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## CONTRACT NOTICE

Includes changes made on 27<sup>th</sup> of February 2015,

### SECTION I: CONTRACTING AUTHORITY

#### I.1) NAME, ADDRESSES AND CONTACT POINTS

<b>Official name: Muzeum Sztuki Nowoczesnej w Warszawie (Museum of Modern Art in Warsaw)</b>		
<b>Postal address: ul Pańska 3</b>		
Town: <b>Warsaw</b>	Postal code: <b>00-124</b>	Country: <b>Poland</b>
<b>Contact point: Muzeum Sztuki Nowoczesnej w Warszawie</b> For the attention of: <b>Mikołaj Mundzik</b>	Telephone: <b>+48 731 960 933</b>	
E-mail: <b>newbuilding@artmuseum.pl</b>	Fax <b>+48 22 596 40 22</b>	
<b>Internet address(es): (if applicable)</b> General address of the contracting authority (URL): <b>www.artmuseum.pl</b> Address of the buyer profile (URL):		

Further information can be obtained from:	<input checked="" type="checkbox"/> The above mentioned contact point <input type="checkbox"/> Other (please complete Annex A.I)
Specifications and additional documents (including documents for competitive dialogue and a dynamic purchasing system) can be obtained from:	<input checked="" type="checkbox"/> The above mentioned contact point <input type="checkbox"/> Other (please complete Annex A.II)
Tenders or requests to participate must be sent to:	<input checked="" type="checkbox"/> The above mentioned contact point <input type="checkbox"/> Other (please complete Annex A.III)

#### I.2) TYPE OF THE CONTRACTING AUTHORITY AND MAIN ACTIVITY

<input type="checkbox"/> Ministry or any other national or federal authority, including their regional or local sub-divisions <input type="checkbox"/> National or federal agency/office <input type="checkbox"/> Regional or local authority <input type="checkbox"/> Regional or local agency/office <input type="checkbox"/> Body governed by public law <input type="checkbox"/> European institution/agency or international organisation <input type="checkbox"/> Other: (please specify): _____	<input type="checkbox"/> General public services <input type="checkbox"/> Defence <input type="checkbox"/> Public order and safety <input type="checkbox"/> Environment <input type="checkbox"/> Economic and financial affairs <input type="checkbox"/> Health <input type="checkbox"/> Housing and community amenities <input type="checkbox"/> Social protection <input checked="" type="checkbox"/> Recreation, culture and religion <input type="checkbox"/> Education <input type="checkbox"/> Other: (please specify): _____
The contracting authority is purchasing on behalf of other contracting authorities <span style="float: right;">yes <input type="checkbox"/> no <input checked="" type="checkbox"/></span>	

### SECTION II: OBJECT OF THE CONTRACT

## II.1) DESCRIPTION

<b>II.1.1) Title attributed to the contract by the contracting authority:</b> <b>Provision of the services of an Investor's assistant representing the Investor towards the designer.</b>		
<b>II.1.2) Type of contract and location of works, place of delivery or of performance</b> <i>(choose one category only – works, supplies or services – which corresponds most to the specific object of your contract or purchase)</i>		
<b>a) Works</b> <input type="checkbox"/>	<b>b) Supplies</b> <input type="checkbox"/>	<b>c) Services</b> <input checked="" type="checkbox"/>
Execution <input type="checkbox"/> Design and execution <input type="checkbox"/> Realisation, by whatever means of work, corresponding to the requirements specified by the contracting authority <input type="checkbox"/>	Purchase <input type="checkbox"/> Lease <input type="checkbox"/> Rental <input type="checkbox"/> Leasing <input type="checkbox"/> A combination of these <input type="checkbox"/>	Service category: <b>No 12</b>  <i>(for service categories 1–27 see Annexe II to Directive 2004/18/EC)</i>
Main site or location of works _____ _____ NUTS code      □□□□□	Main place of delivery _____ _____ NUTS code      □□□□□	Main place of performance  <b>Warsaw</b> NUTS code <b>PL127</b>
<b>II.1.3) Information about a public contract, a framework agreement or a dynamic purchasing system</b> The notice involves a public contract <input checked="" type="checkbox"/> The notice involves the setting up of a dynamic purchasing system (DPS) <input type="checkbox"/> The notice involves the establishment of a framework agreement <input type="checkbox"/>		
<b>II.1.4) Information on framework agreement (if applicable)</b>		
Framework agreement with several operators <input type="checkbox"/> Number□□□ or <i>(if applicable) maximum number [ ] [ ] [ ] of participants to the framework agreement envisaged</i>	Framework agreement with a single operator <input type="checkbox"/>	
Duration of the framework agreement Duration in years: [ ] [ ] or in months: [ ] [ ] [ ] Justification for a framework agreement, the duration of which exceeds four years: _____ _____ _____		

Estimated total value of purchases for the entire duration of the framework agreement (if applicable, give figures only):

Estimated value excluding VAT: \_\_\_\_\_ Currency: \_\_\_\_\_

ORB Range: between \_\_\_\_\_ and \_\_\_\_\_ Currency: \_\_\_\_\_

Frequency and value of the contracts to be awarded: (if known): \_\_\_\_\_

**II.1.5) Short description of the contract or purchase(s):**

**Supporting the Investor in the decision-making process regarding detailed functional, architectural and technical solutions.**

**II.1.6) Common procurement vocabulary (CPV)**

	<b>Main vocabulary</b>	<b>Supplementary vocabulary (if applicable)</b>
<b>Main object</b>	<b>71200000</b>	□□□□-□ □□□□-□
<b>Additional objects</b>	71210000 71000000 71530000 71500000	□□□□-□ □□□□-□ □□□□-□ □□□□-□ □□□□-□ □□□□-□ □□□□-□ □□□□-□

