

Framework purchase contract ref.: LS-249-23/ČJ-2016-9800KR

CONTRACTING PARTIES

BUYER:

Czech Republic – Interior Ministry

Address: Nad Stolou č. 936/3, 170 34 Prague 7
Represented by: plk. Ing Tomáš Hytch
Identification number: Director Czech Police Aviation Department
00007064
Tax ID number: CZ00007064
Bank details: Czech National Bank, branch Prague
Account number: 5504881/0710
Postal address: Czech Police Aviation Department
Vaclav Havel Airport Prague, Ruzyně, Hangar D
Post office 614, post box 35
161 01 Prague 6

(hereinafter referred to as the „**buyer**“)

And

SELLER:

AIRBUS HELICOPTERS, a S.A.S. (simplified company limited by shares) incorporated under French law, whose registered office is situated at Aéroport International Marseille-Provence, 13725 - Marignane Cedex, France, acting in the name and on behalf of

Airbus Helicopters Deutschland GmbH registered in the Commercial Register

Address: Industriestraße 4, 86609 Donauwörth, Germany
Represented by: Dietmar Strohofer
Identification number: Amtsgericht Augsburg, HRB 16508
Tax ID number: VAT reg. no DE 129273267
Bank details: Deutsche Bank AG, Munich, Germany
Account number: IBAN: DE 67 70070010 0 190235200
S.W.I.F.T.: DEUT DE MM

or

Bank details: UniCredit Bank AG, Munich, Germany
Account number: IBAN: DE 31 70020270 000 2702100
S.W.I.F.T.: HYVE DE MM

(hereinafter referred to as the „**seller**“)

Art. I
INITIAL PROVISIONS

- 1.1. As part of this purchase contract (hereinafter referred to as the "contract") all rights and obligations are performed by the buyer.
- 1.2. The buyer operates helicopters series EC 135T2+.
- 1.3. The purpose of this contract is to provide operational efficiency of helicopters series EC 135T2+ operated by buyer by ensuring a comprehensive range of services in the supply of spare parts, repairs, tools, equipment, technical publications, providing educational services and training of Czech Police Aviation Department personnel and providing technical support to ensure operation.
- 1.4. The buyer and seller declare that this agreement fully respects all the requirements arising from the tender documentation kept under the title "Supply of spare parts, repairs, modifications, upgrades and services for helicopters, light weight category helicopters EC 135", ref. LS-249-17/ČJ-2016-9800KR from 07th September 2016.

Art. II
SUBJECT MATTER OF THE CONTRACT

- 2.1. The seller hereby agrees to deliver to the buyer:
 - spare parts for helicopters type EC 135T2+,
 - overhauled parts, parts provided under a standard exchange for helicopters type EC 135T2+,
 - equipment, tools and material for maintenance of helicopters type EC 135T2+,
 - technical publications including their updates,
 - training items for helicopters type EC 135T2+.

(hereinafter referred to as "goods").

Delivery of goods will be made on the basis of mutually agreed partial orders or in accordance with the agreed specification.
- 2.2. The seller hereby agrees to provide or ensure for the buyer:
 - Repairs and/or modifications of helicopter type EC 135T2+ and its equipment
 - education and training of the buyer's personnel,
 - engineering services and technical support services for helicopters type EC 135T2+

(hereinafter referred to as "services").

Supplies of services will be provided in accordance with mutually agreed partial orders of the buyer.

This list goods and services are not exhaustive and may be extended by any party upon common agreement. The turbine engines(s) as well the MEGHAS avionic system installed in the helicopter are excluded from the present contract.

- 2.3. The buyer agrees to accept the goods and services and pay the seller the agreed price for the delivered goods and services.
- 2.4. Transfer of ownership from the seller to the buyer is subject to the prior performance of the buyer of its obligations, in particular full payment of the balance of the contract. The payment obligation will be considered fulfilled at the time the full amount is irrevocably credited to the seller's bank account mentioned in the contract.

Art. III PRICE

3.1. The total price for the subject matter of the contract according to paragraph 2.1. and 2.2. of this contract is stipulated by an agreement of the contractual parties and shall not exceed:

EUR 2,765,000.00 excl. VAT
(in words: two million seven hundred sixty five thousand Euro)

and in addition to this VAT in the amount of 21%
EUR 580,650
(in words: five hundred eighty thousand six hundred fifty Euro)

The total price for the delivery of the subject matter of the contract including VAT is:

EUR 3,345,650.00

(in words: three million three hundred forty five thousand six hundred fifty Euro)

3.2. The total price for the delivery of the subject matter is the final highest acceptable price and cannot be exceeded. The total price can only be changed in case of changes of the legal VAT rates.

