

CONTRACT FOR DESIGN SERVICES

No. /

According to Law 98/2016 on public procurement and according to Government Decision 395/2016 for the approval of the Norms for the application of the provisions regarding the award of the public procurement contract/framework agreement of Law 98/2016 concerning public procurement, this design services contract has been concluded between:

1. Contracting Parties

”Elie Wiesel” National Institute for the Study of the Holocaust in Romania, headquartered in Bucharest, 89 Dacia Bd, 2nd District , legally represented by Alexandru Florian – general manager, fiscal code 18098352, Treasury account RO31TREZ70220G365000XXXX opened at the Treasury of 2nd District, as **Acquirer** (“INSHR-EW” or “acquirer”)

And

_____, headquartered in _____, street _____, no _____, county _____, telephone / fax: _____, e-mail address: _____, fiscal registration code _____, no. for registration with the Trade Register _____ account opened with the Treasury _____ account of _____ guarantees of good execution _____ represented by _____, as **Provider**, (“provider”)

The Provider shall indicate as follows:

- if it is about association - entire association
- for sub-contracting - nomination for sub-contractors
- of firm commitment - commitment/commitments presentation of the supporting third party/parties

2. Definitions

In this contract the following terms shall mean:

- a) contract - this contract for consideration, assimilated, according to the law, to the administrative act, concluded in writing between the economic operators provided in art. 1 and INSHR-EW, which has as object design services provision;
- b) acquirer and provider – the contracting parties, as they are named in this contract;
- c) contract Price – the price payable to the Provider by the Acquirer under the contract for the full and proper performance of all obligations undertaken under the contract;
- d) services – activities whose performance is the subject of the contract;

- e) standards - technical or other similar specifications adopted as an international standard, European standard or national standard by a recognized standardization organisation, for repeated or continuous application, which is not mandatory or provided for in the Specifications and in the technical proposal;
- f) Force Majeure – an event beyond the control of the parties, not due to their fault or guilt, which could not have been foreseen upon concluding the contract and which renders impossible the execution and fulfilment of the contract; such events are: wars, revolutions, fires, floods or any other natural disasters, restrictions following quarantine, embargo, this listing is not exhaustive, but declarative. It is not considered force majeure an event similar to those above which, without creating an impossibility of execution, makes the fulfilment of the obligations of one party extremely expensive;
- g) Day – calendar day; Year – 365 days.

3. Interpretation

- 3.1.** In this contract, unless stated otherwise, the singular form of words shall include their plural form and vice versa, where the context so allows.
- 3.2.** The term „day” or „days” or any reference to days represents calendar days, unless specified differently.

4. Object of the Contract

4.1. The Service Provider undertakes to prepare the documentations for the „Interior Design Project of National Museum of the History of Romanian Jewry and the Holocaust: design of the permanent exhibition and of adjacent areas”.

4.2. The Service Provider undertakes to prepare and submit to the Acquirer within 365 days of signing this Contract the following documents:

- Documentation for approving the intervention works (D.A.L.I.) according to the Government Decision no. 907 of 29.11.2016;
- The documentation for the Urbanism Certificate;
- Technical Documentation for obtaining the Construction Authorization (D.A.T.C);
- Technical Project (P.T.) + Technical Documentation for Execution Organization (D.T.O.E.);
- Execution Details (D.E.);

4.3. The documentation shall be prepared in accordance with the provisions of the Government Decision no. 907 of 29.11.2016 on the preparation phases and framework - content of the technical - economic documentation related to the investment objectives / projects financed from public funds. If, during the performance of the public procurement contract, it is found that certain elements of the technical proposal are inferior or do not correspond to the requirements set out in the specifications, the provisions of the specifications shall prevail.

4.4. The documentation will be checked by certified project verifiers at all the necessary requirements. The designer undertakes to hand over the design documentation with the design verification visa / stamp to all requirements, for all applicable fundamental requirements established by the designer, according to the project.

4.5. The designer undertakes to provide technical assistance throughout the implementation of the project until receipt upon completion of the work and to obtain all approvals, agreements and building permits for the execution of works and completion of the Interior Design Project of the National Museum of Jewish History and Holocaust in Romania: design of the permanent exhibition and arrangement of the connected spaces.

