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**Acquisition Directorate**

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NCIA/ACQ/2021/07202

04 November 2021

To: See Distribution List

Subject: **Request for Quotation RFQ-CO-115495-CPSC**

Reference: A. C-M(2015)0025  
B. AC/337-D(2016)0014  
C. BC-D(2018)0004  
D. AC/4-D(2019)0004 (INV)

Dear Sir/Madam,

1. Your firm is hereby invited, to participate in a BOA Plus competition for technical/hardware support required to operate & maintain the existing Check Point firewall.
2. The requirements under this Request For Quotation (RFQ) are allocated into one single Lot, referred to as Schedule A. The NCI Agency will place one contract to cover the entire scope of Schedule A.
3. The contract award will be based on the quotations evaluated as the single lowest price, technically compliant in accordance with the selection criteria set forth in the Bidding Instructions.
4. **THE CLOSING TIME FOR SUBMISSION OF QUOTATIONS IN RESPONSE TO THIS RFQ IS 13:00 HOURS (BRUSSELS TIME) ON TUESDAY 23 NOVEMBER 2021.**
5. This RFQ consists of the following documents:
  - a) Book I – Bidding Instructions. Book I provides the general bidding information and includes the following annexes:
    - i. Annex A – Clarification Request Forms;
    - ii. Annex B – Administrative Certificates;
    - iii. Annex C – Bidding Sheets – The bidding sheets should be completed exactly as instructed;
    - iv. Annex D – Instructions for the preparation of Bidding Sheets;
    - v. Annex E – Compliance Table.



NATO Communications  
and Information Agency  
Agence OTAN d'information  
et de communication

Boulevard Leopold III  
1110 Brussels, Belgium

[www.ncia.nato.int](http://www.ncia.nato.int)

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- b) Book II – Prospective Contract. Book II contains the following sections:
- i. Contract Signature Page;
  - ii. Schedule of Supplies and Services (SSS) – This Section will be derived from the bidding sheets submitted by the winning Offeror;
  - iii. Contract Special Provisions;
  - iv. Contract General Provisions;
  - v. The Statement of Work. This sets forth the detailed specifications governing the performance requirements of the contract.
6. The overall security classification of this RFQ is “NATO UNCLASSIFIED”. This RFQ remains the property of the NCI Agency and shall be protected in accordance with the applicable national security regulations.
7. You are requested to complete and return the enclosed acknowledgement of receipt within 5 days of receipt of this RFQ, informing NCI Agency of your intention to quote/not to quote. Your firm is not bound by its initial decision, and if you decide to reverse your stated intention at a later date, you are requested to advise us by a separate email.
8. The reference for this RFQ is RFQ-CO-115495-CPSC, and all correspondence concerning the RFQ should reference this number.
9. Prospective Offerors are advised that the NCI Agency reserves the right to cancel this RFQ at any time in its entirety and bears no liability for quotation preparation costs incurred by firms or any other collateral costs if solicitation cancellation occurs.
10. Your point of contact for all information concerning this RFQ is Mr. Darren Corkindale, Senior Contracting Officer Consultant, who may be reached at [RFQ-CO-115495-CPSC@ncia.nato.int](mailto:RFQ-CO-115495-CPSC@ncia.nato.int)

For the Director of Acquisition:

Edel Esparza  
Principal Contracting Officer (acting)

**Enclosures:**

- RFQ-CO-115495-CPSC - Book I Bidding Instructions
- RFQ-CO-115495-CPSC - Book II Prospective Contract



Acquisition Directorate

Darren.Corkindale@ncia.nato.int

Telephone: +32 (2) 707 5182

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**Attachment A**

**Acknowledgement of Receipt of Request for Quotation**

**RFQ-CO-115495-CPSC**

**Please complete and return within 5 days by: e-mail: [RFQ-CO-115495-CPSC@ncia.nato.int](mailto:RFQ-CO-115495-CPSC@ncia.nato.int) & for the attention of Mr. Darren Corkindale.**

We hereby advise that we have received Request for Quotation RFQ-CO-115495-CPSC on ....., together with all enclosures listed in the Table of Contents.

**CHECK ONE**

- { } As of this date and without commitment on our part, we do intend to submit a quotation.
- { } We do not intend to submit a quotation.
- { } We are reviewing the requirements of the RFQ and will notify you of our decision as soon as possible.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

### Distribution List for RFQ-CO-115495-CPSC

- **Offerors** (sent separately in electronic version)
- **NATO Delegations** (Attn: Investment Adviser):
  - Albania
  - Belgium
  - Bulgaria
  - Canada
  - Croatia
  - Czech Republic
  - Denmark
  - Estonia
  - France
  - Germany
  - Greece
  - Hungary
  - Iceland
  - Italy
  - Latvia
  - Lithuania
  - Luxembourg
  - Montenegro
  - The Netherlands
  - Norway
  - North Macedonia
  - Poland
  - Portugal
  - Romania
  - Slovakia
  - Slovenia
  - Spain
  - Turkey
  - United Kingdom
  - United States
  - Belgium Ministry of Economic Affairs
- **Embassies in Brussels** (Attn: Commercial Attaché):
  - Albania
  - Bulgaria
  - Canada
  - Croatia
  - Czech Republic
  - Denmark
  - Estonia
  - France
  - Germany
  - Greece

Hungary  
Italy  
Latvia  
Lithuania  
Luxembourg  
Montenegro  
The Netherlands  
Norway  
North Macedonia  
Poland  
Portugal  
Romania  
Slovakia  
Slovenia  
Spain  
Turkey  
United Kingdom  
United States

- **NATO HQ**

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

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

- **SACTREPEUR**

Attn: Infrastructure Assistant

- **Strategic Commands**

ACO/DCOS CIS & Cyber Defence  
ACT/DCOS Capability Development

- **NCI Agency –Internal Distribution**

ACQ Director of Acquisition (Mrs Jennifer Upton)  
ACQ Deputy Director of Acquisition (Mrs Agata Szydelko)  
Chief of Contracts (Mr Alexandre Vitry)  
Administrator Contracts Award Board (Mrs Carolien Biesemans)  
ACQ Principal Contracting Officer (Mr Edel Esparza)  
ACQ AAS Senior Contracting Officer (Mr Darren Corkindale)  
ACQ ILS (Mr Antonio Fioravanti)  
NLO (Mr Xavier Desfougeres)  
NCSC Chief (Mr Ian West)  
NCSC PEB Chairperson (Mr. Fred Jordan)  
NCSC Head Gateway Security Services (Sandro Herpich)  
Legal Office (Mr Vincent Roobaert)  
Service Strategy (Mr Jose Herrero)  
Registry

- **NCI Agency – All NATEXs**



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RFQ-CO-115495-CPSC  
Cover Page  
NCIA/ACQ/2021/07202

## **REQUEST FOR QUOTATION**

**RFQ-CO-115495-CPSC**

**CHECK POINT SUPPORT**



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**RFQ-CO-115495-CPSC**

**FOR THE PROVISION OF CHECK POINT SUPPORT**



NATO Communications and Information Agency  
Agence OTAN d'information et de communication

**BOOK I**

**BIDDING INSTRUCTIONS**

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## SECTION I - INTRODUCTION

- 1.1 The purpose of this Request for Quotation (RFQ) is to establish a contract for the support of the existing Check Point hardware and software at the NATO Communications and Information Agency (NCIA), Mons, Belgium. This is referred to as RFQ-CO-115495-CPSC (Check Point Support Contract).
- 1.2 The NCIA is responsible for the follow-on licensing support of Check Point security gateways (physical and software) and management components operated by the NATO Cyber Security Centre (NCSC). This prospective Contract covers the technical/hardware support required to operate & maintain the existing Check Point firewalls alongside the provision & support of additional Check Point products, software blades and accessories required for NATO networks security. The Boundary Protection Service infrastructure, of which Check Point equipment is a part, may evolve during the contract period of performance. This includes the support of existing products, but also the removal of no longer required products.
- 1.3 To deliver these requirements, the NCIA seeks to establish a Firm Fixed Price (FFP) single award contract using multiple funding sources.
- 1.4 The successful Contractor shall supply equipment and services to all authorized NATO Command Locations in Europe and North America including any of NATO's Affiliates in accordance with the terms of the Contract. The list of existing affiliates is available at: <http://www.nato.int/cps/en/natolive/structure.htm>.
- 1.5 As set forth in the Statement of Work, the prospective Contract includes both firm requirements that are active upon contract award and priced options that may be exercised by the Purchaser as needed.
- 1.6 The contract performance requirements are set forth in the prospective contract Statement of Work (Book II Part IV) and in the prospective contract Schedule of Supplies and Services (Book II Part I).
- 1.7 This RFQ to is conducted under Basic Ordering Agreement Plus (BOA+) procedures outlined within the "*Procedure Governing the Use of Basic Ordering Agreements concluded by the NATO Communications and Information Agency – 2019 version*, Ref: AC/4-D(2019)0004 (INV)". Pursuant to these procedures, quotation submittal is restricted to companies from participating NATO member nations in accordance with paragraph 2.1.6 of Section II of the Bidding Instructions.
- 1.8 The security of this RFQ is "NATO UNCLASSIFIED".
- 1.9 This RFQ will not be the subject of a public opening.
- 1.10 Award of the Contract will be made on a Firm Fixed Price basis to the lowest priced technically compliant Offeror.



- 1.11 The Period of Performance (PoP) for the prospective contract from the Effective Date of Contract (EDC), and not including any option years, is as follows:
  - 1.11.1 EDC +1 year
- 1.12 The solicitation, evaluation and award processes will be conducted in accordance with the terms and conditions contained herein.
- 1.13 The Offeror shall refer to the Purchaser all queries for a resolution of conflicts found in information contained in this document in accordance with the procedures set forth in paragraphs 2.6 of Section II of the Bidding Instructions entitled "Requests for RFQ Clarifications".
- 1.14 The target date for Contract award is December 2021.

## SECTION II – GENERAL BIDDING INSTRUCTIONS

### **2.1 DEFINITIONS**

- 2.1.1 In accordance with MIL-HDBK-505, the term “Assembly” as used herein means an item forming a portion of equipment that can be provisioned and replaced as an entity and which normally incorporates replaceable parts or groups of parts.
- 2.1.2 The term “Basic Ordering Agreement” (BOA) refers to the acquisition instruments negotiated between suppliers of products / services and the NCI Agency, on behalf of NATO.
- 2.1.3 The term "Compliance" as used herein means strict conformity to the requirements and standards specified in this Request for Quotation.
- 2.1.4 The term "Contractor" refers to a firm of a participating country which has signed a Contract under which he will perform a service, manufacture a product, or carry out works for NATO.
- 2.1.5 The term "Offeror" as used herein refers to a firm, consortium, or joint venture which submits an offer in response to this solicitation.
- 2.1.6 The term “Participating Country” as used herein means one of the contributory NATO nations in the project, namely, (in alphabetical order): ALBANIA, BELGIUM, BULGARIA, CANADA, CROATIA, CZECH REPUBLIC, DENMARK, ESTONIA, FRANCE, GERMANY, GREECE, HUNGARY, ICELAND, ITALY, LATVIA, LITHUANIA, LUXEMBOURG, MONTENEGRO, NETHERLANDS, NORTH MACEDONIA, NORWAY, POLAND, PORTUGAL, ROMANIA, SLOVAKIA, SLOVENIA, SPAIN, TURKEY, UNITED KINGDOM, UNITED STATES OF AMERICA.
- 2.1.7 The term "Purchaser" refers to the authority issuing the RFQ and/or awarding the Contract (the NCI Agency).
- 2.1.8 In accordance with MIL-HDBK-505, the term “Sub-Assembly” as used herein refers to a portion of an assembly consisting of two or more parts that can be provisioned and replaced as an entity. The definition purposely excludes components and/or parts.

### **2.2 ELIGIBILITY**

- 2.2.1 This RFQ is being conducted under BOA plus procedures, therefore, firms which hold an active Basic Ordering Agreement (BOA) with the NCI Agency are eligible to take part in this RFQ along with those firms nominated through their Delegations via a Declaration of Eligibility.
- 2.2.2 All Contractors, sub-Contractors and manufacturers, at any tier, must be from Participating Countries.
- 2.2.3 None of the work, including project design, labour and services shall be performed other than by firms from and within Participating Countries.

- 2.2.4 No materials or items of equipment down to and including identifiable sub-assemblies shall be manufactured or assembled by a firm other than from and within a Participating Country.
- 2.2.5 The intellectual property rights to all design documentation and related system operating software shall reside in NATO member countries, and no license fee, or royalty charges shall be paid by the Contractor to firms, individuals or governments other than within the NATO member countries.

### **2.3 QUOTATION SUBMITTAL AND QUOTATION CLOSING DATE**

- 2.3.1 All Quotations shall be in the possession of the Purchaser at the email address given below in Paragraph 2.3.2 below no later than 1 pm/13:00 hours (CENTRAL EUROPEAN TIME) on Tuesday 23<sup>rd</sup> November 2021 at which time and date Quotations shall be closed.
- 2.3.2 Due to the COVID-19 restrictions imposed by some governments and organisations within the NATO alliance, the Purchaser is permitting Offerors with a revised form of submitting Quotations via email.

Email: [RFQ-CO-115495-CPSC@ncia.nato.int](mailto:RFQ-CO-115495-CPSC@ncia.nato.int)

- 2.3.3 The Quotation shall consist of three (3) separate subject emails:
  - 2.3.3.1 For the first e-mail the subject line shall read: “RFQ-CO-115495-CPSC – Official Quotation for [company name] – Volume I - Administrative Envelope”. The e-mail content shall be as described in paragraph 3.2.1(a) below, with no password protection to the file and shall be not larger than 20MB total.
  - 2.3.3.2 For the second e-mail the subject line shall read: “RFQ-CO-115495-CPSC – Official Quotation for [company name] – Volume II - Price Quotation”. The e-mail content shall be as described in paragraph 3.2.1(b) below, with no password protection to the file, and shall be not larger than 20MB total.
  - 2.3.3.3 For the third e-mail the subject line shall read: “RFQ-CO-115495-CPSC – Official Quotation for [company name] – Volume III – Technical Proposal”. The e-mail content shall be as described in paragraph 3.2.1(c) below, with no password protection to the file, and shall be not larger than 20MB total per e-mail. For large Technical Proposals, multiple e-mails may be required to submit the entire package. In such case, Offerors shall clearly indicate the correct order in the e-mail subject line.
- 2.3.4 Quotations which are delivered to the Purchaser after the specified time and date set forth above for Bid Closing are “Late Bids” and shall not be considered for award.
- 2.3.5 It is the responsibility of the Offeror to ensure that the Quotation submission is duly completed by the specified Quotation Closing time and date. If a Quotation received at the NCI Agency’s facility by electronic data interchange is unreadable to the degree that conformance to the essential requirements of the solicitation cannot be ascertained, the Purchaser will immediately notify the Offeror that the Quotation will be rejected unless the Offeror provides clear and convincing evidence:
  - (a) Of the content of the Quotation as originally submitted; and,
  - (b) That the unreadable condition of the Quotation was caused by Purchaser software or hardware error, malfunction, or other Purchaser mishandling.

- 2.3.6 One (1) copy of the Quotation shall be submitted via email. The evaluation will be based on the Quotation provided via email. Due to the current state of emergency regarding COVID-19, no physical/hard copy versions of the Quotation shall be provided.

## **2.4 REQUESTS FOR EXTENSION OF QUOTATION CLOSING DATE**

- 2.4.1 All questions and requests for extension of the Quotation Closing Date must be submitted by e-mail. Such questions shall be forwarded to the point of contact specified in section 2.5 below and shall arrive not later than seven (7) calendar days prior to the stated "Quotation Closing Date". The Purchaser is under no obligation to answer requests submitted after this time. Extensions to the quotation closing date are at the discretion of the Purchaser.

## **2.5 PURCHASER POINT OF CONTACT**

- 2.5.1 The Purchaser point of contact for all information concerning this RFQ is:

NATO Communications and Information Agency  
Acquisition Directorate  
Boulevard Léopold III  
1110 Brussels  
Belgium

- 2.5.2 Attention:

Mr. Darren Corkindale  
Senior Contracting Officer (Consultant)  
Tel: +32 2 707 5182

- 2.5.3 Emails:

2.5.3.1 Questions/Clarifications: [RFQ-CO-115495-CPSC@ncia.nato.int](mailto:RFQ-CO-115495-CPSC@ncia.nato.int)

2.5.3.2 Quotation: [RFQ-CO-115495-CPSC@ncia.nato.int](mailto:RFQ-CO-115495-CPSC@ncia.nato.int)

## **2.6 REQUESTS FOR RFQ CLARIFICATIONS**

- 2.6.1 Offerors, during the solicitation period, are encouraged to query and seek clarification of any matters of a contractual, administrative and technical nature pertaining to this RFQ.

- 2.6.2 All questions and requests for clarification must be submitted by e-mail and using the form in Annex A of Book I – Bidding Instructions. All questions and requests must

reference the section(s) in the RFQ subject for clarifications. The questions and/or requests shall be forwarded to the email address specified in paragraph 2.5.3.1 above and shall arrive not later than seven (7) calendar days prior to the stated “Quotation Closing Date”. The Purchaser is under no obligation to answer questions submitted after this time. Requests for clarification must address the totality of the concerns of the Offeror for any given area, as the Offeror will generally not be permitted to revisit areas of the RFQ for additional clarification as noted in 2.6.3 below.

- 2.6.3 Offerors are advised that subsequent questions and/or requests for clarification included in a quotation shall neither be answered nor considered for evaluation and may be grounds for a determination of non-compliance.
- 2.6.4 Except as provided above, all questions will be answered by the Purchaser and the questions and answers (deprived of any means of identification of the questioner) will be issued in writing to all prospective Offerors. Answers will be provided on a weekly basis.
- 2.6.5 The published answers issued by the Purchaser shall be regarded as the authoritative interpretation of the RFQ, and may lead to a formal amendment to the RFQ. Such amendment may also contain changes to the language, terms, conditions and/or specifications of the RFQ. Amendments to the language of the RFQ included in the answers, and/or the formal RFQ amendment, shall be incorporated by the Offeror in its offer.
- 2.6.6 It is crucial that Offerors request clarification of any perceived assumptions, dependencies, exclusions (or equivalent) during the RFQ clarification phase. Any assumptions, dependencies, exclusions (or equivalent) which are included in a Quotation submitted may be regarded by the Purchaser as a qualification or condition of the Quotation and may be grounds for a determination of non-compliance.

## **2.7 REQUESTS FOR WAIVERS AND DEVIATIONS**

- 2.7.1 Offerors are informed that requests for alteration to, waivers of, or deviations from the Schedule, the Special Contract Provisions, the Terms and Conditions in the NCI Agency’s Basic Ordering Agreement, the Technical Specifications, the Statement of Work and any other Terms and Conditions of the Prospective Contract will not be considered after the Request for Clarification process.
- 2.7.2 Requests for alterations to the other requirements, terms or conditions of the RFQ or the Prospective Contract may only be considered as part of the clarification process set forth in section 2.6 above. Requests for alterations to the specifications, terms and conditions of the Contract which are included in a Quotation as submitted may be regarded by the Purchaser as a qualification or condition of the Quotation and may be grounds for a determination of non-compliance.

## **2.8 AMENDMENT OF THE RFQ**

- 2.8.1 The Purchaser may revise, amend or correct the terms, conditions and/or specifications and provisions of the RFQ documents at any time prior to the date set for the Quotation Closing Date. Any and all modifications will be transmitted to all prospective Offerors by an official amendment designated as such and signed by the



Contracting Authority. Such amendment shall be recorded in the Acknowledgement of Receipt which the Offeror shall complete and enclose as part of his quotation. This process may be part of the clarification procedures set forth in section 2.6 above or may be an independent action on the part of the Purchaser.

- 2.8.2 The Purchaser will consider the potential impact of amendments on the ability of prospective Offerors to prepare a proper quotation within the allotted time. The Purchaser may extend the "Quotation Closing Date" at his discretion and such extension will be set forth in the amendment document.
- 2.8.3 In no case, however, will the closing date for receipt of quotation be less than seven (7) days from the date of issuance of any amendment to the RFQ.

## **2.9 MODIFICATION AND WITHDRAWAL OF QUOTATION**

- 2.9.1 Quotations, once submitted, may be modified by Offerors, but only to the extent that the modifications are in writing, conform to the requirements of the RFQ, and are received by the Purchaser prior to the exact time and date established for Quotation Closing. Such modifications shall be considered as an integral part of the submitted bid.
- 2.9.2 Modifications to quotations which arrive after the Quotation Closing Date will be considered as "Late Modifications" and will be processed in accordance with the procedure set forth above concerning "Late Quotation", except that unlike a "Late Quotation", the Purchaser will retain the modification until a selection is made. A modification to a quotation which is determined to be late will not be considered in the evaluation and selection process. If the Offeror submitting the modification is determined to be the successful Offeror on the basis of the unmodified quotation, the modification may then be opened. If the modification makes the terms of the quotation more favourable to the Purchaser, the modified quotation may be used as the basis of Contract award. The Purchaser, however, reserves the right to award a Contract to the apparent successful Offeror on the basis of the quotation submitted and disregard the late modification.
- 2.9.3 An Offeror may withdraw his Quotation at any time prior to Quotation Opening without penalty. In order to do so, an authorised agent or employee of the Offeror must provide an original statement of the firm's decision to withdraw the Quotation and remove the Quotation from the Purchaser's premises.

## **2.10 QUOTATION VALIDITY**

- 2.10.1 Offerors shall be bound by the term of their Quotation in which the Offeror has provided a quotation for a period of 6 months starting from the Quotation Closing Date specified at paragraph 2.3.1.
- 2.10.2 In order to comply with this requirement, the Offeror shall complete the Certificate of Quotation Validity set forth in Annex B-3. Quotations offering less than the period of time referred to above for acceptance by the Purchaser may be determined to be non-compliant.
- 2.10.3 The Purchaser will endeavour to complete the evaluation and make an award within the period referred to above. However, should that period of time prove insufficient to



render an award, the Purchaser reserves the right to request an extension of the period of validity of all quotations which remain under consideration for award.

2.10.4 Upon notification by the Purchaser of such a request for a time extension, the Offerors shall have the right to:

(a) accept this extension of time in which case Offerors shall be bound by the terms of their quotation for the extended period of time and the Certificate of Quotation Validity extended accordingly; or

(b) refuse this extension of time and withdraw the quotation without penalty.

2.10.5 Offerors shall not have the right to modify their quotations due to a Purchaser request for extension of the quotation validity unless expressly stated in such request.

## **2.11 QUOTATION GUARANTEE**

[NOT USED]

## **2.12 CANCELLATION OF REQUEST FOR QUOTATIONS**

2.12.1 The Purchaser may cancel, suspend or withdraw for re-issue at a later date this RFQ at any time prior to Contract award. No legal liability on the part of the Purchaser for payment of any sort shall arise and in no event will any Offeror have cause for action against the Purchaser for the recovery of costs incurred in connection with preparation and submission of a quotation in response to this RFQ.