3.3. Percentual surcharges or discounts according to paragraph 3.4. include all expenses connected with the delivery of the subject matter of the contract, including customs, insurance, shipping and bank charges.

3.4. Should certain goods and/or services not be listed in the seller's pricelists, the price and individual purchase conditions shall be mutually negotiated based on the demand of the buyer, an offer of the seller and will be agreed by the parties for each individual partial order separately.

3.5. The price for each individual order shall be determined in EUR.

3.6. The prices for the delivery of goods provided in the individual mutually agreed orders are fixed, unless otherwise stated therein.

3.7. Prices for repairs and overhauls shall be provided by the seller after examination of the individual items at the manufacturer, in the repair center or at the buyer.

Art. IV PAYMENT AND BILLING CONDITIONS

4.1. The payment for individual partial deliveries of the subject matter of the contract will be made by the buyer by bank transfer to the account of the seller based on an invoice issued by the seller.

4.2. The seller is entitled to invoice the purchase price upon delivery of the goods or services to the buyer. An invoice may be issued in EUR.

Seller's invoices shall include the following information:

- number of the invoice
- date of issuance of the invoice
- Invoice address (buyer's name and place of business (Ministry of the Interior of the Czech Republic, Nad Štolou 936/3, 170 34 Prague 7, the Czech Republic))
- Delivery address (recipient of goods and service's name and place of business (Czech Police Aviation Department, P.O. 614, Box 35, 161 01 Prague 6, the Czech Republic))

- quantity of the delivered goods and/or services
- description of the goods and/or services
- date of the feasible and taxable settlement
- seller's bank connections
- price of the delivered goods and/or services without VAT
- amount of VAT
- shipping cost, if any
- customs charges, if any
- total invoiced amount
- maturity of the invoice

4.3. The invoice shall be issued in 2 copies (1x original + 1x copy).

4.4. The invoice due date is always 30 days from the date of issuance of the invoice.

4.5. The payment obligation will be considered fulfilled at the time the full amount is irrevocably credited to the seller's bank account mentioned in the contract.

4.6. Before the invoice due date, the buyer is entitled to return an invoice to the seller without paying it, if it does not contain all requirements specified in clause 4.2 of this contract or an invoice that contains incorrect prices and with indicating the reason for the return. The seller is obliged to amend the invoice or issue a new one within 10 working days from receipt of the returned invoice. By rightful return of the invoice to the seller, the due date ceases to run. The new due date in the original length commences on the date of the demonstrable delivery of the amended or newly issued invoice to the buyer.

4.7. The invoice shall be deemed returned by the due date, if the buyer can prove that the invoice is sent correctly within this period, while it is not necessary to be delivered to the seller in this period.

Art. V **PLACE OF FULFILLMENT AND DELIVERY TERMS AND CONDITIONS**

5.1. Place of fulfilment of the subject matter of the contract is the address of the buyer, which is the Czech Police Aviation Department, Vaclav Havel Airport Prague, Ruzyně Airport, Hangar D, Czech Republic, or in case of services, the premises of the seller or training centre offered by him.

5.2. Deliveries ordered under this contract shall be delivered according to delivery term DDP (INCOTERMS 2010) to the address of the buyer – Vaclav Havel Airport Prague, Ruzyně Airport, Hangar D, Czech Republic.

Art. VII **RIGHTS AND OBLIGATIONS OF THE BUYER AND THE SELLER**

7.1. The seller undertakes to carry out the delivery of the subject matter of the contract in accordance with terms and conditions of the contract and the respective individual order.

7.2. Both parties agree to use their best endeavours to provide each other with all necessary cooperation to ensure the fulfilment of the purpose of the contract.

7.3. The seller shall use his best endeavours to deliver the subject matter with due diligence, to his best knowledge and skills, to observe and protect the legitimate interests of the buyer.

- 7.4. The buyer does not exclude that the seller may use other actors to ensure certain sub-tasks in delivery of the subject matter of the contract. These subjects shall not be in a business relationship with the buyer.
- 7.5. The seller agrees with publishing data related to this contract including the total contract sum. The parties agree that no price details of individual orders or price lists shall be made public. The seller further does not agree publishing contract data of those contract parts which are objectively a trade secret, as well those parts of the contract which are considered as a trade secret by the seller.

