

*DRAFT*

x. may 2016

## CONTRACT FOR THE PERFORMANCE OF COST CONSULTANCY SERVICES ON THE NEW AARHUS SCHOOL OF ARCHITECTURE, DENMARK

*between*

**Name**  
**Address**  
**Address**  
**Address**

*(hereinafter referred to as the "Consultant")*

*and*

**Bygningstilsynet**  
**Carl Jacobsen's Vej 39**  
**2500 Valby**  
**Denmark**

*(hereinafter referred to as the "Client")*

### **1. Introduction**

The Client is currently undertaking a restricted design competition for the new Aarhus School of Architecture in Denmark (hereinafter referred to as the 'Project'). The Client has engaged the Consultant to provide Cost Consultancy services during the course of said competition.

The contractual basis listed in order of priority is as follows:

- A. This Contract between the Consultant and the Client
- B. The Consultant's tender dated (Appendix A)
- C. Tender material dated (Appendix B)

By signing this Contract, the Consultant undertakes to provide the services set out in this Contract on the specified terms and at the specified prices.

### **2. Services to be provided by the Consultant**

2.1 The Consultant shall perform the services set out in Appendix C.

2.2 In the absence of prior, written permission from the Client, the Consultant shall ensure that the said services are performed by the "key persons" named in the Consultant's tender (Appendix A).

### **3. Quality assurance**

3.1 The Consultant shall exercise in the performance of the Services and the discharge of all its duties and obligations under this Contract all the reasonable skill and care to be expected of an appropriately qualified Quantity Surveyor holding himself out as having

the competence and experience necessary for the proper performance of services of similar extent, nature and complexity.

3.2 The Consultant shall be entitled to rely upon and shall have no liability or responsibility for the content, accuracy or completeness of any information, data, or documents provided by or on behalf of the Client for the purpose of the Services. The Consultant shall have no responsibility for any design, nor for fitness for the purpose of any design or of the Services, nor for any specification or choice of materials used.

#### **4. Contract sum**

4.1 During the term of this Contract, the Consultant is obliged to provide the services set out in Clause 2 above subject to payment of the contract sum fee (amount) and in accordance with an agreed payment schedule (Appendix D).

4.2 The contract sum is exclusive of VAT, all expenses associated with travelling including subsistence and accommodation, translation and the costs of printing drawings/ reports. The contract sum excludes any performance/ advance bond or any finance charges.

4.3 Any additional services would be based on time spent using the Contractor's standard hourly rates. No additional services may be undertaken without the prior, written agreement of the Client.

#### **5. Invoicing and terms of payment**

5.1 Payment may be invoiced in accordance with the payment schedule at the end of each month and paid within 30 calendar days of receipt.

5.2 Disbursements as referred to in clause 4.2 above may be invoiced monthly in arrears and paid within 30 calendar days of receipt.

5.3 All invoices must be submitted to the Client: Bygningstilsynet, Carl Jacobsen's Vej 39, 2500 Valby, Denmark. Att: Lisa Sørensen. Transmission of payment by the Client at the due date is deemed to constitute payment in time.

#### **6. Ownership rights**

6.1 Subject to payment of all fees an irrevocable, royalty free, non-exclusive license to use proprietary material produced by the Consultant shall be granted to the Client. The Consultant shall not be liable for any use of the proprietary material other than that for which it was prepared.

6.2 Upon termination of the Contract, the Consultant is obliged, if so requested, to hand over any and all data regarding the Client that have come in the Consultant's possession for the purpose of completing this assignment.

