



Adam Mickiewicz Institute

Mokotowska 25

00-560 Warsaw, Poland

**TERMS OF REFERENCE  
OPEN TENDER PROCEDURE**

object of the contract:

**Charter of passenger planes for the I, CULTURE Orchestra**

**Case no. 06/IAM/2018/04**

Approved by  
Deputy Director  
Adam Mickiewicz Institute

Dariusz Sobkowicz

Warsaw, 24.04.2018

**Art.1.The Ordering Party**

Adam Mickiewicz Institute  
ul. Mokotowska 25  
00-560 Warsaw, Poland

**Art. 2**

**Contact awarding procedure, legal grounds**

The contract awarding procedure is carried out pursuant to the Act of 29 January 2004 – Public Procurement Law (Journal of Laws of 2017, item 1579, as amended), hereinafter referred to as the “PPL”, as an open tender procedure for services with a contract value not exceeding the amount specified in the regulations issued pursuant to Art. 11, section 8 of the PPL (i.e. EUR 221,000.00).

**Art.3**

**Description of the object of the contract**

**1. The object of the contract is**

**charter of passenger planes for the I, CULTURE Orchestra on the following routes:**

**1. Warsaw - Montpellier on 23 July 2018**

**2. Montpellier – Amsterdam on 25 July 2018**

**3. Amsterdam - Copenhagen on 27 July 2018**

pursuant to the conditions specified in the Detailed description of the object of the contract presented herein (Appendix no. 2 hereto).

**2. Classification and name of the object of the contract in accordance with CPV:**

**CPV code: 60423000-9 “Airline charter services.”**

3. The Ordering Party shall not accept variant tenders.

4. The Ordering Party shall not accept equivalent tenders.

5. The Ordering Party shall not accept partial tenders.

6. The Ordering Party shall not enter into a framework agreement.

7. The Ordering Party shall not conduct an electronic bidding procedure.

**8. Settlement with the Contractor shall be handled in EUR.**

9. The Ordering Party shall not reimburse the costs of participation in the procedure, subject to Art. 93, section 4 of the PPL.

10. The Ordering Party shall not award contracts referred to in Art. 67, section 1, item 6 of the PPL.

11. The Ordering Party shall not restrict the eligibility to place bids to Contractors hiring over 50% of disabled personnel.

12. Pursuant to Art. 36 b, section 1 of the PPL, in the submitted bid the Contractor **shall include** information about a specific part of the contract intended to be entrusted to subcontractors and information about subcontractors’ companies. The Ordering Party does not restrict any part of the Contract from being performed by subcontractors.

13. The Contractor does not stipulate that the Contractor performs the works related to the performance of the Contract personally.

14. The Ordering Party does not stipulate the possibility to cancel the tender procedure if they fail to secure proper funding from the European Union budget and nonreturnable funding from the subsidies granted by the European Free Trade Association (EFTA) member states, procured to finance the undertaking in whole or in part.

**Art.4**

**Deadline for performing the object of the contract**

The Contract shall be performed by **27 July 2018**.

**Art. 5**

**Terms and conditions of participation in the open tender procedure**

1. Pursuant to Art. 22 section 1 of the PPL, tender eligibility is restricted to Contractors that meet the following requirements:

- 1) Contractors are not subject to exclusions pursuant to Art. 24 section 1 item 12-23 of the PPL. The Ordering Party shall not exclude a Contractor pursuant to Art.24 section 5 of the PPL.

2) Contractors meet the requirements of participation in the open tender procedure concerning:

a) **competence or authorization to conduct specific business activities if such is required by the law.**

The Ordering Party sets no special requirements in this regard.

b) **technical capacity and professional experience.**

The Ordering Party shall deem that the Contractor has met the aforementioned requirement if the Contractor demonstrates that, within three years prior to the bid submission deadline, or – if the Contractor has run their business activity for a shorter period – in the entire span of the Contractor’s business activity, they have duly performed at least: **2 services, each within the scope of a separate contract value of no less than PLN 200,000.00 gross**, of the type corresponding to the type of the service which constitutes the object of this contract. The services constituting the object of this contract shall be chartering a passenger plane.

For the Ordering Party to recognize the provision of such services, the Contractor shall submit a document ascertaining the due performance of such services. Such documents include references or other documents issued by the entity to whom the services have been rendered or continue to be rendered in the event of periodical or continuous services. If, due to reasons justifiable on objective grounds, the Contractor is unable to procure such documents, the Contractor should submit their own statement ascertaining the rendition of such services. In the event of periodical or continuous services which continue to be performed, references or official confirmations ascertaining their due performance should be issued no earlier than three months before the bid submission deadline.

**Note**

**For currently rendered services, the value of services rendered as of the day of submission of the bid shall not be lower than PLN 200,000.00 for each service.**

**Should the value of services be expressed in a foreign currency, the Ordering Party shall recalculate the specified value in PLN according to the average exchange rate calculated and published by the National Bank of Poland as of the date of announcing the call for tender.**

c) **financial and economic standing.**

The Ordering Party sets no special requirements in this regard.

2. In order to determine if the Contractor meets the requirements of the participation in the open tender as specified in section 1.2 of these Terms of Reference, in specific situations and with regard to a specific contract, the Ordering Party may rely on technical potential, personnel capable of performing the contract, or financial or economic standing of third entities, regardless of the legal nature of the Contractor’s relations with such entities.

3. The Ordering Party represents that the “specific situation” specified in section 3 above is restricted to the situation when:

1) the Contractor who relies on third party resources or standing of third entities shall demonstrate to the Ordering Party their ability to be in possession of resources required to perform the contract, in particular by presenting to this end a written commitment of said third parties to place the necessary resources at the Contractor’s disposal for the performance of the contract;

2) The Ordering Party shall determine whether third party technical capacities, or personnel capable of performing the contract, or their financial or economic standing allow the Contractor to demonstrate that they meet the requirements of participation in the open tender procedure, and shall determine whether there are no grounds for exclusion as referred to in Art. 24, section 1, item 13-22 of the PPL.

