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TENDER FOR THE HIRING OF PROJECTORS AT CITY GATE VALLETTA DURING THE MALTA INTERNATIONAL ARTS FESTIVAL 2015

Closing Date: 23 June 2015 at 10:00am CET

Date Published: 9 June 2015

This Tender is free of charge

IMPORTANT:

- No Bid Bond is requested for this tender

Clarifications shall be uploaded and will be available to view/download from
<https://mjcl.gov.mt/en/ministry/tenders/Pages/tenders.aspx>

ARTS COUNCIL MALTA

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TENDER FOR THE HIRING OF PROJECTORS AT CITY GATE VALLETTA DURING THE MALTA INTERNATIONAL ARTS FESTIVAL 2015

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# VOLUME 1 SECTION 1 - INSTRUCTIONS TO TENDERERS

## A. GENERAL PART

### 1. General Instructions

- 1.1 In submitting a tender, the tenderer accepts in full and in its entirety, the content of this tender document, including subsequent Clarifications issued by the Contracting Authority, whatever his own corresponding conditions may be, which he hereby waives. Tenderers are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this tender document.

No account can be taken of any reservation in the tender as regards the tender document; any disagreement, contradiction, alteration or deviation shall lead to the tender offer not being considered any further.

The Evaluation Committee shall, after having obtained approval by the General Contracts Committee, request rectifications in respect of incomplete/non-submitted information pertinent to the documentation as outlined in sub-Clause 15.1(a), 15.1(b), and 15.1(c) of these Instructions to Tenderers. Such rectification/s must be submitted within two (2) working days from notification, and will be subject to a non-refundable administrative penalty of €50: failure to comply shall result in the tender offer not being considered any further.

No rectification shall be allowed in respect of the documentation as outlined in sub-Clause 15.1(d), of these Instructions to Tenderers. Only clarifications on the submitted information in respect of the latter may be eventually requested.

- 1.2 This is a call for tenders for the hire of Projectors be used at City Gate Valletta during the Malta International Arts Festival 2015 which will be held between the 10<sup>th</sup> till the 26<sup>th</sup> July 2015
- 1.3 This is a global-price contract.
- 1.4 The tenderer will bear all costs associated with the preparation and submission of the tender. The Contracting Authority will in no case be responsible or liable for such costs, whatever the conduct or outcome of the procedure.
- 1.5 The Central Government Authority retains ownership of all tenders received under this tender procedure. Consequently, tenderers have no right to have their tenders returned to them.

### 2. Timetable

|                                                                                                                 | DATE           | TIME*   |
|-----------------------------------------------------------------------------------------------------------------|----------------|---------|
| Deadline for request for any additional information from the Contracting Authority                              | 18th June 2015 | Noon    |
| Last date on which additional information are issued by the Contracting Authority                               | 19th June 2015 | noon    |
| Deadline for submission of tenders / Tender Opening Session (unless otherwise modified in terms of Clause 11.3) | 23rd June 2015 | 10:00am |

\* All times Central European Time (CET)

### 3. Financing

- 3.1 The project is financed from local budget funds.
- 3.2 The beneficiary of the financing is Arts Council Malta

## 4. Eligibility

- 4.1 Participation in tendering is open on equal terms to all natural and legal persons of the Member States of the European Union, the beneficiary country, any other country in accordance with Regulation 64 of the Public Procurement Regulations.
- 4.2 Natural persons, companies or undertakings who fall under any of the conditions set out in Regulation 50 of the Public Procurement Regulations, 2010 (Legal Notice 296 of 2010) may be excluded from participation in and the award of contracts. Tenderers or candidates who have been guilty of making false declarations will also incur financial penalties representing 10% of the total value of the contract being awarded.
- 4.3 Tenders submitted by companies forming a joint venture/consortium must also fulfil the following requirements:
- One partner must be appointed lead partner and that appointment confirmed by submission of powers of attorney signed by legally empowered signatories representing all the individual partners. The tender must include a preliminary agreement or letter of intent stating that all partners assume joint and several liability for the execution of the contract, that the lead partner is authorised to bind, and receive instructions for and on behalf of, all partners, individually and collectively.
  - All partners in the joint venture/consortium are bound to remain in the joint venture/consortium until the conclusion of the contracting procedure. The consortium/joint venture winning this contract must include the same partners for the whole performance period of the contract other than as may be permitted or required by law.
- 4.4 All materials, equipment and services to be supplied under the contract must originate in an eligible country. For these purposes, "origin" means the place where the materials and/or equipment are mined, grown, produced or manufactured and/or from which services are provided.

## 5. Selection Criteria

- 5.1 In order to be considered eligible for the award of the contract, tenderers must provide evidence that they meet or exceed certain minimum qualification criteria described hereunder.

**In the case of a joint venture, the joint venture as a whole must satisfy the minimum qualifications required below.**

- 5.1.1 No evidence of economic and financial standing is required.

## 6. Multiple Tenders

- 6.1 A tenderer may submit multiple tender offers.
- 6.2 A company may not tender for a given contract both individually and as a partner in a joint venture/consortium.
- 6.3 A company may not tender for a given contract both individually/partner in a joint venture/consortium, and at the same time be nominated as a sub-contractor by any another tenderer, or joint venture/consortium.
- 6.4 A company may act as a sub-contractor for any number of tenderers, and joint ventures/consortia, provided that it does not participate individually or as part of a joint venture/consortium, and that the nominations do not lead to a conflict of interest, collusion, or improper practice.

## 7. Tender Expenses

- 7.1 The tenderer will bear all costs associated with the preparation and submission of the tender.

- 7.2 The Contracting Authority will neither be responsible for, nor cover, any expenses or losses incurred by the tenderer through site visits and inspections or any other aspect of his tender.

## 8. Site Inspection

- 8.1 No clarification meeting/site visit is planned.

## B. TENDER DOCUMENTS

### 9. Content of Tender Document

- 9.1 The set of tender documents comprises the following documents and should be read in conjunction with any clarification notes issued in accordance with Clause 24:

Volume 1 Instructions to Tenderers

Volume 2

- Draft Contract
- General Conditions (available online from)  
<http://contracts.gov.mt/en/Tenders/Pages/Tenders.aspx>
- Special Conditions

Volume 3 Terms of Reference

Volume 4 Model Financial Bid

Volume 5 Layout Plans

- 9.2 Tenderers bear sole liability for examining with appropriate care the tender documents, including those design documents available for inspection, and any clarification notes to the tender documents issued during the tendering period, and for obtaining reliable information with respect to conditions and obligations that may in any way affect the amount or nature of the tender or the execution of the works. In the event that the tenderer is successful, no claim for alteration of the tender amount will be entertained on the grounds of errors or omissions in the obligations of the tenderer described above.

- 9.3 The tenderer must provide all documents required by the provisions of the tender document. All such documents, without exception, must comply strictly with these conditions and provisions and contain no alterations made by the tenderer.

### 10. Explanations/Clarification Notes Concerning Tender Documents

- 10.1 Tenderers may submit questions in writing to the Contracting Authority through: sending an email to [info.mcca@maltaculture.com](mailto:info.mcca@maltaculture.com) up to 16 calendar days before the deadline for submission of tenders. The Contracting Authority must reply to all tenderers' questions, and amend the tender documents by publishing clarification notes, up to at least 6 calendar days before the deadline for submission of tenders.

- 10.2 Questions and answers, and alterations to the tender document will be published as a clarification note on the website of the Department of Contracts <https://mjcl.gov.mt/en/ministry/tenders/Pages/tenders.aspx> within the tender's page. Clarification notes will constitute an integral part of the tender documentation, and it is the responsibility of tenderers to visit this website and be aware of the latest information published online prior to submitting their Tender

- 10.3 The Contracting Authority may, at its own discretion, as necessary and in accordance with Clause 24, extend the deadline for submission of tenders to give tenderers sufficient time to take clarification notes into account when preparing their tenders.

### 11. Labour Law

- 11.1 Particular attention is drawn to the conditions concerning the employment of labour in Malta and the obligation to comply with all regulations, rules or instructions concerning the conditions of employment of any class of employee.

### 12. Law

- 12.1 By submitting their tenders, tenderers are accepting that this procedure is regulated by Maltese Law, and are deemed to know all relevant laws, acts and regulations of Malta that may in any way affect or govern the operations and activities covered by the tender and the

resulting contract.

## C. TENDER PREPARATION

### 13. Language of Tenders

- 13.1 The tender and all correspondence and documents related to the tender exchanged by the tenderer and the Contracting Authority must be written in English.
- 13.2 Supporting documents and printed literature furnished by the tenderer may be in another language, provided they are accompanied by an accurate translation into English. For the purposes of interpretation of the tender, the English language will prevail.