The parts of the contract not to be disclosed are the following:

- Art. 3.4 Pricing details
- Art. 4.8. Downpayment
- Art. VI ORDERING AND DELIVERING GOODS OR SERVICES
- Art. VIII WARRANTIES
- Art. IX CONTRACTUAL PENALTIES AND LIQUIDATED DAMAGES
- Art. XIII LAW, WITHDRAWAL FROM CONTRACT AND RESOLVING DISAGREEMENTS

Art. X – OBSOLESCENCE

- 10.1. For the purposes of this article, "obsolete" or "obsolescence" in relation to a component or equipment means a component or equipment:
 - that is no longer available for purchase, or is no longer in production, and another component or equipment cannot be substituted for that component or equipment; or
 - that may not be repaired or modified because the parts or items needed for repair/modification of that component or equipment are no longer available.
- 10.2. The seller cannot be deemed responsible neither for any component or equipment declared obsolete nor for any incurred consequences.
- 10.3. In case of obsolescence both parties will agree on the mitigation plan to be implemented, including component/equipment change or component/equipment redesign or component/equipment last-time buy.
- 10.4. In any case, all the costs and consequences will be borne by the buyer. The buyer shall have two (2) months for deciding whether the mitigation plan is acceptable, from the date the plan is proposed by the seller. Shorter purchaser decision can be requested, if a specific obsolescence resolution issue such as a last-buy-order date can be justified

Art. XI LIABILITY

- 11.1 In the event of intent or gross negligence of the seller or its representatives or any person used to perform an obligation on behalf of the seller, the seller shall be liable according to statutory regulations. This shall also be the case for a breach of essential contractual obligations. In case of a breach of other contractual obligations, the seller's liability shall be limited to foreseeable, typically occurring damages.
- 11.2 The foregoing shall be the seller's sole liability, further liability shall be excluded.
- 11.3 The statutory liability of the seller for injury to life, body or health shall remain unaffected by the foregoing limitations.

Art. XII **FORCE MAJEURE**

12.1. The seller and the buyer shall not be held responsible for breach of contract (excluding however payment obligations) or extension of deadlines caused by events that occurred independently of their will and prevent them in fulfilling their obligations, in the event that it cannot be reasonably assumed that the event or its consequences could be avoided or overcome, and further, that the event was unpredictable at the time of commitment. The contracting parties consider the following obstacles as circumstances excluding liability:

- acts of God, war, insurrection, epidemics, sabotage, labour disputes, strikes, lock-outs, shortages of labour, interruption or delays in transportation, fire, explosion, equipment or machinery breakdown, failure or delays of the seller's sources of supply, shortage in material or energy, or
- acts, orders or priorities resulting from any government action, national or international authorities, or
- the occurrence of an obstacle mentioned above with any supplier or subcontractor of the seller (or lower level subcontractor or supplier), or
- if any supplier or subcontractor of the seller (or lower level subcontractor or supplier) is faced with a bankruptcy or insolvency event, or
- any other case beyond the reasonable control of the seller.

12.2. If the above occurs, the contracting parties undertake to immediately inform each other of this.

12.3. There is no obligation to pay a penalty in cases excluding liability.

Art. XIV **CONFIDENTIALITY**

14.1. The buyer recognizes the confidential and proprietary nature of the documentation and information provided to it relating to goods and/or services. Unless otherwise previously agreed in writing, the buyer shall not copy or divulge any information directly or indirectly provided during or after the performance of the contract.

14.2. In case of breach of confidentiality, the seller shall be entitled to claim compensation from and against the buyer.

Art. XV **TAXES & DUTIES, EXPORT AND IMPORT LICENCES**

15.1. All goods, including but not limited to item(s)/commodity(ies) (goods/hardware, software and technology(ies)) and/or services may be subject to export laws and regulations as well as national, foreign and international regulations, and the parties acknowledge that violations to such laws and regulations are prohibited.

15.2. The seller will perform all necessary and appropriate procedures for requesting any official authorizations (such as export licenses) needed for the performance of the seller's obligations under the contract. The buyer agrees to provide reasonable assistance or documentation or certificate(s) requested by the seller to obtain the necessary authorizations and/or to ensure compliance with the applicable laws and regulations.

