RFQ-CO-115714-INTEG

IT MODERNISATION (ITM) RECOVERY INCREMENT 1
WP07 SYSTEMS INTEGRATION

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NATO
OTAN

NATO Communications and Information Agency

NCI AGENCY

BOOK II – PART II

CONTRACT SPECIAL PROVISIONS

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

1.1. Alterations, Modifications, and Deletions of the NCIA 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 modified and supplemented by Special Provision 2.

1.1.2.2. CLAUSE 9 "Participating Countries" of the General Provisions is supplemented by Special Provision 3.

1.1.2.3. CLAUSE 8, "Performance Guarantee" of the General Provisions supplements Special Provision 20 and replaces paragraph 8.4 of the General Provisions.

1.1.2.4 CLAUSE 10, "Sub-Contractors" of the General Provisions is hereby modified by Special Provision Clause 51.

1.1.2.5 CLAUSE 11, "Security" of the General Provisions is hereby supplemented by Special Provision Clause 22.

1.1.2.6 CLAUSE 19 "Pricing of Changes, Amendments and Claims" of the General Provisions is hereby supplemented by Special Provision 16.

1.1.2.7 Clause 24 "Ownership and Title" of the General Provisions is supplemented by Special Provision 13.

1.1.2.8 CLAUSE 25, Invoices And Payment of the General Provisions is hereby supplemented by Special Provision Clause 18.

1.1.2.9 CLAUSE 28, "Right of Access, Examination of Records" is supplemented by Special Provision 47.

1.1.2.10 CLAUSE 30 "Intellectual Property" of the General Provisions is supplemented by Special Provision 39.

1.1.2.11 CLAUSE 29 "Patent and Copyright Indemnity" of the General Provisions is supplemented by Special Provision 40 "Intellectual Property Right Indemnity and Royalties".

1.1.2.12 CLAUSE 32 "NATO CODIFICATION" of the General Provisions does not apply.

1.1.2.13 CLAUSE 38, “Liquidated Damages" of the General Provisions is modified and supplemented by Special Provision 19.

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) Signature sheet
b) Part I - The Schedule of Supplies and Services (SSS)
c) Part II - The Contract Special Provisions (CSP)
d) Part III – The Contract General Provisions (CGP)
e) Part IV – The Statement of Work (SOW) and SOW Annexes and Appendices
f) The Contractor’s Bid including any clarifications thereto, incorporated by reference, and the formal documentation of pre-Contract discussions.

NOTE: Part II Contract Special Provisions and Part III Contract General Provisions supersede Basic Ordering Agreement (BOA) Provisions.

3. PARTICIPATING COUNTRIES

3.1. This Article supplements Clause 9 Participating Countries of the Contract General Provisions.

3.2. Participating countries are as follows NATO nations 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.

3.3. None of the work, including project design, labour and services, shall be performed other than by firms from and within participating NATO Countries.

3.4. 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.

3.5. 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.

4. SCOPE OF WORK

4.1. The scope of work for WP 7 encompasses the integration and testing of Systems Integration for: the Operational Network (ON) NATO Infrastructure-as-a-Service (IaaS) Nodes including Private Cloud capabilities, Enterprise Core Services (ECS) and Client

Provisioning Services (CPS) including Virtual Desktop Infrastructure (VDI), Cyber Security Integration, Services Management and Control (SMC) integration and Systems Integration. The Systems Integration main objective will be to operate across various capabilities and will be required to address the changes that will transpire during the life of the ITM-RC1 project.

4.2. The Project scope includes high level activities to be performed:

- Work Package Management
- Design
- Implementation
- Deployment
- Transition of Capabilities into Operations
- Support to Purchaser Activities

4.3. ITM-RC1 is following a phased and parallel implementation approach dividing the activities into “Activity Groups” and locations in “Spirals”. WP07 will follow this same phased and parallel implementation approach with “Activity Groups” and “Spirals”, as outlined in Book II Part IV Statement of Work Section 2.

4.4. ACTIVITY GROUP 1: IMPROVE NS BI-SC AIS

This Activity Group executes the first step towards the target architecture and design of NATO’s ON by implementing standardized IaaS nodes using defined building blocks (VSAN ready nodes, Spine/Leaf and OOB switches, Backup devices, Cisco ACI, Border Protection Devices) together with relevant orchestration and automation services as well as centralized management of the IaaS nodes.

4.5. ACTIVITY GROUP 2: END USER DEVICES (CAMPUS LAN AND VDI)

Activity Group 2 deploys new Campus LAN service to the end users, new end user devices including an initial Virtual Desktop Infrastructure (VDI) capability for the sites which have this capability in scope and the transition and migration for the end users who will receive the VDI end user devices.

4.6. ACTIVITY GROUP 3: DEVELOPMENT OF THE NEW NATO ON MULTI-TENANT PRIVATE CLOUD

Activity Group 3 aims to develop and validate the full ON Software Defined Data Centre (SDDC) Private Cloud solution, involving all aspects of people, processes and technology; as well as, achieving the required maturity to establish the ON SDDC Private Cloud.

4.7. ACTIVITY GROUP 4: BUILD OUT OF THE NEW NATO ON MULTI-TENANT PRIVATE CLOUD

Activity Group 4, namely End-to-end (E2E) Services, will integrate the full SDDC private cloud ON into production, merging with the products delivered by Activity Group 1 and 2. Once Activity Group 3 has reached the required maturity to move into operations, Activity Group 4 includes all activities required to enable the NATO ON

services on the NS network. Activity Group 4 also includes integration and/or transition of services and capabilities previously delivered in Activity group 1 and 2 in order to deliver the fully integrated NATO ON

4.8. ACTIVITY GROUP 5: EDUCATION, TRAINING, EXERCISE AND EVALUATION (ETEE) ENVIRONMENTS AND VDIS

Activity Group 5 will implement separate tenants for Education, Training, Exercise Evaluation (ETEE) on the NATO ON at two locations specified in Book II Part IV Statement of Work Section 2. In addition, the ETEE environments will have the classification of ETEE@NS and ETEE@MS. Both environments make maximum use of VDI to support the training audiences. The concept of operations for these environments is to frequently build up, deploy and teardown complete tenants in support of training and exercises, therefore the automation and orchestration is a key enabler.

5. TYPE OF CONTRACT

5.1. This is a single award Indefinite Delivery Indefinite Quantity (IDIQ) type Framework Contract with Firm Fixed Pricing established for the supplies and services defined in Part I - Schedule of Supplies and Services and Part IV – Statement of Work (SOW).

5.2. The Contract is scheduled for 60 months of Contractor performance after Effective Date of Contract (EDC) for Implementation followed by Operations and Maintenance. This Contract is subject to Firm Fixe Price Economic Price Adjustment (FP- EPA) after month 36 until completion of the Contract at 60 months. See Special Provision 8 Standard EPA Clause.

5.3. The Firm Fixed Prices include all expenses related to the performance of the prospective Contract to include travel. 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. LANGUAGE OF WORK

6.1. The working language is English and the associated technical documents are written in English. Accordingly, all Contractor personnel shall be competent to converse and write in English. Failure to satisfy this requirement may be the basis for Purchaser's request of change of personnel.

7. INSURANCES

7.1. For the entire Contract duration, the Contractor shall provide all necessary insurance(s) for personnel and equipment, provided by the Contractor for the sole purposes of fulfilling the performance and deliverables required under the Contract. The Contractor shall provide the Purchaser with a proof of insurance, within 5 (five) working days, upon written request.

8. STANDARD ECONOMIC PRICE ADJUSTMENT CLAUSE

1. Contract Type:

a. Firm-Fixed-Price (FFP) subject to Economic Price Adjustment (EPA).
b. From the Effective Date of Contract (EDC) to end of month 36, the contract shall be FFP.
c. After month 36 until the end of contract period of performance, the contract type becomes Fixed-Price with Economic Price Adjustment (FP-EPA), where price variation shall be applied.

