



IFB-CO-115760-e-FIT

**Provision of COTS IT Hardware Equipment
and Associated Support (IT), duly named e-
FIT**

Book II

THE PROSPECTIVE CONTRACT

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GENERAL INDEX

BOOK II - THE PROSPECTIVE CONTRACT

Signature Sheet
Part I Schedule of Supplies and Services
Part II Contract Special Provisions
Part III General Provisions
Part IV Statement of Work

SIGNATURE SHEET

NCI Agency PURCHASE ORDER	
1. Original Number __ of	2. PO Number : XXXXXXXXXX
3. Contract Number: CO-115760-e-FIT	4. Effective date (EDC): SEE BLOCK 17
5. Contractor: TBD	6. Purchaser: The General Manager NATO Communications and Information Agency Boulevard Leopold III B-1110 Bruxelles Tel: +32(0) 6544 6103
<p>7. CONTRACT SCOPE: This Framework Contract is an Indefinite Delivery, Indefinite Quantity (IDIQ) type contract for COTS IT procurement with firm fixed discounts for hardware equipment and associated support for Schedule X per the requirements in the Schedule of Supplies and Services and the Statement of Work.</p> <p>The Contractor shall deliver the items specified in the Schedule of Supplies and Services in the manner and at the time and location specified in the terms of this Contract and the Statement of Work.</p>	
<p>8. TOTAL AMOUNT OF CONTRACT : Firm Fixed Price (Currency – Excluding VAT): _____</p>	
9. PERIOD OF PERFORMANCE As stated in Schedule of Supplies and Services and Special Provisions	10. DELIVERY SITE As stated in Schedule of Supplies and Services and Special Provisions INCOTERMS 2020
<p>11. CONTRACT This Contract consists of the following parts and named documents:</p> <ul style="list-style-type: none"> a) Part I Schedule of Supplies and Services b) Part II Special Contract Provisions and Annexes c) Part III NCI Agency General Provisions d) Part IV Statement of Work and Annexes 	
12. Signature of Contractor	13. Signature of Purchaser
14. Name and Title of Signer	15. Name and Title of Signer
16. Date signed by the Contractor	17. Date signed by the Purchaser

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Book II, The Prospective Contact

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IFB-CO-115760-e-FIT

Provision of COTS IT Hardware Equipment and Associated Support (IT), duly named e-FIT

Book II, Part I

Schedule of Supplies and Services (SSS)

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SCHEDULE A**GPL DISCOUNT PRICE**

CLIN	Description	Notional amounts ordered at Global Price List (GPL) Prices in EUR (for evaluation purposes only)	Discount % from GPL	Evaluated price
1.1	Laptop/Notebook - Standardized - DELL	€ 4.246.300.00	0.00%	€ 4.246.300.00
1.2	Laptop/Notebook - Standardized - HPE	€ 1.819.800.00	0.00%	€ 1.819.800.00
1.3	Laptop/Notebook - Non-standardized - DELL	€ 1.061.600.00	0.00%	€ 1.061.600.00
1.4	Laptop/Notebook - Non-standardized - HPE	€ 454.900.00	0.00%	€ 454.900.00
1.5	Workstation - Standardized - DELL	€ 2.047.300.00	0.00%	€ 2.047.300.00
1.6	Workstation - Standardized - HPE	€ 877.400.00	0.00%	€ 877.400.00
1.7	Workstation Non-standardized - DELL	€ 511.800.00	0.00%	€ 511.800.00
1.8	Workstation - Non-standardized - HPE	€ 219.400.00	0.00%	€ 219.400.00
1.9	Desktop PC Standardized - DELL	€ 5.914.500.00	0.00%	€ 5.914.500.00
1.10	Desktop PC - Standardized - HPE	€ 2.534.800.00	0.00%	€ 2.534.800.00
1.11	Desktop PC Non-standardized - DELL	€ 1.478.600.00	0.00%	€ 1.478.600.00
1.12	Desktop PC - Non-standardized - HPE	€ 633.700.00	0.00%	€ 633.700.00
1.13	Hybrids/Convertibles/Tablets - Standardized - DELL	€ 700.00	0.00%	€ 700.00
1.14	Hybrids/Convertibles/Tablets - Standardized - HPE	€ 400.00	0.00%	€ 400.00

1.15	Hybrids/Convertibles/Tablets Non-standardized - DELL	€	200.00	0.00%	€	200.00
1.16	Hybrids/Convertibles/Tablets - Non-standardized - HPE	€	100.00	0.00%	€	100.00
1.17	Thin Client - Standardized - DELL	€	454.900.00	0.00%	€	454.900.00
1.18	Thin Client - Standardized - HPE	€	195.000.00	0.00%	€	195.000.00
1.19	Thin Client Non-standardized - DELL	€	113.800.00	0.00%	€	113.800.00
1.20	Thin Client - Non-standardized - HPE	€	48.700.00	0.00%	€	48.700.00
1.21	Monitors/Displays - Standardized - DELL	€	3.412.200.00	0.00%	€	3.412.200.00
1.22	Monitors/Displays - Standardized - HPE	€	1.462.400.00	0.00%	€	1.462.400.00
1.23	Monitors/Displays - Non-standardized - DELL	€	853.100.00	0.00%	€	853.100.00
1.24	Monitors/Displays - Non-standardized - HPE	€	365.600.00	0.00%	€	365.600.00
1.25	KVM Switches	€	1.692.500.00	0.00%	€	1.692.500.00

<p>1.26</p>	<p>Peripherals & Accessories 1.26.1 Keyboard 1.26.2 Mouse 1.26.3 Webcam 1.26.4 Smartcard Reader 1.26.5 Headset 1.26.6 Polycom Adapter 1.26.7 USB conference kit 1.26.8 Docking Station 1.26.9 Power supply filters (all standards) 1.26.10 Protective Sleeve 1.26.11 Anti-theft cable with Kensington socket 1.26.12 Lock security cable (Noblelock technology) 1.26.13 Fibre optic patch-cords 1.26.14 Copper patch-cord 1.26.15 HDMI 1.4 to HDMI 1.4 cable 2m 1.26.16 Power Adapter 1.26.17 USB-C to HDMI Cable 1.26.18 USB-C to DisplayPort 1.26.19 USB-C to Ethernet Adapter 1.26.20 Dell Active Pen 1.26.21 Extended socket 1.26.22 Power Cord 230 V EU 1.26.23 Removable Storage Media (External USB) 1.26.24 External USB HDDs 1.26.25 External USB Sim DVD Drive 1.26.26 Label Printers 1.26.27 Desk Mounted Dual Monitor Stand 1.26.28 Media Converter 1.26.29 Projectors 1.26.30 Personal audio conference speaker 1.26.31 Screen Privacy Filter 1.26.32 Desktop Speaker System 1.26.33 Mobile Adapter</p>	<p>€ 5.551.600.00</p>	<p>0.00%</p>	<p>€ 5.551.600.00</p>
<p>1.27</p>	<p>Printers, Plotters, DVD Robot</p>	<p>€ 48.700.00</p>	<p>0.00%</p>	<p>€ 48.700.00</p>

Total CLIN 1 - Global Price List (GPL) discounted price

€ 36.000.000.00

SCHEDULE A SERVICES

2	Services			
2.1	Engineering Services*	Notional quantity of days (for evaluation purposes only)	Currency (select from the drop-down list)	Fully Burdened Daily Rate*
2.1.1	Senior Engineer	3		
2.1.2	Intermediate Engineer	3		
2.1.3	Junior Engineer	3		
2.1.4	Senior System Engineer	3		
2.1.5	Intermediate System Engineer	3		
2.1.6	Junior System Engineer	3		
2.1.7	Senior Communication Engineer	3		
2.1.8	Intermediate Communication Engineer	3		
2.1.9	Junior Communication Engineer	3		
2.1.10	Senior Network Engineer	3		
2.1.11	Intermediate Network Engineer	3		
2.1.12	Junior Network Engineer	3		
2.1.13	System Integration Analyst	3		
2.1.14	Senior Software Programmer	3		
2.1.15	Intermediate Software Programmer	3		
2.1.16	Junior Software Programmer	3		
2.1.17	System Support Engineer	3		
2.1.18	Senior Test Engineer	3		
2.1.19	Intermediate Test Engineer	3		
2.1.20	Junior Test Engineer	3		

2.1.21	Information Systems Security Engineer	3		
2.1.22	Information Systems Security Specialist	3		
2.1.23	Field Engineer	3		
2.1.24	Senior Technician	3		
2.1.25	Intermediate Technician	3		
2.1.26	Junior Technician	3		
Sub-total CLIN 2.1 - Engineering Services				0.00

2.2	PHS&T - Packaging, Handling, Shipping, and Transportation to NATO/ Customer Sites**	Notional value of Task Orders in EUR (for evaluation purposes only)	Shipment lead times (in weeks) to be added to the Producer LT	PHS&T price as fixed percentage % of TO value	Evaluated PHS&T price in EUR
2.2.1	North America	€ 360.000.00	0.0	0.00%	€ -
2.2.2	United Kingdom	€ 3.600.000.00	0.0	0.00%	€ -
2.2.3	Türkiye	€ 360.000.00	0.0	0.00%	€ -
2.2.4	Europe	€ 31.680.000.00	0.0	0.00%	€ -
Sub-total CLIN 2.2 - PHS&T					€ -

2.3	Warranty Extensions***	Notional value (= 20% of the total discounted value) for warranty extensions (for evaluation purposes only)	Fixed percentage % to be applied on notional discounted value	Evaluated warranty extension price in EUR
2.3.1	Warranty Extension from 1 year to 3 years	€ 7.200.000.00	0.00%	€ -
2.3.2	Warranty Extension from 1 year to 5 years	€ 7.200.000.00	0.00%	€ -
Sub-total CLIN 2.3 - Warranty Extensions				€ -

SCHEDULE A TEMPESTING

CLIN	CLIN ITEM - For ordering	Currency (select from the drop-down list)	Unit price for Initial TEMPEST certification	Initial TEMPEST certification process duration - weeks	Leadtime for Serial Production - weeks	Max Volume Serial Production per week (quantity)
3.1	Tower Workstation - Level C					
3.2	Tower Workstation - Level B					
3.3	Tower Workstation - Level A					
3.4	Desktop PC - Level C					
3.5	Desktop PC - Level B					
3.6	Desktop PC - Level A					
3.7	Thin Client - Level C					
3.8	Thin Client - Level B					
3.9	Thin Client - Level A					
3.10	Touch Screen Desktop Monitor - Level C					
3.11	Desktop Monitor - Level C					
3.12	Desktop Monitor - Level B					
3.13	Desktop Monitor - Level A					
3.14	KVM - Level C					
3.15	Dual Monitor KVM Switch - Level C					
3.16	KVM 4 Port - Level C					
3.17	KVM - Level B					
3.18	Dual Monitor KVM Switch - Level B					
3.19	KVM 4 Port - Level B					
3.20	Keyboard - Level C					
3.21	Keyboard - Level B					
3.22	Keyboard - Level A					

3.23	Mouse - Level C				
3.24	Mouse - Level B				
3.25	Mouse - Level A				
3.26	Webcam - Level C				
3.27	Webcam - Level B				
3.28	Webcam - Level A				
3.29	Smartcard Reader - Level C				
3.30	Smartcard Reader - Level B				
3.31	Smartcard Reader - Level A				
3.32	Headset - Level C				
3.33	Headset - Level B				
3.34	Headset - Level A				
3.35	Docking Station - Level C				
3.36	Docking Station - Level B				
3.37	Docking Station - Level A				
3.38	Desktop Speaker System - Level C				
Total CLIN 4 - Tempesteing			0.00		

SCHEDULE B**GPL DISCOUNT PRICE**

CLIN	Description	Notional amounts ordered at Global Price List (GPL) Prices in EUR (for evaluation purposes only)	Discount % from GPL	Evaluated price
1.1	CISCO			
1.1.1	Collaboration Endpoints Products	€ 2.880.000.00	0.00%	€ 2.880.000.00
1.1.2	Contact Center Products	€ 2.520.000.00	0.00%	€ 2.520.000.00
1.1.3	Routers	€ 6.480.000.00	0.00%	€ 6.480.000.00
1.1.4	Servers - Cisco Unified Computing System	€ 2.880.000.00	0.00%	€ 2.880.000.00
1.1.5	Storage Networking Products	€ 2.520.000.00	0.00%	€ 2.520.000.00
1.1.6	Switches Products	€ 14.400.000.00	0.00%	€ 14.400.000.00
1.1.7	Unified Communications	€ 360.000.00	0.00%	€ 360.000.00
1.1.8	Universal Gateways and Access Servers Products	€ 360.000.00	0.00%	€ 360.000.00
1.1.9	Video Products	€ 360.000.00	0.00%	€ 360.000.00
1.1.10	Wireless Products	€ 360.000.00	0.00%	€ 360.000.00

1.1.11	Conferencing Products	€ 360.000.00	0.00%	€ 360.000.00
1.1.12	CISCO SmartNet Services - Direct attached (ordered together with the hardware)	€ 1.800.000.00	0.00%	€ 1.800.000.00
1.1.13	CISCO SmartNet Services - Delayed attached (ordered later/separately of the hardware)	€ 360.000.00	0.00%	€ 360.000.00
1.1.14	CISCO Smartnet Services - renewal of Smartnet contracts	€ 360.000.00	0.00%	€ 360.000.00
1.2	FORTINET			
1.2.1	WAN Edge 1.2.1.1 Secure SD-WAN 1.2.1.2 5G/LTE Wireless WAN	€ 1.890.000.00	0.00%	€ 1.890.000.00
1.2.2	LAN Edge 1.2.2.1 Switch 1.2.2.2 Wireless	€ 1.890.000.00	0.00%	€ 1.890.000.00
1.2.3	Device Edge – Zero trust connectivity	€ 900.000.00	0.00%	€ 900.000.00
1.2.4	SOC / NOC (Security and Network Operation Centers)	€ 900.000.00	0.00%	€ 900.000.00
1.2.5	Accessories (Connectors / transceiver's / SFP's)	€ 1.890.000.00	0.00%	€ 1.890.000.00
1.2.6	Support Services 24x7	€ 450.000.00	0.00%	€ 450.000.00
1.2.7	Support Services Courier 4 HR	€ 450.000.00	0.00%	€ 450.000.00
1.2.8	Support Services On-site 4HR	€ 450.000.00	0.00%	€ 450.000.00
1.2.9	Support Services Secure RMA	€ 90.000.00	0.00%	€ 90.000.00
1.2.10	Other Products (excluding Support, Subscription and Licenses)	€ 90.000.00	0.00%	€ 90.000.00
Total CLIN 1 - Global Price List (GPL) discounted price				€ 45.000.000.00

SCHEDULE B SERVICES

2	Services			
2.1	Engineering Services*	Notional quantity of days (for evaluation purposes only)	Currency (select from the drop-down list)	Fully Burdened Daily Rate*
2.1.1	Senior Engineer	3		
2.1.2	Intermediate Engineer	3		
2.1.3	Junior Engineer	3		
2.1.4	Senior System Engineer	3		
2.1.5	Intermediate System Engineer	3		
2.1.6	Junior System Engineer	3		
2.1.7	Senior Communication Engineer	3		
2.1.8	Intermediate Communication Engineer	3		
2.1.9	Junior Communication Engineer	3		
2.1.10	Senior Network Engineer	3		
2.1.11	Intermediate Network Engineer	3		
2.1.12	Junior Network Engineer	3		
2.1.13	System Integration Analyst	3		
2.1.14	Senior Software Programmer	3		
2.1.15	Intermediate Software Programmer	3		
2.1.16	Junior Software Programmer	3		
2.1.17	System Support Engineer	3		
2.1.18	Senior Test Engineer	3		
2.1.19	Intermediate Test Engineer	3		

