permits - if required),
- b) description of the subject matter of the contract (DSMC), terms of reference (ToR) for all the elements, systems and installations of the permanent exhibition for the purpose of the public procurement procedure for the performance of the Exhibition, fully compliant with the regulations of the Public Procurement Law, in particular, the description of the subject matter of the contract (i) must be exhaustive and unambiguous, must be open, non-discriminatory against specific suppliers, manufacturers or service providers, and if necessary, contain a description of acceptable equivalent solutions, (ii) must not contain trade names of specific products, equipment elements or names of manufacturers or suppliers,
- c) the material and financial schedule for the implementation of the Order for the Exhibition,
- d) simulation of consumption and energy demand of the Exhibition and of the costs of its operation, taking into account the electric energy consumption and consumables,
- e) other indispensable additional and supplementary elaborations that enable comprehensive execution of the exhibition, i.e., ensuring such a level of detail and precision of description that enables correct and timely performance of the agreement by a third party contracted by the Ordering Party for comprehensive execution of the permanent exhibition, including supply,

assembly and starting up of all kinds of devices, hardware, systems and furniture, as well as production of multimedia content.

4. **Technical documentation of the building of the Museum of the Greater Poland Uprising** - it is a multi-discipline construction design, detailed design, specification for the performance and acceptance of construction works related to the Exhibition Order.
5. **Detailed Design Study** means all necessary studies necessary for the comprehensive implementation of a fully functional Exhibition, in particular Design Documentation and Implementation Documentation as well as Post-Competition Concept.
6. **Business Day (Business Days)** means any day of the year, except Saturdays and Sundays, and public holidays.
7. **Competition** means a competition organized by the Ordering Party for the development of a programme, artistic and spatial concept for the permanent exhibition of the Museum of the Greater Poland Uprising 1918-1919 in Poznań, in which the Designer was awarded the first prize.
8. **Concept** stands for the programme, artistic and spatial concept of the Museum's permanent exhibition by the Designer, which was selected as the best competition entry by the Competition Jury.
9. **Exhibition** - permanent exhibition of the Museum of the Greater Poland Uprising 1918-1919 in Poznań, which is to be created as a result of the Detailed Design Study.
10. **Project team** - persons designated to perform the public procurement, including those indicated by the Designer in the application for admission to the Competition and the persons indicated in §2 sec. 4 item 2 of the Agreement;
11. **Technical and Substantive team** - persons appointed by the Contracting Party to work with the Project Team.
12. **Post-competition recommendations** - Recommendations of the Competition Jury and the Ordering Party to the Concept, which the Designer is obliged to include in the Post-Competition Concept prepared by it, as well as in other elements constituting the Detailed Design Study. Post-competition recommendations may include changes to the Concept with regard to artistic, functional and program aspects, taking into account in particular the assumptions of the Scenario of the Permanent Exhibition, list of exhibits and conditions of the Building Technical Documentation. The Post-Competition Recommendations may not include changes that change in any significant way the Visual-Spatial Concept of the Permanent Exhibition, i.e., change significantly the following:
  - the arrangement of the main elements of the exhibition,
  - the visiting path,
  - the narration and method of presentation of content and exhibits,with reservation of any changes that result in the above-mentioned substantive and design documentation of the building being taken into account.
13. **Post-competition concept** - Post-Competition Concept, in which the Designer is obliged to take into account the Post-Competition Recommendations and which requires consultation and approval by the Ordering Party before proceeding to further stages of the Detailed Design Development. The Post-Competition Concept should be a development and refinement of the Concept and cannot be inconsistent with it, unless otherwise stated in the Post-Competition Recommendations. The Post-Competition Concept must be implemented in strict agreement with the Technical and Substantive Team.
14. **Exhibition Order** - the agreement that will be concluded with the selected contractor for the Exhibition implemented on the basis of the Detailed Design Study.
15. **PPL** - the law of September 11, 2019 Public Procurement Law.

16. **Negotiation protocol** - a document containing the key arrangements of the Parties developed during the negotiation of the contract in a single-source procedure preceding the conclusion of this Agreement (including the amount of remuneration, the distribution of remuneration for individual Stages), constituting Appendix No. 5 to this Agreement.

## 2. SUBJECT MATTER OF THE AGREEMENT

1. Under the terms of the Agreement, the Designer undertakes to provide the Ordering Party with a Detailed Design Study for the needs of the Order for the Exhibition and to conduct author's supervision, in particular by performing the following services:
- 1) preparation of the Post-Competition Concept which is the development and specification of the Concept (Designer's competition work), taking into account possible changes resulting from the Post-Competition Recommendations as well as assumptions and limitations resulting from the Technical Documentation of the Building of the Museum of the Greater Poland Uprising,
  - 2) obtaining the approval of the Post-Competition Concept by the Ordering Party,
  - 3) development of subsequent stages of the Design Documentation based on the Post-Competition Concept, to the extent necessary to perform the Exhibition Order,
  - 4) development of the Implementation Documentation, taking into account all assumptions resulting from the Design Documentation to the extent necessary to perform the Exhibition Order,
  - 5) transfer of proprietary copyrights to the Detailed Design Study, including Design Documentation and Implementation Documentation on the terms set out in § 7 of the Agreement,
  - 6) preparing and obtaining for the Ordering Party final and legally valid administrative decisions, including permits, opinions, agreements (including fire, agreements with the National Institute of Museums and Monument Protection), etc., required by law for the implementation of the Exhibition Order and representing the Ordering Party in administrative proceedings, in particular related to agreements and obtaining a construction permit decision (if necessary),
  - 7) in the event that the Ordering Party exercises the Option Right, to exercise author's supervision over the execution of the Exhibition Order, in particular under the terms of § 4 of the Agreement,
  - 8) participate in the work of the tender committee to select the contractor for the Exhibition Order, including the preparation of the material and financial schedule for the Exhibition Order for the Ordering Party and preparation of draft responses to questions asked during the tender procedure,
  - 9) participation in the acceptance of works carried out under the Exhibition Order,
  - 10) implementation of the services referred to above with the help of the Project Team.
  - 11) the Designer is obligated to participate in coordination meetings and discussions of the scenario team of the permanent exhibitions and those with representatives of the Ordering Party. The frequency and form of meetings (approved forms include: online and in person) shall be not less often than once a week during implementation of Stages I, II and III of the Agreement.

hereinafter referred to as ("**Subject of the Agreement**").

2. The Parties unanimously agree that the maximum planned total cost of the execution of the Exhibition on the basis of the Detailed Design Study may not exceed the amount of PLN 65,000,000 gross (taking into account the average market prices as of the date of the Competition award).
3. The detailed scope of services provided by the Designer is further defined in the following Appendices:
  - a) Negotiation protocol;
  - b) Post-Competition Recommendations;
  - c) Technical documentation of the building of the Museum of the Greater Poland Uprising;

- d) Concept (Competition Work) with appendices, submitted to the Competition by the Designer;
- e) Regulations of the Competition along with the appendices.

**The order of the appendices indicated above presents their hierarchy of importance, which means that in the event of any contradiction or inconsistency in the provisions of these appendices, the content of the appendix listed first shall prevail.**

4. The Designer declares that:

- 1) it has the relevant knowledge, authorizations, experience and adequate technical and financial potential to perform the subject matter of the Agreement on time and with the utmost diligence,
- 2) it has at its disposal the Project Team<sup>3</sup> indicated in the Competition, and, moreover, other personnel necessary for the proper and timely execution of the Agreement, consisting of persons with the relevant qualifications and authorizations and experience described in the Regulations, including in particular:
  - Project Team Leader - *(name and surname, email address and telephone number)*,
  - Multimedia specialist - *(name and surname, e-mail address and telephone number)*,
  - Specialist - computer graphic designer -*(name and surname, e-mail address and telephone number)*
  - Text Interpretation Specialist - *(name and surname, email address and telephone number)*
  - Specialist in the development of scripts for multimedia presentations - *(name and surname, e-mail address and telephone number)*
  - Specialist in the design of collection protection systems - *(name and surname, e-mail address and telephone number)*,
  - Collection preservation specialist - *(name and surname, email address and telephone number)*.
- 3) there are no proceedings pending against it as a result of which the Agreement might not be executed by it in whole or in part, in particular, no liquidation proceedings have been opened against it, it has not been declared bankrupt, there are no bankruptcy proceedings pending against it or it has not submitted a declaration on the initiation of restructuring proceedings, as well as there are no reasons for which restructuring or bankruptcy proceedings might be initiated against it,
- 4) The Detailed Design Study shall be prepared, checked and signed by a person or persons with the required qualifications (if required), in accordance with the best technical knowledge and applicable laws, including the provisions of the Law of July 7, 1994. Construction Law, the provisions of the Law of November 21, 1996 on museums and the Law of July 23, 2003 on the protection and care of historical monuments.
- 5) The Designer agrees to undertake all acts of diligence to maintain the truthfulness of the representations set forth in section 4 above for the entire term of the Agreement. In addition, the Designer shall promptly notify the Ordering Party of circumstances affecting the truthfulness of the above statements during the term of the Agreement, including the emergence of reasons for which any of the proceedings referred to in section 4(3) could be initiated or of the initiation of such proceedings.

