**AGREEMENT ON THE PERFORMANCE OF ACTIVITIES IN THE POSITION OF JUROR**

concluded in accordance with the provisions of Section 1746(2) of Act No. 89/2012 Sb., Civil Code, as amended (the "**Civil Code**")  
(the "**Agreement**")

# Parties

|  |  |  |
| --- | --- | --- |
| 1. **Institut plánování a rozvoje hlavního města Prahy, příspěvková organizace** | | |
| registered office: | Vyšehradská 57, 128 00 Prague 2, Czech Republic | |
| ID No.: | 708 83 858 | |
| Tax ID No.: | CZ70883858 | |
| represented by: | Mgr. Ondřej Boháč, Managing Director | |
| (the "**Client**") |  | |

and

|  |  |  |  |
| --- | --- | --- | --- |
| |  | | --- | | 1. **Cukrowicz Nachbaur Architekten ZT GmbH** | | | |
| registered office: | St. Anna-Strasse 1, 6900 Bregenz Austria | |
| ID No.: | ATU64039356 / FN 305167a   |  | | --- | |  | |  | | |
| bank details: | xxxxxxxx | |
| e-mail: | xxxxxxxx | |
| (the "**Provider**") | | |
| (the Client and the Provider jointly as the "**Parties**", and each individually as a "**Party**") | | |

# Recitals

1. The Client jointly with the City of Prague, acting on the basis of an agreement on joint public procurement within the Vltava Philharmonic Hall entered into on 10 December 2020, wishes to obtain an architectural design of the future appearance of a new music centre with multiple concert halls referred to as the “Vltava Philharmonic Hall”, and for this purpose the Client started the preparation of and intends to organise a short-list one-stage design competition pursuant to Section 146 et seq. of Act No. 134/2016 Sb., on Public Procurement, as amended (the "**PPA**"), in conjunction with the Competition Rules of the Czech Chamber of Architects (the "**Competition Rules**") (the “**Design Competition**”);
2. For the purposes of the Design Competition, the Client wishes to receive services of an expert juror of the independent part of the jury;
3. Since the Provider is prepared to provide the Client with the services requested, through the personal participation of **Mr. Andreas Cukrowicz** ("**Juror**") and the Client is ready to provide the Provider with a fee for the activities of the Juror within the Design Competition, and at the same time to provide the Juror with assistance pursuant to this Agreement;

THE PARTIES HAVE AGREED AS FOLLOWS:

# General provisions

* 1. Subject Matter of the Agreement

1. The subject matter of this Agreement is the obligation of the Provider to provide, under the conditions laid down in this Agreement, through the personal performance of Juror as a regular member or a substitute of a regular member of the independent part of the jury (as determined in the terms and conditions of the Design Competition) as the collective evaluation body in the Design Competition (the "**Jury**") and to perform activities associated with this position for the Client in the framework of the Design Competition.
2. The subject matter of this Agreement is also the obligation of the Client to provide the Provider with a fee for the performance of activities of Juror in the Jury as well as for the activity performed prior to Juror´s membership in the Jury during the preparatory stage (see below) under the conditions specified in more detail in Article 2 of this Agreement.
3. Unless otherwise specified hereinbelow, the provisions of this Agreement shall apply to the rights and obligations of the Provider in the same way, regardless of whether the Juror will hold the position of regular member of the independent part of the jury (the "**Regular Member of the Jury**") or as substitute of a regular member of the independent part of the Jury (the "**Substitute Member of the Jury**").
   1. Specification of the Provider’s obligations
4. On the basis of and under the conditions set out in this Agreement, the Provider undertakes to provide through personal performance of the Juror mainly (without limitation to) the following performance for the Client in connection with the Design Competition:

**Preparatory activities**

* to attend the constitutional meeting of the Jury (for a maximum of 1 business day);
* to participate in the deliberations regarding the terms and conditions of the Design Competition and annexes thereto, in commenting on these terms and conditions and their subsequent approval ((in the preparatory phase).

