

Instytut Adama Mickiewicza

ul. Mokotowska 25

00-560 Warsaw

Terms of reference for the

**OPEN TENDER PROCEDURE**

Object of the Contract:

**Provision of expert image-building and consulting services for the Polska Music programme, I, CULTURE Orchestra and “Niepodległa” programme related to the core activities of the above mentioned programmes in all areas of international press and media.**

Procedure no.: **0002/IAM/2017/7**

**Approved by:**

**Head of Controlling Department  
Adam Mickiewicz Institute**

**Katarzyna Goć-Cichorska**

Warsaw, July 21<sup>th</sup>, 2017

## **Article 1.**

### **The Awarding Entity**

Instytut Adama Mickiewicza  
Ul. Mokotowska 25  
00-560 Warszawa

## **ARTICLE 2**

### **Contract awarding procedure; legal grounds**

The contract awarding procedure is carried out pursuant to the Public Procurement Act of 29 January 2004 (Journal of Laws 2015, item 2164, as amended), hereinafter referred to as “PPL” or “Law”, as an open tender procedure for a service whose contract value does not exceed the amount set out in regulations issued pursuant to Article 11.8 of the PPL (EUR209 000).

## **Article 3.**

### **Description of the object of the contract**

1. The object of the contract is the provision of expert image-building services and consulting services for the Polska Music programme, I, CULTURE Orchestra and “Niepodległa” programme related to core activities of the above mentioned programmes in all areas of international press and media. The detailed description of the object of the contract is presented in **Appendix 1** to the Terms of Reference.
2. Common Procurement Vocabulary (CPV) code: 79410000-1 business and management consultancy services.
3. The Awarding Entity shall not accept variant tenders.
4. The Awarding Entity shall not accept tenders based on equivalent arrangements.
5. The Awarding Entity may accept partial tenders.
6. The Awarding Entity shall not sign a framework agreement.
7. The Awarding Entity shall not conduct an electronic bidding procedure.
8. Settlements with the Contractor shall be made in PLN or in EUR, GBP, or USD.
9. The Awarding Entity shall not reimburse costs of participation in the procedure, subject to Article 93.4 of the Law.
10. The Awarding Entity may award the contract as set forth in Article 67.1 in the amount of 100% equal to the value of the basic procurement.
11. The Awarding Entity does not restrict eligibility to compete for a contract only to Contractors employing over 50% of disabled personnel.
12. The Awarding Entity shall not cancel the contract awarding procedure in case of non-allocation of funds from the budget of the European Union and non-returnable assistance funds granted by member states of the European Free Trade Agreement (EFTA) to be designated for the financing of the contract in whole or in part.
13. Pursuant to Article 36b.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 Awarding Entity does not restrict any part of the Contract from being performed by subcontractors.

## **Article 4.**

### **Date and venue of the performance of the contract**

The object of the contract shall be performed as of the date of signing the Agreement for a period of **18 months**, starting on August 1, 2017 or on a date on which the Agreement has been signed and concluding on January 31, 2019.

## **Article 5.**

### **Conditions of participation in the procedure**

1. Pursuant to Article 22.1 of the PPL Contract eligibility is restricted to the Contractors who fulfill the conditions concerning:

- 1) Contractors are not subject to exclusion pursuant to Article 24.1(12-13) of the PPL. The Awarding Entity shall not exclude the Contractor pursuant to Article 24.5 of the PPL.
- 2) Contractors meet the conditions for participation in the procedure, as follows:
  - a) competences or authorization to perform specific business activities, if such authorizations are required by law; The Awarding Entity does not make a detailed condition regarding this matter.
  - b) economic or financial standing. The Awarding Entity does not make a detailed condition regarding this matter.
  - c) technical or professional competences

The Awarding Entity shall conclude that the Contractor fulfils the aforementioned condition if the Contractor proves that within three years prior to the tender submission deadline, and if the Contractor's period in business is shorter than three years, then within such period, it has duly performed (or in case of continuing services is duly performing) the following:

1. At least six services in positioning, building a media profile, branding and developing international image building strategies in the area of classical music for renowned institutions and artists **including**:

(the term "renowned" shall be construed as concert halls/opera houses hosting international performers from at least 5 different countries per year; orchestras and other performing bands which have performed at least 5 times abroad in their career)

- a) at least two services carried out for three different foreign cultural institutions and symphony orchestras such as: the London Philharmonic Orchestra, Royal Opera House, Bournemouth Symphony Orchestra, Royal Liverpool Philharmonic Orchestra or the Sao Paulo Symphony Orchestra;
- b) at least two services within the scope of classical music carried out for music labels such as: Universal Music Group, Hyperion Records, Naïve Classique, Wigmore Hall Live, Onyx Classics, Royal Opera House Heritage Series, Nonesuch Records, Kairos Records;
- c) at least two services carried out for an internationally acclaimed and renowned classical music soloist (the term "internationally acclaimed and renowned artist" shall be construed as a soloist who has performed at least 5 times abroad).

The Contractor shall demonstrate that they are or will be in possession of a 5-person team responsible for performing the contract, who meets the following conditions:

a) Team Director/Manager:

Requirements:

- at least 10 years of experience in leading an international agency dealing with worldwide promotion of classical music,
- education in culture management,
- fluency in English,
- at least 5 years of experience in international distribution of classical music publications (books, CDs, publications);

b) Head press officer:

Requirements:

- at least 5 years of experience in managing PR department specializing in international cultural events,
- experience in communications department of a radio/television channel or classical music publishing press,

- fluency in English;
- c) Implementers (3 persons who shall jointly meet the following requirements):
- at least one person with a minimum of 3 years experience in collaborating with an international music publishing press;
  - at least one person with a minimum of 5 years experience in working for international PR agencies specializing in classical music or international concert agencies specializing in classical music;
  - at least one person with a minimum 2 years of experience in cooperating with the performing arts company;
  - at least one person shall be fluent in French;
  - at least two persons shall be fluent in English.
2. The Awarding Entity may, at any stage of the open tender procedure, deem that the Contractor does not meet the requirements concerning the required capacities if engaging their technical capacities or personnel capable of performing the contract in other business activities may have a negative impact on the performance of the contract.
  3. 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 specific contract, the Awarding Entity 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.
  4. The Awarding Entity represents that the "specific situation" specified in Art.4 section 3 of these Terms of Reference is restricted to the situation when:
    - 1) the Contractor who relies on third party resources or standing of third entities shall demonstrate to the Awarding Entity 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 Awarding Entity 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. 25, section 1, item 13-22 and section 5 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.
  5. Further details regarding the situation when the Contractor relies on third party resources is stipulated in Art.22, section 22a, item 1-6 of the PPL.
  6. The Contractor who is excluded pursuant to Art. 24, section 1, items 13 and 14 and 16–20 of the PPL, may provide evidence that the measures taken by the Contractor are sufficient to demonstrate their reliability, and specifically the Contractor may demonstrate that any damage caused by an offence or fiscal offence has been remedied; any harm or damage has been remedied in the form of financial compensation; the Contractor may provide a comprehensive explanation of the current situation and cooperation with law enforcement bodies as well as describe specific measures of technical, organizational and human resources nature taken in order to prevent further offences, fiscal offences or improper actions of the Contractor. The regulation specified in the first sentence above shall not apply if the Contractor being a collective entity has been banned by final judgment from

participating in a contract awarding procedure and if the ban period specified in the final judgment hasn't elapsed.

7. The Contractor shall not be excluded if the Awarding Entity, taking into account the gravity and particular circumstances, deems as sufficient the evidence provided by the Contractor pursuant to section 6 above.
8. The Awarding Entity may exclude any participating Contractor at any stage of the contract awarding procedure.
9. Fulfilment of the conditions of participation in the procedure shall be evaluated based on the documents and declarations submitted by Contractors, referred to in point VI, and assessed on a fulfilled/not fulfilled basis.
10. Tender eligibility is restricted to Contractors who have the capacities to perform the contract in accordance with Appendix 1 to these Terms of Reference.

#### **Article 6.**

##### **List of declarations and documents to be submitted by Contractors as confirmation of fulfillment 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 Awarding Entity **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 who 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 Awarding Entity **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 services, in the case of periodical or continuous services also core services, provided for** 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 stating the due performance of those services. Submitted documents must unquestionably confirm the fulfilment of the condition specified in Art.5, section 1.2 letter c) – technical or professional competence. **Appendix no 7** to these Terms of Reference.

- b) **a list of persons** appointed by the Contractor to perform the contract, specifically provision of services, including the information regarding their professional qualifications, authorizations, experience and education necessary to perform the contract, as well as the scope of their activities and information on the basis for the disposal of such persons. The template of the list constitutes **Appendix 6 to the Terms of Reference**.
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 Awarding Entity with **a declaration ascertaining whether the Contractor is or is not a member of the capital gains group** (a template of the declaration is attached in **Appendix 4 to these Terms of Reference**) 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.
  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 Awarding Entity 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 Awarding Entity, the Awarding Entity 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. In addition, the following documents shall be submitted along with the bid:
    - 1) a filled and signed Tender Form in accordance with **Appendix 2 to these Terms of Reference**;
    - 2) powers of attorney.
  10. If the Contractor relies on third party resources, experience, 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 shall demonstrate to the Awarding Entity 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 specified in Art.26, section 2b of the PPL.** 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 such entity 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 nature of relations between the Contractor and the other entity;

- d) the scope and period within which other entity will participate in performing the contract.

