

Adam Mickiewicz Institute  
Mokotowska 25  
00-560 Warsaw, Poland

Terms of Reference

## OPEN TENDER PROCEDURE

Object of the contract:

**Charter of passenger planes for the I, CULTURE Orchestra**  
**Case no. 6/IAM/2017/05**

Approved by  
Dariusz Sobkowicz

Deputy Director,  
Adam Mickiewicz Institute

Warsaw, June 6<sup>th</sup>, 2017

## I. NAME (BUSINESS NAME) AND ADDRESS OF THE ORDERING PARTY

Adam Mickiewicz Institute  
Mokotowska 25, 00-560 Warsaw, Poland  
Phone / Fax no. (+48 22) 44 76 181  
NIP (Tax Identification Number): 701-001-09-66  
REGON (National Business Registry Number): 140470071  
[www.iam.pl](http://www.iam.pl) e-mail: kkieloch@iam.pl

## II. CONTRACT AWARDING PROCEDURE

The contract awarding procedure is implemented pursuant to the Act of 29 January 2004 – Public Procurement Law (Journal of Laws of 2015, item 2164, as amended), hereinafter referred to as the “PPL”, as an open tender procedure for services with a contract value not exceeding the amount specified in the regulations issued pursuant to Art. 11, section 8 of the PPL (i.e. EUR 209,000.00).

## III. DESCRIPTION OF THE OBJECT OF THE CONTRACT

1. The object of the contract is  
**the charter of passenger planes for the I, CULTURE Orchestra on the following routes:**
  1. Gdansk – Minsk on August 17, 2017
  2. Minsk – Kiev on August 20, 2017
  3. Kiev – Berlin on August 22, 2017

**The detailed description of the object of the contract is specified in Appendix 1 to these Terms of Reference.**

Common Procurement Vocabulary (CPV) code: 60423000-9 – “Airline charter services.”

2. The Ordering Party shall not accept partial tenders.
3. The Ordering Party shall not accept variant tenders.
4. The Ordering Party shall not award supplementary contracts referred to in Art. 67, section 1, item 6 of the PPL.
5. As part of the bid, the Contractor shall indicate parts of the contract which they intend to commission to subcontractors.
6. The Ordering Party shall not enter into a framework agreement.
7. The Ordering Party shall not conduct an electronic bidding procedure.
8. **Settlement with the Contractor shall be handled in EUR.**
9. The Ordering Party shall not reimburse the costs of participation in the procedure, subject to Art. 93, section 4 of the PPL.
10. The Ordering Party shall not restrict the eligibility to place bids to Contractors hiring over 50% of disabled personnel.
11. Pursuant to Art. 36, section 4 of the PPL, the Contractor is required to indicate any subcontracting provisioned within their bid. The Ordering Party does not restrict any section of the contract from possible subcontracting.
12. The Ordering Party does not stipulate the possibility to cancel the tender procedure if they fail to secure proper funding from the European Union budget and nonreturnable funding from the subsidies granted by the European Free Trade Association (EFTA) member states, procured to finance the undertaking in whole or in part.

## IV. TERM OF THE CONTRACT

1. Gdansk – Minsk on August 17, 2017
2. Minsk – Kiev on August 20, 2017
3. Kiev – Berlin on August 22, 2017

**V. CONDITIONS OF PARTICIPATION IN THE OPEN TENDER PROCEDURE AND BID EVALUATION CRITERIA**

1. Tender eligibility is restricted to Contractors who meet the requirements concerning:
  - 1) the Contractors are not subject to exclusions pursuant to Art. 24 section 1 item 12-23 of the PPL.  
The Ordering Party shall not exclude the Contractor pursuant to Art.24 section 5 of the PPL.
  - 2) the Contractors meet the requirements of participation in the open tender procedure concerning:
    - A. competence or authorization to conduct specific business activities if such is required by the law.  
The Ordering Party shall deem that the Contractor has met the aforementioned requirement if the Contractor presents the following documents:
      - a) Air Operator Certificate (AOC)
      - b) Valid certificate of airworthiness as specified in Appendix 1 (Part 21) to the Commission Regulation (EC) no. 1702/2003 of September 24, 2003, laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production (Official Journal L 243 of September 27, 2003) or a certificate of airworthiness compatible with domestic regulations (i.e. those of the country in which the aircraft has been registered), based on Appendix 8 to the Convention on International Civil Aviation,
    - B. Financial and economic standing. The Ordering Party sets no special requirements in this regard.
    - C. Technical capacity and professional experience. The Contractor shall demonstrate that, within three years prior to the bid submission deadline, or – if the Contractor has run their business activity for a shorter period – in the entire span of the Contractor’s business activity, they have duly performed at least: **2 services, each within the scope of a separate contract value of no less than PLN 300,000.00 gross**, of the type corresponding to the type of the service which constitutes the object of this contract. The services constituting the object of this contract shall be chartering a passenger plane. For the Ordering Party to recognize the provision of such services, the Contractor shall submit a document ascertaining the **due performance of such services**.
2. The Ordering Party 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 Ordering Party may rely on technical potential, personnel capable of performing the contract, or financial or economic standing of third entities, regardless of the legal nature of the Contractor’s relations with such entities.
4. The Ordering Party 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 Ordering Party their ability to be in possession of resources required to perform the contract, in particular by presenting to this end a written commitment of said third parties to place the necessary resources at the Contractor’s disposal for the performance of the contract;
  - 2) The Ordering Party shall determine whether third party technical capacities, or personnel capable of performing the contract, or their financial or economic standing allow the Contractor to demonstrate that they meet the requirements of participation in the open tender