5. Within 24 months from the date of conclusion of the Agreement, the Ordering Party shall be entitled to commission the Contractor to perform author's supervision over the execution of the Exhibition Order. The statement on the exercise of the Option Right shall be delivered to the Contractor's Representative

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<sup>3</sup> Please note: In the event that the execution of the Detailed Design Study requires design authorizations for persons performing independent technical functions in the construction industry, this list will be supplemented, in accordance with Section. 7.9. Regulations of the Competition.

in writing. After the expiration of the aforementioned term, the right to order the Option Right shall expire.

### 3. TIMELINE

1. The Designer shall execute the Subject of the Agreement in Phases, within the following time limits:
  - a. **Stage I** (Post-Competition Concept) - within 8 weeks from the date of signing the Agreement,
  - b. **Stage II** (Design Documentation) - within 47 weeks from the date of signing the Agreement,
  - c. **Stage III** (Implementation Documentation) - within 52 weeks from the date of signing the Agreement.,
  - d. **Stage IV** (author's supervision) - for the entire duration of the Exhibition Order, i.e. until the final receipt of the Exhibition Order without any faults (but no longer than until October 31, 2030), provided that the Ordering Party exercises the Option Right within the period referred to in § 2 clause 5 of the Agreement.
2. The date of completion of individual Stages is considered to be the signing of the Acceptance Protocol for a given Stage (without comments and reservations) on the terms set out in § 5 of the Agreement below.
3. The Parties are obliged to agree on a detailed procedure for the performance of the Agreement within 14 days of signing the Agreement, including, in particular, the principles and mode of cooperation between the Project Team and the Technical and Substantive Team. The arrangements must take into account all provisions of the Agreement. The arrangements will result in a protocol, which the Designer is required to prepare.
4. The Designer, within 7 days from the preparation of the protocol referred to in the preceding sentence, shall prepare a Design Work Schedule, which shall take into account the findings of the protocol and other provisions of the agreement, whereby the Design Work Schedule must allow for the identification of the performance of the subsequent activities of the Technical and Substantive Team (whereby for the activities of the Technical and Substantive Team, the deadlines must be at least 10 Business Days) and the Designer provided for in the Agreement and in the protocol in the following intervals:
  - a) for the first two months of design works - one-week intervals
  - b) for the 3rd and 4th month of design works - two-week intervals
  - c) for further remaining months of design works - monthly intervals.
5. The Design Work Schedule will be updated by the Designer on a monthly basis-always by the 25th day of the month preceding the first of the scheduled months. The Design Work Schedule and all subsequent updates are subject to the approval of the Ordering Party. Neither Party shall be liable for non-performance or improper performance of the Agreement to the extent that it is due to Force Majeure understood as sudden events beyond the control of the Parties and beyond their control, which event and its consequences could not have been foreseen and prevented. The Party that failed to perform the obligations under the Agreement as a result of Force Majeure is obliged to properly document the occurrence of Force Majeure and submit to the other party immediately, but not later than within 7 days from the occurrence of Force Majeure, relevant evidence along with justification specifying the occurrence of an adequate causal relationship between the occurrence of the event and the failure to perform obligations.
6. The Parties are obliged to make every effort to properly perform their obligations under the Agreement within the time limits provided for in the Agreement. The time limits referred to in sec. 1 shall be extended by the period during which the performance of obligations was impossible due to a Force Majeure event.

#### 4. PRINCIPLES OF CONTRACT EXECUTION

1. The Ordering Party undertakes to:

- 1) ongoing arranging with the Designer of all detailed design solutions with the assistance of the Technical and Substantive Team, which the Ordering Party shall appoint immediately after conclusion of the Agreement, of which it shall notify the Contractor:

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- 2) provide the Designer with materials and information agreed upon by the Design Team and the Technical and Substantive Team necessary for the execution of the Agreement within the time frames resulting from the approved Design Work Schedule.
- 3) providing the Designer with the target substantive materials required for performing the object of this Agreement within 30 days from the date of submission of the Designer's written application for provision of materials – *the substantive materials shall be provided according to the degree of advancement of the conceptual design works.*

2. The Designer undertakes to:

- 1) perform design services in accordance with generally applicable laws, the Competition documentation (including the Regulations and their appendices), the Concept, the Post-Competition Recommendations, and any further guidelines of the Ordering Party;
- 2) develop the Detailed Design Study in accordance with technical knowledge, applicable laws and regulations, and relevant standards, with the utmost care, in close cooperation with the Technical and Substantive Team appointed by the Ordering Party;
- 3) if necessary, obtain on behalf of the Ordering Party final administrative decisions, permits, opinions, arrangements, etc., required by law for the implementation of the Subject of the Agreement, and represent the Ordering Party in administrative proceedings, in particular those related to arrangements and obtaining a construction permit decision or filing a notification for the implementation of the Subject matter of the Agreement, including making conservation arrangements, obtaining conservation opinions and obtaining appropriate permits, including a permit to carry out work on a monument or a facility located in a conservation zone,
- 4) make additions and changes to the Detailed Design Study or any element thereof, which prove necessary in connection with the course of administrative proceedings, in particular in connection with requests from the relevant authorities, institutions or as a result of changes in the law - within the time limits specified in the requests or indicated by the Ordering Party. In the event that such changes affect the implementation of the requirements set forth in the Agreement or agreed by the Parties, such changes must be agreed in advance with the Ordering Party;
- 5) at the stage of developing the Post-Competition Concept, make a detailed analysis of the technical and functional conditions resulting from Technical Documentation of the Building of the Museum of the Greater Poland Uprising and present the proposed changes to the Technical Documentation of the Building of the Museum of the Greater Poland Uprising together with a detailed technical, functional and substantive justification (visual and functional effect of the changes at the exhibition), while the Designer is also obliged to present a design variant without the need to make changes to the Technical Documentation of the Building of the Museum of the Greater Poland Uprising. The changes suggested need to be justified by the Designer and constitute a valid quality argument in terms of visual and functional coherence of the spaces

dedicated to organisation of the permanent exhibition in relation to the original solutions and equipment of the building of the Museum of the Greater Poland Uprising. Any change will be subject to approval by the Ordering Party. If the change is approved as part of the contractual remuneration, the Designer will be obliged to develop detailed multidisciplinary design guidelines for the Designer of the building - Technical Documentation of the Building of the Museum of the Greater Poland Uprising. Approval or non-approval of the proposed amendment may not be the basis for changing the terms of the agreement and changing the remuneration;

- 6) submit to the Ordering Party on an ongoing basis photocopies or sent via e-mail scans of any speeches, agreements, decisions obtained or other types of letters, and at the request of the Ordering Party to provide the originals of agreements, decisions or other types of letters within the time specified in the request;
- 7) inform the Ordering Party on an ongoing basis about the progress in the performance of the Subject Matter of the Agreement at its every request, including providing explanations as to individual solutions and the status of individual procedures and arrangements;
- 8) immediately (no later than 7 days from the date of their occurrence) inform the Ordering Party about any significant circumstances that may affect the dates of the performance of the Subject of the Agreement (including the dates for the performance of individual Stages) or the future costs of the Exhibition Order.
- 9) apply and propose the most advantageous solutions for the Ordering Party from the economic and technical point of view,
- 10) develop the Detailed Design Study in Polish, in electronic and paper versions, in four copies; in the case of the electronic version, the Detailed Design Study should be sent in PDF and editable formats,
- 11) In the event that the Ordering Party exercises the Option Right - to exercise author's supervision (including, if necessary, author's supervision within the meaning of the provisions of the Act of July 7, 1994, Construction Law) in accordance with the regulations in force in this regard and in a manner resulting from the needs arising from the necessity to solve problems arising during the entire period of execution of the Exhibition Order (in particular, from the date of commencement of execution of the Exhibition Order until the date of final defect-free final acceptance of the Exhibition Order (but no longer than until October 31, 2030), in particular by:
  - a) state, in the course of execution of all works, deliveries and construction works, the compliance of the execution of the Exhibition Order with the Detailed Design Study, in particular with regard to utility, technical, technological, material solutions and the selection of devices, equipment, furnishings and systems, at each request of the Ordering Party and within the time specified by it;
  - b) agree with the Ordering Party and the Contractor with regard to the Exhibition Order on the possibility of introducing replacement solutions in relation to those provided for in the Detailed Design Study, in particular in the field of materials, devices, systems, technical, technological and utility solutions,
  - c) give opinions on the proposed replacement solutions presented by the contractor for the Exhibition Order or the Ordering Party, presented by the contractor for the Exhibition or the Ordering Party, if it is impossible to apply the solutions appearing in the Detailed Design Study or if their use is uneconomical or ineffective in the light of current technical knowledge and construction principles, and the cost of the use of new solutions will contribute to the increase of the savings of the Ordering Party, with the proviso that each of the solutions must be approved by the Ordering Party,