2. Economic Price Adjustment

a. The price of this contract is subject (upwards or downwards) to adjustment within the limits defined herein:

i. All milestones due from EDC until the end of month 36 of the contract, are FFP, therefore shall not be subject to EPA.

ii. All milestones due at or after month 36 of the contract until the end of the period of performance, if a variation occurs in the cost of labour forming part of the contract, then the contract price shall be adjusted (upwards or downwards), in accordance with the formula in paragraph [d] below.
After month 36 of the Contract, the price shall be adjusted in accordance with the formula in paragraph [d] below. The labour (L), shall be the one published no later than 3 months before the start date of the performance after month 36.

iii. The revision shall be based on the evolution of the Labour Cost Index (the exact definition and source of the index will be agreed prior to Contract).

b. The labour (L) allocations and the constant portion of the price subject to price adjustment have been established, they remain fixed through the life of the contract and shall not be modified except in the event of significant changes to the scope of the contract.

c. When a price adjustment is due, the Contractor shall: (i) submit a separate invoice for the price indexation in accordance with this EPA clause, (ii) show the total cumulated amount of price indexations implemented to date, [*add if applicable:* (iii) and the Purchase Order number issued specifically for EPA.] The revised price (i.e. *P*) per the EPA formula becomes the new contract price. After the last completed and accepted milestone, a contract amendment shall be executed to reflect the final contract prices as adjusted.

d. Economic Price Adjustment Formula

i. $P = P_0*(0.8 + (L/Lo)$

In which: .8 P	Coefficients for labour Revised Fixed Price applicable after EPA
P0	Firm Fixed Price as of Base Year
L	Latest published labour index available at the time of EPA
L0	Published labour index at EDC

iii. Calculations of revised prices shall be made as soon as possible after publication of the latest index figures, available at the time of EPA.

iv. Where any index figure published is stated to be a provisional figure, the contractor may opt either: to use that provisional figure in its calculation and present an appropriate invoice, or: to delay presentation of its invoice until a definitive index figure is published.

v. No further adjustment will be allowed, up or down, following revision of any index figure if an invoice is presented using provisional indices.

9. PURCHASER OBLIGATIONS AND LIMITATIONS

9.1. The Purchaser's sole obligation under this Contract is limited to the issuance of the initial Tasker Order (TO).

9.2. This IDIQ Contract is subject to both time and value limitations. The Purchaser is not to issue any order beyond the period of performance of this IDIQ Contract as per 9.3 below, or reaching the ceiling of € 15,334,589 for Spirals 0 and 1 and the ceiling of € 12,693,725 for Spirals 2 through 5 as cited in Part IV SoW Section 2.4 The Purchaser reserves the right to increase the ceilings via a unilateral amendment to the Contract.

9.3. The Contract is available for the placement of TOs against the SSS from EDC plus 60 Months covering Contractor performance for services.

10. TASK ORDERS AND ORDERING PROCEDURES

10.1. Task Orders (TO's) will be issued in writing by the Purchaser and signed by the Purchaser's Contracting Authority.

10.2. 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.

10.3. 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.

10.4. After the 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.

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

10.5.1.1. Order Number;
10.5.1.2. Effective Date of the Order;
10.5.1.3. Total quantities of equipment or services required by CLIN;
10.5.1.4. Statement of Work reference;
10.5.1.5. Schedule and place of delivery and performance;

10.5.1.6. Shipping and transportation;
10.5.1.7. Total Monetary Value of the Order.

10.6. 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.

10.7. There are no limitations on the number of TO's that may be issued.

10.9. The Agency will place Task Orders (TOs) against this Framework Contract when the requirements are identified. 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.

10.10. Each Task Order 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.

10.11. The Purchaser's may change requirements from one AG to the other AGs or implementation sites without additional cost via an amendment to the TO. .

10.12. The Purchaser will be the decision authority on the timelines and frequency for release to operations, respecting the NATO processes; such as: Security Accreditation. For this purpose, the Purchaser will hold the 30% of the total (final) value of a TO until the transition into operations (i.e. Site PSA) and operational acceptance (i.e. IOA and FOA) is completed.

10.13. 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.

11. COMPREHENSION OF CONTRACT AND SPECIFICATIONS

11.1. The Contractor warrants that he 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.

11.2. 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.

11.3. The Contractor hereby acknowledges that he has no right to assert against the Purchaser, its officers, agents or employees, any claims or demands with respect to the aforesaid specifications as are in effect on the date of award of this Contract.

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

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

11.6. 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.

12. AUTHORISATION TO PERFORM/CONFORMANCE TO NATIONAL LAWS AND REGULATIONS

12.1. The Contractor will warrant that they and their 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 they and their Sub-contractors have obtained or will obtain all necessary licences and permits required in connection with the Contract. No claims with respect to any costs or delay to obtain the authorisations to perform shall be made by the Contractor to the Purchaser.

12.2. The Contractor acknowledges that they and their Sub-contractors are responsible during the performance of this Contract for ascertaining and complying with all applicable laws and regulations, including without limitation: work permits, 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.

13. OWNERSHIP AND TITLE

13.1. This Clause supplements Clause 24 Ownership and Title of the General Contract Provisions.

13.2. Ownership and title for all works conducted under this contract, including any and all technical data specifications, reports, drawings, computer software data, computer programmes, computer databases, computer software, computer source code, documentation including software documentation, design data, specifications, instructions, test procedures, training material produced or acquired in the course of such work, shall from its creation, pass to the Purchaser, in both object and source code.

13.3. Ownership and title to all deliverables not covered under Para 13.2 above shall pass to the Purchaser. The Contractor shall at all times provide access to the Purchaser for all files, scripts, software code, documentation, configuration files, passwords and any other type of data/information created within the scope of this Contract. This access shall not depend on the achievement of milestones or official acceptance, and shall be granted throughout the execution of the Contract starting from EDC and full handover prior to the end of the period of performance to the Purchaser.

14. Licenses

14.1. The Contractor shall provide licenses allowing the Purchaser to increase the number of concurrent users and target systems at any time during the execution of the contract.

14.2. The Contractor provided licenses shall be renewable and transferrable, and shall be provided as the Purchaser registered as the User/Owner.

14.3. The Contractor shall increase the capacity of the licenses if requested by the Purchaser.

14.4. The Contractor shall extend the validity of the licenses as outlined in Part I SSS.

14.5. The Contractor provided licenses shall be extendable directly from license provider or the Contractor.

14.6. The Contractor provided licenses shall have the ability to be used worldwide.

14.7. The Contractor shall ensure that End User License Agreements do not contradict with the terms and conditions of this Contract.

14.8. The Contractor provided licenses shall be valid until after one year of the FOA.

15. INSPECTION AND ACCEPTANCE

15.1. This Clause supplements Clause 21 Inspection and Acceptance of work of the General Contract Provisions.

15.2. 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 services provided will be made by the Purchaser's Technical representatives or another authorised designee in accordance with the specifications and activities in Part IV - Statement of Work; as well as, issued Task Orders. 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.

15.3. 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.

15.4. Purchaser review and acceptance procedures specific to contract documentation to be submitted by the Contractor as described in Part IV, Statement of Work. Until the achievement of the relevant milestone (i.e. PSA, IOA FOA and warranty period), and

notwithstanding the prior acceptance in a Task Order, the Contractor shall be fully responsible to remedy the products and services taking corrective actions, at no additional cost, in case specifications described in this Contract are not met.

16. CONTRACTOR'S RESPONSIBILITY

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

16.2. 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.

16.3. 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.

16.4. 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.

17. PRICING OF CHANGES, MODIFICATIONS, FOLLOW-ON CONTRACTS AND CLAIMS

17.1. 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.

17.2. 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.

17.3. 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 the date of purchaser acceptance of proposal

18. INVOICES AND PAYMENTS

18.1. This Clause supplements Clause 25 Invoices and Payment of the Contract General Provisions.

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

18.3. 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.

18.4. Upon completion of work as described in the Task Order, 70% of the payment will be paid to the Contractor. The remaining 30% of payment will be reserved and paid to the Contractor as follows: 10% of payment for completion and achievement of milestones for the relevant PSA milestone(s) and 20% of payment for completion and achievement of IOA or FOA milestone(s). Milestone definitions and achievement criteria provided in Part IV - Statement of Work Section 2.5 shall be adhered throughout the execution of the Contract.

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

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

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

18.8. The invoice amount shall be exclusive of VAT and exclusive of all Taxes and Duties as per Clause 26 (Taxes and Duties) of the Contract General Provisions.

