



**APPENDIX No. 2: GENERAL CONDITIONS OF  
CONTRACT NO: 1/2020  
CONSTRUCTION CONTRACT**

**CLAUSE 1. DEFINITIONS**

1. Contract – Contract Agreement with all the appendices thereto.
2. Development Project – Performance of all works and activities connected with the engineering, construction and putting into operation the structure indicated in the **Special Conditions of Contract**.
3. Investor - means a natural person, legal person or organizational unit without legal personality indicated in the **Special Conditions of Contract**, being the investor for the Development Project.
4. Employer's Representative - means the person named in the **Special Conditions of Contract** responsible for co-operation with the Subcontractor in the execution of the works covered by the Contract who has been authorized to sign a Work Progress Reports and Final Work Protocols defined in the present Contract and to modify the intermediate dates for Works completion.
5. Subcontractor's Representative - means the person named in the **Special Conditions of Contract** responsible for co-operation with the Employer, for the execution of works covered by the Contract who has been authorized to represent the Subcontractor in all matters related to the present Contract.
6. Designer – means a natural or legal person or organization without the status of a legal person holding applicable licences to develop designs, indicated in the technical documentation or by the Employer in accordance with the **Special Conditions of Contract**.
7. Investor's Building Inspector – means a natural person or a group of persons performing the duties of investor's building supervision inspectors pursuant to the provisions of the Building Law indicated in the **Special Conditions of Contract**.
8. Technical Documentation – means the documents in accordance with the **Special Conditions of Contract** encompassing also any other documents referring to the Development Project which are necessary for the execution of the Works.
9. Building permit – means the document indicated in the **Special Conditions of Contract**.
10. Works Progress Report – means the document constituting the basis for the issuance of an invoice by the Subcontractor and confirming the progress of Subcontractor's works. A Work Progress Report does not constitute an acceptance of the whole or part of the Works.
11. Final Development Project Acceptance Certificate – means the final document confirming the completion of all works connected with the engineering, building and putting into operation the Development Project.
12. Final Works Protocol – means the document confirming the completion of Subcontractor's Works.
13. Work / Works - mean all the activities and works necessary for the completion of the object of Contract and other obligations of the Subcontractor, in particular the works constituting part of the Development Project.
14. Party – means the Employer and/or the Subcontractor.
15. Assignment – means Subcontractor's consent expressed in accordance with the terms and conditions of the present Contract Agreement to transfer the remuneration the Subcontractor is entitled to receive to Subcontractor's contractors to pay their remuneration for supplies or services performed for the Subcontractor. The Employer shall not be bound by an assignment until it becomes effective.
16. Supplies schedule – a schedule of supplies of materials or equipment necessary for the execution of the Subject Matter of Contract drawn up by the Subcontractor and accepted by the Employer. The Supplies Schedule shall contain information on the suppliers of specific materials, dates and values of the supplies.

**CLAUSE 2. SUBJECT MATTER OF THE CONTRACT**

1. The Employer orders and the Subcontractor agrees to execute, in accordance with the principles set forth in the present Contract, the Works whose scope is specified in the Contract Agreement and described in detail in the **Special Conditions of Contract**. The Works also encompass

all other elements necessary for the completion of the subject matter of the Contract.

2. The Works shall be executed in accordance with the provisions of the Contract, best industry practices and the intended use of the Development Project, in the scope according to the submitted Technical Documentation, as well as with the changes established with the Employer's Representative and designers of the Development Project or its part. Detailing, expanding and modifying the Technical Documentation resulting from a correct execution of the assumed programme, specific functions, regulations and technical and building norms in force and industry standards, shall not be understood as a modification of the scope of contract. The Subcontractor hereby declares that before signing the Contract they verified and checked the technical documentation and states that it is complete and sufficient for the execution of the Works and that they do not make and shall not make any reservations regarding it now or in the future.
3. The Subcontractor shall execute the Works, including the design work, in accordance with the building permit. The Subcontractor shall obtain all the information necessary for the Subcontractor and any authorisations from the authors of the Technical Documentation including the building permit design, for its elaboration, modification extension or changes.
4. The Subcontractor shall obtain at their own expense all the further permits, approvals, acceptances, opinions, operating manuals, quality certificates and warranty cards necessary for the proper performance of the obligations under the present Contract.
5. The Subcontractor declare that the materials and equipment used to perform the Works shall not be subject to any reservation of ownership, conditional sale, collateral agreement, pledge or other claim or in any other way encumbered with third party rights.

### **CLAUSE 3. THE SUBCONTRACTOR**

1. The duties of the Subcontractor in connection with the execution of the Contract are as follows:
  1. verification of the completeness and correctness of the Technical Documentation with respect to the performed Works,
  2. clarification – at own cost and risk – of all work details not explained in the Technical Documentation with Employer's

- Representative and also with the Designer if necessary,
3. execution of the Works, including the design works in accordance with best building practices, technical expertise, applicable industry standards (PN and EN) and the provisions of law,
4. performing work in the form and time which will be deemed necessary in order to guarantee the continuity of the works to be carried out by the Employer,
5. delivery of the materials and equipment necessary for the execution of the Works to the site at own cost and risk and distribution of the materials into the particular working areas and protecting them against destruction, damage and theft,
6. protection against destruction or damage at its own cost, of any previously executed elements of the Development Project, including the Works, which may be destroyed or damaged in the course of the Works execution. If the Subcontractor causes damage to the elements of work currently implemented or already completed, no matter if they were performed by the Subcontractor or not, they will remove them or the value of damage will be estimated by Employer's representative and the Subcontractor shall be charged with the cost.
7. removal of any protection of the elements of the Development Project within the time limit set by the Employer's Representative, however not later than at the date of completion of the Works,
8. preparation of as-built documentation for the Works covered by the contract. As-built Documentation shall be transferred to the Employer on an ongoing basis in accordance with the progress of the Works. At the latest on the day of submission of the Works for final acceptance, the Subcontractor shall provide the Employer with complete as-built documentation collected in one package, in the form and number of copies specified by the Employer, and if the Employer does not specify the form or number, in the form and scope specified in construction law, in 4 paper copies in paper and one digital copy.
9. presentation, within 14 days from signing the Contract, but before commencement of any works, of a Safe Work Execution Manual or a Health and Safety Plan (Bi-OZ) and a method statement for the works with any documents allowing for the use in the building industry of the materials to

be used for construction purposes. The Manual or Plan must be consistent with the Health and Safety Plan prepared by or upon request of the Site Manager. The Subcontractor hereby agrees to observe the requirements of the Health and Safety Plan elaborated by or upon request of the Site Manager,

10. appointing a person responsible for the execution of the Works holding licences (e.g. building licences) specific for a given branch. The Subcontractor shall be obliged to appoint and present to the Employer within 14 days from concluding the Contract but not later than on the day of commencement of Works, a Works Manager to perform his function until the final acceptance of the Works. The Subcontractor shall ensure that the Works Manager will use all its working time for the management of the Works and will receive instructions referring to the Works from Employer's representative. The Subcontractor shall appoint and submit for Employer's approval, not later than on the day of the final acceptance of the Works, a person to supervise the rectification of defects in the warranty and statutory guarantee periods.
11. presentation of originals or copies confirmed by appropriate authorities to be true copies of originals of applicable certificates confirming holding valid professional qualifications of the Subcontractor and persons employed by the Subcontractor to execute the Works,
12. ensuring permanent all-day supervision over the Works by a person with the rights referred to in points 10 and 11. In addition, the Subcontractor will appoint a person responsible for the organization and supervision of occupational health and safety.
13. equipping its employees and other persons to whom the Subcontractor entrusts the execution of the Works with neat and uniform work clothes and appropriate personal protection equipment and equipping them with materials, equipment and tools necessary to perform the Works, and securing these things against theft and destruction.
14. supplying of samples and required information as well as compliance documents allowing to use the materials in Poland in accordance with the provisions of the Construction Law in order to be reviewed before the installation. The Subcontractor hereby agrees to execute the Works only with the use of materials, products and equipment which is new and allowed to be marketed in Poland, in accordance with applicable regulations and meeting the requirements and standards specified in the Technical Documentation. The materials, products and equipment that not will be in accordance with the conditions defined in the Contract, as well those without applicable certificates and approvals must be removed from the construction site by the Subcontractor under pain of their removal by the Employer at the cost and risk of the Subcontractor,
15. obtaining and submitting upon Employer's request all the necessary documents and approvals allowing for the operation the machinery, equipment, tools, scaffolding and other equipment used by the Subcontractor. Upon Employer's request the Subcontractor shall elaborate and submit to the Employer an inspection plant for its machinery and equipment brought to the construction site.
16. a free of charge delivery of a sample element in time specified by the Employer,
17. performing applicable tests, examinations and technical acceptance procedures in accordance with the requirements of the Technical Documentation, Employer's Representative, the Building Law and trade regulations, and paying the full costs of such operations, The Employer's Representative may request that any tests other than those required at the acceptance should be performed in time of the Works, and in this case the Subcontractor shall, at its own expense, submit any documents and information necessary for the performance of the tests,
18. informing the Employer's Representative in writing of performing Material deliveries before delivery to a construction site,
19. keeping in order the workplaces and in their surroundings on a regular basis, daily cleaning up after their works,
20. comply with environmental protection and waste management regulations. The subcontractor is obliged to manage the produced waste in accordance with the provisions on waste management. The Subcontractor shall be fully responsible for any damage to the environment (e.g. soil contamination with oil derivatives) resulting from his activities. The Subcontractor are obliged to remove them at their own expense and, if possible, to restore the environment to the condition before damage. Unless the Employer decides

otherwise, the Subcontractor shall be considered to be the owner and producer of the waste in the meaning of the Waste Act. The Subcontractor is obliged to register in the Database of Products and Packagings and Waste Management and provide the Employer with the number under which it was registered at the latest on the day of commencement of the Works. Waste must be stored in a manner consistent with the law, safe for people and to preventing environmental pollution, in appropriate boxes/containers, in the case of inert waste (e.g. wood, debris, soil) on paved ground, and in case of hazardous waste it is prohibited to store it directly on the ground. The subcontractor is obliged to sort waste. The subcontractor is obliged to place the waste in containers in accordance with their description and waste code. It is forbidden to place construction waste and packaging of such materials into municipal waste containers. It is forbidden to incinerate any waste on the construction site and reuse packagings of hazardous substances and products. It is forbidden to mix hazardous waste with each other and with other types of waste. The Subcontractor shall be obliged to store hazardous substances and preparations (especially oil derivatives) on the construction site in a manner which ensures the safety of people and the environment and in accordance with the Health and Safety Plan (BIOZ). The Subcontractor shall be obliged to provide his employees and all persons entrusted with the execution of the Works with equipment to preventing contamination of the environment (e.g. containment/drip bunds, etc.) and to remove the effects of possible spills and accidents (such as absorbents to collect oil derivatives, etc.). Waste must be removed on an ongoing basis after collecting a transport batch. The Subcontractor shall be obliged to remove the waste which he has produced, including packaging, at its own responsibility and expense in accordance with the above regulations. The Subcontractor is obliged to transfer the waste only to a recipient holding applicable authorizations. At the request of the Employer, the Subcontractor shall submit documents confirming the lawful manner of managing the produced waste (including Waste Record Cards and Waste Transfer Cards confirmed by the waste collector). The Subcontractor shall pay all penalties and

sanctions resulting from improper waste management.