**Activities as a Jury member**

* to participate in the deliberations regarding the terms and conditions of the Design Competition and annexes thereto, in commenting on these terms and conditions and their subsequent approval (after the end of the preparatory activities);
* to take an active part in other dealings of the Jury;
* to cooperate, if necessary, with the Client or with persons designated by the Client (e.g. the organiser of the Design Competition, the secretary of the Design Competition, the examiner of competition entries) in answering questions of suppliers/participants during the Design Competition;
* to participate in the assessment of the portfolios and subsequently also in the assessment and evaluation of competition entries submitted by participants in the Design Competition;
* to provide assistance to the Client and other members of the Jury, as well as to persons designated by the Client (e.g. the organiser of the Design Competition, the secretary of the Design Competition, the examiner of competition entries), for the proper conduct of the Design Competition in accordance with the PPA and the Competition Rules;
* to participate in the Jury's decision on awards for competition entries;
* to cooperate with the Client or with persons designated by the Client (e.g. the organiser of the Design Competition, the secretary of the Design Competition, the examiner of competition entries) to ensure the drafting of documents required for the administration of the Design Competition, in particular to comment on and to finally approve minutes of the Jury's meetings and a protocol on the course of the Design Competition (these documents will be drafted by the Client or by a designated person, in particular by the organiser of the Design Competition).

1. The Provider undertakes to inform the Client and/or the organiser of the Design Competition without delay if he finds out facts indicating that he or Juror may be in a conflict of interests, biased, or that his independence could be otherwise compromised, or if he (or Juror) is in doubt.
2. A member of the Jury who has been appointed by the Client as a Substitute Member of the Jury shall perform all the above activities in a similar way as if he were a Regular Member of the Jury, with the exception of voting at meetings of the Jury. The Substitute Member of the Jury shall be entitled to vote at meetings of the Jury only if he is acting in lieu of a Regular Member of the Jury.
3. The Juror is obliged to provide the performance described above in this article of the Agreement exclusively in person.
4. The Juror is obliged to perform activities in his position in the Jury conscientiously, in good faith, in a due and timely manner, with the highest possible degree of professional care, in compliance with applicable regulations (in particular the PPA and the Competition Rules). The Client undertakes to provide the Jury with the necessary legal service in interpreting the relevant legislation and the Competition Rules.
5. The Parties have expressly agreed that the Provider and the Juror undertakes to keep confidential:
6. information, documents and records of any nature delivered by the Client or by a person designated by the Client (in particular the organiser of the Design Competition, the secretary of the Design Competition, the examiner of competition entries) to the Provider or the Juror for the purposes of performing activities in the position of the Juror under this Agreement, and information, documents and records made or provided by the Juror to the Client or to persons designated by the Client (in particular the organiser of the Design Competition, the secretary of the Design Competition, the examiner of competition entries) in connection with the performance of activities in the Juror's position under this Agreement;
7. any and all negotiations between the Client and the Provider or the Juror, and any negotiations between the Provider or the Juror and persons designated by the Client (in particular the organiser of the Design Competition, the secretary of the Design Competition, the examiner of competition entries) concerning the Design Competition, and the content of such negotiations.

For the avoidance of doubt, the Parties state that the obligation of confidentiality under this Article 1.2(6) of the Agreement shall not apply to information, documents, or records which:

1. are publicly available or known at the time of disclosure to the Provider or the Juror by the Client and/or by persons designated by the Client (in particular the organiser of the Design Competition, the secretary of the Design Competition, the examiner of competition entries) or at the time of disclosure by the Provider or the Juror to the Client and/or to persons designated by the Client (in particular the organiser of the Design Competition, the secretary of the Design Competition, the examiner of competition entries); or
2. become publicly available or known after such disclosure, in accordance with the procedure under the PPA and/or the Competition Rules in connection with the course of the Design Competition, from the moment they become so publicly available or known.
   1. Specification of the Client's obligations
3. On the basis and under the conditions set out in this Agreement, the Client undertakes in particular:

* to notify the Provider through Juror, prior to the conclusion of this Agreement, of the name list of persons authorised to communicate on behalf of the Client with the Jurors (including identification details of the organiser of the Design Competition, the secretary of the Design Contest and the examiner of the competition entries);
* to provide the Juror with assistance required for the performance of Juror’s activities;
* to create suitable conditions for the Juror to perform activities in his position;
* to pay the Provider a fee for the performance of Juror´s activities under this Agreement subject to the conditions specified more precisely in Article 2 of this Agreement.
  1. Place of performance of the subject matter of the Agreement

1. The place of performance of the subject matter of the Agreement is in particular the City of Prague in the case of physical meetings of the Jury.
   1. Communication between the Parties
2. Communication between the Client and the Provider and the Juror shall be in Czech (in case the Juror’s native language is Czech) and in English. Where this Agreement requires written form of communication between the Parties, this also means communication by means of electronic communication (with the exception of the provisions of Article 3.10(1) of the Agreement).
3. The Jury's deliberations will be conducted in Czech, with translation into English.

# Fee for the performance of the Juror’s activities

* 1. Amount of the fee for the performance of the Juror's activities

1. The Parties have agreed that for the performance of the Juror's activities in the scope of the activities defined in Article 1.2 of the Agreement, the Provider is entitled to a fee (the "**Fee**") charged for each quarter of an hour worked on the basis of fixed hourly rates.
2. The fixed hourly rate agreed between the Parties is **EUR 180** excluding VAT.
3. The rules laid down above shall apply to any and all of the activities specified in Article 1.2 of this Agreement; i.e. both to the preparatory work and to the performance of activities in the Jury. For the avoidance of doubt, the Parties expressly agree that the Provider is entitled to the Fee in accordance with the terms and conditions set out in this Agreement for the performance of preparatory work under Article 1.2 above regardless of whether they were performed prior to the execution or the effective date of this Agreement.
   1. Remuneration in addition to the Fee
4. Should the progress of the Design Competition require additional activities to be performed by the Juror beyond the scope of the activities agreed upon in Article 1.2 above, the Juror shall be obliged to cause such activities to be carried out upon the Client’s request.
5. The Client agrees to pay the Provider remuneration for activities of the Juror under paragraph 1 of this Article, in addition to the Fee, based on a time sheet indicating the hours worked at the hourly rate under Article 2.1(2) above.
   1. Payment of the fee for the performance of the Juror's activities
6. The Fee for activities performed under Article 1.2 above and/or the remuneration for activities performed under Article 2.2(1) above will be paid to the Provider on the basis of invoices to be issued by the Provider to the Client, as follows:
7. in 2021, on the basis of the Client's instruction and for activities carried out up to the time of receipt of the instruction;
8. the Provider has the right to issue the second invoice upon completion of the performance of the Juror’s activities in relation to the Design Competition after publication of the winning designs, or upon termination of the Juror’s activities in accordance with the terms set out in this Agreement, provided that the tax point for such invoice will be the date of publication of the winning designs or termination of the Juror’s activities, as applicable.
9. Before issuing an invoice, the Provider shall present to the Client a document underlying the invoice for approval. The document underlying an invoice is understood to mean the timesheet, whereas a quarter of an hour is the smallest billable unit. The Client will approve the document underlying the invoice, or will raise objections to it, within 15 days of the date of delivery of the underlying document; if the Client fails to make any comment regarding the underlying document within that time period, the document underlying the invoice will be deemed approved by the Client.
10. Any and all costs for travel time, travel, accommodation, administrative costs and other expenses are not automatically included in the consulting services. These additional costs will be summarized and be counterbalanced against the hourly rate under Article 2.1(2) above.
11. The Provider's Fee and/or the remuneration for activities performed under Article 2.2(1) above does not include Czech value added tax, which will not be added to the Fee and/ or remuneration and will be paid by the Client, if applicable, in accordance with applicable Czech law.
12. The Client agrees to pay the Fee and, where applicable, remuneration for the activities performed under Article 2.2(1) above to the Provider’s account first indicated above in this Agreement, within 30 days of delivery of an invoice under paragraph 1 of this Article. The invoiced amount shall be deemed paid on the day on which it is credited in full to the Provider's bank account referred to in this paragraph. Any complaints about the invoiced amount must be made in writing including a reviewable justification within 15 business days from the date of delivery of the invoice. If the Client fails to lodge a complaint regarding an invoice within the time period specified in the preceding sentence, the invoiced amount shall be deemed tacitly accepted by the Client upon the lapse of that time period.

