

The Academy of Fine Arts in Katowice,
Raciborska 37
40-074 Katowice

Reference number: ASP-DAT-ZP-i4-2018

Katowice, 10/09/2018

TERMS OF REFERENCE
hereinafter referred to as (ToR)
for
Provision of graphic press machines for
the Academy of Fine Arts in Katowice

Procurement procedure is conducted on the basis of the Act of 29 January 2004 on Public Procurement Law (that is Journal of Laws From 2017, item 1579 as amended, hereinafter referred to as "PPL Act", with an estimated value not exceeding the amount specified in the provisions issued pursuant to art.11 (8) of PPL Act.

Approved on: 11.09.2018


REKTOR
mgr hab. Antoni Cygan

Ministry of Culture and National Heritage.

Terms of Reference for the provision of graphic press machines for
the Academy of Fine Arts in Katowice

1. **Name (company name) and address of the Ordering Party**

Akademia Sztuk Pięknych w Katowicach
Raciborska 37
40-074 Katowice
e-mail: asp@asp.katowice.pl
Website address: www.asp.katowice.pl

2. **Mode of procurement procedure**

The tender procedure shall be carried out within the mode of: open tender.

3. **Description of the subject of procurement**

3.1. The subject of procurement shall be delivery of pressure press and graphic press for the building of the Academy of Fine Arts in Katowice, at 19 Koszarowa Street In Katowice.

3.2. The Ordering Party allows for submission of partial offers, whereby part (task) shall constitute as follows:

Partial task No.	Description
1	<p>Subject: Delivery of pressure press for the building of the Academy at 19 Koszarowa Street in Katowice</p> <p>Common Glossary: 42990000-2 - Various machines of specialist application Description Delivery of pressure press for the building of the Academy at 19 19 Koszarowa Street in Katowicach</p> <p>Machine for letterpress printing- used in educational process - required for copying graphics with the use of letterpress printing technique.</p> <p>Pressure press with dimensions: 80 x 100 cm, electric pump, fixed plate</p> <p>Technical parameters: Dimensions of upper plate: minimum: 80 x 100 cm Dimensions of lower plate: 85 x 105 cm Max. pressure force between plates: 25000 kg Max. Opening between plates: 14 cm Total length: 215 cm (105x2 - that's how much the paper may press out on the table plus frame) Total width: 120 cm (in order to preserve the dimension of the worktop for printing) Total height: 193 cm Alternating current 230 V Working height: 85 cm Weight: maximum up to 1,000 kg</p>

	<p>Required minimum guarantee and free of charge maintenance- 5 years</p> <p>Sample type: Degelpers format 80x100 cm, VPLEV-80x100 elektrische pomp, vaste degel or equivalent in terms of technical parameters and functionalities</p>
2	<p><u>Subject: Delivery of graphic press to the building of the Academy at 19 Koszarowa Street in Katowice</u></p> <p>Common Glossary: 42900000-5 - Various machines of specialist application</p> <p>Description: Delivery of graphic press to the building of the Academy at 19 Street in Katowicach</p> <p>Graphic press for conduct of prints in techniques of intaglio (etching, aquatint, drypoint etc.), from metal matrices (zinc, copper) or plastic. Thickness of serviced sheets from 0,5 mm to 3 mm The press must be characterized by a possibility of making precise print, through the use of hydraulic system of load pressure. The press ought to be equipped in an electrical control system.</p> <p>Minimum technical parameters of the press:</p> <ul style="list-style-type: none"> - Size of table <ul style="list-style-type: none"> " width not below 80 cm, and not exceeding 90 cm, " length 130 cm to maximum of 160 cm - Width of roller 80 cm - Diameter of rollers 20 cm - Working height of the press: from 75cm to 85cm - Height of press: 150cm-160cm - Width of press: from 120cm to 130cm - Length of press: 150-160cm - Weight of press: up to 500 kg - Engine power: min. 750 Watt - Engine voltage: 230 V - Printing speed: 0-10 cm/s - Swivel wheels under press (type of rollers allowing for smooth moving of the table) - Hydraulic system of regulation and pressure - Control panel with possibility of: "left", "right" "stop" - Safety system during press operations "photocell" - Limit switches switching off the press at the end of the worktop

Required minimum guarantee and free of charge maintenance for:

- 1/ mechanical components of the press: 5 years,**
- 2/ remaining components and electrical wiring 24 months**

Sample type: Estepers elektrisch JWEV-8o variable druksnelheid
Or equivalent in terms of technical parameters and functionalities

3.3. Presses should be available on the market, as brand new (from current production), allowed for the use and fulfilling all standards permitted by the law as well as safety standards, hold appropriate certificates for the purpose of machine use, including Compliance Certificate with EU regulations.

In particular, it must comply with the requirements specified in:

- a) Labour Code- Chapter IV Machines and other technical appliances,
- b) Ordinance of Minister of Economy of 30 October 2002 on minimum requirements concerning safety and hygiene of work in the scope of using machines by employees during their work (Journal of Laws, no. 191, item 1596),
- c) Ordinance of Minister of Labour and Social Policy on general provisions related to the safety and hygiene of work of 26 September 1977 (Journal of Laws No. 129, item 844) that is from 28 August 2003 (Journal of Laws, No. 169, and item 1650.

3.4. The Ordering Party does not allow submission of equivalent offers, nor submission of variant offers.

3.5. Parts (partial tasks) cannot be divided amongst the Contractors, offers which do not contain the full scope of the subject of the order, specified in the partial task will be rejected.

3.6. The Contractor may submit an offer for one task or for all parts (tasks) of the order.

3.7. **Within the framework of the order, the Contractor ought to, at his own expense and risk, provide the subject of the order to the location indicated by the Ordering Party as well as:**

- **Mount the press** (including mounting of the press in case the machine was carried in parts, as well as align it horizontally, anchor it/ connect it to the installation of the Ordering Party, provided that the machine specification requires the above) at the location indicated by the Ordering Party in point 3.8 of ToR,
- **launch and test the device** (exploitation materials for tests will be ensured by The Contractor),
- **carry out all the arrangements and measurements required by the law etc.**
- train personnel of the Ordering Party to use the machine,
- Provide operating and maintenance manual (O&MM) for the machine, including operating manual.

