Appendix 3 to the ToR

Case no.: **DZ.271.11.2024**

**AGREEMENT No. …/…/…**

 **for “Provision of patent attorney services for Łukasiewicz – PORT within the Virtual Research Institute”**

concluded *on ...................... / (date of conclusion of the agreement is the date of signature by the final Party)*, in Wrocław by and between:

**Sieć Badawcza Łukasiewicz – PORT Polski Ośrodek Rozwoju Technologii (Łukasiewicz Research Network – PORT Polish Centre for Technology Development)** with its registered office in Wrocław, at ul. Stabłowicka 147, 54-066 Wrocław, a state legal entity operating in the form of an institute forming part of the Łukasiewicz Research Network, with legal personality, entered in the Register of Entrepreneurs of the National Court Register kept by the District Court for Wrocław-Fabryczna in Wrocław, 6th Commercial Division of the National Court Register, under KRS number 0000850580, having tax identification number NIP 8943140523, REGON: 386585168, represented by:

…………………………

hereinafter referred to as ‘**the Contracting Authority’,**

and

…………………………………………………………

represented by:

.............................

hereinafter referred to as ‘**the Economic Operator**’,

hereinafter jointly referred to as ‘**the Parties**’, and each individually also referred to as ‘**the Party**’,

reading as follows:

**Preamble**

1. This Agreement No. \_\_ is entered into by the Parties as a result of a public procurement procedure with the possibility of negotiating in order to improve the content of tenders, with the contract value not exceeding EUR 750,000.00, pursuant to Article 359(2) in conjunction with Article 275(2) of the Act of 11 September 2019 – Public Procurement Law.
2. On the basis of this Agreement, the Economic Operator undertakes to provide the services of a patent attorney for the Contracting Authority and to perform other services indicated in the Agreement in return for remuneration in the amount of **………………………** *[currency to be supplemented according to the offer]* net (in words: .................................... net), within 48 months from the date of conclusion of the Agreement and under the terms and conditions each time specified in the Agreement in detail.
3. This Preamble has no normative character.

**Article 1.**

**SUBJECT OF THE AGREEMENT AND STATEMENTS OF THE ECONOMIC OPERATOR**

1. The Contracting Authority commissions and the Economic Operator undertakes to provide the services of a patent attorney and expert in the area of intellectual property rights, under the terms of this Agreement, including in particular the conduct of the relevant procedures, applications and proceedings in particular before: European Patent Office, the United States Patent and Trademark Office and the Patent Office of the Republic of Poland and to provide consultancy and other services (hereinafter also collectively referred to as the *Services or individually as the Service*). The Contracting Authority performs the Subject of the Contract as the Managing Entity acting for and on behalf of the State Treasury – the minister competent for education and science on the basis of the contract for the management of the Virtual Research Institute.
2. The subject of the Agreement and the detailed scope of the Services are set out in the Description of the subject of the Contract (Contract Subject Description), constituting Appendix 1 to this Agreement (hereinafter also *CSD*).
3. Due to the specific nature of the contract to be awarded, the data relating to the number of individual orders or the number of pieces or the number of hours of the Services to be performed are of a maximum nature, and the Contracting Authority – under the terms and conditions indicated in the Agreement – reserves the right to adjust the number of orders within the categories indicated in the CSD to its current needs .
4. The Economic Operator declares that it has the knowledge, experience and qualifications necessary to properly perform its obligations under this Agreement. The Economic Operator declares that it has the status of a patent attorney office and that it has at its disposal appropriate personnel, as referred to in the Specification of Essential Terms of the Contract (hereinafter also referred to as the Terms of Reference, ToR), constituting Appendix 2 to the Agreement, having the required qualifications, including in particular the qualifications to practice the profession of a patent attorney, and that, in addition, this personnel is registered in the relevant list of patent attorneys and is listed in the relevant register (UPRP or EPO).
5. The Economic Operator declares that it will perform the subject of the contract using the persons indicated in Appendix 6 to the Agreement – in accordance with the contents of the list of persons indicated in the Economic Operator's tender. All designated persons must, throughout the duration of the Agreement, meet the requirements set out in detail in the ToR for this public procurement procedure. A change of any of the above-mentioned persons is possible with the consent of the Contracting Authority expressed in writing under pain of invalidity and provided that the new person meets the requirements, including relevant experience, to a degree not less than that required by the Contracting Authority in the proceedings documentation in the function to be replaced, in particular the requirements described in the ToR for this procedure. The new person must fulfil all the conditions regarding the necessary education, professional qualifications or experience of the staff member to be replaced, which are set out in the CSG.
6. The Economic Operator shall perform the subject of the Agreement in accordance with the generally applicable provisions of the law, with the utmost care, taking into account the nature and scope of the Contracting Authority's business, with respect for the customs generally prevailing in trading and with complete loyalty to the Contracting Authority and concern for the Contracting Authority's tangible and intangible interests.
7. The Economic Operator declares that it accepts full responsibility for the correct performance of the subject of the Agreement. The Economic Operator also declares that there are no legal obstacles to the proper performance of the subject of the Agreement.
8. Due to the nature of the activities performed, the Economic Operator shall perform the subject of the Agreement at the Economic Operator's registered office or at locations dictated by the material need to perform the Services, and as regards communication with the Contracting Authority – as a rule, remotely – by means of electronic communication (e-mail, video-conferencing, telephone).
9. The Economic Operator undertakes to perform the subject of the Agreement only with the participation of persons who have the appropriate technical expertise, capable of performing the subject of the Agreement, with the professional qualifications and experience specified in the ToR, as detailed in Appendix 6 to the Agreement. The Economic Operator shall be fully responsible for the proper performance of the subject of the Agreement by the persons to whom he has entrusted the performance of the subject of the Agreement. The persons referred to in the preceding sentences may only be changed in accordance with the procedure referred to in paragraph 5 of this Article.
10. The Economic Operator may only represent the Contracting Authority and the State Treasury – the minister competent for science and higher education – before the relevant authorities after obtaining written authorisation from the Contracting Authority. On the basis of the agreement on management of the Virtual Research Institute, the Contracting Authority performs tasks on behalf of the State Treasury – the minister competent for science and higher education, including being authorised to commission acting on behalf of the State Treasury – the minister competent for science and higher education – before the competent authorities and public administration bodies in order to obtain intellectual property rights, including before the Patent Office of the Republic of Poland, the European Patent Office and foreign authorities competent to grant such rights.
11. The Economic Operator hereby declares that, at the time of conclusion of the Agreement, it is not subjected to any form of exclusion from public procurement procedures or competitions, as outlined in Article 7(1) of the Act of 13 April 2022 on special solutions to counteract the support of aggression to Ukraine and to protect national security (hereinafter referred to as the “Exclusion”). If, at any point during the term of the Agreement, the Economic Operator becomes subject to Exclusion based on any of the aforementioned grounds, the Contracting Authority reserves the right to promptly terminate the Agreement due to the Economic Operator's fault.
12. If necessary, the Economic Operator shall submit to audits or inspections by the Contracting Authority or State Treasury – the minister competent for science and higher education or third parties, whenever requested by the Contracting Authority, in particular as part of ongoing inspections of the WIB programme, shall make documents available, shall provide information and explanations within the time limits and scope indicated.

