

**IFB-CO-15577-SSSB-UK-GR-NL**



**BOOK II**

**PROSPECTIVE CONTRACT**

NATO UNCLASSIFIED

IFB-CO-15577-SSSB-UK-GR-NL

**SIGNATURE SHEET**

**CONTRACT IFB-CO-15577-SSSB-UK-GR-NL**  
**Between**  
**NCI Organisation, as**  
**represented by the General Manager NCI Agency**  
**(Purchaser)**

**and**

.....

**(Contractor)**

IN WITNESS HEREOF the parties hereto have caused this agreement to be executed by their duly authorised officers on the date shown hereunder:

Signature of Contractor: .....

Name of Signer: .....

Title of Signer: .....

Date: .....

Signature of Purchaser: .....

Name of Signer: .....

Title of Signer: .....

Date: .....

EFFECTIVE DATE OF CONTRACT: .....

CONTRACT VALUE: .....

NATO UNCLASSIFIED

## TABLE OF CONTENTS

<b>PART I - SCHEDULE OF SUPPLIES AND SERVICES .....</b>	<b>1</b>
---	----------

<b>PART II - SPECIAL CONTRACT PROVISIONS .....</b>	<b>1</b>
--	----------

1. INTERPRETATION, DEFINITIONS, AND ACRONYMS .....	2
2. ORDER OF PRECEDENCE .....	2
3. SCOPE OF WORK.....	3
4. PARTICIPATING COUNTRIES .....	3
5. CONTRACT TYPE .....	4
6. INVOICES AND PAYMENT TERMS .....	5
7. CONTRACTOR RESPONSIBILITY .....	6
8. PRICING OF CHANGES, AMENDMENTS AND CLAIMS .....	6
9. OPTIONS .....	7
10. RISK OF LOSS OR DAMAGE .....	8
11. COTS PRODUCTS REPLACEMENT .....	9
12. NATO USE OF THIRD PARTIES .....	9
13. CONTRACT ADMINISTRATION .....	9
14. TECHNICAL DIRECTION .....	11
15. LIQUIDATED DAMAGES.....	12
16. CONTRACTOR'S EMPLOYEES .....	13
17. KEY PERSONNEL .....	14
18. INDEPENDENT CONTRACTOR.....	16
19. INTELLECTUAL PROPERTY RIGHTS .....	16
20. CONFIDENTIALITY AND NON-DISCLOSURE.....	17
21. CONFLICT OF INTEREST .....	18
22. PURCHASER FURNISHED PROPERTY AND SERVICES.....	19
23. COMPREHENSION OF CONTRACT AND SPECIFICATIONS .....	20
24. WARRANTY PERIOD.....	21
25. PERFORMANCE GUARANTEE.....	23
26. SECURITY .....	23
27. SUPPLEMENTAL AGREEMENTS / EXPORT CONTROLLED INFORMATION .....	25
28. SCHEDULE OF SITE INSTALLATIONS .....	26
29. DIFFERING SITE CONDITIONS .....	27
30. CONTRACTOR AND PURCHASER SYSTEM INSTALLATION RESPONSIBILITIES .....	27
31. LIAISON WITH PURCHASER DURING SITE PREPARATION ACTIVITIES.....	27
32. PROTECTION OF WATER, LAND, EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS .....	28
33. OPERATIONS AND STORAGE AREAS .....	29
34. SITE CLEAN UP .....	29
35. AVAILABILITY AND USE OF UTILITY SERVICES.....	29

36.	PLACE AND TERMS OF DELIVERY .....	30
37.	ENGINEERING CHANGE PROPOSALS (ECP) .....	31
38.	OPTIMISATION.....	32
39.	PATENT AND COPYRIGHT INDEMNITY .....	33
40.	NOTICE OF AUTHORIZED DISCLOSURE OF INFORMATION FOR MANDATED NATO THIRD PARTY AUDITS BY RESOURCE COMMITTEES .....	33
<b>ANNEX A.</b>	<b>LIST OF ABBREVIATIONS .....</b>	<b>1</b>
<b>ANNEX B.</b>	<b>NON-DISCLOSURE DECLARATION.....</b>	<b>1</b>
<b>ANNEX C.</b>	<b>KEY PERSONNEL .....</b>	<b>1</b>
<b>ANNEX D.</b>	<b>SCHEDULE OF PAYMENT MILESTONES .....</b>	<b>1</b>
<b>ANNEX E.</b>	<b>LIST OF SUBCONTRACTORS.....</b>	<b>1</b>
<b>ANNEX F.</b>	<b>CONTRACTOR AND SUBCONTRACTOR BACKGROUND IPR 1</b>	
<b>ANNEX G.</b>	<b>THIRD PARTY IPR.....</b>	<b>1</b>
<b>ANNEX H.</b>	<b>TEMPLATE OF ECP SIGNATURE PAGE.....</b>	<b>1</b>
<b>ANNEX I.</b>	<b>LIST OF ACCCEPTABLE BANKS TO ISSUE PERFORMANCE GUARANTEES.....</b>	<b>1</b>

**PART III – GENERAL CONTRACT PROVISIONS**

**PART IV – STATEMENT OF WORK**

This page is intentionally left blank

NATO UNCLASSIFIED

IFB-CO-15577-SSSB-UK-GR-NL

**IFB-CO-15577-SSSB-UK-GR-NL**

**SSSB**

**PART I - SCHEDULE OF SUPPLIES AND SERVICES (SSS)**

*(THIS SECTION WILL BE DERIVED FROM THE BIDDING SHEETS SUBMITTED BY THE SUCCESSFUL BIDDER)*

NATO UNCLASSIFIED

NATO UNCLASSIFIED

IFB-CO-15577-SSSB-UK-GR-NL

**IFB-CO-15577-SSSB-UK-GR-NL**

**SSSB**

## **PART II - SPECIAL CONTRACT PROVISIONS**

NATO UNCLASSIFIED

## **PART II – SPECIAL CONTRACT PROVISIONS**

### **1. INTERPRETATION, DEFINITIONS, AND ACRONYMS**

1.1. This Clause hereby supplements Clause 2 of the NCIO General Provisions.

1.2. As used throughout this Contract, acronyms shall have meanings specified in 40.

1.3. “Days”: calendar days;

1.4. “Deliverables”: the items, features or services to be delivered by the Contractor at a Milestone Date or at any other stage during the performance of this Contract as listed in Part I (SSS) and as more particularly described in the SOW, the SRS, the Technical Solution or any other relevant contract document;

1.5. “Installation Sites”: the NATO premises as set out in Contract Schedules and the SOW and or such other sites as the Purchaser shall from time to time notify to the Contractor through a Contract Amendment;

1.6. The definition of “Purchaser” for the purposes of this Contract is hereby modified from the definition of NCIO General Provisions Clause 2 “Definitions of Terms and Acronyms” to “NATO C&I Organisation, as represented by the General Manager, NCI Agency. The Purchaser is the legal entity who awards and administers the Contract and stands as one of the Contracting Parties. The definition of Purchaser encompasses any legal successor to the NATO C&I Organisation and its designated representative, as may be agreed by the NATO member Nations.”

1.7. Territorial Host Nation (THN): United Kingdom, Greece and the Netherlands are the Territorial Host Nations for this project. NCI Agency has been authorised to act as Technical and Procurement Agent (Purchaser) on behalf of the THN and is vested with the acquisition authority.

### **2. ORDER OF PRECEDENCE**

2.1. This Clause hereby supersedes Clause 1 of the NCIO General Contract Provisions.

2.2. If there is any conflict between the clauses and the schedules and/or any annexes to the schedules and/or any other documents referred to in this



Contract, the conflict shall be resolved in accordance with the following order of precedence:

- 2.2.1. The Signature Page
- 2.2.2. Part I (Contract Schedule of Supplies and Services)
- 2.2.3. Part II (Special Contract Provisions) and Annexes
- 2.2.4. Part III (NCIO General Contract Provisions) and Annexes
- 2.2.5. Part IV (Statement of Work)
- 2.2.6. The Purchaser's provided clarifications, issued throughout the bidding period relevant to IFB-CO-15577-SSSB-UK-GR-NL
- 2.2.7. Pre-award Clarifications dated.....
- 2.2.8. The Contractor's proposal (Technical Proposal and Price Quotation) in response to IFB-CO-15577-SSSB-UK-GR-NL.

### **3. SCOPE OF WORK**

3.1. The scope of this Contract is to procure and install the radio communication equipment for the United Kingdom-Greece-Netherlands Ship Shore Ship Buffer (SSSB) system.

3.2. This Contract encompasses procurement, design, manufacturing, delivery of equipment, installation, integration, testing, acceptance and ILS support as defined in the Statement of Work (SOW) and Annexes of the Contract.

3.3. The Contractor shall provide the supplies and services indicated in the Schedule of Supplies and Services (SSS) and further described in the SOW and Annexes, and perform the work described in the SOW and Annexes for the implementation of the above stated project.

### **4. PARTICIPATING COUNTRIES**

4.1. This Article supplements Clause 9 of the Contract General Provisions.

4.2. The following NATO member nations have agreed to fund this acquisition effort: (in alphabetical order): ALBANIA, BELGIUM, BULGARIA, CANADA,

CROATIA, CZECH REPUBLIC, DENMARK, ESTONIA, FRANCE, GERMANY, GREECE, HUNGARY, ICELAND, ITALY, LATVIA, LITHUANIA, LUXEMBOURG, THE NETHERLANDS, NORWAY, POLAND, PORTUGAL, ROMANIA, SLOVAKIA, SLOVENIA, SPAIN, TURKEY, THE UNITED KINGDOM, and THE UNITED STATES.

4.3. The Contractor may issue sub-contracts to firms and purchase from qualified vendors in any Participating Country. None of the work, including project design, labour and services, shall be performed other than by firms from and within Participating Countries, as per NATO policy.

4.4. The Contractor shall notify in writing to the Purchaser immediately upon being informed of any change in the nationality of its Subcontractor(s) which would prevent the Contractor from further complying with Clause 9.3 in the General Provisions. Upon receipt of this information from the Contractor, the Purchaser may, within three months from this notification, require the Contractor to find an alternate subcontractor, complying with the requirements set out in Clause 9.3 above.

4.5. Unless authorized by NATO Policy, no material or items of equipment down to and including identifiable sub-assemblies delivered under this Contract shall be manufactured or assembled by a firm other than from and within a Participating Country.

4.6. The Intellectual Property Rights to all design documentation and system operating software shall reside in participating NATO member countries, and no license fee, or royalty charges shall be paid by the Contractor to firms, individuals or governments other than within the NATO member community.

## **5. CONTRACT TYPE**

5.1. This Clause hereby supersedes Clause 7 of the NCIO General Contract Provisions.

5.2. The Basic Contract is a Firm Fixed Price Contract for duration of approximately 5 years, but also contains Options to be liquidated in accordance with the Contract terms as stipulated below.

5.3. CLINs 10.22 and CLINS 18 to 23 are contractual options and contain, amongst others, a number of extensions for in total up to an additional 9 years. These options shall be exercised, if any, according to Clause 9 below.

5.4. The Total Price of this Contract is as stated on the signature page of the Contract or any Amendment thereto. The Purchaser assumes no liability for

costs incurred by the Contractor in excess of the stated Total Price, except as may be authorised under certain provisions of this Contract.

## **6. INVOICES AND PAYMENT TERMS**

6.1. Clause 25 “Invoices and Payments” of the NCI Agency’s Contract General Provisions is supplemented as follows:

6.2. Following Purchaser acceptance, in writing, payment for supplies and services furnished shall be made in the currency specified for the relevant portion of the Contract.

6.3. The term of the Contract may not be exceeded without prior approval of the Purchaser. In no case will the Purchaser make payment above the total of the corresponding CLINs.

6.4. No payment shall be made with respect to undelivered supplies; works not performed, services not rendered and/or incorrectly submitted invoices.

6.5. No payment will be made for additional items delivered that are not specified in the contractual document.

6.6. The invoice amount is exclusive of VAT and exclusive of all Taxes and Duties in accordance with Clause 26 (Taxes and Duties) of the Contract General Provisions.

6.7. Invoices shall be submitted to the following e-mail address: [accountspayable@ncia.nato.int](mailto:accountspayable@ncia.nato.int). No paper invoices will be accepted.

6.8. All invoices shall include the Purchase Order Number, Contract Number, Amendment Number (if any) and the Payment Milestone number.

6.9. The Purchaser will make payment within sixty (60) days of receipt by the Purchaser of a properly prepared and documented invoice.

6.10. The Contractor shall be entitled to submit invoices and payment will be made as soon as all CLINs associated with a given Payment Milestone identified in Annex D, have been accepted by the Purchaser in writing. Where

appropriate the Contractor may combine multiple Payment Milestones under one invoice.

6.11. Invoicing for Contract Options (if exercised):

6.11.1. CLINs 10.22 shall combine the invoice of the exercised options, if any, with Payment Milestone nr 6 in Annex D.

6.11.2. CLINs 18 to 23: For the options exercised, the Contractor shall submit an invoice at the end of each 6 month period at the rate of 50% of the respective annual CLIN value (for the duration identified in the CLIN) provided the services during the previous 6 months were performed successfully as described in the Statement of Work and Service Credits, if any, were subtracted.

## **7. CONTRACTOR RESPONSIBILITY**

7.1. Notwithstanding the right of the Purchaser to review the Contractor's efforts and progress, and particularly with reference to, specifications, and data items and other deliverables, which may be provided for elsewhere in this Contract, it is expressly understood that the Contractor is completely responsible for the compliance of Contract end items with the provisions of this Contract, and any reviews and approvals given by NCI Agency do not relieve the Contractor of this responsibility.

## **8. PRICING OF CHANGES, AMENDMENTS AND CLAIMS**

8.1. This Clause hereby supplements Clause 19 of the NCIO General Contract Provisions.

8.2. Contractor's pricing proposals for Changes, Amendments and Claims shall be priced in accordance with the schedules of forward labour rates components established in the Contract Schedule of Supplies and Services, or, if not defined in the latter, which were submitted in the Contractor's bid incorporated in the Contract by reference.

8.3. The Contractor shall be bound by the stated labour rates and COTS components prices.

8.4. The offered Bidding Sheets provided pricing information relevant to any COTS Products necessary for the purpose of successfully performing all Contract tasks. The Purchaser reserves the right to provide COTS hardware and software products as Purchaser Furnished Equipment, should it be possible for the Purchaser to get better prices through existing Enterprise Agreements or Basic Ordering Agreements. The Contractor will be notified by

the Purchaser Contracting Authority in writing as to what COTS items will be removed from the contract scope, and the contract price shall be reduced in accordance with the pricing information provided in the Bid.

## **9. OPTIONS**

9.1. CLIN 10.22 and CLINs 18 to 23 of the Contract Schedule of Supplies and Services represent Contract options for additional scope or extensions to be performed by the Contractor within the framework of this Contract.

9.2. The Purchaser is not obliged to exercise any Option and shall have the right to unilaterally exercise any optional sub-items of the optional CLINs at the prices stated in the Schedule of Supplies and Services of the Contract, and to be notified at any time from Contract award to 30 days before the end of the Warranty.

9.3. The Contractor will be notified by the Purchaser (or possibly THN after FSA) in writing as to what Option will be exercised and in what combination and this minimum ninety (90) days before the required Performance Start Date.

9.4. The Contractor understands that there is no obligation for the Purchaser to exercise any of the aforementioned optional sub-items and that the Purchaser bears no liability should it decide not to exercise the options (totally or partially). Further, the Purchaser reserves the right to order another Contractor (or the same), to perform the tasks described in the optional line items of the current Contract through a new Contract with other conditions.

9.5. The quoted unit prices are firm fixed prices throughout the duration of the contract and are independent of the actual quantity of units or other options exercised nor shall it impact the execution of any other CLINs. The Purchaser is not obliged to exercise any option or quantity.

9.6. In case any options of CLINs 18 to 23 of the Contract is exercised, the performance guarantee for the Contract that is normally valid until the end of the warranty period will be extended (and possibly transferred to the THN upon Purchaser decision) to the end of the option period unless a new performance guarantee for these options is provided by the Contractor.

9.7. SubCLINs of the Post-Warranty CLS Service Options (CLINs 19, 21 and 23) each have a duration of 3 years and its prices are to remain valid for that period. As from FSA + 4 years, with a six (6) months' notice, the Contractor is authorised to request for price Re-Determination. Price Determinations are to

be limited to the amounts reflected for each period of 3 years in a governmentally approved inflationary index of the Contractors country.

9.8. In addition to the above, the Purchaser reserves the right to order any foreseeable or additional Contract tasks or deliverables, listed or not, either occasionally or at a further stage in the life of the project, which it deems necessary for the successful completion of the project. The additional tasks and/or deliverables shall be priced in using the "CLIN Labour Price Breakdown Bidding Sheets" rates provided by the Contractor as part of its proposal and included in this Contract by reference, in accordance with the provisions of Clause 8 above.

9.9. The Purchaser may, in writing, place an order for such additional tasks throughout the entire Contract period. Such an order may be placed within the framework of this Contract via the issuance of a Contract Amendment or be formulated via the issuance of a new contractual instrument.

## **10. RISK OF LOSS OR DAMAGE**

10.1. This Clause hereby supplements Clause 24 of the NCIO General Contract Provisions.

10.2. Risk of loss or damage to Deliverables covered by this Contract shall remain with the Contractor until, and shall pass to the Purchaser upon Acceptance by the Purchaser or receipt of the supplies by the Purchaser at the destination specified in the Contract, whichever is the later.

10.3. Notwithstanding paragraph 10.4 below, the risk of loss or damage to supplies which fail to conform to the requirements of the Contract shall remain with the Contractor until cure and Acceptance, at which time 10.4 below shall apply.

10.4. Risk of loss or damage to Deliverables covered by this Contract shall remain with the Contractor until, and shall pass to the Purchaser upon Acceptance by the Purchaser or receipt of the supplies by the Purchaser at the destination specified in the Contract, whichever is the later.

10.5. Notwithstanding paragraph 10.4 above, the risk of loss or damage to supplies which fail to conform to the requirements of the Contract shall remain with the Contractor until cure and Acceptance, at which time 10.4 above shall apply.

10.6. Notwithstanding paragraph 10.4 above the Contractor shall not be liable for the loss of or damage to supplies caused by the negligence of officers, agents or employees of the Purchaser acting within the scope of their employment.

## **11. COTS PRODUCTS REPLACEMENT**

11.1. If any COTS products specified in the Contract are upgraded or discontinued by their original providers for commercial or technological reasons, the Contractor shall propose their substitution by the new versions that are intended as market replacement of the original products. The proposed items shall provide at equivalent or enhanced performance without a price or life-cycle support cost increase.

11.2. The Contractor shall provide price and performance data to support an improvement in performance and/or a reduction in price and/or life-cycle support costs. If necessary for evaluation by the Purchaser, the Contractor shall provide a demonstration of the proposed items. Should the Purchaser decide that the proposed item(s) should be included in the contract, an equitable price adjustment will be negotiated and the proposed item(s) shall be added to the Contract by bilateral modification under the authority of this Clause.

## **12. NATO USE OF THIRD PARTIES**

12.1. The Purchaser shall have the right to use third parties, including commercial entities, to assist it in the management of this Contract and the evaluation of the Contractor's performance.

12.2. The Contractor shall have the right to require third parties to sign a non-disclosure agreement that contains conditions normally considered reasonable by the Contractor's industry. Any third party non-disclosure agreement proposed by the Contractor shall be subject to approval by the Purchaser.

12.3. The Contractor shall permit such third parties full and free access to its premises, and all data (including software), deliverable and non-deliverable, generated and/or used under this Contract, as and when required for the purposes of monitoring this Contract and shall ensure the same right of access to the premises of its subcontractors, by the inclusion in any such subcontracts of a provision substantially as set forth in this Article. For the purposes of this Article, data shall not include financial data unless authorised by the Contractor, with the exception of any specialized commercial audit firms engaged by the NATO Contracting Authority or National audit agencies.

## **13. CONTRACT ADMINISTRATION**

13.1. The Purchaser reserves the right to re-assign this Contract to a representative(s) for administrative purposes, in whole or in part, provided that

the Purchaser shall always be responsible for his obligations under the Contract and for actions or lack of actions of its assigned administrator. The Purchaser undertakes to advise the Contractor in writing whenever this right is to be exercised.

13.2. The Purchaser is the NATO Communications and Information Agency (NCI Agency,). The Purchaser is the Point of Contact for all contractual and technical issues. The Contractor shall accept Contract modifications only in writing from the Purchaser's Contracting Authority.

13.3. All notices and communications between the Contractor and the Purchaser shall be written and conducted in English. Contract modifications only become valid when received in writing from the General Manager, NCI Agency, and his authorised representative.

13.4. Formal letters and communications shall be personally delivered or sent by mail, registered mail, courier or other delivery service, to the official points of contact quoted in this Contract. Telefax or other electronic means may be used to provide an advance copy of a formal letter or notice which shall subsequently be delivered through the formal communications means.

13.5. Informal notices and informal communications may be exchanged by any other communications means including telephone and e-mail.

13.6. All notices and communications shall be effective upon receipt.

13.7. Official points of contact are:

<b><u>PURCHASER</u></b>			
<b><u>Contractual issues:</u></b>		<b><u>Technical issues:</u></b>	
NCI Agency		NCI Agency	
B-1110 Brussels		Oude Waalsdorperweg 61	
Belgium		2597 AK The Hague	
POC: Martin Steenwege		POC: Daniel Harman	
Tel: +32 2 707 8335		Tel: + 31 (70) 374 1939	
Email: <a href="mailto:martin.steenwege@ncia.nato.int">martin.steenwege@ncia.nato.int</a>		E-mail: <a href="mailto:Daniel.harman@ncia.nato.int">Daniel.harman@ncia.nato.int</a>	

<b><u>CONTRACTOR</u></b>	
<b><u>Contractual issues:</u></b>	<b><u>Technical issues:</u></b>



POC:  
Tel:

POC:  
Tel:

E-mail:

E-mail:

## **14. TECHNICAL DIRECTION**

14.1. The Contract will be administered by the Purchaser in accordance with the Clause 13 of these Contract Special Provisions entitled "Contract Administration".

14.2. The individuals working on this Contract shall perform the effort within the general scope of work identified in the Contract Part IV - Statement of Work (SOW). This effort will be directed on a more detailed level by the Purchaser's Project Manager who will provide detailed tasking and instruction on how to proceed.

14.3. The Purchaser reserves his right to assign a Technical Representative who will provide the Contractor personnel with instruction and guidance, within the general scope of work, in performance of their duties and working schedule.

14.4. Neither the Purchaser's Project Manager as identified in Clause 13 of these Contract Special Provisions, nor any Technical Representative has the authority to change the terms and conditions of the Contract. If the Contractor has reason to believe that the Project Manager/Technical Representative is requesting products and services on terms inconsistent with that in the scope of the Contract, the Contractor shall immediately inform the Purchaser's Contracting Authority for confirmation of the actions. Failure to obtain confirmation that the action of the Project Manager is under the authority of the Contract shall render any subsequent claim null and void.

14.5. Upon receipt of such notification above, the Purchaser's Contracting Authority will:

14.5.1. confirm the effort requested is within scope, or

14.5.2. confirm that the instructions received constitute a change and request a quotation for a modification of scope and/or price, or

14.5.3. rescind the instructions.

14.6. All changes to the project management documentation, including the implementation schedules, agreed between the parties shall bear a formal

version number and a date from which the change applies.

**14.7. Notwithstanding the above, project management documentation, particularly any implementation schedule such as Project Management Schedule and PIP, shall not affect the original major performance milestone dates as specified in clause 15.2 nor waive the associated Liquidated Damages.**

**14.8. The Purchaser will bear no liability for changes to the Contract which are not expressly authorized by the Contracting Officer in writing.**

**14.9. Similarly the Purchaser shall not be liable for costs incurred by the Contractor resulting from changes in Contract performance authorized by other than the Contracting Officer.**

## **15. LIQUIDATED DAMAGES**

15.1. This Clause replaces Clause 38 (Liquidated Damages) of the Contract General Provisions.

15.2. Time is of the essence for this Contract. Therefore, if the Contractor fails to:

15.2.1. meet the delivery schedule of the Deliverables/CLINs of the major performance milestones specified in Annex D of the Contract Special Provisions, or

15.2.2. obtain acceptance of the Deliverables/CLINs or to acceptably perform the services of the major performance milestones specified in Annex D of the Contract Special Provisions,

15.3. The actual damage to the Purchaser for the delay will be difficult or impossible to determine. Therefore, in lieu of actual damages the Contractor shall pay to the Purchaser, for each day of delinquency in achieving the deadline or milestone, fixed and agreed liquidated damages of 0.1% (one tenth of one per cent) per day of the associated payment set forth in the schedule of major performance milestones and payments provided in Clause 6 and Annex D of the Contract Special Provisions.

15.4. In addition to the liquidated damages referred to in Clause 15.2., the Purchaser shall have the possibility of terminating this Contract in whole or in part, as provided in Clause 39 (Termination for Default) of the Contract General Provisions. In the event of such termination, the Contractor shall be liable to pay the excess costs provided in Clause 39.5 (Termination for Default) of the Contract General Provisions.

15.5. The Contractor shall not be charged with liquidated damages when the delay arises out of causes beyond the control and without the fault or negligence of the Contractor as defined in Clause 39.6 (Termination for Default) of the Contract General Provisions. In such event, subject to the provisions of Clause 41 (Disputes) of the Contract General Provisions, the Purchaser shall ascertain the facts and extent of the delay and shall extend the time for performance of the Contract when in his judgement the findings of the fact justify an extension.

15.6. Liquidated damages shall be payable to the Purchaser from the first day of delinquency and shall accrue at the rate specified in Clause 15.2. above to max 10% of the Total Contract Value. These liquidated damages shall accrue automatically and without any further notice being required.

15.7. The amount of Liquidated Damages due by the Contractor shall be recovered by the Purchaser in the following order of priority:

15.7.1. By deducting such damages from the amounts due to the Contractor against the Contractor's invoices or from the value of the relevant Payment Milestone.

15.7.2. By proceeding against any surety

15.7.3. By reclaiming such damages through appropriate legal remedies.

15.8. The rights and remedies of the Purchaser under this clause are in addition to any other rights and remedies provided by law or under this Contract.

## **16. CONTRACTOR'S EMPLOYEES**

16.1. The Contractor shall provide and pay, as required, qualified personnel as needed for the proper performance of the services required under this Contract; it shall strictly comply with all Territorial Host Nation Labour Laws, tariffs and social security and other regulations applicable to the employment of its personnel.

16.2. The Purchaser shall not be responsible for securing work permits, lodging, leases nor tax declarations, driving permits, etc., with national or local authorities. Contractor's employees, agents, or representatives are not eligible for any diplomatic privileges nor NATO employee benefits.

16.3. The Contractor shall inform his employees, agents, and representatives under this Contract of the terms of the Contract and the conditions of the working environment.

16.4. Full Time Equivalent (FTE) for Contractor's personnel working at NATO facilities shall represent 220 working days of a standard 8 hours a day from Monday through Friday. The daily start and end times are set by the Purchaser's Technical Representatives.

16.5. Contractor's personnel working at NATO facilities shall observe local NATO holidays (the ones applicable to the NATO site where the individual is supposed to work at the corresponding time). Access to NATO facilities on weekend or holiday period will only be available at the discretion of the local authorities. Any request for time off shall be coordinated and approved in advance by the NATO Technical Representative or his representative.

## **17. KEY PERSONNEL**

17.1. Contractor's employees or agents specifically identified in ANNEX B shall be considered as key personnel for the performance of the Contract. Without prejudice to other applicable stipulations of the contract, key personnel shall be subject to the terms and conditions specified below.

17.2. A key personnel assigned to this Contract shall remain working on the Contract for as long as required by the terms of the present Contract unless the Purchaser agrees to a replacement who is equal or better qualified. Such a replacement will be in accordance with article 17.7 and is without extra cost to the Purchaser, this includes not a higher rate of the nominee and a suitable free of charge hand over period for the accepted nominee.

17.3. Any change of status or reorganisation of the Contractor's practice, or any change in the responsibility for the execution of the Contract shall be reported to the Purchaser immediately when the change or reorganisation is promulgated.

17.4. The Contractor shall guarantee that suitable backup personnel will be available to promptly remedy situations of key personnel non-availability that may endanger the performance of services or deliverables set in the contract.

17.5. All Key Personnel must certify and sign the Declaration attached hereto at Annex B and provide it to the NCI Agency Contracting Officer prior to the commencement of any performance under this Contract.