3.8. **Place of realization:**

Building of the Academy of Fine Arts in Katowice At 19 Koszarowa Street in Katowice:

- Task No. 1 - Pressure press ought to be delivered and installed at the workshop located on the first floor of the building at 19 Koszarowa Street in Katowice;

- Task No. 2 - Graphic press ought to be delivered and installed at the workshop located on the first floor of the building at 19 Koszarowa Street in Katowice.

Annex to ToR contains an extract from the layout of the building at 19 Koszarowa Street - projections with indicated delivery and installation spots.

The width of corridor on the first floor of the building equals to 218cm, the size of the door in the corridor amounts to 95x215, the size of the entrance door to the workshop - 184 x 204 cm.

The building at 19 Koszarowa Street in Katowice is equipped in an elevator of HOG-630 T/T-N type, lifting capacity of 630 kg, number of stops - 4. Elevator dimensions: 102 cm width, 130 cm depth, 2100 cm height. Entrance to elevator (light) 90 cm of width, 200 cm of height.

4. **Information on the anticipated orders, as specified in art. 67 (1) (7) of the Act of Public Procurement Law.**

The Ordering Party does not anticipate granting orders, specified in art 67 (1) (7)-

5. **Term of order completion**

5.1. Term of order completion:

- Task no. 1 and 2 Delivery and mounting of pressure press and graphic press ought to occur no later than **until 20 December 2018**.
- Launch, testing of the machines and Ordering Party's personnel training ought to occur within the term agreed with the Ordering Party.

6. **Terms of participation in the procedure**

6.1. Contractors who are not subject to exclusion and who fulfil the conditions for participation in the tender procedure and the requirements specified in the hereby ToR may participate in the tender procedure.

6.2. Contractors ought to fulfil the conditions of participation in the procedure, specified in the hereby Terms of Reference for the order and in the announcement of order, concerning:

- a) Competencies or authorizations for the conduct of specific professional activity, provided that these stem from separate provisions,

b) Economic or financial situation

c) Technical or professional capacity

6.3. The Ordering Party does not specify the conditions outlined in point 6.2 and shall carry out their assessment according to the fulfils/not fulfils principle, on the basis of a statement on fulfilment of conditions of participation in the tender procedure, constituting Annex no. 3 to ToR.

6.4. The Contractor may, in order to confirm fulfilment of conditions for participation in the tender procedure, in adequate situations and with reference to a specific order, or its part, rely on technical or professional capacity or financial or economic situation of other entities, regardless of the legal nature of legal relations that connect him with such entity.

6.5. Statements specified above concerning the Contractor and other entities on capacities or situation of which it shall rely, according to the principles specified in art. 22A of PPL Act concerning subcontractors, shall be submitted in original version.

7. The Ordering Party shall exclude from the tender procedure contractors, pursuant to the provisions of art. 24 (1) (12-23) of PPL Act.

8. FURTHERMORE, THE ORDERING PARTY ANTICIPATES EXCLUSION OF CONTRACTS:

8.1. who are found to undergo liquidation, within the mode established by the relevant court, in the course of restructuring procedure, compensation to creditors is anticipated through liquidation of its assets in the mode of art. 332 (1) of the Act from 15 May 2015 -Restructuring Law (Journal of Laws from 2015 item 978, 1259, 1513, 1830 and 1844 and from 2016 item 615) or who was declared bankrupt, with the exception of contractors who, post announcement of liquidation, entered into a settlement approved by means of a legally binding verdict of the court, should such settlement not envisage compensating creditors through liquidation of assets of the liquidated entity, unless the court orders liquidation of its assets in the mode of art. 366 (1) of the Act from 28 February 2003. -Restructuring Law (Journal Of Laws from 2015, items 233, 978, 1166, 1259 and 1844 and from 2016 item 615).

8.2. Should the Contractor be seated or reside outside of the territory of the Republic of Poland, it shall submit information from adequate register or, in case of lack of such register, an equivalent document issued by appropriate judicial or administrative authority in the country in which the Contractor is seated or resides or from a place of residence of a person who remains the subject of such information or document, in the scope specified in art. 24 (1) (13-14, 21) of PPL Act, issued no sooner than 6 months prior to the expiry of the term for submission of offers.

8.3. Should within the country in which the Contractor is seated or resides or the place of residence of a person who is the subject of such document, not be issued the above stated documents, it shall be replaced by a document containing adequate declaration by the Contractor with an indication of a person or persons authorized to represent him or declarations of a person who was supposed to be the subject of that document, submitted before the notary or judicial/administrative authority or professional or business self-government authority appropriate on account of the seat or place of residence for the Contractor or place of residence of such person, in consideration of the terms of their validity.

8.4. In the event of any doubts as to the content of documents submitted by the Contractor, the Ordering Party may turn to adequate authorities of the country in which the Contractor is seated or resides or the place of residence of the person who is subject of the document, for granting the necessary information concerning such a document.

9. LIST OF DECLARATIONS OR DOCUMENTS CONFIRMING FULFILLMENT OF CONDITIONS FOR PARTICIPATION IN THE TENDER PROCEDURE AND LACK OF GROUNDS FOR EXCLUSION

9.1. In the scope specified in ToR, the Contractor shall be obliged to submit

the following declarations, valid as per the date of offer submission:

- Declaration of lack of grounds for exclusion (Annex no. 4 to ToR),

- Declaration of lack of grounds for exclusion in tender procedure (Annex no. 3 to ToR),

9.2. Information included in declarations shall constitute an initial confirmation, that the Contractor is not subject to exclusion and fulfils conditions of participation in the tender procedure.

9.3. In case of joint participation in tender procedure, declarations specified in point 9.1 shall be submitted by Contractors who jointly participate in the tender procedure.