**Article 2.**

**TIME LIMITS AND HANDOVER AND ACCEPTANCE OF THE SUBJECT OF THE AGREEMENT**

1. Time limits for completion of the Subject of the Agreement are set out in the CSD, which constitutes Appendix 1 to this Agreement. If the time limits are not apparent from the CSD, the Contracting Authority shall indicate the time limit in each case in the Service Order. The Economic Operator shall provide the Contracting Authority with all data, information and documents whenever requested by the Contracting Authority within a specified period of not less than 3 working days from the date of receipt of the request.
2. In addition to the deadlines set out in this Agreement and in the CSD, the Economic Operator shall provide the Services in a manner that ensures compliance with the time limits set out in the relevant legislation for the performance of the action in question or as set out by the patent office concerned.
3. Individual Services shall be provided on the basis of orders received from the Contracting Authority by e-mail to the address referred to in Article 9(2)(2) or to each e-mail address provided by the Economic Operator's personnel assigned to perform the Agreement. The orders shall contain information on the subject of the respective order and the execution date.
4. The Economic Operator shall confirm – via the e-mail addresses indicated in Article 9(2) – the receipt of the complete materials for a given order from the Contracting Authority within 3 working days of receipt. In the absence of confirmation, the Parties consider that the Economic Operator has accepted the order as of the date of expiry of the period for confirmation referred to in the above sentence.
5. Each Service (order) performed under this Agreement shall be confirmed by an Acceptance Report drawn up and signed by the Economic Operator, which shall then be forwarded to the Contracting Authority. The Contracting Authority shall either sign the Acceptance Report or make comments/objections to the completed Service (order), within 7 days from the date on which the Acceptance Report is forwarded thereto by the Economic Operator. In the event of comments/objections by the Contracting Authority, the Economic Operator shall remedy them within a period set by the Contracting Authority, but not less than 7 days. Once the comments/objections have been remedied, the Economic Operator shall submit another Acceptance Report. In the event of further comments/objections, the provisions of this paragraph shall apply. A model Acceptance Report is attached as Appendix 4 to this Agreement.
6. The Economic Operator shall, upon termination of this Agreement, hand over on record to the Contracting Authority all materials, notes and studies at its disposal obtained or prepared in connection with the performance of the Agreement. This also applies to any information, data, documents recorded in other than written form, in particular in the form of electronic recording on disks, floppy disks, CDs, DVDs and others. The transfer of data should also take place on electronic media or CD/DVD without password protection.
7. The Parties provide for the possibility of extending the time limits indicated in this paragraph and in the CSD, in the event that the Economic Operator requests the Contracting Authority to extend such time limit with a justification and description of the reasons for such extension, which, however, may not be due to circumstances on the part of the Economic Operator.
In order for a modification of a deadline to be effective, the consent of the Contracting Authority is required, which, on pain of nullity, must be given in writing or in the electronic form referred to in Article 781  of the Civil Code.

**Article 3.**

**TERM OF THE AGREEMENT**

The Agreement is concluded for a fixed period of **48 months** from the date of its conclusion (the date indicated in the recitals of the Agreement) or until the amount of the maximum remuneration referred to in Article 4(1) of this Agreement is exhausted, whichever occurs first. The Contracting Authority shall be entitled to submit Orders until the end of the term of the Agreement (even if the date of execution and the date of payment fall after the termination of the Agreement), and the execution of the submitted Orders shall take place within the time limit specified in Article 2(1) of the Agreement.

