



**ΕΛΛΗΝΙΚΗ ΔΗΜΟΚΡΑΤΙΑ**  
Μόνιμη Αντιπροσωπεία της Ελλάδος  
στο NATO

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Βρυξέλλες, 09 Μαΐου 2022  
**Α.Π.: 2500**

**ΠΡΟΣ:** **ΥΠΟΥΡΓΕΙΟ ΕΘΝΙΚΗΣ ΑΜΥΝΑΣ**  
- ΓΔΑΕΕ/ΔΑΕΤΕ (μ.η.)

**ΚΟΙΝ.:** **ΥΠΟΥΡΓΕΙΟ ΕΞΩΤΕΡΙΚΩΝ** **ΓΕΕΘΑ**  
- κ. Δ' Γενικό Διευθυντή - Γ2 Διεύθυνση  
- Δ2 Διεύθυνση  
**ΥΠΟΥΡΓΕΙΟ ΑΝΑΠΤΥΞΗΣ**  
- Γενική Γραμματεία Εμπορίου (μ.η.)  
- Γενική Γραμματεία Βιομηχανίας/  
Διεύθυνση Διεθνών Βιομηχανικών  
Σχέσεων (μ.η.)  
**ΤΕΧΝΙΚΟ ΕΠΙΜΕΛΗΤΗΡΙΟ ΕΛΛΑΔΟΣ**  
- Διεύθυνση Επαγγελματικής  
Δραστηριότητας (μ.η.)

**ΘΕΜΑ:** 2<sup>η</sup> Τροποποίηση Αίτησης Υποβολής Προσφορών Διαγωνιστικής Διαδικασίας BOA, RFQ-CO-115455-SGSBS, "PROVIDE SATCOM GROUND SEGMENT BASEBAND SYSTEMS, a. Provision of non-protected modems (WP 1), b. Provision of SATCOM Convergence Routers (SCR) and Switches (WP 2), Project Serial: 2016/OCM03119"

Διαβιβάζεται, συνημμένως, 2<sup>η</sup> Τροποποίηση Αίτησης Υποβολής Προσφορών (Request for Quotation/RFQ) εν θέματι διαγωνιστικής διαδικασίας Basic Ordering Agreement (BOA), εκ μέρους NCIA, ως φιλοξενούντος έθνους.

Καταληκτική ημερομηνία υποβολής προσφορών ορίζεται η **20<sup>η</sup> Ιουνίου τ.έ., 12:00 τ.ώ.**

Ενδιαφερόμενοι δύνανται αναζητήσουν πληροφορίες μέσω καθοριζομένου σημείου επαφής (Point of Contact/POC, βλ. παρ. 8 αιτήσεως).

Παρακαλούμε για τις ενέργειές σας.

**Λ Α Μ Π Ρ Ι Δ Η Σ**

Συν. σελ.: 37

**ΑΚΡΙΒΕΣ ΑΝΤΙΓΡΑΦΟ**  
Η υπάλληλος της Μ.Α. ΝΑΤΟ  
Αικατερίνη Νικάκη  
Τμηματάρχης Α' ΕΠ & ΠΛ



ACQUISITION

RFQCO115455SGSBS@ncia.nato.int

NCIA/ACQ/2022/06784  
06 May 2022

**To: Distribution List**

**Subject: AMENDMENT No.2 to Request For Quotation: RFQ-CO-115455-SGSBS**  
**PROVIDE SATCOM GROUND SEGMENT BASEBAND SYSTEMS**  
**Provision of non-protected modems (WP 1)**  
**Provision of SATCOM Convergence Routers (SCR) and Switches (WP 2)**  
 Project Serial: 2016/OCM03119

**Reference:** A. AC/4(PP)D/28073-ADD1 dated 10 January 2022  
 B. AC/4-DS(2022)0001 dated 14 March 2022  
 C. RFQ-CO-115455-SGSBS - NCIA/ACQ/2022/06708 dated 05 April 2022  
 D. Amendment No.1 to RFQ-CO-115455-SGSBS - NCIA/ACQ/2022/06757 dated 27 April 2022

Dear Sir/Madam,

1. At Reference C your firm was invited, in conformance with the terms of your active **Basic Ordering Agreement (BOA)** with the NCI Agency to participate in a BOA competition for the for the provision of:
  - a) Non-protected modems - Super High Frequency (SHF) Military Satellite Communications (MILSATCOM) Frequency Division Multiple Access (FDMA) Next Generation Non-Electronic Protective Measures (EPM) modems and associated services under Work Package 1 (WP1);
  - b) SATCOM Convergence Routers (SCRs) and switches under Work Package 2 (WP2).
2. The purpose of this Amendment 1 is to:
  - a) Publish Purchaser's answers to the Clarification Requests (CRs) received to date from the potential Bidders for the subject RFQ. The Purchaser is providing response to the CRs received by the potential Bidders in Annex A to this letter;
  - b) Issue revised RFQ documents (Book I and Book II) as a consequence of the responses to some CRs, as follows:
    - RFQ-CO-115455-SGSBS-AMD2 - Book I, Annex A - Bidding Sheets for WP2;
    - RFQ-CO-115455-SGSBS-AMD2-WP2 - Book II, Part I, SSS for WP2;



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- RFQ-CO-115455-SGSBS-AMD1-WP2 - Book II, Part II, Contract Special Provisions for WP2;
- c) Extend the bid closing date.
3. To allow sufficient time to address the changes made as part of this amendment, the closing time for the submission of quotations in response to this RFQ is hereby **extended to 12:00 Hours (Brussels time) on 20 JUNE 2022**.
  4. Some answers to Bidders questions have necessitated changes to the RFQ bidding documents. Revised bidding documents as indicated in Paragraph 2 above is attached to this RFQ Amendment 2 and replaces the original versions in its entirety. Potential Bidders are strongly advised to carefully review revised bidding documents
  5. With the exception of the revisions mentioned above, all other RFQ documents remain unchanged from their original version as issued on 05 April 2022 or as already amended.
  6. Prospective Bidders are advised that the NATO NCI Agency reserves the right to cancel this RFQ at any time in its entirety and bears no liability for bid preparation costs incurred by firms or any other collateral costs if bid cancellation occurs.
  7. The reference for the RFQ is: **RFQ-CO-115455-SGSBS** and all correspondence concerning this RFQ should reference this number.
  8. The Purchaser point of contact for all information concerning this Request for Quotation is:  
  