17.6. The Purchaser reserves the right to reject a Contractor's staff member after prior acceptance if the Purchaser determines during Contract performance that the individual is not providing the required level of support. The Purchaser will inform the Contractor in writing in case such a decision is

taken, and the Contractor shall propose a replacement within fifteen (15) days after the Purchaser's written notification.

17.7. The Purchaser shall approve any replacement or additional key personnel according to the following procedure:

17.7.1. The Contractor shall provide the name(s) and qualifications statement(s) of a nominee(s) for review (as defined in para 17.7.2 ) by the Purchaser a least twenty (20) days before the intended date of replacement or the date when the nominee(s) is/are required to start work under the contract. Contractor nominee(s) shall be interviewed and approved by NCI Agency, before substitution acceptance is granted in writing by the Purchaser contracting Authority.

17.7.2. The Contractor shall provide a CV for the personnel proposed. The CV shall clearly stipulate:

17.7.2.1. Full details of professional and educational background;

17.7.2.2. Evidence that the nominee is equal or better qualified than the to be replaced individual.

17.7.3. If the Purchaser accepts the nominations, this acceptance will be notified in writing to the Contractor, who will be authorized to assign the nominated personnel to the Contract on the date(s) established in the stated notification.

17.7.4. If the Purchaser considers a nominee or nominees to be inappropriate for the required services, the Contractor will be so notified and shall have not more than ten (10) days (+ remaining days of elapsed twenty (20) days) of para 17.7.1) to submit alternate nominees.

17.8. If the Contractor fails to provide in due time a compliant candidate, the Purchaser reserves the right to provide a replacement from a Third Party and/or may terminate this Contract in whole or in part as provided in the first paragraph of the clause 39 entitled "Termination For Default" of the NCIO General Contract Provisions, and in that event the Contractor shall be liable, in addition to the excess costs provided in second paragraph of the "Termination For Default" clause, for such liquidated damages accruing until such time as the Purchaser may reasonably obtain delivery or performance of similar services.

17.9. The delay stated above shall be counted from the day the Purchaser notifies the Contractor, in accordance with paragraph 17.6. above, that the

alternate nominees are considered to be non-compliant or inappropriate for the required services according to the requirements of the Contract.

## **18. INDEPENDENT CONTRACTOR**

18.1. The Personnel provided by the Contractor are at all times employees of the Contractor and not the Purchaser. In no case shall Contractor personnel act on behalf of or as an agent for NATO or any of its bodies. In no way shall the Contractor personnel claim directly or indirectly to represent NATO in an official capacity or claim themselves to be NATO employees.

18.2. The Contractor shall inform his employees under this Contract of the terms of the Contract and the conditions of the working environment.

18.3. The Purchaser shall not be responsible for securing work permits, lodging, leases nor tax declarations, driving permits, etc., with national or local authorities. Personnel employed under this Contract are not eligible for any diplomatic privileges or NATO employee benefits.

## **19. INTELLECTUAL PROPERTY RIGHTS**

19.1. The Contractor shall assume all liability and indemnify the Purchaser, its officers, agents and employees against liability, including costs for the infringement of any patents or copyright in force in any countries arising out of the manufacture, services performed or delivery of supplies, or out of the use or disposal by or for the account of the Purchaser of such supplies. The Contractor shall be responsible for obtaining any patent or copyright licences necessary for the performance of this Contract and for making all other arrangements required to indemnify the Purchaser from any liability for patent or copyright infringement in said countries.

19.2. The Contractor shall exclude from his prices any royalty pertaining to patents which in accordance with agreements reached between NATO countries may be utilised free of charge by member nations of NATO and by NATO organisations.

19.3. The Contractor shall report in writing to the Purchaser during the performance of this Contract:

19.3.1. The royalties excluded from his price for patent utilised under the agreements mentioned in the paragraph above,

19.3.2. The amount of royalties paid or to be paid by the Contractor directly to others in performance of this Contract.

## **20. CONFIDENTIALITY AND NON-DISCLOSURE**

20.1. For purposes of this clause, "Confidential Information" shall include all information pertaining to any part of this Contract or any program related to this Contract that is not marked "Non-Confidential".

20.2. Confidential Information does not include information that is: (a) publicly known at the time of disclosure or subsequently becomes publicly known through no fault of the Contractor; (b) discovered or created by the Contractor before disclosure by the Purchaser; (c) learned by the Contractor through legitimate means other than from the Purchaser or its representatives; or (d) is disclosed by the Contractor with the Purchaser's prior written approval.

20.3. Without prejudice to other obligations imposed by NATO Security regulations, the Contractor shall hold and maintain the Confidential Information in strictest confidence for the sole and exclusive benefit of the Purchaser. The Contractor shall carefully restrict access to Confidential Information to employees, sub-contractors and third parties as is reasonably required and shall require those persons to sign nondisclosure restrictions at least as protective as those in this contract. The Contractor shall not, without prior written approval of the Purchaser, use for the Contractor's own benefit, publish, copy, or otherwise disclose to others, or permit the use by others for their benefit or to the detriment of the Purchaser, any Confidential Information. The Contractor shall return to the Purchaser any and all records, notes, and other written, printed, or tangible materials in its possession pertaining to Confidential Information immediately if the Purchaser requests it in writing.

20.4. The provisions of this clause and the associated Contractor's duties shall survive the termination of this Contract and remain in effect until the Purchaser sends the Contractor written notice releasing the Contractor from the obligations imposed by this clause, or for a further period of three (3) years after Contract close-out, whichever occurs first, and without prejudice to other obligations imposed by applicable NATO Security regulations.

20.5. The Contractor shall include the substance of the language of this clause in any subcontract/Contract issued for the purpose of the fulfilment of the obligations contracted under this Contract regardless of the legal nature of the entity subscribing such subcontract. Additionally, Contractor's key personnel mentioned in clause 17 (Key Personnel) above shall be required to sign the Non-Disclosure Declaration at ANNEX B.

20.6. The Contractor agrees that compliance with the obligations imposed by the terms of this clause is of the essence and that failure to abide to these terms shall constitute sufficient grounds for the termination of the Contract for default.

## **21. CONFLICT OF INTEREST**

21.1. A conflict of interest means that because of other activities or relationships with other persons or entities, a Contractor is unable, or potentially unable to render impartial assistance or advice to the Purchaser, or the Contractor's objectivity in performing the Contract work is, or might be otherwise impaired, or the Contractor has an unfair competitive advantage. Conflict of interest includes situations where the capacity of a Contractor (including the Contractor's executives, directors, consultants, subsidiaries, parent companies or subcontractors) to give impartial, technically sound advice or objective performance is or may be impaired or may otherwise result in a biased work product or performance because of any past, present or planned interest, financial or otherwise in organizations whose interest may substantially affected or be substantially affected by the Contractor's performance under the Contract.

21.2. The Contractor is responsible for maintaining and providing up-to-date conflict of interest information to the Contracting Officer. If, after award of this Contract or task order herein, the Contractor discovers a conflict of interest with respect to this Contract which could not reasonably have been known prior to award, or if any additional conflicts or potential conflicts arise after award, the Contractor shall give written notice to the Contracting Officer as set forth below.

21.3. If, after award of this Contract herein, the Purchaser discovers a conflict of interest with respect to this Contract or task order, which has not been disclosed by the Contractor, the Purchaser may at its sole discretion request additional information to the Contractor, impose mitigation measures or terminate the Contract for default in accordance with Clause 39 (Termination For Default).

21.4. The Contractor's notice called for in paragraph 21.2 above shall describe the actual, apparent, or potential conflict of interest, the action(s) the Contractor has taken or proposes to take to avoid or mitigate any conflict, and shall set forth any other information which the Contractor believes would be helpful to the Contracting Officer in analysing the situation. Any changes to the Contractor's Conflict of Interest Mitigation Plan, if any is incorporated in the contract, should be also detailed.

21.5. The Contractor has the responsibility of formulating and forwarding a proposed mitigation plan to the Contracting Officer, for review and



consideration. This responsibility arises when the Contractor first learns of an actual, apparent, or potential conflict of interest.

21.6. If the Contracting Officer in his/her discretion determines that the Contractor's actual, apparent, or potential conflict of interest remains, or the measures proposed are insufficient to avoid or mitigate the conflict, the Contracting Officer will direct a course of action to the Contractor designed to avoid, neutralize, or mitigate the conflict of interest. If the parties fail to reach agreement on a course of action, or if having reached such agreement the Contractor fails to strictly adhere to such agreement during the remaining period of Contract performance, the Contracting Officer has the discretion to terminate the Contract for default or alternatively refrain from exercising any further Option or Work Package under the contract.

21.7. The Contractor's misrepresentation of facts in connection with a conflict of interest reported or a Contractor's failure to disclose a conflict of interest as required shall be a basis for default termination of this contract.

## **22. PURCHASER FURNISHED PROPERTY AND SERVICES**

22.1. This Clause hereby supplements Clause 13 of the NCIO General contract Provisions.

22.2. The term "Purchaser Furnished Property/Equipment" as used in this clause refers to items of equipment, material or property furnished by the Purchaser to the Contractor that shall be subject to overhaul, repair, modification, test, embodiment or other work as specified in the Contract to be performed by the Contractor, as listed in Part IV – Statement of Work.

22.3. The Contractor will have no right for any claims in reference to a delay in the Purchaser's confirmation of site readiness and PFE availability, as long as the delay does not exceed ninety (90) calendar days from the declared availability dates.

22.4. The Purchaser shall provide the Contractor with property and services for the performance of the contract as listed in the Statement of Work. PFE may be further updated during the course of the contract, as required.

22.5. Purchaser reserves the right to determine that COTS products will be provided, in whole or in part, as Purchaser Furnished Property and Services.

22.6. The Purchaser makes no warranty whatsoever with respect to the PFE (including models, software, and data).

22.7. Should at any time the Contractor discover that the PFE is not adequate

for its intended use, or contains insufficient or erroneous material such that the Contractor cannot progress the objectives or schedule of the Contract, the Contractor shall document such findings and forward such findings to the Purchaser's Contracting Authority within twenty-one (21) days of discovery.

22.8. The Contractor, in his findings, shall include a statement as to whether he considers that he can provide sufficient information as to make such PFE sufficient for use or correct the errors. If the Contractor considers that it is possible for him to do so, he shall include with his findings a proposal to do so including a cost proposal.

22.9. Upon receipt of the findings, the Purchaser's Contracting Authority shall determine if there is validity to the Contractor's claim and whether the source of the PFE can provide updates or corrected material. The Purchaser and the Contractor will consult to determine the optimum approach to rectify the situation.

22.10. The Purchaser's Contracting Authority, if it accepts the Contractor's proposal to rectify deficient PFE, shall issue a Change Order pursuant to the Clause of the Contract entitled changes, and negotiate an amendment to the contract.

22.11. The foregoing provisions for adjustment are the exclusive remedy available to the Contractor, and the Purchaser shall not be otherwise liable for deficiencies of PFE.

## **23. COMPREHENSION OF CONTRACT AND SPECIFICATIONS**

23.1. The Contractor warrants that he has read, understood and agreed to each and all terms, clauses, articles, specifications and conditions specified in the Contract and that this signature of the Contract is an acceptance, without reservations, of the said Contract terms within their normal and common meaning.

23.2. The specifications set forth the performance requirements for the Contractor's proposed work as called for under this Contract. Accordingly, notwithstanding any conflict or inconsistency that hereafter may be found between achievement of the aforesaid performance requirements and adherence to the Contractor's proposed design for the work, the Contractor hereby warrants that the work to be delivered will meet or exceed the performance requirements of the said specifications.

23.3. The Contractor hereby acknowledges that he has no right to assert against the Purchaser, its officers, agents or employees, any claims or

demands with respect to the aforesaid specifications as are in effect on the date of award of this Contract.

23.3.1. Based upon impossibility of performance, defective, inaccurate, impracticable, insufficient or invalid specifications, implied warranties of suitability of such specifications; or,

23.3.2. Otherwise derived from the aforesaid specifications, and hereby waives any claims or demands so based or derived as might otherwise arise.

23.4. Notwithstanding the "Changes" clause or any other clause or article of the Contract, the Contractor hereby agrees that no changes to the aforesaid specifications that may be necessary to permit achievement of the performance requirements specified herein for the Contractor's proposed work shall entitle the Contractor either to any increase in the firm fixed price as set forth in this Contract or to any extension of the delivery times for the work beyond the period of performance in the SSS.

## **24. WARRANTY PERIOD**

24.1. This Clause hereby supplements Clause 27 of the NCIO General Contract Provisions.

24.2. The Contractor shall provide a SSSB System Warranty delivered under this Contract, for a period of twelve (12) months following the granting by the Purchaser of the FSA. Such Warranty will be in accordance with the warranty requirements in Part IV – Statement of Works and shall cover all hardware, software and all services provided as part of this Contract. Until FSA, SSSB System to be provided under this Contract shall be under the Contractor's responsibility.

24.3. During the SSSB System Warranty period, the Contractor shall perform in-depth analysis of failures of equipment and components and parts thereof, and functional performance failures to due sub-system or equipment group malfunctions. Such failures shall not be limited to hardware, but shall include failures due to application or embedded software.

24.4. Critical faults during the SSSB System Warranty period that takes one or more elements of the SSSB Systems sites offline (except for normally scheduled downtime due to maintenance procedures) will have the result of extending the SSSB Warranty for all sites by the period for which the single SSSB site is offline. This period is determined by the entry of the critical failure in the SSSB System Manager's logbook until the time the SSSB System

Manager makes the entry into the logbook that the SSSB System has been restored to full operation.

24.5. Such extension of the SSSB System Warranty period will not apply in cases where the Contractor can convincingly demonstrate that the critical failure was due to THN negligence or a wilful act on the part of THN personnel.

24.6. Corrective action required by the Contractor under the SSSB System Warranty also applies to errors or omissions in any delivered documentation which could not have reasonably been discovered prior to the Final System Acceptance under this Contract. Errors or omissions in delivered documentation may not be considered as a basis for extension of the SSSB System Warranty, as set forth in paragraph 24.4 above, except where evidence can demonstrate that such an error or omission was the cause of a critical system failure that caused a SSSB site to be offline.

24.7. The Contractor shall correct all Warranty Period Incidents arising during the Warranty Period without any cost to the Purchaser.

24.8. If the Contractor fails to correct any Warranty Period Incidents within the timeframe specified in Clause 27 of the NCIO General Contract Provisions, or if no specific timeframe has been established in the referred Clause or in the SOW for the type of incident concerned, within 30 working days of notification, the Purchaser may on 10 working days written notice:

24.8.1. correct the Warranty Period Incident or employ a third party to correct it; and

24.8.2. deduct from the prices to be paid, draw from the performance guarantee, or recover as a debt due from the Contractor, all reasonable costs in so doing.

24.9. The Contractor shall deploy all such additional resources as are reasonably required to remedy any Warranty Period Incident as efficiently and quickly as possible.

24.10. If replacement parts are fitted by the Contractor as part of the warranty the parts removed shall become the Contractor's property unless required by the Purchaser at the Purchaser's discretion. Notwithstanding that, faulty hard disks removed from NATO SECRET equipment shall not be returned to the Contractor but destroyed by the NATO site personnel in accordance with applicable NATO security regulations.

24.11. Notwithstanding Clause 27.6 of the NCIO General Contract Provisions, if prior agreed upon by the Purchaser, the Contractor has the

possibility to repair the Failed component instead of providing a new replacement.

## 25. PERFORMANCE GUARANTEE

25.1. This Clause hereby supplements Clause 8 of the NCIO General Contract Provisions.

25.2. As a guarantee of performance under the Contract, the Contractor shall deposit with the Purchaser within thirty (30) calendar days from the Effective Date of Contract, or the Contract Signature Date by both parties, whichever is the later, a bank guarantee (the "Performance Guarantee") of 10% of the total contract value.

25.3. The Purchaser may allow reductions in the amount of the Performance Guarantee in accordance with the Purchaser's cost estimate of the work remaining to be completed under the Contract. In order to benefit from such reductions, the Contractor must provide the Purchaser with an updated copy of the Project Master Schedule for completion of the remaining work, and detailed cost breakdowns, prepared in accordance with the pricing principles and standards established in the Contract, which indicate the percentage of work completed for each Contract line item. These requests for reduction shall be submitted in writing to the point of contact established in paragraph **Error! Reference source not found.** above.

25.4. The reductions specified in paragraph 25.3 above shall be treated as a concession to the Contractor and, therefore, shall be supported by sufficient consideration. Further, the decision to accept or reject an application for reduction of Performance Guarantee shall be a unilateral decision made solely at the discretion of the Purchaser.

25.5. In addition, the following paragraph replaces paragraph 8.4 of the Contract General Provisions in its entirety, as follows:

25.5.1. The Standby Letter of Credit shall be issued by a financial institution listed in (n)ANNEX I either on its own behalf or as a confirmation of the Standby Letter of Credit issued by a different bank not listed in (n)ANNEX I to pay all or part of a stated amount of money, until the expiration date of the letter, upon presentation by the Purchaser of a written demand therefore. Neither the financial institution nor the Contractor can revoke or condition the Standby Letter of Credit.

## 26. SECURITY

26.1. This Clause hereby supplements Clause 11 of the NCIO General Contract Provisions.

26.2. The overall security classification of this Contract in its entirety is NATO UNCLASSIFIED.

26.3. The Contractor shall furnish the following services in accordance with the agreed terms, conditions and specifications set forth hereinafter and in the Project Security Instructions.

26.4. All Contractor and Sub-Contractor(s) personnel working on this Contract shall have a security clearance of "NATO SECRET" confirmed to the Purchaser by the relevant National Security Authority.

26.5. The Contractor shall notify the Purchaser and the site security officer where they are employed of any changes to a PSC of a Contractor or Sub-contractor employee.

26.6. All individuals who no longer require access to NATO Classified Information shall be made aware of their continuing responsibility to protect such information and the consequences of failing to do so. In accordance with national laws and regulations, an acknowledgement, in writing or an equivalent method which ensures non-repudiation, shall be used for such debriefing.

26.7. All staff shall possess a valid passport or ID card and shall maintain its validity for the duration of the Contract.

26.8. Key Personnel shall sign the ANNEX B TO CONTRACT SPECIAL PROVISIONS: NON-DISCLOSURE DECLARATION before beginning any work within this Contract.

26.9. All NATO CLASSIFIED material entrusted to the Contractor shall be handled and safeguarded in accordance with the applicable security regulations.

26.10. The Contractor shall be required to possess a Facility clearance of "NATO SECRET" for those sites in which he intends to handle and store NATO classified material in the conduct of work under this Contract.

26.11. The Contractor shall be required to process electronic information on Communication & Information Systems (CIS) with a security accreditation on NR and in accordance with Part IV – Statement Of Work - ANNEX K - Project Security Instructions. The Purchaser bears no responsibility for delays imposed by the security accreditation process by the National Security Agency

or Designated Security Agency. NSA/DSA for this project is described in Part IV – Statement Of Work - ANNEX K - Project Security Instructions.

26.12. At the end of the Contract, during Final System Acceptance, the Contractor shall deliver all the documentation and information collected and generated in support of this Contract to the Purchaser. This includes a certificate that no copies are retained at the Contractor's facilities. Additionally, any equipment that had been connected to a classified network during this Contract shall be returned / handed over to the Purchaser (i.e. laptops, USB keys, hard disks, etc).

26.13. It is the responsibility of the Contractor to ensure that his personnel obtain the required security clearances and transmit this information to the sites to be visited in adequate time that the site may perform the appropriate administration. Contractors are advised that the personnel security process may be lengthy. The Purchaser bears no responsibility for the failure of the Contractor to secure the required clearances for its personnel within the necessary time.

26.14. Any delay in the project resulting from the Purchaser denying access to NATO and/ or THN sites to Contractor personnel for security reasons shall not be the basis for excusable delay under the terms of the Contract.

26.15. In the performance of all works under this Contract it shall be the Contractor's responsibility to ascertain and comply with all applicable NATO and National security regulations as implemented by the THN and by the local Headquarters.

26.16. The Contractor shall note that there are restrictions regarding the carriage and use of electronic device (e.g. laptops, cell/mobile telephones) in Purchaser and THN locations. The Contractor shall be responsible for satisfying and obtaining from the appropriate site authorities the necessary clearance to bring any such equipment into the facility.

26.17. The Contractor bears full responsibility and liability under the Contract for delays arising from the failure of the Contractor to adhere to the security requirements. Failure to comply with the Article 26 of Special Provision or with the Part IV – Statement Of Work - ANNEX K - Project Security Instructions for the period of performance of this Contract shall not be grounds for any delay in the scheduled performance of this Contract and may be grounds for termination under Clause 39 of this Contract entitled "Termination for Default".

## **27. SUPPLEMENTAL AGREEMENTS / EXPORT CONTROLLED INFORMATION**

27.1. The Contractor has submitted all relevant draft supplemental agreement(s), documents and permissions prior to Contract award, the execution of which by the Purchaser is/are required by National Law or regulation. If any supplemental agreements, documents and permissions are introduced after Contract award, and it is determined that the Contractor failed to disclose the requirement for the execution of such agreement from the Purchaser prior to Contract signature, the Purchaser may terminate this Contract for Default, in accordance with the clause 39 "Termination For Default" of the NCIO General Contract Provisions.

27.2. Supplemental agreement(s), documents and permissions, the execution of which by the Purchaser is/are required by National Law or regulation and that have been identified by the Contractor prior to the signature of this contract, but have not yet been finalised and issued by the appropriate governmental authority, are subject to review by the Purchaser. If such supplemental agreement(s), documents and permissions are contrary to cardinal conditions of the signed Contract between the Parties, and the Parties and the appropriate governmental authority cannot reach a mutual satisfactory resolution of the contradictions, the Purchaser reserves the right to terminate this Contract and the Parties agree that in such case the Parties mutually release each other from claim for damages and costs of any kind, and any payments received by the Contractor from the Purchaser will be refunded to the Purchaser by the Contractor.

## **28. SCHEDULE OF SITE INSTALLATIONS**

28.1. The Contractor shall update the Project Management Control Plan (PMCP) specified in Section 2.3.2 of the SOW based on the results of Site Surveys. This Plan shall contain a detailed schedule of site installation and activation that shall comply with the time limits established in the Contract Schedules – SSS (Part I).

28.2. The item number of each System in the SSS is not indicative of the order of installation of the NCI Systems at the sites. The Contractor shall be responsible for delivery at the site of destination in accordance with the SSS. The Purchaser may change the order of site installation and activation up to 30 days prior to scheduled delivery at no change in the Contract price and delivery schedule. If the Purchaser makes a change in destination in less than 30 days prior to scheduled delivery, the Contractor may consider this to be a change in accordance with the clause of this Contract entitled "Changes".

28.3. If the Contractor foresees that Delivery of the SSSB System may be accelerated, the Contractor may notify the Purchaser and the Purchaser may concur with such early delivery (deliveries) if it can meet its site readiness and inspection and acceptance obligations. The Purchaser reserves the right to



refuse such requests for early delivery and insist the Contract delivery schedule be maintained in an unmodified form.

28.4. The Contractor shall start work on each site, only after notification by the Purchaser that the site is ready for start of work.

## **29. DIFFERING SITE CONDITIONS**

29.1. The Contractor had the opportunity to verify the drawings, data provided and ask for clarifications. Consequently, the Contractor shall have no recourse to claims of additional work and cost in connection with activities performed under this Contract, except in such cases as additional effort and cost is occasioned by circumstances that could not have reasonably been foreseen (e.g., buried obstacles that are not shown on any drawings furnished).

29.2. If the Contractor encounters a situation that, consistent with this Clause, would be the cause of unforeseen additional effort and cost, he shall report this immediately to the Purchaser, and inform in writing the NCI Agency Contracting Authority, who will then make a determination as to the resolution of the difficulty.

29.3. The Contractor shall note that instructions or requests to perform additional tasks other than what is set forth in the SOW shall not be honoured except as such instructions are issued by the Purchaser's Contracting Authority.

## **30. CONTRACTOR AND PURCHASER SYSTEM INSTALLATION RESPONSIBILITIES**

30.1. The Contractor shall be responsible for the installation of the equipment delivered under this Contract that comprises the SSSB-UK-GR-NL Systems with its supporting systems such as (augmented) UPS, and the CW portion implemented by the Contractor. The Contractor is responsible for the integration of the equipment into a functional SSSB System on site.

30.2. The Contractor shall be responsible for connecting, mounting, installing, integrating and cabling of the delivered equipment within the sites and at the interface with the National Digital Network (NDN) and at the interface with Power Supply System. The Contractor shall be responsible for connecting all the SSSB equipment with the requisite utility outlets.

## **31. LIAISON WITH PURCHASER DURING SITE PREPARATION ACTIVITIES**

31.1. The Contractor acknowledges that it has taken the steps reasonably necessary to ascertain the nature and location of the installation work, and that it has investigated and satisfied itself as to the general and local conditions that can affect the work or its cost, including uncertainties of weather, or similar physical conditions at the site and the character of equipment and facilities needed preliminary to and during work performance.

31.2. It is the responsibility of the Contractor to provide its installation requirements to the Purchaser in order that these requirements are considered into the site preparation activities of the Purchaser and THN's. Failure to provide such information in complete and timely manner may lead to site preparation delays for which the Purchaser may hold the Contractor liable.

31.3. It is the responsibility of the Contractor to insure that its installation requirements have been incorporated into the final architectural and engineering drawings of each site or to document to the Purchaser where such drawings and plans are deficient.

## **32. PROTECTION OF WATER, LAND, EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS**

32.1. The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site that are not to be removed and that do not unreasonably interfere with the work required under this Contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during Contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Authority.

32.2. The Contractor shall protect from damage all existing improvements and utilities

32.2.1. at or near the work site, and

32.2.2. on adjacent property of a third party, the locations of which are made known to or shall be known by the Contractor.

32.3. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this Contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage

promptly, the Contracting Authority may have the necessary work performed and charge the cost to the Contractor.

### **33. OPERATIONS AND STORAGE AREAS**

33.1. The Contractor shall confine all operations (including storage of materials) on THN premises to areas authorized or approved by the Contracting Authority. The Contractor shall hold and save the Purchaser, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance.

33.2. Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the Contracting Authority and shall be built with labour and materials furnished by the Contractor without expense to the Purchaser. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Authority, the buildings and utilities may be abandoned and need not be removed.

33.3. The Contractor shall, under regulations prescribed by the Contracting Authority, use only established roadways. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any national or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

33.4. All costs for loading, unloading, transport, handling and recycling are the responsibility of the Contractor; as well as the costs of landfills and the taxes inherent in the evacuation of excavation products if such taxes are due by NCI Agency /THN.

### **34. SITE CLEAN UP**

34.1. The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of the Purchaser. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Purchaser.

### **35. AVAILABILITY AND USE OF UTILITY SERVICES**

35.1. The Purchaser and the THN's will make all reasonably required amounts of utilities available to the Contractor from existing outlets and supplies. Unless otherwise provided in the Contract, the amount of each utility service consumed shall be charged to or paid for by the Contractor at prevailing rates charged to the Territorial Host Nation Governments or, where the utility is produced by the Territorial Host Nation, at reasonable rates determined by the Territorial Host Nation. The Contractor shall carefully conserve any utilities furnished without charge.

35.2. The Contractor, at its expense and in a workmanlike manner satisfactory to the Territorial Host Nation representatives, shall install and maintain all necessary temporary connections and distribution lines, and all meters required to measure the amount of each utility used for the purpose of determining charges. After Individual Site Acceptance of each site by the Purchaser, the Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia.

35.3. The Contractor shall not be billed for utility usage after FSA.

## **36. PLACE AND TERMS OF DELIVERY**

36.1. This Article supplements Clause 20 of the Contract General Provisions.

36.2. All deliverables under this Contract shall be delivered DDP ("Delivered Duty Paid") as defined by the INCOTERMS published by the International Chamber of Commerce (Publication No. 560) to the places and at such times as stipulated in the Schedule of Supplies and Services. The Contractor shall note that the Purchaser is exempt from customs duties and Value Added Tax as per Clause 26 – "Taxes and Duties" of the Contract General Conditions.

36.3. Partial deliveries are acceptable as long as all related shipping costs are born by the Contractor and subject to advance notification and agreement from the Purchaser.

36.4. The Contractor shall, for the purpose of transportation, package, crate, or otherwise prepare the various supplies in accordance with the best commercial practises for the type of supplies involved, giving due consideration to shipping and other hazards associated with the transportation of consignments overseas.

36.5. The Contractor will have no right for any claims in reference to a delay in the Purchaser's confirmation of start of work, as long as the delay does not exceed 90 days. This includes the delivery of all Purchaser Furnished Equipment (PFE).

