

Architectural and urban planning competition for the preparation of an architectural concept together with land development concept for the investment providing for the rebuilding of the Saski Palace, the Brühl Palace and tenement houses in Królewska street in Warsaw

The procedure is conducted in Polish. The English version of the Rules and Regulation is only an auxiliary material.

APPENDIX NO. 3B TO THE COMPETITION REGULATIONS

Representation of the Competition Participant/Entity making the resources available* on not being subject to exclusion from the participation in the Competition pursuant to Article 108(1) and Article 109(1)(4-5), (6) (conflict of interest with respect to members of the Competition Jury) and (7)-(10) of the Act of 11 September 2019 – Public Procurement Law (Dz.U. [Journal of Laws] of 2019, item 2019, as amended)

I, the undersigned Competition Participant taking part in the Competition independently or Proxy acting on behalf of the Competition Participant taking part in the Competition independently / Competition Participants jointly taking part in the Architectural and urban planning competition for the preparation of an architectural concept together with land development concept for the investment providing for the rebuilding of the Saski Palace, the Brühl Palace and tenement houses in Królewska street in Warsaw, or as an entity making the resources available* hereby represent under pain of criminal liability that

1. The Competition Participant taking part in the Competition independently and each of the Participants taking part in the Competition jointly or entity making the resources available* is not subject to exclusion from the participation in the Competition pursuant to Article 108(1) and Article 109(1)(4)-(5) and (7)-(10) of the Act of 11 September 2019 – Public Procurement Law (Dz.U. [Journal of Laws] of 2019, item 2019, as amended) – hereinafter referred to as “PPL”, i.e. they **do not meet** the following criteria:

The Contracting Authority shall exclude from the procedure a Contractor with regard to whom there are grounds for exclusion referred to in Article 108(1) of the PPL, i.e.:

- 1) being a natural person who has been the subject of a conviction by final judgement for:
 - a) participation in an organised criminal group or association aimed at committing an offence or a tax offence referred in Article 258 of the Penal Code,
 - b) human trafficking referred to in Article 189a of the Penal Code,
 - c) referred to in Article 228-230a, Article 250a of the Penal Code or in Article 46 or Article 48 of the Act of 25 June 2010 on sports,
 - d) financing an offence of a terrorist nature, referred to in Article 165a of the Penal Code, or an offence of preventing or hampering the establishment of criminal origin of money or concealing its origin, referred to in Article 299 of the Penal Code,

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- e) of a terrorist nature, referred to in Article 115(20) of the Penal Code, or aimed at committing such an offence,
 - f) entrusting the performance of work to a minor foreign national, referred to in Article 9(2) of the Act of 15 June 2012 on the effects of entrusting the performance of work to foreign nationals who are staying on the territory of the Republic of Poland contrary to the provisions of law (Dz.U. [Journal of Laws], item 769),
 - g) against economic turnover referred to in Article 296-307 of the Penal Code, a fraud referred to in Article 286 of the Penal Code, an offence against credibility of documents referred to in Article 270-277d of the Penal Code, or a tax offence,
 - h) referred to in Article 9(1) and (3) or Article 10 of the Act of 15 June 2012 on the effects of entrusting the performance of work to foreign nationals who are staying on the territory of the Republic of Poland contrary to the provisions of law - or for a relevant prohibited deed specified in the provisions of foreign law;
- 2) where an active member of its management or supervisory body, a partner in a registered partnership or a professional partnership or a general partner in a limited partnership or a limited joint-stock partnership, or a proxy has been convicted by final judgement for an offence referred to in subparagraph (1);
 - 3) subject to a final court judgement or administrative decision on the breach of its obligations relating to the payment of taxes or social security or health insurance contributions, unless the economic operator has paid the taxes or social security or health insurance contributions due along with the interest or fines or has entered into a binding agreement concerning the payment of those amounts due prior to the deadline for submitting Applications to participate in the procedure or prior to the deadline for submitting bids;
 - 4) who has been prohibited from tendering for public contracts by means of a final decision;
 - 5) if the Contracting Authority can determine, based on credible premises, that the Contractor has entered into agreement with other contractors aimed at disturbing competition, in particular if being a member of the same capital group, in the meaning of Act of 16 February 2007 on competition and consumer protection, have submitted separate tenders, partial tenders or applications to participate in the procedure, unless they are able to demonstrate that they have prepared these tenders or applications independently of one another;
 - 6) if, in cases referred to in Article 85(1) of the PPL, disturbance of competition took place as a result of previous involvement of this Contractor or entity belonging to the same capital group as the Contractor, in the meaning of Act of 16 February 2007 on competition and consumer protection, unless the competition disturbance caused by it can be eliminated otherwise than through excluding the Contractor from participation in the public contract awarding procedure.