NATO Communications and Information Agency  
Attention: Irina Barabancea, Contracting Officer  
Email: **RFQCO115455SGSBS@ncia.nato.int**

FOR THE CHIEF OF ACQUISITION:

Tiziana Pezzi  
Principal Contracting Officer

**Enclosures:**

- 1) Annex A - Purchaser's answers to the Clarification Requests
- 2) Revised Bidding Documents:
  - a) RFQ-CO-115455-SGSBS-AMD2 - Book I, Annex A - Bidding Sheets for WP2;
  - b) RFQ-CO-115455-SGSBS-AMD2-WP2 - Book II, Part I, SSS for WP2;
  - c) RFQ-CO-115455-SGSBS-AMD1-WP2 - Book II, Part II, Contract Special Provisions for WP2;

**ACKNOWLEDGEMENT OF RECEIPT OF AMENDMENT No.2**

**To RFQ-CO-115455-SGSBS**

**Please complete and return within 7 days by email to the POC**

We hereby advise that we have received Request for Quotation **RFQ-CO-115455-SGSBS** on ....., together with all enclosures listed in the Table of Contents.

**CHECK ONE**

☐ As of this date and without commitment on our part, we **do intend** to submit a quotation.

Please specify the Work Package:

☐ WP1

☐ WP2

☐ We **do not intend** to submit a quotation.

☐ We are reviewing the requirements of the RFQ and will notify you of our decision as soon as possible.

Signature .....

Company .....

Address .....

POC .....

Tel. ....

Fax .....

E-mail .....

**DISTRIBUTION LIST FOR Amendment No.2 to REQUEST FOR QUOTATION  
RFQ-CO-115455-SGSBS**

**Potential Bidders** (sent separately in electronic version)

**NATO Delegations** (Attn: Investment Adviser):

Albania	1
Belgium	1
Bulgaria	1
Canada	1
Croatia	1
Czech Republic	1
Denmark	1
Estonia	1
France	1
Germany	1
Greece	1
Hungary	1
Iceland	1
Italy	1
Latvia	1
Lithuania	1
Luxembourg	1
Netherlands	1
Norway	1
Poland	1
Portugal	1
Romania	1
Slovakia	1
Slovenia	1
Spain	1
Turkey	1
The United Kingdom	1
The United States of America	1

**Belgian Ministry of Economic Affairs** 1

**Embassies in Brussels** (Attn: Commercial Attaché):

Albania	1
Belgium	1
Bulgaria	1
Canada	1
Croatia	1
Czech Republic	1
Denmark	1
Estonia	1
France	1
Germany	1
Greece	1
Hungary	1
Iceland	1
Italy	1
Latvia	1
Lithuania	1
Luxembourg	1
Netherlands	1
Norway	1
Poland	1
Portugal	1
Romania	1
Slovakia	1
Slovenia	1
Spain	1
Turkey	1
The United Kingdom	1
The United States of America	1

***Distribution for information (Blind to Potential Industrial Suppliers):***

**NATO International Staff**

NATO Office of Resources  
Management and Implementation Branch  
Attn: Deputy Branch Chief

Director, NATO HQ C3 Staff  
Attn: Executive Co-ordinator

SACTREPEUR  
Attn: Infrastructure Assistant

**Strategic Commands** *(as applicable to funding source)*

SACT Attn: ACOS C4ISR

ACO Attn: SPT CIS Director

**NATEXs**

All NATEXs

**NCI Agency (Internal distribution)**

Date: 06 May 2022

TECHNICAL					
Serial Nr	RFQ Book	RFQ Section Ref.	QUESTION	ANSWER	RFQ amended
T.1	Book I – Annex A, Bidding Sheets for WP2  Book II, Part I (SSS) for WP2  Book II, Part II (SP) for WP2	Book I – Annex A, Bidding Sheets for WP2 CLIN 3, 4 and 5  Book II, Part I, (SSS) WP2, CLIN 3, 4 and 5  Book II, Part II (SP) for WP2 Paragraph 14.7	<i>For WP2, due to the current circumstances in the market with the lack of semiconductors and other external uncertainties, the delivery schedule of EDC + 6 months is unrealistic.</i>	<p>The delivery schedule (for WP2 only) is changed from EDC+6months to EDC+10months and in consequence all CLINs in relation with it. This change will affect as well the WP2 Payment Milestone Schedule.</p> <p>The following paragraphs of Book I and Book II have been amended accordingly to show the above-mentioned updates:</p> <p>Book I – Annex A, Bidding Sheets for WP2</p> <ul style="list-style-type: none"> <li>• CLIN 3, 4.14, 5.1</li> </ul> <p>Book II, Part I, (SSS) for WP2</p> <ul style="list-style-type: none"> <li>• CLIN 3, 4.14, 5.1</li> </ul> <p>Book II, Part II (SP) for WP2</p> <ul style="list-style-type: none"> <li>• Paragraph 14.7</li> </ul>	<p>Please see Amendment 2, Book I – Annex A, Bidding Sheets for WP2</p> <p>Book II, Part I (SSS) and Part II (SP) for WP2</p>





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**RFQ-CO-115455-SGSBS**  
**Amendment 2**

