

UAB00-77/12
21 JUN 2019

As per Article 63 of the Public Procurement Law ("Official Gazette of the Republic of Serbia" no 124/2012, 14/2015 and 68/2015), the Public Procurement Committee prepares:

AMENDMENT TO THE TENDER DOCUMENTS PP 123/U/19

Amendment to the Tender Documents for Public Procurement no PP 123/U/19 – Provision of support and maintenance service of the TopSky-ATC system is submitted to all interested parties

In Chapter II of the Tender documents - TECHNICAL SPECIFICATION for PROVISION OF SUPPORT AND MAINTENANCE SERVICE OF THE TopSky-ATC SYSTEM, the content is being changed in the following way:

- I. In point **1. The Scope of Support and Maintenance Service**, first paragraph is amended as follows:

„This Support and Maintenance Service covers the support services to be performed by Contractor for TopSky-ATC Systems (all platforms: ONL (BEOL (new), PGOL (new), BTOL, KROL, NIOL, TVOL), BET1, BET2, BETR (old) and BETR (new)) for a period of three (3) years.”

This amendment refers to Serbian and English version of the Tender documents.

- II. In point **8. Software support services**, requirement SMS42 is deleted, and ordinal numbers of the requests from SMS43-SMS57 are decreased by 1 accordingly. This amendment refers only to Serbian version of the Tender documents.

- III. In point **10. Maintenance of the Third party licenses and software parts**, requirement SMS45 is amended, in point 1. BEST Licenses and software, sub-point 1 is being changed in the following way:

„Maintenance of 12 BEST licenses and maintenance of BEST software for 8 BEST pseudo pilots and 4 OLDI partners on BETR system provided in accordance with Contract FAM.00 no. 67/61 dated 23rd of April 2010,”

This amendment refers only to English version of the Tender documents.

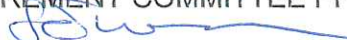
All remaining parts of the Tender Documents remain unchanged.

New version of the Tender Documents with all amendments is provided in attachment.

When preparing their bids, the Bidders shall take into consideration and apply all amendments to the Tender Documents and shall submit their bids on new amended Forms.

This amendment to the Tender Documents shall be posted on Public Procurement Portal and on the website of the Contracting authority in accordance with Article 63 of the Public Procurement Law

PUBLIC PROCUREMENT COMMITTEE PP 123/U/19



SERBIA AND MONTENEGRO AIR TRAFFIC SERVICES SMATSA LLC
Nikole Pašića Square No. 10, 11000 Belgrade, Republic of Serbia

Registered number:

NAB.00 77/72 dated
21/06/2019



TENDER DOCUMENTS

for submitting bid in a negotiated procedure without invitation to bid for

**PROVISION OF SUPPORT AND MAINTENANCE SERVICE OF THE TopSky-ATC
SYSTEM**

(Public Procurement 123/U/19)

BID SUBMISSION DEADLINE:	04/07/2019 at 9:30 AM (CET)
BID OPENING:	04/07/2019 at 9:45 AM (CET)
NEGOTIATIONS COMMENCEMENT:	04/07/2019 at 11:00 AM (CET)

Total number of pages: 52

Pursuant to Articles 36 para.1 point 2), 61 of the Public Procurement Law (“Official gazette of Republic of Serbia”, No. 124/12, 14/15 and 68/15) and Article 5 of Decree on the mandatory elements of the tender documents in public procurement, and the manner of proving eligibility Law (“Official gazette of Republic of Serbia”, No. 86/15) and based on the positive opinion of the Public Procurement Office no. 404-02-2238/19 dated 21/05/2018, the Decision on Initiating Public Procurement Procedure PP 123/U/19 no. NAB.00 77/60 dated 05/06/2019 and the Decision on Establishing the Public Procurement Committee PP 123/U/19 no. NAB.00 77/61 dated 05/06/2019 the following has been compiled:

TENDER DOCUMENTS
in a negotiated procedure without invitation to bid for the public procurement–
PROVISION OF SUPPORT AND MAINTENANCE SERVICE OF THE TopSky-ATC
SYSTEM - PP 123/U/19

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I GENERAL INFORMATION ON THE PUBLIC PROCUREMENT

CONTRACTING AUTHORITY'S BASIC DATA

Name of contracting authority:	Serbia and Montenegro Air Traffic Services SMATSA LLC
Address:	Nikole Pašića Square No. 10, 11000 Belgrade, Republic of Serbia
Web page:	www.smatsa.rs
Type of negotiated procedure:	Negotiated procedure without invitation to bid
Justification for using negotiated procedure:	<p>As the manufacturer of the basic data processing system for provision of the air traffic services – TopSky ATC system with all relevant upgrades of the system and the holder of exclusive rights to use the software source code of these systems, only Thales LAS FRANCE SAS is qualified and has rights to perform all functional, operational and technical testing and to hardware and software failures i.e. it is the only company that can provide the support and maintenance service requested by the Contracting authority.</p> <p>Thales LAS FRANCE SAS has submitted the statement No. AMI.00 77/14 dated 12/02/2019 confirming that he owns the exclusive rights for this procurement and that he does not have authorized representatives in the Republic of Serbia.</p> <p>The Contracting Authority obtained the Public Procurement Office's positive opinion no. 404-02-2238/19 dated 21/05/2019, from, whereby the preconditions for execution of a negotiated procedure without invitation to submit a bid, had been met</p>
Type of procurement by sort:	Services
Type of contract:	<input checked="" type="checkbox"/> Public procurement contract <input type="checkbox"/> Framework agreement
Reserved public procurement:	yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
Electronic auction:	yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
Contact person:	tender@smatsa.rs When submitting question via email it is mandatory to state in email Subject: Clarification of tender documents for PP 123/U/19

INFORMATION ON THE PUBLIC PROCUREMENT SUBJECT MATTER

Description of the public procurement subject matter:	<p>Provision of support and maintenance service of the TopSky-ATC system</p> <p>Detailed description of requested services has been provided in the Description of Services – Section II</p>
Name and code from the Common Procurement Vocabulary:	72267000 – Software maintenance and repair services.

II TECHNICAL SPECIFICATION

PROVISION OF SUPPORT AND MAINTENANCE SERVICE OF THE TopSky-ATC SYSTEM IN THE THREE-YEAR PERIOD

1. The Scope of Support and Maintenance Service

This Support and Maintenance Service covers the support services to be performed by Contractor for TopSky-ATC Systems (all platforms: ONL (BEOL (new), PGOL (new), BTOL, KROL, NIOL, TVOL), BET1, BET2, BETR (old) and BETR (new)) for a period of three (3) years.

2. Terms and Definitions

SMS1. The meaning of the following terms used in this specification shall be as defined hereunder:

- Shall - Indicates an obligatory requirement.
- Will - Indicates intention on behalf of SMATSA Ilc
- Should - Indicates preferred requirement.
- May – Indicates possibility or proposal

3. Applicable baseline documents and software

SMS2. Functional Baseline documents shall be the latest versions approved by SMATSA:

- System Segment Specification (SSS),
- Controller Operator Handbook (CP-OH),
- Data Preparation Handbook (OH-DPR),
- Interface Control Documents (ICDs),
- System Segment Design Document (SSDD).

SMS3. Baseline software version **shall** be the operational software version of TopSky-ATC Systems at the date of signature of the Contract.

SMS4. Hardware baseline document **shall** be the latest Hardware Design Document (HDD) approved by SMATSA.

4. General requirements

SMS5. Contractor **shall** perform diagnosis and repair of any defect or equipment failure, reported by SMATSA Ilc.

SMS6. Contractor **shall** provide software and hardware support in accordance with the categorization of severity of failure within the time limits defined by the contract.

SMS7. **Contractor shall** deliver at least two (2) “major” software releases per year including appropriate documentation stated in the technical specification (chapter 13) for each Major Software release. The delivery date of these major software releases shall be mutually agreed between Contractor and SMATSA Ilc, at least six

(6) months before the date of the delivery. The list of PCR's included in a major software release shall be defined and agreed at least three (3) months before the delivery date thereof.

- SMS8. In addition to the major software releases, SMATSA Llc may request the delivery of "minor" software releases for s1 and s2 PCR's only. The delivery date of such minor software releases shall be agreed between SMATSA Llc and Contractor. If technically possible, a patch may be delivered in order to shorten the correction cycle.
- SMS9. Contractor **shall** update the database with all the failures, which enables quicker response in case of new failure. SMATSA representatives shall have access to the hardware database managed by Contractor.
- SMS10. The contractor **shall** provide the answer for any SMATSA Llc implementation requirements for new system functionality which are implemented by any other contract and providing description of the impact to the existing functionalities.

5. Factory rigs

- SMS11. Contractor **shall** maintain a dedicated platform in its factory, to support the development, integration, validation, and other activities under the Contract.
- SMS12. If necessary Contractor **shall** reconfigure or **shall** extend the hardware platform in the factory.

6. Project management

- SMS13. The support services **shall** be provided by a Contractor's Project Team consisting of a designated Contractor Project Manager, assisted by a team of engineers. Contractor reserves the right to replace the personnel should this prove necessary and shall inform SMATSA in advance of any intended replacements or change in the project team organisation. Replacement of personnel shall be subject to agreement between Contractor and SMATSA on Contractor and/or Smatsa request. Any change shall be announced/requested at least 8 weeks in advance.
- SMS14. All correspondence between SMATSA and Contractor **shall** be exchanged through the Project Managers.
- SMS15. SMATSA's technical and operational needs for support **shall be** summarized through two (2) progress meetings per year and the regular exchanges of IRF and PCR status tables (at least one exchange shall be conducted in period of three months).
- SMS16. Contractor shall provide support services at the factory (telephone and email assistance) every working day of the year, except for national holidays and Contractor holidays. Periods of Contractor holidays will be communicated to SMATSA before the beginning of each new civilian year. Contractor shall provide the names of persons who will be available for assistance.
- SMS17. During summer season (from 1st of June until 30th September) on Saturdays and Sundays from 7:30 LT until 18:30 LT Contractor experts shall be available on phone

to support SMATSA in resolving any urgent incident (urgent IRF provided for an event) on the TopSky-ATC system.

7. Hardware support services

- SMS18. Contractor **shall** provide a hardware support service, which consists of the repair or replacement (standard exchange) of faulty electronic items, detected as such during the term of the Contract.
- SMS19. Contractor **shall** maintain the set of spare parts that had been dimensioned to allow maintenance of TopSky-ATC system in accordance with contractual obligations. In case of multiple failures of an individual system component (if there is no spare parts on site for this type of equipment), Contractor shall immediately send spare parts after receiving urgent Problem Report without waiting failed component to be sent. In addition SMATSA shall send the failed component to the Contractor within two weeks after the date of issue of the Problem Report to the Contractor.
- SMS20. Any repaired or replacement of hardware electronics parts delivered by Contractor in the performance of this Contract shall be free from defects in material and workmanship under proper use and maintenance for a period of six (6) months from the date of delivery. In the event of delivery taking place less than six (6) months before the expiry of this Contract the repaired or replacement of hardware electronics parts shall be warranted for the remaining term of this Contract.
- SMS21. The support services of the existing Hardware of the TopSky-ATC System BETR (Simulator) shall be performed by Contractor until December 2020.
- SMS22. For HW support and maintenance service for TopSky-ATC Systems new BEOL, new PGOL, BTOL, KROL, NIOL, TVOL, BET1, BET2 and new BETR Maintenance shall start from December 2020, when HW Warranty expires.