**Article 4.**

**REMUNERATION**

1. The maximum remuneration of the Economic Operator for the performance of this Agreement shall not exceed the amount of [.............................]. *[currency to be supplemented in accordance with the tender]* (in words: ……………………………………………………………….. *[currency to be supplemented in accordance with the tender]*) net, plus value added tax, i.e. a total of [……………………….] *[currency to be supplemented in accordance with the tender] (in words: ………………) [currency to be supplemented in accordance with the tender]* gross. / *or in the case of foreign EU contractors: ….... net …………. (in words: .............)- according to Polish legislation VAT shall be paid by the Contracting Authority in accordance with the regulations on tax on goods and services / or in the case of foreign Economic Operators from third countries: net ............. (in words:………….) – in accordance with the applicable legislation, customs duty and VAT shall be paid by the Contracting Authority\*[[1]](#footnote-2).*
2. The Contracting Authority stipulates that the guaranteed value that the Contracting Authority will use during the term of the Agreement is 20 % of the gross remuneration of the Agreement. The subject of the Agreement shall be performed on the basis of orders placed by e-mail by the authorised person in accordance with the Agreement. The remaining 80 % of the gross remuneration under the Agreement may be used as required by the Contracting Authority under the option clause, many times, according to the Contracting Authority's needs. The right of option shall be exercised on the basis of a declaration of intent by the Contracting Authority (in writing, by e-mail or in electronic form bearing a qualified electronic signature) executed by the Contracting Authority no later than by the end of the 46th month of the term of the Agreement and the Economic Operator shall be obliged to undertake its exercise under the Agreement. After the expiry of the period referred to in the preceding sentence, the option clause shall expire. The option shall be exercised on the basis of the unit prices (rates) specified in the Quotation Form and in paragraph 3 below and on the terms and conditions specified in the Agreement. Failure to exercise the right of option by the Contracting Authority shall not give rise to any claim on the part of the Economic Operator against the Contracting Authority.
3. Subject to further provisions of this Agreement, the Economic Operator's remuneration for the properly performed subject of the Agreement detailed in the CSD shall be payable in the amount resulting from the Services actually performed by the Economic Operator and the unit price specified in the Quotation Form forming part of the Economic Operator's tender submitted in the Procedure, constituting Appendix 3 to the Agreement and being an integral part thereof. The prices quoted are lump sum prices and shall not be subject to change during the term of the Agreement.
4. The Economic Operator shall execute Orders on the basis of the lump-sum prices specified in the Quotation Form in accordance with the demand.
5. Each time, the remuneration referred to in paragraph 3 shall be payable upon completion of the activities specified in the CSD, on the basis of invoices issued by the Economic Operator, in the amount resulting from the Acceptance Report. The Parties agree that the figures indicated in the CSD for both the number of orders and the number of hours provided and the number of pieces of each item from the CSD are maximum figures and, subject to paragraph 2 of this Article, the Contracting Authority shall have the discretion to grant the Economic Operator both the number of orders and the number of hours provided and the number of pieces, depending on its needs.
6. Within the maximum remuneration referred to in paragraph 1 of this Article, the Contracting Authority may – without amending this Agreement – make transfers between the maximum limits of the titles, referred to in the Quotation Form, up to 100% of the value of the item from the title from which the transfer is made to another title specified in the Quotation Form. The changes referred to in the preceding sentence may not cause the maximum value of the Agreement referred to in paragraph 1 of this Article to be exceeded.
7. Each time the Economic Operator issues an invoice, the invoice shall be based on an Acceptance Report signed by the Contracting Authority (unqualified Acceptance Report, referred to in Article 2(10) of this Agreement, whose model is attached as Appendix 4 to this Agreement.
8. The remuneration shall be payable on the basis of a correctly issued invoice, within 30 days of its delivery to the Contracting Authority.
9. The remuneration shall be paid by bank transfer to the Economic Operator's bank account indicated on the invoice.
10. The date of payment shall be the date on which the Contracting Authority's bank account is debited.
11. Subject to paragraph 12 of this Article, the remuneration for the provision of the Services covered by this Agreement, as referred to in paragraphs 1 and 3 of this Article, shall be a lump sum remuneration already including all costs and expenses to be incurred by the Economic Operator for the provision of such Services. This remuneration shall also include in particular: monitoring of official time limits and official fees, correspondence with patent offices and foreign law firms representing the invention in the national phase before the patent office, as well as any necessary translations. The Contracting Authority requires that the documents submitted thereto be translated into Polish or English, even if they are submitted in another language before the competent authorities, offices or courts.
12. In the event that the Economic Operator is required to incur reasonable expenses for official fees in connection with the provision of Services that are the subject of the Agreement, the Contracting Authority shall reimburse the Economic Operator for the equivalent of such fees, provided that they are necessary for the performance of the Service (order) and are duly documented.
13. The Economic Operator shall only be entitled to remuneration for the activities actually performed that are the subject of the Agreement.
14. In addition to the remuneration referred to in paragraphs 1 and 3 of this Article and subject to paragraph 12, the Contracting Authority shall not be obliged to pay any amounts to the Economic Operator, including, in particular, amounts relating to the payment of expenses, losses, costs, lost profits or claims or translations incurred by the Economic Operator.
15. In the event that the Agreement expires due to the expiry of its term or its early termination and the full amount of the maximum remuneration referred to in paragraph 1 of this Article is not used, the Economic Operator shall not be entitled to claim payment of the resulting difference.
16. The Economic Operator declares that it is an active payer of goods and services tax and its tax identification number is [.....................].
17. The Contracting Authority declares that it is an active payer of goods and services tax and its tax identification number (NIP) is 8943140523.
18. The remuneration shall be paid to the Economic Operator, provided that, where required by law[[2]](#footnote-3), the bank account indicated in the invoice is entered into the list of entities registered as VAT payers, not registered and deleted from and restored to the VAT register kept by the Head of the National Fiscal Administration (the so-called “VAT Payers’ White List”) (hereinafter referred to as the “VAT White List”). In the event that the bank account indicated in the VAT invoice is not entered in the VAT White List, the Economic Operator authorises the Contracting Authority to withhold payment of the remuneration until a VAT invoice is issued that includes the bank account entered in the VAT White List.
19. Where the remuneration should be paid using a split payment mechanism, based on the applicable legislation, the Economic Operator undertakes to include the words “split payment mechanism” on the VAT invoice, if the legislation so provides and applies to the Economic Operator.
20. If, in accordance with legal regulations, the remuneration should be paid using the split payment mechanism and the Economic Operator fails to include the note referred to in paragraph 19 of this Article in the VAT invoice, the Economic Operator authorises the Contracting Authority to withhold the remuneration until the VAT invoice has been correctly issued. If, in accordance with legal regulations, the remuneration should be paid using the split payment mechanism, the Contracting Authority may also pay the remuneration using the split payment mechanism, regardless of whether the Economic Operator has included the note referred to in the paragraph above.
21. The Contracting Authority, as a recipient, accepts the use of electronic invoices by the Economic Operator, which should be sent to the Contracting Authority's address:
e-faktury@port.lukasiewicz.gov.pl and to the address of the person indicated in Article 9(2)(1) of this Agreement.
22. The Contracting Authority declares that it has the status of a large enterprise within the meaning of the Act of 8 March 2013 on countering excessive delays in commercial transactions or Appendix 1 of the Commission Regulation (EU) No 651/2014 of 17 June 2014.
23. The Economic Operator declares that as at the date of conclusion of the Agreement it has the status of a micro/small/medium/large enterprise[[3]](#footnote-4) within the meaning of the Act of 8 March 2013 on countering excessive delays in commercial transactions or Appendix 1 of the Commission Regulation (EU) No 651/2014 of 17 June 2014.
24. If in accordance with the applicable legislation an obligation arises to collect, upon payment of the Economic Operator's remuneration, a lump-sum tax (so-called withholding tax), such tax shall be collected by the Contracting Authority from the Economic Operator's funds and the Economic Operator shall bear the burden thereof.
25. If the Economic Operator is a foreign entity (registered office outside the territory of the Republic of Poland), the Economic Operator shall submit, at the request of the Contracting Authority, a certificate of residence, and if the Economic Operator fails to submit such a certificate, the Economic Operator agrees that the Contracting Authority shall apply, for the purposes of its tax settlements, the tax rules resulting from the Polish tax regulations, with the exclusion of any preferences related to the application of the relevant double taxation treaty.
26. The Economic Operator who is a non-resident (registered office outside the territory of the Republic of Poland) shall submit a statement that it does not conduct its business activity through a foreign establishment or permanent place of business located in the territory of the Republic of Poland (the receivables received are not related to the activity of such an establishment or place of business) at each request of the Contracting Authority.
27. The Economic Operator who is a non-resident (registered office outside the Republic of Poland) shall submit a statement that it is the actual owner of the receivables for the performance of the Service within the meaning of Article 4a(29) of the Corporate Income Tax, which shall include the content of this provision and the Contracting Authority's right to request additional documents justifying the truthfulness of this statement. The Economic Operator shall provide such a statement whenever requested to do so by the Contracting Authority.

**Article 5.**

**CONFIDENTIALITY AND BUSINESS SECRECY**

The Parties shall maintain confidentiality under the terms of the non-disclosure agreement attached as Appendix 7 to the Agreement.