#### **Article 7.**

### **COMMUNICATION BETWEEN THE AWARDING ENTITY AND CONTRACTORS AND PROVISION OF DECLARATION AND DOCUMENTS; PERSONS AUTHORIZED TO COMMUNICATE WITH CONTRACTORS**

1. Subject to the exceptions set out in the Law, any declarations, requests, notices and information shall be exchanged by the Awarding Entity and Contractors:
  - a) **in writing at the following address:**  
**Instytut Adama Mickiewicza, ul. Mokotowska 25, 00 – 560 Warsaw, Poland, or**
  - b) **by fax at (+48 22)44 76181 , or**
  - c) **by e-mail at: kcichorska@iam.pl**
2. If the Awarding Entity or Contractors exchange any declarations, requests, notices and information by fax or by e-mail, either party shall immediately confirm receipt on request of the other party.
3. Contractors who fail to submit the declarations or documents required by the Awarding Entity, referred to in Article 25.1 of the Law, within the tender submission time limit or submit declarations and documents required by the Awarding Entity, referred to in Article 25.1, containing errors or submit defective powers of attorney and are requested, under Article 26.3 of the Law, to submit them, shall send/present such declarations or documents in writing, as originals or true copies certified by the authorized representative(s) of the Contractor, or powers of attorney as the original copy issued by the authorized representatives of the Contractor or a copy (transcript) certified by a notary public, within the time limit and at a place specified in the relevant notice.
4. Contractors may request the Awarding Entity to provide clarifications concerning the content of the Terms of Reference. The Awarding Entity shall provide clarifications immediately, no later than 2 days before the tender submission time limit, provided that the request for clarification of the provisions of the Terms of Reference is received by the Awarding Entity no later than by the end of day on which one half of the set tender submission time limit has elapsed.
5. The Awarding Entity shall provide any clarification simultaneously to all Contractors who have received the Terms of Reference and publish it on the website, however without disclosing the source of the query.
6. In justified cases, the Awarding Entity may modify the provisions of the Terms of Reference before the tender submission time limit. The Awarding Entity shall provide any modification of the Terms of Reference immediately to all Contractors who have received the Terms of Reference and publish it on the website. Any modification shall be an integral part of the Terms of Reference.
7. The authorized contact person for Contractors is **Katarzyna Goć-Cichorska**- e-mail: phone no 22 44 76 156

#### **Article 8**

##### **Tender bond requirements**

The Awarding Entity sets no tender bond.

#### **Article 9**

##### **Tender validity**

1. The tender shall be binding to the Contractor for a period of **30 days** which shall commence with the expiry of the time limit for submission of tenders (Article 85.5 of the PPL),
2. A Contractor acting on its own initiative or at the request of the Awarding Entity may extend the period of tender validity for a period necessary to sign the public contract agreement, however the Awarding Entity may only once, at least 3 days before the tender

validity deadline, request the Contractor to extend the deadline for an indicated period, which however shall not be longer than 60 days.

## **Article 10**

### **Tender preparation method**

1. The Contractor shall bear all costs related to the preparation and submission of the tender.
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. Tenders should be prepared according to the requirements set out in the Terms of Reference.
4. It is recommended that all the pages filled with writing or print included in a bid are numbered and fastened together in an orderly and permanent fashion.
5. All bids shall be prepared **in Polish or in the English language version**, 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 the contract 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 tender price, it shall be granted (signed) by a person (persons) authorized as entered in the appropriate register and attached to the tender. The authorization must be submitted as original or copy certified as a true copy.
9. The provision of point 8 above shall apply as appropriate to all subsequent powers of attorney.
10. The person or persons signing the bid must be authorized to contract on behalf of the Contractor up to an amount equal to the price of the bid pursuant to the entry into the relevant register.
11. All documents required under these Terms of Reference prepared in a foreign language version must be submitted along with relevant 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 authorized representative of the Contractor. 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 if 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. 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 Article 6.10 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 Tender Form Template (Appendix 2 to these Terms of Reference). While failure to adhere to the template set out in Appendix 2 shall not constitute grounds for rejection of the bid, the Awarding Entity requires that any submitted bid include all declarations specified in the tender form template.
20. Furthermore, each tender shall contain:
  - 1) completed **Tender form** – Attachment no 2 to these Terms of Reference containing specifically: the total gross tender price; obligation as for meeting the deadline for performing the contract; 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 Material Terms of Agreement with no reservations as well as information on which part of the contract the Contractor intends to entrust to subcontractors.
  - 2) declarations described in section 6 of the Terms of Reference;
  - 3) power of attorney authorizing to represent the Contractor (Contractors participating jointly) if the tender is submitted by a representative.
  - 4) obligation of a third party if the Contractor relies on the resources or standing 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 bids shall be marked as follows:

**Tender for: “Provision of expert image-building and consulting services for the Polska Music programme, I, CULTURE Orchestra and “Niepodległa” programme related to core activities of the above mentioned programmes in all areas of international press and media”,**

**Procedure no. 0002/IAM/2017/7**

**“Do not open before 1:30 p.m. on 31.07.2017”**

- a) addressee: Adam Mickiewicz Institute, Mokotowska 25, 00-560 Warsaw, Poland
- b) sender: Contractor’s name, detailed mailing address and phone numbers (a seal is permitted).

*NOTE: The Awarding Entity 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 Awarding Entity 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 submission deadline, Contractors may no longer revise or withdraw their respective bids.

**Instytut Adama Mickiewicza, ul. Mokotowska 25, 00-560 Warszawa** and marked as follows:

**Tender for: "Provision of expert image-building and consulting services for the Polska Music programme, I, CULTURE Orchestra and "Niepodległa" programme related to core activities of the above mentioned programmes in all areas of international press and media", procedure no. 0002/IAM/2017/7**

## **Article 11**

### **Tender submission and opening place and date.**

1. Tenders shall be submitted to the address of the Awarding Entity: Instytut Adama Mickiewicza, ul. Mokotowska 25, 00-560 Warsaw, Poland, reception desk.  
The tender submission time deadline is **31.07. 2017 at 1:30 pm**. Tenders shall bear the address specified in Article 10.22 of these Terms of Reference.
2. The date and time of submitting the tender to the Awarding Entity, not the date of sending the tender by postal or courier services, shall be decisive in keeping the deadline of tender submission.
3. Tenders submitted after the deadline set forth in Article 11 of these Terms of Reference shall be returned to the Contractor pursuant to Article 84.2 of the PPL.
4. Tenders shall be opened on **31.07.2017 at 1:30 pm** at the registered office of the Awarding Entity.
5. Tenders shall be opened publicly.
6. During the opening of tenders, the Awarding Entity shall announce information specified in Article 86.4 of the PPL.
7. Immediately after opening the tenders the Awarding Entity shall upload information on the [www.iam.pl website](http://www.iam.pl) regarding:
  - a) the amount intended to be allocated to finance the contract;
  - b) companies and addresses of Contractors that submitted the tenders within time limit;
  - c) prices specified in the tenders.

## **Article 12**

### **Method of calculation of the tender price.**

1. A Contractor shall quote a tender price for the performance of the contract by specifying in the Tender Form following the template which constitutes Appendix no 2 to these Terms of Reference the total gross price for the performance of the contract:
2. The total gross contract value offered in the Contractor's bid must ensure the coverage of all costs related to the performance of the procurement and Material Terms of Agreement set forth Terms of Reference.
3. The Awarding Entity requires all prices to be quoted rounded off 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 tender price shall be expressed in Polish zlotys (PLN). The Contractor shall specify a flat-rate tender price for the monthly provision of services. The price shall include due taxes. **The Awarding Entity allows the expression of tender prices in Euro, British Pound Sterling, or United States Dollar by Contractors whose registered seat or place of residence is based outside Poland. Should a tender price be expressed in a foreign currency, the Awarding Entity shall recalculate it in PLN according to the average exchange rate calculated and published by the National Bank of Poland as of the date of opening of tenders (table A of average foreign currency exchange rates of the National Bank of Poland).**

5. Should a bid be submitted whose selection would result in a tax obligation on the Awarding Entity in accordance with the provisions on tax on goods and services (VAT), the Awarding Entity shall, in order to evaluate such a tender, add the value added tax (VAT) payable under these provisions to the tender price. The Contractor, when submitting a bid, shall inform the Awarding Entity whether the selection of tender will lead to a tax obligation on the Awarding Entity, indicating the name (type) of goods / services, delivery of which will lead to a tax obligation, and indicating their value without the tax amount.

**Article 13.**

**Criteria to be used by the Awarding Entity in selecting a tender including the weight of the criteria and the method of evaluation of tenders.**

1. The Awarding Entity shall select the best tender based on the **criteria** as follows:

A. Price – 60%:

The Awarding Entity shall evaluate submitted tenders according to the following rules: The criterion of price shall be evaluated on the basis of the gross price quoted by the Contractor in the tender for the performance of the entire object of the contract (a monthly remuneration for the provision of the services x 18 months) including all liabilities arising from the performance of the object of the contract that the Contractor shall be liable for. Under the price criterion, scores shall be awarded according to the formula below:

$$S = \frac{LBP}{EBP} \times 60,$$

where:

- LBP – the lowest bid price,
- EBP – the evaluated bid price,
- S – score of the evaluated bid.

B. Payment Date – 40%:

Under this criterion the Awarding Entity shall award scores as follows:

- Payment date equal to 30 days – 40 points
- Payment date shorter than 30 days – 0 points

The minimum payment date is 14 days. Should the Contractor specify a payment date shorter than 14 days, the tender of such a Contractor shall be deemed incompatible with

these Terms of Reference. The maximum payment date is 30 days. Should the Contractor specify a payment date in excess of 30 days, the tender of such a Contractor shall be deemed incompatible with these Terms of Reference.