# FINAL PROVISIONS

* 1. Counterparts

1. This Agreement has been drawn up in two (2) counterparts in English, each being a valid original; the Parties shall each retain one (1) counterpart of the Agreement.
   1. Governing law
2. This Agreement shall be governed by and interpreted in accordance with the law of the Czech Republic. Matters that are not covered by or do not follow from this Agreement shall be governed by the relevant provisions of the Civil Code and the PPA.
   1. Contractual Fines
3. If the Juror breaches his obligations stemming from the affidavit he made to the Client, attached as Annex to this Agreement (the “**Affidavit**”), or if the Affidavit is found to be false as at the date of signing this Agreement, the Provider agrees and undertakes to pay to the Client a contractual fine of CZK 50,000 (fifty thousand Czech crowns) for each individual event of breach of the Juror’s obligation. This clause on contractual fines does not apply to the Juror’s confidentiality obligation under the Affidavit.
4. If the Provider or the Juror breaches his confidentiality obligation under Article 1.2(6) of this Agreement, Provider agrees and undertakes to pay to the Client a contractual fine of CZK 30,000 (thirty thousand Czech crowns) for each individual event of breach of the Provider´s or the Juror’s obligation.
5. The contractual fine under this Article 3.3 shall be due and payable within 30 days of the date of delivery of the payment request to the Provider at the address first written above in this Agreement.
6. This clause on contractual fines is without prejudice to the Client’s right to claim damages as a result of the breach of the Provider´s or the Juror’s obligation in an amount exceeding the agreed-upon contractual fine for a breach of such obligation. The Parties hereby expressly preclude application of Section 2050 of the Civil Code.
   1. Force and effect of the Agreement
7. The Agreement shall enter into force on the date of its signing by both Parties and shall enter into effect on the date of its publication in the Contracts Register within the meaning of Act No. 340/2015 Sb., on special conditions for the effectiveness of certain contracts, the publication of such contracts and the contracts register (the Contracts Register Act**;** hereinafter referred to as the "**CRA**").
8. In connection with the application of the CRA the Parties have agreed as follows:
   * 1. The Agreement does not contain trade secret of any of the Parties or other information excluded from the publication obligation (except as set out below) and is qualified for publication in the Contracts Register within the meaning of the CRA, and the Parties agree to the publication of the Agreement with the exclusion of personal data of the Parties (or representatives of the Parties) such as names and contact details of the persons stated in the header of the Agreement, which will be made unreadable;
     2. In compliance with Section 5 CRA, the Client shall send to the administrator of the Contracts Register an electronic image of the text of this Agreement and its annexes in an open and machine-readable format as well as the metadata required under the CRA, by delivery to the relevant data inbox of the Czech Republic - Ministry of the interior intended for the publication of entries in the Contracts Register via an electronic form available on the public administration portal;
     3. The Client undertakes to state the Provider´s data inbox or e-mail address in the form for the publication of the Agreement in the Contracts Register, so that the administrator of the Contracts Register can send him a confirmation of publication of the Agreement pursuant to Section 5(4) CRA;
     4. The Client shall comply with the obligation set out in point (b) within the deadlines set by the CRA.
   1. Severability
9. Should any provision of this Agreement become or be identified as invalid, putative, or otherwise unenforceable, such invalidity, putativeness or unenforceability shall not affect (to the maximum extent permitted by law) the validity, existence, or enforceability of the remaining provisions of this Agreement. In such a case, the Parties agree to replace, without undue delay, an invalid, putative or unenforceable provision with a valid and enforceable provision in order to achieve, to the maximum extent possible permitted by law, the same effect and result as that pursued by the provision being replaced.
   1. Dispute resolution
10. Any dispute between the Parties arising out of or in connection with this Agreement shall be conclusively settled, unless the Parties agree otherwise, by the court of law having subject-matter jurisdiction determined in compliance with the law of the Czech Republic; the court having jurisdiction over the place of the Client's registered office shall have local jurisdiction.
    1. Exclusion of the application of certain provisions of the Civil Code
11. The Parties exclude, for this Agreement or for the conclusion of its amendment, the application of the provisions of Section 1740(3) of the Civil Code (acceptance of an offer with a derogation).
12. The Parties declare that they also exclude applicability of Section 2611 of the Civil Code (the possibility of requiring the provision of a reasonable part of remuneration) to the legal relationship established by this Agreement.
    1. Entire agreement
13. The Parties hereby declare that this Agreement constitutes the entire agreement of the Parties regarding its subject matter and supersedes any prior written or oral agreements and arrangements of the Parties in connection with this subject matter.
14. The Parties further declare that this Agreement was not concluded under duress or on unilaterally unfavourable terms.
15. The Provider declares that he has made himself conversant in detail with the obligations imposed on him by this Agreement and the consequences of any non-compliance with these obligations.
    1. Termination
16. This Agreement may be terminated only
    * 1. upon the discharge of the Parties' obligations under this Agreement;
      2. by agreement of the Parties; and
      3. by withdrawal from this Agreement by either Party for the reasons set out in the Civil Code and in this Agreement, in particular those referred to in paragraph 2 and paragraph 3 of this Article of the Agreement.
17. Client’s right to withdraw from the Agreement