**Article 6.**

**TERMINATION OF THE AGREEMENT**

1. The Contracting Authority has the right to terminate the Agreement or a given Order with immediate effect in the following cases:
2. if the Economic Operator's personnel assigned to perform the Agreement lose the authorisations referred to in Article 1(4) or Article 1(5) or Article 1(9) of this Agreement, as a result of which the performance of the Agreement will be impossible or significantly hindered;
3. if the Economic Operator fails at least twice to meet any of the time limits set out in Article 2(1) to (6) of this Agreement;
4. in the event of improper performance of the subject of the Agreement by the Economic Operator, i.e. non-compliance with the subject of the order as specified in the CSD, if the Economic Operator is called upon to cease the infringements within a period of not less than 7 calendar days from the date of receipt of the call but fails to cease the infringements;
5. in the event of delay by the Economic Operator in the execution of a given order by at least 14 days in relation to any time limit set out in Article 2(1) to (6) of this Agreement, resulting from legislation or determined by the competent patent office.
6. In the case referred to in paragraph 1 above, the Economic Operator may only demand compensation due for the execution of part of the Agreement until its termination.
7. Notwithstanding the termination rights referred to in this Article, the Contracting Authority shall be entitled to terminate the Agreement or the Order for valid reasons (pursuant to Article 746(3) of the Civil Code) with immediate effect. By valid reason, the Parties mean in particular the lack of materials for the Services from the Research Teams or the termination of the WIB programme. In such a case, Article 4(2) of the Agreement shall apply, if the guaranteed 10% of the gross remuneration for the Economic Operator has not been used by the date of termination of the Agreement, the Contracting Authority shall guarantee payment of the remuneration at the aforementioned level, unless a valid reason lies with the Economic Operator.

**Article 7.**

**CONTRACTUAL PENALTIES**

1. In the event that the Economic Operator fails to meet the time limit for the performance of any Service that is the subject of this Agreement, the Contracting Authority may charge the Economic Operator a contractual penalty of 0.1% of the gross remuneration referred to in Article 4(1) of this Agreement for each commenced day of delay.
2. In the event of termination or withdrawal from the Agreement by the Contracting Authority for reasons attributable to the Economic Operator, the Contracting Authority shall be entitled to demand from the Economic Operator payment of a contractual penalty amounting to 10% of the gross remuneration referred to in Article 4(1) of this Agreement.
3. In the event of a breach of any provision of Article 5 of this Agreement, the Economic Operator shall be liable to pay a contractual penalty of 10% of the gross remuneration referred to in Article 4(1) of this Agreement for each breach.
4. If a member of the Economic Operator's personnel is late in attending a working meeting/online meeting with a representative of the Contracting Authority, the Contracting Authority shall be entitled to require the Economic Operator to pay a contractual penalty amounting to 0.1% of the gross remuneration referred to in Article 4(1) of this Agreement for each commenced hour of such person's lateness, but not more than 2% of the gross remuneration referred to in Article 4(1) of this Agreement for one meeting.
5. In the event that the Services covered by the Agreement are provided by a person who does not possess the qualifications required by the Contracting Authority for this purpose, the Contracting Authority shall have the right to require the Economic Operator to pay a contractual penalty amounting to 2% of the gross remuneration referred to in Article 4(1) of this Agreement for each case of breach.
6. In the event of failure to provide confirmation of the Economic Operator's third-party liability insurance referred to in Article 10(1) and (2) of this Agreement within the time limit indicated therein, the Contracting Authority shall be entitled to require the Economic Operator to pay a contractual penalty amounting to 0.2% of the gross remuneration referred to in Article 4(1) of this Agreement for each day of delay.
7. In the event of non-payment or untimely payment by the Economic Operator of the remuneration due to subcontractors, the Contracting Authority shall be entitled to require the Economic Operator to pay a contractual penalty amounting to 5% of the gross remuneration referred to in Article 4(1) of this Agreement for each case of breach.
8. The Contracting Authority is entitled to deduct the contractual penalties due to the Contracting Authority from the payments due to the Economic Operator, to which the Economic Operator agrees.
9. Contractual penalties may be aggregated on various grounds, but the maximum amount of contractual penalties payable under this Agreement may not exceed 20% of the maximum gross value of the Agreement as defined in Article 4(1) of this Agreement.
10. The Contracting Authority shall be entitled to claim compensation under the general rules in excess of the contractual penalties charged.

**Article 8.**

**AMENDMENT OF THE AGREEMENT**

1. Unless the content of this Agreement indicates otherwise, all changes and additions to the provisions of the Agreement shall be in writing under pain of nullity, with the proviso that material changes to the provisions of the Agreement in relation to the content of the tender on the basis of which the Economic Operator was selected shall be prohibited.
2. Pursuant to Article 455(1)(1) of the Act of 11 September 2019. – Public Procurement Law, the Contracting Authority provides for amending the concluded Agreement in relation to the content of the Economic Operator's tender, in the cases indicated below:
3. with regard to the amendment of the time limit for performance of the Agreement (shortening):
4. due to stoppages and delays attributable to the Contracting Authority, which have a direct impact on the timely performance of the subject of the Agreement – by a maximum of the period of stoppages and delays,
5. as a result of actions of administrative authorities, and in particular delays in issuing required decisions, permits and approvals by administrative authorities or other entities for reasons not attributable to the Economic Operator – by a maximum period resulting from the actions of these authorities or entities,
6. due to other external causes beyond the control of the Contracting Authority and the Economic Operator, resulting in the impossibility of performing the Agreement within the originally specified time limit – by a maximum of the duration of these causes,
7. due to the extension of the time limit for the implementation of projects by the Contracting Authority or failure to obtain the planned co-financing from European Union funds;
8. reduction of the scope of the Agreement, and thus the remuneration, for reasons of an objective nature, in particular due to a material change of circumstances resulting in the performance of part or all of the subject of the Agreement not being in the public interest, which could not have been foreseen at the time of its conclusion;
9. increase or decrease the quantities (including pieces or hours) indicated in the CSD and Appendix 3 transfer them in relation to the subject categorisation indicated), within the financial resources allocated to the execution of the Agreement in question;
10. the proposed amendment to the legal provisions on tax settlements, in particular value added tax, changes to the legal provisions on the way of recording of transactions and the way in which transactions are documented.

3. Pursuant to Article 436(4)(b) of the Act of 11 September 2019 – Public Procurement Law, the Parties provide for a change in the amount of the remuneration due to the Economic Operator referred to in Article 4(1) of the Agreement, each time one of the following circumstances occurs:

1. changes in the rate of goods and services tax,
2. changes in the amount of the minimum wage established on the basis of the minimum wage legislation,
3. changes to the social insurance or health insurance coverage rules or the rate of contribution to the social or health insurance,
4. changes to the rules for the collection and amount of contributions to occupational capital plans

- on the terms and in the manner set out in paragraphs (4)-(10) of this Article, if these changes affect the Economic Operator's costs of performing the Agreement.