- d) clarify any doubts (including those of the Ordering Party and the Contractor of the Exhibition Order) regarding the solutions adopted in the Detailed Design Study, in particular by providing additional information and studies, including: working drawings, detailing executive drawings, applying corrections or additions to the Detailed Design Study or an element thereof within the time limit indicated by the Ordering Party,
  - e) evaluation of the parameters or results of detailed tests of materials and construction in terms of compliance with design solutions, standards and applicable regulations at the request of the Ordering Party and within the time line specified by it,
  - f) ensure, during the execution of the Exhibition Order, that the technical, material and performance solutions comply with the Detailed Design Study and applicable regulations and standards,
  - g) participate in committees and technical meetings organized by the Ordering Party, participate in inspections (of the disappearing, partial and final works) of the Exhibition Order and in other activities verifying the proper execution of the Exhibition Order,
  - h) make changes to the design solutions - at the request of the Ordering Party, within the time agreed by the Parties, justified from the point of view of the scope of the change.
3. The Designer undertakes to participate (at the Ordering Party's premises or with the Ordering Party's consent on-line) in the project coordination meetings, during which the progress of work will be discussed and presented and ongoing arrangements will be made resulting from the implementation of the Agreement. In order to approve the display solutions indicated in the Schedule of Competition Works being developed during the work on the Post-Competition Concept and Design Documentation, the designer will be required to prepare 3D visualizations or sketches for meetings to approve subsequent solutions. The Design Team Leader referred to in the Competition Regulations and, at the request of the Ordering Party, any other member of the design team delegated in advance by the Designer to the Contract shall always be required to participate in the conference. The Designer is obliged each time to make a note of the meeting and send it to the other participants of the coordination meeting.
4. In the event that the Ordering Party exercises the Option Right, the author's supervision activities shall be conducted only at the request of the Ordering Party or the Investor's Supervisor acting on its behalf, with the Parties agreeing that the response time necessary to carry out the author's supervision activities shall not be longer than 2 working days from the request, and the deadline for performance shall be set by the Ordering Party, and it must be a technically reasonable deadline.
5. The Parties agree that the person responsible for performing the author's supervision function shall be the Design Team Leader - (...) or another person designated by the Designer within 7 days prior to the commencement of author's supervision, having the qualifications of experience and knowledge necessary for the proper performance of the Agreement with respect to author's supervision (i.e. not less than the Design Team Leader), in particular (if necessary) having the required design qualifications.

## **5. ACCEPTANCE OF WORKS**

1. The subject matter of the Agreement shall be delivered to the Ordering Party within the time limits specified in § 3(1) of the Agreement. The place of collection of the documents comprising the Detailed Design Development shall be the seat of the Ordering Party, unless otherwise agreed by the Parties (by email or in writing).
2. The Parties agree on the following procedure for acceptance of the Project Documentation, including each of its parts:

- a) on the date of completion of a given part of the Detailed Design Development, the Designer shall report and submit it to the Ordering Party for verification, based on a written handover protocol (hereinafter referred to as the Handover Protocol), the Ordering Party may agree to submit a given part of the Design Documentation for verification by email (consent shall be granted by the Representative of the Ordering Party by email or in paper form). In this case, the date of signing the Handover Protocol is the date on which the Ordering Party receives the electronic correspondence containing a given part of the Detailed Design Study,
  - b) The Ordering Party shall, within 10 Business Days from the submission of a given part of the Detailed Design Study, approve it or provide comments in writing or by e-mail. Failure to comment on the Detailed Design Study in this manner shall not affect the liability for defects thereof under the terms of § 12;
  - c) in case of the Ordering Party's failure to submit comments within the deadline, the Parties shall consider that the relevant part of the Detailed Design Study has been received by the Ordering Party without comments;
  - d) in the event that the Ordering Party submits comments, the Designer shall make corrections to the Detailed Design Studies or parts thereof, in accordance with the comments submitted, within 5 (five) Business Days from the date of receipt of the comments; unless the scope of the changes requires a longer period, and the Parties will agree on such a date (in writing or via e-mail, otherwise null and void) - the Ordering Party's position is considered decisive;
  - e) The Designer shall have the right to refuse to make changes and corrections to the submitted part of the Detailed Design Study if they violate the applicable regulations or principles of technical knowledge or are inconsistent with the provisions of the Agreement; in such case, the Designer shall submit to the Ordering Party a written or email statement of refusal to make such corrections with a justification of the reason for the refusal;
  - f) The Ordering Party has the right, within a period of 7 (seven) days from the date of submission of the supplemented or corrected part of the Detailed Design Study, to submit to the Designer comments that were previously submitted and that have not been duly corrected or taken into account by the Designer; the resubmission of the part of the Detailed Design Study shall take place within the period specified in item 4); the Ordering Party may also submit within this period new comments (previously not submitted) according to the rules specified in item 2 and n. above, with the result that the deadline for acceptance of the given part of the Detailed Design Study to which the new comments relate is postponed by the number of days required by the Designer to take into account the newly submitted comments;
  - g) the document confirming acceptance by the Ordering Party of a given part of the Detailed Design Study shall be a protocol signed by the Parties (hereinafter referred to as the "**Acceptance Protocol**");
  - h) Upon acceptance of a given part of the Detailed Design Study, the Designer shall deliver to the Ordering Party's seat that part of the Detailed Design Study in hard copy (3 copies) and send it by email to the Ordering Party's Representative;
3. The Detailed Design Study or a part of it will be provided to the Ordering Party in electronic version in PDF and editable formats, as well as in hard copy in three copies. Film or multimedia presentations will be released in AVI, MPG or WMV format, and animatics in QuickTime, MP4, .mov format and in the form of a 3D model depending on the software used by the Designer.
  4. In the event of failure to submit the completed and corrected part of the Detailed Design Study or failure to send a statement of refusal to make changes within the time limits indicated above, the Ordering Party shall call (in writing or by email) on the Designer to submit the completed and corrected part or send a statement of refusal to make changes and set an additional period of not less than 3 business days for this purpose;

5. Acceptance of the provision of author's supervision will be carried out in parts of the following principles:
  - 1) By the 5th working day after the end of the month in which the Designer performed the actual activities resulting from the author's supervision, the Designer will prepare a report, present a list of completed tasks, studies and other elements included in the supervision,
  - 2) The Ordering Party shall approve the report or submit comments on it within 5 business days of receiving the report. In the event of comments, the Designer will respond to them within three business days.
  - 3) Acceptance of the supervision service will be made by signing the partial acceptance protocol for a given month.
6. Acceptance of each stage of the Subject of the Agreement is carried out by signing an Acceptance Protocol (without comments or reservations). In the event that a given stage includes the execution of a part of the Detailed Design Study, the Acceptance Protocol of the given stage shall be attached to the Acceptance Protocol of the given part of the Detailed Design Study.

## 6. REMUNERATION

1. For the performance of the Agreement, the Ordering Party shall pay the Designer a lump sum fee in the total amount: (...) PLN (in words: ...) zloty plus value added tax (VAT) in the amount determined in accordance with applicable laws. (hereinafter referred to as the "**Remuneration**").
2. The remuneration will be payable on the following dates and in the following amounts:
  - a. remuneration for the execution of Stage I in the amount of<sup>4</sup> (...) PLN (in words: \_\_\_ zlotys) net, i.e. ultimately the amount of (...) PLN (in words \_\_\_ zlotys) - however, not more than 20% of the total remuneration referred to in par. 1, payable within 30 days from the date of receipt of the invoice, with the invoice to be issued after the signing of the Stage I Acceptance Protocol,
  - b. remuneration for the execution of Stage II in the amount of<sup>5</sup> (...) PLN (in words: \_\_\_ zlotys) net - payable within 30 days from the date of receipt of the invoice, with the invoice to be issued after the signing of the Stage II Acceptance Protocol,
  - c. remuneration for the execution of Stage III of the amount<sup>6</sup> (...) PLN (in words: \_\_\_ zlotys) net - payable within 30 days from the date of receipt of the invoice, with the invoice to be issued after the signing of the Stage III Acceptance Protocol,
3. Regardless of the lump sum remuneration referred to in section 1 above, in the event that the Ordering Party exercises the Option Right, the Contractor shall be entitled to receive a lump sum remuneration for the execution of Stage IV (author's supervision) in the amount<sup>7</sup> equal to (...) PLN (in words: \_\_\_ zlotys) net, payable in equal monthly instalments in the amount of PLN (...) (say: \_\_\_ zlotys) net, but not more than 30 (thirty) instalments, within 30 days from the date of signing the protocol for partial acceptance of the work carried out under the author's supervision in a given month;-
4. In the event that the author's supervision lasts less than a period of 30 months, the last instalment of the monthly remuneration shall be increased so that the Designer receives the full amount of the lump sum remuneration referred to in sec. 2 above. In the event that the author's supervision lasts longer

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<sup>4</sup> the remuneration for Stage I will be determined in the course of negotiations, but its value may not exceed 25% of the total remuneration of the Designer;

<sup>5</sup> the remuneration for Stage II will be determined in the course of negotiations, but its value may not exceed 60% of the total remuneration of the Designer;

<sup>6</sup> the remuneration for Stage III will be determined in the course of negotiations, nevertheless its value cannot be less than 20% of the value of the total remuneration of the Designer;

<sup>7</sup> the remuneration for Stage IV must be 10% of the total remuneration of the Designer;

than 30 months, the Designer shall not be entitled to receive any additional remuneration (in addition to the remuneration referred to in section 2 above) for providing author's supervision services during the period exceeding the 30-month period.