### 14. Presentation of Tenders

- 14.1 Tenders must satisfy the following conditions:
- (a) All tenders must be submitted in one original, clearly marked “original”, and one identical copy (including all documentation as in the original) signed in the same way as the original and clearly marked “copy”.
  - (b) Both documents are to be separately sealed and placed in another sealed envelope/package so that the bid can be identified as one tender submission. Following the tender opening session, the copy shall be kept, unopened, at the Department of Contracts, for verification purposes only should the need arise.
  - (c) All tenders must be received by date and time indicated in the timetable at Clause 2 and deposited in the tender box at the entrance of the Arts Council Malta, Casa Scalgia, 16, Mikiel Anton Vassalli Street, Valletta, VLT 1311, Malta.
  - (d) All package, as per (b) above, must bear only:
    - (i) the above address;
    - (ii) the reference of the invitation to tender concerned;
    - (iii) the name of the tenderer.

### 15. Content of Tender (Single-Envelope System)

- 15.1 The tender must comprise the following duly completed documents, inserted in a single, sealed envelope (unless their volume requires a separate submission):
- (a) *General/ Administrative Information*<sup>(Note 1)</sup>
    - (i) Statement on Conditions of Employment (Volume 1, Section 4)  
*To complete as necessary in line with requirements in Clause 6 of the ITT*
  - (b) *Technical Capacity*<sup>(Note 1)</sup>
    - (i) an indication of the proportion of the contract which the services provider intends possibly to subcontract. The contractor must have the capacity to perform 60% of the contract;
  - (c) *Technical Specifications*
    - (i) Tenderer’s Technical Offer in response to specifications (Volume 3)<sup>(Note 2)</sup>
  - (d) *Financial Offer/Bill of Quantities*<sup>(Note 2)</sup>
    - (i) The Tender Form in accordance with the form provided in Volume 1, Section 2;
    - (ii) A financial bid in the form provided in Volume 4.

#### Notes to Clause 15.1:

1. Tenderers will be requested to either clarify/rectify any incorrect and/or incomplete documentation, and/or submit any missing documents within five working days from notification.
2. No rectification shall be allowed. Only clarifications on the submitted information may be requested.



Tenderers must indicate where the above documentation is to be found in their offer by using an index. All documentation is to be securely bound/filed.

Tenderers are NOT required NOR expected to submit, with their offer, any components of the tender document except those specifically mentioned in Clause 16.

## **16. Tender Prices**

- 16.1 The tender price must cover the whole of the works as described in the tender documents.
- 16.2 The tenderer must provide a breakdown of the overall price in Euro (€). Three decimal points do not exist as currency; therefore such offers cannot be accepted. Offers are to be submitted up to two decimal points.
- 16.3 Tenderers must quote all components of the price **inclusive** of taxes, customs and import duties and any discounts **BUT** excluding VAT. VAT shall be paid in accordance with the applicable VAT Regulations.
- 16.4 Different options are to be clearly identifiable in the technical and financial submission; a **separate Tender Form (as per Volume 1, Section 2) marked 'Option 1', 'Option 2' etc. for each individual option clearly outlining the price of the relative option is to be submitted.**
- 16.5 If the tenderer offers a discount, the discount must be absorbed in the rates of the Bill of Quantities/Financial Statement.
- 16.6 The prices for the contract, must include all of the works to be provided. The prices quoted are fixed and not subject to revision or escalation in costs, except for revision of prices due to Cost of Living Adjustment (COLA) and any other increases determined by government in respect to its policies or otherwise provided for in the Special Conditions.

## **17. Currencies of Tender and Payments**

- 17.1 The currency of the tender is the Euro (€). All sums in the breakdown of the overall price, in the questionnaire and in other documents must be expressed in Euro (€), with the possible exception of originals of bank and annual financial statements.
- 17.2 Payments will be made upon certification of services by the Contracting Authority, based on the invoice issued by the Contractor, in accordance with the timeframes, terms and conditions of the contract.
- 17.3 All correspondence relating to payments, including invoices and interim and final statements must be submitted as outlined in the contract.

## **18. Period of Validity of Tenders**

- 18.1 Tenders must remain valid for a period of 90 days after the deadline for submission of tenders indicated in the contract notice, the tender document or as modified in accordance with Clauses 10.3 and/or 23. Any tenderer who quotes a shorter validity period will be rejected.
- 18.2 The Head of Contracting Authority may consider to cancel the tender following consultations with the Permanent Secretary;—in the event that the evaluation process has not been concluded by the end of the validity period of the submitted bids.
- 18.3 In exceptional circumstances the Contracting Authority may request that tenderers extend the validity of tenders. Such requests and the responses to them must be made in writing. A tenderer may refuse to comply with such a request. However, his tender will no longer be considered for award. If the tenderer decides to accede to the extension, he may not modify his tender.
- 18.4 Following the further extension by eight (8) weeks, in accordance with Regulation 6(2)(c) of LN296/2010 the non conclusion of the evaluation process will automatically lead to the cancellation of the tender, provided that the Head of Contracting Authority shall consult the Permanent Secretary.

- 18.5 The successful tenderer must maintain his tender for a further 60 days from the date of notification of award.

## **19. Variant Solutions**

- 19.1 No variant solutions will be accepted. Tenderers must submit a tender in accordance with the requirements of the tender document.

## **20. Preparation and Signing of Tenders**

- 20.1 All tenders must be submitted in one original, clearly marked “original”, and one identical copy (including all documentation as in the original) signed in the same way as the original and clearly marked “copy”. Tenders must comprise the documents specified in Clause 15 above.

It is the responsibility of the tenderers to ensure that both the original and the copy are an identical representation of one another.

- 20.2 The tenderer’s submission must be typed in, or handwritten in indelible ink. Any pages on which entries or corrections to his submission have been made must be initialled by the person or persons signing the tender. All pages must be numbered consecutively by hand, machine or in any other way acceptable to the Contracting Authority.
- 20.3 The tender must contain no changes or alterations, other than those made in accordance with instructions issued by the Contracting Authority (issued as clarification notes) or necessitated by errors on the part of the tenderer. In the latter case, corrections must be initialled by the person signing the tender.
- 20.4 The tender will be rejected if it contains any alteration, tampering, addition or deletion to the tender documents not specified in a clarification note issued by the Contracting Authority.

## **D. SUBMISSION OF TENDERS**

### **21. Sealing and Marking of Tenders**

- 21.1 The tenders must be submitted in English and deposited in the Department’s tender box **before** the deadline specified in Clause 2 or as otherwise specified in accordance with Clause 11.1 and/or 24.1. They must be submitted:

EITHER by recorded delivery (official postal/courier service) or hand delivered to:

**Arts Council Malta  
16 Casa Scalgia,  
Mikiel Anton Vassalli Street  
Valletta, VLT 1311  
Malta**

Tenders submitted by any other means will not be considered.

- 21.2 Tenderers must seal the original and the copy of their tender as outlined in Clause 15.
- 21.3 If the outer envelope is not sealed and marked as required in Sub clause 15.1, the Contracting Authority will assume no responsibility for the misplacement or premature opening of the tender.

### **22. Extension of Deadline for Submission of Tenders**

- 22.1 The Contracting Authority may, at its own discretion, extend the deadline for submission of tenders by issuing a clarification note in accordance with Clause 11. In such cases, all rights and obligations of the Contracting Authority and the tenderer regarding the original date specified in the contract notice will be subject to the new date.

## **23. Late Tenders**

- 23.1 All tenders received after the deadline for submission specified in the contract notice or these instructions will be kept by the Contracting Authority. The associated guarantees will be returned to the tenderers.
- 23.2 No liability can be accepted for late delivery of tenders. Late tenders will be rejected and will not be evaluated.

## **24. Alterations and Withdrawal of Tenders**

- 24.1 Tenderers may alter or withdraw their tenders by written notification prior to the above deadline. No tender may be altered after the deadline for submission.
- 24.2 Any notification of alteration or withdrawal must be prepared, sealed, marked and submitted in accordance with Clause 23, and the envelope must also be marked with "alteration" or "withdrawal".
- 24.3 The withdrawal of a tender in the period between the deadline for submission and the date of expiry of the validity of the tender will result in forfeiture of the tender guarantee provided for in Clause 20.

## **E. OPENING AND EVALUATION OF OFFERS**

### **25. Opening of Tenders**

- 25.1 Tenders will be opened in public session on the date and time indicated in the timetable at Clause 2 at the Arts Council Malta, 16 Casa Scalgia, Mikiel Anton Vassalli Street, Valletta, Malta by the General Contracts Committee. They will draw up a 'Summary of Tenders Received' which will be published on the notice board at the Arts Council Malta.
- 25.2 At the tender opening, the tenderers' names, the tender prices, variants, written notification of alterations and withdrawals, the presence of the requisite tender guarantee and any other information the Contracting Authority may consider appropriate will be published.
- 25.3 Envelopes marked "withdrawal" will be read out first and returned to the tenderer.
- 25.4 Reductions or alterations to tender prices made by tenderers after submission will not be taken into consideration during the analysis and evaluation of tenders.

### **26. Secrecy of the Procedure**

- 26.1 After the opening of the tenders, no information about the examination, clarification, evaluation or comparison of tenders or decisions about the contract award may be disclosed before the notification of award.
- 26.2 Information concerning checking, explanation, opinions and comparison of tenders and recommendations concerning the award of contract, may not be disclosed to tenderers or any other person not officially involved in the process unless otherwise permitted or required by law.
- 26.3 Any attempt by a tenderer to approach any member of the Evaluation Committee/Contracting Authority directly during the evaluation period will be considered legitimate grounds for disqualifying his tender.