2.1.20	Junior Test Engineer	3		
2.1.21	Information Systems Security Engineer	3		
2.1.22	Information Systems Security Specialist	3		
2.1.23	Field Engineer	3		
2.1.24	Senior Technician	3		
2.1.25	Intermediate Technician	3		
2.1.26	Junior Technician	3		
Sub-total CLIN 2.1 - Engineering Services				0.00

2.2	PHS&T - Packaging, Handling, Shipping, and Transportation to NATO/ Customer Sites**	Notional value of Task Orders in EUR (for evaluation purposes only)	Shipment lead times (in weeks) to be added to the Producer LT	PHS&T price as fixed percentage % of TO value	Evaluated PHS&T price in EUR
2.2.1	North America	€ 450.000.00	0.0	0.00%	€ -
2.2.2	United Kingdom	€ 4.500.000.00	0.0	0.00%	€ -
2.2.3	Türkiye	€ 450.000.00	0.0	0.00%	€ -
2.2.4	Europe	€ 39.600.000.00	0.0	0.00%	€ -
Sub-total CLIN 2.2 - PHS&T					€ -

2.3	Warranty Extensions***	Notional value (= 20% of the total discounted value) for warranty extentions (for evaluation purposes only)	Fixed percentage % to be applied on notional discounted value	Evaluated warranty extention price in EUR
2.3.1	Warranty Extension from 1 year to 3 years	€ 9.000.000.00	0.00%	€ -
2.3.2	Warranty Extension from 1 year to 5 years	€ 9.000.000.00	0.00%	€ -
Sub-total CLIN 2.3 - Warranty Extentions				€ -

SCHEDULE B TEMPESTING

CLIN	CLIN ITEM - For ordering	Currency (select from the drop- down list)	Unit price for Initial TEMPEST certification	Initial TEMPEST certification process duration - weeks	Leadtime for Serial Production - weeks	Max Volume Serial Production per week (quantity)
3.1	Catalyst 9000 Family 24SFP_TEMPEST A					
3.2	Catalyst 9000 Family 48SFP_TEMPEST A					
3.3	Catalyst 9000 Family 24CU_TEMPEST A					
3.4	Catalyst 9000 Family 48CU_TEMPEST A					
3.5	ISR4000 Family_TEMPEST A					
3.6	ASR1000 Family_TEMPEST A					
3.7	CP-8841-K9=_Mic Disconnected on Hook_TEMPEST A					
3.8	CP-8845-NR-K9+_Mic Disconnected on Hook_TEMPEST A					
3.9	NEXUS 9200_TEMPEST A					
3.10	NEXUS 9300_TEMPEST A					
3.11	NEXUS 9500_TEMPEST A					
3.12	Catalyst 9000 Family 24SFP_TEMPEST B excl PLF					
3.13	Catalyst 9000 Family 48SFP_TEMPEST B excl PLF					
3.14	Catalyst 9000 Family 24CU_TEMPEST B excl PLF					
3.15	Catalyst 9000 Family 48CU_TEMPEST B excl PLF					
3.16	ISR4000 Family_TEMPEST B excl PLF					
3.17	ASR1000 Family_TEMPEST B excl PLF					
3.18	CP-8841-K9=_Mic Disconnected on Hook_TEMPEST B excl PLF					
3.19	CP-8845-NR-K9+_Mic Disconnected on Hook_TEMPEST B excl PLF					
3.20	NEXUS 9200_TEMPEST B excl PLF					

3.21	NEXUS 9300_TEMPEST B excl PLF					
3.22	NEXUS 9500_TEMPEST B excl PLF					
3.23	Catalyst 9000 Family 24SFP_TEMPEST B incl PLF					
3.24	Catalyst 9000 Family 48SFP_TEMPEST B incl PLF					
3.25	Catalyst 9000 Family 24CU_TEMPEST B incl PLF					
3.26	Catalyst 9000 Family 48CU_TEMPEST B incl PLF					
3.27	ISR4000 Family_TEMPEST B incl PLF					
3.28	ASR1000 Family_TEMPEST B incl PLF					
3.29	CP-8841-K9=_Mic Disconnected on Hook_TEMPEST B incl PLF					
3.30	CP-8845-NR-K9+_Mic Disconnected on Hook_TEMPEST B incl PLF					
3.31	NEXUS 9200_TEMPEST B incl PLF					
3.32	NEXUS 9300_TEMPEST B incl PLF					
3.33	NEXUS 9500_TEMPEST B incl PLF					
3.34	Catalyst 9000 Family 24SFP_TEMPEST C excl PLF					
3.35	Catalyst 9000 Family 48SFP_TEMPEST C excl PLF					
3.36	Catalyst 9000 Family 24CU_TEMPEST C excl PLF					
3.37	Catalyst 9000 Family 48CU_TEMPEST C excl PLF					
3.38	ISR4000 Family_TEMPEST C excl PLF					
3.39	ASR1000 Family_TEMPEST C excl PLF					
3.40	CP-8841-K9=_Mic Disconnected on Hook_TEMPEST C excl PLF					
3.41	CP-8845-NR-K9+_Mic Disconnected on Hook_TEMPEST C excl PLF					
3.42	NEXUS 9200_TEMPEST C excl PLF					
3.43	NEXUS 9300_TEMPEST C excl PLF					
3.44	NEXUS 9500_TEMPEST C excl PLF					
3.45	Catalyst 9000 Family 24SFP_TEMPEST C incl PLF					
3.46	Catalyst 9000 Family 48SFP_TEMPEST C incl PLF					
3.47	Catalyst 9000 Family 24CU_TEMPEST C incl PLF					
3.48	Catalyst 9000 Family 48CU_TEMPEST C incl PLF					

3.49	ISR4000 Family_TEMPEST C incl PLF				
3.50	ASR1000 Family_TEMPEST C incl PLF				
3.51	CP-8841-K9=_Mic Disconnected on Hook_TEMPEST C incl PLF				
3.52	CP-8845-NR-K9+_Mic Disconnected on Hook_TEMPEST C incl PLF				
3.53	NEXUS 9200_TEMPEST C incl PLF				
3.54	NEXUS 9300_TEMPEST C incl PLF				
3.55	NEXUS 9500_TEMPEST C incl PLF				
3.56	CERTIFICATION/RE-CERTIFICATION PROCESS TEMPEST A				
3.57	CERTIFICATION/RE-CERTIFICATION PROCESS TEMPEST B				
3.58	CERTIFICATION/RE-CERTIFICATION PROCESS TEMPEST C				
3.59	EL1-8841-07L1 Tempest SDIP 27A NTSWG VoIP Phone TSG Accreditation No TSG-A-22-2016				
3.60	EL1-8865-02L1 TEMPEST SDIP 27A Unified VoIP NTSWG Phone TSG-A-46-2018				
Total CLIN 3 - Tempesteing			0.00		

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IFB-CO-115760-e-FIT

**Provision of COTS IT Hardware Equipment and
Associated Support (IT), duly named e-FIT**

Part II

CONTRACT SPECIAL PROVISIONS

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ARTICLE 1 ALTERATIONS, MODIFICATIONS AND DELETIONS OF THE NCI AGENCY GENERAL PROVISIONS

1.1. Alterations, Modifications, and Deletions of the NCI Contract General Provisions

1.1.1. The definition of "Purchaser" for the purposes of this Contract is hereby modified from the definition of Contract 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."

1.1.2. **The following Clauses are hereby removed/modified/supplemented:**

1.1.2.1. CLAUSE 1, "Order Of Precedence" is hereby modified and supplemented by Special Provision Clause 2.

1.1.2.2. CLAUSE 8, "Performance Guarantee" of the General Provisions does not apply to this contract and is hereby removed.

1.1.2.3. CLAUSE 9, "Participating Countries" is hereby modified by Special Provision Clause 4.

1.1.2.4 CLAUSE 10, "Sub-Contractors" of the General Provisions is hereby modified by Special Provision Clause 20.

1.1.2.5 CLAUSE 11, "Security" of the General Provisions is hereby augmented by Special Provision Clause 32.

1.1.2.6 CLAUSE 13, "Purchaser Furnished Property" of the General Provisions does not apply to this contract and is hereby removed.

1.1.2.7 CLAUSE 16, "Changes" of the General Provisions is hereby supplemented by Special Provision Clause 15.

1.1.2.8 CLAUSE 25, Invoices And Payment of the General Contract Provisions is hereby supplemented by Special Provision Clause 19.

1.1.2.9 CLAUSE 28, "Right of Access, Examination of Records" is supplemented by Special Provision Clause 26.

1.1.2.10 CLAUSE 38, "Liquidated Damages" is modified and supplemented by Special Provision Clause 28.

1.1.2.11 CLAUSE 39, "Termination for Default" of the General Provision is hereby

supplemented by Special Provision Clause 29.

ARTICLE 2 ORDER OF PRECEDENCE

2.1. In the event of any inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

- a. The Signature sheet
- b. Part I - The Schedule of Supplies and Services
- c. Part II - The Contract Special Provisions
- d. Part III -The Contract General Provisions
- e. Part IV -The Statement of Work and its Annexes

ARTICLE 3 COMPREHENSION OF CONTRACT AND SPECIFICATIONS

- 3.1. The Contractor warrants that it has read, understood and agreed to each and all terms, clauses, 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.
- 3.2. 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, which 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.
- 3.3. The Contractor hereby acknowledges that it 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.
- 3.4. Based upon impossibility of performance, defective, inaccurate, impracticable, insufficient or invalid specifications, implied warranties of suitability of such specifications, or;
- 3.5. Otherwise derived from the aforesaid specifications, and hereby waives any claims or demands so based or derived as might otherwise arise.
- 3.6. Notwithstanding the "Changes" clause or any other clause of the Contract, the Contractor hereby agrees that no changes to the aforesaid specifications which 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 Schedule of Supplies and Services.

ARTICLE 4 PARTICIPATING COUNTRIES

- 4.1. This Article supplements Clause 9, "Participating Countries" of the Contract General Provisions.
- 4.2. The Contractor may issue subcontracts to firms and purchase from qualified vendors from and within NATO Countries. The Participating NATO Countries are listed below in alphabetical order:
- ALBANIA, BELGIUM, BULGARIA, CANADA, CROATIA, CZECH REPUBLIC, DENMARK, ESTONIA, FRANCE, GERMANY, GREECE, HUNGARY, ICELAND, ITALY, LATVIA, LITHUANIA, LUXEMBOURG, MONTENEGRO, NETHERLANDS, NORTH MACEDONIA, NORWAY, POLAND, PORTUGAL, REPUBLIC OF TÜRKIYE, ROMANIA, SLOVAKIA, SLOVENIA, SPAIN, UNITED KINGDOM, UNITED STATES OF AMERICA.
- 4.3 None of the work, including project design, labour and services, shall be performed other than by firms from and within participating NATO Countries.
- 4.4 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 participating NATO Country.
- 4.5 The Intellectual Property Rights for all software and documentation used by the Contractor in the performance of the Contract shall vest with firms from and within participating NATO Countries and no royalties or license fees for such software and documentation shall be paid by the Contractor to any source that does not reside within a NATO Country.

ARTICLE 5 SCOPE OF WORK

- 5.1. The purpose of this Contract is to create a Framework to enable frequent and swift transactions of specified hardware and associated support from a Product Catalogue from which the Purchaser may order quantities for delivery to different NATO sites and/or NATO Nations.
- 5.2. In order to fulfil that purpose the Contractor shall deliver, in accordance with the contract requirements, and against the prices specified in the Contract Schedule of Supplies and Services (SSS), the items or services identified in Task Orders (TOs) issued from time to time by the Purchaser, in the manner and at the time and location specified in the Order.
- 5.3. The specifications of the hardware equipment to be delivered under this contract are laid out in Annex A to the Statement of Work (SOW). The detailed requirements of associated warranty and support are provided in Section 3 of the SOW.

ARTICLE 6 TYPE OF CONTRACT

- 6.1. This Framework Contract is an Indefinite Delivery, Indefinite Quantity (IDIQ) type

contract for COTS IT procurement with discount fixed prices for hardware equipment and associated support is duly named e-FIT. The Contract has no intrinsic monetary value. The Agency will place TOs against this Framework Contract when requirements are identified and funding is available.

- 6.2. Each TO will have a monetary obligation and a detailed CLIN list with corresponding Statement of Work specifications for the Contractor to perform that is within the general scope of this Contract. This Contract will come into effect with the placing of the first TO which will constitute the initial obligation.
- 6.3. The Purchaser regards this Contract to be a 'preferred vehicle' for obtaining the equipment and services specified in the Statement of Work, where the Purchaser is charged by NATO to satisfy the requirement. The Purchaser may decide to solicit alternative sources if that is deemed more favourable to the Purchaser.
- 6.4. The Purchaser assumes no liability for costs incurred by the Contractor in excess of the stated Firm Fixed Task Order Prices.
- 6.5. The Total Contract price in this Contract is Delivered Duty Paid (INCOTERMS 2020). It shall be noted; however, that because the Purchaser is exempted from direct taxes and duties as set forth in Clause 26 (Taxes and Duties) of the NCI Agency Contract General Provisions, there is no duty to be paid by the Contractor.

ARTICLE 7 TERM OF CONTRACT

- 7.1. The term of this Firm Fixed Price framework Contract will be from the Effective Date of Contract for a Three Year Base Period and Two, twelve-month Option Periods if/when exercised. The Not To Exceed (NTE) ceiling amount of **60,000,000 EUR for Schedule A** and **75,000,000 EUR for Schedule B** throughout the contract life of the base period and two options (if/when exercised); whichever occurs first.

ARTICLE 8 TASK ORDERS

- 8.1. Task Orders (TO's) will be issued in writing by the Purchaser and signed by the Purchaser's Contracting Authority. TO's are instruments to initiate Contractor activities and obligate funding to the Contract.
- 8.2. The Contractor shall begin contract performance upon issuance of each written task order and provide all products or services listed on the schedule in accordance with all terms and conditions of this contract.
- 8.3. The Contractor is advised that it is not possible to determine the precise types or amounts of services that will be ordered during the term of the contract. There is no limit on the number of orders that may be issued.
- 8.4. Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in

the order. The contract shall govern the Contractor's and Purchaser's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after the final period of the final purchase order issued.

8.5. After the e-FIT Contract term expires, the Contract will remain an active contract until the final task order is closed-out and shall govern the terms and conditions with respect to active task orders to the same extent as if they were completed during the contract term.

ARTICLE 9 ORDERING PROCEDURES

9.1. The Purchaser will initiate the ordering process by issuing a TO detailing the following:

- 9.1.1. Order Number;
- 9.1.2. Effective Date of the Order;
- 9.1.3. Total quantities of equipment or services required by CLIN;
- 9.1.4. Statement of Work reference;
- 9.1.5. Schedule and place of delivery and performance;
- 9.1.6. Shipping and transportation;
- 9.1.7. Total Monetary Value of the Order.