**II.1.7) The contract is covered by the Government Procurement Agreement (GPA)** yes  no

**II.1.8) Lots (for information about lots, use Annex B as many times as there are lots)**

(if yes) Tenders may be submitted for (mark just one field):

only one lot  one or more lots  all lots

**II.1.9) Variants will be accepted** yes  no

**II.2) Quantity or scope of the contract**

**II.2.1) Total quantity or scope: (including all lots, renewals and options, if applicable):**

Estimated value excluding VAT (if applicable, give figures only): \_\_\_\_\_ Currency: \_\_\_\_\_

OR Range: between \_\_\_\_\_ and \_\_\_\_\_ Currency: \_\_\_\_\_

**Supporting the Investor in the decision-making process regarding detailed functional, architectural and technical solutions.**

**II.2.2) Information about options (if applicable)**

Options yes  no

(if yes) Description of these options: \_\_\_\_\_

\_\_\_\_\_

(if known) Provisional timetable for recourse to these options:

in months: [ ][ ] or in days: [ ][ ][ ][ ] (from the award of the contract)

Number of possible renewals: (if known) [ ][ ][ ] or Range: between [ ][ ][ ] and [ ][ ][ ] □□□

(if known) In the case of renewable supplies or service contracts, estimated timeframe for subsequent contracts:

in months: [ ] [ ] or in days: [ ] [ ] [ ] [ ] (from the award of the contract)

### II.3) Duration of the contract or time limit for completion

Duration in months: **24 months** or in days: □□□□ (from the award of the contract):

or Starting □□/□□/□□□□ (dd/mm/yyyy)

Completion □□/□□/□□□□ (dd/mm/yyyy)

## SECTION III: LEGAL, ECONOMIC, FINANCIAL AND TECHNICAL INFORMATION

### III.1 Conditions relating to the contract

#### III.1.1) Deposits and guarantees required: (if applicable)

1. Participation in the Procedure shall be contingent upon providing a tender bond of PLN 20,000.00 (say: twenty thousand zlotys, 00/100).
2. The tender bond shall be required at the tenders submission stage only. The tender bond must be effectively provided prior to the lapse of the tenders submission deadline.
3. The tender bond may be provided in the following forms:
  - 1) in cash by transfer into the Contracting Authority's bank account number 06 1240 6292 1111 0010 4965 9413 (BIC/SWIFT: PKOPPLPW),
  - 2) sureties issued by a bank or a co-operative credit and savings union (a surety of a union shall always be a pecuniary surety),
  - 3) bank guarantees,
  - 4) insurance guarantees,
  - 5) sureties granted by the entities referred to in Article 6b section 5 clause 2 of the Act on the Establishment of the Polish Agency for Enterprise Development of 9 November 2000 (Journal of Laws No 109, item 1158, as amended).
4. In the event of Economic Operators jointly competing for the contract, a document confirming the provision of the tender bond in one of the aforesaid forms may be issued to one of the Economic Operators.
5. If the tender bond is provided in cash by transfer, the following annotation shall be made in the transfer order (title): „Wadium – postępowanie o udzielenie zamówienia publicznego nr 1/MSN/PO/2015”.  
The Contracting Authority requires that a copy of a document confirming the transfer of the tender bond be enclosed with the tender.
6. In other cases referred to in this section, clause 3 sub-clause 2 – 5, it shall be necessary to deliver to the Contracting Authority the original of the document issued for the benefit of the Contracting Authority (beneficiary – Muzeum Sztuki Nowoczesnej, ul. Pańska 3, 00-124 Warszawa) and place this document at the registered office of the Contracting Authority, as indicated above. It is recommended that the original document be enclosed with the tender in a separate envelope and a copy of the document be attached to the tender.
7. In the event of the Economic Operator submitting the tender bond in the form of the guarantee referred to in this section, clause 3 sub-clause 3–4 above, it is recommended that the bond document contain the following elements:
  - 1) name of the party issuing the order (Economic Operator), beneficiary of the guarantee (Muzeum Sztuki Nowoczesnej, ul. Pańska 3, 00-124 Warszawa), guarantor (bank or insurance firm granting the guarantee) and their seat and address,
  - 2) name and object of this procedure, reference symbol assigned by the Contracting Authority,
  - 3) amount of the guarantee,
  - 4) period for which the guarantee has been issued (corresponding at least to the period during which the Economic Operator is bound by the tender),
  - 5) an obligation of the guarantor to irrevocably and unconditionally pay the bond amount at the first written demand of the Contracting Authority in the cases specified in Article 46 section 4a and 5 of the PPL Act.
8. The documents must remain valid during the entire period in which the Contracting Authority is bound by the tender. The terms and conditions of bond return, its forfeiture and the rules of counting it towards the good performance guarantee are laid down in the PPL Act.
9. The Contracting Authority shall return the tender bonds to all the Economic Operators immediately after selecting the most advantageous tender or after cancelling the procedure, except for the Economic Operator whose tender has been chosen as the most advantageous, subject to clause 13.
10. The Contracting Authority shall return the tender bond to the Economic Operator whose tender has been chosen as the most advantageous immediately after the conclusion of the public procurement contract and the provision of the good performance guarantee, if its provision was required.
11. The Contracting Authority shall immediately return the tender bond to the Economic Operator who withdrew the tender prior to the expiry of the tenders submission deadline.
12. The Contracting Authority shall require that the tender bond be re-submitted by the Economic Operator whose bond

has been returned under clause 9, if, as a result of an appeal, his tender is chosen as the most advantageous. The Economic Operator shall submit the tender bond within a time limit set by the Contracting Authority.

13. The Contracting Authority shall retain the tender bond with interest, pursuant to Article 46 section 4a and 5 of the PPL Act.

14. The tender shall include the number of a bank account (in the case of tender bond provided in cash) or the address (in other cases) where the Contracting Authority is to return the tender bond.

**III.1.2) Main financing conditions and payment arrangements and/or reference to the relevant provisions governing them**

Payment in instalments. The tender price must be expressed in PLN in accordance with the Polish payment system, accurate to the second decimal point. The settlement currency shall be PLN. The Contracting Authority does not allow settlements in any foreign currency.