21. observance of occupational health and safety regulations and requirements, the principles set out in the Health and Safety Plan (BIOZ) and Contractor's quality standards and instructions during all the time of presence on the construction site, in particular, by all Subcontractor's employees. The Subcontractor shall bear the full responsibility and expenses for the correct and timely filing of any notifications and obtaining permissions, as well for the organization of trainings connected with the operation of its personnel connected with Works execution, including persons employed on the basis other than permanent employment contracts and Further Subcontractors for the execution of the Works, including Occupational Health and Safety trainings (toolbox trainings). The Subcontractor is obliged to carry out and document the professional risk assessment associated with performing the Works, inform its employees and other persons entrusted with the execution of Works of the scope of their duties, the manner of performing work in specific workplaces and their fundamental rights, in such a way as to ensure observance of the principles and provisions of occupational health and safety. The Subcontractor shall the full and exclusive responsibility for its workers and any other persons to be used by the Subcontractor, with respect to the Occupational Health and Safety regulations, and shall also be obliged to provide effective supervision of a person with proper qualifications and authorizations. The Subcontractor declares that his personnel shall hold valid medical examination certificates, OHS training certificates as well as any other certificates required by the law in the whole Works execution period. The Subcontractor hereby agrees to observe the Occupational Health and Safety requirements defined in Enclosure No. 9 to the Contract. In the case when the Employer's Representative discloses that the Subcontractor or his employees have not been observing the above mentioned obligations, the Employer's Representative shall be entitled to charge the Subcontractor for each such breach with a penalty specified in Enclosure No. 9, and as a last resort to suspend the Works at the cost and risk of the Subcontractor. The Employer shall be entitled to remove from

- the construction site any members of Subcontractor's personnel not observing the above obligations. The penalty will be calculated for each day of the period of non-compliance with the above conditions. A suspension of the Works will not have any influence on the milestones and the date of completion of the Works under the Contract, which will remain unchanged,
22. performing all instructions issued by Employer's Representative referring to the Works,
  23. handing over, following every request of the Employer, all originals of possessed documentation including copies, connected with the executed Works,
  24. conducting works in accordance with the procedures in force on the construction site, including the elements of the Integrated Management System applicable to the Employer as presented to the Subcontractor. The Employer shall have the right to suspend Subcontractor's Works at the expense and risk of the Subcontractor if the Works are carried out in breach of the above principles,
  25. free servicing and maintenance of the Works carried out from the day of their completion until the end of the quality guarantee and warranty period, and training of persons indicated by the Employer or the Investor in the principles of operation, servicing and maintenance of the Works carried out.
2. The Subcontractor shall be fully responsible towards the Employer for the choice of technology and manner of Works execution and for any consequences of using inappropriate technology or incorrect performance of the Works. An acceptance by the Employer or an indication of a manner of performing the Works shall not relieve the Subcontractor from his full responsibility for the Works including their quality and suitability for the agreed use. All products, materials and equipment will be used, installed, connected, assembled, used, cleaned and maintained in accordance with the manufacturer's written instructions or specifications.
  3. The subcontractor is responsible for any damage to the Employer resulting from improper performance of the provisions of the Contract.
  4. The Subcontractor shall be obliged to provide the Employer within 14 days following the conclusion of the Contract, with a contract performance

guarantee in the form of an unconditional, irrevocable and payable on first demand bank or insurance guarantee with contents approved by the Employer, with a value, subject to the provisions of Sub-Clause 10.3, of 30% of Subcontractor's Remuneration specified in the Contract Agreement and valid, while maintaining the agreed value, by the date falling on the 30th day after the issuance of a Final Development Project Acceptance Certificate and putting the Development Project into operation. If the Subcontractor fails to provide or fails to maintain the security in accordance with the terms of the Agreement in the form of a bank guarantee, the Subcontractor shall be obliged to pay 30% of Subcontractor's remuneration indicated in the Contract Act (bail contract) as a guarantee deposit in order to establish a contract performance security of the Agreement, to the bank account of the Employer run by bank SG, account No. 11184000072210706008101619. In the event of failure to make the payment within the above deadline, the guarantee deposit shall be deducted by the Employer with the Subcontractor's claims. The deduction will take place without the need to submit additional statements to which the parties agree. Payment of the Subcontractor's remuneration under this contract minus the amount deducted as contract performance security constitutes a due fulfilment of the obligation to pay remuneration. The guarantee deposit is refundable after the expiry of the quality guarantee and defect warranty periods. If the security is not released by the Employer, the Subcontractor shall be entitled to file a claim for refund of the contract performance security against the Employer and not for payment of remuneration under the contract against the Investor and the Employer under joint and several liability. In the case of expiry of the security provided in the form of a bank guarantee (or based on the terms described below – an insurance guarantee or a promissory note) before the end of the period for which the security was to be established, the Subcontractor shall be required not later than 14 days before its expiry to extend the validity period of such security on pain of submission by the Employer of a request for payment from that guarantee or to request redemption of a promissory note or to make deductions from payments due to the Supplier and to establish the aforementioned security deposit from the received funds. In justified cases the Employer may allow the Subcontractor in writing, under pain of nullity, to provide a contract performance security in the form of an agreed form of insurance guarantee or a blank promissory note guaranteed by a member of Subcontractor's Management Board or a co-owner, and in case of sole entrepreneurs - by an

other entrepreneur or a person accepted by the Employer.

5. The subcontractor is entitled to use the services provided by the Employer in accordance with clause 5 paragraph 1 of this Agreement, in particular electricity and water provided to the Subcontractor, only to the extent it is necessary to carry out works related to construction. In case the Subcontractor has used the utilities made available to it for any other purposes, the Employer shall be entitled to charge the Subcontractor with the cost of the utilities used not in compliance with the contract. The Subcontractor shall be co-responsible for organizing and maintaining the construction site and access roads to the site until signing a Final Works Protocol. The Subcontractor shall be responsible for and shall bear the costs of removal of the soil (dirt) and other waste left by Subcontractor's vehicles or vehicles for which the Contractor is responsible and shall bear the costs of the possible repairs of roads to the construction site and within the construction site. At the same time the Subcontractor undertakes to remove from the Site any unnecessary materials, scrap metal, waste and rubbish left by the Subcontractor on the construction site as well as Subcontractor's equipment in a manner and within the time set by the Employer under pain of incurring cleaning costs increased by 20%. The Subcontractor shall furnish the Employer with the following valid documents to be enclosed with a signed copy of the present Contract:

- 1) insurance policies: accident insurance policies for its workers (NNW) and third party liability insurance policy (OC) in connection with its business operations,
- 2) an excerpt from a register relevant for the Subcontractor (e.g. National Court Register KRS, register of sole entrepreneurs),
- 3) REGON certificate,
- 4) VAT registration certificate (in the case when the Subcontractor is a VAT payer),
- 5) balance sheet and profit and loss account for the previous year drawn up in accordance with the requirements of the Accountancy Law or a GUS F-01 report presenting the financial situation of the company, if the company is obliged to file the report,
- 6) clearance certificates from the Tax Office and Social Insurance Agency ZUS issued not earlier than 3 months before filing,
- 7) A questionnaire documenting financial resources in hand prepared in accordance with Appendix No. 12 to this Contract Agreement.

- 8) Bank opinions issued by banks cooperating with the Subcontractor.

If the case of any changes to the above documents the Subcontractor shall be obliged to update them within 30 days after the date when the changes were effective. In addition to the above the Subcontractor is obliged to file updates of the aforementioned documents upon Employer's request within 14 days of notification.

7. The Subcontractor shall be obliged, under the supervision of the Employer's Representative, to cooperate and coordinate its own works with other contractors working on the construction site. For this purpose, the Subcontractor will be obliged to follow the instructions organizing works at the construction site issued by the Employer's Representative.
8. The Subcontractor shall not be allowed, without a prior written consent of the Employer, to assign to any third party any payments due to the Subcontractor which it is entitled to receive from the Employer under the present Contract or to make any transfers or to dispose of the receivables with a similar effect or character. The above prohibition also refers also to any matters connected with the receivables, including claims for interest. In the contents of the invoices issued, on pain of their return, the Subcontractor will enter a clause on the prohibition of transfer of receivables.
9. No element of the Works may be made without prior approval by the Employer of a design developed by the Subcontractor (if required by the Employer or this Agreement) and any materials and devices planned for use. 30 days before the commencement of the implementation of the works, the Subcontractor shall provide the Employer to obtain a pre-execution approval 4 copies of the designs of a work element and samples, attestations, approvals and technical documentation of the materials and devices planned to be used. If the Employer notifies the Subcontractor that the above documentation or materials and equipment do not conform to the requirements of the present Contract, they will be corrected or replaced and re-submitted for verification within 7 days from their rejection. The Subcontractor shall be fully responsible for timely execution of the Works, taking into consideration that the Employer is entitled at any time to reject the solutions and proposals presented by the Subcontractor.