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The Contracting Authority shall exclude from the procedure those Contractors with regard to whom the grounds for exclusion referred to in Article 109(1)(4)-(5) and (7)-(10) of PPL have arisen, i.e.

- 1) who have entered into a liquidation procedure, have been declared bankrupt, whose assets are managed by a liquidator or court, have entered into arrangement with creditors, whose business activity has been suspended or being in another situation of this type arising from a similar procedure provided for in the regulations applicable in a place of instigating this procedure;
 - 2) who have culpably committed grave professional misconduct, which renders their integrity questionable, in particular where the Contractor, intentionally or owing to gross negligence, has failed to perform a contract or has performed it improperly, as the contracting authority is able to demonstrate using appropriate means of proof;
 - 3) who, for reasons attributable to them, have to a great extent or in a considerable scope failed to perform or has performed without due diligence or have performed material obligation arising from the previous public contract agreement or a concession agreement for a long time, which has led to termination or withdrawal from the agreement, compensation, substitute performance or performance of rights on a warranty for defects;
 - 4) who, intentionally or owing to gross negligence, have misled the Contracting Authority while presenting information that they are not subject to exclusion, meet the conditions for participation in the procedure or selection criteria, which may have had significant impact on decisions made by the Contracting Authority in the contract awarding procedure, or who have concealed such information or are unable to present required means of proof;
 - 5) who have unlawfully influenced or tried to influence the actions of the Contracting Authority or have tried to acquire or have acquired confidential information that could give them advantage in the contract awarding procedure;
 - 6) who, owing to recklessness or negligence, have submitted misleading information, which could have had considerable impact on decisions made by the Contracting Authority in the contract awarding procedure.
2. The Competition Participant taking part in the Competition independently as well as each of the Participants taking part in the Competition jointly or an entity making the resources available* shall not be subject to exclusion from participation in the competition pursuant to Article 109(1)(6), i.e. there are no circumstances referred to in Article 56(2)(2), (3) and (4) of the Public Procurement Law (conflict of interest) with respect to members of the Competition Jury, i.e.:
- a. none of the members of the Competition Jury is in marital relationship, parentage relationship or direct affinity, or sibship up to the second degree, or is related through adoption, custody or guardianship or lives together with Competition Participants listed in this application for participation, their authorised representatives or members of management bodies or supervisory bodies of the Competition Participants;
 - b. none of the members of the Competition Jury, within the period of 3 years prior to the commencement of the contract awarding procedure, was bound by an employment relationship or mandate contract with Competition Participants listed in this application to

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- participate, received remuneration from these Participants on any other account or was a member of management bodies or supervisory bodies of the Participants;
- c. none of the members of the Competition Jury remains with Competition Participants listed in this application to participate in the same legal or factual relationship that would give rise to reasonable doubt as to their impartiality or independence in relation to the Competition due to having a direct or indirect financial, economic or vested interest in a specific final verdict as part of the Competition.
3. Moreover, I represent that in the case a premise for exclusion referred to in Article 108(1)(1), (2) and (5) or Article 109(1)(2)-(5) and (7)-(10) emerges, I commit to submitting a separate representation with the indication of a premise for exclusion indicated above and to provide evidence to the Contracting Authority, through submitting relevant documents, that I have fulfilled the following premises jointly:
- 1) I have remedied or committed to remedy damage done by offence, misdemeanour or my incorrect conduct, including through damages;
 - 2) I have exhaustively explained the facts and circumstances related to the offence, misdemeanour or my incorrect conduct and damage I have done, through actively cooperating with competent authorities, including enforcement authorities, or the Contracting Authority;
 - 3) I have undertaken specific technical, organisational and personnel-related measures to prevent further offences, misdemeanours or incorrect conduct, in particular:
 - a) I have severed all links to persons or entities responsible for incorrect conduct,
 - b) I have reorganised the personnel,
 - c) I have implemented the reporting and control system,
 - d) I have created internal audit structures for the purpose of monitoring the observance of regulations as well as internal regulations or standards,
 - e) I have introduced internal regulations concerning responsibility and compensations for the failure to observe regulations, internal regulations or standards.

- - - REQUIRED QUALIFIED ELECTRONIC SIGNATURE - - -

*- delete as appropriate