procedure, and shall determine whether there are no grounds for exclusion as referred to in Art. 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 Ordering Party, taking into account the gravity and particular circumstances, deems as sufficient the evidence provided by the Contractor pursuant to section 6 above.
8. The Ordering Party 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.

**VI. 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 2** to these Terms of Reference. Information provided in the declaration shall be considered as the initial evidence that the Contractor is not subject to exclusion and fulfils the conditions of participating in the contract award procedure.
2. In case of Contractors competing jointly for the contract, the declaration referred to Art.6, section 1 of these Terms of Reference shall be submitted by each of the Contractors competing jointly for the contract. The information presented in the declaration shall confirm that each of the Contractors fulfils the conditions of participating in the procedure, that there are no grounds for exclusion from the procedure to the extent to which each of the Contractors confirms the fulfilment of the conditions of participation in the procedure; lack of grounds for exclusion.
3. The Ordering Party **requests** that the Contractor who intends to entrust subcontractors with the performance of part of the contract **shall provide information about subcontractors in the declaration referred to in Art.6 section 1 of these Terms of Reference** in order to confirm there are no grounds for their exclusion from the procedure.
4. The Contractor 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 Ordering Party **shall request** the Contractor whose bid has earned the highest score to submit the following valid declarations and documents within the set deadline but no shorter than 5 days:

a) Air Operator Certificate (AOC)

b) Valid certificate of airworthiness as specified in Appendix 1 (Part 21) to the Commission Regulation (EC) no. 1702/2003 of September 24, 2003, laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production (Official Journal L 243 of September 27, 2003) or a certificate of airworthiness compatible with domestic regulations (i.e. those of the country in which the aircraft has been registered), based on Appendix 8 to the Convention on International Civil Aviation,

c) **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 of these Terms of Reference.

The term "core services" shall be construed as follows:

**the minimum of 2 services, each within the scope of a separate contract value of no less than PLN 300,000.00 gross**, of the type corresponding to the type of the service which constitutes the object of this contract. The services constituting the object of this contract shall be chartering a passenger plane.

The list of main services must contain the following:

- a. a description of the object of the contract and its value (name and a short description of the service);
- b. the dates on which the service has been performed (in the dd-mm-yyyy format);
- c. service recipients (at least company names of service recipients);
- d. type of experience (own experience, third party experience).

A template of the list of main services is attached as **Appendix 4 to these Terms of Reference**. The submitted list should be accompanied by evidence confirming due performance of such services.

The evidence referred to in Art. 6, section 5, item a) of these Terms of Reference includes:

- a) official confirmation, provided that for periodical or continuous services which continue to be performed such confirmation should be issued no earlier than three months before the bid submission deadline;
- b) if the Contractor is unable to obtain the official confirmation referred to above for objective and justified reasons, the Contractor's own declaration shall be deemed to constitute satisfactory evidence;
- c) if the list includes the Ordering Party among the indicated service recipients, the Contractor shall not be required to provide such evidence.

6. Within 3 days following the day on which the information referred to in Art.86, section 5 of the PPL has been published online, the Contractor shall provide the Ordering Party with **a declaration ascertaining whether the Contractor is or is not a member of the capital gains group** (a template of the declaration is attached in **Appendix 6 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 Ordering Party

may request from the Contractor for the purpose of contract awarding procedure shall apply (Journal of Laws of 2016, item 1126, as amended).