10. The Subcontractor hereby undertakes to perform the design works taking into consideration the conditions specified in the building permit, in accordance with Employer's instructions, provisions of the Contract, best building practices and knowledge, technical standards and regulations and due diligence, as well as in a complete manner considering the aim of the works.
11. If the Subcontractor performs the Works in a manner which is defective or inconsistent with the Contract, in particular with a delay in the delivery of the whole or part of the Works exceeding by 7 days the date set forth in the Contract or is in breach of any provision of the present Contract, the Employer may, without any additional notification, terminate the Contract as a whole or in part for reasons attributable to the Subcontractor. Regardless of exercising the right to withdraw from the contract, the Employer may entrust the performance of the Works in whole or any part thereof to a third party, without a prior authorization by the court, at the expense and risk of the Subcontractor, in particular the Subcontractor shall cover the difference between the third party's remuneration plus a 15% mark-up and the price accepted in this Contract Agreement. Provisions of Article 636 §1 of the Civil Code shall not apply.
12. The Subcontractor shall notify the Employer in writing of any claims against the Employer or the Investor resulting from the present Contract, within 14 days from the day on which the Subcontractor became aware of a reason substantiating the claim, under penalty of losing the right to refer to it towards either the Employer or the Investor.
13. The Subcontractor shall be executing the Works at his own risk. The Subcontractor should make sure with due diligence before the commencement of the Works that all the works previously executed on the site or works in progress are correct and notify the Employer in writing of any risks or irregularities which in Subcontractor's opinion may have a negative impact on the Works. In case when the above procedures have not been followed, the Subcontractor shall not be entitled to use such circumstances as a basis for limiting his responsibility for the failure to complete or improper fulfilment of his obligation under the Contract or for obtaining an extension of the time for completion and/or obtaining additional remuneration.
14. Subcontractor is not allowed to employ foreigners staying in the territory of the Republic of Poland without a valid residence authorization document. In the event of a breach of this prohibition, the Subcontractor shall be solely responsible for paying the remuneration due to such person together with any other benefits and for covering the expulsion costs of such persons. The subcontractor is responsible for the application of this prohibition by its Further Subcontractors and Suppliers.
15. The subcontractor shall release the Employer and its representatives from any claims related to damage to the health or death of any person employed or acting for the Subcontractor or his Subcontractors or suppliers, resulting or related to the performance of the Works, and damage or destruction of any property or loss of rights, if this damage, destruction or loss is caused by carrying out the Works, including property and rights of third parties. The subcontractor undertakes to immediately satisfy such claims.
16. The subcontractor waives the right to establish a lien on any items or rights that are to become part of the Investment Project, including its equipment.

#### **CLAUSE 4. FURTHER SUBCONTRACTORS AND SUPPLIERS**

1. With the consent of the Employer and the Investor, the Subcontractor may subcontract further subcontractors as well as subsequent subcontractors to perform part of the Works (Further Subcontractor), while the Subcontractor shall be liable for the actions and omissions of Further Subcontractors as for its own activities.
2. A notification on the intention to subcontract part of the Works shall be made by the Subcontractor in the form constituting Appendix No. 13 to this Contract Agreement. The notification is considered to be effectively made only if it is signed by the Subcontractor and Further Subcontractor and contains a design or agreement contract with Further Subcontractor, including a detailed description of the subcontracted works together with a bill of quantities or price breakdown table (Notification). Within 30 days of receipt of the Notification the Employer and the Investor are entitled to object to the execution of part of the Works by a Further Subcontractor. The subcontractor shall, not later than 3 days after signing the contract with the Further Subcontractor, provide the Employer with a copy thereof (together with all attachments and data as well as part of the documentation regarding the execution of works) or a certified copy thereof. The above

provision shall also apply to any further modifications, annexes and additions to the contract.

If the Development Project is implemented in accordance with the Public Procurement Law, the procedure for accepting Subcontractors as referred to in the first paragraph (above) will be preceded by a preliminary procedure to assess Subcontractor's ability to perform the Works and the compliance of the draft contract with Further Subcontractor with this Contract Agreement, with the requirements contained in the contract with the Investor and the requirements of the Public Procurement Law. As part of the initial procedure, the Subcontractor intending to subcontract any part of the Works to a Further Subcontractor is obliged to provide the Employer with notification of the intention to subcontract part of the Works using the template constituting Appendix 13 to the Contract Agreement. The notification shall be deemed to be effectively made only if it is signed by the Subcontractor and Further Subcontractor and contains a draft of agreement with Further Subcontractor, including a detailed description of the subcontracted work together with a bill of quantities or price breakdown table (Notification). The Employer shall submit to the Investor a draft contract between the Subcontractor and a Further Subcontractor. The investor within the period specified in the **Special Conditions of Contract** may raise objections to the draft contract, scope and valuation of the works or the person of the Further Subcontractor, the Employer also has the right to raise objections to the abovementioned conditions. The subcontractor shall, not later than 3 days after signing the contract with a Further Subcontractor, provide the Employer with a copy thereof (together with all attachments and data as well as part of the documentation regarding the execution of works) or a certified copy thereof. If the Employer and the Investor do not object to the contract with the Subcontractor in writing within the time limit specified in the **Special Conditions of Contract**, it shall be deemed that they agreed to conclude the contract and entrust the Subcontractor with the performance of the works specified in this contract. The above shall also apply to any subsequent changes, annexes or additions to the contract.

3. The contract referred to in section 2 and contracts with suppliers should determine the rules for checking or acceptance and rules for payment for the executed works and supplies in a way similar to the solutions contained in this Contract Agreement, provided that no date for checking or acceptance of the Works or Supplies may fall on

a day later than the day on which such Works and Supplies were checked or accepted by a relevant certificate by the Employer. The contract must not provide in particular that the payment of the remuneration for the works carried out in a given accounting period shall be made in an accounting period other than following directly after the accounting period in question. In addition to the above the date of payment of invoices must not be longer than the date of payment under this Contract Agreement, taking into account the obligation to make out any invoices within 7 days following acceptance of works or supplies. The date of the final settlement with Further Subcontractor or Supplier must not fall on a day later than 30 days from the final acceptance of the works of a Further Subcontractor or Supplier's supplies, however not later than the Final Acceptance of the Works. Further Subcontractor's remuneration should be divided according to the breakdown of the Subcontractor's remuneration given in Appendix No. 6. Further Subcontractor's Remuneration, combined and for individual types of works, must not be higher than the total Remuneration of the Subcontractor indicated in the Contract Agreement as well as the remuneration for individual types of works resulting from Appendix No. 6, taking into account the payment to the suppliers referred to in paragraph 5. Składniki cenotwórcze podziału wynagrodzenia Podwykonawcy i Dalszego Podwykonawcy lub dostawcy są niezmiennie.

4. For the avoidance of doubt, the Subcontractor shall not have the right under pain of nullity, to change the contract with the Further Subcontractor or Supplier without Employer's consent. Changes made to the Contract without the written consent of the Employer shall be ineffective with respect to the Employer and the Investor.
5. The Subcontractor shall, within the time limit specified in the **Special Conditions of Contract**, but in no case later than 60 days after conclusion of the present Contract Agreement, prepare and agree with the Employer a Supplies Schedule. The agreed Supplies Schedule shall constitute Appendix No. 11 to the Contract. In the case of a delay in the preparation of Appendix No. 11 the Employer shall have the right not to include in the Works Progress Protocol material supplies and their costs. In this case remuneration for the supplied materials shall be paid after Final Work Acceptance. Suppliers' remuneration, either total remuneration and remuneration for the individual types of supplies, must not be higher than total Subcontractor's Remuneration specified in the Contract Agreement and the remuneration for the individual work items contained in Appendix



- No. 6, taking into account payments to the Further Suppliers referred to in section 3.
6. The Subcontractor hereby agrees towards the Employer that he will inform the Employer in writing of any delays in payment to a Further Subcontractor within 7 days from the day in which a delay in payment occurred. The Subcontractor is obliged to include in the contracts concluded with Further Subcontractors and Suppliers an obligation for those Further Subcontractors and Suppliers to inform the Employer of Subcontractor's delay in the payment of their due remuneration under pain of waiving the claim for payment from the Employer and the Investor, within 7 days after the occurrence of such a delay.
  7. In the case when the Subcontractor, Further Subcontractor or Supplier has reported arrears in payment of the remuneration or in the case when the Further Subcontractor or Supplier has filed a statement pursuant to Clause 7.1, the Employer shall suspend payment of the remuneration payable to the Subcontractor and request explanations on the situation. In the event that the outstanding amount has not been paid within 7 days, or the submitted Subcontractor's explanations do not satisfactorily demonstrate, in Employer's view, the groundlessness of Further Subcontractor or Supplier's claims, the Employer shall be authorised to immediately pay the outstanding amount including any associated sums to Further Subcontractor and Supplier and to deduct the above amount from the amount due to the Subcontractor or to credit such an amount for that payment or terminate the Contract for reasons attributable to the Subcontractor and in the event of Employer or Investor's doubts regarding the amount due for payment or an entity to receive payment, to pay to court deposit an amount necessary to cover Subcontractor, Further Subcontractor or Supplier's payment with an effect of settling the debt.
  8. Upon every request of the Employer, the Subcontractor shall present to the Employer, in the form of a statement, a list signed by the persons authorised to represent the company and the list should contain:
    - A list of Contracts with Further Subcontractors and suppliers including information on their remuneration and the value of payments made,
    - a list of all sums due to Further Subcontractors and suppliers which have not been paid until the date of its presentation, and stating their due dates,
    - information on any disputes regarding remuneration or other claims made by Further Subcontractors and Suppliers and of any amounts retained by the Subcontractor,
    - invoices issued by Further Subcontractors and Suppliers and bank statements showing the amounts paid to Further Subcontractors and Suppliers.
  9. The statements referred to in Clause 7.1 must determine the amounts of payment retained from Further Subcontractors and Suppliers as a performance bond for the contract, including guarantees and warranty.
  10. By concluding the present Contract the Subcontractor makes an irrevocable offer to the Employer to transfer to the Employer all Subcontractor's rights (benefits, liabilities, claims, etc.) under contracts with Further Subcontractors and suppliers. The Employer may at any time accept the said offer by submitting an applicable statement to the Subcontractor and Further Subcontractor or Supplier. The assignment shall become effective on the day of making such a statement, as a result of which Further Subcontractor or Supplier shall be obliged to provide services directly to the Employer. In the event when payment is made by the Employer in connection with the transfer of obligations in any amount for the benefit of a Further Subcontractor or Supplier, the paid amount shall decrease the amount of payment due to the Subcontractor or shall be deducted from that payment or credited towards such payment. The Subcontractor hereby agrees to each time include a provision on such a transfer in each contract agreement with all its Further Subcontractors and Suppliers.
  11. Irrespective of the transfer referred to in the above point 10, the Subcontractor hereby agrees to transfer the remuneration due to the Subcontractor to its contractors and to credit such an amount towards the remuneration due to the Subcontractor. The Employer shall not be bound by an assignment until it becomes effective.
  12. At the moment of effecting payment by the Employer for a Further Subcontractor or a Supplier, irrespective of the date of signing of a Work Progress Certificate or Final Works Certificate, the Employer shall become owner of all the works or supplies performed by such a Further Subcontractor or Supplier, without any charges for the benefit of any third parties. The Subcontractor shall be responsible before the Employer for the effectiveness of the aforementioned Em-



ployer's rights, in particular for ownership right transfer in accordance with the previous sentence.