9.4. Declarations are to confirm fulfilment of conditions for participation in tender procedure, lack of grounds for exclusion in the scope in which each of the Contractors indicates fulfilment of conditions for participation in the proceeding, lack of grounds for exclusion.

9.5. The Ordering Party requires that the Contractor wishing to entrust performance of a certain part of order to subcontractors, in order to confirm lack of grounds for exclusion from participation in the tender procedure submits a declaration specified in point 9.1, concerning these entities, which must be signed by the said subcontractors.

9.6. The Ordering Party, prior to granting the order, may demand that the Contractor whose offer is ranked the highest to submit, at an indicated time no shorter than within 5 days, the current as per the date of submission of declarations or documents confirming circumstances specified in art. 25 (1) of PPL Act.

9.7. The list of documents and declarations submitted upon the call of the Ordering Party to confirm the circumstances specified in art. 25 (1) of PPL Act.

9.8. If it is considered as necessary to ensure adequate course of the tender procedure, the Ordering Party may at each stage of the proceeding call the Contractors to submit all or some declarations or documents confirming that they are not subject to exclusion, fulfil the conditions of tender procedure participation and should justified grounds occur to consider that the declarations or documents which had been submitted before ceased to be valid, to submit valid declarations or documents.

9.9. The Contractor is not obliged to submit declarations or documents confirming fulfilment of conditions for the participation in the tender procedure and lack of grounds for exclusion, if the Ordering Party is in possession of valid declarations and documents concerning such Contractor or he may obtain them by means of free of charge and generally accessible databases, in particular public registries in the meaning of the Act of 17 February 2005 on computerisation of activity or entities realizing public tasks (that is Journal of Laws From 2017, item 570).

In light of the above, the Contractor is obliged to indicate to the Ordering Party declarations and documents which he possesses, with an indication of case reference, whereby the required documents or declarations were submitted, or indicate the availability of such declarations or documents in an electronic format under the specified internet addresses of generally accessible and free of charge databases.

The Ordering Party may require from the Contractor to present the translation into Polish or English of the indicated by him and individually uploaded by the Ordering Party documents.

9.10. Declarations concerning the Contractor and other entities on capacities or situation of which he shall rely, according to the principles specified in art. 22a of PPL Act concerning Subcontractors, shall be submitted in original version. Documents other than declarations are submitted in original versions or certified copies, compliant with the originals.

9.11. Certifications of true copy are performed accordingly by the Contractor, the entity on

capacities or situation of which he shall rely, the Contractors jointly participating in the tender procedure or the Subcontractor in the scope of documents that refer to either of them.

- 9.12. In the event when the submitted copy of a document is illegible or raises concerns as to its validity, the Ordering Party may demand presentation of original version or of notarial certified copy.
- 9.13. Should the Contractor be unable to present the documents concerning his financial and economic situation due to justified reasons, he may submit another document which, to a sufficient degree confirms fulfilment of the described conditions by the Ordering Party.

- 9.15. Should the list, the declarations or other documents submitted by the Contractor raise any concerns on the side of the Ordering Party, he may turn directly to the relevant entity towards which the services were provided and in case of provision of periodical or ongoing services for additional information or documents in this regard.

- 9.16. The Contractor, within the period of 3 days from the date of placement on the internet website of information specified in art. 86 (5) of PPL Act, shall submit before the Ordering Party a declaration on the affiliation or non-affiliation to the same capital group, which constitutes Annex no. 2 to ToR, as specified in art. 24 (1) and art. 23 of PPL Act. Along with the submission of declaration, the Contractor may present proof that the relations with another contractor shall not lead to any distortion of competition in the tender procedure.

- 9.18. The Contractors who jointly participate in the procedure pursuant to art. 23 (1) of PPL Act cannot independently submit an offer, under the pain of rejection of such offers pursuant to art. 89 (1) (1) of PPL Act.

- 9.19. In the event of any doubts as to the content of document submitted by the Contractor, the Ordering Party may turn to adequate authorities of the country in which the Contractor is seated or resides or the place of residence of the person who is subject of the document, for granting the necessary information concerning such a document.

- 9.20. Should the Contractor fail to submit a declaration specified in art. 25a (1), declarations or documents confirming the circumstances specified in art 25 (1) or other documents necessary for the conduct of tender procedure, declarations or documents are incomplete, contain errors or raise concerns indicated by the Ordering Party, the Ordering Party shall demand their submission, supplementation or correction or granting of explanations within the term indicated by him, unless despite their submission, supplementation or correction or granting explanations the Offer of the Contractor is subject to rejection or it would become necessary to cancel the entire tender procedure.

- 9.21. Should the Contractor fail to submit the required authorizations or submit incorrect authorizations, the Ordering Party shall demand their submission within the term specified by him, unless despite submitting an offer the Contractor is subject to rejection or it becomes necessary to cancel the entire tender procedure.

- 9.22. In the scope unresolved by ToR, the provisions of the Regulation of the Minister of Regional Development of 26.07.2016 shall apply regarding the types of documents which may be demanded by the Ordering Party from the Contractor in the course of tender proceedings.

10. INFORMATION FOR THE CONTRACTORS WHO ENTRUST THE RESOURCES OF OTHER ENTITIES, ACCORDING TO THE PRINCIPLES SPECIFIED IN ART. 22A OF PPL ACT

- 10.1. The Contractor may, in order to confirm fulfilment of conditions for participation in the tender procedure, in adequate situations and with reference to a specific order, or its part, rely on technical or professional capacity or financial or economic situation of other entities, regardless of the legal nature of legal relations that connect him with such entity.

- 10.2. The Contractor who relies on the financial or economic situation of other entities shall be held

jointly and severally liable with an entity who undertook to make available the resources for any damages suffered by the Ordering Party, which occur as a result of failure to make such resources available, unless he is found to be at no fault for the non-accessibility of these resources.