4. The change of the amount of remuneration due to the Economic Operator on grounds referred to in paragraph 3(1) of this Article shall apply exclusively to the part of the subject of the Agreement remaining to be performed, in accordance with the time limits specified in the Agreement, after the date of entry into force of the legal provisions amending the rate of VAT and exclusively to the part of the subject of the Agreement to which the amendment to the rate of VAT shall apply.

5. In the event of the change referred to in paragraph 3(1) of this Article, the value of the net remuneration shall not change and the value of the gross remuneration shall be calculated on the basis of the new legal provisions.

6. The change of the amount of remuneration on grounds referred to in paragraph 3 (2) or (3) or (4) of this Article shall include only that part of the remuneration due to the Economic Operator in relation to which there has been a change in the amount of the costs of performance of the Agreement by the Economic Operator in connection with the entry into force of the provisions respectively changing the amount of the minimum wage or making changes in the principles of being subject to social insurance or health insurance or the principles of collecting and the amount of payments to occupational capital plans.

7. In the case of the change referred to in paragraph 3(2) of this Article, the remuneration of the Economic Operator shall be changed by the amount corresponding to the increase of the Economic Operator's cost due to the increase of the remuneration of the employees providing the Services to the amount of the currently binding minimum wage, including all public and legal charges on the amount of the increase of the minimum wage. The amount corresponding to the increase in the Economic Operator's cost shall relate exclusively to the part of the remuneration of the employees providing the Services referred to in the preceding sentence corresponding to the extent to which they perform work directly related to the performance of the subject of the Agreement.

8. In the event of a change referred to in paragraph 3(3) or 3(4) of this Article, the remuneration of the Economic Operator shall be changed by an amount corresponding to the change in the Economic Operator's cost incurred in connection with the payment of remuneration to the employees providing the Services. The amount corresponding to the change in the Economic Operator's cost shall relate exclusively to the part of the remuneration of the employees providing the Services referred to in the preceding sentence corresponding to the extent to which they perform work directly related to the performance of the subject of the Agreement.

9. In order to make the change referred to in paragraph 3 of this Article, the Economic Operator may apply to the Contracting Authority for a change in the amount of the remuneration due to the Economic Operator, together with a justification containing, in particular, a detailed calculation of the total amount by which the Economic Operator's remuneration should be changed, and indication of the date from which a change in the amount of the costs of performance of the Agreement justifying a change in the amount of the remuneration due to the Economic Operator has occurred or will occur.

10. In the event of changes referred to in paragraph 3(2), (3) or (4) of this Article, the Economic Operator shall be obliged to enclose to its request appropriately anonymized documents (without personal data of employees) that will show to what extent these changes affect the costs of performance of the Agreement, in particular:

1. a written salary statement (both before and after the change) of the employees providing the Services, together with an indication of the scope (full time or part time) in which they perform work directly related to the performance of the subject of the Agreement and the part of the remuneration corresponding to that scope – in the event of a change referred to in paragraph 3(2) of this Article,
2. a written salary statement (both before and after the change) of the employees providing the Services, together with the amounts of contributions paid to the Social Insurance Institution/Agricultural Social Insurance Fund in the part financed by the Economic Operator, together with an indication of the scope (full time or part time) in which they perform work directly related to the performance of the subject of the Agreement and the part of the remuneration corresponding to that scope – in the event of a change referred to in paragraph 3(3) of this Article,
3. a written salary statement (both before and after the change) of the employees providing the Services, together with the amounts of contributions to occupational capital plans in the part financed by the Economic Operator, together with an indication of the scope (full time or part time) in which they perform work directly related to the performance of the subject of the Agreement and the part of the remuneration corresponding to that scope – in the event of a change referred to in paragraph 3(4) of this Article,
4. During the term of the Agreement, the Parties shall allow for a change in the Economic Operator's remuneration referred to in Article 439(1) of the Act of 11 September 2019 – Public Procurement Law, in the event of a change in the costs associated with the performance of the Agreement, on the terms set out in paragraphs 12-17 below.
5. The Contracting Parties shall be entitled to demand a change in the amount of remuneration in the event of a change of at least 5% in the costs of performing the contract. A change shall be understood as an increase or decrease in costs or materials, relative to the costs or materials assumed for the purpose of determining the Economic Operator's remuneration for the provision of the Services under the Agreement, as contained in its tender. Costs or materials which will in particular form the basis for a change in the remuneration are the following: an increase in the cost of travel, accommodation, courier services, telephone calls, office supplies or internet fees, included in the calculation of the tender price and beyond the control of the Economic Operator.
6. The Party requesting a change in remuneration shall be obliged to provide a detailed calculation of the costs underlying the calculation of the remuneration contained in the tender and to provide a calculation of those elements which have increased/decreased.
7. An increase in the costs of performance of the Agreement shall not be the grounds for requesting a change in remuneration if it is caused by the Economic Operator's method of operation (e.g. an increase in costs related to a change in the Economic Operator's tariff plan – with regard to telephone subscription costs or a change in the means of transport from cheaper to more expensive – with regard to travel costs).
8. In the event of circumstances justifying a change in remuneration, the Party requesting the change shall apply to the other Party for a change in remuneration with an indication and detailed documentation of such change. If the ground for the change is established, the new remuneration shall take effect from the next month following the month in which the Party has made a justified request for the change, which has been accepted by the other Party. Acceptance of the change request should take place within a maximum of 7 working days of receipt of the complete request, together with justification and relevant calculations.
9. Either Party may request a change in remuneration no more than once per calendar year of the term of the Agreement.
10. The total increase or decrease in the amount of remuneration as a result of the circumstances referred to in paragraphs 11-16 of this Article, during the entire term of the Agreement, shall not exceed 10% of the gross value of the Agreement referred to in Article 4(1) of this Agreement.
11. The Economic Operator, whose remuneration has been changed pursuant to paragraphs 11-17 above, shall be obliged to change the remuneration payable to the subcontractor performing this Agreement with whom the Economic Operator has entered into a contract to the extent corresponding to changes in the prices of costs or materials relating to the subcontractor's obligation, within a period of no more than 1 month from the change of the Economic Operator's remuneration if the term of the contract entered into with the subcontractor exceeds 12 months.

**Article 9.**

**EXCHANGE OF INFORMATION AND PERSONS RESPONSIBLE FOR PERFORMANCE OF THE AGREEMENT**

1. Any declarations and correspondence addressed to either Party under the Agreement or related to the Agreement, which cannot be communicated to the other Party in electronic form, should be delivered in person, sent by post or courier to the Party which is the addressee at the address specified in the Agreement or at the address indicated in writing for the purpose of sending the correspondence.
2. The following persons shall be responsible for the performance of the Agreement:
	1. on behalf of the Contracting Authority:

[……………………..], e-mail: […………………………….], tel. […………………………]

* 1. on behalf of the Economic Operator:

[……………………..], tel. [………………….], e-mail: [……………………….]