2. The winning tender shall be the tender with the highest total score.
3. The Awarding Entity 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.
4. 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 Awarding Entity shall select the bid with the lowest price among these bids (Art. 91.4 of the PPL).
5. In order to determine whether the bid includes an abnormally low price with regard to the object of the contract, the Awarding Entity may request the Contractor to submit clarifications within a set deadline regarding these elements of the bid which affect the price.
6. The Awarding Entity 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 Awarding Entity who shall immediately notify the Contractor whose bid has been corrected.

#### **Article 14**

##### **Information regarding formal requirements to be fulfilled of a tender in order to sign the public procurement contract.**

1. Contractors participating in the procedure shall be informed of its results.
2. Upon approval of the selection of the best tender, information about the selection shall be published on the Awarding Entity's bulletin board and website.
3. The Awarding Entity shall conclude a contract with the selected Contractor pursuant to Article 94 of the Law.
4. If a tender of the Contractors submitting the tender jointly is selected, the Contractors shall provide the Awarding Entity with a copy of the agreement governing the relations among the Contractors within a deadline set by the Awarding Entity. The agreement governing the relations among the Contractors shall specify the following:
  - 1) entities submitting the tender;
  - 2) economic purpose of the agreement;
  - 3) rules of representation and conduct;
  - 4) duration of the agreement (it is required that its duration extend the execution of the contract for which a tender has been submitted, and the period of guarantee and/or warranty).
- 5) The failure to submit the document specified in point 4 above shall be construed by the Awarding Entity as evasion to enter the Contract, in which case the Awarding Entity shall select the most advantageous bid among the remaining bids.
- 6) Should the Contractor, whose bid has been awarded the contract, evade entering the contract, the Awarding Entity 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.

#### **Article 15.**

##### **Performance bond requirements**

The Awarding Entity requires no performance bond.

**ARTICLE 16**

**Essential terms and conditions introduced to the public contract agreement, general terms and conditions of the agreement or template agreement if the Awarding Entity requires a Contractor to sign a public contract agreement under such terms.** The Essential Terms and Conditions of the Agreement are presented in **Appendix 5 to the Terms of Reference.**

**Article 17 Legal protection measures**

1. . Contractors as well as other entities whose have or have had legal interest in winning the tender and whose interest has been or might have been prejudiced as a result of a breach of the provisions of the Law by the Awarding Entity are entitled to legal protection measures set out in detail in Title VI of the PPL in regard with the amount specified in implementing provisions adopted pursuant to Article 11.8 of the PPL.
2. Organizations entered in the list referred to in Article 154.5 of the PPL are also entitled to legal protection measures with regard to the call for tender and the Terms of Reference.

**Appendix 1 to the Terms of Reference****DETAILED DESCRIPTION OF THE OBJECT OF THE CONTRACT****SPECIFICATION DETAILS – THE MAIN OBJECTIVES:**

The Polska Music programme actively promotes Polish classical music abroad as performed by renowned international artists. The programme's objectives include stage and concert productions, promotion of Polish contemporary music, initiating new commissions for compositions and supporting numerous book and sound publications. The core activities of the program involve events organized abroad. In the upcoming years, Polska Music's actions will extend over the countries of Western Europe, in particular France, Germany and Great Britain, as well as the United States of America.

The key initiatives of the Polska Music Programme in 2017-2018 season will include projects implemented in collaboration with leading cultural institutions around the world, among others, concerts of Polish contemporary music performed by major European and US orchestras; presentations of Polish composers at the world's leading chamber contemporary music festivals; presentations of stage co-productions; as well as activities aimed at promoting talented young composers.

More about the nature of these projects at: [www.polskamusic.pl](http://www.polskamusic.pl)

The I, CULTURE Orchestra is an ensemble of outstanding young musicians from Poland and the Eastern Partnership member states: Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine, formed in 2011 by the Adam Mickiewicz Institute.

The mission of the I, CULTURE Orchestra is to foster positive change in the cultural and social development of the countries of Eastern Europe and Southern Caucasus through enterprises of the highest artistic quality.

The Orchestra's success has been founded on the universal principles of solidarity, integration and friendship. As an educational project, the ICO enables young talents to change their perspective on their respective artistic surroundings and hone their skills under the supervision of eminent instrumentalists representing Europe's most prominent orchestras, including the London Symphony Orchestra, the Philharmonia Orchestra, the London Philharmonic Orchestra, the City of Birmingham Symphony Orchestra, and the Berliner Philharmoniker.

The ICO has performed with leading young soloists from various countries. The orchestra's conductors collaborations include Sir Neville Martinson, Paweł Kotla, Ilyich Rivas, Łukasz Borowicz, and Kirill Karabits (who is currently the ICO's artistic director).

Over five editions, the ICO has performed in 36 concerts in 24 cities across 15 countries, to a joint audience of 80,000. Europe's most prestigious venues, the leading concert halls of the Eastern Partnership member states, as well as top European music festivals. A flagship project of the Foreign Cultural Programme of the 2011 Polish Presidency of the EU Council, the ICO performed in London, Berlin, Brussels and Madrid. The 2012 tour featured concerts in the capitals of the Eastern Partnership member states—Minsk, Kiev, Chisinau and Tbilisi—as well as Lublin and Warsaw. 2013 saw the orchestra perform in Gdańsk, Reykjavik, Gothenburg,

Copenhagen, Tallinn and Kiev, while the 2014 tour included visits to leading international music festivals (Kassel, La Roque d' Antheron, Edinburgh and Stockholm). 2015 saw ICO perform in Gdańsk and Batumi, at the international festivals in Berlin and Santander, and twice in Kiev, including a performance to a crowd of over 50,000 who gathered at Maidan Nezalezhnosti to celebrate Ukraine's Independence Day.

More about the nature of this project at: [www.orchestra.culture.pl](http://www.orchestra.culture.pl)

The "NIEPODLEGŁA" programme

Priority III - Program of Poland's Independence Centenary 2017-2021 ["Niepodległa" programme]

The international cultural programme accompanying Poland's centenary of regaining independence includes music, visual arts, theatre, film, and new media projects. The content strategy focuses on the modern reinterpretation of the heritage of the interwar period. This dynamic and creative period continues to this day to inspire artists. Projects that make up the program will be implemented in cooperation with the most famous Polish artists and cultural institutions.

As part of the Priority III - Program of Poland's Independence Centenary 2017-2021 ["Niepodległa" programme] implemented by the Ministry of Culture and National Heritage, the Adam Mickiewicz Institute aims to present a refurbished image of Polish music of the past 150 years: diverse yet coherent in its organic ties to the country's difficult history, while also in close touch with the crucial phenomena of global musical culture; key to the development of Western high culture, and foreshadowing the most interesting aspects of popular culture in the 20th and 21st century. The Institute intends to achieve the aforementioned through conventional forms (concerts, opera performances in top European and global venues) as well as multimedia exhibitions, installations, online educational projects and computer games. The long-term goal of the projects is to strengthen the position of selected Polish composers in the world's cultural canon, and to build the image of Poland as a historical and current gold mine of original music and broadly defined art of sound and popular culture in the 20<sup>th</sup> and 21<sup>st</sup> centuries.

The initiatives organized as part of "The Music for Freedom" (within the "Niepodległa" programme) will be implemented from 2018 through 2021 within five pillar projects. Using a range of media and forms, the four year project provisions each pillar project to transmit a complex message concerning Poland and its musical culture.

The key initiatives of the "The Music for Freedom" programme in 2017-2018 season will include such projects as: concerts around the world with Ignacy Jan Paderewski's music; programme of promoting the Polish Radio Experimental Studio (exhibitions, creation and dissemination of the database of free samples, production of audiovisual performances, and others); commissioning new works in Polish composers; concerts within the "Heroines of sound" pillar (concerts of Polish woman composers such as Agata Zubeł, Jagoda Szmytka, Elżbieta Sikora, Grażyna Bacewicz and others); the Map of Polish Composers (a digital, multimedia, visually and narratively attractive map of relations between Polish composers).