### **27. Clarification of Tenders**

- 27.1 When checking and comparing tenders, the evaluation committee may, after obtaining approval from the Director General (Contracts)/Departmental Contracts Committee, ask a tenderer to clarify any aspect of his tender.
- 27.2 Such requests and the responses to them must be made by e-mail or fax. They may in no circumstances alter or try to change the price or content of the tender, except to correct arithmetical errors discovered by the evaluation committee when analysing tenders, in accordance with Clause 31.

## 28. Tender Evaluation Process

28.1 The following should be read in conjunction with Clause 27.

### 28.2 Part 1: Administrative Compliance

The Evaluation Committee will check the compliance of tenders with the instructions given in the tender document, and in particular the documentation submitted in respect of Clause 16.

The Evaluation Committee shall, after having obtained approval by the Director General Contracts/Departmental Contracts Committee, request rectifications in respect of incomplete/non-submitted information pertinent to the documentation as outlined in sub-Clause 15.1(a), 15.1(b), 15.1(c), and 15.1(d) of these Instructions to Tenderers. Such rectification/s must be submitted within five (5) working days from notification, and will be subject to a non-refundable administrative penalty of €50: failure to comply shall result in the tender offer not being considered any further. No rectification shall be allowed in respect of the documentation as outlined in sub-Clause 16.1(e)(ii), and 16.1(f) of these Instructions to Tenderers. Only clarifications on the submitted information in respect of the latter may be eventually requested.

### 28.3 Part 2: Eligibility and Selection Compliance

Tenders which have been considered administratively compliant shall be evaluated for admissibility as outlined below:

#### *(i) Eligibility Criteria*

- Tender Form (Volume 1, Section 2)

#### *(ii) Selection Criteria*

- Evidence of technical capacity (sub-Clause 6.1.2)

### 28.4 Part 3: Technical Compliance

At this step of the evaluation process, the Evaluation Committee will analyse the administratively-compliant tenders' technical conformity in relation to the technical specifications (Volume 3, and the documentation requested by the Contracting Authority as per sub-Clause 16(e)), classifying them technically compliant or non-compliant.

Tenders who are deemed to be provisionally technically compliant through the evaluation of their technical offer (especially the specifications) shall be requested to submit samples and/or CVs and Declarations of Exclusivity and Availability (Volume 1 Section 4) so that the Evaluation Committee will corroborate the technical compliance of the offers received.

### 28.5 Part 4. Financial Evaluation

The financial offers for tenders which were not eliminated during the technical evaluation (i.e., those found to be technically compliant) will be evaluated.

The Evaluation Committee will check that the financial offers contain no arithmetical errors as outlined in Clause 29. ] The financial evaluation will have to identify the best financial offer

## 29. Correction of Arithmetical Errors

29.1 Admissible tenders will be checked for arithmetical errors by the Evaluation Committee. Errors will be corrected as follows:

- (a) where there is a discrepancy between amounts in figures and in words, the amount in words will prevail;
- (b) where there is a discrepancy between a unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price as quoted will prevail.

- 29.2 The amount stated in the tender will be adjusted by the Evaluation Committee in the event of error, and the tenderer will be bound by that adjusted amount. In this regard, the Evaluation Committee shall seek the prior approval of the Director General Contracts/Departmental Contracts Committee to communicate the revised price to the tenderer. If the tenderer does not accept the adjustment, his tender will be rejected and his tender guarantee forfeited.
- 29.3 When analysing the tender, the evaluation committee will determine the final tender price after adjusting it on the basis of Clause 31.1.

## **F. CONTRACT AWARD**

### **30. Criteria for Award**

- 30.1 The sole award criterion will be the price. The contract will be awarded to the cheapest priced tender satisfying the administrative and technical criteria.

### **31. Right of the Contracting Authority to accept or reject any Tender**

- 31.1 The Contracting Authority reserves the right to accept or reject any tender and/or to cancel the whole tender procedure and reject all tenders. The Contracting Authority reserves the right to initiate a new invitation to tender.
- 31.2 In the event of a tender procedure's cancellation, tenderers will be notified by the Contracting Authority. If the tender procedure is cancelled before the outer envelope of any tender has been opened, the sealed envelopes will be returned, unopened, to the tenderers.
- 31.3 Cancellation may occur where:
- (a) the tender procedure has been unsuccessful, namely where no qualitatively or financially worthwhile tender has been received or there has been no response at all;
  - (b) the economic or technical parameters of the project have been fundamentally altered;
  - (c) exceptional circumstances or force majeure render normal performance of the project impossible;
  - (d) all technically compliant tenders exceed the financial resources available;
  - (e) there have been irregularities in the procedure, in particular where these have prevented fair competition;
  - (f) the duration of the evaluation has exceeded the stipulated time limit in Article 19 of Instructions to Tenderers.

**In no circumstances will the Contracting Authority be liable for damages, whatever their nature (in particular damages for loss of profits) or relationship to the cancellation of a tender, even if the Contracting Authority has been advised of the possibility of damages. The publication of a contract notice does not commit the Contracting Authority to implement the programme or project announced.**

### **32. Notification of Award, Contract Clarifications**

- 32.1 Prior to the expiration of the period of validity of tenders, the Contracting Authority will notify the successful tenderer, in writing, that his tender has been recommended for award by the General Contracts Committee, pending any appeal being lodged in terms of Part XIII of the Public Procurement Regulations (being reproduced in Volume 1, Section 6).
- 32.2 Unsuccessful bidders shall be notified with the outcome of the evaluation process, and will be provided the following information:
- (i) the criteria for award;
  - (ii) the name of the successful tenderer;
  - (iii) the recommended price of the successful bidder;
  - (iv) the reasons why the tenderer did not meet the technical specifications/notification that the offer was not the cheapest (if applicable);
  - (v) the deadline for filing a notice of objection (appeal);
  - (vi) the deposit required if lodging an appeal.
- 32.3 The recommendations of the Departmental Contracts Committee shall be published on the Notice Board of the Arts Council Malta.

### **33. Contract Signing and Performance Guarantee**

- 33.1 After the lapse of the appeals period, and pending that no objections have been received and/or upheld, the successful tenderer may be invited to clarify certain contractual questions raised therein. Such clarification will be confined to issues that had no direct bearing on the choice of the successful tender. The outcome of any such clarifications will be set out in a Memorandum of Understanding, to be signed by both parties and incorporated into the contract.
- 33.2 Before the Contracting Authority signs the contract with the successful tenderer, the successful tenderer may be requested to provide the documentary proof or statements required to show that it does not fall into any of the exclusion situations listed in Tenderer's Declaration of the Tender Response Format. The above mentioned documents must be submitted by every member of a Joint Venture/Consortium (if applicable).
- 33.3 The Contractor shall, within receipt of the contract, sign and date the contract and return it together with a copy of the Performance Guarantee of 10% and any relevant insurances. The Contractor is further obliged to forward the original performance guarantee to the Contracting Authority. The Contracting Authority will not effect any payment to the contractor until the performance guarantee is submitted.
- 33.4 If the selected tenderer fails to sign and return the contract, other required documentation, and any guarantees required, the Contracting Authority may consider the acceptance of the tender to be cancelled without prejudice to the Contracting Authority's right to seize the guarantee, claim compensation or pursue any other remedy in respect of such failure, and the successful tenderer will have no claim whatsoever on the Contracting Authority.
- The tenderer whose tender has been evaluated as second cheapest may be recommended for award, and so on and so forth.
- 33.5 Only the signed contract will constitute an official commitment on the part of the Contracting Authority, and activities may not begin until the contract has been signed by the Contracting Authority and the successful tenderer.
- 33.6 The performance guarantee referred to in the General Conditions is set at 10% of the amount of the contract and must be presented in the form specified in Volume 2, Section 4, to the tender document. The performance guarantee shall be released within 30 days of the signing of the Final Statement of Account (Final Bill), unless the Special Conditions provide otherwise

### **34. Commencement of Services**

- 34.1 Following the signing of the contract by both parties, the Project Manager will issue a written notice of commencement of the services in accordance with the General Conditions, as specified by the Special Conditions.
- 34.2 The Contractor must inform the Contracting Authority's representative by return that he has received the notice.

## **G. MISCELLANEOUS**

### **35. Ethics Clauses**

- 35.1 Any attempt by a candidate or tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the committee or the Contracting Authority during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of his candidacy or tender and may result in administrative penalties.
- 35.2 Without the Contracting Authority's prior written authorisation, the Contractor and his staff or any other company with which the Contractor is associated or linked may not, even on an ancillary or sub-contracting basis, supply other services, carry out works or supply equipment for the project. This prohibition also applies to any other programmes or projects that could, owing to the nature of the contract, give rise to a conflict of interest on the part of the Contractor.