8. If the Contractor fails to submit the declaration referred to in Art.6, section 1 of these Terms of Reference, declarations or documents ascertaining the circumstances specified in Art.25, section 1 of the PPL, or other documents necessary to conduct the procedure, or if the declarations and documents are incomplete, faulty, or give rise to doubts of the Ordering Party, the Ordering Party shall request the Contractor to resubmit, supplement, or correct them within the set deadline unless the event when despite submitting them the bid of the Contractor would be subject to exclusions or it would be necessary to cancel the procedure.
9. In addition, the following documents shall be submitted along with the bid:
  - 1) a filled and signed Bid Proposal Form in accordance with **Appendix 3 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 Ordering Party their ability to be in possession of resources required to perform the contract, in particular by presenting to this end a **written** commitment of said third parties to place the necessary resources at the Contractor's disposal for the time of their use in the performance of the contract. **Only the submission of the original document containing the signature of the authorised person under the declaration shall be considered as fulfilling the requirement of the written commitment 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 scope and period within which other entity will participate in performing the contract.
11. To all matters not regulated by these Terms of Reference, provisions of the Ordinance of the Ministry of Development of 26 July 2016 on the types of documents that the Ordering Party may request from the Contractor for the purpose of contract awarding procedure shall apply (Journal of Laws of 2016, item 1126, as amended).

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

1. Subject to the exceptions set out in the PPL, any declarations, requests, notices and information shall be exchanged by the Ordering party and Contractors in the following fashion:
  - a) in writing at the following mailing address: **Adam Mickiewicz Institute, Mokotowska 25, 00-560 Warsaw, Poland**, or
  - b) via fax at **(+48 22) 447 61 81**, or
  - c) via e-mail at: **kkieloch@iam.pl**
2. If the Ordering Party or Contractor exchange any declarations, requests, notices and information via fax or e-mail, the receiving party shall immediately confirm receipt upon the request of the other party.
3. Contractors may request clarification concerning the content of these Terms of Reference from the Ordering Party. Any such queries should be addressed to the Ordering Party in writing, via fax, or e-mail.
4. The Ordering Party shall promptly provide the aforementioned clarifications, no later than two days before the bid submission deadline, provided that the clarification request has been received

- by the Ordering Party no later than by the end of the day on which the first half of the period set as the bid submission deadline has elapsed.
5. If the clarification request has been received by the Ordering Party past the deadline referred to in point 4 above, or if it refers to clarifications provided, the Ordering Party may provide the Contractor with further clarifications or refuse to investigate the request.
  6. The Ordering Party shall forward the content of all queries along with clarifications to all Contractors who received these Terms of Reference, without disclosing the source of the query. The Ordering Party shall also post this information on the website on which these Terms of Reference have been uploaded.
  7. In justified cases, the Ordering Party might modify the provisions of these Terms of Reference prior to the bid submission deadline. The Ordering Party shall promptly provide all Contractors who received these Terms of Reference with any modifications hereto, and publish such modifications on the website ([www.iam.pl](http://www.iam.pl)) if these Terms of Reference have been published online.
  8. The authorized contact person for Contractors is Katarzyna Kieloch, who shall be available between 08.00 a.m. and 3.00 p.m. on business days, telephone no. +48 22 447 61 81.

#### **VIII. DEPOSITS AND GUARANTEES REQUIRED**

**None such are required by the Ordering Party.**

#### **IX. BID VALIDITY**

1. When submitted to the open tender, the Contractor's bid shall be binding for a period of **30 days** following the bid submission deadline (pursuant to Art.85, section 5 of the PPL).
2. The Contractor may prolong the bid validity period on their own or upon the request of the Ordering Party. Within 3 days before the bid validity deadline, the Ordering Party is entitled to a one-off request of the Contractors to grant consent for prolonging the bid validity period for the set period of no longer than 60 days.

#### **X. BID PREPARATION METHOD**

1. The Contractor shall bear all costs of preparation and submission of bids.
2. Each Contractor may submit a single bid. Submission of more than one bid per Contractor shall result in rejection of all of their bids pursuant to Art. 89, section 1, item 1 and Art. 82, section 1 of the PPL.
3. The content of a bid must comply with these Terms of Reference.
4. It is recommended that all the pages filled with writing or print included in a bid are numbered and fastened together in an orderly and permanent fashion.
5. **All bids shall be prepared in Polish, pursuant to Art. 9 section 3 of the PPL. The Ordering Party shall accept bids 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. The Ordering Party requires that the Contractor include in the submitted bid a document or documents confirming their authority to sign the bid, e.g. a current official extract from the relevant register, a current extract from the business register, a current statute of the company, or a current court register. The required documents must be submitted as originals or copies certified as true copies by the Contractor.
9. If the authority to sign bids and declarations, and to represent the Contractor or Contractors in the tender procedure and enter into contracts up to the amount of the bid price is determined by a power of attorney, said power of attorney must be granted (signed) by the person or persons authorized accordingly in the relevant registers, and must be attached to the bid. The power of attorney must be submitted as an original or notarized copy.
10. The provision of point 9 above shall apply as appropriate to all subsequent powers of attorney.