## **2.13 ELECTRONIC TRANSMISSION OF INFORMATION AND DATA**

2.13.1 The Purchaser will endeavour to communicate answers to requests for clarification and amendments to this RFQ to the prospective Offerors by the fastest means possible, including the use of e-mail where the firms have forwarded the necessary address information. All Offerors are consequently strongly encouraged to provide accurate email addressing information and notify the Purchaser at the earliest practicable date should any changes occur.

2.13.2 Offerors are cautioned that the Purchaser will rely exclusively on electronic mail to manage all correspondence, amendments, etc., related to this RFQ.

## SECTION III - QUOTATION PREPARATION INSTRUCTIONS

### **3.1 GENERAL**

- 3.1.1 Quotations shall be prepared in accordance with the instructions set forth herein. Failure to comply with these instructions may result in the Offer being declared non-compliant.
- 3.1.2 The requirements under this RFQ are compiled in a single Schedule (Schedule A). To ensure compliance, Offerors shall quote for the Schedule A. Award of the requirements will be by Schedule and this Schedule may not be subdivided for partial quotation purposes. The Purchaser shall place one contract to cover the entire scope of the project.
- 3.1.3 Quotations and all related documentation shall be submitted in the English language.
- 3.1.4 Offerors shall prepare a complete quotation which comprehensively addresses all requirements stated herein. The quotation shall demonstrate the Offeror's understanding of the RFQ and his ability to provide all the deliverables and services listed in the Schedule of Supplies and Services (SSS) and Statement of Work (SoW). Quotations which are not complete will be declared non-compliant.
- 3.1.5 The Offeror shall not restate the RFQ requirements in confirmatory terms only. The Offeror must clearly describe what is being offered and how the Offeror will meet all RFQ requirements. Statements in confirmatory terms will only be sufficient for determining the bid to be non-compliant.
- 3.1.6 Offerors shall classify their response in accordance with the classification of the RFQ.
- 3.1.7 Offerors are advised that the Purchaser reserves the right to incorporate the Offeror's Administrative, Price and Technical Proposal in whole or in part in the resulting Contract.

### **3.2 QUOTATION CONTENT**

- 3.2.1 Offerors shall prepare their quotation in three (3) volumes in the following quantities:
- (a) Administrative Envelope (Volume I): The Administrative Envelope shall contain PDF copies of the Certificates with physical (non-digital) signatures.
- (b) Price Quotation (Volume II): The Price Quotation shall contain one (1) email containing the individual files as described in in section 3.4.
- Annex C to Bidding Instructions – Bidding Sheets (Excel format)
  - Annex C to Bidding Instructions – Bidding Sheets (PDF format)

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- (c) Technical Proposal (Volume III): The Offeror shall submit their Technical Proposal as one (1) email. This email shall contain one (1) file which addresses each criterion as described in paragraph 3.2.3, sections 3.5 & 4.4 and in accordance with the requirements of paragraph 3.5.2.
1. Corporate Experience
  2. Contract Requirements
  3. Partner Status
  4. Collaborative Standard Support
  5. Technical Support / Manpower Experience
- 3.2.2 No information disclosing or contributing to disclose the quotation price shall be made part of the Technical Proposal. Failure to abide to this prescription shall result in the quotation being declared non-compliant.
- 3.2.3 As part of the Technical Proposal, the Offeror shall provide One (1) unpriced copy of the Bidding Sheets detailing the breakdown of labour, hours and equipment.
- 3.2.4 Documents submitted in accordance with paragraph 3.2.1 above shall be classified no higher than “NATO UNCLASSIFIED” material.
- 3.2.5 Partial Quotations and/or Quotations containing conditional statements will be declared non-compliant.
- 3.2.6 Where no specific format is mandated, electronic quotation documentation shall be delivered in PDF format without limitations of printing or “copy & paste”. The Purchaser reserves the right to request native formats electronic files of the proposal to facilitate the evaluation process.
- 3.3 PREPARATION OF THE ADMINISTRATIVE ENVELOPE (VOLUME I)**
- 3.3.1 Contents: Required documents submitted by email, containing one PDF file comprised of all of the required documents.
- 3.3.2 No information disclosing or contributing to disclose the quotation price shall be made part of the Administration Volume. Failure to abide to this prescription shall result in the quotation being declared non-compliant.
- 3.3.3 Volume I shall include the certificates set forth in the Annex to these Bidding Instructions, signed in the original by an authorised representative of the Offeror. The text of the certificates must not be altered in any way. The certificates are as follows:
- B-1: Certificate of Legal Name of Offeror
- B-2: Certificate of Independent Determination
- B-3: Certificate of Quotation Validity



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- B-4: Certificate of Understanding
- B-5: Certificate of Exclusion of Taxes, Duties and Charges
- B-6: Acknowledgement of Receipt of RFQ Amendments (if applicable)
- B-7: Disclosure of Requirements for NCI Agency Execution of Supplemental Agreements
- B-8: Certification of NATO Member Country of Origin of Delivered Equipment, Services, Materials and Intellectual Property Rights
- B-9: Comprehension and Acceptance of Contract General and Special Provisions.
- B-10: List of Prospective Sub-Contractors / Consortium members
- B-11: NOT USED
- B-12: NOT USED
- B-13: Disclosure of Involvement of Former NCI Agency Employment
- B-14: Offeror Background IPR
- B-15: List of Subcontractor IPR
- B-16: NOT USED
- B-17: Vendor Supply Chain Security Self-Attestation Statement

3.3.3.1 **Certificate B-7**, Disclosure of Requirements for NCI Agency Execution of Supplemental Agreements, Offerors shall note especially the following:

- 3.3.3.1.1 If supplemental agreements, such as End-User Certificates or Technical Assistance Agreements, are required by national regulations, a draft version of these must be submitted with the Offeror's quote. Supplemental agreements submitted after the Quotation Closing Date shall not be considered.
- 3.3.3.1.2 The terms of supplemental agreements, if necessary, are the Offerors / Contractors responsibility and shall be totally consistent with the terms of the (Prospective) Contract, and shall not duplicate, negate, or further interpret any provisions of this Contract. The terms of the (Prospective) Contract shall take precedence over the Supplemental Agreement.
- 3.3.3.1.3 A problem with the supplemental agreement in any of the areas mentioned previously in this provision may result in a determination that the Quotation is not compliant with the terms of the RFQ, and in rejection of the Quotation, or termination for default of the Contract if the supplemental agreement is submitted after Contract award.

- 3.3.3.2 **Certificate B-10**, the Contractor shall identify by name, project role, and country of origin, all sub-contractors whose sub-contract value is expected to equal or exceed EUR 125,000, if any. A list of consortium members shall also be completed and included. If there are no sub-contractors/consortium members involved, the Offeror shall state this separately. The subcontractors listed in this certificate shall be traceable in the Bidding Sheets.
- 3.3.3.3 **Certificate B-11** NOT USED
- 3.3.3.4 **Certificate B-17**, Offerors are required to read the CONSULTATION, COMMAND AND CONTROL BOARD (C3B) Technical and Implementation Directive on Supply Chain Security for COTS CIS Security Enforcing Products. This Directive may be provided to Offerors requesting the Restricted Documents Pack. Offerors can request a copy of mentioned Directive through the email listed in 2.5.3.1.
- 3.3.4 The Offeror shall send Volume I - Administrative Envelope via email to the Purchaser's email address specified in section 2.5 above. This shall consist of One (1) copy of the Administrative Envelope.
- 3.3.4.1 The email provided shall be entitled: *RFQ-CO-115495-CPSC - Official Quotation for [Company Name] - Volume I – Administration Envelope* where the Administration Envelope shall be contained.

#### **3.4 PREPARATION OF THE PRICE QUOTATION (VOLUME II)**

- 3.4.1 The Offeror shall prepare their Price Proposal by submitting one (1) email containing the completed Bidding Sheets provided with this RFQ under Book I, Bidding Instructions Annex C in both Excel and PDF formats.
- 3.4.2 The prices provided shall be intended as the comprehensive total price offered for the fulfilment of all requirements as expressed in the RFQ documentation including but not limited to those expressed in the SOW.
- 3.4.3 The Offeror shall furnish Firm Fixed Prices for all required items in accordance with the format set forth in the Instructions for preparation of the Bidding Sheets.
- 3.4.4 Offerors are responsible for the accuracy of their Price Quotations. Price Quotations that have apparent computational errors may have such errors resolved in the Purchaser's favour or, in the case of gross omissions, inconsistencies or errors, may be determined to be non-compliant.
- 3.4.5 Offeror shall quote in their own national currency or in EUR, the host nation currency. Offeror may also submit Quotations in multiple currencies including other NATO member states' currencies under the following conditions:
- (a) the currency is of a "Participating Country" in the project, and
  - (b) The Offeror can demonstrate, either through sub-contract arrangements or in its proposed work methodology, that it will have equivalent expenses in that currency. All major sub-contracts and their approximate anticipated value should be listed on a separate sheet and included with the Price Quotation.

- 3.4.6 The Purchaser, by virtue of its status under the terms of Article IX and X of the Ottawa Agreement, is exempt from all direct taxes (incl. VAT) and all customs duties on merchandise imported or exported. The Offeror, therefore, shall certify that the prices stipulated in this Contract do not include amounts to cover such direct taxes or customs duties.
- 3.4.7 The Offeror shall be responsible for ensuring that its respective Sub-contractors are aware that the Purchaser is exempt from taxes and customs duties. The Offeror (and its respective Sub-contractors) shall be responsible for complying with all applicable national and local legal and administrative procedures to ensure that authorities do not attempt to assess taxes and customs duties on goods and property imported or exported through NATO member nation frontiers under this Contract nor assess direct taxation (VAT) on goods sold to the NCI Agency under this Contract. Offerors are reminded of the requirement to complete the certification to this effect in Annex B-5.
- 3.4.8 Unless otherwise specified in the instructions for the preparation of bidding sheets, all prices quoted in the proposal shall be DDP (Delivered Duty Paid) to specified destination, in accordance with the International Chamber of Commerce INCOTERMS 2020 and shall also cover all packaging, packing, preservation, insurance and transportation charges. Prices quoted shall include all costs for items supplied and delivered to final destination.
- 3.4.9 The Offeror's attention is directed to the fact that Price Quotation shall contain no document and/or information other than the priced copies of the Bidding Sheets. Any other document of a contractual or technical nature will not be considered for evaluation and may be cause for a determination of non-compliance by the Purchaser.
- 3.4.10 When completing the Bidding Sheets, a unit price and total fixed price for each specified element needs to be supplied on each CLIN line item. Offerors are required to insert price information in all cells marked in yellow in the Bidding Sheets. Prices should not be grouped. The prices and quantities entered on the document shall reflect the total items required to meet the contractual requirements. The total price shall be indicated in the appropriate columns and in the currency quoted. If the price of a line item is expressed in different currencies, these shall be identified, and there shall be as many totals on that line item as there are currencies. In preparing the Price Quotation, Offeror shall ensure that the prices of the Sub-items total the price of the major item of which they constitute a part. The accuracy of the inputs of the Bidding Sheets is the responsibility of the Offeror. The Purchaser in its favour may resolve ambiguous computation of prices.
- 3.4.11 The Offeror shall furnish Firm Fixed Price quotations, for all proposed items. Partial quotations shall be rejected.
- 3.4.12 The Offeror understands that there is no obligation under this Contract for the Purchaser to exercise an optional increase of the quantities set forth in any line items, and that the Purchaser bears no liability should it decide not to exercise such Option. Furthermore, the Purchaser reserves the right to order another contractor through a new contract with other conditions for the additional quantities of any line item it might need.

- 3.4.13 The Contractor shall be liable for all other taxes, assessments, fees, licences, administrative charges or other Government assessments or charges which are applicable to the performance of this Contract. It is the Contractor's responsibility to inform itself of its liability in each country where such liability may arise.
- 3.4.14 Price Proposals exceeding the deadlines for delivery and completion of works indicated in the Schedule of Supplies and Services may be declared non-compliant.
- 3.4.15 The Offeror shall identify for each CLIN all significant sub-contractors and provide required information about their prospective sub-contractors whose estimated value of the subcontract is expected to equal or exceed EUR 125,000 using the "List of Prospective Sub-Contractors" form attached to Book I Annex B-10.
- 3.4.16 The Offeror shall separately price the cost of Warranty. Zero values or the statement that the Quotation price includes the cost of warranty are not allowed.
- 3.4.17 The Offeror shall send Volume II - Pricing Envelope via email to the Purchaser's email address specified in section 2.5 above. This shall consist of One (1) copy of the Pricing Envelope.
- 3.4.17.1 The email provided shall be entitled: *RFQ-CO-115495-CPSC - Official Quotation for [Company Name] - Volume II – Price Quotation* where the Pricing Envelope shall be contained.

### **3.5 PREPARATION OF THE TECHNICAL PROPOSAL (VOLUME III)**

- 3.5.1 The Offeror shall submit their Technical Proposal as one (1) email. This email shall contain one (1) file which addresses each criterion as described in paragraph 3.2.3, sections 3.5 & 4.4 and in accordance with the requirements of section 3.5.2
- 3.5.2 The Technical Proposal package shall include the following:
  - 3.5.2.1 Criterion 1 Corporate Experience: The Offeror shall provide at least one (1) executive summary describing the successful delivery of a similar project in a similar environment during the last five (5) years. For each project, the Contractor shall describe:
    - 3.5.2.1.1 The domain or area (ideally the customer name), the size (contract value range), duration and challenges encountered with remediation;
    - 3.5.2.1.2 The scope of work, demonstrating its capability to delivering Check Point Support similar to the requirements defined in the Statement of Work.
  - 3.5.2.2 Criterion 2 Contract Requirements: The Offeror shall provide their proposal to meet the requirements in the Contract. This will be used to determine technical compliance with the requirements of the Contract.





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- 3.5.2.3 Criterion 3 Partner Status: The Offeror shall explain their Check Point partner status and how they meet the partner status requirements of the Statement of Work.
- 3.5.2.4 Criterion 4 Collaborative Enterprise Standard Support: The Offeror shall confirm that their offer meets the Collaborative Enterprise Standard Support requirements in the Statement of Work and Schedule of Supplies and Services.
- 3.5.2.5 Criterion 5 Technical Support/Manpower Experience: The Offeror shall provide a CV for each of their offered engineers detailing their individual experience in accordance with the requirements specified in the Statement of Work.
- 3.5.3 The Offeror shall send Volume III – Technical Envelope via email to the Purchaser’s email address specified in section 2.5 above. This shall consist of One (1) copy of the Technical Envelope and One (1) unpriced copy of the Bidding Sheets as per section 3.2.3 above.
- 3.5.3.1 The email provided shall be entitled: *RFQ-CO-115495-CPSC - Official Quotation for [Company Name] - Volume III – Technical Proposal* where the Technical Envelope shall be contained.



## SECTION IV - QUOTATION EVALUATION

### **4.1 GENERAL**

- 4.1.1 The evaluation of Quotations will be made by the Purchaser solely on the basis of the requirements in this RFQ.
- 4.1.2 The evaluation of Quotations and the determination as to the compliance or technical adequacy of the supplies and services offered will be based only on that information furnished by the Offeror and contained in its Quotation. The Purchaser shall not be responsible for locating or securing any information which is not included in the Quotation.
- 4.1.3 To ensure that sufficient information is available, the Offeror shall furnish with its Quotation all information appropriate to provide a complete description of the work which will be performed and/or the supplies to be delivered. The information provided shall be to a level of detail necessary for the Purchaser to determine exactly what the Offeror proposes to furnish and whether the offer meets the technical, administrative and contractual requirements of this RFQ. Significant omissions and/or cursory submissions may result in a determination of non-compliance without recourse to further clarification.
- 4.1.4 During the evaluation, the Purchaser may request clarification of the Quotation from the Offeror, and the Offeror shall provide sufficient detailed information in connection with such requests as to permit the Purchaser to make a final determination based upon the facts. The purpose of such clarifications will be to resolve ambiguities in the Quotation and to permit the Offeror to state its intentions regarding certain statements contained therein. The Offeror is not permitted any cardinal alteration of the Quotation regarding technical matters and shall not make any change to its price quotation at any time nor restate the Statement of Work (SOW).
- 4.1.5 The Offeror's prompt response to the Purchaser's RFQ clarification requests is important and therefore failure to provide the requested clarifications within the time-limits set forth in the specific Clarification Requests may cause the Quotation to be deemed non-compliant.
- 4.1.6 The evaluation will be conducted in accordance with the Use of Basic Ordering Agreements (BOAs) by the NATO Communications and Information Agency (NCI Agency) set forth in the NATO document AC/4-D(2019)0004 (INV).
- 4.1.7 The administrative compliance of the Quotations will be evaluated first. Quotations that are declared administratively non-compliant may be rejected without further evaluation. Following evaluation for administrative compliance, evaluation will be carried out in the following two areas: Volume II - Price, Volume III - Technical. Should areas of Administrative non-compliance be identified in the Pricing or Technical evaluation this shall be treated in accordance with section 4.2 below.

4.1.8 All administrative compliant Quotations will be reviewed for price compliancy and the identified lowest offer will be reviewed for technical compliance. Any Contract resulting from this RFQ will be awarded to the Offeror whose offer, as evaluated by the Purchaser, is the lowest priced, technically compliant quotation and in compliance with the requirements of this RFQ.

## **4.2 ADMINISTRATIVE CRITERIA**

4.2.1 Prior to commencement of the Price and Technical evaluation, Quotations will be reviewed for compliance with the Quotation Submission Requirements of this RFQ. These are as follows:

- (a) The Quotation was received by the Quotation Closing Date and Time,
- (b) The Quotation was packaged and marked properly (sections. 3.2 to 3.3 above),
- (c) The Administrative Package contains all the requested signed originals of the required Certificates at Annex B hereto (section 3.3 above).
- (d) The Quotation is provided in the English language.

4.2.2 A Quotation that fails to conform to the above requirements may be declared non-compliant and may not be evaluated further by the Purchaser.

4.2.3 If it is discovered, during either the Price or Technical evaluation, that the Offeror has taken exception to the Terms and Conditions of the Prospective Contract, or has qualified and/or otherwise conditioned its Quotation on a modification or alteration of the Terms and Conditions or the language of the Statement of Work, the Offeror may be determined to have submitted a non-compliant Quotation.

## **4.3 PRICE CRITERIA**

4.3.1 The Offeror's Price Quotation will be first assessed for compliance against the following standards:

4.3.1.1 The Price Quotation meets the requirements for preparation and submission of the Price Quotation set forth in the Quotation Preparation Section and the Instructions for preparation of the Bidding Sheets (Annex C) in particular.

4.3.1.2 The Offeror has furnished Firm Fixed Prices for all items listed. Not having provided a price for all items as required per the Bidding sheets, i.e. to fill out **all** yellow fields, may render the Quotation non-compliant. Prices cannot be embedded/included in other prices.

4.3.1.3 All pricing data, i.e., quantities, unit prices, has been provided as reflected in the Bidding Sheets.

4.3.1.4 Quotation prices include all costs for items supplied, delivered, and supported.

4.3.1.5 All prices have been accurately entered into appropriate columns and accurately totalled.

- 4.3.1.6 The Offeror has provided accurate unit prices (where required) and a total price for each line item.
- 4.3.1.7 The Offeror has provided accurate unit prices and a total price of each of the sub-items it added (if any).
- 4.3.1.8 The currency of all line items has been clearly indicated.
- 4.3.1.9 The Offeror has quoted in its own national currency or in the Host Nation currency, Euros. Where multiple currencies including other NATO member states' currencies are quoted, the conditions of Section III, paragraphs 3.4.5 above shall be met.
- 4.3.1.10 The Offeror has indicated that in accordance with the treaties governing the terms of business with NATO, it excluded from its prices all taxes, duties and customs charges from which the Purchaser has been exempted.
- 4.3.1.11 Price quotes for each individual item(s), and totalled prices are accurate and realistic (based on historic data, and/or market and competitive trends in the specified industrial sector(s)).
- 4.3.1.12 Detailed pricing information has been provided and is adequate, accurate, traceable, and complete.
- 4.3.1.13 The Price Quotation meets requirements for price realism as described below in paragraphs 4.3.5.
- 4.3.1.14 The Price Quotation does not contain any comments, which are conditional in nature, relative to the offered prices.
- 4.3.2 A Quotation which fails to meet the compliance standards defined in this section may be declared non-compliant and may not be evaluated further by the Purchaser.
- 4.3.3 Basis of Price Comparison to determine lowest compliant Quotation**
- 4.3.3.1 The Purchaser will convert all prices quoted into EURO for purposes of comparison and computation of price scores. The exchange rate to be utilised by the Purchaser will be the average of the official buying and selling rates of the European Central Bank at close of business on the last working day preceding the Quotation Closing Date.
- 4.3.3.2 The price comparison will be based on the Offered Grand Total Firm Fixed Price which includes all **CLINs** in the Bidding Sheets.
- 4.3.4 **Inconsistencies and discrepancies in Quotation price quotation.** In case of inconsistencies, discrepancies and/or contradictory pricing information in the different parts of the Quotation price submission and notwithstanding the possibility for the Purchaser, at its sole discretion to obtain clarification from the Offeror, for the purpose of determining the total price of the Quotation, the following order of precedence shall apply:
- 4.3.4.1 PDF copy of the completed Bidding Sheets

- 4.3.4.1.1 Schedule of Supplies and Services Total to be Evaluated Quotation Price as indicated by the Offeror
- 4.3.4.1.2 Total of the Quotation calculated from the indicated Total Prices(s) indicated per CLIN(s)
  
- 4.3.4.2 Microsoft Excel copy of the completed Bidding Sheets
  - 4.3.4.2.1 Schedule of Supplies and Services Total to be Evaluated Quotation Price as indicated by the Offeror
  - 4.3.4.2.2 Total of the Quotation calculated from the indicated Total Prices(s) indicated per CLIN(s)
  
- 4.3.5 Price Realism
  - 4.3.5.1 Should an Offeror submit a price quotation so low that it is not a realistic reflection of the objective cost of performance of the associated technical proposal, this may be considered by the Purchaser to be an unrealistic offer and may be determined to be non-compliant.
  
  - 4.3.5.2 Indicators of an unrealistically low Quotation may include, but are not limited to, the following:
    - 4.3.5.2.1 Labour Costs that, when amortised over the expected or proposed direct labour hours, indicate average labour rates far below those prevailing in the Offeror locality for the types of labour proposed.
    - 4.3.5.2.2 Direct Material costs that are considered to be too low for the amounts and types of material proposed, based on prevailing market prices for such material.
    - 4.3.5.2.3 Numerous Line Item prices for supplies and services that are provided at no cost or at nominal prices.
  