13. In case when the Employer is for any reason obliged to make payments to Further Contractors, the Subcontractor shall return the full amount of the payment effected by the Employer plus liquidated damages in the amount of 20% of the amount of payment.
14. The Subcontractor shall be obliged to give to the Employer all explanations about the contracts concluded with Further Subcontractors and Suppliers, in the form specified by the Employer and connected in particular with the correctness of execution of those contracts.
15. The Subcontractor shall each time agree to include in contracts with Further Subcontractors and Suppliers a provision prohibiting them to assign their receivables under such contracts without the consent of the Employer.
16. The Subcontractor shall provide the Employer with a list of persons to represent Further Subcontractors and Suppliers as well as their telephone and fax numbers immediately after concluding a contract with a Further Subcontractor and Supplier.

#### **CLAUSE 5. THE EMPLOYER**

1. The Employer shall be obliged to:
  - 1) allow the Subcontractor to use electricity and water on the construction site,
  - 2) set out a location for Subcontractor's site facilities,
  - 3) indicate a place to store Subcontractor's materials, specify a method of protecting them and indicate a place for storing waste,
  - 4) begin checking and acceptance procedures with respect to the Works in accordance with the dates and principles listed in Clause 7.
2. The Subcontractor does not have the right to take any materials or equipment from the construction site without Employer's authorisation. The materials stored on the construction site may not be charged with any third party rights, and in case when they are included in a Works Progress Protocol or other documents signed by the Employer, they become Employer's property unless otherwise decided by the Employer. The above provision does not change the rules for payment of

remuneration and the rules for Subcontractor's liability regulated elsewhere in this Contract.

#### **CLAUSE 6. DATES OF COMPLETION**

1. The Date of completion of the subject matter of the Contract is in accordance with the **Special Conditions of Contract**.
2. The Parties hereto also establish Milestones for the delivery of the subject of the Contract - in accordance with the **Special Conditions of Contract**.
3. The Parties in the name of which Employer's Representatives and Subcontractors may act, may change the intermediate dates of completion of the Works without signing an annex to the Contract. Such arrangements, under pain of nullity, should demonstrate a joint intention of the parties to change the Milestones and should be confirmed in writing. An elaboration of a Program of Works showing dates or periods of execution of particular works and its changes does not constitute a change of intermediate dates.
4. Achieving the above dates specified in the Contract is the basic obligation of the Subcontractor. All facts and events which occur in time of execution of the works and influencing according to the Subcontractor the works schedule and the achievement of the above specified dates, must be reported in writing to the Employer not later than in 2 days following such an event or fact. The Employer together with the Subcontractor shall assess such a situation and its influence on the Works completion dates.
5. The Parties hereto jointly agree that the Employer shall be entitled to s entitled to unilaterally extend the dated of delivery of the Works specified in the Contract and to stop the Works and the Subcontractor shall accept such decisions and shall not make any claims with respect to the above.
6. The Subcontractor has thoroughly examined the Technical Documentation, the construction site, the conditions and areas of works and confirms that it is possible to deliver the object of the Contract in time specified in sections 1 and 2.
7. In case of suspension of the Works, Employer's Representative or Investor's Building Inspector may instruct the Subcontractor to protect the al-

ready executed Works for the time of the suspension in a manner he deems appropriate.

#### **CLAUSE 7. ACCEPTANCE**

1. At the moment of notifying that the Subcontractor is ready for acceptance of the Works, the Subcontractor shall submit a proposal of a protocol presenting the scope of the Works carried out in the accounting period, conformity documents allowing for the use of materials in Poland in accordance with the Building Law, statements of authorized representatives of the Subcontractors in accordance with the form included in Enclosure no. 7 that any amounts due to them at the end of the previous accounting period/month have been cleared by the Employer and statements of authorized representatives of Further Subcontractors, pursuant to Clause 4 and the form included in Appendix no. 7 hereto, that any amounts due to them at the end of the previous accounting period / month have been cleared by the Subcontractor. Statements made by Further Subcontractors and Suppliers should also present the outstanding parts of payments connected with the works or services rendered or supplies effected for the Development Project with their assumed due dates. Notwithstanding the foregoing, the Employer may call the Subcontractor to submit statements at any time setting an appropriate deadline for their delivery. The subcontractor shall also be obliged to provide such declarations in the event that it does not submit any Works for checking or acceptance in a given calendar month, or if there is no payment to be settled with the Employer. In this case, the Subcontractor shall be obliged to provide the statements on the last calendar day of the month or at the request of the Employer within 7 days.
2. Within 7 days after confirming readiness to check or accept the Works, under the condition that the Subcontractor has prepared the required documents, the Employer shall commence his activities connected with checking the percentage of completion of the Works carried out in a given accounting period or final acceptance inspections. In the case when faults or defects are found in the Works, the Employer shall be entitled to exclude such works from the establishing of the percentage of completion of the Works or to postpone acceptance until the rectification of such defects. The Employer shall draw up a relevant certificate stating the results of such activities.
3. On the day of notification of readiness of the works for the Final Acceptance the Subcontractor shall submit (in two copies) the guarantee pursuant to Clause 14.10, two copies of guarantees issued by producers of the materials and equipment used for the purpose of execution of the Works and for the Works which require it, an operating instruction specifying the methods of maintenance and including a list and time schedule of service activities required in order to maintain the validity of the warranty for the executed works.
4. Signing by the Employer of any Work Progress Protocols and a payment of any amounts for the execution of part of Subcontractor's works shall not be treated as an acceptance of that part of the Works, as Subcontractor's Works may be accepted only as a whole and only by signing an unconditional and final Final Acceptance Protocol for the Works with the Final Settlement. In case when an unconditional and final Final Acceptance Protocol for the Works has not been signed for reasons attributable to the Subcontractor, any amounts already paid to the Subcontractor must be returned as sums not due.
5. By the time of issuance by the Investor of a Final Acceptance Protocol for the Development Project or any other equivalent document confirming that the execution of the Project has been completed, the Final Acceptance Protocol for the Works signed by the Parties shall be deemed to be conditional and not final. If the Employer, within 14 days from the issuance by the Investor of a Final Acceptance Protocol for the Development Project or any other equivalent document confirming the completion of the project, has not notified the Subcontractor of the faults and defects and reservations to the Subcontractor's Works reported in the Protocol, then the Final Works Protocol previously signed by the Parties shall be deemed to be final after that time. The above effect will not take place if the defects reported in the Final Works Protocol have not been rectified or other recommendations included therein have not been implemented before the issuance of the Final Acceptance Protocol for the Development Project by the Investor.
6. In case of detecting faults or defects in the Works or if additional works must be carried out, the Subcontractor shall be obliged to immediately remedy such defects and perform repairs at his own expense within 7 days following the notification, and the dates of completion of the Works set forth in the Contract must not be changed. If the Contractor fails to remedy the defects or does not make the necessary corrections, the Employ-

er shall be entitled, without a loss of other rights under the Contract, to proportionately lower the Subcontractor's payment or to rectify defects at his own expense and risk without obtaining a prior authorisation from a Court. The Employer in each subsequent Progress Report or Final Acceptance Protocol, shall correct the previous Protocols, including a reduction of the amount due to Subcontractor indicated therein.

7. In case when it is impossible to remedy the defects in the Works or when according to the Employer it is aimless or difficult to fix them, the Employer shall be entitled, without the loss of his other rights under the contract, at his discretion, to:
  1. reduce Subcontractor's remuneration,
  2. terminate the Contract in case when the defects make it impossible to operate the Development Project or/and influence the safety of its users.
8. The Subcontractor shall be obliged to inform the Employer of the completion of concealed works or temporary works to be covered in time allowing for their inspection. In the case when the above obligation has not been fulfilled, the Subcontractor shall be obliged, at the request of the Employer, to uncover such works at his own expense in order to make it possible for the Employer to check them.
9. Acceptance of the Works by the Investor's Building Inspector does not oblige the Employer to accept the Works. The Employer shall have the right to reject the Works not accepted or questioned by the Investor's Building Inspector.
10. The Supplier shall remain obliged to remove defects omitted in any of the Supply Progress Protocols or the Final Works Protocol, even those which should have been disclosed in the course of inspection activities with the necessary due diligence. In this respect, the provisions of art. 563 §1 and §2 of the Civil Code shall not apply.

#### **CLAUSE 8. REMUNERATION**

1. The price for the execution of the works specified in the Contract is set forth in the Contract Agreement. The type of remuneration (lump sum price or survey-based price) and the financial settlement method is specified in accordance with the **Special Conditions of Contract**. If it follows from the Contract that the settlement is to be carried out on the basis of the List of Works

with unit prices, they are to be understood as prices which remain unchanged in all and any circumstances. In this case, any work performed pursuant to this Contract shall be settled by the use of the agreed unit prices according to the quantities of executed works.