**III.1.3) Legal form to be taken by the group of economic operators to whom the contract is to be awarded: (if applicable)**

**III.1.4) Other particular conditions (if applicable)**

yes  no

(if yes) Description of particular conditions

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**III.2) Conditions for participation**

**III.2.1) Personal situation of economic operators, including requirements relating to enrolment on professional or trade registers**

Information and formalities necessary for evaluating if the requirements are met:

1. Pursuant to Article 22 section 1 of the PPL Act, Economic Operators who meet the following conditions may compete for the contract:

- 1) hold a license authorising them to pursue a specified activity or actions, if legal regulations obligated them to hold such licenses;
- 2) have the necessary knowledge and experience;
- 3) have the necessary technical potential and persons capable of performing the contract;
- 4) conditions regarding economic and financial situation.

2. Economic Operators who are not subject to exclusion from the procedure under Article 24 section 1 of the PPL Act May compete for the contract.

3. The Contracting Authority hereby sets the following conditions of participation in the procedure:

- 1) The Contracting Authority shall consider the knowledge and experience condition to have been met, if the Economic Operators demonstrate that within the least three years prior to the lapse of the tenders submission deadline, and if the period of trading is shorter – within that period, they provided at least:
  - a) one service consisting in “representing the investor before the designer” in the process of construction of a museum of another building for exhibition purposes, with the total floorage space of at least 9,000 m2 and where the value of the building works was at least PLN 150,000,000.00 gross;
  - b) one service consisting in “representing the investor before the designer” in the process of construction of a theatre or another building for culture use, with the total floorage space of at least 7,000 m2, containing an auditorium for no fewer than 300 persons (counted as sitting places) and where the value of the building

works was at least PLN 100,000,000.00 gross.

- 2) The Contracting Party shall consider the condition of having persons capable of performing the contract as having been met if the Economic Operators demonstrate that they have at their disposal at least:
- a) one person, fluent in English, capable of acting as a consultant in “museum technology” specialisation with experience consisting in “representing the investor towards the designer” with regard to “museum technology” during construction of a museum or another building for exhibition purposes where the value of the building works was at least PLN 100,000,000.00 gross;
  - b) one person, fluent in English, capable of acting as a consultant in “theatre technology” specialisation with experience consisting in “representing the investor towards the designer” with regard to “theatre technology” during construction of a theatre or another building for culture use, containing an auditorium for no fewer than 100 persons (counted as seating places) where the value of the building works was at least PLN 100,000,000.00 gross;
  - c) one person, fluent in English, capable of acting as a consultant in acoustics with experience consisting in “representing the investor towards the designer” with regard to “acoustics” during construction of a museum, theatre or another building for culture use where the value of the building works was at least PLN 100,000,000.00 gross.

The Contracting Authority indicates that one person may be designated as meeting more than one condition pertaining to persons capable of performing the contract. Persons indicated as meeting the above participation condition must also be named in the document entitled “Management Organisation and Methodology”. In the event of any of the persons put forward as meeting the aforesaid participation condition not being included in the document entitled “Management Organisation and Methodology”, the tender of that Economic Operator shall be rejected as failing to comply with the ToR.

As a fluent use of English, the Contracting Authority understands the language proficiency of a person of at least C1 of the Common European Framework of Reference for Languages. The Contracting Authority acknowledges that those who are native speakers of English are fluent in English.

Any changes in the line-up of the Team performing the contract indicated in the tender shall require meeting the conditions concerning Economic Operator’s personnel potential set forth in the ToR/contract notice. The Contracting Authority allows for changes in the line-up of the Team only in the event of the occurrence of fortuitous circumstances, i.e. events which are unforeseeable, impossible to avoid even when exercising due diligence, e.g. an accident resulting in long inability to work, long illness, death.

4. Method of assessing fulfilment of the participation conditions:

- a) the meeting of the conditions shall be assessed according to the “meets – does not meet” formula, on the basis of the documents and representations submitted together with the tender;
- b) Economic Operators acting jointly may compete for the contract; Economic Operators jointly competing for the contract shall appoint an attorney representing them in the contract award procedure or representing them in the procedure and the conclusion of the public procurement contract;
- c) Economic Operators independently submitting tenders and each of the Economic Operators submitting a joint tender must meet the non-exclusion condition described in Article 24 section 1 clause 1–11 of the Act;
- d) in the event of two or more Economic Operators competing for the contract, their joint knowledge and experience, personnel potential and economic and financial situation shall be assessed;
- e) the absence of any representation or document shall result in the Economic Operator being excluded from competing for the contract, subject to Article 26 section 3 of the Act;
- f) submission by the Economic Operator of untrue information affecting the outcome of the procedure shall result in the exclusion of that Economic Operator from the procedure pursuant to Article 24 section 2 clause 3 of the Act.

5. The Contracting Authority shall assess the meeting of the conditions by the Economic Operators on the basis of the following documents and representations submitted by them:

- 1) A representation on meeting the conditions set forth in Article 22 section 1 of the Act;
- 2) A current excerpt from the appropriate register or central register of commercial activity, if separate regulations require entry in such register, in order to demonstrate the absence of grounds for exclusion under Article 24 section 1 clause 2 of the PPL Act, issued no earlier than 6 months prior to the lapse of the time limit set for submitting tenders;
- 3) A current certificates of the head of the competent tax office confirming respectively that the economic operator is not in arrears with the payment of taxes, or a certificate stating that the economic operator was legally entitled to exemption, deferment or spread of payment into instalments with reference to outstanding payments or stating that the execution of a decision of a competent authority has been stopped in its entirety – issued not earlier than 3 months

prior to the expiry of the time limit for submitting tenders;

4) A current certificates of the relevant branch of the Social Insurance Institution (ZUS) or Agricultural Social Insurance Fund (KRUS) confirming respectively that the economic operator is not in arrears with the payment of taxes, fees and contributions payable towards health and social insurance, or confirmation that the economic operator was legally entitled to exemption, deferment or spread of payment into instalments with reference to outstanding payments or stating that the execution of a decision of a competent authority has been stopped in its entirety, – issued not earlier than 3 months prior to the expiry of the time limit for submitting tenders;

5) A current information from the National Criminal Records Register covering the data specified in Article 24 section 1 clause 4–8 and in Article 24 section 1 clause 9 of the PPL Act, issued no earlier than 6 months prior to the expiry of the time limit for submitting tenders;

6) A current information from the National Criminal Records Register covering the data specified in Article 24 section 1 clause 10 and 11 of the PPL Act, issued no earlier than 6 months prior to the expiry of the time limit for submitting tenders;

7) A list of principal services provided within the last three years prior to the lapse of the time limit set for submitting tenders, and if the period of trading is shorter, within that period, specifying their type and value and enclosing evidence regarding the most important services, specifying whether these services had been duly rendered. The aforesaid evidence may include certificates or other documents, if for objective reasons the Economic Operator is unable to obtain certificates.