10.3. The Contractor who relies on the resources of other entities, in order to indicate lack of existence of any grounds for exclusion and the fulfilment in the scope in which he refers to these resources, of conditions for the participation in the tender procedure, shall place the information regarding these entities in "Declaration on lack of grounds for exclusion" and Declaration on fulfilment of conditions for participation in the tender procedure", as specified in clause 9.1 of ToR.

10.4. The Contractor who relies on capacities or situation of other entities is Obligated to prove to the Ordering Party that upon realization of the order he shall have the necessary resources at his disposal of these entities, in particular

By submitting COMMITMENT (Annex no. 5 to ToR) from these entities to provide for his disposal of the necessary resources for the purposes of realization of the order, containing:

- Scope of available resources for the Contractor from other entity,
- method of use of the resources provided by other entity, by the Contractor upon the performance of public order,
- Scope and period of participation of another entity upon performance of the order/ nature of relationship between the Contractor and the other entity,

- Whether the entity, on capacities of which the Contractor shall rely on, regarding

The conditions of participation in the tender procedure concerning education, professional qualification and experience, realizes construction works or services to which the indicated capacities related.

10.5. The Ordering Party shall assess whether technical or professional capacities made available to the Contractor by

Other entities or their financial or economic situation allow for the indication by the Contractor of fulfilment of conditions for participation in the tender procedure and it shall investigate whether there are no grounds for exclusion of such entity, specified in art. 24 (1) and (13-22) of PPL Act.

11. INFORMATION FOR CONTRACTORS INTENDING TO ENTRUST THE COMPLETION OF PART OF THE ORDER TO SUBCONTRACTORS

11.1. The Contractor may entrust the performance of part of the order to the Subcontractors.

11.2. The Ordering Party requires indication by the Contractor of the part of order which he intends to entrust to the Subcontractors and provide the names of companies who shall be the Subcontractors by the Contractor.

11.3. The Ordering Party demands that prior to entering into the execution of the order the Contractor, provided that it is already known, indicates the name or names and surnames and contact details of Subcontractors and contact persons to be engaged in the realization of the order.

The Contractor shall be obliged to inform the Ordering Party of any changes to data, specified in the preceding sentence, in the course of realization of the Order, as well as provide information as to the new Subcontractors who he intends to entrust realization of the order at a later stage.

11.4. The Contractor who intends to entrust the completion of part of the order to Subcontractors, in order to indicate lack of existence of grounds for exclusion towards them from participation in the tender procedure, places information on Subcontractors in the document of "Declaration on lack of grounds for exclusion and "Declaration on fulfilment of conditions for participation" as specified in clause 9.1 of ToR.

11.5 Entrusting part of the order to subcontractors shall not release the Contractor from liability for proper execution of the order.

11.6 Should entrusting the performance of part of the order to the Subcontractor occur in the course of its realization, the Contractor, at the request of the Ordering Party, shall present a declaration specified in art. 25a (1) or declaration and documents confirming lack of grounds for exclusion towards that subcontractor.

11.7. Should the Ordering Party note that there are grounds for exclusion of a given Subcontractor, the Contractor shall be obliged to replace such subcontractor or resign from entrusting part of the order to the Subcontractor.

12. INFORMATION FOR CONTRACTORS PARTICIPATING JOINTLY GRANTING ORDER

12.1. Contractors may jointly participate in granting the order. In such case the Contractors shall jointly appoint PROXY to represent them in the proceeding on granting the order or represent them in the procedure of conclusion of agreement on public order.

12.2. In the event of joint participation in the order by Contractors, the filled out document of "Declaration on lack of grounds for exclusion" and "Declaration on fulfilment of conditions for participation", as specified in clause 9.1 ToR shall be submitted by each of the Contractors who jointly participate in the tender procedure. These documents confirm the fulfilment of conditions for participation in the tender procedure and lack of grounds for exclusion in the scope in which each of the Contractors indicates fulfilment of conditions for participation in the procedure and lack of grounds for exclusion.

13. INFORMATION ON THE METHOD OF COMMUNICATION OF THE ORDERING PARTY WITH THE CONTRACTORS AND PASSING OVER OF DECLARATIONS OR DOCUMENTS AS WELL AS INDICATION OF PERSONS AUTHORIZED TO COMMUNICATE WITH THE CONTRACTORS

13.1. The Contractor may turn to the Ordering Party for explanation of the content of the Terms of Reference. The Ordering Party shall be obliged to grant Immediate explanations, however no later than within 2 days prior to the expiry of term for submission of offers - provided that the application for explanation of the content of ToR has been submitted before the Ordering Party no later than until the end of the week in which half of the designated term for submission of offers has passed,

13.2. Should the application for clarification of the content of ToR be submitted after the expiry of the term for submission of the application specified in clause 13, clause 13.1 or It concerns the granted clarifications, the Ordering Party may grant clarifications or leave the application without consideration.

13.3. Extension of the term for submission of offers shall not impact the course of term for submitting the application specified in clause 13, clause 13.1.

13.4. The content of enquiries together with the clarifications shall be transferred onto the Contractors who have been handed the ToR by the Ordering Party without disclosing the source of

enquiry and should the ToR be made available on the internet website, these should be placed on that same website.

13.5. In justified cases the Ordering Party may, prior to expiry of the term for submission of the offers, change the content of the ToR for the order. The conducted change of ToR shall be made available on the internet website.

13.6. The procedure on granting the order, subject to the exceptions specified in PPL Act shall be carried out in a written form.

13.7. All declarations, applications, notifications and information shall be passed within the hereby procedure by both the Contractor and the Ordering Party in a written form or via electronic means in the meaning of the Act from 18.07.2012 on the provision of services via electronic means, with the exception of the offer, the agreement and documents specified in clause 9 of ToR.

13.8. **The offers shall be submitted in a written form under the pain of nullity.**

13.9. Fundamentally, the proceedings shall be carried out in Polish. **However pursuant to art. 9 (3) and (4) of Public Procurement Law the Ordering Party grants consent for the submission of the offer and other documents, in particular declarations specified in clause 9.1 also in English.**

13.10. Documents elaborated in another language to those specified in Clause 13.9 shall be submitted together with their translation into Polish and English.