2. The remuneration referred to in section 1 does not include VAT. VAT will be charged according to the rules and regulations regarding this tax in force on the day of execution of the relevant part of the Works and issuance of an invoice.
3. The Subcontractor hereby declares that the payment for the performance of the Works has been specified on the basis of the Technical Documentation including all the Appendices to the Contract Agreement, site inspection and Subcontractor's experience and knowledge. The Subcontractor declares that the obtained information is sufficient for a correct estimation of the price of the executed Works and other obligations under the Contract.
4. The subcontractor declares that it will not raise any claims regarding costs of execution of Works or for underestimating the payment for the execution of the Works and other obligations under the Contract, including in the event of a change in the dates of execution of the subject of the Contract. The subcontractor also waives any claims in the event of a change in business relations which the parties did not foresee when concluding the contract. The subcontractor declare they have visited the construction site, familiarized themselves with the site development plan, construction conditions, availability of materials and services, and took into account all those circumstances and other risks before signing this Contract.
5. It is assumed that the contract price includes all the circumstances connected with the location, the particular characteristics of the Development Project and its due dates and covers all Subcontractor's expenses, costs and liabilities – without the possibility to make any claims towards the Employer.
6. The Employer shall be entitled to change the scope of Works by additional, alternative or omitted Works, including the right to resign from the execution of the Works. The amount due for the execution of the subject of Contract shall be changed in proportion to the modified scope of the Works on the basis of Appendix No. 6 or the procedure set forth in section 7, and the Subcon-

tractor shall not make any claims related to the above.

7. Changes in the scope of the Works require a written order of the Employer - otherwise they are null and void. A binding order must be issued before the commencement of implementation of changes and shall be signed by persons authorised to contract financial obligations in the name of the Employer. Following a written request for a quotation issued by the Employer, the Subcontractor shall be obliged to submit within 7 days from the receipt of such a request its quotation including attachments allowing for its verification. The Subcontractor shall grant the Employer a discount in the amount in accordance with the **Special Conditions of Contract** from the amount of the bill of quantities (or a different type of price estimation) accepted by the Investor. Any changes referring to the scope of works shall require consultations regarding the time of their implementation. The Subcontractor shall not be entitled to receive payment for additional or alternative works performed by the Subcontractor without an order or for works executed without permission in a manner inconsistent with the Contract. Upon request of the Employer such Works should be removed by the Subcontractor in reasonable time set by the Employer under threat of removing them by the Employer at the expense and risk of the Subcontractor.
8. Any changes of the scope of Works in the range specified in the **Special Conditions of Contract** shall not be treated as a basis for the Subcontractor to increase their remuneration.
9. In addition to the works specified in the Contract, Subcontractor's remuneration, including unit prices of the individual Works, shall cover all the services, activities and works which have not been specified therein but are deemed to be necessary for the execution of the subject matter of the Contract in accordance with the intended use of the Development Project and best building practices. The Subcontractor shall not be entitled to any slowdown, suspension or non-performance of works in the event of a dispute regarding the scope of the Works, additional or alternative works or a dispute regarding any amounts due to the Subcontractor.
10. The Table of Integrated Unit Prices or Bill of Quantities (Appendix No. 6) does not mean that the Contract shall be accounted for on the basis of actual quantities and does not constitute the basis for changing the lump-sum character of the Contract and the amount of remuneration set

forth in section 1 of the present clause. Nevertheless, the Subcontractor shall provide a detailed cost estimate or other price breakdown of Subcontractor's remuneration at the request of the Employer. The information included in the Table of Integrated Unit Prices or Bill of Quantities shall constitute a point of reference for the Parties of the Contract in case of:

- 1) preparation of monthly Work Progress Reports and making payments on the basis of such reports,
  - 2) estimation of the cost of changes to the scope of the Works.
11. In the event that the Investor or any other person makes a direct payment to a Subcontractor of Further Subcontractor or Subcontractor's Supplier in connection with the present Agreement, the amount of Employer's liability towards such a Subcontractor shall be decreased proportionally to such a payment.

#### **CLAUSE 9. REMUNERATION**

1. The basis for issuance by the Subcontractor an invoice encompassing payment due to the Subcontractor under the Contract for partial execution of the Works and for the payment shall be a Works Progress Protocol signed by the Employer or in case of the final invoice a Final Works Protocol and a Final Clearance document in accordance with Appendix No. 4 to the Contract, signed jointly by the Employer and the Subcontractor. The Works Progress Protocol or where appropriate the Final Works Protocol and the Final Settlement must be enclosed with the original of the invoice, otherwise the invoice will be returned.
2. The Works executed by the Subcontractor for which the Subcontractor shall receive payment in accordance with the Contract, must be consistent with the requirements set forth in the Contract. Otherwise, in particular in case of delays in the Works with respect to the completion dates agreed in accordance with the Contract or a low quality of the Works, the Employer shall be entitled to retain such a part of Subcontractor's payment, including a suspension of invoice payment, which will be sufficient to cover the costs of remedying such a defect or executing the works delayed by the Subcontractor by the Employer or any third person. The Employer shall be entitled to suspend payment of the contract price to the Subcontractor until the rectification of a defect or the completion of the delayed Works. The value of the retained amount of

payment to the Contractor shall be agreed jointly by the Parties, and in case when no agreement has been reached, then within 3 days of notifying the Subcontractor of the grounds for the suspension, the value shall be defined unilaterally by the Employer, of which the Subcontractor shall be notified. The Subcontractor agrees that it will not pursue any claims in connection with the situation described in the previous sentence. The Employer shall also be entitled to retain payment in case of when the statements according to Appendix no. 7 have not been submitted or when Further Subcontractors have made claims for payment.

3. The Subcontractor, based on the Works Progress Protocol, and in case of the final invoice (the last part of Subcontractor's payment), based on the Final Works Protocol and the Final Settlement (in accordance with Appendix No. 4), shall issue an invoice for the executed part of the Works at the end of a calendar month and deliver the invoice to the registered seat of the Employer. Partial invoicing will be performed once in a month – in accordance with the percentage of Work progress. The Subcontractor shall be obliged to indicate in the content of his invoice the Contract Agreement and the Development Project to which the invoice refers.
4. Invoices under the Contract shall be paid by transfer to the subcontractor's bank account printed on the invoice and in the list of entities registered as VAT payers referred to in art. 96b of the Act of 11 March 2004 on tax on goods and services, kept by the Head of the National Tax Administration (<https://www.podatki.gov.pl/wykaz-podatnikow-vat-wyszukiwarka>), in the split payment mode resulting from regulations regarding the tax on goods and services (VAT). If the Subcontractor's bank account number printed on the invoice is not listed in the above list of entities on the day of ordering bank transfer by the Employer, the Employer shall make payment to any other bank account of the Subcontractor included on the day of ordering the transfer in the above list of entities or shall suspend payment until the bank account is presented in the list. If the Subcontractor does not have any account recorded in the list of entities registered as VAT payers referred to above, the Employer may refuse payment. The Employer shall not be responsible for delay in payment if Subcontractor's account (or the account of the entity to which the Subcontractor has transferred or assigned receivables) is not included in the list of bank accounts referred to above, and in the event that the Subcontractor has indicated another incorrect bank account.

The above rules apply to payment of Subcontractor's remuneration expressed in a currency other than Polish zloty (foreign currency), where the amount corresponding to the VAT amount will be payable in Polish zlotys, and only the amount corresponding to the net amount will be payable in that currency to the relevant bank account printed on the invoice and included in the list referred to above. The Employer may refuse to pay the entire amount due if the list referred to above does not contain at least one of the relevant accounts (in Polish zlotys or in a relevant foreign currency). The term of payment shall be calculated from the date of the delivery of the invoice to Employer's registered seat located at 32 Domaniewska St. in Warsaw, receipt and acceptance of an invoice issued in accordance with this Contract which will be accompanied by all the required documents, in particular the originals of the protocols specified in Sub-Clause 7.1. On the invoices the Supplier shall print the number of the Development Project (construction site) specified in Sub-Clause 1.2 of the Particular Conditions of Contract and other term of payment specified in writing by the Employer. Term of payment – in accordance with the **Special Conditions of Contract**.

5. The Subcontractor may apply for a shorter invoice payment period, i.e. within a time shorter than specified in Clause 9.4, and the Employer may agree to that request in writing. In such a situation the Subcontractor shall grant the Employer a discount in the following amount:
  - 1) for shortening the time for payment by 1 to 6 days - a discount in the amount of 0.5% of invoice value
  - 2) for shortening the time for payment by 7 to 14 days - a discount in the amount of 1.0 % of invoice value
  - 3) shortening the time for payment by more than 14 days - a discount in the amount of 1.5 % of invoice value
6. In case when Employer's Representative agrees for an earlier payment, the Subcontractor shall:
  - 1) indicate in the contents of the invoice a discount reducing the value of the payment for the execution of the Works,
  - 2) issue an invoice pursuant to Clause 9.5 from which a shortening of the term of payment will follow,
  - 3) enclose a copy of Employer's Representative's acceptance with the Invoice.
7. Date of payment shall be the date of filing a money transfer order by the Employer with his bank.

8. The Subcontractor hereby declares that the company is a VAT payer.
  9. The subcontractor is required to print on the VAT invoice issued for the execution of the work for the Employer a correct PKWiU code.
  10. If the Subcontractor issues an invoice incorrectly, the Employer may return the invoice to the Subcontractor for correction or request issue of a new correct invoice. The Subcontractor shall perform the above activities within 14 days of being notified by the Employer of the above irregularities. If, despite the Employer's comments, the Subcontractor fails to issue a correct invoice and/or correct it, and as a result of tax proceedings, tax inspection or control proceedings, tax authorities have challenged the correctness of tax settlement by the Employer taking into account that invoice, the Subcontractor shall be charged by the Employer with the equivalent of the tax arrears established by the authorities and interest on that arrears.
- in payment of an amount from a correct and accepted invoice has exceeded 30 business days.
5. In the case when the Subcontractor has drawn from the payment guarantee without previously calling the Employer to pay the overdue amounts or has drawn an amount exceeding the overdue payment amount, the Employer shall be entitled to claim a return of the monies obtained by the Subcontractor from the payment guarantee and to charge the Subcontractor with a penalty in the amount of 10% of Subcontractor's remuneration.
  6. In the event of an action against the Employer by a Subcontractor or Further Subcontractor of Subcontractor's supplier or other persons employed by the Subcontractor in connection with the Works, the Subcontractor shall be obliged to maintain the securities referred to in clauses 3.4 and 11 until the day falling on the 45<sup>th</sup> day after the final sentence in such a case, if the deadlines indicated in the above clauses expire earlier. In the event of awarding any amounts from the Employer, the Employer shall be entitled to cover the costs awarded with the above security.

