

Contract Documentation for the procurement procedure for

“Purchase of graphics controllers”

(hereinafter referred to as “Contract Documentation“)

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(hereinafter referred to as the “Contracting Entity“)

I. INTRODUCTORY PROVISIONS, DEFINITIONS AND TERMS

- I.1** This procurement procedure concerns the awarding of a public contract (hereinafter referred to as the “**Contract**“) outside of the scope of Act No. 137/2006 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 Contract Documentation, including all of its appendices, is provided solely for the purpose of the drawing up of a tender for the awarding of the Contract in the above-mentioned tender and the contractor shall not use it for any other purpose.
- I.3** A contractor shall keep the contents of this Contract Documentation confidential, which means that it is not entitled to copy the contents of this Contract Documentation or disclose it to third persons. That does not apply with respect to subcontractors who take part in the Tenderer’s performance of the Contract, but the Tenderer shall be responsible for ensuring that its subcontractors are also bound to adhere to the confidentiality obligation set out in sentence one of this paragraph.
- I.4** The terms used below in this Contract Documentation shall have the meaning defined in this paragraph I.4 of the Contract Documentation, and shall always be capitalised in the text of the Contract Documentation:
- I.4.1 “Economic Operator“** means a legal entity or a natural person engaged in business.
- I.4.2 “Tenderer“** means an Economic Operator who submitted a tender in the Contract on the basis of this Contract Documentation.
- I.4.3 “Tender Price“** means the price set on the basis of the rules set out in article IV of this Contract Documentation.
- I.4.4 “Model Agreement“** means the pre-defined drafts of agreements that constitutes Appendix B to this Contract Documentation.
- I.5** Other terms may be defined directly in the text of the Contract 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 the Contract is purchase of 120 pieces of Multimedia Graphic Controller MGC V6 – UCTA074PF V6 including Licence Winidm Aeroport.
- II.2** Place of performance: Prague Airport
- II.3** Time of performance: 6 – 8 weeks from conclusion of the agreement
- II.4** A detailed specification of the subject of the Contract and the terms and conditions of its performance are stated in the Model Agreement.
- II.5** The Contracting Entity hereby informs that the performance of this Contract is fully subject to the operation of the Prague/Ruzyně Airport and that all of the Contracting Entity’s operating measures

must be adhered to in its performance. On the basis of a notice from the Contracting Entity or one of its organisational units, the execution of work in the period set by the Contracting Entity may be shifted to night hours (i.e., from 10:00 p.m. to 5 p.m.) or to days of rest, statutory holidays, etc. The Tenderer shall take that fact into account when setting the Tender Price.

III. QUALIFICATION CRITERIA

- III.1** The qualification criteria set by the Contracting Entity for this Contract 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, or whose criminal offence the nature of which is related to the Tenderer's line of business, has not been expunged, in the case of a natural person; in the case of legal entity, this condition must be met by the statutory body or each member of the statutory body, the head of the organisational unit of a foreign legal entity or a representative authorised by the statutory body, or other persons authorised to represent the legal entity on the basis of a power of attorney;
 - III.1.6** Who did not, in the last 3 years, commit the act of unfair competition by means 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 contracts;
 - III.1.8** Who showed an authorisation to engage in business;
 - III.1.9** Who in the last 3 years delivered in one or in more tenders at least 100 pieces of Multimedia Graphic Controller MGC.
- 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 Contract 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 Public Contract).
- 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 price of the contract, the registered seat or another address and contact person of the entity, including the e-mail address and telephone (former contracts for the Contracting Entity need not be documented, only the name, contract 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** If the Tenderer has fulfilled any of the qualification criteria in another tender organised by the Contracting 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 Contract Documentation about the tender in which it documented that criteria.

- III.6** If several contractors are submitting a joint tender in the tender, they must present in the tender a document that will show that all of those contractors shall be liable jointly and severally to the Contracting Entity and any third persons from any liabilities arising in connection with the performance of the subject of this Contract or arising due to default or another breach of contractual or other obligations in connection with the performance of the subject of this tender. One of the contractors submitting the tender must be designated as the main contractor in the document, and it must hold a power of attorney to represent all of the other contractors submitting a joint tender in all matters concerning the tender, concluding the agreement, and performing it.
- III.7** 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 Contract Documentation must always be met by at least one of the contractors submitting a joint tender.
- III.8** If a Tenderer is not able to document compliance with the qualification criterion listed in paragraph III.1.8 of the Contract 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 subcontractor. In that event, the Tenderer, shall submit to the Contracting Entity with its tender an agreement concluded with the subcontractor that shows the subcontractor's obligation to provide certain performance for the performance of the Contract by the Tenderer or to provide certain items or rights which the Tenderer will be entitled to use in performing the Contract, at least to the extent to which the subcontractor proved compliance with the qualification criteria.
- III.9** 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 Contracting Entity, the submission of the originals of documents shall constitute a condition for the conclusion of the agreement.
- III.10** **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 Contract Documentation. The Tenderer may not change that Model Agreement, it may only fill in the designated spots (identification information of the contractual party, price). In an accompanying document (special proposal), the Tenderer may propose a modification of other provisions of the Agreement, but the Contracting 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 contract negotiation.
- IV.2** If the selected Tenderer fails to provide to the Contracting Entity the cooperation required for the conclusion of the Agreement within 14 calendar days, the Contracting 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 Contracting Entity hereby informs the Tenderer that it must remove from the Model agreement the text "Appendix to the Contract Documentation" and "Model". For the purpose of the drawing up of the draft agreement, the Client means the Contracting Entity and the Economic Operator 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 Contract and to the requirements of the Contracting Entity, the Tenderer agrees that Sec. 1799 and 1800 of the Civil Code will not be applied for this tender and contract 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 Contract.
- 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 Contract is to be performed and the costs related to the specific place in which the Contract is to be performed.
- IV.9** The foundation for the determination of the Tender Price is the table that constitutes Appendix C to the Contract 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 Contract Documentation must be stated by the Tenderer in the Model Agreement in Appendix B. In Appendix C to the Contract Documentation, 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 Contract.