### **37. ENGINEERING CHANGE PROPOSALS (ECP)**

37.1. Engineering Change Proposals (ECP) as defined in this Clause are proposals for changes relevant to tasks, deliverables, technical requirements, processes, schedules or any other term of the contract which are submitted in written form by the Contractor upon request from the Purchaser or independently when such changes are necessary in light of varied facts or circumstances which prevent the execution of the contract in its form.

37.2. Any Engineering Change Proposal (ECP) submitted by the Contractor to the Purchaser shall, in any case contain as a minimum the following elements:

37.2.1. The signature pages following the template provided in ANNEX H and providing all the information required in this template.

37.2.2. A sequential number of ECP identification

37.2.3. Rationale for the changes being proposed

37.2.4. Illustration of any relevant impact to the performance being rendered including but not limited to those relevant to schedules, technical solutions, requirements and delivery time.

37.2.5. List of contract documents affected by the changes being proposed.

37.2.6. Revised copy of the contract documents in native electronic format edited to incorporate the changes being proposed in a way that changes are immediately identifiable.

37.2.7. Total Firm Fixed Price of the ECP and illustration of cost impacts with respect to the total contract Firm Fixed Price and the single CLINs affected.

37.2.8. A detailed price breakdown of all costs to identify single elements of cost contributing to the total. The cost reduction associated with the ECP (if any) shall take into account the Contractor's allowable implementation cost.

37.2.9. All labour costs and material quoted as part of any ECP shall be consistent with those stipulated in the Contract.

37.2.10. A revised version of the Contract Schedule of Supplies and Services.

37.3. The Purchaser shall assess the ECP being proposed by the Contractor and, subject to its sole judgment and without recourse by the Contractor, approve or reject the ECP by the mean of written communication to be dispatched solely by the Purchaser's Contracting Authority.

37.4. Any ECP shall be considered as approved only once the signature pages provided in ANNEX H have been formally signed by the Purchaser's Contracting Authority.

37.5. In case of ECP rejection, the Contractor shall proceed with the performance in accordance with the Contract.

37.6. Formally approved ECPs shall be treated as interim authorization to proceed with the changes proposed strictly and limited to the scope, content and price as specified in the approved ECP.

37.7. The Purchaser shall not be liable for any cost incurred by the Contractor for performance rendered, regardless of the nature or time, associated to ECPs not formally approved by the Purchaser's Contracting Authority.

37.8. All formally approved ECPs will be incorporated in the Contract via the issuance of a formal Contract Amendment at the earliest practical time after their issuance.

37.9. The production of any ECP regardless of its final approval or rejection shall be at no cost for the Purchaser.

## **38. OPTIMISATION**

38.1. The Contractor is encouraged to examine methods and technology that may increase efficient operation and management of the system(s) on which the required services are provided to the Purchaser, thus reducing operating and manpower costs and the overall cost to the Purchaser.

38.2. The Contractor may, at any time during the Period of Performance, introduce Engineering Change Proposals (ECPs) offering innovations and/or technology insertion with a view towards reducing the overall cost to the Purchaser.

38.3. Any such ECP submitted shall cite this Article as the basis of submission and provide the following information:

38.3.1. A detail description of the technical changes proposed, the advantages, both long and short term, and an analysis of the risks of implementation;

38.3.2. A full analysis of the prospective savings to be achieved in both equipment and manpower, including, as appropriate, utility and fuel consumption and NATO manpower, travel, etc;

38.3.3. A full impact statement of changes that the Purchaser would be required to make, if any, to its operational structure and management procedures;

38.3.4. A fully detailed proposal of any capital investment necessary to achieve the savings;

38.3.5. A schedule of how the changes would be implemented with minimal negative impact to on-going performance and operations.

38.4. If the Purchaser, after review and analysis of the ECP, agrees to such proposed change(s), the Contract will be formally amended to include the ECP and the reduced Fixed Price of the Contract, as well as affected Contract Line Items (including options), will be reduced by the total amount of the prospective savings agreed by the Parties.

## **39. PATENT AND COPYRIGHT INDEMNITY**

39.1. Clause 29.3 and 29.4 of the Contract General Provisions is replaced by Clause 33.2 below.

39.2. This indemnity shall not apply under the following circumstances:

39.2.1. Patents or copyright which may be withheld from issue by order of the applicable government whether due to security regulations or otherwise;

39.2.2. An infringement resulting from specific written instructions from the Purchaser under this Contract;

39.2.3. An infringement resulting from changes made to the Work by the Purchaser without the Contractor prior written consent;

39.2.4. An infringement resulting from changes or additions to the Work subsequent to final delivery and Acceptance under this Contract.

## **40. NOTICE OF AUTHORIZED DISCLOSURE OF INFORMATION FOR MANDATED NATO THIRD PARTY AUDITS BY RESOURCE COMMITTEES**

This Clause hereby supplements Clause 28 of the NCIO General Contract Provisions.

(a) Definitions. As used in this clause -

Resource Committees means committees under the North Atlantic Council (NAC) that are responsible, within the broad policy guidance provided by the Resource Policy and Planning Board (RPPB) on matters of resource allocation, for the implementation of the NATO Security Investment Programme (NSIP) or Budget/Civil budgets.

Mandated Third Party Audits means audits mandated by a resource committee.

Third Party Auditor means an independent, external audit body for NATO such as the International Board of Auditors for NATO (IBAN) or an appointed private contractor (including its experts, technical consultants, subcontractors, and suppliers) providing audit support under a Resource Committee Appointment based on an agreed mandate.

Sensitive information means information of a commercial, financial, technical, proprietary, or privileged nature. The term does not include information that is lawfully, publicly available without restriction.

(b) The Purchaser may disclose to a mandated third party auditor, for the sole purpose of audit support activities, any information, including sensitive information, received -

(1) Within or in connection with a bid, quotation or offer; or

(2) In the performance of or in connection with a contract.

(c) Flowdown. Include the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for commercial items.



**ANNEX A. LIST OF ABBREVIATIONS**

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
2D	Two Dimensional
3D	Three Dimensional
A1	Air Personnel and Administration
A2	Air Intelligence
A3	Air Operations
A4	Air Logistics
A5	Air Plans and Policy
A6	Air Communications and Information Systems
A7	Air Doctrine and Training
A8	Air Budget and Finance
A9	Air Civilian/Military Affairs
AAP	Allied Administrative Publication
AAR	Air to Air Refuelling
AAWG	Air Assessment Working Group
ABL	Allocated Baseline
ABT	Air Breathing Threat
ABTD	Air Breathing Threat Defence
A/C	Aircraft
ACA	Airspace Control Authority
ACC	Air Component Command
ACC	Air Control Centre (ACCS entity)
ACCS	NATO Air Command and Control System (software and hardware)
ACCS BU2	ACCS Build Upgrade 2
ACCS LOC1	ACCS Level of Capability 1
ACM	Airspace Control Measure
ACMP	Allied Configuration Management Publication
ACN	Aircraft Classification Number
ACO	Allied Command Operation
ACO	Airspace Control Order
ACO	Airspace Coordination Order
ACP	Allied Communication Publication
ACP	Airspace Control Plan
ACROSS	NCIA ACO Resources Optimization Software System (software)
ACS	Airspace Control System
ACT	Allied Command Transformation
ACTWG	Air Component Targeting Working Group
AD	Air Defence

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
AD	ACO Directive
ADAMS	Allied Deployment And Movement System
AdatP	Allied Data Publication
ADatP-3	Allied Data Publication Volume 3
ADatP-3 BL 11F	ADatP-3 Baseline 11 Future
ADD	Architecture Description Document
ADDIE	Analysis, Design, Development, Implementation, and Evaluation
ADL	Advanced Distributed Learning
ADL	Allied Disposition List
ADM	AOD Decision Meeting for AOD X+2
ADP	Automatic Data Processing
ADP	Air Defence Plan
AEW	Airborne Early Warning
AFOD	Airfield Operational Database
AFPL	Approved Fielded Product List
AFTN	Aeronautical Fixed Telecommunications Network
AI	Area of Interest
AIFS	NATO Automated Information Flow System (software)
AIP	AirC2IS Information Portal
AIP	Air Operations Information Portal
AirC2IS	Bi-SC AIS Air Command and Control Information Service (software)
AirC2IS-1	AirC2IS Increment 1
AirC2IS-2	AirC2IS Increment 2
AirC2IS-3	AirC2IS Increment 3
AirCC	Air Component Command
AIRINCIREP	Air Incident Report
AIS	Automated Information System
AIS	Automatic Identification System (civilian ships)
AIT	Air Intelligence Team
AJAX	Asynchronous JavaScript and XML
AJP	Allied Joint Publication
ALCC	Airlift Coordination Centre
ALTBMD	Active Layered Theatre Ballistic Missile Defence
AM	ACO Manual
AMMO	Ammunition
AMR	Air Mobility Request
AO	Area of Operations
AOC	Air Operations Centre
AOCC	Air Operations Coordination Centre

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
AOCC (L)	Air Operations Coordination Centre (Land)
AOCC (M)	Air Operations Coordination Centre (Maritime)
AOD	Air Operations Directive
AODT	AOD Team
AOI	Area of Interest
AOM	Air Ops Meeting for AOD X+3 to X+10
AOP	Air Operations Plan
AOPG	Air Operations Planning Group
AOPT	Air Operations Planning Team
AOR	Area of Responsibility
AOR	Area of Operational Responsibility
AOSS	ACO Open Source System
AP	Air Plan
API	Applications Programming Interfaces
APMS	Automated Personnel Management System
APOD	Airport of Debarkation
APOE	Airport of Embarkation
APP	Allied Procedural Publication
APT	Air Planning Team
AQAP	Allied Quality Assurance Publication
ARIS	Architecture of Integrated Information Systems
ARS	Architecture Requirements Specification
ASAS	All-Source Analyst System
ASEP	Architecture Security Engineering Plan
ASIT	Allied Systems Interoperability Test-bed
ASM	Airspace Management
ASMAN	NCIA ICC Airspace Management module (software)
ASOC	Air Support Operation Centre
ASR	Air Support Request
ASRC	Acquisition Support Resource Centre
ASSESSREP	Assessment Report
ASTERIX	All Purpose Structured Eurocontrol Surveillance Information Exchange
AT	Air Transport
ATA	Actual Time of Arrival
ATC	Air Traffic Control
ATD	Actual Time of Departure
ATM	Air Traffic Management
ATO	Air Tasking Order
ATP	Allied Tactical Publication
ATWG	Air Transport Working Group

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
AUP	Airspace Utilization Plan
AWACS	Airborne Warning and Control System
AWCIES	ACCS-Wide Communication Information Exchange System
AWG	Architecture Working Group
BAIP	Bi-SC AIS Implementation Plan
BAPPL	Bi-SC AIS Procurement Product List
BBN	BICES Backbone Network
BDA	Battle Damage Assessment
BDAREP	Battle Damage Assessment Report
BE	Basic Encyclopaedia
BER	Bit Error Rate
BICC	BICES Initial Core Capability
BICES	Battlefield Information Collection and Exploitation System
BIRT	Business Intelligence and Reporting Tools
Bi-SC	Bi-Strategic Command
Bi-SC AIS	Bilateral Strategic Command Automated Information System
Bi-SC AIS PMIC	Bi-SC AIS Programme Management and Integration Capability
BITE	Built-in Test Equipment
BL	Baseline
BM	Ballistic Missile
BMC3	Battle Management Command, Control & Communications
BMC3I	Battle Management Command, Control, Communications & Intelligence
BMD	Ballistic Missile Defence
BMD PO	BMD Programme Office
BOA	Basic Ordering Agreement
BOE	Basis of Estimate
BPD	Boundary Protection Device
BPD	Business Process Design
BPEL	Business Process Execution Language
BPEL4WS	Business Process Execution Language for Web Services
BPS	Boundary Protection Service
Brief	Briefing
BRR	Baselines Requirements Review
BS	Battle Staff
BSO	Battle Staff Object
C2	Command and Control
C2DO	Command and Control Duty Officer

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
C2IEDM	Command and Control Information Exchange Data Model
C2IS	Command and Control Information System
C3	Command, Control and Communication
C4ISR	Command, Control, Communications, Computers Intelligence Surveillance and Reconnaissance
CA	Combat Assessment
CA	Campaign Assessment
CAB	Contracts Award Board
CAL	Critical Asset List
CAOC	Combined Air Operations Centre
CAP	Capability Assessment Plan
CASP	Coordinated Air/Sea Procedures
CAX	Computer Aided Exercise
CBA	Component-Based Architecture
CBRN	Chemical, Biological, Radioactive, Nuclear
CBT	Computer Based Training
CC	Component Command
CC-Air	Air Component Command
CCB	Configuration Control Board
CCF	Conventional Counter-Force
CCHQ	Component Command Headquarters
CCIR	Commanders Critical Information Requirements
CC-Land	Land Component Command
CCLVTC	Component Command Liaison VTC
CC-Mar	Maritime Component Command
CCMM	Common Core Meta-Model
CC-SOF	SOF Component Command
CD	Compact Disk
Cdr	Commander
CDR	Critical Design Review
CDRL	Contract Documentation Requirements list
CEM	Collection Emphasis Messages
CEO	Chief Executive officer
CEOI	Communications-Electronics Operating Instructions
CEP	Circular Error Probable
CET	Central European Time
CDR	Critical Design Review
CFBLNet	Combined Federated Battle Laboratories Network
CFM	Communications Flow Model
CGI	Common Gateway Interface
CGRS	Common Geographical Reference System

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
CGS	Core Geographic Services
CI	Configuration Item
CIA	Component Implementation Architecture
CICOM	CIMIC Coordination Meeting
CIM	Central Information Managers
CIMIC	Civilian and Military Cooperation
CIRC	Computer Incident Response Capability
CIS	Communication Information System
CISREP	CIS Report
CJOC	Combined Joint Operations Centre
CJSOR	Combined Joint Statement of Requirements
CJTF	Combined Joint Task Force
CLC	Combined Logistics Conference
CLI	Combined Language Infrastructure
CLIN	Contract Line Item Number
CM	Configuration Management
CMD	Common Mission Definition
CMDB	Configuration Management Database
CMO	Coverage Mission Order
CMP	Configuration Management Plan
COA	Courses of Action
CO	Contracting Officer
COE	Consequence Of Engagement
COI	Consequence Of Intercept
COI	Communities of Interest
COINS	Communication and Information Systems
COM	Commander
COMPLAN	Communications Plan
COMMZ	Communications Zone
CONOPS	Concept of Operations
COO	Chief Operating Office
COP	Common Operational Picture
COSI	NCIA ICC CORBA Based ISI (software)
COTS	Commercial off the shelf
CP	Capability Package
CP	Collection Plan
CPX	Command Post Exercise
COVREP	Coverage Report
CR	Change Request
CRAM	Consolidated Route Availability Messages

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
CRC	Control Reporting Centre
CRO	Crisis Response Operations
CRONOS	NATO Secret Wide Area Network (WAN)
CSA	Component Specification Architecture
CSA	Configuration Status Accounting
CSCI	Computer Software Configuration Item
CSD	NCIA MAJIIC Coalition Shared Database (software)
CSDO	Combat Support Duty Officer
CSRS	Community Security Requirements Statement
Csv	Comma separated value
CTL	Collection Tasking List
Ctrl	Control key
CTRL	Control key
CTS	COSMIC TOP SECRET
CUB	Commanders Update Briefing
CurrOps	Current Operations
CVRT	Criticality, Vulnerability, Recuperability & Threat
CWS	Cartographic Work Shop
CY	Calendar Year
D&G	Direction & Guidance
DAC	Defended Area Coverage
DAFIF	Digital Aeronautical Flight Information File
DARB	Daily Assets Reconnaissance Board
DARS	Deployable ACC + RPC + SFP (ACCS entity)
DAV	Distributed Authoring and Versioning
dB	Database
DBA	DataBase Administrator
DBMS	Data Base management System
DCAOC	Deployable CAOC (ACCS entity)
DCIS	Deployable Communication and Information Systems
DCP	Draft Change Proposal
DDD	Detailed Design Document
DDE	Defence Design Enterprise
DDP	Delivery Duty Paid (Incoterms2000)
DDS	Defence Design Services
DEM	Data Exchange Model
DEM	Data Exchange mechanism
DHCP	Dynamic Host Configuration Protocol
DHS	Document Handling Service

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
DHTML	Dynamic HTML
DIF	Difficulty, Importance, and Frequency Analysis
DIS	Distributed Interactive Simulation
DISUM	Daily Intelligence Summary
Div	Division
DJSE	Deployed Joint Staff Element
DJTF	Deployed Joint Task Force
DL	Description Logics
DL	Data Link
DLCP	Data Link Change Proposal
DMPI	Desired Main Point of Impact
DMS	Document Management System
DO	Delivery Order
DOB	Deployed Operating Base
DOORS	Requirements Management for Complex Systems and Software Development: Dynamic Object-Oriented Requirements System
DOS	Days of Supply
Dpi	Dots per inch
DPM	Deputy Project Manager
DR	Deficiency Report
DTED	Digital Terrain Elevation Data
DTG	Data Time Group
DTS	Deployable Training System
DUNS	Data Universal Numbering System
EAD	Extended Air Defence
EAF	Entity Armed Forces
EAPC	Euro-Atlantic Partnership Council
EBAO	Effect Based Approach to Operations
EBO	Effect-Based Operations
EBP	Effects Based Planning
ECMAScript	Ecma International Script
ECP	Engineering Change Proposal
EDC	Effective Date of Contract
EEI	Essential Element of Information
e.g.	For example
E-mail	Electronic mail
EMC	Electro-Magnetic Compatibility
EMCON	Emission Control
EMP	Electromagnetic Pulse



<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
EMS	Enterprise Management Services
ENC	Electronic Navigation Chart
EOB	Enemy Order of Battle
EOB	Electronic Order of Battle
EPM	Microsoft Enterprise Project Management
ESB	Enterprise Service Bus
ETA	Estimated Time of Arrival
Etc.	etcetera
ETD	Estimated Time of Departure
ETEE	Education Training Exercise and Evaluation
ETRO	Expected Time to Return to Operations
EUROCONTROL	European Air Traffic Control Agency
EVE	Effective Visible Execution
EW	Electronic Warfare
EW	Early Warning
EWS	Early Warning Sensors
ExO	Exercise Organization
FA	Functional Application
FAC	Forward Air Controller
FAC(A)	Forward Air Controller (Army)
FADR	Fixed Air Defence Radar
FAM	Functional Area Module
FAOR	Fighter Area of Responsibility
FAS	Functional Area Service
FAST	NCIA ICC Flexible, Advanced C2 Services for NATO Time Sensitive Targeting (software)
FAT	Factory Acceptance Test
FA VTC	Functional Area VTC
FBL	Functional Baseline
FCA	Functional Configuration Audit
FFP	Firm Fixed Price
FHA	First Hostile Act
Flash	Adobe Flash (software)
FLOT	Forward Line of Own Troops
FM	Frequency Management
FMC	Full Mission Capable
FOB	Free On Board (incoterms2000)
FOB	Forward Operating Base
FOB	Friendly Order of Battle
FOC	Final Operational Capability

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
FP	Force Protection
FORMETS	NATO Message Text Formatting System
FRAGO	Fragmentary Order
FS	Functional Service
FSA	Final System Acceptance
FSCM	Fire Support Coordination Measure
FSD	Final System Design
FSSL	Fire Support Safety Line
FTE	Full Time Equivalent
GARS	Global Area Reference System
GBAD	Ground Based Air Defence
Geo	Geographical
GEO	Geographical
GEOLOC	Geographic Location
GeoTIFF	Geographical Tagged Image Format
GFE	Government Furnished Equipment
GIF	Graphics Interchange Format
GIS	Geographic Information Service
GML	Geography Mark-up Language
GMT	Greenwich Mean Time
GO	Government Organization
GOF	Gang of Four
GOTS	Government off the shelf
GQA	Government Quality Assurance
GUI	Graphical User Interface
HAS	Hardened Aircraft Shelter
HCI	Human Computer Interfaces
He/his	The terms 'he' and 'his' denote a person and do not imply gender.
HF	High Frequency
HIW	High Intensity Warfighting
HLA	High Level Architecture
HMI	Human Machine Interface
HN	Host Nation
HQ	Headquarters
HRF	High Readiness Forces
HTML	Hypertext Mark-up Language
HTTP	Hypertext Transfer Protocol
HTTPS	Hypertext Transfer Protocol over Secure Socket Layer

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
HUMINT	Human Intelligence
HVA	High Value Asset
HVAC	Heating, Ventilating and Air Conditioning
HVI	High Value Individual
HVT	High Value Target
HW	Hardware
HWCI	Hardware Configuration Item
HWIL	Hardware In The Loop
I&A	Identification and Authentication
I&W	Indications and Warning
IAMD	Integrated Air and Missile Defence
ICA	Initial Central Administrators
ICAO	International Civil Aviation Organization
ICB	International Competitive Bidding
ICC	Integrated Command and Control
ICC	(Patriot) Information Coordination Central
ICC	International Chamber of Commerce
ICD	Interface Control Document
ICO	Icon
ID	Identity
IDE	Integrated Development Environment
IDO	Intelligence Duty officer
i.e.	Includes
IE	Information Exchange
IED	Improvised Explosive Device
IEEE	Institute of Electrical and Electronic Engineers
IEG	Information Exchange Gateway
IER	Information Exchange Requirement
IERD	Information Exchange Requirements Description
IETF	Internet Engineering Task Force
IFB	Invitation For Bid
IFF/SIF	Identification Friend or Foe/Selective Identification Feature
iGeoSIT	NCIA Interim Geo-Spatial Intelligence Tool (software)
IKM	Information and Knowledge Management
ILC	Irrevocable Letter of Credit
ILS	Integrated Logistics Support
ILSP	Integrated Logistics Support Plan
IM	Information Management
IM	Instant Messaging

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
IMART	Imagery Management and Reporting Tool
IMINT	Imagery Intelligence
IMS	International Military Staff
IMSSOP	International Military Staff Standard Operating Procedure
INCOSE	International Council on Systems Engineering
Info	Information
Info Ops	Information Operations
INFOSEC	Information Security
Intel	Intelligence
INTEL	Intelligence
INTEL-FS	Intelligence Functional Services
INTEL-FS IOC	Increment 1 of INTEL-FS Spiral I
INTREP	Intelligence Report
INTSUM	Intelligence Summary
IO	International Organisation
IO	Information Object
IO	Information Operations
IOC	Initial Operational Capability
IOCB	Information Operations Coordination Board
IOT&E	Initial Operational Test and Evaluation
IOWG	Info Ops Working Group
IP	Internet Protocol
IPB	Intelligence Preparation of the Battlespace
IPL	Image Product Library
IPMT	Integrated Project Management Team
IPP	Impact Point Prediction
IPR	Intellectual Property Rights
IPSEC	Internet Protocol Security
IPT	Integrated Project Team
IPv6	Internet Protocol Version 6
IR	Incident Report
IRD	Interface Requirements Document
ISAF	International Security Assistance Force (Afghanistan)
ISI	NCIA ICC Standard Interface Library (software)
ISLA	Initial Service Level Agreement
ISM	Information System Modules
ISO	International Standards Organisation
ISP	Integrated Support Plan
ISP 98	International Standby Practices 98
ISR	Intelligence, Surveillance, Reconnaissance

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
ISTAR	Intelligence, Surveillance, Target Acquisition and Reconnaissance
ISUG	Intelligence Systems Users Group
IT	Information Technology
ITB	Integration Test Bed
ITI	Integration/Interoperability Test Item
ITIL	Information Technology Infrastructure Library
ITS	US Interim Targeting Solution (software)
ITU	International Telecommunication Union
IV&V	Independent Validation and Verification
I&T	Integration and Tests
J (1-9)	Divisional Staffs
J1	Joint Personnel and Administration
J2	Joint Intelligence
J3	Joint Operations
J4	Joint Logistics
J5	Joint Plans and Policy
J6	Joint Computer Information Systems
J7	Joint Doctrine and Training
J8	Joint Budget and Finance
J9	Joint Civilian/Military Affairs
JAAP	Joint Air Allocation Plan
JACC	Joint Airspace Coordination Cell
JADC	Joint Area Air Defence Commander
JADOCS	US Joint Automated Deep Operations Coordination System (software)
JALLC	Joint Analysis and Lessons Learned Centre
JAOP	Joint Air Operations Plan
JASMAD	US Joint Airspace Management and Deconfliction (software)
JC2IS	Bi-SC AIS Joint Command and Control Information System (CP 107)
JC3IEDM	Joint Command Control and Communication Information Exchange Data Model
JCAL	Joint Critical Asset List
JCB	Joint Coordination Board
JCBWG	Joint Coordination Board Working Group
JCHAT	NCIA Joint Tactical Chat (software)
JCO	Joint Coordination Order
JCOP	NCIA Joint COP System (software)
JDAWG	Joint Defended Asset Working Group
JEP	Joint Environmental Picture

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
JFACC	Joint Forces Air Component Command
JFAI	Joint Final Acceptance & Inspection
JFC	Joint Forces Command
JFHQ	Joint Forces Headquarters
JFLCC	Joint Forces Land Component Command
JFM	Joint Frequency Management
JFMCC	Joint Forces Maritime Component Command
JFSCL	Joint Fire Support Coordination Line
JFSOCC	Joint Forces SOF Component Command
JFTC	Joint Forces Training Centre
JHQ	Joint Headquarters
JIM	NCIA JTLS - ICC Interface Module (software)
JIPB	Joint Intelligence Preparation of the Battlespace
JISR	Joint Intelligence Surveillance and Reconnaissance
JLSG	Joint Logistics Support Group
JOA	Joint Operations Area
JOC	Joint Operations Centre
JOCWatch	NCIA Joint Operations Centre Event Management Tool (software)
JOIIS	Joint Operations and Intelligence System
JOPG	Joint Operational Planning Group
JOPLAN	Joint Operational Plan
JOPWG	Joint Operational Planning Working Group
JPCAL	Joint Prioritised Critical Asset List
JPDAL	Joint Prioritized Defended Asset List
JPEG	Joint Photographic Experts Group (format)
jpg	Joint Photographic Experts Group (format)
JPR	Joint Personal Recovery
JPRP	Joint Personal Recovery Plan
JPTL	Joint Prioritised Target List
JRE	Joint Range Extension
JREAP	Joint Range Extension Application Protocol
JREP	Joint Range Extension Protocol
JSR	Java Specification Request
JSTARS	Joint Surveillance and Target Attack Radar System
JTL	Joint Target List
JTLS	NATO Joint Theatre Level Simulation (software)
JTMB	Joint Transportation Movement Board
JTNL	Joint Target Nomination List
JTS	NCIA ICC Joint Targeting System (software)
JTST	Joint Time Sensitive Targeting

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
JTT	US Joint Targeting Toolbox (software)
JTWG	Joint Targeting Working Group
JWC	Joint Warfare Centre
KFOR	Kosovo Force
KOA	Keep-out Altitude
KPI	Key Performance Indicators
L16	Link 16
LAD	Launch Area Denied
LAN	Local Area Network
LC2	Land Command and Control
LC2IS	Land Command and Control Information Service
LCC	Land Component Command
LCN	Load Classification Number
LDAP	Lightweight Directory Access Protocol
LEGAD	Legal Advisor
LEP	Locally-Employed Personnel
LIVEX	Live Exercise
LLNO	Logistics Liaison Officer
LNO	Liaison Officer
LOC	Level Of Capability
LOC	Location
LOCE	Linked Operations-Intelligence Centers Europe
LOG	Logistics
LOGFS	Bi-SC AIS Logistics Functional System
LOGASSESSREP	Logistics Assessment Report
LOGFAS	NCIA Logistics Functional Area Services
LOGREP	Logistics Reporting
LOGSITREP	Logistical Situational Report
LOGUPDATE	Logistics Update Report
LOP	Level of Protection
LOS	Level of Support
LPE	Launch Point Estimate
LRU	Line-Replaceable Unit
LSID	NCIA Link 16 Situational Display (software)
MAAP	Master Air Attack Plan
MAOP	Master Air Operations Plan
MAOP	NCIA ICC MAOP Tool (software)