**Provision of SATCOM Convergence Routers (SCR) and Switches (WP2)**

**BOOK II**

**PART I**

**SCHEDULE OF SUPPLIES AND SERVICES**

CLIN	Description	Form	SOW Reference	Delivery Schedule	Delivery Location	QTY	Unit price	Total price
<b>1 Project Management</b>								
1.1	Project Implementation Plan (PIP) Draft	Paper, electronic	3.4.	EDC + 2 weeks	NCI Agency	1		
1.2	Project Implementation Plan (PIP) Final	Paper, electronic	3.4.	EDC + 8 weeks	NCI Agency	1		
1.3	Project Implementation Plan (PIP) Acceptance	Paper, electronic	3.4	NLT EDC + 10 weeks	as defined			
1.4	Project Review Meeting (PRM) #1 Kick -Off	n/a	3.6.	EDC + 4 weeks	NCI Agency/voice/video conference	1		
1.5	Project Review Meeting (PRM) #2 FAT Review Meeting	n/a	3.6.	in accordance with SoW	NCI Agency/voice/video conference	1		
1.6	Project Review Meeting (PRM) #3 FSA	n/a	3.6.	in accordance with SoW	NCI Agency/voice/video conference	1		
1.7	Project Review Meeting (PRM) #4 Mid Warranty	n/a	3.6.	mid warranty	NCI Agency/voice/video conference	1		
1.8	Project Status Reports (PSR)	Paper, electronic	3.6.	1 week before each PRM	NCI Agency	1		
<b>TOTAL CLIN 1</b>								
<b>2 Testing, Verification and Validation</b>								
2.1	Project Master Test Plan (PMTF)	Paper, electronic	Table 4-1 SoW	EDC + 2 weeks	NCI Agency	3		
2.2	Test Plans for individual test events	Paper, electronic	Table 4-1 SoW	2 months before test event	NCI Agency	3		
2.3	Test waivers	Paper, electronic	Table 4-1 SoW	4 weeks before test event	NCI Agency	3		
2.4	The Test Cases/Scripts/Steps	Paper, electronic	Table 4-1 SoW	4 weeks before test event	NCI Agency	3		
2.5	Test Report	Paper, electronic	Table 4-1 SoW	1 week after test event	NCI Agency	1		
2.6	Factory Acceptance Test (FAT) execution	n/a	4.2.	EDC + 3 months	Contractor premises	1		
2.7	FAT Test Procedure	Paper, electronic	4.2.	2 weeks before FAT	NCI Agency	3		
2.8	FAT Test Report	Paper, electronic	4.2.	FAT+ 1 week	NCI Agency	1		
2.9	FAT Review Meeting	n/a	4.2.	after the FAT event	NCI Agency/voice/video conference	1		
2.10	FAT Test Report Acceptance	Paper, electronic	4.2	NLT EDC + 15 weeks	as defined			
<b>TOTAL CLIN 2</b>								
<b>3 Equipment (one batch delivery)</b>								
3.1	Router G4	n/a	Annex A SRS	EDC+10 months	CSSC Brunssum	36		
3.2	Router G3	n/a	Annex A SRS	EDC+10 months	CSSC Brunssum	27		
3.3	Router DB	n/a	Annex A SRS	EDC+10 months	CSSC Brunssum	16		
3.4	Router HB	n/a	Annex A SRS	EDC+10 months	CSSC Brunssum	8		
3.5	Router SAC	n/a	Annex A SRS	EDC+10 months	CSSC Brunssum	4		
3.6	Switches	n/a	Annex A SRS	EDC+10 months	CSSC Brunssum	60		
3.7	Batch Delivery Acceptance	Paper, electronic	4.4	NLT EDC + 11 months	CSSC Brunssum			
<b>TOTAL CLIN 3</b>								

<b>4 Integrated Product Support</b>								
4.1	Product Support Data Package Draft	Electronic	Table 5-1 SoW	EDC + 8 weeks	NCI Agency	1		
4.2	Product Support Data Package Final	Electronic	Table 5-1 SoW	FAT - 2 weeks	NCI Agency	1		
4.3	Initial Provisional List (IPL) Draft	Electronic	Table 5-1 SoW	FAT - 2 weeks	NCI Agency	1		
4.4	Initial Provisional List (IPL) Final	Electronic	Table 5-1 SoW	FSA - 8 weeks	NCI Agency	1		
4.5	Warranty Report	Electronic	Table 5-1 SoW	Warranty End (FSA + 1 year)	NCI Agency	1		
4.6	User Manuals Draft	Electronic	Table 5-1 SoW	FAT - 2 weeks	NCI Agency	1		
4.7	User Manuals Final	Electronic	Table 5-1 SoW	BDA	NCI Agency	1		
4.8	Maintenance Manuals Draft	Electronic	Table 5-1 SoW	FAT - 2 weeks	NCI Agency	1		
4.9	Maintenance Manuals Final	Electronic	Table 5-1 SoW	BDA	NCI Agency	1		
4.10	Training Documentation Draft	Electronic	Table 5-1 SoW	FAT - 2 weeks	NCI Agency	1		
4.11	Training Documentation Final	Electronic	Table 5-1 SoW	BDA	NCI Agency	1		
4.12	In Service Support Plan (ISSP) Draft	Electronic	Table 5-1 SoW	FAT - 2 weeks	NCI Agency	1		
4.13	In Service Support Plan (ISSP) Final	Electronic	Table 5-1 SoW	FSA - 2 weeks	NCI Agency	1		
4.14	Initial Spares (Routers G4)	n/a		EDC+10 months	CSSC Brunssum	3		
<b>TOTAL CLIN 4</b>								
<b>5 System Acceptance</b>								
5.1	Final System Acceptance	Paper, electronic	Section 2, M. 3	NLT EDC + 13 months	As defined			
<b>TOTAL CLIN 5</b>								
<b>6 Warranty</b>								
6.1	End of Warranty	n/a	5.7	FSA+1 year	As defined	1		
<b>TOTAL CLIN 6</b>								
<b>GRAND TOTAL FIRM FIXED PRICE (CLINS (1-4))</b>								



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**RFQ-CO-115455-SGSBS  
AMENDMENT 2**

**PROVIDE SATCOM GROUND SEGMENT BASEBAND SYSTEMS**

**Provision of SATCOM Convergence Routers (SCR) and Switches (WP2)**

**BOOK II  
PART II**

**PROSPECTIVE CONTRACT SPECIAL PROVISIONS**



## CONTRACT SPECIAL PROVISIONS INDEX OF CLAUSES

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**ARTICLE 1 SCOPE**

1.1 The scope of this Contract is the procurement of COTS routers with MPLS and IPSEC functionality in multiple configurations and including accessories, and COTS Ethernet switches with MACSEC functionality and including accessories, to be installed across the fleet of NATO static, transportable and deployable ground terminals in accordance to the Statement of Work (Book II, Part IV) along with the capability and the related responsibilities, effort and services to be provided by the Contractor.