18.8. The Contractor shall be entitled to submit invoices in accordance to the issued TO at the completion and acceptance of the TO as follows:

18.8.1. Acceptance is the action by which the Purchaser formally acknowledges that the Contractor has fully demonstrated that TO deliverables are complete or have been performed according to the requirements as described in Part IV SOW and Part I Schedule of Services and Supplies (SSS).

18.8.2. In the event the Contractor does not perform services in conformity with the requirements set out in the Contract, the Contractor shall perform all necessary work required to bring its services in conformity with the Contract at not additional cost, upon request of the Purchaser.

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

18.8.4. The Purchaser is released from paying any interest resulting from any reason

whatsoever.

18.9. 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-115714-INTEG

b) Task Order number (TBD)

c) Contract Amendment number (if any)

d) Contract Line Item(s) (CLIN) as they are defined in the priced Schedule of Supplies and Services.

e) Bank Account details for International wire transfers

18.10. The invoice shall contain the following certificate:

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

18.10.2. Invoices referencing "CO-115714-INTEG/ TO (TBD)" shall be submitted in electronic format to:

AccountsPayable@ncia.nato.int

18.11. An Electronic copy shall be sent to the Contracting Officer and Project Manager at the email address specified in the clause ''Contract Administration''.

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

19. LIQUIDATED DAMAGES

19.1. This Clause modifies and supplements CLAUSE 38 Liquidated Damages of the General Provisions.

19.2. If the Contractor fails to:

a) successfully meet the required performance dates as defined in Part 1 Schedule of Supplies and Services, Task Order issued or any extension thereof, or

b) fails to provide the corrective actions within the prescribed timelines for any service as stated in Part IV SoW, the Purchaser will reserve the right to contract the relevant services from third parties and deduct the cost of these services, or

c) deliver and obtain acceptance of the Deliverables or to acceptably perform the services as specified in Part 1 Schedule of Supplies and Services to this Contract and/or Task Order issued, 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 defined under 19.2, fixed and agreed liquidated damages of 0.1% (one tenth of one per cent) per day of the total payment amount for each Payment Event as scheduled in Clause 18 ("Invoice and Payment") of the Contract Special Provisions.

19.3. Liquidated damages shall be payable to the Purchaser from the first day of delinquency in delivery 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 of the Contract. These liquidated damages shall accrue automatically and without any further notice being required.

19.4. 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 as defined in Clause 19 ("Termination for Default") of the General Provisions. In such event, subject to the provisions of Clause 17 ("Disputes and Arbitration" of the 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.

19.5. In addition, the Purchaser may terminate this Contract in whole or in part as provided in Clause 19 ("Termination for Default") of the 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.

19.6. 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.

20. TERMINATION FOR DEFAULT

20.1. This Clause supplements Article 39 Termination for Default of the Contract General Provisions.

20.2 Definitions. As used in this Article:

20.2.3 Purchaser Data means all data or records of whatever nature and in whatever form relating to the Purchaser or the operations of the Purchaser and in the possession or control of the Contractor, whether subsisting before the date of this Contract or as created or processed as part of, or in connection with, the Deliverables.

20.3 In addition to other rights in this Contract, following termination or expiry of this Contract regardless of the reason and at no cost to the Purchaser:

20.3.3 return all Purchaser Furnished Equipment (PFE) and Purchaser Furnished Information (PFI);

20.3.4 all Files, scripts, software codes, documentation, configuration files, passwords and any other type of data/information created within the scope of the work performed under this Contract; and

20.3.5 at the Purchaser's discretion, destroy or return any additional copies of Purchaser Data and any other confidential information of the Purchaser, provided that the Contractor may retain one copy of such information to the extent it is required to do so by law.

20.3.6 The Parties shall comply with their respective handover plan as detailed in Part IV SoW.

21. PERFORMANCE GUARANTEE

21.1. 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 value of Contractor's quotation for Spirals 0 through 5.

21.2. 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.

21.3. 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.

21.4. 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.

21.5. 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.

21.6. 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 each Tasker Order issued (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.

21.7. 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 provisions of the Contract regarding Termination for Default.

21.8. 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.

21.9. If the Contractor elects to post the Performance Guarantee by Standby Letter of Credit (SLC), the SLC shall be issued by a financial institution listed on the Bank Guarantee section of the NCI Agency public website (hereafter defined as the "Acceptable Banks") either on its own behalf or as a confirmation of the SLC issued by a different financial institution not on the list of Acceptable Banks 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 SLC.

22. SUPPLEMENTAL AGREEMENT(S), DOCUMENTS AND PERMISSIONS

22.1. If any supplemental agreements, documents and permissions are introduced after Contract award, the execution of which by the Purchaser is/ are required by national law or regulation, 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.

22.2. 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.

23. SECURITY

23.1. This Clause supplements Clause 11 Security of the Contract General Provisions.

23.2. The security classification of this Contract is NATO UNCLASSIFIED.

23.3. 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.

23.4. 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 CTS (Cosmic Top Secret) clearances.

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

23.6. The Contractor will be required to handle and store classified material to the level of "NATO SECRET".

23.7. 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.

23.8. 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.

23.9. 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.

23.10. 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.).

23.11. The Statement of Work defines the level of security of information exchanged and used for performance of the Contract.

23.12. In particular, the Contractor undertakes to:

23.12.1. 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;

23.12.2. 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;

23.12.3. 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 to him;

23.12.4. 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;

23.12.5. 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;

23.12.6. 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;

23.12.7. 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;

23.12.8. 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;

23.12.9. 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;

23.12.10. 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;

23.12.11. 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;

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

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

24. NATO RESTRICTED DOCUMENTS

24.1. The overall security classification of this Contract is NATO Unclassified. Should a NATO Restricted Annex become part of the Contract during the Period of Performance, the classification will be NATO Restricted unless the Annex is separated from the SoW in which the classification shall remain NATO Unclassified.

24.2. All NATO Restricted documents requested or received shall have the Comprehension and Acceptance of the Security Aspect Letter under Annex C signed and returned to the Purchaser's Contract Authority. NATO Restricted documents may be issued using PFE REACH or the request made be made to the Contracting Officer including the following information:

- The name of the authorized Point of Contact
- The postal address where the NATO Restricted documents may be mailed

25. KEY PERSONNEL

25.1. The designated Contractor personnel fulfilling the roles as described in Statement of Work are considered Key Personnel for successful Contract performance and are subject to the provisions of this Clause as set forth in the following paragraphs.

25.2. The following individuals are identified as Key Personnel under this Contract:

Role	Name
DESIGN	

Project Manager	
Technical Lead	
Work Package Architect	
Chief Engineer IaaS	
Chief Engineer CPS	
Chief Engineer SMC	
Chief Engineer Cyber Security	
Chief Engineer ECS	
Engineer Security	
Engineer Identify and Access Management	
DevOps Engineer- Automation Architect	
DevOps Engineer- IaaS	
DevOps Engineer- Networking	
Test Engineer	
Quality Manager	
Risk Manager	
Test Director	
IMPLEMENTATION (AGILE SPRINTS)	
Project Manager	
Technical Lead	
Work Package Architect	
Chief Engineer IaaS	
Chief Engineer CPS	
Chief Engineer SMC	
Chief Engineer Cyber Security	
Chief Engineer ECS	
Engineer Security	
Engineer Identify and Access Management	
DevOps Engineer- Automation Architect	
DevOps Engineer- IaaS	
DevOps Engineer- Networking	
Test Engineer	
Quality Manager	
Risk Manager	
Scrum Master	
Release and Integration Lead	
Test Director	

25.3. Under the terms of this Clause, Key Personnel may not be voluntarily diverted by the Contractor to perform work outside the Contract unless approved by the Purchaser. 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 immediately of a change of Key Personnel and offer a substitute with equivalent qualifications at no additional costs to the Purchaser within 21 days of the date of knowledge of the prospective vacancy.

25.4. 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 and must meet the minimum qualifications and required skills cited in the attached Statement of Work.

25.5. In the event of a substitution of any Key Personnel listed 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, and evidence that the personnel is qualified in pertinent Contract related areas of the SOW.