The Economic Operator shall not be obligated to submit the aforesaid documents if the Contracting Authority is the entity on whose behalf the services listed in the specification had been provided.

8) A list of persons taking part in the performance of the contract, with information on their professional qualifications, experience and education necessary for contract performance, and their job description, and information on the basis on which the Economic Operator may use these persons.

9) Pursuant to Article 26 section 2 b) of the PPL Act, the Economic Operator may rely on the knowledge and experience, technical potential and persons capable of performing the contract, financial or economic capabilities of other entities, regardless of the nature of the legal relationship existing between them. In such situation the Economic Operator shall be obligated to demonstrate to the Contracting Authority that he will have at his disposal these resources in the course of contract performance, in particular, by presenting a written undertaking of these entities to put at the disposal of the Economic Operator the resources necessary for contract performance.

Undertaking of third parties (form and content):

a) placing a personal signature under a document containing a declaration of will shall be sufficient for meeting the written form condition. If the proof of having at one's disposal the resources of third parties selected by the Economic Operator is an undertaking of a third party, it must be made in writing. No other form, including a certified copy of the document, shall be permitted;

b) an Economic Operator relying on the potential of other entities should, in the light of Article 26 section b) of the PPL Act, present to the Contracting Authority evidence unequivocally showing that the said resources will be put at his disposal for the purpose of contract performance. Demonstrating access to the resources listed in Article 22 section 1 clause 2–4 of the PPL Act shall include demonstrating that third party's resources have been made available to the Economic Operator that that the party providing these resources actually has them at its disposal. The undertaking of a third party should specify who is the entity receiving the resources, the scope of third party's obligation, the object of the obligation and the manner of its performance, including the period of performance and should include a clear reference to the participation or otherwise of that party in the performance of the contract ;

c) an Economic Operator relying on the potential of other entities should, in the light of Article 26 section b) of the PPL Act, present to the Contracting Authority evidence unequivocally showing the following aspects:

- the scope of the third party resources available to the Economic Operator,
- the manner in which the Contracting Party is to use such third party resources in contract performance,
- the nature of the relationship existing between the Economic Operator and the third party,
- the scope and period of third party's participation in contract performance.

10) A representation on the absence of grounds for exclusion;

11) Information on the membership of the Economic Operator in a capital group;

12) If the tender is signed for the Economic Operator by an attorney (a person not authorised to perform these transactions in the registry documents), a power of attorney specifying its scope, signed by persons authorised to represent the Economic Operator, shall be enclosed with the tender; the power of attorney shall be submitted in the

original or a copy authenticated by a notary;

13) Economic Operators jointly competing for the contract shall be obligated to appoint an attorney pursuant to Article 23 section 2 of the Act;

14) In order to demonstrate the fulfilment of the participation conditions Economic Operators jointly competing for the contract shall be obligated to submit the document referred to in clause 1) above signed by the attorney of the Economic Operators acting jointly;

15) In order to demonstrate the fulfilment of the participation conditions Economic Operators jointly competing for the contract shall be obligated to submit the documents listed in clause 7) and 8) above, and if the Economic Operators jointly competing for the contract rely on the knowledge and experience of third parties, the document referred to in clause 9) above; the subjective documents shall be submitted on behalf of the Economic Operators jointly competing for the contract by the attorney. However, the document referred to in clause 8) shall be signed by a person authorised to represent the entity making available the potential;

16) In order to demonstrate the absence of grounds for exclusion each of the Economic Operators jointly competing for the contract shall be obligated to submit the documents referred to in clause 2), 3), 4), 5), 6), 10), 11) above;

17) The documents shall be submitted in the original form or as copies authenticated by the Economic Operator;

18) If the Economic Operator, demonstrating the fulfilment of the conditions referred to in Article 22 section 1 of the Act, relies on resources of third parties pursuant to Article 26 section 2 b) of the Act, and these parties are to take part in the performance of a part of the contract, the Economic Operator shall be obligated to submit the documents listed in clause 2), 3), 4), 5), 6), 10) above with regard to these parties;

19) In the event of Economic Operators jointly competing for the contract and in the event of third parties on whose resources the Economic Operator relies pursuant to Article 26 section 2 b) of the Act, copies of documents pertaining to the Economic Operator or these parties shall be authenticated by the Economic Operator or by these parties respectively;

20) If, in the case of an economic operator established in the territory of the Republic of Poland, the persons, referred to in Article 24 section 1 clause 5-8, 10 and 11 of the Act, reside outside the territory of the Republic of Poland, the economic operator shall submit a certificate of a competent judicial or administration agency of their place of residence regarding the absence of a criminal record covering the data mentioned in Article 24 section 1 clause 5-8, 10 and 11 of the Act, issued no earlier than 6 months prior to the expiry of the time limit for submission of the tenders. If, in the place of residence of these persons such certificates are not issued, they shall be replaced by a document containing a representation made before a competent judicial, administration authority or a body of a professional or economic self-government of the place of residence of these persons, or before a notary;

21) If the economic operator is established or has the place of residence outside the territory of the Republic of Poland, instead of the documents, referred to in clause 6:

a) sub-clause 2), 3), 4), 5) (to the extent specified in Article 24 Section 1 clause 9 of the PPL Act) – he shall submit a document or documents issued in the country of establishment or residence, confirming that:

— he has not been placed in liquidation or declared bankrupt,

— he is not in arrears with the payment of taxes, fees, social insurance or health insurance premiums, or stating that the economic operator was legally entitled to exemption, deferment or spread of payment into instalments with reference to outstanding payments or stating that the execution of a decision of a competent authority has been stopped in its entirety,

— he has not been prohibited from competing for the contract.

b) sub-clause 5) and 6) (to the extent specified in Article 24 section 1 clause 4–8, 10 and 11 of the PPL Act) – he shall submit a certificate issued by a competent judicial or administrative body of the place of residence of the person, to whom the documents covering matters specified in Article 24 section 1 clause 4-8, 10 and 11 of the PPL Act pertain.

