

Annex II- 1.1 DRAFT AGREEMENT

**INSTRUCTIONS FOR THE CANDIDATE:** This document and its annexes are **only for your information to assess the procurements preliminary contents**. At this stage, only **request to participate** is asked to be submitted to the contracting authority. See further clarification in the invitation to participate. This document is a draft, and it may be modified during the negotiation process.

**1. PARTIES**

“Customer”

Finnish Aviation Academy Ltd (Business ID 1728925-0)  
Ilmailuopistontie 221  
FI-28540 Pori  
(hereinafter referred to as "FINAA" or "Customer")

“Supplier”

Name  
address

[If the Supplier is a consortium, all parties to the consortium shall be jointly and severally liable for the obligations under this Agreement. Every party of consortium signs this agreement.]

1.1. Contact persons for the Agreement:

- Customer: name, number and email address of the contact person
- Supplier: contact name, number and email address

1.2. Contact persons have no right to amend the Agreement.

**2. DEFINITIONS**

2.1. [to be added later]

**3. PURPOSE OF THE AGREEMENT**

- 3.1. The Agreement is based on a public procurement launched by the Customer (The Call for Tenders published on [date]2024). Procurement is performed in accordance with the Finnish Act on Public Procurement and Concession Contracts (1397/2016, hereinafter “Finnish Procurement Act”).
- 3.2. Based on this agreement, the Client shall procure Aircraft from the Supplier.
- 3.3. The Supplier undertakes to deliver to the Customer minimum of 9 but maximum of 10 units of Aircraft that meet the requirements of the Agreement and its Annexes under the terms of this agreement.
- 3.4. The Agreement shall be valid as agreed in Section 5 below.

#### 4. TERMS OF DELIVERY

- 4.1. The Aircraft will be delivered to the hangars of the Finnish Aviation Academy at Pori Airport at the Supplier's expense. All Aircraft ordered will be delivered by xx.xx.2026 [Delivery Time will be filled here as the Supplier has offered in the Tender].
- 4.2. Terms of delivery DDP (Delivery Duty Paid) Incoterms 2020.

#### 5. DURATION OF THE AGREEMENT

- 5.1. The Agreement shall remain in force until the Customer has acquired the maximum number of Aircraft to be procured and the parties have fulfilled their obligations under the Agreement.

#### 6. SUBCONTRACTORS

- 6.1. The Supplier has overall responsibility for fulfilling the obligations under this Agreement towards the Customer, regardless of whether the uses subcontractors or not.
- 6.2. The Parties shall be responsible for ensuring that their subcontractors follow the obligations set for the Parties.
- 6.3. Upon a request from the Customer, the Supplier must provide an account of the subcontractors it uses.
- 6.4. The Supplier must obtain the Customer's prior written consent before replacing or removing any subcontractor whose resources were relied upon to meet the candidate suitability requirements.

#### 7. PRICES AND PAYMENT

- 7.1. Prices are in Annex 4 Prices. The prices are in euro and exclusive of VAT.
- 7.2. The Prices in Annex 4 Prices cover all costs and expenses incurred by the Supplier under this Agreement and the Customer shall have no obligation to pay any other fees to the Supplier unless expressly agreed otherwise in this Agreement.
- 7.3. The Customer will pay for the Aircraft as follows:
  - Upon ordering: x % of the total order value (the "Advance Payment").
  - After acceptance of delivery: the remaining balance.
- 7.4. Before paying for the Advance Payment, the Supplier shall post a demand guarantee ("Guarantee") approved by the Customer that exceeds the Advance Payment by at least 15 per cent. The Guarantee should be valid for a minimum of one month following the accepted delivery of the Aircraft. Should there be a delay in delivery, the Supplier is required to extend the validity of the Guarantee.
- 7.5. A bank deposit made in the Customer's name, or an absolute suretyship granted by a sound financial or insurance institution or other security acceptable to the Customer shall primarily be accepted as Guarantee.
- 7.6. The Supplier will bear all costs associated with the Guarantee.