- 3) With regard to the requirements concerning educational background, professional qualifications and experience, Contractors may rely on third party competencies if such entities perform construction services or provide services that require such competencies.
4. For Contractors competing jointly, at least one Contractor or all Contractors jointly must meet all the conditions specified in 1.2 of this article.
5. The tender is open to Contractors who are not subject to being excluded from the tender proceedings. For Contractors competing jointly, each and every Contractor must meet this condition.
6. The fulfilment of the conditions of participation in the procedure shall be evaluated based on the documents and declarations submitted by Contractors, referred to in article 6 below, and assessed on a fulfilled/not fulfilled basis.
7. Tender eligibility is restricted to Contractors who have the capacities to perform the contract in accordance with Appendix 1 to these Terms of Reference.

#### **Art.6**

#### **List of declarations and documents to be submitted by Contractors as confirmation of fulfilment of the conditions of participation in the procedure and evidence of no grounds for exclusion from the procedure.**

1. Along with the bid, each Contractor shall submit a declaration valid as of the day of submitting the bid regarding the contents of Appendix 3 to these Terms of Reference. Information provided in the declaration shall be considered as the initial evidence that the Contractor is not subject to exclusion and fulfils the conditions of participating in the contract award procedure.
2. In case of Contractors competing jointly for the contract, the declaration referred to Art.6, section 1 of these Terms of Reference shall be submitted by each of the Contractors competing jointly for the contract. The information presented in the declaration shall confirm that each of the Contractors fulfils the conditions of participating in the procedure, that there are no grounds for exclusion from the procedure to the extent to which each of the Contractors confirms the fulfilment of the conditions of participation in the procedure; lack of grounds for exclusion.
3. The Ordering Party requests that the Contractor who intends to entrust subcontractors with the performance of part of the contract shall provide information about subcontractors in the declaration referred to in Art.6 section 1 of these Terms of Reference in order to confirm there are no grounds for their exclusion from the procedure.
4. The Contractor that relies on third party resources in order to demonstrate there are no grounds for their exclusion and to demonstrate– to the extent to which the Contractor relies on their resources – the fulfilment of conditions for participation in the procedure shall provide information about such entities in the declaration referred to in Art. 6 section 1 of these Terms of Reference.
5. Before awarding the contract, the Ordering Party **shall request** the Contractor whose bid has earned the highest score to submit the following valid declarations and documents within the set deadline but no shorter than 5 days:
  - a) **a list of rendered services, in the case of periodical or continuous services also the list of currently rendered services**, within three years prior to the bid submission deadline, or – if the Contractor has run their business activity for a shorter period – in the entire span of the Contractor’s business activity, including their worth, scope, dates and clients for whom the services have been provided, and **enclosed documents ascertaining the due performance of those services**. Submitted documents must unquestionably confirm the fulfilment of the condition specified in Art.5, section 1.2 letter b of these Terms of Reference.

The list of main services must contain the following:

    - a. a description of the object of the contract and its value (name and a short description of the service);
    - b. the dates on which the service has been performed (in the dd-mm-yyyy format);

- c. service recipients (at least company names of service recipients);
- d. type of experience (own experience, third party experience).

A template of the list of main services is attached as **Appendix 6 to these Terms of Reference**. The submitted list should be accompanied by evidence confirming due performance of such services.

The said evidence includes:

- a. references or other documents issued by service recipients provided that for periodical or continuous services which continue to be performed such confirmation should be issued no earlier than three months before the bid submission deadline;
- b. if the Contractor is unable to obtain the official confirmation referred to above for objective and justified reasons, the Contractor's own declaration shall be deemed to constitute satisfactory evidence.

6. Within 3 days following the day on which the information referred to in Art.86, section 5 of the PPL has been published online, the Contractor shall provide the Ordering Party with a declaration ascertaining whether the Contractor is or is not a member of the capital gains group as referred to in Art.24, section 1, item 23 of the PPL. Along with submitting the declaration, the Contractor may present evidence that the links between them and other Contractor does not cause distortion of competition in the contract awarding procedure. A template of the declaration is attached in Appendix 4 to these Terms of Reference.

7. To all matters not regulated by these Terms of Reference, provisions of the Ordinance of the Ministry of Development of 26 July 2016 on the types of documents that the Ordering Party may request from the Contractor for the purpose of contract awarding procedure shall apply (Journal of Laws of 2016, item 1126, as amended).

8. If the Contractor fails to submit the declaration referred to in Art.6, section 1 of these Terms of Reference, declarations or documents ascertaining the circumstances specified in Art.25, section 1 of the PPL, or other documents necessary to conduct the procedure, or if the declarations and documents are incomplete, faulty, or give rise to doubts of the Ordering Party, the Ordering Party shall request the Contractor to resubmit, supplement, or correct them within the set deadline unless the event when despite submitting them the bid of the Contractor would be subject to exclusions or it would be necessary to cancel the procedure.

9. For the purpose of fulfilling the requirements of participating in the contract awarding procedure regarding a specific situation or specific contract in whole or in part, the Contractor may rely on third party technical potential, personnel capable of performing the contract, or the financial or economic capacity of third entities, regardless of the legal nature of the Contractor's relations with such entities. The Contractor who relies on competencies or capacity of third parties shall demonstrate to the Ordering Party their ability to be in possession of resources required to perform the contract, in particular by presenting to this end a **written** commitment of said third parties to place the necessary resources at the Contractor's disposal for the time of their use in the performance of the contract. **Only the submission of the original document containing the signature of the authorised person under the declaration shall be considered as fulfilling the requirement of the written commitment.**

**With reference to the conditions concerning the education, professional qualification or experience, Contractors may rely on the capacities of third parties provided that such third parties render services which require such expertise.**

**The Contractor who relies on financial or economic capacity of third parties and the entity who has undertaken to place their resources at the Contractor's disposal shall be jointly liable for any damage arising in connection with the failure to place these resources at the Contractor's disposal unless the Contractor does not hold responsibility for such failure.**

The document confirming the third party obligation shall express their will to place appropriate resources at the Contractor's disposal in a clear and unambiguous manner and include:

- a) the scope of resources placed at the Contractor's disposal;

- b) the manner in which resources of other entities will be used by the Contractor for the purposes of performing the contract;
- c) the scope and period within which other entity will participate in performing the contract.