4.6. The designer undertakes to draw up the final maintenance guide together with the executor of the museum arrangement works, which will include the obligatory elements provided in the specifications.

5. Contract price and methods of payment

5.1. The price for fulfilling the Contract is FERM and UNCHANGEABLE, payable to the Service Provider by the Acquirer, according to the form of final offer.

5.2. According to the proposal of the financial offer, the contract price amounts to lei (RON), plus..... lei VAT.

5.3. The Acquirer undertakes to pay the price of the services to the Provider as agreed in the present contract, after the reception of the services, according to clause 5.4. of this contract.

5.4. The payment shall be made by the acquirer for the delivered and receipt services, in lei, no later than 30 days after the receipt and acceptance of the invoices for the services delivered and receipt by the acquirer, according to the law.

5.5. The Acquirer undertakes to pay on stages, according to a performance chart:

Services	Duration as started by the tenderer (calendar days)	Amount tendered (RON VAT excluded)
Completed design services		
DALI		
Documentation for obtaining the Urbanism Certificate		
PAC+PT+DTOE		
DE		
Technical Support		

6. Duration of contract

6.1. The duration of this contract is 365 days from its signing date.

6.2. This contract ceases to have effect on the date of completion and acceptance by the Acquirer of the documentations provided for in this contract and the fulfillment of all legal obligations in connection with the design services.

7. Applicability

The Contract for the provision of services shall enter into force on its signing date by the Acquirer and the Provider.

8. Documents of contract

The documents of this contract are:

- a) Financial proposal;
- b) Technical proposal;
- c) Specifications;
- d) Good performance guarantee, if applicable;
- e) Association contract, if applicable
- f) Subcontracting contract, if applicable
- g) Other documents (if applicable).

9. Standards

The services provided under contract must comply with the standards set forth by the provider in its technical proposal and the relevant international and national standards.

10. Public character of the contract

10.1. The public procurement file is a public document.

10.2. The access to this information may be restricted if these are classified with the parties' agreement or protected by an intellectual property right according to the law.

10.3. If the confidentiality of certain clauses has been mentioned, a contracting party shall not be entitled to make known that provision without the written consent of the other party, with two exceptions:

- the contracting party had known the information before he received it from the other party or
- the contracting party was legally forced to reveal the information.

11. Intellectual Property Rights

11.1. The Provider has the obligation to indemnify the Acquirer against any:

- Related damages, costs, charges and expenses of any kind, except where such an infringement results from the compliance with the specifications made by the Acquirer.

11.2. All patrimonial copyrights and use rights on the documentation to be made by the provider under this contract are transferred to the acquirer once with the acceptance and payment thereof;

11.3. The acquirer undertakes to comply with the moral rights of the provider as related to the documentation drafted and submitted by him.

12. Responsibilities

12.1. Main responsibilities of the Provider

(1) The Provider has the obligation to provide the services contracted with professionalism and diligence due to the commitment undertaken and according to its technical proposal and specifications and in accordance with the instructions and requests of the purchaser. Any modification / change / addition to the project must be discussed in advance with the acquirer.

(2) The Provider is fully responsible for the performance of the services in accordance with the agreed schedule, in design phases. At the same time, it is in charge both for the safety of all operations and methods used, and for the qualification of the personnel used for the duration of the contract.

(3) The Provider has the obligation to supervise the provision of services, to provide human resources, materials, installations and equipment or other similar means, either temporary or definitive, required by and for the contract, to the extent their need is provided in the contract or may be inferred reasonably from the contract.

(4) The provider undertakes to obtain on behalf of the acquirer and attach to the prepared documents all necessary approvals and agreements for the achievement of the design phases that make the object of this contract. The price of the approvals and agreements shall be covered by the acquirer based on supporting documents. All administrative and technical steps for submitting / lifting the urbanism certificate, permits, agreements, building permit, as well as for modifying the technical documentation according to the requirements of the approvals will be performed by the designer. If the notifying institutions request modifications / completions of the technical documentation, the provider will immediately inform the purchaser and will make the modifications / completions at his expense as soon as possible, which will be subject to the prior approval of the purchaser. Failure to obtain the necessary approvals for the issuance of the building permit will result in the refusal to pay the projected documentation.