5. The Ordering Party will be entitled to suspend the Designer's work twice during the period of author's supervision. The period of suspension may not exceed 6 months at a time. During the period of suspension of author's supervision, the Designer shall not perform any author's supervision activities and shall not be entitled to the remuneration referred to in sec. 2 above for this period. The Ordering Party shall notify the Designer of the suspension of work in writing or by e-mail 7 days in advance, specifying in the notification the time of suspension of work.
6. The Designer declares that it is an active VAT taxpayer. The Designer undertakes to promptly inform the Ordering Party of any change in tax status, no later than one business day after such change. Payment of the Remuneration shall be made to the bank account indicated by the Designer on the invoice, provided that such account shall be consistent as of the date of payment with the bank account appearing in the "List of entities registered as VAT taxpayers, unregistered and deleted and reinstated in the VAT register" maintained by the Head of the National Tax Administration. Failure to comply with the above requirement by the Designer entitles the Ordering Party to withhold the payment of a given invoice until the Designer provides explanations and is not treated as a breach by the Ordering Party of the terms of the Agreement, and does not entitle the Designer to charge the Ordering Party with interest for delay in commercial transactions / statutory interest for late payment.
7. The date of payment shall be the date on which the Ordering Party's bank account is debited.
8. The remuneration specified in this paragraph includes all costs and expenses of the Designer associated with due performance of the Agreement, in particular it includes, remuneration for transfer of proprietary copyrights in the fields of exploitation listed in § 7 to the Works, transfer of ownership of copies on which the Works were recorded (§ 7), transfer of the right to authorize the exercise of derivative copyrights in the development of the Works in accordance with § 7, the obligation not to take advantage of moral rights and consent to them being exercised by the entities indicated in the Agreement, consent to the introduction by the Ordering Party or its successors in title of changes to the Works and objects created based on them, and all costs necessary for the proper performance of the Designer's duties under the Agreement.
9. The Parties decide that they will carry out indexation of the Designer's remuneration specified in §6 of the Agreement (both in relation to the remuneration referred to in §6(1) of the Agreement and the remuneration referred to in §6(3) of the Agreement) in the even of an actual change in costs of services related to performance of the Agreement.
10. <sup>8</sup>The Parties shall carry out the indexation referred to in the Paragraph 9 above according to the following principles:
  - a) only the remuneration that has not yet been paid to the Designer, according to the status as of the date of performance of indexation, shall be indexed,
  - b) the first indexation shall be carried out 6 months after the date of conclusion of the Agreement,
  - c) subsequent indexations can be performed not more frequently than once in 12 months after the date on which the previous indexation was carried out,
  - d) the indexation (I) shall take place with application of the indexation factor calculation according to the formula below:

$$I = [(IG + 100) : 2] : 100$$

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<sup>8</sup> The provisions of the Agreement related to indexation may be negotiated.

*where IG (index of the Central Statistical Office (GUS)) means the index of increase in prices of consumer goods and service applicable in the month in which the indexation is performed, published by the President of the Central Statistical Office at its website, as an index of change in relation to the date of Agreement conclusion (in the case of the first indexation) or in relation to the date of the last indexation (in the case of second and subsequent indexations).*

11. If the remuneration of the Designer was changed in line with the Paragraph 10 above, the Designer is obligated to change the remuneration payable to the Subcontractor with whom they concluded the agreement within the scope of costs, corresponding to price changes, related to the obligation of the Subcontractor, provided that all the conditions specified below are met:
  - a) the object of the Agreement are services,
  - b) the term of the agreement is longer than 6 months (in a situation where the Subcontractor concluded multiple agreement with the Designer for the purposes of performance of the Agreement, the total duration of these agreements is taken into account).
12. The Ordering Party does not envisage any indexation of the Designer's remuneration other than that described in this section and in §17(4) of the Agreement. If any change in remuneration was made due to reasons described in §17(4) of the Agreement, the Parties may not perform indexation of the remuneration on the same grounds within the framework of provisions of this section.
13. The indexation is not automatic and – on pain of invalidity – can be performed only by means of a written annex to the Agreement.
14. The Designer is obligated to provide (by submitting appropriate evidence to the Ordering Party) that the increase of the IG index referred to above translated in fact to an increase in the Designer's costs of performance of the Agreement. If such circumstances are not proven or if it is proven that the increase in costs was lower than resulting from the above mentioned IG index, the Parties shall increase the remuneration only to the extent of the actually proven increase in costs of the Designer.
15. As a result of indexation referred to in this section, the change in the Designer's remuneration (irrespective of whether that change is an increase or decrease) may not exceed in total during the whole term of the Agreement the amount of 10% of the remuneration referred to in §6(1) and §6(3) of the Agreement.

## **7. COPYRIGHTS**

1. The mutual intention of the Parties and the purpose of the Agreement is the acquisition by the Ordering Party of all intellectual property rights to all the Designer's works performed under the Agreement (in whole or in every part), in particular all proprietary copyrights to the Detailed Design Study and other works and objects of related rights, in particular to phonograms within the meaning of art. 94 sec. 1 the Act of February 4, 1994 on Copyright and Related Rights (i.e. Journal of Laws 2022 item 2509, as amended; "PrAut"[Copyright]) and videograms within the meaning of art. 94 sec. 2 Pr. Aut. [Copyright] (hereinafter referred to as "Works", in order to avoid any doubts, the Work is understood to be the Work in its entirety, as well as its parts/fragments) created under the Agreement, without territorial or temporal limitations, in all legal systems in which the aforementioned intellectual property rights enjoy protection to the fullest extent permissible. The Parties specifically acknowledge that the provisions of this paragraph shall apply to any versions or drafts of Works created in the performance of the Agreement, including their corrections or modifications, and unfinished Works, as well as Works created by the Designer under author's supervision.

2. Each time, within the ... remuneration for a given Stage of the Agreement, the Designer shall transfer to the Ordering Party, without limitation of time, territory (i.e. worldwide territory) or otherwise, the entirety of the author's economic copyrights to the fragment of the Detailed Design Study received as part of a Stage, and in particular the Post-Completion Concept, the Design Documentation, the Execution Documentation and any other Works that will be created in connection with the execution of a given Stage of the Agreement in all fields of exploitation known at the time of conclusion of the Agreement, in particular those listed in Article 50 of PrAut [Copyright], including:
- a) in terms of recording and reproducing the Work - producing copies of the Work by any known technique at a given time, including printing, reprographic, magnetic recording and digital technique on any medium and in any scale, in any number of copies;
  - b) entering into computer memory, uploading and using for online publishing;
  - c) within the scope of circulation of the original or copies on which the Work has been recorded - introduction into circulation, lending or rental of the original or copies;
  - d) with respect to dissemination of the Work in a manner other than that specified in the provision of subsection c) above - public exhibition, display, reproduction, as well as making the Work available to the public in such a manner that everyone may have access to it at a place and time of their own discretion, including through Internet connections and connections based on cell phone technologies;
  - e) use in whole or in part in presentations and informational, advertising and marketing materials; adaptation of the whole or part of the Work by giving them various forms, and recording, reproduction, use and disposal of such altered developments or parts thereof,
  - f) making available as part of the terms of reference for future procurement procedures, in particular by making them available via the Internet in such a way that anyone can access them;
  - g) making available to third parties, including those participating in the preparation or execution of construction, renovation and modernization works on the Property together with estimates and cost estimates, in particular for the purpose of development, reconstruction, adaptation or enlargement of the Property, as well as use for the purpose of carrying out repair works or maintaining the Property in proper technical condition;
  - h) application and use of the Work by the Ordering Party and other entities authorized by the Ordering Party for any number of works, including building, construction, reconstruction, modernization, renovation, or civil works,
  - i) repeated use of all or part of the Works and making them available to any entity for the purpose of carrying out any work referred to above, at any stage of the work,
  - j) introducing changes, in particular to the Design Documentation, for the purposes of implementing the investment plans of the Ordering Party.