22) The documents referred to in clause 21) sub-clause a) indent one and three and sub-clause b) shall be issued no earlier than 6 months prior to the lapse of the time limit for filing submitting requests for participation or submitting tenders. The document referred to in clause 21) sub-clause a) indent two shall be issued not earlier than 3 months prior to the lapse of the time limit for submitting tenders;

23) If in place of residence of a person or the country in which the economic operator has the seat or place of residence, the documents, referred to in clause 21) are not issued, they shall be replaced by a document containing a declaration made before a competent judicial or administration authority or a competent professional or trade body in the place of residence of a person or the country in which the economic operator is established or has his place of residence, respectively, or before a notary. The requirements described in clause 22) shall apply accordingly;

24) In the event of doubts regarding the content of a document submitted by an Economic Operator established or



residing outside the territory of the Republic of Poland, the Contracting Authority may ask the competent authorities at the place where the person resides or in the country where the Economic Operator is established for the necessary information regarding the document submitted;

25) A document drawn up in a foreign language must be submitted with a translation into Polish authenticated by the Economic Operator;

26) In the event of the Economic Operator enclosing a copy of a document as an attachment to the tender, it must be authenticated on each page by the person signing the tender;

27) If a photocopy of a document enclosed with the tender is illegible or gives rise to doubts as to its authenticity, the Contracting Authority may request presentation of the original document or its notarised copy.

**ATTENTION:** Unless explicitly indicated otherwise, the following terms used in the contract notice shall have the meaning given to them below:

- 1) representing the investor towards the designer – shall be understood as the provision of consultancy services at the design stage and at the project architect’s design stage, aimed at taking for the investor any and all design decisions requested by the designer with regard to compliance with the programme guidelines, mission, character and statutory objectives of the institution/investor in the technical, architectural, functional and creative aspect. The Contracting Authority does not rule out that the Economic Operator will be obligated to contact other persons or entities performing or assisting the Contracting Authority, in particular, the Contract Engineer.
- 2) construction – shall be understood as the construction of a new museum building in a specific location; the term “construction” shall not mean reconstruction, extension or over-building a building;
- 3) building – shall be understood as a structure which is permanently connected to the ground, separated from the space using wall barriers and having foundations and a roof;
- 4) building for exhibition purposes – shall be understood as a building whose main purpose (accounting for at least 80% of its overall activity) is making available own or third party’s collections in the form of temporary or permanent exhibitions;
- 5) building for culture purposes – shall be understood as a building whose main purpose (accounting for at least 50% of the overall activity) is:
  - a) Exhibiting museum objects;
  - b) Staging plays;
  - c) Promoting Polish or foreign culture;
  - d) Gathering and disseminating knowledge about museums and public collections.
- 6) museum technology – shall be understood as technical, functional, architectural and creative solutions appropriate for a museum building and consistent with the programme, character and statutory objective of the institution;
- 7) theatre technology – shall be understood as technical, functional, architectural and creative solutions appropriate for a theatre building and consistent with the programme, character and statutory objective of the institution;
- 8) acoustics – shall be understood as technical solutions aimed at optimising the acoustic properties of premises, in particular, auditoria and theatre halls.

### III.2.2) Economic and financial ability

**Minimum level(s) of standards possibly required:** *(if applicable):*

Hold third party liability insurance covering activities connected with the object of the contract for at least PLN 3,000,000.00 (say: three million zlotys).

**Information and formalities necessary for evaluating if the requirements are met:**

The original or a photocopy of the paid-up policy authenticated by the Economic Operator, and in its absence another document confirming that the Economic Operator has third party liability insurance covering activities connected with the object of the contract for at least PLN 3,000,000.00 (say: three million zlotys).

### III.2.3) Technical capacity

#### Minimum level(s) of standards possibly required: (if applicable):

1. The Contracting Authority sets the following detailed participation conditions:

- 1) The Contracting Authority shall consider the knowledge and experience condition to have been met, if the Economic Operators demonstrate that within the least three years prior to the lapse of the tenders submission deadline, and if the period of trading is shorter – within that period, they provided at least:
  - a) one service consisting in “representing the investor towards the designer” in the process of construction of a museum or another building for exhibition purposes, with the total floorage space of at least 9,000 m2 and where the value of the building works was at least PLN 150,000,000.00 gross.
  - b) one service consisting in “representing the investor towards the designer” in the process of construction of a theatre or another building for culture use, with the total floorage space of at least 7,000 m2, containing an auditorium for no fewer than 300 persons (counted as sitting places) and where the value of the building works was at least PLN 100,000,000.00 gross.
- 2) The Contracting Party shall consider the condition of having persons capable of performing the contract as having been met if the Economic Operators demonstrate that they have at their disposal at least:
  - a) one person capable of acting as a consultant in “museum technology” specialisation with experience consisting in “representing the investor towards the designer” with regard to “museum technology” during construction of a museum or another building for exhibition purposes where the value of the building works was at least PLN 100,000,000.00 gross;
  - b) one person capable of acting as a consultant in “theatre technology” specialisation with experience consisting in “representing the investor towards the designer” with regard to “theatre technology” during construction of a theatre or another building for culture use, containing an auditorium for no fewer than 100 persons (counted as seating places) where the value of the building works was at least PLN 100,000,000.00 gross;
  - c) one person capable of acting as a consultant in acoustics with experience consisting in “representing the investor towards the designer” with regard to “acoustics” during construction of a museum, theatre or another building for culture use where the value of the building works was at least PLN 100,000,000.00 gross.