  - 4.3.5.3 If the Purchaser has reason to suspect that a Offeror has artificially debased its prices in order to secure Contract award, the Purchaser will request clarification of the Quotation in this regard and the Offeror shall provide explanation on one of the following basis:
    - 4.3.5.3.1 An error was made in the preparation of the Price Quotation. In such a case, the Offeror must document the nature of the error and show background documentation concerning the preparation of the Price Quotation that makes a convincing case that a mistake was made by the Offeror. In such a case, the Offeror shall petition the Purchaser to both remain in the competition and accept the Contract at the offered price, or to withdraw from the competition.
  
    - 4.3.5.3.2 The Offeror has a competitive advantage due to prior experience or industrial/technological processes that demonstrably reduce the costs of Offeror performance and therefore the price offered is realistic. Such an argument must support the technical proposal offered and convincingly and

objectively describe the competitive advantage and the net savings achieved by this advantage over standard market practices and technology.

- 4.3.5.3.3 The Offeror recognises that the submitted Price Quotation is unrealistically low compared to its cost of performance and, for business reasons, the Offeror is willing to absorb such a loss. Such a statement can only be made by the head of the business unit submitting the Quotation and will normally be made at the level of Chief Operating Officer or Chief Executive Officer. In such a case, the Offeror shall estimate the potential loss and show that the financial resources of the Offeror are adequate to withstand such reduction in revenue
- 4.3.5.4 If an Offeror fails to submit a comprehensive and compelling response on one of the basis above, the Purchaser may determine the Quotation submitted as non-compliant. If the Offeror responds on the basis of the above and requests to withdraw from the competition, the Purchaser may, depending on the nature and gravity of the mistake, allow the Offeror to withdraw.
- 4.3.5.5 If the Purchaser accepts the Offeror's explanation of mistake in paragraph 4.3.5.3.1 and allows the Offeror to accept the Contract at the offered price, or the Purchaser accepts the Offeror's explanation pursuant to paragraph 4.3.5.3.3 above, the Offeror shall agree that the supporting pricing data submitted with its Quotation will be incorporated by reference in the resultant Contract. The Offeror shall agree as a condition of Contract signature, that the pricing data will be the basis of determining fair and reasonable pricing for all subsequent negotiations for modifications of or additions to the Contract and that no revisions of proposed prices will be made.
- 4.3.5.6 If the Offeror presents a convincing rationale pursuant to paragraph 4.3.5.3.2 above, no additional action will be warranted. The Purchaser, however, reserves its right to reject such an argument if the rationale is not compelling or capable of objective analysis. In such a case the Quotation may be determined to be non-compliant.

#### **4.4 TECHNICAL CRITERIA**

4.4.1 Upon determination of the lowest-priced Quotation as described above, the Quotation shall be evaluated to confirm compliance with the following technical criteria associated with the respective sections of the Technical Proposal.

##### **4.4.2 Criterion 1: Corporate Experience**

4.4.2.1 **Aim** – The purpose of this criterion is to provide confidence to the Purchaser that the Offeror has the necessary corporate experience of delivering successfully similar requirements to those in the Statement of Work (SoW) and Schedule of Supplies and Services (SSS).

4.4.2.2 **Criterion** – At no longer than two (2) pages in length, the Offeror shall detail its corporate experience of delivering similar requirements (as a prime or subcontractor) in a similar environment in the last five (5) years.

##### **4.4.2.3 Document Reference(s)**

4.4.2.3.1 Schedule of Supplies and Services CLINs 2 and 3

4.4.2.3.2 Statement of Work section 1

4.4.2.3.3 Statement of Work section 3

4.4.2.3.4 Statement of Work sections 4.1 – 4.10

##### **4.4.2.4 Pass/Fail Criteria**

4.4.2.4.1 **Pass** – The Offeror's Technical Proposal contains at least one (1) example of successfully delivering a similar requirement in a similar environment (as a prime or subcontractor) in the last five (5) years.

4.4.2.4.2 **Fail** – The Offeror has not submitted a response to this criterion, or the Offeror's Technical Proposal does not demonstrate any previous experience in delivering similar requirements (as a prime or subcontractor) in a similar environment in the last five (5) years.

##### **4.4.3 Criterion 2: Contract Requirements**

4.4.3.1 **Aim** – The purpose of this criterion is to provide confidence to the Purchaser that the Offeror has understood, and can provide, the requirements of the Contract as expressed in the Schedule of Supplies and Services (SSS) and Statement of Work (SoW).

4.4.3.2 **Criterion** – At no longer than two (2) pages in length, the Offeror's Technical Proposal details how it shall fulfil the requirements expressed in the SSS and SoW.

##### **4.4.3.3 Document Reference(s)**

4.4.3.3.1 Schedule of Supplies and Services CLINs 2 and 3

4.4.3.3.2 Statement of Work sections 4.1 – 4.6

4.4.3.3.3 Statement of Work section 6.1

##### **4.4.3.4 Pass/Fail Criteria**

- 4.4.3.4.1 Pass – The Offeror’s Technical Proposal details how the requirements in the SSS and SoW shall be delivered to the NCIA. This description includes how the items, in their respective quantities, will be provided to the NCIA prior to the delivery deadline.
- 4.4.3.4.2 Fail – The Offeror has not submitted a response to this criterion, or the Offeror’s Technical Proposal does not describe how the items, in their respective quantities, will be provided to the NCIA point of contact prior to the delivery deadline as set out in the SSS and SoW.

**4.4.4 Criterion 3: Partner Status**

- 4.4.4.1 **Aim** – The purpose of this criterion is to provide confidence to the Purchaser that the Offeror meets the Check Point partner status requirements of the Statement of Work.
- 4.4.4.2 **Criterion** – At no longer than one (1) page in length, the Offeror shall confirm how they meet the partner status requirements in the document reference below.

**4.4.4.3 Document Reference(s)**

- 4.4.4.3.1 Statement of Work section 4.2

**4.4.4.4 Pass/Fail Criteria**

- 4.4.4.4.1 Pass – The Offeror’s Technical Proposal confirms that they meet the partner status requirements in the document reference above.
- 4.4.4.4.2 Fail – The Offeror has not submitted a response to this criterion, or the Offeror’s Technical Proposal does not confirm that they meet the partner status requirements in the document reference above.

**4.4.5 Criterion 4: Collaborative Enterprise Standard Support**

- 4.4.5.1 **Aim** – The purpose of this criterion is to provide confidence to the Purchaser that the Offeror has provided Collaborative Enterprise Standard Support for the items outlined the Statement of Work and Schedule of Supplies and Services.
- 4.4.5.2 **Criterion** – At no longer than one (1) page in length, the Offeror shall confirm that their offer meets the Collaborative Enterprise Standard Support requirements in the document references below.

**4.4.5.3 Document Reference(s)**

- 4.4.5.3.1 Statement of Work sections 4.3 – 4.4
- 4.4.5.3.2 Statement of Work section 4.10
- 4.4.5.3.3 Statement of Work Annex A

**4.4.5.4 Pass/Fail Criteria**

- 4.4.5.4.1 Pass – The Offeror’s Technical Proposal confirms that their offer provides Collaborative Enterprise Standard Support as per the requirements in the document references above.
- 4.4.5.4.2 Fail – The Offeror has not submitted a response to this criterion, or the Offeror’s Technical Proposal does not confirm that their offer provides



Collaborative Enterprise Standard Support as per the requirements in the document references above.

**4.4.6 Criterion 5: Technical Support/Manpower Experience**

4.4.6.1 **Aim** – The purpose of this criterion is to provide confidence to the Purchaser that the Offeror’s engineers have the necessary experience and can meet the requirements defined in the Statement of Work and Schedule of Supplies and Services.

4.4.6.2 **Criterion** – At no longer than two (2) pages in length, the Offeror shall provide a CV for each of their offered engineers detailing their individual experience in accordance with the requirements specified in the document references below.

**4.4.6.3 Document References**

- 4.4.6.3.1 Schedule of Supplies and Services CLIN O4
- 4.4.6.3.2 Schedule of Supplies and Services CLIN O8
- 4.4.6.3.3 Schedule of Supplies and Services CLIN O12
- 4.4.6.3.4 Schedule of Supplies and Services CLIN O16
- 4.4.6.3.5 Schedule of Supplies and Services CLIN O20
- 4.4.6.3.6 Statement of Work section 4.9

**4.4.6.4 Pass/Fail Criteria**

- 4.4.6.4.1 **Pass** – The Offeror’s Technical Proposal contains engineers’ CVs which clearly explains how the requirements specified in the document references above shall be met by the Offeror
- 4.4.6.4.2 **Fail** – The Offeror has not submitted a response to this criterion, or the Offeror’s Technical Proposal does not contain engineers’ CVs which clearly explains how the requirements specified in the document references above shall be met by the Offeror.

4.4.7 Any content provided over the page limit specified for each question will not be subject to evaluation.

4.4.8 If an Offeror’s Technical Proposal is awarded a ‘Fail’ for any of the criteria listed in section 4.4 above, their Proposal will be deemed technically non-compliant.





ANNEX A – Clarification Request Forms

INSERT COMPANY NAME HERE

INSERT SUBMISSION DATE HERE

<b>ADMINISTRATIVE/CONTRACTUAL</b>				
<b>Serial Nr</b>	<b>RFQ Section Ref.</b>	<b>OFFEROR'S QUESTION</b>	<b>NCI AGENCY ANSWER</b>	<b>Status*</b>
A.1				
A.2				
A.3				

\* Status: Is Amendment to RFQ required as a direct result of the Clarification Request?



INSERT COMPANY NAME HERE

INSERT SUBMISSION DATE HERE

<b>PRICE</b>				
<b>Serial Nr</b>	<b>RFQ Section Ref.</b>	<b>OFFEROR'S QUESTION</b>	<b>NCI AGENCY ANSWER</b>	<b>Status*</b>
<b>P.1</b>				
<b>P.2</b>				
<b>P.3</b>				

\* Status: Is Amendment to RFQ required as a direct result of the Clarification Request?



INSERT COMPANY NAME HERE

INSERT SUBMISSION DATE HERE

<b>TECHNICAL</b>				
<b>Serial Nr</b>	<b>RFQ Section Ref.</b>	<b>OFFEROR'S QUESTION</b>	<b>NCI AGENCY ANSWER</b>	<b>Status*</b>
<b>T.1</b>				
<b>T.2</b>				
<b>T.3</b>				

\* Status: Is Amendment to RFQ required as a direct result of the Clarification Request?



ANNEX B-1

**CERTIFICATE OF LEGAL NAME OF OFFEROR**

This Quotation is prepared and submitted on behalf of the legal corporate entity specified below:

FULL NAME OF CORPORATION: \_\_\_\_\_

DIVISION (IF APPLICABLE): \_\_\_\_\_

SUB DIVISION (IF APPLICABLE): \_\_\_\_\_

OFFICIAL MAILING ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

FAX NO.: \_\_\_\_\_

BOA NO.: \_\_\_\_\_

POINT OF CONTACT (POC) REGARDING THIS QUOTATION:

NAME: \_\_\_\_\_

POSITION: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

ALTERNATIVE POC:

NAME: \_\_\_\_\_

POSITION: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF AUTHORISED REPRESENTATIVE

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
TITLE



ANNEX B-2

**CERTIFICATE OF INDEPENDENT DETERMINATION**

1. Each Offeror shall certify signing this Quotation shall also certify that:

Each Offeror shall certify that in connection with this procurement:

- a. This quotation has been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, with any other Offeror or with any competitor;
- b. The contents of this Quotation have not been knowingly disclosed by the Offeror and will not knowingly be disclosed by the Offeror prior to award, directly or indirectly to any other Offeror or to any competitor, and;
- c. No attempt has been made, or will be made by the Offeror to induce any other person or firm to submit, or not to submit, a Quotation for the purpose of restricting competition.

2. Each person signing this Quotation shall also certify that:

- a. They are the person in the Offeror's organisation responsible within that organisation for the decision as to the quotation and that they have not participated and will not participate in any action contrary to 1(a) through 1(c) above, or;
- b. (i) They are not the person in the Offeror's organisation responsible within that organisation for the quotation but that they have been authorised in writing to act as agent for the persons responsible for such a decision in certifying that such persons have not participated, and will not participate in any action contrary to 1(a) through 1(c) above, and as their agent does hereby so certify, and;
- (ii) They have not participated and will not participate in any action contrary to 1(a) through 1(c) above.

.....  
Date

.....  
Signature of Authorised Representative

.....  
Printed Name and Title

.....  
Company

NOTE: IF THE OFFEROR DELETES OR MODIFIES SUBPARAGRAPH (1B) OF THIS ANNEX, THE OFFEROR MUST FURNISH WITH ITS QUOTATION A SIGNED STATEMENT SETTING FORTH IN DETAIL THE CIRCUMSTANCES OF THE DISCLOSURE.



ANNEX B-3

**CERTIFICATE OF QUOTATION VALIDITY**

I, the undersigned, as an authorised representative of the firm submitting this quotation, do hereby certify that the pricing and all other aspects of our Quotation will remain valid for a period of six (6) months from the Quotation Closing Date of this Request for Quotation.

.....  
Date

.....  
Signature of Authorised Representative

.....  
Printed Name and Title

.....  
Company



ANNEX B-4

**CERTIFICATE OF UNDERSTANDING**

I certify that

.....  
.....(*Company Name*) has read and fully understands the requirements of this Request for Quotation (RFQ) and that the Quotation recognises these requirements in total.

I also certify to the best of my expert knowledge that this Quotation is within the "state of art" boundaries as they exist at the time of quotation for this project.

.....  
Date

.....  
Signature of Authorised Representative

.....  
Printed Name and Title

.....  
Company



ANNEX B-5

**CERTIFICATE OF EXCLUSION OF TAXES, DUTIES AND CHARGES**

I hereby certify that the prices offered in the price quotation of this Quotation exclude all taxes, duties and customs charges from which the Purchaser has been exempted by international agreement.

.....  
Date

.....  
Signature of Authorised Representative

.....  
Printed Name and Title

.....  
Company





ANNEX B-6

**ACKNOWLEDGEMENT OF RECEIPT OF RFQ AMENDMENTS**

I confirm that the following Amendments to Request for Quotation No RFQ-CO-115495-CPSC have been received and the Quotation as submitted reflects the content of such Amendments:

<b>Amendment Number</b>	<b>Date of Issue by the Purchaser</b>	<b>Date of Receipt by the Offeror</b>

.....  
Date

.....  
Signature of Authorised Representative

.....  
Printed Name and Title

.....  
Company



ANNEX B-7

**DISCLOSURE OF REQUIREMENTS FOR NCI AGENCY EXECUTION OF  
SUPPLEMENTAL AGREEMENTS**

I, the undersigned, as an authorised representative of .....  
.....(Company Name), certify the following statement (*Check  
the applicable statement below*):

- I do not have any supplemental agreements to disclose for the performance of this contract [*cross out points 1 to 6 of this certificate*].
- I do have supplemental agreements to disclose for the performance of this contract (*complete points 2 and 3 below in a separate attachment to this certificate*).

1. All supplemental agreements, defined as agreements, documents and/or permissions outside the body of the Contract but required by my Government, and the governments of my sub-Contractors, to be executed by the NCIA as a condition of my firm's performance of the Contract, have been identified, as part of the Quotation.
2. Examples of the terms and conditions of these agreements are attached hereto. The anticipated restrictions to be imposed on NATO, if any, have been identified in our offer along with any potential conflicts with the terms, conditions and specifications of the Prospective Contract, see ..... (*complete, if any*). These anticipated restrictions and potential conflicts are based on our knowledge of and prior experience with such agreements and their implementing regulations. We do not certify that the language or the terms of these agreements will be exactly as we have anticipated.
3. The processing time for these agreements has been calculated into our delivery and performance plans and contingency plans made in the case that there is delay in processing on the part of the issuing government(s), see ..... (*complete, if any*).
4. We recognise that additional supplemental agreements, documents and permissions presented as a condition of Contract performance or MOU signature after our firm would be selected as the successful Offeror may be cause for the NCIA to determine the submitted quotation to be non-compliant with the requirements of the RFQ.
5. We accept that should the resultant supplemental agreements issued in final form by the government(s) result in an impossibility to perform the Contract in accordance with its schedule, terms or specifications, the Contract may be terminated by the Purchaser at no cost to either Party.

.....  
Date

.....  
Signature of Authorised Representative

.....  
Printed Name and Title

.....  
Company



ANNEX B-8

**CERTIFICATION OF NATO MEMBER COUNTRY ORIGIN OF DELIVERED  
EQUIPMENT, SERVICES, MATERIALS AND INTELLECTUAL PROPERTY  
RIGHTS**

The Offeror hereby certifies that, if awarded the Contract pursuant to this solicitation, it will perform the contract subject to the following conditions:

- (a) none of the work, including project design, labour and services shall be performed other than by firms from and within participating NATO member countries;
- (b) 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 member country (a sub-assembly is defined as a portion of an assembly consisting of two or more parts that can be provided and replaced as an entity)\*; and
- (c) the intellectual property rights to all design documentation and related system operating software shall reside in NATO member countries, and no license fees or royalty charges shall be paid by the Contractor to firms, individuals or governments other than within the NATO member countries.

.....  
Date

.....  
Signature of Authorised Representative

.....  
Printed Name and Title

.....  
Company

\*This definition purposely excludes components and/or parts (as defined in AcodP-1), which are not subject to this certification.



ANNEX B-9

**COMPREHENSION AND ACCEPTANCE OF CONTRACT GENERAL AND SPECIAL PROVISIONS**

The Offeror hereby certifies that it has reviewed the Contract Special Provisions set forth in the Prospective Contract, Book II of this Request for Quotation (RFQ) and the Contract Provisions set forth in the Basic Ordering Agreement signed with the NCI Agency. The Offeror hereby provides its confirmation that it fully comprehends the rights, obligations and responsibilities of the Contractor as set forth in the Articles and Clauses of the Prospective Contract. The Offeror additionally certifies that the Quotation submitted by the Offeror is without prejudice, qualification or exception to any of the Terms and Conditions and it will accept and abide by the stated Special Contract Provisions if awarded the contract as a result of this RFQ.

.....  
Date

.....  
Signature of Authorised Representative

.....  
Printed Name and Title

.....  
Company



ANNEX B-10

**LIST OF PROSPECTIVE SUB-CONTRACTORS/CONSORTIUM MEMBERS<sup>1</sup>**

Name and Address of Sub-Contractor, incl. country of origin/registration	Primary Location of Work	Items/Services to be Provided	Estimated Value of Sub-Contract

If no sub-Contractors/consortium members are involved, state this here:

.....  
.....  
.....  
.....

.....  
Date

.....  
Signature of Authorised Representative

.....  
Printed Name and Title

.....  
Company

<sup>1</sup> In accordance with paragraph 3.4.15 of Book I, the Offeror shall identify in this Certificate any subcontractors whose estimated value of the subcontract is expected to equal or exceed €125,000.00.



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ANNEX B-11

**CERTIFICATE OF AQAP 2110 OR ISO 9001:2015 COMPLIANCE**

[NOT USED]

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**ANNEX B-12**

**LIST OF KEY PERSONNEL**

[NOT USED]

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**ANNEX B-13**

**Disclosure of Involvement of Former NCI Agency Employment**

The Offeror hereby certifies that, in preparing its Quotation, the Offeror did not have access to solicitation information prior to such information been authorized for release to Offerors (e.g., draft statement of work and requirement documentation).

The Offeror hereby acknowledges the post-employment measures applicable to former NCI Agency Personnel as per the NCI Agency Code of Conduct.

The Offeror hereby certifies that its personnel working as part of the company’s team, at any tier, preparing the Quotation:

- Have not held employment with NCI Agency within the last two years.
- Has obtained a signed statement from the former NCI Agency personnel below, who departed the NCI Agency within the last two years, that they were not previously involved in the project under competition (as defined in the extract of the NCI Agency Code of Conduct provided below):

Employee Name	Former NCIA Position	Current Company Position

The Offeror also hereby certifies that it does not employ and/or receive services from former NCI Agency Personnel at grades A5 and above or ranks OF-5 and above, who departed the NCI Agency within the last 12 months. This prohibitions covers negotiations, representational communications and/or advisory activities.

\_\_\_\_\_ Date

\_\_\_\_\_ Signature of Authorised Representative

\_\_\_\_\_ Printed Name

\_\_\_\_\_ Title

\_\_\_\_\_ Company



**Excerpt of NCI Agency AD. 05.00, Code of Conduct dated May 2017****Article 14 PROCUREMENT AND CONTRACTORS**

- 14.1 NCI Agency Personnel are required to maintain unquestionable integrity and impartiality in relation to procurements initiated by the NCI Agency.
- 14.2 NCI Agency Personnel shall not disclose any proprietary or contract related information regarding procurement directly or indirectly to any person other than a person authorized by the NCI Agency to receive such information. NCI Agency Personnel shall not disclose any documentation related to a procurement action to any third party without a need to know<sup>1</sup> (e.g., draft statement of work, statement of requirements) unless this is expressly provided under NATO Procurement Regulations or authorized in writing by the Director of Acquisition. During an on-going selection, NCI Agency Personnel shall not disclose any information on the selection procedure unless authorized by the Chairman of the award committee/board. The NCI Agency Personnel concerned will ensure that proper access controls are put in place to prevent disclosure of procurement information that has not yet been authorized for release for outside distribution, including draft statements of work and requirement documentations.
- 14.3 NCI Agency Personnel will not participate in a source selection if an offer has been provided by a friend, family member, a relative, or by a business concern owned, substantially owned, or controlled by him/her or by a friend, family member or a relative. NCI Agency Personnel appointed as part of an evaluation shall report such links to the Director of Acquisition immediately upon becoming aware of it.
- 14.4 Contractors and consultants shall not be allowed to participate in the drafting of the statement of work or in the source selection process unless they and their company/employer will be excluded from competition of the related contract. The same will apply to contractors and consultants involved in the definition and development of requirements.
- 14.5 Contractors will be given specific and coherent statements of work, providing precise explanation of how she/he is going to be employed. Tasks to be performed and minimum qualifications are to be well defined from the start. In addition, supervisors will ensure that contractors do not occupy managerial positions within the Agency.
- 14.6 NCI Agency Personnel shall not enter into authorized commitments in the name of NCI Agency or NATO unless specifically authorized. NCI Agency Personnel must abstain from making promises or commitment to award or amend a contract or otherwise create the appearance of a commitment from the NCI Agency unless properly authorized by the NCI Agency.

- 14.7 NCI Agency Personnel shall not endorse directly or indirectly products from industry. Therefore, NCI Agency Personnel shall not name or make statements endorsing or appearing to endorse products of specific companies.
- 14.8 Industry partners will need to abide with the post-employment measures under this Directive upon submission of their Quotations / proposals to the NCI Agency. As part of the selection process, industry will be requested to agree with an ethical statement.