9.2 For the purpose of this Contract, an obligation to deliver as per the TO is deemed to exist for the Contractor upon signature by the Purchaser. Counter-signature by the Contractor is not required for any TO under this Contract.

9.3 A TO is understood to have been received within 24 hours if it is a business day, or the first day after a non-business day.

9.4 Orders may be issued from time to time and there are no limitations on the number of TO's that can be issued.

ARTICLE 10 OPTIONS

10.1. Options are available for exercise by the Purchaser at any time within one year from EDC plus option years if/when exercised. If the Purchaser exercises such options, the Contractor shall deliver such specified quantities of additional supplies and services per the Schedule of Supplies and Services at such times and to such destinations as specified in the Contract.

10.2. Prices for all options shall have a validity period that corresponds to the option exercise period.

10.3. The Contractor understands that there is no obligation under this Contract for the Purchaser to exercise any of the options and that the Purchaser bears no liability should it be decide not to exercise the options (totally or partially).

10.4. Any options exercised shall be exercised by written amendment to the Contract by the Purchaser.

ARTICLE 11 PLACE AND TERMS OF DELIVERY

11.1. Deliverables under this Contract shall be delivered DDP (Delivered Duty Paid) in accordance with the International Chamber of Commerce INCOTERMS 2020 to the destination(s) and at such times as set forth in the Schedule of Supplies and Services. The Contractor shall note that the Purchaser is exempt from customs duties and VAT. The Purchaser shall not be liable for any storage, damage, accessorial or any other charges involved in such transporting of supplies.

ARTICLE 12 KEY PERFORMANCE INDICATORS (KPIs) AND TARGETS

12.1. Contract performance shall be measured through the use of the following KPIs:

12.1.1. Delivery on Time (DOT). A log will be maintained by the Purchaser of how many times delivery is late, and to which degree as describes in Section 3.4 of the SoW. The lead time for deliveries are listed in the SSS, and captured in the applicable TO;

12.1.2. Delivery Complete. A log will be maintained by the Purchaser comparing the inspection results with the amount of items ordered per TO. The inspection will note how many items were missing or defect upon inspection, and to which degree. Delivery inspection and acceptance requirements are described in Section 3.7 of the SOW;

12.1.3. Delivery Discrepancy Closure. A log will be maintained by the Purchaser of how many days it takes between the notification and the closure of a delivery discrepancy. Delivery discrepancies are described in Section 3.7 of the SOW;

12.1.4. Warranty Resolution. A log will be maintained by the Purchaser of how many days it takes between the notification and the closure of a warranty claim. Warranty resolution is described in Section 3.12 of the SOW. At a minimum, the log should contain the following details: device, serial no., failure description, person to contact on site, location of the device;

12.1.5. Up to date Product Catalogue. A log will be maintained by the Purchaser capturing whether the Product Catalogue was up to date throughout the Quarter in question. The Product Catalogue requirements are described in Section 4.5 of the SOW.

12.2 The measurement methodology and targets of the different KPIs are detailed in Section 4.3 of the SOW.

12.3 Failure to achieve two (2) consecutive "PASS" Total Quarterly Scores, may give rise to the Purchaser's right to invoke the "Termination for Default" Clause of these Contract Special Provisions.

ARTICLE 13 OBSOLESCENCE REPLACEMENT

- 13.1. If any COTS products specified in the Contract are discontinued by their original providers for commercial or technological reasons, the Contractor shall ensure the original products are replaced in the Product Catalogue with the new versions within a month of this notification.
- 13.2. 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) be included in the Contract, an equitable price adjustment will be negotiated based on fair and reasonable pricing and the proposed item(s) shall be added to the Contract by bilateral modification under the authority of this Clause.
- 13.3. All changes to the Product Catalogue and specification will be periodically formalized in a Contract Amendment, as described in the "Changes" Clause of these Special Provisions.

ARTICLE 14 Warranty & Support

- 14.1. The Contractor shall provide warranty and support on all material provided under this Contract and in accordance with the relevant Paragraphs in Section 3 of the SOW.
- 14.2. The warranty period for all equipment shall be a minimum of 1 year from the date of acceptance where no further period is specified.
- 14.3. Should any period of warranty or conditions of the warranty provided by either the Original Equipment Manufacturer (OEM) or the (Sub-)Contractor exceed those required by the Contract, then these periods or conditions may be incorporated in the Contract at the sole discretion of the Purchaser.
- 14.4. Should any warranty case not be closed within the timelines specified in Section 3.12 of the SOW, the Purchaser will reserve the right to purchase the replacement item from alternative suppliers. The cost of which shall be reimbursed by the Contractor.

ARTICLE 15 Changes

- 15.1. This Article supplements Clause 16, "Changes" of the General Provisions.
- 15.2. The Purchaser intends to manage changes to this Contract using the change management procedure described below:
- 15.3. Request For Change (RFC) is a proposal for changes relevant to the specifications of the items, their market availability, their obsolescence, or any

other technological changes.

- 15.4. The Contractor shall submit the RFCs in written form only upon prior confirmation from the Purchaser that such changes are necessary in light of varied facts or circumstances which prevent the execution of the Contract in its then current form.
- 15.5. Any RFC submitted by the Contractor to the Purchaser shall, in any case contain as a minimum the RFC identification number, the rationale for the changes, effected CLIN, new CLIN proposal for newly added items, and any effect to the Schedules, technical solutions, and pricing.
- 15.6. The Contractor shall provide the RFC template prior to the Kick-off Meeting, and shall update the template based on Purchaser feedback.
- 15.7. The Contractor shall release RFCs in following conditions and within noted timelines:
 - 15.6.1. items will no longer be available for future orders due to obsolescence (immediately);
 - 15.6.2. new items are in the market that can replace the existing ones with the same form, fit, function specifications (bi-annually and at Technical Refresh Review Meetings as per SOW Section 4.6);
 - 15.6.3. new items are required due to the new Purchaser requirements (as requested);
 - 15.6.4. replacement items are required due to the changing Purchaser requirements (as requested).
- 15.7. The Purchaser will provide written confirmation if the RFC is authorized. In case of RFC rejection, the Contractor shall proceed with the performance in accordance with the Contract.
- 15.8. The Contractor shall update and release the Product Catalogue within 5 business days after authorization of the RFC's in written form by the Purchaser's Contracting Officer.
- 15.9. The Purchaser may start ordering based on the new Product Catalogue prior to the formalization via a Contract Amendment.
- 15.10. Except as otherwise provided for in this Contract, prices quoted for the changes, modifications, etc. shall remain valid for the entire period of performance.

ARTICLE 16 CONTRACT ADMINISTRATION DATA

- 16.1. Formal letters and communications shall be personally delivered, sent by

mail, registered mail, courier or other delivery services, to the official points of contact cited in this Contract. Without prejudice to Clause 16.4 below, e-mail may be used to provide an advance copy of a formal letter or notice that shall subsequently be delivered through the formal communications means.

16.2. Informal notices and informal communications may be exchanged by any other communications means including telephone and e-mail, where the classification of the information permits such mean of communication. These communications must be confirmed through the formal means set forth above to be considered to be formal communication.

16.3. Any discussion, negotiation with Contractor representatives shall be recorded in minutes which shall be generated and coordinated by the Contractor, and signed by authorised representatives of both Contractor and Purchaser. All minutes are considered to be a summary record of discussions and specific actions to be undertaken by the parties as a result of meetings. If the contents of these minutes fall within the scope of the Contract or specifications, then no amendment action will be initiated by the Purchaser. If, however, it is considered by either party that certain discussions and decisions have taken place at meetings that fall outside the scope of these documents, then this fact shall be recorded at the time and brought to the immediate attention of the Purchasing Authority for resolution via amendment to the Contract.

16.4. All notices and communications will be effective upon receipt.

Official Points of Contact:

Purchaser	Contractor
NATO Communications and Information Agency ACQ Directorate NATO HQ Boulevard Leopold III B-1110 Brussels, Belgium	[To Be Determined]
For contractual matters: Attn: Ms. Eva Benson Title: Senior Contracting Officer E-mail: eva.benson@ncia.nato.int	For contractual matters: TBD Attn: Title: Tel: Fax: E-mail:
For technical/project management matters: Attn: e-FAST TEAM Title: Tel: E-mail: TBD	For technical/project management matters: TBD Attn: Title: Tel: Fax: E-mail:

ARTICLE 17 TECHNICAL DIRECTION

- 17.1. The Purchaser may assign Technical Representatives who will monitor work in progress and provide Contractor personnel with guidance (within the general scope of work) in performance of their duties and working schedule. The Technical Representatives do not have the authority to change the terms of the Contract, including the Statement of Work, or to increase the overall cost, duration or level of effort of the Contract. The Technical Representatives do have the authority to interpret the Statement of Work and provide direction to the Contractor personnel in performance of their duties.
- 17.2. In case the Contractor believes that any technical direction received from the Technical Representative constitutes a change to the terms, conditions and/or specifications of the Contract, he shall immediately inform in writing the NCI Agency Contracting Authority, who will either confirm or revoke such direction within two weeks after notification by the Contractor. If such direction is confirmed as a change, this change will be formalised by written amendment to the Contract pursuant to Clause 16, "Changes", of the Contract General Provisions.
- 17.3. Failure of the Contractor to notify the NCI Agency Contracting Authority of direction constituting change of the Contract, within the timelines specified in Clause 16.9 of the Contract General Provisions, will result in a waiver of any claims pursuant to such change.

ARTICLE 18 PRICING OF CHANGES, AMENDMENTS AND CLAIMS

- 18.1. This Article supplements Clause 19 (Pricing of Changes, Amendments and Claims) of the Contract General Provisions as follows:
- 18.1.1. The Purchaser may at any time, by written order designated or indicated to be a change order, and without notice to the sureties, if any, make changes within the scope of any Contract or Task Order, in accordance with Clause 16 (Changes) of the Contract General Provisions.
- 18.1.2. Changes, modifications, follow-on Contracts of any nature, and claims shall be priced in accordance with Clause 19 (Pricing of Changes, Amendments and Claims) of the Contract General Provisions, and with the "Purchaser's Pricing Principles" as set out in the Annex 1 to the Contract General Provisions.
- 18.1.3. Except otherwise provided for in this Contract, prices quoted for the above-mentioned changes, modifications, etc. shall have a minimum validity period of six (6) months from submission.

ARTICLE 19 INVOICES AND PAYMENT

- 19.1. This Article supplements Clause 25 (Invoices and Payment) of the Contract General Provisions as follows:
- 19.2. The Contractor shall submit invoices either at the completion and acceptance of all services or in accordance with the payment plan

indicated in the Task/Purchase Order.

19.3. Invoices in respect of any service and/or deliverable shall be prepared and submitted as specified hereafter and shall contain:

- a) Contract number CO-115760-e-FIT
- b) Contract Amendment number (if any),
- c) Task/Purchase Order number TO/PO [...],
- d) The identification of the performance rendered in terms of Contract Line Item Number (CLIN),
- e) Bank account details for international wire transfers (SWIFT, BIC, IBAN).

19.4. The invoice amount shall be exclusive of VAT and exclusive of all Taxes and Duties.

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

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

19.7. Payments for services and deliverables shall be made in the currency stated by the Contractor for the relevant Contract Line Item.

19.8. The Purchaser is released from paying any interest resulting from any reason whatsoever.

19.9. The invoice shall contain the following certificate:

19.9.1 "I certify that the above invoice is true and correct, that the delivery of the above described items has been duly effected and/or that the above mentioned services have been rendered and the payment therefore has not been received."

19.9.2 The certificate shall be signed by a duly authorised company official on the designated original.

19.10 Invoices referencing "CO-115760-e-FIT / TO/PO [...]" shall be submitted in electronic format only to:

accountspayable@ncia.nato.int

19.11 NCI Agency will make payment within 30 days of receipt by the NCI Agency of a properly prepared and documented invoice.

ARTICLE 20 SUB-CONTRACTORS

- 20.1. The Contractor shall place and be responsible for the administration and performance of all sub-contracts including terms and conditions which it deems necessary to meet the requirements of this Contract in full.
- 20.2. The Contractor shall not place sub-contracts outside the Participating Countries unless the prior authorization of the Purchaser has been obtained. Such authorization will not be granted when the sub-contract involves the carrying out of classified work.

ARTICLE 21 LIMITATIONS ON THE USE OR DISCLOSURE OF THIRD-PARTY CONTRACTOR REPORTED CYBER INCIDENT INFORMATION

21.1. Definitions. As used in this clause:

21.1.1. Compromise means disclosure of information to unauthorized persons, or a violation of the security policy of a system, in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object, or the copying of information to unauthorized media may have occurred.

21.1.2. Controlled technical information means technical information with NATO military application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination. The term does not include information that is lawfully publicly available without restrictions.

21.2. Covered defence information means unclassified controlled technical information and is :

21.2.1 Marked or otherwise identified in the contract, purchase order, or delivery order and provided to the contractor by or on behalf of NCI in support of the performance of the contract; or,

21.2.2 Collected, developed, received, transmitted, used, or stored by or on behalf of the contractor in support of the performance of the contract;

21.2.3 Cyber incident means actions taken through the use of computer networks that result in a compromise or an actual or potentially adverse effect on an information system and/or the information residing therein;

21.2.4 Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information;

21.2.5 Media means physical devices or writing surfaces including, but is not

limited to, magnetic tapes, optical disks, magnetic disks, large-scale integration memory chips, and printouts onto which covered defense information is recorded, stored, or printed within a covered contractor information system;

21.2.6. Technical information means technical data or computer software such as research and engineering data, engineering drawings, and associated lists, specifications, standards, process sheets, manuals, technical reports, technical orders, catalog-item identifications, data sets, studies and analyses and related information, and computer software executable code and source code.

21.2.7. Restrictions

21.2.7.1. The Contractor agrees that the following conditions apply to any information it receives or creates in the performance of this contract that is information obtained from a third-party's reporting of a cyber incident:

21.2.7.1.1. The Contractor shall access and use the information only for the purpose of furnishing advice or technical assistance directly to the Purchaser in support of the Purchaser's activities, and shall not be used for any other purpose.

21.2.7.1.2. The Contractor shall protect the information against unauthorized release or disclosure.

21.2.7.1.3. The Contractor shall ensure that its employees are subject to use and non-disclosure obligations consistent with this clause prior to the employees being provided access to or use of the information.

21.2.7.1.4. The third-party contractor that reported the cyber incident is a third-party beneficiary of the non-disclosure agreement between the Purchaser and Contractor.

21.2.7.2. A breach of these obligations or restrictions may subject the Contractor to:

21.2.7.2.1. Criminal, civil, administrative, and contractual actions in law and equity for penalties, damages, and other appropriate remedies; and

21.2.7.2.2. Civil actions for damages and other appropriate remedies by the third party that reported the cyber incident, as a third party beneficiary of this clause.

ARTICLE 22 KEY PERSONNEL

21.1. The key personnel proposed by the Contractor in its Project Management Plan and that satisfy the personnel requirements laid down in the SOW are considered to be key to the performance of this Contract and may not be replaced by the Contractor with substitute personnel without the prior written approval of the Purchaser.

22.2. If any options are exercised, the Key Personnel provisions will apply to the option period from the effective date of the Contract.