1.2 The Agreement and Acceptance of this Contract by the Parties neither implies an obligation on either part to extend the Contract beyond the specified scope or terms, nor to prohibit the Parties from mutually negotiating modifications thereto.

**ARTICLE 2 ALTERATIONS, MODIFICATIONS AND DELETIONS OF THE BOA GENERAL AND SPECIAL PROVISIONS**

Clause 2 – “Definitions” of BOA No. [...] Special Provisions is revised and supplemented by ARTICLE 4 – “DEFINITIONS”.

Clause 7 – “Warranty” of BOA No. [...] Special Provisions is revised and supplemented by ARTICLE 16 – “WARRANTY”.

Clause 8 – “Payments” of BOA No. [...] Special Provisions is replaced by ARTICLE 14 – “INVOICES AND PAYMENT”.

Clause 3 – “Purchaser Furnished Property” of BOA No. [...] General Provisions is revised and supplemented by ARTICLE 35 – “PURCHASER FURNISHED PROPERTY”.

Clause 5 – “Title and Risk of Loss” of BOA No. [...] General Provisions is revised and supplemented by ARTICLE 13 – “TITLE AND RISK OF LOSS”.

Clause 7 – “Inspection, Acceptance and Rejection” of BOA No. [...] General Provisions is revised and supplemented by ARTICLE 11 – “INSPECTION AND ACCEPTANCE” and ARTICLE 12 – “REVIEW AND ACCEPTANCE OF DOCUMENTATION”.

Clause 27 – “Security” of BOA No. [...] General Provisions is revised and supplemented by ARTICLE 21 – “SECURITY”.

Clause 31 – “Rights in Technical Data” of BOA No. [...] General Provisions is replaced by ARTICLE 23 – “RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE”.

**ARTICLE 3 ORDER OF PRECEDENCE**

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

- a. The Signature Page;
- b. Part I - The Contract Schedule of Supplies and Services (SSS);

- c. Part II - The Contract Special Provisions;
- d. Part III – The Terms of the governing Basic Ordering Agreement as specified in Block 11 on the signature page;
- e. Part IV – The Statement of Work (SOW) and the Annexes to the Statement of Work.

## ARTICLE 4 DEFINITIONS

4.1 Clause 2 “Definitions” of BOA No. [...] Special Provisions is revised and supplemented by the following:

4.2 “Article” shall mean “A provision of the Special Provisions of this Contract”.

4.3 “Contract” shall mean “The agreement concluded between the Purchaser and Contractor, duly signed by both parties. The Contract includes the documents referred to in Article 3 above of these Contract Special Provisions”.

4.4 “Contracting Authority” shall mean “The General Manager of the NCI Agency, the Director of Acquisition, the Chief of Contracts of the NCI Agency or the authorized representatives of the Chief of Contracts of the NCI Agency”.

4.5 “Contractor” shall mean “The person or legal entity from a Participating Country which has signed this Contract and is a Party thereto”.

4.6 “NCI Agency (NCIA)” shall mean “The NATO Communications and Information Agency. The NCIA is part of the NCIO. The General Manager of the Agency is authorized to enter into contracts on behalf of the NCI Organization”.

4.7 “NCI Organization (NCIO)” shall mean “The NATO Communications and Information Organization. The NCI Organization constitutes an integral part of the North Atlantic Treaty Organization (NATO). The NCI Organization is a legal personality from whence flows the authority of its agent, the NCI Agency, to enter into contracts”.

4.8 “Effective Date of Contract (EDC)” shall mean “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”.

4.9 “Parties” shall mean “The Contracting Parties to this Contract, i.e. the Purchaser and the Contractor”.

4.10 “Purchaser” shall mean “The NCI Organization, as represented by the General Manager, NCIA 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”.

## ARTICLE 5 DURATION OF CONTRACT

5.1 It is the Purchaser’s intention that the present Contract covers the totality of the requirements as covered by the Schedule of Supplies and Services (SSS) and the Statement of Work (SOW) with the exception of the Options (if any), unless those options are formally exercised and funded in accordance with the prescriptions of Article 7 “Additional Contract Tasks and Options”.

5.2 The work under the Contract shall commence on effective date of Contract shown on the signature page and be completed in accordance with the Schedule of Supplies and Services and Statement of Work.



**ARTICLE 6 PRICE BASIS**

6.1 This is a Firm Fixed Price Contract. Firm Fixed Prices are established for the supplies and services defined in Part I - Schedule of Supplies and Services.

6.2 The Purchaser assumes no liability for costs incurred by the Contractor in excess of the stated Firm Fixed Price except as provided under other provisions of this Contract.

6.3 The Total Contract price is inclusive of all expenses related to the performance of the present Contract.

6.4 The Total Contract price in this Contract is Delivered Duty Paid (INCOTERMS 2020).

**ARTICLE 7 ADDITIONAL CONTRACT TASKS AND OPTIONS**

7.1 The Purchaser may increase the quantity of supplies and services as set forth in any line item of Part I - Schedule of Supplies and Services at the prices stated therein any time during the period of performance of the Contract until end of Warranty. This right can be exercised multiple times for any of the line items, by increasing the firm fixed price of the Contract via a formal Contract Amendment, or by issuing a new contractual instrument. In this case the Contractor shall honour such right at the same rates and conditions as stated in Part I – Schedule of Supplies and Services.

7.2 If this right is exercised, delivery of the added items shall be to the same destination or optional site destination as specified in the basic Contract; unless otherwise specified on the written notice. If the Contract provides for multiple destinations, the Purchaser will specify to which destination(s) the additional quantities are to be shipped. If the Purchaser specifies a destination that is not part of the basic Contract requirements, the Parties will agree to an equitable adjustment as may be required to reflect any additional costs incurred by the Contractor in making such delivery.