## **15 INDUSTRY INITIATIVES**

- 15.1 Industry initiatives may include loans, displays, tests or evaluation of equipment and software, requesting NCI Agency speakers at industry gatherings and conferences, inviting speakers from industry to NCI Agency events, consultancy or studies of technical or organizational issues, etc. These initiatives are usually at no cost to the NCI Agency and take place at a pre-contractual phase or before the development of requirements and specifications. While there are benefits associated with the early involvement of industry in the definition of requirements and specifications, this also raises the potential for unfair treatment of potential competitors.
- 15.2 Industry initiatives which go beyond routine interaction in connection with on-going contracts must be reported to and coordinated by the NCI Agency Acquisition Directorate for approval. Industry initiatives shall be properly documented and governed by written agreements between the NCI Agency and the company concerned where relevant. Such agreements may contain provisions describing the nature of the initiative, the non-disclosure of NCI Agency/NATO information, NCI Agency ownership of any resulting work, the NCI Agency's right to release such work product to future competitors for any follow-on competition or contract, the requirement that any studies must provide non-proprietary solutions and/or an acknowledgement that the participating companies will not receive any preferential treatment in the contracting process.
- 15.3 Any authorized industry initiatives must be conducted in such a way that it does not confer an unfair advantage to the industry concerned or create competitive hurdles for potential competitors.

## **16 POST EMPLOYMENT MEASURES**

- 17.1 The NCI Agency will not offer employment contracts to former NCI Agency Personnel who departed less than 2 years earlier, unless prior approval by the General Manager has been received.
- 17.2 Former NCI Agency Personnel will not be accepted as consultants or commercial counterpart for two (2) years after finalization of their employment at NCI Agency, unless the General Manager decides otherwise in the interest of the Agency and as long as NATO rules on double remuneration are observed. Such decision shall be recorded in writing. Commercial counterparts include owners or majority shareholders, key account managers, or staff

member, agent or consultant of a company and/or subcontractors seeking business at any tier with the NCI Agency in relation to a procurement action in which the departing NCI Agency staff member was involved when they were under the employment of the NCI Agency. As per the Prince 2 Project methodology, a Project is defined as a “temporary organization that is created for the purpose of delivering one or more business products according to an agreed business case”. For the purpose of this provision, involvement requires (i) drafting, review or coordination of internal procurement activities and documentation, such as statement of work and statement of requirement; and/or (ii) access to procurement information that has not yet been authorized for release for outside distribution, including draft statements of work and requirement documentations; and/or (iii) being appointed as a representative to the Project governance (e.g., Project Board) with access to procurement information as per (ii) above; and/or (iv) having provided strategic guidance to the project, with access to procurement information as per (ii) above.

- 17.3 In addition to Section 17.2 above, former NCI Agency Personnel at grades A5 and above or ranks OF-5 and above are prohibited during twelve months following the end of their employment with the NCI Agency to engaging in negotiations, representational communications and/or advisory activities with the NCI Agency on behalf of a private entity, unless this has been agreed in advance by the NCI Agency General Manager and notified to the ASB.
- 17.4 NCI Agency Personnel leaving the Agency shall not contact their former colleagues in view of obtaining any information or documentation about procurement activities not yet authorized' release. NCI Agency Personnel shall immediately report such contacts to the Director of Acquisition.
- 17.5 The ASB Chairman will be the approving authority upon recommendation by the Legal Adviser when the NCI Agency Personnel concerned by the above is the NCI Agency General Manager and will notify the ASB.
- 17.6 NCI Agency Personnel leaving the Agency shall sign a statement that they are aware of the post-employment measures set out in this Directive.
- 17.7 The post-employment measures set out in this Directive shall be reflected in the NCI Agency procurement documents, such as IFBs, and contract provisions.



ANNEX B-14

**OFFEROR BACKGROUND IPR**

The Offeror Background IPR specified in the table below will be used for the purpose of carrying out work pursuant to the Contract.

ITEM	DESCRIPTION

The Offeror has and will continue to have, for the duration of the Contract, all necessary rights in and to the Background IPR specified above.

The Background IPR stated above complies with the terms specified in Article 30 of the NCI Agency, Part III - General Provisions.



ANNEX B-15

**LIST OF SUBCONTRACTOR IPR**

The Subcontractor IPR specified in the table below will be used for the purpose of carrying out work pursuant to the Contract.

ITEM	DESCRIPTION

The Offeror has and will continue to have, for the duration of the Contract, all necessary rights in and to the IPR specified above necessary to perform the Offeror's obligations under the Contract.

The Subcontractor IPR stated above complies with the terms specified in Article 30 of the NCI Agency, Part III - General Provisions.



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ANNEX B -16

**Quotation Guarantee - Standby Letter of Credit**

[NOT USED]

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ANNEX B -17

**Vendor Supply Chain Security Self-Attestation Statement**

I hereby as [*Insert Company Name*] affirm that the security of the supply chain for the product [*list the product(s) below*]

has been assessed and assessed against the requirements laid down in directive AC/322-D(2017)0016 (INV), named "NATO SUPPLY CHAIN SECURITY REQUIREMENTS FOR COMMERCIAL OFF THE SHELF COMMUNICATION AND INFORMATION SYSTEMS SECURITY ENFORCING PRODUCTS".

I endorse this supply chain security statement for the product listed in the first paragraph of this certificate which covers the following items:

- Supply Chain Security Program Governance
- Security in Manufacturing and Operations
- Security in Logistics
- NATO Information Protection
- Vendor Physical and Personnel Security
- Security in Service Management
- Security in Incident Management
- 3rd Party Supplier Management

I can supply supporting evidence if required.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Authorised Representative

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company



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Annex C – Bidding Sheets

Annex C – Bidding Sheets

[Provided under separate MS Excel File:

*“RFQ-CO-115495-CPSC – Book I Annex C – Bidding Sheets”*

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Annex D – Instructions for the Preparation of Bidding Sheets

Annex D – Instructions for the Preparation of Bidding Sheets

1. Offerors are required, in preparing their Price Quotation to utilise the Bidding Sheets following the instructions detailed in Section III – Quotation Preparation Instructions and CLIN Bidding Sheet instructions within the Bidding Sheets itself.
2. The Offeror must complete and submit the Bidding Sheets with their Price Breakdown per CLIN – one (1) sheet is required for each Major CLIN (1, 2, 3, etc.).
3. The prices entered on the Bidding Sheets shall reflect the total items required to meet the contractual requirements.
4. The total price shall be indicated in the appropriate columns and in the currency quoted.
5. The total evaluated price shall be the price of the basic Contract.
6. If the price of a CLIN is expressed in different currencies, these shall be identified, and there shall be as many bidding sheets for that CLIN as there are currencies.
7. In preparing the Price Quotation, the Offeror shall ensure that the prices of the Sub-items total the price of the major item of which they constitute a part. Pricing for lower level items shall add to the total for the Sub-CLINs, and the Sub-CLIN totals shall add to the CLIN total. The Purchaser in its favour may resolve ambiguous computation of prices. The Offeror shall identify the sub-CLIN, per line item, in each detailed Bidding Sheet section, i.e. Materials, Labour, Subcontract Labour, Travel etc., that is being priced.
8. Prices shall not include any provision for taxes or duties for which the Purchaser is exempt.
9. The Offeror shall not introduce any changes or deviations to the Schedule of Supplies and Services (SSS) as Published by the Purchaser.



**ANNEX E – Compliance Table**

Offeror shall complete column “QUOTATION REFERENCE” with Quotation references that locate the technical proposal documentation required by the RFQ, e.g. section, paragraph, table (if applicable), page number etc. One copy each of the duly completed Cross Reference/Compliance Table is to be included in the Quotation Technical Proposal package. The Quotation shall follow the instructions in section 3.5, and will be evaluated according to the instructions in section 4.4.

Bidding Instructions Requirement Ref.	RFQ Requirement Ref	REQUIREMENT DESCRIPTION	Evaluation Criterion Ref.	QUOTATION REFERENCE
3.5.2.1	Schedule of Supplies and Services CLINs 2-3  Statement of Work sections 1 3 4.1-4.10	<u>Criterion 1 Corporate Experience:</u> The Offeror shall provide at least one (1) executive summary describing the successful delivery of a similar project in a similar environment during the last five (5) years. For each project, the Contractor shall describe: <ul style="list-style-type: none"> <li>- The domain or area (ideally the customer name), the size (contract value range), duration and challenges encountered with remediation;</li> <li>- The scope of work, demonstrating its capability to delivering Check Point Support similar to the requirements defined in the Statement of Work.</li> </ul>	4.4.2	<b><i>Offeror to complete</i></b>
3.5.2.2	Schedule of Supplies and Services CLINs 2-3  Statement of Work sections 4.1-4.6 6.1	<u>Criterion 2 Contract Requirements:</u> The Offeror shall provide their proposal to meet the requirements in the Contract. This will be used to determine technical compliance with the requirements of the Contract.	4.4.3	<b><i>Offeror to complete</i></b>



Bidding Instructions Requirement Ref.	RFQ Requirement Ref	REQUIREMENT DESCRIPTION	Evaluation Criterion Ref.	QUOTATION REFERENCE
3.5.2.3	Statement of Work section 4.2	<u>Criterion 3 Partner Status:</u> The Offeror shall explain their Check Point partner status and how they meet the partner status requirements of the Statement of Work.	4.4.4	<i>Offeror to complete</i>
3.5.2.4	Statement of Work sections 4.3 – 4.4 4.10 Annex A	<u>Criterion 4 Collaborative Enterprise Standard Support:</u> The Offeror shall confirm that their offer meets the Collaborative Enterprise Standard Support requirements in the Statement of Work and Schedule of Supplies and Services.	4.4.5	<i>Offeror to complete</i>
3.5.2.5	Schedule of Supplies and Services CLINs O4 O8 O12 O16 O20  Statement of Work sections 4.9	<u>Criterion 5 Technical Support/Manpower Experience:</u> The Offeror shall provide a CV for each of their offered engineers detailing their individual experience in accordance with the requirements specified in the Statement of Work.	4.4.6	<i>Offeror to complete</i>



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Annex E – Compliance Table

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## Bidding Sheets Instructions

INTRODUCTION & IMPORTANT NOTES	
	<p><b>Bidders should note that NCIA has recently updated its bidding sheet template and are encouraged to read the instructions in full for this new version before completing the bidding sheets.</b></p> <p>All bidders are required to submit pricing details to demonstrate the Purchaser's Pricing Principles are being applied as part of their bids. All data submitted in these sheets shall be complete, verifiable and factual and include the required details. Any exclusions may render the bid as non compliant thus removing the bidder from the bidding process.</p> <p>Bidders are <b>REQUIRED</b> to complete the following tabs:</p> <ul style="list-style-type: none"> <li>- "Offer Summary",</li> <li>- "CLIN Summary",</li> <li>- "Labour",</li> <li>- "Material",</li> <li>- "Travel",</li> <li>- "ODC",</li> <li>- "Rates".</li> </ul> <p><b>Note that input cells in the "Offer Summary" and the "CLIN Summary" tabs are colour coded YELLOW.</b></p> <p>The instructions for the detailed tabs can be found below, as well as in the green boxes within each detailed tab. G&amp;A, Overhead, material handling and other indirect rates do not need to be separately calculated in the detail sheets but must be included in the totals for each category (Labour/Material/Travel/ODC) as appropriate. A list of the direct and indirect rates applied in the bid must also be provided in the "Rates" tab, although they do not need to be linked to any and the detailed calculations. The list of these rates will be requested in pre-contract award from the winning bidder.</p> <p><b>Note: any information found within GREEN boxes throughout the entire document is provided as an instruction and/or example only.</b></p> <p>Any formulas provided in these bidding sheets are intended only to assist the bidder. Any changes in formula can be made at the bidder's discretion, as long as the detailed costs are clear, traceable and accurate as required. Ultimately the bidder is responsible for <b>ALL</b> values, formulas and calculations within the bidding sheets that are submitted to the Agency.</p> <p><b>Bids in MULTIPLE CURRENCIES should follow the following instructions:</b></p> <ul style="list-style-type: none"> <li>- For the "Offer Summary" tab bidders must add "Firm Fixed Price" column to the right of the current table for each additional currency.</li> <li>- For the "CLIN Summary" tab, Bidders have 2 options: A) Two columns "Unit Price" and "Total Firm Fixed Price" may be added to the right of the current table for each additional currency of the bid; B) Bidders may duplicate the CLIN Summary tab for each currency bid.</li> <li>- For the Detailed tabs Bidders have 2 options: A) Provide all the detailed data for all currencies in the table provided, selecting the individual currencies from the dropdown lists and summing only common currencies together in CLIN Summary/Offer Summary Sheets B) Duplicate the CLIN Summary tab for each currency bid.</li> </ul>

DETAILED TABS	DESCRIPTION
MATERIAL LABOUR TRAVEL ODCs	<p>The detailed tables are to be completed by the bidder with all columns populated, and shall be expanded to include as many rows as necessary to provide the detail requested. The bidder is required to identify for each item the CLIN it is associated with from the drop down menu. Each column should then be populated using the column- specific instructions in the first row. Bidder may not delete columns within tables, or omit information from columns, but may add columns if necessary, although it's not anticipated this will be needed.</p> <p>Note CLINs with no costs associated with that item should also be selected within the table, and noted that there is no cost within that table for the CLIN. For example, if there is no labour associated with CLIN X.1, Select CLIN X.1 in the first column and then in the second column note "No Labour is associated with this CLIN". This will help to ensure that all the proper detail has been accounted for and properly allocated.</p> <p>Important Note: The Total sum of the "fully burdened" cost column should equal the grand total cost for each category (Labour, Material, etc.) to include profit as well as all indirect rates (G&amp;A/Overhead/Material handling/etc.) associated with that category. These indirect rates must be included in the total firm fixed price on the appropriate detailed tab but are no longer required to be shown as separate calculations at the bidding stage. However, the bidder is required to include the associated indirect costs in the totals of the detailed tab in the base unit costs. Alternatively, the bidder may choose to show these as separate calculations by expanding the table columns to show the additional costs due to these indirect rates (similar to the way profit is calculated). Note again although the detailed indirect rate calculations are not required at the bidding stage, this information will be requested from the winning bidder during pre-contract award discussions.</p>
RATES	<p>As discussed previously in these instructions, the detailed indirect rate calculations are not required to be included in the bidding sheets, although the bidders may choose to do so. However, ALL bidders are required to state the G&amp;A/OH/Material handling and any other indirect rates that they have applied to the bid.</p>

CLIN Number	CLIN DESCRIPTION	Firm Fixed Price
<b>Declare Currency =&gt;</b>		
<b>Grand Total Firm fixed Price - Base Contract</b>		-
<b>Grand Total Firm fixed Price - Base Contract + Evaluated Options</b>		-
CLIN 1	CLIN 1 (BASE-EVALUATED) - Account Management Activities	-
CLIN 2	CLIN 2 (BASE-EVALUATED) - Contract Baseline Year 1 Hardware Support	-
CLIN 3	CLIN 3 (BASE-EVALUATED) - Contract Baseline Year 1 Software Support	-
<b>Total Firm Fixed Price Base Contract</b>		-
CLIN 4	CLIN 4 (OPTION-EVALUATED) - Contract Baseline Year 1 Technical Support Manpower	-
CLIN 5	CLIN 5 (OPTION-EVALUATED) - Option Year 1 Account Management Activities	-
CLIN 6	CLIN 6 (OPTION-EVALUATED) - Option Year 1 Hardware Support	-
CLIN 7	CLIN 7 (OPTION-EVALUATED) - Option Year 1 Software Support	-
CLIN 8	CLIN 8 (OPTION-EVALUATED) - Option Year 1 Technical Support Manpower	-
CLIN 9	CLIN 9 (OPTION-EVALUATED) - Option Year 2 Account Management Activities	-
CLIN 10	CLIN 10 (OPTION-EVALUATED) - Option Year 2 Hardware Support	-
CLIN 11	CLIN 11 (OPTION-EVALUATED) - Option Year 2 Software Support	-
CLIN 12	CLIN 12 (OPTION-EVALUATED) - Option Year 2 Technical Support Manpower	-
CLIN 13	CLIN 13 (OPTION-EVALUATED) - Option Year 3 Account Management Activities	-
CLIN 14	CLIN 14 (OPTION-EVALUATED) - Option Year 3 Hardware Support	-
CLIN 15	CLIN 15 (OPTION-EVALUATED) - Option Year 3 Software Support	-
CLIN 16	CLIN 16 (OPTION-EVALUATED) - Option Year 3 Technical Support Manpower	-
CLIN 17	CLIN 17 (OPTION-EVALUATED) - Option Year 4 Account Management Activities	-
CLIN 18	CLIN 18 (OPTION-EVALUATED) - Option Year 4 Hardware Support	-
CLIN 19	CLIN 19 (OPTION-EVALUATED) - Option Year 4 Software Support	-
CLIN 20	CLIN 20 (OPTION-EVALUATED) - Option Year 4 Technical Support Manpower	-
<b>Total Firm Fixed Price Evaluated Options</b>		-



№ п/п	Наименование	Единица измерения	Количество	Стоимость	Итого	Итого	Итого
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Rate Name	Rate description*	Percentage
[Insert Rate Name]		0%
[Insert Rate Name]		0%
[Insert Rate Name]		0%



NATO UNCLASSIFIED

**RFQ-CO-115495-CPSC**

**CHECK POINT SUPPORT**



NATO Communications and Information Agency  
Agence OTAN d'information et de communication

**BOOK II**

**THE PROSPECTIVE CONTRACT**

NATO UNCLASSIFIED



**GENERAL INDEX**

**Contract Signature Page**

**Part I: Schedule of Supplies and Services**

**Part II: Contract Special Provisions**

**Part III: Contract General Provisions**

**Part IV: Statement of Work**

<b><u>PROSPECTIVE CONTRACT SIGNATURE PAGE</u></b>	
<b>1. Original Number 1 of 1</b>	<b>2. Purchase Order Number:</b>  <i>to be added at contract award</i>
<b>3. Contract Number: CO-115495-CPSC</b>	<b>4. Effective Date:</b>
<b>5. Contractor:</b> <i>to be added at contract award</i>	<b>6. Purchaser: NCIA represented by:</b> The General Manager NATO CI AGENCY Avenue du Bourget 140 1110 Brussels, Belgium Tel: +32 (0)2 707 8328
<b>7. Schedule of Supplies and Services:</b> <b>Check Point Support</b>  The contractor shall deliver the supplies and services in accordance with the attached Schedule of Supplies and Services (SSS) and Statement of Work (SoW).	
<b>8. TOTAL AMOUNT OF CONTRACT</b> <span style="float: right;"><b>DDP (Incoterms 2010)</b></span> <u>Firm Fixed Price:</u>  <i>to be added at contract award</i>	
<b>9. PERIOD OF PERFORMANCE:</b> See: Part I – Schedule of Supplies and Services; Part II – Special Provisions; and Part IV – Statement of Work.	<b>10. LOCATION OF WORK:</b> See: Part I – Schedule of Supplies and Services; and Part IV – Statement of Work.



**11. CONTRACT AGREEMENT:**

- a. Contractor agrees to furnish and deliver all supplies and perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this Contract shall be subject to and governed by the following documents: (a) this award/Contract, (b) the solicitation, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by Reference.
- b. In accordance with Article 7 (Order of Precedence) of the Contract Special Provisions, the Order of Precedence of the Contract is as follows:
  - 1. This Contract Signature Page;
  - 2. Part I. Schedule of Supplies and Services
  - 3. Part II. Contract Special Provisions and Annexes;
  - 4. Part III. Contract General Provisions and Annexes;
  - 5. Part IV. Statement of Work and Annexes;
  - 6. The Contractor(s)' proposal (Technical and Price Quotation).
- c. The following documents are hereby incorporated by reference into this Contract  
*to be added at contract award*

**12. Signature of Contractor**

**13. Signature of Purchaser**

**14. Name and Title of Signer**

**15. Name and Title of Signer**

**16. Date signed by Contractor**

**17. Date Signed by Purchaser**



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RFQ-CO-115495-CPSC  
Book II-The Prospective Contract  
NCIA/ACQ/2021/07202

## **RFQ-CO-115495-CPSC**

### **CHECK POINT SUPPORT**

## **PART I – SCHEDULE OF SUPPLIES AND SERVICES**

*(This Section will be derived from the bidding sheets submitted by the successful Offeror)*