11. 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.
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. The Ordering Party informs that pursuant to Art.96, section 3 of the PPL bids placed in public procurement procedure are public and subject to publication the moment they are opened except for information constituting “confidential business information” as specified in the provisions on combating unfair competition if the Contractor has, by no later than the bid submission deadline, restricted such information as confidential and demonstrated that it constitutes confidential business information:
  - 1) Pursuant to Art.11, section 4 of the Act on Combating Unfair Competition of 16 April 1993 (Journal of Laws of 2003, no 153, item 1503, as amended), the term “confidential business information” shall be construed as publically undisclosed information of technical, technological, organizational nature or other information of economic value, with regard to which the entrepreneur has taken necessary measures to keep confidential i.e. while placing the bid, the entrepreneur has restricted the information as confidential and demonstrated that such restricted information constitutes the company’s “confidential business information.”
  - 2) The Contractor shall restrict information in the Bid Proposal Form. Unless restricted as stipulated herein, all information included in the bid may be disclosed as requested by any entity. It is recommended that confidential business information be placed by the Contractor in a separate envelope inside the bid and marked “Confidential business information” or fastened separately from the remaining public elements of the bid;
  - 3) The Contractor shall not restrict information specified in Art.86, section 4 of the PPL.
14. If the information restricted by the Contractor does not constitute confidential business information or is public in accordance with the PPL or other distinct provisions, the Contractor shall disclose such information for the purpose of the contract awarding procedure.
15. The bid must include all documents, appendices and declarations specified in these Terms of Reference.
16. 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.
17. 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.
18. 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.
19. For Contractors competing jointly for the contract and for entities referred to in section VI.5 of these Terms of Reference, copies of documents related to the Contractor or said entities must be certified as true copies by the Contractor or the relevant entities respectively.
20. It is recommended that the first pages of a bid adhere to the **Bid Proposal Form Template (Appendix 3 to these Terms of Reference)**. While failure to adhere to the template set out in Appendix 3 shall not constitute grounds for rejection of the bid, the Ordering Party requires that any submitted bid include all declarations specified in the bid proposal form template.
21. Submitted bids must also include declarations and documents referred to in section VI of these Terms of Reference.
22. Bids shall be submitted in sealed, intact packaging to the reception desk of the Adam Mickiewicz Institute, Mokotowska 25, 00-560 Warsaw, Poland.



23. Packaging (envelope) containing bids shall be marked as follows:  
**“Open tender bid for the charter of planes for the I, CULTURE Orchestra. Case no 6/IAM/2017/05”**
- 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 Ordering Party shall not be responsible for early opening of bids if envelopes are not marked correctly.
24. Pursuant to Art. 84, section 1 of the PPL, a Contractor may revise or withdraw the submitted bid prior to the submission deadline. The Contractor shall inform the Ordering Party in writing should they wish to revise or withdraw the submitted bid prior to the submission deadline.
25. 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).
- 26. After the submission deadline, Contractors may no longer revise or withdraw their respective bids.**

**XI PLACE AND DATE OF BID SUBMISSION AND OPENING.**

- 1. Bids shall be submitted to the address of the Ordering Party:  
**Adam Mickiewicz Institute ul. Mokotowska 25 00-560 Warsaw, Poland reception desk**
- 2. The bid submission deadline is **11:30 a.m. on 14.06.2017.**
- 3. Bids shall be opened in a conference room in the registered office of the Adam Mickiewicz Institute at **12:00 a.m. on 14.06.2017.**
- 4. Bids shall be opened publically. Attendance by Contractors is not mandatory.
- 5. When opening bids, the Ordering Party shall announce Contractor names (*company names*) and mailing addresses, along with proposed prices.

**XII. BID PRICE CALCULATION METHOD**

- 1. Prices listed in the bid shall include all costs related to the performance of the contract.
- 2. The Ordering Party hereby represents that the gross contract value offered in the Contractor’s bid must ensure the coverage of all costs related to the performance of the procurement referred to in Appendix 1 to these Terms of Reference.
- 3. **The gross value of the entire charter contract must include all fees related to the performance of flights, including airport fees, ground crew and cabin crew.**
- 4. The gross value must also include the due Value Added Tax.
- 5. The Ordering Party requires that all prices be quoted rounded off to the second decimal according to the standard mathematical rules for rounding numbers, i.e.:
  - a) a fraction ending with digits 1 to 4 shall be rounded down,
  - b) a fraction ending with digits 5 to 9 shall be rounded up.

