

Tender Documentation for the procurement procedure for
**“SERVICE LEVEL AGREEMENT AND AGREEMENT ON THE PROVISION OF
CUSTOMIZATION SERVICES FOR THE MESSAGING SYSTEM”**

(hereinafter referred to as “Tender Documentation“)

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(hereinafter referred to as the “**Tendering Entity**“)

I. INTRODUCTORY PROVISIONS, DEFINITIONS AND TERMS

- I.1** This procurement procedure concerns the awarding of a public Tender (hereinafter referred to as the “**Tender**“) outside of the scope of Act No. 134/2016 Coll., on public procurement, as amended (hereinafter referred to as the “**Act**“), it is not a public competition pursuant to Sec. 1772 and following of Act No. 89/2012 Coll., the Civil Code (hereinafter referred to as the “**Civil Code**“).
- I.2** This Tender Documentation, including all of its appendices, is provided solely for the purpose of the drawing up of a tender for the awarding of the Tender in the above-mentioned tender and the Tenderor shall not use it for any other purpose.
- I.3** The terms used below in this Tender Documentation shall have the meaning defined in this paragraph I.3 of the Tender Documentation, and shall always be capitalised in the text of the Tender Documentation:
- I.3.1 “Economic Operator“** means a legal entity or a natural person engaged in business.
- I.3.2 “Tenderer“** means an Economic Operator who submitted an offer in the tender on the basis of this Tender Documentation.
- I.3.3 “Tender Price“** means the price set on the basis of the rules set out in article IV of this Tender Documentation.
- I.3.4 “Model Agreement“** means the pre-defined draft of agreement that constitutes Appendix B to this Tender Documentation.
- I.4** Other terms may be defined directly in the text of the Tender Documentation; the definition of a term shall be emphasised by bold print and introduced by the expression “hereinafter referred to as“, and on every subsequent occurrence in the text, the term will be capitalised.

II. SUBJECT OF THE CONTRACT, PLACE AND TIME OF PERFORMANCE

- II.1** The subject of delivery is provision of the supporting services for a Messaging system.
- II.2** Messaging system is described in Appendix B hereof.
- II.3** Place of performance: Vaclav Havel Airport Prague
- II.4** Time of performance: 4 years from 20. 01. 2018 till 20.1. 2022
- II.5** A detailed specification of the subject of the Contract and the terms and conditions of its performance are stated in the Model Agreement.

III. QUALIFICATION CRITERIA

- III.1** The qualification criteria set by the Tendering Entity for this Tender are deemed to be met by a Tenderer:

- III.1.1** Who is not in liquidation;
 - III.1.2** Whose assets are not or were not, in the last 3 years, subject to insolvency proceedings in which a decision on bankruptcy was issued; an insolvency proposal was not denied due to the insufficiency of the assets for covering the costs of the insolvency proceedings and bankruptcy was not cancelled due to the absolute insufficiency of assets, and receivership was not introduced pursuant to special legal regulations;
 - III.1.3** Whose tax records do not show tax debts, both in the Czech Republic and in the country of its registered seat, place of business, or residence;
 - III.1.4** Who has not any outstanding arrears in respect of premiums or penalties of the public health insurance, social security, and state employment policy, both in the Czech Republic and in the country of its registered seat, place of business, or residence,
 - III.1.5** Who was not finally sentenced of a criminal offence the nature of which is related to the Tenderer's line of business according to the special legal regulations, or whose criminal records regarding conviction of such criminal offence has not been expunged; in the case of a legal entity this condition must be met by a statutory body or each member of the statutory body, and if the statutory body of the Tenderer or a member of the Tenderer's statutory body is a legal entity, this conditions must be met both by the legal entity and its statutory body or each member of the statutory body of the same legal entity; if the tender is submitted by a foreign legal entity via its organizational unit, the qualification criterion according to this subparagraph must be met, in addition to the above mentioned persons, also by the head of the organizational unit; the relevant criterion must also be met by the Tenderer's authorized representatives or other persons authorized to act for the Tenderer on the basis of a power of attorney; the same qualification criterion must be met by the Tenderer both in relation to the territory of the Czech republic and to the country of its registered office and residence.
 - III.1.6** Who did not, in the last 3 years, commit the act of unfair competition by mean of bribery as defined in Sec. 2983 of the Civil Code,
 - III.1.7** Who is not enrolled on the black list of persons banned to participate in the performance of public Tenders;
 - III.1.8** Who showed an authorisation to engage in business;
 - III.1.9** Who, in the last 2 years, has maintained system for flight data processing (processing of flight data from internal and external sources of airport) including processing of data about passengers (in structure related to particular passenger category) and this system is used in production environment in real operation at international airport where the annual number of departed passengers is over 6 (six) million per year or the yearly movements of aircraft is more than 80.000 (eighty thousand)
 - III.1.10** Who has proven by the Profinit EU, s.r.o., company ID: 04434081, registered office, Tychonova 270/2, Prague 6, postcode 160 00 to provide service support for Messaging System.
- III.2** The criteria set out in paragraphs III.1.1 to III.1.7 shall be documented by the Tenderer by a sworn declaration for which the Tenderer may use the model that constitutes appendix A to this Tender Documentation. The sworn declaration must be signed by a person authorised to represent the Tenderer in line with the Tenderer's valid entry in the Commercial Registry or a person authorised to act on the basis of a power of attorney.
- III.3** The criterion set out in paragraph III.1.8 shall be documented by the Tenderer by a simple copy of an excerpt from the Commercial Registry and simple copies of its Trade Licences or an excerpt from the Trade Registry or another record, if the Tenderer or applicant are to be registered in it in line with special legal regulations (the scope of the Trade Licence must accord with the subject of the Tender).
- III.4** The criterion set out in paragraph III.1.9. shall be documented by the Tenderer's declaration that will refer to the entity to which the performance was provided, stating the subject, time of performance, and the annual number of departed passengers or annual number of movements of aircraft, the registered seat or another address and contact person of the entity, including the e-mail address and telephone (former Tenders for the Tendering Entity need not be documented, only the

name, Tender number, and date of its conclusion will suffice). The declaration must also include the date and the signature of the person representing the Tenderer.

- III.5** The criterion set out in paragraph III.1.10 shall be demonstrated by the Tenderer by submitting a simple copy of a valid certificate or a written statement issued by the above mentioned manufacturer Profinit EU, s.r.o.
- III.6** If the Tenderer has fulfilled any of the qualification criteria in another tender organized by the Tendering Entity in the last 12 months and the information stated in those documents has not changed, it does not need to document that criteria again, but must inform the relevant contact person specified in paragraph VII.2 of the Tender Documentation about the tender in which it documented that criteria.
- III.7** If several Tenderers are submitting a joint tender in the tender, they must present in the tender a document that will show that all of those Tenderers shall be liable jointly and severally to the Tendering Entity and any third persons from any liabilities arising in connection with the performance of the subject of this Tender or arising due to default or another breach of Tenderual or other obligations in connection with the performance of the subject of this tender. One of the Tenderers submitting the tender must be designated as the main Tenderer in the document, and it must hold a power of attorney to represent all of the other Tenderers submitting a joint tender in all matters concerning the tender, concluding the agreement, and performing it.
- III.8** All bidders submitting a joint tender must meet the qualification criteria set out in paragraphs III.1.1 to III.1.8. The criterion listed in paragraph III.1.9. of the Tender Documentation must always be met by at least one of the Tenderers submitting a joint tender.
- III.9** If a Tenderer is not able to document compliance with the qualification criterion listed in paragraph III.1.8 of the Tender Documentation (right to engage in business) or a certain part of any other of the qualification criteria required by the Tendering Entity in full, the Tenderer may prove compliance with the qualification requirements, to the extent to which it is lacking, through a sub Tenderer. In that event, the Tenderer, shall submit to the Tendering Entity with its tender an agreement concluded with the sub Tenderer that shows the sub Tenderer's obligation to provide certain performance for the performance of the Tender by the Tenderer or to provide certain items or rights which the Tenderer will be entitled to use in performing the Tender, at least to the extent to which the sub Tenderer proved compliance with the qualification criteria.
- III.10** The Tendering entity reserves the right to request from the Tenderer selected, prior to signing an agreement, the submission of the originals or officially verified copies of the documents for which the Tenderer submitted simple copies in its tender. If requested by the Tendering Entity, the submission of the originals of documents shall constitute a condition for the conclusion of the agreement.
- III.11** **In the event that the qualification criteria are not met or provision of false information the Tenderer's tender or joint tender will not be evaluated.**