- 7.7. The Customer has the right to withhold from an unpaid sum any costs arising from any delay penalty under the Agreement, or any other contractual penalty and interest accumulated for the Advance Payment in case of a delay or termination.

## **8. HANDOVER AND TRANSFER OF LIABILITY FOR RISK**

- 8.1. The Risk Liability shall transfer from the Supplier to the Customer when the Aircraft complying with the requirements has been handed over to the Customer. The Supplier will hand over the Aircraft to the Customer as specified above in Section 4.
- 8.2. After the handover the Customer is responsible at its own cost for obtaining and maintaining any governmental and other licences, approvals, consents, certificates, exemptions, registrations and filings necessary for the ownership, leasing or registration of the Aircraft.

## **9. INSPECTION PRIOR TO HANDOVER, ACCEPTANCE INSPECTION AND ACCEPTANCE OF DELIVERY**

- 9.1. An inspection is required before the aircraft can be handed over. The Customer is entitled to inspect the Aircraft before it is handed over. The Customer reserves the right to refuse acceptance of the Aircraft prior to handover if there are substantial defects in its delivery.
- 9.2. The customer performs an acceptance inspection within 7 days after the aircraft is handed over. During the acceptance inspection, the Customer ensures that the Aircraft comply with what has been agreed in the Agreement.
- 9.3. The Aircraft must meet the requirement set in the Annex 2 "Requirements". The Supplier is required to promptly rectify any defects identified during the acceptance inspection at its own cost.
- 9.4. The Supplier and Customer must cooperate to facilitate acceptance inspections. Each Party covers their own inspection-related costs.
- 9.5. The delivery shall be deemed accepted when the Customer either notifies in writing the Supplier of the acceptance or if 10 days have passed since the handover of the Aircraft without the Customer having complained to the Supplier about the defects found during the acceptance inspection.

## **10. DELAY AND DELAY PENALTIES**

- 10.1. If a Party realises that a delivery will be delayed or it will not be able to perform its contractual obligations on time or considers a delay probable, the delaying Party must immediately and in writing notify the other Party of the delay and its impact on the fulfilment of the Agreement. In the event of delay on the Supplier's part, the Supplier shall give the Customer a new delivery time as soon as possible.
- 10.2. The Supplier shall pay a penalty for delay of 1% for each starting 7-day period. The penalty for delay shall be calculated separately for each Aircraft that has not been delivered and handed over.

## **11. WARRANTY**

- 11.1. The warranty period is [•] months. The warranty period is calculated from the day the Customer accepts the delivery.

- 11.2. The warranty covers all defects detected during the warranty period. The warranty does not cover any defects that arise from the Aircraft being used contrary to the operating instructions or otherwise incorrectly.
- 11.3. If a defect appears in the Aircraft during the warranty period and there is justified reason to assume that the same defect will also appear in other Aircraft (typical defect), the Supplier is obliged to remedy this defect in all Aircraft that have been and will be delivered.
- 11.4. The Supplier is responsible for costs relating to the repairs under warranty as well as for all expenses arising from the possible delivery and return of the Aircraft for repair under warranty.

## 12. DEFECT

- 12.1. The defectiveness of Aircraft is assessed based on the properties of the Aircraft at the time when the liability for risk is transferred to the Customer. The Supplier is responsible for any defect that was present in the Aircraft at this time, even if the defect is not detected until later.

## 13. FORCE MAJEURE

- 13.1. A force majeure event is an unusual and relevant event that occurs after the signing of the Agreement and prevents the fulfilment of the Agreement and that the Parties had no reason to consider when signing the Agreement and which is beyond the control of the Parties and whose consequences cannot be prevented without unreasonable additional cost or waste of time. Such events include war, rebellion, internal unrest, expropriation or confiscation for public needs, import or export ban, natural catastrophe, interruption of public transport or energy distribution, strike or other industrial action, fire or other corresponding event of unusual and significant impact beyond the control of the Parties.
- 13.2. If the fulfilment of a contractual obligation is delayed due to a force majeure event, the deadline for meeting the contractual obligation will be extended for as long as is reasonable considering all the circumstances influencing the case.
- 13.3. Each Party shall notify the other Party immediately about the start and end of a force majeure event, and the Parties will agree on its impact on the delivery at the latest at this point in time.