#### **CLAUSE 10. PAYMENT GUARANTEE**

1. Within 6 days following the presentation by the Subcontractor of a relevant written request, the Employer shall provide the Subcontractor with a Payment Guarantee (pursuant to the Civil Code) with the content and in the form chosen by the Employer, for an amount specified in the **Special Conditions of Contract**. Notwithstanding Employer's right to choose the form and contents of the payment guarantee, the Subcontractor accepts the payment guarantee with contents pursuant to Appendix No. 10 to the Contract Agreement to be sufficient.
2. The Subcontractor will reimburse the Employer half of the cost of providing payment guarantee. The payment guarantee shall be non-assignable.
3. By the date of submitting by the Subcontractor a request for a Payment Guarantee, the amount of the securities referred to in Clause 3.4 and Clause 11.1 shall be reduced to the amount specified in the **Special Conditions of Contract**, unless this Contract provides otherwise.
4. The Subcontractor shall be entitled to draw from the Payment Guarantee only in a situation when the Employer, despite a written request with an additional date for payment of the amount due to the Subcontractor under this Contract, the Employer has not paid the amount due and the delay

#### **CLAUSE 11. WARRANTY DEPOSIT**

1. Subject to Sub-Clause 10.3, the Subcontractor shall be obliged, by not later at the date of payment of each invoice, but not later than within 14 days of its issuance, to make payment related to establishing a contract performance security and defect liability security, to Employer's bank account run by bank Societe Generale, account number 11184000072210706008101619, of a warranty deposit in the amount of 30% of the value of each invoice issued by the Subcontractor. In case when such a payment has not been made within the above time limit, warranty deposit shall be deducted by the Employer from the amounts to be paid to the Subcontractor, in particular from any amounts due on the basis of invoices, by the date of payment of which the Subcontractor was expected to pay the warranty deposit. The deduction will take place without the need to submit additional statements to which the parties agree. The warranty deposit established in accordance with this Clause, in the part not deducted from payments to be made to the Employer, shall be returned to the Subcontractor in the following manner:
  - 1) in the amount pursuant to the **Special Conditions of Contract** - after Final Acceptance of the Development Project by the Investor,

- 2) in the amount in accordance with the **Special Conditions of Contract** - after the lapse of the warranty and guarantee periods pursuant to Sub-clause 14.1 and rectification of all defects.
2. The warranty deposit retained for the warranty period may be replaced, following a written approval of Employer's Representative, with an unconditional, irrevocable and payable on first demand bank or insurance guarantee in an amount corresponding to the retained warranty deposit. The content of the bank guarantee requires a prior acceptance of the Employer. In justified cases the Employer may allow the Supplier in writing, under pain of nullity, to replace the bank guarantee with an agreed insurance guarantee.
  3. Payment of the Subcontractor's remuneration under this contract less the amount deducted as warranty deposit constitutes a due fulfilment of the obligation to pay remuneration. If the warranty deposit is not released by the Employer, the Subcontractor shall be entitled to file a claim for refund of the security against the Employer and not for payment of remuneration under the contract against the Investor and the Employer under joint and several liability.

#### **CLAUSE 12. LIABILITY**

The Parties hereby agree that remedying defaults resulting from the non-performance or improper performance of contractual liabilities shall be achieved by payment of liquidated damages or contractual penalties in the cases referred to in the present Contract and by payment of a compensation in excess of the amount of liquidated damages. In particular, if the Employer has suffered damage (e.g. as a result of payment of liquidated damages to the Investor) for reasons for which the Subcontractor is responsible at least partially, the Subcontractor shall be obliged to remedy the damage in full.

1. The Subcontractor hereby agrees to pay the following liquidated damages to the Employer:
  - 1) for a delay in the completion of the subject matter of the Contract – in an amount set forth in the **Special Conditions of Contract**, payable for each day of delay with respect to the date for the completion of all the Works under the Contract.
  - 2) for a delay in the achievement of the intermediate dates set forth in the Contract – in an amount specified in the **Special Conditions of Contract**, payable for each

- day of delay with respect to the agreed intermediate work completion dates,
- 3) for a delay in remedying the defects disclosed during acceptance inspection or in the guarantee and warranty period - in the amount set forth in the **Special Conditions of Contract**, payable for each day of delay counted from the date specified in the Contract as the final date for remedying defects,
- 4) for termination of the Contract as a whole or part by the Employer for reasons attributable to the Supplier – in an amount set forth in the **Special Conditions of Contract**,
- 5) for a failure to observe any of the provisions of clause 3.1, or in the case of a delay in the submission of any of the documents listed in Clause 3.6, after a prior written one-off admonition by Employer's Representative – in an amount specified in the **Special Conditions of Contract**, whereas in the case of a delay in the submission of the documents listed in Clause 3.6 the above mentioned amount of liquidated damages shall be charged for each day of delay.
- 6) for commissioning the execution of the Works in whole or in part to a third person in connection with the rectification of defects in the Works in Subcontractor's place - in an amount referred to in the **Special Conditions of Contract**.
- 7) for introducing to the construction site or for commissioning the execution of at least part of the Works to a third party in breach of the provisions of Clause 4 – in the amount specified in the **Special Conditions of Contract**, for each such case
- 8) for a delay in payment of remuneration to a Further Subcontractor or Supplier - a penalty in an amount set forth in the **Special Conditions of Contract**, for each case
- 9) for delay in submission of Subcontractor's statement and statements of all its Subcontractors and suppliers referred to in clause 7.1 according to Appendix No. 7, in the amount indicated in the **Special Conditions of Contract**, for each day of delay

In each case when the value of the damage exceeds the amount of liquidated damages under the Contract, the Employer shall be entitled to seek compensation for the suffered damage exceeding the value of liquidated damages, in the full value of the damage, in particular the Subcontractor shall pay the difference between the expensed incurred for the execution of the



Works in substitution of the Subcontractor and the price specified in the present Contract. Liquidated damages shall be charged irrespective of Contract termination and shall accumulate.

2. If for any reason the pace of work in the opinion of Employer's Representative or the Investor's Building Inspector does not allow to complete the works on time, then the Employer's Representative or the Investor's Building Inspector may order the Subcontractor to make the necessary measures to accelerate the works. If the Subcontractor fails to follow instructions of Employer's Representative or the Investor's Building Inspector, the Employer may entrust the execution of part or all of the Works to a third party at the Subcontractor's cost and risk without a prior authorization by the court. The Subcontractor shall bear all additional costs associated with the actions taken. Article 635 of the Civil Code shall apply.
3. The Employer agrees to pay to the Subcontractor:
  - 1) for a delay in payment of an invoice exceeding 7 days – penalty interest equivalent to 6-month WIBOR, in accordance with the table “Złotówkowe Depozyty Międzybankowe (Inter-Bank Deposits in Zlotys)” published in the Rzeczpospolita daily,
  - 2) for termination of the Contract for reasons attributable to the Employer – a penalty in an amount set forth in the **Special Conditions of Contract**. This provision shall not apply in case of contract termination caused by Employer's failure to submit a payment guarantee.
4. The Employer shall be entitled to deduct any liabilities it is entitled to receive from the Subcontractor, in particular for compensation and liquidated damages, from each liability, also not resulting from the present Contract, which the Subcontractor is entitled to receive from the Employer.

#### **CLAUSE 13. TERMS AND CONDITIONS OF CONTRACT TERMINATION**

1. The subcontractor has the right to withdraw from the Contract in a non-performed part if:
  - 1) the Employer persistently refuses to take over the Works without a justified reason,
  - 2) the Employer persistently refuses to pay for the executed Works without a justified reason.
2. The Subcontractor shall be entitled to terminate the Contract as a whole or in the non-executed part if:
  - 1) Execution of the Contract is not in Employer's interest, the contract with the Investor for the execution of the Development Project has been terminated or any Party to that contract has withdrawn from it. In that case the Subcontractor may only request payment for the Works executed by the moment of contract termination and confirmed by the Building Supervision Inspector and the Employer on the basis of the Works Progress Protocol as correctly executed works. Provisions of Article 636 of the Civil Code shall not apply.
  - 2) The Subcontractor is in breach of Clause 4, in particular is in 14-day delay in clearing its liabilities towards Further Subcontractors or Suppliers, The Subcontractor has suspended the execution of the Works for a period longer than 1 day without Employer's Representative's consent or the delays in the performance of the works amount to more than 7 days after any of the agreed dates for all the Works or their part,
  - 4) The Subcontractor does not perform his obligations under the Contract, in particular the Subcontractor executes the Works in an improper manner,
  - 5) The Subcontractor has not submitted one of the securities specified in Clauses 3.4 or 11 of the Contract or has submitted them in an incorrect form or value,
  - 6) Circumstances have occurred which are referred to in Clauses 7.7.2 or 14.7.2.
  - 7) A bankruptcy proposal has been filed in relation to the Supplier or recovery or liquidation proceedings have been initiated in relation to the Supplier, or enforcement proceedings or proceedings to secure claims are in progress in relation to Supplier's assets, or Supplier's economic situation has significantly worsened, in particular the Supplier delays payment of its liabilities, and also when a resolution or other decision was made to dissolve or liquidate the Supplier.
  - 8) The Investor has reasonably requested from the Employer to move the Subcontractor away from the Works or to remove the Subcontractor from the construction site.
3. Contract termination shall have an ex nunc result unless the Supplies effected until the termination, in Employer's opinion, cannot be used in accordance with their intended purpose. Within 30

days after Contract termination the already executed Works should undergo a survey covering among others the supplied materials which the Employer might use for further works. The performed Supplies shall be settled after the lapse of the warranty and statutory guarantees periods, i.e. after the calculation by the Employer of all the costs, including the possible damage, resulting from Contract termination. Termination of the Contract may be effected by the time of lapse of the quality warranty and statutory guarantee periods.