IV. ELABORATION OF THE BID AND THE TENDER PRICE

- IV.1** In drawing up its proposal for an agreement, the Tenderer is obliged to use Appendix B to the Tender Documentation. The Tenderer may not change that Model Agreement, it may only fill in the designated spots (identification information of the Tenderual party, price). In an accompanying document (special proposal), the Tenderer may propose a modification of other provisions of the Agreement, but the Tendering Entity is not obliged to accept that modification and reserves the right to negotiate about the proposal. By signing the tender, the Tenderer agrees that first sentence of Sec. 1740 par. 3 of the Civil Code will not be applied for this tender and Tender negotiation.
- IV.2** If the selected Tenderer fails to provide to the Tendering Entity the cooperation required for the conclusion of the Agreement within 14 calendar days, the Tendering Entity reserves the right to discontinue the negotiations and accept the tender of the Tenderer whose tender ranked next in terms of advantageousness.
- IV.3** Tenderer shall provide statutory declaration on ownership structure of the company at the date of the submission of a tender. In the case that the ultimate beneficiaries of the income and/or profit of the Tenderer are other persons than the shareholders, Tenderer shall provide list of such beneficiaries. List of shareholders and/or beneficiaries with the percentage of the share of each person shall create annex of the statutory declaration. In the case of Tenderer who holds the form

of a joint stock company and whose shares are listed on stock exchange, Tenderer shall provide required information only in relation to the shares that are not traded on stock exchange.

- IV.4** The Tendering Entity hereby informs the Tenderer that it must remove from the Model agreement the text "Appendix to the Tender Documentation" and "Model". For the purpose of the drawing up of the draft agreement, the Customer means the Tendering Entity and the Tenderer means the Tenderer.
- IV.5** The signed Model Agreement is considered to constitute the Tenderer's proposal for the conclusion of the agreement and must therefore meet the requirements of the laws of the Czech Republic concerning legal acts and draft agreements.
- IV.6** With respect to the subject of the Tender, the Tenderer agrees that Sec. 1799 and 1800 of the Civil Code will not be applied for this tender and Tender negotiation.
- IV.7** The price set in the draft agreement shall be the highest admissible, shall be set in Czech crowns and exclusive of value-added tax. VAT in line with the applicable legal regulations shall be added on top of the price. The Tender Price shall include transport costs and any and all other costs of the Tenderer which need to be expended in the performance of the Tender.
- IV.8** The Tenderer shall be responsible for including all of its costs in the price and for the completeness of unit price appraisal, including the costs of transport to the place where the Tender is to be performed and the costs related to the specific place in which the Tender is to be performed.
- IV.9** The foundation for the determination of the Tender Price is the table that constitutes Appendix C to the Tender Documentation, which will constitute an integral part of the Tenderer's tender. The same unit and total prices as stated in Appendix C to the Tender Documentation must be stated by the Tenderer in the Model Agreement in Appendix B. The Tender Price will also be stated inclusive of VAT.
- IV.10** The unit prices used for the determination of the Tender Price shall be deemed the maximum prices throughout the term of the performance of the subject of the Tender.