(5) Any omission or mistake related to the lists of quantities of the technical project or

technical specifications provided for in the specifications, shall be proven during the execution proved to be necessary for the finalization of the investment, shall be covered by the designer within the limit of the determined value quantum. The amount covered by the designer aims at bringing the project at a form that can be implemented, clarifications, re-designs, etc. and the value of the additional works related to the initial project that have to be made by the provider. For the purposes of recovering these amounts, the acquirer will have the performance bond of the contract, and where it is not plentiful and the designer does not pay in good faith the amounts due, this contract represents the legal basis for the beginning of the enforcement proceedings of the designer for these amounts, which the designer accepts as certain, liquid and due by signing this contract. In this regard, notification from the acquirer for the payment of the amount, and if the designer does not respond within 5 working days, the acquirer is entitled to use any legal means to recover these amounts.

(6) The provider has the obligation to conclude and keep in force an insurance policy with full compensation - professional civil liability insurance according to art. 31 of the law no. 10/1995, for an insured amount which will not be less than 100.000.000 lei, insurance that will cover both the performance period of this contract and any periods for the extension of the benefits, to cover the risks referred to in art. (5). The insurance policy will be presented after signing the contract. The proof of the payment of the insurance premiums is presented whenever the acquirer so requests. The provider has the obligation to keep valid the insurance for the entire period of the contract. The absence of evidence required/end of the validity period of the policy may result in the suspension of the payments made by the **acquirer**.

12.2. Main responsibilities of the Acquirer

(1) The Acquirer undertakes to receive the services rendered within the agreed term, through its legal representatives, expressly authorized to be responsible for the execution of this contract. The Acquirer undertakes to receive the technical and economical documentations in all design phases, in terms of updating the project.

(2) The Acquirer undertakes to pay the price of the services to the Service Provider under the terms and conditions established hereunder.

(3) The Acquirer undertakes to put at disposal of the Service Provider any facilities and/or information that the latter requested in the technical proposal and deems necessary for fulfilling the contract.

13. Penalties for culpable failure to fulfil obligations

13.1. In the event that, due to his exclusive fault, the Provider fails to fulfil its obligations under the contract, whether it is a partial or total non-execution or a delayed execution, the Acquirer will apply penalties to the Service Provider, in the amount equivalent to 0.15% per day of the remaining value of the services to be performed. Delay penalties are calculated on calendar days, until the actual fulfilment of the obligations assumed. The Provider is rightly in arrears by simply failing to fulfill its obligations.

13.2. If the Acquirer does not pay the invoiced accepted for payment within 28 days of

expiry of the agreed period, then it is required to pay as penalties an amount equivalent to 0.15% per day of delay out of the amount of the accepted and unpaid invoice, until complete fulfilment of the obligations.

13.3. Failure to comply with the obligations assumed under this contract by either party, culpably and repeatedly, entitles the injured party to consider the contract as terminated by right and to claim payment of damages. The Provider is rightly in arrears by simply failing to fulfill its obligations. The parties agree that the non-compliance by the provider of the obligations provided in art. 12.1. paragraphs (1), (2), (4), (6), art. 14 and Article 20 of this contract entitle the purchaser to consider the contract terminated by law, without the need for delay or any prior notice.

13.4. The Acquirer reserves its right to terminate the contract anytime through a written notification addressed to the Provider, without any compensation, if the latter goes bankrupt, provided that this disclaimer does not prejudice or affect the right of action or compensation for the Provider. In this case, the Provider is entitled to claim payment only for that part of the contract fulfilled until the unilateral termination of the contract by the Acquirer.

14. Contract Performance Guarantee

14.1. The Service Provider undertakes to constitute the contract performance guarantee representing 10 % of the contract value, i.e. the amount of.....lei (RON), within 5 working days from the date of signing. The performance guarantee related to the contract will have a validity period comprised between the date of its issuance of this contract and the conclusion date of the project's certificate of acceptance.

14.2. The performance bond may be formed by: guarantee instrument issued by a credit institution in Romania or in another state or by an insurance company, in accordance with the law, bank transfer or successive withholdings of the amounts due for partial invoices. If the guarantee will be set up through warranty instrument, it becomes annex to the contract, and if the security will be set by successive withholdings from the invoices submitted for payment, the Provider is required to open an account available to the Acquirer, at the unit of the State Treasury within the fiscal body competent in its administration, and the initial amount to be deposited by the Provider in the opened account is 0.5% of the contract price, VAT included.