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
MAP	Master Air Plan
MAPI	Mail Application Programming Interface
Mar	Maritime
MBC	Military Budget Committee
MC	Military Committee
MC	Mission Capable
MCC	Maritime Component Command
MCCIS	Maritime Command and Control Information System
MCDM	Multi-Criteria Decision Making
MD	Missile Defence
MDA	Model Driven Architecture
MEDASSESSREP	Medical Assessment Report
MEDREP	Medical Report
MEDSITREP	Medical Situation Report
MEO	Movement Execution Order
MEZ	Missile Engagement Zone
MGRS	Military Geographic Reference System
MHWPS	Minimum Hardware Procurement Specifications
MIJI	Meaconing, Intrusion, Jamming, and Interference
MIL-STD	Military Standard
MIMI	ICC ICC-ACCS Interface Module (software)
MIMO	Module Information Management Officer
MIP	Multilateral Interoperability Protocol
MISREP	Mission Report
MMI	Man-Machine Interface
MMR	Minimum Military Requirement
MNB	Multinational Brigade
MND	Multi National Division
MOD	Ministry of Defence
MOE	Measures of Effectiveness
MOP	Measures of Performance
MOTS	Military off the shelf
MOU	Memorandum of Understanding
MOVASSESSREP	Movement Assessment Report
MOVSITREP	Movement Situation Report
MPA	Maritime Patrol Aircraft
MRO	Military Response Option
MS	Mission Secret
MS	Microsoft
MS Access	Microsoft Access Database format



<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
MTBCF	Mean Time Between Critical Failures
MTBF	Mean Time Between Failures
MTL	Mobile Target List
MTOTE	NCIA ICC Air Mission Monitoring and Management Tool (software)
MTR	Maximum Time to Receive
MTR	Mission Task Request
MTT	Maximum Time to Transmit
MTTR	Mean Time To Repair
MU	Mission Unclassified
MVC	Model View Controller
MWO	Movement Warning Order
NAC	North Atlantic Council
NACMA	NATO ACCS Management Agency
NAEW	NATO Airborne Early Warning
NAF	NATO Architecture Framework
NAMSA	NATO Maintenance and Supply Agency
NATO	North Atlantic Treaty Organisation
NBC	Nuclear Biological Chemical
NCIOA NCI Agency	NATO Communications and Information Agency
NC3B	NATO C3 Board
NCIO	NATO Communications and Information Organisation
NCIOTA	NCI Technical Architecture
NCIRC	NATO Computer Incident Response Capability
NCDM	NATO Corporate Data Model
NCISS	NATO Communications and Information Systems IS School
NCO	Non Commissioned Officer
NCOP	Bi-SC AIS NATO COP System (software)
NCS	NATO Command Structure
NCSA	NATO CIS Support Agency
NECCIS	NATO/NO North European Command and Control Information System (software)
NEDS	NATO-wide Enterprise Directory Services
NEO	Non-combatant Evacuation Operation
NFC	National Force Commitments
NFFI	NATO Friendly Forces Information
NGCS	NATO General Purpose Communication System
NGO	Non Governmental Organisation
NIATC	NATO Information Assurance Technical Centre

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
NICE	NATO IP Cryptographic Equipment
NIMP	NATO Interoperability Management Plan
NIRIS	NCIA Network Interoperable Real-time Information Service (software)
NITC	NCSA INFOSEC Technical Centre
NITF	National Imagery Transmission Format
NLT	Not Later Than
NMC	Not Mission Capable
NMCM	Not Mission Capable Maintenance
NMCRL	NATO Master Cross-Reference List
NMCS	Not Mission Capable Supply
NMS	NATO Messaging Service
NNEC	NATO Network Enabled Capability
NNTCN	Non-NATO Troop Contributing Nation
No	Number
NOTAM	Notice to Air Men
NOTS	NATO Off The Shelf
NOV-2	NATO Operational View
NPC	NATO Programming Centre
NPKI	NATO Public Key Infrastructure
NQAR	National Quality Assurance Representative
NR	NATO Restricted
NRDF	National Rapid Deployment Force
NRF	NATO Response Force
NRT	Non-real time
NS	NATO Secret
NSIP	NATO Security Investment Programme
NSN	NATO Serial Number
NSOV	NATO Service Oriented View
NSR	NATO Staff Requirements
NSV-1	NATO System View
NS WAN	NATO Secret Wide Area Network
NTDI	NATO Target Data Inventory
NTF	NATO Training Federation
NTI	Not to Exceed
NTLM	NT LAN Manager
NU	NATO Unclassified
NUNI	NGCS User Network Interface
NVG	NATO Vector Graphics
O&M	Operations and Maintenance

<u>Abbreviation</u>	<u>Definition</u>
OA	Operating Authority
OASIS	Organization for the Advancement of Structured Information Standards
OB	Order of Battle
OCD	Operational Concept Description
OCR	Optical Character Recognition
ODBC	Open Data Base Connectivity
OEM	Original Equipment Manufacturer
OFS	Open Framework Services
OGC	Open GIS Consortium
OIF	Operational Information Flow
OJT	On the Job Training
OLT	Operational Level Testing
OMG	Object Management Group
OMT	TOPFAS ORBAT Management Tool
OPCOM	Operational Command
OPFOR	Opposing Forces
OPLAN	Operation Plan
OPORD	Operational Order
OPP	Operational Planning Process
OPS	Operations
OPSEC	Operational Security
OPTASK	Operational Tasking
OPTASKLINK	Operational Order for Tactical Data Links
ORBAT	Order of Battle
ORBIT	Order of Battle Intelligence Tool
ORD	Operations Research Division
Org	Organisation
ORRB	Operational Resources Requirement Board
OS	Operating System
OSINT	Open Source Intelligence
OSIS	Open Source Information System
OT	Operational Test
OT&E	Operational Test and Evaluation
OTS	Off-The-Shelf
OUG	Operational User Group
PA	Political Advisor
PBL	Product Baseline
PC	Personal Computer
PCA	Physical Configuration Audit

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
PCN	Pacment Classification Number
PCR	Project Checkpoint Reviews
PCWSF	Pre-Calculated Weapon System Footprint
PD	Passive Defence
Pdf	Portable Document Format
PDR	Preliminary Design Review
PFD	Purchaser Furnished Documents
PFE	Purchaser Furnished Equipment
PHR	Project Highlight Report
PIM	Position of Intended Movement
PIR	Priority Intelligence Requirement
PKI	Public Key Infrastructure
PLANS	Plans
PlaTo	NCIA Planning and Tasking Tool for Extended Air Defence (software)
PM	Project Manger
PMBOK	Project Management Body of Knowledge
PMC	Partial Mission Capable
PMCS	Partial Mission Capable Supply
PMIC	Programme Management and Integration Capability
PMO	Project Management Office
PMP	Project Management Plan
PMR	Project Management Review
PMS	Project Master Schedule
PMTP	Programme Master Test Plan
PNG	Portable Network Graphics
PO	Psychological Operations
POC	Point of Contact
POI	Programme of Instruction
POLAD	Political Advisor
POP	Point Of Presence
POTF	Psychological Operations Task Force
PPBS	Project Product Breakdown Structure
PPLI	Precise Position Location & Identification
PPR	Project Progress Reviews
PR	Personnel Recovery
PR	Problem Report
PRCC	Personnel Recovery Coordination Cell
PREV	Previous
PRINCE2	Projects in Controlled Environments II

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
PRISMA	NCIA Personnel Recovery Information Management (software)
PSA	Partial Site Acceptance
PSD	Performance Start Date
PSO	Peace Support Operation
PSR	Project Status Review
PSRR	Preliminary Systems Requirements Review
Psy Ops	Psychological Operations
PTL	Prioritised Target List
PTL	Primary Target Line (GBAD)
PTR	Problem Trouble Report
PUL	Programme Utilisation List
PWBS	Project Work Breakdown Structure
QA	Quality Assurance
QAP	Quality Assurance Plan
QAR	Quality Assurance Representative
QC	Quality Control
QLR	Quick Look Report
QoS	Quality of Service
RA	Reference Architecture
RACI	Responsible, Accountable, Consulted, and Informed
R&D	Research & Development
RADC	Regional Air Defence Commander
RALCC	Regional Airlift Coordination Cell
RAM	Random Access Memory
RAM	Reliability, Availability & Maintainability
RAP	Recognised Air Picture
RAS	OMG Reusable Asset Specification
RAS	Remote Access Service
RC	Regional Command (ISAF)
RC	Relocation Centre
RDL	Representational Disposition List
RECCE	Reconnaissance
Ref	Reference
REP	Recognised Environmental Picture
Rep	Report
RESALLOC	NCIA ICC Resource Allocation module (software)
REST	Representational State Transfer
RFC	Request for Comments

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
RFC	Request for Change
RFL	Representational Force List
RFD	Request For Deviation
RFBV	Request for Bidders Views
RFI	Request for Information
RFIMS	Request for Information Management System
RFW	Request For Waivers
RGP	Recognised Ground Picture
RIA	Rich Internet Applications
RIC	Reportable Item Code
RLP	Recognised Land Picture
RM	Risk Management
RMP	Recognised Maritime Picture
ROE	Rules Of Engagement
ROZ	Restricted Operating Zone
RPC	RAP Production Centre (ACCS entity)
RPC	Remote Procedure Call
RPOD	Rail Point of Debarkation
RSOM	Reception, Staging, and Onward Movement
RSP	Recognised Surface Picture
RSS	Really Simple Syndication
RT	Real-time
RTF	Rich Text Format
RWY	Runway
SA	Service Architecture
SA	Service Availability
SA	Situational Awareness
SA	Site Acceptance
SAA	Security Accreditation Authority
SACEUR	Supreme Allied Commander (Europe)
SACO	Supreme Allied Command of Operations
SACT	Supreme Allied Command Transformation
SAFE	SIGINT Analyst Functional Environment
SALTO	NCIA ICC Air Mission Planning module (STC's Air Logic Tool) (software)
SAM	Surface to Air Missile
SAN	Storage Area Network
SAT	Site Acceptance Test
SAWREP	Surface to Air Weapon Unit Status and Availability Report
SBAD	Sea Based Air Defence

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
SC	Strategic Command
SCL	Standard Combat Load
SCL	Standard Configuration Load
SCORM	Shareable Content Object Reference Model
SCSI	Small Computer System Interface
SDA	SEWOC Database Application
SDK	Software Development Kit
SDP	System Development Plan
SDP	Service Delivery Plan
SDS	System Design Specification
SE	Systems Engineering
SEAD	Suppression of Enemy Air Defence
SEBOK	Systems Engineering Body of Knowledge
SecOps	Security Operating Procedures
Sect	Section
SEMP	Systems Engineering Management Plan
SEW	Shared Early Warning
SEWOC	SIGINT-Electronic Warfare Operations Centre
SE&I	System Engineering and Integration
SFOR	Stabilisation Force
SFP	Sensor Fusion Post (ACCS entity)
SGML	Standard Generalized Mark-up Language
SHAPE	Supreme Headquarters Allied Powers Europe
SHQ	Standing Headquarters (e.g. JFCN, JFCS etc)
SIDO	Senior Intelligence Duty Officer
SIGINT	Signals Intelligence
SIM	Simulated
SIMPLE	Simulation of Industrial Management Problems with Lots of Equations
SINC	Single Integrated Channel Ground
SIP	Session Initiation Protocol
SIP	System Implementation Plan
SIR	Specific Intelligence Requirements
SISRS	System Interconnection Security Requirements Statements
SIT	System Integration Testing
SITCEN	Situational Centre
SITFOR	Situational Forces
SIVP	Security Implementation Verification Procedures
SLA	Service Level of Agreement
SLC	Standby Letter of Credit
SLP	Standard Language Proficiency

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
SM	Spectrum Management
SM	System Management
SMADEF	Spectrum Management Allied Data Exchange Format
SMART	Specific, Measurable, Attainable, Relevant and Time-bound
SMB	Spectrum Management Branch
SME	Subject Matter Expert
SMP	Security Management Plan
SMS	Short Messaging Service
SNMP	Simple Network Management Protocol
SNTOR	Short and Near-term Operational Requirements
SO	Staff Officer
SOA	Service Oriented Architecture
SOAP	Simple Object Access Protocol
SOCC	SOF Component Command
SO DEF OPS	Senior Officer Defensive Operations
SODO	Senior Offensive Duty Officer
SOF	Special Operations Forces
SOFC2IS	Bi-SC AIS Special Operations Forces Command and Control Information System (CP 107)
SO OFF OPS	Staff Officer Offensive Operations
SOP	Standard Operational Procedures
SOR	Statement of Requirements
SOW	Statement Of Work or Part IV of the Contract
SPA	Service provision Authority
SPINS	Special instructions
SPOD	Sea Ports of Debarkation
SPR	Software Problem Reports
SPT	Support
SQL	Structured Query Language
SQOC	Squadron Operation Centre
SQR	Support/Sustainment Qualification Review
SRA	Security Risk Assessment
SRR	System Requirements Review
SRS	System Requirement Specification
SSL	Secure Socket Layer
SSO	Single Sign-On
SSPP	System Safety Programme Plan
SSR	Site Survey Report
SSRS	System Security Requirements Statements
SSS	Schedule of Supplies and Services
SSTO	SAM SHORAD tactical order



<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
ST&E	Security Test & Evaluation
STANAG	Standardization Agreement
STIVF	System Test, Integration and Verification Facility
SUPPLAN	Supporting/Supplementary Plan
SVG	Scalable Vector Graphics
SW	Software
SWDL	SW distribution List
SWIL	Software In The Loop
TA	Target Architecture
TAC	Tactical Air Command
TACAN	Tactical Air Navigation
TACOM	Tactical Command
TACON	Tactical Control
TACP	Tactical Air Control Post
TACS	Theatre Air Control System
TAI	Target Area of Interest
TAI	TMD Amplifying Information
TAP	Test Acceptance Plan
TARE	Telecommunications Automated Relay Equipment
TBCE	Type B Cost Estimate
TBD	To Be Defined
TBM	Theatre Ballistic Missile
TBMD	Theatre Ballistic Missile Defence
TBMCS	US Theatre Battle Management Core System (software)
TBMF	Tactical Battle Management Function
TCP/IP	Transmission Control Protocol/Internet Protocol
TDL	Tactical Data Link
TIM	Technical Interchange Meeting
TL	Target List
TMD	Theatre Missile Defence
TMR	Training Material Review
TNA	Training Needs Analysis
TNL	Target Nomination List
TOGAF	The Open Group Architecture Framework
TOPFAS	Tool for Operational Planning Force Activation and Simulation
TP	Training Plan
TP	Test Plan
TRP	Time of Reporting
TRR	Test Readiness Review

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
TST	Time Sensitive Targeting
TSTL	TST List
TTP	Tactics, Techniques and Procedures
TWY	Taxiway
UAT	User Acceptance Test
UDDI	Universal Description, Discovery and Integration
UHF	Ultra High Frequency
UI	User Interface
UID	Unit Identification Code
UML	Unified Modelling Language
UPS	Uninterruptible Power Supply
URL	Uniform/Universal Resource Locator
UTM	Universal Transverse Mercator
UUID	Universally Unique Identifier
UUP	Updated Airspace Use Plan
VCRI	Verification Cross Reference Index
VESS	Verification Event Summary Sheet
VHF	Very High Frequency
VoIP	Voice over IP
VTC	Video Tele Conference
W3C	World Wide Web Consortium
WAN	Wide Area network
WBS	Work Breakdown Structure
WCS	Web Coverage Service
WCS	Web Catalogue Service
WebDAV	Web-based Distributed Authoring and Versioning
WFS	Web Feature Service
WISE	NATO Web Information Services Environment (software)
WISI	NCIA ICC Webservices Interfaces (software)
WMD	Weapon of Mass Destruction
WMS	Web Map Service
WOC	Wing Operation Centre
WP	Work Package
WP2 PSD	Work Package Two Performance Start Date
WP3 PSD	Work Package Three Performance Start Date
WP4 PSD	Work Package Four Performance Start Date
WP5 PSD	Work Package Five Performance Start Date

<b><u>Abbreviation</u></b>	<b><u>Definition</u></b>
WP6 PSD	Work Package Six Performance Start Date
WP7 PSD	Work Package Seven Performance Start Date
WP8 PSD	Work Package Eight Performance Start Date
WP9 PSD	Work Package Nine Performance Start Date
WP10 PSD	Work Package Ten Performance Start Date
WP11 PSD	Work Package Eleven Performance Start Date
WP12 PSD	Work Package Twelve Performance Start Date
WP13 PSD	Work Package Thirteen Performance Start Date
WP14 PSD	Work Package Fourteen Performance Start Date
WP15 PSD	Work Package Fifteen Performance Start Date
WRC	World Radio Communication Conference
WRS	Web Registry Service
w.r.t.	With respect to
WS	Workspace
WS	Weaponneering Solution
WS	Weapon System
WSDL	Web Services Description Language
WS-I	Web Services Interoperability Organization
WS-N	OASIS Web Services Notification
WSPS	Windows SharePoint Services
WSRP	Web Services for Remote Portlets
WTS	Web Terrain Service
WYSIWYG	What You See Is What You Get
XLS	Microsoft Excel spreadsheet format
XMI	OMG XML Metadata Interchange
XML	Extensible Mark-up Language
XMPP	Extensible Messaging and Presence Protocol
XSS	Cross-Site Scripting

**ANNEX B. NON-DISCLOSURE DECLARATION**

To be signed by the Contractor's key personnel designated under Contract IFB-CO-15577-SSSB-UK-GR-NL

I UNDERSTAND:

That I must preserve the security of all information which comes to my knowledge as a result of the Contract with the NCI Agency stated above and that I undertake to comply with all relevant security regulations.

That I must not divulge to any unauthorised person even within my own company, any classified/commercial-in confidence information gained by me as a result of my Contract with NCI Agency, unless prior permission for such disclosure has been granted by the General Manager of the NCI Agency.

That I must not, without the approval of the General Manager of the NCI Agency, publish (in any document, article, book, CD, video, film, play, or other form) any classified /commercial-in-confidence information which I have acquired in the course of my official duties for NCI Agency.

That, at the end of Contract and after performance of all required tasks, I must surrender any official document or material made or acquired by me in the course of my official duties, save such as I have been duly authorised to retain.

That if I violate prescribed security practices either intentionally or accidentally, my Contract shall be immediately terminated.

That the provisions of the above Declaration apply not only during the period of the referred Contract with the Agency, but also after the stated Contract has ceased and that I am liable to prosecution if either by intent or negligence I allow classified/commercial-in-confidence information to pass into unauthorised hands.

That I will be considered as a key personnel as specified in clause 17 of the Special Provisions of Contract IFB-CO-15577-SSSB-UK-GR-NL, and therefore, shall comply with all regulations and restrictions applicable to key personnel.

That I commit to fulfil my obligations for the period of performance mentioned in the Contract Schedules and the Special Provisions of the Contract referred above (including the optional periods) unless major events beyond my reasonable control happen.

That should I decide for personal interest to leave the position, I will do my best effort to fulfil my obligations until the Company that is currently employing me has provided NATO with an acceptable suitable substitute in accordance with clause 17 of the Special Provisions of the aforementioned Contract.

_____	_____	_____
	Full name (in block capitals)	Signature
		Date

**ANNEX C. KEY PERSONNEL**

The following personnel shall be subject to the stipulations contained in Clause 17 (KEY PERSONNEL) of Part II.

Position	SOW/Work Package Reference	Name
Project Manager		
ILS Manager		
Technical Lead		
Test Director		

**ANNEX D. SCHEDULE OF PAYMENT MILESTONES**

<b>Payment Milestone number</b>	<b>Description</b>	<b>Payment amount in Bid Currency</b>	<b>Major Performance Milestones Delivery following successful Acceptance at latest EDC + x weeks</b>	<b>CLINs to be delivered</b>
<b>M1</b>	<b>Site survey reports</b>	<b>10%</b>	<b>EDC+ 18</b>	<b>1 and 2</b>
<b>M2</b>	<b>PDR</b>	<b>5%</b>	<b>EDC +40</b>	<b>3, 4.1 to 4.6, and 6</b>
<b>M3</b>	<b>CDR</b>	<b>10%</b>	<b>EDC+ 52</b>	<b>4.7, 4.8, 8.1, 8.3, 8.4, 8.8, 8.9, 8.13, 8.14, 12.1, 12.2, 14.1 and 14.2</b>
<b>M4</b>	<b>FAT</b>	<b>15%</b>	<b>EDC +92</b>	<b>5 and 7</b>
<b>M5</b>	<b>Civil Works</b>	<b>10%</b>	<b>EDC +111</b>	<b>9, 12.6 to 12.8</b>
<b>M6</b>	<b>Installation</b>	<b>20%</b>	<b>EDC + 144</b>	<b>10</b>
<b>M7</b>	<b>SAT</b>	<b>10%</b>	<b>EDC + 161</b>	<b>11, 12.3 to 12.5 and 14.3</b>
<b>M8</b>	<b>PSA</b>	<b>10%</b>	<b>EDC + 171</b>	<b>8.5, 8.10, 8.15, 14.4 to 14.6 and 15</b>
<b>M9</b>	<b>FSA</b>	<b>10%</b>	<b>EDC + 197</b>	<b>8.2, 8.6, 8.7, 8.11, 8.12, 8.16, 12.9, 12.10, 13, 16 and 17</b>

**ANNEX E. LIST OF SUBCONTRACTORS**

<b>Name and Address of Sub-Contractor</b>	<b>DUNS Number<sup>1</sup></b>	<b>Primary Location of Work</b>	<b>Items/Services to be Provided</b>	<b>Estimated Value of Sub-Contract</b>

---

<sup>1</sup> Data Universal Numbering System (DUNS). Contractor is requested to provide this data in order to help NCI Agency to correctly identify Subcontractors. If a Subcontractor's DUNS is not known this field may be left blank.

## ANNEX F. CONTRACTOR AND SUBCONTRACTOR BACKGROUND IPR

- a. The Contractor and SubContractor Background IPR specified in the table below will be used for the purpose of carrying out work pursuant to the prospective Contract.<sup>2</sup>

ITEM	DESCRIPTION/IP OWNERSHIP	INDICATE IF COTS
		NO
		NO
		NO
		NO

- b. The Contractor represents that it has and will continue to have, for the duration of this Contract, all necessary rights in and to the IPR specified above necessary to meet the Contractor's obligations under the Contract.
- c. The Subcontractor Background IPR stated above complies with the terms specified in Clause 30 of the NCIO General Contract Provisions.

---

<sup>2</sup> Indicate solely items the provision of which is necessary for the purpose of installing, maintaining and regularly operating the system (i.e. development environment, testing environment etc. items shall not be included)



**ANNEX G. THIRD PARTY IPR**

- a. The Third Party Background IPR specified in the table below will be used for the purpose of carrying out work pursuant to the prospective Contract.<sup>3</sup>

ITEM	DESCRIPTION/IP OWNERSHIP	INDICATE IF COTS

- b. The Contractor represents that it has and will continue to have, for the duration of this Contract, all necessary rights in and to the IPR specified above necessary to meet the Contractor's obligations under the Contract.
- c. The Third Party Background IPR stated above complies with the terms specified in Clause 30 of the NCIO General Contract Provisions.

---

<sup>3</sup> Indicate solely items the provision of which is necessary for the purpose of installing, maintaining and regularly operating the system (i.e. development environment, testing environment etc. items shall not be included)

## ANNEX H.      TEMPLATE OF ECP SIGNATURE PAGE

1. Contract: IFB-CO-15577-SSSB-UK-GR-NL	2. ECP Sequential Number <sup>4</sup> :
3. Requestor <sup>5</sup> :	
<p><b>4. Description and Rationale for changes being proposed</b></p> <p><i>[INDICATE IN DESCRIPTIVE TERM THE REASONS UNDERLINING THE NEED FOR A CHANGE, RESULTING BENEFITS AND/OR RELATED RISKS.]</i></p> <p><i>[DESCRIBE IN DETAILED AND BULLETED FORMAT THE CHANGES BEING PROPOSED]</i></p> <p><i>[WHERE THE ECP BEING SUBMITTED IS THE RESULT OF AN INVESTIGATIVE ACTION REQUESTED BY THE PURCHASER INDICATE SUCH CIRCUMSTANCE AND ANY RELEVANT RECCOMANDATION ASSOCIATED WITH THE IMPLEMENTATION OF THE ECP]</i></p> <p><i>[INDICATE SCHEDULE CONSTRAINS ASSOCIATE WITH ECP APPROVAL]</i></p>	
<p><b>5. Impact on Project / Contract (other than price)</b></p> <p><i>[INDICATE IN DESCRIPTIVE TERM AND IN DETAIL THE IMPACT IN TERMS OF SCHEDULE OR ACTIVITIES OR IN ANY OTHER PROJECT DOMAIN RESULTING FROM THE IMPLEMENTATION OF THE CHANGES BEING PROPOSED]</i></p>	

<sup>4</sup> ECP sequential numbers shall be unique and continuous regardless of the status of the ECP (pending / approved / rejected)

<sup>5</sup> Indicate requestor in terms of NCI Agency or Purchaser

**6. Impact on Contract Price**

*[INDICATE THE COST IMPACT IN TERMS OF OVERALL INCREMENT OR DECREMENT OF CONTRACT PRICE, IDENTIFY ON WHICH CONTRACT SCHEDULE OF SUPPLIES AND SERVICES CLINs THE CHANGES WILL OCCUR , IN WHICH MEASURE FOR EACH CLIN AND FOR WHICH ACTIVITY IDENTIFIED IN BLOCK 4.]*

**7. Contract documents to be revised as a result of ECP approval**

*[LIST CONTRACT DOCUMENTATION TO BE REVISED AS A RESULT OF ECP APPROVAL]*

**Attachments to ECP (Check as appropriate)**

- ☐ Revised Schedule of Supplies and Services<sup>6</sup>
- ☐ Complete cost break-down sheets<sup>7</sup>
- ☐ Revised Statement of Work and/or Annexes<sup>8</sup>
- ☐ Other documents (Specify \_\_\_\_\_)<sup>9</sup>

**Submitted by**

\_\_\_\_\_ (Company Name and POC Contact Details)

\_\_\_\_\_ (Signature)

**Purchaser Determination**

\_\_\_\_\_ (APPROVED / REJECTED)

\_\_\_\_\_ (Signature)

\_\_\_\_\_ (Contracting Officer Name)

\_\_\_\_\_  
<sup>6</sup> Include document and check if Block 6 of the ECP is to be filled

<sup>7</sup> Include document and check if Block 6 of the ECP is to be filled

<sup>8</sup> Include document and check if Block 7 of the ECP is to be filled

<sup>9</sup> Include document and check if Block 7 of the ECP is to be filled

## ANNEX I. LIST OF ACCEPTABLE BANKS TO ISSUE PERFORMANCE GUARANTEES

#	BANK <sup>10</sup>
1	Bank of America
2	Royal Bank of Canada
3	Scotiabank
4	Bank of Montreal (BMO)
5	HSBC Holdings
6	BNP Paribas
7	Credit Agricole Groupe
8	Citibank Europe
9	Wells Fargo
10	ING Group
11	Rabobank Group
12	Barclays PLC
13	Standard Chartered Plc
14	Danske Bank
15	KBC Group
16	Banco Santander
17	Société Générale
18	BBVA
19	Deutsche Bank
20	Commerzbank AG
21	Intesa
22	UniCredit S.p.A.

---

<sup>10</sup> These Banks are in NATO-member countries.