In case of documents indicated by the Contractor and uploaded individually by the Ordering Party, the Ordering Party demands that the Contractor presents the translations of same in Polish or in English.

13.11. In case of any declarations, applications, notifications and information passed on electronically, either of the Parties, upon request of the other Party, shall immediately confirm the fact of their obtaining.

13.12. The selected method of passing of declarations, applications, notifications and information cannot be restrictive of competition; the written form is always allowed, subject to exceptions provided for in PPL Act.

13.13. The Ordering Party hereby informs that it shall not react to any attempts of communicating by the Contractor in any manner other than one specified in ToR.

14. Persons authorized to contact the Contractor in the formal and Conceptual scope are as follows:

Wioleta Płocharczyk - Head of Administration-Technical and Public Procurement Department e-mail:

wplocharczyk@asp.katowice.pl

Aleksandra Biazik-Uttecht - Specialist

e-mail: aleksandra.biazik-uttech@asp.katowice.pl

15. REVERSED PROCEDURE

The Ordering Party reserves the possibility, in accordance with art. 24Aa of the Act on Public Procurement Law, to carry out the assessment of offers first and subsequently to investigate whether a given Contractor, whose offer was assessed as the most beneficial, is not subject to exclusion and fulfils the conditions of participation in the proceeding.

16. REQUIREMENTS CONCERNING TENDERING SECURITY

Tendering security shall not be required in the hereby tender procedure.

17. TERM OF OFFER VALIDITY

17.1. The Contractor remains bound by the offer for the period of 30 days.

17.2. The course of the term of offer validity commences together with the expiry of the term for submission of offers.

- 17.3. In case of submission of an appeal post expiry of the term of submission of offers the course of the term of offer validity is suspended until the time of issuance by the judgement of National Appeal Chamber.
- 17.4. The Contractor individually at the request of the Ordering Party may extend the term of validity of the offer, provided that the Ordering Party may only once, at least 3 days prior to the expiry of the term of offer validity, turn to the Contractors for expression of consent for the extension of this term by a given period of time, not exceeding though the period of 60 days. Refusal to grant consent shall not result in the loss of tendering security.
- 17.5. Extension of the term of offer validity is allowed solely with a simultaneous extension of the period of validity of the tendering security or, should this turn out to be impossible, with a submission of a new tendering security for the prolonged period of offer validity. Should the extension of the term of offer validity be carried out post the selection of the most beneficial offer, the obligation of submission of a new tendering security or its extension shall concern solely the contractor whose offer has been selected as the most beneficial one.

18. DESCRIPTION OF THE METHOD OF OFFER ELABORATION

- 18.1. The Contractor may submit only one offer.
- 18.2. The content of the offer must correspond to the wording of the Terms of Reference.
- 18.3. The Ordering Party does not envisage any reimbursement of costs incurred in the course of the procedure.
- 18.4. The offer, together with annexes which constitute its integral part, must be elaborated by the Contractor strictly according to the provisions contained within the hereby Terms of Reference.
- 18.5. The offer must be elaborated according to the sample offer form, constituting Annex no. 1 to the hereby Terms of Reference.
- 18.6. The offer must be written on a computer, writing machine or hand-written with a pen or indelible ink.
- 18.7. It is recommended that all pages filled with writing within the offer, as well as the pages of the Annexes were enumerated and combined in a permanent manner and on each page signed by a person (persons) authorized to submit declarations of will on behalf of the Contractor, whilst at least the first and the last page of the offer was signed and equipped in a signature-stamp of the Contractor. The remaining pages may be initialled.
- 18.8. In the event of signing an offer and a certification of true copy by a person who is not indicated in the registration document (administrative) of the Contractor, one ought to attach to the offer **POWER OF ATTORNEY in the original version or in the copy of the original confirmed by a notary.**
- 18.9. Any amendments or changes to the contents of the offer must be initialled by a person (persons) signing the offer and marked with dates of signature being placed - otherwise, they shall not be considered.
- 18.10. The Contractor submits an offer in two envelopes marked with the name and address of the Ordering Party and described in the following manner:
Offer for: "Provision of graphic press machines for the Academy of Fine Arts in Katowice"
DO NOT OPEN before: 21.09.2018 at 10.15."
- 18.11. The Contractor may introduce changes or withdraw the submitted offer solely prior to the term of submission of offers and provided that prior to the expiry of that term the Ordering Party obtains a written notification of introduction of changes or withdrawal of an offer. Such notification must be described in a manner indicated in clause 11 and additionally marked with "CHANGE" or "WITHDRAWAL".

18.12. Should the Contractor stipulate that the information constitutes COMPANY SECRECY in the meaning of the provisions on counteraction to unfair competition (Art. 11 (4) of the Act of 16 April 1993 on counteraction to unfair competition, that is Journal of Laws from 2003, No. 153, item 1503 as amended), cannot be made available, part of the offer which contains such information must be placed in a separate envelope, marked with a notice: "Information constituting company secrecy". The Contractor, by stipulating the company secrecy is obliged to attach to the offer a written justification of the nature of the information of proprietary nature. Justification is targeted at proving the fulfilment of premises specified in the cited above provision that is that the proprietary information:

- a) is of technical, technological or organizational character for the company,
- b) has not been disclosed for public attention,
- c) necessary steps were taken with regards to it in order to maintain confidentiality.

18.13. The Contractor cannot reserve information specified in art. 86 (4) of PPL Law.

19. LOCATION AND TERM OF OFFER SUBMISSION AND OPENING

19.1. The offers ought to be submitted to the headquarters of the Ordering Party, room number: Administration-Technical and Public Procurement Department **on or before 21.09.2018 until 10.00**

19.2. The Ordering Party shall immediately inform the Contractor of the submission of offer past the term and return the offer in accordance with the principles specified in art. 86 (2) of PPL Act.