## 14. RIGHTS TO MATERIAL AND DATA

- 14.1. Intellectual property rights to the Aircraft or related materials will not be transferred to the Customer, with the exception of the right of ownership to the Aircraft or related materials. All materials that the Customer and Supplier hand over to one another before or after the signing of the Agreement will remain the property of the assignor.
- 14.2. The Customer will, however, have an irrevocable right to use the materials transferred to it by the Supplier if the materials will be used for a purpose related to the use of the Aircraft. The right of use includes the right to use, copy and make or commission modifications of the materials. When making or commissioning modifications of the materials handed over by the Supplier, the Customer shall ensure that none of the Supplier's business or trade secrets are disclosed. The Customer has the right to transfer the materials to a party to whom the Customer's tasks are transferred or the Aircraft is handed over, with equal rights and obligations.

- 14.3. The Supplier is responsible for ensuring that the Aircraft or related materials provided by it will not, when used in accordance with the Agreement, violate a third party's patent, copyright or other intellectual property rights.
- 14.4. If any claims are presented against the Customer based on intellectual property rights relating to use of the Aircraft or related materials, the Supplier is obliged to meet these claims on the Customer's behalf at its own expense. The Supplier is obligated to ensure that no legal costs, damages, other compensations payable to a third party or other liabilities towards a third party are incurred by the Customer through claims or obligations arising from intellectual property rights relating to the Aircraft or related materials.

## 15. DATA PROTECTION AND DATA SECURITY REQUIREMENTS

- 15.1. [conditions are added to the agreement if the Customer's personal data is processed in connection with the fulfilment of contractual obligations]

## 16. LIABILITY AND ITS LIMITATION

- 16.1. The Parties shall have the right to receive compensation for any direct damage caused by the breach of Agreement by the other Party.
- 16.2. The Customer shall not be responsible for any indirect, incidental, special, punitive or consequential damages such as loss of revenues or profits arising from or relating to the Agreement.
- 16.3. In the case of Customer's failure to pay any fees due under the Agreement, the Customer's liability is limited to the due fees and interest on overdue payments pursuant to the currently valid Interest Act.

## 17. ENVIRONMENTAL ISSUES AND RESPONSIBILITY

- 17.1. During the contract period, the Supplier shall seek to improve the energy efficiency and environmental friendliness of its Aircraft that are included within the scope of the Agreement.
- 17.2. Code of Conduct - Minimum responsibility requirements
  - 17.2.1. The Supplier shall actively ensure that the Aircraft within the scope of this Agreement are manufactured in conditions that comply with the minimum responsibility requirements set out in Annex II-1.1.6 "Code of Conduct". It is the Supplier's responsibility to supervise the supply chain and take necessary actions to ensure that the minimum responsibility requirements are complied with both in its own operations and in the supply chain of the Aircraft and services within the scope of the Agreement.
  - 17.2.2. In addition, the Supplier shall see to it that any work carried out in Finland under this Agreement complies, at the minimum, with the minimum terms and conditions of employment that, pursuant to Finnish law and collective agreement provisions, must be complied with in similar work.
- 17.3. Actions and policies