NATO UNCLASSIFIED

# **NATO COMMUNICATIONS AND INFORMATION AGENCY**



## **CONTRACT GENERAL PROVISIONS**

**V 1.0 dated 16 Oct 2014**

## Index of Clauses

1.	ORDER OF PRECEDENCE .....	1
2.	DEFINITIONS OF TERMS AND ACRONYMS .....	1
3.	AUTHORITY .....	4
4.	APPROVAL AND ACCEPTANCE OF CONTRACT TERMS .....	5
5.	LANGUAGE .....	5
6.	AUTHORISATION TO PERFORM/CONFORMANCE TO NATIONAL LAWS AND REGULATIONS .....	5
7.	FIRM FIXED PRICE CONTRACT .....	5
8.	PERFORMANCE GUARANTEE .....	6
9.	PARTICIPATING COUNTRIES.....	9
10.	SUB-CONTRACTS.....	10
11.	SECURITY .....	11
12.	RELEASE OF INFORMATION .....	12
13.	PURCHASER FURNISHED PROPERTY .....	13
14.	CONTRACTOR'S PERSONNEL WORKING AT PURCHASER'S FACILITIES .....	14
15.	HEALTH, SAFETY AND ACCIDENT PREVENTION .....	15
16.	CHANGES .....	15
17.	STOP WORK ORDER .....	17
18.	CLAIMS .....	18
19.	PRICING OF CHANGES, AMENDMENTS AND CLAIMS .....	20
20.	NOTICE OF SHIPMENT AND DELIVERY .....	23
21.	INSPECTION AND ACCEPTANCE OF WORK.....	24
22.	INSPECTION AND ACCEPTANCE OF DOCUMENTATION .....	27
23.	USE AND POSSESSION PRIOR TO ACCEPTANCE.....	28
24.	OWNERSHIP AND TITLE .....	28
25.	INVOICES AND PAYMENT .....	28
26.	TAXES AND DUTIES.....	30
27.	WARRANTY OF WORK (Exclusive of Software) .....	31
28.	RIGHT OF ACCESS, EXAMINATION OF RECORDS .....	35
29.	PATENT AND COPYRIGHT INDEMNITY .....	35
30.	INTELLECTUAL PROPERTY .....	36
	<i>Purchaser Background IPR</i> .....	36
	<i>Foreground IPR</i> .....	37
	<i>Third Party IPR</i> .....	38
	<i>Subcontractor IPR</i> .....	39
31.	SOFTWARE WARRANTY.....	39
	<i>Notification Requirement</i> .....	40

The Contract General Provisions

	Duration of the Warranty .....	40
	Purchaser Remedies for Breach .....	40
	Limitations and Exclusions from Warranty Coverage .....	41
	Markings .....	41
32.	NATO CODIFICATION .....	42
	Markings.....	43
33.	RELEASE FROM CLAIMS.....	44
34.	ASSIGNMENT OF CONTRACT .....	44
35.	TRANSFER AND SUB-LETTING.....	44
36.	PURCHASER DELAY OF WORK.....	45
37.	CONTRACTOR NOTICE OF DELAY .....	45
38.	LIQUIDATED DAMAGES .....	46
39.	TERMINATION FOR DEFAULT .....	46
40.	TERMINATION FOR THE CONVENIENCE OF THE PURCHASER .....	50
41.	DISPUTES .....	55
42.	ARBITRATION .....	55
43.	SEVERABILITY.....	57
44.	APPLICABLE LAW .....	57
	ANNEX 1 TO GENERAL PROVISIONS: PURCHASER'S PRICING PRINCIPLES .....	A1-1



The Contract General Provisions

**1. ORDER OF PRECEDENCE**

In the event of any inconsistency in language, terms or conditions of the various parts of this Contract, precedence will be given in the following order:

- 1.1. The Signature Page;
- 1.2. The Contract Schedules, Part I;
- 1.3. The Contract Contract Special Provisions, Part II;
- 1.4. The Contract General Provisions, Part III;
- 1.5. The Statement of Work, Part IV of the Contract;
- 1.6. The Annexes to the Statement of Work.

**2. DEFINITIONS OF TERMS AND ACRONYMS**

- 2.1 **Assembly-** An item forming a portion of equipment that can be provisioned and replaced as an entity and which normally incorporates replaceable parts or groups of parts.
- 2.2 **Acceptance-** Acceptance is the act by which the Contracting Authority recognises in writing that the delivered Work meets the Contract requirements..
- 2.3 **Claims-** A written demand or written assertion by one of the Parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of Contract terms, or other relief arising under or in relation to this Contract.
- 2.4 **Clause-** A provision of the Special or General Provisions of this Contract.
- 2.5 **Codification Authority-** The National Codification Bureau (NCB) or authorised agency of the country in which the Work is produced.
- 2.6 **Commercial Off-the-Shelf Items (COTS)-** The term “Commercially Off-the-Shelf Item (COTS)” means any item that:is a commercial item, customarily used by the general public, that has been sold, leased, or licensed to the general public or has been offered for sale, lease or license to the general public;
  - a) is sold in substantial quantities in the commercial marketplace; and
  - b) is offered to the Purchaser, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace.
- 2.7 **Component-** A part or combination of parts, having a specific function, which can be installed or replaced only as an entity.

## The Contract General Provisions

- 2.8 **Contractor Background IPR-** Any IPR owned by the Contractor and/or any Sub-contractor or licensed by a third party to the Contractor which is not created in relation to or as the result of work undertaken for any purpose contemplated by the Contract and which is needed for the performance of the Contract or for the exploitation of Foreground IPR.
- 2.9 **Correction-** Elimination of a Defect.
- 2.10 **Contract-** The agreement concluded between the Purchaser and Contractor, duly signed by both contracting parties. The Contract includes the documents referred to in Clause 1 (Order of Preference).
- 2.11 **Contracting Authority-** The General Manager of the NCI Agency, the Director of Acquisition, the Chief of Contracts of the NCI Agency or the authorised representatives of the Chief of Contracts of the NCI Agency.
- 2.12 **Contractor-** The person or legal entity from a Participating Country which has signed this Contract and is a Party thereto.
- 2.13 **Day-** A calendar day
- 2.14 **Defect-** Any condition or characteristic in any Work furnished by the Contractor under the Contract that is not in compliance with the requirements of the Contract.
- 2.15 **Deliverable-** Any and all goods (including movable and immovable goods) to be delivered pursuant to the terms of this Contract including, without limitation, building, raw materials, components, intermediate Assemblies, Parts, end products, equipment, documentation, data, software.
- 2.16 **Design Defect-** Defect attributable to incompatibility, unsuitability or erroneous application of theory, drawings or formula.
- 2.17 **Effective Date of Contract (or "EDC")-** The date upon which this Contract is deemed to start. Unless otherwise specified, a Contract enters into force on the date of the last signature of the Contract by the Parties.
- 2.18 **Failed Component-** A part or combination of parts, having a specific function, which can be installed or replaced only as an entity which ceases to perform in a manner consistent with its intended use and specifications of the Contract.
- 2.19 **Foreground IPR -** Any IPR created by the Contractor or any subcontractor of the Contractor in the course of or as the result of work undertaken for any purpose contemplated by the Contract.
- 2.20 **IPR-** Any intellectual property rights of any qualification irrespective of their stage of development or finalisation, including but not limited to patents, trademarks (registered or not), designs and models (registered or not) and applications for the same, copyright (including on computer software), rights in databases, know-how, confidential information and rights in records (whether or not stored on computer) which includes technical and other data and documents.

## The Contract General Provisions

- 2.21 **Manufacturing Defect-** Defect attributable to improper manufacturing processes, testing or quality control procedures.
- 2.22 **NATO-** The North Atlantic Treaty Organisation. For the purpose of this contract, the term NATO includes NATO bodies, the NATO military command structure, agencies and NATO nations.
- 2.23 **NCI AGENCY-** The NATO Communications and Information Agency. The NCI Agency is part of the NCIO. The General Manager of the Agency is authorised to enter into contracts on behalf of the NATO CI Organisation.
- 2.24 **NATO COMMUNICATIONS AND INFORMATION ORGANISATION (NCIO)-** The NATO Communications and Information Organisation. The NCI Organisation constitutes an integral part of the North Atlantic Treaty Organisation (NATO) The NCI Organisation is the legal personality from whence flows the authority of its agent, the NCI Agency, to enter into contracts.
- 2.25 **NATO Purposes-** Activities conducted by or on behalf of NATO to promote the common defence and common interests of NATO, such as, among others, NATO operations, NATO procurement, NATO training and NATO maintenance.
- 2.26 **Part-** An item of an assembly or sub-assembly, which is not normally further broken down.
- 2.27 **Participating Country-** A NATO member country that participates in financing the effort.
- 2.28 **Parties-** The Contracting Parties to this Contract, i.e., the Purchaser and the Contractor.
- 2.29 **Purchaser-** The NCI Organisation, as represented by the General Manager, NCI Agency. The Purchaser is the legal entity who awards and administers the Contract on behalf of NATO and stands as one of the Contracting Parties.
- 2.30 **Purchaser Background IPR-** Any IPR owned by the Purchaser as of the Effective Date of Contract and which has been developed by, assigned to or licensed to the Purchaser prior to the Effective Date of Contract.
- 2.31 **Purchaser Furnished Property-** Any item of equipment, material, document, technical data, information and Software or any other item of property furnished by the Purchaser to the Contractor required or useful for the performance of the Contract. The Purchaser Furnished Property, if any, shall be detailed in the Contract.
- 2.32 **Software (Computer Software)-** A computer program comprising a series of instructions, rules, routines regardless of the media in which it is recorded, that allows or cause a computer to perform a specific operation or a series of operations.
- 2.33 **Software Defect-** Any condition or characteristic of Software that does not conform with the requirements of the Contract.

The Contract General Provisions

- 2.34 **Sub-Assembly-** A portion of an Assembly consisting of two or more parts that can be provisioned and replaced as an entity. The definition purposely excludes Components and/or Parts.
- 2.35 **Sub-contract-** Any agreement made by the Contractor with any third party in order to fulfil any part of the obligations under this Contract. Sub-contracts may be in any legal binding form, e.g., contract, purchase order, etc.
- 2.36 **Sub-contractor-** Any person or legal entity directly or indirectly under Sub-contract to the Contractor in performance of this Contract.
- 2.37 **Third Party IPR-** Any IPR owned by a third party not being the Purchaser or the Contractor or its Subcontractor, which is needed for the performance of the Contract or for the exploitation of Foreground IPR. This includes, for example, third party software, including open source software.
- 2.38 **Work-** Any deliverable, project design, labour or any service or any other activity to be performed by the Contractor under the terms of this Contract.

**3. AUTHORITY**

- 3.1. All binding contractual instruments and changes, including amendments, additions or deletions, as well as interpretation of and instructions issued pursuant to this Contract shall be valid only when issued in writing by the Purchaser and signed by the Contracting Authority only.
- 3.2. No direction which may be received from any person employed by the Purchaser or a third party shall be considered as grounds for deviation from any of the terms, conditions, specifications or requirements of this Contract except as such direction may be contained in an authorised amendment to this Contract or instruction duly issued and executed by the Contracting Authority. Constructive change may not be invoked by the Contractor as a basis for Claims under this Contract.
- 3.3. The entire agreement between the Parties is contained in this Contract and is not affected by any oral understanding or representation, whether made previously to or subsequently to this Contract.
- 3.4. Personal notes, signed minutes of meetings, comments to delivered documentation and letters, e-mails and informal messages from project or other Purchaser staff which may indicate the intent and willingness to make changes to the Contract, do not implement the change to the Contract and shall not be used as a basis for claiming change to the Contract by the Contractor.

**4. APPROVAL AND ACCEPTANCE OF CONTRACT TERMS**

- 4.1. By his signature of the Contract, the Contractor certifies that he has read and unreservedly accepts and approves of all terms and conditions, specifications, plans, drawings and other documents which form part of and/or are relevant to the Contract. The Contractor further agrees that the terms of the Contract take precedence over any proposals or prior commitments made by the Contractor in order to secure the Contract. Contractor also hereby waives any and all rights to invoke any of the Contractor's general and special terms and conditions of sales and/or supply.

**5. LANGUAGE**

- 5.1. All written correspondence, reports, documentation and text of drawings delivered to the Purchaser by the Contractor shall be in the English language.

**6. AUTHORISATION TO PERFORM/CONFORMANCE TO NATIONAL LAWS AND REGULATIONS**

- 6.1. The Contractor warrants that he and his Sub-contractors are duly authorised to operate and do business in the country or countries in which this Contract is to be performed and that he and his Sub-contractors have obtained or will obtain all necessary licences and permits required in connection with the Contract. No claim for additional monies with respect to any costs or delay to obtain the authorisations to perform shall be made by the Contractor.
- 6.2. The Contractor acknowledges that he and his Sub-contractors are responsible during the performance of this Contract for ascertaining and complying with all applicable laws and regulations, including without limitation: labour standards, environmental laws, health and safety regulations and export controls laws and regulations in effect at the time of Contract signature or scheduled to go into effect during Contract performance. Failure to fully ascertain and comply with such laws, regulations or standards shall not be the basis for claims for change to the specifications, terms, conditions or monetary value of this Contract.

**7. FIRM FIXED PRICE CONTRACT**

- 7.1 This is a Firm Fixed Price Contract. The Firm Fixed Price of this Contract is as stated on the signature page of the Contract or any amendments thereto. The Purchaser assumes no liability for costs incurred by the Contractor in excess of the stated Firm Fixed Price except as may be authorised under certain provisions of this Contract.

**8. PERFORMANCE GUARANTEE**

- 8.1. As a guarantee of performance under the Contract, the Contractor shall deposit with the Purchaser within thirty (30) calendar days from the Effective Date of Contract a bank guarantee (the "Performance Guarantee") denominated in the currency of the Contract, to the value of ten per cent (10%) of the total Contract price.
- 8.2. The Performance Guarantee, the negotiability of which shall not elapse before the expiration of the warranty period, or such other period as may be specified in the Contract, shall be made payable to the Purchaser and shall be in the form of certified cheques or a Standby Letter of Credit subject to the agreement of the Purchaser. In the case of a Standby Letter of Credit, payment shall be made to the Purchaser without question and upon first demand by the Purchaser against a certificate from the Purchaser's Contracting Authority that the Contractor has not fulfilled its obligations under the Contract. The Contractor shall have no right to enjoin or delay such payment.
- 8.3. Certified Cheques issued to fulfil the requirements of the Performance Guarantee will be cashed by the Purchaser upon receipt and held in the Purchaser's account until the term of the Performance Guarantee has expired.
- 8.4. The standby letter of credit shall be subject to Belgian Law and shall be issued by (i) a Belgian bank, (ii) the Belgian subsidiary of a foreign bank licensed to provide financial services in Belgium; or (iii) an insurance company licensed to do business in Belgium and belonging to a Belgian banking institution provided the banking institution guarantees explicitly the demand for payment, unless otherwise specified by the Purchaser.
- 8.5. The Contractor shall request in writing relief from the Performance Guarantee upon expiration of the warranty period or such other period as may be specified in the Contract and such relief may be granted by the Purchaser.
- 8.6. The Contractor shall be responsible, as a result of duly authorised adjustments in the total contract price and/or period of performance by the Purchaser, for obtaining a commensurate extension and increase in the Performance Guarantee, the value of which shall not be less than ten per cent (10%) of the total contract price (including all amendments), and for depositing such guarantee with the Purchaser, within thirty (30) calendar days from the effective date of aforesaid duly authorised adjustment.
- 8.7. The failure of the Contractor to deposit and maintain such Performance Guarantee with the Purchaser within the specified time frame, or any extension thereto granted by the Purchaser's Contracting Authority, is a material breach of the Contract terms and conditions subject to the

The Contract General Provisions

provisions of the Contract regarding Termination for Default.

- 8.8. The rights and remedies provided to the Purchaser under the present Clause are in addition to any other rights and remedies provided by law or under this Contract. The certificate described in Clause 8.2 above shall not be regarded as a Termination for Default and this Clause is in addition to and separate from the Clause of the Contract detailing termination for default.
- 8.9. If the Contractor elects to post the Performance Guarantee by Standby Letter of Credit, the form of the document shall be substantially as follows:

**PERFORMANCE GUARANTEE STANDBY LETTER OF CREDIT**

Standby Letter of Credit Number: \_\_\_\_\_

Issue Date: \_\_\_\_\_

Initial Expiry Date: \_\_\_\_\_

Final Expiry Date: \_\_\_\_\_

Beneficiary: NCI Agency, Finance, Accounting & Operations  
Boulevard Leopold III, B-1110, Brussels  
Belgium

1. We hereby establish in your favour our irrevocable standby letter of credit number {number} by order and for the account of (NAME AND ADDRESS OF CONTRACTOR) in the amount of \_\_\_\_\_ We are advised this undertaking represents fulfilment by (NAME OF CONTRACTOR) of certain performance requirements under Contract No. \_\_\_\_\_ dated \_\_\_\_\_ between the NCI Agency ("NCIA and (NAME OF CONTRACTOR).
2. We hereby engage with you that drafts drawn under and in compliance with the terms of this letter of credit will be duly honoured upon presentation of documents to us on or before the expiration date of this letter of credit.
3. Funds under this letter of credit are available to you without question or delay against presentation of a certificate signed by the NCI Agency Contracting Officer which states:

"(NAME OF CONTRACTOR) has not fulfilled its obligations under Contract No. \_\_\_\_\_ dated \_\_\_\_\_ between NCI Agency and (NAME OF CONTRACTOR) (herein called the "Contract"), and the NCI Agency, as beneficiary, hereby draws on the standby letter of credit number \_\_\_\_\_ in the amount denominated in the currency of the Contract, Amount up to the maximum available under the LOC), such funds to be transferred to the account of the Beneficiary

The Contract General Provisions

number \_\_\_\_\_(to be identified when certificate is presented).”

Such certificate shall be accompanied by the original of this letter of credit.

4. This Letter of Credit is effective the date hereof and shall expire at our office located at \_\_\_\_\_(Bank Address)\_\_\_\_\_ on \_\_\_\_\_. All demands for payment must be made prior to the expiry date.
5. It is a condition of this letter of credit that the expiry date will be automatically extended without amendment for a period of one (1) year from the current or any successive expiry date unless at least 90 (ninety) calendar days prior to the then current expiry date we notify you by registered mail and notify (NAME OF CONTRACTOR) that we elect not to extend this letter of credit for such additional period. However, under no circumstances will the expiry date extend beyond \_\_\_\_\_ (“Final Expiry Date”) without amendment.
6. We may terminate this letter of credit at any time upon 90 (ninety) calendar days notice furnished to both (NAME OF CONTRACTOR) and the NCI Agency by registered mail.
7. In the event we (the issuing bank) notify you that we elect not to extend the expiry date in accordance with paragraph 6 above, or, at any time, to terminate the letter of credit, funds under this credit will be available to you without question or delay against presentation of a certificate signed by the NCI Agency Contracting Officer which states:

“The NCI Agency has been notified by {issuing bank} of its election not to automatically extend the expiry date of letter of credit number {number} dated {date} pursuant to the automatic renewal clause (or to terminate the letter of credit). As of the date of this certificate, no suitable replacement letter of credit, or equivalent financial guarantee has been received by the NCI Agency from, or on behalf of (NAME OF CONTRACTOR). (NAME OF CONTRACTOR) has, therefore, not fulfilled its obligations under Contract No. \_\_\_\_\_ dated \_\_\_\_\_ between NCI Agency and (NAME OF CONTRACTOR), and the NCI Agency, as beneficiary, hereby draws on the standby letter of credit number \_\_\_\_\_ in the amount of (Amount up to the maximum available under the LOC), such funds to be transferred to the account of the Beneficiary number \_\_\_\_\_ (to be identified when certificate is presented).”

Such certificate shall be accompanied by the original of this letter of credit and a copy of the letter from the issuing bank that it elects not to automatically extend the standby letter of credit, or terminating the letter of credit.

8. The Beneficiary may not present the certificate described in paragraph 7 above



The Contract General Provisions

until 20 (twenty) calendar days prior to a) the date of expiration of the letter of credit should {issuing bank} elect not to automatically extend the expiration date of the letter of credit, b) the date of termination of the letter of credit if {issuing bank} notifies the Beneficiary that the letter of credit is to be terminated in accordance with paragraph 6 above.

9. Multiple partial drawings are allowed to the maximum value of the standby letter of credit.
10. This letter of credit sets forth in full the terms of our undertaking, and this undertaking shall not in any way be modified, amended, or amplified by reference to any document, instrument, or agreement referred to herein (except the International Standby Practices (ISP 98) hereinafter defined) or in which this letter of credit is referred to or to which this letter of credit relates, and any such reference shall not be deemed to incorporate herein by reference any document, instrument, or agreement.
11. This Letter of Credit is subject to The International Standby Practices-ISP98 (1998 Publication) International Chamber of Commerce Publication No.590.

**9. PARTICIPATING COUNTRIES**

- 9.1 Unless prior written authorisation of the Purchaser has been obtained, none of the Work, shall be performed other than by firms from and within NATO Participating Countries. Unless otherwise specified in the Contract Special Provisions, the Participating Countries are the twenty-eight (28) Member Nations of the North Atlantic Treaty Organisation.
- 9.2 Unless prior written authorisation of the Purchaser has been obtained, no material or items of equipment down to and including identifiable Sub-Assemblies shall be manufactured or assembled by a firm other than from and within a NATO Participating Country.
- 9.3 The Contractor shall not place any Sub-contracts outside the NATO Participating Countries without the prior written authorisation of the Purchaser.
- 9.4 Unless prior written authorisation of the Purchaser has been obtained, the intellectual property rights for all software and documentation incorporated by the Contractor and/or its Sub-contractors into the Work shall vest with persons or legal entities from and within NATO participating nations and no royalties or licence fees for such software and documentation shall be paid by the Contractor to any source that does not reside within a NATO participating nation.
- 9.5 Any modification in the nationality, ownership and/or change of control of the Contractor and/or its Sub-contractor(s) shall be immediately notified in writing to the Purchaser with all necessary details to allow the Purchaser to determine whether or not the Contractor and/or its Sub-contractors continue

The Contract General Provisions

to comply with the Clauses above. Non-compliance with the Clauses above, by the Contractor and/or its Subcontractor may constitute ground for termination of this Contract under Clause 39 (Termination for Default).

**10. SUB-CONTRACTS**

- 10.1 The Contractor shall place and be responsible for the administration and performance of all Sub-contracts including terms and conditions which he deems necessary to meet the requirements of this Contract in full.
- 10.2 Prior to the Sub-contractors being given access to any classified information, the Contractor shall ensure that any Sub-contractor that has a need to access classified information for the performance of any part of this Contract has been granted the appropriate facility and personnel security clearances by the Sub-contractor's national authorities and that such clearances are still in effect at the time the information is disclosed and remains in effect throughout the performance of the work to be carried out under the Sub-contract concerned.
- 10.3 The Contractor shall seek the approval in writing of the Purchaser prior to the placing of any Sub-contract if:
  - 10.3.1 the Sub-contract was not part of the Contractor's original proposal;
  - and
  - 10.3.2 the value of the Sub-contract is known or estimated to exceed 15 per cent of the total Contract value; or
  - 10.3.3 the Sub-contract is one of a number of Sub-contracts with a single Sub-contractor for the same or related Work under this Contract that in the aggregate are known or expected to exceed 15 per cent of the total Contract value.
- 10.4 The Contractor shall inform the Purchaser of any change in Sub-contractors for Sub-contracts of a value known or estimated to exceed 15 per cent of the total Contract value.
- 10.5 The Contractor shall submit a copy of any such proposed Sub-contract including prices when seeking approval to the Contracting Authority but such approval by the Contracting Authority shall in no way relieve the Contractor of his responsibilities to fully achieve the contractual and technical requirements of this Contract.
- 10.6 The Contractor shall, as far as practicable, select Sub-contractors on a competitive basis consistent with the objectives and requirements of the Contract.

## **11. SECURITY**

- 11.1 The Contractor shall comply with all security measures as are prescribed by the Purchaser and the national security authority or designated security agency of each of the NATO countries in which the Contract is being performed. The Contractor shall be responsible for the safeguarding of classified information, documentation, material and equipment entrusted to him or generated by him in connection with the performance of the Contract.
- 11.2 In particular the Contractor undertakes to:
- 11.2.1 appoint an official responsible for supervising and directing security measures in relation to the Contract and communicating details of such measures to the Purchaser on request;
  - 11.2.2 maintain, preferably through the official responsible for security measures, a continuing relationship with the national security authority or designated security agency charged with ensuring that all NATO classified information involved in the Contract is properly safeguarded;
  - 11.2.3 abstain from copying by any means, without the authorisation of the Purchaser, the national security authority or designated security agency, any classified documents, plans, photographs or other classified material entrusted to him;
  - 11.2.4 furnish, on request, information to the national security authority or designated security agency pertaining to all persons who will be required to have access to NATO classified information;
  - 11.2.5 maintain at the work site a current record of his employees at the site who have been cleared for access to NATO classified information. The record should show the date of issue, the date of expiration and the level of clearance;
  - 11.2.6 deny access to NATO classified information to any person other than those persons authorised to have such access by the national security authority or designated security agency;
  - 11.2.7 limit the dissemination of NATO classified information to the smallest number of persons ("need to know basis") as is consistent with the proper execution of the Contract;
  - 11.2.8 comply with any request from the national security authority or designated security agency that persons entrusted with NATO classified information sign a statement undertaking to safeguard that information and signifying their understanding both of their obligations under national legislation affecting the safeguarding of classified information, and of their comparable obligations

The Contract General Provisions

under the laws of the other NATO nations in which they may have access to classified information;

- 11.2.9 report to the national security authority or designated security agency any breaches, suspected breaches of security, suspected sabotage, or other matters of security significance which would include any changes that may occur in the ownership, control or management of the facility or any changes that affect the security arrangements and security status of the facility and to make such other reports as may be required by the national security authority or designated security agency, e.g. reports on the holdings of NATO classified material;
- 11.2.10 apply to the Purchaser for approval before Sub-contracting any part of the work, if the Sub-contract would involve that the Sub-contractor would have access to NATO classified information, and to place the Sub-contractor under appropriate security obligations no less stringent than those applied to his own contract;
- 11.2.11 undertake not to utilise, other than for the specific purpose of the Contract, without the prior written permission of the Purchaser or his authorised representative, any NATO classified information furnished to him, including all reproductions thereof in connection with the Contract, and to return all NATO classified information referred to above as well as that developed in connection with the Contract, unless such information has been destroyed, or its retention has been duly authorised with the approval of the Purchaser. Such NATO classified information will be returned at such time as the Purchaser or his authorised representative may direct;
- 11.2.12 classify any produced document with the highest classification of the NATO classified information disclosed in that document.

**12. RELEASE OF INFORMATION**

- 12.1 Except as otherwise specified elsewhere in the Contract and to the extent that it is demonstratively unavoidable and without prejudice to the Clause 11 (Security), the Contractor and/or his employees shall not, without prior authorisation from the Purchaser, release to third parties any information pertaining to this Contract, its subject matter, performance there under or any other aspect thereof.
- 12.2 The Contractor shall seek the prior written approval of the Purchaser before publishing any press release or disclosing any other information, orally or in writing, in relation to the Contract. The approval of the Purchaser shall be required for both the opportunity and the content of the information.

The Contract General Provisions

- 12.3 This provision shall remain in effect after the termination of the Contract and shall cease to apply to any particular piece of information once that information becomes public knowledge other than through an act, default or omission of the Contractor or its Sub-contractors.

13. **PURCHASER FURNISHED PROPERTY**

- 13.1 The Purchaser shall deliver to the Contractor, for use only in connection with this Contract, the Purchaser Furnished Property at the times and locations stated in the Contract. In the event that Purchaser Furnished Property is not delivered by such time or times stated in the Schedule, or if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates the Purchaser shall, upon timely written request made by the Contractor, and if the facts warrant such action, equitably adjust any affected provision of this Contract pursuant to Clause 16 (Changes).
- 13.2 In the event that Purchaser Furnished Property is received by the Contractor in a condition not suitable for its intended use, the Contractor shall immediately notify the Purchaser. The Purchaser shall within a reasonable time of receipt of such notice replace, re-issue, authorise repair or otherwise issue instructions for the disposal of Purchaser Furnished Property agreed to be unsuitable. The Purchaser shall, upon timely written request of the Contractor, equitably adjust any affected provision of this Contract pursuant to Clause 16 (Changes).
- 13.3 Title to Purchaser Furnished Property will remain in the Purchaser. The Contractor shall maintain adequate property control records of Purchaser Furnished Property in accordance with sound industrial practice and security regulations.
- 13.4 Unless otherwise provided in this Contract, the Contractor, upon delivery to him of any Purchaser Furnished Property, assumes the risk of, and shall be responsible for, any loss thereof or damage thereof except for reasonable wear and tear, and except to the extent that Purchaser Furnished Property is consumed in the performance of this Contract.
- 13.5 Upon completion of this Contract, or at such earlier dates as may be specified by the Purchaser, the Contractor shall submit, in a form acceptable to the Purchaser, inventory schedules covering all items of Purchaser Furnished Property.
- 13.6 The inventory shall note whether:
- 13.6.1 The property was consumed or incorporated in fabrication of final deliverable(s);

The Contract General Provisions

- 13.6.2 The property was otherwise destroyed;
- 13.6.3 The property remains in possession of the Contractor;
- 13.6.4 The property was previously returned
- 13.7 The Contractor shall prepare for shipment, deliver DDP at a destination agreed with the Purchaser, or otherwise dispose of Purchaser Furnished Property as may be directed or authorised by the Purchaser. The net proceeds of any such disposal shall be credited to the Contract price or paid to the Purchaser in such other manner as the Purchaser may direct.
- 13.8 The Contractor shall not modify any Purchaser Furnished Property unless specifically authorised by the Purchaser or directed by the terms of the Contract.
- 13.9 The Contractor shall indemnify and hold the Purchaser harmless against claims for injury to persons or damages to property of the Contractor or others arising from the Contractor's possession or use of the Purchaser Furnished Property. The Contractor shall indemnify the Purchaser for damages caused by the Contractor to the Purchaser, its property and staff and arising out of the Contractor's use of the Purchaser Furnished Property.