25.6. The Purchaser reserves the right to interview any Contractor personnel proposed in substitution of previously employed Contractor Key Personnel to verify their language skills, experience and qualifications, and to assess technical compliance with the requirements set forth in the SOW.

25.7. The interview, if required, may be conducted as a telephone interview, or may be carried out at the Purchaser's premises in Brussels, Belgium.

25.8. If, as a result of the evaluation of the CV and/or interview the Purchaser judges that the proposed replacement Key Personnel does not meet the required skills levels, he shall have the right to request the Contractor to offer another qualified individual in lieu thereof.

25.9. All costs to the Contractor associated with the interview(s) shall be borne by the Contractor, independently from the outcome of the Purchaser's evaluation.

25.10. The Purchaser Contracting Authority will confirm any consent given to a substitution in writing and only such written consent shall be deemed as valid evidence of Purchaser consent. Each of the replacement personnel will also be required to sign the Non-Disclosure Declaration at Annex A hereto prior to commencement of work.

25.11. Furthermore, even after acceptance of Contractor personnel on the basis of his/her CV and/or interview, the Purchaser reserves the right to reject Contractor personnel, 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 other personnel available within ten working days after the written notification. The Purchaser shall have no obligation to justify the grounds of its decision and the Purchaser's acceptance of Contractor personnel shall in no way relieve the Contractor of his responsibility to achieve the contractual

and technical requirements of this Contract nor imply any responsibility of the Purchaser.

25.12. The Purchaser may, for just cause, require the Contractor to remove his 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 of default and the remedies to be sought by the Purchaser.

25.13. In those cases where, in the judgement of the Purchaser, the inability of the Contractor to provide a suitable replacement in accordance with the terms of this Clause may potentially endanger the progress under the Contract, the Purchaser shall have the right to terminate the Contract as provided under Clause 39 (Termination for Default) of the Contract General Provisions.

26. INDEPENDENT CONTRACTOR

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

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

27. CARE AND DILIGENCE OF PROPERTY

27.1. The Contractor shall use reasonable care to avoid damaging buildings, walls, equipment, and vegetation (such as trees, shrub and grass) on the work site.

27.2. If the Contractor damages any such buildings, walls, equipment or vegetation on the work site, he shall fix or replace the damage as directed by the Purchaser and at no expense to the Purchaser. If he fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost thereof, which may be deducted from the Contract price.

27.3. The Purchaser will exercise due care and diligence for the Contractor's furnished equipment and materials on site. The Purchaser will, however, not assume any liability

except for gross negligence and wilful misconduct on the part of the Purchaser's personnel or agents.

27.4. The Contractor shall, at all times, keep the site area, including storage areas used by the Contractor, free from accumulations of waste. On completion of all work the Contractor is to leave the site area and its surroundings in a clean and neat condition.

28. RESPONSIBILITY OF THE CONTRACTOR TO INFORM EMPLOYEES OF WORK ENVIRONMENT

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

28.2. Specifically, personnel shall be made aware of all risks associated with the performance under this Contract, the conditions of site in which the performance is to take place and living conditions while performing within the boundaries of the Contract. The selection of adequate personnel shall remain sole responsibility of the Contractor.

29. WARRANTY

29.1. The Contractor shall provide warranty and support for all equipment and software furnished under this Contract and all installation work performed under this Contract conforming to the requirements and free of any defect in material, code or workmanship in accordance to Part IV Statement of Work Section 12.

29.2. 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.

29.3. Should any warranty case not be closed within one (1) month, the Purchaser will reserve the right to purchase the replacement item and/or required services from alternative suppliers. The cost of which shall be reimbursed from the Contractor to the Purchaser via unpaid Tasker Orders or deduction from the Performance Guarantee should there be no outstanding Tasker Order Payments.

30. COTS PRODUCT REPLACEMENT

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

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

proposed item(s) shall be added to the Contract by bilateral modification under the authority of this Article.

30.3. All COTS furnished by the Contractor under this Contract shall be current production and upgraded to the most current versions.

31. INTERDEPENDENCY

31.1. The parties acknowledge:

a) The inputs and outputs will be performed by the Contractor, where the Purchaser will seek to align these with multiple contracts in support of IT Modernisation – Recovery Programme, which will be awarded separately by the Purchaser. The Contractor has no contractual relationship or control over the contractors performing the multiple contracts the Purchaser awards in support of IT Modernisation – Recovery Programme.

b) The contracts in support of the IT Modernisation – Recovery Programme include efforts and critical path activities necessary for the timely and successful performance, compliance and completion of this Contract.

c) The SSS assumes timely delivery schedule compliance by all IT Modernisation – Recovery Programme Contractors. The Purchaser reserves the right to share the IT Modernisation – Recovery Programme Master Programme and Project Schedules, to facilitate collaboration across the Programme and multiple contract(s) inputs and outputs with the Contractor.

d) Timely and compliant Contract performance and delivery under this Contract may be dependent upon the timely performance and delivery of contractors performing respective contracts and/or respective Task Orders across the IT Modernisation – Recovery Programme.

31.2. Based on the foregoing, and notwithstanding any other provision of this Contract, the parties specifically agree to the following:

a) If the performance of any work under the SSS CLINs are impacted by the unreasonable delay, deferral, increase or reduction in scope, schedule change, performance, availability of funding or cancellation of the work to be performed under the IT Modernisation – Recovery Programme Master Programme and Project Schedules, the Contractor for this Contract and/or respective Task Orders is requested to notify the Purchaser of potential losses, schedule adjustment or other impacted provisions/requirements of the Contract affected for which the Purchaser may consider modifying the Contract and/or respective Task Order to take into account.

b) Changes to the SSS CLINs authorised as necessary under this provision be correspondingly incorporated into the Contract under the process given at the clause "Changes - Firm Fixed Price" of the Contract General and Special Provisions.

c) That "impacted" as mentioned in (a) above is defined as a direct result creating a practical or actual impossibility of performance/contract compliance, including but

not limited to causality evidenced and demonstrated losses, schedule adjustment, or other provision/requirement of the Contract regarding the ability to timely perform SSS contractual and/or respective Task Order requirements.

d) Nothing in this provision shall cause the Purchaser any additional financial obligation under this Contract, except as specifically authorised under a written Contract amendment and/or Task Order amendment issued and signed by the Purchaser's Contracting Authority,

31.3. The following principles, agreed by the Purchaser and the Contractor set forth the process for reporting and mitigating Impacts under this Article:

a) The Contractor shall give the Purchaser initial notice as soon as practical after the possible impact has or may have occurred under this Clause. Within a reasonable time thereafter, the Contractor shall give written notice to the Purchaser to include dates, nature, and circumstances of the possible impact.

b) As soon as possible after receipt of the above notice, the Contractor and the Purchaser shall meet to consult on a course of action and jointly use best efforts to mitigate such impacts.

32. THIRD PARTY CO-OPERATION

32.1. Subject to its other obligations under the resulting Contract, the Contractor shall be open, co-operative and provide reasonable assistance to any third party supplier providing services to the Purchaser or to any third party to whom the Purchaser sub-contracts or delegates (or tasks to act in pursuance of) any of its rights and obligations under this Contract (each such third party being a "Purchaser Third Party". This assistance shall include:

a) providing such information about the manner in which the Contractor Deliverables are provided as is reasonably necessary for Purchaser Third Parties to provide their services and deliverables to the Purchaser or carry out such activities as have been delegated to them by the Purchaser;

b) making available to, or accepting information from, Purchaser Third Parties (including, where appropriate and agreed with the Purchaser, through the development of interfaces or information exchanges between the Contractor and Purchaser Third Parties);

c) using its reasonable endeavours to prevent, resolve and limit the impact on the Purchaser of any disputes or disagreements between it and any Purchaser Third Parties; and

d) meeting with the Purchaser and Purchaser Third Parties to discuss the Contractor Deliverables and the services and deliverables provided by third parties.

32.2. Without limiting the Contractor's obligations, the Contractor shall inform the Purchaser of any disputes or disagreements between it and any of Purchaser Third Parties that may affect the provision of the Contractor Deliverables.

33. OPTIMISATION

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

33.2. The Contractor may, during the Period of Performance, introduce Engineering Change Proposals (ECPs) offering innovations and/or technology insertion with a view towards reducing the Total Cost of Ownership TCO to the Purchaser.