**XIII. CRITERIA USED BY THE ORDERING PARTY IN SELECTING THE WINNING BID, INCLUDING THE WEIGHING OF THOSE CRITERIA AND BID EVALUATION METHOD.**

- 1. **When selecting the winning bid, the Ordering Party shall adopt the following criteria:**
  - 1) **Price** **60 pts**
  - 2) **Payment term** **40 pts**
- 2. **The bids shall be evaluated as follows:**
  - 1) Within the “price” criterion, the maximum score of 60 points shall be awarded to the bid presenting the lowest total gross contract value (the VAT included), while each consecutive bid shall be awarded proportionally less based on the following formula:

$$V = \frac{LBP}{EBP} \times 60$$

Where:

V – score-based bid value.

LBP – the lowest bid price

EBP – the examined bid price

2) Within the “payment term” criterion – the maximum score of 40 pts shall be awarded on the basis of the payment term as specified by the Contractor in accordance with the following scoring:

<b>Payment term on account of performing the contract</b>	<b>Score</b>
equal to 14 days or more following the execution of the contract	40 pts
between 7 and 13 days (included) following the execution of the contract	20 pts
shorter than 7 days, yet not shorter than 3 days following the execution of the contract	0 pts

**Note: If the Contractor does not specify the payment term, their bid shall be deemed as incompatible with these Terms of Reference.**

3. The highest scoring bid shall be the winning bid.
4. Scores awarded to bids under specific criteria shall be calculated to two decimal points. The bid with the highest score shall be the winning bid.
5. The Ordering Party shall award the contract to the Contractor whose bid meets all the requirements specified in the PPL and these Terms of Reference and which shall be evaluated as the most advantageous one on the basis of the given selection criteria.
6. If the most advantageous bid cannot be selected due to the fact that two or more bids represent the same ratio of value and other contract award criteria, the Ordering Party shall select the bid with the lowest price among these bids (Art. 91, section 4 of the PPL).
7. In order to determine whether the bid includes an abnormally low price with regard to the object of the contract, the Ordering Party may request the Contractor to submit clarifications within a set deadline regarding these elements of the bid which affect the price.
8. The Ordering Party shall correct obvious typing errors of clerical and computational nature considering the calculation consequences of the corrected errors. Other errors resulting from incompatibility with the Terms of Reference which do not cause essential modifications in the bid shall be corrected by the Ordering Party who shall immediately notify the Contractor whose bid has been corrected.

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

1. Contractors participating in the procurement procedure shall be notified of the results of said procedure.
2. Upon approval of the selection of the most advantageous bid, the decision shall be published on the Ordering Party’s bulletin board and website.
3. The Ordering Party shall enter into contract with the selected Contractor pursuant to Art. 94 of the PPL, taking into consideration the provisions specified in Art.139 of the PPL.
4. Should a bid be selected which has been submitted by a consortium of Contractors competing jointly for the contract, the Contractors shall be required to submit to the Ordering Party a copy of the agreement regulating the relations between the respective Contractors cooperating within the consortium. The agreement regulating the Contractors’ cooperation shall include but not be limited to:
  - 1) names of Contractors submitting the bid;

- 2) the economic purpose of the agreement;
- 3) rules of representation and business conduct;
- 4) duration of the agreement (the Ordering Party requires the duration of said agreement to be equal to or longer than the period dedicated to the execution of the contract and any subsequent warranty and/or guarantee period).
5. Should the Contractor, whose bid has been awarded the contract, evade entering the contract, the Ordering Party shall select the most advantageous bid among the remaining bids without the need to review and evaluate them again unless there are grounds specified in Art. 93, section 1 of the PPL.

**XV. ESSENTIAL TERMS AND CONDITIONS OF THE PUBLIC PROCUREMENT CONTRACT, GENERAL TERMS OF THE CONTRACT OR DRAFT CONTRACT, PROVIDED THAT THE ORDERING PARTY REQUIRES THE CONTRACTOR TO SIGN A PUBLIC PROCUREMENT CONTRACT UNDER SUCH TERMS.**

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

**XVI. LEGAL PROTECTION MEASURES AVAILABLE TO CONTRACTORS DURING THE CONTRACT AWARDING PROCEDURE.**

Legal protection measures are set out in detail in Title VI of the PPL. Contractors and other entities whose legal interest in winning the tender has been or may be jeopardized due to a breach of the provisions of the PPL by the Ordering Party are entitled to legal protection measures. Organizations entered in the list referred to in Art. 154, section 5 of the PPL are also entitled to legal protection measures with regard to the call for tenders and the Terms of Reference.