For the exclusion of any doubt, the Parties confirm that the Ordering Party and persons authorized by the Ordering Party shall be specifically authorized to use the Works for the purpose of:

- a) announcement and award of the tender or tenders for the selection of the contractor for the Exhibition Order,
- b) execution of the Exhibition Order,
- c) to be used by other contractors as a basis or starting material for other design studies,
- d) publication in the media of information using the Works to which the Works relate,
- e) making the Works available to all entities involved in the execution of the Exhibition Order, including, in particular, suppliers and subcontractors of the Contractor for the Exhibition Order,
- f) granting a license for the use by third parties of each of the Works, including on the terms specified by the Ordering Party or transfer of proprietary copyrights to the Works to third parties,

- g) incorporation of Works into other works or combination of Works with other works, as well as placement of Works in collective works, use in multimedia works, films,
  - h) use of the Works in connection with all aspects of the Ordering Party's business, including all marketing and advertising activities.
- 3. Notwithstanding the transfer by the Designer of all property copyrights to the Works to the Ordering Party, the Designer, as part of the remuneration for a given Stage of the Agreement, each time the property copyrights in a given Work are transferred to the Ordering Party, shall transfer to the Ordering Party the exclusive right to authorize the exercise of derivative copyrights in the Works, to the full extent, and in particular in the fields of exploitation indicated in section 2 above, respectively. The above means that the Designer transfers to the Ordering Party the right to create compilations of the Works, to use and dispose of the compilations of the Works, and the right to authorize, use and dispose of the works. In particular, the Ordering Party shall be entitled to commission the exercise of derivative copyrights to other entities, including making the Works available to third parties for the purpose of their supervision over the execution of the work performed on their basis, if the author's supervision (for any reason) would not be carried out by the Designer.
- 4. In countries whose legal systems do not provide for the possibility of selling the economic copyrights, the Designer shall, in the scope referred to in this paragraph, on behalf of the Ordering Party each time, as referred to in section 2, the widest possible regulation of these rights in a given legal system or, if the regulation is not permissible, burden them for the benefit of the Ordering Party - in such a way as to achieve an economic result as close as possible to the transfer of author's economic rights in the scope described above.
- 5. If a new field of exploitation, unknown at the time of the conclusion of the Agreement, is singled out, Designer, at the request of the Ordering Party, shall undertake and conduct good faith negotiations with the Ordering Party in order to determine the terms and conditions for the transfer of the proprietary copyrights and the right to authorize the exercise of derivative rights in the new field of exploitation to the Ordering Party. The Ordering Party has the pre-emptive right to proprietary copyrights to the Works and the right to authorize the exercise of derivative rights to the Works in each new field of exploitation unknown at the time of the conclusion of the Agreement. The Ordering Party may exercise the right of pre-emption within 3 (three) months from the date of receipt of a written (written form under pain of nullity) notification from the Designer about the intention to transfer the rights. The Designer also undertakes to submit to the Ordering Party, as the first, a written purchase offer for the above-mentioned economic copyrights to the Works in the new field of exploitation (priority right).
- 6. The remuneration for the completion of a given Stage of the Agreement exhausts in full all amounts due to the Designer for the transfer of property copyrights to the Works to the Ordering Party, and in particular includes remuneration for the use of the Works in all fields of exploitation specified in the Agreement, remuneration for the transfer by the Designer to the Ordering Party of the ownership of copies of the Works, as well as the media on which the Works were recorded, and remuneration for the transfer of the right to authorize the exercise of derivative copyrights to the Works and for the exercise of such rights.
- 7. The Designer, as part of the remuneration for a given Stage of the Agreement, undertakes and guarantees the Ordering Party, its legal successors and persons authorized by the Ordering Party indefinitely to authorize:
  - a) exercising on behalf of the creators or Designer (if the Designer shall be entitled to the status of creator) of their moral copyrights at the same time, the Designer warrants that the creators of the Design Documentation will not exercise their moral copyrights against the Ordering Party, its successor in title, and persons authorized by the Ordering Party;
  - b) marking the Work with the name of the creator(s) or his/her pseudonym or making it available anonymously;

- c) making changes and alterations (in particular, making their elaborations, alterations, adaptations and modifications, e.g. translations, reworkings, changes, divisions, combinations, de-compilations, disassembles, adaptations and other elaborations), to the Works, which are dictated by the needs of using the Works, including using them in part or in whole and combining them with other works or non-creative elements, as well as making any modifications to the Works and their individual elements and distributing the objects of intellectual property rights so modified;
  - d) deciding to make the Works available to the public for the first time or to refrain from making them available to the public - in order to avoid any doubts, the Parties confirm that the Ordering Party is not obliged to disseminate the Works;
  - e) exercising supervision over the use of the Works on behalf of the authors, including author's supervision within the meaning of the Construction Law Act,
  - f) to grant licenses (including but not limited to exclusive, non-exclusive, paid or royalty-free licenses) for the use of the Works to a third party, at the Ordering Party's discretion and under the terms and conditions specified by the Ordering Party;
8. As part of the remuneration for a given Phase of the Agreement, the Designer guarantees that the creators will not revoke the authorizations referred to in section 7 above and undertakes to obtain, no later than the transfer of the property copyrights to the Works by the Designer to the Ordering Party, from each creator a statement made in writing confirming the contents of the authorization referred to in section 7 above and confirming the transfer to the Designer of the proprietary copyrights together with the dependent rights to the extent that these rights are to be transferred to the Ordering Party. The statement will include, in particular, the consent of all creators that the Ordering Party may, at its sole and discretionary decision, make changes to the Works consistent with the Ordering Party's needs, and that the Ordering Party is relieved of the need to obtain their consent to make such changes to the documentation.
9. The Designer shall bear full responsibility for infringement of the rights of any third party, including, in particular, copyrights, industrial property rights or personal rights of a third party, caused by use or disposal of any of the Works. In the event that any claims are made by third parties against the Ordering Party or persons authorized by the Ordering Party for infringement of any rights of third parties to the Works, the Designer agrees to take, at its own expense and risk, all legal steps to ensure that the Ordering Party and persons authorized by the Ordering Party are duly protected against such third party claims. In the event that a third party brings an action against the Ordering Party, a successor in title, or a person authorized by the Ordering Party for infringement of a third party's rights as a result of the use or disposition of any of the Works, the Designer shall intervene as a defendant, or, failing that, shall take a side intervention on the defendant's side. The designer will cover all costs related to the defence against the above-mentioned claims, in particular all costs resulting from a legally valid court decision or a settlement concluded with the consent of the Designer, including the costs of publishing a court decision or statement, costs of trial, damages, redress, incurred by the Ordering Party, its legal successor or a person authorized by the Ordering Party in order to satisfy or defence against such claims, within 14 days from the date the judgement becomes final or the settlement is reached.
10. In the event that, for any reason, the transfer of copyrights, exclusive right to authorize the exercise of derivative copyrights, or the granting of consents or authorizations, to the extent indicated in this paragraph, proves to be ineffective or incomplete, or would require additional factual or legal actions, the Designer shall immediately take all actions necessary to effectively transfer such rights to the Ordering Party or an entity designated by the Ordering Party, or necessary to grant effective consents



or authorizations referred to in § 7 of the Agreement, to the full extent, without additional compensation to the Designer or third parties.

11. If the transfer of proprietary copyrights turns out to be invalid, unenforceable or ineffective, the Parties agree that, as part of the remuneration for a given stage of the Agreement, the Designer grants the Ordering Party an exclusive license for an indefinite period to use all and each part of the Works to the extent corresponding to the highest possible degree of transfer referred to in sec. 2, in the fields of exploitation indicated there. Should the grant of an exclusive license also prove to be invalid, unenforceable or ineffective, as part of the remuneration for a given stage of the Agreement, the Designer shall grant to the Ordering Party a perpetual non-exclusive license to use the Works to the extent corresponding to the maximum extent possible to the transfer referred to in sec. 2, in the fields of exploitation indicated therein, and undertakes not to assert against the Ordering Party, its successors in title or any person authorized by the Ordering Party, in the fields of exploitation indicated therein for the use of the Works, any claims for the use of the Works, including claims for abandonment, claims for remedying the consequences of infringement or monetary claims.
12. The Designer agrees not to terminate the licenses referred to in section 11. The Parties unanimously confirm that it is their intention that the exclusive license or non-exclusive license referred to in section 11 shall be non-terminable. In the event that such a provision is found to be inconsistent with generally applicable provisions of law, an exclusive or non-exclusive license will be granted for a definite period of 5 years, after which they will last for an indefinite period, in which the Designer will be obliged not to terminate the above-mentioned exclusive or non-exclusive license. Should this provision also be deemed contrary to generally applicable laws, upon expiration of the aforementioned period, the exclusive license or non-exclusive license will be terminable upon five years' notice effective at the end of the calendar year. Should the above five-year period prove to be inconsistent with generally applicable laws, the Parties agree that the notice period will be 4 years with effect at the end of the calendar year; and if the above four-year period turns out to be inconsistent with generally applicable law, the Parties agree that the notice period will be 3 years with effect at the end of the calendar year. Termination should be made in writing under pain of nullity.
13. The Designer represents and warrants to the Ordering Party that:
  - a) the conclusion and performance of the Agreement does not infringe or violate any rights of third parties (including in particular proprietary or personal copyrights, personal rights), and the Designer is duly authorized and entitled to make representations and guarantees and grant consents and authorizations contained in this paragraph,
  - b) at the time of transfer of proprietary copyrights and derivative rights to the Works, it will be entitled to all proprietary copyrights to the Works in all fields of use indicated in this paragraph and it will only be entitled to transfer the right to authorize the exercise of derivative copyrights to the Works and that no later than until the transfer proprietary copyrights and derivative copyrights to the Works, the creators of the Works will undertake not to exercise personal copyrights and will grant authorizations to exercise personal copyrights to the extent consistent with this paragraph;
  - c) The Works shall be free from physical and legal defects and shall not be limited or encumbered in any way by the rights of third parties, in particular, the Designer has not granted any licenses for the use of the Works or undertook to grant such licenses to a third party in any field of exploitation, nor has the Designer undertaken or shall not undertake to sell or encumber the Works; nor has the Designer transferred or undertaken to transfer any rights in the Works to a third party;
  - d) the transfer by the Designer to the Ordering Party of the proprietary copyrights to the Works and their use in accordance with the Agreement by the Ordering Party or persons authorized by it will not infringe any rights of third parties;
  - e) the use of the Works shall not impose upon the Ordering Party and persons authorized by the Ordering Party the need to obtain any further consents or permissions or to conclude any