**Art.7**

**INFORMATION ON METHODS OF COMMUNICATION BETWEEN THE ORDERING PARTY AND CONTRACTORS, SUBMISSION OF DECLARATIONS AND DOCUMENTS, AND APPOINTMENT OF CONTACT PERSONS AUTHORIZED TO COMMUNICATE WITH CONTRACTORS.**

1. Subject to the exceptions set out in the PPL, any declarations, requests, notices and information shall be exchanged by the Ordering party and Contractors in the following fashion:
  - a) **in writing to the following mailing address: Adam Mickiewicz Institute, Mokotowska 25, 00-560 Warsaw, Poland, or**
  - b) **via fax at (+48 22) 447 61 81, or**
  - c) **via e-mail at: kkieloch@iam.pl**
2. If the Ordering Party or Contractor exchange any declarations, requests, notices and information via fax or e-mail, the receiving party shall immediately confirm receipt upon the request of the other party.
3. Contractors who fail to present the declarations or documents referred to in Art. 25 section 1 of the PPL by the bid submission deadline, or Contractors who have failed to submit powers of attorney, or who have submitted erroneous versions of documents referred to in Art. 25 section 1 of the PPL, or who have submitted erroneous powers of attorney and have been requested to amend them pursuant to article 26 section 3 of the PPL, should submit/send written versions of such declarations and documents as original documents or true copies certified by party/ies authorized to represent the Contractor, or powers of attorney issued by parties authorized to represent the Contractor, or a copy/transcript certified by a notary public within the deadline and to the address specified in such a request.
4. Contractors may request clarification concerning the content of these Terms of Reference from the Ordering Party. The Ordering Party shall promptly provide the aforementioned clarifications, no later than two days before the bid submission deadline, provided that the clarification request has been received by the Ordering Party no later than by the end of the day on which the first half of the period set as the bid submission deadline has elapsed.
5. The Ordering Party shall forward the content of clarifications to all Contractors who received these Terms of Reference, and post it on the website without disclosing the source of the query.
6. In justified cases, the Ordering Party might modify the provisions of these Terms of Reference prior to the bid submission deadline. The Ordering Party shall promptly provide all Contractors who received these Terms of Reference with any modifications hereto, and publish such modifications on the website. Each such modification becomes an integral part of these Terms of Reference.
7. The authorized contact person for Contractors is **Katarzyna Kieloch; phone no. +48 22 44 76 181.**

**Art.8**

**DEPOSITS AND GUARANTEES REQUIRED**

None such are required by the Ordering Party.

**Art.9**

**Bid validity**

1. When submitted to the open tender, the Contractor's bid shall be binding for a period of **30 days** following the bid submission deadline (pursuant to Art.85, section 5 of the PPL).
2. The Contractor may prolong the bid validity period on their own or upon the request of the Ordering Party. Within 3 days before the bid validity deadline, the Ordering Party is entitled to a

one-off request of the Contractors to grant consent for prolonging the bid validity period for the set period of no longer than 60 days.

**Art.10**

**BID PREPARATION METHOD**

1. The Contractor shall bear all costs of preparation and submission of bids.
2. Each Contractor may submit a single bid. Submission of more than one bid per Contractor shall result in rejection of all of their bids pursuant to Art. 89, section 1, item 1 and Art. 82, section 1 of the PPL.
3. The content of a bid must comply with these Terms of Reference.
4. It is recommended that all the pages filled with writing or print included in a bid be numbered and fastened together in an orderly and permanent fashion.
5. All bids shall be prepared in Polish or English, typed, computer printed or written in other indelible ink.
6. Any corrections, amendments or deletions in the text of a bid must be dated and initialled by the representative of the Contractor authorized to sign the bid.
7. The submitted bid and all applicable declarations must be signed by a person (persons) authorized to represent and sign declarations of intent on behalf of the Contractor, as entered in the appropriate register.
8. If the powers of attorney indicates the authorization to sign the contract, declarations, representing the Contractor/Contractors for the purpose of the procedure and contracting obligations to the amount equal to the bid price, it shall be granted (signed) by a person / persons authorized as entered in the appropriate register and attached to the bid. The power of attorney must be submitted as an original or copy certified as a true copy by a notary public.
9. The provision in section 8 above shall be applied to any subsequent powers of attorney.
10. The person or persons signing the bid must be authorized to contract obligations on behalf of the Contractor up to an amount equal to the bid price pursuant to the entry into the relevant register.
11. All bid documents required under these Terms of Reference which have been originally drafted in a language different to the one specified in section 5 must be submitted with their Polish or English translations.
12. All pages of the submitted bid, along with any attached declarations, translated copies and all other documents shall be initialled by no less than one person authorized to sign the contract. This applies to the original copies of the attached declarations and other documents, as well as to the photocopies certified by the Contractor as true copies of the original documents.
13. If the Contractor believes that the tender includes information constituting "confidential business information" as specified in the provisions on combating unfair competition, the Contractor must, by no later than the bid submission deadline, restrict such information as confidential and demonstrate that it constitutes confidential business information. Such information shall be placed in a separate envelope inside the tender with the note: "Confidential business information" and indicate page numbers constituting confidential business information. Unless restricted as stipulated herein, all information included in the bid may be disclosed as requested by any entity along with the existing minutes. Restricting information, data, documents or declarations which are not subject to confidentiality regulations as per provisions on combating unfair competition shall result in their declassification. Pursuant to Art.11, section 4 of the Act on Combating Unfair Competition of 16 April 1993 "confidential business information" shall be construed as publically undisclosed information if it meets jointly the following 3 conditions:
  - it is of technical, technological, organizational nature or other information of economic value;
  - the information has not been disclosed to the public;
  - necessary measures have been taken to keep the information confidential.
14. The bid must include all documents, appendices and declarations specified in these Terms of Reference.