**Appendices to the Terms of Reference:**

- Appendix 1 – Detailed Description of the Object of the Contract;
- Appendix 2 – Declaration of Fulfilment of Conditions of Participation in the Procedure and Lack of Grounds for Exclusion from the Procedure;
- Appendix 3 – Bid Proposal Form;
- Appendix 4 – List of Main Services;
- Appendix 5 – Draft Contract;
- Appendix 6 – Declaration of Membership in a Capital Gains Group

Appendix 1 to the Terms of Reference

**DETAILED DESCRIPTION OF THE OBJECT OF THE CONTRACT**

**The procurement must include airport fees.**

- 1. Gdansk – Minsk on August 17, 2017**
- 2. Minsk – Kiev on August 20, 2017**
- 3. Kiev – Berlin on August 22, 2017**

**1.Gdańsk – Minsk on August 17, 2017**

Departure from Gdańsk after 5.00 p.m.

Arrival at Minsk till 10.00 pm (at the latest, local time).

**2.Minsk – Kiev on August 20, 2017**

Departure from Minsk no earlier than 9.00 a.m.

Arrival at Kiev till 12.00 pm (at the latest, local time).

**3.Kiev – Berlin on August 22, 2017**

Departure from Kiev no earlier than 12:00 p.m.

Arrival at Berlin till 6 p.m. (at the latest, local time).

1. All passengers shall fly on the same plane, without transfers.
2. Additional requirements – hot meal (vegetarian and non-vegetarian options) on board and drinks (coffee, tea, water, juice, fizzy drinks) included in the price.
3. The number of seats on the plane: 129 (including 10 cello seats, 2 tuba seats, 1 bass trombone seat, 1 contrabassoon seat)
  - 1) registered luggage:  
115 passengers x 1 luggage item of up to 23 kg per person
  - 2) hand luggage  
115 passengers: hand luggage of up to 10 kg + an instrument per person

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

## Appendix 2 to the Terms of Reference

<b>DECLARATION OF FULFILLMENT OF CONDITIONS OF PARTICIPATION IN THE TENDER PROCEDURE AND LACK OF GROUNDS FOR EXCLUSION FROM THE PROCEDURE</b>
<p>By taking part in the public procurement procedure for:  <b>“Charter of passenger planes for the I, CULTURE Orchestra”</b>  <b>Case no. 6/IAM/2017/05</b></p>
<p><b>Acting on behalf of the Contractor:</b> _____              _____  <i>(Contractor’s full name and address)</i></p>
<p><b>We represent that</b>            as of the date of submission of tenders, there are no grounds for exclusion from the procedure and we fulfil conditions for participating in the procedure.</p>
<p>Pursuant to Art.24, section 1, item 12-13 of the PPL, the Ordering Party shall exclude from this procedure:</p> <ol style="list-style-type: none"> <li>1. the Contractor who has not demonstrated fulfilment of conditions for participation in the procedure or has not been invited to negotiate or submit initial bids or bids, or has not demonstrated lack of grounds for exclusion;</li> <li>2. the Contractor being a natural person who has been convicted with a final verdict for a criminal offence:               <ol style="list-style-type: none"> <li>a) referred to in Art. 165a, Art. 181–188, Art. 189a, Art. 218–221, Art. 228–230a, Art. 250a, Art. 258 or Art. 270–309 of the Act of 6 June 1997 – Penal Code (Journal of Laws no 88, item 553, as amended) or Art. 46 or Art. 48 of the Act of 25 June 2010 on sports (Journal of Laws of 2016; item 176);</li> <li>b) constituting an act of terrorism referred to in Art. 115 § 20 of the Act of 6 June 1997 – Penal Code,</li> <li>c) fiscal offence,</li> <li>d) referred to in Art. 9 or Art. 10 of the Act of 15 June 2012 on the consequences of entrusting the performance of work to foreigners staying in the Republic of Poland contrary to regulations (Journal of Laws; item 769);</li> </ol> </li> <li>3. The Contractor, if a member in office of its managing or supervisory body, partner in a general partnership or limited liability partnership, or general partner in a limited partnership or a limited joint-stock partnership, or a proxy has been convicted with a final verdict for a criminal offence referred to in 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 wilful misconduct or gross negligence misled the Ordering Party when presenting information that they are not subject to exclusion, fulfil the conditions for participation in the procedure or meet the selection criteria, or who has concealed this information or is unable to present the required documents;</li> <li>6. The Contractor who as a result of recklessness or negligence presented information misleading to</li> </ol>