22.3. The following personnel are considered to be Key Personnel for successful contract performance and are subject to the provisions of this Article as set forth in the following paragraphs:

Key Personnel	Name	Function within organisation
Delivery Manager		
Technical Lead		

22.4. Under the terms of this Article, Key Personnel may not be voluntarily diverted by the Contractor to perform work outside the Contract. In cases where the Contractor has no control over the individual’s non-availability (e.g., resignation, sickness, incapacity, etc.), the Contractor shall notify the Purchaser of a change of key personnel within 10 days of the date of knowledge of the prospective vacancy and offer a substitute with equivalent qualifications with no additional costs for the Purchaser.

22.5. Contractor personnel proposed in substitution of previously employed Contractor Key Personnel shall be interviewed and approved by Purchaser Project Manager before substitution acceptance is granted in writing by the Purchaser contracting Authority.

22.6. In the event of a substitution of any key personnel listed in paragraph 22.3 above and prior to commencement of performance, the Contractor shall provide a CV for the personnel proposed. The CV shall clearly stipulate: • Full details of professional and educational background;

22.7. Evidence that the personnel is qualified in pertinent contract related areas per the SOW.

22.8. The Contractor shall take all reasonable steps to avoid changes to Key Personnel assigned to this project except where changes are unavoidable or are of a temporary nature. Any replacement personnel shall be of a similar grade, standard and experience as the individual to be substituted.

22.9. Furthermore, even after acceptance of a Contractor’s staff member on the basis of his/her CV and/or interview, the Purchaser reserves the right to reject the Contractor’s staff member, if the individual is not meeting the required level of competence. The Purchaser will inform the Contractor, in writing in cases where such a decision is taken and the Contractor shall propose and make another staff member available within ten working days after the written notification. The Purchaser shall have no obligation to justify the grounds of its decision and its acceptance of staff members shall in no way relieve the Contractor of its responsibility to achieve the contractual and technical requirements of this Contract nor imply any responsibility to the Purchaser.

22.10. After acceptance in writing by the Purchaser of a substitution of staff, based on a CV and/or interview, paragraph shall be applicable again, if necessary.

22.11. The Purchaser may at any time require the Contractor immediately to cease to employ the above named Key Personnel under the present Contract if, in the opinion of the

Purchaser, his/her employment is undesirable. The Contractor shall replace any such employee in accordance with paragraph 22.5 and 22.6 above.

- 22.12. In those cases where, in the judgment of the Purchaser, the inability of the Contractor to provide a suitable replacement in accordance with the terms of this Article may potentially endanger the progress under the Contract, the Purchaser shall have the right to terminate the Contract in accordance with the terms of the General Provisions Clause entitled "Termination for Default".
- 22.13. Any change of status or reorganization 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 reorganization is promulgated.
- 22.14. The Contractor's Key Personnel required to interface directly with the Purchaser's counterparts, shall have the capability to readily communicate (oral and written fluency) in English and to provide, if requested official documents destined for distribution during the course of the Contract in English.
- 22.15. The Purchaser may, for just cause, require the Contractor to remove its employee. Notice for removal will be given to the Contractor by the Purchaser in writing and will state the cause justifying the removal. The notice will either demand substitution for the individual involved and/or contain a notice for default and the remedies to be sought by the Purchaser.

ARTICLE 23 SUPPLEMENTAL AGREEMENT(S), DOCUMENTS AND PERMISSIONS

- 23.1. 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 Clause 39 "Termination for Default" of the Contract General Provisions.
- 23.2. 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. For the purpose of this Contract the following National mandatory Supplemental Agreements are identified:

Type of Agreement	National Authority of Reference	Subject

ARTICLE 24 INDEPENDENT CONTRACTOR

24.1 The Personnel provided by the Contractor in response to this Contract 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.

ARTICLE 25 APPLICABLE REGULATIONS

- 25.1. The Contractor shall be responsible for obtaining permits or licenses to comply with national codes, laws and regulations or local rules and practices in the country of performance under this Contract.
- 25.2. The Contractor shall take any necessary measure to protect the life and health of persons working or visiting the work area occupied by him. These measures include compliance with the country of performance's safety provisions.
- 25.3. In the performance of all work under this Contract, it shall be the Contractor's responsibility to ascertain and comply with all applicable NATO security regulations as implemented by the local Headquarters' Security Officer.

ARTICLE 26 AUDITING AND ACCOUNTING

- 26.1. The Contractor's accounting and auditing procedures under this Contract shall be in compliance with the applicable Contractor National standards governing national defense contracts.
- 26.2. The invoicing and payment procedures for the amount payable to the Contractor shall be in accordance with the prescription of Article 20 "Invoices and Payment" of the Contract Special Provisions.
- 26.3. In the event of this Contract being terminated in accordance with Clause 40 "Termination for Convenience of the Purchaser" of the Contract General Provisions, the Contractor shall provide within ninety (90) days of the formal date of termination a detailed statement of all costs incurred since the initiation of the programme, together with the statement of all outstanding commitments for which the Contractor is legally liable.

ARTICLE 27 NOTICE OF AUTHORIZED DISCLOSURE OF INFORMATION FOR MANDATED NATO THIRD PARTY AUDITS BY RESOURCE COMMITTEES

Clause 28 "Right Of Access, Examination of Records" of the NCI Agency General Provisions is hereby supplemented as follows:

(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.

ARTICLE 28 FORCE MAJEURE

28.1. **“Force Majeure”** means the occurrence of an event or circumstance that prevents a Party (the **“Affected Party”**) from performing one or more of its contractual obligations under the Contract, provided that: (i) it renders performance impossible; (ii) it is beyond the Affected Party’s reasonable control and without the Affected Party’s cause, fault or negligence; (iii) by its nature it could not have been reasonably foreseen at the time of conclusion of the Contract; and (iv) the effects of it could not reasonably have been avoided or overcome by the Affected Party.

28.2. Examples of Force Majeure, provided conditions (i)-(iv) of paragraph [1] are all fulfilled, include:

28.2.1. war (whether declared or not), hostilities, invasion, act of foreign enemies, extensive military mobilisation;

28.2.2. civil war, riot, rebellion and revolution, usurped power, insurrection, act of terrorism, sabotage or piracy;

28.2.3. currency and trade restriction, embargo, sanction;

28.2.4. act of authority whether lawful or unlawful, compliance with any law or governmental order, expropriation, seizure of works, requisition, nationalisation;

28.2.5. plague, epidemic, natural disaster or extreme natural event;

28.2.6. explosion, fire, destruction of equipment, prolonged break-down of transport, telecommunication, information system or energy; and

28.2.7. general labour disturbance such as boycott, strike and lock-out, go-slow, occupation of factories and premises.

28.3. The Affected Party must give the other party to the Contract (the **“Other Party”**) written notice without delay detailing the occurrence and its expected duration. The Other Party shall within a reasonable time respond, stating whether it accepts or rejects the occurrence as Force Majeure.

- 28.4. If the Other Party accepts the occurrence as Force Majeure, the Contract shall remain in force but the Parties will be relieved from performance of their obligations (including payment) under Contract, from the date at which the Other Party received written notice, for so long as the effects of Force Majeure continue or for ninety (90) days, whichever is the shorter, provided that:
 - 28.4.1. the Affected Party makes all reasonable efforts to limit the effects of Force Majeure upon performance and to avoid or overcome the effects of Force Majeure;
 - 28.4.2. the suspension of performance is of no greater scope than is necessitated by Force Majeure;
 - 28.4.3. the Affected Party continues to furnish weekly updates by email while the effects of Force Majeure continue detailing reasonable efforts made in accordance with [4.1], and notifies the Other Party immediately when the effects of Force Majeure are avoided or overcome, or cease, and resumes performance immediately thereafter.
 - 28.4.4. Neither Party shall be in breach of the Contract nor liable for delay in performing, or for failing to perform, its obligations under the Contract, due to Force Majeure.

- 28.5. Unless otherwise agreed by the Parties, if Force Majeure continues for more than ninety (90) days, the Parties may agree: (a) to a revised delivery schedule at no cost; (b) to a reduction of scope terminating part of the contract at no cost; or (c) to terminate the whole of the Contract at no cost.

ARTICLE 29 Liquidated Damages

Clause 38 “Liquidated Damages” of the NCI Agency General Provisions is hereby supplemented as follows:

- 29.1. If the Contractor fails to:
 - 29.1.1. Successfully meet the required performance dates as defined in the Schedule of Supplies and Services, or any extension thereof, or;
 - 29.1.2. Deliver and obtain acceptance of the deliverables or to acceptably perform the Services as specified in the Schedule of Supplies and Services, Statement of Work and applicable Task Orders.

- 29.2. 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 per Section 4.3.8 of the Statement of Work (Table 3 Penalties) shall apply in which a percentage of the total value of the Task Orders in the quarter shall be deducted from total payment amount for each Payment Event as scheduled in the “Invoices and Payment Terms” Clause of these Contract Special Provisions:

Total score Value (TOT)	Penalty
TOT ≥ 85.1%	No penalty
85.1% > TOT ≥ 84%	0.1% of the total value of TOs in the quarter
84% > TOT ≥ 83%	0.2% of the total value of TOs in the quarter
83% > TOT ≥ 82%	0.3% of the total value of TOs in the quarter

82% > TOT ≥ 81%	0.4% of the total value of TOs in the quarter
81% > TOT ≥ 80%	0.5% of the total value of TOs in the quarter
80% > TOT ≥ 77%	1% of the total value of TOs in the quarter
77% > TOT ≥ 73%	2% of the total value of TOs in the quarter
73% > TOT ≥ 70%	4% of the total value of TOs in the quarter
70% > TOT ≥ 50%	8% of the total value of TOs in the quarter
50% > TOT	10% of the total value of TOs in the quarter

- 29.3. Liquidated Damages shall be payable to the Purchaser and shall accrue at the rate specified in the paragraph above to an aggregate sum of all delinquent items not to exceed fifteen percent (15%) of the total value. The sum will be applied as a discount and shall be applied to the Tasker Order with the highest value within the quarter for which the KPIs have been calculated. An amendment shall be issued to the Tasker Order applying the discount.
- 29.4. 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. In such event, subject to the provisions of the “Disputes” and “Arbitration” Clauses of the NCI Agency 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 its judgment the findings of fact justify an extension.
- 29.5. In addition, the Purchaser may terminate this Contract in whole or in part as provided in the “Termination for Default” Clause of the NCI Agency General Provisions. In the event of such a termination, the Contractor shall be liable for Liquidated Damages accruing to the date of termination, as well as the excess costs stated in the referred Clause.
- 29.6. The amount of Liquidated Damages due by the Contractor shall be recovered by the Purchaser in the following order of priority:
 - 29.6.1. By deducting such Liquidated Damages from the amounts due to the Contractor against the Contractor's invoices.
 - 29.6.2. By reclaiming such Liquidated Damages through appropriate legal remedies. This clause shall be deemed to apply to each issued Task Order.

ARTICLE 30 Termination for Default

Clause 39 “Termination for Default” of the NCI Agency General Provisions is hereby supplemented as follows:

- 30.1. The Purchaser reserves the right to, by written notice of default to the Contractor, terminate the whole or any part of this Contract for continuous poor performance, if the Contractor fails to achieve sufficient “PASS” markings in its Total Quarterly Scores in relation to the KPIs established in the “Key Performance Indicators (KPI’s) and Targets” Clause of these Special Provisions, in the following case:

- 30.1.1. three (3) consecutive "FAIL" Total Quarterly Scores.
- 30.2. Upon the occasion of the first "FAIL" Total Quarterly Score, the Purchaser shall notify the Contractor to initiate a discussion and request a plan for corrective action for the Contractor to improve its performance.
- 30.3. In case a second consecutive "FAIL" Total Quarterly Score as illustrated above in 30.1.1 occurs, the Purchaser shall issue to the Contractor a written Notice of Termination, signed by the Contracting Authority, stating that continuous poor performance exists, specifying the extent to which performance of Work under the Contract is terminated, and the date upon which such termination becomes effective.
- 30.4. After receipt of a Notice of Termination, the Contractor shall:
 - 30.4.1. stop the Work on the date and to the extent specified in the Notice of Termination;
 - 30.4.2. place no further orders or Sub-contracts, except as may be necessary for completion of such portion of the work under the Contract as is not terminated;
 - 30.4.3. terminate all orders and Sub-contracts to the extent that they relate to the performance of Work terminated by the Notice of Termination.
- 30.5. In the event of a situation as described in Sub-Clause 39.6 of the NCI Agency General Provisions, the Contractor shall provide proof in writing no later than 5 business days after receipt of the Notice of Termination described above.
- 30.6. Continuous poor performance as illustrated above is understood to be an objective reality, based on facts and mutual understanding, and is therefore not open for disputes under the "Disputes" or "Arbitration" Clauses of the NCI Agency General Provisions.

ARTICLE 31 NCI AGENCY SUPPLIER CODE OF CONDUCT

- 31.1. The NCI Agency has a Supplier Code of Conduct located at <https://www.ncia.nato.int/business/do-business-with-us/code-of-conduct.html> and it constitutes part of this contract.
- 31.2. This Supplier Code of Conduct sets standards and practices for suppliers and their subcontractors to adhere to when doing business with the NCI Agency in the areas of labour rights, human rights, data protection, ethical conduct and the environment. It contains fundamental, basic principles that any supplier based in a NATO country should already be operating in compliance with.

In the event of any inconsistency in language, terms or conditions with the Contract General Provisions, the Contract General Provisions takes precedence.

ARTICLE 32 SECURITY

- 32.1. This Clause augments Clause 11 (Security) of the Contract General Provisions.
- 32.2. The security classification of this Contract is NATO UNCLASSIFIED.
- 32.3. 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 Purchaser and by the local authorities.
- 32.4. Contractor and /or Subcontractor personnel employed under this Contract that will require access to locations, such as sites and headquarters, where classified material and information up to and including "NATO SECRET" are handled shall be required to have a NATO security clearance up to this level. Contractor personnel who need System Administrator or Operator privileges when working on NATO SECRET systems shall be required to hold NATO SECRET Clearances.
- 32.5. All NATO CLASSIFIED material entrusted to the Contractor shall be handled and safeguarded in accordance with applicable security regulations.
- 32.6. It shall be the Contractor's responsibility to obtain the appropriate personnel and facility clearances to the levels stated in the preceding paragraphs and to have such clearances confirmed to the Purchaser by the relevant National security authority for the duration of the Contract in its entirety.
- 32.7. Failure to obtain or maintain the required level of security for Contractor personnel and facilities 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 (Termination for Default) of the Contract General Provisions.
- 32.8. The Contractor shall note that there are restrictions regarding the carriage and use of electronic device (e.g. laptops) in Purchaser secured 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.
- 32.9. At the end of the Contract, 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 to the Purchaser (i.e. laptops, USB-keys, etc.).
- 32.10. The Statement of Work defines the level of security of information exchanged and used for performance of the Contract.
- 32.11. In particular, the Contractor undertakes to:
 - 32.11.1. 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;
 - 32.11.2. 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;

- 32.11.3. Abstain from copying by any means, without the authorization of the Purchaser, the national security authority or designated security agency, any classified documents, plans, photographs or other classified material entrusted;
- 32.11.4. 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;
- 32.11.5. 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;
- 32.11.6. Deny access to NATO classified information to any person other than those persons authorized to have such access by the national security authority or designated security agency;
- 32.11.7. 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;
- 32.11.8. 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 under the laws of the other NATO nations in which they may have access to classified information;
- 32.11.9. 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;
- 32.11.10. Apply to the Purchaser for approval before Sub-contracting any part of the work, if the Sub- contract would involve that the Subcontractor 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;
- 32.11.11. Undertake not to utilize, other than for the specific purpose of the Contract, without the prior written permission of the Purchaser or his authorized 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 authorized with the approval of the Purchaser. Such NATO classified information will be returned at such time as the Purchaser or his

authorized representative may direct;

32.11.12. Classify any produced document with the highest classification of the NATO classified information disclosed in that document.