15. For bids submitted jointly by a consortium of Contractors who compete jointly for the contract, all participating Contractors shall have joint and several liability in respect to the non-performance or undue performance of the contract.
16. A bid submitted jointly by a consortium of Contractors must be signed in a way that makes it legally binding for all Contractors participating in the bid.
17. For bids submitted jointly by a consortium of Contractors competing jointly for the contract, the tender must include a document granting power of attorney to an individual authorized to represent the Contractors participating in the joint bid in the tender procedure or to represent the Contractors in the tender procedure and enter into contract with regard to a public procurement. This power of attorney must be submitted as an original document or notarized copy.
18. For Contractors competing jointly for the contract and for entities referred to in Art.6 section 5 of these Terms of Reference, copies of documents related to the Contractor or said entities must be certified as true copies by the Contractor or the relevant entities respectively.
19. It is recommended that the first pages of a bid adhere to the Bid Proposal Form template (Appendix 1 to these Terms of Reference). While failure to adhere to the template set out in Appendix 1 shall not constitute grounds for rejection of the bid, the Ordering Party requires that any submitted bid include all declarations specified in the bid proposal form template.
20. Submitted bids must also include:
  - 1) a completed **bid form** compiled using the template that constitutes **Appendix 1** to these Terms of Reference containing specifically: the object of the contract; total gross bid price; declaration on the time during which the tender is binding for the Contractor; declaration on accepting all provisions of the Terms of Reference and the Draft Contract with no reservations as well as information on which part of the contract the Contractor intends to entrust to subcontractors.
  - 2) declarations described in Art.6 of these Terms of Reference;
  - 3) power of attorney authorizing to represent the Contractor (Contractors participating jointly) if the bid is submitted by a representative.
  - 4) obligation of a third party if the Contractor relies on the resources or capacity of a third party.
21. Bids shall be submitted in sealed, intact packaging to **the reception desk of the Adam Mickiewicz Institute, Mokotowska 25, 00-560 Warsaw, Poland.**
22. Packaging (envelope) containing the bid shall be marked as follows:

**“Open tender bid for the charter of planes for the I, CULTURE Orchestra”**

**case no. 06/IAM/2018/04**

**“Do not open before 08.05.2018 , 12.00 a.m.”**

addressee: Adam Mickiewicz Institute, Mokotowska 25, 00-560 Warsaw, Poland

sender: Contractor's name, detailed mailing address and phone numbers (a seal is permitted).

*NOTE: The Ordering Party shall not be responsible for early opening of bids if envelopes are not marked correctly.*

23. Pursuant to Art. 84, section 1 of the PPL, a Contractor may revise or withdraw the submitted bid prior to the submission deadline. The Contractor shall inform the Ordering Party in writing should they wish to revise or withdraw the submitted bid prior to the submission deadline.
24. Revised bids shall be submitted in a separate sealed and intact envelope marked “REVISION”. The envelope must be marked with the Contractor's name, detailed mailing address and phone number (a seal is permitted).
25. After the bid submission deadline, Contractors may no longer revise or withdraw their respective bids.

#### **Art.11**

#### **Place and date of bid submission and opening.**

1. Bids shall be submitted to the registered office of the Ordering Party at ul. Mokotowska 25 00-560 Warsaw, Poland, reception desk **by no later than 08.05.2018, 11.30 a.m.** The envelope should be addressed as specified in Art. 10, section 22.
2. The date and time of submitting the bid to the Ordering Party, not the date of sending the tender by postal or courier services, shall be decisive in keeping the bid submission deadline.
3. Bids delivered after the deadline specified in art. 11 of these Terms of Reference shall be returned to Contractors pursuant to the provisions of art. 84 section 2 of the PPL.
4. Bids shall be opened at the registered office of the Ordering Party at **08.05.2018, 12.00 a.m.**
5. Bids shall be opened publically.
6. When opening bids, the Ordering Party shall announce the information referred to in art. 86 section 4 of the PPL.
7. Promptly upon opening the bids, the Ordering Party shall publish the following information on its website [www.iam.pl](http://www.iam.pl):
  - a) the amount intended to finance the contract;
  - b) the names and addresses of the Contractors who have submitted their bids in due time;
  - c) the price and deadline for performing the contract, along with the validity period and payment conditions specified in respective bids.

**Art.12****Bid price calculation method.**

1. The Contractor shall quote a bid price for the performance of the contract by specifying in the Bid Form following the template which constitutes **Appendix no 1** to these Terms of Reference the total gross price for the performance of the contract.
2. The total gross price listed in the bid shall include all costs related to the performance of the contract in accordance with these Terms of Reference and Draft Contract provisioned in these Terms of Reference.
3. All prices must be quoted and rounded off to the second decimal to the second decimal place (according to the mathematical rules of rounding off numbers, i.e. a fraction below 5 shall be omitted; a fraction ending with digits 5 to 9 shall be rounded off upwards).
4. The bid price should be stated in EURO.
5. Should a bid be submitted whose selection would result in a tax obligation on the Ordering Party in accordance with the provisions on tax on goods and services (VAT), the Ordering Party shall, in order to evaluate such a tender, add the value added tax (VAT) payable under these provisions to the bid price. The Contractor, when submitting a bid, shall inform the Ordering Party whether the selection of tender will lead to a tax obligation on the Ordering Party, indicating the name (type) of goods / services, delivery of which will lead to a tax obligation, and indicating their value without the tax amount.

**Art.13****Criteria to be used by the Ordering Party in selecting a bid including the weighing of the criteria and the bid evaluation method.**

The winning bid shall be the bid with the highest score in line with the following criteria:

- a) "Bid price" – P;
- b) "Payment term" – T.

The Ordering Party shall evaluate bids based on the criteria as follows:

Criterion	Weight [%]	Points	Assessment formula
Bid price	60%	60	$P = \frac{\text{Lowest bid price}}{\text{Examined bid price}} \times 60\text{pts}$

Payment term	40%	40	The point-based assessment of the “payment term” criterion is specified below
TOTAL	100%	100	

**Payment term criterion – 40%**

The maximum score of 40 pts shall be awarded to the bid offering the longest payment term whereas the remaining Contractors shall receive respectively fewer points in accordance with the following scoring:

Shortest possible payment term/VAT invoice term required by the Ordering Party: 7 days

Longest possible payment term/VAT invoice term allowed in the tender proceedings: 30 days.

If the Contractor offers a payment term that exceeds 30 days, a 30-day payment term will be assumed for the purposes of assessment of the bid, and such shall also be stipulated in the subsequent Contract.