The Client is entitled to withdraw from this Agreement if:

* + 1. the Provider or the Juror has breached or failed to fulfil any of his obligations under this Agreement and has not remedied such breach within a reasonable period specified by the Client in a written request for rectification delivered to the Provider, specifying the relevant breach; the period for rectification shall not be less than ten (10) business days;
    2. for any reason, the Provider or the Juror is unable to fulfil his obligations under this Agreement;
    3. the Client cancelled the Design Competition.

1. Provider's right to withdraw from the Agreement

The Provider is entitled to withdraw from this Agreement if:

* + 1. the Client defaults on the payment of the Fee or any part thereof and has not remedied such breach of its obligation within a reasonable grace period granted by the Provider;
    2. the Client has breached or failed to fulfil any of its obligations under this Agreement and has not remedied such breach within a reasonable period specified by the Provider in a written request for rectification, delivered to the Client, specifying the relevant breach; the period for rectification shall not be less than fifteen (15) business days;
    3. for any reason, the Client is unable to meet its obligations under this Agreement;
    4. the Client cancelled the Design Competition.

1. Form of withdrawal

Withdrawal from the Agreement must be made by means of a written notice of the withdrawing Party duly served on the other Party, stating the reason for withdrawing from the Agreement. The withdrawal shall take effect on the date on which the notice of withdrawal is duly delivered to the Party concerned.

* 1. Changes and amendments

1. Unless otherwise implied by this Agreement, any change to the Agreement shall be made in the form of an amendment to this Agreement and such amendment shall be made in writing and signed by the Parties' respective authorized representatives.
   1. Trade usage
2. The Parties hereby declare that, in the legal relationship established by this Agreement within the meaning of Section 558(2) of the Civil Code, the Parties do not take into consideration any trade usage and therefore trade usage shall not take precedence over statutory provisions which do not have coercive effects.

*Annex: Juror’s Affidavit*

THE PARTIES HEREBY EXPRESSLY DECLARE THAT THEY ENTER INTO THIS AGREEMENT AS A FREE ACT AND DEED, IN WITNESS WHEREOF THEY ATTACH THEIR RESPECTIVE SIGNATURES BELOW.

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| **On behalf of the Client:** | **Provider:** |
| Place: Prague  Date: | Place: Bregenz  Date: |
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| Mgr. Ondřej Boháč  Managing Director | Arch. Mag. Andreas Cukrowicz |