8. Software support services

- SMS23. Software support service **shall** be provided by Contractor in factory using its own diagnostic capabilities on factory rig or via VPN connection on SMATSA BET1 and BET2 rig.
- SMS24. The contractor **shall** use the same procedure for reporting defects as Procedure defined in the Appendix 1 of the Contract N° NAB.00-77/295 from 01st of August 2016. Any change of this procedure shall be agreed and approved by SMATSA llc.
- SMS25. Contractor **shall** store in the database system releases and system configuration supplied to SMATSA llc., which speeds up the elimination of problems of unexpected major anomalies in the system.
- SMS26. Software support service shall be provided by Contractor using its own diagnostic capabilities. Software support service for the TopSky-ATC Systems **shall** consist of the investigation of each Incident Report Form that is used by SMATSA to document software deficiencies and/or anomalies. After investigation if a software modification is found necessary, Contractor **shall** issue a Problem Change Report that is used by Contractor to describe the manner in which **shall** be corrected and

delivered in the form of a software release. The Contractor **shall** submit a detailed description of how the individual PCR is solved (fixed in the new software version), if SMATSA llc require. If some of the problems are subject of SMF (System Modification Form) process, the contractor shall clearly indicate this in submitted documentation.

SMS27. Any software release delivery **shall** include:

- The VDD,
- The binaries files for the corrected PCRs (provided via electronic means (DVD, VPN));
- A safety analysis and delivery of the related safety documentation (update of SSAR) maximum one month after acceptance of the release.
- And additionally, for major software releases only:
 - In the event that the Declaration of Suitability for Use is impacted by the modifications, an updated Declaration of Suitability will be delivered one month after delivery of the release.

SMS28. Upon reception of Incident Report Form (IRF) from SMATSA llc, Contractor **shall** analyze, solve, test, implement and remove the functional failure/problem in agreed time period

- a) Critical problem (s1) (Critical problems that prevent the accomplishment of an operational or mission essential capability or jeopardize safety): The Contractor shall provide SMATSA llc an action plan for the resolution of a Critical problem within eight (8) hours of the reception of the IRF and standard log files from SMATSA llc. If deemed necessary by SMATSA, **Contractor will** send a software expert to site within twenty-four (24) hours of the reception of the IRF. The time period to resolve a Critical problem **shall** be mutually agreed-to on a case by case basis. After the solution is achieved, **Contractor shall** hand over to SMATSA llc new software, test documentation including TPB checklist, installation instructions, new software releases, software revisions and additional on-site training if necessary. Contractor shall provide SMATSA llc TPB checklist with S1 PCRs for every system release;
- b) Major problem (s2) (Major problems that adversely affect the accomplishment of an operational or mission essential capability so as to degrade performance for which no alternative work around solution is known): Contractor shall provide SMATSA llc an action plan for the resolution of a Major problem within eight (8) hours of the reception of the IRF and standard log files from SMATSA llc. If deemed necessary by SMATSA, Contractor will send a software expert to site within forty-eight (48) hours of the reception of the IRF. The time period to resolve a Major problem shall be mutually agreed-to on a case by case basis. After the solution is achieved, Contractor shall hand over to SMATSA llc new software, test documentation, installation instructions, new software releases, software revisions and additional on-site training if necessary. Contractor shall provide SMATSA llc TPB checklist with S2 PCRs for every system release;
- c) Minor problem (s3) (Minor problems that adversely affect the accomplishment of an operational or mission essential capability so as to degrade performance for which alternative work around solution is known): Contractor shall provide SMATSA llc an action plan for the resolution of a Minor problem within four (4) working days of the

reception of the IRF and standard log files from SMATSA LLC. The time period to resolve a Minor problem shall be mutually agreed-to on a case by case basis. Contractor shall provide SMATSA LLC TPB checklist for 20 selected S3 PCR's for every system release;

- d) Nominal problem (s4) (Nominal problems that result in user inconvenience or annoyance but do not affect a required or mission essential capability): Contractor shall provide SMATSA LLC an action plan for the resolution of a Nominal problem within ten (10) working days of the reception of the IRF and standard log files from SMATSA LLC. The time period to resolve a Nominal problem shall be mutually agreed-to on a case by case basis;
- e) Minimum problem (s5): All other problems.

SMS29. The Contractor shall maintain totals for IRFs received from SMATSA LLC and corrected PCR's issued by Contractor. For each new IRF analysis or for each mutually agreed PCR corrected by Contractor, respectively the received IRF total shall be increased; the total of corrected PCR's shall be increased, except for the cases required in the SMS29, SMS30, SMS31 and SMS32.

SMS30. Following the installation of a new software release, if a deficiency previously reported on an IRF and corrected by a PCR is re-observed and reported by SMATSA LLC, a new IRF will be submitted and, after mutual agreement that a further correction is necessary, a new PCR shall be created and corrected by Contractor. In this case the IRF total shall not be increased, the total of corrected PCR's shall not be increased.

SMS31. Following the installation of a new software release, if SMATSA LLC reports a new IRF relative to the existing system functionality, i.e. regression, against the previous software version, Contractor shall carry out an analysis and investigation of the IRF. If software regression is confirmed by both Contractor and SMATSA LLC, a PCR shall be created and corrected by Contractor. In this case the IRF total shall be increased, the total of corrected PCR's shall not be increased.

SMS32. SMATSA LLC shall use IRF process to inform Contractor of Dataset changes and IRF total shall not be increased; no new PCR shall be created.

SMS33. If SMATSA LLC reports a new IRF clearly tagged by SMATSA LLC as new occurrence of an existing IRF already linked to a PCR, the IRF total shall not be increased and no new PCR shall be created.

SMS34. Problems reported by SMATSA as "urgent" **shall** be analyzed with a high priority by Contractor.

SMS35. Contractor **shall** provide analyses of maximum 300 IRFs during execution of the Contract. On annual basis, Contractor **shall** provide analysis of up to 100 IRFs per year, whereby for first two years of the Contract execution, in case that number of used IRFs for one year is less than 100 IRFs, the unused remained IRFs **shall** be transferred into next year.

SMS36. Contractor **shall** provide issue and correction of maximum 150 PCR's during execution of the Contract. On annual basis, Contractor **shall** provide issue and corrections of up to:

- 50 PCR's in the first year of the Contract,

- 50 PCR in the second year of the Contract,
 - 50 PCR in the third year of the Contract,
- SMS37. The list of PCR to be corrected **shall** be mutually agreed between SMATSA Llc and Contractor, including the priority of the correction for each PCR. SMATSA Llc shall have the right to request any change, adding or removing PCR in the agreed list.
- SMS38. The Contractor **shall** provide a PCR Status Report to SMATSA Llc on a regular basis.
- SMS39. For first two years of the Contract, Contractor **shall** provide, in case that number of used PCR for one year is less than full quantity of PCR defined for that year that unused remained PCR **shall** be transferred into next year.
- SMS40. At the end of the 3 years contract, if there are still open IRFs or PCR (not yet fixed), an action plan shall be managed by Contractor. The PCR Action Plan for correction shall be presented by Contractor and agreed by SMATSA Llc according to its operational impact and may be realized after Contract execution..
- SMS41. In the event of a delivery taking place less than two (2) months before the expiry of this Contract, the software releases and/or patches shall be warranted for the remaining term of this Contract.

9. SAFETY

- SMS42. The Contractor **shall** conduct all safety activities defined by contract.
- SMS43. The following safety activities **shall** be carried out by Contractor:
- Assessment of the safety impact of the Problem Change Reports, in relation to the FAMUS TopSky-ATC System Release – Equipment Safety Requirements (Refer to FAMUS SPP).
 - Follow-up of SWAL implementation (software support process) by demonstrating that the CSCI/COTS SWAL level is maintained (tracking of software recommendations and analysis of software Problem Change Reports),
 - Follow-up of safety related tests through CSCI and system verification activities, in the case of Engineering Change Requests,
 - Issuing recommendations for the existing safety related Problem Change Reports that are still open in a delivered software release.
- SMS44. Updated SSAR, shall be provided one (1) month after delivery of a major software release

10. Maintenance of the Third party licenses and software parts

- SMS45. This Contract **shall** provide maintenance of the following third-party software and licenses that are an integral part of TopSky-ATC system taking into account software and licenses provided in accordance with Contract FAM.00 no. 67/61 dated 23rd of April 2010. and in accordance with Contract SUS.00-65/1246 dated 25th of December 2017):

- BEST Licenses and software:
 - Maintenance of 12 BEST licenses and maintenance of BEST software for 8 BEST pseudo pilots and 4 OLDI partners on BETR system provided in accordance with Contract FAM.00 no. 67/61 dated 23rd of April 2010,
 - Maintenance of BEST software for 12 BEST pseudo pilots and 4 OLDI partners on BETR system (permanent licenses) provided in accordance with Contract SUS.00-65/1246 dated 25th of December 2017.
- ODS Licenses and software:
 - Maintenance of 71 ODS licenses (68 Run time licenses and 3 Map Editors) and ODS software for BEOL, BET1 and BETR systems provided in accordance with Contract FAM.00 no. 67/61 dated 23rd of April 2010,
 - Maintenance of 6 ODS licenses and ODS software (6 Run time licenses) for BEOL and BET1 systems provided in accordance with Contract SUS.00-65/1246 dated 25th of December 2017 (licenses need to be maintained in period from 01.01.2020. till the end of contract execution),
 - Maintenance of 28 ODS licenses and ODS software (28 Run time licenses) provided in accordance with Contract SUS.00-65/1246 dated 25th of December 2017 (licenses need to be maintained in period from 01.01.2021. till the end of contract execution),
- Ingres Licenses and software (1):
 - Maintenance of 1 INGRES license and maintenance of INGRES software provided in in accordance with Contract FAM.00 no. 67/61 dated 23rd of April 2010.

11. FINE TUNING MSTS

- SMS46. Three (3) fine tunings of the MSTS **shall** be included in this Contract.
- SMS47. **Contractor shall** provide fine-tuning of MSTS, for activation of the new radars and ADS-B/MLAT inputs, in the manner required by the contract.
- SMS48. Contractor shall deliver MSTS fine tuning report which shall be in accordance with Eurocontrol ESSAP requirements for each fine tuning.

12. OBSOLESCENCE MANAGEMENT

- SMS49. In order to manage potential hardware obsolescence, Contractor shall deliver report of identifying potential issues on the current platforms.
- SMS50. Contractor **shall** keep track of the possible obsolescence of hardware components, software or firmware and to inform SMATSA Ilc in the manner required by the contract.

13. Documentation

- SMS51. Contractor **shall** keep complete software and hardware documentation (System Configuration and Product Specification) and update it with the information on failures which enables quick reaction in case of new failures, especially Critical and Major failures.

SMS52. Contractor shall deliver updated Declaration for Suitability of Use (DSU), in accordance with EU regulative EC No. 552/2004.

SMS53. The Functional Baseline (FBL) shall be regularly updated with PCRs and ECP impacts.

SMS54. Last update of Functional Baseline (FBL) documentation shall be delivered at the expiry of this Contract.

14. Perfective Maintenance

SMS55. SMATSA llc if deemed necessary will request functional enhancements, evolutions, and/or developments to the TopSky-ATC System by issuing an Engineering Change Request describing the required specifications. Contractor **shall** answer on each ECR issued by SMATSA llc by generating ECP.

15. On site support for Contractor

SMS56. Contractor's representative **shall** provide at least 2 times of 2 days on-site presence per year to analyze the general state of the system, answer technical questions of SMATSA llc and to provide additional recommendations for system maintenance and additional visits for urgent request solving. The dates for site visit shall be mutually agreed between SMATSA and Contractor as follows:

- a) for urgent site visit for PCR s1 and/or s2 as per the Chapter 8.
- b) otherwise, the dates shall be mutually agreed between SMATSA llc and Contractor at least one (1) month before the personnel are required on-site.