7.3 In addition to the above, the Purchaser reserves the right to order any foreseeable or additional Contract tasks or deliverables, listed or not, either occasionally or at a further stage in the life of the project, which it deems necessary for the successful completion of the project. The additional tasks and/or deliverables shall be priced in using the prices as stated in Part I – Schedule of Supplies and Services.

7.4 Except as otherwise provided for in this Contract, Contractor's price quotations for contract changes or modifications shall be provided at no cost to the Purchaser and shall have a minimum validity period of six (6) months from submission.

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

**ARTICLE 8 PARTICIPATING COUNTRIES**

8.1 The Contractor may issue subcontracts to firms and purchase from qualified vendors in any contributory NATO nations in the project, namely, (in alphabetical order):

ALBANIA, BELGIUM, BULGARIA, CANADA, CROATIA, CZECH REPUBLIC, DENMARK, ESTONIA, FRANCE, GERMANY, GREECE, HUNGARY, ICELAND, ITALY, LATVIA, LITHUANIA, LUXEMBOURG, NETHERLANDS, NORWAY, POLAND, PORTUGAL, ROMANIA, SLOVAKIA, SLOVENIA, SPAIN, TURKEY, UNITED KINGDOM, UNITED STATES OF AMERICA.

8.2 None of the work, including project design, labor and services, shall be performed other than by firms from and within Participating Countries.

8.3 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 Country.

8.4 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 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 Participating Country.

**ARTICLE 9 COMPREHENSION OF CONTRACT AND SPECIFICATIONS**

9.1 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.

9.2 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.

9.3 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.

- a. Based upon impossibility of performance, defective, inaccurate, impracticable, insufficient or invalid specifications, implied warranties of suitability of such specifications, or
- b. Otherwise derived from the aforesaid specifications, and hereby waives any claims or demands so based or derived as might otherwise arise.

9.4 Notwithstanding the "Changes" Clause of the BOA General Provisions 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 10 PLACE AND TERMS OF DELIVERY**

10.1 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 (SSS).

## **ARTICLE 11 INSPECTION AND ACCEPTANCE**

11.1 Clause 7 “Inspection, Acceptance and Rejection” of BOA No. [...] General Provisions is hereby supplemented with this Article.

11.2 The supplies and services to be provided by the Contractor’s personnel under this Contract shall conform to the highest professional and industry standards and practices. Inspection of the supplies and services provided will be made by the Purchaser or another authorised designee in accordance with the specifications in Part IV - Statement of Work. Services performed by the Contractor which do not conform to the highest professional and industry standards may result in the Purchaser requesting that such work be performed again at no increase in the price of the contract. Repeated instances of work performed which fails to meet the standards and practices may result in termination of the Contract for Default.

11.3 The Purchaser reserves the right to charge to the Contractor any additional cost incurred by the Purchaser for 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.

11.4 Under the terms of this Contract, Purchaser Acceptance shall be granted in writing from the Purchaser after delivery of documentation and equipment is complete. The date of the Purchaser acceptance shall be specified in the formal Acceptance document.

11.5 In signing the formal Acceptance document the Purchaser Certifies that the goods or services concerned are in accordance with the terms of the Contract.

11.6 Purchaser review and acceptance of documentation to be submitted by the Contractor is specified in below Article 12 of the Contract Special Provisions and Part IV, Statement of Work.

## **ARTICLE 12 REVIEW AND ACCEPTANCE OF DELIVERABLES**

12.1 Clause 7 “Inspection, Acceptance and Rejection” of BOA No. [...] General Provisions is hereby supplemented with this Article.

12.2 Unless otherwise specified:

12.3 Upon delivery of the Draft Deliverable items, the Purchaser will review the items in accordance to the specified timeframes in the Statement of Work.

12.4 The Purchaser has the right to reject non-conforming deliverables. The Purchaser, in addition to any other rights or remedies provided by law, or under the

provisions of this Contract, shall have the right to require the Contractor at no increase in Contract price, to correct or replace non-conforming work, and in accordance with a reasonable delivery schedule as may be agreed by the Purchaser and the Contractor following the receipt of the Purchaser's notice of defects or non-conformance.

### ARTICLE 13 TITLE AND RISK OF LOSS

13.1 Clause 5 “Title and Risk of Loss” of BOA No. [...] General Provision is supplemented by the following:

13.2 Title to supplies and risk of loss or damage to supplies covered by this Contract shall pass to the Purchaser upon Final System Acceptance (FSA) as defined in the SOW.

### ARTICLE 14 INVOICES AND PAYMENT

14.1 This Article replaces Clause 8 – “Payments” of BOA No. [...] Special Provisions.

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

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

14.4 All invoices must reference the following information. The Contractor shall render all invoices in a manner, which shall provide a clear reference to the Contract. Invoices in respect of any service and/or deliverable shall be prepared and submitted as specified hereafter and shall contain:

- a) Contract number: **CO-115455-SGSBS-WP1**;
- b) Contract Amendment number (if any);
- c) Purchase Order number specified in the Contract or Amendment Signature Sheet (TBD at Contract Award);
- d) The identification of the performance rendered in terms of Contract Line Item Number (CLIN) as they are defined in the priced Schedule of Supplies and Services;
- e) Number of units, price per unit, currency;
- f) Bank account details for international wire transfers (SWIFT, BIC, IBAN);
- g) Payment conditions in line with the Contract (Article 14.16 below);
- h) The certificate below that shall be signed by a duly authorised company official on the designated original:

*“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.”*

*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.”*

14.5 CLINs will be paid as below based on Purchaser milestone approval in writing.

14.6 Evidence of the acceptance by the Purchaser shall be attached to all invoices.

14.7 The Contractor shall be entitled to submit invoices in accordance with the following **payment events/ milestones schedule**:

Milestone No.	Payment Milestone Description	SSS Reference (CLIN No.)	Payment Amount (Percentage of the Total contract value)	Acceptance Not Later Than
1	Acceptance of the Project Implementation Plan (PIP)	1.3	10%	EDC + 10 Weeks
2	Acceptance of the FAT Test Report	2.10	20%	EDC + 15 Weeks
3	Delivery and Acceptance of Equipment Batch	3.7	30%	EDC + 11 months
4	Purchaser Approval of Final System Acceptance (FSA)	5.1	30%	EDC + 13 months
5	End of warranty period	6.1	10%	FSA + 1 year

14.8 Invoices referencing “**CO-115455-SGSBS-WP1/ PO [...]**” shall be submitted in electronic format only to the following POCs:

- a) [accountspayable@ncia.nato.int](mailto:accountspayable@ncia.nato.int) ;
- b) Contracting Authority under Article 17.7.