14.3. The Acquirer is entitled to make claims on the performance guarantee within the limit of the inflicted prejudice, if the Service Provider does not execute his obligations assumed under this contract or if he executes them with delay or improperly. Prior to issuing a claim on the performance bond, the contracting authority has the obligation to notify the claim, both to the contractor and to the issuer of the guarantee document, mentioning the obligations which were not complied with, as well as the calculation of the prejudice. In the case of performance bond, partially or totally, the Provider has the obligation to complete the guarantee as related to the remainder work to perform.

14.4. The performance guarantee will be issued within 14 days from the date of conclusion of the acceptance report to the completion of the works executed on the basis of the respective project, if it has not raised claims on it by that date, but not later than 3

years from the submission of the respective technical documentation, if the contracting authority did not award the works contract in question during that period.

15. Reception and checks

15.1. The Acquirer is entitled to check the performance manner of the services to establish their compliance with the requirements of the technical proposal and design theme.

15.2. Checks will be carried out in accordance with the provisions of this contract. The Acquirer is obliged to notify the Service Provider in writing about the identity of its representatives authorized for this purpose.

16. Start, completion, delays, cessation

16.1. The Service Provider is bound to start providing the services only after signing this contract and establishing the guarantee of good execution, in the shortest time possible after the receipt of the order to start the contract and all necessary documents for their activities.

16.2. If the Provider suffers from delays and / or incurs additional costs exclusively due to the Acquirer, the parties shall mutually agree: to extend the period of service provision, and the total related expenditures, granted according to the legal provisions, where appropriate, which will be added to the contract price.

16.3. Services rendered under this contract or, if applicable, any of their phases that is planned to be completed within a period specified in the performance schedule should be completed within the term agreed by the parties, term that is calculated from the commencement date of service provision.

16.4. In case of:

- a) any reasons for delay that are not due to the Provider; or
- b) other unusual circumstances, likely to arise other than by breach of contract by the Provider, entitle the Provider to request the extension of the service provision period or any phase thereof,

then the parties will mutually review the period of performance and will sign an addendum. The Provider will send a written request stating the reasons for the extension request.

16.5. If, throughout the contract execution the Provider does not comply with the performance schedule, it shall notify the Acquirer about this issue in due time. Changing the date/performance periods undertaken in the performance schedule is done by parties' agreement, through an addendum, only if no fault of the Provider is found.

17. Update of the contract price

17.1. For the services rendered, the payments due by the Acquirer to the Provider are those declared in the financial proposal.

17.2. The contract price is not updated, as the prices are firm.

18. Amendments

The contracting parties are entitled that during the performance of the contract, to agree on the amendment of the contract clauses by addendum in case of occurrence of situations which could not be provided for upon the conclusion of the contract and which do not substantially change it, under the conditions provided for art. 221 by the law 98/2016.

19. Subcontractors

19.1. (1) The contractor must conclude contracts with the appointed subcontractors, in the same conditions as it signed the contract with the buyer. The activities incumbent, as well as the amounts for the performance are included in the public procurement contract.

19.1.(2) The acquirer may make payments adequate to the party / parties of the contract fulfilled by the subcontractors proposed in the tender, if upon the conclusion of the public procurement contract or upon their introduction in the contract, they ask for the services provided to the contractor according to the contract between the contractor and the subcontractor.

19.1.(3) The acquirer shall make the payments directly to the subcontractors approved only when their performance is confirmed by documents agreed by all three parties, namely the acquirer, provider and subcontractor or by the acquirer and subcontractor when, unjustifiable, the provider blocks the confirmation of fulfillment of the obligations undertaken by the subcontractor.

19.1.(4) The provisions of par. (1) - (3) shall not affect the provider's responsibility regarding the fulfillment of the public procurement contract.

19.2. (1) The Service Provider has the obligation to present on conclusion of this contract all contracts concluded with the nominated subcontractors.

19.2. (2) The list of subcontractors including their recognition data, as well as the contracts concluded with them become annexes hereto.

19.3.(1) The Service Provider is fully liable towards the Acquirer for the manner of fulfilling the contract.

19.3.(2) The subcontractor is fully liable towards the Service Provider for the manner in which he fulfils its part of the contract.