NATO UNCLASSIFIED

BQ-CO-11495-CPIC									
Part 1 - Schedule of Supplies and Services									
Item	Description	Unit Reference	Delivery Description	Unit of Measure	Quantity	Notes	Delivery Schedule (EC)	Lead time	Total Firm Fixed Price
<b>Contract Baseline Year 1 Performance Support</b>									
1	Account Management Activities	6	SHAPE, Mems	Task	1		EOC-12 weeks		
2	Account 514 of Mactech	6	SHAPE, Mems	Task	1		EOC-12 weeks		
3	Year 1 Account Review Activities	6	SHAPE, Mems	Task	1		EOC-12 weeks		
<b>CPIC-CPIC-2</b>									
4	CPAP-501140-NSTP	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	1		EOC-42		
5	CPAP-501140-NSTP-ADSL-A	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	1		EOC-42		
6	CPAP-501200-NSTP	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	1		EOC-42		
7	CPAP-501200-NSTP-HA	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	3		EOC-42		
8	CPAP-504400-NSTP-FW	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	1		EOC-42		
9	CPAP-504400-NSTP-HA	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	1		EOC-42		
10	CPAP-505100-NSTP-SSD	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	6		EOC-42		
11	CPAP-505200-NSTP	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	2		EOC-42		
12	CPAP-505200-NSTP-HA	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	2		EOC-42		
13	CPAP-505200-NSTP-SSD	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	3		EOC-42		
14	CPAP-505200-NSTP-SSD-HA	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	3		EOC-42		
15	CPAP-505400-NSTP-SSD	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	2		EOC-42		
16	CPAP-505400-NSTP-SSD-HA	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	2		EOC-42		
17	CPAC-41F-B	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	2		EOC-42		
18	CPAC-B-1C-B	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	6		EOC-42		
19	CPAC-L0M-B	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	4		EOC-42		
20	CPAC-RM08B-5000	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	10		EOC-42		
21	CPAC-RM-02M-1000	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	2		EOC-42		
22	CPAC-RM01000	3 4.1-4.3 4.4-4.6 7 Annex A	IMA at any NATO Location	Collaborative Enterprise Standard Support	12		EOC-42		
<b>CPIC-CPIC-2</b>									
<b>Contract Baseline Year 1 Performance Support</b>									
23	CPMP-RVPS-U-NG	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	2		EOC-42		
24	CPMP-RVPS-U-NG	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	1		EOC-42		
25	CPMS-SPDC-1	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	25		EOC-42		
26	CPPR-CMA-1-HA-NG	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	1		EOC-42		
27	CPPR-CMA-1-NG	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	7		EOC-42		
28	CPPR-CMA-2-HA-NG	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	9		EOC-42		
29	CPPR-CMA-2-NG	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	3		EOC-42		
30	CPPR-CMA-U-HA-NG	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	14		EOC-42		
31	CPPR-CMA-U-NG	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	14		EOC-42		
32	CPPR-RMS-CD-NG	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	2		EOC-42		
33	CPPR-RMS-MC25-NG	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	4		EOC-42		
34	CPPR-RMS-SS-NG	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	1		EOC-42		
35	CPPR-RM-CSP-5-L2	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	2		EOC-42		
36	CPPR-RM-RVPS-HA-U	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	3		EOC-42		
37	CPPR-RM-RVPS-U	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	4		EOC-42		
38	CPPR-RM-RVPS-UB	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	3		EOC-42		
39	CPSG-AC-NSTP	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	3		EOC-42		
40	CPSG-AC-NSTP-HA	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	5		EOC-42		
41	CPSG-AC-NSTP	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	2		EOC-42		
42	CPSG-AC-NSTP-HA	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	1		EOC-42		
43	CPSG-PD33-CPSM-P1003	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	1		EOC-42		
44	CPSG-PD33U-F-HM	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	1		EOC-42		
45	CPSG-PD33U-CPSM-PL003-F-CPIC	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	1		EOC-42		
46	CPSG-PD40U-F	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	2		EOC-42		
47	CPSG-PD40U-HA-F	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	2		EOC-42		
48	CPSG-PD40U-CPSM-PL003-F	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	1		EOC-42		
49	CPSG-PD50U-CPSM-F1007-F	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	2		EOC-42		
50	CPSG-PD50U-CPSM-PL007-F	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	2		EOC-42		
51	CPSG-PD50U-F	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	11		EOC-42		
52	CPSG-PD50U-HA-F	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	7		EOC-42		
53	CPSG-PD50-HA	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	1		EOC-42		
54	CPSG-PD50-HA-F	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	1		EOC-42		
55	CPSG-PD70	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	1		EOC-42		
56	CPSG-PD70-CPSM-PL003	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	5		EOC-42		
57	CPSG-PD70-HA	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	1		EOC-42		
58	CPSG-PD50-HA-F	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	1		EOC-42		
59	CPSG-PD70	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	8		EOC-42		
60	CPSG-PD70-HA	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	7		EOC-42		
61	CPSM-PV1-F	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	4		EOC-42		
62	CPSM-PV1-F-IND-F	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	4		EOC-42		
63	CPUM-CSP-3-100	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	1		EOC-42		
64	CPIS-ANEC	3 4.1-4.2 4.4-4.6 7 Annex A	SHAPE, Mems	Collaborative Enterprise Standard Support	10		EOC-42		
<b>CPIC-CPIC-2</b>									

RFQ-CO-115495-CPSC									
Part I - Schedule of Supplies and Services									
CLIN	Description	SoW Reference	Delivery Destination	Unit of measure	Quantity	Notes	Delivery Schedule	Unit price	Total Firm Fixed Price
									in accordance with winning bid
O4	<b>Technical Support Manpower</b>								
O4.1	Contract Baseline Year 1 On-site Technical Support / Manpower	4.9 5 7	SHAPE, Mons	Day	1	Option can be executed at this price multiple times during Contract Baseline Year 1.	Execution of Option +1 Week		
O4.2	Contract Baseline Year 1 Out-of-hours On-site Technical Support / Manpower	4.9 5 7	SHAPE, Mons	Day	1	Option can be executed at this price multiple times during Contract Baseline Year 1.	Execution of Option +1 Week		
<b>TOTAL OPTION CLIN O4</b>									













NATO UNCLASSIFIED

RFQ-CO-115495-CPSC  
Book II, The Prospective Contract  
Part II, Special Provisions  
NCIA/ACQ/2021/07202

**RFQ-CO-115495-CPSC**  
**CHECK POINT SUPPORT**



NATO Communications and Information Agency  
Agence OTAN d'information et de communication

**BOOK II**

**SPECIAL PROVISIONS**

NATO UNCLASSIFIED

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## **1. SCOPE OF WORK**

- 1.1. The Contractor shall perform the provision of Check Point support as per Part IV – Statement of Work and in accordance with Part I Schedule of Supplies and Services for the Firm Fixed Prices stated in this Contract.
- 1.2. The geographical location within the scope of the Contract is as per Part I the Schedule of Supplies and Part IV the Statement of Work.
- 1.3. The full requirements, Contractor Deliverables and scope is as per Part I Schedule of Supplies and Services and Part IV the Statement of Work.

## **2. PERIOD OF PERFORMANCE**

- 2.1. The Period of Performance (PoP) for this Contract is one base period comprised of one calendar year (12 months) from the Effective Date of Contract (EDC).
- 2.2. The Period of Performance may be extended through the annual Options specified in Part I – Schedule of Supplies and Services. Each of the annual Options in Part I Schedule of Supplies and Services may be exercised once and each annual Option has a 12 (twelve) month duration.
- 2.3. The Completion Date for this Contract, excluding any annual Option Years, shall be no later than the end of December 2022.

## **3. FIRM FIXED PRICE**

- 3.1. This is a Firm Fixed Price Contract. Firm Fixed Prices are established for the items defined in Part I – Schedule of Supplies and Services. The Contractor shall provide all deliverables to the purchaser at the Firm Fixed Price in Part I – Schedule of Supplies and Services. Where Options are to be ordered in accordance with Part I – Schedule of Supplies and Services, Firm Fixed Prices apply to those Options.
- 3.2. 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.
- 3.3. For each Option Year specified in Part I – Schedule of Supplies and Services the indicative quantity provided is subject to change. The Firm Fixed Unit Price for each Option Year defined in Part I – Schedule of Supplies and Services will be multiplied by the accurate quantity (determined solely by the Purchaser) to

calculate the Firm Fixed Price for the respective Option Year.

#### **4. PARTICIPATING COUNTRIES**

- 4.1. The following NATO member nations have agreed to fund this acquisition effort: (in alphabetical order): ALBANIA, BELGIUM, BULGARIA, CANADA, CROATIA, CZECH REPUBLIC, DENMARK, ESTONIA, FRANCE, GERMANY, GREECE, HUNGARY, ICELAND, ITALY, LATVIA, LITHUANIA, LUXEMBOURG, MONTENEGRO, NETHERLANDS, NORTH MACEDONIA, NORWAY, POLAND, PORTUGAL, ROMANIA, SLOVAKIA, SLOVENIA, SPAIN, TURKEY, UNITED KINGDOM, UNITED STATES OF AMERICA.
- 4.2. The Contractor may issue sub-contracts to firms and purchase from qualified vendors in any NATO member nation. None of the work, including project design, labour and services, shall be performed other than by firms from and within participating countries and Afghanistan, as per NATO policy.
- 4.3. The Contractor shall notify in writing to the Purchaser immediately upon being informed of any change in the nationality of its Sub-contractor(s) which would prevent the Contractor from further complying with clause 4.2 above. Upon receipt of this information from the Contractor, the Purchaser may, within three months from this notification, require the Contractor to find an alternate subcontractor, complying with the requirements set out in clause 4.2 above.
- 4.4. Unless authorized by NATO Policy, no material or items of equipment down to and including identifiable sub-assemblies delivered under this Contract shall be manufactured or assembled by a firm other than from and within a participating country.
- 4.5. The intellectual property rights to all designed documentation and system operating software shall reside in NATO member countries, and no license fee, or royalty charges shall be paid by the Contractor to firms, individuals or governments other than within the NATO member community.

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

- 5.1. The Contractor warrants that he has read, understood and agreed to each and all terms, articles, specifications and conditions specified in the Contract and that this signature of the Contract is an acceptance through delivery of the said Contract terms within their normal and common meaning.
- 5.2. 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 it shall use reasonable endeavours to ensure that the work be delivered to meet or exceed the performance



- requirements of the said specifications.
- 5.3. 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.
- 5.3.1. Based upon impossibility of performance, defective, inaccurate, impracticable, insufficient or invalid specifications, implied warranties of suitability of such specifications, or,
- 5.3.2. Otherwise derived from the aforesaid specifications, and hereby waives any claims or demands so based or derived as might otherwise arise.
- 5.3.3. Notwithstanding the “Changes” Article 16 of the NCI Agency, Part III - General Provisions or any other Articles 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.

## **6. AMENDMENTS TO CONTRACT**

- 6.1. All amendments to this Contract shall be serially numbered, in writing, issued by the Purchaser’s Contracts Officer, and agreed by both parties.

## **7. ORDER OF PRECEDENCE**

- 7.1. In the event of any inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:
- a. The Contract Signature Page
  - b. Part I - The Schedule of Supplies and Services (SSS)
  - c. Part II - The Contract Special Provisions
  - d. Part III - NCI Agency General Provisions
  - e. Part IV - The Statement of Work (SoW) and its annexes
  - f. Contractor’s Technical Proposal

## **8. WAIVER**

- 8.1. No act or omission of either Party shall by itself amount to a waiver of any right or remedy unless expressly stated by that Party in writing. In particular, no reasonable delay in exercising any right or remedy shall by itself constitute a waiver of that right or remedy.
- 8.2. No waiver in respect of any right or remedy shall operate as a waiver in respect of any other right or remedy.

## **9. THIRD PARTY RIGHTS**

- 9.1. Notwithstanding anything to the contrary elsewhere in the Contract, no right is granted to any person who is not a Party to the Contract to enforce any term of the Contract in its own right and the Parties to the Contract declare that they have no intention to grant any such right.

## **10. ENTIRE AGREEMENT**

- 10.1. This Contract constitutes the entire agreement between the Parties relating to the subject matter of the Contract. The Contract supersedes, and neither Party has relied upon, any prior negotiations, representations and undertakings, whether written or oral, except that this condition shall not exclude liability in respect of any fraudulent misrepresentation.

## **11. NON DISCLOSURE**

- 11.1. The Contractor's performance under this Contract may require access to third party data and information. The Contractor shall exercise the same degree of care for such third party data and information that it undertakes to preserve and protect its own data and information.
- 11.2. All Contractor and Sub Contractor personnel working at any NATO Organisations/ Commands premises or having access to NATO classified/commercial-in-confidence information must certify and sign the Non-Disclosure Declaration at Annex A hereto and provide it to the NCI Agency Contracting Officer.
- 11.3. The Contractor and Sub Contractors may be reasonably required to sign subject to their review other non-disclosure agreements or certificates for access to specific information to complete tasks.
- 11.4. The Contractor shall ensure that its officers, employees, agents and Sub-Contractors shall have been made aware of the requirements of confidentiality and shall not cause or permit the data and/or information to be either totally or partially disclosed to any unauthorised Contractor personnel or third party personnel.
- 11.5. The Contractor shall be liable for all damages resulting from the non-authorized use of the data and/or information by the Contractor's personnel.

## **12. ADVERTISEMENTS, PUBLICIZING AWARDS, NEWS RELEASES, AND CONFERENCES**

- 12.1. All press releases or announcements about any Contract/task order award hereunder shall be approved by the Contract/task order CO prior to release. Under no circumstances shall the Contractor, subcontractor, teaming partner, or anyone

acting on behalf of the Contractor, refer to the supplies, services, or equipment furnished pursuant to the provisions of this Contract in any publicity news release or commercial advertising without first obtaining explicit written consent to do so from the Contract/task order CO. The Contractor agrees not to refer to awards in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed or preferred by the Purchaser or is considered by the Purchaser to be superior to other products or services.

- 12.2. Any presentation, white paper, article et cetera written, submitted or presented by Contractor personnel shall be reviewed and approved by the CO prior to delivery. This special requirement shall apply whether the Contractor personnel is acting on behalf of the company or unofficially on behalf of himself or herself.

### **13. EQUALITY**

- 13.1. Without prejudice to Article 4 above:
- 13.1.1. the Contractor shall not unlawfully discriminate either directly or indirectly on the grounds of age, disability, gender, sex or sexual orientation, marital status (including civil partnerships), pregnancy and maternity, race, or religion or belief.
- 13.1.2. the Contractor agrees to take reasonable efforts to secure the observance of the provisions of this Article 13 by any of its employees, agents, or other persons acting under its direction or Control who are engaged in the performance of the Contract.
- 13.1.3. the Contractor agrees to take reasonable efforts to reflect this Article 13 in any sub-contract that it enters into to satisfy the requirements of the Contract and to require its Sub-contractors to reflect this Article 13 in their sub-contracts that they enter into to satisfy the requirements of the Contract.

### **14. APPLICABLE REGULATIONS**

- 14.1. The Contractor shall be responsible for obtaining permits or licences to comply with national codes, laws and regulations or local rules and practices of the country of work with respect of any works carried out at the designated work sites stated under this Contract.
- 14.2. The Contractor shall take any necessary measure to protect the life and health of persons working or visiting the work area occupied by him. These measures include compliance with the country of work's safety provisions and the requirements provided in Part IV the Statement of Work.
- 14.3. In the performance of all work under this Contract, it shall be the Contractor's responsibility to ascertain and comply with all applicable NATO security regulations as implemented by the local Headquarters' security officer.

### **15. CONFLICT OF INTEREST**

- 15.1. 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 sub-contractors) 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.
- 15.2. The Contractor is responsible for maintaining and providing up-to-date conflict of interest information to the Contracting Officer. If, after award of this Contract or task order herein, the Contractor discovers a conflict of interest with respect to this Contract which could not reasonably have been known prior to award, or if any additional conflicts or potential conflicts arise after award, the Contractor shall give written notice to the Contracting Officer as set forth below.
- 15.3. If, after award of this Contract herein, the Purchaser discovers a conflict of interest with respect to this Contract or task order, which has not been disclosed by the Contractor, the Purchaser may at its sole discretion request additional information to the Contractor, impose mitigation measures or terminate the Contract for default in accordance with Article 39 (Termination For Default) of the NCI Agency, Part III - General Provisions.
- 15.4. The Contractor's notice called for in Clause 31.2 above shall describe the actual, apparent, or potential conflict of interest, the action(s) the Contractor has taken or proposes to take to avoid or mitigate any conflict, and shall set forth any other information which the Contractor believes would be helpful to the Contracting Officer in analyzing the situation. Any changes to the Contractors Conflict of Interest Mitigation Plan, if any is incorporated in the Contract, should be also detailed.
- 15.5. The Contractor has the responsibility of formulating and forwarding a proposed mitigation plan to the Contracting Officer, for review and consideration. This responsibility arises when the Contractor first learns of an actual, apparent, or potential conflict of interest.
- 15.6. If the Contracting Officer in his/her discretion determines that the Contractor's actual, apparent, or potential conflict of interest remains, or the measures proposed are insufficient to avoid or mitigate the conflict, the Contracting Officer will direct a course of action to the Contractor designed to avoid, neutralize, or mitigate the conflict of interest. If the parties fail to reach agreement on a course of action, or if having reached such agreement the Contractor fails to strictly adhere to such agreement during the remaining period of Contract performance, the Contracting Officer has the discretion to terminate the Contract for default or alternatively refrain from exercising any further Option or Work Package under the Contract.
- 15.7. 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.

- 15.8. 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 terminating this Contract for Default, in accordance with Clause 38 – "Termination for Default" of the Contract General Provisions.

## **16. MERGERS, ACQUISITIONS, NOVATIONS, AND CHANGE-OF-NAME AGREEMENTS**

- 16.1. If a Contractor merges, is acquired, or recognizes a successor in interest to Purchaser contracts when Contractor assets are transferred; or, recognizes a change in a Contractor's name; or, executes novation agreements and change-of-name agreements by a CO other than the Purchaser's CO named in Article 42 of these Contract Special Provisions, the Contractor must notify the Purchaser's CO at least thirty (30) days in advance and provide a copy of the novation or other any other agreement that changes the status of the Contractor for signature by the Purchaser. Any successor must be in full compliance with all terms and conditions of this Contract.

## **17. CONSEQUENCES OF TERMINATION OR EXPIRY**

- 17.1. This Article supplements Article 39 Termination for Default and Article 40 Termination for Convenience of the NCI Agency, Part III - General Provisions.
- 17.2. Definitions. As used in this Article:
- 17.2.1. 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.
- 17.3. In addition to other rights in this Contract, following termination or expiry of this Contract for whatever reason:
- 17.3.1. unless otherwise agreed between the Parties, the Contractor shall at no additional cost to the Purchaser:
- 17.3.1.1. return all Purchaser Furnished Property (PFP); and
- 17.3.1.2. at the Purchaser's discretion, destroy or return any 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 (and to the extent that the Contractor does so, the provisions of Article 11 shall survive termination or expiry of this Contract and shall continue to apply to that copy).

## 18. INSPECTION OF SERVICES – FIRM FIXED PRICE

- 18.1. Services, as used in this Article, includes services performed, workmanship, and material furnished or utilized in the performance of services.
- 18.2. The Contractor shall provide and maintain an inspection system acceptable to the Purchaser covering the services under this Contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Purchaser during Contract performance and for as long afterwards as the Contract requires.
- 18.3. The Purchaser has the right to inspect and test all services called for by the Contract, to the extent practicable at all times and places during the term of the Contract. The Purchaser shall perform inspections and tests in a manner that will not unduly delay the work.
- 18.4. If the Purchaser performs inspections or tests on the premises of the Contractor or a sub-contractor, the Contractor shall furnish, and shall require sub-contractors to furnish, at no increase in Contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties. As far as is practicable such specific inspections shall be notified to the Contractor in writing in advance of such inspection.
- 18.5. If any of the services do not conform with the Contract requirements, the Purchaser may require the Contractor to perform the services again in conformity with Contract requirements, at no increase in Contract amount. When the defects in services cannot be corrected by re-performance, the Purchaser may (1) require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements and (2) reduce the Contract price to reflect the reduced value of the services performed.
- 18.6. If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with Contract requirements, the Purchaser may (1) by Contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Purchaser that is directly related to the performance of such service or (2) terminate the Contract for default under Article 39 (Termination For Default) of the NCI Agency, Part III - General Provisions.
- 18.7. The services to be provided by the Contractor's personnel under this Contract shall conform to the highest professional standards and practices typical in its industry. Inspection of the services provided will be made by the Purchaser's Service Manager or assigned Technical Representative. 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.

## 19. SECURITY

- 19.1. The security classification of this Contract is NATO UNCLASSIFIED.
- 19.2. Contractor and Sub-Contractor personnel working on this Contract, visiting or working at NATO or National premises in connection with this Contract shall possess a NATO SECRET security clearance confirmed to the Purchaser by the relevant National Security Authority. This requirement applies to all sub-contracts issued by the Contractor for effort under this prospective Contract.
- 19.3. It is the responsibility of the Contractor to ensure that his personnel obtain the required security clearances and transmit this information to the sites to be visited in adequate time that the site may perform the appropriate administration. Contractors are advised that the personnel security process may be lengthy. The Purchaser bears no responsibility for the failure of the Contractor to secure the required clearances for its personnel within the necessary time. Failure to obtain or maintain the required level of security for Contractor personnel 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 Article 11 and Article 39 of the NCI Agency, Part III - General Provisions.
- 19.4. The Contractor's Team Members shall possess a valid passport or ID Card and is required to maintain its validity for duration of the Contract.
- 19.5. All NATO CLASSIFIED material entrusted to the Contractor shall be handled and safeguarded in accordance with the applicable security regulations.
- 19.6. 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.).
- 19.7. 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 NATO and by the local authorities.
- 19.8. The Contractor shall note that there are restrictions regarding the carriage and use of electronic device (e.g. laptops, cell/mobile telephones) 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.
- 19.9. Part IV the Statement of Work defines the level of security of information

exchanged and used for performance of the Contract.

19.10. In particular, the Contractor undertakes to:

- 19.10.1. 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;
- 19.10.2. 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;
- 19.10.3. 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;
- 19.10.4. 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;
- 19.10.5. 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;
- 19.10.6. 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;
- 19.10.7. 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;
- 19.10.8. 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;
- 19.10.9. 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;
- 19.10.10. Apply to the Purchaser for approval before Sub-contracting any part of the work, if the Sub-contract would involve that the Sub-contractor would have access to NATO classified information, and to place the Sub-contractor under appropriate security obligations no less stringent than those applied to his own contract;
- 19.10.11. 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;

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

## **20. CONTRACT OPTIONS**

- 20.1. The Purchaser may require continued performance through the annual Option Years and Technical Support Option(s) in Part I Schedule of Supplies and Services.
- 20.2. Each of the Option Years in Part I Schedule of Supplies and Services may be exercised once and each annual Option has a 12 (twelve) month duration.
- 20.3. All Options provided by the Contractor shall be irrevocable at the Unit Price in Part I Schedule of Supplies and Services the during the Contract Period of Performance.
- 20.4. During the Period of Performance, the Purchaser shall have the right to exercise any of the Options in Part I Schedule of Supplies and Services and/or Part IV the Statement of Work totally or partially at any time, including at Contract award.
- 20.5. The Contractor understands that there is no obligation under this Contract for the Purchaser to exercise any of the optional line items and that the Purchaser bears no liability should it decide not to exercise the Options (totally or partially). Further, the Purchaser reserves the right to order another Contractor (or the same), to perform the tasks described in the optional line items of the current Contract through a new Contract with other conditions.

## **21. WARRANTY OF SERVICES**

- 21.1. Acceptance, as used in this Article, means the act of an authorized representative of the Purchaser by which the Purchaser assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services, as partial or complete performance of the Contract.
- 21.2. Notwithstanding inspection and acceptance by the Purchaser or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this Contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this Contract. The CO shall give written notice of any defect or nonconformance to the Contractor within 30 days from the date of acceptance by the Purchaser; or other specified event whose occurrence will terminate the period of notice, or combination of any applicable

events or period of time. This notice shall state either (1) that the Contractor shall correct or re-perform any defective or nonconforming services, or (2) that the Purchaser does not require correction or re-performance.

21.3. If the Contractor is required to correct or re-perform, it shall be at no cost to the Purchaser, and any services corrected or re-performed by the Contractor shall be subject to this Article to the same extent as work initially performed. If the Contractor fails or refuses to correct or re-perform, the CO may, by Contract, otherwise, correct, or replace with similar services and charge to the Contractor the cost occasioned to the Purchaser thereby, or make an equitable adjustment in the Contract price.

21.4. If the Purchaser does not require correction or re-performance, the CO shall make an equitable adjustment in the Contract price.

## **22. LIQUIDATED DAMAGES**

22.1. This Article supplements Article 38 Liquidated Damages of the NCI Agency, Part III - General Provisions.

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

22.2.1. By deducting such damages from the amounts due to the Contractor against the Contractor's invoices.

22.2.2. By proceeding against any surety.

22.2.3. By reclaiming such damages through appropriate legal remedies.

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

23.1. This Article supplements Article 21 Inspection and Acceptance of Work of the NCI Agency, Part III - General Provisions.