19.3. **Official opening of offers shall occur on: On 21.09.2018 at 10.15 in the headquarters of the** Ordering Party, in the Senate Auditorium at 37 Raciborska Street, 40-074 Katowice.

19.4. The opening of offers is unclassified.

19.5. Directly prior to the opening of offers, the Ordering Party shall indicate the amount which he intends to designate for financing of the order.

19.6. During the opening of offers, names of companies and addresses of Contractors are indicated as well as the information concerning the price, term of completion of the order, period of warranty and payment terms contained within the offers.

19.7. Immediately after the opening of offers, the Ordering Party shall place on the internet website www.asp.katowice.pl the information concerning:

- a) the amount which he intends to designate to finance the order;
- b) companies and addresses of contractors who submitted the offers within the term;
- c) prices and (if applicable) term for completion of the order, period of guarantee and payment terms contained within the offers.

20. DESCRIPTION OF THE METHOD OF PRICE CALCULATION

20.1. The offer must indicate the price, in the meaning of article 3 (1) and (2) of the Act of 9 May 2014 on informing on prices of goods and services (Journal of Laws from 2014, item 915)-

20.2. **The price shall be indicated in Polish zloty**, as a figure taken to two decimal places.

20.3. The price must include all requirements specified in the hereby ToR and all costs which the Contractor shall incur on account of proper and compliant with the binding provisions realization of the subject of order, in accordance with the description of the subject of order, in particular the costs of purchase, delivery, fees, including customs duties, costs of assembly and installation, training of personnel of the Ordering Party, service costs in the warranty period.

20.4. In case when the Contractor is a natural person, he ought to include within the price of the offer (gross price) any potential costs of prepayments and contributions made to other entities, such as Social Security Office.

20.5. **Settlements between the Contractor and the Ordering Party shall be Carried out in the Polish currency.**

20.6. Should an offer be submitted the selection of which would lead to the occurrence of a tax obligation of the Ordering Party, in accordance with the provisions on the value added tax on goods and services, the Ordering Party, in order to assess such an offer shall calculate on top of the submitted price the VAT tax amount which he would be obliged to settle in accordance with these provisions. The Contractor, upon submission of the offer, informs the Ordering Party whether the selection of the offer shall lead to the occurrence of a tax obligation, indicating the name (type) of goods or services the delivery of which or the provision of which shall lead to such occurrence and indicating their value excluding the amount of tax.

20.7. The Ordering Party does not anticipate any change of the offer price.

20.8. **The Ordering Party anticipates the possibility of granting an advance payment towards the completion of the order in the amount of up to 20% of the offered gross price.**

21. DESCRIPTION OF CRITERIA WHICH THE ORDERING PARTY WILL FOLLOW UPON MAKING THE SELECTION OF THE OFFER, INCLUDING INDICATION OF THE WEIGHT OF THESE CRITERIA AND THE METHOD OF ASSESSMENT OF THE OFFERS

21.1. The Ordering Party shall assess the offers according to the following criteria and these shall be calculated according to the following patterns:

No.	Name of criteria	Weight
and	Price/cost	60 %
2	Warranty and service	40%

Sample
No.

criterion	
1	Price(cost) 60% Number of points = $(C_{min}/C_{of}) \cdot 100 \cdot \text{weight}$ where: - C_{min} - the lowest price amongst all offers - C_{of} - price indicated in the offer
2	Warranty and service 40% Number of points = $(G/G_{max}) \cdot 100 \cdot \text{weight}$ where: - G - period of guarantee in the offer of the Contractor - G_{max} - the longest period of warranty and free servicing - Extended from the basic one Basic - the required period of warranty and free servicing: <u>Task no. 1 concerning pressure press- 5 years</u>

Task no. 2 concerning graphic press:

5 years for mechanical components,
24 months for the remaining elements and electrical wiring

Additional points shall be granted for the extension of the period of warranty and free of charge service for the period of:

Task no. 1 concerning pressure press extension of the period of warranty and free servicing towards the required, basic one (5 years) by subsequent:

- 1 1year = 30 points
- 2 2years = 60 points
- 3 3years = 80 points
- 4 4years = 90 points
- 5 5years = 100 points

Task no. 2 concerning graphic press, extension of the period of warranty and free of charge service for the period of:

- 1 1Year for mechanical components and 3 months for the remaining elements = 30 points
- 2 2Years for mechanical components and 6 months for the remaining elements = 60 points
- 3 3Years for mechanical components and 9 months for the remaining elements = 80 points
- 4 4Years for mechanical components and 10 months for the remaining elements = 90 points
- 5 5 Years for mechanical components and 12 months for the remaining elements = 100 points

The Contractor who proposes the minimum (basic) period of warranty and free of charge servicing with regards to each of the tasks shall not obtain any points within this criterion - 0 points

21.2. Post the assessment of points assigned by each of the members of the Tender Committee, these will be summed up for each of the criteria separately. The sum of points obtained for all the criteria of assessment shall constitute the final assessment of a given offer.

21.3. The assessment calculated according to the following pattern:

Sample
$O = (C+G) * KP$ <p>where:</p> <p>O - assessment</p> <p>C - number of the obtained points in the price criterion (cost)</p> <p>G - number of obtained points in the criterion of warranty period KP-number of members of the Tender Committee performing the assessment</p>

21.4. In the course of investigating and assessing the offers, the Ordering Party may demand from the Contractors explanations as to the content of the submitted offers. Carrying out negotiations between the Contractor and the Ordering Party concerning the submitted offer is not allowed, as well as, subject to clause 21.5, conduct of any amendments to its content.

21.5. The Ordering Party corrects in the offer:

- a) obvious typing errors,
- b) obvious calculation errors, considering accounting consequences of the performed corrections,
- c) Other errors consisting of noncompliance of the offer with ToR, not resulting in any significant changes of the content of the offer, informing the Contractor whose offer was amended immediately of same.

