

STÁTNÍ TISKÁRNA CENIN, státní podnik  
Prague 1, Růžová 6, House 943, Postal Code 110 00, Czech Republic  
Represented by: Tomáš Hebelka, MSc, CEO  
(hereinafter referred to as „Contracting Authority“)

In Prague, dated as *per the electronic signature*

### EXPLANATION OF TENDER DOCUMENTATION - III.

The Contracting Authority of the below-threshold public contract „**Supply the Hot Stamping Foil with Diffractive Optically Variable Image Devices for the Commemorative Banknote**“ being awarded in simplified below-threshold procedure pursuant to Act No. 134/2016 Coll., On Public Procurement<sup>1</sup>, as amended (hereinafter referred to as “Act”), hereby explains and alters the tender documentation in accordance with Sec. 98 of the Act.

#### **Question No. 1:**

The purchase contract is marked as a draft version. Can we assume that changes to the sales contract are still negotiable?

#### **Answer to the question No. 1:**

The present Tender Documentation is binding upon the Contractor.

The Contractor has the opportunity to propose changes in the Draft Purchase Contract (or other tender conditions) only through questions and inquires in a **request for clarification/alteration of the Tender Documentation** in accordance with the Sec. 98 and 99 of the Act, as well as stipulated in the Art. 12 of the Tender Documentation, before the tender submission.

The Contracting Authority shall consider the possible alteration of tender conditions, **since this course of action is not demandable, and it is up to consideration of the Contracting Authority whether the tender conditions shall be altered.**

Unless the Contracting Authority accepted the proposals for changes and published alteration of tender conditions in accordance with the Sec. 98 and 99 of the Act, **the Contractor shall submit its tender in compliance with the latest published version of the Tender Documentation, including the latest version of Draft Purchase Contract, i.e. the Contractor shall not deviate from the latest version of the binding Tender Documentation in its tender since a comparability of all submitted tenders shall be ensured.**

The Contracting Authority may also provide written clarification or alter the Tender Documentation without a prior request or inquiry.

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<sup>1</sup> Please find the English version of the Act under this link: [https://portal-vz.cz/wp-content/uploads/2019/06/Zakon-c-134\\_2016-Sb-o-zadavani-verejnych-zakazek-EN.pdf](https://portal-vz.cz/wp-content/uploads/2019/06/Zakon-c-134_2016-Sb-o-zadavani-verejnych-zakazek-EN.pdf) Please note that unfortunately it is not the final version of the Act, which has been amended afterwards.

**Question No. 2:**

Acc. Article II. 1b) The subject of this Contract is the Seller's obligation: to grant exclusive license covering ...

████ would offer its unique █████ for your Commemorative Banknote. The █████ technology is proprietary to █████ and therefore extremely secure. Based on a direct-write, vector-oriented process, it allows the creation of structures which are able to steer light in desired directions depending on the targeted optical effects. This is a unique achievement among the manufacturers of foils in the banknote industry, and results in the fact that many of the █████ technology's optical effects are unique and cannot be replicated or imitated with holography.

████ exclusively restricts the use of the █████ technology to high security applications such as banknotes or governmental ID documents. The use of the █████ technology for lower security levels is excluded.

In this context, we grant our banknote customers exclusive purchase rights. If you would like to receive a █████ offer for your project, we suggest changing the entire contract to include exclusive purchase rights instead of exclusive license rights.

**Answer to the question No. 2:**

The Contracting Authority considers it is necessary to emphasize that the Contracting Authority does not require any licence covering Contractor's (Seller's) unique technology. The Contracting Authority would like to assure all potential Contractors that **the Contractor remains to be the owner of the Master** and that the Contracting Authority (Buyer) cannot even dispose of Master in any way. This is explicitly stated in the Article VI paragraph 5 of the Draft Purchase Contract:

*"The Seller hereby states and guarantees that he will properly store and archive at its site the manufactured Master which is its property for 2 years following the end of this Contract, unless both Parties agree otherwise. After this time period expires the Seller is obliged to destroy the Master and all its copies created for the purpose of a mass production of the DOVIDs at his own cost and document this action on the necessary protocol, provided that the Buyer issued a confirmation allowing the Seller to destroy the Master."*

The ownership of Master is also stated in the Article II paragraph 1 d) of the Draft Purchase Contract, where the Contracting Authority (Buyer) explicitly requires acquiring the ownership title to the supplied DOVIDs, **not to the Master**.