- 17.3.1. The Supplier shall, at the latest at the beginning of the Agreement after signing the Agreement or at a later date explicitly agreed with the Supplier, carry out the following actions; for clarity's sake, it shall be noted that the policies and procedures referred to below may be prepared in the language of the Supplier's choice (e.g. English):
- The Supplier shall prepare, approve and publish a responsibility policy approved by its management, including a commitment to comply with the minimum requirements set out in "Code of Conduct" above or other minimum responsibility requirements with equivalent content;
  - The Supplier shall communicate the above requirements to its supply chain, with which the Supplier has a contractual relationship;
  - The Supplier shall appoint a management-level person who is responsible for supervising the compliance with the minimum responsibility requirements;
  - The Supplier shall have a procedure for regular risk assessments. The risk assessment shall encompass the identification and prioritisation of existing and potential risks related to deviating from the minimum responsibility requirements referred to above as well as the identification of the supply chain elements entailing a higher risk of deviation;
  - The Supplier shall have a procedure that the Supplier follows to continuously monitor the compatibility of its operations with the minimum responsibility requirements;
  - The Supplier shall have a procedure to prevent deficiencies in and deviations from the minimum responsibility requirements and reduce and eliminate their adverse effects without delay, by rectifying the deficiency or deviation in question, for example.
- 17.4. The above actions shall be documented and must be continuously complied with. The procedures shall be complied with in the Supplier's own operations and in the entire supply chain.
- 17.5. The Supplier shall assist the Client in the Agreement's responsibility monitoring by, among other things, providing the Client with reports and analyses on how the Supplier has met its requirements set out in "Code of Conduct" and "Actions and policies" above. The report or the analysis shall be delivered to the Client within two (2) months of the Agreement's entry into force and after that upon request, within six (6) weeks of the request.
- 17.6. Reviews and monitoring
- 17.6.1. The Client shall have the right to review the Supplier's operations to ensure that the Supplier and its subcontractors comply with their requirements set out in "Code of Conduct" and "Actions and policies" above. The review can be conducted with the self-assessment form, as a review by the Client or as an audit.
- 17.6.2. The Supplier shall fill in and return the self-assessment form separately provided by the Client as well as any clarifications required therein to the Client within two (2) weeks of the Client's request. The Client may also request the Supplier to provide other written clarifications about the fulfilment of the requirements. The Client reserves the right to update the self-assessment form during the Duration of the Agreement.
- 17.6.3. The review and audit right shall entail the rights to access the necessary facilities and receive the necessary information and documents from the Supplier.

- 17.6.4. The Client may have the audit made by an independent third party. The Supplier shall have the obligation to offer the auditor the necessary workspace and to provide necessary information for conducting the review and the audit. The aim is to conduct the reviews and the audit so that they do not cause unreasonable inconvenience to the Supplier.
- 17.6.5. The Client shall express its intention to conduct a review and an audit at the latest thirty (30) days before the proposed review date. The Supplier may propose another date for the review. However, the new date may not be later than ten (10) days after the date proposed by the Client.
- 17.6.6. If the Aircraft are manufactured or the Services supplied by a supply chain company other than the Supplier's subcontractor, the Supplier shall contribute, as far as possible, to enabling the Client to review or audit the operations of the manufacturing facility of such a supply chain company.
- 17.7. Sanctions for violating the Code of Conduct and neglecting actions
- 17.7.1. If the Supplier violates its minimum responsibility requirements referred to in "Code of Conduct" above or neglects the actions agreed on in "Actions and policies" or "Reviews and monitoring", the Client shall have the right to the following actions due to the violation:
- **Corrective actions:** The Client shall have the right to request, in writing, the Supplier to submit, within a four (4)-week deadline or within another deadline defined by the Client, for the Client's approval a plan and a schedule for the Supplier's corrective actions to ensure the compliance with the Supplier's requirements. The proposed actions and schedule shall be in proportion to the violation and the plan shall clearly indicate how the Supplier will concretely rectify the violation within the provided schedule.
  - **Compensation payments:** If the Supplier does not commit to the approved plan and schedule referred to above, does not submit them, does not conduct the actions agreed on in the plan by the deadline or does not participate in a self-assessment or an audit in compliance with this contract, the Supplier pays a delay penalty of thousand (1,000) euros per each starting seven (7)-day delay period, however no more than 15,000 euros in total.
  - **Termination:** The Client shall have the right to terminate the Agreement with immediate effect or within another deadline indicated by the Client if the "Code of Conduct" have been violated and the Supplier does not carry out the corrective actions referred to above and the maximum compensation amount referred to above has been reached.