The object of the contract is the provision of expert consulting and image building services by the Contractor for the Polska Music programme, I, CULTURE Orchestra, and “Niepodległa programme” within all fields of international press and media in connection with its core activities as follows:

1. Popularization of Polish composers as part of projects implemented within the scope of the Polska Music programme, and “Niepodległa” programme between August 2017 and January 2019
2. Building the image of the Polska Music programme among international opinion-forming circles
3. Building the image of the I, CULTURE Orchestra among the international opinion-forming circles
4. Building the image of the “Niepodległa” programme among international opinion-forming circles

AD 1. Popularization of Polish classical and contemporary music according to the strategy of promotion of Polish composers abroad implemented by the Awarding Entity as part of the Polska Music Programme between August 2017 and January 2019

in the following fields:

- 1) key festivals of classical and contemporary music worldwide , such as the Huddersfield Contemporary Music Festival, Salzburg Festival, Time of Music Festival, Kyiv Music Festival;
- 2) series of opinion-forming presentations of contemporary music as part of artistic seasons with the world’s leading symphony orchestras such as the Los Angeles Philharmonic or Chicago Symphony Orchestra, Baltimore Symphony Orchestra;
- 3) workshops and residency programs for young composers implemented in collaboration with such institutions as Ensemble Musikfabrik, IRCAM, London Philharmonic Orchestra or Sound and Music;
- 4) presentations of opera performances produced by such organizations as the Welsh National Opera, Royal Opera House, Danish National Opera, or Bayerische Staatsoper;
- 5) prestigious events organized by foreign symphony orchestras, chamber ensembles and artistic centers such as the BBC Symphony Orchestra, London Philharmonic Orchestra, Philharmonia Orchestra, Rambert Dance Company, 59 Productions, Philharmonie de Paris, Santa Cecilia Orchestra, International Contemporary Ensemble.

by means of the following actions:

- implementation of global PR activities promoting Polish composers presented as part of the aforementioned events;
- compilation of lists of journalists approved by the Awarding Entity arranging for presence of opinion-forming persons at the events designated by the Awarding Entity;
- ongoing contact with opinion-forming institutions, foreign journalists and music critics in the international classical music circles to promote Polish composers, including the



representation of the Awarding Entity within the scope of circulation of information related to the activity of the Awarding Entity with regard to the promotion of Polish composers;

- redirection of potential partners, partner institutions and foreign journalists (particularly those specializing in classical music) to establish direct contacts with the Awarding Entity with regard to the promotion of Polish composers;
- cooperation with leading magazines in the industry as selected by the Awarding Entity and pursuant to the strategy of promotion of Polish composers abroad, including The Wire, MusikTexte, Neue Zeitschrift für Musik, The Quietus;
- cooperation with international publishing presses selected by the Awarding Entity, such as Schott, Boosey&Hawkes, Chester, Universal Edition, among others in order to establish cooperation with Polish composers;
- monitoring of English-speaking media with regard to the projects implemented by Polska Music, based on lists approved by the Awarding Entity, including:
  - major British titles of such dailies as The Guardian, The Daily Telegraph, The Times, Financial Times or The Independent, The Observer, The Economist, The Spectator, Time Out London – including their electronic editions,
  - major magazines devoted to classical and contemporary music, among others: BBC Magazine, Gramophone, Classical Music, Opera Now, Opera Magazine, Musical Opinion, International Record Review; websites: classic.fm, bachtrack.com, musicalamerica.com, sinfinimusic.com, theartdesk.com, seenandheard-international.com, classicalsource.com and other blogs of leading musicologists and opinion-forming music journalists;
- 8. preparation of press releases, reviews and previews of events (in English) organized within the projects implemented by Polska Music;
- 9. support in the preparation of media reports compiled by Polska Music.

#### Schedule:

- 1) implementation of all works related to the aforementioned tasks: on an ongoing basis, from the date of concluding the agreement through 31 January 2019;
- 2) reporting of implementation of works related to the aforementioned activities: on a quarterly basis, from the date of concluding the agreement through 31 January 2019.

#### Ad 2. Building the image of the Polska Music programme in international opinion-forming circles

##### In the following fields:

1. preparation and implementation of Polska Music's image-building strategy worldwide;
2. ongoing substantive support – building of Polska Music's image as part of all foreign events co-organized by the programme;
3. collaboration with Polska Music's partner organizations and potential partners as part of the implementation of tasks related to the development of Polska Music's image;
4. placement of information on the Awarding Entity in the form of interviews and feature articles devoted to the Institute in order to improve the recognizability and esteem of the Awarding Entity;
5. organization of meetings with representatives of prestigious cultural institutions to profile the Awarding Entity's activity and initiate co-operation.

by means of:

1. Implementation of tasks specified by the Contractor in the detailed schedule of works, approved by the Awarding Entity;

The strategy will be submitted to the Contractor selected in the awarding procedure.

Schedule:

- 1) implementation of all works related to the aforementioned tasks: on an ongoing basis, from the date of concluding the agreement through 31 January 2019;
- 2) reporting of implementation of works related to the aforementioned activities: on a quarterly basis, from the date of concluding the agreement through 31 January 2019.

Ad 3. Building the image of the I, CULTURE Orchestra in international opinion-forming circles

In the following fields:

1. preparation and implementation of I, CULTURE Orchestra's image-building strategy worldwide;
2. collaboration with I, CULTURE Orchestra's partner organizations and potential partners as part of the implementation of tasks related to the development of I, CULTURE Orchestra's image;
3. placement of information on the Awarding Entity in the form of interviews and feature articles devoted to the Institute in order to improve the recognizability and esteem of the Awarding Entity;
4. organization of meetings with representatives of prestigious cultural institutions to profile the Awarding Entity's activity and initiate co-operation.

by means of:

1. Implementation of tasks specified by the Contractor in the detailed schedule of works, approved by the Awarding Entity;

The strategy will be submitted to the Contractor selected in the awarding procedure.

Schedule:

- 1) implementation of all works related to the aforementioned tasks: on an ongoing basis, from the date of concluding the agreement through 31 January 2019;
- 2) reporting of implementation of works related to the aforementioned activities: on a quarterly basis, from the date of concluding the agreement through 31 January 2019.

Ad 4. Building the image of the "Niepodległa" programme in international opinion-forming circles

In the following fields:

1. preparation and implementation of the "Niepodległa" programme's image-building strategy worldwide;
2. ongoing substantive support – building of the "Niepodległa" programme's image as part of all foreign events co-organized by the programme in the field of musical part of the programme ("Music of Freedom");

3. collaboration with Polska Music's and "Niepodległa" programme's partner organizations and potential partners as part of the implementation of tasks related to the development of the "Niepodległa" programme's image;
4. placement of information on the Awarding Entity in the form of interviews and feature articles devoted to the Institute in order to improve the recognizability and esteem of the Awarding Entity;
5. organization of meetings with representatives of prestigious cultural institutions to profile the Awarding Entity's activity and initiate co-operation.

by means of:

1. Implementation of tasks specified by the Contractor in the detailed schedule of works, approved by the Awarding Entity;

The strategy will be submitted to the Contractor selected in the awarding procedure.

Schedule:

- 1) implementation of all works related to the aforementioned tasks: on an ongoing basis, from the date of concluding the agreement through 31 January 2019;
- 2) reporting of implementation of works related to the aforementioned activities: on a quarterly basis, from the date of concluding the agreement through 31 January 2019.

**Appendix 2 to the Terms of Reference**

**Appendix 2 to the Terms of Reference**

**TENDER FORM**

**TENDER**

**Instytut Adama Mickiewicza  
Ul. Mokotowska 25  
00-560 Warszawa**

The contract awarding procedure is carried out as an open tender procedure for a service in accordance with the Act of 29 January 2004 The Public Procurement Law for the **Provision of expert image building and consulting services for the Polska Music programme, I, CULTURE Orchestra and “Niepodległa” programme related to core activities of the above mentioned programmes in all areas of international press and media.**

**A. CONTRACTOR(S) DETAILS:**

A person authorized to represent the Contractor/s and sign the tender:.....

Contractor/Contractors:.....

(/full name of the Contractor’s company)

Address:.....

.....

(/Street/No/postal code/city/district/

Tax identification no.NIP.....REGON

.....

Bank account no.....

A person in charge of communications with the Awarding Entity:.....

Contact details to which all communications related to this tender procedure should be sent:  
email.....phone no..... fax no.....

<p style="text-align: center;">website</p> <p>Postal address (if different than the address of the registered office):                  .....                  .....</p>
<p><b>B. OFFERED OBJECT OF THE PROCUREMENT</b></p> <p><b>We are offering</b> the performance of the object of procurement at the following price:</p> <p><b>one month of provision of services: PLN/EUR/GBP/USD</b> ..... (delete where inapplicable)</p> <p><b>say</b> <span style="float: right;"><b>PLN/EUR/GBP/USD</b></span>                  ..... (delete where inapplicable)</p> <p><b>Gross value of provision of services per 18 months (total gross tender price):</b>  <b>PLN/EUR/GBP/USD</b> ..... (delete where inapplicable)</p> <p><b>Say:</b>  <b>PLN/EUR/GBP/USD:</b>.....                  ..... (delete where inapplicable)</p> <p><b>The tender price is expressed in the following currency:</b> .....</p> <p><b>Payment date</b> .....days</p>
<p><b>C. REPRESENTATIONS:</b></p> <ol style="list-style-type: none"> <li>1) the price indicated in our offer includes all costs arising from the performance of the contract;</li> <li>2) we have read these Terms of Reference and Material Terms of Agreement. We do not raise any claims as for their content and accept essential terms and conditions specified in them;</li> <li>3) we are bound with this offer for the period of <b>30 days</b> commencing on the day of opening the tenders (inclusive);</li> </ol>
<p><b>D. OBLIGATIONS UPON WINNING THE TENDER:</b></p> <ol style="list-style-type: none"> <li>1) We undertake to conclude an agreement in the place and time indicated by the Awarding Entity;</li> </ol>

**E. SUBCONTRACTORS:**

Subcontractors shall be entrusted with the following parts of performing the contract (if known, the subcontractors' names should be provided)

- 1) .....
- 2) .....
- 3) .....

**F. CONTENTS:**

Attached to the bid have been its integral components:

- 1).....
- 2).....

The submitted tender comprises ..... pages.

.