14.9 No payment will be made if CLIN items agreed for delivery before milestones are not complete as described in bidding sheets, SSS and SOW.

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

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

14.12 The invoice amount shall be exclusive of VAT and exclusive of all Taxes and Duties as per Clause 10 “Taxes and Duties” of the BOA No. [...] General Provisions.

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

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

14.15 Unless otherwise specified, the Contractor shall prepare and submit its invoices solely by electronic means (without paper submission). Contractor's invoices submitted by electronic means shall be in a static, non-modifiable format (such as PDF, other). The Contractor shall ensure the accuracy, authenticity of the origin and legibility of any invoice submitted by electronic means.

14.16 NCI Agency will make payment within forty five (45) days of receipt by the NCI Agency of a properly prepared and documented invoice.

## **ARTICLE 15 SUPPLEMENTAL AGREEMENTS, DOCUMENTS AND PERMISSIONS**

15.1 The Contractor has submitted all relevant draft supplemental agreement(s), documents and permissions prior to Contract award, the execution of which by the Purchaser is/are required by national law or regulation. If any supplemental agreements, documents and permissions are introduced after Contract award, and it is determined that the Contractor failed to disclose the requirement for the execution of such agreement from the Purchaser prior to Contract signature, the Purchaser may terminate this Contract for Default, in accordance with the Clause 19 "Termination for Default" of BOA No. [...] General Provisions.

15.2 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 finalized 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 Purchaser 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 16 WARRANTY**

16.1 Clause 7 "Warranty" of BOA No. [...] Special Provisions is supplemented with the following:

16.2 The Contractor shall warrant that all equipment, documents, databases, technical publications, system design, production and implementation provided under this

Contract and all installation work performed under this Contract conform to the requirements and is free of any defect in material, code or workmanship. The Contractor shall provide a standard warranty for a period of **one (1) calendar year starting with the successful completion of FSA.**

16.3 Until successful FSA, the equipment/ deliverables to be provided under this Contract shall be under the Contractor's responsibility.

16.4 Notwithstanding inspection and acceptance by the Purchaser or its appointed agents of supplies furnished under the Contract or any provision of this Contract concerning the conclusiveness thereof, the Contractor warrants for the total duration of the above referred period and covering all items including:

- a) all deliverables furnished under this Contract shall be free from defect and will conform with the specifications and all other requirements of this Contract; and,
- b) the system will, under normal conditions, perform without errors which make it unusable; and
- c) the preservation, packaging, packing and marking and the preparation for and method of, shipment of such supplies will conform to the requirements of this Contract.

16.5 The Purchaser will promptly inform the Contractor in writing of any defect after its discovery and the circumstances of its discovery. The Contractor shall acknowledge to a defect notification within two working days, by engaging with the Purchaser's personnel to identify the cause of the defect and to agree a resolution approach. The resolution of defects remains the Contractor's responsibility within the warranty. Items needing service or repair at the Contractor's facility shall be repaired/replaced and dispatched back to the Purchaser as described in the SOW (5.4 Warranty and Support).

16.6 For any equipment or part of that during the warranty phase is unserviceable for a period of time longer than 15 days, the warranty for the entire equipment will be extended at no cost for the Purchaser for the same amount of time. The warranty extension will cover all delivered items in case of design defect or lot manufacturing defect; the Contractor shall demonstrate that any defect has been solved before the equipment is sent back to the Purchaser or declared as ready for operation.

16.7 The Contractor shall stipulate the address to which the Purchaser shall deliver equipment and material returned to the Contractor in accordance with the provisions of this Article. Transportation and handling charges for items returned under warranty claim to the Contractor will be in accordance to INCOTERMS® 2020 Rules DDP.

16.8 The Contractor shall, at its option, repair, adjust or replace defective equipment and restore the Purchaser equipment, functions in accordance with the requirements of the Contract.

16.9 In the event of the Contractor's failure to repair or replace failed equipment within the timeframes expressed in this Article, the Purchaser will have the right, at its discretion, and having given the Contractor due notice, to:

- a) remedy, or have remedied, the defective or non-conforming supplies, in both cases at the Contractor's expenses;
- b) equitably reduce the Contract price; and/or
- c) terminate for default that portion of the Contract relating to the defective work.

16.10 Notwithstanding the provision of above paragraph 16.2, the warranty period shall be suspended for the length of time necessary to carry out repair or replacement of the Purchaser equipment.

16.11 This right will be exercised although other contractual obligations remain in force. In the event that it is later determined that such supplies were found not to be defective or non-conforming within the provision of this Article, an equitable adjustment will be made. Failure to reach such an equitable adjustment will be considered a dispute under the Contract and subject to resolution in accordance with the Clause 17 "Disputes and arbitration" of BOA No. [...] General Provisions.

## **ARTICLE 17 CONTRACT ADMINISTRATION**

17.1 The Purchaser is the NATO CI Agency (NCI Agency). The Purchaser is the Point of Contact for all Contractual and Technical issues. Purchaser reserves the right to re-assign this Contract to a representative(s) for administrative purposes, in whole or in part, provided that the Purchaser shall always be responsible for its obligations under the Contract and for actions or lack of actions of its assigned administrator. The Purchaser undertakes to advise the Contractor in writing whenever this right is to be exercised.