- 35.3 When putting forward a candidacy or tender, the candidate or tenderer must declare that he is affected by no potential conflict of interest, and that he has no particular link with other tenderers or parties involved in the project.
- 35.4 The Contractor must at all times act impartially and as a faithful adviser in accordance with the code of conduct of his profession. He must refrain from making public statements about the project or services without the Contracting Authority's prior approval. He may not commit the Contracting Authority in any way without its prior written consent.
- 35.5 For the duration of the contract, the Contractor and his staff must respect human rights and undertake not to offend the political, cultural and religious morals of Malta.
- 35.6 The Contractor may accept no payment connected with the contract other than that provided for therein. The Contractor and his staff must not exercise any activity or receive any advantage inconsistent with their obligations to the Contracting Authority.
- 35.7 The Contractor and his staff are obliged to maintain professional secrecy for the entire duration of the contract and after its completion. All reports and documents drawn up or received by the Contractor are confidential.
- 35.8 The contract governs the parties' use of all reports and documents drawn up, received or presented by them during the execution of the contract.
- 35.9 The Contractor shall refrain from any relationship likely to compromise his independence or that of his staff. If the Contractor ceases to be independent, the Contracting Authority may, regardless of injury, terminate the contract without further notice and without the Contractor having any claim to compensation.
- 35.10 The tender(s) concerned will be rejected or the contract terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expenses. Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commissions paid to a company which has every appearance of being a front company.

### **36. Data Protection and Freedom of Information**

- 36.1 Any personal data submitted in the framework of the procurement procedure and/or subsequently included in the contract shall be processed pursuant to the Data Protection Act (2001). It shall be processed solely for the purposes of the performance, management and follow-up of the procurement procedure and/or subsequent contract by the Contracting Authority without prejudice to possible transmission to the bodies charged with a monitoring or inspection task in conformity with National and/or Community law.
- 36.2 The provisions of this contract are without prejudice to the obligations of the Contracting Authority in terms of the Freedom of Information Act (Cap. 496 of the Laws of Malta). The Contracting Authority, prior to disclosure of any information to a third party in relation to any provisions of this contract which have not yet been made public, shall consult the contractor in accordance with the provisions of the said Act, pertinent subsidiary legislation and the Code of Practice issued pursuant to the Act. Such consultation shall in no way prejudice the obligations of the Contracting Authority in terms of the Act.

### **37. Gender Equality**

- 37.1 In carrying out his/her obligations in pursuance of this contract, the tenderer shall ensure the application of the principle of gender equality and shall thus 'inter alia' refrain from discriminating on the grounds of gender, marital status or family responsibilities. Tenderers are to ensure that these principles are manifest in the organigram of the company where the principles aforementioned, including the selection criteria for access to all jobs or posts, at all levels of the occupation hierarchy are amply proven. In this document words importing one gender shall also include the other gender.

# VOLUME 1 SECTION 2 - TENDER FORM

(A separate, distinct Tender Form must be submitted for EACH OPTION - if applicable - submitted)

Publication reference: **KMKA 50/14/5**

**TENDER FOR THE HIRING OF PROJECTORS AT CITY GATE VALLETTA DURING THE MALTA INTERNATIONAL ARTS FESTIVAL 2015**

|                                                                                |                                                                   |                                                   |  |
|--------------------------------------------------------------------------------|-------------------------------------------------------------------|---------------------------------------------------|--|
| <b>A. TENDER SUBMITTED BY:</b>                                                 | <i>(This will be included in the Summary of Tenders Received)</i> |                                                   |  |
| <b>In case of a Joint Venture/Consortium:<br/>Name(s) of Leader/Partner(s)</b> | <b>Nationality</b>                                                | <b>Proportion of Responsibilities<sup>2</sup></b> |  |
| Leader <sup>1</sup>                                                            |                                                                   |                                                   |  |
| Partner <sup>1</sup>                                                           |                                                                   |                                                   |  |
| Etc ...                                                                        |                                                                   |                                                   |  |

1. Add/delete additional lines for partners as appropriate. Note that a sub-contractor is not considered to be a partner for the purposes of this tender procedure. If this tender is being submitted by an individual tenderer, the name of the tenderer should be entered as 'leader' (and all other lines should be deleted)
2. Proposed proportion of responsibilities between partners (in %) with indication of the type of the works to be performed by each partner (the company acting as the lead partner in a joint venture/consortium, they must have the ability to carry out at least 60% of the contract works by its own means. If a company is another partner in a joint venture/consortium (i.e. not the lead partner) it must have the ability to carry out at least 10% of the contract works by its own means).

|     | Service intended to be sub-contracted | Name and details of sub-contractors | Value of sub-contracting as percentage of the total cost <sup>3</sup> |
|-----|---------------------------------------|-------------------------------------|-----------------------------------------------------------------------|
| 1   |                                       |                                     |                                                                       |
| 2   |                                       |                                     |                                                                       |
| (.) |                                       |                                     |                                                                       |

3. The maximum amount of sub-contracting must not exceed 60% of the total contract value. The main contractor must have the ability to carry out at least 40% of the contract works by his own means.

**B CONTACT PERSON (for this tender)**

|                  |              |                |              |
|------------------|--------------|----------------|--------------|
| <b>Name</b>      |              | <b>Surname</b> |              |
| <b>Telephone</b> | (____) _____ | <b>Fax</b>     | (____) _____ |
| <b>Address</b>   | .....        |                |              |
| <b>E-mail</b>    |              |                |              |



**C TENDERER'S DECLARATION(S)**

**To be completed and signed by the tenderer (including each partner in a consortium).**

In response to your letter of invitation to tender for the above contract, we, the undersigned, hereby declare that:

- 1 We have examined, and accept in full and in its entirety, the content of this tender document (including subsequent Clarifications Notes issued by the Contracting Authority) for invitation to tender No [\_\_\_\_\_/\_\_\_\_\_] of [...../...../.....]. We hereby accept the contents thereto in their entirety, without reservation or restriction. We also understand that any disagreement, contradiction, alteration or deviation shall lead to our tender offer not being considered any further.
- 2 We offer to provide, in accordance with the terms of the tender document and the conditions and time limits laid down, without reserve or restriction, the following services hiring of Projectors at City Gate Valletta during the Malta International Arts Festival 2015
- 3 The total price of our tender (inclusive of duties, other taxes and any discounts but exclusive of VAT) is:  
  
\_\_\_\_\_
- 4 This tender is valid for a period of 90 days from the final date for submission of tenders.
- 5 If our tender is accepted, we undertake to provide a performance guarantee of 10% of the contract value as required by the General Conditions.
- 6 We are making this application in our own right and as partner in the consortium led by \_\_\_\_\_ for this tender. We confirm that we are not tendering for the same contract in any other form. [We confirm, as a partner in the consortium, that all partners are jointly and severally liable by law for the performance of the contract, that the lead partner is authorized to bind, and receive instructions for and on behalf of, each member, and that all partners in the joint venture / consortium are bound to remain in the joint venture/ consortium for the entire period of the contract's performance.] We are fully aware that, in the case of a consortium, the composition of the consortium cannot be modified in the course of the tender procedure.
- 7 We are not bankrupt or under an administration appointed by the Court, or under proceedings leading to a declaration of bankruptcy. We also declare that we have not been convicted criminally, or found guilty of professional misconduct. Furthermore, we are up-to-date in the payment of social security contributions and other taxes.
- 8 We accept that we shall be excluded from participation in the award of this tender if compliance certificates in respect of declarations made under Clause 7 of this declaration are not submitted by the indicated dates.
- 9 We agree to abide by the ethics clauses of the instructions to tenderers and, in particular, have no potential conflict of interests or any relation with other candidates or other parties in the tender procedure at the time of the submission of this application. We have no interest of any nature whatsoever in any other tender in this procedure. We recognise that our tender may be excluded if we propose key experts who have been involved in preparing this project or engage such personnel as advisers in the preparation of our tender.
- 10 We will inform the Contracting Authority immediately if there is any change in the above circumstances at any stage during the implementation of the contract. We also fully recognise and accept that any false, inaccurate or incomplete information deliberately provided in this application may result in our exclusion from this and other contracts funded by the Government of Malta and the European Communities.
- 11 Our tender submission has been made in conformity with the Instructions to Tenderers, and in this respect we confirm having included in the appropriate packages as required, the following documentation:  
*This section is to tally to the requirements under Clause 6 and 16 of the ITT.*
  - (a) **General Information** <sup>(Note 1)</sup>
    - o Statement on Conditions of Employment
  - (b) **Technical Capacity** <sup>(Note 1)</sup>
    - (i) an indication of the proportion of the contract which the services provider intends possibly to subcontract. The contractor must have the capacity to perform 60% of the contract;
  - Selection Criteria** <sup>(Note 2)</sup>
  - (c) **Technical Specifications**

(d) *Financial Offer/Bill of Quantities* <sup>(Note 2)</sup>

- (i) The Tender Form in accordance with the form provided in Volume 1, Section 2;
- (ii) A financial bid in the form provided in Volume 4.