21.6. If an offered price or cost, or any of their significant parts seem abnormally low towards the subject of the order and raise concerns of the Ordering Party as to the possibility of performing the subject of the order in accordance with the requirements specified by the Ordering Party or stemming from the separate provisions, the Ordering Party shall turn to the Contractor for granting explanations, including submitting proofs, concerning the calculation of the price or the cost, in particular in the following scopes:

- a) Savings of the method of order conduct, selected technical solutions, exceptionally beneficial conditions for the performance of the order, available to the Contractor, originality of the design of the Contractor, labour costs, the value of which accepted for establishing the price cannot be lower than the minimum remuneration for the work, established on the basis of art. 2 (3-5) of the Act of 10 October 2002 on minimum remuneration for work (Journal of Laws, No. 200, item 1679, as amended) public assistance granted pursuant to the separate provisions,
- b) public assistance granted pursuant to the separate provisions,
- c) stemming from the provisions of the labour law and provisions on social security, binding in the location in which the order is realized,
- d) stemming from the provisions of the environment protection law,
- e) entrusting the completion of part of the order to a subcontractor.

21.7. In case when the total price of the offer is lower by at least 30% from:

- a) The value of order increased by the VAT tax due, established prior to commencing the proceeding in accordance with art. 35 (1) and (2) or arithmetical mean of prices of all the submitted offers, the Ordering Party shall turn for granting explanations, as specified in art. 1, unless the discrepancy stems from obvious circumstances which do not require the explanation,

- b) Values of the order increased by an adequate VAT tax, updated in consideration of the circumstances which occurred post initiating the proceeding, in particular a significant change to market prices, the Ordering Party may turn for granting explanations, as specified in sub clause a).
- 21.8. The obligation of indication that the offer does not contain an abnormally low price or cost rests on the Contractor.
- 21.9. The Ordering Party shall reject an offer of a contractor who failed to provide explanations or if a conducted assessment of explanations together with the submitted proofs confirms that the offer contains an abnormally low price or costs towards the subject of the order.
- 21.10. The Ordering Party rejects an offer if: content
 - a) It is non-compliant with the act,
 - b) Its content does not correspond to the content of the Terms of Reference, subject to art. 87 (2) (3)
 - c) Its submission constitutes an act of unfair competition in the meaning of the provisions on counteraction to unfair competition,
 - d) Contains an abnormally low price towards the subject of the order,
 - e) Was submitted by the Contractor who was excluded from participation in the procedure Of granting the order,
 - f) Contains errors in calculation of the price,
 - g) The Contractor, within the term of 3 days from the date of delivery of notification did not agree to the amendments of errors made, specified in art. 87 (2) (3)
 - h) The Contractor did not express consent, as specified in art. 85 (2) of PPL Act for the extension of the term of offer validity;
 - i) Tendering security was not submitted or was submitted in an incorrect manner, should the Ordering Party demand its submission;
 - j) Should acceptance be in breach of public safety or harm a significant interest of the state security, and such security or interest cannot be guaranteed in an alternative manner;
 - k) Is invalid pursuant to separate provisions.

22. TERM OF OFFER VALIDITY

- 22.1. The Contractor remains bound by the offer for the period of 30 days.
- 22.2. The course of the term of offer validity commences together with the expiry of the term for submission of offers.
- 22.3. In case of submission of an appeal post expiry of the term of submission of offers the course of the term of offer validity is suspended until the time of issuance by the judgment of National Appeal Chamber.
- 22.4. The Contractor individually at the request of the Ordering Party may extend the term of validity of the offer, provided that the Ordering Party may only once, at least 3 days prior to the expiry of the term of offer validity, turn to the Contractors for expression of consent for the extension of this term by a given period of time, not exceeding though the period of 60 days.

23. GRANTING ORDER

- 23.1. The Ordering Party shall grant the order to the Contractor whose offer complies with all the requirements specified in the hereby ToR and which was assessed as the most beneficial on the basis of the criteria indicated therein of the assessment of offers.
- 23.2. Immediately after the selection of the most beneficial offer, the Ordering Party shall inform all the Contractors of the results of tender procedure, in accordance with art. 92 (1) of PPL Act and disclose on the internet website asp.katowice.pl the information as specified in art. 92 (1) (1) and (5-7) of PPL Act.

- 23.3. Should the Contractor whose offer has been selected waive from concluding the agreement on public order or fail to submit the required security of proper conduct of agreement, the Ordering Party may select the most beneficial offer of the remaining offers without having to carry out their subsequent analysis and assessment, unless there are premises which may trigger cancellation of the procedure, specified in art. 93 (1) of PPL Act
- 24. Information regarding formalities which ought to be performed after the selection of an offer for the conclusion of agreement on public order**
- 24.1. The Ordering Party shall conclude an agreement on public procurement within the term and according to the principles specified in art. 94 (1) and (2) of PPL Act.
- 24.2. The scope of service by the Contractor, stemming from the agreement shall be identical to the commitment contained within the offer.
- 24.3. In the event of selecting an offer of Contractors who jointly participated in the order granting (consortiums, civil partnerships) the Ordering Party may demand prior to conclusion of the agreement on public order an agreement regulating cooperation between these Contractors. The Contractors who jointly participate in granting an order bear a joint and several liability for the completion of the agreement and the submission of security for proper execution thereof.
- 24.4. The Ordering Party shall cancel the proceeding in cases specified in art. 93 (1) and (1a) of PPL Act. The cancellation of the proceeding shall be reported by the Ordering Party to the Contractors in accordance with art. 93 (3) of PPL Act.
- 25. Provisions significant for the Parties which are entered into the content of the concluded AGREEMENT ON PUBLIC ORDER, general terms of the agreement and sample agreement, should the Ordering Party require from the Contractor to conclude an agreement with him regarding public order according to such terms.**
- 25.1. **Sample agreement shall constitute Annex no. 6 to the hereby ToR.**
- 25.2. Any significant changes to the concluded agreement in comparison to the content of the offer on the basis of which the selection of Contractor was made are forbidden.
- 25.3. Instruction on legal remedies to which the Contractor is entitled in the course of proceeding on granting the order.
- 26. The Contractor as well as other entity shall be entitled to legal remedies provided that he had an interest in obtaining a given order and incurred or might incur damage as a result of breaching by the Ordering Party of the provisions of PPL Act.**
- 26.1. Legal remedies towards the announcement of the tender and the Terms of Reference shall be also granted to organizations entered on the list, specified in art. 154 (5) of PPL Act.
- 26.2. Appeals may be made solely with regards to the actions performed by the Ordering Party undertaken in the course of granting the order or lack of actions which constitute a breach with the provisions of PPL Act, which the Ordering Party is bound to respect pursuant to PPL Act.
- 26.3. An appeal ought to indicate an action or lack of action by the Ordering Party, which is considered as non-compliant with the provisions of PPL Act, contain brief presentation of allegations, specify a demand and indicate factual and legal circumstances explaining the submission of an appeal.
- 26.4. An appeal is submitted before the Chairman of the National Chamber of Appeal in a written, hardcopy form or in electronic format, containing appropriate handwritten signature or qualified electronic signature.
- 26.5. The Appellant submits a copy of an appeal to the Ordering Party prior to the expiry of the term for submission of an appeal in such a manner so that he could familiarize himself with the content of it prior to the expiry of that term. It is presumed that the Ordering Party could become acquainted with the content of the appeal before the expiry of the term for its submission, if the submission of his copy occurred before the expiry of the term for its submission with the use of electronic