III REQUIREMENTS FOR PARTICIPATION IN THE PUBLIC PROCUREMENT PROCEDURE FROM ARTICLES 75 AND 76 OF THE LAW, AND INSTRUCTIONS FOR PROVING COMPLIANCE TO THOSE REQUIREMENTS

MANDATORY REQUIREMENTS

As per Article 75 of the Law, a bidder must prove the following:

- (1) that he is registered with a competent authority, i.e. entered in an appropriate register (Article 75, para 1, point 1) of the Law):

Evidence:

LEGAL ENTITY/ENTREPRENEUR

DOMESTIC BIDDERS¹:

i) Extract from the Business Registers Agency, or extract from the register of relevant Commercial Court.

FOREIGN BIDDERS:

ii) Extract from the register of the competent authority.

NATURAL PERSON

Not applicable.

- (2) that neither he, nor persons having powers of representation, have been convicted for any crimes as member of an organized criminal group, for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud (Article 75, para 1, point 2) of the Law):

Evidence:

NOTE: Evidences may not be older than two months prior to bid-opening i.e. evidences must be issued after 04/05/2019

LEGAL ENTITY

DOMESTIC BIDDERS:

i) Certificate from criminal records, i.e. BASIC COURT CERTIFICATE with jurisdiction in the area where the registered seat of the bidder – domestic legal entity is located, i.e. where the registered seat of the bidder – representative or branch office of the foreign legal entity is located, confirming that the legal entity has not been convicted for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud. SPECIAL NOTE: If the basic court certificate does not include the information from criminal records for crimes within the jurisdiction of the ordinary Criminal Department of the Higher Court, it is necessary to submit, together with Basic Court certificate, a Higher Court certificate, with jurisdiction in the area where the registered seat of the bidder – domestic legal entity is located, i.e. where the registered seat of the bidder – representative or branch office of the foreign legal entity is located, for commercial crimes and criminal offence of receiving bribe;

ii) Certificate from criminal records of the Special department for organized crime of the Higher court in Belgrade confirming that the legal entity has not been convicted for any crimes as member of an organized criminal group; and

¹ Domestic bidder, in terms of the Public Procurement Law of the Republic of Serbia, is a resident legal entity, in terms of the law governing income taxes of legal entities, i.e. resident natural person, in terms of the law governing income taxes of citizens.

iii) Certificate from the criminal records from the COMPETENT POLICE ADMINISTRATION OF THE MINISTRY OF INTERNAL AFFAIRS, confirming that Bidder's legal representative has not been convicted for any crimes as member of an organized criminal group, for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud (the request may be submitted by place of birth or the place of residence of the legal representative. If the Bidder has several legal representatives, the evidence shall be submitted for each of them.

FOREIGN BIDDERS:

iv) Criminal records extract, i.e. certificate (confirmation) of the competent authority with jurisdiction confirming that the Bidder (legal entity) has not been convicted for any crimes as members of an organized criminal group; for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud, **and**

v) Certificate of a competent authority with jurisdiction that that Bidder's legal representative (natural persons) has not been convicted for any crimes as members of an organized criminal group; for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud. **This evidence shall be submitted for all the legal representatives of the bidder registered in the extract from the register of the competent authority.**

ENTREPRENEUR / NATURAL PERSON

DOMESTIC BIDDERS:

vi) Certificate from criminal records, i.e. certificate from the competent police administration of the **Ministry of Internal Affairs**, confirming that the Bidder has not been convicted for any crimes as a member of an organized criminal group, for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud (request may be submitted by place of birth or the place of residence);

FOREIGN BIDDERS:

vii) Certificate from the relevant court with jurisdiction confirming that the Bidder has not been convicted for any crimes as a member of an organized criminal group, for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud.

- (3) that he has paid due taxes, contributions and other forms of public charges in accordance with the regulations of the Republic of Serbia or a foreign country if its registered seat is located in its territory (Article 75, para 1, point 4) of the Law):

Evidence:

NOTE: Evidences may not be older than two months prior to bid-opening i.e. evidences must be issued after 04/05/2019

LEGAL ENTITY

DOMESTIC BIDDERS:

- i) Certificate from the Tax Administration of the Ministry of Finance that the Bidder has settled all due taxes or Certificate of the relevant authority proving that the Bidder is undergoing a privatization process AND
- ii) Certificate of the local self-government institution that the Bidder has settled local due taxes or Certificate of the relevant authority proving that the Bidder is undergoing a privatization process.

FOREIGN BIDDERS:

- iii) Certificates of the competent tax authority and organization for compulsory social insurance confirming that the Bidder has settled all due taxes, contributions and other forms of public charges.

ENTREPRENEUR / NATURAL PERSON

DOMESTIC BIDDERS:

- iv) Certificate from the Tax Administration of the Ministry of Finance that the Bidder has settled all due taxes AND

- v) Certificate of the local self-government institution that the Bidder has settled local due taxes.

FOREIGN BIDDERS:

- vi) Certificates of the competent tax authority and organization for compulsory social insurance confirming that the Bidder has settled all due taxes, contributions and other forms of public charges.

- (4) that he has adhered to all obligations that pertain to applicable legislation concerning safety at work, employment and working conditions, protection of environment and that he has not been prohibited from performing business activity by a final court or administrative measure, in force at the time of submitting the Bid (Article 75, para 2 of the Law):

Evidence:

Filled-in, stamped and signed Form VI - 5. Form VI – 5 shall be signed by Bidder's authorized person and stamped.

- (5) That he has a valid permit of the relevant authority with jurisdiction, for the activity that is the subject of this public procurement (Article 75, para 1, point 5) of the Law) - not applicable in this procedure.

ADDITIONAL REQUIREMENTS

In accordance with Article 76 of the Law, the Contracting Authority has defined additional requirements which the Bidder participating in the respective public procurement procedure must fulfill, namely:

- (6) **Personnel Capacity** - . that the Bidder engages key experts who will be responsible for the execution of the respective Contract and with experience in providing support and maintenance service of the TopSky-ATC SYSTEM, as follows:

- i. one expert that possess knowledge and experience in management of the system support and maintenance activities;
- ii. one expert that possess knowledge and experience in the verification and validation procedures of the corrected software versions;
- iii. one expert that possess knowledge and experience in technical analysis and diagnostics of the system in relation to identified problems and
- iv. one expert that possess knowledge and experience related to changes in the dataset parameters.

Designated experts must have at least three (3) years of experience in providing support and maintenance services. An engaged person can meet the requirements from several points from i. to iv.

Evidence:

- i. Statement on key technical staff responsible for the contract execution in the Form VI-7, certified by the Bidder's company seal and signature of authorized person stating the full names of key personnel that are working for the Bidder and will be responsible for contract execution, and
- ii. Resume (CV's) of the persons listed in Form VI-7, from which it can be assured that the engaged persons meet the conditions specified in points 6i, 6ii, 6iii and 6iv.

INSTRUCTIONS FOR PROVING COMPLIANCE TO THE REQUIREMENTS:

1. IF A BIDDER SUBMITS BID WITH SUBCONTRACTOR, than, in accordance with Article 80 of the Law, subcontractor must fulfil mandatory requirements from point 1) through 4) of this Section. Proof of fulfilment of the requirement referred to in point 5) of this Section shall be submitted for part of the procurement which will be executed through subcontractors. If, for the execution of the procurement part whose value does not exceed 10% of the total value of procurement, it is necessary to meet a mandatory requirement from point 5) of this Section, the bidder can prove fulfilment of that requirement through subcontractors to which he has entrusted the execution of that part of procurement.
2. REQUIREMENTS FOR A GROUP OF BIDDERS - Not applicable for this public procurement procedure.
3. CHANGES RELATED TO THE FULFILMENT OF THE REQUIREMENTS - The Bidder shall inform Contracting authority, in writing and without delay, of any change concerning fulfillment of requirements for participation in public procurement procedure, which occurs before the decision is made or the contract awarded, or during the public procurement contract validity period, and shall document such change in the prescribed manner.
4. MEANS OF SUBMITTING EVIDENCE – Proofs on fulfillment of requirements may be supplied as uncertified copies, and Contracting authority may, before decision on awarding contract, demand from the bidder, whose bid was evaluated as most advantageous on the grounds of the report of public procurement committee, to present the original documents or certified copies of all or of only some of proofs. If the bidder fails to present original or certified copies of requested evidence within the given adequate deadline, which may not be less than five days, the Contracting authority shall refuse its bid as unacceptable.
5. REGISTER OF BIDDERS - The bidder, which is registered in the Register of Bidders kept by the Serbian Business Registers Agency, is not obliged to submit evidences of requirement fulfilment from points 1) to 3) of this Section, in accordance with Article 78 of the Law.
6. EVIDENCES WHICH ARE PUBLICLY AVAILABLE ON THE INTERNET - The bidder is not obligated to provide evidence which is publicly available on internet websites of the competent authorities, such as: Extract from the Serbian Business Registers Agency available on the page www.apr.gov.rs. The Contracting Authority shall not reject a bid as unacceptable if it does not contain evidence required in the Tender Documents, provided that the bidder has indicated in his bid the webpage where the sought information is publicly available in Serbian language.

7. ELECTRONIC DOCUMENT - Where evidence of fulfilment of requirements is electronic document, bidder has to supply a hard copy of electronic document, in accordance with the law governing electronic documents.
8. BIDDER WITH A REGISTERED ADDRESS IN ANOTHER COUNTRY –If the country where the bidder’s principal address is located does not issue the evidence from this Section, the bidder may, instead of the evidence indicated, submit his own written statement, given under criminal and material liability, certified/notarized by a court or administrative authority, notary public or other competent authority of that country. By this statement the bidder affirms that such evidence cannot be issued in the country where the bidder’s principal address is located, and that the bidder fulfils the mandatory requirements from points from 1) through 3) of this Section. The Requirement Fulfilment Statement for bidders/subcontractors can be submitted using the form provided as Form VI-6 of the Tender Documents, or it can be submitted in another form as long as it contains all the elements indicated in Form VI-6. The Contracting Authority shall verify if the conditions for application of this point have been met. If the bidder’s principal address is in another country, the Contracting Authority may verify whether the documents provided by the bidder proving compliance with the requirements have been issued by the competent authority of that country.
9. THE LANGUAGE IN WHICH EVIDENCE FOR MANDATORY REQUIREMENTS IS SUBMITTED - Each document serving as an evidence for mandatory requirement for participation in the public procurement procedure defined in points from 1) to 3) of this Section, the bidder shall submit as the document in the official language spoken in the Bidder’s country along with the translation into Serbian language certified by an authorised court interpreter.

IV CRITERIA FOR CONTRACT AWARD

(1) TYPE OF CRITERIA FOR CONTRACT AWARD

Criteria for contract award is lowest offered price.

For this criterion, the total offered prices in dinars without VAT in the Republic of Serbia stated in the Bid Form shall be taken into consideration. In case that the prices in the Bid are stated in EUR the conversion into RSD counter value shall be made by applying the official middle exchange rate of the National Bank of Serbia applicable on the Bid opening date.

(2) CRITERIA FOR CONTRACT AWARD IN A CASE WHERE MULTIPLE BIDDERS OFFER THE SAME PRICE

Not applicable in the subject public procurement procedure, which is carried out as negotiated procedure without invitation to bid.