The Contracting Authority considers it important to state that the Contracting Authority is planning to use the DOVIDs obtained on the basis of this Draft Purchase Contract only once, and only for the purposes of this Draft Purchase Contract and the given project, i.e. production of the given commemorative banknote

The Contracting Authority requires the Contractor to **grant him an exclusive license covering the design of DOVIDs, the Master and its copies**, as provided in Article II paragraph 1 b) and in the Article VII of the Draft Purchase Contract. These are standard provisions of the Contracting Authority, the current and previous contracts with a comparable subject of performance of the Contracting Authority contain similar provisions. Granting of a license means the granting of copyright to the author's work in the sense of § 2358 et seq. of the of Act No. 89/2012 Coll., the Civil Code, as amended (hereinafter referred to as the "Civil

Code”), whereby the Contracting Authority requires an exclusive license in the sense of § 2360 of the Civil Code. For the avoidance of any doubt, the Contracting Authority reminds that the **granting of an exclusive license does not mean the granting of ownership of the Master, nor the disposing of the Master.**

The Contracting Authority hereby informs that provisions relating to exclusive licences in the Draft Purchase Contract shall not be amended.

### **Question No. 3:**

Acc. Article III. 2) ... the Master will be approved by the Buyers’ representatives in person.

Please bear in mind that the project will be completed during the COVID pandemic and corresponding restrictions on visits and travel may not allow such a described personal approval process. We propose to include an alternative master approval process that takes into account the pandemic restrictions.

### **Answer to the question No. 3:**

The Contracting Authority is aware of the complicated current situation due to the COVID pandemic.

Nevertheless, the Contracting Authority hereby confirms that the priority is to proceed the anticipated approval of the Master by the Contracting Authority’s representatives in person, since it is an important process to ensure the demanded quality and compliance with the approved design.

If the up-coming situation and relevant restrictions did not allow the approval to be organized in person, the situation shall be solved *ad hoc* in terms of the current situation towards a winner of the tender procedure, since all national and international restrictions are not predictable right now. Nevertheless, the preferable procedure shall be the approval in person.

### **Question No. 4:**

Acc. Article III. 4) The day of approval of the Master also passes to the Buyer the right of use the DOVIDs design – DOVID licences according to the Article VII of this Contract.

As described here under 2) [REDACTED] grants banknote customers exclusive purchase rights. We suggest to delete the Article III. 4) accordingly.

### **Answer to the question No. 4:**

Following the Answer to question 2, the Contracting Authority informs that the Article III paragraph 4 of the Draft Purchase Contract shall not be amended.

### **Question No. 5:**

Acc. Article VII. 1 and corresponding) The Seller is obliged to grant to the Buyer the right to exclusive licenses covering the design of the DOVIDs pursuant...

As described here under 2) [REDACTED] grants banknote customers exclusive purchase rights. We suggest changing the entire Article VII to include exclusive purchase rights instead of exclusive license rights.

**Answer to the question No. 5:**

Following the Answer to question 2, The Contracting Authority informs that the Article VII of the Draft Purchase Contract shall not be amended.

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The Contracting Authority does not consider this explanation as alteration or supplementation of the tender documentation whose nature would demand extension of the time limit for the tender submission in accordance with Sec. 99 (2) of the Act, since the Contracting Authority does not alter the tender conditions.

Kind regards,

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Mgr. Zuzana Šenoldová  
Head of Public Procurement  
for the contracting authority  
STÁTNÍ TISKÁRNA CENIN, státní podnik