- The Contractor that offers the most favourable payment term (30 days) will receive the maximum score of 40 pts;

- The Contractor that offers the least favourable payment term (7 days) will receive 0 points.

The remaining Contractors (i.e. those who offer intermediate terms between the most and least favourable term) will receive scores calculated according to the following formula:

$$T = \frac{\text{Payment term/VAT invoice term declared in the examined bid}}{\text{Longest allowed payment term/VAT invoice term (30 days)}} \times 40\text{pts}$$

The points will be rounded off to the second decimal.

The total number of points for each bid will be calculated on the basis of the following formula:

$$TS = P + T$$

whereas

TS – Total score;

P – points score under the “Gross bid price” criterion

T – points scored under the “Payment term” criterion

The points granted for the “gross bid value” criterion will be based on the gross bid price listed by the Contractor in the bid and calculated based on the formula indicated in the chart above.

The points granted for the “payment term” criterion will be based on the payment term listed in the bid.

The Tender Committee will grade each criterion rounding it off to the second decimal. The highest total score under both criteria will determine the winning bid.

1. The Ordering Party shall award the contract to the Contractor whose bid meets all the requirements specified in the PPL and these Terms of Reference and which shall be evaluated as the most advantageous one on the basis of the given selection criteria.
2. If the most advantageous bid cannot be selected due to the fact that two or more bids represent the same ratio of value and other contract award criteria, the Ordering Party shall select the bid with the lowest price among these bids; should two bids offering the same price

be submitted, the Ordering Party shall request Contractors that have submitted such bids to submit additional bids within a deadline set by the Ordering Party (Art. 91, section 4 of the PPL).

3. Contractors submitting additional bids cannot offer prices higher than those listed in the submitted bids (as per art. 96 section 6 of the PPL).
4. In order to determine whether the bid includes an abnormally low price with regard to the object of the contract, the Ordering Party may request the Contractor to submit clarifications within a set deadline regarding these elements of the bid which affect the price.
5. The Ordering Party shall correct obvious typing errors of clerical and computational nature considering the calculation consequences of the corrected errors. Other errors resulting from incompatibility with the Terms of Reference which do not cause essential modifications in the bid shall be corrected by the Ordering Party who shall immediately notify the Contractor whose bid has been corrected.

**Art. 14**

**INFORMATION REGARDING FORMAL REQUIREMENTS TO BE FULFILLED UPON SELECTION OF THE WINNING BID IN ORDER TO SIGN THE PUBLIC PROCUREMENT CONTRACT**

1. Contractors participating in the procurement procedure shall be notified of the results of said procedure.
2. Upon approval of the selection of the most advantageous bid, the decision shall be published on the Ordering Party's website.
3. The Ordering Party shall enter into contract with the selected Contractor pursuant to Art. 94 of the PPL.
4. Before signing the Contract and within the deadline set by the Ordering Party, the Contractor shall provide the Ordering Party with photocopies of valid documents issued for the operator as specified below:
  - a. Air Operator Certificate (AOC)
  - b. Valid certificate of airworthiness as specified in Appendix 1 (Part 21) to the Commission Regulation (EC) no. 1702/2003 of 24 September 2003, laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production (Official Journal L 243 of September 27, 2003) or a certificate of airworthiness compatible with domestic regulations (i.e. those of the country in which the aircraft has been registered), based on Appendix 8 to the Convention on International Civil Aviation,
5. Should a bid be selected which has been submitted by a consortium of Contractors competing jointly for the contract, the Contractors shall be required to submit to the Ordering Party a copy of the agreement regulating the relations between the respective Contractors cooperating within the consortium by a deadline set the Ordering Party. The agreement regulating the Contractors' cooperation shall include but not be limited to:
  - 1) names of Contractors submitting the bid;
  - 2) the economic purpose of the agreement;
  - 3) rules of representation and business conduct;
  - 4) duration of the agreement (the Ordering Party requires the duration of said agreement to be equal to or longer than the period dedicated to the execution of the contract and any subsequent warranty and/or guarantee period).
6. Failing to present the document referred to in section 4 or 5 above shall be construed by the Ordering Party as evasion to enter the Contract, in which case the Ordering Party shall select the most advantageous bid among the remaining bids.
7. Should the Contractor, whose bid has been awarded the contract, evade entering the contract, the Ordering Party shall select the most advantageous bid among the remaining bids without the need to review and evaluate them again unless there are grounds specified in Art. 93, section 1 of the PPL.

**Art. 15**

**Performance bond requirements**

The Ordering Party requires no performance bond.

**Art. 16**

**Essential terms and conditions introduced to the public procurement contract, general terms and conditions of the contract or draft contract if the Ordering Party requires the Contractor to sign a public procurement contract under such terms.**

1. Draft Contract constitutes **Appendix 5 to these Terms of Reference.**
2. The Ordering Party allows potential amendments to the contract in the following cases:
  - 1) change of persons authorized to negotiate and coordinate the object of the contract;
  - 2) correction of obvious errors of clerical and computational nature;
  - 3) change of persons in charge of the performance of the object of the contract and appointing new persons in this respect, provided that the Ordering Party shall be able to refuse to accept persons whose qualifications do not match respective qualifications for a specific post stipulated in these Terms of Reference;
  - 4) in case of all changes assessed objectively as beneficial to the Ordering Party;
  - 5) otherwise, in unforeseen cases without fault of either party, which the parties were unable to foresee when performing the contract with due diligence, including but not limited to any significant changes in the services market covered by this procedure or major difficulties of the Contractor or the Ordering Party in procuring materials essential to performing the contract.
3. **The Ordering Party may conclude the contract on the basis of a form provided by the Contractor if it includes the provisions of the Draft Contract which constitutes Appendix 5 to these Terms of Reference.**

**Art.17**

**Legal protection measures**

1. Contractors and other entities whose legal interest in winning the tender has been or may be jeopardized due to a breach of the provisions of the PPL by the Ordering Party are entitled to legal protection measures as provisioned in Chapter VI of the PPL with regard to the proceedings involving amounts lower than the amount specified in executive legislation issued pursuant to art. 11 section 8 of the PPL.
2. Organizations entered in the list referred to in Art. 154, section 5 of the PPL are also entitled to legal protection measures with regard to the call for tenders and the Terms of Reference.