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

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

33.3.2. A full analysis of the prospective savings to be achieved, in the form of a TCO Assessment Report, in both equipment and manpower, including, as appropriate, utility and fuel consumption and NATO manpower, travel, etc.;

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

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

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

34. ENGINEERING CHANGE PROPOSAL (ECP)

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

34.2. Any Engineering Change Proposal (ECP) submitted by the Contractor to the Purchaser in a format with the content as provided below or compatible with any Contractor's internal change management methodology standards or forms, shall in any case, contain as a minimum, the following elements:

34.2.1. A sequential number of ECP identification;

34.2.2. Rationale for the changes being proposed;

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

34.2.4. List of contract documents affected by the changes being proposed;

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

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

34.2.7. A detailed price breakdown of all costs to identify single elements of cost contributing to the total;

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

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

34.4. The Contractor shall proceed with the performance on the approved ECP and not on a Pending or Rejected ECP.

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

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

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

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

35. CHANGES

35.1. This Clause supplements Clause 16 Changes of the Contract General Provisions.

35.2. 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.

35.3. Except as otherwise provided for in this Contract, prices quoted for the changes, modifications, etc. shall have a minimum validity period of 6 months from submission. Contractor proposals for possible contract changes or modifications shall be provided by the Contractor at no additional cost to the Purchaser.

35.4. The Purchaser intends to manage changes to this Contract using the change management procedure described below:

35.4.1. Change Request is a proposal for changes relevant to the SoW;

35.4.2. The list of all Change Requests processed since the start of the project, in a tabular form, indicating for each of them the date it was created and the current status.

35.5. 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.

35.6. 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 and technical solutions.

36. CONTRACT ADMINISTRATION

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

36.2. All notices and communications between the Contractor and the Purchaser shall be written and conducted in English.

36.3. Formal letters and communications shall be personally delivered or sent by mail, registered mail, courier or other delivery service, to the official points of contact quoted in this Contract.

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

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

36.6. ***Official points of contact are:***

PURCHASER	
Contractual Issues:	Project Manager/Technical Issues:
NATO Communications and Information Agency Boulevard Leopold III 1110 Brussels, Belgium	NATO Communications and Information Agency Oude Waalsdorperweg 61 2597 AK, The Hague, Netherlands
POC: Eva Benson	POC: TBD
Email: Eva.Benson@ncia.nato.int	Email :

CONTRACTOR

Contractual Issues: TBD	Project Manager/Technical Issues: TBD
Company Name Address	Company Name Address
POC: Tel:	POC: Tel:
E-mail:	E-mail:

37. CONFLICT OF INTEREST

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

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

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

37.4. The Contractor's notice called for in paragraph 37.2 above shall describe the actual, apparent, or potential conflict of interest, the action(s) the Contractor has taken or proposes to take to avoid or mitigate any conflict, and shall set forth any other information which the Contractor believes would be helpful to the Purchaser in analysing the situation. Any changes to the Contractor's conflict of interest mitigation plan, if any is incorporated in the Contract, should be also detailed.

37.5. The Contractor has the responsibility of formulating and forwarding a proposed conflict of interest mitigation plan to the Purchaser, for review and consideration. This responsibility arises when the Contractor first learns of an actual, apparent, or potential conflict of interest.

37.6. If the Purchaser in its discretion determines that the Contractor's actual, apparent, or potential conflict of interest remains, or the measures proposed are insufficient to

avoid or mitigate the conflict, the Purchaser will direct a course of action to the Contractor designed to avoid, neutralize, or mitigate the conflict of interest. If the parties fail to reach agreement on a course of action, or if having reached such agreement, the Contractor fails to strictly adhere to such agreement during the remaining period of Contract performance, the Purchaser has the discretion to terminate the Contract for default or alternatively refrain from exercising any further Option or Work Package under the Contract.

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

38. TECHNICAL DIRECTION

38.1. The Contract will be administered by the Purchaser in accordance with the Clause 36 of these Contract Special Provisions entitled "Contract Administration".

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

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

38.4. Neither the Purchaser's Project Manager as identified in Clause 36 of these Contract Special Provisions, nor any Technical Representative, as mentioned above, has the authority to change the terms and conditions of the Contract. If the Contractor has reason to believe that the Project Manager/Technical Representative is requesting products and services on terms inconsistent with that in the scope of the Contract, the Contractor shall immediately inform the Purchaser's Contracting Authority for confirmation of the actions. Failure to obtain confirmation that the action of the Project Manager is under the authority of the Contract shall render any subsequent claim null and void.

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

a) confirm the effort requested is within scope, or;

b) confirm that the instructions received constitute a change and request a quotation for a modification of scope and/or price, or;

c) rescind the instructions.

38.6. 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.

39. INTELLECTUAL PROPERTY

39.1. This Clause supplements Clause 30 of the Contract General Provisions.

39.2. Any use of Contractor Background IPR and Third Party 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 and NATO Nations a non-exclusive, royalty-free and irrevocable licence to use without limitation in the number of users, provided the background is used with the foreground and authorise others to use any Contractor Background IPR for the purpose of exploiting or otherwise using the Foreground IPR.

39.3. All rights arising out of the results of work undertaken by or on behalf of the Purchaser for the purposes of this Contract, including any and all technical data specifications, reports, drawings, computer software data, computer programmes, computer databases, computer software, computer source code, 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 from its creation vest in and be the sole and exclusive property of the Purchaser in both object and source code.

39.4. The Purchaser will accept no constraints or limitations on the use of Contract deliverables. Accordingly, the Contractor shall not include any Background Intellectual Property or third party software in the code provided to the Purchaser. In the event that any such code would have to be included, the Contractor shall seek Purchaser's prior agreement and ensure that unlimited rights are secured for the Purchaser to use the deliverables under the Contract.

40. INTELLECTUAL PROPERTY RIGHT INDEMNITY AND ROYALTIES

40.1. This Clause supplements Clauses 29 of the Contract General Provisions.

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

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

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

40.4.1. The royalties excluded from his price for patent utilised under the agreements mentioned in 40.3 above;

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

41. INDEMNITY

41.1. The Contractor will indemnify and hold harmless NATO and 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 Articles 29 "Patent and Copyright indemnity" and 30 “Intellectual Property” of the NCI Agency General Provisions.

41.2. The Contractor will indemnify NATO and its servants or agents, against claims made against NATO and its servants or agents, by their 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.

41.3. The Contractor will consult with the Agency over the handling of any claim or action to which the provisions of this Article may be relevant and will consult with the Agency over the handling of any such claim and conduct of any such action and will not without prior consultation and without the concurrence of the Agency settle or compromise any such claim or action.

41.4. In the event of an accident resulting in loss, damage, injury or death arising from negligence or wilful intent of an agent, officer or employee of NATO for which the risk has been assumed by the Contractor, the Contractor shall involve the Agency in any investigation into the cause of the accident.

42. LIMITATIONS ON THE USE OR DISCLOSURE OF PURCHASER FURNISHED INFORMATION (PFI)

42.1. *Definitions.* As used in this clause, “Purchaser Furnished Information” includes

42.1.1. *Contractor-acquired information,* which means information acquired or otherwise collected by the Contractor on behalf of the Purchaser in the context of the Contractor's duties under the contract.

42.1.2. *Purchaser Furnished Information (PFI),* which means information in the possession of, or directly acquired by, the Purchaser and subsequently furnished to the Contractor for performance of a contract. PFI also includes contractor-acquired information if the contractor-acquired information is a deliverable under the contract and is for continued use under the contract. Otherwise, PFI does not include information that is created by the Contractor and delivered to the Purchaser in accordance with the requirements of the work statement or specifications of the contract. The type, quantity, quality, and delivery requirements of such deliverable information are set forth elsewhere in the contract schedule.

42.2. *Information Management and Information*

42.2.1. The Contractor shall manage, account for, and secure all PFI provided or acquired by the contractor in accordance with the special provisions clause, “Basic Safeguarding of Contractor Communication and Information Systems (CIS)”. The Contractor shall be responsible for all PFI provided to its subcontractors.

41.3 *Use of PFI*

42.3.1. The Contractor shall not use any information provided or acquired under this contract for any purpose other than in the performance of this contract.