The Contracting Authority indicates that one person

#### Information and formalities necessary for evaluating if the requirements are met:

A list of principal services provided within the last three years prior to the lapse of the time limit set for submitting tenders, and if the period of trading is shorter, within that period, specifying their type and value and enclosing evidence regarding the most important services, specifying whether these services had been duly rendered. The aforesaid evidence may include certificates or other documents, if for objective reasons the Economic Operator is unable to obtain certificates.

The Economic Operator shall not be obligated to submit the aforesaid documents if the Contracting Authority is the entity on whose behalf the services listed in the specification had been provided.

A list of persons taking part in the performance of the contract, with information on their professional qualifications, experience and education necessary for contract performance, and their job description, and information on the basis on which the Economic Operator may use these persons.

<p>may be designated as meeting more than one condition pertaining to persons capable of performing the contract. Persons indicated as meeting the above participation condition must also be named in the document entitled “Management Organisation and Methodology”. In the event of any of the persons put forward as meeting the aforesaid participation condition not being included in the document entitled “Management Organisation and Methodology”, the tender of that Economic Operator shall be rejected as failing to comply with the ToR.</p> <p>Any changes in the line-up of the Team performing the contract indicated in the tender shall require meeting the conditions concerning Economic Operator’s personnel potential set forth in the ToR/contract notice. The Contracting Authority allows for changes in the line-up of the Team only in the event of the occurrence of fortuitous circumstances, i.e. events which are unforeseeable, impossible to avoid even when exercising due diligence, e.g. an accident resulting in long inability to work, long illness, death.</p>	
<b>III.2.4) Information about reserved contracts (<i>if applicable</i>)</b> <span style="float: right;">yes <input type="checkbox"/> no <input checked="" type="checkbox"/></span>	
The contract is restricted to sheltered workshops	<input type="checkbox"/>
The execution of the contract is restricted to the framework of sheltered employment programmes	<input type="checkbox"/>

**III.3) Conditions specific to services contracts**

<b>III.3.1) Execution of the service is reserved to a particular profession</b> <span style="float: right;">yes <input type="checkbox"/> no <input checked="" type="checkbox"/></span> <i>(if yes)</i> Reference to the relevant law, regulation or administrative provision: <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/>
<b>III.3.2) Legal persons should indicate the names and professional qualifications of the staff responsible for the execution of the service</b> <span style="float: right;">yes <input type="checkbox"/> no <input checked="" type="checkbox"/></span>

**SECTION IV: PROCEDURE**

**IV.1) Type of procedure**

<b>IV.1.1) Type of procedure</b>	
<b>Open</b>	<input type="checkbox"/>
<b>Restricted</b>	<input checked="" type="checkbox"/>
<b>Accelerated restricted</b>	<input type="checkbox"/> Justification for the choice of accelerated procedure: <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/>

<b>Negotiated</b>	<input type="checkbox"/>	Some candidates have already been selected	yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
<i>(if yes, provide names and addresses of economic operators already selected under Section VI.3 Additional information)</i>			
<b>Accelerated negotiated</b>	<input type="checkbox"/>	Justification for the choice of accelerated procedure: _____	
<b>Competitive dialogue</b>	<input type="checkbox"/>		
<p><b>IV.1.2) Limitations on the number of operators who will be invited to tender or to participate</b> <i>(restricted and negotiated procedures, competitive dialogue)</i>          Envisaged number of operators: <b>8</b>  <i>or</i>          Envisaged minimum number [ ] [ ] [ ] and <i>(if applicable)</i> maximum number [ ] [ ] [ ]</p> <p>Objective criteria for choosing the limited number of candidates:          If the number of economic operators exceeds eight, the Contracting Authority shall determine the ranking of economic operators using the scoring system described below:</p> <p><b>a) In the event of meeting the condition specified in Section III.2.1) clause 3 sub-clause 1 letter a) the Contracting Authority shall award points for the following characteristics of the building:</b></p> <p style="margin-left: 20px;"><b>i) purpose (function) of the building – single choice:</b></p> <p style="margin-left: 40px;">(1) building for exhibition use - 1 point          (2) museum building – 7 points          (3) museum of art building – 15 points          (4) museum of modern art building – 30 points</p> <p>The Economic Operator may present more than one building for the purpose of the ranking. No more than two buildings indicated by the Economic Operator (including the building indicated for the purpose of meeting the participation conditions) will be evaluated. In the event of presentation of more than two buildings the Contracting Authority shall take into account the two with the largest number of points. Under this criterion the Economic Operator may receive a maximum of 60 points. As confirmation of meeting the minimum requirements the Economic Operator may indicate “external” services/works, i.e. pursuant to Article 26 section 2b of the PPL Act. Nonetheless, in such case the Contracting Authority shall not award the Economic Operator additional points, even if the aforesaid parameters have been met by them. Additional points will be given only for “own” services/works of the Economic Operator.</p> <p><b>b) In the event of meeting the condition specified in Section III.2.1) clause 3 sub-clause 1 letter b) the Contracting Authority shall award points for the following characteristics of the building:</b></p> <p style="margin-left: 20px;"><b>1. purpose (function) of the building – single choice:</b></p> <p style="margin-left: 40px;">(1) building for culture purposes - 1 point          (2) theatre - 15 points</p> <p>The Economic Operator may present more than one building for the purpose of the ranking. No more than two buildings indicated by the Economic Operator (including the building indicated for the purpose of meeting the participation conditions) will be evaluated. In the event of presentation of more than two buildings the Contracting Authority shall take into account the two with the largest number of points. Under this criterion the Economic Operator may receive a maximum of 30 points. As confirmation of meeting the minimum requirements the Economic Operator may indicate “external” services/works, i.e. pursuant to Article 26 section 2b of the PPL Act. Nonetheless, in such case the Contracting Authority shall not award the Economic Operator additional points, even if the aforesaid parameters have been met. Additional points will be given only for “own” services/works of the Economic Operator.</p> <p><b>c) In the case of a person presented as a museum technology consultant meeting the conditions set forth in Section III.2.1) paragraph 3 clause 2 sub-clause 1) the Contracting Authority shall award points for the following traits of the building:</b></p> <p style="margin-left: 20px;"><b>1. purpose (function) of the building – single choice:</b></p> <p style="margin-left: 40px;">(1) building for exhibition use - 1 point</p>			