19.3.(3) The Service Provider is entitled to claim damages from subcontractors, if they do not fulfil their part of the contract.

19.4.(1) The Provider may change any subcontractor only if it has not fulfilled its part of the contract. Changing the subcontractor does not change the value related to outsourced activities, which will be at the most equal with the value declared in the offer as being

subcontracted and this shall be made only with the preliminary agreement of the Acquirer.

19.4.(2) The changed subcontractors are required to submit an affidavit by which they undertake to comply with the provisions of the specifications and technical proposal filed by the contractor in the offer, related to the activity subject to subcontracting.

19.4.(3) The subcontracting contracts and declarations shall be submitted at least 15 days before the commencement of the services by the new subcontractors.

19.4.(4) The new subcontractors are required to send certificates and other documents necessary for checking the absence of some exclusion situations and the resources / capabilities corresponding to the parties involved in the public procurement contract

20. Assignment of receivables

20.1. A public procurement contract allows only the assignment of receivables arising from the contract, except for the assignments provided for in the contract and legislative instruments in force.

20.2. The Acquirer may pursue any claim to damages that the contractor may have against the third party/third parties supporter/supporters declared for the failure to comply with the obligations undertaken by firm commitment. For this purpose, one can achieve an assignment of provider's rights to the acquirer, by way of guarantee.

20.3. The assignment shall not exonerate the Service Provider from any responsibility regarding the services rendered until the assignment moment, and any other outstanding obligations arising from the performance of this contract.

21. Assignment of property rights

21.1. The documentations prepared by the Provider and delivered to the Acquirer become the Acquirer's property, after their payment. The latter may use them only once and just for the objective for which they were made and contracted.

21.2. The whole documentation or parts thereof may not be copied, sold to third parties or made available to other designer without the written consent of the Service Provider.

21.3. The Service Provider is the only one entitled to carry out or authorize amendments to the prepared documentation until the date of final acceptance of the objective.

21.4. The Service Provider keeps the right to use the prepared documentary and calculation materials, as well as the architectural and engineering solutions reached when drawing up the documentations.

21.5. The Service Provider shall keep the original documents in its archive.

21.6. In the event of advertising or media coverage of the work (investment) the name of the authors and companies that prepared the documentation will be mandatorily mentioned.

22. Force majeure

22.1. Force majeure is found by a competent authority.

22.2. Force majeure shall exonerate the parties from fulfilling their obligations under this contract for the period it is in force.

22.3. The fulfillment of the contract will be suspended during the force majeure period, without prejudice to the rights due to the parties until its occurrence

22.4. The contracting party invoking a force majeure situation has the obligation to notify the other party immediately and completely about its occurrence and to take any measures available in order to limit the consequences.

22.5. If the force majeure acts or is estimated to act for a period exceeding 6 months, either party shall have the right to notify the other party of the termination by default of this contract, without any of the parties claiming for damages.

23. Settlement of litigations

23.1. The Acquirer and the Service Provider shall make every effort to resolve amicably, by invitation to direct reconciliation, any misunderstanding or dispute that may arise between them under or in connection with the performance of this contract.

23.2. If after 15 days from the commencement of the conciliation procedure, the Acquirer and the Service Provider fail to amicably solve a contractual divergence, any party may request for the dispute to be settled either by arbitration at the Chamber of Commerce and Industry of Romania, or by the courts in Romania.

23.3. The Service Provider is obliged to indemnify the Acquirer against any:

- related damages, costs, fees and expenses of any kind, except where such an infringement results from the compliance with the specification drawn up by the Acquirer.

24. Language governing the contract

The language governing the contract is Romanian.

25. Communications

25.1. Any communication between the parties regarding the fulfilment of this contract shall be submitted in writing.

25.2. Any written document must be registered both when sending and when receiving it.

25.3. Communications between parties can also be made by fax or e-mail, provided that there is a written confirmation of receipt of the communication.

26. The law applicable to the contract and final provisions

The contract will be interpreted in accordance with the laws of Romania.

This contract has been concluded today, in copies of equal legal value.

The contract comes into force on

ACQUIRER,

**”Elie Wiesel” National Institute for the
Study of the Holocaust in Romania**

**General Director
Alexandru Florian**

**Chief Accountant
Magdalena Dănescu**

PROVIDER,

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