<b>Appendix no 1 to the Terms of Reference</b>		
<b>BID PROPOSAL FORM</b>		
<b>BID</b>		
<b>Instytut Adama Mickiewicza</b> <b>Ul. Mokotowska 25</b> <b>Warszawa 00-560</b>		
Under the contract awarding procedure in the form of an open tender procedure pursuant to the Act of 29 January 2004 – Public Procurement Law for the <b>Charter of passenger planes for the I, CULTURE Orchestra</b>		
<b>A. CONTRACTOR DETAILS:</b>		
A person authorized to represent the Contractor/s and signing the bid:		
..... Contractor/s ..... /full business name/ Address:..... ..... /street, number, zip-code, city, district/ NIP (Tax Identification Number) .....REGON (Business Registry Number) ..... Bank account no ..... Authorised contact person for the Ordering Party: ..... Mailing address for all notices arising from this procedure : email.....phone no.....fax no ..... website ..... Mailing address (if different from the registered office): .....		
<b>WE HEREBY OFFER PROVISION OF THE OBJECT OF PROCUREMENT AT THE PRICE STIPULATED BELOW:</b>		
<b>No.</b>	<b>OBJECT OF PROCUREMENT</b>	<b>Gross bid price in EURO</b>
<b>1</b>	<b>Warsaw – Montpellier 23 July 2018</b>	
<b>2</b>	<b>Montpellier - Amsterdam 25 July 2018</b>	
<b>3</b>	<b>Amsterdam - Copenhagen 27 July 2018</b>	
say: EUR..... gross,		
<b>Payment term: .....days (not shorter than 7 days and no longer than 30 days)</b>		

<p><b>B. REPRESENTATIONS:</b></p> <p>We represent that the bid price for the aforementioned routes includes all costs specified in the Terms of Reference, the fees related to the performance of flights, including airport fees, ground crew and cabin crew; one hot meal (vegetarian and non-vegetarian option) on board and drinks (coffee, tea, water, juice, fizzy drinks).</p> <ol style="list-style-type: none"> <li>1) we have read these Terms of Reference and Draft Contract and we do not raise any claims as for their content and accept the terms and conditions specified in them;</li> <li>2) we shall per form the contract in accordance with deadlines set forth in Appendix no 2 to these Terms of Reference;</li> <li>3) we are bound with this offer for the period of <b>30 days</b> commencing on the day of opening the bids (inclusive);</li> </ol>	
<p><b>C. OBLIGATIONS UNDERTAKEN IN CASE OF WINNING THE CONTRACT:</b></p> <ol style="list-style-type: none"> <li>1) we undertake to conclude the contract on the date and place set by the Ordering Party;</li> </ol>	
<p><b>D. SUBCONTRACTORS:</b></p> <p>Subcontractors shall be entrusted with the following parts of performing the contract (if known, the subcontractors' names should be provided)</p> <ol style="list-style-type: none"> <li>1) .....</li> <li>2) .....</li> <li>3) .....</li> <li>4) .....</li> </ol>	
<p><b>E. CONTENTS:</b></p> <p>Attached to the bid have been its integral components:</p> <ol style="list-style-type: none"> <li>1).....</li> <li>2).....</li> <li>3).....</li> <li>4).....</li> <li>5).....</li> </ol> <p>The submitted bid consists of .....pages numbered consecutively.</p>	
<p>.....</p> <p style="text-align: center;">Contractor's seal</p>	<p>.....</p> <p style="text-align: center;">date and signature of the Contractor's authorized representative</p>

**Appendix 2 to the Terms of Reference**

The Ordering Party requests the services under these Terms of Reference to be rendered in compliance with the binding laws and specifically the Commission Regulation (EC) no. 1702/2003 of 24 September 2003, regulating the implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production (Official Journal L 243 of September 27, 2003) or the Convention on International Civil Aviation,

**The object of the contract includes flights on the following routes**

**1. Warsaw – Montpellier on 23 July 2018**

Departure from Warsaw no earlier than 10:00 a.m.

Arrival at Montpellier till 11.00 p.m. (at the latest, local time)

**2. Montpellier – Amsterdam on 25 July 2018**

Departure from Montpellier no earlier than 10.00 a.m.

Arrival at Amsterdam till 11.00 p.m. (at the latest, local time)

**3. Amsterdam – Copenhagen on 27 July 2018**

Departure from Amsterdam no earlier than 10:00 a.m.

Arrival at Copenhagen till 11 p.m. (at the latest, local time)

1. All passengers shall fly on the same plane, without transfers.
2. In the event of no available slots at the Amsterdam airport, an arrival or departure from the Rotterdam airport is acceptable on condition that the group is provided with a transfer from the airport to the hotel / from the hotel to the airport at the bid price (no additional charges apply).
3. Additional requirements – hot meal (vegetarian and non-vegetarian options) on board and drinks (coffee, tea, water, juice, fizzy drinks) included in the price.
4. The number of seats on the plane: min 136 (including 10 cello seats, 2 tuba seats)
  - 1) registered luggage:  
124 passengers x 1 luggage item of up to 23 kg per person
  - 2) hand luggage  
119 passengers: hand luggage of up to 10 kg + an instrument per person

.....  
(Date, name and surname,  
signature of the Contractor's  
authorized representative)