- (2) museum building – 7 points
- (3) museum of art building – 15 points
- (4) museum of modern art building – 30 points

The Economic Operator may present more than one building for the purpose of the ranking. No more than five buildings indicated by the Economic Operator (including the building indicated for the purpose of meeting the participation conditions) will be evaluated. In the event of presentation of more than five buildings the Contracting Authority shall take into account the five with the largest number of points. Under this criterion the Economic Operator may receive a maximum of 150 points.

d) In the case of a person presented as a theatre technology consultant meeting the conditions set forth in Section III.2.1) paragraph 3 clause 2 sub-clause 2) the Contracting Authority shall award points for the following traits of the building:

1. purpose (function) of the building – single choice:

- (1) building for culture use - 1 point
- (2) theatre - 10 points

The Economic Operator may present more than one building for the purpose of the ranking. No more than five buildings indicated by the Economic Operator (including the building indicated for the purpose of meeting the participation conditions) will be evaluated. In the event of presentation of more than five buildings the Contracting Authority shall take into account the five with the largest number of points. Under this criterion the Economic Operator may receive a maximum of 50 points.

e) In the case of a person presented as an acoustics consultant meeting the conditions set forth in Section III.2.1) paragraph 3 clause 2 sub-clause 3) the Contracting Authority shall award points for the following traits of the building:

1. purpose (function) of the building – single choice:

- (1) building for culture use with the value of the construction works of at least PLN 100,000,000.00 gross - 1 point
- (2) museum with the value of the construction works of at least PLN 100,000,000.00 gross - 3 points
- (3) theatre with the value of the construction works of at least PLN 100,000,000.00 gross - 5 points

The Economic Operator may present more than one building for the purpose of the ranking. No more than five buildings indicated by the Economic Operator (including the building indicated for the purpose of meeting the participation conditions) will be evaluated. In the event of presentation of more than five buildings the Contracting Authority shall take into account the five with the largest number of points. Under this criterion the Economic Operator may receive a maximum of 25 points.

The experience of the persons referred to in letters c) – e) may cover a period longer than the last three years prior to the lapse of the time limit set for tenders submission.

IV.1.3) Reduction of the number of operators during the negotiation or dialogue (*negotiated procedure, competitive dialogue*)

Recourse to staged procedure to gradually reduce the number of solutions to be discussed or tenders to be negotiated

yes  no

#### IV.2) Award criteria

IV.2.1) Award criteria (*please tick the relevant box(es)*)

Lowest price

or

The most economically advantageous tender in terms of

- the criteria stated below (*the award criteria should be given with their weighting or in descending order of importance where weighting is not possible for demonstrable reasons*)
- the criteria stated in the specifications, in the invitation to tender or to negotiate or in the descriptive document

Criteria	Weighting	Criteria	Weighting
1. Price	20 %	6. _____	_____
2. Quality	80 %	7. _____	_____
3. _____	_____	8. _____	_____
4. _____	_____	9. _____	_____
5. _____	_____	10. _____	_____

IV.2.2) An electronic auction will be used yes  no

(if yes, if appropriate) Additional information about electronic auction:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### IV.3) Administrative information

IV.3.1) File reference number attributed by the contracting authority: (if applicable)

1/MSN/PO/2015

IV.3.2) Previous publication(s) concerning the same contract yes  no

If yes

Prior information notice  Notice on a buyer profile

Notice number in the OJEU: [ ]/[ ]/[ ]/[ ]/[ ]/[ ]/[ ]/[ ] of [ ]/[ ]/[ ]/[ ] (dd/mm/yyyy)

Other previous publications (if applicable)

Notice number in the OJEU: [ ]/[ ]/[ ]/[ ]/[ ]/[ ]/[ ]/[ ] of [ ]/[ ]/[ ]/[ ] (dd/mm/yyyy)

Notice number in the OJEU: [ ]/[ ]/[ ]/[ ]/[ ]/[ ]/[ ]/[ ] of [ ]/[ ]/[ ]/[ ] (dd/mm/yyyy)

IV.3.3) Conditions for obtaining specifications and additional documents or descriptive document (in the case of a competitive dialogue)

Time limit for receipt of requests for documents or for accessing documents

Date: 11 / 03 / 2015 (dd/mm/yyyy) Time: 17:00

Payable documents yes  no

(if yes, give figures only) Price: \_\_\_\_\_ Currency: \_\_\_\_\_

Terms and method of payment: \_\_\_\_\_

IV.3.4) Time limit for receipt of tenders or requests to participate

Data: 12/03/2015 (dd/mm/yyyy)

Time: **10:00**

**IV.3.5) Date of sending the invitation to submit tenders or the qualified candidates (if known) (in the case of the restricted and negotiation procedure and competitive dialogue)**

Date: □□/□□/□□□□ (dd/mm/yyyy)

**IV.3.6) Language(s) in which tenders or requests to participate may be drawn up**

ES CS DA DE ET EL EN FR IT LV LT HU MT NL PL PT SK SL FI SV

Other: \_\_\_\_\_

**IV.3.7) Minimum time frame during which the tenderer must maintain the tender (open procedure)**

Until: □□/□□/□□□□ (dd/mm/yyyy)

or Duration in months: [ ][ ] or in days: **60** ((from the date stated for receipt of tender)