**Notes:**

1. *Tenderers will be requested to either clarify/rectify any incorrect and/or incomplete documentation, and/or submit any missing documents within five working days from notification. This is indicated by the symbol ○*
2. *No rectification shall be allowed. Only clarifications on the submitted information may be requested. This is indicated by the symbol ●*

- 12 I acknowledge that the Contracting Authority and/or Contracting Authority shall request rectifications in respect of incomplete/non-submitted information pertinent to the documentation listed in Clause 11(a), 11(b), and 11(c), first bullet of this Tender Form. We understand that such rectification/s must be submitted within five (5) working days, and will be subject to a non-refundable administrative penalty of €50, and that failure to comply shall result in our offer not being considered any further.
- 13 We note that the Contracting Authority is not bound to proceed with this invitation to tender and that it reserves the right to cancel or award only part of the contract. It will incur no liability towards us should it do so.

Name and Surname: \_\_\_\_\_

I.D. / Passport Number: \_\_\_\_\_

Signature of tenderer: \_\_\_\_\_

Duly authorised to sign this  
tender on behalf of: \_\_\_\_\_

Company/Lead Partner VAT No:  
(if applicable) \_\_\_\_\_

Stamp of the firm/company: \_\_\_\_\_

Place and date: \_\_\_\_\_

# VOLUME 1 SECTION 3 - TENDER GUARANTEE FORM

[On the headed notepaper of the financial institutions providing the guarantee]

Whereas the Director of Contracts has invited tenders for .....  
and whereas Messrs ..... [Name of tenderer]  
(hereinafter referred to as the Tenderer) is submitting such a tender in accordance with such invitation, we  
..... [Name of Bank], hereby guarantee to pay you on your first demand in  
writing a maximum sum of ..... Euro (€.....) in case the  
Tenderer withdraws his tender before the expiry date or in the case the Tenderer fails to provide the  
Performance Bond, if called upon to do so in accordance with the Conditions of Contract.

The guarantee becomes payable on your first demand and it shall not be incumbent upon us to verify whether  
such demand is justified.

This guarantee is valid for a period of ninety (90) days from the closing date of submission of tenders, and  
expires on the ..... Unless it is extended by us or returned to us for cancellation before  
that date, any demand made by you for payment must be received at this office in writing not later than the  
above-mentioned expiry date.

This document should be returned to us for cancellation or utilisation or expiry or in the event of the guarantee  
being no longer required.

After the expiry date and in the absence of a written demand being received by us before such expiry date, this  
guarantee shall be null and void, whether returned to us for cancellation or not, and our liability hereunder shall  
terminate.

Yours faithfully,

.....

Bank Manager

.....

Date

# VOLUME 1 SECTION 4 - TENDERER'S STATEMENTS

## 1. Statement on Conditions of Employment

1. It is hereby declared that all employees engaged on this contract shall enjoy working conditions including wages, salaries, vacation and sick leave, maternity and parental leave as provided for in the relative Employment Legislation. Furthermore, we shall comply with Chapter 424 of the Laws of Malta (Occupational Health and Safety Authority Act) as well as any other national legislation, regulations, standards and/or codes of practice or any amendment thereto in effect during the execution of the contract.
2. It is hereby declared that no part of the services to be provided under this contract shall be sub-contracted to an economic operator who has in his employment employees, who are already in employment with the bidding entity and are carrying out, with the sub-contractor, the same or very similar duties as those in their contract of employment with the bidding entity.
3. The sub-contractor/s agree to all the conditions listed in this statement.
4. It is hereby declared that the service being provided under this contract will be carried out solely by the bidding entity employees, or bona fide self-employed individuals. No work will be carried out by persons designated as self-employed where their actual employment status in terms of the Employment Status National Standard Order LN 44/2012 is that of an employee.
5. It is hereby declared that all the employees of the bidding entity, whether providing services to the contracting authority or not, have a written contract of service and are registered with the competent authority of my country, which in the case of Malta is the Employment and Training Corporation. If this tender is awarded to us, we shall furnish a list of employees who will be providing the services. Copies of the written contracts of service of the employees will be available at any time for inspection.
6. It is hereby declared that the bidding entity's employees shall be given a detailed payslip containing all relevant details including the amount paid, normal hours worked, overtime hours, hours worked on Sundays and Public Holidays, hours availed of as leave or sick leave, a breakdown of bonuses/allowances as well as deductions made (such as social security contributions and income tax).
7. It is hereby declared that all the wages/salaries of the bidding entity's employees are paid only by direct payment in the employee's bank account.
8. It is hereby declared that the relevant bank statements of wage/salaries' deposit and copies of the detailed payslips will be made available as and when required by the Director of Industrial and Employment Relations.
9. It is hereby declared that if the bidding entity is found in breach of any of the above declarations it is accepted that this contract will be terminated and that we will have no right to be compensated for any damage we may have suffered or will suffer in the future in respect to this termination.
10. A list of the minimum hourly workers' costs involving the provision of the employees' services in this tender is being attached.

Signature .....

Name of Signatory .....

I.D. No. ....

Name of bidder/contractor .....

Date .....

## VOLUME 1 SECTION 5 - GLOSSARY

### Definitions

*Note: the present definitions are given here for convenience only, in the context of the tender procedure. The definitions set out in the contract as concluded are determining for the relations between the parties to the contract.*

**Administrative order:** Any written or oral instruction or order issued by the Project Manager to the Contractor regarding the execution of the services.

**Beneficiary Country:** The Maltese Islands.

**Breakdown of the overall price:** A heading-by-heading list of the rates and costs making up the price for a lump-sum contract.

**Budget Breakdown:** In a fee-based contract, the schedule which breaks down the contract value, stating out the fee rates and the provision for incidental expenses.

**Cash Flow Forecast:** The Contractor's estimate of the cash flows arising directly from the execution of a fee-based contract.

**Contracting Authority:** means the Department of Contracts.

**Commission:** The European Commission.

**Conflict of interest:** Any event influencing the capacity of a candidate, tenderer or supplier to give an objective and impartial professional opinion, or preventing him, at any moment, from giving priority to the interests of the Contracting Authority and the Contracting Authority. Any consideration relating to possible contracts in the future or conflict with other commitments, past or present, of a candidate, tenderer or supplier, or any conflict with his own interests. These restrictions also apply to sub-contractors and employees of the candidate, tenderer or supplier.

**Contract:** The signed agreement entered into by the parties for the performance of the services, including all attachments thereto and all documents incorporated therein.

**Contract Value:** The total value of the contract to be paid by the Contracting Authority in terms of the agreed terms and conditions.

**Contracting Authority:** means the final beneficiary of the contract.

**Contractor:** The party which contracts to perform the services.

**Day:** Calendar day.

**Drawings:** Drawings provided by the Contracting Authority, and/or drawings provided by the Contractor and approved by the Project Manager, for the carrying out of the services.

**EC:** The European Community.

**EU:** The European Union.

**Evaluation Committee:** a committee made up of an odd number of voting members (at least three) appointed by the Contracting Authority and possessing the technical, linguistic and administrative capacities necessary to give an informed opinion on tenders.

**Fee-Based Contract:** A contract under which the services are provided on the basis of fixed fee rates for each day/hour worked by experts/service provider.

**Final Beneficiary:** The Department/Entity or other government body on whose behalf the Department of Contracts has issued this tender.

**Foreign currency:** Any currency permissible under the applicable provisions and regulations other than the Euro, which has been indicated in the tender.

**General conditions:** The general contractual provisions setting out the administrative, financial, legal and technical clauses governing the execution of contracts.

**General damages:** The sum not stated beforehand in the contract, which is awarded by a court or an arbitration tribunal, or agreed between the parties, as compensation payable to an injured party for a breach of the contract by the other party.

**Global Price Contract:** A contract under which the services are performed for an all-inclusive fixed price.

**In writing:** This includes any hand-written, typed or printed communication, including fax transmissions and electronic mail (e-mail).

**Liquidated damages:** The sum stated in the contract as compensation payable by the Contractor to the Contracting Authority for failure to complete the contract or part thereof within the periods under the contract, or as payable by either party to the other for any specific breach identified in the contract.

**Modification:** An instruction given by the Project Manager which modifies the works.

**Month:** Calendar month.

**National currency:** The currency of the country of the Contracting Authority.

**Period:** A period begins the day after the act or event chosen as its starting point. Where the last day of a period is not a working day, the period expires at the end of the next working day.

**Plant:** appliances and other machinery, and, where applicable under the law and/or practice of the state of the Contracting Authority, the temporary structures on the site required to carry out the works but excluding equipment or other items required to form part of the permanent works.

**Project:** The project in relation to which the services are to be provided under the contract.

**Project Manager:** The natural or legal person responsible for monitoring the implementation of the contract on behalf of the Contracting Authority.

**Public Service:** Government Ministries and Departments.

**Services:** Activities to be performed by the Contractor under the contract such as technical assistance, studies, training and designs.

**Special conditions:** The special conditions laid down by the Contracting Authority as an integral part of the tender document, amplifying and supplementing the general conditions, clauses specific to the contract and the terms of reference.