1. The persons indicated in paragraph 2 of this Article shall be authorised to perform the activities under the Agreement, including the transmission of the Service Orders and the signing of the Service Acceptance Report, but shall not be authorised to amend or terminate the Agreement (including the Appendices thereto), without separate authorisation.
2. Each Party may notify the other Party in writing or by e-mail of a change in the above persons or data. A change of data or persons does not constitute an amendment to this Agreement and no annexation is required.

**Article 10.**

**ECONOMIC OPERATOR'S INSURANCE**

1. The Economic Operator undertakes to hold, throughout the term of the Agreement, a valid third-party liability insurance contract in respect of its activities related to the subject of the contract for the amount of EUR 1,000,000 (in words: one million euros) (covering at least the territory of the European Union and the United States).
2. Whenever requested by the Contracting Authority, the Economic Operator shall submit a document confirming the civil liability insurance referred to in paragraph 1 above, together with the proof of payment of the premium, within the time limit specified by the Contracting Authority, but no longer than 3 working days from receipt of such request.

**Article 11.**

**FORCE MAJEURE**

1. Force majeure shall mean an event beyond the Party's control, occurring after the signature of the Agreement, unforeseeable, extraordinary, impossible to prevent, preventing rational performance by one of the Parties of its obligations. Such events include, in particular: wars, riots, terrorist attacks, revolutions, fires, transport embargoes, announced general strikes in relevant industries, natural disasters.
2. If a situation of force majeure arises, the affected Party shall immediately notify the other Party of its occurrence and reasons in writing.
3. The completion dates agreed in the Agreement may be extended by a reasonable period of time if the completion of the Economic Operator's or Contracting Authority's obligations under the Agreement is delayed due to force majeure, upon the written agreement of the Parties. In determining the reasonable period, the ability of the defaulting Economic Operator to restart performance under the Agreement and the Contracting Authority's interest in receiving performance despite the delay shall be taken into account. If the performance of the Agreement is impossible due to force majeure for a period exceeding 15 working days, the Parties shall use their best endeavours to agree new time limits for its performance.
4. Neither Party shall be liable for non-performance or delay in performance of its obligations under the Agreement due to force majeure. Failure of one Party to perform its obligations due to force majeure shall relieve the other Party of its reciprocal obligations.

**Article 12.**

**Subcontracting**

1. Should the Economic Operator intend to entrust the performance of even a part of the contract to subcontractors, the Economic Operator shall immediately notify the Contracting Authority of this fact in writing or by e-mail at each stage of the Agreement by providing the name, contact details and representatives of the subcontractor.
2. If part of the contract is entrusted to subcontractors, the Economic Operator undertakes to coordinate the work carried out by such entities and shall be liable to the Contracting Authority for proper performance of the subject of the Agreement.
3. Should the Contracting Authority become aware of the performance of the contract by subcontractors not notified to the Contracting Authority by the Economic Operator, the Contracting Authority may order the discontinuation of the Agreement until the matter is clarified. Discontinuation of the Agreement for this reason shall not constitute grounds for the Economic Operator to request an extension of the term of performance of the Agreement.
4. The subcontract may not contain provisions shaping the rights and obligations of the subcontractor, in terms of contractual penalties and provisions concerning the terms of remuneration payment, in a manner less favourable to it than the rights and obligations of the Economic Operator, shaped by the provisions of this Agreement.

**Article 13.**

**Copyright**

1. Should Works within the meaning of the Act of 4 February 1994 on copyright and related rights be created as part of the performance of this Agreement, it is the mutual intention of the Parties that the State Treasury – the minister competent for science and higher education, for and on behalf of which the Contracting Authority acts, acquires under this Agreement, for the remuneration referred to in Article 4(1), all intellectual property rights to all such Works created in connection with the performance of this Agreement, without territorial and time limitations. Whenever reference is made to the transfer of author’s economic rights, the granting of consents, approvals or authorisations to the Contracting Authority, the Parties unanimously agree and acknowledge that the Contracting Authority under this Agreement acts for and on behalf of the State Treasury – the minister competent for science and higher education.
2. As part of the remuneration referred to in Article 4(1), the Parties hereby confirm that, in accordance with paragraph 1, the Contracting Authority acquires, on behalf of and for the benefit of the State Treasury – the minister competent for science and higher education – without any territorial and time limitations – the entirety of the author’s economic rights to all Works within the meaning of Article 1 of the Act of 4 February 1994 on copyright and related rights, created in connection with the performance of the Agreement (regardless of their form of expression), in all fields of exploitation known on the day of the transfer of the aforementioned rights, including in particular the fields of exploitation indicated in Article 50 of the Act on copyright and related rights, i.e.:
3. within the scope of fixing and reproduction – production of copies of Works created in the course of the performance of the subject of the Agreement by any technique, including printing, reprography, magnetic recording and digital technique, as well as for introduction of the compilation into computer memory;
4. within the scope of trading the original or the copies on which the Works have been fixed – placing on the market, letting for use or rental of the original or copies;
5. within the scope of distribution of the Works other than specified in item 2 – public performance, exhibition, screening, as well as making the Works available to the public in such a way that everyone can have access thereto in a place and at a time chosen by themselves, introduction into computer memory, the Internet and Intranet, etc.,
6. in respect of the use of the Works in accordance with their intended purpose, in particular the use for the purposes of projects in progress, proceedings and making them available to third parties in every possible form and manner required by the obligations and for the purposes of the Virtual Research Institute
7. The Economic Operator represents and warrants to the Contracting Authority that it shall own all intellectual property rights in the Works and therefore represents and warrants that the Works shall not infringe any intellectual property rights of third parties or be encumbered by third-party rights preventing or hindering the Contracting Authority's use of the Works under the terms of this Agreement and in accordance with the purpose of this Agreement. The Economic Operator undertakes to remedy any damage that the Contracting Authority may suffer or for which the Contracting Authority may become liable, or which the Contracting Authority may be required to remedy, as a result of misrepresentations made by the Economic Operator as to its intellectual property rights.
8. With regard to the Works referred to in paragraphs 1 and 2, the Parties hereby agree that the acquisition of author’s economic rights shall take place upon acceptance of the Work, and in particular upon making the Work available to the Contracting Authority in any way.
9. In the event that legitimate claims are made against the Contracting Authority or the State Treasury – the minister competent for science and higher education for infringement of the rights referred to in paragraph 3 above, the Economic Operator shall indemnify the Contracting Authority or the State Treasury – the minister competent for science and higher education from any liability resulting from the above infringements, and in the event that legal proceedings are initiated against the Contracting Authority for the above infringements, the Economic Operator shall join the proceedings as a party or, if this is not possible, as an outside intervener, and shall reimburse the costs incurred, including the costs of legal assistance.
10. The acquisition of the author’s economic rights in the Works, the granting of permits, authorisations and declarations referred to in this Agreement shall take place, within the framework of the remuneration set out in the Agreement, 5% of which shall be the remuneration in this respect as soon as the Work has been made available to the Contracting Authority in any manner and form, without the need for additional declarations.
11. The Economic Operator agrees that the Works may be modified or changed, also by other entities acting on behalf of the Contracting Authority or as commissioned by the Contracting Authority, as well as by entities for and on behalf of whom the Contracting Authority performs this Agreement.
12. The Economic Operator declares that it allows the disposal and use of the compilation of the Work and the exercise of other derivative rights, and authorises the exercise of derivative rights in the Work.
13. The Economic Operator undertakes that the creators of the Works will not exercise any moral copyrights in the Works and will obtain the granting of authorisation to exercise these rights by the Contracting Authority, as well as an undertaking not to carry out copyright supervision.
14. Upon transfer of the author’s economic rights in the Works, ownership of the copies on which the Works have been recorded shall pass to the Contracting Authority. Upon the transfer of the author’s economic rights in the Works, the authorisations, rights and permissions to the Works specified in this paragraph are also granted.
15. The Economic Operator shall, if necessary, at any request of the Contracting Authority, submit a separate declaration concerning the transfer of copyright, the granting of consents, permissions and authorisations to the State Treasury – the minister competent for science and higher education.