V ELEMENTS OF THE BID THAT ARE SUBJECT TO NEGOTIATIONS AND DESCRIPTION OF THE NEGOTIATING PROCEDURE

All Articles of the Model of the contract (Section VII) are the subject of the negotiations except for Contract Subject (Article 1):

Only the Public Procurement Committee members on behalf of the Contracting authority and the authorized representatives of the Bidders can participate in the negotiating procedure.

Before commencement of the negotiations, persons authorized to represent the Bidder in the negotiating procedure (the Bidder may authorize one or more persons), shall submit to the Contracting Authority a **power of attorney/authorization to represent the Bidder in the respective negotiations.**

If, during the Bid Opening Procedure, the Contracting Authority determines that the Bidder has submitted all required Forms and evidence with its Bid, this Bidder shall be invited in the negotiation procedure that will commence on 04/07/2019 at 11:00 AM, and will take place at the Contracting Authority's premises, at Nikole Pašića Square No. 10, Belgrade, Republic of Serbia.

If a final agreement on elements of the contracts could not be reached on the date of the negotiations commencement, the negotiations shall be continued in electronic form, via official Serbia and Montenegro Air Traffic Services SMATSA LLC e-mail address - tender@smatsa.rs with the Bidder's authorised person(s). The negotiating procedure shall be completed within 10 days counting from the Bid opening date.

If the Bidder's authorised representative does not attend the negotiating procedure in the stated period of time, the negotiations shall be conducted in writing in the manner described in the paragraph above with the person who is authorised to represent Bidder in the negotiations (power of attorney/authorisation shall be submitted with the Bid).

During the negotiating procedure, the Bidder cannot offer terms that are less favourable than those offered in the bid.

The Contracting Authority shall ensure that the offered price is not higher than the comparable market price, and shall check the quality of the public procurement subject with due diligence.

The negotiating procedure and its result shall be noted and evidenced in the Negotiating Minutes, which shall be signed by the representatives of both the Contracting Authority and the Bidder.

Upon completing the Negotiation Procedure, the Contracting Authority shall conduct an expert evaluation of the submitted Bids, during which a close examination of accuracy and validity of submitted evidence shall be carried out. If the expert evaluation shows that a bid possess some of the Essential Deficiencies as per Article 106 of the Law, the Contracting authority shall eliminate such bid even though the Bidder participated in the Negotiated procedure.

VI FORMS WHICH REPRESENT INTEGRAL PART OF THE BID

- 1) Bid form (Form VI – 1)
 - 2) Price structure form, with instruction for filling (Form VI – 2)
 - 3) Bid-Preparation Expense Form (Form VI – 3)
 - 4) Independent bid statement form (Form VI -4)
 - 5) Bidder's Regulation compliance statement form (Form VI – 5)
 - 6) Subcontractor's Regulation compliance statement form (Form VI – 5a)
 - 7) Forms of Requirements fulfillment for participation in the public procurement – Article 75 and 76 of the Law, defined in the tender documents
-
- Requirements fulfillment form for participation in the public procurement for foreign bidders/subcontractors statement form (Form VI -6)
 - Statement form on key technical staff responsible for the contract execution (Form VI – 7)

BID FORM²

Contract title: Support and maintenance service of the TopSky-ATC system – 123/U/19

For: **Serbia and Montenegro Air Traffic Services SMATSA Llc**
Belgrade, Nikole Pašića Square No. 10, Belgrade, Serbia

As per the Invitation to Tender for the Support and maintenance service of the TopSky-ATC system s (public procurement no. 123/U/19), we hereby submit our bid as follows:

independently with subcontractor(s)
(please mark applicable field)

I IDENTIFICATION DATA OF THE BIDDER

Business name or short name from relevant register:	
Registered address:	
Registration number of bidder:	
Tax Identification Number of bidder:	
Contact Person:	
E-mail address of Contact Person:	
Telephone number:	
Person authorized to sign the contract:	
Account Number and Name of the Bidder's Bank:	
Category of legal entities according to size in accordance with Article 6 of the Law on Accounting of the Republic of Serbia	<input type="checkbox"/> micro ³ <input type="checkbox"/> small ⁴ <input type="checkbox"/> medium ⁵ <input type="checkbox"/> big ⁶ (please mark the appropriate field <input checked="" type="checkbox"/>)

The currency of the prices in the bid:

RSD EUR
(please mark the appropriate field)

²Form must be filled in, certified by company seal and signed by an authorized person of the bidder, by which the bidder confirms that the data provided in the Bid Form are accurate.

³Legal entities that do not exceed two of the following criteria i) average number of employees 10, ii) operating revenues 700,000 EUR in RSD and iii) average value of operating assets (calculated as the arithmetic mean value at the beginning and end of the business year) € 350,000 in dinars.

⁴ Legal entities that exceed two criteria from the footnote no. 3, but do not exceed two of the following criteria: i) average number of employees 50, ii) operating revenues 8,800,000 euros in dinars, iii) average value of operating assets (calculated as the arithmetic mean value at the beginning and end of the business year) € 4,400,000 in dinars.

⁵ Legal entities that exceed two criteria from the footnote no. 4, but do not exceed two of the following criteria: i) average number of employees 250, ii) operating revenues 35,000,000 EUR in dinars, iii) average value of operating assets (calculated as the arithmetic mean value at the beginning and at the end of the business year) € 17,500,000 in dinars.

⁶Legal entities that exceed two criteria from the footnote no. 5.

II BASIC ELEMENTS OF THE BID

Validity period of the Bid	_____ days from the date of bid opening (not less than 60)
Total Price	<p>_____ without VAT in the Republic of Serbia</p> <p>_____ with VAT in the Republic of Serbia.</p> <p>The bid price includes all costs associated with contract performance of the public procurement, including all applicable fees for the license, expenses, all taxes, duties, contributions, levies and charges, relating to the subject of the public procurement payable outside of the Contracting authority's country. The offered price does not include customs duties and taxes payable in the Republic of Serbia and/or Montenegro that are borne by the Contracting Authority.</p>
Method of Payment	<p>Proposal of the method of Payment:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Remark: The advance payment is not acceptable.</p>
The deadline for returning repaired/replaced parts (Turn Around Time-TAT)	_____ calendar days counting from the date of arrival of the defective item to the location of the Bidder until the date of receipt of the repaired (or replaced) part by the Contracting authority.
The warranty period for repaired/replaced parts	six (6) months from the date of receipt of the repaired/replaced item at the Contracting authority's address.

By submitting this Bid, we accept all the conditions of the respective Invitation to Bid and the Tender Documents. The Bid pertains to entire procurement, all in accordance with the respective Invitation to Bid and the Tender Documents.

Place and date:

Bidder: Seal and signature

BID FORM – SUBCONTRACTOR’S IDENTIFICATION FORM ⁷

Business name or short name from relevant register:	
Address of the registered office:	
Registration number:	
Tax Identification Number:	
Contact person:	
E-mail address of Contact person:	
Telephone number:	

The part of the procurement that will be carried out by a stated subcontractor:

Percentage of total value of the procurement that will be entrusted to the named subcontractor: _____%

Place and date:

Bidder: Seal and signature

Place and date:

Subcontractor: Seal and signature

⁷ Form shall be filled-in only by those bidders that are submitting a Bid with a subcontractor. If the Bidder has more subcontractors, this page must be copied in a sufficient number of copies, each copy properly filled-in and submitted for each subcontractor. The percentage of the total value of the public procurement that the Bidder is entrusting to the subcontractor cannot exceed 50%, and if the Bidder is entrusting public performance to a multiple number of subcontractors, the percentage of the procurement value that is being entrusted to all subcontractors (the sum for all subcontractors), cannot exceed 50%.

PRICE STRUCTURE FORM, WITH INSTRUCTION FOR FILLING

Table 1 – Support and Maintenance Service of the TopSky-ATC system

Item	Description	Price for Year 1		Price for Year 2		Price for Year 3		TOTAL for period of three years	
		Without VAT	With VAT	Without VAT	With VAT	Without VAT	With VAT	Without VAT	With VAT
I	II	III	IV	V	VI	VII	VIII	IX = III + V + VII	X = IV + VI + VIII
1.	Hardware support service (a+b)								
a)	Hardware support service (BETR)								
b)	Step 1.2 hardware support service								
2.	Software support service (a+b+c)								
a)	Production of the software releases with associated documentation								
b)	PCR correction service								
c)	IRF analysis service								
3.	On-site support								
4.	Documentation								

5.	Third party license and third party software maintenance								
6.	MSTS fine tuning								
7.	Project management service								
8.	On-call and email support (a+b)								
a)	Working days								
b)	Additionally - weekend support during summer season								
A	TOTAL (sum form 1 to 8)								

Table 1a - Detailed price structure of “On-site support” item

Item	Description	Unit of measurement	Estimated value of engineer/days per year			Unit price without VAT	Price for the I year	Price for the II year	Price for the III year
			for the I year	for the II year	for the III year				
I	II	III	IV	V	VI	VII	VIII = IV * VII	IX = V * VII	X = VI * VII
a)	On-site support	Engineer/day							

Table 1b - Detailed price structure of “Third party license and third party software support“ item

Item	Description	Unit of measurement	Estimated value per year			Unit price without VAT	Price for the I year	Price for the II year	Price for the III year
			for the I year	for the II year	for the III year				
I	II	III	IV	V	VI	VII	VIII = IV * VII	IX = V * VII	X = VI * VII
a)	Maintenance of the BEST licenses and software procured per Contract FAM.00-67/61 from 23 rd of April 2010	Pcs.	12	12	12				
b)	Maintenance of the BEST software procured	Pcs.	16	16	16				

	per Contract SUS.00-65/1246 from 25 th of December 2017								
c)	Maintenance of the ODS licenses and software procured per Contract FAM.00-67/61 from 23 rd of April 2010	Pcs.	71	71	71				
d)	Maintenance of the ODS licenses and software procured per Contract SUS.00-65/1246 from 25 th of December 2017	Pcs.	6	34	34				
e)	Maintenance of the Ingres license and software	Pcs.	1	1	1				
A	TOTAL – Third party licenses and software maintenance (a+b+c+d+e)								

Table 1c - Detailed price structure of “Project management“ item

Item	Description	Unit of measurement	Estimated value per year			Unit price without VAT	Price for the I year	Price for the II year	Price for the III year
			for the I year	for the II year	for the III year				
I	II	III	IV	V	VI	VII	VIII = IV * VII	IX = V * VII	X = VI * VII
a)	Project management with	Engineer/day							

	project related documentation								
b)	Quality assurance management	Engineer/day							
c)	Product Data Authority activities with DSU documentation	Engineer/day							
d)	Data management	Engineer/day							
e)	Contract manager (financial aspect)	Engineer/day							
f)	Safety management with Safety assessment documentation	Engineer/day							
g)	Segment configuration management	Engineer/day							
h)	Integration, verification, validation and qualification management	Engineer/day							
A.	TOTAL – Project management (a+b+c+d+e+f+g+h)								

Table 1d - Detailed price structure of “Weekend support during summer season “ item

Item	Description	Unit of measurement	Estimated value per year			Unit price without VAT	Price for the I year	Price for the II year	Price for the III year
			for the I year	for the II year	for the III year				
I	II	III	IV	V	VI	VII	VIII = IV * VII	IX = V * VII	X = VI * VII
b)	Weekend support during summer season	Engineer/day							

Place and date:

Bidder: Seal and signature

Instruction for filling out of the price structure form:

GENERAL: The form must be fulfilled and certified with the seal and signature of the authorized person. Prices must be typed or handwritten. Any correction due to an error must be verified by the Bidders's initials and stamped. In case there is a discrepancy between the unit prices and the total price, the unit price will be considered as correct and the total prices will be corrected accordingly.