agreements and pay any remuneration in excess of the agreed remuneration, and, in particular, the Designer shall obtain all necessary authorizations and consents necessary for the free use and disposal of the Works by the Ordering Party and guarantees that their use will not violate any rights of third parties, including in particular their personal rights.

14. As part of the remuneration for a given Stage of the Agreement, each time, together with the transfer of copies of the Works or the medium on which the Work was recorded, the Designer shall transfer to the Ordering Party the ownership of these copies and this medium.
15. The parties jointly agree that the Designer is authorized to use the Concept only for the proper performance of the Agreement, i.e. the development of the Design Documentation. In particular, the Designer is not authorized to share the Concept with third parties or to use the Concept in other projects than for the purpose of fulfilling the Exhibition Order, or for its own business or professional purposes.
16. The Parties unanimously confirm that the remuneration provided for in the Agreement covers the transfer to the Ordering Party of all rights and the granting of all authorizations under this paragraph.

## **8. SUBCONTRACTORS**

1. The Designer may use third parties (hereinafter "**Subcontractors**").
2. In the case in which the Designer used the potential of a third party for the need to meet the conditions for participation in the proceedings in terms of knowledge and experience, the Designer shall ensure the participation of this entity in the execution of the Agreement by appointing it for performing the part of the order for which such knowledge and experience were required (in order to meet the condition for participating in the proceedings).
3. The Designer undertakes to present to the Ordering Party, on the date of conclusion of the Agreement, a list of entities and persons who will be entrusted with the performance of individual parts of the Detailed Design Study or other works related to the performance of the Agreement. The Contractor undertakes to update this list on an ongoing basis in the event of any changes to the actual group of people involved in the performance of the Agreement. The Contractor undertakes to present to the Ordering Party a complete list of persons involved in the performance of the Agreement no later than within 3 days from the date of handing over the Detailed Design Study to the Ordering Party.
4. The Designer shall be fully responsible for all acts and omissions of Subcontractors as for its own acts and omissions.
5. In the event of entrusting the performance of part of the design work to other entities, the Designer undertakes to coordinate the design studies of these entities, as well as to obtain proprietary copyrights and authorizations for the exercise of moral rights in the scope resulting from § 7.
6. The Ordering Party shall not bear any costs related to the services provided by Subcontractors, in particular, remuneration (including for the transfer of copyrights) or other costs (e.g., transportation costs).
7. The Designer undertakes to ensure that its employees/associates or third parties to whom the Designer entrusts the execution of the various parts of the Detailed Design Study transfer to the Designer the copyrights to the resulting works, and authorize the Designer to exercise on their behalf the moral copyrights to such works to the extent that the Designer can transfer all the copyrights to the Design Documentation to the Ordering Party, and that the Designer makes the representations and warranties contained in § 7 of the Agreement.

## **9. WITHDRAWAL FROM THE AGREEMENT**

1. The Parties agree that both the Ordering Party and the Designer have the right to withdraw from the Agreement in part or in whole subject matter of the Agreement for the reasons indicated in this

paragraph within the time limit until December 30, 2029. Regardless of the grounds for withdrawal indicated in this paragraph, the Parties also have the right to withdraw from the Agreement under the general principles of the Civil Code and the PPL.

2. The exercise of the right to withdraw from the Agreement will have ex nunc effect and will refer to the part of the Parties' services not fulfilled prior to the submission of the declaration of withdrawal.
3. Withdrawal from the Agreement shall be in writing under pain of nullity. Withdrawal from the Agreement requires a written justification, which is an integral part thereof.
4. In the scope related to the part of the Parties' services fulfilled prior to the submission of the declaration of withdrawal, the Agreement remains in force (in particular, the Parties still apply the provisions regarding the remuneration due to the Designer for the activities performed, part of the Design Documentation received by the date of withdrawal, contractual penalties and substitute performance in the scope relating to the part of the Agreement not covered by the withdrawal).
5. The Ordering Party may withdraw from the Agreement (in part or in whole of the non-performed Agreement):
  - a) in the event of the Designer delaying the commencement of the Agreement for a period of more than 21 days from the date of signing the Agreement,
  - b) in the event of a delay of the Designer in the execution of any of the Stages for a period exceeding 21 days, provided that a given Stage is called in advance and an additional deadline not shorter than 3 working days is set,
  - c) in the event that the Designer, despite being called upon to change the defective performance of the Subject of the Contract in any part, continues to perform it defectively,
  - d) in the event of a Force Majeure event,
  - e) in the event of important reasons on the part of the Ordering Party, i.e. in the absence of funds for the implementation of the Exhibition Order, including those resulting from Force Majeure events,
  - f) in the event of a breach by the Designer of other provisions of the Agreement, provided that a prior notice is given to cease the breach or remove the effects of the breach within the prescribed period, not shorter than 7 working days.
6. The Designer may withdraw from the Agreement if the Ordering Party is delayed with the payment of the due Remuneration (even part) for a period longer than 90 days from the due date specified in the invoice issued in accordance with the Agreement, provided that a prior call for payment is made and an additional deadline not shorter than 7 business days for payment is set.
7. In the event of submitting a declaration of withdrawal from the Agreement by any of the Parties, the Designer is obliged to prepare a protocol (in two copies, one for each of the Parties) constituting an inventory of the design works performed, including based on the protocols and notes from the meetings of the Parties and confirmation of the execution or transfer of the completed part of the Detailed Design Study. This protocol should be submitted to the Ordering Party within 14 days from the receipt of the declaration of withdrawal from the Agreement by the non-withdrawing party.
8. In the event of withdrawal from the Agreement by any of the Parties, the Designer is entitled to remuneration for parts of the Detailed Design Study that have been transferred to the Ordering Party (based on the Handover Protocol) by the date of withdrawal from the Agreement in the amount corresponding to the percentage of completion of the subject of the Agreement. In the case referred to in the preceding sentence, all obligations assumed by the Parties in § 7 shall apply mutatis mutandis to the works constituting parts of the Detailed Design Study, which were submitted to the Ordering Party (based on the Handover Protocol) until the date of withdrawal from the Agreement. If the Ordering Party uses the substitute performance in accordance with the Agreement - the Ordering Party is entitled to retain and deduct from the amount of remuneration for the part of the subject of the Agreement, the

costs of the substitute performance.

9. In the event that the Ordering Party questions the provisions of the submitted report referred to in sec. 7 above, and the Parties do not agree on the final content of the protocol, each of the Parties is authorized to apply to an expert in the field of the relevant specialization to which the dispute relates, entered on the list of court experts, for an opinion on the determination of the percentage progress of the design work of the commenced part of the Detailed Design Study. If, according to the expert's opinion, the Party disputing the protocol had grounds to dispute the provisions of the transferred protocol - the costs of the expert's opinion shall be borne by the other Party, whereas if, according to the expert's opinion, the Party disputing the protocol had no grounds to dispute the provisions of the transferred protocol - the costs of the expert's opinion shall be borne by the Party disputing the protocol.