14. **CONTRACTOR'S PERSONNEL WORKING AT PURCHASER'S FACILITIES**

- 14.1 The term "Purchaser Facilities" as used in this Clause shall be deemed to include sites, property, utilities, ships or vessels and the term "Facility Representative" shall be deemed to refer to the authority designated by the Purchaser responsible for the site, property, utility, ship or vessel.
- 14.2 The Facility Representative shall provide such available administrative and technical facilities for Contractor's personnel working at Purchaser's Facilities for the purpose of the Contract as in the opinion of the Facility Representative may be necessary for the effective and economical discharge of Work. The Facility Representative shall also determine whether these facilities will be provided free of charge to the Contractor or determine what charges are payable. The Contractor shall have no claim against the Purchaser for any such additional cost or delay or any additional cost or delay occasioned by the closure for holidays of said facilities, or other reasons, where this is generally published or made known to the Contractor by the Purchaser or his authorised representatives.
- 14.3 The Contractor shall, except as otherwise provided for in the Contract, make good or, at the option of the Purchaser, pay compensation for all damage occurring to any Purchaser's Facilities occasioned by the Contractor, his servants, agents or Sub-contractors, arising from his or their presence and activities in, and use of, the Purchaser's Facilities; provided that this

## The Contract General Provisions

Condition shall not apply to the extent that the Contractor is able to show that any such damage was not caused or contributed to, by his neglect, or default or the neglect or default of his servants, agents or Sub-contractors, or by any circumstances within his or their control.

- 14.4 All property of the Contractor while at a Purchaser Facility shall be at the risk of the Contractor, and the Purchaser shall accept no liability for any loss or damage, except to the extent that any loss or damage is the result of a wilful act or gross negligence on the part of the Purchaser's employees or agents.

**15. HEALTH, SAFETY AND ACCIDENT PREVENTION**

- 15.1 If the Purchaser notifies the Contractor in writing of any non-compliance in the performance of this Contract with safety and health rules and requirements prescribed on the date of this Contract by applicable national or local laws, ordinances and codes, and the Contractor fails to take immediate corrective action, the Purchaser may order the Contractor to stop all or part of the Work until satisfactory corrective action has been taken. Such an order shall not entitle the Contractor to an adjustment of the Contract price or other reimbursement for resulting increased costs, or to an adjustment of the delivery or performance schedule.

**16. CHANGES**

- 16.1 The Purchaser may at any time, by written order of the Contracting Authority designated or indicated to be a change order ("Change Order") make changes within the general scope of this Contract, including, without limitation, in any one or more of the following:
- 16.1.1 Specifications (including drawings and designs);
  - 16.1.2 Method and manner of performance of the work, including engineering standards, quality assurance and configuration management procedures;
  - 16.1.3 Marking and method of shipment and packing;
  - 16.1.4 Place of delivery;
  - 16.1.5 Amount, availability and condition of Purchaser Furnished Property.
- 16.2 The Purchaser shall submit a proposal for Contract amendment describing the change to the Contract.

The Contract General Provisions

- 16.3 If any such Change Order causes an increase in the Contractor's cost of, or the time required for, the performance of any part of the Work under this Contract, whether or not changed by any such order, the Contractor shall submit a written proposal for adjustment to the Purchaser describing the general nature and amount of the proposal for adjustment. The Contractor shall submit this proposal for adjustment within thirty (30) days after receipt of a written Change Order under (a) above unless this period is extended by the Purchaser.
- 16.4 If any such Change Order causes a decrease in the Contractor's cost of, or the time required for, the performance of any part of the Work under this Contract, whether or not changed by any such order, the Purchaser shall submit a proposal for adjustment within thirty (30) days from the issuance of the Change Order by submitting to the Contractor a written statement describing the general nature and amount of the proposal for adjustment.
- 16.5 Where the cost of property made obsolete or in excess as a result of a change is included in the Contractor's claim for adjustment, the Purchaser shall have the right to prescribe the manner of disposition of such property.
- 16.6 The Purchaser reserves the right to reject the introduction of the change, after the evaluation of the change proposal, even if the Purchaser initiated such change.
- 16.7 Failure to agree to any requested adjustment shall be a dispute within the meaning of the Clause 41 (Disputes). However, nothing in this Clause shall excuse the Contractor from proceeding with the Contract as changed.
- 16.8 No proposal for adjustment by the Contractor for an equitable adjustment shall be allowed if asserted after final payment and acceptance under this Contract.
- 16.9 Any other written or oral order (which, as used in this paragraph includes direction, instruction, interpretation, or determination) from the Purchaser that causes a change shall be treated as a Change Order under this Clause, provided, that the Contractor gives the Purchaser a written notice within thirty (30) Days after receipt of such order stating (i) the date, circumstances, and source of the order; (ii) that the Contractor regards the order as a Change Order; and (iii) a detailed cost and time analysis of the impact of the change, and that the Order is accepted in writing by the Purchaser as a Change Order. The timely written notice requirement, as detailed above, remains in force in all cases, even where, for example, the Purchaser has positive knowledge of the relevant facts.
- 16.10 All tasks and activities carried out by the Contractor in relation to the processing of the Change Order or in relation to this Clause shall form part of the Contractor's routine work and cannot be charged as additional work.



**17. STOP WORK ORDER**

- 17.1 The Purchaser may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the Work called for by this Contract for a period of ninety (90) days after the order is delivered to the Contractor, and for any further period to which the Parties may agree.
- 17.2 Any such stop work order shall be specifically identified as a stop work order issued pursuant to this Clause (the "Stop Work Order"). The Stop Work Order may include a description of the Work to be suspended, instructions concerning the Contractor's issuance of further orders for material or services, guidance to the Contractor on actions to be taken on any Sub-contracts and any suggestion to the Contractor for minimizing costs.
- 17.3 Upon receipt of such a Stop Work Order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimise costs incurred allocable to the Work covered by the Stop Work Order during the period of work stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the Parties shall have agreed, the Purchaser shall either:
- 17.3.1 cancel the Stop Work Order; or
- 17.3.2 terminate the Work covered by such Stop Work Order as provided in Clause 40 (Termination for Convenience of the Purchaser).
- 17.4 If a Stop Work Order issued under this Clause is cancelled or the period of the Stop Work Order or any extension thereof expires, the Contractor shall resume work.
- 17.5 An equitable adjustment shall be made in the delivery schedule or Contract price, or both, and the Contract shall be modified in writing accordingly, if:
- 17.5.1 the Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Contract, and;
- 17.5.2 the Contractor asserts a Claim for such adjustment within thirty (30) days after the end of the period of work stoppage; provided that, if the Purchaser decides the facts justify such action, he may receive and act upon any such claim asserted at a later date but prior to final payment under this Contract.
- 17.6 If a Stop Work Order is not cancelled and the Work covered by such Stop Work Order is terminated for the convenience of the Purchaser the reasonable costs resulting from the Stop Work Order shall be allowed in

The Contract General Provisions

arriving at the termination settlement.

**18. CLAIMS**

18.1 The Contractor shall specifically identify the Contract Clause(s) under which the Claim(s) is/are based.

18.2 Claims shall be specifically identified as such and submitted:

18.2.1 within the time specified in the Clause under which the Contractor alleges to have a Claim. If no time is specified in the Clause under which the Contractor intends to base his Claim, the time limit shall be sixty (60) days from the date the Contractor has knowledge or should have had knowledge of the facts on which he bases his Claim; and

18.2.2 before final payment, pursuant to and with the exceptions specified in Clause 33 entitled "Release of Claims".

18.2.3 Section 18.2.2 above shall only apply to those Claims for which the Contractor could not have had earlier knowledge and were not foreseeable.

18.3 The Contractor shall be foreclosed from his Claim unless he presents complete documentary evidence, justification and costs for each of his Claims within ninety (90) calendar days from the assertion date of such Claims. Claims shall be supported by specifically identified evidence (including applicable historical and planned cost and production data from the Contractor's books and records). Opinions, conclusions or judgmental assertions not supported by such evidence will be rejected by the Purchaser.

18.4 An individual breakdown of cost is required for each element of Contractor's Claims at the time of claim submission or for any material revision of the Claim.

18.5 The Contractor shall present, at the time of submission of a Claim, an attestation as follows:

I .....the responsible senior company official authorised to commit the ..... with respect to its claims dated ..... being duly sworn, do hereby depose and say that: (i) the facts described in the claim are current, complete and accurate; and (ii) the conclusions in the claim accurately reflect the material damages or contract adjustments for which the Purchaser is allegedly liable.

.....

The Contract General Provisions

.....  
SIGNATURE

Date

- 18.6 Failure to comply with any of the above requirements shall result in automatic foreclosure of the Claim. This foreclosure takes effect in all cases and also where, for example, the Claim is based on additional orders, where the facts are known to the Purchaser, where the Claim is based on defective specifications of the Purchaser or an alleged negligence in the pre-contractual stage.
- 18.7 Claims submitted by the Contractor will be reviewed by the Contracting Authority. The Contracting Authority will respond within sixty (60) days with a preliminary decision, based on an assessment and evaluation of the facts presented by the Parties, as to whether the Contracting Authority considers the Claim to have merit for consideration. If the preliminary decision of the Contracting Authority is that the Claim, as submitted is without merit, the Contractor shall have fourteen (14) days to present a rebuttal to the Contracting Authority and request reconsideration of the Contracting Authority's decision. Within thirty (30) days receipt of the Contractor's request for reconsideration, the Contracting Authority will issue a decision. The time requirements stated herein may be extended by the Contracting Authority in order to accommodate additional preparation efforts and fact finding discussions but the Contracting Authority may not unreasonable extend such a period. A decision that the submitted claim is without merit will be identified as such, will be issued in writing by the Contracting Authority and will be conclusive. A decision may only be challenged by the Contractor through the Disputes provisions described herein.
- 18.8 A decision by the Purchaser that the claim has merit will result in a Contracting Authority request to enter into negotiations with the Contractor to arrive at a mutually agreed fair and equitable settlement. The Contracting Authority's decision will contain a target date for the commencement and conclusion of such operations. If the Parties are unable to arrive at an agreement on a fair and reasonable settlement by the target date for conclusion, or any extension thereto made by the Contracting Authority, the latter may declare that negotiations are at an impasse and issue a preliminary decision as to the fair and reasonable settlement and the reasons supporting this decision. The Contractor shall have a period of thirty (30) days to present a rebuttal to the Contracting Authority and request reconsideration of the Contracting Authority's decision. Within sixty (60) days of receipt of the Contractor's request for reconsideration, the Contracting Authority will issue its decision on the request for reconsideration. This timeframe will be respected unless an authorisation is needed from a NATO or other authority , the schedule for which is beyond the Contracting Authority's control. A

The Contract General Provisions

decision of the Contracting Authority on the reconsideration of the matter will be identified as such, will be issued in writing by the Contracting Authority and will be conclusive. A decision on the reconsideration may only be challenged by the Contractor through the Disputes provisions described herein.

- 18.9 No Claim arising under this Contract may be assigned by the Contractor without prior approval of the Purchaser.
- 18.10 The Contractor shall proceed diligently with performance of this Contract, pending final resolution of any request for relief, claim appeal, or action arising under the Contract, and comply with any decision of the Contracting Authority.

**19. PRICING OF CHANGES, AMENDMENTS AND CLAIMS**

- 19.1 Contractor's pricing proposals for Changes, amendments and Claims shall be priced in accordance with the Purchaser's Pricing Principles (Annex 1 hereto and the sample spreadsheet and its "Instructions to Complete" at Appendix 1) or the national government pricing rules and regulations for the Contractor's own country, where in force. The Contractor shall provide cost information accompanied by appropriate substantiation as required by the Purchaser in accordance with Purchaser's Pricing Principles, or such other format as may be agreed between the Contractor and the Purchaser.
- 19.2 With respect to Clause 19.1 above, when the price or price adjustment is based on adequate price competition, established catalogue or market price of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the Contractor shall be responsible for substantiation of such cases to the satisfaction of the Purchaser.
- 19.3 For the purposes of verifying that the cost or pricing data submitted in conjunction with Clause 19.1 above are accurate, complete and current, the Purchaser or any Purchaser authorised representative shall have the right of access to the Contractor's facilities to examine, until the expiration of three (3) years from the date of final payment of all sums due under the Contract:
  - 19.3.1 those books, records, documents and other supporting data which will permit adequate evaluation and verification of the cost or pricing data submitted; and/or
  - 19.3.2 the computations and projections which were available to the Contractor as of the date of the Contractor price proposal.
- 19.4 The Contractor, subject to the provisions of this Clause, shall require Sub-contractors to provide to the Purchaser, either directly or indirectly:
  - 19.4.1 cost or pricing data;
  - 19.4.2 access to Sub-contractor's facilities and records for the purposes of verification of such cost or pricing data; and
  - 19.4.3 a Certificate of Current Cost or Pricing Data, when required.

The Contract General Provisions

- 19.5 If any price, including profit, negotiated in connection with this Contract was proposed, taking any of the following into account:
- 19.5.1 the Contractor furnished cost or pricing data which was not complete, accurate and current as certified in the Contractor's Certificate of Current Cost or Pricing Data provided in accordance with Clause 19.6 below;
  - 19.5.2 a Sub-contractor, pursuant to Clause 19.4 above or any Sub-contract clause therein required, furnished cost or pricing data which was not complete, accurate and current as certified in the Sub-contractor's Certificate of Current Cost or Pricing Data;
  - 19.5.3 a Sub-contractor or prospective Sub-contractor furnished cost or pricing data which was required to be complete, accurate and current and to be submitted to support a Sub-contract cost estimate furnished by the Contractor but which was not complete, accurate and current as of the date certified in the Contractor's Certificate of Current Cost or Pricing Data; or
  - 19.5.4 the Contractor or a Sub-contractor or prospective Sub-contractor furnished any data, not within 19.5.1 through 19.5.3 above, which, as submitted, was not complete, accurate and current;
  - 19.5.5 then the price and/or cost shall be adjusted accordingly and the Contract shall be modified in writing as may be necessary to reflect such.
- 19.6 At the time of negotiating any price, including profit, which is based upon the submission of cost or pricing data by the Contractor, the Contractor shall be required to submit a certificate of current cost or pricing data ("Certificate").
- 19.6.1 Such Certificates will certify that, to the best of the Contractor's knowledge and belief, cost or pricing data submitted to the Purchaser in support of any proposal for a price, price adjustment or claim, are accurate, complete and current, as per the completion of the negotiations or, in the case of a claim, as per the submission date of the claim.
  - 19.6.2 All such Certificates shall be in the format shown below and shall be dated and signed by a responsible officer of the company:

CERTIFICATE OF CURRENT COST OR PRICING DATA

This is to certify that cost or pricing data as submitted, either actually or by specific identification in writing to the Purchaser or his representative in support of.....(*Claim, Amendment, ECP#, etc.*) are accurate, complete and current as of .....(*Date*).

By submitting the price proposal, the Contractor/sub-Contractor or prospective sub-Contractor grant the Purchaser or his authorized representative(s) the right to examine those records, data and supporting information, used as a basis for the pricing submitted.

---

*Name of Company*

---

*Signature*

---

*Printed Name of Signatory*

---

*Title of Signatory*

---

*Date of Signature*

19.6.3 The Contractor shall insert the substance of this Clause 19.7 in each Sub-contract.

19.7 For all additional or follow-up agreements which are made for Work which are furnished to the Purchaser without competition, the Contractor shall offer prices on a "Preferred Customer" basis, that is offer prices which are as favourable as those extended to any Government, Agency, Company, Organisation or individual purchasing or handling like quantities of

## The Contract General Provisions

equipment and/or Parts covered by the Contract under similar conditions. In the event that prior to completing delivery under this Contract the Contractor offers any of such items in substantially similar quantities to any customer at prices lower than those set forth herein, the Contractor shall so notify the Purchaser and the prices of such items shall be correspondingly reduced by a supplement to this Contract. Price in this sense means "Base Price" prior to applying any bonus, export tax reduction, turn-over tax exemptions and other reductions based on National Policies.

**20. NOTICE OF SHIPMENT AND DELIVERY**

- 20.1 Except as may be specified in the Contract Special Provisions, delivery of all items under this Contract shall be made by the Contractor on the basis of "Delivery Duty Paid" (DDP) as defined by the INCOTERMS 2000 (International Chamber of Commerce Publication No. 560). It shall be noted, however, that because the Purchaser is exempted from direct taxes and duty as set forth in Clause 26 (Taxes and Duties), there is no duty to be paid by the Contractor.
- 20.2 "Delivery" of required Work by the Contractor does not constitute "Acceptance" by the Purchaser for purposes of meeting the requirements of the Contract Schedule where Purchaser acceptance is the stated payment or schedule milestone.
- 20.3 Thirty (30) Days, or such other period as specified in the Contract, prior to the delivery of any shipment of Work, the Contractor shall give prepaid notice of shipment to the Purchaser. The Notice of Shipment shall contain, as appropriate, the request for customs form 302, or equivalent document, which shall enable any carrier to conduct duty free import/export clearance through customs for the Purchaser on behalf of NATO.
- 20.4 The customs form 302 is an official customs clearance declaration issued in advance of shipment by the Purchaser to provide certified information as to the duty free import, export, or transit of NATO consignments between NATO countries.
- 20.5 The Notice of Shipment and request for Form 302 or equivalent document shall contain the following information:
  - 20.5.1 Purchaser's Contract number;
  - 20.5.2 Contract item number, designation and quantities;
  - 20.5.3 destination;
  - 20.5.4 number and description of the packages (gross and net weight);
  - 20.5.5 description of the goods and their value (for custom purpose only, not commercial value)

- 20.5.6 consignor's name and address;
  - 20.5.7 consignee's name and address;
  - 20.5.8 method of shipment (i.e. road, rail, sea, air, etc.);
  - 20.5.9 name and address of freight forwarder.
- 20.6 Forwarding Agents, Carriers or other responsible organisations shall be informed by the Contractor of the availability of Form 302 or equivalent document and how the form shall be utilised to avoid the payment of custom duties. Form 302 or equivalent document shall be incorporated in all shipping documents provided to the carrier.
- 20.7 Upon receipt of the Notice of Shipment from the Contractor, the Purchaser may require the Contractor to send copies of the Notice of Shipment to the receiving parties and the Contractor shall comply with this requirement.

## **21. INSPECTION AND ACCEPTANCE OF WORK**

- 21.1 For the purposes of this Clause, Work does not include documentation which is addressed in Clause 22 (Inspection and Acceptance of Documentation) hereafter.
- 21.2 Unless otherwise specifically provided for in the Contract, all Work and all Parts and equipment incorporated in the Work are to be new and of the most suitable grade of their respective kinds for the purpose, notwithstanding the requirements for testing, inspection and performance as required under this Contract. All workmanship shall be as specified under the Contract or, if no workmanship standards are specified, best commercial or "state of the art" complying with relevant (National and International) standards.
- 21.3 All Work may be subject to inspection and test by the Purchaser or his authorised representative(s) to the extent practicable at all times and places prior to Acceptance, including the period of manufacture, or after delivery or as otherwise specified in the Contract. For the purposes of inspection and testing the Purchaser may delegate as his representative the authorised National Quality Assurance Representative (NQAR) in accordance with STANAG 4107.
- 21.4 No representative or NQAR appointed by the Purchaser for the purpose of determining the Contractor's compliance with the technical requirements of the Contract shall have the authority to change any of the specifications. Such changes may only be made by the Contracting Authority in writing in accordance with Clause 16 (Changes).
- 21.5 The presence or absence of an NQAR or other Purchaser representative shall not relieve the Contractor from conforming to the requirements of this Contract.
- 21.6 Acceptance or rejection of the Work shall be made as promptly as practicable after delivery, except as otherwise provided in the Contract. Failure to timely



## The Contract General Provisions

accept or reject the Work shall neither relieve the Contractor from responsibility for such Work nor impose liability on the Purchaser.

- 21.7 In the event that any Work, or lots thereof, or services are defective in design, material, workmanship or manufacturing quality, or as a result of undue wear and tear or otherwise not in conformity with the requirements of this Contract, including any characteristic or condition which is or becomes at variance to the performance specifications, to the intended function of the Work or the function to which it could reasonably be expected that the Work would perform, the Purchaser shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction or replacement. Work which has been rejected or required to be corrected or replaced shall, at the expense of the Contractor, be removed, or, if permitted or required by the Contracting Authority, corrected in place by the Contractor promptly after notice, and shall not thereafter be tendered for acceptance by the Contractor unless the former rejection or requirement of correction or replacement is withdrawn. If the Contractor fails promptly to remove, replace or correct such Work the Purchaser may either:
- 21.7.1 by contract or otherwise return, replace or correct such Work or services and charge to the Contractor the cost incurred by the Purchaser; and/or
  - 21.7.2 terminate this Contract for default as provided in Clause 39 (Termination for Default).
- 21.8 When NQAR is not applicable based on the scale of the project, the Purchaser reserves the right to perform inspections through his own staff in accordance with the latest ISO standard at the time of inspection.
- 21.9 Unless the Contractor corrects or replaces such Work within the delivery schedule, the Purchaser may require the delivery of such Work at a reduction in price which is equitable under the circumstances. Failure to agree to such reduction of price shall be a dispute within the meaning of Clause 41 (Disputes).
- 21.10 If any inspection or test is made by the Purchaser's representatives on the premises of the Contractor or Sub-contractor, the Contractor, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of the Purchaser's representatives in the performance of their duties. The NQAR or other Purchaser representatives shall have the right of access to any area of the Contractor's or his Sub-contractor's premises where any part of the contractual work is being performed.
- 21.11 If Purchaser inspection or test is made at a point other than the premises of the Contractor or Sub-contractor, it shall be at the expense of the Purchaser except as otherwise provided in this Contract; provided, that in case of rejection the Purchaser shall not be liable for any reduction in value of samples used in connection with such inspection or test.
- 21.12 All inspections and tests by the Purchaser shall be performed in such a

The Contract General Provisions

manner as not to unduly delay the Work.

- 21.13 The Purchaser reserves the right to charge to the Contractor any additional cost of Purchaser inspection and test when Work is not ready at the time such inspection and test is requested by the Contractor or when re-inspection or retest is necessitated by prior rejection.
- 21.14 Acceptance or rejection of the Work shall be made as promptly as practicable after delivery, except as otherwise provided in this Contract, but failure to inspect and accept or reject Work shall neither relieve the Contractor from responsibility for such Work as are not in accordance with the Contract requirements nor impose liability on the Purchaser thereof.
- 21.15 The inspection and test by the Purchaser of any Work or lots thereof, or services, does not relieve the Contractor from any responsibility regarding defects or other failures to meet the Contract requirements which may be discovered prior to acceptance.
- 21.16 Acceptance of Work shall take place when the Contracting Authority confirms acceptance in writing of the Work in accordance with the procedure specified in the Contract, or if none is so specified then the Contracting Authority shall be deemed to have accepted the Work without prejudice to any other remedies, when and as soon as any of the following events have occurred:
  - 21.16.1 the Purchaser has taken the Work into use, except as specifically provided by Clause 23 (Use and Possession Prior to Acceptance);
  - 21.16.2 the Purchaser has not exercised its right of rejection of the Work within any period specified for that purpose in the Contract;
  - 21.16.3 there being no period for exercising the right of rejection specified in the Contract, a reasonable time, all the circumstances having been taken into account, has elapsed since inspection of the Work was effected in accordance with the Contract.
- 21.17 Except as otherwise provided in this Contract, acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud.
- 21.18 Unless otherwise specified in this Contract, the Contractor shall have or establish, implement and maintain an effective and economical quality control system necessary to satisfy the Contract requirement. The system shall provide for the early and prompt detection of deficiencies, trends and conditions which could result in unsatisfactory quality and for timely and effective corrective action. Objective evidence that the system is effective shall be readily available to the Purchaser and its authorised representatives. Records of all inspection and testing work by the Contractor shall be kept complete and available to the Purchaser's representatives during the performance of this Contract and for such longer periods as may be specified elsewhere in this Contract.

**22. INSPECTION AND ACCEPTANCE OF DOCUMENTATION**

- 22.1 The Contractor shall provide to the Purchaser a draft version of the required documentation as provided by the Contract Schedule and the Statement of Work. Review of draft documentation under this Contract will be made by the Purchaser upon the delivery of these items by the Contractor. The review will be conducted by the Purchaser through duly authorised representatives.
- 22.2 Upon delivery of the draft documentation, the Purchaser will have a period of review as provided by the Statement of Work. At the end of the review period or before if deemed practical by the Purchaser, the Purchaser's comments will be presented to the Contractor in writing. The substance of such comments will pertain to items of error, non-conformity, omission and guidance in relation to the requirements of the Statement of Work.
- 22.3 Purchaser Review of the delivered items will emphasise the conformity with the requirements of the Statement of Work, thoroughness of analysis, logical bases of conclusions and models and coherence and completeness of presentation. The review process will also examine editorial and grammatical correctness and the suitability and accuracy of graphics supporting the text.
- 22.4 The Contractor shall, after receipt of Purchaser comments, incorporate changes, revisions and corrections required by the Purchaser and present the revised documentation in final form to the Purchaser for inspection in accordance with the delivery date specified in the Schedule.
- 22.5 During the review process the Contractor is not required to halt efforts on further tasks as identified in the Statement of Work. The Purchaser, however, shall not be held liable for any work carried out by the Contractor which is based on draft documentation yet to be reviewed.
- 22.6 Upon receipt of the items in final form, the Purchaser will inspect the items for a period not exceeding two weeks (or as otherwise stated in the Statement of Work). At the end of the inspection, the Purchaser will notify the Contractor that:
- 22.6.1 the items have been accepted;
  - 22.6.2 the acceptance of the items is deferred pending further revision;
- or
- 22.6.3 The items are rejected and significantly fail to meet Contract requirements.
- 22.7 In the case of Clause 22.6.2 above, the Contractor shall only be responsible for those revisions and corrections requested by the Purchaser and the

## The Contract General Provisions

Purchaser may not request additional revisions during inspection after required revisions have been made. However, if the Purchaser determines that a directed revision has not been made or if such directed revision was cause for revision of other portions of content which were not made by the Contractor, the Purchaser may withhold acceptance until such revisions are made by the Contractor.

- 22.8 The Contractor shall provide to the Purchaser on request supporting technical data, computer software, databases and background analyses in order to validate findings contained in the delivered items.
- 22.9 Purchaser acceptance shall be made in writing by the Contracting Authority.

**23. USE AND POSSESSION PRIOR TO ACCEPTANCE**

- 23.1 Except as otherwise provided in the Contract Special Provisions, the Purchaser shall have the right to take possession of, or use, any completed or partially completed Work under the Contract at any time, when notified by the Contracting Authority, however such possession or use shall not constitute Acceptance by the Purchaser, as defined in the Contract.
- 23.2 While the Purchaser has such use or is in such possession, the Contractor shall be relieved of the responsibility for loss or damage to the Work concerned other than that resulting from the Contractor's fault, negligence or defect to the Work.
- 23.3 If such prior possession or use by the Purchaser delays the progress of the Work or causes additional expense to the Contractor, an equitable adjustment in the Contract price or the time of delivery will be made, in accordance with the Clause 16 (Changes), and the Contract shall be modified in writing accordingly.

**24. OWNERSHIP AND TITLE**

- 24.1 Except as may be otherwise stated in the Contract Special Provisions and Clause 23 (Use and Possession prior to Acceptance), ownership and title to all Work will pass to the Purchaser only upon Acceptance by the Contracting Authority in writing. Where the Contract provides for Provisional Acceptance and Final Acceptance, ownership and title will pass to the Purchaser upon written notification of Final Acceptance.