42.3.2. 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 any PFI covered by this clause.

42.4 *Information alteration and disposal*

42.4.1. Except as otherwise provided for in this contract, the Contractor shall not alter, destroy, or otherwise dispose of any PFI unless expressly directed by the Contracting Officer to do so.

42.5 *Subcontracts*

42.5.1. The Contractor shall include the substance of this clause in subcontracts under this contract (including subcontracts for the acquisition of commercial products or services in which the subcontractor may have access to PFI).

43. Basic Safeguarding of Contractor Communication and Information Systems (CIS)

43.1. ***Definitions.*** As used in this clause—

"Contractor *Communication and Information System*" means an information system that is owned or operated by a contractor that processes, stores, or transmits NATO Information. *"NATO Information"* means all information, classified and unclassified, circulated within NATO, whether such information originates in NATO Civil or Military bodies or is received from member nations or from non-NATO sources to include but not limited to:
NATO Information that is provided by or generated for the Purchaser under a contract to develop or deliver a product or service to NATO, but not including information provided by the Purchaser to the public (such as on public websites) or simple transactional information, such as necessary to process payments. Examples of NATO Information are:

NATO technical information that is subject to controls on its access, use, reproduction, modification, performance, display, release, disclosure, or dissemination that is technical data or computer software in nature; 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, executable code and source code, design details, or formulae and related material that would enable the software to be reproduced, recreated, or recompiled.

NATO infrastructure information such as Emergency Management, Infrastructure Security Information, Information Systems Vulnerability Information, Physical Security.

NATO security information such as Internal Data or Operations Security, Security Agreement Information, Security Enforcement Information, Transportation Arrangements, Personnel Security Information, Privacy Information, or Sensitive Personally Identifiable Information.

"*Information*" means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audio visual.

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

"Safeguarding" means measures or controls that are prescribed to protect information systems.

43.1.1. **Safeguarding requirements and procedures**. The Contractor shall provide adequate security on all contractor CIS. To provide adequate security, the Contractor shall implement, at a minimum:

43.1.1.1. For contractor CIS that are part of a cloud computing service or an Information Technology (IT) service or system developed or operated on behalf of NATO shall be subject to the security requirements specified elsewhere in this contract.

43.1.1.2. For contractor CIS storing, processing, or transmitting NATO RESTRICTED Information the security requirements specified in SoW clause, "Safeguarding of NATO Restricted Information" as mandated in NATO's Security Committee reference document number, AC/35-D/2003-REV5, dated 31 May 2015, entitled, "Directive on Classified Project and Industrial Security" Shall apply.

43.1.1.3. For contractor CIS storing, processing, or transmitting NATO UNCLASSIFIED Information that are not part of a cloud computing service or IT service or system operated on behalf of NATO, the Contractor shall apply the minimum mandatory security measures as prescribed for NU controls for national systems in the NATO's Consultation, Command and Control Board (C3B) reference document number AC/322-D/0048-REV3 (INV) dated 18 November 2019, entitled, "Technical and Implementation Directive on CIS Security".

43.1.1.4. ***Other requirements***. This clause does not relieve the Contractor of any other specific safeguarding requirements specified elsewhere in this contract or of other applicable NATO or national regulatory requirements.

43.1.1.5. A breach of these obligations may subject the Contractor to contractual actions in law and equity for penalties, damages, and other appropriate remedies by the Purchaser.

43.1.1.6. ***Subcontracts***. The Contractor shall include the substance of this clause, including this paragraph (1.1.2.6), in subcontracts under this contract (including subcontracts for the acquisition of commercial products or services in which the subcontractor may have NATO Information residing in or transiting through its CIS.

44. PURCHASER FURNISHED PROPERTY

44.1. 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).

44.2. 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).

44.3. 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.

44.4. 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.

44.5. 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.

44.6. The inventory shall note whether:

44.6.1. The property was consumed or incorporated in fabrication of final deliverable(s);

44.6.2. The property was otherwise destroyed;

44.6.3. The property remains in possession of the Contractor;

44.6.4. The property was previously returned

44.7. 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.

44.8. The Contractor shall not modify any Purchaser Furnished Property unless specifically authorised by the Purchaser or directed by the terms of the Contract.

44.9. 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.

45. REACH CAPABILITY

45.1. The purpose of this Article is to define the conditions under which specific Purchaser provided NROI capability (newly called REACH) is made available to the Contractor in the course of this Contract.

45.2. The provision of the REACH capability is governed by the standard Article 13 of the NCI Agency, Part III - General Provisions (Purchaser Furnished Property), Article 47 of the Special Provisions and Annex B to the Special Provisions.

45.3. Should the Purchaser not be able to meet the SLA related to the provision of the REACH capability as laid down in Annex B of these Special Provisions, the Contractor shall not be entitled to claim an excusable delay nor any compensation against any Articles for the Performance of this Contract and its Amendments.

46. AUDITING AND ACCOUNTING

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

46.2. The invoicing and payment procedures for the amount payable to the Contractor shall be in accordance with the prescription of Article 18 “Invoices and Payment” of the Contract Special Provisions.

46.3. 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.

47. 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.

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

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

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

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

48. FORCE MAJEURE

48.1. "**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 beyondthe 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.

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

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

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

48.2.3. currency and trade restriction, embargo, sanction;

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

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

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

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

48.3. 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 Partyshall within a reasonable time respond, stating whether it accepts or rejects the occurrence as Force Majeure.

48.4. If the Other Party accepts the occurrence as Force Majeure, the Contract shall remain inforce 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 isthe shorter, provided that:

48.4.1. 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;

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

48.4.3. 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.

48.4.4. Neither Party shall be in breach of the Contract nor liable for delay in performing, or forfailing to perform, its obligations under the Contract, due to Force Majeure.

48.5. 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 areduction of scope terminating part of the contract at no cost; or (c) to terminate the whole of the Contract at no cost.

49. NCI AGENCY SUPPLIER CODE OF CONDUCT

49.1. 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.

49.2. 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.

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

50. CYBER INCIDENT REPORTING (Alt 1)

50.1. **Definitions**. As used in this clause—

"Contractor attributional/proprietary Information" means information that identifies the contractor(s), whether directly or indirectly, by the grouping of information that can be traced back to the contractor(s) (e.g., program description, facility locations), personally identifiable information, as well as trade secrets, commercial or financial information, or other commercially sensitive information that is not customarily shared outside of the company.

"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.

"NATO Information" means as defined in clause, Basic Safeguarding of Contractor Communication Information Systems (CIS).

"Cyber incident" means any detected anomaly compromising, or that has the potential to compromise, communication, information or other electronic systems or the information that is stored, processed or transmitted in these systems.

"Forensic analysis" means the practice of gathering, retaining, and analyzing computer-related data for investigative purposes in a manner that maintains the integrity of the data.
"Information system" means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

"Malicious software" means computer software or firmware intended to perform an unauthorized process that will have adverse impact on the confidentiality, integrity, or availability of an information system. This definition includes a virus, worm, Trojan horse, or other code-based entity that infects a host, as well as spyware and some forms of adware.

"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 NATO Information is recorded, stored, or printed within a contractor CIS.