<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 3 to the Terms of Reference

<b>Appendix 3 to the Terms of Reference</b>
<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>Provision of expert image-building and consulting services for the Polska Music programme, I, CULTURE Orchestra and “Niepodległa” programme related to the core activities of the above mentioned programmes in all areas of international press and media.</b>
<b>Acting on behalf of the Contractor:</b> _____ _____ <i>(Contractor’s full name and address)</i>
<b>I represent that</b> as of the date of submission of tenders, there are no grounds for exclusion from the procedure and we fulfill conditions for participating in the procedure.
Pursuant to Art.24, section 1, item 12-13 of the PPL, the Awarding Entity shall exclude from this procedure: <ol style="list-style-type: none"> <li>1. the Contractor who has not demonstrated fulfillment 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 point 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 willful misconduct or gross negligence misled the</li> </ol>

- Awarding Entity when presenting information that they are not subject to exclusion, fulfill 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;
6. The Contractor who as a result of recklessness or negligence presented information misleading to the Awarding Entity, which could have significant influence on the decisions taken by the Awarding Entity in the contract award procedure;
  7. The Contractor who wrongfully influenced or attempted to influence the activities of the Awarding Entity 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 Awarding Entity 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 2015; item 184, 1618 and 1634), 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 fulfillment of conditions for participation in the procedure specified by the Awarding Entity 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 fulfillment of conditions for participation in the procedure specified by the Awarding Entity 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)\*
  - a) .....
  - b) .....

**Declaration of the subcontractor not being an entity on whose resources the Contractor relies**

I hereby declare that there are no grounds for exclusion from the contract awarding procedure of the following subcontractors:

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

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

<p align="center">.....</p> <p align="center">Contractor's seal</p>	<p align="center">.....</p> <p align="center">Date and signature of the Contractor's authorized representative</p>
---	--

**Appendix 4 to the Terms of Reference**

**DECLARATION OF THE CONTRACTOR**

We, the undersigned:

.....

acting for and on behalf of

.....

.....

by competing for awarding of the contract in the procedure for:

**Provision of expert image building and consulting services for the Polska Music programme, I, CULTURE Orchestra and “Niepodległa” programme related to core activities of the above mentioned programmes in all areas of international press and media**

-we represent that **we are not a part** of a corporate group referred to in Article 24.1(23) of the PPL (Journal of Laws from 2015; item 2164 as amended) within the meaning of the Competition and Consumer Protection Act of 16 February 2007 (Journal of Laws from 2015, No.185, 1618 and 1634).\*

-we represent that **we are a part** of a corporate group referred to in Article 24.1(23) of the PPL within the meaning of the Competition and Consumer Protection Act of 16 February 2007 (Journal of Laws from 2015, No.185, 1618 and 1634) as the entities enumerated below (please provide company names and addresses) :\*

No.	Company name	Company address y
1		
2		
3		
4		

\* delete if inapplicable – if the Contractor does not delete either item, the Awarding Entity will deem the Contractor not to be a member of a group.

.....

*(date and signature of the Contractor’s authorized representative\*)*

**For Contractors competing jointly for the award of the contract, each Contractor presents a declaration separately.**

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

**Appendix no. 5 to the Terms of Reference**

**Material Terms of the Agreement**

<p style="text-align: center;"><b>UMOWA nr .....</b></p>	<p style="text-align: center;"><b>AGREEMENT no. ....</b></p>
<p>Niniejsza umowa konsultingowa (dalej zwana „Umową”) została zawarta w dniu .....</p> <p><b>Strony:</b></p> <p>.....</p> <p>(dalej zwany „Zleceniodawcą”),</p> <p>.....</p> <p>(dalej zwany „Konsultantem”),</p> <p>zwanymi dalej łącznie „Stronami”,</p> <p>o następującej treści :</p>	<p>This consultancy agreement (“Agreement”) has been concluded on .....</p> <p><b>Name of Parties:</b></p> <p>.....</p> <p>(hereinafter referred to as the “Client”).</p> <p>.....</p> <p>(hereinafter referred to as the “Consultant”);</p> <p>hereinafter referred to as “Parties”</p> <p>who have agreed as follows:</p>
<p><i>W wyniku rozstrzygnięcia przez Zamawiającego procedury udzielenia zamówienia publicznego prowadzonego w przetargu nieograniczonym na podst. Art. 39 zgodnie z ustawą z dnia 29 stycznia 2004 r. Prawo zamówień publicznych (tj. Dz. U. z 2053 roku, poz. 2164 ze zm.) została zawarta umowa o następującej treści:</i></p> <p><b>PREAMBUŁA</b></p> <p>Zleceniodawca zleca Konsultantowi, zaś Konsultant</p>	<p><i>Pursuant to the public procurement awarding procedure conducted by the Client with reference to the commission of a single-source public procurement by means of an open tender as specified in Article 39 of the Public Procurement Act of January 29, 2004 (Journal of Laws of 2015, item 2164 as amended), the Parties undertake as follows:</i></p> <p><b>WHEREAS</b></p> <p>The Client has requested the Consultant and the Consultant has undertaken to provide the Consultancy Services to the client in a manner and on the terms and</p>

zobowiązuje się wobec Zleceniodawcy świadczyć usługi konsultingowe na rzecz Zleceniodawcy w trybie i na warunkach określonych w niniejszej umowie (dalej zwanej „Umową”).

**Strony uzgadniają** co następuje:

## **1. INTERPRETACJA I DEFINICJE**

1.1. O ile kontekst nie stanowi inaczej, wyrażenia w liczbie pojedynczej obejmują również liczbę mnogą.

1.2. Nagłówki użyte w niniejszej Umowie służą wyłącznie celom redakcyjnym i nie mają wpływu na jej interpretację.

1.3. „Podmiot stowarzyszony” oznacza każdą spółkę akcyjną lub cywilną, działalność, podmiot lub organ kontrolowany przez Zleceniodawcę lub w inny sposób z nim stowarzyszony (włączając w to między innymi wszelkie podmioty zależne lub podmiot dominujący Zleceniodawcy oraz wszelkie podmioty zależne takiego podmiotu dominującego). Dla potrzeb niniejszej definicji wyrażenia „podmiot zależny” i „podmiot dominujący” przyjmują znaczenie określone zgodnie z Kodeksem Spółek Handlowych, odpowiednio „spółka powiązana” oraz „spółka dominująca”.

1.4. „Usługi konsultingowe” oznaczają usługi usług kreowania wizerunku i usług konsultingowych dla programu Polska Music, I, CULTURE Orchestra oraz programu „Niepodległa” związanych z filarowymi działaniami programów we wszystkich obszarach międzynarodowej prasy i mediów, zgodnie ze Szczegółowym Opisem Przedmiotu Zamówienia stanowiącym Załącznik nr 1 do niniejszej Umowy.

1.5. „Dzień wejścia w życie” oznacza .....

1.6. „Okres obowiązywania” oznacza okres od ..... do ..... r.

## **2. OKRES OBOWIĄZYWANIA**

Niniejsza Umowa wchodzi w życie z Dniem wejścia w życie i obowiązuje przez Okres obowiązywania.

conditions set forth in this agreement (hereinafter referred to as “Agreement”).

**IT IS AGREED** as follows:

## **1. INTERPRETATION AND DEFINITIONS**

1.1. Unless otherwise inferred from the context, the references to the singular shall include the plural.

1.2. The headings contained in the Agreement are for convenience only and do not affect their interpretation.

1.3. “Associated Business” refers to any company, partnership, business, entity or body which is controlled by or otherwise associated with the Client (including but without limitation any subsidiary or holding company of the Client or any subsidiary of such holding company). For the purposes of this definition “subsidiary” and “holding company” shall have the meanings given to them in the Commercial Companies Code, respectively: “*spółka powiązana*” and “*spółka dominująca*”.

1.4. “Consultancy Services” refer to the services in respect of building the image and consultancy services for the Polska Music programme, I, CULTURE Orchestra and “Niepodległa” programme related to the core activities of the programmes in all fields of international press and media, according to the Detailed Description of the Object of the Contract attached in Appendix 1 hereto.

1.5. “Effective Date” refers to .....

1.6. “Term of the Agreement” refers to the period commencing on ..... and continuing until .....

## **2. TERM OF THE AGREEMENT**

This Agreement shall commence on the Effective Date and shall continue for the Term.

## **3. CONSULTANCY SERVICES**

3.1. The Consultant shall provide promotional services to the Client with respect to building the

### 3. USŁUGI KONSULTINGOWE

3.1. Konsultant zobowiązuje się świadczyć na rzecz Zleceniodawcy usługi promocyjne w zakresie kreowania wizerunku i usług konsultingowych dla programu Polska Music, I, CULTURE Orchestra i programu „Niepodległa” związanych z filarowymi działaniami programów we wszystkich obszarach międzynarodowej prasy i mediów, włączając w to między innymi prasę, specjalistyczne i niespecialistyczne pisma oraz radio. Szczegółowy Opis Przedmiotu Zamówienia stanowi Załącznik nr 1 do niniejszej Umowy.

3.2. .... sprawuje ogólny nadzór nad wszystkimi aspektami projektu.

3.3. Zobowiązanie Konsultanta w zakresie świadczenia Usług konsultingowych będzie realizowane wyłącznie przez Konsultanta, przy czym Konsultantowi nie przysługuje prawo do przekazania ani do zlecenia wykonania Usług konsultingowych żadnej osobie trzeciej.

3.4. W zakresie realizacji Usług konsultingowych Konsultant podlega p. ....

3.5. Zleceniodawcy przysługuje prawo do zatwierdzania wszystkich umów wynegocjowanych przez Konsultanta w zakresie Usług konsultingowych przed ich wykonaniem.

### 4. OŚWIADCZENIA KONSULTANTA

4.1. Konsultant oświadcza wobec Zleceniodawcy, że zawierając niniejszą umowę i realizując swoje zobowiązania na mocy niniejszej Umowy nie dopuszcza się naruszenia swoich zobowiązań wobec żadnej osoby trzeciej.