32.12. The Contractor's Team Members shall possess a valid passport or ID Card and is required to maintaining its validity for the duration of the contract.

ANNEX A: NCI AGENCY NON-DISCLOSURE DECLARATION

We, the undersigned.....(Company) duly represented by.....(hereinafter "Contractor") do hereby certify that we shall ensure that the following conditions be accepted and observed by all (Contractor) employees working under CO-115760-e-FIT

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

To be signed by the Contractor's Employees working in the NATO's premises upon commencement of their WORK.

I UNDERSTAND:

That I must preserve the security of all classified /commercial-in-confidence Information which comes to my knowledge as a result of this contract with NATO and that I undertake to comply with all relevant security regulations.

That I must not divulge to any unauthorised person, any classified/commercial-in confidence information gained by me as a result of my contract with NATO, unless prior permission for such disclosure has been granted by the General Manager of the NCI Agency or by his designated representative.

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 work under CO-115760-e-FIT.

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 work under CO-115760-e-FIT save such as I have been duly authorised to retain.

That the provisions of the above Declaration apply not only during the period of work under CO-115760-e-FIT, but also after my 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 by accepting the position of Support Contractor for NATO corresponding to the tasks and duties described in the present Contract, I will be considered as a Key personnel as specified in Contract Special Provision Article 15.

That I commit to fulfil my obligations for the period of performance mentioned in the Schedule of Supplies and Services (including the optional periods) unless major events beyond my reasonable control happen.

That shall 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 Special Provision – Article 15.

That I solemnly undertake to exercise in all loyalty, discretion and conscience the functions entrusted to me and to discharge these functions with the interests of NATO and the Host Nation only in view. I undertake not to seek or accept instructions in regard to the performance of my duties from any government, company or from any authority other than that of NCI Agency or the Host Nation.

That within the next two weeks I shall acquaint myself with Host Nation security regulations and security operating instructions.

Date

Full name (in block capitals)

Signature

NATO UNCLASSIFIED



CONTRACT GENERAL PROVISIONS

V 1.0 dated 16 Oct 2014

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ANNEX 1 TO GENERAL PROVISIONS: PURCHASER'S PRICING PRINCIPLES A1-1

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

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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

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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

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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

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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

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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.

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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);

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- 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

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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.

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- 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

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:

Ithe 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.

.....

.....
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

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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.

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- 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

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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

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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

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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

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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

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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

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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

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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

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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

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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.

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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.

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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

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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,

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

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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

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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).

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- 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"

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

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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

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.

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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

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- 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;

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- 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

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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

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:

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- 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

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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

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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

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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

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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

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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

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 PRINCIPLESA. 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.



IFB-CO-115760-e-FIT

**Provision of COTS IT Hardware Equipment and
Associated Support (IT), duly named e-FIT**

BOOK II - PART IV

STATEMENT OF WORK (SOW)

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1 INTRODUCTION

1.1 INTRODUCTION AND SCOPE

- 1.1.1** This document details the performance of work and provision of deliverables as listed in Part I of the Contract Schedule of Supplies and Services (SSS) for which detailed technical specifications are provided at Annex A to this Statement of Work (SOW) for the Standard End-User Equipment and (LAN) Network Equipment schedules.
- 1.1.2** The Contractor shall provide equipment, including accessories and associated software, conforming to the technical specifications and configurations throughout a set timeframe; as well as, the associated support linked to.
- 1.1.3** The Contractor shall supply equipment and services to all authorized NATO Command Locations in Europe and North America including but not limited to any of NATO's Affiliates, upon issuance of Task Orders in accordance with the terms of the Contract. The list of existing affiliates is available at <http://www.nato.int/cps/en/natolive/structure.htm>

2 CONTRACTOR TASKS

2.1 GENERAL RESPONSIBILITIES

- 2.1.1** The Contractor shall deliver the hardware and associated support upon reception of a Task Order (TO). The TO and ordering process are detailed in the “Task Orders and Ordering” Clause of the Contract Special Provisions.
- 2.1.2** The Contractor shall deliver the equipment as requested in the TO in compliance to the specifications as described in Annex A to this SOW and in the SSS, to the destination specified in the TO, and in accordance with the requirements in Section 3 of this SOW.
- 2.1.3** The Contractor shall provide tempested equipment as identified in the SSS in accordance with the SDIP 27 appropriate level, including the certification corresponding to the specific tempest level (Level A, Level B or Level C). TEMPEST Testing must be by a NATO approved TEMPEST provider as listed on the NATO Information Assurance Product Catalogue:

<https://www.ia.nato.int/niapc/Tempest>

TEMPEST testing and certification must be performed on a per device basis. Batch testing will not be accepted. Each certified device must be delivered with the TEMPEST certificate.

- 2.1.4** The Contractor shall manage the delivery process and provide technical advice and expertise relative to the equipment and accessories provided under the Contract.
- 2.1.5** The Contractor shall adhere to the delivery timelines as described in the SSS.
- 2.1.6** The Contractor shall establish and maintain a Product Catalogue for all hardware described in this SOW on a mutually accessible portal, as elaborated in Section 4 of this SOW. Changes to the Product Catalogue may lead to periodic changes to the SSS and the Schedules in Annex A of this SOW through Contract Amendments issued by the Purchaser’s Contracting Officer.
- 2.1.7** The Contractor shall conduct bi-annual Technological Refresh Review (TRR) Meetings as detailed in Section 4 of this SOW during the performance of this Contract under the direction of the Purchaser at which time, the current contracted technical baseline shall be examined to determine whether any changes to the items described in Annex A to this SOW are deemed necessary. Changes may be proposed by both the Purchaser and the Contractor but shall only be enacted on the specific direction of the Purchaser, as detailed in the “Changes” Clause of the Contract Special Provisions.

- 2.1.8** The Contractor shall provide the associated warranty and support for each item specified in the SSS in accordance with the requirements in Section 3 of this SOW. This shall include, but is not limited to, on-site installation and commissioning services, (on-site) warranty repair and replacement services as detailed in Section 3 of this SOW.
- 2.1.9** With this acknowledgement, the Purchaser advises that for each Contract Line Item Number (CLIN) in the Schedule, the Contractor is allowed to propose, for the Purchaser's approval, an alternative (i.e. a replacement or substitution) if due to discontinuation or obsolescence or the Agency's original requirement is neither available or otherwise not considered to be best suitable.

3 INTEGRATED LOGISTIC SUPPORT

3.1 INTRODUCTION

3.1.1 This Integrated Logistics Support (ILS) section outlines the general ILS requirements of this Contract.

3.2 INVENTORY

3.2.1 The Contractor shall provide the full and complete inventory within the Material Data Sheet (MDS) of all items (hardware, software and licences) and documents to be delivered under this Contract at least ten (10) business days¹ before shipment, to the Purchaser Point of Contact (PoC) as described in SOW Section 3.4.11.

3.2.2 The Contractor shall provide the MDS based on the data fields listed in Annex B. The Contractor shall obtain an electronic version of the MDS template from the Purchaser PoC after contract award. The Purchaser will not accept a delivery without complete and accurate inventory data.

3.3 LABELLING

3.3.1 Labelling and marking shall be compliant with STANAG 4281 "NATO Standard Marking for Shipment and Storage".

3.3.2 The Contractor shall produce labels and label items furnished under the Contract with the true manufacturer's name (CAGE code), part number and serial number to ensure proper and quick identification of delivered items.

3.4 SHIPPING AND TRANSPORTATION

3.4.1 The Contractor shall arrange the shipment, transportation and delivery of all items furnished under this Contract from its site in a NATO country to the final destination within the lead times indicated in TOs and prior to the deadlines (lead times) established in the TO (following section 3.10).

3.4.2 All items covered under the Contract shall be Delivered Duty Paid (DDP, INCOTERMS 2020) to the addresses specified in the TO. Items being returned after warranty repair, shall also be shipped at the expense of the Contractor.

3.4.3 The delivery schedule of a TO shall consist of one or more shipments as

¹ Definition of "Business Day". Business Day for the purpose of this SOW, means any calendar day, unless Saturday, Sunday, official holiday observed at the country of delivery or when the Purchaser's facility is closed due to local or national emergencies, administrative closings or similar Purchaser's officially directed facility closings which may affect the access thereto. Country of delivery means the country of delivery at which the Contractor is responsible to deliver at the specified Task Order price. In the computation of any period:

(1) The day of the act, event, or default from which the designated period of time begins to run is not included; and
(2) The last day after the act, event, or default is included.

requested by the Purchaser, spaced out in time, to allow the Purchaser time to process the quantities shipped as necessary.

- 3.4.4** Each shipment shall be composed of one batch of one or more pallets. A pallet shall be defined as the standard Euro-pallet (EUR/EPAL; 1200mm x 800mm), packed to a height as close as practicable to a total maximum height of 1800mm, and not exceeding a total weight of 1000 Kg.
- 3.4.5** When required by the Purchaser and in case of particular events (i.e. Ukrainian crisis, semiconductor crisis, overloading of supplier etc.), the Contractor shall provide a risk assessment and provide a risk mitigation plan within 5 business days.
- 3.4.6** The Contractor shall be fully responsible for handling, storage, insurance, supply chain security, and custom procedures (including administrative charges in customs, if any) involved in transportation and delivery of supplies prior to the actual acceptance as per SOW Section 3.7 of such supplies at destination.
- 3.4.7** The Contractor shall organise and operate any handling equipment required to unload the equipment in the Purchaser's warehouse or building.
- 3.4.8** The Purchaser will not accept responsibility and/or ownership of the equipment before successful inspection and acceptance is complete, as detailed in the SOW Section 3.7 regarding the Delivery Acceptance.
- 3.4.9** All shipments shall be executed in close co-ordination with the Purchaser's PoC for logistics at SOW Section 3.4.11, and delivery acceptance personnel at final destination.
- 3.4.10** The Contractor shall contact the Purchaser PoC for confirmation of the exact shipment address and detailed instructions, before making any shipment arrangements.
- 3.4.11** The Contractor shall provide the Purchaser with a Notice of Shipment (NoS) at least 10 business days in advance of each shipment. One additional copy of the packing list shall be attached to this notice.

Serial	Requirement
1	Purchaser Contract Number
2	Contract line Item Number (CLIN), designation and quantities
3	Items Description, Quantity and Manufacturer Part Number
4	Destination
5	Number of packages/containers, dimensions and gross weight
6	Consignor's and Consignee's name and address
7	Mode of shipment, e.g., road, air sea, etc.

Serial	Requirement
8	Date of shipment and date of planned delivery
9	Number of the Form 302 used (if required)

3.4.12 The NCI Agency PoC for all shipment instructions and shipment requests is:
PoC: IPS Team Member (Specified on the TO)
E-mail: E-FIT.IPS@ncia.nato.int

3.4.13 The Contractor shall provide the safety test reports that is required for the transportation of the devices containing Lithium-Ion Batteries no later than the actual delivery date of the shipment. Deliveries without the safety test report will not be accepted by the Purchaser.

3.4.14 The Contractor shall provide the Tempest Certificates within the shipment package or prior to the delivery. Deliveries without the tempest certificates will not be accepted by the Purchaser.

3.4.15 The Contractor shall coordinate with the Purchaser PoC for the access the site where equipment will be delivered.

3.4.16 The Contractor shall ensure that the Contractor (or its Sub-Contractor) personnel that is performing the physical delivery are citizens from a NATO nation.

3.4.17 Partial shipments may be authorized by the Purchaser on a case-by-case basis. The Contractor shall not arrange for partial shipments without prior authorization from the Purchaser.

3.5 PRESERVATION AND PACKAGING

3.5.1 The Contractor shall, for the purpose of packaging, handling, storage and transportation, prepare and package items in accordance with STANAG 4280 “NATO Levels of Packaging”, NATO packaging level 4, giving due consideration to shipping and other hazards associated with the transportation of consignments overseas.

3.5.2 Packaging and any standard or special packaging materials and containers (boxes, pallets, shipping containers) required for the shipment of items shall be the responsibility of the Contractor at no extra cost to the Purchaser.

3.5.3 Each individual pallet/box shall have the packing list in a weatherproof envelope attached to the outside of each container/box detailing its contents. Another copy of the list shall be provided inside each pallet/box.

3.5.4 In the case of hazardous/dangerous goods and goods requiring export licenses, the Contractor shall ensure that all required forms, safety test reports

and certificates are provided within the shipment documents and that all applicable regulations for such goods are followed.

3.5.5 The packing list shall include the following information as a minimum:

Serial	Requirement
1	The Shipping Address
2	Package Number
3	Contract Number and CLIN as per SSS
4	Item Description
5	Part Number and Serial Number
6	Quantity
7	Method of shipment and destination
8	Weight and Volume details
9	Number of pallets/boxes
10	Name and address of the Contractor, Purchaser and Consignor
11	Name and address of the freight forwarder

3.6 CUSTOMS

3.6.1 The Contractor shall be responsible for customs clearance of all shipments into the destination countries. It is the Contractors responsibility to take into account delays at customs.

3.6.2 The Contractor shall be responsible for the timely request of Custom Forms 302, required for duty free import/export of NATO supplies. However, this duty free status does not include any admin charges that may incur during the customs clearance depending on the HN regulations. Therefore, the Contractor shall be fully responsible for handling such admin charges without any additional cost to the Purchaser.

3.6.3 The written request for a 302 form shall be sent to the Purchaser PoC clearly stating the Consignor's and Consignee's name and address, PoC to receive the original Form 302. This request shall be accompanied by one packing list.

3.6.4 The Contractor shall ensure that forwarding agents are fully informed of the availability of Form 302 and how this form is utilised to avoid the payment of Customs Duties. Form 302 shall be added to the shipment documents to be provided to the carrier.

3.6.5 Following receipt of the request by the Purchaser, normally ten (10) business days are required for the issue of the form.

3.6.6 These forms shall be originals and must be mailed or delivered by mail/express courier to the Contractor. If an express courier has to be used by the Purchaser to ensure that the form is available on time before shipment, all associated costs shall be reimbursed by the Contractor.

- 3.6.7** If a Country refuses to accept the Form 302 and requires the payment of custom duties, the Contractor shall immediately inform the Purchaser by the fastest means available and obtain from the Custom Officer a written statement establishing that its country refuses to accept the Custom Form 302. Only after having received Purchaser's approval, shall the Contractor pay these customs duties.
- 3.6.8** The Contractor shall add the Custom Form 302 to the shipping documentation. It shall be noted that documents have to be originals which need to be available for the goods to be cleared from Customs. Any unused Form 302 shall be returned to the Purchaser.