**Article 14.**

**FINAL PROVISIONS**

1. For the purposes of this Agreement, ‘working days’ shall mean days from Monday to Friday, excluding public holidays in the territory of the Republic of Poland.
2. Any transfer by the Economic Operator of claims under this Agreement to third parties shall only be permitted with the prior written consent of the Contracting Authority.
3. The Contracting Authority hereby provides the Economic Operator and the Economic Operator's employees and collaborators with the information clause referred to in the Article 13(13) and (14) of the Regulation of the European Parliament and of the Council (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). The information form regarding the rules of processing personal data by the Contracting Authority constitutes Appendix 5 to the Agreement. The Economic Operator undertakes to perform the information obligation on behalf of the Contracting Authority.
4. The invalidity of any provision of the Agreement shall not affect validity of the remaining provisions thereof.
5. To the extent not covered by this Agreement, the provisions of Polish law shall apply, in particular the Act of 11 September 2019 – Public Procurement Law, the Act of 23 April 1964 – Civil Code, the Act of 11 April 2001 on Patent Attorneys and other generally applicable laws.
6. Any disputes that may arise in connection with performance of the Agreement shall be resolved by the court of competent jurisdiction for the registered office of the Contracting Authority.
7. *The Agreement has been drawn up in two counterparts, one for the Contracting Authority and one for the Economic Operator/ The Agreement has been drawn up in one copy in electronic form with qualified electronic signatures[[4]](#footnote-5).*
8. The following appendices constitute an integral part of the Agreement:

1) Appendix 1 – Description of the Subject of the Contract (Contract Subject Description, CSD);

2) Appendix 2 – Specification of Essential Terms of Contract (the Terms of Reference, ToR);

3) Appendix 3: Economic Operator's Tender form (and Quotation Form;

4) Appendix 4 – Model Acceptance Report;

5) Appendix 5 – Contracting Party's GDPR clause;

6) Appendix 6 – The list of Economic Operator's personnel assigned to perform the Agreement;

7) Appendix 7 – Non-Disclosure Agreement (NDA).

**The Contracting Authority: Economic Operator:**

Appendix 4 to Agreement no …………..

Wrocław, date: ……………..

**Acceptance report (case no. ….)**

Done by and between:

**Sieć Badawcza Łukasiewicz – PORT Polski Ośrodek Rozwoju Technologii (Łukasiewicz Research Network – PORT Polish Centre for Technology Development)** with its registered office in Wrocław hereinafter referred to as the **Contracting Authority**

and **Name of law firm** with its registered office at....................., hereinafter referred to as **the Economic Operator**

1. As of ........................, the Economic Operator is handing over the subject of the Agreement in the form of:
2. The Contracting Authority declares that as of ..............................................

a) accept the subject of the contract without reservation
b) does not accept the subject of the contract1

Reasons for not accepting the subject of the contract2

**The Contracting Authority The Economic Operator**

…………………………………… …………………………………………

1 Delete not applicable
2 To be filled in if the subject of the contract is not accepted

Appendix 5 to Agreement no. …………..

**INFORMATION CLAUSE PERTAINING TO PROCESSING OF PERSONAL DATA BY ŁUKASIEWICZ – PORT**

**AS THE CONTRACTING AUTHORITY FOR THE PURPOSES OF PROCEEDINGS BASED ON THE PROVISIONS OF THE PUBLIC PROCUREMENT LAW**

**Re: CONTRACT UNDER THE TITLE**

**“Provision of patent attorney services for Łukasiewicz – PORT within the Virtual Research Institute”.**

Pursuant to Art. 13 and Art. 14 of the Regulation of the European Parliament and of the Council (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (so called General Data Protection Regulation) (‘**GDPR**’) and Art. 19 of the Public Procurement Law Act, the Contracting Authority (Controller) informs that:

1. The Controller of the personal data provided to the Contracting Authority within the framework of the present procedure is (contact details): Sieć Badawcza Łukasiewicz – PORT Polski Ośrodek Rozwoju Technologii (Łukasiewicz Research Network – PORT Polish Centre for Technology Development) with its registered office in Wrocław, at ul. Stabłowicka 147, 54-066 Wrocław, KRS: 0000850580; NIP:8943140523; biuro@port.lukasiewicz.gov.pl (‘**Controller**’).
2. The Controller has appointed a Data Protection Officer (‘**DPO’**). Contact with the DPO: iod@port.lukasiewicz.gov.pl Feel free to contact us in all matters concerning the processing of your data.
3. Information specific to the processing of data in your case:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Whom the processing concerns** | **Personal data acquisition methods** | **The legal basis for the personal data processing** | **Processed personal data** | **The purposes of personal data processing** | **Personal data processing duration** |
| The Economic Operator (Procedure Participant), persons who represent it, its attorneys and representatives through whom it acts in the procedure, supervisory bodies, etc., and other persons indicated by the Economic Operator (Procedure Participant) in the tender and other documentation submitted to the Contracting Authority | From you (it is you who provides the Contracting Authority with your personal data; it may happen that we receive your data from your employer or counterparty as part of its tender or application in the procedure) | Article 6(1)(c) of the GDPR in conjunction with the provisions of the Public Procurement Law (in the case of data on convictions – in conjunction with Article 10 of the GDPR)In the alternative: Article 6(1)(b) of the GDPR – the data are required to meet your request for consideration of the tender/application by the Contracting Authority, and you are seeking to obtain a positive outcome for you in the procedure. Failure to provide the data makes it impossible to meet the request. | Any personal data that you provide in the course of this public procurement procedure or any other such procedure under the Public Procurement Law. This may include in particular: name, surname, PESEL (Personal Identification Number), date and place of birth, information about your experience and occupation, qualifications, convictions, addresses of residence, contact details | Conducting a public procurement procedure (or other appropriate procedure) based on the provisions of the Public Procurement Law, specifically indicated in the documentation to which this information clause is attached | As a rule – 4 (four) years from the date of completion of the public contract award procedure, but for no less than the term of the contract concluded as a result of the procedure (Article 78 of the Public Procurement Law). |
| Persons concluding a contract as a result of the award of a public contract and whose data are indicated in such a contract on the part of the selected economic operator | Ibid | Ibid | Name, surname, contact addresses, position, telephone number, e-mail address; possible also: NIP, REGON. | Conclusion and performance of a contract as a result of the award of a public contract | as above, however, not less than until the prescription of all claims under the contract in question and the resolution of the claims asserted |
| Persons not expressly indicated in the Agreement but performing the Agreement on behalf of the Economic Operator (e.g. persons actually performing installation work for the purchased equipment on the Controller's premises) or persons indicated in the Agreement and performing the Agreement on behalf of the Economic Operator | From you directly or from your employer | Article 6(1)(f) of the GDPR – the Controller has a legitimate interest to know with whom it contacts in a contractual relationship, who enters its premises, in what role that person acts, etc. | Name, surname, contact addresses, position, telephone number, email address; if you carry out work on the Controller's premises: image (as part of the monitoring that you are informed about if it is applied on site) | Performance of a contract as a result of the award of a public contract | as above, however, not less than until the prescription of all claims under the contract in question and the resolution of the claims asserted |

1. Your personal data may also be processed – on the basis of the legitimate interest of the Controller (Article 6(1)(f) GDPR) for the purposes of tax settlements, financial settlements, etc. and for proceedings relating to claims by or against the Controller. Your personal data may also be processed – after exhausting other legal grounds – for archiving purposes, which is the legitimate interest of a state legal entity performing public tasks assigned by law using public funds, referred to in Article 6(1)(f) of the GDPR, in which case the further archiving period will not be longer than further 5 years. If the funds disbursed by the Contracting Authority in this procedure come from sources other than the Contracting Authority, it is possible that the data processing period will depend on the regulations determining the principles of settlement of such funds with a third party (financing institution).
2. If legal regulations in any scope provide for a longer data processing period, this longer period shall apply.
3. The Controller may, in accordance with the law, transfer your data further, to other recipients. This is a possibility. The recipients of your personal data may be, in particular:
4. duly authorised associates of the Controller or its service providers, to the extent necessary and reasonable, including, for example, IT, software, legal, accounting, tax, hosting, insurance service providers;
5. entities authorised to exercise statutory or contractual control or supervision over the Controller, in particular the Łukasiewicz Centre and the President of the Łukasiewicz Centre, also the competent minister;
6. other entities authorised by law to exercise supervision and control, and other entities authorised by law;
7. in the case of a relationship between you and the Controller for the purposes of subsidised scientific projects or commercialisation – a subsidising, intermediary or funding institution, etc., in particular NCBiR or NCN;
8. entities providing maintenance or support of IT systems used by the Controller, entities providing hosting services, etc.;
9. courier and postal companies etc.;
10. persons or entities to whom the documentation of the proceedings will be made available on the basis of legal provisions, including Article 18 and Article 74(1) and (2) of the PPL – for participants in the public procurement procedure.
11. Your personal data may also be potentially disclosed by way of access to public information. This may result in the transfer of personal data outside the European Economic Area.
12. The Controller uses Microsoft 365, which may result in the transfer of your personal data to a third country. The terms and conditions for the use of the Microsoft 365 Online Services and the obligations with regard to the processing and safeguarding of user data and personal data by the Online Services are set out in Microsoft's documentation.
13. With regard to your personal data, decisions will not be taken by automated means. There will be also no profiling on their basis.
14. In order to exercise your rights, please contact the Controller by e-mail at the above-mentioned contact details. You have the right:
15. to access to the personal data provided;
16. as a rule, to rectify or supplement the personal data provided. We further inform you that: the exercise of the right to rectify or supplement one's personal data by the data subject may not result in changing the outcome of the public procurement procedure or in changing the provisions of the public contract to the extent incompatible with the Public Procurement Law (Article 19(2) of the Public Procurement Law);
17. as a rule, to request the restriction of personal data processing. We would like to inform you additionally that: in a procurement procedure, the submission of a request for restriction of processing does not restrict the processing of personal data until the end of that procedure (Article 19(3) of the Public Procurement Law);
18. to lodge a complaint to the President of the Personal Data Protection Authority regarding the processing of data by the Controller;
19. as a rule, to data erasure (‘right to be forgotten’). However, we would like to inform you that the right to data erasure (right to be forgotten), to the extent designated by Article 17(3)(b), (d) or (e) of the GDPR, does not apply to you as long as the basis for the processing of your data is Article 6(1)(c) of the GDPR (it is limited due to the fact that the processing is carried out for purposes arising from the law – the Contracting Authority must process the data lawfully);
20. as a rule, to portability of personal data. However, we inform you that: this right does not apply to processing necessary for the performance of a task carried out in the public interest and is restricted in this procedure (Article 20(3) of the GDPR);
21. as a rule, to object to the processing of personal data. We further inform you that: as long as the basis for the processing of your data is Article 6(1) (c) (or alternatively: (b)) of the GDPR, you unfortunately do not have the right to object (Article 21 (1) of the GDPR);
22. to withdraw your freely given consent to processing at any time – if processing is based on the consent. The withdrawal of this consent does not affect the existing processing on this basis before the withdrawal. As a rule, in these proceedings your data will not be processed on the basis of your consent, so this right does not apply in principle.

We would like to point out that the provisions of law and the nature of proceedings conducted on the basis of the provisions of the Public Procurement Law may result, in specific cases, in further limitations to your rights. In case of any doubts, please contact the Contracting Authority's Data Protection Officer.

1. Delete as appropriate. [↑](#footnote-ref-2)
2. Applies to entities required to include a bank account number on the VAT Whitelist in accordance with the Value Added Tax Act [↑](#footnote-ref-3)
3. Delete as appropriate. [↑](#footnote-ref-4)
4. Delete as appropriate. [↑](#footnote-ref-5)