#### **7. Communication**

The Client's contact person is:

Project Manager Lisa Sørensen

E-mail: [lis@bygst.dk](mailto:lis@bygst.dk)

Tel.: T +45 4170 1014

The Consultant's contact person is:

Name  
E-mail:  
Tel.:

## **8. Time of delivery**

8.1 The parties shall agree a time schedule for the delivery of the services referred to in clause 2 above (Appendix E).

8.2 The said schedule and the contract sum assume that said services will be delivered in a managed and sequential manner. It assumes, that there will be a continuous time schedule and, should the timetable extend beyond the date indicated in the time schedule, the Consultant has the right to seek an adjustment to the contract sum in the event that this involves additional cost. The Consultant is under obligation both to limit any additional costs and to document that such costs were necessary and unavoidable.

## **9. Insurance and liability**

9.1 The Consultant is obliged to maintain relevant professional liability insurance with a policy limit of not less than DKK 10 million. throughout the term of this Contract. The Client may at any time during the term of this Contract request that the Consultant submit documentation showing that said insurance policy remains in full force and effect.

9.2 The Consultant shall have no liability for loss of production, loss of profits, loss of business or any other indirect losses or consequential damages arising through the performance or non-performance of the Services and nor shall the Consultant have any liability to the Client for any claims, losses and/or expenses arising from pollution, contamination, date recognition , under or in connection with this Contract.

9.3 The Consultant's maximum liability under or in connection with this Contract, under contract, tort or otherwise shall not exceed DKK 10 million in the aggregate.

9.4 The Consultant's liability shall be limited to the proportion of any of the Client's losses which it would be just and equitable to require the Consultant to pay having regard to the extent of the Consultant's responsibility for such losses in the performance or non-performance of the Services and the acts and omissions of other consultants and contractors engaged on the Project.

9.5 In the event that the Consultant has a distinct, legal personality, the Client accepts that The Consultant shall be solely responsible for compliance with its obligations under this Contract by its former, present or future individual employees, consultants, Members or other officers ("the Individuals") and no legal action or proceedings may be brought against any of the Individuals personally for any loss resulting from acts or omissions in the performance of the Services or any breach of this Contract. Notwithstanding any provision herein to the contrary, any one or more of the Individuals may enforce the provisions of this clause personally.

9.6 Save only where otherwise expressly provided, nothing in this Contract confers or purports to confer any right to enforce any of its terms on any person who is not a party to it.

## **10. Termination for breach of contract**

Either party may terminate this Contract with immediate effect and without further notice if the other party is in material breach hereof. For the avoidance of doubt, the parties

accept that repeated breaches of minor contractual provisions (warranties) may constitute a material breach.

#### **11. Publication**

This Contract constitutes confidential information.

Unless otherwise stipulated by applicable law, including the Danish Access to Public Administration Files Act (in Danish: "lov om offentlighed i forvaltningen") and any other rules on access to files, this Contract may not be made public whether in full or in part without the conclusion of a prior written agreement between the parties hereto identifying which part(s) must/may be made public.

In the event of any subsequent announcements being made to the press regarding the contents of this Contract, the other party must be notified of such announcements immediately thereafter.

#### **12. Duty of secrecy**

The Consultant is subject to a third party duty of secrecy with respect to information that comes into the Consultant's possession as part of his performance of work for the Client.

#### **13. Assignment**

Neither party is entitled to assign its rights and obligations under this Contract to any third party, unless the other party has consented to such assignment in writing prior thereto.

#### **14. Applicable law and dispute resolution**

14.1 This Contract is governed by Danish law and by the terms of ABR 89 (Almindelige Bestemmelser for teknisk Rådgivning og bistand) except insofar as the contents of this Contract explicitly or by necessary implication vary or replace said terms.

14.2 In the event of any dispute between the parties to this Contract, the parties must display a positive, cooperative and responsible attitude and seek to open negotiations to resolve such dispute.

14.3 Once such dispute resolution has been attempted, either party is entitled to demand that the dispute be settled before the City Court of Copenhagen (Københavns Byret) as the court of first instance.

#### **15. Signatures**

This Contract will be signed in two identical copies, and each party will receive one copy hereof.

Copenhagen, dated

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Client

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*Consultant*