50.2. Cyber incident reporting requirement**.**

50.2.1. When the Contractor discovers a cyber incident that affects a contractor CIS or NATO Information residing therein, or that affects the contractor's ability to perform the requirements of the contract, the Contractor shall—

50.2.1.1. Conduct a review for evidence of compromise of the NATO Information, including, but not limited to, identifying compromised computers, servers, specific data, and user accounts. This review shall also include analyzing contractor CIS that were part of the cyber incident, as well as other information systems on the Contractor's network(s), that may have been accessed as a result of the incident in order to identify compromised NATO Information, or that affect the Contractor's ability to perform the requirements of the contract; and,

50.2.1.2. Report the cyber incident(s) to the Contracting Officer within 72 hours of discovery of any cyber incident.

50.2.2. Cyber incident report. The cyber incident report shall be treated as information created by or for the Purchaser and shall include, at a minimum, the following content:

- Company name
- Facility Clearance Level
- Company point of contact information (name, position, telephone, email)
- NCI Agency Project Manager point of contact (name, position, telephone, email)
- Contract number(s) or other type of agreement affected or potentially affected
- Contracting Officer or other type of agreement point of contact (address, position, telephone, email)

- Contract or other type of agreement classification level
- Impact to NATO Information and/or provided products/services
- Ability to provide operational support
- Date incident discovered
- Location(s) of compromise
- NATO programs, platforms or systems involved
- Classification of the systems involved
- Type of compromise (unauthorized access, unauthorized release (includes inadvertent release), unknown, not applicable)
- Description of technique or method used in the cyber incident
- Incident outcome (successful compromise, failed attempt, unknown)
- Incident/Compromise narrative (Ex: Chronological explanation of event/incident, threat actor TTPs, indicators of compromise, targeting, mitigation strategies, and any other relevant information to assist in understanding what occurred) Include in this section what actions have been taken to mitigate the risk/damage of both hardware and software assets.
- Confirm whether news media are already aware/informed of the incident
- Any additional information

50.2.3. Subject to the Purchaser's consultation with the contractor's national cyber defence authority and/or as prescribed in the contractor's nation's Memorandum of Understanding (MoU) on Cyber Defence with NATO, the Purchaser reserves the right to request the following:

50.2.3.1. Malicious software. When the Contractor or subcontractors discover and isolate malicious software in connection with a reported cyber incident, inform the Contracting Officer to allow the Purchaser to request the malicious software or decline interest. Do not send the malicious software to the Contracting Officer.

50.2.3.2. Media preservation and protection. When a Contractor discovers a cyber incident has occurred, the Contractor hall preserve and protect images of all known affected information systems identified in paragraph 50.2.1.1 of this clause and all relevant monitoring/packet capture data for at least 90 days from the submission of the cyber incident report to allow the Purchaser to request the media or decline interest.

50.2.3.3. Access to additional information in support of an incident investigation. Upon request by the Purchaser, the Contractor shall provide the Purchaser with access to additional information that is necessary to conduct an incident investigation.

50.2.3.4. Cyber incident damage assessment activities. If the Purchaser elects to conduct a damage assessment, the Contracting Officer will request that the Contractor provide all of the damage assessment information gathered in accordance with paragraph 50.2.3.5 of this clause.

50.2.3.5. Information Handling. The Purchaser shall protect information reported or otherwise provided to the Purchaser under this clause that includes contractor

attributional/proprietary information in accordance with applicable NATO policies. To the maximum extent practicable, the Contractor shall identify and mark contractor attributional/proprietary information. The Purchaser may use contractor attributional information and disclose it only for purposes and activities consistent with this clause. The Purchaser will implement appropriate procedures to minimize the contractor attributional/proprietary information that is included in such an authorized release, seeking to include only that information that is necessary for the authorized purpose(s) for which the information is being released.

50.2.3.6. The Contractor shall conduct activities under this clause in accordance with applicable NATO regulations and contractor national laws and regulations on the interception, monitoring, access, use, and disclosure of electronic communications and data.

50.2.3.7. Other reporting requirements. The cyber incident reporting required by this clause in no way abrogates the Contractor's responsibility for other cyber incident reporting as required by other applicable clauses of this contract, or as a result of other applicable NATO regulations or contractor national law or regulatory requirements.

50.2.4. Subcontracts. The Contractor shall—

50.2.4.1. Include this clause, including this paragraph 50.2.4.1, in subcontracts, or similar contractual instruments, for which subcontract performance will involve NATO Information, including subcontracts for commercial items, without alteration, except to identify the parties. The Contractor shall determine if the information required for subcontractor performance retains its identity as NATO Information and will require protection under this clause, and, if necessary, consult with the Contracting Officer; and,

50.2.4.2. Require subcontractors to provide a copy of the incident report to the prime Contractor (or next higher-tier subcontractor) as soon as practicable, when reporting a cyber incident to the Purchaser as required in paragraph 50.2 of this clause.

51. SUB-CONTRACTORS

51.1. 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.

51.2. 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.

ANNEX A

NCI AGENCY NON-DISCLOSURE DECLARATION

We, the undersigned.....(Company) duly represented by ..... (herein after "Contractor") do hereby certify that we shall ensure that the following conditions be accepted and observed by all (Contractor) employees working under CO-115714-INTEG.

_____

(Signature)

_____

(Full name in block capitals)

_____

(Date)

==========

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-115714-INTEG.

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-115714-INTEG, 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-115714-INTEG, 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 25.

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 25.

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

SERVICE LEVEL AGREEMENT (SLA) FOR THE PROVISION OF REACH LAPTOPS IN ACCORDANCE WITH ARTICLE 45 OF THE CONTRACT SPECIAL PROVISIONS

Introduction

To improve collaboration between the Contractor and the Purchaser teams, a collaborative environment for the two teams will be established that will provide the ability to process, store and handle information up to and including NATO RESTRICTED. Access to the collaborative environment is provided to the Contractor's Team via the Purchaser NR capability (informally called REACH). This capability will be complemented by a limited access to Purchaser Project Portal.

Parties

The REACH capability will be provided by the Purchaser to support the Contractor Team under Contract No CO-115714-INTEG.

General Overview

This is an agreement between the Purchaser and the Contractor under this Contract to establish ythe:

- Provision of REACH capability for the Contractor Team;
- General levels of response, availability, and maintenance associated with the REACH capability;
- Respective responsibilities of the Purchaser and the Contractor Team.

These provisions shall be in effect for an initial period of three years from the effective date of the Contract or until the end of Contract No CO-115714-INTEG, whichever occurs first. It can be extended based on a mutual agreement between the Parties.

Provided Capability

References
https://dnbl.ncia.nato.int/Pages/ServiceCatalogue/CPSList.aspx
(WPS006, WPS003, WPS008 services)

The Purchaser accepts no liability and provides no warranty in respect of the third party software mentioned above. It is emphasized that the REACHs can only be used by the Contractor's Team within the limits set out in this project description.

Scope

- As described in reference Service Descriptions above

Aim

The REACH capability enables exchanges of information and collaboration up to and including NATO Restricted classification.

Limitations

- The use of the REACH capability requires a NATO Security clearance at NATO SECRET level. Proof of the users' security clearances will be provided to the Purchaser.

- The exchange and collaboration of information is provided through e-mail and Instant Messaging.

- Direct printing capability is not provided, but can be arranged through an extension of this contract requested by the Contractor's Team.

- In case of any problems which cannot be solved remotely from the service desk (The Hague, NLD), the equipment shall be sent to NCIA, The Hague at the Contractor's expenses. Any damages resulting from inappropriate operation or operation in harsh environment or adverse weather conditions, as well as a loss of the system shall be compensated by the Contractor.

Assumptions

The following assumptions apply to this Agreement:

- Any support provided by Purchaser is documented in the service descriptions above

- Security violations of the non-NCIA REACH users are investigated through their local security officers/managers applying NATO rules (CM(2002)49, NCIA (CapDev)AD3-2, and NCIA(CapDev)NR SECOPS).

- Required changes to this Agreement and/or the provision of the REACH capability will be jointly assessed and the implementation agreed between the Parties. The implementation of changes may have an impact on the charges which will be handled through an update of this Agreement.

Roles and Responsibilities

The roles and responsibilities for the provision of the REACH capability are defined in the referenced Service Description, but summarized also herein:

- Contractor Team will receive up to 25 REACH terminal.

- The Purchaser will provide the REACH capability and related services.

Points of Contact

- As described in the service descriptions above (WPS008 Service Desk).

Purchaser's responsibilities

The Purchaser will:

- Provide to the Purchaser the necessary documentation required for the activation of user accounts and certifications.
- Provide the REACH capability including basic end-user training (1.5-hour duration) and deliver 1 Initial REACH, 2 Additional REACHs.
- Set up and maintain the project web-portal at NR level,
- Provide introduction to the management of the portal (1-2 hours) and service desk for the portal on-site at NCIA, The Hague or through electronic media,
- Grant temporary use of REACH hardware and the software licences for the contracted period,

Contractor Team Responsibilities

The Contractor Team shall:

- Sign and return to the Purchaser the required security documentation.
- Provide the internet access required for Remote Access via NCIA REACH,
- Be responsible for the backup of files and data of the REACH on NR accredited media on an authorized Removable Storage Device provided by service provider,
- Ensure that Contractor personnel operating the REACH units possess security clearance of a minimum of NS,
- Provides Security clearance for up to and including NS for the personnel using the REACH capability,
- Provides the contact details of the local Security Officer/Manager and the commitment to apply NATO rules as defined in (CM(2002)49, NCIA (CapDev)AD3-2, and NCIA(CapDev)NR SECOPS)for the investigation.
- Return the equipment at the end of the Agreement at its expenses to the Purchaser,
- Not use the equipment for any other purposes than the purpose set out herein,

- Not lend, rent, lease and/or otherwise transfer the equipment to a third party,
- Not copy or reverse engineer the equipment.