V. DEADLINES FOR AND MANNER OF BID SUBMISSION

- V.1** The deadline for the submission of the tenders drawn up in line with the Tender Documentation: **6. 12. 2017 12:00 p.m.** The Tenderers shall be bound by their tenders until **31.7.2018**
- V.2** Bids may be submitted throughout the entire tender submission period in electronic form:
By e-mail to the following address: vr0122002754@cah.cz. This e-mail box is designated solely for the submission of tenders and it will only be made accessible to the Tendering Entity after the expiration of the tender submission deadline. Therefore, **DO NOT USE** that e-mail address for requests for supplementary information to the Tender Documentation or any other communication with the Tendering Entity.
- V.3** A tender shall be delivered prior to the expiration of the tender submission deadline.
- V.4** A tender shall be drawn up in Czech or in English.
- V.5** A tender shall contain the required documents with the following structure:
 - V.5.1** Documents showing compliance with the qualification criteria (PDF or MS Office format);
 - V.5.2** Draft Agreement (signed Model Agreements (Appendix B) with the required information filled in), including all appendices (signed in PDF format and also full filed in MS Word format);
 - V.5.3** The Tender Price (a completed Appendix C to this Tender Documentation);
 - V.5.4** Statutory Declaration mentioned in paragraph IV.3 of this Tender Documentation.
- V.6** Tender submitted by e-mail, the above-mentioned documents and any other materials submitted by the Tenderer shall be enclosed with the e-mail message in a scanned form. All of the documents that must be signed according to this Tender Documentation (in particular the draft Agreement and sworn declarations) and shall be enclosed with the e-mail message in scanned format, .pdf, signed by the relevant person.

VI. BID EVALUATION METHOD

- VI.1** Tenderers' tenders shall be evaluated on the basis of the Tender Price. The best is tender with the lowest Tender Price.
- VI.2** The evaluation of tenders and their assessment on the basis of the criteria set shall be performed by the evaluation committee appointed by the Tendering Entity.
- VI.3** The Tendering Entity reserves the right to negotiate, at its discretion, about the Tender Price with the Tenderers whose tenders are evaluated, or to organize an electronic auction. Negotiations or an electronic auction will only be carried out after the all tenders are checked for completeness and evaluated. Once informed about the lowest price, Tenderers will be able to propose a more advantageous tender to the Tendering Entity during negotiations or in an electronic auction.
- VI.4** By submitting a tender, a Tenderer agrees that if negotiations about the Tender Price are conducted and its tender contains the price that is the most advantageous for the Tendering Entity, this information may be disclosed to other Tenderers whose tenders are evaluated.
- VI.5** The Tenderers whose tenders will be evaluated will be informed of the detailed conditions and the manner in which the electronic auction will be carried out.
- VI.6** Tenderers will be informed in writing about the selection of the most advantageous tender after the end of the tender.

VII. SUPPLEMENTARY INFORMATION

- VII.1** The deadline for the submission of inquiries concerning the Tender Documentation and its appendices has been set by the Tendering Entity as **29. 11. 2017, by 12:00 p.m.** In that time-period, the inquiries must be delivered to the Tendering Entity's contact person.
- VII.2** Contact person of the Tendering Entity: **Ondrej Nemecek**
- VII.3** Questions may only be submitted electronically, to: ondrej.nemecek@cah.cz . Inquiries made by telephone shall be disregarded.
- VII.4** Answers to all inquiries, without specifying who made them, shall be sent to all of the persons who submitted questions and to all parties interested in participating in this tender who sent their contact information to the Tendering Entity.