- 15.3. The seller shall not be liable towards the buyer in case such authorizations are not granted or are granted with delay or if an authorization that has been granted is revoked or not renewed. Such event shall be considered as a force majeure case as per paragraph XI. here above.
- 15.4. The buyer shall obtain in due time any import license/authorization demanded in its country for the goods and/or services covered in the contract. The seller agrees to provide, upon buyer's request, reasonable assistance and any documentation for obtaining the import licenses and/or to ensure compliance with the applicable laws and regulations.
- 15.5. Export licences/authorizations are provided for a specific end-use/end-user and/or with specific provisions and/or conditions. The buyer undertakes to abide by the content of governmental licences/authorizations and to warrant and represent certificates signed in the context of application procedures. Any change in the end-use/end-user of the corresponding items/commodities and/or services requires the prior authorization of the government that has issued the said export licences/authorizations. The buyer shall therefore notify the seller prior to any transfer of control, possession, registration, title, ownership, etc. of items/commodities and/or services to any third party in order to allow the seller to assess the necessary actions to be taken and procedures to be applied and shall follow the instructions given by the respective authority.
- 15.6. The parties also agree not to re-export any technical information or technology that may be exported under this contract without first obtaining the other parties' approval and, when necessary, governmental approval from the relevant authorities.
- 15.7. Irrespective of the applicable Incoterm, if goods and/or services are exported directly to a country outside the European Union, the seller will take over the responsibility to provide appropriate export customs documentation to the buyer or its designated freight forwarder. The buyer guarantees correct closure of the respective customs procedure in due time on leaving the European Union or the country of dispatch. In case of non-compliance, the buyer shall be liable for any additional costs and charges imposed on the seller by national tax administration.
- 15.8. In case of transportation by the seller of goods by ferry-flight, the buyer will have to provide additional documentation to the seller to prove exportation for value added tax purposes. The seller will inform the buyer about the required documentation in due time before the delivery date.
- 15.9. Prices are exclusive of taxes, duties and/or charges resulting from administrative and legislative regulations in force in any country other than the seller's country and of any customs and duty charges, which shall be borne by the customer.
- 15.10. Prices are exclusive of "Value Added Tax" (VAT) or sale taxes or turnover taxes or similar taxes. If applicable, such taxes will be applied additionally.

Art. XVI **INTELLECTUAL PROPERTY**

- 16.1. The seller retains all rights in respect of developments, inventions, know-how, production procedures and any intellectual property rights relating to the goods and/or services.
- 16.2. Nothing in the contract shall be construed as a legal transfer of or license to (other than indicated herein below), any patent, utility or design model, copyright, trademark, know-how or other intellectual property right.
- 16.3. Copying, reproducing, communicating and/or transmitting to a third party seller's goods and/or services, either wholly or partially, without the seller's express approval is strictly forbidden.
- 16.4. The seller grants the customer a non-exclusive, non-transferable license to use the executable form of the software on the related goods, if any, for the purposes of operating the

helicopters of the series EC 135T2+. This license does not entitle the customer to receive updates of such software.

Art. XVII **FINAL PROVISIONS**

- 17.1. The buyer shall not be entitled, without the prior written consent of the seller, to assign or transfer to a third party all or part of the rights and obligations under this contract.
- 17.2. In the event that one (1) or more of the articles provided for in this contract is deemed invalid or unenforceable, the remaining provisions shall remain entirely valid and applicable.
- 17.3. The contract takes effect and comes into force upon (i) signature of this contract by representatives of both contracting parties and (ii) expiry of presently still valid contract PPR - 21874-48/CJ-2013-990656 dated 31.07.2014. Should expiry of the still valid contract (due to the agreed financial volume being reached) not occur until 31st December 2016, then present signed contract will nevertheless take effect and come into force on 01st January 2017. If the agreed financial volume is reached prior to the 31st December 2016, the buyer shall inform the seller without delay when this is the case.
- 17.4. The contract is concluded for a period of four (4) years and expires when reaching the agreed financial volume of EUR 2,765,000.00 excl. VAT.
- 17.5. This contract is executed in two (2) languages (English, Czech) always in four (4) original copies, of which the buyer receives three (3) copies and Seller one (1) copy. The governing language and text of this Contract shall be English. The translation of the English master version into Czech language is the duty of the buyer.
- 17.6. In case of any contradictions and/or discrepancies between the individual order and this contract, the individual order shall prevail.
- 17.7. Any changes or additions to the contract can be done solely in written form as numerically labelled amendments to the contract agreed by both parties.
- 17.8. Both contractual parties declare that they conclude this contract freely and seriously, that they consider the content of this contract clear and understandable and that they are aware of all facts that are decisive for concluding this contract, as a verification of which they affix their signatures below.

On behalf of the buyer

In Prague on 05.10.2016

.....
plk. Ing Tomáš Hytých

Director
Czech Police Aviation Department

On behalf of the seller

In Prague on 05.10.2016

.....
Dietmar Strohofer

Sales Manager Central Europe
Airbus Helicopters Deutschland GmbH
represented by AIRBUS HELICOPTERS