The Bidder shall complete Table 1 as follows:

- in Columns III, V and VII, fill-in the price of services in the first, second and third year of service provision, respectively, without VAT that is calculated and paid in the Republic of Serbia. When expressing prices, the Bidder should take into account the requirements from the technical specification and to proportionally decrease the price of the items of services that are not provided throughout the whole year;
- in columns IV, VI and VIII - fill-in the price of the services in the first, second and third year of service provision, respectively, with VAT that is calculated and paid in the Republic of Serbia. If the Bidder has a tax representative in the Republic of Serbia, he is obliged to indicate in the Table the price with and without VAT in the Republic of Serbia. Otherwise, it only fills-in the fields without VAT;

- in Column IX, fill-in the sum of the amounts in Column III, V and VII in order to receive the total three-year amount without VAT that is calculated and paid in the Republic of Serbia. Total amount from row A. enter in the Bid form (Form VI-1)
- in Column X, fill-in the sum of the amounts in columns IV, VI and VIII in order to obtain the total three-year amount with VAT that is calculated and paid in the Republic of Serbia. Total amount from row A. enter in the Bid form (Form VI-1)

The Bidder shall complete Tables 1a, 1c and 1d as follows:

- in columns IV, V and VI, enter the estimated amount of the Engineer/day for provision of the particular service per years.
- in column VII, enter the unit price per engineer/ day without VAT that is calculated and paid in the Republic of Serbia.
- in columns VIII, IX and X, enter the product of the estimated quantity per year and unit price
- in the row A, enter the sum of all columns, which must be equal to the amounts per year, without the VAT of the appropriate items (Weekend support during summer season, Project Management and On-site support) from Table 1;

The Bidder shall complete Table 1b as follows:

- in columns IV, V and VI The Contracting authority has expressed the amount of third party licenses that are renewed and for which third party software are maintained per year.
- In column VII, enter the unit price per license without VAT, which is calculated and paid in the Republic of Serbia.
- In columns VIII, IX and X, enter the product of the estimated quantity per year and unit price;
 - in the row A, enter the sum of all columns, which must be equal to the amounts per year, without the VAT item Third party license and third part software maintenance from Table 1.

BID-PREPARATION EXPENSE FORM

As per article 88 of the Public Procurement Law (“The Official Gazette of the Republic of Serbia”, no. 124/2012, 14/2015 and 68/2015), the Bidder (*name of bidder*) hereby submits total amount of expenses and structure of expenses incurred in the course of bid preparation, as follows:

TYPE OF EXPENSE	Amount in RSD
TOTAL AMOUNT OF BID-PREPARATION EXPENSES	

Bid-preparation and submission expenses shall be borne solely by the bidder, and the bidder cannot seek reimbursement of such costs. Where public procurement procedure was cancelled due to reasons related to Contracting authority, it shall reimburse the expenses for producing sample or model to the bidder, if these were made in compliance with the technical specifications of contracting authority, and expenses for acquiring a security bond, provided that bidder requested reimbursement of these expenses in its bid.

Remark: This form is not a mandatory element of the bid

Place and date:

Bidder: Seal and signature

DECLARATION OF INDEPENDENT BID FORM

As per Article 26 of the Public Procurement Law (“The Official Gazette of the Republic of Serbia”, no. 124/2012, 14/2015 and 68/2015), the Bidder

(Business name, registered address and registration number of Bidder)

makes following:

DECLARATION OF INDEPENDENT BID

Under full financial and criminal responsibility, I confirm that the bid in the public procurement procedure PP 123/U/19 - Support and maintenance service of the TopSky-ATC system, has been submitted independently, without collaboration with other bidders or interested parties.

Place and date:

Bidder: Seal and signature

Remark: *In case of reasonable doubt in veracity of declaration of independent bid, the Contracting authority shall immediately notify thereon the organization authorized for the protection of competition. Organization authorized for protection of competition may ban a bidder or an interested party from participating in public procurement procedure, where it determines that the bidder or the interested party violated competition rules in public procurement procedure within the meaning of the law governing competition protection. The measure of ban to participate in public procurement procedure may last up to two years. Violation of competition represents negative reference as per Article 82 paragraph 1, point 2. of the Law.*

REGULATION COMPLIANCE STATEMENT FORM FOR BIDDERS

As per Article 75 par. 2 of the Public Procurement Law (“The Official Gazette of the Republic of Serbia”, no. 124/2012, 14/2015 and 68/2015), the Bidder

(Business name, registered address and registration number of Bidder)

makes following:

REGULATION COMPLIANCE STATEMENT

Under full financial and criminal responsibility, I confirm that in the course of preparation of the bid in the public procurement procedure for PP 123/U/19 Support and maintenance service of the TopSky-ATC system, I have adhered to all obligations that pertain to applicable legislation concerning safety at work, employment and working conditions, protection of environment and that I have not been prohibited from performing economic activity by any measure in force at the time of submitting the Bid in this public procurement.

Place and date:

Bidder: Seal and signature

REGULATION COMPLIANCE STATEMENT FORM FOR SUBCONTRACTORS

As per Article 75 par. 2 of the Public Procurement Law ("The Official Gazette of the Republic of Serbia", no. 124/2012, 14/2015 and 68/2015), the Subcontractor

(Business name, registered address and registration number of Subcontractor)

makes following:

REGULATION COMPLIANCE STATEMENT

Under full financial and criminal responsibility, I confirm that in the course of preparation of the bid in the public procurement procedure for PP 123/U/19 - Support and maintenance service of the TopSky-ATC system, I have adhered to all obligations that pertain to applicable legislation concerning safety at work, employment and working conditions, protection of environment and that I have not been prohibited from performing economic activity by any measure in force at the time of submitting the Bid in this public procurement.

Place and date:

Subcontractor: Seal and signature

Remark:

If the Bid is submitted with subcontractors, this Statement must be signed by Subcontractor's authorized person and stamped. If the Bidder has more subcontractors, this form must be copied in a sufficient number of copies, each copy properly filled-in and submitted for each subcontractor.

**REQUIREMENTS FULFILLMENT FOR PARTICIPATION IN THE PUBLIC
PROCUREMENT FOR FOREIGN BIDDERS/SUBCONTRACTORS STATEMENT
FORM⁸**

As per Article 79 par. 10 of the Public Procurement Law ("The Official Gazette of the Republic of Serbia", no. 124/2012, 14/2015 and 68/2015), the Bidder/Subcontractor: _____
_____ (Business name of the Bidder/Subcontractor),
registered number: _____ from _____ (Country in
which Bidder / Subcontractor's registered address is located) makes following:

**STATEMENT ON REQUIREMENTS FULFILMENT FOR PARTICIPATION IN THE PUBLIC
PROCUREMENT⁹**

Under full financial and criminal responsibility, I confirm that following conditions have been met:

CONDITION	please mark applicable fields <input checked="" type="checkbox"/>
1 - that relevant authority in the country where my registered address is located does not issue formal evidences on legal entity's registration AND - that I am registered with the relevant authority in the country where the my registered address is located	<input type="checkbox"/>
2 - that neither relevant court nor police administration in the country where my registered address is located does not issue formal evidences that legal entity and its legal representative had not been convicted for any criminal acts as part of an organized criminal group, for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud AND - that neither Bidder as a legal entity, nor its legal representative(s) have been convicted for any criminal act as members of an organized criminal group; for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud	<input type="checkbox"/>
3 -that relevant authority in the country where my registered address is located does not issue formal evidences that legal entity has settled due taxes and other public charges AND -that I have paid due taxes and other forms of public charges in accordance with the regulations of the country where my registered address is located	<input type="checkbox"/>

Place and date:

**Bidder/Subcontractor:
Seal and signature**

⁸This form is to be filled-in with relevant data and by marking the requirements in the table for which the bidder is submitting his statement in accordance with point 8) of Instructions for proving compliance to the requirements, Section III of the Tender Documents. The bidders and/or subcontractor shall fill-in this form individually and certify the form by company seal and signature of an authorized person.

⁹**This statement must be certified / notarized by a court or administrative authority, notary public or other relevant authority with jurisdiction in the country where the bidder's registered address is located.**

**STATEMENT ON KEY TECHNICAL STAFF RESPONSIBLE FOR THE
CONTRACT EXECUTION**

The Bidder:

(name, location and company number)

issues:

**STATEMENT ON KEY TECHNICAL STAFF RESPONSIBLE FOR THE CONTRACT
EXECUTION**

Under full criminal and material responsibility, I declare that at the time of submission of the Bid we employ the following experts who will be responsible for the implementation of the contract:

Name and surname	Function of the person in the implementation of the contract
1.	Expert for management of the system support and maintenance activities
2.	Expert for verification and validation procedures of the corrected software versions
3.	Expert for technical analysis and diagnostics of the system in relation to identified problems
4.	Expert for changes in the dataset parameters

This statement is issued for the participation in an open procedure for the Provision of Support and maintenance service of the TopSky-ATC system, PP 123/U/19, for Serbia and Montenegro Air Traffic Services SMATSA Llc, and cannot be used for any other purposes.

Place and date:

The Bidder:
Seal and signature

VII MODEL OF THE CONTRACT

A) The Contracting Authority has drafted a model contract in accordance with the Rulebook on General Contracting Conditions.

B) The subject of the negotiations are all articles of the Model Contract, except for: Article 1 (Subject of the Contract),.

C) The Bidder can submit with its Bid proposal for the wording amendment of the Articles in the Model of the Contract, as well as proposal of addendum (new articles) to the Model of the Contract. This document will be analysed in the course of negotiations.

Pursuant to Article 112 of the Law on Public Procurement ("Off. Gazette of RS" no. 124/2012, 14/2015 and 68/2015) and the Decision on awarding contract _____ of _____,

SERBIA AND MONTENEGRO AIR TRAFFIC SERVICES SMATSA LLC, 10, Nikole Pašića Square, TIN: 103170161, registration number: 17520407, represented by CEO Predrag Jovanović (hereinafter referred to as the Contracting Authority)

and

(hereinafter referred to as: the Service Provider),

have concluded,

PUBLIC PROCUREMENT CONTRACT PP 123/U/19

for the provision of Support and maintenance service of the TopSky-ATC system

The Contracting Parties shall agree:

- that the Contracting Authority, pursuant to Decision no. NAB.00 77/60 of 05 June 2019 launched a negotiation procedure without invitation to bid, kept under the number PP 123/U/19 for the provision of Support and maintenance service of the TopSky-ATC system;
- that the Service Provider delivered an acceptable Bid number ----- of ----- (hereinafter: the Bid) in accordance with the requirements and conditions established by the Tender Documents for PP 123/U/19 and
- that, in accordance with Article 108 of the Public Procurement Law, the Contracting Authority has issued a Decision on awarding the contract no. ----- of -----, based on which the said contract is concluded.

SUBJECT OF THE CONTRACT

Article 1

The subject of this contract is the provision of Support and maintenance service of the TopSky-ATC system. Service). TopSky – ATC System refers to the system delivered as per the Contract no. FAM.00- 77/120, dated 09/03/2009; with all relevant upgrades (hereinafter referred to as the System).

The Service Provider shall deliver the Service fully in accordance with the provisions of the Contract and the following documents:

1. The accepted Bid of the Service Provider, Ref. No. _____, dated __/__/__ in the negotiated procedure 123/U/19 (hereinafter referred to as the Bid) – Attachment I
2. Tender Documents for PP 123/U/19 – Attachment II which together constitute an integral part of this contract.