17.2 All notices and communications between the Contractor and the Purchaser shall be written and conducted in the English language. Contract modifications shall only be valid when received in writing from the General Manager, NCI Agency, and/or the NCI Agency Contracting Authority.

17.3 The Contractor shall accept Contract modifications only in writing from the Purchaser's Contracting Authority.

17.4 Formal letters and communications shall subsequently be personally delivered or sent by mail, registered mail, courier or other delivery service, to the official Points of Contact quoted in this Contract. Facsimile and e-mail may be used to provide an advance copy of a formal letter or notice which shall subsequently be delivered through the formal communication means.

17.5 Informal notices and informal communications may be exchanged by all communication means, including telephone and e-mail. All informal communication must be confirmed by a formal letter or other formal communication to be contractually binding.

17.6 All notices and communications shall be effective upon receipt.



## 17.7 Official Points of Contact (POC) are:

Purchaser	Contractor
NCI Agency Acquisition Boulevard Leopold III B-1110 Brussels Belgium	<i>[To be completed at award]</i>
<u>For contractual matters:</u>  Attn: Title: Tel: Fax: E-mail:  Attn: Title: Tel: Fax: E-mail:	<u>For contractual matters:</u>  Attn: Title: Tel: Fax: E-mail:
<u>For technical/project management matters:</u>  Attn: Title: Tel: E-mail:	<u>For technical/project management matters:</u>  Attn: Title: Tel: E-mail:

or to such address as the Purchaser may from time to time designate in writing.

**ARTICLE 18 SUB-CONTRACTORS**

18.1 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.

18.2 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 19 CONTRACTOR COTS RESPONSIBILITY**

19.1 The Contractor shall monitor changes and/or upgrades to commercial off the shelf (COTS) software or hardware to be utilized under subject Contract.

19.2 For COTS items which are or could be impacted by obsolescence issues, as changes in technology occur, the Contractor will propose substitution of new products/items for inclusion in this Contract. The proposed items should provide at

least equivalent performance and/or lower life-cycle support costs, or enhanced performance without a price or cost increase.

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

19.4 The Contractor shall notify the Purchaser of any proposed changes in the commercial off the shelf software or hardware to be utilized. Such notification shall provide an assessment of the changes and the impact to any other items to be delivered under this Contract.

## **ARTICLE 20 LIQUIDATED DAMAGES**

20.1 If the Contractor fails to:

- a) successfully meet the delivery schedule of the Deliverables or any specified major performance milestones or required performance dates specified in the Schedule of Supplies and Services to this Contract, or any extension thereof, or
- b) deliver and obtain acceptance of the Deliverables or to acceptably perform the services as specified in the Schedule of Supplies and Services to this Contract,

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 requirements of 20.1.a) and 20.1.b), fixed and agreed liquidated damages of one per cent (1%) per week of the total payment amount for each Payment Event as scheduled in the Article 14 “Invoices and Payments” of the Contract Special Provisions.

20.2 In addition to the liquidated damages, the Purchaser may terminate this Contract in whole or in part as provided in Clause 19 “Termination for Default” of BOA No. [...] 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.

20.3 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 “Termination for Default” of the BOA General Provisions. In such event, subject to the provisions of the Disputes and Arbitration Clause, 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.

20.4 Liquidated damages shall be payable to the Purchaser from the first day of delinquency in delivery and shall accrue at the rate specified in paragraphs above to

a maximum of fifteen percent (15%) of the total payment amount for each Payment Event as scheduled in Article 14. Cumulative assessed Liquidated Damages will not exceed a total of ten percent (10%) of the total value of the Contract.

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

- a) By deducting such damages from the amounts due to the Contractor against the Contractor's invoices.
- b) By proceeding against any surety or deducting from the Performance Guarantee if any.
- c) By reclaiming such damages through appropriate legal remedies.

## **ARTICLE 21 SECURITY**

21.1 This Article supplements Clause 27 “Security” of BOA No. [...] General Provisions.

21.2 The Contractor is responsible, in accordance with NATO and National Security regulations, for the proper handling, storage and control of any classified documents and information as may be furnished to the Contractor in relation to the performance of the present Contract.

21.3 The security classification of this Contract is “NATO UNCLASSIFIED”.

21.4 The Contractor bears full responsibility and liability under the Contract for delays arising from the failure of the Contractor to adhere to the security requirements.

## **ARTICLE 22 RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE**

22.1 Clause 31 – “Rights in Technical Data” of BOA No. [...] General Provisions is replaced by the following:

22.2 Subject to the rights of third parties, all rights in the results of work undertaken by or on behalf of the Purchaser for the purposes of this Contract, including any technical data specifications, report, drawings, computer software data, computer programs, computer databases, computer software, documentation including software documentation, design data, specifications, instructions, test procedures, training material produced or acquired in the course of such work and, in particular, all rights, including copyright therein, shall vest in and be the sole and exclusive property of the Purchaser.

## **ARTICLE 23 INTELLECTUAL PROPERTY RIGHT INDEMNITIES AND ROYALTIES**

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

agreements reached between NATO countries may be utilized free of charge by member nations of NATO and by NATO organization.

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

- a) The royalties excluded from its price for patent utilised under the agreements mentioned in the previous paragraph;
- b) The amount of royalties paid or to be paid by the Contractor directly to others in performance of this Contract.

## **ARTICLE 24 INDEMNITY**

24.1 The Contractor will indemnify and hold harmless NATO, its servants or agents, against any liability, loss or damage arising out of or in connection of the Deliverables and Services under this Contract, including the provisions set out in Article 23 "Intellectual Property Right Indemnities and Royalties" of the Contract Special Provisions.

24.2 The parties will indemnify each other against claims made against the other by their own personnel, and their sub-Contractors (including their personal representatives) in respect of personal injury or death of such personnel or loss or destruction of or damage to the property of such personnel.

24.3 NATO will give the Contractor immediate notice of the making of any claim or the bringing of any action to which the provisions of this Article may be relevant and will consult with the Contractor over the handling of any such claim and conduct of any such action and will not without prior consultation and without the consent of the Contractor settle or compromise any such claim or action.