VIII. RIGHTS OF THE TENDERING ENTITY AND OTHER TENDER CONDITIONS

- VIII.1** The Tendering Entity is not obliged to enter into an agreement with the winning Tenderer. An agreement is only concluded with a Tenderer when the Agreement is signed by both Contractual parties. Any previous acts on the part of the Tendering Entity (including the announcement of the outcome of the tender) do not constitute acceptance of the Tenderer's tender and do not bind the Tendering Entity to provide any performance. By signing the tender, the Tenderer takes that into account.
- VIII.2** The Tendering Entity is entitled to close the Tender negotiation even without stating a reason or without having justified title. Such closure shall not constitute any right of the Tenderer even when the conclusion of the Tender is presumable. By signing the tender, the Tenderer agrees that Sec. 1729 of the Civil Code will not be applied for this tender and Tender negotiation.
- VIII.3** The Tendering Entity reserves the right to cancel the tender or a part thereof at any point and also reserves the right to specify the tendering documentation at any time, up until the selection of the most advantageous tender. All Tenderers whose contact information the Tendering Entity has will be informed of that specification and the specification will be published for any unregistered Tenderers in the E-ZAK application at <https://zakazky.cah.cz/>. Hence, the Tendering Entity recommends that Contractors who wish to take part in the Tender sent their e-mail address to the contact information specified in paragraph VII.3. Furthermore, the Tendering Entity recommends that all Tenderers, prior to submitting their tender, check the current text of the Tender Documentation published in the E-ZAK application. The time-period for the submission of tenders specified in paragraph V.1 may be appropriately extended by the Tendering Entity following the specification of the Tender Documentation.
- VIII.4** The Tenderer is required to submit no later than by the day of signing the agreement a proof of the existing third party liability insurance with a minimum sum insured of CZK 10,000,000. A simple

copy of the valid insurance Tender or the insurance certificate issued by an insurer or a broker with whom the Tenderer is insured will be accepted as a proof of the existing insurance coverage. In case that more persons submit a joint tender in the procurement, the fulfilment of this criterion must be proven by all persons who submit a joint tender. If the selected Tenderer fails to submit the proof within the above mentioned time period, the Tendering Entity has the right to terminate negotiations about signing the agreement with the Tenderer and open the same negotiations with the Tenderer whose tender has been placed as the next more advantageous in the order.

- VIII.5** Tenderers submit their tenders free of charge, and may not make any claims with respect to the Tendering Entity on the basis of the submission of the Bid. Tenderers are not entitled to the compensation of any costs related to the drawing up of their tenders.
- VIII.6** The Tendering Entity shall not return the tenders assessed, and shall keep them as documents of the course of the award procedure of the Tender.
- VIII.7** In the event of questions, the Tendering Entity's evaluation committee may ask a Tenderer to explain its tender in writing. In its request for a written explanation, the evaluation committee shall state where it sees ambiguities in the tender which the Tenderer is to explain. The evaluation committee shall set a time-period within which the Tenderer shall deliver its written explanation of the ambiguities. **Should the Tenderer fail to present an explanation of the ambiguities in the time-period set, the evaluation committee shall eliminate the tender from further evaluation and assessment.**
- VIII.8** The Tendering Entity reserves the right to eliminate a Tenderer who has or previously had problems with the performance of its obligations to the Tenderer.
- VIII.9** If the documents presented by the Tenderer, showing compliance with the qualification criteria, contain untrue information, the Tenderer shall be immediately eliminated from participating in the given tender. The Tenderer shall be excluded from participation in the Tendering Entity's tenders for the next 2 years.
- VIII.10** The company name of the Tenderer whose tender is chosen as the most advantageous in line with the set evaluation method, including the Tender Price of that Tenderer, may be disclosed to other Tenderers after the end of the tendering procedure.

IX. APPENDICES TO TENDERING DOCUMENTATION

IX.1 The following appendices constitute an integral part of this Tender Documentation:

- IX.1.1** Appendix A – Solemn Declaration
- IX.1.2** Appendix B – Service Level Agreement
- IX.1.3** Appendix C – Tender Price

Mgr. Petr Baxa

Český Aeroholding, a.s.