23.2. Should the Purchaser give the Contractor the opportunity, at the Contractor's expense, to carry out remedial services as is necessary to correct the Contractor's failure or otherwise to rectify any breach, these remedial services shall be completed within Purchaser-specified time limits.

23.3. This Article 23 of the Special Provisions and Article 21 of the General Provisions shall also apply to any remedial services carried out by the Contractor.

23.4. The Purchaser's rights and remedies under the Article 23 of the Special Provisions and Article 21 of the General Provisions are in addition to its rights and remedies under this Contract.

## **24. SUPPLY OF CONTRACTOR DELIVERABLES AND QUALITY ASSURANCE**

- 24.1. The Contractor shall:
- 24.1.1. provide the Contractor Deliverables to the Purchaser, in accordance with the Part I Schedule of Supplies and Services and Part IV Statement of Work (including any standards or processes specified therein).
  - 24.1.2. allocate sufficient resources to the provision of the Contractor Deliverables to enable it to comply with the obligations in Part I Schedule of Supplies and Services and Part IV Statement of Work.
- 24.2. The Contractor shall:
- 24.2.1. comply with any applicable quality assurance requirements specified in Part IV Statement of Work in providing the Contractor Deliverables;
  - 24.2.2. comply with all applicable Law and Legislation;
  - 24.2.3. discharge its obligations under the Contract with all due skill, care, diligence and operating practice by appropriately experienced, qualified and trained personnel.
- 24.3. The provisions of Article 24.2 shall survive any performance, acceptance or payment pursuant to the Contract and shall extend to any remedial services provided by the Contractor.

## **25. INDEPENDENT CONTRACTOR**

- 25.1. The Personnel provided by the Contractor in response to this Contract are at all times employees of the Contractor and not the Purchaser. In no case shall Contractor personnel act on behalf of or as an agent for NATO or any of its bodies. In no way shall the Contractor personnel claim directly or indirectly to represent NATO in an official capacity or claim themselves to be NATO employees.
- 25.2. The Purchaser shall not be responsible for securing work permits, leases nor tax declarations, driving permits, etc., with national or local authorities. Contractor's personnel employed under this Contract are not eligible for any diplomatic privileges or for NATO employee benefits.

## **26. OWNERSHIP AND TITLE**

- 26.1. This Article supplements Article 24 Ownership and Title of the NCI Agency, Part III - General Provisions.
- 26.2. Upon Notification of Purchaser Written Acceptance, the Title and Risk of Loss to all delivered/installed equipment, software, and documentation shall transfer to and vest with the Purchaser, except where such software is otherwise under license to the Purchaser. In such cases, the software license shall be transferred to the Purchaser. Until Purchaser Written Acceptance the Contractor shall be responsible

for the equipment on site.

## **27. ENVIRONMENTAL REQUIREMENTS**

27.1. The Contractor shall in all its operations to perform the Contract, to the maximum extent possible, adopt a sound proactive environmental approach that identifies, considers, and where possible, mitigates the environmental impacts of its supply chain. If requested by the Purchaser, the Contractor shall provide evidence of so doing at the Project Review Meeting.

## **28. DISRUPTION**

28.1. The Contractor shall take reasonable care to ensure that in the performance of its obligations under this Contract it does not disrupt the operations of the Purchaser, its employees or any other contractor employed by the Purchaser.

## **29. THIRD PARTY CO-OPERATION**

29.1. Subject to its other obligations under this 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:

29.1.1. 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;

29.1.2. 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);

29.1.3. 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

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

29.2. 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.

### 30. INVOICES AND PAYMENT

- 30.1. 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. Invoices shall be accompanied by a copy of the letter of acceptance issued by the Purchaser. It shall be the responsibility of the Contractor to ensure such letter is provided.
- 30.2. 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 CLIN.
- 30.3. No payment shall be made with respect to undelivered supplies; works not performed, services not rendered and/or incorrectly submitted invoices
- 30.4. No payment will be made for additional items delivered that are not specified in the contractual document.
- 30.5. The invoice amount is exclusive of VAT and exclusive of all Taxes and Duties as per Article 26 "Taxes and Duties" of the NCI Agency, Part III - General Provisions.
- 30.6. The Purchaser is released from paying any interest resulting from any reason whatsoever.
- 30.7. The Purchaser shall not bear any liability related to financial guarantees, which the Contractor is required to provide under this Contract.
- 30.8. 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: Contract number, Purchase Order number, Contract Amendment number (if any) and the Contract Line Item(s) (CLIN) as they are defined in the priced Schedule of Supplies and Services.
- 30.9. The invoice shall contain the following certificate:

*"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.

30.10. Invoices shall be submitted to:

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

OR

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

[accountspayable@ncia.nato.int](mailto:accountspayable@ncia.nato.int)

30.11. NCI Agency will make payment within 30 (thirty) days of receipt by NCI Agency of a properly prepared and documented invoice.

30.12. The approval for payment of a valid and undisputed invoice by the Purchaser shall not be construed as acceptance by the Purchaser of the performance of the Contractor's obligations nor as a waiver of its rights and remedies under this Contract.



30.13. This Contract's Period of Performance is expressed in Article 2 above. Payments during this Period of Performance shall be made annually to align with NATO's annual budgeting cycle. The Contractor shall be entitled to submit invoices and payment will be made for the Contractual Milestones in accordance with in the following table:

Contract Baseline				
No.	Milestone	Milestone Acceptance Criteria	Milestone Invoicing Criteria	Value
1	Year 1 Account Management Activities  This milestone is the sum of CLINs 1.1 and 1.2	Purchaser Written Acceptance that the Account Kick-off Meeting and Year 1 Account Review Meeting requirements of Part IV the Statement of Work have been met by the Contractor.	In arrears following Purchaser Written Acceptance that the Acceptance Criteria have been met and no earlier than EDC +26 weeks.	<i>To add at contract award</i>
2	Contract Baseline Year 1 Hardware Support  This milestone is the sum of CLIN 2.1 – 2.19	Purchaser Written Acceptance provided at the end of Contract Year 1 that the Services to be Provided and Account Initiation requirements of Part IV the Statement of Work have been met by the Contractor.	Invoicing for this milestone shall be based on following criteria: 1) Contractor confirmation of support being in place with subcontractor(s) (such as Check Point) and 2) Contractor confirmation that expiration dates in User Centers are updated accordingly; and 3) No earlier than EDC +2 weeks.	<i>To add at contract award</i>
3	Contract Baseline Year 1 Software Support  This milestone is the sum of CLIN 3.1 – 3.42	Purchaser Written Acceptance provided at the end of Contract Year 1 that the Services to be Provided and Account Initiation requirements of Part IV the Statement of Work have been met by the Contractor.	Invoicing for this milestone shall be based on following criteria: 1) Contractor confirmation of support being in place with subcontractor(s) (such as Check Point) and 2) Contractor confirmation that expiration dates in User Centers are updated accordingly; and 3) No earlier than EDC +2 weeks.	<i>To add at contract award</i>



Option Year 1 (if exercised)				
No.	Milestone	Milestone Acceptance Criteria	Milestone Invoicing Criteria	Value
O1	Option Year 1 Account Management Activity  This milestone is the sum of CLIN O5	Purchaser Written Acceptance that the Option Year 1 Account Review Meeting requirements of Part IV the Statement of Work have been met by the Contractor.	In arrears following Purchaser Written Acceptance that the Acceptance Criteria have been met and no earlier than execution of Option +26 weeks.	<i>To add at contract award</i>
O2	Option Year 1 Hardware Support  This milestone is the sum of CLIN O6	Purchaser Written Acceptance provided at the end of Option Year 1 that the Services to be Provided and Account Initiation requirements of Part IV the Statement of Work have been met by the Contractor.	Invoicing for this milestone shall be based on following criteria: 1) Contractor confirmation of support being in place with subcontractor(s) (such as Check Point); and 2) Contractor confirmation that expiration dates in User Centers are updated accordingly; and 3) No earlier than execution of Option +2 weeks.	<i>To add on execution of option. Value calculated in accordance with Clause 3.3 of these Contract Special Provisions and Clause 4.10.2 of the Contract Statement of Work.</i>
O3	Option Year 1 Software Support  This milestone is the sum of CLIN O7	Purchaser Written Acceptance provided at the end of Option Year 1 that the Services to be Provided and Account Initiation requirements of Part IV the Statement of Work have been met by the Contractor.	Invoicing for this milestone shall be based on following criteria: 1) Contractor confirmation of support being in place with subcontractor(s) (such as Check Point); and 2) Contractor confirmation that expiration dates in User Centers are updated accordingly; and 3) No earlier than execution of Option +2 weeks.	<i>To add on execution of option. Value calculated in accordance with Clause 3.3 of these Contract Special Provisions and Clause 4.10.2 of the Contract Statement of Work.</i>





Option Year 2 (if exercised)				
No.	Milestone	Milestone Acceptance Criteria	Milestone Invoicing Criteria	Value
O5	Option Year 2 Account Management Activity  This milestone is the sum of CLIN O9	Purchaser Written Acceptance that the Option Year 2 Account Review Meeting requirements of Part IV the Statement of Work have been met by the Contractor.	In arrears following Purchaser Written Acceptance that the Acceptance Criteria have been met and no earlier than execution of Option +26 weeks.	<i>To add at contract award</i>
O6	Option Year 2 Hardware Support  This milestone is the sum of CLIN O10	Purchaser Written Acceptance provided at the end of Option Year 2 that the Services to be Provided and Account Initiation requirements of Part IV the Statement of Work have been met by the Contractor.	Invoicing for this milestone shall be based on following criteria: 1) Contractor confirmation of support being in place with subcontractor(s) (such as Check Point); and 2) Contractor confirmation that expiration dates in User Centers are updated accordingly; and 3) No earlier than execution of Option +2 weeks.	<i>To add on execution of option. Value calculated in accordance with Clause 3.3 of these Contract Special Provisions and Clause 4.10.2 of the Contract Statement of Work.</i>
O7	Option Year 2 Software Support  This milestone is the sum of CLIN O11	Purchaser Written Acceptance provided at the end of Option Year 2 that the Services to be Provided and Account Initiation requirements of Part IV the Statement of Work have been met by the Contractor.	Invoicing for this milestone shall be based on following criteria: 1) Contractor confirmation of support being in place with subcontractor(s) (such as Check Point); and 2) Contractor confirmation that expiration dates in User Centers are updated accordingly; and 3) No earlier than execution of Option +2 weeks.	<i>To add on execution of option. Value calculated in accordance with Clause 3.3 of these Contract Special Provisions and Clause 4.10.2 of the Contract Statement of Work.</i>



Option Year 3 (if exercised)				
No.	Milestone	Milestone Acceptance Criteria	Milestone Invoicing Criteria	Value
O8	Option Year 3 Account Management Activity  This milestone is the sum of CLIN O13	Purchaser Written Acceptance that the Option Year 3 Account Review Meeting requirements of Part IV the Statement of Work have been met by the Contractor.	In arrears following Purchaser Written Acceptance that the Acceptance Criteria have been met and no earlier than execution of Option +26 weeks.	<i>To add at contract award</i>
O9	Option Year 3 Hardware Support  This milestone is the sum of CLIN O14	Purchaser Written Acceptance provided at the end of Option Year 3 that the Services to be Provided and Account Initiation requirements of Part IV the Statement of Work have been met by the Contractor.	Invoicing for this milestone shall be based on following criteria: 1) Contractor confirmation of support being in place with subcontractor(s) (such as Check Point); and 2) Contractor confirmation that expiration dates in User Centers are updated accordingly; and 3) No earlier than execution of Option +2 weeks.	<i>To add on execution of option. Value calculated in accordance with Clause 3.3 of these Contract Special Provisions and Clause 4.10.2 of the Contract Statement of Work.</i>
O10	Option Year 3 Software Support  This milestone is the sum of CLIN O15	Purchaser Written Acceptance provided at the end of Option Year 3 that the Services to be Provided and Account Initiation requirements of Part IV the Statement of Work have been met by the Contractor.	Invoicing for this milestone shall be based on following criteria: 1) Contractor confirmation of support being in place with subcontractor(s) (such as Check Point); and 2) Contractor confirmation that expiration dates in User Centers are updated accordingly; and 3) No earlier than execution of Option +2 weeks.	<i>To add on execution of option. Value calculated in accordance with Clause 3.3 of these Contract Special Provisions and Clause 4.10.2 of the Contract Statement of Work.</i>



Option Year 4 (if exercised)				
No.	Milestone	Milestone Acceptance Criteria	Milestone Invoicing Criteria	Value
O11	Option Year 4 Account Management Activity  This milestone is the sum of CLIN O17	Purchaser Written Acceptance that the Option Year 4 Account Review Meeting requirements of Part IV the Statement of Work have been met by the Contractor.	In arrears following Purchaser Written Acceptance that the Acceptance Criteria have been met and no earlier than execution of Option +26 weeks.	<i>To add at contract award</i>
O12	Option Year 4 Hardware Support  This milestone is the sum of CLIN O18	Purchaser Written Acceptance provided at the end of Option Year 4 that the Services to be Provided and Account Initiation requirements of Part IV the Statement of Work have been met by the Contractor.	Invoicing for this milestone shall be based on following criteria: 1) Contractor confirmation of support being in place with subcontractor(s) (such as Check Point); and 2) Contractor confirmation that expiration dates in User Centers are updated accordingly; and 3) No earlier than execution of Option +2 weeks.	<i>To add on execution of option. Value calculated in accordance with Clause 3.3 of these Contract Special Provisions and Clause 4.10.2 of the Contract Statement of Work.</i>
O13	Option Year 4 Software Support  This milestone is the sum of CLIN O19	Purchaser Written Acceptance provided at the end of Option Year 4 that the Services to be Provided and Account Initiation requirements of Part IV the Statement of Work have been met by the Contractor.	Invoicing for this milestone shall be based on following criteria: 1) Contractor confirmation of support being in place with subcontractor(s) (such as Check Point); and 2) Contractor confirmation that expiration dates in User Centers are updated accordingly; and 3) No earlier than execution of Option +2 weeks.	<i>To add on execution of option. Value calculated in accordance with Clause 3.3 of these Contract Special Provisions and Clause 4.10.2 of the Contract Statement of Work.</i>

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

- 31.1. Except as otherwise provided for in this Contract, Contractor's price quotations for the changes, modifications, etc., shall be provided at no cost to the Purchaser and shall have a minimum validity period of 6 (six) months from submission.
- 31.2. The pricing information contained in the cost breakdown sheets submitted with the Bidding sheets, as part of the Contractor's proposal, and especially the forward labour rates provided, will constitute the basis for any future negotiations related to possible future amendments to this Contract.

### **32. COMMERCIAL COMPUTER SOFTWARE LICENSE**

- 32.1. Notwithstanding any contrary provisions contained in the Contractor's standard commercial license or lease agreement, the Contractor agrees that the Purchaser will have the rights that are set forth in clauses of this Article to use, duplicate or disclose any commercial computer software delivered under this Contract.
- 32.2. The commercial computer software delivered under this Contract may not be used, reproduced, or disclosed by the Purchaser except as provided in the clause below of this Article or as expressly stated otherwise in this Contract.
  - 32.2.1. The commercial computer software may be:
    - 32.2.1.1. Used or copied for use with the computer(s) for which it was acquired, including use at any installation detailed in Part IV – Statement of Work to which the computer(s) may be transferred;
    - 32.2.1.2. Used or copied for use with a backup computer if any computer for which it was acquired is inoperative;
    - 32.2.1.3. Reproduced for safekeeping (archives) or backup purposes;
    - 32.2.1.4. Modified, adapted, or combined with other computer software, provided that the modified, adapted, or combined portions of the derivative software incorporating any of the delivered, commercial computer software shall be subject to same restrictions set forth in this Contract;
    - 32.2.1.5. Disclosed to and reproduced for use by support service Contractors or their sub-contractors, subject to the same restrictions set forth in this Contract; and
    - 32.2.1.6. Used or copied for use with a replacement computer.
- 32.3. If the commercial computer software is otherwise available without disclosure restrictions, the Contractor licenses it to the Purchaser without disclosure

restrictions.

### **33. ACCESS TO CONTRACTOR'S PREMISES**

- 33.1. Following reasonable written notice, the Contractor shall provide the Purchaser's Representatives all reasonable access to its premises for the purpose of monitoring the Contractor's progress and quality standards in performing the Contract.

### **34. ACCESS TO PURCHASER'S PREMISES**

- 34.1. The Contractor acknowledges that Purchaser premises to which it shall provide the Contractor Deliverables vary in physical size, occupancy levels and types.
- 34.2. The Contractor shall observe, and ensure that the Contractor's Team and Sub-contractors observe, all health and safety rules and regulations and any other security requirements that apply at any of Purchaser's premises, including any the Purchaser policies and processes which may be communicated by the Purchaser to the Contractor.

### **35. CARE AND DILIGENCE OF PROPERTY – RISK OF LOSS**

- 35.1. The Contractor shall use reasonable care to avoid damaging building, equipment, and vegetation (such as trees, shrub and grass) on the work site.
- 35.2. If the Contractor damages any such building or equipment, he shall repair the damage as directed by the Purchaser and at no expenses 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.
- 35.3. The Purchaser shall exercise due care and diligence for Contractor's and Purchaser's equipment, tools and materials at each site supplied and/or used for the performance of this Contract. Notwithstanding anything to the contrary herein contained in this Contract, the Purchaser will not assume any liability for damages occurring to or occasioned by said equipment, tools and materials except for (i) gross negligence or wilful misconduct of the Purchaser or his servants, agents or sub-contractors or (ii) loss due to events covered under Article 39 of the NCI Agency, Part III - General Provisions.
- 35.4. 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.

### **36. CONTRACTOR'S PERSONNEL WORKING AT PURCHASER'S FACILITIES**

- 36.1. This Article supplements Article 14 – “Contractor Personnel Working at Purchaser’s Facilities” of the NCI Agency, Part III - General Provisions.
- 36.2. The Contractor shall be responsible for ascertaining what necessary facilities will be available and whether they will be provided free of charge, or determining what charges are payable. The Contractor shall have no claim against the Purchaser for any such additional cost or delay or any additional cost or delay occasioned by the closure for holidays of said facilities, or other reasons, where this is generally published or made known to the Contractor by the Purchaser or his authorised representatives.

### **37. RESPONSIBILITY OF THE CONTRACTOR TO INFORM EMPLOYEES OF WORK ENVIRONMENT**

- 37.1. The Contractor shall inform his employees under this Contract of the terms of the Contract and the conditions of the working environment.
- 37.2. The Purchaser shall not be responsible for securing work permits, 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.
- 37.3. Specifically, personnel shall be made aware of the 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.

### **38. INSURANCES**

- 38.1. The Contractor is responsible for providing the necessary insurance for his personnel and equipment as needed in the area of operations and for performing the Contract.

### **39. TECHNICAL DIRECTION**

- 39.1. The Contract will be administered by the NCI Agency in accordance with Article 40 of these Contract Special Provisions entitled “Contract Administration”.
- 39.2. 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. This effort will be directed on a more detailed level by the Purchaser’s Service Manager

- who will provide detailed tasking and instruction on how to proceed.
- 39.3. 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.
- 39.4. Neither the Purchaser's Service Manager, nor any Technical Representative has the authority to change the terms and conditions of the Contract. If the Contractor has reason to believe that the Service Manager/Technical Representative is requesting effort on terms inconsistent with that in the scope of the Contract, the Contractor shall immediately inform the Purchaser's Contracts Officer for confirmation of the actions. Failure to obtain confirmation that the action of the Service Manager is under the authority of the Contract shall render any subsequent claim null and void.
- 39.5. Upon receipt of such notification above, the Purchaser will:
- 39.5.1. confirm the effort requested is within scope, or;
  - 39.5.2. confirm that the instructions received constitute a change and request a quotation for a modification of scope and/or price, or;
  - 39.5.3. rescind the instructions.
- 39.6. Failure of the Contractor to notify the Purchaser of direction constituting change of the Contract will result in a waiver of any claims pursuant to such change.

#### **40. CONTRACT ADMINISTRATION**

- 40.1. The Purchaser reserves the right to re-assign this Contract to a representative(s) for administrative purposes, in whole or in part, provided that the Purchaser shall always be responsible for his obligations under the contract and for actions or lack of actions of its assigned administrator. The Purchaser undertakes to advise the Contractor in writing whenever this right is to be exercised.
- 40.2. The Purchaser is the NCI Agency. The NCI Agency is the Point of Contact for all Contractual and Technical issues. The Contractor shall accept Contract modifications only in writing from NCI Agency.
- 40.3. The Contractor shall accept Contract modifications only in writing from the Purchaser's Contracts Officer official point of contact.
- 40.4. All notices and communications between the Contractor and the Purchaser shall be written and conducted in English. Contract modifications only become valid when received in writing from the General Manager, NATO CI AGENCY, or his authorized representative.
- 40.5. Formal letters and communications shall be personally delivered or sent by

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

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

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

40.8. Official Points of Contact are:

**PURCHASER**

**Contractual issues:**

NATO CI Agency  
Acquisition Directorate  
Boulevard Léopold III  
B-1110 Brussels  
Belgium

POC: Darren Corkindale  
Title: Senior Contracts Officer  
(consultant)  
Tel: +32 2707 5182  
E-mail: Darren.Corkindale@ncia.nato.int

**Technical issues:**

NATO Communications and Information Agency  
Cyber Security  
SHAPE  
B-7010 Mons  
Belgium

POC: Sandro Herpich  
Title: Service Manager  
Tel: + 32 6544 1949  
E-mail: Sandro.Herpich@ncia.nato.int

**CONTRACTOR**

**Contractual issues:**

*To add at contract award*

POC: *To add at contract award*

Tel: *To add at contract award*

Email:  
*To add at contract award*

**Technical issues:**

*To add at contract award*

POC: *To add at contract award*

Tel: *To add at contract award*

Email:  
*To add at contract award*



#### **41. LIMITATIONS ON THE USE OR DISCLOSURE OF THIRD-PARTY CONTRACTOR REPORTED CYBER INCIDENT INFORMATION**

##### 41.1. Definitions. As used in this Article:

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

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

41.1.3. Covered defense information means unclassified Controlled Technical Information and is:

41.1.3.1. Marked or otherwise identified in the Contract, task order, or delivery order and provided to the Contractor by or on behalf of NCI Agency in support of the performance of the Contract; or,

41.1.3.2. Collected, developed, received, transmitted, used, or stored by or on behalf of the Contractor in support of the performance of the Contract.

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

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

41.1.6. Media means physical devices or writing surfaces including, but is not limited to, magnetic tapes, optical disks, magnetic disks, large-scale integration memory chips, and printouts onto which covered defense information is recorded, stored, or printed within a covered Contractor information system.