**Tender document/s:** The dossier compiled by the Contracting Authority and containing all the documents needed to prepare and submit a tender.

**Tender price:** The sum stated by the tenderer in his tender for carrying out the contract.

**Terms of Reference:** The document in Volume 3, Section 1, drawn up by the Contracting Authority giving the definition of its requirements and/or the objectives in respect of the provision of services, specifying, where relevant, the methods and resources to be used by the Contractor and/or the results to be achieved by it.

**Time Limits:** Those periods in the contract which shall begin to run from the day following the act or event which serves as the starting point for those periods. Should the last day of the period fall upon a non-working day, the period shall expire at the end of the first working day following the last day of the period.

**Written communications:** Certificates, notices, orders and instructions issued in writing under the contract.

# VOLUME 1 SECTION 6 - EXTRACTS FROM THE PUBLIC PROCUREMENT REGULATIONS

## Part II - Rules governing public contracts whose value does not exceed one hundred and twenty thousand euro (€120,000)

The procedure for the submission of appeals in the tender offer is stipulated in Part II of the Public Procurement Regulations (Legal Notice 296/2010), reproduced hereunder for ease of reference.

- 21(1) Where the estimated value of the public contract exceeds twelve thousand euro (€12,000) and is issued by an authority listed in Schedule 1, any tenderer or candidate concerned shall have a right to make a complaint to the Review Board in accordance with this regulation.
- (2) (a) The contracting authority shall be obliged to issue a notice and affix an advertisement, in a prominent place at its premises, indicating the awarded public contract, the financial aspect of the award and the name of the successful tenderer. The contracting authority shall, by electronic means or by fax, inform the tenderer or candidate concerned of the publication of the award. The contracting authority shall be precluded from concluding the contract during the period allowed for the submission of appeals.  
(b) The award process shall be completely suspended if an appeal is eventually submitted.
- (3) Any tenderer or candidate concerned who is aggrieved by the award indicated by the contract authority may, within five working days from the publication of the notice, file a letter of objection, together with a deposit, with the contracting authority, clearly setting forth any reason for his complaint. The deposit to be paid in respect of tenders valued at less than forty-seven thousand euro (€47,000) shall be four hundred euro (€400), while those between forty-seven thousand euro (€47,000) and one hundred and twenty thousand euro (€120,000) shall be 0.5% of the estimated value of the tender, with a minimum deposit of four hundred euro (€400). The letter by the complaining tenderer shall be affixed on the notice board of the contracting authority and shall be brought to the attention of the recommended tenderer.
- (4) After the expiry of the period allowed for the submission of a complaint, the contracting authority shall deliver the letter of complaint, the deposit receipt and all documents relating to the public contract in question to the Review Board who shall examine the matter in a fair and equitable manner. In its deliberation the Review Board shall have the authority to obtain, in any manner it deems appropriate, any other information not already provided by the contracting authority. The Review Board shall determine the complaint by upholding or rejecting it. The written decision of the Review Board shall be affixed on the notice board of the contracting authority and copies thereof shall be forwarded to the Director of Contracts and all the parties involved.
- (5) The tenderer or candidate concerned who is not satisfied with the decision granted by the Review Board may refer the matter to the Court of Appeal (Superior Jurisdiction) in terms of article 41(6) of the Code of Organization and Civil Procedure within a period of sixty days. Such recourse however may not delay the Head of the contracting authority from implementing the Review Board's decision.
- (6) Tender documents issued in terms of this Part shall include a clause informing tenderers that the award of the contract is subject to the right of recourse as provided for in this regulation, a copy of which should be reproduced in the documents.
- (7) The Minister shall have the authority by order to extend the provisions of this regulation in order that recourse as provided in this regulation be made available also by authorities listed in Schedule 3 and to prescribe the procedure by which such recourse is to be granted.

**Form 1 - Power of Attorney**

Please attach here the power of attorney empowering the signatory of the tender and all related documentation.

Signature: .....  
*(the person or persons authorised to sign on behalf of the tenderer)*

Date: .....



**Form 2 - Data on Joint Venture/Consortium (Where applicable)**

|   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                        |
|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|
| 1 | Name                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | .....                                                                  |
| 2 | Managing Board's Contact Details                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Address: .....<br>.....<br>Telephone: ..... Fax: .....<br>Email: ..... |
| 3 | Agency in the state of the Contracting Authority, if any<br><i>(in the case of a Joint Venture/Consortium with a foreign lead partner)</i>                                                                                                                                                                                                                                                                                                                                                    | Address: .....<br>.....<br>Telephone: ..... Fax: .....<br>Email: ..... |
| 4 | Names of Partners                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | (i) .....<br>(ii) .....<br>(iii) .....<br>(iv) .....                   |
| 5 | Name of Lead Partner                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | .....                                                                  |
| 6 | Agreement governing the formation of the Joint Venture/Consortium<br><i>(Enclose Joint Venture/ Consortium Agreement)</i>                                                                                                                                                                                                                                                                                                                                                                     |                                                                        |
|   | Place of Signature:<br>.....                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Date of Signature:<br>.....                                            |
| 7 | Proposed proportion of responsibilities between partners (in %) with indication of the type of the works to be performed by each*<br>* The company acting as the lead partner in a joint venture/consortium, they must have the ability to carry out at least 60% of the contract works by its own means. If a company is another partner in a joint venture/consortium (i.e. not the lead partner) it must have the ability to carry out at least 10% of the contract works by its own means |                                                                        |
|   | .....%                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | .....%                                                                 |
|   | .....%                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | .....%                                                                 |

Signature: .....  
*(the person or persons authorised to sign on behalf of the tenderer)*

Date: .....

### Form 3 - Sub-Contracting

If the tenderer plans to sub-contract part of the works, he must provide the following details:

| Service/s intended to be sub-contracted | Name and details of sub-contractors | Value of sub-contracting as percentage of the total cost |
|-----------------------------------------|-------------------------------------|----------------------------------------------------------|
|                                         |                                     |                                                          |
|                                         |                                     |                                                          |
|                                         |                                     |                                                          |
|                                         |                                     |                                                          |
|                                         |                                     |                                                          |
|                                         |                                     |                                                          |
|                                         |                                     |                                                          |
|                                         |                                     |                                                          |
|                                         |                                     |                                                          |

Signature: .....  
(the person or persons authorised to sign on behalf of the tenderer)

Date: .....

## VOLUME 2

### VOLUME 2 SECTION 1 - DRAFT CONTRACT FORM

Financed by: ..... [Specify Source of Financing]  
Project: ..... [Title and Number]  
Contract Number: ..... [Contract Number]

This contract is concluded between:

Arts Council Malta  
16 Casa Scalgia  
Mikiel Anton Vassalli Street  
Valletta VLT 1311  
Malta

(hereinafter called “The Contracting Authority”) on behalf of [name of Contracting Authority and address] on the one part, and

[Name of Contractor]  
[Address]

(hereinafter called “The Contractor”) on the other part,

Whereas the Contracting Authority is desirous that certain services should be executed by the Contractor, viz.:

#### **[Contract Title]**

and has accepted a tender by the Contractor for the execution and completion of such services and the remedying of any defects therein.

#### **It is hereby agreed as follows:**

1. In this contract words and expressions shall have the meanings assigned to them in the contractual conditions set out below.
2. The following documents shall be deemed to form and be read and construed as part of this contract, in the following order of precedence:
  - (a) this Contract,
  - (b) the Special Conditions,
  - (c) the General Conditions,
  - (d) the Terms of Reference,
  - (e) the Contractor’s technical offer (Organization & Methodology) (including any clarifications made during adjudication),
  - (f) the Financial Offer (after arithmetical corrections)/breakdown,
  - (g) the Tender Form,
  - (h) any other documents forming part of the contract.

Addenda shall have the order of precedence of the document they are modifying.

3. In consideration of the payments to be made by the Contracting Authority to the Contractor as hereinafter mentioned, the Contractor undertakes to execute and complete the works and remedy defects therein in full compliance with the provisions of the contract.
4. The Contracting Authority hereby agrees to pay the Contractor in consideration of the execution and completion of the works and remedying of defects therein the amount of:

- Contract price (excluding VAT but including other taxes): €.....
- Contract price in words:..... Euro

or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the contract. VAT shall be paid in compliance with National Law (in particular the VAT Act 1998, the Act No X of 2003 and relevant Legal Notices).

5. The Contractor hereby agrees to submit a performance guarantee amounting to €..... equivalent to 10% of the contract value together with the signed contract.
6. In witness whereof the parties hereto have signed the contract. This contract shall take effect on the date on which it is signed by the last party.
7. The provisions of this contract are without prejudice to the obligations of the Contracting Authority in terms of the Freedom of Information Act (Cap. 496 of the Laws of Malta). The Contracting Authority, prior to disclosure of any information to a third party in relation to any provisions of this contract which have not yet been made public, shall consult the contractor in accordance with the provisions of the said Act, pertinent subsidiary legislation and the Code of Practice issued pursuant to the Act. Such consultation shall in no way prejudice the obligations of the Contracting Authority in terms of the Act.