## **10. CONTRACTUAL PENALTIES**

1. The Designer shall pay the Ordering Party contractual penalties for:<sup>9</sup>
  - 1) a delay in execution of a given Stage of the Subject of the Agreement referred to in § 3 sec. 1 in relation to the contractual deadline - in the amount of 0.1% of the net remuneration referred to in § 6 sec. 1 of the Agreement, for each day of delay in the case of each Stage, but not more than 10% of the net remuneration referred to in § 6 sec. 1 of the Agreement;
  - 2) a delay of more than 4 Business Days in the performance of activities specified in the Design Work Schedule in the amount of PLN100 for each day of delay in the performance of a given activity of the Designer provided for in the Design Work Schedule, but not more than PLN 10,000;
  - 3) for the lack of a justified participation in the coordination meeting of a member of the Project Team indicated as necessary by the Ordering Party in the amount of PLN 1000 for the absence of each person,
  - 4) a delay in the introduction of corrections reported in accordance with the Agreement under the terms of § 5 of the Agreement in the amount of 0.1% of the net remuneration referred to in § 6 section 1 of the Agreement for each day of delay, but no more than 10% of the total net remuneration referred to in § 6 section 1 of the Agreement;
  - 5) a delay in performance of obligations under warranty or guarantee in accordance with §12 of the Agreement in the amount of 0.5% of the net remuneration referred to in §6 sec. 1 of the Agreement for each day of delay, but not more than 20% of the net remuneration referred to in §6 sec. 1 of the Agreement.
  - 6) due to the termination or withdrawal by the Ordering Party from the Agreement due to circumstances for which the Designer is responsible, in the amount of 20% of the net remuneration referred to in §6 section 1 of the Agreement;
  - 7) a delay in the performance of individual activities of the author's supervision in relation to the deadlines set in accordance with the Agreement - in the amount of 0.5% of the net remuneration specified in the Agreement, for each day of delay, but not more than 5% of the net remuneration referred to in §6 sec. 1 of the Agreement.
  - 8) due to the termination or withdrawal by the Ordering Party from the Agreement in the scope of author's supervision as a result of circumstances for which the Designer is responsible, in the amount of 10% of the net remuneration referred to in §6 section 1 of the Agreement.
  - 9) due to non-performance of the obligation to pay remuneration to any Subcontractor or due to untimely payment of such remuneration stemming from the obligation to perform indexation of the Subcontractor's remuneration referred to in Article 439(5) of the Public Procurement Law

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<sup>9</sup> The Ordering Party allows during negotiations to change the provisions of par. 10 of the Agreement.

Act – in the amount of 5% of net Remuneration referred to in §6(1) of the Agreement, per each occurrence.

The above-mentioned contractual penalties are cumulative.

2. The Ordering Party shall pay the Designer a contractual penalty for the Designer's withdrawal from the Agreement due to circumstances for which the Ordering Party is responsible, in the amount of 10% of the net remuneration specified in § 6 sec. 1 of the Agreement. The Ordering Party shall also pay the Designer for the work performed until the Designer is notified of the withdrawal from the Agreement on the terms set out in § 9 sec. 8.
3. The total amount of contractual penalties after their accumulation may not exceed 30% of the net remuneration referred to in §6 section 1 of the Agreement.
4. The Ordering Party may refrain from imposing the contractual penalties referred to in §10 sec. 1 point 1 and 2 above - for exceeding the time limits referred to in §3 section 1 a) and b) of the Agreement and penalties for exceeding the deadlines specified in the Design Work Schedule, if the Designer meets the deadline referred to in §3 section 1 c) of the Agreement.
5. The Parties shall be entitled to claim damages in excess of the reserved contractual penalties.
6. The contractual penalty shall be payable on the basis of a debit note delivered to the other Party, within the period indicated on the note, but not less than 7 days from the date of its receipt.

## **11. CONFIDENTIALITY**

1. Any information relating directly or indirectly to the Parties that has been communicated to the other Party or has been obtained by the other Party in connection with the Agreement shall be treated as fully confidential and constitutes a secret of that Party within the meaning of Article 11(2) of the Act of April 16, 1993 on Combating Unfair Competition (i.e.: Journal of Laws of 2022, item 1233 as amended).
2. Neither Party shall disclose the information indicated in sec. 1 above to third parties without the prior written consent of the other Party unless:
  - 1) the obligation of such disclosure will be imposed by authorized authorities or within the limits of mandatory legal standards,
  - 2) the information in question has lost its confidential nature due to its previous public disclosure or has been disclosed in a manner required by mandatory legal standards,
  - 3) disclosure of information is necessary for the proper execution, settlement or control of the performance of the Agreement.
3. In the event of a breach of this confidentiality clause, the Party who has suffered a loss in this respect may seek its repair under the general principles of the Civil Code.
4. The Parties shall take appropriate technical and organizational measures to ensure the confidentiality of the information transferred and processed/stored.
5. The confidentiality obligation set forth above shall last for the entire term of the Agreement and for a period of 6 years from the date of termination/expiration/withdrawal from the Agreement.
6. The Designer declares that it is aware of the fact that the Ordering Party is an entity obliged to make public information available, in accordance with the Act of September 6, 2001 on access to public information (i.e.: Journal of Laws 2022, item 902). In connection with the above, in the event of a request to the Ordering Party to disclose public information, including public information, subject to the Confidentiality Agreement, the Ordering Party is entitled to disclose this information. In the case of the release of public information, the Ordering Party shall not be obliged to compensate for any damage arising from the release of public information.

## 12. WARRANTY

1. The Designer shall provide the Ordering Party with a warranty for defects in the Detailed Design Study for a period of 5 (five) years from the date of its handover under the Acceptance Protocol. ("**Warranty Period**"), with reservation of the following sentence. If the Ordering Party takes advantage of the Option Right, the Warranty Period shall be extended until the date of conclusion of performance of the Order for Exhibition, but in no event shall the Warranty Period continue longer than until April 30, 2031.
2. The Designer shall be obligated to remedy defects in the Detailed Design Study free of charge within 21 (twenty-one) Business Days from the moment of notification of the defect, unless the Parties agree on a different deadline. Upon the ineffective expiration of this deadline, the Ordering Party shall call on the Designer in writing to release the Detailed Design Study without defects within a maximum period of 7 (seven) days, under pain of entrusting the removal of defects in the Detailed Design Study to a third party at the expense and risk of the Designer (substitute performance).
3. Upon ineffective expiration of the aforementioned deadline, the Ordering Party shall be entitled to entrust the removal of defects in the Detailed Design Study to a third party at the expense and risk of the Designer. The Designer shall pay to the Ordering Party the cost of substitute performance within 14 days from the date of receipt of the relevant invoice.

## 13. INSURANCE

1. The Designer undertakes to conclude on its own and maintain throughout the term of the Agreement civil liability insurance (contractual and tort), for a guarantee amount not less than PLN 1,000,000.00 (in words: one million zlotys 00/100) for one and all insurance accidents in connection with the execution of the Agreement.
2. Notwithstanding the foregoing, the Designer guarantees that all persons involved in the implementation of the Subject of the Agreement to the extent requiring authorization to perform independent technical functions in the construction industry (designers) have obligatory (required by law) liability insurance.
3. The policies referred to in the preceding sections are attached as Appendix 6 to the Agreement.
4. The Designer shall submit to the Ordering Party the original policies confirming the renewal or conclusion of new insurance contracts referred to in sections 1 and 2 above for inspection no later than 7 days before the expiration of the term of the existing contract. The Designer shall also be obliged to submit the original of the relevant policy to the Ordering Party whenever requested by the Ordering Party (in writing or by email) - within 5 days of such a request. In the event that the policy is not submitted for inspection within the aforementioned time frames, the Ordering Party shall be entitled to conclude the aforementioned insurance at the expense and risk of the Designer.

## 14. REPRESENTATIVES OF THE PARTIES

1. The Parties shall establish their representatives responsible for the execution of the subject matter of the Agreement (authorized to sign the protocols specified in the Agreement, submit comments to the Detailed Design Study):
  - 1) Ordering Party's Representative: (...), e-mail: (...), phone: (...)
  - 2) Designer's Representative: (...), e-mail: (...), phone: (...)
2. A change of a Party's representative or its contact information shall be made by written or email notification to the other Party with the name and contact information of the designated person. Such a change does not constitute an amendment to the Agreement and does not require an annex.
3. The Parties shall have the right, in writing or by e-mail (under pain of nullity), to appoint persons other than those specified in the Agreement to participate in working meetings, agreements or verification of

project documentation. The Designer acknowledges that third parties invited by the Ordering Party may also participate in the implementation of these activities.