3.7 DELIVERY ACCEPTANCE

- 3.7.1** All packages and containers will be inspected by the Purchaser's PoC at final destination. For this, the Contractor shall ensure that:
- 3.7.1.1.** all items requested in the TO have been accounted for;
 - 3.7.1.2.** all packages and pallets specified in the packing lists have been accounted for;
 - 3.7.1.3.** MDS information is correct and complete as per Annex B requirements;
 - 3.7.1.4.** no damage has occurred during transport;
 - 3.7.1.5.** there are no dead on arrivals (DOAs).
- 3.7.2** The Purchaser will notify the Contractor regarding any discrepancies within 10 business days, upon receipt on site. In rare cases where this cannot be achieved due to operational priorities, the Purchaser will notify the Contractor accordingly.
- 3.7.3** If there are any discrepancies noted by the Purchaser during the inspection, the Contractor shall fix these discrepancies within 10 business days after the notification by the Purchaser. The discrepancies shall be understood as following:
- 3.7.3.1.** Missing items,
 - 3.7.3.2.** Wrong items,
 - 3.7.3.3.** Damaged items,
 - 3.7.3.4.** Wrong, incomplete or missing documentation (Safety Test Reports, TEMPEST certificates, MDS etc),
 - 3.7.3.5.** DOAs.
- 3.7.4** The Contractor shall provide a concise Delivery Confirmation statement within 10 business days after each shipment has arrived at final destination or the installation activities are completed, as applicable.
- 3.7.5** If there are any licenses related to the products, the Contractor shall register these licenses under related accounts communicated by the Purchaser. The

Contractor shall request the related enterprise account information before completing the registration activities.

- 3.7.6** The Purchaser will provide the confirmation for Acceptance only after the following conditions are met. For this, the Contractor shall ensure and prove that:
- 3.7.6.1.** the deliveries are completed as per SOW 3.7.1,
 - 3.7.6.2.** the delivery discrepancies are resolved as per SOW 3.7.3,
 - 3.7.6.3.** DOAs are replaced (no repair) as per SOW 3.7.3,
 - 3.7.6.4.** the Battery Safety Test Reports are fully provided as per SOW 3.4.12,
 - 3.7.6.5.** Tempest Certificates are provided (if applicable) as per SOW 3.4.13,
 - 3.7.6.6.** the licenses are accounted for and correctly registered as per SOW 3.7.5,
 - 3.7.6.7.** the On-Site Installation and Commissioning activities are completed as per SOW 3.10, and
 - 3.7.6.8.** the delivery confirmation statement is provided by the Contractor as per SOW 3.7.4.

3.8 TECHNICAL DOCUMENTATION

- 3.8.1** The Contractor shall provide a final Quality Assurance (QA) Plan and Warranty Plan for Purchaser review and acceptance within 4 weeks after the Effective Date of Contract (EDC).
- 3.8.2** The QA Plan shall meet the requirements of the AQAPs listed in Annex B of this SOW and shall be structured as a living document subject to revision / update, as and when required.
- 3.8.3** The QA Plan shall document and explain the QA procedures as follows:
- Contractor's organizational structure and lines of authority, the names, qualifications, duties, responsibilities, and classification of each member of the team involved in the workflows specifically related to this project;
 - QA procedures for configuration management, documentation, records, reviews and audits, testing, corrective action and certifications;
 - QA procedures to ensure contract performance is in accordance with the contract's requirements;
 - QA procedures to identify, prevent, and ensure non-recurrence of deficiencies.
- 3.8.4** The QA Plan shall be compatible and consistent with the Warranty Plan.
- 3.8.5** The Contractor shall provide detailed instructions in the Warranty Plan as foreseen in section 3.12.
- 3.8.6** Each deliverable shall be accompanied with its COTS documentation (user, maintenance and installation manuals). This documentation shall be identified in the inventory.

- 3.8.7** The Certificates and the Declarations of Conformity shall be provided by the Contractor at the time of the delivery.
- 3.8.8** If requested by the Purchaser, the Contractor shall provide the Original Equipment Manufacturer (OEM) specifications and data sheets to show the reliability characteristics of the equipment (i.e. MTBF) and the configuration item numbers assigned by the OEMs.
- 3.8.9** At least once a week, the Contractor shall provide an updated status of TOs through an online consultable TO Overview. The TO Overview shall include the following information as a minimum (list not exhaustive):
- Purchase Order (PO) Number
 - Task Order (TO) Number
 - Destination
 - Contractual Delivery Date
 - First/Partial Delivery Date
 - TO Delivery Date forecast
 - Items Ordered
 - Items Correctly Delivered
 - Discrepancies Identified
 - Status of missing items
- 3.8.10** The Contractor shall deliver Lead Times Overview of the products based on OEMs official lead times consultable online as defined in the section 3.10. The Overview shall clearly show if there are:
- obsolescent items that could be acquired in the last buy order only;
 - obsolete items to be replaced in the CLINS list of the SSS.
- 3.8.11** All documentation shall be in the English language.

3.9 SUPPLY CHAIN SECURITY

- 3.9.1** The Contractor shall warrant that all supplies furnished under this Contract are genuine and free of malicious components, firmware and software.
- 3.9.2** The Contractor shall confirm in the inventory provided (i.e. MDS) that all products to be delivered have been checked for technical integrity and protected from malicious tampering, up to the point of delivery.
- 3.9.3** The Contractor shall identify in the inventory the supplier of all equipment to be delivered and the identities of suppliers of major components thereof. The Contractor shall ensure that all equipment and major components thereof are marked or labelled to identify the supplier.
- 3.9.4** The Contractor shall ensure that all equipment to be delivered are protected from malicious tampering or external intervention during storage and

transportation up to the point of delivery. To ensure this protection, the Contractor shall use specially marked packaging material that has a lower risk of duplication.

- 3.9.5** The Contractor shall allow and support ad-hoc spot checks and audits by the Purchaser of any of its supply chain security measures at any of the Contractor's locations and facilities used in the Contractor's supply chain relevant to this Contract.
- 3.9.6** The Purchaser reserves the right to reject, at the Contractor's expense, any equipment delivered which does not conform to the description provided in the inventory, shows evidence of tampering or constitutes a risk being intervened/tampered during transportation due to theft or unauthorized access. The Contractor shall replace such goods at no cost to the Purchaser.
- 3.9.7** If requested, the Contractor shall provide a Supply Chain Security document to explain their end-to-end supply chain processes and all parties involved in the supply chain from original manufacturer until the delivery at Purchaser facility.

3.10 DELIVERY LEAD TIMES

- 3.10.1** Delivery lead times for each TO shall be coherent with OEM official times plus the number of weeks indicated in the SSS necessary to the Contractor for logistic operations and shipments.

3.11 INSTALLATION AND COMMISSIONING SERVICES

- 3.11.1** If covered under the TO and in accordance with the SSS, the Contractor shall provide qualified and experienced technicians/engineers at specified Purchaser locations to support installation activities under the direction of Purchaser personnel.
- 3.11.2** The Contractor shall ensure that certified installation and professional services technicians/engineers are used from the equipment manufacturer/vendor support organisation to install and commission equipment to comply with support/warranty requirements. The Purchaser's preference is for these personnel (i.e. certified installation and professional services technicians/engineers) to have a NATO S3CRET security clearance. However, the use of un-cleared personnel may be considered on a case-by-case basis and on a Task Order level. The labour categories requirements for Contractor staff are outlined in the Section 4.8.
- 3.11.3** The Contractor shall plan the on-site installation activities to be completed no later than 10 business days after the on-site receipt of the items. In case

the actual installation activities are anticipated to take longer than 5 business days, the completion date will be extended accordingly.

- 3.11.4** The Contractor shall propose the installation dates at the time of NoS released as per SOW 3.4.10 to ensure that the Customer site is ready and available to allow the visit and the activities.
- 3.11.5** The Contractor shall provide the required personnel data no later than 10 business days before the on-site visit, to ensure that necessary authorizations can be obtained and site access can be granted.
- 3.11.6** Installation and commissioning activities shall be fully covered and costed under the related SSS CLIN as described in the TO. The “daily rate”, for the purpose of this contract, is described as a flat fee charged for a single day of an individual's work and shall include any material, travel, per diem or any additional cost that may incur during these activities.
- 3.11.7** The daily rate under the related SSS CLIN shall be based on OEM guidelines for a standard installation service and the required level of expertise to carry out the activities as described in the TO. Optimizing such cost is at the Contractor's discretion.
- 3.11.8** The amount of proposed days of work shall be subject to Fair and Reasonable determination with due consideration to the volume and type of activities involved, and in accordance with Purchaser's established Standard Operation Procedures.

3.12 WARRANTY & SUPPORT

- 3.12.1** The Contractor shall warrant that all supplies (Hardware, Software, licenses) furnished under this Contract conform to the requirements, are delivered in a 'new' condition, not refurbished but new and free of any defect in material, code or workmanship.
- 3.12.2** The Warranty shall start at the date of the Acceptance as described in SOW Section 3.7.6 at the destination sites and shall be at least for 1-year duration from the day of acceptance (after installation, if applicable). If a longer warranty duration specified in its respective schedule annex, then the warranty shall be 3-years or 5-years for those products in line with their product specification. For those products, the warranty extension as per SOW 3.12.6 will not be applicable.
- 3.12.3** The Contractor shall assign a PoC within its organization for the warranty claims and shall not delegate such responsibility to its suppliers (i.e. OEMs) unless agreed by the Purchaser on a case by case basis for practicality

reasons. The warranty services shall be usable/evocable in all NATO locations and countries, without any restriction to the country of the supplier or the delivery locations.

3.12.4 The Contractor shall provide detailed handling instructions, warranty plan, including help-desk and Point of Contact information, to be contacted in case of a warranty claim for each type of equipment, differencing procedures for COTS and Tempested Items. All warranty communications shall be in English.

3.12.5 The Contractor shall provide the following warranty services:

Item Category	Item Type	Warranty Service Type*	Resolution Time**	On-Site Intervention***
End-User Items (including but not limited to laptops, tablets, monitors, workstations, thin/thick clients, desktop PCs, projectors, VOIP, KVM switches, peripherals and accessories (mouse, keyboard, webcam, cables, batteries, patch cords, headsets, power adapters, power supply filters and so on) as described in SSS)	COTS	Replacement	10 Business Days	N/A
	TEMPEST	Replacement	20 Business Days	N/A
End-User Items (large) (including but not limited to plotters, printers, DVD Robots)	COTS	Repair/ Replacement	10 Business Days	Yes
	TEMPEST	Repair/ Replacement	20 Business Days	Yes
LAN Items (including but not limited to servers, storage, firewalls, switches, routers)	COTS	Repair/ Replacement	10 Business Days	Yes
	TEMPEST	Repair/ Replacement	20 Business Days	Yes
*When the 'replacement' service is to be applied, the Purchaser will ship back the faulty devices after the receipt of the replacement devices. This excludes media storage devices as per SOW 3.11.14.				
**Resolution time window shall start with the notification from the Purchaser as per SOW 3.11.6 and end with the warranty closure as per SOW 3.11.7 (or 3.11.8 for tempested devices). Warranty Claim Resolution will be monitored as one of the KPIs.				

****On-site intervention shall only be provided when the items are too large to ship and can be repaired on-site; or when the media storage items cannot be removed from the devices or secure wiped, therefore the device needs to be repaired on-site.*

There may be special circumstances (e.g. delay in customs outside of Contractor's/their Sub-Contractor's control) where these warranty resolution times cannot be met by the Contractor. In such cases, the Contractor shall provide an official statement, a corrective action plan and proof demonstrating that aforementioned situations are outside of Contractor's (or its Sub-Contractor's) control and there is no negligence on Contractor's (or its Sub-Contractor's) side such as unsatisfactory OEM agreements, or delays in creating the cases or placing the orders. For this type of special circumstances, Purchaser will review the data provided by the Contractor and may grant an extension to the warranty resolution period based on the merits of each case. The Contractor shall comply with the Purchaser's final decision on the matter.

Table 1 Warranty and Support Services

- 3.12.6** The warranty cases shall be completely resolved and closed within ten (10) business days starting from the notification by the Purchaser creating a warranty claim via email to the Contractor PoC. If shorter timelines and specific warranty requirements are specified in Annex A, then Annex A shall be taken as reference for resolution.
- 3.12.7** The ten (10) business days for warranty resolution shall include:
- 3.11.7.1.** the assessment and proposal for resolution and corrective actions from the Contractor;
 - 3.11.7.2.** technical assistance to Purchaser PoC for remote troubleshooting,
 - 3.11.7.3.** the shipment and receipt of the repair parts at Purchaser facilities,
 - 3.11.7.4.** proposal of alternative parts if the original part is not available,
 - 3.11.7.5.** the receipt of the repaired device or replacement device/parts at Purchaser facilities,
 - 3.11.7.6.** on-site intervention as described in SOW 3.11.10,
 - 3.11.7.7.** closure of the warranty case following Purchaser confirmation.
- 3.12.8** For tempested devices, the above 10 business days will be extended to 20 business days or past 20 business days on a case-by-case basis subject to Purchaser concurrence.
- 3.12.9** The Contractor shall provide the shipment address for faulty equipment to the Purchaser. The shipment of faulty equipment to the Contractor is at the expense of the Purchaser. The shipment of repaired or replaced equipment from the Contractor to the Purchaser shall be at the expense of the Contractor.
- 3.12.10** If the failure could not be identified remotely or the failed devices are too large to ship (DVD robots, printers, plotters, servers, racks and so on), the Contractor shall dispatch a field technician to resolve the issue on-site in Purchaser or its Customer's facilities, ensuring that the resolution will be completed before the timelines specified in SOW Section 3.11.7.
- 3.12.11** The Purchaser will maintain KPIs for warranty claims as described in SOW 4.3.

- 3.12.12** In case the Contractor fails to successfully close the warranty case within 10 business days as per SOW 3.11.7, the Purchaser reserves the right to purchase the replacement item from alternative suppliers and the cost shall be reimbursed from the Contractor as per the "Warranty & Support" Clause in the Contract Special Provisions.
- 3.12.13** If a specific device fails the second time after repair following the first failure, the Contractor shall replace the device and not continue with the repair services after the second failure.
- 3.12.14** In case of defect of a tempested item during warranty, due to NATO security constraints (INFOSEC AC/322-D(2012)011), within four (4) weeks, it will be returned to the Contractor for warranty repair or replacement removing any magnetic, solid state and electronic media storage devices (e.g. CD-ROM's, DVD's, USB sticks, solid state storage drives, hard drives) if necessary also breaking the seals. The Contractor shall replace such defect storage devices with new storage devices at no additional cost to the Purchaser. All the other non-storage devices and components (e.g. RAM's, boards etc.) will be returned unaltered from the initial configuration.
- 3.12.15** If the original part is no longer available for warranty repairs or replacements, the Contractor shall provide the alternatives or superseding items, ensuring quality and form, fit and functional requirements. The Contractor shall propose the alternative part with the related part information (P/N, OEM) for Purchaser approval.
- 3.12.16** The Contractor shall extend the warranty from 1-year to 3-years for each CLIN listed in SSS, if requested by the Purchaser in the TO. If extended, the warranty requirements listed in SOW Section 3.11 shall be applicable in its entirety for the duration of the extended warranty. The Purchaser may decide to extend the warranty at any moment prior to the actual delivery date of the item under warranty through a TO amendment.