- the Ordering Party, which could have significant influence on the decisions taken by the Ordering Party in the contract award procedure;
7. The Contractor who wrongfully influenced or attempted to influence the activities of the Ordering Party or to obtain confidential information that could have given them an advantage in the contract award procedure.
  8. The Contractor who participated in the preparation of the contract award procedure, or whose employee as well as a person providing work on the basis of a mandate contract, agency contract, or another service contract, participated in the preparation of such a contract award procedure, unless the resulting distortion of competition can be eliminated in another way than by excluding the Contractor from the procedure;
  9. The Contractor who entered into an agreement with other contractors aimed at distortion of competition between contractors in the contract award procedure, which the Ordering Party can demonstrate with the use of appropriate evidence;
  10. The Contractor that is a collective entity prohibited from applying for public contracts by court pursuant to Act of 28 October 2002 on the Liability of collective entities for acts prohibited under penalty (Journal of Laws of 2015; items 1212, 1844 and 1855; and of 2016; item 437);
  11. The Contractor prohibited from applying for public contracts under a precautionary measure;
  12. Contractors who are members of the same capital gains group within the meaning of the Act of 16 February 2007 on Competition and Consumer Protection (Journal of Laws of 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 fulfilment of conditions for participation in the procedure specified by the Ordering Party in Art.5 of these Terms of Reference, I do not rely on third party resources.\*
- 2) I hereby represent that in order to ascertain the fulfilment of conditions for participation in the procedure specified by the Ordering Party in Art.5 of these Terms of Reference, I rely on the resources of the following entity/ies.\*
  - a) \_\_\_\_\_
  - b) \_\_\_\_\_

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

*\*delete where inapplicable*

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

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

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

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

**SUBCONTRACTORS**

- 1) I do not intend to entrust other subcontractors with the performance of parts of the contract.\*
- 2) I intend to entrust subcontractors with the following parts of the contract (if known please specify contact details of such subcontractors)\*
  - 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>..... Contractor's seal</p>	<p>..... Date and signature of the authorized representative of the Contractor</p>
------------------------------------	--



## Appendix 3 to the Terms of Reference

Institut Adama Mickiewicza  
ul. Mokotowska 25  
00 – 560 Warsaw, Poland

**BID PROPOSAL FORM**

Under the contract awarding procedure in the form of an open tender procedure pursuant to the Act of 29 January 2004 – Public Procurement Law for the

**“Charter of passenger planes for the I, CULTURE Orchestra” Case no. 6/IAM/2017/05**

in accordance with the requirements stipulated in the Terms of Reference, we hereby propose the provision of the object of the contract:

## 1. CONTRACTOR(S) DETAILS (for a joint tender, name the proxy):

A person authorized to represent the Contractor/s and signing the bid:

.....

Contractor/s .....

NIP (Tax Identification Number) .....

REGON (Business Registry Number) .....

Address .....

**Bank account no** .....

Authorised contact person for the Ordering Party: .....

Mailing address for all notices from the Ordering Party arising from this procedure :

fax.....phone no.....email .....

Mailing address (if different from the Contractor’s registered office):

.....

In response to the open tender announcement and in compliance with the requirements specified in the Terms of Reference, we hereby propose the provision of the object of the contract:

Item no.	Object of the procurement	Gross flight price in EURO
1.	route: <u>Gdańsk – Minsk on August 17, 2017</u>	
2.	route: <u>Minsk – Kiev on August 20, 2017</u>	
3.	route: <u>Kiev– Berlin on August 22, 2017</u>	
	<b>Total gross price in EUR</b>	

The gross value of the entire procurement: EUR .....

say: EUR .....

**\*gross prices for the aforementioned routes include all costs specified in the Terms of Reference, the fees related to the performance of flights, including airport fees, ground crew and cabin**



**crew. Hot meal (vegetarian and non-vegetarian option) on board and drinks (coffee, tea, water, juice, fizzy drinks).**

We hereby set the payment term for ..... days (say: ..... days) following the execution of the contract (the payment term should not be shorter than 3 days).

.....

We represent that:

- 1) the price indicated in our bid includes all costs arising from the performance of the contract;
- 2) we have read the Terms of Reference;
- 3) this bid shall be valid for 30 days, starting on the date on which the bids have been opened (inclusive).

**3. OBLIGATIONS UNDERTAKEN IN CASE OF WINNING THE CONTRACT:**

We undertake to conclude the contract on the date and place set by the Ordering Party;

**4. SUBCONTRACTORS**

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

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

**5. CONTENTS**

Attached to the bid have been its integral components:

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

The submitted bid consists of .....pages numbered consecutively.