## Appendix 3 to the Terms of Reference

<b>DECLARATION OF FULFILLMENT OF CONDITIONS OF PARTICIPATION IN THE TENDER PROCEDURE AND LACK OF GROUNDS FOR EXCLUSION FROM THE PROCEDURE</b>
By taking part in the public procurement procedure for <b>Charter of passenger planes for the I, CULTURE Orchestra</b>
<p><b>Acting on behalf of the Contractor:</b> _____</p> <p style="text-align: center;">_____</p> <p style="text-align: center;"><i>(Contractor's full name and address)</i></p>
<b>I represent that</b>
as of the date of submission of tenders, there are no grounds for exclusion from the procedure and I fulfil conditions for participating in the procedure.
<p>Pursuant to Art.24, section 1, item 12-13 of the PPL, the Ordering Party shall exclude from this procedure:</p> <ol style="list-style-type: none"> <li>1. the Contractor who has not demonstrated fulfilment of conditions for participation in the procedure or has not been invited to negotiate or submit initial bids or bids, or has not demonstrated lack of grounds for exclusion;</li> <li>2. the Contractor being a natural person who has been convicted with a final verdict for a criminal offence: <ol style="list-style-type: none"> <li>a) referred to in Art. 165a, Art. 181–188, Art. 189a, Art. 218–221, Art. 228–230a, Art. 250a, Art. 258 or Art. 270–309 of the Act of 6 June 1997 – Penal Code (Journal of Laws no 88, item 553, as amended) or Art. 46 or Art. 48 of the Act of 25 June 2010 on Sports (Journal of Laws of 2016; item 176);</li> <li>b) constituting an act of terrorism referred to in Art. 115 § 20 of the Act of 6 June 1997 – Penal Code,</li> <li>c) fiscal offence,</li> <li>d) referred to in Art. 9 or Art. 10 of the Act of 15 June 2012 on the consequences of entrusting the performance of work to foreigners staying in the Republic of Poland contrary to regulations (Journal of Laws; item 769);</li> </ol> </li> <li>3. The Contractor, if a member in office of its managing or supervisory body, partner in a general partnership or limited liability partnership, or general partner in a limited partnership or a limited joint-stock partnership, or a proxy has been convicted with a final verdict for a criminal offence referred to in section 2.</li> <li>4. The Contractor for whom a final verdict or final administrative decision has been issued on arrears in payment of taxes, levies, or social or health insurance premiums, unless the Contractor has paid due taxes, levies, and social or health insurance premiums with due interest or penalties or entered into a binding agreement on the repayment of these liabilities.</li> <li>5. The Contractor who as a result of wilful misconduct or gross negligence misled the Ordering Party when presenting information that they are not subject to exclusion, fulfil the conditions for participation in the procedure or meet the selection criteria, or who has concealed this information or is unable to present the required documents;</li> <li>6. The Contractor who as a result of recklessness or negligence presented information misleading to the Ordering Party, which could have significant influence on the decisions taken by the</li> </ol>

Ordering Party in the contract award procedure;

7. The Contractor who wrongfully influenced or attempted to influence the activities of the Ordering Party or to obtain confidential information that could have given them an advantage in the contract award procedure.
8. The Contractor who participated in the preparation of the contract award procedure, or whose employee as well as a person providing work on the basis of a mandate contract, agency contract, or another service contract, participated in the preparation of such a contract award procedure, unless the resulting distortion of competition can be eliminated in another way than by excluding the Contractor from the procedure;
9. The Contractor who entered into an agreement with other contractors aimed at distortion of competition between contractors in the contract award procedure, which the Ordering Party can demonstrate with the use of appropriate evidence;
10. The Contractor that is a collective entity prohibited from applying for public contracts by court pursuant to Act of 28 October 2002 on the Liability of collective entities for acts prohibited under penalty (Journal of Laws of 2015; items 1212, 1844 and 1855; and of 2016; item 437);
11. The Contractor prohibited from applying for public contracts under a precautionary measure;
12. Contractors who are members of the same capital gains group within the meaning of the Act of 16 February 2007 on Competition and Consumer Protection (Journal of Laws of 2017; item 229), and who submitted separate bids, partial bids, or requests to participate in the procedure unless they demonstrate that the links between them do not result in distortion of competition in the contract award procedure.

#### **Information regarding reliance on third party resources**

- 1) I hereby represent that in order to ascertain the fulfilment of conditions for participation in the procedure specified by the Ordering Party in Art.5 of these Terms of Reference, I do not rely on third party resources.\*
- 2) I hereby represent that in order to ascertain the fulfilment of conditions for participation in the procedure specified by the Ordering Party in Art.5 of these Terms of Reference, I rely on the resources of the following entity/ies.\*
  - a) \_\_\_\_\_
  - b) \_\_\_\_\_

*(specify the entity and scope of resources regarding a given entity)*

*\*delete where inapplicable*

#### **Declaration of the entity on whose resources the Contractor relies**

I hereby declare that there are no grounds for exclusion from the contract awarding procedure of the entity/ies on whose resources I rely for the purpose of this procedure, i.e.

- a) \_\_\_\_\_
- b) \_\_\_\_\_

*(full name /business name; address, and depending on the entity: tax identification no/identity no. National Business Registry no.)*

#### **SUBCONTRACTORS**

- 1) I do not intend to entrust other subcontractors with the performance of parts of the contract.\*
- 2) I intend to entrust subcontractors with the following parts of the contract (if known please specify contact details of such subcontractors)\*

<p>a) .....</p> <p>b) .....</p>	
<p><b>Declaration of the subcontractor not being an entity on whose resources the Contractor relies</b></p> <p>I hereby declare that there are no grounds for exclusion from the contract awarding procedure of the following subcontractors:</p> <p><b>a)</b> _____</p> <p><b>b)</b> _____</p> <p><i>(full name /business name/; address, and depending on the entity: tax identification no/ identity no. National Business Registry no.)</i></p>	
<p>.....</p> <p>Contractor's seal</p>	<p>.....</p> <p>Date and signature of the authorized representative of the Contractor</p>

**Appendix 4 to the Terms of Reference**

..... (place), ..... (date)

**DECLARATION OF THE CONTRACTOR**

We, the undersigned:

.....

acting on behalf of:

.....  
.....

competing for the contract in the open tender procedure for the **Charter of passenger planes for the I, CULTURE Orchestra**

- we represent that **we are not a member of any capital gains group** referred to in Art.24.1, section 23 of the PPL (Journal of Laws 2017, item 1579 as amended) under the Act of 16 February 2007 – Competition and Consumer Protection Law (Journal of Laws of 2017, item 229 as amended).\*

- we represent that **we are not a member of the same capital gains group** referred to in Art.24.1, section 23 of the PPL (Journal of Laws 2017, item 1579 as amended) under the Act of 16 February 2007 – Competition and Consumer Protection Law (Journal of Laws of 2017, item 229 as amended) as the Contractors that have submitted bids in this contract award procedure. \*

- we represent that **we are a member of the same capital gains group** referred to in Art.24.1, section 23 of the PPL under the Act of 16 February 2007 – Competition and Consumer Protection Law (Journal of Laws of 2017, item 229 as amended) as the Contractors listed below (specify name and address of registered offices)\*\*:

No.	Name (Company name)	Company address
1		
2		
3		

\* delete if inapplicable – if the Contractor does not delete either item, the Ordering Party will deem the Contractor not to be a member of a capital gains group.