communication means.

26.6. An appeal is submitted within the terms specified in art. 182 of PPL Act.

26.7. Upon the ruling of National Chamber of Appeal, the Parties and participants of the appeal procedure are entitled to submit a complaint before a court.

26.8. A complaint is submitted before the district court appropriate for the registered seat or place of residence of the Ordering Party, by means of the Chairman of the National Chamber of Appeal within 7 days from the date of delivery of the ruling of the National Chamber of Appeal, while simultaneously sending its description to the complaint opponent. Submission of a complaint at the post office of the designated operator, in the meaning of the Act of 23 November 2012 - Postal Law (that is Journal of Laws From 2017, item 1481) shall be equal to its submission.

27. Electronic auction

27.1. No selection of the most beneficial offer is envisaged in the tender procedure by means of electronic auction.

28. Other information

28.1. Information on personal data processing:

The Ordering Party, in accordance with art. 13 (1) and (2) of the Regulation of the European Parliament and Council (EU) 2016/679 from 27 April 2016 on protection of natural persons in relation to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) (EU Official Journal 119 from 04.05.2016, page 1) hereinafter "GDPR", hereby informs that:

- a) for the conduct of tender procedure for granting public order "Provision of graphic press machines for the Academy of Fine Arts in Katowice"- case reference: ASP-DAT-ZP-14-2018 carried out in the mode of unlimited tender, personal data shall be processed pursuant to art. 6 (1) (c) of GDPR;
- b) Personal Data Controller of your data shall be:
The Academy of Fine Arts in Katowice, Raciborska 37 40-074 Katowice
e-mail: asp@asp.katowice.pl
- c) The inspector of personal data protection shall be the Academy of Fine Arts in Katowice, Ms Elżbieta Bińczyk, contact: elzbieta.binczyk@asp.katowice.pl.
- d) Recipients of your personal data shall be persons or entities, to who tender documentation shall be disclosed on the basis of art. 8 and art. 96 (3) of PPL Act;
- e) Your personal data shall be processed in accordance with art. 97 (1) of PPL Act for the period of 4 years from completion of the procedure for granting the order, and if the period of duration of agreement exceeds 4 years, the period of storage shall cover the entire duration of the agreement and the period of archiving documents by the Ordering Party.
- f) Obligation of indication of personal data by you, directly related to you, is the statutory requirement specified in the provisions of PPL Act, related to the participation in the procedure for granting public order; the consequences of non-indication of specific data stem from PPL Act;
- g) With regards to your personal data, decisions shall not be undertaken in an automated manner, application of art. 22 of GDPR;
- h) You are entitled, pursuant
 - To art. 15 of GDPR to access your personal data concerning;
 - Pursuant to art. 16 of GDPR the right to amend your personal data, however, the use of entitlement to amend cannot result in a change of the result of tender procedure for granting public order, nor a change to the provisions of the agreement in the scope non-compliant with PPL Act cannot breach an integrity of the protocol and its Annexes;

- Pursuant to art. 18 of GDPR the right to demand from the Controller of limiting the processing of personal data, however, the right to limit the processing of personal data does not apply to the storing, in order to ensure the use of legal protection measures or for protection of rights of other natural or legal persons, or due to the significant public interest of the European Union or its member state;
 - The right to submit a complaint to the Chairman of the Office of Personal Data Protection when you consider the processing of personal data as breaching the provisions of GDPR:
- i) You are not entitled to:
- Pursuant to art. 17 (3) (b) (d) or (e) of GDPR the right to remove personal data;
 - The right to transfer personal data specified in art. 20 of GDPR;
 - Pursuant to art. 21 of GDPR the right to object to the processing of personal data, since the legal basis for the processing of your personal data is art. 6 (1) (c) of GDPR;
- j) The Ordering Party shall take all the steps in order to ensure adequate protection measures are in place for protection of personal data against accidental and intentional damage, accidental loss, change, unauthorized disclosure, use or access, in accordance with the binding provisions of law.
- 28.2. For all matters unresolved within the hereby ToR the provisions of the Act of 29 January 2004 on Public Procurement Law (that is Journal of Laws From 2017, item 1579 as amended) and the provisions of the Civil Code shall apply.

28.3. Annexes to ToR

No.	Name of annex
1	Sample offer of delivery
2	Declaration of the Contractor on affiliation or non-affiliation to the same capital group.
3	Declaration on fulfilment of conditions for participation in the tender procedure
4	Declaration on lack of grounds for exclusion
5	Commitment of third parties for handing over for disposal of the necessary resources
6	Sample agreement
7	Floorplan of the building at 19 Koszarowa Street with a planned location of delivery and installation of the press machines.