4. Notwithstanding Contract termination, Subcontractor's obligations with respect to quality warranty and statutory guarantee for the executed Works (Clause 14), provisions of the Contract relating to transfer of copyrights by Employer (Clause 15), provisions of the Contract relating to securities to be established by the Subcontractor (Clauses 3.4 and 11), to Subcontractor's liability with respect to the Employer, including the obligation to pay liquidated damages and provisions of Clause 3.8, shall remain in force.

#### **CLAUSE 14.**

#### **WARRANTY, GUARANTEE, DISCLOSURE AND REMEDYING OF DEFECTS**

1. The Subcontractor hereby warrants the quality of the executed Works and gives a statutory guarantee. The quality warranty period shall commence on the date of Final Acceptance of the Works and end upon the lapse of the term specified in the **Special Conditions of Contract** after the final acceptance of the Development Project Acceptance and issue of an occupancy permit. The warranty and statutory guarantee period for the Works shall be extended by the period from the disclosure of a defect to the date of its effective rectification, in case of replacement of parts or all of the Works the period will re-start from the beginning. A defect will not be considered to have been effectively rectified if it has reoccurred within a period of 6 months from the last attempt to rectify such a defect.
2. Employer's Representative shall be obliged to inform the Subcontractor in writing, by e-mail or by fax of any failure (i.e. a defect or any other irregularity with a sudden character and posing a risk to human life, health or property and requiring immediate preventive measures) or a defect. A telephone notification of a failure or defect will be effective if it is subsequently confirmed in one of the ways indicated above.
3. The Subcontractor is obliged to give a reply in writing to Employer's representative within 1 business day counting from the date of receipt of such a notification by the Subcontractor, concerning the date of remedying a defect and that date should be agreed with Employer's Representative, however the term shall not be longer than 7 (seven) days from the date of notifying the Subcontractor of the above circumstance, unless the Employer agrees to a longer term. The Parties agree that defects which make it difficult or impossible to use the building or its part in accordance with its intended use or violating safety requirements will be immediately rectified by the Subcontractor. In case of a notice of failure the Subcontractor shall be obliged to immediately take preventive measures and rectify the defect.
4. In case when the Employer and the Subcontractor have not set the date by which a defect is to be removed or when the Subcontractor has not given a reply within the time limit set in point 3, then Employer's Representative alone will set the time limit for removing the defect and the Subcontractor shall accept that date without reservations and shall be bound by it. Works connected with the rectification of defects will be carried out depending on the needs of the Employer or the Investor also outside the working hours of the Subcontractor. Commencement and completion of repair work should be confirmed by the Subcontractor in writing.
5. The Subcontractor shall, within the time limits set in sections 3 or 4 of the present Contract, rectify at his own expense all and any defects which may occur during the warranty and statutory guarantee periods and also rectify, repair or replace any faulty element of the executed Works performed not in accordance with the present Contract, irrespective of the inspection and taking over of the Works. The Subcontractor shall be obliged to repair or rectify all damage being the consequence of the defects, faults or incompliance of the Works with the Contract. Rectification of defects, faults or incompliance with the Contract should be confirmed by an applicable protocol.
6. In case of non-performance by the Subcontractor of the obligations resulting from the present Sub-clause, the Employer shall, acting in Subcontractor's substitution (without a prior authorisation by a competent Court), rectify the defects or failures and charge the Subcontractor

with the associated costs and the commission in the amount of 15%, and the Subcontractor hereby agrees to such a procedure. Removal of a defect by a substitute contractor or the fact that the Employer has made changes in the Works do not release the Subcontractor from their liability for the provided quality warranty and statutory guarantee.

7. In case when it is impossible to remedy the defects in the Works or when according to the Employer it is aimless or difficult to fix them, the Employer shall be entitled, without prejudice to his other rights under the Contract, at his discretion, to:
  1. reduce Subcontractor's remuneration,
  2. terminate the Contract in case when the defects make it impossible or difficult to operate the Development Project or/and influence the safety of its users.
8. In the event of a threat to the safety of users or Employer or Investor's property in connection with the occurrence of a defect or failure, the Employer has the right to perform the necessary work or employ a third party at the cost and risk of the Subcontractor to remove the danger or defect without a prior authorization by a court. In this case the Employer shall be obliged to immediately notify the Subcontractor of the above.
9. In the case of charging the Subcontractor in connection with the present Clause, the costs shall be accounted for in the basis of a note, invoice or final clearance. The Subcontractor hereby agrees to issue a note or an invoice without his signature. The Employer shall be entitled, in order to deduct its liability, to draw from the warranty deposit, Contract performance security and other forms of security provided by the Subcontractor or to deduct the payment from any amounts payable to the Subcontractor, or to make a claim for cost reimbursement by treating them as debt.
10. In order to confirm the provided quality guarantee for the Works, the Subcontractor shall issue a guarantee document whose provisions must not be different from the provisions of the Contract, unless they are more acceptable for the Employer. Handing over the warranty card (in duplicate) is a condition for signing the Final Works Protocol. The Subcontractor is also obliged to issue to the Employer warranty cards received from manufacturers of the materials and devices used to carry out the Works. The warranty granted by the Supplier is independent

of the warranties granted by manufacturers of the materials and devices used in the Works.

11. The Subcontractor shall each time include in Contracts with Further Subcontractors and suppliers the provision that the Employer is entitled to directly execute the rights and claims under the quality warranty and statutory guarantees provided by such Further Subcontractors and Suppliers to the Subcontractor.
12. The above provisions do not limit Employer's rights with respect to the statutory guarantee (*rekojmia*) in accordance with the provisions of the Civil Code. To the extent not covered by this clause, the provisions of the Civil Code shall apply.
13. At the request of the Employer, the Subcontractor will participate in periodic inspections of the Development Project. Defects revealed in the course of such inspections shall be considered as reported to the Subcontractor.

#### **CLAUSE 15. COPYRIGHTS, PATENTS AND PUBLICATIONS**

1. The Subcontractor's remuneration established in the Contract covers the transfer of the Employer of all, unlimited in time in space copyrights or property rights to any designs, analyses and documents developed during the execution of the Subject of the Contract, defined as Work in the Copyrights and similar rights Acts, in the following forms of exploitation, in particular:
  - a) usage and deriving benefits,
  - b) bringing into circulation,
  - c) lending or rental of the original or copies,
  - d) recording and multiplying copies of the works by using any technology including printing, reprography, magnetic recording and the digital technology,
  - e) the right to public exhibiting, displaying and making the work available to the public so that any person has access to it in any freely chosen time and place;
  - f) loading to computer memory or distribution in a computer network, for example in the local network of the Employer or on the Internet,
  - g) marketing;
  - h) using designs or parts thereof for any purposes related to the construction or operation of facilities built on

- their basis, including for their construction, expansion, reconstruction, rebuilding, maintenance, repair, management, rental, promotion and advertising, whereby the Employer is entitled to use the designs for the execution of one or many different construction projects
- i) using solutions used in designs or their parts to create any documentation or technical or construction analyses, in particular other designs, diagrams, drawings, models and visualizations, and the use of such documentation or analyses for the construction and operation of buildings or parts thereof
  - j) preparing foreign language versions and translations into other languages
2. The Subcontractor hereby grants the Employer permission to make any changes, alterations, adaptations of the work and gives its consent pursuant to Article 2 of the Copyright Act to execute the copyrights and related rights to the work, and also transfers to the Employer the right to approve the execution of the related copyrights.
  3. The subcontractor hereby undertakes that it will not use its personal copyright to any work to the extent that the exercise of such rights would prevent or hinder the use of the work, including its modification or publication by the Employer or the Investor. The Subcontractor authorizes the Employer to exclusively exercise personal copyright, provided that the Employer is entitled to transfer such authorization to other persons. The Subcontractor undertakes upon every request of the Employer to confirm in writing, the authorization to exercise by the Employer or a third party indicated by the Subcontractor of personal copyright to works executed by the Subcontractor (including its employees and associates) and the waiver by the Subcontractor (including its employees and co-workers) of exercising those rights.
  4. At the moment of acceptance and receipt of each work by the Employer, the Subcontractor shall transfer to the Employer the ownership of the copies and copyrights pursuant to section 1 and section 2 and grants authorisations as per section 3. Transfer of rights shall be effective regardless of the validity of this Contract, including in the event of contract termination.
  5. The subcontractor hereby declares to the Employer that at the time of transferring the copyright and granting the authorizations referred to above:
    - a) , the proprietary copyrights to each of the works shall be its property to the full extent, and the Subcontractor shall ensure that he obtains permission for the exercise of personal copyrights and copyrights dependent on the designers he employs (authors of these works);
    - b) proprietary copyrights will be free of any encumbrances or third persons' rights, and
    - c) both the transfer and the use of property and personal copyrights does not infringe any third party rights.
  6. In addition to the above, the Subcontractor undertakes at each request of the Employer to confirm to the Employer in writing, the acquisition of copyright and derivative rights to works and the acquisition by the Employer of rights related to the works referred to in this Contract. The Subcontractor undertakes, at each request of the Employer, to immediately provide the Employer with a written Subcontractor's declaration on the correct acquisition of copyright and derivative rights to works arising from the performance of the Subcontractor's obligations under the Contract and about the effective authorization of the Employer to exercise the Employer's rights regarding these Works under the Contract.
  6. The parties to this Agreement agree that the copyright of the Employer or the Investor and their right to use all documents, drawings and solutions made available to the Subcontractor under this Agreement shall remain unaffected. The Subcontractor may use the above mentioned documents, drawings and solutions exclusively for the purpose of proper performance of the Works and shall return them to the Employer after the execution or termination of the present Contract. During the execution and after the completion of the object of Contract the Subcontractor shall not publish any documents related to the object of Contract without prior written consent of the Employer.
  7. Without prejudice to the above provisions, the Subcontractor hereby grants to the Employer a non-exclusive license ("License") to use to the full extent any Subcontractor's documentation and other intellectual proper-

ty rights created or necessary in connection with the Subcontractor's obligations under this Contract, for the purposes of: (1) obtaining any permits (including administrative decisions and permits, approvals and similar acts of competent authorities or entities) that the Employer will obtain in connection with the operation, functioning, maintenance and preservation of the Development Project together with related software (2) continuing the construction, operation and maintenance of the Development Project and the supply, operation, maintenance and preservation of the equipment along with the related software after the Contract Agreement has been terminated by the Party, (3) training of the users of the Development Project in its servicing or maintenance, (4) introducing alterations or adaptation of a Development Project, (5) operation, functioning, maintenance and preservation of the Development Project, (6) disposal and adjustments of other equipment elements along with software, (7) disposal or liquidation of the Development Project.