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

##### 41.2. Restrictions

41.2.1. The Contractor agrees that the following conditions apply to any information it receives or creates in the performance of this Contract that is information obtained

from a third party's reporting of a cyber-incident:

- 41.2.1.1. The Contractor shall access and use the information only for furnishing advice or technical assistance directly to the Purchaser in support of the Purchaser's activities, and shall not be used for any other purpose.
- 41.2.1.2. The Contractor shall protect the information against unauthorized release or disclosure.
- 41.2.1.3. The Contractor shall ensure that its employees are subject to use and non-disclosure obligations consistent with this Article prior to the employees being provided access to or use of the information.
- 41.2.1.4. The third-party contractor that reported the cyber incident is a third-party beneficiary of the non-disclosure agreement between the Purchaser and Contractor.
- 41.2.1.5. A breach of these obligations or restrictions may subject the Contractor to:
  - 41.2.1.5.1. Criminal, civil, administrative, and contractual actions in law and equity for penalties, damages, and other appropriate remedies; and
  - 41.2.1.5.2. Civil actions for damages and other appropriate remedies by the third party that reported the cyber incident, as a third party beneficiary of this Article.

## **42. SUPPLEMENTAL AGREEMENT(S), DOCUMENTS AND PERMISSIONS**

- 42.1. The Contractor has submitted all relevant draft supplemental agreement(s), documents and permissions prior to Contract award, the execution of which by the Purchaser is/are required by national law or regulation. If any supplemental agreements, documents and permissions are introduced after Contract award, and it is determined that the Contractor failed to disclose the requirement for the execution of such agreement from the Purchaser prior to Contract signature, the Purchaser may terminate this Contract for Default, in accordance with Clause 38 – "Termination for Default" of the Contract General Provisions.
- 42.2. 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.

### **43. RIGHTS IN TECHNIAL DATA**

- 43.1. The Contractor hereby grants the Purchaser the unrestricted rights without further payment to use duplicate or disclose, in whole or in part, any technical data, resulting directly from the performance of this Contract. For the purpose of this Clause, “technical data” is defined to mean all recorded information of a technical nature to support, maintain or operate the services being purchased under this Contract. It is to include, but is not limited to, technical literature such as text in manuals, drawings, design documents, equipment instructions, illustrations, schematics or wiring diagrams, test procedures, parts lists, computer software etc.
- 43.2. For computer software, subject to the application of a site license, the Purchaser shall have the unlimited rights to use the computer software for NATO, NATO Nations and NATO Operations or all other similar operational requirements to permit the system equipment recovery in case of fire, flood or any other major system breakdown.
- 43.3. As used in the above paragraph, “computer software” means a series of instructions or statements in a form acceptable to the computer designed to cause the computer to execute an operation or instructions. Computer software includes operating systems, assemblers, compilers, interpreters, data management systems, utility programmes and ADP equipment maintenance and diagnostic programmes, as well as applications programmes. Computer programmes may either be machine-dependent and may be general purpose in nature or designed to satisfy the requirements of a particular user

### **44. PERFORMANCE GUARANTEE**

- 44.1. Article 8 (Performance Guarantee) of the NCI Agency General Provisions is hereby replaced as follows:
- 44.2. No Performance Guarantee shall be required from the Contractor for this Contract.



**ANNEX A: NATO CI AGENCY NON-DISCLOSURE DECLARATION**

We, the undersigned [insert at contract award] duly represented by the named individual below (hereinafter “Contractor”) do hereby certify that we shall ensure that the following conditions be accepted and observed by all (Contractor) employees working under CO-115495-CPSC.

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

TO BE SIGNED BY THE CONTRACTOR’S EMPLOYEES WORKING IN THE NATO’S PREMISES UPON COMMENCEMENT OF THEIR WORK.

**I UNDERSTAND:**

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

That I must not divulge to any unauthorized 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-115495-CPSC.

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-115495-CPSC, save such as I have been duly authorized to retain.

That the provisions of the above Declaration apply not only during the period of work under CO-115495-CPSC, 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 unauthorized hands.

NATO UNCLASSIFIED

**NATO COMMUNICATIONS AND INFORMATION  
AGENCY**



**CONTRACT GENERAL PROVISIONS**

V 1.0 dated 16 Oct 2014

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**1. ORDER OF PRECEDENCE**

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

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

**2. DEFINITIONS OF TERMS AND ACRONYMS**

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



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

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

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

**3. AUTHORITY**

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

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

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

**5. LANGUAGE**

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

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

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

**7. FIRM FIXED PRICE CONTRACT**

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

**8. PERFORMANCE GUARANTEE**

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

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provisions of the Contract regarding Termination for Default.

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

**PERFORMANCE GUARANTEE STANDBY LETTER OF CREDIT**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**9. PARTICIPATING COUNTRIES**

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



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

**10. SUB-CONTRACTS**

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

**11. SECURITY**

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

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

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

**12. RELEASE OF INFORMATION**

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

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

13. **PURCHASER FURNISHED PROPERTY**

13.1 The Purchaser shall deliver to the Contractor, for use only in connection with this Contract, the Purchaser Furnished Property at the times and locations stated in the Contract. In the event that Purchaser Furnished Property is not delivered by such time or times stated in the Schedule, or if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates the Purchaser shall, upon timely written request made by the Contractor, and if the facts warrant such action, equitably adjust any affected provision of this Contract pursuant to Clause 16 (Changes).

13.2 In the event that Purchaser Furnished Property is received by the Contractor in a condition not suitable for its intended use, the Contractor shall immediately notify the Purchaser. The Purchaser shall within a reasonable time of receipt of such notice replace, re-issue, authorise repair or otherwise issue instructions for the disposal of Purchaser Furnished Property agreed to be unsuitable. The Purchaser shall, upon timely written request of the Contractor, equitably adjust any affected provision of this Contract pursuant to Clause 16 (Changes).

13.3 Title to Purchaser Furnished Property will remain in the Purchaser. The Contractor shall maintain adequate property control records of Purchaser Furnished Property in accordance with sound industrial practice and security regulations.

13.4 Unless otherwise provided in this Contract, the Contractor, upon delivery to him of any Purchaser Furnished Property, assumes the risk of, and shall be responsible for, any loss thereof or damage thereof except for reasonable wear and tear, and except to the extent that Purchaser Furnished Property is consumed in the performance of this Contract.

13.5 Upon completion of this Contract, or at such earlier dates as may be specified by the Purchaser, the Contractor shall submit, in a form acceptable to the Purchaser, inventory schedules covering all items of Purchaser Furnished Property.

13.6 The inventory shall note whether:

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

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

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

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

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

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

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

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

**16. CHANGES**

- 16.1 The Purchaser may at any time, by written order of the Contracting Authority designated or indicated to be a change order ("Change Order") make changes within the general scope of this Contract, including, without limitation, in any one or more of the following:

- 16.1.1 Specifications (including drawings and designs);
- 16.1.2 Method and manner of performance of the work, including engineering standards, quality assurance and configuration management procedures;
- 16.1.3 Marking and method of shipment and packing;
- 16.1.4 Place of delivery;
- 16.1.5 Amount, availability and condition of Purchaser Furnished Property.

- 16.2 The Purchaser shall submit a proposal for Contract amendment describing the change to the Contract.

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

**17. STOP WORK ORDER**

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



arriving at the termination settlement.

**18. CLAIMS**

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

18.2 Claims shall be specifically identified as such and submitted:

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

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

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

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

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

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

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

.....

.....  
SIGNATURE

Date

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

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

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

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

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

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

CERTIFICATE OF CURRENT COST OR PRICING DATA

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

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

\_\_\_\_\_  
*Name of Company*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Printed Name of Signatory*

\_\_\_\_\_  
*Title of Signatory*

\_\_\_\_\_  
*Date of Signature*

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

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

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

**20. NOTICE OF SHIPMENT AND DELIVERY**

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

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

**21. INSPECTION AND ACCEPTANCE OF WORK**

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

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

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



manner as not to unduly delay the Work.

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

22. **INSPECTION AND ACCEPTANCE OF DOCUMENTATION**

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

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

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

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

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

**24. OWNERSHIP AND TITLE**

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

**25. INVOICES AND PAYMENT**

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

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

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

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

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

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

Either at the following addresses:

NCI Agency \* If used for NCI Agency Brussels

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

**OR**

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

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

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

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

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

26. **TAXES AND DUTIES**

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

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

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

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

27.1 For the purpose of this Clause:

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

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

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

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

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



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

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

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

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

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

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

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

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

29. **PATENT AND COPYRIGHT INDEMNITY**

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

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

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

29.3 This indemnity shall not apply under the following circumstances:

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

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

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

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

### **30. INTELLECTUAL PROPERTY**

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

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

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

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

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

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

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

30.3 ***Foreground IPR***

30.3.1 All Foreground IPR is the property of the Purchaser on behalf of NATO. Consequently, no statement shall be made restricting the rights of the Purchaser in the Foreground IPR.

30.3.2 The Contractor shall ensure that suitable arrangements are in place between its employees, agents, consultants and itself regarding Foreground IPR generated by said employees, agents, Subcontractors and consultants to allow the Contractor to fulfil its obligations under Clause 30.3.1 above.

30.3.3 The Contractor shall be entitled to use Foreground IPR on a non-exclusive, royalty free basis solely for the purpose of carrying out the Work.

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

30.3.5 The Contractor shall provide the Purchaser, at the latest upon delivery of the Work and thereafter for the duration of the warranty and any purchased CLS agreement period, with full documented records of information in relation to the Work, including but not limited to, all drawings, specifications and other data that is necessary or useful to further develop, maintain and operate the Work.

30.3.6 The Contractor shall:

30.3.6.1 do all things necessary and sign all necessary or useful documents to enable the Purchaser to obtain the registration of the Foreground IPR as the Purchaser may require and select; and

30.3.6.2 to execute any formal assignment or other documents as may be necessary or useful to vest title to any Foreground IPR in the Purchaser.

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30.3.7 The Contractor undertakes:

30.3.7.1 to notify the Purchaser promptly of any invention or improvement to an invention or any design conceived or made by the Contractor; and

30.3.7.2 to provide the Purchaser with such information as the Purchaser may reasonably request in order to: (i) determine the patentability of such invention or improvement; (ii) assess the need for registering such invention or improvement; and (iii) evaluate the potential value to the Purchaser of such a patent or registration if issued.

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

30.4 ***Third Party IPR***

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

30.4.2 With the exception of COTS items, any use of Third Party IPR is not limited to the number of users or the number of licenses required by the Contract for the use of system. With the exception of COTS items, the Purchaser reserves the right to use the Third Party IPR for any number of users and number of licenses as required, at no additional cost to the Purchaser.

30.4.3 For COTS items, the Contractor shall be responsible for obtaining licences from the Third Party in line with the requirements of the Statement of Work (including numbers and locations of licences).

30.4.4 Where Third Party IPR is the subject of a licence or other agreement between the third party and the Purchaser or the Contractor, the Contractor shall not use any Third Party IPR for the purposes of carrying out work pursuant to the Contract

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

30.4.5 If, after the award of the Contract, the Contractor becomes aware of the existence of any Third Party IPR which the Contractor is using or believes is needed for the performance of the Contract, the Contractor shall immediately give the Purchaser a written report identifying such IPR and if they are compliant with the other provisions in the contract. Any Third Party IPR under this clause is subject to the prior written approval by the Purchaser.

30.4.6 The Purchaser may consider open source solutions alongside proprietary ones in developments provided that such solutions are fully compliant with the requirements of this Contract. Contractor shall disclose in advance the open source license associated with the contemplated open source solution. The Purchaser reserves the right to refuse the incorporation of open source solutions that are deemed inadequate for incorporation in a NATO application (e.g. post-back obligations).

**30.5 Subcontractor IPR**

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

**31. SOFTWARE WARRANTY**

**31.1 Statement of the Warranties**

31.1.1 The Contractor warrants that each Software delivered under this Contract will conform to all requirements specified in the Contract. This will also include Software design specifications, including software configuration.

31.1.2 Regardless of the Purchaser initiation of or participation in developing Software design or specifications, each Software delivered under this Contract will conform to the essential Performance requirements set forth in this Contract, as those essential Performance requirements measured,

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

**31.2 Notification Requirement**

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

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

**31.3 Duration of the Warranty**

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

**31.4 Purchaser Remedies for Breach**

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

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

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

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

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

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

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may be necessary to eliminate the defect, or;

31.4.4.3 Equitably reduce the contract price

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

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

**31.5 Limitations and Exclusions from Warranty Coverage**

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

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

**31.6 Markings**

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



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

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

**32. NATO CODIFICATION**

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

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

### 32.11 Markings

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

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

**33. RELEASE FROM CLAIMS**

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

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

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

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

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

**34. ASSIGNMENT OF CONTRACT**

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

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

**35. TRANSFER AND SUB-LETTING**

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

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

**36. PURCHASER DELAY OF WORK**

36.1 If the performance of all or any part of the Work is delayed or interrupted by an act of the Purchaser in the administration of this Contract, which act is not expressly or implicitly authorised by this Contract, or by the Purchaser's failure to act within the time specified in this Contract (or within a reasonable time if no time is specified), an adjustment shall be made for any increase in the cost of performance of this Contract caused by such delay or interruption and the Contract modified in writing accordingly.

36.2 Adjustment shall be made also in the delivery or performance dates and any other contractual provision affected by such delay or interruption. However, no adjustment shall be made under this Clause for any delay or interruption:

36.2.1 to the extent that performance would have been delayed or interrupted by any other cause, including the fault or negligence of the Contractor; or

36.2.2 for which an adjustment is provided or excluded under any other provision of this Contract.

36.3 No claim under this Clause shall be allowed:

36.3.1 if the Contractor has failed to notify the Purchaser in writing of the act or failure to act, indicating that this act or failure to act will result in a delay or increased costs;

36.3.2 for any costs incurred more than twenty (20) Days before the Contractor shall have notified the Purchaser in writing of the act or failure to act involved; and

36.3.3 unless the monetary claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such delay or interruption, but not later than the date of final payment under the Contract.

**37. CONTRACTOR NOTICE OF DELAY**

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

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

**38. LIQUIDATED DAMAGES**

38.1 If the Contractor:

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

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

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

38.2 In addition to the liquidated damages referred to above, the Purchaser shall have the possibility of terminating this Contract in whole or in part, as provided in Clause 39 (Termination for Default). In the event of such termination, the Contractor shall be liable to pay the excess costs provided in Clause 38.5.

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

38.4 Liquidated damages shall be payable to the Purchaser from the first day of delinquency and shall accrue at the rate specified in Clause 38.1 to 20% of the value of each line item individually not to exceed 15% of the value of the total Contract. These liquidated damages shall accrue automatically and without any further notice being required.

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

**39. TERMINATION FOR DEFAULT**

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

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

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the Contractor to meet the required delivery schedule.

- 39.7 If this Contract is terminated as provided in Clause 39.1, the Purchaser, in addition to any other rights provided in this Clause and the Contract, may require the Contractor to transfer title and deliver to the Purchaser, in the manner and to the extent directed by the Purchaser:
- 39.7.1 any completed Work with associated rights ;
  - 39.7.2 such partially completed Work, materials, Parts, tools, dies, jigs, fixtures, plans, drawings, information, and Contract rights (hereinafter called "Manufacturing materials") with associated rights as the Contractor has specifically produced or specifically acquired for the performance of such part of this Contract as has been terminated;
- 39.8 In addition to Clause 39.7, the Contractor shall, upon direction of the Purchaser, protect and preserve property in the possession of the Contractor in which the Purchaser has an interest.
- 39.9 Payment for completed Work delivered to and accepted by the Purchaser shall be at the Contract price.
- 39.10 Payment for manufacturing materials delivered to and accepted by the Purchaser and for the protection and preservation of property shall be in an amount agreed upon by the Contractor and Purchaser, failure to agree to such amount shall be a dispute within the meaning of Clause 41 (Disputes).
- 39.11 The Purchaser may withhold from amounts otherwise due to the Contractor for such completed Work or manufacturing materials such sum as the Purchaser determines to be necessary to protect the Purchaser against loss because of outstanding liens or claims of former lien holders.
- 39.12 If, after notice of termination of this Contract under the provisions of this Clause, it is determined for any reason that the Contractor was not in default under the provisions of this Clause, or that the default was excusable under the provisions of this Clause, the rights and obligations of the Parties shall be the same as if the notice of termination had been issued pursuant to Clause 40 (Termination for the Convenience of the Purchaser).
- 39.13 If after such notice of termination of this Contract under the provisions of this Clause, it is determined for any reason that the Contractor was not in default under the provisions of this Clause and that the Parties agree that the Contract should be continued, the Contract shall be equitably adjusted to compensate for such termination and the Contract modified accordingly. Failure to agree to any such adjustment shall be a dispute within the meaning of Clause 41 (Disputes).
- 39.14 The rights and remedies of the Purchaser provided in this Clause shall not be



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

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

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

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

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

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

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

- 40.7.3 the cost of settling and paying claims arising out of the termination of work under Sub-contracts or orders, as provided in Clause 40.3.5, which are properly chargeable to the terminated portion of the Contract, exclusive of amounts paid or payable on account of Work or materials delivered or services furnished by Sub-contractors or vendors prior to the effective date of the notice of termination, which amounts shall be included in the costs payable under Clause 40.7.2; and
  - 40.7.4 a sum, as profit on Clause 40.7.1 above, determined by the Purchaser to be fair and reasonable; provided, however, that if it appears that the Contractor would have sustained a loss on the entire Contract, had it been completed, no profit shall be included or allowed and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and
  - 40.7.5 the reasonable costs of settlement, including accounting, legal, clerical and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract and for the termination and settlement of Sub-contracts there under, together with reasonable storage, transportation, and other costs incurred in connection with the protection, or disposition of property allocable to this Contract.
- 40.8 The total sum to be paid to the Contractor under Clause 40.7 shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of Work not terminated.
- 40.9 Except for normal spoilage, and except to the extent that the Purchaser shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor, as provided in Clause 40.7 above, the fair value, as determined by the Purchaser, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the Purchaser, or to a buyer pursuant to Clause 40.3.7 above.
- 40.10 The Contractor shall have the right to dispute, under the Clause 41 (Disputes), any determination made by the Purchaser under Clauses 40.5 and 40.7, except that if the Contractor has failed to submit his claim within the time provided in Clause 40.5 and has failed to request extension of such time, the Contractor shall be foreclosed from his right to dispute said determination. In

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

40.10.1 if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Purchaser, or

40.10.2 if an appeal has been taken, the amount finally determined on such appeal.

40.11 In arriving at the amount due to the Contractor under this Clause there shall be deducted:

40.11.1 all unliquidated advance or other payments on account theretofore made to the Contractor, applicable to the terminated portion of this Contract;

40.11.2 any claim which the Purchaser may have against the Contractor in connection with this Contract; and

40.11.3 the agreed price for, or the proceeds of the sale of, any materials, Work, or other things acquired by the Contractor or sold, pursuant to the provisions of this Clause, and not otherwise recovered by or credited to the Purchaser.

40.12 If the termination hereunder is partial, prior to the settlement of the terminated portion of this Contract, the Contractor may file with the Purchaser, in accordance with Clause 16 (Changes), a request in writing for an equitable adjustment of the price or prices relating to the continued portion of the Contract (the portion not terminated by the notice of termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices.

40.13 The Purchaser may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this Contract whenever in the opinion of the Purchaser the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payment is in excess of the amount finally agreed or determined to be due under this Clause, such excess shall be payable by the Contractor to the Purchaser upon demand, together with interest calculated using the average of the official base rate(s) per annum of the deposit facility rate as notified by the European Central Bank or such other official source as may be determined by the Purchaser, for the period from the date the excess is received by the Contractor to the date such excess is repaid to the Purchaser, provided, however, that no interest shall be charged with respect to any such excess payment attributed to a reduction in the

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

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

**41. DISPUTES**

41.1 Except to the extent to which special provision is made elsewhere in the Contract, all disputes, differences or questions which are not disposed of by agreement between the Parties to the Contract with respect to any matter arising out of or relating to the Contract, other than a matter as to which the decision of the Contracting Authority under the Contract is said to be final and conclusive, shall be decided by the Contracting Authority. The Contracting Authority shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor.

41.2 The Contracting Authority shall not proceed with the evaluation and decision in respect of any claim until and unless the Contractor has submitted the attestation as foreseen in Clause 18 (Claims), as well as the complete proof and evidence of the claim (either by submission or by identification of the relevant documentation).

41.3 The Contracting Authority's decision shall be final and conclusive unless, within 30 Days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Authority his decision to open arbitration proceedings in accordance with the Clause 42 (Arbitration). The burden of proof for both receipt and delivery of such documentation shall be by signed and dated registered mail receipt or by hand receipt as acknowledged and signed by the Contracting Authority.

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

**42. ARBITRATION**

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

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

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

determine the apportionment of the arbitration expenses.

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

**43. SEVERABILITY**

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

**44. APPLICABLE LAW**

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

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

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

## B. Purchaser's Pricing Principles

1. Allowable cost

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

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

## i. Direct Costs

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

## ii. Indirect Costs

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

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

## 2. Unallowable Costs

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

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

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

3. Rates and Factors

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

4. Profit/Benefit

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

**RFQ-CO-115495-CPSC**

**CHECK POINT SUPPORT**



NATO Communications and Information Agency  
Agence OTAN d'information et de communication

**BOOK II, SECTION IV**

**STATEMENT OF WORK**



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## 1 INTRODUCTION

- 1.1 The NATO Communications and Information Agency (NCIA) is responsible for the follow-on licensing support of Check Point security gateways (physical and software) and management components operated by the NATO Cyber Security Centre (NCSC).
- 1.2 This Statement of Work covers the technical/hardware support required to operate & maintain the existing Check Point firewalls alongside the provision & support of additional Check Point products and security subscriptions/services required for NATO networks security.
- 1.3 The Boundary Protection Service infrastructure, of which Check Point equipment is a part, may evolve during the contract Period of Performance. This includes the support of existing products, but also the removal of no longer required products.
- 1.4 As it is likely that the need for Check Point support will reduce throughout the life of this agreement, the Purchaser is aiming to procure a flexible support Contract for the entirety of the NCIA install-base that grants the Purchaser the ability to unilaterally remove hardware & software at no additional cost.
- 1.5 The key business benefits, which the Purchase seeks to achieve from this support Contract are:
  - 1.5.1 To efficiently maintain the security of NCIA networks;
  - 1.5.2 Flexibility to meet changing NCIA demands;
  - 1.5.3 Improved, consistent, and justifiable value for money;
  - 1.5.4 Visibility of products and services provided and maintained across the NCIA estate
  - 1.5.5 Reduced overheads and faster administration

## 2 STANDARDS FOR INTERPRETATION OF THE SOW

- 2.1 Throughout the SOW, the following standards shall apply:
  - 2.1.1 Whenever requirements are stated herein to “include” a group of items, parameters, or other considerations, “include” shall be construed to mean “include but not limited to”.
  - 2.1.2 “Shall” statements are contractually binding. “Should” and “may” statements are non-mandatory provisions. “Will” statements are non-mandatory, or they imply intent on the part of the Purchaser, or they are future tense.
  - 2.1.3 All work performed under this contract shall be in accordance with the requirements specified in this SOW.