**IV.3.8) Conditions for opening tenders**

Date: [ ][ ] / [ ][ ] / [ ][ ][ ] (dd/mm/yyyy) Time: \_\_\_\_\_

(if applicable) Place: \_\_\_\_\_

Persons authorised to be present at the opening of tenders (if applicable) yes  no

\_\_\_\_\_  
\_\_\_\_\_

**SECTION VI: COMPLEMENTARY INFORMATION**

**VI.1) THIS IS A RECURRENT PROCUREMENT (if applicable)** yes  no

(if yes) Estimated timing for further notices to be published: \_\_\_\_\_

**VI.2) The contract is related to a project and/or programme financed by European Union funds**

yes  no

(if yes) Reference to project(s) and/or programme(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**VI.3) Additional information: (if applicable)**

- 1) All documents submitted by the economic operator shall be submitted in the form of originals or photocopies confirmed as consistent with the original by a person or persons authorised to represent the economic operator, or by an authorised person (persons) whose authorisation has been enclosed with the application for admission to the procedure (henceforth the Application). In the case of economic operators jointly competing for the contract, the documents specified in point III.2.1) sub-point 2-6 shall be submitted by each economic operator jointly competing for the contract.
- 2) The application must be signed by a person or persons authorised to represent the economic operator. All pages of the application should be numbered and initialled by the person(s) signing the application. All corrections must be made legibly and must be initialled by the person(s) signing the application. They may also be dated.
- 3) The application shall be executed in the Polish or English language. All documents executed in a foreign language must be enclosed with their translation into the Polish or English language.
- 4) The application for admission to the procedure, representations and information of the economic operator shall be executed using a permanent writing technique.

- 5) It is advisable that the application for admission to the procedure be delivered in a packaging inscribed as follows: "Świadczenie usługi pełnomocnika Inwestora, reprezentującego go wobec projektanta" and bear the following annotation "Nie otwierać przed dniem 12.03.2015 r. godz. 10:00".
- 6) Application for admission to the procedure shall be sent to the following address: Muzeum Sztuki Nowoczesnej w Warszawie ul. Pańska 3, 00-124 Warszawa, reception desk.
- 7) The Contracting Authority shall evaluate the fulfilment of the participation conditions on the basis of the documents and representations enclosed with the application.
- 8) The assessment of the fulfilment of the participation conditions will be carried out using the „meets/does not meet” method. If the number of economic operators meeting the participation conditions exceeds 5, the Contracting Authority shall invite tenders from the economic operators selected in accordance with point IV.1.2) of the notice.
- 9) In the event of providing values in currencies other than PLN, the Contracting Authority shall convert them into PLN at the average rate of exchange published by the NBP on the day of publication of the contract notice.
- 10) The Contracting Authority has published on <http://artmuseum.pl/pl> the draft application with drafts of representations and lists for possible use.
- 11) The Contracting Authority has published on <http://artmuseum.pl/pl> the English version of the notice. The English version is only an auxiliary version, with the Polish version being the binding version. In the event of any discrepancies the version published in the Polish language shall prevail.
- 12) Answers to operator’s questions will be published on the website [www.artmuseum.pl](http://www.artmuseum.pl)
- 13) The Contracting Authority provides for supplementary contracts, referred in Article 67 section 1 clause 6 PPL. The scope of supplementary contracts will be up to 50% of the value of the main contract.

#### **VI.4) Procedures for appeal**

##### **VI.4.1) Body responsible for appeal procedures**

Official name: **Krajowa Izba Odwoławcza**

Postal address: **Postępu 17A**

Town: **Warszawa**

Postal code: **02-676**

Country: **Poland**

E-mail: **odwolania@uzp.gov.pl**

Telephone: **+48 22 4587840**

Internet address (URL): **www.uzp.gov.pl**

Fax **+48 22 4587800**

##### **Body responsible for mediation procedures (if applicable)**

Official name:

Postal address:

Town:

Postal code:

Country:

E-mail:

Telephone:

Internet address (URL):

Fax

Official name:

Postal address:

Town:

Postal code:

Country:

E-mail:

Telephone:

Internet address (URL):

Fax



**VI.4.2) Lodging of appeals** (please fill in heading VI.4.2 or if need be, heading VI.4.3)

Precise information on deadline(s) for lodging appeals:

In the course of the contract award procedure legal remedies provided for in Section VI of the PPL Act are available, i.e. an appeal to the National Appeal Chamber and a complaint to the Regional Court filed in the manner and on the terms specified in the Act. The legal remedies specified in Section VI may be used by economic operators or other entities, if they had or have an interest in obtaining a given contract and have or may suffer damage as a result of a breach of the Act by the Contracting Authority.

An appeal shall be filed within 10 days from the date of sending information on the action of the Contracting Party constituting the basis for its filing – if the remedies, referred to in Article 27 section 2 of the Act were used, or within 15 days – if other remedies were used;

An appeal concerning the content of the contract notice, and also against provisions of the specifications, shall be filed within 10 days from the date of publication of the notice in the Official Journal of the European Union or the publication of the specifications on a website;

An appeal against actions other than those referred to above shall be lodged within 10 days from the date, on which information on the circumstances constituting the basis for the appeal was or could have been obtained while exercising due diligence;

If the Contracting Authority failed to send the economic operator notice of the selection of the most advantageous tender, an appeal shall be filed no later than:

- a) 30 days from the date of publication of the notice of contract award in the Official Journal of the European Union,
- b) 6 months from the date of contract conclusion, if the Contracting Authority failed to publish a notice of contract award in the Official Journal of the European Union.

**VI.4.3) Service from which information about the lodging of appeals may be obtained**

Official name: **Krajowa Izba Odwoławcza**

Postal address: **Postępu 17A**

Town: **Warszawa**

Postal code: **02-676**

Country: **Poland**

E-mail: **odwolania@uzp.gov.pl**

Telephone: **+48 22 4587840**

Internet address (URL): **www.uzp.gov.pl**

Fax **+48 22 4587800**

**VI.5) Date of dispatch of this notice:** [ ] [ ] / [ ] [ ] / [ ] [ ] [ ] [ ] (dd/mm/yyyy)