In case the Service Provider performs with a subcontractor:

The Service Provider shall entrust the performance of the contract in the following activities:

to subcontractor/subcontractors:

_____.

The Service Provider shall, pursuant to the provisions of this contract, be solely responsible for the manner in which the Contract is carried out. All employees, representatives or subcontractors engaged by the Service Provider in connection with the implementation of the contract, will be managed by the Service Provider.

PRICE

Article 2

The price of the Services referred to in Article 1 of this Contract is _____ RSD/EUR excluding the value added tax which is calculated and paid in the Republic of Serbia.

Value Added Tax is calculated in accordance with the applicable regulations in the Republic of Serbia.

The price referred to in paragraph 1 of this Article shall include all costs necessary for the execution of the contract, fees for licenses, taxes and charges paid outside the country of the Contracting Authority.

The price referred to in paragraph 1 of this Article shall not include customs duties and taxes payable in the Republic of Serbia and/or Montenegro and borne by the Contracting Authority.

The Price structure form is an integral part of the Bid (hereinafter: the Price structure form).

The price referred to in paragraph 1 of this Article shall be fixed and unchanged during the performance of the Contract.

METHOD OF PAYMENT

Article 3

The Contracting Authority shall effect the payment of the total Contract Price to the Service provider in quarterly instalments (each yearly price of services divided by four), at the end of each quarter, within 15 days from the presentation of:

- invoice in the amount of quarterly payment and
- Quarterly Report on the provided services, signed by the authorized person of the Contracting Authority.

The amount of payments in accordance with the price of services per each year from Price structure form, is the following:

Payments	Quarterly Payment
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
Total	

The Contracting Authority reserves the right to request from the Service Provider additional payment documents in accordance with the regulations governing foreign exchange operations in the Republic of Serbia, as well as agreements on the avoidance of double taxation.

SECURITY INSTRUMENT

Article 4

The Service Provider undertakes to submit to the Contracting Authority a performance guarantee within 20 days from the date of the entry into force of the contract, which will be unconditional and payable on the first call. The performance guarantee shall be issued in the amount of 5% of the total value of the contract referred to in Art. 2 paragraph 1 of the Contract and shall be valid for at least 30 days after the expiry of the contract.

If the time limits for the execution of the contractual obligation change during the contract, the validity of the performance guarantee must be extended.

The Contracting Authority will cash the requested security if the Bidder does not provide services in the defined scope, quality and deadlines.

OBLIGATIONS OF THE SERVICE PROVIDER

Article 5

The Service Provider undertakes to:

1. provide the Service from the Article 1 of the Contract promptly, professionally and well, fully in accordance with the Attachment II of the Contract, and in accordance with applicable laws and regulations, and professional standards for such service;
2. not unreasonably interfere with the work at the Contracting Authority's site, during the provision of Service;

3. obtain and submit to the Contracting Authority the export licenses issued by the relevant authority in its country, no later than 60 days before the scheduled date of the service provision, for which the license is required and
4. designate Project Manager and other key experts which will be responsible for the contract implementation in accordance the Attachment I (Statement on key technical staff responsible for the contract execution). The Service Provider may replace the key personnel named in the Bid, only if their qualifications and abilities are equal or better than those pertaining to the personnel listed in the Attachment I, upon prior approval by the Contracting authority.

Representative of the Service Provider is obliged to comply with all safety instructions in relation to the effects on the operation of the system and the consequences for air traffic safety when performing activities at the locations of the Contracting Authority.

OBLIGATIONS OF THE CONTRACTING AUTHORITY

Article 6

The Contracting Authority undertakes to:

1. ensure and maintain the necessary operational and environmental conditions needed for the proper System functioning, as well as adhere to the recommendations and advice given by the Service Provider regarding the System usage.
2. provide the Service Provider with the necessary technical conditions for the smooth execution of the Service that is the subject of the public procurement;
3. appoint the person(s) responsible for supervision of the Services provision with the following responsibilities:
 - a) communication and cooperation with the Service Provider's authorized person (persons);
 - b) monitoring the quality of the provided Services and compliance with the requirements from Attachment II;
 - c) compiling a quarterly Report on the provided Services within 15 calendar days from the date of the quarter expiry .
4. make payments to the Service Provider in accordance with the provisions of this Contract;
5. agree to perform certain tasks and duties that may reasonably be asked by the Service Provider, such as: rebooting the system, recording information about the errors, performing the executable diagnostic tests, if any, and performing the checks of operational readiness and
6. bear all the costs and expenses for local transportation (within the territory of Serbia and Montenegro) in case of emergency interventions at the Contracting Authority's location, while the Total Contract Price covers all costs and expenses relating to the provision of Services outside the premises of the Service Provider and will not incur additional charges for the Contracting Authority when they occur.
7. inform the representatives of the Service Provider of the effects on the operation of the system and the consequences for air traffic safety during all activities at the locations of the Contracting Authority.

SHIPPING OF THE DEFECTIVE/REPAIRED ITEMS

Article 7

The Contracting Authority shall ship the parts that need to be repaired or replaced under this Contract to the Service Provider, DAP location determined by the Service Provider, in accordance with INCOTERMS 2010 ICC Publication N° 715E. The Contracting Authority shall bear all costs related to shipping to the Service Provider of parts that need to be repaired or replaced, as well as the costs related to the customs clearance and customs duties that are applied in the Republic of Serbia.

The Service Provider shall ship repaired or replaced items to the Contracting Authority DAP airport "Nikola Tesla", Belgrade, Serbia, in accordance with INCOTERMS 2010 ICC Publication N° 715E. The Service Provider shall bear all costs related to shipping to the Contracting Authority of parts that have been repaired or replaced, as well as the costs related to the customs clearance and customs duties in the country of the Service Provider.

The Service Provider guarantees the deadline for return of the faulty items - turnover time (TAT) of [] calendar days from the date of the receipt of a faulty part in the Service Provider's location until the date of receipt of the repaired or replaced part at the Contracting authority's address.

The Service Provider has the right to extend the deadline referred to in paragraph 3 of this Article in the following cases:

1. when the Contracting Authority is in delay in performing its contractual obligations, as per Article 6 of the Contract, for a period equal to Contracting Authority's delay, and/or
2. when there is delay in the customs clearance procedure for repaired/replaced items in Republic of Serbia, not caused by the Service provider's fault, for a period equal to the duration of the custom clearance procedure and/or
3. due to the Force Majeure referred to in Article 14 of this Contract, i.e. due to the changed circumstances that could not have been foreseen at the time of the Contract conclusion.

The Service Provider shall immediately notify the Contracting Authority, in writing, of all the circumstances and events that may affect the extension of the contractual deadlines. The Service Provider shall inform the Contracting Authority, in writing, if the circumstances or events that prolong the agreed deadlines have arisen.

ACCEPTANCE OF SERVICES AND DEFICIENCY CORRECTION

Article 8

The Contracting Authority shall monitor the quality of the provided services and compliance with the requirements from the Attachment II of the Contract. Within 15 calendar days upon the expiry of a three-month period in which the services were provided, the Contracting authority shall prepare and sign a Report on the provided Services.

If the Contracting Authority's representative observes any deficiencies in the quality of the provided service, or non-compliance with the requirements from Attachment II of the Contract, that representative is obliged to inform the Service Provider thereof in writing.

In case any of the events mentioned in the previous paragraph occur, the Contracting Authority has the right to request from the Service Provider to correct the deficiency or to provide the service again free of deficiencies.

If the Service Provider fails to correct the observed deficiency within ten (10) calendar days from the receipt of the written request for the deficiency correction, the Contracting Authority has the right to terminate the Contract, as per Article 15 of this Contract.

WARRANTY

Article 9

The Service Provider warrants that repaired or replaced items shall not have material defects, and shall have all the characteristics necessary for the regular and proper use within six (6) months from the date of receipt of the repaired/replaced item at the Contracting Authority's location.

The warranty referred to in paragraph 1 of this Article shall be applied only if these items are used in accordance with specifications and instructions of the Service Provider under normal operational conditions.

CONTRACTUAL PENALTY

Article 10

In the event of exceeding the deadline referred to in Art. 7, paragraph 3 of this Contract, due to the Service Provider fault, the Contracting Authority shall charge the Service Provider with a contractual penalty for each day of delay of 0,2% of the total contract price referred to in Article 2 paragraph 1 of the Contract. The total amount of the contractual penalty under this contract may not exceed 10% of the total contract price referred to in Article 2, paragraph 1 of the Contract.

The payment of a contractual penalty shall not exempt the Service Provider of the obligations incurred by the Contracting Authority pursuant to this Contract.

LIMITATION OF LIABILITY

Article 11

The contracting parties undertake to pay damages to the other contracting party if the damage is caused by the direct fault of the contracting parties, as a result of the failure to fulfill the obligations of the contract.

The contract cannot restrict the liability of contracting parties for damage caused by intent and gross negligence.

INTELLECTUAL PROPERTY RIGHTS

Article 12

All rights of intellectual and/or industrial property related to the subject of procurement referred to in Article 1 of this Contract shall remain acquired rights of the Service Provider or their licensors, in accordance with the type and nature of such rights and the Contract concluded. The Service Provider shall, at his own expense, obtain all necessary permissions and all authorizations from the owners of any patent, trademark or brand, industrial design, document or any information necessary for the fulfillment of his obligations under this Contract.

The Service Provider shall give to the Contracting Authority a non-exclusive, non-transferable right to use the Software provided under the Service solely for the purpose or with the use of the System or Software, and the Contracting Authority, without the prior written permission of the Service Provider, shall not:

1. Make permanent copies, translations, adaptations or modifications to the software,
2. Perform decompilation of the given software,
3. Sell or distribute the given software.

In the event of a third party instituting litigation or raising a claim for the exercise of some rights relating to the violation of intellectual property and/or industrial property rights, the

party the first to find out about the existence of such a procedure shall promptly notify the other party of the same. The Service Provider shall bear all liability and possible damage, and is obliged to indemnify the Contracting Authority in case of establishing liability for damages in the name of violation of protected intellectual and/or industrial property rights of third parties.

USE OF DOCUMENTS AND INFORMATION

Article 13

Neither the Contracting Authority nor the Service Provider shall, without written consent of the other party, or on its behalf, communicate/ disclose information regarding this Contract, or its provisions, to the third parties, except to the authorized persons involved in the performance of the Contract.

FORCE MAJEURE

Article 14

If a Contracting Party is prevented from fulfilling its obligations laid down in this Contract for reasons of force majeure, the time limit for the execution of such obligations shall be extended during the duration of the force of force majeure.

Force majeure includes all circumstances beyond the control of the Contracting Authority and the other contracting party, including but not limited to war, revolution, terrorist attacks, serious destruction, explosions, fire, floods, disasters, drought, earthquakes, epidemics, quarantine, general boycott of a system of countries from which one of the contracting parties exports or produces, strikes, passing decrees and other regulations preventing the performance of contractual obligations, embargo on transport, sanctions of United Nations or other international organizations that prevent, hinder or obstruct the execution of obligations of the contracting parties.

The party affected by the force majeure shall, as soon as possible, inform the other contracting party in writing of the occurrence of force majeure.

If the force majeure lasts more than 90 (ninety) days, the contracting parties will resolve the problem of further implementation of the Contract by agreement as soon as possible. If they cannot reach an agreement within 120 (one hundred and twenty) calendar days following the occurrence of force majeure, each contracting party shall have the right to terminate this Contract.

TERMINATION OF THE CONTRACT

Article 15

Each of the contracting parties may terminate the contract if the other party fails to perform its contractual obligations in a contractual manner and within the agreed time limit, or in case of violating the contract.