Done in English in three originals: one for the Contracting Authority, one for the Contracting Authority, and one for the Contractor.

**Contracting Authority:**

**Contractor:**

Signed by:

Signed by:

.....

.....

In the capacity of:

In the capacity of:

.....

.....

Being fully authorized by and acting on behalf of

Being fully authorized by and acting on behalf of

.....

.....

Date: .....

Date: .....

## VOLUME 2 SECTION 2 - GENERAL CONDITIONS

The full set of General Conditions for Services Contracts (Version 1.06) can be viewed/downloaded from:

<http://contracts.gov.mt/en/Tenders/Pages/Tenders.aspx>

It is hereby construed that the tenderers have availed themselves of these general conditions, and have read and accepted in full and without reservation the conditions outlined therein, and are therefore waiving any standard terms and conditions which they may have.

These general conditions will form an integral part of the contract that will be signed with the successful tenderer/s.

## VOLUME 2 SECTION 3 - SPECIAL CONDITIONS

These conditions amplify and supplement, if necessary, the General Conditions governing the contract. Unless the Special Conditions provide otherwise, those General Conditions remain fully applicable. The numbering of the Articles of the Special Conditions is not consecutive but follows the numbering of the Articles of the General Conditions. Other Special Conditions should be indicated afterwards.

### **Article 2: Notices and Written Communications**

2.4 Unless otherwise agreed in writing, communication between the Contractor and Contracting Authority shall be between each respective entity's representative namely the Contractor's Contact Person and a Project Manager appointed by the Contracting Authority. All communication shall be in English

### **Article 5: Supply of Information**

As per General Conditions.

### **Article 6: Assistance with Local Regulations**

As per General Conditions.

6.4 The Contractor must also ensure all relevant permits for the un/loading of the items are obtained from the local authorities in the locality where the performance shall take place on the day of delivery.

### **Article 7: Obligations of the Contractor**

7.8 The Contractor shall, upon signing of contract, return it together with a copy of the Performance Guarantee and relevant Insurances. The Contractor is further obliged to forward the original performance guarantee to the Contracting Authority. The Contracting Authority will not effect any payment to the contractor until the performance guarantee is submitted. The amount of the guarantee shall be equivalent to 10% of the amount of the contract price.

The performance guarantee shall be held against payment to the Contracting Authority for any loss resulting from the Contractor's failure to perform his contractual obligations fully and properly.

The performance guarantee shall be in the format given by the Contracting Authority, and must be provided in the form of a bank guarantee.

The performance guarantee shall be denominated in the currency in which the contract is payable. No payments shall be made in favour of the Contractor prior to the provision of the guarantee. The guarantee shall continue to remain valid until the contract has been fully and properly performed.

During the performance of the contract, if the natural or legal person providing the guarantee is not able to abide by his commitments, the guarantee shall cease to be valid. The Contracting Authority shall give formal notice to the Contractor to provide a new guarantee on the same terms as the previous one. Should the Contractor fail to provide a new guarantee, the Contracting Authority may: **either** suspend the payments due to the contractor till the guarantee is in place **or** after obtaining the approval of the Central Government Authority terminate the contract. Before so doing, the Contracting Authority shall send a registered letter with acknowledgement of receipt, which shall set a new deadline of no less than 15 days from the day of delivery of the letter.

The Contracting Authority shall demand payment from the guarantee of all sums for which the guarantor is liable under the guarantee due to the Contractor's default under the contract, in accordance with the terms of the guarantee and up to the value thereof. The guarantor shall, without delay, pay those sums upon demand from the Contracting Authority and may not raise any objection for any reason whatsoever. Before making any claim under the performance guarantee, the Contracting Authority shall notify the Contractor stating the nature of the default in respect of which the claim is to be made.

### **Article 13: Medical, Insurance and Security Arrangements**

13.3 Upon signing of the contract, the Contractor shall take out and maintain a full indemnity insurance policy for a sum up to the higher of the maximum amount foreseen by the legislation of the country of the Contracting Authority and the amount foreseen by the legislation of the country in which the Contractor has its headquarters and covering, during the period of execution of the contract, the following aspects:

- a) the Contractor's liability in respect of sickness or industrial accident affecting its employees, including the cost of repatriation on health grounds;
- b) loss of, or damage to, the Contracting Authority's equipment used to perform the contract;
- c) civil liability in the event of accidents caused to third parties or to the Contracting Authority and any employee of that Authority arising out of the performance of the contract.
- d) accidental death or permanent disability resulting from bodily injury incurred in connection with the contract;

### **Article 15: Scope of the Services**

The scope of the services is defined in Section 4 (Terms of Reference)

### **Article 16: Personnel and Equipment**

As per General Conditions.

### **Article 18: Execution of the Contract**

#### **SCHEDULE A**

#### **City Gate Valletta - Schedule**

| <b>Date</b>   | <b>Time</b> | <b>Remarks</b> |
|---------------|-------------|----------------|
| 7 July        | All Day     | Set up         |
| 8 July        | From 9pm    | Settings       |
| 9 July        | From 9pm    | Settings       |
| 10 to 26 July | From 9pm    | PERFORMANCE    |
| 27 July       | All Day     | Dismantling    |

### **Article 19: Delays in Execution**

Delays in execution shall not be permitted.

If the Contractor for any reason cannot provide the service, the Contact person from the Contractor must advise the Contracting Authority or its representative immediately.

Should such instances where a delay occurs or in cases where deliverables are not according to tender specifications up to standard as per tender document, the Contracting Authority shall assign the service to a company of its choice. The Contractor in breach of contract shall pay all the expenses incurred by the Contracting Authority, for all the services purchased, for the particular event or a penalty of up to a maximum of 30% of the value of the tender will be imposed on the Contractor. Such decision is at the discretion of the Contracting Authority.

### **Article 20: Amendment of the Contract**

As per General Conditions.

### **Article 24: Interim and Final Progress Reports**

As per General Conditions.

***Article 26: Payments and Interest on Late Payment***

This is a global-price contract.

The payments will be made *within 30 days* following the satisfactory completion of the performance.

***Article 27: Pre-Financing Guarantee***

Not applicable.

***Article 28: Audit Certificate***

Not applicable.

***Article 39: Further Additional Clauses***

Add other clauses deemed relevant.



## VOLUME 2 SECTION 4 - SPECIMEN PERFORMANCE GUARANTEE

### (LETTERHEAD OF THE REGISTERED FINANCIAL INSTITUTION PROVIDING THE GUARANTEE)

Arts Council Malta  
16, Casa Scalgia,  
Mikiel Anton Vassalli Street  
Valletta VLT 1311

[Date]

Dear Sir,

Our Guarantee Number ..... for €.....

Account: [Account Holder's Name]

In connection with the contract entered into between yourself on behalf of the Director of Contracts and [Name and Address of Contractor] hereinafter referred to as "the Contractor" as per the latter's tender and your acceptance under [CT File Reference], whereby the contractor undertook the [title of contract] in accordance with Article 7.8 of the General Conditions for Service Contracts forming part of the contract documents, we hereby guarantee to pay you on demand a maximum sum of €[amount in words and numbers] in case the obligations of the above-mentioned contract are not duly performed by the Contractor.

This guarantee will become payable on your first demand and it shall not be incumbent upon us to verify whether such demand is justified.

For avoidance of doubt it is hereby declared that although this instrument gives rise to legal relations between the guarantor and the beneficiary, it is hereby specifically declared for all intents and purposes of law that this guarantee does not exempt the above-mentioned Contractor from any obligations, acts of performance or undertaking assumed under the tender documents as ratified in the contract.

Any payments due to the contractor in respect of the obligations entered into under the contract above referred to shall be made through this Bank.

This guarantee expires on the [expiry date] and unless it is extended by us or returned to us for cancellation before that date any demand made by you for payment must be received in writing not later than the aforementioned expiry date.

This document should be returned to us on utilization or expiry or in the event of the guarantee being no longer required.

After the expiry date and in the absence of a written demand being received by us before such expiry date, this guarantee shall be null and void, whether returned to us or not, and our liability hereunder shall terminate.

This guarantee is personal to you, and is not transferable or assignable.

Yours Faithfully,

.....  
[Signatory on behalf of Guarantor]

# VOLUME 3 SECTION 1 - CONTRACTING AUTHORITY'S REQUIREMENTS (TERMS OF REFERENCE)

*The following is a basic specimen of a set of Terms of Reference. These Terms should be drafted in a way so as to reflect the specific tender requirements.*

*The requirements listed in Clause 16 of the Instructions to Tenderers should be reflected in these Terms.*

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# Terms Of Reference

**Note:**

Where in this tender document a standard is quoted, it is to be understood that the Contracting Authority will accept equivalent standards. However, it will be the responsibility of the respective bidders to prove that the standards they quoted are equivalent to the standards requested by the Contracting Authority.