**25. INVOICES AND PAYMENT**

- 25.1 Unless otherwise specified in the Contract Special Provisions, invoices shall only be submitted after delivery and Acceptance of the Work and for the total prices and currency(ies) as set out under the Schedule of Work.
- 25.2 Invoices in respect of any Work or services shall be prepared and submitted

The Contract General Provisions

to the Purchaser and shall contain all of the elements listed below:

- 25.2.1 Contract number;
  - 25.2.2 Purchaser's Purchase Order number ;
  - 25.2.3 accounting codes (as specified in this Contract);
  - 25.2.4 item number (as defined in the Contract);
  - 25.2.5 Contract description of Work or services, sizes, quantities, unit prices, and extended totals (exclusive of taxes and duties for which relief is available); and
  - 25.2.6 extended totals. Details of Bills of Lading or Freight Warrant numbers and weight of shipment shall be identified on each invoice as appropriate.
- 25.3 In addition, documentary evidence of Acceptance including copies of certificates of conformity shall be submitted together with each invoice. Invoices shall not be submitted to the Purchaser without Acceptance having been previously made by the Purchaser.
- 25.4 Each copy of the invoice shall contain the following certificate which shall be signed by a duly authorised company official on the designated original invoice:

*"I certify that the above invoice is true and correct, that the delivery of the above described items has been duly carried out and the payment thereof has not been received.*

*Order placed for official use. Exemption from VAT Article 42,§3&3\*of VAT Code for Belgium or Article 151, §1b of the Council Directive 2006/112/EC dd. 28 November 2006 on intra-community purchases and/or services."*

- 25.5 All invoices shall be addressed to the NCI Agency - Financial Management

Either at the following addresses:

NCI Agency \* If used for NCI Agency Brussels

NATO Communications and Information Agency  
Finance, Accounting & Operations  
Batiment Z  
Av du Bourget 140  
B-1140 Belgium

**OR**

shall be addressed to Financial Management at the following electronic address:

["NCIA-CAPDEV-FMU-BEL\\_E-INVOICES@NCIA.NATO.INT"](mailto:NCIA-CAPDEV-FMU-BEL_E-INVOICES@NCIA.NATO.INT) (note there is an underscore between BEL and E-INVOICES)

Note: When used for NCI Agency The Hague or Mons the addresses shall be dictated in the Contract Special Provisions

Once the manner of forwarding the invoice is chosen, the contractor shall keep this manner throughout the contract.

- 25.6 All invoices submitted shall include the address of the bank to which payment shall be made, together with **either** pertinent information concerning the International Bank Account Number (IBAN) and BIC/SWIFT address **or** pertinent information concerning transit number/sort code, account number and SWIFT address. The Purchaser makes payment only by wire transfer and therefore wire transfer particulars shall be included on the invoice.
- 25.7 Invoices will be settled by the Purchaser within sixty (60) days of receipt of a properly prepared and submitted invoice.
- 25.8 The Contractor shall mention on the invoice the payment conditions in line with the Contract.

**26. TAXES AND DUTIES**

- 26.1 The Purchaser, by virtue of his status under the terms of Article IX and X of the Ottawa Agreement, is exempt from all direct taxes (incl. VAT) and all customs duties on merchandise imported or exported. The Contractor, therefore, certifies that the prices stipulated in this Contract do not include amounts to cover such direct taxes or customs duties.
- 26.2 The Contractor shall be responsible for ensuring that his respective Sub-contractors are aware that the Purchaser is exempt from taxes and customs duties. The Contractor (and his respective Sub-contractors) shall be responsible for complying with all applicable national and local legal and administrative procedures to ensure that authorities do not attempt to assess taxes and customs duties on goods and property imported or exported through NATO member nation frontiers under this Contract nor assess direct taxation (VAT) on goods sold to the NCI Agency under this Contract.
- 26.3 The Purchaser shall give reasonable assistance in providing evidence/documents which might be required by the Contractor to ensure that NCI Agency receives tax exemption by virtue of its status under the Ottawa Agreement.
- 26.4 If, after complying with all national and local legal and administrative

## The Contract General Provisions

procedures, the authorities persist in attempting to impose taxes or duties on goods provided under this Contract, the Contractor shall inform the Contracting Authority providing the particulars of the situation, the procedures which have been followed and the point of contact at the national authority which is attempting to impose taxation or duty. The Contracting Authority will examine the situation and attempt to clarify the legal and administrative basis of the difficulty. If the Contracting Authority so directs, the Contractor shall pay the required taxes and duties and file for reimbursement or rebate from the national authorities in accordance with national legislative and administrative procedures.

- 26.5 In the event that the petition for reimbursement or rebate is denied by the national authorities concerned and providing that the Contractor and/or his Sub-contractor have complied with the national legislative and administrative procedures, the Purchaser shall reimburse the full amount of the payment(s) upon receipt of the Contractor's invoice indicating such tax or duty as a separate item of cost and fully identified by reference to any governmental law, regulation and/or instruction pursuant to which such tax or duty is enforced. The Contractor shall offer assistance and execute any such document that may be useful or required to ensure that Purchaser obtains the reimbursement of any tax or duty retained by a national authority.
- 26.6 In the event of the Contractor and/or Sub-contractor not complying with national legislative or administrative procedures, taxes and duties paid by the Contractor and/or Sub-contractors shall not be reimbursed by the Purchaser.
- 26.7 Following payment by the Purchaser of the taxes and/or duties pursuant to Clause 26.4 above, should the Contractor subsequently receive a rebate of any amount paid by the Purchaser, the Contractor shall immediately notify the Purchaser and the amount of such rebate shall be credited or reimbursed to the Purchaser, as directed. The Contractor shall be responsible for taking any and all action that could reasonably be required in order to obtain such rebate.
- 26.8 The Contractor shall be liable for all other taxes, assessments, fees, licences, administrative charges or other Government assessments or charges which are applicable to the performance of this Contract. It is the Contractor's responsibility to inform himself of his liability in each country where such liability may arise.

**27. WARRANTY OF WORK (Exclusive of Software)**

- 27.1 For the purpose of this Clause:

27.1.1 "Acceptance" shall mean the act of an authorised representative of the Purchaser by which the Purchaser

The Contract General Provisions

assumes title and ownership of delivered Work rendered as partial or complete performance of the Contract. "Acceptance" in this regard, unless specifically provided otherwise in the Contract Contract Special Provisions, means final Acceptance where the Contract provides for Provisional or Partial Acceptance;

- 27.1.2 "Correction" shall mean the elimination of a defect;
- 27.1.3 "Work" shall not include software.
- 27.2 The Contractor shall not be responsible under this Clause for the Correction of Defects in Purchaser Furnished Property, except for Defects in Contractor performed installation, unless the Contractor performs, or is obligated to perform, any modifications or other work on Purchaser Furnished Property. In that event, the Contractor shall be responsible for Correction of Defects that result from the modifications or other Work.
- 27.3 Unless another period of time is indicated in the Contract Contract Special Provisions, the duration of the warranty provided by the Contractor and its Subcontractors shall be twelve (12) months from the date of Acceptance under this Contract as notified in writing by the Contracting Authority.
- 27.4 Any Work or parts thereof corrected or furnished in replacement and any services re-performed shall also be subject to the conditions of this Clause 27 to the same extent as Work initially accepted. The warranty, with respect to these Work, or parts thereof shall be equal in duration to that set forth in Clause 27.3, and shall run from the date of delivery of the corrected or replaced Work.
- 27.5 If the Contractor becomes aware at any time before Acceptance by the Purchaser (whether before or after tender to the Purchaser) or at a later time, that a Defect exists in any Work, the Contractor shall either promptly correct the Defect or promptly notify the Purchaser, in writing, of the Defect, using the same procedures prescribed in Clause 27.8.
- 27.6 The Purchaser will notify in writing the Contractor of the existence of a Failed Component and return to the Contractor the Failed Component within thirty (30) Days of the discovery of such failure. The transport of the Failed Component shall be at the expense of the Purchaser. The notification of the failure will include as much information as practicable about the circumstances and operating environment at the time of the failure. Upon receipt of such notification by the Purchaser (which may precede receipt of the Failed Component), the Contractor shall ship to the location of the Failed Component an identical component for installation by Purchaser personnel. The Contractor shall ship such replacement component(s) Delivery Duty Paid. Such transportation and replenishment charges are included in the cost of line item of the Contract identified as the warranty.
- 27.7 In such rare cases where the Failed Component is either too large to be



## The Contract General Provisions

easily transported or the Failed Component cannot be readily identified and isolated within the larger entity, the Contractor shall be notified by the Purchaser of the failure immediately by telephone, fax or e-mail. The Contractor shall provide technical support to the Purchaser personnel in identifying the Failed Component so as to afford the Purchaser the opportunity to return the Failed Component. In such a case where the Failed Component cannot be identified or is not cost effective or practical to ship to the Contractor's facility, the Contractor may elect to send field service personnel to the site of the failure and repair such equipment on location. In this event, such field service personnel shall be dispatched to the site of the failure within forty-eight (48) hours of initial notification. The expense of the technical support and field service shall be borne by the Contractor.

- 27.8 The Contractor shall conduct analysis of all Failed Components which are returned to him by the Purchaser or repaired in the field by Contractor field service personnel to determine the cause of the failure. The Contractor shall issue a report to the Purchaser within thirty (30) days of receipt of a returned item or field repair which contains the results of the analysis. The report shall contain the conclusion of the Contractor as to whether the cause of the failure was due to a Manufacturing Defect or a Design Defect and declare what course of remedial action the Contractor shall implement to prevent further failures of a similar nature. Repetitive failures of the same component may be grounds for a de facto determination by the Purchaser that a Design Defect exists.
- 27.9 If the Purchaser determines that a Design Defect exists in any of the Work accepted by the Purchaser under this Contract, the Purchaser shall promptly notify the Contractor of the Defect, in writing, within ninety (90) days after discovery of the Defect. Upon timely notification of the existence of a Defect, or if the Contractor independently discovers a Design Defect or Manufacturing Defect in accepted Work, the Contractor shall submit to the Purchaser, in writing within thirty (30) days, a recommendation for corrective actions, together with supporting information in sufficient detail for the Purchaser to determine what corrective action, if any, shall be undertaken.
- 27.10 The Contractor shall also prepare and furnish to the Purchaser data and reports applicable to any Correction required under this Clause (including revision and updating of all other affected data and already accepted documentation called for under this Contract) at no increase in the Contract price.
- 27.11 In the event of timely notice of a decision not to correct or only to partially correct, the Contractor shall submit a technical and cost proposal within forty-five (45) days to amend the Contract to permit Acceptance of the affected Work in accordance with the revised requirement, and an equitable reduction in the Contract price shall promptly be negotiated by the Parties and be reflected in a supplemental agreement to this Contract.
- 27.12 Within thirty (30) days after receipt of the Contractor's recommendations for corrective action and adequate supporting information in accordance with

The Contract General Provisions

Clause 27.9, the Purchaser using sole discretion, shall give the Contractor written notice not to correct any Defect, or to correct or partially correct any Defect within a reasonable time.

- 27.13 The Contractor shall promptly comply with any timely written direction from the Purchaser to correct or partially correct a manufacturing or Design Defect, at no increase in the Contract price.
- 27.14 The Purchaser shall give the Contractor a written notice specifying any failure or refusal of the Contractor to:
  - 27.14.1 conduct analyses of Failed components and implement a course of remedial action as required by Clauses 27.7 and 27.8;
  - 27.14.2 provide replacement components, technical support or on-location field repair service in accordance with Clauses 27.6 and 27.7; or
  - 27.14.3 prepare and furnish data and reports as required by Clause 27.10.
- 27.15 The notice referred to in Clause 27.14 shall specify a period of time following receipt of the notice by the Contractor in which the Contractor must remedy the failure or refusal specified in the notice.
- 27.16 If the Contractor does not comply with the Purchaser's written notice in Clause 27.14, the Purchaser may by Contract or otherwise:
  - 27.16.1 Obtain detailed recommendations for corrective action from its own resources or third parties and either:
  - 27.16.2 correct the Work;
  - 27.16.3 replace the Work, and if the Contractor fails to furnish timely disposition instructions, the Purchaser may dispose of the non-confirming Work for the Purchaser's account in a reasonable manner, in which case the Purchaser is entitled to reimbursement from the Contractor, or from the proceeds, for the reasonable expenses of care and disposition, as well as for excess costs incurred or to be incurred;
    - 27.16.3.1 obtain applicable data and reports; and/or
    - 27.16.3.2 charge the Contractor for the costs incurred by the Purchaser.
- 27.17 In no event shall the Purchaser be responsible for any extension or delays in the scheduled deliveries or periods of performance under this Contract as a result of the Contractor's obligations to correct Defects, nor shall there be any adjustment of the delivery schedule or period of performance as a result of the Correction of Defects unless provided by a supplemental agreement with adequate consideration.

27.18 The rights and remedies of the Purchaser provided in this Clause shall not be affected in any way by any terms or conditions of this Contract concerning the conclusiveness of inspection and Acceptance and are in addition to, and do not limit, any rights afforded to the Purchaser by any other Clause of this Contract or applicable law.

**28. RIGHT OF ACCESS, EXAMINATION OF RECORDS**

28.1 The Contractor shall give to the Purchaser and/or his representative(s) full and free access to his premises as and when required for the purpose of this Contract and shall ensure the same right of access to the premises of his Sub-contractors, by the inclusion in any such Sub-contracts of a provision substantially as set forth in this Clause.

28.2 The Purchaser and/or his representative(s) shall continue to have such right of access and examination of records as set forth in Clause 28.1 above until final payment under the Contract or the end of the warranty provisions under the Contract, whichever occurs later.

28.3 The expiration of the Purchaser's rights as set forth in Clause 28.2 is further subject to the provisions of Clause 19 (Pricing of Changes, Amendments and Claims), where a three (3) year right is established following the agreement of contractual amendments or the settlement of claims based upon the submission of cost and pricing data.

28.4 The period of access and examination described in Clause 28.1 above for records not related to cost aspects of a dispute or claim but which relate to issues of fact arising under either proceedings under Clause 41 (Disputes) or Clause 42 (Arbitration), or the settlement of claims made by either Party pursuant to the performance of this Contract, shall continue until such appeals, litigation or claims have been disposed of.

**29. PATENT AND COPYRIGHT INDEMNITY**

29.1 The Contractor shall assume all liability against any and all third party claims that the services, Work and/or parts thereof, in whole or in part, infringe(s) an IPR in force in any countries, arising out of the manufacture, import, export, performance of the services or delivery of Work and/or out of the use or disposal by, or for the account of, the Purchaser of such Services and/or Work. The Contractor shall reimburse and/or indemnify the Purchaser, its officers, agents, employees and/or consultants: (i) for all costs, fees, damages, awards, settlement amounts and any other expenses awarded to the third party right holder against Purchaser and/or the final beneficiaries of the Work in relation to said third party claim; and (ii) for the costs and expenses incurred by the Purchaser in relation to said third party claims, including attorney fees. The Contractor shall be responsible for obtaining any licences necessary for the performance of this Contract and for making all other arrangements required to indemnify

the Purchaser from any liability for IPR infringement in said countries.

29.2 Each Party shall immediately notify the other of any intellectual property infringement claims of which he has knowledge and which pertain to the Work under this Contract.

29.3 This indemnity shall not apply under the following circumstances:

29.3.1 Patents or copyright which may be withheld from issue by order of the applicable government whether due to security regulations or otherwise;

29.3.2 An infringement resulting from specific written instructions from the Purchaser under this Contract;

29.3.3 An infringement resulting from changes made to the Work by the Purchaser without the Contractor prior written consent;

29.3.4 An infringement resulting from changes or additions to the Work subsequent to final delivery and Acceptance under this Contract.

## **30. INTELLECTUAL PROPERTY**

### **30.1 *Purchaser Background IPR***

30.1.1 The Contractor is licensed to use, non-exclusively and royalty-free any Purchaser Background IPR that is or will be made available for the sole purpose of carrying out the Work.

30.1.2 The Contractor shall not use any Purchaser Background IPR other than for the purpose of carrying out the Work without the prior written agreement of the Purchaser. Any such agreement shall include the terms relating to such use.

30.1.3 The Purchaser gives no warranty as to the validity of any Purchaser Background IPR. The Contractor shall not do anything or act in any way which is inconsistent with or prejudicial to the ownership by the Purchaser of any Purchaser Background IPR.

### **30.2 *Contractor Background IPR***

30.2.1 Any use of Contractor Background IPR for the purpose of carrying out the Work pursuant to the Contract shall be free of any charge to Purchaser. The Contractor hereby grants to NATO a non-exclusive, royalty-free and irrevocable licence to use and authorise others to use any Contractor Background IPR for the purpose of exploiting or otherwise using the Foreground IPR.

The Contract General Provisions

- 30.2.2 Any use of Contractor Background IPR is not limited to the number of users or the number of licenses required by the Contract for the use of system. The Purchaser reserves the right to use the Contractor Background IPR for any number of users and number of licenses as required, at no additional cost to the Purchaser.

30.3 ***Foreground IPR***

- 30.3.1 All Foreground IPR is the property of the Purchaser on behalf of NATO. Consequently, no statement shall be made restricting the rights of the Purchaser in the Foreground IPR.
- 30.3.2 The Contractor shall ensure that suitable arrangements are in place between its employees, agents, consultants and itself regarding Foreground IPR generated by said employees, agents, Subcontractors and consultants to allow the Contractor to fulfil its obligations under Clause 30.3.1 above.
- 30.3.3 The Contractor shall be entitled to use Foreground IPR on a non-exclusive, royalty free basis solely for the purpose of carrying out the Work.
- 30.3.4 The Contractor shall not use any Foreground IPR other than for the purpose of carrying out the Work without the Purchaser's prior written agreement. Any such agreement shall include terms relating to such use.
- 30.3.5 The Contractor shall provide the Purchaser, at the latest upon delivery of the Work and thereafter for the duration of the warranty and any purchased CLS agreement period, with full documented records of information in relation to the Work, including but not limited to, all drawings, specifications and other data that is necessary or useful to further develop, maintain and operate the Work.
- 30.3.6 The Contractor shall:
- 30.3.6.1 do all things necessary and sign all necessary or useful documents to enable the Purchaser to obtain the registration of the Foreground IPR as the Purchaser may require and select; and
  - 30.3.6.2 to execute any formal assignment or other documents as may be necessary or useful to vest title to any Foreground IPR in the Purchaser.

The Contract General Provisions

30.3.7 The Contractor undertakes:

- 30.3.7.1 to notify the Purchaser promptly of any invention or improvement to an invention or any design conceived or made by the Contractor; and
- 30.3.7.2 to provide the Purchaser with such information as the Purchaser may reasonably request in order to:
  - (i) determine the patentability of such invention or improvement; (ii) assess the need for registering such invention or improvement; and (iii) evaluate the potential value to the Purchaser of such a patent or registration if issued.

30.3.8 If the Purchaser determines that it wishes to apply for one or more patents for the disclosed invention or improvement or for a registration for the disclosed design, it will prosecute such application(s) at its own expense. The Contractor undertakes to provide the Purchaser, at the Purchaser's expense, with such information and assistance as the Purchaser shall reasonably require to prosecute such application(s).

30.4 ***Third Party IPR***

- 30.4.1 Any use of Third Party IPR for the purpose of carrying out the Work pursuant to the Contract shall be free of any charge to the Purchaser. The Contractor hereby grants to NATO a non-exclusive, royalty-free and irrevocable licence to use and authorise others to use any Third Party IPR for the purpose of exploiting or otherwise using the Foreground IPR.
- 30.4.2 With the exception of COTS items, any use of Third Party IPR is not limited to the number of users or the number of licenses required by the Contract for the use of system. With the exception of COTS items, the Purchaser reserves the right to use the Third Party IPR for any number of users and number of licenses as required, at no additional cost to the Purchaser.
- 30.4.3 For COTS items, the Contractor shall be responsible for obtaining licences from the Third Party in line with the requirements of the Statement of Work (including numbers and locations of licences).
- 30.4.4 Where Third Party IPR is the subject of a licence or other agreement between the third party and the Purchaser or the Contractor, the Contractor shall not use any Third Party IPR for the purposes of carrying out work pursuant to the Contract

The Contract General Provisions

without the prior written approval of the Purchaser. Contractor shall inform Purchaser in advance of any restrictions on the Purchaser's use.

- 30.4.5 If, after the award of the Contract, the Contractor becomes aware of the existence of any Third Party IPR which the Contractor is using or believes is needed for the performance of the Contract, the Contractor shall immediately give the Purchaser a written report identifying such IPR and if they are compliant with the other provisions in the contract. Any Third Party IPR under this clause is subject to the prior written approval by the Purchaser.
- 30.4.6 The Purchaser may consider open source solutions alongside proprietary ones in developments provided that such solutions are fully compliant with the requirements of this Contract. Contractor shall disclose in advance the open source license associated with the contemplated open source solution. The Purchaser reserves the right to refuse the incorporation of open source solutions that are deemed inadequate for incorporation in a NATO application (e.g. post-back obligations).

**30.5 Subcontractor IPR**

- 30.5.1 When placing a Sub-contract which is concerned with or involves the creation of IPR, the Contractor shall ensure that the Sub-contractor enters into the same agreement for the use of the IPR as stipulated in this Contract in such a way that the Purchaser will be entitled to use the IPR as agreed between the Purchaser and the Contractor. The Contractor shall include in the Sub-contract the content of the provisions of this Clause.

**31. SOFTWARE WARRANTY**

**31.1 Statement of the Warranties**

- 31.1.1 The Contractor warrants that each Software delivered under this Contract will conform to all requirements specified in the Contract. This will also include Software design specifications, including software configuration.
- 31.1.2 Regardless of the Purchaser initiation of or participation in developing Software design or specifications, each Software delivered under this Contract will conform to the essential Performance requirements set forth in this Contract, as those essential Performance requirements measured,

The Contract General Provisions

tested, and verified by tests and procedures set forth in this Contract.

**31.2 Notification Requirement**

31.2.1 The Contractor agrees to notify the Purchaser in writing immediately after he first discovers that a defect(s) may exist in Software delivered under this Contract, unless the Purchaser has first notified the Contractor, in writing, of the same defect(s).

31.2.2 The Purchaser shall notify the Contractor upon discovery that a defect(s) may exist in any Software accepted by the Purchaser under this Contract, unless the Contractor has first notified the Purchaser, in writing of the same defect(s).

**31.3 Duration of the Warranty**

31.3.1 For each Software delivered under this Contract, the Contractor Warranties stated in paragraph 31.1 above shall extend to all defects discovered within 12 months from the date of acceptance of the Software by the Purchaser.

**31.4 Purchaser Remedies for Breach**

31.4.1 The rights and remedies of the Purchaser under this Software Warranty:

31.4.2 Are in addition to any rights and remedies of the Purchaser under any other provision of this Contract, including, but not limited to, the Purchaser's rights in relation to latent defects, fraud, or gross mistakes that amount to fraud; and

31.4.3 Shall apply notwithstanding inspection, acceptance, or any other clauses or terms of this Contract;

31.4.4 In the event of any defect as defined herein with respect to a Software delivered under this Contract, the Purchaser, in its sole discretion may:

31.4.4.1 Require the Contractor to take such action as may be necessary to eliminate the defect, at no additional cost to the Purchaser for materials, labour, transportation, or otherwise;

31.4.4.2 Require the Contractor to supply, at no additional cost to the Purchaser, all materials and instructions necessary for the Purchaser to eliminate the defect and to pay costs reasonably incurred by the Purchaser in taking such action as



The Contract General Provisions

may be necessary to eliminate the defect, or;

31.4.4.3 Equitably reduce the contract price

31.4.5 The Purchaser may elect the remedies provided in paragraph 31.4.4.1 or 31.4.4.2 above notwithstanding any dispute respecting the existence of or responsibility for any alleged defect as defined herein with respect to any Software delivered under this contract, provided that the Contractor will not be required to pay costs incurred by the Purchaser under paragraph 31.4.4.2 until final determination of the defect. In the event that the alleged defect is subsequently determined not to be a defect subject to this warranty but the Contractor has incurred costs under paragraph 31.4.4.1 and 31.4.4.2 as required by the Contract by virtue of this paragraph 31.4.3, the contract price under this contract shall be equitably adjusted.

31.4.6 Election by the Purchaser of the remedy provided under paragraph 31.4.4.1 and 31.4.4.2 above shall not preclude subsequent election of a different remedy under paragraph 31.4.4 if the defect is not successfully eliminated under the prior election with one month of the notification under paragraph 31.4.2 above.

**31.5 Limitations and Exclusions from Warranty Coverage**

31.5.1 This Software Warranty shall not apply to alleged defects that the Contractor demonstrates to be in or otherwise attributable to the Purchaser furnished property as determined, tested, and verified by the tests and procedures set forth in this Contract. Notwithstanding this paragraph , a defect is not attributable to Purchaser furnished property if it is the result of installation or modification of Purchaser furnished property by the Contractor or of the integration of Purchaser furnished property into any Software delivered under this Contract.

31.5.2 Any Purchaser Furnished Property needs to be checked and approved by the Contractor. Approval is implied once the Contractor starts using the Purchaser Furnished Property.

**31.6 Markings**

31.6.1 All Deliverables under this Contract will identify the owner of the Deliverable and if applicable, will prominently include notice of the existence of its warranty, its substance, its duration, and instructions to notify the Purchaser promptly if the Software is found to be defective. The markings should also be included in

The Contract General Provisions

the operating and/or maintenance manuals or instructions accompanying such Software.

- 31.6.2 All Deliverables regardless of the media they are delivered onto and which are subject to export control restrictions shall be clearly marked indicating the type and nature of restriction as well as the national law imposing such restrictions. Nothing in this provision is intended to invalidate, void, or otherwise limit the rights of the Purchaser under this Contract.

**32. NATO CODIFICATION**

- 32.1 For the purposes of this Clause "Technical Data" means the drawings, specifications and technical documentation of those items designated by the Purchaser to support the equipment covered by the Contract, and required to fully identify the items and, if applicable, draft item identifications to the extent and in the form to be agreed between the Codification Authority and the Contractor.
- 32.2 In order to ensure the orderly identification of equipment, the Contractor shall furnish at the request of the Codification Authority the Technical Data required for the identification of the items of supply to the NATO codification system in the time scale stated in this Contract.
- 32.3 A recommended spare parts list or a similar data carrier prepared in accordance with instructions provided by the Purchaser as the basis for codification shall be supplied by the Contractor by the date established in this Contract.
- 32.4 The Contractor shall supply or require his Sub-contractor(s)/supplier(s) to supply on request for the period of time specified in the Contract the relevant Technical Data for all items and sub-contracted items to the Codification Authority and the Purchaser. The Contractor shall require that each Sub-contractor/supplier shall include identical conditions in any subsequent order which he may place.
- 32.5 The drawings, specifications, related documentation and, if applicable, draft item identifications, prepared when possible by the true manufacturer of the item, shall be supplied by the Contractor or his Sub-contractor(s)/supplier(s) direct to the Codification Authority and, if required, to the Purchaser as and when they become available or, at the latest within the time limits specified in the Contract. The Contractor shall inform the Codification Authority and Purchaser within 21 Days of receipt of the request if the required Technical Data are not immediately available, and shall impose a similar obligation upon his Sub-contractor(s)/supplier(s).

## The Contract General Provisions

- 32.6 Except as hereinafter provided, the Contractor shall require the Sub-contractor(s)/supplier(s) to furnish on request the information direct to the Codification Authority in the Sub-contractor(s)/supplier(s)' country, but the Contractor shall remain responsible for ensuring that the information is so furnished. In the event of a Sub-contract order being placed with a manufacturer in a non-NATO country, the Contractor shall be responsible for obtaining Technical Data from the Sub-contractor/supplier and furnishing it to the Purchaser.
- 32.7 Technical Data relating to any Sub-contractor's/supplier's items shall include but not be limited to the name and address of the true manufacturer(s), his/their true reference number(s), drawing or item Part number(s) and applicable data in addition to any Part or reference number(s) allocated by the Contractor, plus draft item identification(s) if required by the Codification Authority.
- 32.8 The Contractor shall provide the Technical Data required for codification of those items ordered with this Contract and also for the pertaining support items ordered with future contracts, including updating information regarding all agreed modifications, design or drawing changes made to the equipment or detailed Parts.
- 32.9 If the Contractor has previously supplied Technical Data (for the purpose stated in Clause 31.2), the Contractor is to state this fact and indicate to whom they were supplied and the Contractor shall not under normal circumstances be required to make a further supply of the Technical Data already provided. The Technical Data furnished by the Contractor and Sub-contractor(s)/supplier(s) are to be presented in accordance with the requirements for the preparation of item identification(s) as outlined in the Guide for Industry provided by the Codification Authority.
- 32.10 The Contractor should contact the Codification Authority for any information concerning the NATO codification system. This information is to be found at: ["http://www.nato.int/structur/ac/135/ncs\\_guide/e\\_guide.htm"](http://www.nato.int/structur/ac/135/ncs_guide/e_guide.htm)

**32.11 Markings**

- 32.11.1 All Deliverables under this Contract will identify the owner of the Deliverable and, if applicable, will prominently include notice of the existence of its warranty, its substance, its duration, and instructions to notify the Purchaser promptly if the Software is found to be defective. The markings should also be included in the operating and/or maintenance manuals or instructions accompanying such Software.
- 32.11.2 All Deliverables regardless of the media they are delivered onto

The Contract General Provisions

and which are subject to export control restrictions shall be clearly marked indicating the type and nature of restriction as well as the national law imposing such restrictions. Nothing in this provision is intended to invalidate, void, or otherwise limit the rights of the Purchaser under this Contract.