4.2. Konsultant oświadcza, że posiada niezbędne kwalifikacje umożliwiające wykonanie Usług konsultingowych.

4.3. Konsultant niniejszym zwalnia Zleceniodawcę i zobowiązuje się ją zwalniać ze wszelkich zobowiązań do zapłaty na jego rzecz składek z tytułu ubezpieczeń społecznych.

4.4. Zleceniodawca zobowiązuje się przekazać Konsultantowi wystarczające informacje na temat Zleceniodawcy i jego działalności umożliwiające Konsultantowi odpowiednie świadczenie Usług konsultingowych.

image and consultancy services for the Polska Music programme, I, CULTURE Orchestra and “Niepodległa” programme related to the core activities of the above mentioned programmes in all fields of international press and media, including but not limited to: newspapers, specialist and non-specialist magazines and radio. The Detailed Description of the Object of the Contract is attached in Appendix 1 to this Agreement.

3.2. .... shall exercise overall supervision over all aspects of the project.

3.3. The Consultant’s obligation to provide the Consultancy Services shall be performed solely by the Consultant, and the Consultant shall not be entitled to assign or sub-contract the performance of the Consultancy Services to any third party.

3.4. The Consultant shall report to .... with regard to the provision of the Consultancy Services.

3.5. The Client shall be entitled to approve all agreements negotiated by the Consultant with regard to the Consultancy Services prior to their completion.

### 4. REPRESENTATIONS OF THE CONSULTANT

4.1. The Consultant represents that by entering into and performing its obligations under this Agreement it shall not thereby be in breach of any obligation which it owes to any third party.

4.2. The Consultant represents that it has the necessary skills to perform the Consultancy Services.

4.3. The Consultant hereby indemnifies and agrees to keep indemnified the Client from any liability whatsoever to make any social security payments to it.

4.4. The Client shall provide the Consultant with sufficient information about the Client and its business in order for the Consultant to be properly able to provide the Consultancy Services.

### 5. OBLIGATIONS OF THE CONSULTANT

5.1. The Consultant agrees as follows:

5.1.1. Not to engage in any conduct detrimental to the interests of the Client which includes conduct tending to bring the Client into disrepute or which results in

## **5. ZOBOWIĄZANIA KONSULTANTA**

5.1. Konsultant zobowiązuje się do tego, by:

5.1.1. Nie podejmować żadnych działań mogących zaszkodzić interesom Zleceniodawcy, włączając w to działania, które mogą zaszkodzić reputacji Zleceniodawcy lub prowadzić do utraty zamówień lub transakcji.

5.1.2. Przekazywać Zleceniodawcy sprawozdanie z realizacji Usług konsultingowych w cyklu ..... w Okresie obowiązywania Umowy oraz w każdej chwili na żądanie Zleceniodawcy.

5.1.3. Nie zlecać ani nie przekazywać osobie trzeciej żadnych Usług konsultingowych, które zobowiązany jest świadczyć zgodnie z niniejszą umową.

5.2. Konsultantowi przysługuje uzasadniony stopień swobody przy określaniu metody realizacji Usług konsultingowych, przy czym jednocześnie zobowiązany jest do współpracy ze Zleceniodawcą i do wykonywania wszelkich uzasadnionych i zgodnych z prawem dyspozycji w zakresie niniejszej Umowy.

5.3. Żadne z postanowień niniejszej Umowy nie skutkuje zatrudnieniem Konsultanta jako pracownika Zleceniodawcy. Konsultant nie może podawać się za pracownika Zleceniodawcy.

5.4. Konsultant zobowiązuje się świadczyć Usługi konsultingowe na rzecz Zleceniodawcy wedle swej najlepszej wiedzy przez cały Okres obowiązywania. Konsultant w każdym czasie zobowiązany jest do działania w dobrej wierze wobec Zleceniodawcy w ramach realizacji Usług konsultingowych na rzecz Zleceniodawcy.

## **6. WYNAGRODZENIE KONSULTANTA**

6.1. Kwota Wynagrodzenia Konsultanta za cały Okres obowiązywania, wyniesie nie więcej niż ..... (słownie: .....).

6.2. Zleceniodawca zobowiązany jest do zapłaty Konsultantowi wynagrodzenia w kwocie netto/brutto ..... (słownie: .....) za miesiąc świadczenia Usług konsultingowych po otrzymaniu ważnych faktur z

the loss of custom or business.

5.1.2. To furnish the Client with a progress report as to the Consultancy Services on.....basis during the Term of this Agreement and at any other times as requested by the Client. =.

5.1.3. Not to sub-contract or assign to any third party any of the Consultancy Services which it is required to perform under this agreement.

5.2. The Consultant shall retain reasonable autonomy in relation to determining the method of performance of the Consultancy Services but in doing so it shall co-operate with the Client and comply with all justified and lawful instructions within the scope of this Agreement.

5.3 None of the provisions of this Agreement shall render the Consultant an employee of the Client. The Consultant shall not falsely represent itself as an employee of the Client.

5.4. The Consultant shall provide the Consultancy Services to the Client to the best of its knowledge at all times during the Term. The Consultant shall at all times act in good faith towards the Client in the provision of the Consultancy Services to the Client.

## **6. CONSULTANCY FEE**

6.1. The Consultancy Fee for the entire Term of the Agreement shall amount to no more than ..... (say: .....).

6.2. The Client shall pay to the Consultant a fee of ..... (say:.....) net/gross per month of the Consultancy Services and upon receipt of the Consultant's valid invoices for the same together with a periodic status report (the "Consultancy Fee"), in accordance with a ..... methodology for the settlement of the aforementioned Agreement, i.e. the valid invoices for the execution of the Agreement shall be submitted along with periodical service provision reports at the end of each ..... of the Term of the Agreement subject to the provisions of section 6.5 of the Agreement.

6.3. The funds shall be remitted to the Consultant on the basis of a financial document issued by the Consultant, upon the presentation of the report on works conducted, within 14 days following the date of Client's receipt of the above mentioned documents

tego tytułu od Konsultanta łącznie z okresowym raportem wykonywania usługi (dalej zwane „Wynagrodzeniem Konsultanta”), wg. .... metodologii rozliczenia ww. umowy, tj. ważne faktury z tytułu wykonywania Umowy wraz z raportem okresowym dostarczane będą na zakończenie każdego ..... trwania niniejszej Umowy, z zastrzeżeniem postanowień ust. 6.5 Umowy.

6.3. Środki te będą przekazane Konsultantowi na podstawie dokumentu finansowego wystawionego przez Konsultanta, po przedstawieniu raportu z wykonanych prac, w terminie 14 dni od dnia otrzymania przez Zleceniodawcę i zaakceptowaniu przez Zleceniodawcę ww. dokumentów.

6.4. Konsultant zobowiązuje się do zamieszczenia na fakturze informacji o osobie, o której mowa w ust. 3.5 oraz o przedmiocie i dacie umowy.

6.5. W związku z rokiem budżetowym oraz zasadami dyscypliny finansów publicznych, Konsultant zobowiązuje się do wystawienia i doręczenia Zamawiającemu dokumentu finansowego stanowiącego podstawę płatności kwoty, o której mowa w niniejszym ust. 1, z tytułu realizacji Przedmiotu Umowy w grudniu 2016 roku, w nieprzekraczalnym terminie do dnia 15 grudnia 2016 roku, z zastrzeżeniem naliczania kary umownej w wysokości 10 % (dziesięć procent) wartości, o której mowa w niniejszym ust. 1, za każdy dzień opóźnienia w doręczeniu ww. dokumentu finansowego

6.6. Kwota wynagrodzenia, o której mowa w ust. 6.2., wyczerpuje wszelkie roszczenia Konsultanta z tytułu niniejszej Umowy chyba, że wyjątkowo takie wydatki zostały wcześniej zatwierdzone przez Zleceniodawcę w formie pisemnego aneksu do niniejszej Umowy.

## **7. ROZWIĄZANIE UMOWY**

7.1. Zleceniodawcy przysługuje prawo wezwania Konsultanta do zaprzestania czynności oraz wypowiedzenia niniejszej Umowy w dowolnej chwili ze skutkiem natychmiastowym i bez żadnej odpowiedzialności w przypadku gdy:

7.1.1. Konsultant dopuści się poważnego lub trwałego naruszenia swoich zobowiązań określonych w niniejszej Umowie,

7.1.2. Zleceniodawca ma podstawy, by stwierdzić, że Konsultant nie dotrzymał zobowiązania do poufności dotyczącego Konsultanta,

7.1.3. Zleceniodawca jest z jakiegokolwiek powodu niezadowolony z Konsultanta, lub

and their approval by the Client.

6.4. The Consultant shall insert in the invoice the name of the person referred to in Clause 3.5 and the object and the date of the agreement.

6.5. In connection with the budget year and the principles of public finance discipline, the Consultant shall issue and deliver to the Client financial documents as the basis for the payment of the amount referred to in point 1 above in respect of the performance of the Object of the Agreement in December 2016 within the definitive deadline of 15 December 2016 with the reservation that a contractual penalty equal to 10% (ten percent) of the amount referred to in point 1 above shall be charged for each day of delay in the submission of the above-mentioned financial document.

6.6. The amount of the fee referred to in point 6.2. constitutes the entire liability to the Consultant under this Agreement except where such expenses may have been authorized in advance by the Client on an exceptional basis in a written annex to this Agreement.