The Contracting Authority may terminate the contract in the case provided for in Article 8, paragraph 4 of this Contract.

The party wishing to terminate the contract shall inform the other contracting party of the breach of the contractual obligation before the termination, indicate what constitutes a breach of the contractual obligation and request that it be corrected within thirty (30) days from the date of the notification.

The postponement period for the execution of the notification cannot be approved after the deadline for the execution of all contractual obligations.

The contracting party by whose fault the damage has been incurred and which is responsible for terminating the contract shall be liable for damage to the other contracting party.

Should a consensual termination of the contract occur, the contracting parties will regulate the mutual claims that are related to and arising from this Contract.

APPLICABLE LAWS AND DISPUTE SETTLEMENT

Article 16

This contract and its content will be implemented and interpreted in accordance with the Contract and Tort Law and other applicable laws in force in the Republic of Serbia.

Any possible disputes that might arise from this contract will be tried by the contracting parties in a consensual manner, and if they do not reach an agreement, they agree that the Commercial Court in Belgrade shall be competent to resolve the dispute.

TRANSITIONAL AND FINAL PROVISIONS

Article 17

All notices relating to this contract shall be in writing in Serbian or in English and shall be delivered in person, by e-mail or by mail to the receiving Party, at the address specified in this Contract or at any other address of which any Contracting Party may, in writing, inform the other contracting party.

Article 18

The Contract shall enter into force on the date of its signature by the authorized representatives of both contracting parties and shall apply from the date of expiration of the current contract NAB.00 77/295 dated 01 August 2016. The Contract is concluded with a validity period of three (3) years counting from the application date of the Contract.

Article 19

This Contract is made in 6 (six) identical copies, of which 3 (three) copies are in Serbian and 3 (three) copies are in English. The Contracting Authority shall retain 2 (two) copies in the Serbian language and 1 (one) copy in English, while the Service Provider shall retain 2 (two) copies in English and 1 (one) copy in the Serbian language.

CONTRACTING AUTHORITY

CONTRACTOR

VIII INSTRUCTIONS FOR BIDDERS ON HOW TO COMPILE A BID

(1) INFORMATION ABOUT THE LANGUAGE IN WHICH BIDS MUST BE COMPILED

A Bidder must submit the Bid in written form.

The Bid and other Bid related documents shall be in either the Serbian or the English language, except the evidence demonstrating fulfillment of the mandatory requirements for participation in the public procurement procedure defined in points 1) to 3) of Section III of the Tender Documents, which shall be submitted in the form of original documents in the official language of the country where the Bidder has its registered office, together with their translation into the Serbian language, certified by a court interpreter. If the contracting authority finds, in the course of the expert evaluation of bids, that a part of bid should be translated into Serbian language, it shall set an adequate time limit to the bidder for translating that part of the bid into Serbian.

These Tender Documents are prepared in the Serbian and English language. In case of a dispute, the version in the Serbian language shall prevail.

(2) THE MANNER OF SUBMITTING A BID

A Bidder shall submit a bid, directly or through postal services, in a closed envelope or box, sealed in such manner that during bid opening it can be determined with certainty that it is being opened for the first time.

The reverse side of the envelope or box must contain the name, address, telephone number and e-mail of the Bidder.

The Bid shall be submitted to following address: Serbia and Montenegro Air Traffic Services SMATSA Llc, Nikole Pašića Square No. 10, 11000 Belgrade, Republic of Serbia bearing a visible note: **“Bid for Support and maintenance service of the TopSky-ATC system – PP 123/U/19 – DO NOT OPEN”**. A bid that arrives at Contracting authority address by **9,30 A.M. (CET) on 04/07/2019** regardless of the method of delivery shall be considered as timely bid.

Upon reception of bid, the Contracting authority shall mark the time of receipt, registration number as well as date of the receipt. If the bid is submitted directly to the Contracting authority, the Contracting authority shall provide the Bidder with a delivery confirmation receipt.

The Bid which was not received by the Contracting authority within the indicated deadline shall be considered as untimely. Untimely bid shall be returned to the bidder unopened, after the bid opening procedure with a note stating that it has been submitted in an untimely manner.

The Bidder shall compile its Bid by entering requested data into the forms provided herein, and submitting documents and evidence in accordance with the Invitation to tender and these Tender Documents.

The bid must contain all elements requested in the Tender Documents and all amendments and addendums thereof, as per Article 63 of the Public Procurement Law. All forms must be submitted in their original form, filled-in clearly and unambiguously in legible writing, certified by the bidder's company seal and signature of an authorized person.

IMPORTANT A bid must contain the following elements:

- 1) **Form VI - 1** - Bid Form;
- 2) **Form VI -1a** – Bid Form – Information on the Subcontractor – To be submitted only if the bidder has indicated that he will entrust partial execution of the procurement to a subcontractor;
- 3) **Form VI - 2** – Price structure Form;
- 4) **Form VI – 4** – Independent Bid Statement Form;
- 5) **Proposal of the wording for the Articles of the Model of the Contract** that are subject of negotiations. If the Bidder does not submit this element it shall be considered that he agrees with proposal of the wording provided in the Model of the Contract (Section VII);
- 6) **Evidence of compliance with the requirements for the procurement procedure, as indicated in Section III of the Tender Documents;**
- 7) **Evidence that the offered services are fully in accordance with the Technical Specification from Section II** of the Tender documents: Description of the Bidder's support and maintenance service of the TopSky-ATC system (SOW) which shall comprise at least the Contracting authority's requirements from Technical Specification from Section II.

It is recommended that all documents be bound together into a single whole and sealed in such a way that would make it impossible for additional sheets or appendices to be subsequently added, removed or changed. The bid must not contain editions on the text between lines inserted by the bidder, deletions of words, nor overwritten words, unless the bidder is correcting his own mistakes. If the bidder chooses to edit his own text in the forms, these editions shall be considered valid only if they are signed or initialed by the person or persons signing the bid and certified by the bidder's company seal.

(3) LOTS

This public procurement has not been divided into multiple groups (lots).

(4) BIDS WITH VARIANTS

Bids with variants are not permitted.

(5) AMENDING, SUPPLEMENTING AND RECALLING A BID

Before expiry of the bid submission deadline, the Bidder may amend, supplement or recall its bid, in the manner stipulated for submission of the Bid.

The Bidder shall clearly state which elements of the bid he is amending and/or which documents are submitted subsequently.

Bid amendment, supplement or recall is to be submitted to following address: Serbia and Montenegro Air Traffic Services SMATSA Llc, Nikole Pašića Square No. 10, 11000 Belgrade, Republic of Serbia bearing a visible note:

“Amendment of the Bid PP - 123/U/19 - Support and maintenance service of the TopSky-ATC system — DO NOT OPEN” or

“Supplement of the Bid - PP 123/U/19 - Support and maintenance service of the TopSky-ATC system — DO NOT OPEN” or

“Recall of the Bid - PP 123/U/19 - Support and maintenance service of the TopSky-ATC system — DO NOT OPEN” or

“Amendment and Supplement of the Bid - PP 123/U/19 - Support and maintenance service of the TopSky-ATC system — DO NOT OPEN”

The reverse side of the envelope or box must contain the name, address, telephone number and e-mail of the Bidder. After expiry of the bid submission deadline, the Bidder cannot withdraw nor amend its bid.

(6) PARTICIPATION IN THE PROCEDURE

A bidder may submit only one bid.

A bidder that submits an independent bid cannot simultaneously participate in a joint bid or a bid with a subcontractor, nor can he participate in multiple joint bids. In case the Bidder does not act in accordance with this instruction, each bid in which such Bidder participates shall be rejected.

In a Bid form (Form VI - 1), the Bidder has to indicate the method of Bid submission i.e. if the Bidder is submitting the Bid independently, as a member of group of Bidders (joint Bid) or if the Bidder is submitting the Bid with a subcontractor.

(7) SUBCONTRACTORS

If the Bidder state in the Bid Form (Form VI – 1a) that he will entrust partial execution of the procurement to a subcontractor, than he is obliged to state the name of the subcontractor the percentage of the total value of the procurement that will be entrusted to the subcontractor, which cannot exceed 50%, and indicate the part of the procurement that will be executed by the subcontractor.

If a contract is signed between the Contracting authority and the bidder, the subcontractor shall be named in the contract.

The Bidder is obliged to submit the evidence of compliance with the requirements for the subcontractors, as specified in Section III of the Tender Documents, in accordance with instructions for proving compliance to the requirements

The Bidder shall be fully liable to the Contracting Authority for the execution of the obligations under the public procurement procedure, i.e. the execution of the contractual obligations, regardless of the number of subcontractors.

At Contracting authority’s request, bidder shall provide access at the subcontractor’s in order to determine fulfillment of requirements.

The Contracting authority will pay the full amount of the contract, directly to the Bidder, regardless of the percentage of the total value of the public procurement procedure that has been entrusted to a subcontractor.

The Bidder cannot engage as subcontractor any person not named in the bid, otherwise the Contracting Authority will realize the performance bond and terminate the contract, unless where termination could cause significant damage to the Contracting Authority. In this case the Contracting Authority shall notify the authorized organization for protection of competition.

In the case of a Bid submitted with a subcontractor, all forms shall be signed and certified by the Bidder, except for the Form VI-1a and Form VI-5a which shall be signed and certified by the Bidder and by each subcontractor individually.

(8) JOINT BID

The bid cannot be submitted by a group of bidders, as the subject procurement procedure is being carried out as a negotiated procedure with one specific bidder.

(9) METHOD OF PAYMENT, WARRANTY PERIOD AND OTHER TERMS

9.1 Method of payment

Method of payment is one of the elements of the contract which are subject to negotiation. The Contracting Authority proposes the following method of payment:

The payments shall be made in equal quarterly instalments (each yearly price of services divided by four), within 15 days from the presentation of invoice in the amount of quarterly payment and Quarterly Report on the provided services, signed by the authorized person of the Contracting Authority.

The Bidder may propose a different method of payment in his Bid, whereby it is necessary to comply with the principle of payment in installments. Advance payment is not acceptable.

9.2 Contract validity period

The Contract shall enter into force on the date of its signature by the authorized representatives of both contracting parties and shall apply from the date of expiration of the current contract NAB.00 77/295 dated 01 August 2016. The Contract is concluded with a validity period of three (3) years counting from the application date of the Contract.

9.3 Warranty period

The Bidder warrants that repaired or replaced items shall not have material defects, and shall have all the characteristics necessary for the regular and proper use within six (6) months from the date of receipt of the repaired/replaced item at the Contracting Authority's location.

9.4 The deadline for returning repaired/replaced parts (Turnaround time - TAT)

The Bidder expresses in the Bid form number of calendar days from the date of the receipt of a faulty part in the Bidder's location until the date of receipt of the repaired or replaced part at the Contracting authority's address - Turnaround time (TAT).

9.5 Validity of the Bid

The bid must be valid for a period of no less than 60 days from the date of the bid opening procedure. Once the validity period of the bid expires, the Contracting Authority may request in written form that the bidder extends the validity period of the bid. A bidder that accepts the request to extend the validity period of the bid cannot alter his bid.

(10) BID PRICE

The Bidder expresses the prices in the bid in either RSD or EUR, without and with value added tax payable in the Republic of Serbia. In case that the Bidder is appointed with a tax representative in the Republic of Serbia, it shall be obliged to fill in the amounts with and without VAT, in the Forms VI-1 and VI-2. If the Bidder is not appointed with a tax representative in the Republic of Serbia, it shall fill-in only the amounts without VAT, in the Forms VI-1 and VI-2 while the amounts with VAT are not filled-in.