## **15. PERSONAL DATA PROTECTION**

1. The Parties declare that they are controllers of personal data within the meaning of Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation), hereinafter referred to as GDPR.
2. The Ordering Party is the controller of personal data with respect to the personal data of the Designer, individuals designated by the Designer as contact persons (persons responsible for the execution of the Agreement), employees of the Designer, the Design Team and authors of the Detailed Design Study.
3. The Designer is the data controller with respect to the personal data of representatives and employees of the Ordering Party involved in performance of the Agreement on the part of the Ordering Party.
4. The Ordering Party declares that it has appointed a Data Protection Officer as referred to in Articles 37-39 of the GDPR. Contact details of the Recipient's Data Protection Officer: iodo@wmn.poznan.pl
5. In connection with the processing of personal data referred to in sec. 4, it is required to contact the Designer at the following email address: .....
6. The personal data of the persons referred to in sections 2 and 3 will be processed by the Parties on the basis of Article 6(1)(b) or Article 6(1)(f) of GDPR only for the purpose and to the extent necessary to perform the tasks of the personal data controller related to the execution of the Agreement (which constitutes the administrator's legitimate interest) in the category of ordinary data - first name, surname, position and place of work, business telephone number, business email address.
7. The Ordering Party will also process the personal data of the persons indicated in sec. 2 on the basis of Article 6(1)(c) of the GDPR to the extent necessary to perform the legal obligations imposed on it by law in connection with the conduct of the Exhibition Order.
8. Personal data of persons indicated in sec. 2-3 will not be transferred to a third country or an international organization within the meaning of the GDPR.
9. Personal data of the persons referred to in sec. 2-3, will be processed for the period from the date of conclusion of the Agreement to 10 years from the end of the calendar year in which the Agreement was performed, unless a longer processing period is necessary, e.g. due to archiving obligations, pursuing claims, etc.
10. Within the limits of the law, the persons referred to in sec. 2-3 above, have the right to request the data controller to access their personal data, rectify them, delete or limit processing or object to their processing, as well as the right to transfer data.
11. Persons referred to in sec. 2-3, in connection with the processing of their personal data, have the right to lodge a complaint to the supervisory authority - the President of the Office for Personal Data Protection.
12. In the event of a request for deletion or restriction of processing by the data subject, the Party who designated the data subject in accordance with paragraphs 2-3 shall designate another person to perform the tasks under the Agreement in his/her place, and in the event that such Party does not designate such person within 3 days of receiving a written request from the other Party, and the lack of designation will result in the inability to perform the Agreement, the other Party may terminate the Agreement due to the fault of the Party which did not designate the new person, with immediate effect.
13. Based on the personal data of the persons referred to in sec. 2-3, the Parties will not make automated decisions, including decisions resulting from profiling within the meaning of the GDPR.

14. The Parties undertake to inform the natural persons acting on their behalf and not signing the Agreements referred to in sec. 2-3, about the content of this paragraph.

## **16. PERFORMANCE BOND**

1. In order to secure any claims of the Ordering Party for non-performance or improper performance of the Agreement, the Contractor shall submit a performance bond in the amount of **5% of the gross remuneration referred to in § 6 sec. 1 of the Agreement.**
2. The security shall be provided in the form or forms indicated in Article 450 (1) of the PPL. The amount of the security provided in the form of cash shall be paid into the Ordering Party's bank account (account number:.....) no later than on the date of concluding the Agreement.
3. If security is provided in the form of a bank or insurance guarantee, it should meet the following conditions:
  - the content of the guarantee is to include an irrevocable obligation of the guarantor to unconditionally pay the amount demanded by the Ordering Party (up to the amount of the security), at the first request of the Ordering Party and within 14 days of receipt by the guarantor of the request for payment, regardless of any questioning by the Contractor of the legitimacy of the request, without the right of the guarantor to verify the legitimacy of the request and without the need to provide any additional documents.
  - the only condition for the disbursement of funds by the guarantor is the submission by the Ordering Party of a written request for payment and demonstration of proper representation of the Ordering Party when submitting this request,
  - the guarantee should allow a demand for payment of the amount of the security within the validity period of the security specified in sec. 4,
  - the guarantee should indicate the amount of the security specified in sec. 1 above,
4. The validity period of the performance bond is as follows:
  - The Contractor shall provide security in the amount of 100% of the value of the security in the period from the date of providing the security until the expiry of 30 days from the date of signing the acceptance protocol for Stage III of the Agreement (52 weeks from the date of conclusion of the Agreement). In the event of failure to meet the deadline for completion of the subject matter of the Agreement, the Contractor shall ensure the continuity of the security by extending the validity of the security no less than until the expiration of the 30th day after the signing of the acceptance protocol of Stage III of the Agreement.
  - The Contractor shall provide security in the amount of 30% of the value of the security in the period from the end of the period referred to in item 1 above until the 15th day after the expiry of the warranty period.
5. If the security has been provided in cash, the Ordering Party will return the amount of the security on the following dates and in the following amounts:
  - 70% of the value of the performance bond within 30 days from the date of signing the acceptance protocol of Stage III of the Agreement.
  - 30% of the value of the performance bond within 15 days of the expiration of the warranty period.
6. In the event of the return of the security provided in cash, the Ordering Party shall reduce the amount of the returned security by the amount of the claims satisfied from the security.
7. The security provided in the form of a guarantee will be returned by returning the original document, at the Contractor's request, submitted not earlier than after the expiry of its validity.



8. The Ordering Party shall be entitled to deduct from the performance bond any claims against the Designer under the Agreement.
9. The Contractor shall ensure the validity and continuity of the required security for the entire period indicated in section 4 above, with the Ordering Party permitting a separate non-monetary security for the period of performance of the Agreement and for the duration of the warranty period. In the event that a separate non-monetary security is provided for the period of performance of the Agreement and the warranty period, as well as in the event of an extension of the period of performance of the Contract, the Contractor shall provide the Ordering Party, 30 days before the expiration of the term of the previous security, with a suitably amended or new guarantee that meets all the requirements under the Agreement.
10. If the security is not provided or supplemented on time by the Contractor, the Ordering Party shall have the right to deduct from the Contractor's due remuneration an appropriate amount as a deposit on behalf of the Contractor for the security due (security in the form of money). If adequate security is provided in the form of a bank or insurance guarantee, the deposit will be released.

## **17. FINAL PROVISIONS**

1. The Appendices to the Agreement form an integral part thereof. The order of the Appendices indicated in (a) through (d) below indicates their hierarchy of importance, which means that in the event of any contradiction or inconsistency in the provisions of these Appendices, the content of the Appendix listed first shall prevail:
  - a) Appendix 1 - Post-Competition Recommendations;
  - b) Appendix 2 - Technical documentation of the building of the Museum of the Greater Poland Uprising;
  - c) Appendix 3 - Concept (Competition Work) with appendices, submitted to the Competition by the Designer;
  - d) Appendix 4 - Regulations of the Competition, including appendices;
  - e) Appendix 5 - Protocol of negotiations;
  - f) Appendix 6 - Insurance policies
2. The Agreement is drawn up in two counterparts in writing, one for each Party.
3. Any amendment to the Agreement shall be made in writing under pain of nullity.
4. The Parties provide for the possibility of changing the Agreement in the event of changes in the law in the field of:
  - the rules for subjecting to social insurance or health insurance or the rate of social insurance or health insurance contribution, or
  - the amount of the minimum wage or the amount of the minimum hourly rate, determined on the basis of the provisions of the Act of October 10, 2002 on the minimum wage, or
  - Value Added Tax (VAT) or excise duty rates,
  - the principles of collecting and the amount of contributions to employee capital plans referred to in the Act of October 4, 2018 on employee capital plansif these changes will affect the Contractor's cost of performance.
5. In the cases referred to in sec. 4 above, the Contractor shall be entitled to submit an application for the adjustment of the remuneration due to the changes in the law referred to above. The Contractor shall bear the burden of proving to the Ordering Party that the changes in the applicable laws referred

to in sec. 4 above affect the Contractor's performance of the Subject of the Agreement and thus justify the valorisation of the remuneration due to the Contractor.

6. The Designer may not transfer, make a novation, assignment or otherwise pass any of its rights under the Agreement to any third party without the prior written consent of the Ordering Party (written form under pain of nullity).
7. In the event that a provision of the Agreement is or becomes ineffective, invalid or unenforceable, the effectiveness, validity or enforceability of the remaining provisions of the Agreement shall not be affected. The Parties to the Agreement will then cooperate to promptly replace the ineffective, invalid or unenforceable provision with another suitable for the fullest achievement of the intended result. Filling in any omissions or gaps in the Agreement will be carried out in a similar manner.
8. The law applicable to the Agreement shall be the law of the Republic of Poland.
9. Any disputes arising out of or in connection with the Agreement shall be settled by the common court of competent jurisdiction in Poznań, which has jurisdiction over the Old Town district of Poznań.
10. Service of documents:

a) Any notifications required by or related to the Agreement should be made as follows:

to the Ordering Party:

Museum of the Greater Poland Uprising

ul. Woźna 12, (...) Poznań

phone:

e-mail:

to the Designer:

(...)

(...)

fax: (...)

phone: (...)

e-mail: (...)

b) The Parties will notify each other in writing about the change of the above data. Until such information is obtained, the Party's deliveries made to the above addresses or numbers will be deemed effective.

11. The agreement is drawn up in two counterparts, one for each party.

**ORDERING PARTY:**

**DESIGNER:**