24.4 In the event of an accident resulting in loss, damage, injury or death arising from negligence or willful intent of an agent, officer or employee of NATO for which the risk has been assumed by the Contractor, the cause of the accidents will be investigated jointly by the Parties and the extent to which NATO will be liable to recompense the Contractor will be determined together.

## **ARTICLE 25 INDEPENDENT CONTRACTOR**

25.1 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 26 APPLICABLE REGULATIONS**

26.1 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.

26.2 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.

26.3 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 27 AUDITING AND ACCOUNTING

27.1 The Contractor's accounting and auditing procedures under this Contract shall be in compliance with the applicable Contractor National standards governing national defense contracts.

27.2 The invoicing and payment procedures for the amount payable to the Contractor shall be in accordance with the prescription of Article 14 "Invoices and Payment" of the Contract Special Provisions.

27.3 In the event of this Contract being terminated in accordance with Clause 20 "Termination for Convenience of the Purchaser" of BOA No. [...] 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 28 PERFORMANCE GUARANTEE

28.1 As a guarantee of performance under the Contract, the Contractor shall deposit with the Purchaser within ten (10) calendar days from the Effective Date of Contract, a bank guarantee to the value of **ten per cent (10%) of the total Contract Price**.

28.2 Such guarantee – the validity of this shall not elapse before the expiration of the warranty period as specified in Article 16.2 – shall be made payable to the Purchaser and may be delivered in the form of:

- a) A certified cheque;
- b) An irrevocable letter of credit; or
- c) A bank guarantee such as a performance bond or promissory note.

28.3 The terms of the guarantee shall allow for payment to 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.

28.4 Certified cheques issued to fulfil the requirements of the 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.

28.5 The irrevocable letter of credit or the bank guarantee such as a performance bond or promissory note, shall be issued by a financial institution listed in Annex C either on its own behalf or as a confirmation of the irrevocable Letter of Credit or the Bank Guarantee issued by a different bank not listed in Annex C to pay all or part of a stated amount of money, until the expiration date of the letter, upon presentation by the Purchaser of a written demand therefore. Neither the financial institution nor the Contractor can revoke or condition the Standby Letter of Credit or the Bank Guarantee.

28.6 The Contractor shall request in writing relief from the performance guarantee upon expiration of the warranty period specified at Article 14.1 or such other period as may be specified in the Contract and, where appropriate, such relief will be granted by the Purchaser.

28.7 The Contractor shall be responsible, as a result of duly authorized adjustment in the total Contract price and/or period of performance by the Purchaser, for obtaining a commensurate extension and increase of the performance guarantee, the value of which shall not be less than ten per cent (10%) of the Contract Price (including all amendments), and for depositing such guarantee with the Purchaser within ten (10) calendar days from the effective date of the aforesaid duly authorized adjustment.

28.8 The failure of the Contractor to deposit such performance guarantee with the purchaser within the specified time frame, or any extension thereto granted by the Purchaser's Contracting Authority will constitute material breach of the Contract and shall be subject to Clause 19 "Termination for Default" of BOA No. [...] General Provisions.

28.9 The rights and remedies provided to the Purchaser under this Article are in addition to any other rights and remedies provided by law or under this Contract. The certificate described in this Article at 28.3 above shall not be regarded as a Termination for Default and this Clause is in addition to and separate from Clause 19 "Termination for Default" of BOA No. [...] General Provisions.

## **ARTICLE 29 TRANSPORTATION OF EQUIPMENT**

29.1 All supplies covered under this Contract shall be transported to final destination at the responsibility of the Contractor. The Purchaser shall not be liable for any storage, damage, accessorial or any other charges involved in such transporting of supplies.

29.2 Items shipped under Warranty for repair or otherwise from Brunsum (NL) or the NCI Agency to the Contractor shall be the responsibility of the Purchaser.

29.3 Transportation of repaired/replaced items shall be the responsibility of the Contractor. These items shall be delivered and installed at final destination.

## **ARTICLE 30 ASSIGNMENT**

30.1 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.

30.2 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.

## **ARTICLE 31 RIGHT OF ACCESS, EXAMINATION OF RECORDS**

31.1 Notice of Authorized Disclosure of Information for Mandated NATO Third Party Audits by Resource Committees

### 31.2 Definitions. As used in this clause

31.2.1 **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.

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

31.2.3 **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.

31.2.4 **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.

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

31.3.1 Within or in connection with a bid, quotation or offer; or

31.3.2 In the performance of or in connection with a contract.

31.4 **Flowdown.** Include the substance of this clause, including this paragraph (25.4), in all subcontracts, including subcontracts for commercial items.

## ARTICLE 32 FORCE MAJEURE

32.1 **“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.

31.5 Examples of Force Majeure, provided conditions (i)-(iv) of paragraph [32.1] are all fulfilled, include:

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

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

31.5.3 currency and trade restriction, embargo, sanction;

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

31.5.5 plague, epidemic, natural disaster or extreme natural event;

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

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

31.6 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.

31.7 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:

31.7.1 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;

31.7.2 the suspension of performance is of no greater scope than is necessitated by Force Majeure;

31.7.3 the Affected Party continues to furnish weekly updates by email while the effects of Force Majeure continue detailing reasonable efforts made in accordance with [32.4.1], and notifies the Other Party immediately when the effects of Force



Majeure are avoided or overcome, or cease, and resumes performance immediately thereafter.

31.8 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.

31.9 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.

**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 **RFQ-CO-115455-SGSBS**

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-115455-SGSBS**.

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 **CO-115455-SGSBS** 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-115455-SGSBS**, 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 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.

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

**ANNEX B****PERFORMANCE GUARANTEE STANDBY LETTER OF CREDIT**

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

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

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

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

Beneficiary: NATO Communications and Information Agency  
(NCI Agency) or its legal successor,  
Financial Management Unit  
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 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 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.

**ANNEX C****LIST OF ACCEPTABLE BANKS TO ISSUE  
PERFORMANCE GUARANTEES**

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

*\*These Banks are in NATO-member countries.*