V. DEADLINES FOR AND MANNER OF BID SUBMISSION

- V.1** The deadline for the submission of the tenders drawn up in line with the Contract Documentation: **28. 4. 2016 1:00 p.m.** The Tenderers shall be bound by their tenders until **31.10.2016**
- V.2** Bids may be submitted throughout the entire tender submission period in electronic form, either:
- V.2.1** Through the E-ZAK application on the following website <https://zakazky.cah.cz/>. Instructions for using the application are contained in the General Business Terms and Conditions and Manual for Economic Operators on the website. Only registered contractors may submit tenders through this means – the usual duration of the registration process is 5 days. Registration is free. OR
- V.2.2** By e-mail to the following address: vr0122002234@cah.cz. This e-mail box is designated solely for the submission of tenders and it will only be made accessible to the Contracting Entity after the expiration of the tender submission deadline. Therefore, **DO NOT USE** that e-mail address for requests for supplementary information to the Contract Documentation or any other communication with the Contracting 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 fulfilled in MS Word format);
- V.5.3** The Tender Price (a completed Appendix C to this Contract Documentation).
- V.6** Tender submitted through the E-ZAK application or by e-mail, the above-mentioned documents and any other materials submitted by the Tenderer shall be uploaded in the E-ZAK application or enclosed with the e-mail message in a scanned form. All of the documents that must be signed according to this Contract Documentation (in particular the draft Agreement and sworn declarations) shall be uploaded into the E-ZAK application or 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 Contracting Entity.

- VI.3** The Contracting Entity reserves the right to negotiate, at its discretion, about the Tender Price with the Tenderers whose tenders are evaluated, or to organise 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 Contracting 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 Contracting Entity, this information may be disclosed to other Tenderers whose tenders are evaluated.
- VI.5** Affidavit of ownership structure pursuant to paragraph IV.3 of this Contract Documentation.
- VI.6** 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.7** 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 Contract Documentation and its appendices has been set by the Contracting Entity as **22. 4. 2016, by 2:00 p.m.** In that time-period, the inquiries must be delivered to the Contracting Entity's contact person.
- VII.2** Contact person of the Contracting Entity: **Martin Sotornik**
- VII.3** Questions may only be submitted electronically, to: martin.sotornik@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 Contract who sent their contact information to the Contracting Entity.

VIII. RIGHTS OF THE CONTRACTING ENTITY AND OTHER TENDER CONDITIONS

- VIII.1** The Contracting 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 delivered to the Tenderer signed by the statutory representatives or authorised representatives of both contractual parties. Any previous acts on the part of the Contracting Entity (including the announcement of the outcome of the tender) do not constitute acceptance of the Tenderer's tender and do not bind the Contracting Entity to provide any performance. By signing the tender, the Tenderer takes that into account.
- VIII.2** The Contracting Entity is entitled to close the contract 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 contract is presumable. By signing the tender, the Tenderer agrees that Sec. 1729 of the Civil Code will not be applied for this tender and contract negotiation.
- VIII.3** The Contracting 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 contractors whose contact information the Contracting Entity has will be informed of that specification and the specification will be published for any unregistered contractors in the E-ZAK application at <https://zakazky.cah.cz/>. Hence, the Contracting Entity recommends that contractors who wish to take part in the Contract sent their e-mail address to the contact information specified in paragraph VII.3. Furthermore, the Contracting Entity recommends that all contractors, prior to submitting their tender, check the current text of the Contract 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 Contracting Entity following the specification of the Contract Documentation.
- VIII.4** Tenderers submit their tenders free of charge, and may not make any claims with respect to the Contracting 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.5** The Contracting Entity shall not return the tenders assessed, and shall keep them as documents of the course of the award procedure of the Contract.

- VIII.6** In the event of questions, the Contracting 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.7** The Contracting Entity reserves the right to eliminate a Tenderer who has or previously had problems with the performance of its obligations to the Tenderer.
- VIII.8** 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 Contracting Entity's tenders for the next 2 years.
- VIII.9** 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 Contract Documentation:

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

Mgr. Petr Baxa

Český Aeroholding, a.s.