## **7. TERMINATION OF THE AGREEMENT**

7.1. The Client may instruct the Consultant to cease to work and terminate this Agreement with immediate effect at any time and without liability if:

7.1.1. the Consultant commits any serious or persistent breach of any of its obligations under this Agreement;

7.1.2. the Client reasonably believes that the Consultant has breached the confidentiality clause applicable to the Consultant.

7.1.3. for any reason the Consultant proves unsatisfactory to the Client; or

7.1.4. the Consultant is found guilty of any fraud, dishonesty or serious misconduct.

7.2. Failure by the Consultant to give notice of termination of this Agreement should such a termination be made, shall constitute a breach of contract by the Consultant and consequently the Client may claim damages from the Consultant for any resulting loss suffered by the Client.

7.3 In case of failure to perform or inadequate performance of the object of this Agreement, the Consultant shall pay the Client contractual damages in

7.1.4. Konsultant dopuści się oszustwa, nieuczciwego działania lub poważnego wykroczenia.

7.2. Brak przekazania przez Konsultanta oświadczenia o wypowiedzeniu niniejszej umowy, w przypadku takiego wypowiedzenia, stanowi naruszenie umowy ze strony Konsultanta i upoważnia Zleceniodawcę do dochodzenia odszkodowania od Konsultanta z tytułu wszelkich strat poniesionych w efekcie przez Zleceniodawcę.

7.3. W razie niewykonania lub nienależytego wykonania przedmiotu umowy Zleceniodawcy przysługuje od Konsultanta kara umowna w wysokości równej 30 % całkowitej kwoty Wynagrodzenia Konsultanta określonej w ust. 6.1.

7.4. W razie odstąpienia od umowy przez Zleceniodawcę, lub jej wypowiedzenia, z powodu okoliczności, za które odpowiada Konsultant, będzie on zobowiązany do zwrotu Zleceniodawcy otrzymanej kwoty wraz z odsetkami liczonymi jak od zaległości podatkowych.

## **8. OŚWIADCZENIE**

8.1 Konsultant przyjmuje do wiadomości, że wszystkie majątkowe prawa autorskie, znaki handlowe, patenty i inne prawa własności intelektualnej wynikające z usług realizowanych przez Konsultanta w Okresie obowiązywania niniejszej Umowy są własnością Zleceniodawcy. W związku z tym Konsultant zobowiązuje się podpisywać wszelkie dokumenty i podejmować działania wymagane przez Zleceniodawcę w celu zapewnienia skuteczności jego praw zgodnie z niniejszym ustępem.

8.2 Konsultant oświadcza, że spełnia przesłanki ubiegania się o zamówienia publiczne określone w art. 22 nie podlega wykluczeniu na podstawie art. 24 ustawy z dnia 29 stycznia 2004 r. „Prawo zamówień publicznych (Dz. U. z 2013 roku, poz. 907 ze zm.).

## **9. POUFNOŚĆ**

9.1. W celu zagwarantowania poufności i zabezpieczenia tajemnicy handlowej Zleceniodawcy, bez szkody dla wszelkich innych zobowiązań w zakresie

the amount of 30% of the total Consultancy Fee set in Clause 6.1.

7.4 If the Client terminates this Agreement due to circumstances caused by the Consultant, the Consultant shall reimburse the Client the received amount along with interest accrued as for outstanding tax liabilities.

## **8. ACKNOWLEDGEMENT**

8.1 The Consultant acknowledges that all copyright, trademarks, patents and other intellectual property rights deriving from the services carried out by the Consultant during the Term of this Agreement shall belong to the Client. Accordingly, the Consultant shall execute all such documents and act as required by the Client in order to give effect to its rights pursuant to the clause.

8.2 The Consultant represents that it fulfills the public procurement requirements set in Article 22 and is not subject to exclusion under Article 24 of the Public Procurement Act of 29 January 2004 (Journal of Laws of 2013, item 907, as amended).

## **9. CONFIDENTIALITY**

9.1. In order to protect the confidentiality and trade secrets of the Client, and without prejudice to every other obligations regarding keeping confidential all information provided or gained in confidence by the Consultant, the Consultant agrees as follows:

9.1.1. The Consultant shall not, at any time, whether during or after the Term of this Agreement (unless expressly authorized to do so by the Client within a scope deemed necessary for the Consultant to perform obligations) disclose to any person or to make use of any of the trade secrets or confidential information of



zachowania w tajemnicy wszystkich informacji mu przekazanych lub pozyskanych przez niego w ramach poufności, Konsultant zobowiązuje się do tego, by:

9.1.1. Nikomu nie ujawniać ani nie wykorzystywać tajemnicy handlowej ani informacji poufnych Zleceniodawcy w trakcie Okresu obowiązywania i po jego zakończeniu (chyba że za wyraźną zgodą Zleceniodawcy w zakresie koniecznym do wykonania obowiązków),

9.1.2. Przekazać Zleceniodawcy na koniec Okresu obowiązywania wszystkie dokumenty i inne materiały należące do Zleceniodawcy, włączając w to dokumenty i inne materiały należące do Zleceniodawcy, będące w jego posiadaniu, w tym dokumenty i inne materiały przez niego opracowane w Okresie obowiązywania,

9.1.3. Nie sporządzać żadnych kopii, abstraktów, podsumowań ani skrótów całości ani części żadnych dokumentów ani innych materiałów należących do Zleceniodawcy za wyjątkiem przypadków koniecznych w ramach wykonywania obowiązków zgodnie z niniejszą Umową, a w takim przypadku każda taka pozycja należy odpowiednio do Zleceniodawcy.

## **10. POWIADOMIENIA I CESJA**

10.1. Wszystkie powiadomienia, jakie mają być przekazywane zgodnie z niniejszą Umową, będą sporządzane na piśmie i przesyłane do strony niniejszej Umowy na adres wskazany powyżej lub inny adres przekazany drugiej stronie. Takie powiadomienia mogą być przekazywane osobiście lub opłaconym priorytetowym listem poleconym lub faksem, przy czym uważa się je za doręczone w chwili dostarczenia w przypadku osobistego doręczenia, w terminie 48 godzin w przypadku listu priorytetowego oraz w momencie udanej transmisji w przypadku przesłania faksem.

10.2. Zleceniodawcy przysługuje prawo przeniesienia niniejszej Umowy na rzecz swojego Podmiotu stowarzyszonego.

## **11. ODPOWIEDZIALNOŚĆ I UBEZPIECZENIE**

the Client;

9.1.2. At the end of the Term of this Agreement the Consultant shall deliver to the Client all documents and other materials belonging to the Client, including documents and other materials belonging to the Client which remain in the Consultant's possession, including documents and other materials compiled by the Consultant during the Term of this Agreement.

9.1.3. The Consultant shall not, at any time, make any copy, abstract, summary or précis, in part or in whole, of any document or other material belonging to the Client except when required to do so as part of the Consultant's obligations under this Agreement, in which event any such item shall belong to the Client as appropriate.

## **10. NOTICES AND ASSIGNMENT**

10.1. All notices which are required to be given hereunder shall be in writing and shall be sent to either party to this Agreement at the address written above or any other address of which the parties have been notified. Any such notice may be delivered personally or by first class registered delivery or facsimile transmission. The delivery shall be deemed effective on the moment of delivery if delivered by hand; within 48 hours if delivered by first class registered mail; and upon successful transmission if delivered by facsimile.

10.2. The Client shall be entitled to assign this Agreement to any of its Associated Businesses.

## **11. LIABILITY AND INSURANCE**

11.1. The Parties shall be liable for any loss, damage or injury to any party resulting from the negligent acts or omissions of their staff or of any of their assignees or sub-contractors.

11.2. The Consultant shall ensure the provision of adequate Employer's Liability Insurance, Public Liability Insurance and any other suitable policies of insurance such as the Professional Indemnity insurance in respect of the Consultant and its staff as

11.1. Strony są odpowiedzialne za wszelkie straty, szkody majątkowe i osobowe poniesione przez dowolną osobę wskutek zaniedbania lub zaniechania ze strony ich pracowników lub podwykonawców.

11.2. Konsultant zapewni odpowiednie ubezpieczenie od odpowiedzialności pracodawcy, ubezpieczenie od odpowiedzialności cywilnej i inne odpowiednie polisy ubezpieczenia, jak ubezpieczenie od odpowiedzialności zawodowej, dla Konsultanta i jego pracowników w ramach Zlecenia oraz udostępni egzemplarze polis Zleceniodawcy na jego żądanie.

11.3. Konsultant ponosi odpowiedzialność za wszelkie wady związane z Usługami konsultingowymi i naprawi takie wady na własny koszt, jeśli można je naprawić, w rozsądnym czasie od momentu zgłoszenia takich wad przez Zleceniodawcę.

11.4. Konsultant zobowiązuje się dołożyć wszelkich starań w celu zapewnienia dokładności i zgodności z prawem i regulacjami wszystkich materiałów na piśmie przygotowanych przez niego do dystrybucji w formie elektronicznej lub fizycznej do mediów i innych odbiorców.

## **12. NIEZGODNOŚĆ Z PRAWEM**

W przypadku, gdyby któreś z postanowień lub warunków niniejszej Umowy stało się lub zostało uznane za niezgodne z prawem, nieważne lub niewykonalne z dowolnego powodu, włączając w to między innymi przepisy ustawowe lub inne przepisy o mocy prawa lub z powodu orzeczenia sądu lub innego organu lub władzy sprawującej właściwość w przypadku stron niniejszej Umowy, takie warunki lub postanowienia mają charakter rozłączny w stosunku do niniejszej Umowy i zostaną uznane za skreślone z niniejszej Umowy, przy czym jednak, jeśli takie skreślenie miałoby znaczący wpływ lub zmieniało podstawy handlowe niniejszej Umowy, strony wynegocjują w dobrej wierze zmianę lub modyfikację postanowień i warunków niniejszej Umowy niezbędną lub pożądaną w danych okolicznościach.

part of the Agreement and shall render copies of such policies available to the Client upon request.