### **3 PRODUCTS AND SERVICES COVERED BY THIS SOW**

3.1 The following Check Point products, in their various hardware and software configurations, mostly in redundant high availability modes, shall be supplied and/or supported by the Contractor as defined under Section 4 below:

3.1.1 Products (Security Gateways, Open Server installations, Security Management)

3.1.2 Blades

3.1.3 Accessories

3.1.4 Evaluations

3.1.5 This list is not limited and can be adapted throughout the duration of the Contract. The Schedule of Supplies and Services (SSS) contains a full inventory that will serve as reference for this Statement of Work (SoW).

### **4 SERVICES TO BE PROVIDED**

#### **4.1 Contractor Services**

4.1.1 The Contractor shall provide all knowledge, expertise, facilities, equipment, personnel, materials required to provide the services described below.

4.1.2 Contractor provided maintenance support shall cover Hardware replacement, Software upgrade, Access to technical support and web access with no additional cost.

4.1.3 In detail, the Contractor shall provide a support Contract which:

4.1.3.1 Provides a suitable enterprise level support including access to hot fixes, service packs, upgrades, hardware support (for hardware appliances) and access to a support knowledgebase;

4.1.3.2 Maintains an accurate and up-to-date baseline of products supported under the Contract which is freely accessible to the Purchaser;

4.1.3.3 Supports software blades such as Advanced Networking & Clustering or Application Control. The list of devices covered by those subscriptions will be adjusted annually based on NCI Agency requirements;

4.1.3.4 Is flexible and grants the Purchaser the ability to unilaterally remove hardware & software at no additional cost through Contract Options.





**4.2 Experience and Certificates**

- 4.2.1 The Contractor shall be at least a certified 4 Star Partner and Authorized Support Center partner to Check Point and shall maintain its certifications throughout the Period of Performance.
- 4.2.2 A copy of the certificate shall be provided when requested by the Purchaser.

**4.3 Hardware Support**

- 4.3.1 As a minimum, the Contractor shall provide a ‘Collaborative Enterprise Standard Support’ level in accordance with Annex A to this SoW throughout the Period of Performance for the items listed in CLIN 2 of the SSS and the following Check Point User Centres:

Table 1: Check Point User Centres for Hardware Support

5913368	5913377	5913379	5913389
5913392	5992007	6124891	6319831
6577423	6632946	6768671	6887854
7952748			

- 4.3.2 Due to security constraints, imposed by NATO Directives, storage media devices have to be removed and shall remain on-site in case of a replacement of a defective item.
- 4.3.3 All hardware replacements provided by Contractor shall be new. The Contractor shall not provide any refurbished hardware under this Contract. The Contractor shall warrant that all supplies (Hardware, Software, licenses) furnished under this Contract conform to the requirements, are new, and are free of any defect in material, code or workmanship.
- 4.3.4 After receipt of a serviceable replacement, NATO will return the faulty item(s) without storage media devices (see paragraph 4.3.2) as per shipping instructions provided with the advance replacement.
- 4.3.5 Transport costs for the delivery of the advance replacement from the Contractor/Manufacturer to any Purchaser site (as per paragraph 4.3.6 and Annex B below) and for the return of the faulty item shall be borne by the Contractor or Check Point (depending on the support level provided by the Contractor).
- 4.3.6 Purchaser sites include all authorised NATO Command Locations in Europe and North America including any of NATO’s Affiliates. The list of existing affiliates is available at: <http://www.nato.int/cps/en/natolive/structure.htm>.
- 4.3.7 The Contractor shall solely use the Check Point User Centres listed in section 4.3.1 of this SoW for all hardware support under this Contract.
- 4.3.8 Throughout the Contract Period of Performance, the Contractor shall ensure that Check Point User Centres listed in section 4.3.1 of this SoW are updated to reflect the current hardware support provided though this Contract.

**4.4 Software Support**

4.4.1 As a minimum, the Contractor shall provide a ‘Collaborative Enterprise Standard Support’ level in accordance with Annex A to this SoW throughout the Period of Performance for the items listed in CLIN 3 of the SSS and the following Check Point User Centres:

Table 2: Check Point User Centres for Software Support

5913368	5913377	5913379	5913389
5913392	5992007	6124891	6319831
6577423	6632946	6768671	6887854
7952748			

4.4.2 The Contractor shall solely use the Check Point User Centres listed in section 4.4.1 of this SoW for all software support under this Contract.

4.4.3 Throughout the Contract Period of Performance, the Contractor shall ensure that Check Point User Centres listed in section 4.4.1 of this SoW are updated to reflect the current software support provided through this Contract.

**4.5 Modifications, Upgrades, Trade-Ins**

4.5.1 The Contractor shall recommend, plan and provide deployment oversight of product upgrades, taking into account the Purchaser’s environment and standard operating procedures

4.5.2 The Contractor shall inform the Purchaser of all beta testing for new versions or of released of new versions for existing products and allow the Purchaser to act as a beta site should he so choose.

4.5.3 The Contractor shall also propose trade-in solutions when and where applicable. The actual trade-in process will be treated as an optional service.

**4.6 Obsolescence Management**

4.6.1 The Contractor shall provide the Purchaser with a list of items scheduled for obsolescence (based on the existing estate as specified in the Check Point User Centres specified in SoW

sections 4.3 and 4.4 above) as soon as information is available. The list shall be divided into two categories:

- 4.6.1.1 Items that are no longer produced but still supported (end of sale); and
- 4.6.1.2 Items that are subject to end of support (end of life), with effective dates.
- 4.6.2 For each end of sale or end of life item, the Contractor shall provide the Purchaser with a list of recommended replacement(s).
- 4.6.3 The cost of providing this shall be included in the Contractor's overhead and not charged otherwise.

#### 4.7 **Not Used**

#### 4.8 **Purchaser Furnished Elements (PFE)**

- 4.8.1 The Purchaser will dispose of defective storage media devices as per paragraph 4.3.2 above.
- 4.8.2 The Purchaser will provide base access passes for the Contractor's resources outlined in section below once the required security information from section 5 below has been provided.
- 4.8.3 The Purchaser will provide office space and ensure access to relevant computer networks and documentation required to fulfil the on-site technical support roles outlined in section **Error! Reference source not found..**

#### 4.9 **Optional On-Site Technical Support/Manpower**

- 4.9.1 On an Optional call-off basis, the Contractor shall provide on-site technical support for the day-to-day operation and maintenance of the Check Point estate, which will require the presence of external engineers at the site detailed in paragraph 4.9.7 below.
- 4.9.2 The Purchaser makes no commitment to exercise any days provided as Options. For the avoidance of doubt, the Purchaser will only pay for the days utilised.
- 4.9.3 The on-site technical support Options may be exercised both within and outside regular working hours (including weekends or official NCI Agency holiday periods).
- 4.9.4 The Contractor shall provide several (minimum of two) qualified engineers to this contract; they will constitute the resource pool available to fulfil scope of this contract; the contractor will have to provide the relevant CVs of the resource pool engineers upon request.
- 4.9.5 The minimum requirements for the engineers are:
  - 4.9.5.1 They shall have a valid NATO Secret clearance which shall be maintained throughout the Period of Performance;
  - 4.9.5.2 They shall hold at minimum a Check Point Certified Expert (CCSE) and Check Point Certified Troubleshooting Expert (CCTE) and optional a Check Point Certified Multi-

Domain Security Management Specialist (CCMS) certification throughout the Period of Performance;

- 4.9.5.3 They shall be proficient, and conduct all activity, in the English language.
- 4.9.6 It is the sole responsibility of the Contractor to provide the adequate level of expertise required to undertake assignments bound to this contract.
- 4.9.7 The principal working locations will be Buildings 101 and 119, secure, windowless computer facilities, located at SHAPE, Mons, Belgium.
- 4.9.8 SHAPE working days and normal working hours are as follows:
- 4.9.8.1 8:30AM to 5:30PM from Monday to Thursday; and
- 4.9.8.2 8:30AM to 3:30PM on Friday.
- 4.9.9 Unless working outside normal hours as authorised by the Purchaser, the Contractor's Engineers shall be on site during the normal working hours specified in section 4.9.8 above.
- 4.9.10 Unless specific exemption is granted, the Engineers' work shall be performed during normal working hours.
- 4.9.11 For the duration of the Option exercised, the Contractor Engineer(s) shall work at the Purchaser's site under the supervision of the Purchaser's Service Manager as specified in article 40.8 of the Contract Special Provisions.
- 4.9.12 The Engineer(s) shall submit in writing monthly manpower timesheets documenting the time spent to render the services as exercised in the Option. These time sheets, countersigned by the Purchaser's Service Manager, shall be submitted by the Contractor to Purchaser with the relevant invoice.
- 4.9.13 Should the incumbents of the position defined in section 4.9 of this SOW leave employment with the Contractor before the end of the Period of Performance, or in any Option period(s), the Contractor shall guarantee that a suitable replacement is in place within two (2) weeks.
- 4.9.14 The replacement shall meet the requirements defined in section 4.9 of this SOW.

#### 4.10 **Optional Hardware and Software Support Years 1-4**

- 4.10.1 As per section 1 of this SOW, a key aim of this Contract is flexibility to meet changing Purchaser demands. The hardware and software support required in year one (1) may not be required in the following Option year(s) or thereafter. The Contractor agrees that the Purchaser will have the ability to unilaterally reduce hardware support from the Check Point User Centres and the Contract for the following Option Year(s).
- 4.10.2 The Contractor agrees that the 'Indicative Quantity' provided in the Schedule of Supplies and Services (SSS) for the hardware & software CLINs for Option Years 1-4 are estimates and are subject to unilateral change by the Purchaser. Thus, the 'Total Firm Fixed Price' for the hardware & software support CLINs in the SSS for Option Years 1-4 are provided for indicative purposes only. If an Option is exercised, the accurate quantity (determined solely by the Purchaser) per sub-CLIN will be multiplied by the Unit Price of the sub-CLIN in the SSS to calculate the Price for the respective Option Year. Should the Purchaser unilaterally reduce the hardware and/or software support required, the Contractor agrees that the

method explained in this paragraph 4.10.2 shall be the sole method used to calculate the Price for the respective Option Year.

4.10.3 If the Option(s) is exercised by the Purchaser:

4.10.3.1 the Contractor shall provide a ‘Collaborative Enterprise Standard Support’ level in accordance with Annex A to this SoW throughout the Period of Performance for the items listed in CLINs O6, O7, O10, O11, O14, O15, O18 and/or O19 of the SSS and the following Check Point User Centres:

**Table 3: Check Point User Centres for Option Years Hardware and Software Support**

5913368	5913377	5913379	5913389
5913392	5992007	6124891	6319831
6577423	6632946	6768671	6887854
7952748			

- 4.10.3.2 Due to security constraints, imposed by NATO Directives, storage media devices have to be removed and shall remain on-site in case of a replacement of a defective item.
- 4.10.3.3 All hardware replacements provided by Contractor shall be new. The Contractor shall not provide any refurbished hardware under this Contract. The Contractor shall warrant that all supplies (Hardware, Software, licenses) furnished under this Contract conform to the requirements, are new, and are free of any defect in material, code or workmanship.
- 4.10.3.4 After receipt of a serviceable replacement, NATO will return the faulty item(s) without storage media devices (see 4.10.3.2 above) as per shipping instructions provided with the advance replacement.
- 4.10.3.5 Transport costs for the delivery of the advance replacement from the Contractor/Manufacturer to any Purchaser site (as per paragraph 4.10.3.6 and Annex B below) and for the return of the faulty item shall be borne by the Contractor or Check Point (depending on the support level provided by the Contractor).
- 4.10.3.6 Purchaser sites include all authorised NATO Command Locations in Europe and North America including any of NATO’s Affiliates. The list of existing affiliates is available at: <http://www.nato.int/cps/en/natolive/structure.htm>.
- 4.10.3.7 The Contractor shall solely use the Check Point User Centres listed in section 4.10.3.1 of this SoW for all hardware and software support under this Contract.
- 4.10.3.8 Throughout the Contract Period of Performance, the Contractor shall ensure that Check Point User Centres listed in section 4.10.3.1 of this SoW are updated to reflect the current hardware and software support provided through this Contract.



## 5 SECURITY REQUIREMENTS

- 5.1 The Contractor shall contact the responsible Point of Contact (PoC) as specified in article 40.8 (Contract Administration) of the Contract Special Provisions to coordinate access to the site.
- 5.2 A valid NATO Secret clearance shall be maintained by the Contractor's personnel during the Period of Performance.
- 5.3 The following information must be provided to be allowed access to the site:
  - 5.3.1 Name (Last, First);
  - 5.3.2 Identity Card/ Passport Number;
  - 5.3.3 Nationality;
  - 5.3.4 Security Clearance Number with Validity Period;
  - 5.3.5 Place and Date of Birth;
  - 5.3.6 For car: mark and license plate.
- 5.4 No claim will be accepted from the Contractor due to the fact that any of its personnel were refused access to the sites because of non-provision of information detailed in section 55.3 above.

## **6 ACCOUNT MANAGEMENT**

### **6.1 Account Initiation and Confirmation**

- 6.1.1 At the beginning of the Contract, and for any Option year(s) if exercised, the Contractor shall confirm to the Purchaser that support is in place with its subcontractor(s) (such as Check Point).
- 6.1.2 At the beginning of the Contract year, and for any Option year(s) if exercised, the Contractor shall confirm to the Purchaser that the expiration dates in the User Centres specified in sections 4.3, 4.4 and 4.10 above are updated accordingly.

### **6.2 Account Manager**

- 6.2.1 The Contractor shall designate an Account Manager (AM), who will direct and coordinate the activities of the Contractor.
- 6.2.2 The AM shall be the Contractor's primary contact for the Purchaser and shall coordinate the delivery of this SOW.
- 6.2.3 The AM shall be prepared at all times to present and discuss the status of Contract activities with the Purchaser's Head of Gateway Security Services, Service Manager or Contracting Officer.

### **6.3 Account Kick-Off Meeting**

- 6.3.1 The Contractor shall arrange an Account Kick-Off Meeting no later than ten (10) working days after Effective Date of Contract (EDC), where the Contractor's and the Purchaser's teams meet, introduce themselves and review key elements of the Account.

### **6.4 Annual Account Review Meeting**

- 6.4.1 The Contractor shall coordinate and hold Account Review Meetings (ARM) with the Purchaser.
- 6.4.2 The ARMs shall be held at least once per year throughout the Contract Period of Performance.
- 6.4.3 The Contractor shall coordinate and hold Account Review Meetings (ARM) with the Purchaser to discuss items to be retained or removed from the scope of the Contract Options in accordance with sections 4.6 and 4.10 of this SoW. For the avoidance of doubt, formal agreement on all contract changes shall follow the process in the Contract's Special and General Provisions.
- 6.4.4 Additionally, the ARM shall review all support activities performed during the year, customer satisfaction, share information on releases, discuss obsolescence and proposed solutions.
- 6.4.5 Five working days (5) before each ARM, the Contractor shall provide an Account Status Report (PSR) covering, as a minimum, the activities described in section 4 above.
- 6.4.6 Problems shall be identified and discussed with the Purchaser points of contact promptly, and shall not be held until ARMs
- 6.4.7 The ARMs shall be conducted in one of the Purchaser's sites or the Contractor's site and the location shall be subject to the Purchaser's approval. By default, NCIA Mons shall be considered as the location to conduct ARMs.

## 7 SAFETY REQUIREMENTS

### 7.1 Applicable directives and standards

- 7.1.1 Any replacement hardware provided by the Contractor shall meet requirements stipulated in following publications or in their national equivalents for North America deliveries (including but not limited to following publications), as applicable:
  - 7.1.1.1 Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety
  - 7.1.1.2 Directive 2014/30/EU of The European Parliament and of The Council of 26 February 2014 – electromagnetic compatibility
  - 7.1.1.3 Directive 2014/35/EU of The European Parliament and of The Council of 26 February 2014 – ‘low voltage directive’
  - 7.1.1.4 RoHS-2 Directive [2011/65/EU] shall be applied to all individual components of the hardware. 2015/863 RoHS 2 amendment shall be applied for products placed on the market on or after 22 July 2019.
  - 7.1.1.5 IEC 60950 series: Information technology equipment – Safety

### 7.2 Replacement Hardware Requirements

- 7.2.1 The replacement hardware shall be designed to operate using an external mains power supply conforming to International Electrotechnical Commission standard IEC 60038:2009, 400/230 V, 50 Hz.’ or its national equivalent of respective territorial Host Nation in North America.
- 7.2.2 All cables shall have non-toxic, non-flammable coating.
- 7.2.3 All cables shall be halogen-free, low smoke, thermoplastic insulated and sheathed cables in compliance with IEC 62821 or its national equivalent.
- 7.2.4 The replacement hardware shall be designed and constructed in such a way that it does not run in a hazardous condition or put human safety at risk.
- 7.2.5 The Contractor shall design and/or select the replacement hardware on the basis of inherent safety features that protect not only the human operators and maintainers but also the equipment itself.
- 7.2.6 The replacement hardware shall be designed in such a way that no special or difficult techniques that require unusual dexterity or skill in removing or installing items is required.
- 7.2.7 Materials used in the replacement hardware, under the specified environmental and service conditions or as a result of heating due to conflagration, shall not liberate:
  - 7.2.7.1 Gases that combine with the atmosphere to form an acid or corrosive alkali;
  - 7.2.7.2 Toxic or corrosive fumes that would be detrimental to the performance of the equipment or health of personnel;
  - 7.2.7.3 Gases that will produce an explosive atmosphere.
- 7.2.8 No hazardous materials (of any kind) shall be used in the construction of the hardware.



- 7.2.9 Glass fibre materials shall not be used as the outer surface or covering on cables, wire or other items where they may cause skin irritation to operating personnel.
- 7.2.10 The replacement hardware shall be provided with safety markings and labels that meet following requirements:
  - 7.2.10.1 Safety markings and labels shall be provided identifying any potential hazards to personnel
  - 7.2.10.2 Warning labels shall be attached wherever there is any potential of heavy lifting, specific handling guidance, electrical, chemical, excessive noise, electromagnetic radiation or heat hazard or a potential hazard caused by human contact with materials, particularly when removal of covers will expose the hazard
  - 7.2.10.3 Safety markings shall be readily visible during operation and maintenance conditions
  - 7.2.10.4 Warning markings shall be as permanent as the normal life expectancy of the equipment on which they are affixed and shall be placed as close as possible to the point of danger
  - 7.2.10.5 All matters of safety including but not limited to hot surfaces, mechanical hazards, electrical shocks and radiation hazards shall be fully and clearly addressed in the user operations and technical manuals
  - 7.2.10.6 All warning instructions shall be provided in English and in the official language of the territorial Host Nation
- 7.2.11 Noise generated by the replacement hardware in operation shall not exceed the levels specified in the local regulations or Environmental Noise Directive (2002/49/EC) whichever it is more restrictive for operational, maintenance areas.
- 7.2.12 Any rotating or other moving part such as ventilators, blowers, drive belts etc., shall be shielded or protected adequately to prevent accidental contact by and injury to any personnel during operation and maintenance.
- 7.2.13 When packed, the system shall not include any protruding point which could either be damaged or damage persons or property during transportation.

### 7.3 General Safety Requirements

- 7.3.1 The Contractor shall undertake all measures to comply and ensure compliance with respective Regulations for Industrial Safety applicable throughout this Contract.
- 7.3.2 The Contractor shall comply with the national legislation of respective territorial Host Nations concerning job accidents, incident prevention and hygiene at work.
- 7.3.3 The Contractor shall also make legal arrangements for protection of the life and security of all its personnel and to guarantee medical assistance whenever necessary due to job accidents. The same legal arrangements shall be applied to sub-contractor personnel under Contractor's responsibility.
- 7.3.4 When working at the purchaser's facilities, the Contractor shall comply with all safety and security directives and procedures applicable to the site, contracted scope of work and premises in which the contractor will perform their duties.



- 7.3.5 The detailed procedures, instructions and guidance shall be obtained from the site commander/ the principal, the security manager and Health & Safety manager respectively at given site.
- 7.3.6 The Contractor shall learn respective procedures.
- 7.3.7 The Contractor shall confirm in writing that their understood the procedures.
- 7.3.8 The Contractor shall confirm in writing commitment to comply with the procedures and apply them in practise.
- 7.3.9 The Contractor shall provide personnel mentally and physically capable of undertaking their duties as stipulated in the subject contract.
- 7.3.10 The Contractor is responsible for provision of Personal Protective Equipment (PPE) for its employees accordingly to the activities and scope of works stipulated in the subject contract.
- 7.3.11 The PPE shall be compliant with Regulation (EU) 2016/425 of the European Parliament and of the Council of 9 March 2016 on personal protective equipment or its equivalent of respective territorial Host Nation in North America.

## ANNEX A: Collaborative Enterprise Standard Support

Service	Level
Check Point PRO Availability	Yes
End Customer SLA Alignment	5x9 Business Day
Check Point Engineer On Site for Critical SRs	No
TAC Access	
Support Focal Point	Technical Support Engineer
Committed Response time to Severity-1 issues*	30 Minutes
Committed Response time to Severity 2,3 & 4 issues*	4 Hours
Support Tools	
Latest Hot Fixes & Service Packs	Yes
Major Upgrades & Enhancements	Yes
Access to Check Point Products Forums	Full Access
Access to Online Support Knowledgebase	Advanced
Hardware Support	
Return Material Authorization (RMA) determination	TAC
RMA Shipment Method	Same business day shipment**
Onsite RMA Shipment Method	5 x 8 x NBD

\* For 30 minutes SLA – real time communication (Chat, Phone) is required.

\*\* For Return Material Authorization determination completed by 15:00 regional hub time; otherwise shipment will occur next business day with delivery target extended by one day.

## ANNEX B: Check Point Firewall Site List

Country	Location
Belgium	Mons
Bosnia and Herzegovina	Butmir
Bulgaria	Sofia
Estonia	Tallinn
Germany	Ramstein Wesel Oberammergau Uedem Linnich
Italy	Poggio Renatico Lago Patria
Kosovo	Pristina
Latvia	Riga
Lithuania	Vilnius
Luxemburg	Capellen
Netherlands	Brunssum The Hague
Poland	Bydgoszcz
Portugal	Lisbon
Slovakia	Bratislava
Slovenia	Ljubljana
Spain	Torrejon
Turkey	Izmir
United Kingdom	Northwood
United States	Norfolk