The price must include all costs associated with contract performance of the subject public procurement i.e. all applicable fees for the license, expenses, all taxes, duties, contributions, levies and charges, relating to the subject of the public procurement payable outside of the Contracting authority's country. The price excludes any taxes and duties which are payable inside Republic of Serbia and/or Montenegro and which shall be borne by the Contracting authority.

Transportation costs - the Contracting authority shall bear all delivery costs of sending faulty items on a DAP Bidder's location basis, while the Bidder shall bear all delivery costs of returning repaired/replaced items on DAP Contracting authority's premises (Airport Nikola Tesla, Belgrade) basis.

The price is one of the elements of the contract which is subject to negotiation.

After negotiations, the price shall be fixed and cannot be altered during the contract validity period.

If a bid contains an unusually low price, Article 92 of the Public Procurement Law shall be applied.

(11) SECURITY INSTRUMENTS FOR CONTRACT PERFORMANCE OF THE BIDDER

11.1 Performance Bond

The selected Bidder shall, within 20 days following the date of Contract coming into force, submit to the Contracting Authority the Performance Bond issued by its Bank, with the following clauses: irrevocable, unconditional and payable on first demand. The Performance Bond shall be issued in the amount of 5% of the total Contract value without VAT and shall be valid at least 30 days after expiry of the contract. The submitted bank guarantee may not include additional payment conditions, shorter deadlines than those specified by the Contracting authority or a lesser sum than that specified by the Contracting authority. If during the term of the contract changes are made in respect of the deadlines for the execution of contractual obligations, the validity of the performance bond must be extended.

(12) PROTECTION OF CONFIDENTIAL DATA PROVIDED BY THE CONTRACTING AUTHORITY TO THE BIDDERS INCLUDING SUBCONTRACTORS

Subject public procurement does not contain confidential data that the Contracting authority makes available to the Bidder.

(13) MANNER OF OBTAINING TECHNICAL DOCUMENTS AND PLANS IE ITS CERTAIN ELEMENTS

Not applicable.

(14) ADDITIONAL INFORMATION, EXPLANATIONS AND COMMUNICATION

The communication in the public procurement procedure shall be performed in writing, i.e. by post, via electronic mail or facsimile, all in compliance with Article 20 of the Public Procurement Law. Persons interested in the public procurement may request, in writing, from the Contracting Authority additional information or clarifications regarding the preparation of the Bid, and they can point out any observed deficiencies and irregularities in the Tender Documents to the Contracting Authority, not later than five days prior to the expiry of the Bid submission deadline, via electronic mail to: tender@smatsa.rs, on working days (Monday – Friday) from 08:00 to 16:00. The request for clarification received after the aforementioned time or during weekend/non-working day shall be registered as if it was received on the first following working day. All requests for additional information, clarifications and communication must be marked with the designation and the reference number of the public procurement that the request refers to, eg. "Request for additional information about PP 123/U/19."

The Contracting Authority shall, within 3 days following the receipt of the request, publish the requested information on the Public Procurement Portal (<http://portal.ujn.gov.rs>) as well as on its website (www.smatsa.rs). **The Bidders are recommended to follow all notices, clarifications and alterations published on the mentioned web pages.** Requesting additional information and clarifications by telephone is not allowed.

(15) ADDITIONAL EXPLANATIONS FOLLOWING BID OPENING

The Contracting authority may request additional information from a bidder, which will help him through the course of examining, evaluating and comparing bids, and it may also conduct control (inspection) of bidder or its subcontractor.

If the Contracting authority determines that additional information are needed or that it needs to conduct control (inspection) of bidder or its subcontractor, than the Bidder will be given adequate deadline to act in accordance with Contracting authority's request or the facilitates to the Contracting authority to conduct control (inspection) of bidder or its subcontractor.

The Contracting authority may - subject to the bidder's consent - correct arithmetic errors observed in the course of examining the bid, the bid opening procedure. If there is a difference between the unit price and the total price, the unit price will be considered correct. If the bidder does not give consent to correction of arithmetic errors, the Contracting authority will reject the bid as unacceptable.

(16) INTELLECTUAL PROPERTY

Patent royalties, as well as the responsibility for breach of intellectual property rights of third parties, shall be borne by the Bidder.

(17) SUBMITTING A REQUEST FOR PROTECTION OF RIGHTS

A request for protection of rights can be submitted by parties named in Article 148 of the Public Procurement Law, in accordance with stipulations of the Public Procurement Law which regulate the protection of rights procedure (articles 148-159 of the Public Procurement Law).

The request for the protection of rights shall be submitted to the Contracting Authority, and one copy of the request for the protection of rights shall simultaneously be submitted to the Republic Commission. The request for the protection of rights is submitted directly, via electronic mail to the following e-mail address: tender@smatsa.rs or by registered mail with the return receipt, on working days (Monday – Friday) from 08:00 AM to 4:00 PM. The request for the protection of rights which is received after the stated time limit or during weekend/non-working day shall be considered as received on first, next working day.

The request for the protection of rights may be filed during the entire public procurement procedure, against any action of the Contracting Authority, unless otherwise prescribed by the Law. The Contracting Authority shall inform all participants in the public procurement procedure about the filed request for the protection of rights, i.e. shall post the notice about the filed request on the Public Procurement Portal (<http://portal.ujn.gov.rs>) and on its website (www.smatsa.rs), not later than 2 days from the day of receipt of the request.

17.1 – Deadline for submission of the Request for Protection of Rights

In a case where a request for protection of rights is submitted to dispute the type of procedure or the contents of the Invitation to Tender or the Tender Documents, the request shall be deemed timely if it is received by the Contracting authority at least seven days prior to expiry of the deadline, regardless of the manner in which it is delivered and if the claimant of the request pointed out to the Contracting Authority some eventual deficiencies and irregularities, as per Article 63, paragraph 2 and Contracting Authority fails to act accordingly.

A request for the protection of rights which is challenging the activities of the Contracting Authority undertaken before expiry of the bid submission deadline and after the time limit from the previous paragraph, shall be considered timely if submitted not later than the time limit for the submission of Bids.

Following the decision on Contract award or the decision on cancelling the public procurement procedure, the deadline for filing a request for the protection of rights shall be 10 days following the day of posting the subject decision on the Public Procurement Portal.

Request for the protection of rights cannot challenge activities of contracting authority performed in public procurement procedure if the claimant knew or could know the reasons for its submission before the expiry of time limit for submission of request under Article 149, point 3 and 4 of the Public Procurement Law, and the claimant did not submit it before the expiry of that time limit.

Where in the same public procurement procedure was filed another request for the protection of rights by the same claimant, the second request cannot challenge the activities

of contracting authority which the claimant knew or could know during the submission of the previous request.

17.2 Obligatory elements of the Request for the protection of rights

In accordance with Article 151 of the Public Procurement Law, Request for the protection of rights shall contain following elements:

- 1) name and address of claimant and contact person;
- 2) name and address of contracting authority;
- 3) information on public procurement that is the subject of the request, or on decision of the contracting authority;
- 4) violations of legislation regulating public procurement procedure;
- 5) facts and evidence substantiating the violations;
- 6) proof of paid tax;
- 7) claimant's signature.

17.3 Tax for the protection of rights

The claimant must remit payment for taxes to the Budget of Serbia, in the amount of 60.000 RSD.

17.4 Instructions for tax payment from the Republic of Serbia

Claimant is obliged to pay a tax in the amount prescribed in point 17.3 to the specified account of budget of Republic of Serbia. As proof of paid tax, the following will be accepted:

- 1) Proof of paid tax which contains the following elements:
 - (1) is issued by the bank and has the stamp of the bank;
 - (2) presents evidence that the fee is paid, meaning the confirmation must contain the information that the payment order, i.e. wire transfer order has been completed as well as date on which it has been completed.
 - (3) the amount of the tax;
 - (4) the budget account no. 840-30678845-06;
 - (5) payment code: 153 or 253;
 - (6) reference no.: PP 123/U/19
 - (7) the purpose of the payment: request for protection of rights tax; SERBIA AND MONTENEGRO AIR TRAFFIC SERVICES SMATSA LLC; PP 123U19;
 - (8) recipient: Budget of Republic of Serbia;
 - (9) name of the claimant submitting the request for protection of rights to which payment refers;
 - (10) contains signature of the authorized person from the bank;
- 2) The first copy of the payment order verified by signature of the authorized person and stamp of the bank or post office, containing all other elements of proof of completed payment of the tax as stated in the previous point 1).
- 3) Confirmation issued by Republic of Serbia, Ministry of Finance, Treasury, verified by signature of the authorized person and stamp containing all the elements of proof of completed payment of the tax as stated in the previous point 1), except those stated under (1) and (10) for claimants that have open account within consolidated Treasury account, managed by Treasury (beneficiaries of budget, beneficiaries of the assets of organizations for compulsory social security and beneficiaries of other public assets);

4) Confirmation issued by National Bank of Serbia, containing all the elements of proof of completed payment of the tax as stated under previous point 1), for claimants (banks and other subjects) that have an account with National Bank of Serbia in accordance with the law and other regulations.

17.5 Instructions for tax payment from abroad

Hereby we inform you that taxes for submitting the requests for protection of rights can be paid from abroad to the foreign currency account of Ministry of Finance – Treasury

NAME AND ADDRESS OF THE BANK: National bank of Serbia (NBS) 11000 Belgrade, 17 Nemanjina St. Serbia

SWIFT CODE: NBSRRSBGXXX

NAME AND ADDRESS OF THE INSTITUTION: Ministry of Finance Treasury 7-9 Pop Lukina St. 11000 Belgrade

IBAN: RS 35908500103019323073

REMARK: It is also necessary to state the following payment information - “details of the payment” (FIELD 70: DETAILS OF PAYMENT): – PP 123U19.

The detailed instruction for the payment of the fee as well as examples of correctly filled in payment forms or payment transfer forms could be found on the following e-mail address: <http://www.ujn.gov.rs/ci/uputstvo-o-uplati-republicke-administrativne-takse.html>

(18) CONTRACTING

The Contracting Authority shall sign a Public Procurement Contract in the form of the harmonized Model of the Contract during negotiating procedure, and deliver it for signing to the Bidder to whom the Contract is awarded, within a period of eight days following the expiry of the deadline for the submission of a request for the protection of rights.

The selected bidder is obliged to submit to the Contracting Authority signed copies of the contract within 15 (fifteen) days from the date of the receipt of the contract, that is, from the day when the Contracting Authority invited him to conclude the contract. If the Bidder fails to submit the contract within the indicated deadline, it shall be deemed to have refused to sign it and the Contracting Authority may enter him in the register of bidders with negative references, unless there are justifiable reasons for the delay, which it will notify the Contracting Authority in writing.

(19) BID ELIMINATION

The Contracting authority is expected to review all documents, carefully study all instructions, forms, terms and the technical part of the Tender Documents, and act accordingly. The Contracting authority shall eliminate a bid, if:

- 1) it is untimely;
- 2) contains major omissions, i.e.:
 - a. it fails to prove that he meets all mandatory requirements for participation in the procurement procedure;
 - b. it fails to prove that he meets all additional requirements;
 - c. the bidder failed to submit the requested means of security (where applicable);
 - d. the offered bid validity period is shorter than that prescribed by law;
 - e. it contains other omissions which make it impossible to ascertain the actual contents of the bid, or make it impossible to compare the bid with others;
- 3) it does not comply with the technical specifications;
- 4) it limits The Contracting authority's rights;
- 5) it sets conditions that limit The Contracting authority's rights;

- 6) it limits obligations of the bidder.
- 7) it exceeds the estimated value of the public procurement.