## 1. Background Information

### 1.1 - Beneficiary Country

Malta

### 1.2 - Central Government Authority

Department of Contracts

### 1.3 - Contracting Authority

Arts Council Malta

## 2. Contract Objectives and Expected Results

### 2.1 - Overall Objectives

The overall objective of this tender is the Setting up and dismantling of lighting systems for performances being held during the Malta International Arts Festival 2015

#### Objective 1

The objectives are to create adequate lighting for all venues as indicated in the tender. Contractor has to liaise with our Technical Manager and Artists for set up and focusing.

### 2.2 - Specific Objectives

The objectives of this contract are as follows:

The provision of services as per section 6.5 of the Technical Specs in accordance with all contractual obligations signed with Arts Council Malta subsequent to award of tender.

## 3. Assumptions and Risks

### 3.1 - Risks

Given the higher load on the local electrical grid in the Summer days in Malta, there may be instances where Power by the local supplier is disrupted. In such instances, the Contractor shall be responsible for alternative submission

## 4. Scope of the Work

### 4.1 - General

#### 4.1.1 Project Description

10 to 26 July - Pixels Waves

#### 4.1.2 Geographical Area to be covered

The Malta International Arts Festival will be held mainly in various locations in Valletta, and in Cospicua or as may be requested by the Contracting Authority should the need arise

### 4.2 - Specific Activities

During the Malta International Arts Festival a production will be held in Valletta and the Arts Council Malta needs to set up a projection system for this activity.

The activities in relation to this contract include but are not limited to:

- Delivery of the Projection equipment and its relevant setting up at the place of the performance. The contractor shall be responsible for obtaining relevant permits by the Local Councils of the locality where the performance shall take place / Transport Authority as applicable to close roads/ block passageways if needed for the relevant transportation
- As per the schedules hereunder, the Contractor shall manage the Projection system in its entirety as guided by the artist(s) or production companies
- Following the last performance, the Contractor shall dismantle the Projection system, ensuring that the site returns to its original state.

#### **4.3 - Project Management**

##### **4.3.1 Responsible Body**

The Arts Council Malta is the body responsible for this project

##### **4.3.2 Management Structure**

All communications and coordination with the relevant Contractors shall be made through the Delegate nominated by the Contracting Authority

### **5. Logistics and Timing**

#### **5.1 - Location**

City Gate Valletta

#### **5.2 - Commencement Date & Period of Execution**

The intended commencement and execution date is as stated in the different lots. Article 19.1 of the Special Conditions will determine the actual commencement date and period of execution.

### **6. Requirements**

#### **6.1 - Personnel**

##### **6.1. Other Experts**

The Contractor(s) must provide a Project Manager to coordinate directly with the Delegate of the Contracting Authority.

#### **6.4 - Equipment**

No equipment is to be purchased on behalf of the Contracting Authority / beneficiary country as part of this service contract or transferred to the Contracting Authority / beneficiary country at the end of this contract. Any equipment related to this contract which is to be acquired by the beneficiary country must be purchased by means of a separate supply tender procedure.

#### **6.5 - Technical Specs**

#### **SCHEDULE A**

##### **City Gate Valletta - Schedule**

| <b>Date</b>  | <b>Time</b> | <b>Remarks</b> |
|--------------|-------------|----------------|
| 07-Jul       | All Day     | Set up         |
| 08-Jul       | From 9pm    | Settings       |
| 09-Jul       | From 9pm    | Settings       |
| 10 to 26July | From 9pm    | PERFORMANCE    |
| 27-Jul       | All Day     | Dismantling    |

## SCHEDULE B

### City Gate Valletta - Equipment

| Item                                          | Description                                                                                                                                                                                                                                        | Quantity     |
|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| 1                                             | Video Projector 16,000 lumens (same lamp age & model) or better, ratio 16:10 (NATIVE), lens 0.73 or 0.8 with truss bracket and protection box. Indicate brand and model. The strength of the lumens provided is to be specified in the tender bid. | 4            |
| 2                                             | Cabling DVI or HDMI extender to connect each projector to the computers with fibre optic cables or CAT-6 UTP                                                                                                                                       | As necessary |
| 3                                             | Monitors HD                                                                                                                                                                                                                                        | 1            |
| 4                                             | Shielded rj-45 cables cat 5 to connect the cameras to the computer. 1 x 15m, 1 x 30m, 1 x 65m                                                                                                                                                      | As necessary |
| 5                                             | DVI or HDMI switch with 6 in and 3 out to switch between the 2 computers                                                                                                                                                                           | 1            |
| 6                                             | Prolyte truss columns for video projectors as per Item 1                                                                                                                                                                                           | 4            |
| 7                                             | Gazebo 3mtr x 3mtr                                                                                                                                                                                                                                 | 1            |
| 8                                             | Adequate electrical power supply for the setup                                                                                                                                                                                                     | As necessary |
| 9                                             | Stand by generator incl fuel consumption for the opening of the festival on 10 July                                                                                                                                                                | 1            |
| 10                                            | Technician / Programmer / Operator as per schedule                                                                                                                                                                                                 | pr / hr      |
| 11                                            | All necessary Power & Signal Cabling, Rigging Equipment, Safety Chains and Cable Protective Ramps including setting up and dismantling in accordance to the need.                                                                                  | As necessary |
| <b>Total cost being quoted for Schedule B</b> |                                                                                                                                                                                                                                                    |              |

<sup>[1]</sup> Rate inclusive of delivery, installation, VAT, customs duty, Levy, ECO Contribution and other charges as may be applicable.

Provided by the artist

2 LINUX graphic computer quad core with sli 780 gtx graphic :

3 DVI / HDMI output + 1 monitor out.

1 computer for the show & 1 backup computer with video capture card bluecherry.

3 infra-red cameras +3 infra-red light spot.

1 mac mini for the music.

1 motu sound card.

Projection settings will be done by the Artist

## 7. Reports

### 7.1 - Reporting Requirements

*Reporting will be requested in case of unforeseen circumstances*

## 8. Monitoring and Evaluation

### 8.1 - Definition of Indicators

For each set up the Technical Director and the Technical rider responsible for the event shall provide confirmation that all the requested services and supplies in relation to the service are provided.

# VOLUME 3 SECTION 2 - TENDERER'S TECHNICAL OFFER (ORGANIZATION & METHODOLOGY)

## 1. RATIONALE

During the Malta International Arts Festival a production will be held in Valletta and the Arts Council Malta needs to set up a projection system for this activity.

The activities in relation to this contract include but are not limited to:

- Delivery of the Projection equipment and its relevant setting up at the place of the performance. The contractor shall be responsible for obtaining relevant permits by the Local Councils of the locality where the performance shall take place / Transport Authority as applicable to close roads/ block passageways if needed for the relevant transportation
- As per the schedules hereunder, the Contractor shall manage the Projection system in its entirety as guided by the artist(s) or production companies
- Following the last performance, the Contractor shall dismantle the Projection system, ensuring that the site returns to its original state

## 2. STRATEGY

- An outline of the approach proposed for contract implementation
- A list of the proposed activities considered to be necessary to achieve the contract objectives
- The related inputs and outputs

## 3. TIMETABLE OF ACTIVITIES

### *City Gate Valletta - Schedule*

| Date          | Time     | Remarks     |
|---------------|----------|-------------|
| 7 July        | All Day  | Set up      |
| 8 July        | From 9pm | Settings    |
| 9 July        | From 9pm | Settings    |
| 10 to 26 July | From 9pm | PERFORMANCE |
| 27 July       | All Day  | Dismantling |



## VOLUME 4 - FINANCIAL BID

### (GLOBAL PRICE CONTRACTS)

N.B - Three decimal points do not exist as currency; therefore such offers cannot be accepted. Offers are to be submitted up to two decimal points.

Global price for [Hire of Items as per Schedule B in Page 39] as outlined in the Tender Document, Advert Number ...../.....:

| Description                                   | Total including Taxes, Other Duties & Discounts<br><u>but</u> exclusive of VAT                               |
|-----------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| Amount in Euro (€)                            |                                                                                                              |
| [Hire of Items as per Schedule B in Page 39 ] | €.....<br><br>Amount in Words:<br><br>.....<br><br>.....<br><br>.....<br><br>.....<br><br>.....<br><br>..... |

# VOLUME 5 - DRAWINGS

Design Documents, including Drawings

## Section 5.1

### List of drawings attached

| No  | Name | Drawing No | Design No |
|-----|------|------------|-----------|
| 1.  |      |            |           |
| 2.  |      |            |           |
| 3.  |      |            |           |
| 4.  |      |            |           |
| 5.  |      |            |           |
| 6.  |      |            |           |
| 7.  |      |            |           |
| 8.  |      |            |           |
| 9.  |      |            |           |
| 10. |      |            |           |
| 11. |      |            |           |
| 12. |      |            |           |
| 13. |      |            |           |
| 14. |      |            |           |
| 15. |      |            |           |

Section 5.2

**List of design documents available**

| No | Designer | Design No | Design name | Date |
|----|----------|-----------|-------------|------|
| 1. |          |           |             |      |
| 2. |          |           |             |      |
| 3. |          |           |             |      |
| 4  |          |           |             |      |