11.3. The Consultant shall be liable for any defects arising in relation to the Consultancy Services and shall rectify at its own cost such defects if they may be rectified within a reasonable period following the moment the Client produces a notification of such defects by the Client.

11.4 The Consultant shall use its best efforts to ensure the accuracy and legal/regulatory compliance of any written materials it produces for the purpose of electronic or physical distribution to the media and other recipients.

## **12. ILLEGALITY**

If any provision or term of this Agreement shall become or be declared illegal, invalid or unenforceable for any reason whatsoever, including but not limited to the provisions of any legislation or other provisions having the force of law or by reason of any decision of any Court or other body or authority having jurisdiction over the parties of this Agreement, such terms or provisions shall be divisible from this Agreement and shall be deemed to be deleted from this Agreement provided that if any such deletion substantially affects or alters the commercial basis of this Agreement the parties shall negotiate in good faith to amend or modify the provisions and terms of this Agreement as necessary or desirable in the given circumstances.

## **13. DISCLAIMER**

The Client makes no representation, nor does it accept any responsibility for ensuring that the terms of this contract are an accurate reflection of the relationship between the Consultant and the Client. Furthermore, the Client accepts no liability to indemnify the Consultant for any losses, expenses or liabilities incurred by the Consultant in terms of tax liabilities, national insurance or statutory or contractual or any such liability to any third party arising from the

**13. ZASTRZEŻENIE**

Zleceniodawca nie składa żadnych oświadczeń ani nie ponosi żadnej odpowiedzialności w zakresie zapewnienia, że warunki niniejszej umowy dokładnie odzwierciedlają stosunki pomiędzy Konsultantem a Zleceniodawcą. Ponadto Zleceniodawca nie ponosi żadnej odpowiedzialności, by zabezpieczyć Konsultanta przed wszelkimi stratami, wydatkami lub odpowiedzialnością ponoszona przez Konsultanta w zakresie zobowiązań podatkowych, ubezpieczenia krajowego lub zobowiązań ustawowych bądź umownych z tytułu takiej odpowiedzialności wobec osoby trzeciej w związku z niniejszym Zleceniem.

**14. CAŁOŚĆ POROZUMIENIA**

14.1. Niniejsza Umowa stanowi całość porozumienia pomiędzy stronami w przedmiocie świadczenia Usług konsultingowych przez Konsultanta na rzecz Zleceniodawcy. Wszelkie zmiany lub uzupełnienia niniejszej Umowy wymagają pisemnej akceptacji przez Konsultanta i Zleceniodawcę pod rygorem nieważności.

14.2. Umowę sporządzono w czterech jednobrzmiących egzemplarzach: trzy egzemplarze dla Instytutu i jeden egzemplarz dla Konsultanta. W przypadku rozbieżności między wersjami językowymi, wiążąca będzie wersja w języku polskim.

**15. PRAWO WŁAŚCIWE I WŁAŚCIWOŚĆ SĄDÓW**

Niniejsza Umowa będzie interpretowana zgodnie z prawem polskim, zaś wszelkie spory, roszczenia i postępowania między stronami związane z ważnością, interpretacją lub wykonaniem niniejszej Umowy podlegają wyłącznej jurysdykcji sądów właściwych dla siedziby Zleceniodawcy.

**Załączniki:**

1. Szczegółowy Opis Przedmiotu Zamówienia

Agreement.

**14. ENTIRE AGREEMENT**

14.1. This Agreement contains the entire agreement between the parties with regard to the provision of the Consultancy Services by the Consultant to the Client. All amendments and supplements to this Agreement shall be valid unless approved by the Consultant and the Client in writing.

14.2. This Agreement has been drawn up in four identical copies, three copies for the Institute and , one copy for Consultant. In case of any differences between the language versions, the Polish language version shall prevail.

**15. GOVERNING LAW AND JURISDICTION**

This Agreement shall be construed in accordance with the laws of Poland and all disputes, claims or proceedings between the parties relating to the validity, construction or performance of this Agreement shall be subject to the exclusive jurisdiction of the Courts which have jurisdiction over the registered office of the Client.

**Appendices:**

1. Detailed Description of the Object of the Contract

**Appendix 6 to the Terms of Reference**

**LIST OF PERSONS**

We state that the Contractor we represent shall delegate the following persons to perform the contract:

No.	Full name of a person to participate in the performance of the contract	Basis for the delegation of persons*	Scope of performed tasks	Educational background and professional experience
1.			Agency Director	<input type="checkbox"/> a minimum 10 years of managerial experience in an international agency promoting classical music on international scale <input type="checkbox"/> a minimum 5 years of experience in international distribution of classical music publications (books, CD albums, other publications) <input type="checkbox"/> degree in culture management <input type="checkbox"/> fluent knowledge of English
2.			Head press officer	<input type="checkbox"/> a minimum 5 years of managerial experience in PR departments of international cultural events <input type="checkbox"/> professional experience in communications departments of radio or television channels or classical music publishing press <input type="checkbox"/> fluent knowledge of English
<b>Implementers</b> (3 persons who jointly fulfill the following requirements in line with specifications set forth in Chapter V of these Terms of Reference)				
3.			Implementer 1	<input type="checkbox"/> a minimum 3 years of experience in cooperation with international music publisher(s) <input type="checkbox"/> a minimum 5 years of experience in international PR agencies specializing in classical music, or international concert agencies specializing in classical music <input type="checkbox"/> a minimum 2 years of experience in cooperating with the performing arts company <input type="checkbox"/> fluent knowledge of French <input type="checkbox"/> fluent knowledge of English <input type="checkbox"/>

4.			Implementer 2	<input type="checkbox"/> a minimum 3 years of experience in cooperation with international music publisher(s) <input type="checkbox"/> a minimum 5 years of experience in international PR agencies specializing in classical music, or international concert agencies specializing in classical music <input type="checkbox"/> minimum 2 years of experience in cooperating with the performing arts company <input type="checkbox"/> fluent knowledge of English <input type="checkbox"/> fluent knowledge of French
5.			Implementer 3	<input type="checkbox"/> a minimum 3 years of experience in cooperation with international music publisher(s) <input type="checkbox"/> a minimum 5 years of experience in international PR agencies specializing in classical music, or international concert agencies specializing in classical music <input type="checkbox"/> a minimum 2 years of experience in cooperating with the performing arts company <input type="checkbox"/> fluent knowledge of English <input type="checkbox"/> fluent knowledge of French

\*Specify the basis for the disposal of the persons named on the list, e.g. employment contract, service contract, etc. Furthermore, if the Contractor relies on personnel capable of performing the contract of other entities, regardless of the legal nature of its relations with such entities, the Contractor is required to prove to the Awarding Entity that it will have at its disposal the resources necessary to perform the contract. To this end, the Contractor must, in particular, present a written commitment of those entities whereby they undertake to put the necessary resources at the Contractor’s disposal for the purpose of performing the contract. The Contractor confirms the educational background and professional experience of the Implementers by placing the “X” character in each box, where the requirement is fulfilled.

Note: At least one of the Implementers must be fluent in French; at least two Implementers must be fluent in English.

....., on .....

.....

(signature of the Contractor’s authorized representative)

.....

Contractor’s seal

**Appendix 7 to the Terms of Reference**

**LIST OF THE MAIN SERVICES**

We state that the Contractor we represent has provided the following services:

No.	Client's name and address	Dates of service provision (day/month/year)	Short description of the object of the service	Type of experience (own, subcontractor, third party)
<p><b>At least six services involving positioning, building a media profile, branding and developing international PR strategies in the area of classical music for renown institutions and artists, (the term "renowned" shall be construed as concert halls/opera houses hosting international performers from at least 5 different countries per year; orchestras and other performing bands which have performed at least 5 times abroad in their career)</b></p> <p><b>including:</b></p> <p>A) at least <b>two services</b> provided to three different foreign cultural institutions and symphony orchestras such as the London Philharmonic Orchestra, Royal Opera House, Bournemouth Symphony Orchestra, Royal Liverpool Philharmonic Orchestra or the Sao Paulo Symphony Orchestra</p>				
1.		Service commencement date ..... Service end date .....		
2.		Service commencement date ..... Service end date .....		
<p>B) at least <b>two services</b> regarding classical music provided to such music labels as Universal Music Group, Hyperion Records, Naïve Classique, Wigmore Hall Live, Onyx Classics, Royal Opera House Heritage Series, Nonesuch Records or Kairos Records</p>				
1.		Service commencement date ..... Service end date .....		
2.		Service commencement date ..... Service end date .....		
<p>C) at least <b>two services</b> provided to an internationally acclaimed and renowned classical music soloist (the term "internationally acclaimed and renowned artist" shall be construed as a soloist who has performed at least 5 times abroad).</p>				

1.		Service commencement date ..... Service end date .....		
2.		Service commencement date ..... Service end date .....		

.....

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

Note:

1. The Awarding Entity requires the Contractor to attach a list along with evidence confirming that the services have been or are being duly performed.
2. The Awarding Entity requires the Contractor to specify whether the referenced 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 Awarding Entity 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 purpose of performing the contract.