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

## Appendix 4 to the Terms of Reference

## LIST OF MAIN SERVICES

Item no.	Client	Dates of performance of service (dd/mm/yyyy)	Name and short description of the object of the service	Service value (gross)	Type of experience (own, subcontractor, third party)
<b>2 services</b> worth the minimum of PLN 300,000.00 gross each, <b>performed as part of a separate contract</b> , complying with the description of the service constituting the object of the procurement as stipulated by the Ordering Party i.e. the charter of passenger plane(s).					
1.		Contract start date ... Contract end date .....			
2.		Contract start date ... Contract end date			
.		Contract start date ... Contract end date			
...		Contract start date ... Contract end date			

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

## Note:

- The Ordering Party requires the Contractor to attach a list and evidence confirming that the services have been or are being duly performed.
- The Ordering Party requires the Contractor to specify whether the reference experience is its own experience or the experience of other entities, regardless of the legal nature of its relations with such entities, and to prove to the Ordering Party that it will have at its disposal the resources necessary to perform the, in particular by presenting to this end a written commitment of those entities whereby they undertake to put the necessary resources at the Contractor's disposal for the time of their use in performance of the contract.**
- INSTRUCTION:

Article 297, section 1 of the Penal Code: Any person who, for their own benefit or that of another person [...] presents a counterfeit or fraudulent document or a dishonest written declaration regarding circumstances of key significance for obtaining [...] the object of the contract, shall be punished by imprisonment for a period of 3 months up to 5 years.

Appendix 5 to the Terms of Reference

DRAFT CONTRACT

made in Warsaw on .....

by and between:

.....

.....

hereinafter referred to as the **Contractor**,

and

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

.....

.....

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

which reads as follows:

§ 1

OBJECT OF THE CONTRACT

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

.....

§ 2

DATES AND TERMS AND CONDITIONS OF THE CONTRACT

1. The performance of the contract shall take place on the following dates and routes:  
.....
2. The Contractor shall sell to the Ordering Party ..... seats on the routes and dates referred to in point 1 above.
3. Upon signing the Contract, its implementation shall be overseen by:
  - a) On behalf of the Ordering Party:  
- Mr. / Ms. ...., phone no.: .....
  - b) On behalf of the Contractor:  
- Mr. / Ms. ...., phone no.: .....

§ 3

PAYMENT CONDITIONS

1. According to the bid placed by the Contractor, the value of the contract amounts to EUR ..... gross (say: ..... Euro gross).
2. The value of the object of the procurement as stipulated in point 1 above includes all costs specified in the Terms of Reference, as well as the fees related to the performance of flights, including ground crew and cabin crew. The Contractor shall provide passengers with drinks

(i.e. coffee, tea, water, juice, fizzy drinks) and hot meals (vegetarian and non-vegetarian options).

3. The Contractor established outside Poland shall provide the IAM with an invoice along with a valid certificate of residence for the purpose of applying a relevant double taxation convention between Poland and the country of the Contractor's registered office. In the event of failure to submit such a certificate, a tax in the amount of 20% of the remuneration set forth in § 3 section 1 shall be applicable. A certificate of residence shall be deemed valid if issued no earlier than a year following the date on which the invoice has been delivered to the IAM's registered office.

**§ 4**

**FINAL PROVISIONS**

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

**Ordering Party**

**Contractor**

Appendix 6 to the Terms of Reference

**DECLARATION OF BEING OR NOT BEING A MEMBER OF THE SAME CAPITAL GAINS GROUP**

Pursuant to Art.24, section 11 of the Act of 29 January 2004 - Public Procurement Law (Journal of Laws of 2015, item 2164, as amended), by competing for the contract in the open tender procedure for the “**Charter of passenger planes for the I, CULTURE Orchestra**”, case no. 6/IAM/2017/05 on behalf of

.....  
(Contractor’s full name)

I represent that, as of the bid submission date under the contract awarding procedure:

1. **I am not a member of a capital gains group** referred to in Art.24, section 23 of the PPL under the Act of 16 February 2007 – **Competition and Consumer Protection Law (Journal of Laws of 2015, item 184, 1618 and 1634).**\*
2. **I am a member of a capital gains group** referred to in Art.24, section 23 of the PPL under the Act of 16 February 2007 – **Competition and Consumer Protection Law (Journal of Laws of 2015, item 184, 1618 and 1634) and**
  - 1) **As members of the same capital gains group, Contractors have submitted separate bids.**\*
  - 2) **As members of the same capital gains group, Contractors have not submitted separate bids.**\*

**With regard to the fact that I am a member of a capital gains group** and the fact that Contractors who are members of the same capital gains group pursuant to the Competition and Consumer Protection Law (Journal of Laws of 2015, item 184, 1618 and 1634) have submitted separate bids **I hereby demonstrate that the links between the members who have submitted bids does not cause distortion of competition in the contract award procedure.**\*

.....  
.....

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

**The signatory of this declaration has executed it under penalty of perjury as per Art. 297 of the Penal Code.**

.....  
(Date and place)

.....  
(signature of the Contractor’s authorised representative/s)

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

**The Contractor shall submit this declaration within 3 days following the day on which the information specified in Art.86, section 5 of the PPL has been published online.**