\*\* when declaring membership in the same capital group as Contractors that have submitted separate bids in the tender, the Contractor may present evidence proving that their ties to the aforementioned Contractors do not impact the competitiveness of this public tender procedure.

.....  
(date signature of the Contractor's  
authorised representative\*)

**For Contractors competing jointly for the contract, each Contractor presents their separate declaration.**

*The signatory of this declaration is aware of criminal liability for making an untrue or fraudulent declaration under Article 297 of the Penal Code.*

**Appendix 5 to the Terms of Reference**

**Draft Contract**

concluded in Warsaw on .....2018 by and between:

the **Adam Mickiewicz Institute** with its registered seat in Warsaw (00-560), ul. Mokotowska 25, entered in the Register of Cultural Institutions kept by the Minister of Culture and National Heritage, entry no. RIK 70/2006, tax identification no. NIP 701-001-09-66, REGON: 140470071, represented jointly by

.....  
.....

hereinafter referred to as **IAM or the Ordering Party**,

and

.....

hereinafter referred to as the **Contractor**,

**IAM and the Contractor** hereinafter referred to as **the Party** and jointly as **the Parties**

which reads as follows:

**§ 1**

**Object of the contract**

1. The object of the contract is the purchase of airline transportation services in order to transport ..... passengers (musicians, organizers, guests) of the I, CULTURE Orchestra ensemble on the following routes:

.....

**§ 2**

**Terms and conditions of the Contract**

1. The performance of the contract shall take place on the following dates and routes:

.....,

2. The Contractor shall sell to the Ordering Party ..... seats on the routes and dates referred to in section 1 above.

3. Upon signing the Contract, its due performance shall be overseen by:

a) on behalf of the Ordering Party:

- Mr. / Ms. ...., phone no.: .....

b) on behalf of the Contractor:

- Mr. / Ms. ...., phone no.: .....

**§ 3**

**Payment conditions**

1. According to the bid placed by the Contractor, the value of the contract amounts to EUR ..... gross (say: ..... Euro gross).

2. The remuneration referred to section 1 of this paragraph shall be transferred to the Contractor upon due performance of the object of the contract on the basis of a properly issued VAT invoice submitted to the Ordering Party; specifically to the Contractor's bank account no ..... within .....days (in accordance with the Contractor's bid) following the date on which the invoice has been accepted and approved by the Ordering Party.

3. The value of the invoice as referred to in section 2 above shall not exceed the amount referred to in section 1 of this paragraph which is the maximum amount which constitutes the entire liability of the Ordering Party towards the Contractor under this Agreement.
4. The date when the IAM's account is debited is considered as the payment date, but no later than the last day of the payment period.
5. The remuneration as stipulated in section 1 above includes all costs specified in the Terms of Reference including fees arising from providing airline transportation services as well as the airport fees, including ground crew and cabin crew. The Contractor shall provide passengers with hot meals (vegetarian and non-vegetarian options) and drinks (i.e. coffee, tea, water, juice, fizzy drinks).
6. The Contractor undertakes to place the information regarding the person specified in § 2.3.a) as well as the object, date, and number of the Agreement on the VAT invoice.
7. The Contractor established outside Poland shall provide the IAM with an invoice along with a valid certificate of residence for the purpose of applying a relevant double taxation convention between Poland and the country of the Contractor's registered office. In the event of failure to submit such a certificate, a tax in the amount of 20% of the remuneration set forth in § 3 section 1 shall be applicable. A certificate of residence shall be deemed valid if issued no earlier than a year following the date on which the invoice has been delivered to the IAM's registered office.

**§ 4**

**Final provisions**

1. All amendments to the Contract shall be null and void unless made in writing (as appendices).
2. To all matters not regulated in this Contract, provisions of Polish Law, specifically the Public Procurement Law and the Civil Code shall apply.
3. The Parties shall strive to resolve any disputes in amicable fashion. Should the Parties fail to reach consensus, any such disputes shall be settled by a common court of law having jurisdiction over the seat of the Ordering Party.
4. The Contract has been drawn in four counterparts, three for the Ordering Party, one for the Contractor.

**the Ordering Party**

**Contractor**

Appendices to the Contract:

1. Description of the Object of the Contract

<i>Full name of the Project Manager / Department Head</i>	<i>signature</i>

## Appendix 6 to the Terms of Reference

## LIST OF MAIN SERVICES

Item no.	Client	Dates of performance of service (dd/mm/yyyy)	Name and short description of the service	Service value (gross)	Type of experience (own, subcontractor, third party)
<b>The minimum of 2 services worth the minimum of PLN200,000.00 gross each</b> , complying with the description of the service constituting the object of the procurement. The Ordering Party determines the service constituting the object of the procurement to be the charter of a passenger plane.					
1.		Contract start date ... Contract end date ....			
2.		Contract start date ... Contract end date ....			
3.		Contract start date ... Contract end date ....			
4.		Contract start date ... Contract end date ....			
5.		Contract start date ... Contract end date ....			

.....  
 (name and surname and signature of  
 the Contractor's authorized representative)

## Note:

1. The Ordering Party requires the Contractor to attach a list and evidence confirming that the services have been or are being duly performed.
2. The Ordering Party requires the Contractor to specify whether the reference experience is its own experience or the experience of other entities, regardless of the legal nature of its relations with such entities, and to prove to the Ordering Party that it will have at its disposal the resources necessary to perform the, in particular by presenting to this end a written commitment of those entities whereby they undertake to put the necessary resources at the Contractor's disposal for the time of their use in performance of the contract.
3. INSTRUCTION:  
Article 297, section 1 of the Penal Code: Any person who, for their own benefit or that of another person [...] presents a counterfeit or fraudulent document or a dishonest written declaration regarding circumstances of key significance for obtaining [...] the object of the contract, shall be punished by imprisonment for a period of 3 months up to 5 years.