## 18. CONFIDENTIALITY AND PUBLICITY

- 18.1. The Parties shall keep secret all material and information obtained from each other which is marked as confidential or otherwise deemed to be confidential or to contain business secrets and will not use the material or information for purposes other than the purposes of the Agreement.
- 18.2. The Parties must ensure that their employees and subcontractors adhere to this provision.

- 18.3. The confidentiality obligations of the Agreement do not apply to information which is generally available or public, or which a party has lawfully obtained from a source other than the other party, or which is required to be disclosed by order of a court of competent jurisdiction.
- 18.4. Upon termination of the Agreement, the Parties shall return or, with the consent of the other Party, destroy all confidential material and information of the other Party. No material may be destroyed if the law or an order of an authority requires that it be archived.
- 18.5. The obligations laid down in this Section will remain in force after the Agreement period.

## 19. AMENDMENT OF THE AGREEMENT

- 19.1. This Agreement may only be amended in writing. The entry into force of the amendment requires the signature of both Parties.
- 19.2. Without the Customer's consent, the Supplier does not have the right to assign the Agreement to a third party, even in part. The Customer has the right to assign the Agreement to a third party to whom the Customer's duties are transferred in full or in part.
- 19.3. All amendments to the Agreement shall be made in writing. Amendments made in electronic format shall also be deemed amendments in writing.

## 20. TERMINATION OF THE AGREEMENT UNDER SPECIAL CIRCUMSTANCES

- 20.1. The Customer has the right to terminate the Agreement with immediate effect if the Supplier is burdened by a mandatory criteria for exclusion referred to in legislation on public contracts or a discretionary criterion for exclusion referred to in section 81, subsection 1, paragraphs 3–11 of the Act on Public Procurement and Concession Contracts (1397/2016) or a sanction of asset freeze imposed by the European Union (EU) or the United Nations (UN) or the Finnish authorities, even if the criterion has arisen or the sanction has been imposed after the beginning of the contractual relation.
- 20.2. The customer has the right to give notice of terminating the Agreement with immediate effect if the Supplier's financial or other circumstances are perceived to have changed materially so that it cannot be assumed that the Supplier can meet its contractual obligations, and the Supplier gives no reliable explanation about the fulfilment of its obligations. The termination shall be made within a reasonable time of the Customer having been informed about the existence of the grounds for termination.
- 20.3. Before giving notice of termination, the Customer shall notify the Supplier about the impending termination and give the Supplier an opportunity to submit an explanation within a reasonable period of time.
- 20.4. The Customer has the right to terminate the Agreement in part or in whole with immediate effect if a material change has been made to the Agreement which, based on the legislation on public contracts, would have required a new procurement process.
- 20.5. If the Customer terminates the contract by virtue of Clauses in Section 20 above, the Supplier has the right to receive full payment for the Aircraft delivered before the Agreement termination date but the Supplier does not have the right to receive any other compensation for the termination of the Agreement.

## 21. APPLICABLE LAW AND DISPUTE RESOLUTION

- 21.1. The procurement contract is governed by Finnish law. However, the connecting factor rules of Finnish law or the United Nations Convention on Contracts for the International Sale of Goods (CISG) do not apply to the procurement contract.
- 21.2. All issues relating to the Agreement shall be primarily resolved through negotiations between the Parties.
- 21.3. If a dispute cannot be resolved through negotiation, disputes arising out of and related to the Agreement shall be finally settled by arbitration by a single arbitrator in accordance with the rules of the Arbitration Committee of the Finland Chamber of Commerce. The arbitral tribunal shall meet in Helsinki and the language of proceedings shall be Finnish.

## 22. ANNEXES AND ORDER OF APPLICATION

- 22.1. The Agreement and its documents complement each other. Should there be any conflict between the Agreement documents, they shall be applied in the following order of validity (lower number is primary):
  1. This agreement
  2. Procurement Description
  3. Requirements
  4. Prices
  5. Code of conduct

## 23. CONTRACT COPIES

- 23.1. There are two (2) copies of this Agreement of the same content, one (1) for each of the Parties. This Agreement may be signed electronically.

In Pori dd.mm.2025

Finnish Aviation Academy

Supplier

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