8. To the extent to which the use of the software will be necessary for the performance of the Contract or the operation, functioning, maintenance, preservation and conservation of the Works, the Subcontractor undertakes, prior to installing such software, to obtain a non-exclusive right to use the software for the Employer. At the moment of installation of software in the facility or in any devices included in the facility, the Subcontractor authorizes the Employer to use the software together with all its elements to the extent described in this clause 15 in the following fields of use: (i) permanent or temporary reproduction of the software, in whole or in part, by any means and in any form (no additional consent of authorized reproduction for the purposes of entering, displaying, using, transferring or storing software), (ii) adapting or changing the layout in the software, (iii) making available to third parties on the terms set out in this Contract Agreement. To the extent that the software includes works protected by copyright other than computer programs, the Subcontractor authorizes the Employer to use them with an appropriate application of the provisions of the Contract Agreement regarding the License. To this end, the Subcontractor shall provide the Employer with software (including on an external medium) with all codes / keys enabling the system to be administered in full, including enabling its changes, restoring the original settings, system and event backups, copies of driver configuration software, etc.
9. The license is granted for the period of operation of the Development Project, however, not longer than for the period of protection of appropriate intellectual property rights, including for the period of proprietary copyrights, protection granted by the competent office for industrial property and protection of confidential know-how. The period of License termination notice is forty (40) years, with effect at the end of the calendar year, whereby the Subcontractor undertakes not to terminate the License without a good reason.
10. The copyright license includes the use of copyright objects covered by it. The license authorizes the Employer to make available to third parties the documentation of the Subcontractor and other objects of intellectual property rights included in the Works for the purposes listed in clause 15.7 under a sublicense or equivalent right, also in case of termination of the Contract by the Party. The Employer is entitled, without the consent of the Subcontractor, to transfer the rights and obligations under the License and other intellectual property rights granted to him pursuant to the Contract to a third party, including the Investor for the Development Project.
11. To the extent that the Subcontractor will not be able to grant to the Employer an appropriate right to use the intellectual property goods being the subject of the Works, in particular due to contractual or statutory restrictions, including in particular the prohibition of further sub-licensing of the patented invention provided for in Article 76 of the Act of 30 June 2000 Industrial property law (consolidated text: Journal of Laws of 2003, issue 119, item 1117, with later amendments), the Subcontractor shall ensure that a competent entity authorized to exercise the rights shall give the Employer in a valid and effective manner an appropriate authorization to use those goods, in accordance with the rules provided for the License, at no additional cost to the Employer.
12. The Subcontractor shall hold the Employer and the Investor harmless and indemnify them against any claims resulting from a violation of patent rights, reserved design, copyrights, trademarks or other intellectual property rights if the basis of such claim or proceedings is a design, construction, technology of manufacturing or use of the structures executed as part of the Works, unless such a violation (or accusation of violation)

resulted from the use of a part (or the whole) of the Works for a purpose other than the purpose set forth in the Contract of other purpose indicated therein in a manner allowing for its identification;

13. The Subcontractor shall be informed of any claims made against the Employer or Investor referred to in this Clause 15. The Subcontractor shall be entitled to negotiate settlements in respect of claims at its own expense and participate in any court proceedings - or arbitration proceedings arising from them, provided that the Subcontractor shall acknowledge in writing its liability towards the Employer for a claim which it is obliged to accept under the exemption from liability granted in this clause and shall provide the Employer with a reasonable security demanded by it. The Subcontractor shall keep the Employer informed of the progress of the negotiations or court or arbitration proceedings.
14. With the exception of a situation when the Employer has agreed to use a different solution, the Subcontractor shall not have the right to make any declarations confirming the acceptance of any liabilities which might have negative consequences to the Employer, before providing the Employer by the Subcontractor with a reasonable security required by the Employer. The value of the security will be established on the basis of the compensation, fees and costs which the Employer may pay and resulting from the hold harmless provision included in the present Clause.
15. The subcontractor shall provide the Employer at his own expense with all assistance in defending against claims, including actions in connection with claims for infringement of copyright.
16. Displaying trademarks of the Subcontractor shall be allowed only upon written permission of the Employer's Representative, and the method and form of their presentation must not differ from the standards accepted by the Employer. Any advertising of the company not conforming to the said principles will result in charging the Subcontractor with the costs of removal of the trademarks.
17. The Subcontractor must not photograph or film the construction site without prior written permission of the Employer.

#### **CLAUSE 16. ANTI-CORRUPTION CLAUSE**

1. As part of the performance of this contract, the Subcontractor undertakes to strictly comply with applicable law prohibiting any corrupt practices, including: undertaking or promising to provide financial or personal benefits to a person performing a public function in connection with performing this function, public officials and private individuals, payable protection, money laundering, in accordance with applicable law.
2. The subcontractor undertakes to create and implement all necessary and reasonable policies and measures to prevent any corrupt practices. The Subcontractor declares that, to his knowledge, his legal representatives, managers, employees, agents, subcontractors and any person or entity providing services to or on behalf of the Subcontractor in accordance with this Contract at the time of conclusion of this Contract, as well as throughout the entire duration of this Contract, they will not propose, give, consent to the giving, grant, apply for or accept, directly or indirectly, money or any other valuable things, or grant benefits or gifts to any person, company or entity, in particular any official or public employee, political party representative, candidate for public office, person in any legislative, administrative or judicial position in any state, public agency or public company, official of an international public organization, with a purpose of exerting corruptive influence on their public activities or the purpose of remuneration or causing improper performance of functions or activities by any person in order to achieve or maintain any services for the Employer or to gain an advantage during the performance of services for the Employer.
4. In addition, the Subcontractor undertakes to ensure that neither the Subcontractor nor any of its legal representatives, managers, employees, agents, subcontractors and any person performing services for or on behalf of the Employer under this contract were and are not placed on any list in any register kept by government agencies, as a person excluded, suspended, submitted for suspension or exclusion, or otherwise ineligible to participate in public procurement. The subcontractor undertakes to maintain, for an appropriate period after the termination of this Contract, appropriate documentation confirming compliance with the provisions of this clause.

6. The Subcontractor is obliged to notify the Employer of any breach of this clause without undue delay, at the latest within 7 days.
  7. In the event the Employer notifies the Subcontractor of a reasonable suspicion that the Subcontractor has violated any provision of this clause: (1) The Employer is authorized to suspend the execution of this Contract with immediate effect for as long as the Employer deems necessary to investigate the situation, without causing any liability or liability to the Subcontractor for such suspension; (2) The Subcontractor is required to take all reasonable steps to prevent the loss or damage of any documented evidence in relation to the situation examined.
  8. If the Subcontractor breaches the provisions of this anti-corruption clause: (1) The Employer is entitled to withdraw from this Contract without notice, and Subcontractor shall not be entitled to any claims in this respect, (2) The Subcontractor shall be obliged, to the maximum extent permitted by law, to repair the damage suffered by the Employer, to pay compensation and to cover the expenses incurred by the Employer as a result of the breach.
5. The Employer informs the Subcontractor that he has the status of a large entrepreneur within the meaning of the Act on counteracting excessive delays in commercial transactions. Personal data of the persons representing, employees and associates of the party with whom the contract is concluded, which is transferred in connection with the signed Contract and as part of business relations, in particular for the purpose of enabling business contacts related to the implementation of the concluded contract, are processed in accordance with the EU Regulation 2016/679 of 27 April 2016. Detailed rules for the processing of personal data by the data controller (Warbud SA) can be found on the website: [www.warbud.pl](http://www.warbud.pl). Any disputes which may arise in connection with the execution of the present Contract shall be settled by an Arbitration Court of the Private Employers' Confederation "Lewiatan" in Warsaw pursuant to the regulations of this court, with the exclusion of claims connected with bills of exchange and cheques, which shall be settled by a Court of Law competent for the Employer.
  7. The addresses of the Parties presented in the Contract Agreement are hereby confirmed to be valid and binding for any communication between the Parties. In case of change of the address, each Party is obliged to inform the other Party of that circumstance in writing (with receipt confirmation), under pain of treating all deliveries to the previous address as effective.

#### **CLAUSE 17. ADDITIONAL PROVISIONS**

1. The Subcontractor shall be unconditionally obliged to keep trade secrets in the period of 10 years following the conclusion of the Contract, irrespective of its execution, termination or expiration of the Contract.
2. The Representatives of the Parties hereby declare that they are duly authorised to sign the Contract.
3. If any part of this agreement is deemed invalid or otherwise defective, the remaining part of this agreement shall remain in force (severability clause).
4. The Subcontractor has received orders and instructions referring to the object of the present Contract, in particular those listed in the **Special Conditions of Contract**. The Parties confirm by concluding the present Contract that it replaces the orders granted and that it constitutes a regulation of the mutual relationship to the extent corresponding to the object of the Contract.
8. Any changes and additions to the Contract require a written permission of both parties in the form of an annex to the contract under pain of nullity, with the exception of the changes of the intermediate dates specified in Clause 6 in accordance with the Contract.
9. The Contract shall be governed by and construed in accordance with Polish law.



**EMPLOYER :**

**SUBCONTRACTOR:**