**33. RELEASE FROM CLAIMS**

33.1 Prior to final payment under this Contract, the Contractor and each assignee under this Contract shall execute and deliver a release discharging the Purchaser, its officers, agents and employees from all liabilities, obligations and claims arising out of or under this Contract subject only to the following exceptions:

33.1.1 specified claims in stated amounts or in estimated amounts where the amounts are not susceptible to exact statement by the Contractor;

33.1.2 claims for reimbursement of costs (other than expenses of the Contractor by reason of his indemnification of the Purchaser against patent liability) including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this Contract relating to patents.

33.1.3 a patent infringement resulting from specific written instructions from the Purchaser under this Contract.

33.1.4 a patent infringement resulting from changes or additions to the goods and services subsequent to final delivery and acceptance under this Contract.

**34. ASSIGNMENT OF CONTRACT**

34.1 The Purchaser reserves the right to assign this Contract, in whole or in part, to another NATO body, agency or representative within NATO or NATO Nations. In such a case, the Purchaser shall notify the Contractor accordingly in writing.

34.2 NATO shall remain responsible for its obligations under the Contract and for the actions of the body, agency or representative to which this Contract may be assigned.

**35. TRANSFER AND SUB-LETTING**

35.1 The Contractor shall not give, bargain, sell, assign, sub-let or otherwise dispose of the Contract or any part thereof or the benefit or advantage of the

The Contract General Provisions

Contract or any part thereof without the prior written consent of the Purchaser.

**36. PURCHASER DELAY OF WORK**

- 36.1 If the performance of all or any part of the Work is delayed or interrupted by an act of the Purchaser in the administration of this Contract, which act is not expressly or implicitly authorised by this Contract, or by the Purchaser's failure to act within the time specified in this Contract (or within a reasonable time if no time is specified), an adjustment shall be made for any increase in the cost of performance of this Contract caused by such delay or interruption and the Contract modified in writing accordingly.
- 36.2 Adjustment shall be made also in the delivery or performance dates and any other contractual provision affected by such delay or interruption. However, no adjustment shall be made under this Clause for any delay or interruption:
- 36.2.1 to the extent that performance would have been delayed or interrupted by any other cause, including the fault or negligence of the Contractor; or
  - 36.2.2 for which an adjustment is provided or excluded under any other provision of this Contract.
- 36.3 No claim under this Clause shall be allowed:
- 36.3.1 if the Contractor has failed to notify the Purchaser in writing of the act or failure to act, indicating that this act or failure to act will result in a delay or increased costs;
  - 36.3.2 for any costs incurred more than twenty (20) Days before the Contractor shall have notified the Purchaser in writing of the act or failure to act involved; and
  - 36.3.3 unless the monetary claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such delay or interruption, but not later than the date of final payment under the Contract.

**37. CONTRACTOR NOTICE OF DELAY**

- 37.1 In the event that the Contractor encounters difficulty in complying with the Contract schedule date(s) for whatever reason, including actual or potential labour disputes, the Contractor shall immediately notify the Contracting Authority in writing, giving pertinent details. This data shall be deemed to be informational in character and shall not be construed as a waiver by the Purchaser of any schedule or date, or of any rights or remedies provided by law or under this Contract.

## The Contract General Provisions

- 37.2 Notwithstanding the above the Contractor shall be deemed to be in delay without notice from the Purchaser and only by simple expiry of the due date.

**38. LIQUIDATED DAMAGES**

- 38.1 If the Contractor:

38.1.1 fails to meet the delivery schedule of the Work or any performance milestones specified in the Schedule of Work to this Contract, or any extension thereof, or

38.1.2 fails to obtain acceptance of the delivered Work as specified in the Contract, or, if no time for acceptance is specified in the contract within a reasonable time after work is delivered.

the actual damage to the Purchaser for the delay will be difficult or impossible to determine. Therefore, in lieu of actual damages the Contractor shall pay to the Purchaser, for each day of delinquency in achieving the deadline or milestone, fixed and agreed liquidated damages of .1% (one tenth of per cent) per day of the associated payment set forth in the Schedule of Payments provided in the Contract Special Provisions. If no Schedule of Payments is specifically set forth in the Contract Special Provisions, the liquidated damages will be assessed against the price of the applicable contract line item (CLIN) of the Schedule of Supplies, Services and Prices.

- 38.2 In addition to the liquidated damages referred to above, the Purchaser shall have the possibility of terminating this Contract in whole or in part, as provided in Clause 39 (Termination for Default). In the event of such termination, the Contractor shall be liable to pay the excess costs provided in Clause 38.5.
- 38.3 The Contractor shall not be charged with liquidated damages when the delay arises out of causes beyond the control and without the fault or negligence of the Contractor as defined in Clause 39.6 (Termination for Default). In such event, subject to the provisions of Clause 41 (Disputes), the Purchaser shall ascertain the facts and extent of the delay and shall extend the time for performance of the Contract when in his judgement the findings of the fact justify an extension.
- 38.4 Liquidated damages shall be payable to the Purchaser from the first day of delinquency and shall accrue at the rate specified in Clause 38.1 to 20% of the value of each line item individually not to exceed 15% of the value of the total Contract. These liquidated damages shall accrue automatically and without any further notice being required.
- 38.5 The rights and remedies of the Purchaser under this clause are in addition to any other rights and remedies provided by law or under this Contract.

**39. TERMINATION FOR DEFAULT**

The Contract General Provisions

- 39.1 The Purchaser may, subject to Clause 39.6 below, by written notice of default to the Contractor, terminate the whole or any part of this Contract if the Contractor, inclusive but not limited to:
- 39.1.1 fails to make delivery of all or part of the Work within the time specified in the contract or any agreed extension thereof;
  - 39.1.2 fails to make progress as to endanger performance of this Contract in accordance with its terms;
  - 39.1.3 fails to meet the technical requirements or the Specifications of the Contract;
  - 39.1.4 fails to comply with Clause 11 (Security);
  - 39.1.5 transfer this Contract without the Purchaser's prior written consent;
  - 39.1.6 breaches any provision of this Contract; or
- 39.2 In the case of any of the circumstances set forth in Clause 39.1 above, the Purchaser shall issue a letter to the Contractor stating that an actual or potential default exists and requiring a response from the Contractor within ten (10) Days that identifies:
- 39.2.1 in the case of late delivery of Work, when the Contractor shall deliver the Work and what circumstances exist which may be considered excusable delays under Clause 39.6.
  - 39.2.2 in the case of the other circumstances identified in Clause 39.1 above, what steps the Contractor is taking to cure such failure(s) within a period of ten Days (or such longer period as the Purchaser may authorise in writing) after receipt of notice in writing from the Purchaser specifying such failure and identifying any circumstances which exist which may be considered excusable under Clause 39.6.
- 39.3 The Purchaser shall evaluate the response provided by the Contractor or, in the absence of a reply within the time period mentioned in Clause 39.2, all relevant elements of the case, and make a written determination within a reasonable period of time that:
- 39.3.1 sufficient grounds exist to terminate the Contract in whole or in part in accordance with this Clause and that the Contract is so terminated;

The Contract General Provisions

- 39.3.2 there are mitigating circumstances and the Contract should be amended accordingly; or
  - 39.3.3 the Purchaser will enter a period of forbearance in which the Contractor must show progress, make deliveries, or comply with the Contract provisions as specified by the Purchaser. The Purchaser may apply other remedial actions as provided by this Contract during such period of forbearance. This period of forbearance shall in no event constitute a waiver of Purchaser's rights to terminate the Contract for default.
- 39.4 At the end of the period of forbearance, which may be extended at the Purchaser's discretion, the Purchaser may terminate this Contract in whole or in part as provided in Clause 39.1 if the Contractor has not made adequate progress, deliveries or compliance with the Contract provisions which were the terms of the period of forbearance.
- 39.5 In the event the Purchaser terminates this Contract in whole or in part, as provided in Clause 39.1, the Purchaser may procure, upon such terms and in such manner as the Purchaser may deem appropriate, Work similar to those so terminated, and the Contractor shall be liable to the Purchaser for any excess costs for such similar Work; however, the Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this clause.
- 39.6 Except with respect to the default of Sub-contractors, the Contractor shall not be held liable for a termination of the Contract for default if the failure to perform the Contract arises out of causes beyond the control and without the fault or negligence of the Contractor.
- 39.6.1 Such causes may include, but are not restricted to, acts of God, acts of the public enemy, acts of the Purchaser in its contractual capacity, acts of sovereign governments which the Contractor could not reasonably have anticipated, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor.
  - 39.6.2 If the failure to perform is caused by the default of a Sub-contractor, and if such default arises out of causes beyond the control of both the Contractor and Sub-contractor, without the fault or negligence of either of them, the Contractor shall not be held liable for a termination for default for failure to perform unless the Work to be furnished by the Sub-contractor were obtainable from other sources in sufficient time to permit



The Contract General Provisions

the Contractor to meet the required delivery schedule.

39.7 If this Contract is terminated as provided in Clause 39.1, the Purchaser, in addition to any other rights provided in this Clause and the Contract, may require the Contractor to transfer title and deliver to the Purchaser, in the manner and to the extent directed by the Purchaser:

39.7.1 any completed Work with associated rights ;

39.7.2 such partially completed Work, materials, Parts, tools, dies, jigs, fixtures, plans, drawings, information, and Contract rights (hereinafter called "Manufacturing materials") with associated rights as the Contractor has specifically produced or specifically acquired for the performance of such part of this Contract as has been terminated;

39.8 In addition to Clause 39.7, the Contractor shall, upon direction of the Purchaser, protect and preserve property in the possession of the Contractor in which the Purchaser has an interest.

39.9 Payment for completed Work delivered to and accepted by the Purchaser shall be at the Contract price.

39.10 Payment for manufacturing materials delivered to and accepted by the Purchaser and for the protection and preservation of property shall be in an amount agreed upon by the Contractor and Purchaser, failure to agree to such amount shall be a dispute within the meaning of Clause 41 (Disputes).

39.11 The Purchaser may withhold from amounts otherwise due to the Contractor for such completed Work or manufacturing materials such sum as the Purchaser determines to be necessary to protect the Purchaser against loss because of outstanding liens or claims of former lien holders.

39.12 If, after notice of termination of this Contract under the provisions of this Clause, it is determined for any reason that the Contractor was not in default under the provisions of this Clause, or that the default was excusable under the provisions of this Clause, the rights and obligations of the Parties shall be the same as if the notice of termination had been issued pursuant to Clause 40 (Termination for the Convenience of the Purchaser).

39.13 If after such notice of termination of this Contract under the provisions of this Clause, it is determined for any reason that the Contractor was not in default under the provisions of this Clause and that the Parties agree that the Contract should be continued, the Contract shall be equitably adjusted to compensate for such termination and the Contract modified accordingly. Failure to agree to any such adjustment shall be a dispute within the meaning of Clause 41 (Disputes).

39.14 The rights and remedies of the Purchaser provided in this Clause shall not be

## The Contract General Provisions

exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

**40. TERMINATION FOR THE CONVENIENCE OF THE PURCHASER**

- 40.1 The performance of Work under this Contract may be terminated by the Purchaser in accordance with this Clause in whole, or from time to time in part, whenever the Purchaser shall determine that such termination is in the best interest of the Purchaser.
- 40.2 Any such termination shall be effected by delivery to the Contractor of a written notice of termination, signed by the Contracting Authority, specifying the extent to which performance of Work under the Contract is terminated, and the date upon which such termination becomes effective.
- 40.3 After receipt of a Notice of Termination and except as otherwise directed by the Contracting Authority, the Contractor shall:
- 40.3.1 stop the Work on the date and to the extent specified in the notice of termination;
  - 40.3.2 place no further orders or Sub-contracts for Work, Parts, materials, services or facilities, except as may be necessary for completion of such portion of the Work under the Contract as is not terminated;
  - 40.3.3 terminate all orders and Sub-contracts to the extent that they relate to the performance of Work terminated by the Notice of Termination;
  - 40.3.4 assign to the Purchaser, in the manner, at the times and to the extent directed by the Purchaser, all of the right, title and interest of the Contractor under the orders and Sub-contracts so terminated, in which case the Purchaser shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and Sub-contracts;
  - 40.3.5 settle all outstanding liabilities and all claims arising out of such termination of orders and Sub-contracts, with the approval or ratification of the Purchaser to the extent he may require, which approval or ratification shall be final for all the purposes of this Clause;
  - 40.3.6 transfer title and deliver to the Purchaser in the manner, at the times, and to the extent, if any, directed by the Contracting Authority of:

The Contract General Provisions

- 40.3.6.1 the fabricated parts, work in process, completed work, Work, and other material produced as a part of, or acquired in connection with the performance of the Work terminated by the notice of termination, and
    - 40.3.6.2 the completed or partially completed plans, drawings, information, and other property which, if the Contract had been completed, would have been required to be furnished to the Purchaser;
  - 40.3.7 use his best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorised by the Contracting Authority, any property of the types referred to in Clause 40.3.6 above. However, the Contractor:
    - 40.3.7.1 shall not be required to extend credit to any Buyer; and
    - 40.3.7.2 may acquire any such property under the conditions prescribed by and at a price or prices approved by the Purchaser; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Purchaser to the Contractor under this Contract or shall otherwise be credited to the price or cost of the Work or paid in such manner as the Contracting Authority may direct;
  - 40.3.8 complete performance of such part of the Work as shall not have been terminated by the Notice of Termination; and
  - 40.3.9 take such action as may be necessary, or as the Purchaser may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which the Purchaser has or may acquire an interest.
- 40.4 The Contractor may submit to the Purchaser a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorised by the Purchaser, and may request the Purchaser to remove such items or enter into a storage agreement covering the same; provided that the list submitted

## The Contract General Provisions

shall be subject to verification by the Purchaser upon removal of the items, or if the items are stored, within forty-five (45) Days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

- 40.5 After receipt of a notice of termination, the Contractor shall submit to the Purchaser his termination Claim for the Work covered by the notice of termination, in the form and with certification prescribed by the Purchaser. Such claim shall be submitted promptly but in no event later than six (6) months from the effective date of termination, unless one or more extensions are granted in writing by the Purchaser, upon request of the Contractor made in writing within such six-month period or authorised extension thereof. However, if the Purchaser determines that the facts justify such action, the Purchaser may receive and act upon any such termination claim at any time after such six-month period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Purchaser may determine on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.
- 40.6 Subject to the provisions of Clause 40.5, the Contractor and the Purchaser may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of Work pursuant to this Clause, which amount or amounts may include a reasonable allowance for profit on work done; provided that such agreed amount or amounts exclusive of settlement costs shall not exceed total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of the Work not terminated. The Contract shall be amended accordingly and the Contractor shall be paid the amount agreed.
- 40.7 In the event of the failure of the Contractor and the Purchaser to agree as provided in Clause 40.6 upon the whole amount to be paid to the Contractor by reason of the termination of Work pursuant to Clause 40, the Purchaser shall pay to the Contractor the amounts determined by the Purchaser as follows, but without duplication of any amounts agreed upon in accordance with Clause 40.6 the total of:
- 40.7.1 for completed Work accepted by the Purchaser (or sold or acquired as provided in Clause 40.3 above) and not therefore paid for, a sum equivalent to the aggregate price for such Work computed in accordance with the price or prices specified in the Contract, appropriately adjusted for any saving of freight or other charges;
  - 40.7.2 the costs incurred in the performance of the Work terminated including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable

The Contract General Provisions

to Work paid or to be paid for under Clause 40.7.1;

- 40.7.3 the cost of settling and paying claims arising out of the termination of work under Sub-contracts or orders, as provided in Clause 40.3.5, which are properly chargeable to the terminated portion of the Contract, exclusive of amounts paid or payable on account of Work or materials delivered or services furnished by Sub-contractors or vendors prior to the effective date of the notice of termination, which amounts shall be included in the costs payable under Clause 40.7.2; and
- 40.7.4 a sum, as profit on Clause 40.7.1 above, determined by the Purchaser to be fair and reasonable; provided, however, that if it appears that the Contractor would have sustained a loss on the entire Contract, had it been completed, no profit shall be included or allowed and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and
- 40.7.5 the reasonable costs of settlement, including accounting, legal, clerical and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract and for the termination and settlement of Sub-contracts there under, together with reasonable storage, transportation, and other costs incurred in connection with the protection, or disposition of property allocable to this Contract.

- 40.8 The total sum to be paid to the Contractor under Clause 40.7 shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of Work not terminated.
- 40.9 Except for normal spoilage, and except to the extent that the Purchaser shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor, as provided in Clause 40.7 above, the fair value, as determined by the Purchaser, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the Purchaser, or to a buyer pursuant to Clause 40.3.7 above.
- 40.10 The Contractor shall have the right to dispute, under the Clause 41 (Disputes), any determination made by the Purchaser under Clauses 40.5 and 40.7, except that if the Contractor has failed to submit his claim within the time provided in Clause 40.5 and has failed to request extension of such time, the Contractor shall be foreclosed from his right to dispute said determination. In

The Contract General Provisions

any case where the Purchaser has made a determination of the amount due under Clauses 40.5 and 40.7, the Purchaser shall pay the Contractor the following:

- 40.10.1 if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Purchaser, or
  - 40.10.2 if an appeal has been taken, the amount finally determined on such appeal.
- 40.11 In arriving at the amount due to the Contractor under this Clause there shall be deducted:
- 40.11.1 all unliquidated advance or other payments on account theretofore made to the Contractor, applicable to the terminated portion of this Contract;
  - 40.11.2 any claim which the Purchaser may have against the Contractor in connection with this Contract; and
  - 40.11.3 the agreed price for, or the proceeds of the sale of, any materials, Work, or other things acquired by the Contractor or sold, pursuant to the provisions of this Clause, and not otherwise recovered by or credited to the Purchaser.
- 40.12 If the termination hereunder is partial, prior to the settlement of the terminated portion of this Contract, the Contractor may file with the Purchaser, in accordance with Clause 16 (Changes), a request in writing for an equitable adjustment of the price or prices relating to the continued portion of the Contract (the portion not terminated by the notice of termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices.
- 40.13 The Purchaser may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this Contract whenever in the opinion of the Purchaser the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payment is in excess of the amount finally agreed or determined to be due under this Clause, such excess shall be payable by the Contractor to the Purchaser upon demand, together with interest calculated using the average of the official base rate(s) per annum of the deposit facility rate as notified by the European Central Bank or such other official source as may be determined by the Purchaser, for the period from the date the excess is received by the Contractor to the date such excess is repaid to the Purchaser, provided, however, that no interest shall be charged with respect to any such excess payment attributed to a reduction in the

## The Contract General Provisions

Contractor's claim by reason of retention or other disposition of termination inventory until ten days after the date of such retention or disposition or such later date as determined by the Purchaser by reason of the circumstances.

- 40.14 Unless otherwise provided for in this Contract, the Contractor, from the effective date of termination and for a period of three years after final settlement under this Contract, shall preserve and make available to the Purchaser at all reasonable times at the office of the Contractor, but without direct charge to the Purchaser, all his books, records, documents, computer files and other evidence bearing on the costs and expenses of the Contractor under this Contract and relating to the work terminated hereunder, or, to the extent approved by the Purchaser, photographs, micro-photographs, or other authentic reproductions thereof.

**41. DISPUTES**

- 41.1 Except to the extent to which special provision is made elsewhere in the Contract, all disputes, differences or questions which are not disposed of by agreement between the Parties to the Contract with respect to any matter arising out of or relating to the Contract, other than a matter as to which the decision of the Contracting Authority under the Contract is said to be final and conclusive, shall be decided by the Contracting Authority. The Contracting Authority shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor.
- 41.2 The Contracting Authority shall not proceed with the evaluation and decision in respect of any claim until and unless the Contractor has submitted the attestation as foreseen in Clause 18 (Claims), as well as the complete proof and evidence of the claim (either by submission or by identification of the relevant documentation).
- 41.3 The Contracting Authority's decision shall be final and conclusive unless, within 30 Days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Authority his decision to open arbitration proceedings in accordance with the Clause 42 (Arbitration). The burden of proof for both receipt and delivery of such documentation shall be by signed and dated registered mail receipt or by hand receipt as acknowledged and signed by the Contracting Authority.
- 41.4 Pending final decision of a dispute, the Contractor shall proceed diligently with the performance of the Contract, unless otherwise instructed by the Contracting Authority.

**42. ARBITRATION**

- 42.1 Within a period of thirty days from the date of receipt of the notification referred to in Clause 41.3 above, the Parties shall jointly appoint an arbitrator. In the event of failure to appoint an arbitrator, the dispute or disputes shall be

The Contract General Provisions

submitted to an Arbitration Tribunal consisting of three arbitrators, one being appointed by the Purchaser, another by the other contracting party and the third, who shall act as President of the Tribunal, by these two arbitrators. Should one of the Parties fail to appoint an arbitrator during the fifteen days following the expiration of the first period of thirty days, or should the two arbitrators be unable to agree on the choice of the third member of the Arbitration Tribunal within thirty days following the expiration of the said first period, the appointment shall be made, within twenty-one days, at the request of the Party instituting the proceedings, by the Secretary General of the Permanent Court of Arbitration at The Hague.

- 42.2 Regardless of the procedure concerning the appointment of this Arbitration Tribunal, the third arbitrator will have to be of a nationality different from the nationality of the other two members of the Tribunal.
- 42.3 Any arbitrator must be of the nationality of any one of the member states of NATO and shall be bound by the rules of security in force within NATO.
- 42.4 Any person appearing before the Arbitration Tribunal in the capacity of an expert witness shall, if he is of the nationality of one of the member states of NATO, be bound by the rules of security in force within NATO. If he is of another nationality, no NATO classified documents or information shall be communicated to him.
- 42.5 An arbitrator, who, for any reason whatsoever, ceases to act as an arbitrator, shall be replaced under the procedure laid down in Clause 42.1 above.
- 42.6 The Contractor agrees to submit to the Arbitration Tribunal only such issues, facts, evidence and proof which the Contractor had beforehand identified and submitted to the Contracting Authority for decision in accordance with Clause 41 (Disputes). The jurisdictional authority of the Arbitration Tribunal shall be restricted to consider only those identical issues, facts, evidence and proof so identified and submitted to the Contracting Authority.
- 42.7 The Purchaser likewise agrees to restrict its submissions only to the information on which the Contracting Authority based its decision and not to introduce new information and arguments which cannot reasonably be deduced or inferred from the written decision of the Contracting Authority in response to the original dispute.
- 42.8 The Arbitration Tribunal will take its decisions by a majority vote. It shall decide where it will meet and, unless it decides otherwise, shall follow the arbitration procedures of the International Chamber of Commerce in force at the date of signature of the present Contract.
- 42.9 The awards of the arbitrator or of the Arbitration Tribunal shall be final and there shall be no right of appeal or recourse of any kind. These awards shall



The Contract General Provisions

determine the apportionment of the arbitration expenses.

- 42.10 Pending final decision of a dispute, the Contractor shall proceed diligently with the performance of the Contract, unless otherwise instructed by the Contracting Authority.

**43. SEVERABILITY**

- 43.1 If one or more of the provisions of this Contract is declared to be invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality and enforceability of the remaining provisions shall not be affected. Each of the Parties shall use its best efforts to immediately and in good faith negotiate a legally valid replacement provision.

**44. APPLICABLE LAW**

- 44.1 This Contract shall be governed, interpreted and construed in accordance with the private contract law of the Kingdom of Belgium.

\* \*

**ANNEX 1 TO GENERAL PROVISIONS: PURCHASER'S PRICING PRINCIPLES****A. General**

1. With regard to all actions included in Clause 19," Pricing of Changes, Amendments and Claims", the Parties agree that the Purchaser's Pricing Principles contained herein shall govern.
2. As may be requested by the Purchaser, the Contractor shall provide documentation. that the standards or principles employed in the submission of cost or pricing data are in conformance with governing national policies and regulation. The Contractor, when submitting a price proposal based upon national standards and regulations, shall provide a point of contact within the national body governing such standards and regulations in order to allow Purchaser verification and audit.
3. Where such conformance cannot be demonstrated to the satisfaction of the Purchaser, the Purchaser's Pricing Principles will govern.
4. The Contractor shall clearly state whether national standards and rules or the Purchaser's Pricing Principles and formats are the basis for the price proposal.
5. Whether national standards or Purchaser pricing principles are applied, all cost and pricing data shall be verifiable, factual and include information reasonably required to explain the estimating process.
6. The Contractor shall also incorporate provisions corresponding to those mentioned herein in all sub-contracts, and shall require price and cost analysis provisions be included therein.

**B. Purchaser's Pricing Principles****1. Allowable cost**

A cost is allowable for consideration by the Purchaser if the following conditions are fulfilled:

- (a) it is incurred specifically for the Contract or benefits both the Contract and other work or is necessary to the overall operation of the business although a direct relationship to any particular product or service cannot be established and is allocated to them in respective proportion according to the benefit received;

- i. Direct Costs

A direct cost is any cost which can be identified specifically with a particular cost objective as generally accepted. Direct costs are not limited to items which are incorporated in the end product as material or labour.

- ii. Indirect Costs

An indirect cost is one which is not readily subject to treatment as a direct cost. When presented these costs shall be accumulated in logical cost groupings in accordance with sound accounting principles and the Contractor's established practices. An indirect cost may be allocated to more than one final cost objective. An indirect cost shall not be allocated to a final cost objective if other costs incurred for the same purpose, in like circumstances, have been included as a direct cost of that or any other final cost objective. Such costs shall be presented as overhead rates and be applied to each related direct cost grouping.

- (b) The Contractor shall specify the allocation of costs to either of the cost groupings. The method by which costs are accumulated and distributed as part of direct or indirect costs cannot be modified during the duration of the Contract.
- (c) it is reasonable and expedient in its nature and amount and does not exceed that which would be incurred by an ordinary prudent person in the conduct of competitive business;
- (d) it is not liable to any limitations or exclusion as to types or amounts of cost items as set forth herein.
- (e) The Purchaser will review other costs presented against the contract and will determine if they would be allowable.

## 2. Unallowable Costs

In general all costs which cannot be shown by the contractor to be directly or indirectly of benefit to the Contract are totally unallowable. =Examples of such costs are, among others:

- (a) Advertising costs
- (b) Costs of remuneration, having the nature of profit sharing.
- (c) Costs of maintaining, repairing and housing idle and excess facilities.
- (d) Fines and penalties as well as legal and administrative expenses resulting from a violation of laws and regulations.
- (e) Losses on other contracts or on expected follow-on contracts
- (f) Costs incurred for the creation of reserves for general contingencies or other reserves (e.g. for bad debts, including losses).
- (g) Losses on bad debts, including legal expenses and collection costs in connection with bad debts.

- (h) Costs incurred to raise capital.
- (i) Gains and losses of any nature arising from the sale or exchange of capital assets other than depreciable property.
- (j) Taxes on profits.
- (k) Contractual penalties incurred.
- (l) Commissions and gratuities.
- (m) Interest on borrowings.

### 3. Rates and Factors

- (a) The Contractor shall inform the Purchaser of his rates and factors the basis upon which they were computed.
- (b) If the Contractor's rates and factors for similar contracts placed with national or international public services have not been established or approved by a government agency or an agency accepted by his government, the Contractor shall provide the necessary data to support the proposed rates.
- (c) The term "provisional " used in the title of a rate or factor means a tentative rate established for interim billing purposes pending negotiation and agreement to the final rate or factor.
- (d) A rate or factor is pre-determined if it is fixed before or during a certain period and based on (estimated) costs to be incurred during this period. An rate or factor is post-determined if it is fixed after a certain period and based on costs actually incurred during this period. Pre-determined rates or factors shall be agreed upon as final rates whenever possible; otherwise the provisions of paragraph 3c above shall apply pending agreement to post-determined rates or factors.
- (e) Such rates or factors shall be determined on the basis of Contractor's properly supported actual cost experience.
- (f) If the rates or factors of the Contractor for similar contracts placed by national or international public services have been established or approved by a government agency or an agency accepted by his government and the Contractor proposes the application of these rates, he shall state the name and address of the agency which has accepted or approved the rates and the period for which they were established. If he proposes rates which vary from the rates mentioned above, he shall furthermore provide a justification for the difference.

4. Profit/Benefit

- (a) Over the entire life cycle of a given acquisition, Profit and/or Benefit may be subject to negotiation.
- (b) Subcontracting profit/benefit amounts are dependent upon the size, nature and oversight needs of the subcontract(s) the prime contractor will use for work performance period.
- (c) Profit/benefit is considered by the Purchaser to be directly related to the anticipated risk of the Contractor during the performance of the Contract.