Hours of Coverage, Response Times & Escalation

- As described in the service descriptions above.

Incidents

- As described in the service descriptions above.
- Resolution of disagreements

In case of disagreements, all disputes shall be resolved by consultation between the Parties and shall not be referred to any national or international tribunal or other third party for settlement.

Changes

- For any changes of the REACH capability which will be required to be made during the term of this Agreement, the Purchaser will notify the Contractor CISAF Team at least one week prior to the event and inform about the required consequences.
- Any changes concerning the elements provided by the Contractor Team shall be communicated to the NCIA Service Desk at least one week prior to the event.

Maintenance

Use of the REACH capability and/or related components require regularly scheduled maintenance (“Maintenance Window”) performed by the Purchaser. These activities will render systems and/or applications unavailable for normal user interaction as published in the maintenance calendar. Users will be informed of the maintenance activities with sufficient notice.

ANNEX C
COMPREHENSION AND ACCEPTANCE OF THE SECURITY ASPECT LETTER (SAL)

1. In the performance of this contract, the prime Contractor and any Sub-contractor(s) are required to comply with NATO security regulations as implemented by the NSA/DSA of the nation in which the work is performed or in the contracts involving NR information only as established in the contract's Statement of Work (SoW) requirement entitled, "Safeguarding of NATO Restricted Information".

2. All classified information and material shall be protected in accordance with the requirements established by the NSA/DSA of the nation in which the work is performed or in the case of NR information as may also be established in the Safeguarding of NATO Restricted Information Requirement.

3. In particular, the Contractor shall:

(a) appoint an officer to be responsible for supervising and directing security measures in relation to the solicitation, contract or sub- contract;

(b) submit in due time to the NSA/DSA the personal particulars of the person the contractor wishes to employ on the project with a view to obtaining PSCs at the required level where NC and above is involved;

(c) maintain, preferably through this officer responsible for security measures, a continuing relationship with the NSA/DSA and / or the Contracting Authority in order to ensure that all NATO classified information involved in the bid, contract or sub-contract is properly safeguarded;

(d) limit the copying of any classified materiel (including documents) to the absolute minimum to perform the contract;

(e) supply the NSA/DSA, when so requested by the latter, with any information on the persons who will be required to have access to NATO classified information;

(f) maintain a record of his employees taking part in the project and who have been cleared for access to NATO classified information. This record must show the period of validity and the level of the clearances;

(g) deny access to NATO classified information to any persons other than those authorised to have access by the NSA/DSA or in the case of NR information as determined by the need-to-know;

(h) limit the dissemination of NATO classified information to the smallest number of persons as is consistent with the proper execution of the contract or sub- contract;

(i) comply with any request that persons to be entrusted with NATO classified information sign a statement undertaking to safeguard that information and signifying their understanding of their obligations under national legislation on the safeguarding of classified information, and that they recognise that they may have comparable obligations under the laws of the other NATO nations in which they may have access to classified information;

(j) report to the Security Officer and to his NSA/DSA any breaches or suspected breaches of security, suspected sabotage or subversive activity, any breach giving rise to doubts as to the trustworthiness of an employee, any changes in the ownership, supervisory or managerial staff of the facility or any changes that affect the security arrangements and security status of the facility, and any other information which may be required by the NSA/DSA, such as reports on holdings of NATO classified information or materiel;

(k) obtain the approval of (programme/project office and NSA/DSA) before beginning negotiations with a view to sub-contracting any part of the work which would involve the Sub-contractor having possible access to NATO classified information, and to place the Sub-contractor under appropriate security obligations which in no case may be less stringent than those provided for his own contract;

(l) undertake not to utilise, other than for the specific purpose of the bid, contract or sub-contract, without the written permission of (programme/project office) or the prime Contractor, any NATO classified information supplied to him, and return to (programme/project office) all classified information referred to above, as well as that developed in connection with the contract or sub-contract unless such information has been destroyed, or its retention has been duly authorised by the contracting office or the sub-contracting officer. Such NATO classified information shall be returned at such time as the contracting office may direct; and

(m) comply with any procedure established with respect to the dissemination of NATO classified information in connection with the contract or sub-contract.

(n) Any person taking part in the performance of work the classified parts of which are to be safeguarded, must possess the appropriate NATO security clearance issued by his NSA/DSA. The level of this clearance must be at least equal to the security category of the materiel, the related information or specifications where NC or above is involved.

(o) Unless specifically authorised to do so by (programme/project office), the Contractor may not pass on any NATO classified information to any third party to whom a request to supply goods or services has been submitted.

(p) No change in level of classification or de-classification of documentation or materiel may be carried out unless written authority in this respect is obtained from (programme/project office).

(q) No CIS may be used for processing classified information without prior accreditation by the responsible authorities. At the level of NR, such accreditation can be under delegated authority of the responsible accreditation authority or the contracting

authority in accordance with Special Provisions clause entitled, “Safeguarding of NATO Restricted Information.

(r) Failure to implement these provisions and the security regulations established by the NSA of the nation where the contractual work is being performed may result in termination of this contract without reimbursement to the Contractor or claim against NATO, (programme/project office) or the national government of the said nation.

(s) The (programme/project office) security classification check list indicates the degree of classification of the data and materiel (equipment, information, technical manuals, specifications) which may be handled in the performance of work under this contract and which must be safeguarded in accordance with the provisions of this letter.

(t) The contractor shall destroy or return any classified information provided or generated under the contract unless the contracting authority has given written approval to retain such classified information, e.g. for warranty purposes.

(u) The Contractor shall be required to acknowledge receipt of an accompanying SAL or Program Security Instruction (PSI) that is made part of the applicable contract and confirm that it understands the security aspects defined. With respect to contracts involving only NR information the Contractor shall also be required to confirm that it will comply with the provisions of the Safeguarding of NATO Restricted Information Requirement provided in Book II, Statement of Work and specifically that any company CIS used to handle or process NR classified information has been appropriately security accredited.

Comprehension and Acceptance of the Security Aspect Letter (SAL)

The Bidder hereby acknowledges receipt of the SAL letter in relation to the NATO Restricted Information provided under contract reference number CO-115714-INTEG and certifies:

a.) full comprehension of the security aspects defined in the SAL and compliance with the provisions of the Safeguarding of NATO Restricted Information requirement provided in the Statement of Work ; and,

b.) any company CIS used to handle or process NR classified information has been appropriately security accredited.

…..... …....
Date Signature of Authorised Representative

….....
Printed Name and Title

….....
Company

ANNEX D

Company Compliance with Safeguarding NATO Information Controls Self-Attestation Statement

The security requirements required by the contract's Special Provisions clause, Basic Safeguarding of Contractor Communication and Information Systems (CIS), shall be implemented for NATO Information on all contractor communication information systems (CIS) that support the performance of this contract.

I, the undersigned, as an authorised representative of …… ……..……*(Company Name)*, certify that by submission of this bid, we assure the Purchaser that we will comply and implement the mandatory security measures in accordance with Part II Special Provisions, "Basic Safeguarding of Contractor Communication and Information Systems (CIS)" and their mandatory references not later than by Contract Award or as agreed by the Contracting Officer.

I can supply supporting evidence, upon request by the Contracting Officer, by means of a completed System Security Plan[1] (or extract thereof) and any associated plans of actions developed to describe the Contractor's CIS where NATO Information associated with the execution and performance of this contract is processed, stored, developed, or transmitted.

Company:

Signature:

Date:

[1] System Security Plan describes the system components that are included within the system, the environment in which the system operates, how the security requirements are implemented, and the relationships with or connections to other systems.