4 PROJECT MANAGEMENT

4.1 INTRODUCTION

4.1.1 This Project Management section outlines the general administration requirements of this Contract.

4.1.2 The project will be managed and administrated by the Contract Officer, who will act as the Purchaser's representative for all project matters; as well as, contractual issues, and will therefore be the primary interface between the Contractor and the Purchaser from the Effective Date of Contract (EDC).

4.2 KEY PERSONNEL

4.2.1 The Contractor shall provide all necessary suitably qualified manpower and resources to conduct and support the requirement and shall as a minimum include:

4.2.1.1. The Contractor shall designate a Delivery Manager (DM), who shall direct and co-ordinate the activities of the Contractor's project team for the entire duration of the Contract.

4.2.1.2. The Contractor's DM shall be the Contractor's primary interface to the Purchaser's representative.

4.2.1.3. The DM shall be responsible for all deliveries to sites according to Task Orders issued under the contract. They shall further be responsible for all aspects of the day-to-day coordination of equipment deliveries (including but not limited to: orders, customs, notifications, transport, shipment, receipt, hand-over to local stock, and accounting), as well as creating and maintaining an up to date Product Catalogue.

4.2.1.4. The Contractor's DM shall support and attend the Technical Refresh Reviews according to the provisions in Section 4.5 of this SOW.

4.2.2. The Contractor shall designate a Technical Lead (TL), who shall exercise the technical obligations under the Contract, including but not limited to:

4.2.2.1. the ILS requirements in Section 3 of this SOW;

4.2.2.2. advising on the commercial availability of the items which will deliver the technical requirements of the Purchaser;

4.2.2.3. advising on the technology roadmap, changing market offerings;

4.2.2.4. advising on obsolescence management due to end of production, end of sale, or end of support;

4.2.2.5. advising on the technical qualities and characteristics of all equipment and accessories provided under the Contract.

4.2.3. The Contractor may combine the roles of Delivery Manager and Technical Lead into one person providing that the individual proposed has the

qualifications and experience to undertake both roles and the projected workload can be managed by one person. This arrangement shall be subject to Purchaser approval.

4.2.4. The Contractor shall ensure that the Personnel designated to manage this requirement are in possession of a valid Security Clearance Certificate of NATO S3CRET.

4.2.5. The Personnel proposed for this contract shall include a curriculum vitae and security clearance information. In addition, at least four (4) years of experience for an effort of similar scope, duration, complexity and cost.

4.3. KEY PERFORMANCE INDICATORS (KPIs) SCORECARD

4.3.1. The contract performance shall be measured on a quarterly basis through the use of the five (5) KPIs listed in the “Key Performance Indicators (KPIs) and Targets” Clause of the Contract Special Provisions.

4.3.2. Each KPI has a target, and the KPI shall be awarded a percentage score of compliance towards this target during the quarter in question.

4.3.3. Each KPI score is weighted in terms of its importance to the overall contract performance via a pre-determined weight.

4.3.4. The weighted score, per quarter, of the KPIs provides the Total Quarterly Score in percentages. This Total Quarterly Score shall then be reflected in a Pass or Fail manner on the “Overall Scorecard” to allow for ease of visibility.

4.3.4.1. Pass = 85.1 – 100%

4.3.4.2. Fail = 0 – 85%

4.3.5. The Purchaser will share the Scorecards, associated feedback and then discuss with the Contractor the encountered issues and improvements as required. Based on the feedback provided, the Contractor shall propose an action plan within 10 business days to improve on any identified shortcomings.

4.3.6. The KPIs shall be measured based on the following criteria and instructions, provided in Table 1 below.

KPI	WEIGHT	MEASUREMENT CRITERIA	INSTRUCTIONS FOR SCORING
Delivery on Time (DOT)	20%	Delay in Business Days	<ul style="list-style-type: none"> • TO Delivery Date means the specified delivery lead time (on the TO) after the TO release date. <ul style="list-style-type: none"> • Arrived by deadline = 100% • Arrived maximum of 2 business days late = 95% • Arrived maximum of 5 business days late = 90% • Every additional business day delay = reduction of 5%

			It is applicable also to installation and commissioning services (section 3.11).
Delivery Complete	20%	Delivery Completeness Percentage	<ul style="list-style-type: none"> • Complete delivery means all items are correctly delivered in quantity, type, and undamaged based on the inspection as per SOW Section 3.7. • Complete delivery, or above 99% = 100% • All percentages are rounded up to the nearest %-point. • % is calculated by Items Correctly Delivered / Items Ordered
Delivery Discrepancy Resolution	20%	Delay in Business Days	<ul style="list-style-type: none"> • Discrepancies are listed and elaborated in SOW section 3.7. • All discrepancies closed within 10 business days after Purchaser notification = 100% • Every additional business day delay = reduction of 5%. • No Discrepancies with a TO = 100%.
Warranty Resolution	30%	Delay in Business Days	<ul style="list-style-type: none"> • Warranty Claim Initiation Date means the notification by the Purchaser creating a warranty claim via email. • Warranty Claim Resolution Date means the Purchaser confirmation of satisfactory closure, as per SOW Section 3.11. • All Warranty Claims satisfactorily closed within 10 Business days for COTS, or 20 Business days for TEMPEST devices = 100% • Every additional business day delay = reduction of 5%. • 1 Business day is counted as 24h from the notification.
Up to Date Product Catalogue	10%	Yes or No (following Purchaser request via TO)	<ul style="list-style-type: none"> • The Product Catalogue is considered not 'up to date' if a Purchaser request was kept on hold or otherwise delayed due to items no longer being available, while remaining available for selection in the Product Catalogue; unless the alternative replacement was already proposed in writing to the Purchaser. This is further elaborated in SOW Section 4.6. • Up to date Product Catalogue = 100% • Notification after submission of a Task Order that the Product Catalogue is not up to date = 0%

Table 2 Scorecard Instructions

4.3.7. All the above is detailed in visual form in the Scorecard in template form attached as Annex C to this SOW.

4.3.8. In case the minimum total score in 4.3.4.1 will not be reached, penalties shall be applied to the quarterly score as detailed in the following table:

Total score Value (TOT)	Penalty
TOT ≥ 85.1%	No penalty
85.1% > TOT ≥ 84%	0.1% of the total value of TOs in the quarter
84% > TOT ≥ 83%	0.2% of the total value of TOs in the quarter
83% > TOT ≥ 82%	0.3% of the total value of TOs in the quarter

82% > TOT ≥ 81%	0.4% of the total value of TOs in the quarter
81% > TOT ≥ 80%	0.5% of the total value of TOs in the quarter
80% > TOT ≥ 77%	1% of the total value of TOs in the quarter
77% > TOT ≥ 73%	2% of the total value of TOs in the quarter
73% > TOT ≥ 70%	4% of the total value of TOs in the quarter
70% > TOT ≥ 50%	8% of the total value of TOs in the quarter
50% > TOT	10% of the total value of TOs in the quarter

Table 3 Penalties

4.4. PROJECT MEETINGS

4.4.1. General

4.4.2. Except where otherwise stated in the Contract, the following provisions shall apply to all meetings to be held under the Contract.

4.4.3. The Contractor shall take meeting minutes, submit them within five (5) business days of the meeting in draft version to the Purchaser for approval.

4.4.4. The minutes shall document the topics, problems, discussions and all decisions made and include copies of the current Action Item List (AIL) and Schedule.

4.4.5. The participants shall not regard these minutes as a mechanism to change the terms, conditions or specifications of the Contract, or as a vehicle to alter the design or configuration of equipment or systems. Any such changes shall only be made by agreement, amendment or by authorised mechanisms as set forth in the Contract by the Purchaser's Contracting Officer.

4.5. KICK-OFF MEETING

4.5.1. The Contractor shall attend the kick-off meeting shortly after Contract Award, when invited by the Purchaser.

4.5.2. The kick-off meeting shall be used to ensure full understanding of the fundamental principles underpinning this IDIQ contract, whereby the Minutes of Meeting shall capture – as a minimum – the discussion on the following topics:

4.5.2.1. Key Personnel.

4.5.2.2. Key Performance Indicators (KPIs) and their targets.

4.5.2.3. Shipment Deliveries.

4.5.2.4. Obsolescence Management.

4.5.2.5. Conditions surrounding contractual options.

4.5.3. Results from the kick-off meeting shall not relieve the Parties of any responsibilities from the Contract.

4.6. TECHNICAL REFRESH REVIEWS (TRR)

- 4.6.1.** The Contractor shall organise bi-annual Technical Refresh Reviews (TRRs), or more frequently if so requested by the Purchaser.
- 4.6.2.** The Contractor will receive a two week's notice prior to the requested TRR date.
- 4.6.3.** At the TRR the Contractor shall:
 - 4.6.3.1.** report on any changes to the SSS or Annex A to this SOW as proposed by the Purchaser.
 - 4.6.3.2.** report on the technology roadmaps and identify potential efficiency gains for the Purchaser in terms of avoiding obsolescence, or reducing Total Cost of Ownership and bring to the TRR any appropriate recommendation for change to the items described in Annex A to this SOW in the then current version of this Contract.
 - 4.6.3.3.** report on the current schedule of deliveries according to TOs already received including dates, places and quantities of equipment to be delivered by type;
 - 4.6.3.4.** report on the status of warranty claims that are open, and any statistics for those that are closed;
 - 4.6.3.5.** advise the Purchaser of any difficulty or problem foreseen with deliveries already ordered or with potential future deliveries based on the overall project scope as described in the sections above;
 - 4.6.3.6.** advise the Purchaser of any changes to the SSS or Annex A to this SOW which the Contractor deems necessary for the successful performance of this contract.
- 4.6.4.** The Contractor shall make a presentation at each TRR on the updates to equipment detailed in Annex A to this SOW which the Contractor recommends. This shall cover:
 - 4.6.4.1.** What has changed in the market over the last 6 months (e.g. substitution, improvement, and refreshment of technology)?
 - 4.6.4.2.** What benefits can be gained by changing to newer equipment (e.g. work efficiency gains, reduced power, more user friendly etc.)?
 - 4.6.4.3.** What impact would it have on the support activities?
 - 4.6.4.4.** What was the actual failure rate of devices delivered?
 - 4.6.4.5.** Any upcoming obsolescence due to end of production, end of sale or end of support?

4.7. PRODUCT CATALOGUE

- 4.7.1. The Contractor shall grant the Purchaser an access to the Product Catalogue available on the online portal applicable to the equipment in Schedules at Annex A to this SOW, with any relevant information to allow the Purchaser to create a TO. This shall include, as a minimum, the following:
 - 4.7.1.1. A complete list of items, with corresponding CLIN identifier;
 - 4.7.1.2. The specifications of the items with corresponding product picture;
 - 4.7.1.3. An indication of what has changed in the item or specification;
 - 4.7.1.4. The OEM delivery lead time;
 - 4.7.1.5. The Contractor Delivery lead time;
 - 4.7.1.6. Tempesting Options (if any);
 - 4.7.1.7. Warranty and support options.
- 4.7.2. The Contractor shall provide guidance and clarification about use of the online Product Catalogue.
- 4.7.3. The online Product Catalogue shall be kept up to date with any replacement to obsolete or indefinitely unavailable items updated. It is considered not up to date if a customer request is kept on hold or otherwise delayed due to items no longer being available, while remaining available for selection in the Product Catalogue; unless the alternative replacement was already proposed in writing to the Purchaser.
- 4.7.4. The Product Catalogue and specifications shall be periodically formalized in Contract Amendments.
- 4.7.5. The information made available on the website shall be in English.
- 4.7.6. The cost of providing this shall be included in the Contractor's overhead and not charged otherwise.

4.8. LABOUR CATEGORIES

- 4.8.1. This section outlines minimum educational and experience qualifications for Contractor staff supporting this Contract. The labour categories identified shall be available to support all Task Areas as required.
- 4.8.2. The Purchaser reserve the right to revoke any Contractor staff who would not suit the expectations of the Purchaser.
- 4.8.3. Substitution of experience or education is allowed as outlined in Table below.

Education	Equivalent Education + Experience	Equivalent Experience
Associates degree		4 years of relevant experience

Bachelors degree	Associates + 2 years of relevant experience	6 years of relevant experience
Masters degree	Bachelors + 4 years of experience	8 years of relevant experience

4.8.4. Senior Engineer

- a.** Performs complex engineering tasks and multiple tasks simultaneously. Assists with or plans major research and engineering tasks of high complexity. Directs and co-ordinates all activities necessary to complete a major tasks or multiple smaller tasks. Performs advanced engineering research, hardware or software development.
- b.** Education: Masters degree in engineering.
- c.** Experience: At least seven years in engineering positions associated with the review, design, development, evaluation, planning and operation of electrical or electronic components, subsystems, or systems for government or commercial use. Member of recognised professional body.

4.8.5. Intermediate Engineer

- a.** Performs engineering tasks and additional duties as assigned. Assists higher level engineers with larger tasks. Manages or directs multiple engineering tasks, directing research and development activities as required. Performs advanced engineering applications programming and analysis for systems/equipment assigned.
- b.** Education: Bachelors degree in engineering.
- c.** Experience: At least three years in engineering functions associated with the review, design, development, evaluation, planning and operation of electrical or electronic components, subsystems, or systems for government or commercial use.

4.8.6. Junior Engineer

- a.** Performs engineering tasks under the direction of higher level engineers. Performs independent research, conducts studies and analysis, and participates in the design and development of complex systems.
- b.** Education: Bachelors degree in engineering.
- c.** Experience: At least one year in engineering functions associated with the review, design, development, evaluation, planning and operation of electrical or electronic components, subsystems, or systems for government or commercial use.

4.8.7. Senior Systems Engineer

- a.** Plans and co-ordinates project management and engineering. Provides comprehensive definition of all aspects of system development from analysis of mission needs to verification of system performance. Competent in technical disciplines as applied to government and commercial information and communications systems. Prepares trade-off studies and evaluations for vendor equipment. Recommends design changes/enhancements for improved system performance. Supervises the work of a design, integration, test, and implementation team.
- b.** Education: Masters degree in engineering or computer science.

- c. Experience: At least seven years in system design and integration. At least five years in the design, integration, or implementation of systems.
- 4.8.8. Intermediate Systems Engineer**
- a. Performs system engineering assignments in support of the analysis of complex system design, formulating requirements, developing alternative approaches, conduct of studies, and application of standards. May function as a member of an engineering team assigned responsibilities for specific task areas.
 - b. Education: Bachelors degree in engineering or computer science.
 - c. Experience: At least three years in system design and integration.
- 4.8.9. Junior Systems Engineer**
- a. Conducts research and application of system design principles for the design, development, implementation, or support as a member of assigned task staffing. Develops alternative solutions, concepts, or processes through research into assigned systems and components.
 - b. Education: Bachelors degree in engineering or computer science.
 - c. Experience: At least one year in system design and integration.
- 4.8.10. Senior Communications Engineer**
- a. Performs communications system implementation planning, engineering design for integration with processing systems, specification development, standards, interface design, testing, and the conduct of transmission and traffic studies.
 - b. Education: Masters degree in engineering.
 - c. Experience: At least seven years experience in the engineering of communications systems via all transmission media.
- 4.8.11. Intermediate Communications Engineer**
- a. Prepares communications systems designs and technical documentation, and other design criteria. Implements COTS and emerging communications systems and develops technical plans, documentation, and support.
 - b. Education: Bachelors degree in engineering.
 - c. Experience: At least three years experience in the engineering of communications systems via all transmission media.
- 4.8.12. Junior Communications Engineer**
- a. Conducts engineering analysis, develops technical documentation, investigate communications requirements, formulates network interfaces, and assists in project/program execution.
 - b. Education: Bachelors degree in engineering.
 - c. Experience: At least one year experience in the engineering of complex communications systems via all transmission media.
- 4.8.13. Senior Network Engineer**
- a. Designs network topologies and architectures. Determines applicable

hardware, software, and connectivity solutions. Supports implementation through configuration set-up, testing, and training of users.

- b.** Education: Masters degree in engineering and completion of a formal network certification program.
- c.** Experience: At least seven years experience in network systems. At least five years experience with TCP/IP wide area networks.

4.8.14. Intermediate Network Engineer

- a.** Develops detailed network interface and configuration data. Surveys and evaluates applicable products. Prepares network diagrams. Provides guidance for system implementation and support.
- b.** Education: Bachelors degree in engineering.
- c.** Experience: At least five years experience in network systems. At least three years experience with TCP/IP wide area networks.

4.8.15. Junior Network Engineer

- a.** Develops network interface and configuration data for system components. Surveys and evaluates network products. Prepares network diagrams. Prepares routing tables and installation and support documentation.
- b.** Education: Bachelors degree in engineering.
- c.** Experience: At least one year experience in the engineering of complex communications systems via all transmission media.

4.8.16. Systems Integration Analyst

- a.** Develops and implements solutions using the optimal technology, platform, and interfaces. Researches available tools and technologies to determine alternate technology solutions. Researches, implements, and supports multiple computing platforms, operating systems, processing environments, and telecommunications technologies. May conduct cost/benefit or feasibility analyses; perform capacity analyses and planning.
- b.** Education: Bachelors degree in engineering or computer science.
- c.** Experience: At least seven years in the integration and implementation of COTS-based information systems.

4.8.17. Senior Software Programmer

- a.** Performs complex program development using standard and specialised languages to create special purpose software, modify existing programs, and enhance system efficiency and integrity. Translates detailed designs into software, tests, debugs, and refines software packages. Manages software development teams in modular development of complex applications. Provides technical direction to assigned programmers.
- b.** Education: Bachelors degree in engineering or computer science.
- c.** Experience: At least seven years in the design, programming, and testing of applications software.

4.8.18. Intermediate Software Programmer

- a.** Analyses systems requirements and design specifications to develop block

diagrams and logic flow charts. Translates detailed designs into computer software for specific applications. Prepares documentation, including program and user documentation.

- b.** Education: Bachelors degree in engineering or computer science.
- c.** Experience: At least three years in the design, programming, and testing of applications software.

4.8.19. Junior Software Programmer

- a.** Performs programming tasks based upon specifications and flow diagrams. Translates concepts into program modules for testing, debugging, refinement, and integration with other modules. Prepares draft documentation including program and user documentation. Functions as a member of a software development team under the guidance of more experienced programmers.
- b.** Education: Bachelors degree in engineering or computer science.
- c.** Experience: At least one year in the design, programming, and testing of applications software.

4.8.20. System Support Engineer

- a.** Designs and integrates system support applications and protocols to meet system requirements. Analyses architectural options for performance and manageability. Analyses and designs implementations to meet specialised message formats or interfaces.
- b.** Education: Bachelors degree in engineering.
- c.** Experience: At least seven years in the design, integration, and implementation of information systems. At least three years experience with SNMP and system support applications.

4.8.21. Senior Test Engineer

- a.** Directs test planning, design and tools selection. Establishes guidelines for test procedures and reports. Co-ordinates with Purchaser on test support requirements and manages Contractor test resources.
- b.** Education: Bachelors degree in engineering.
- c.** Experience: At least seven years in the design and execution of information systems tests.

4.8.22. Intermediate Test Engineer

- a.** Designs and documents unit and application test plans. Transforms test plans into test scripts and executes those scripts. Supervises individual tests and prepares test reports.
- b.** Education: Bachelors degree in engineering.
- c.** Experience: At least three years in the design and execution of information systems tests.

4.8.23. Junior Test Engineer

- a.** Performs testing activities under supervision of more experienced test personnel. Executes defined test cases and procedures. Collects and analyses test data. Prepares test reports

- b. Education: Bachelors degree in engineering.
- c. Experience: At least one year in the design and execution of information systems tests.

4.8.24. Test Technician

- a. Provides installation and administration support to information system testing. Constructs and tests prototype equipment for electrical systems and components, consistent with engineering and other specifications. Executes tests and collects test data. Assists in preparing test reports.
- b. Education: Associates degree or two years of technical training.
- c. Experience: At least two years in the configuration and administration of information systems or test and measurement systems.

4.8.25. Information Systems Security Engineer

- a. Analyses and develops network systems and information security practices to include: operating systems, applications, TCP/IP, security architecture, multi-level security, intrusion detection, virus detection and control, PKI, vulnerability assessment. Documents findings and recommend changes in procedures, configuration, or design.
- b. Education: Bachelors degree.
- c. Experience: At least three years in information systems security. At least five years in information systems integration, implementation, or operation.

4.8.26. Information Systems Security Specialist

- a. Provides support in implementing procedures and practices prescribed for safeguarding and control of an automated information system and the processing of classified information.
- b. Education: Associates degree or two years of technical training.
- c. Experience: At least two years as an Information Systems Security Officer for an operational system.

4.8.27. Field Engineer

- a. Conducts site surveys, prepares implementation plans, prepares implementation procedures, supervises installation and activation, reports on installation status, manages repair and modifications to systems/equipment, performs field maintenance, and performs system configuration changes based upon approved specifications.
- b. Education: Bachelors degree.
- c. Experience: At least seven years in the installation and support of information systems.

4.8.28. Senior Technician

- a. Supervises technicians in the troubleshooting, repair, installation, training, integration, and upgrade of systems and equipment. Works closely with assigned engineers and systems personnel to support implementation and activation efforts.
- b. Education: Associates degree.
- c. Experience: At least seven years in the installation and maintenance of

network and information systems.

4.8.29. Intermediate Technician

- a.** Performs troubleshooting, repair, refurbishment, and installation of systems and equipment. Performs factory or field testing of systems, development of maintenance or repair procedures, and supports installation teams in specific areas of expertise.
- b.** Education: Associates degree.
- c.** Experience: At least three years in the installation and maintenance of network and information systems.

4.8.30. Junior Technician

- a.** Performs troubleshooting, repair, and installation functions as assigned. May be assigned as technical support technician for specific systems or hardware. Performs factory or field testing and supports installation teams as assigned.
- b.** Education: Secondary school graduate with one year of technical training.
- c.** Experience: At least two years installing and maintaining network and information systems.

ANNEX A: TECHNICAL SPECIFICATIONS

1. The equipment for this Contract shall meet or exceed the specifications provided in this Annex for each equipment schedule. The equipment covered under the Contract, including items being returned after warranty repair, shall be delivered at the locations mentioned in Task Order and at the date mentioned in Schedule of Supplies and Services (SSS).

1.1. Schedule A: Standard End User Equipment

As standard equipment in accordance with the SSS are considered the items that constitute the majority of the purchase on the Schedule, and are the following items:
1. Laptops: Dell Latitude 7430 series or HP EliteBook 840 G9 (COTS) and any further successor or replacement model thereafter
2. Laptops: Dell Latitude 7330 Rugged series or HP EliteBook 830 G9 (COTS, Tempest Level A, B & C) and any further successor or replacement model thereafter
3. Laptops: Alienware X17 R1 series or HP ZBook and any further successor or replacement model thereafter
4. Workstations: Dell Precision 3660 series or HP Z2 G9 (COTS, Tempest Level A, B & C) and any further successor or replacement model thereafter
5. Workstations: Dell Precision 5820 series or HP Z4 (COTS, Tempest Level A, B & C) and any further successor or replacement model thereafter
6. Desktop PCs: Dell Optiplex 5000 series or HP EliteDesk 800/600 or HP ProDesk 400 (COTS, Tempest Level A, B & C) and any further successor or replacement model thereafter
7. Hybrids/Convertibles/Tablets: Latitude 7320 series or HP Elitebook 830 G9 and any further successor or replacement model thereafter
8. Hybrids/Convertibles/Tablets Dell Latitude 7220 Rugged Extreme series or HP F110G6/EX and any further successor or replacement model thereafter
9. Thin Clients: Dell Optiplex 3000 series or HP T640 (COTS, Tempest Level A, B & C) and any further successor or replacement model thereafter
10. Monitors: 24" or HP P24, E24, Z24 (P=Pro series, E=Elite series, Z=Workstation series) (COTS, Tempest Level A, B & C)

As non-standard equipment in accordance with the SSS are considered the items that do not constitute the majority of the purchase on the Schedule, and are the following items:

1. Items at a higher class than the standard equipment as defined in this schedule. Lower class equipment than the standard equipment does not meet minimum technical and security requirements therefore are not within the scope of the contract

2. Highly specialized equipment

3. Standard equipment as defined in this schedule with alternate configuration or minor modification

4. Non-standard equipment will be required only as COTS, without Tempesting modification

1.2. Schedule B: (LAN) Network Equipment

1.2.1 CISCO: There are no minimum requirements established on the contract level.

As standard equipment in accordance with the SSS are considered the items that constitute the majority of the purchase on the Schedule, and are the following items:

1. Collaboration Endpoints Products

2. Contact Centre Products

3. Routers

4. Servers - Cisco Unified Computing System

5. Storage Networking Products

6. Switches Products

7. CISCO SmartNet Services - Direct attached (ordered together with the hardware)

As non-standard equipment in accordance with the SSS are considered the items that do not constitute the majority of the purchase on the Schedule, and are the following items:

1. Unified Communications

2. Universal Gateways and Access Servers Products

3. Video Products

4. Wireless Products

5. Conferencing Products

6. CISCO SmartNet Services - Delayed attached (ordered later/separately of the hardware)
7. CISCO Smartnet Services - renewal of Smartnet contracts

1.2.2. FORTINET: There are no minimum requirements established on the contract level.

As standard equipment in accordance with the SSS are considered the items that constitute the majority of the purchase on the Schedule, and are the following items:
1. WAN Edge Secure SD-WAN 5G/LTE Wireless WAN
2. LAN Edge Switch Wireless
3. Device Edge – Zero trust connectivity
4. SOC / NOC (Security and Network Operation Centers)
5. Accessories (Connectors / transceiver's / SFP's)
6. Support Services 24x7
7. Support Services Courier 4 HR
As non-standard equipment in accordance with the SSS are considered the items that do not constitute the majority of the purchase on the Schedule, and are the following items:
1. Other Products (excluding Support, Subscription and Licenses)

2. The Schedule(s) shall be kept up to date by the Contractor in the Product Catalogue available on the online portal (as per section 4.7).

3. ANNEX B: QUALITY ASSURANCE (QA)

1. The following reference documentation applies for QA purposes. As a minimum, that the Contractor shall take into account the following non-exhaustive reference documentation for his implementation. All reference documentation regarding Quality Assurance are available through national delegations. The Contractor is responsible for ensuring that the latest version of documents, through national delegations, are used at the time of implementation:
 - a. Allied Quality Assurance Publication (AQAP) - 2000
 - b. AQAP - 2110
 - c. AQAP - 2210
 - d. AQAP - 2070
 - e. ISO/IEC 15288 – Systems and Software Engineering – System Life Cycle Process
 - f. AQAP 2009 - NATO Guidance on the use of the AQAP-2000 Series
 - g. AQAP-2000 Series
 - h. AQAP 2105 - NATO Requirements for Deliverable Quality Plans
 - i. AQAP 2310 - NATO Quality Management System Requirements for Aviation, Space and Defence Suppliers
 - j. International Standards 9000 Series
 - k. International Standard 10012-1 (ISO-10012-1)
 - l. Applicable NATO Standardisation Agreements
 - m. STANAG 4107
 - n. STANAG 4427

ANNEX C: e-FIT SCORECARD CRITERIA CHECKLIST

CRITERIA SCORES	WEIGHT	% RESULT (MONTH)	WEIGHTED SCORE (MONTH)	NOTES	Quarterly Scorecard	
1. Delivery on Time (DOT)	0.20				Pass	85.1 - 100%
2. Delivery Complete	0.20				Fail	0 - 85%
3. Delivery Discrepancy Closure	0.20					
4. Warranty Resolution	0.30					
5. Up to date Product Catalogue	0.10					
Total Quarterly Score	1.00		0.0%			

1. Delivery on Time (DOT)	Destination	TO Delivery Date	Actual Delivery Date	Delay In Business Days	%	BASIS FOR SCORE	INSTRUCTIONS FOR SCORING
							<ul style="list-style-type: none"> TO Delivery Date means the specified lead time (SSS or TO) after the TO release date Arrived by deadline = 100% Arrived maximum of 2 business days late = 95% Arrived maximum of 5 business days late = 90% Every additional business day delay = reduction of 5%
KPI Score							
2. Delivery Complete	Items Ordered	Items Correctly Delivered	Missing or Wrong Items	% Completeness	%	BASIS FOR SCORE	INSTRUCTIONS FOR SCORING
							<ul style="list-style-type: none"> Complete delivery means all items are correctly delivered in quantity, type, and undamaged. Complete delivery, or above 99% = 100% All percentages are rounded up to the nearest %-point. % is calculated by Items Correctly Delivered / Items Ordered
KPI Score	0	0					
3. Delivery Discrepancy Closure	Discrepancies Identified	Notification date	Closure Date	Delay In Business Days	%	BASIS FOR SCORE	INSTRUCTIONS FOR SCORING
							<ul style="list-style-type: none"> Discrepancies are listed and elaborated in SOW section 3.7 All discrepancies closed within 10 business days after Purchaser notification = 100% Every additional business day delay = reduction of 5%. No Discrepancies = 100%.
KPI Score							
4. Warranty Resolution	COIS or TEMPEST	Warranty Claim Initiation Date	Warranty Claim Closure Date	Delay In Business Days	%	BASIS FOR SCORE	INSTRUCTIONS FOR SCORING
							<ul style="list-style-type: none"> Warranty Claim Initiation Date means the notification by the Purchaser creating a warranty claim via email. Warranty Claim Closure Date means the Purchaser confirmation of satisfactory closure, as per SOW 3.11.7. All Warranty Claims satisfactorily closed within 10 Business days for COIS, or 20 Business days for TEMPEST devices = 100% Every additional business day delay = reduction of 5%. 1 Business day is counted as 24h from the notification.
KPI Score							
5. Up to date Product Catalogue	Yes	No			%	BASIS FOR SCORE	INSTRUCTIONS FOR SCORING
							<ul style="list-style-type: none"> The Product Catalogue is considered not up to date if a customer request was kept on hold or otherwise delayed due to items no longer being available, while remaining available for selection in the Product Catalogue; unless the alternative replacement was already proposed in writing to the Purchaser. Up to date Product Catalogue = 100% Notification after submission of a Task Order that the Product Catalogue is not up to date = 0%
KPI Score							