



FRAMEWORK AGREEMENT

NCIA/NFPF/....

Between

NATO COMMUNICATIONS AND INFORMATION AGENCY

Represented by

THE GENERAL MANAGER, NCI AGENCY

And

| NFP ORGANISATION |

For

| SERVICES |



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NOT - FOR PROFIT FRAMEWORK AGREEMENT WITH NCI AGENCY

|NFP ORGANISATION | and NATO COMMUNICATIONS AND INFORMATION AGENCY (NCI Agency) represented by the General Manager agree that the Terms and Conditions contained in this Agreement ("Agreement"), shall govern the sale or licensing of Products and Services (as later defined) ordered under this Agreement.

|NFP ORGANISATION | has entered into this Agreement for and on behalf of itself. The geographic scope of this Agreement shall extend to the current member countries of the North Atlantic Treaty.

This Agreement establishes the Terms and Conditions under which the NCI Agency may request services from NFP Organizations. The General Terms and Conditions part of this agreement shall be superseded by the online version of the General NFP Terms and Conditions that will be made available by NCI Agency on its website and kept current. This Agreement does not obligate NFP Organisation to provide any services unless an Order has been executed. The following Sections and Exhibits contained in the Agreement form an integral part thereof:

- Part I -- Special Provisions
- Part II -- General Provisions
- Appendix 1 to Part II -- Purchaser's Pricing Principles
- Exhibit A -- Preferred Customer Certificate
- Exhibit B -- Task Order (Template)

|NFP ORGANISATION | and NCI Agency have read this Agreement, understand it, and agrees to be bound by its Terms and Conditions or any modification included and mutually agreed in the specific Task Orders. NCI Agency and |NFP ORGANISATION | further agrees that this Agreement constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior proposals, negotiations, and communications, oral and written between the Parties or their representatives. Deviations from this Agreement shall be binding only when mutually agreed in writing by the Authorised Representatives of NCI Agency and |NFP ORGANISATION |.

Orders placed referencing this Agreement are subject exclusively to its terms which may only be amended or supplemented by written agreement of |NFP ORGANISATION | and Eligible Purchasers.

NCI AGENCY
Boulevard Leopold III
B-1110 Brussels, Belgium

|NFP ORGANISATION |
ADDRESS|

Title:
Date:|

Title:|
Date:|

PART I - SPECIAL PROVISIONS

1. TERM

1.1 This Agreement shall become effective (the "Effective Date") upon the date of last signature by the Parties. It will automatically expire after 5 (five) years from the signature date. Should either Party wish to terminate the Agreement, it has to communicate its intention to the other Party in written form with 30 (thirty) days notice.

1.2 Any expiration or termination of this Agreement will not alter the rights, duties and obligations of NFP Organisation or Purchaser, or any discounts granted, for any Orders accepted by NFP Organisation under this Agreement prior to the date of expiration or termination of the Agreement. Such Orders shall remain governed by the present Agreement until their full completion.

2. DEFINITIONS

2.1 "Authorised Representative of NFP Organisation " means | please specify position. |

2.2 "Authorised Representative of NATO, NATO Body or NATO Member Nation" means the General Manager, the Director of Acquisition or the Chief of Contracts of NCI Agency and any designated representative of an Eligible Purchaser.

2.3 "Contractor" means any entity working on a project for any Eligible Purchaser.

2.4 "Deliverable" means any and all goods (including movable and immovable goods) to be delivered pursuant to the terms of this Contract including, without limitation components, intermediate assemblies, parts, end products, hardware, documentation, data, software.

2.5 "Effective Date" is the date specified on the signature page when the Initial Term of this Agreement begins.

2.6 "Eligible Purchaser" or "Purchaser" means the entity identified in 3.0 below which may benefit of the Terms and Conditions of this agreement, if they express so in any subsequent agreement between them and NFP Organisation.

2.7 "Governmental Agency" means any governmental agency, including military forces, of a NATO Member Nation.

2.8 "Member Nation" means any of the Member Nations of NATO.

2.9 "NATO" means the North Atlantic Treaty Organisation.

2.10 "NATO Body" means any entity created by the North Atlantic Council (or Defence Planning Committee) and to which either the Agreement on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff (20 September 1951) or the Protocol on the Status of International Military Headquarters set up pursuant to the North Atlantic Treaty (28th August 1952) applies.

2.11 "Order" means any instrument/document, e.g. Purchase Order or Task Order, used for the procuring of Products and/or Services under this Agreement.

- 2.12 “Parties” means NCI Agency and NFP Organisation.
- 2.13 “Partnership for Peace (PfP) Countries” means those countries who are signatories to the Partnership for Peace Agreement dated 10 January 1994.
- 2.13.1 “Facilities” means premises and their furnished equipment.
- 2.14 “Services” means all items included in the ‘List of Product and Services Categories considered for NFP Framework Application’ of the relevant ‘Procedures governing the use of NFP Framework Agreements.
- 2.15 “Standard Terms and Conditions” are the Terms and Conditions contained in this Agreement.
- 2.16 “Sub-contract” means any Agreement, Contract or Order made by NFP Organisation with any other party in order to fulfil any part of an Order.
- 2.17 “Sub-contractor” means any party directly or indirectly under a “sub-contract”.

3. ELIGIBLE PURCHASERS

3.1 The following entities are eligible to reference and use the terms and conditions of this Agreement, subject to the provisions specified in paragraph 4 below (the “Purchaser”):

3.1.1 All NATO Bodies

3.1.2 Governmental Agencies of NATO Member Nations as per 2.7 above

3.2 Partnership for Peace Countries may be eligible to the Terms and Conditions of this Agreement, subject to a case-by-case agreement between NCI Agency and NFP Organisation.

4. ORDERING PROCEDURE

4.1 All Orders under this Agreement shall contain, as a minimum, the information detailed in Exhibit B, and shall be subject to acceptance by NFP Organisation.

4.1.1 Orders may be placed with NFP Organisation for the Products and/or Services identified in the NFP Categories of Products and Services List. Orders may be placed hereunder for Products and/or Services not included herein, subject to determination of availability and price by NFP Organisation.

4.1.2 NFP Organisation accepts that NCI Agency shall not be liable in any form for any Order issued and concluded between a Purchaser, other than by NCI Agency itself, and NFP Organisation.

4.2 Assignment: Authorised Representatives of NATO, NATO Bodies or NATO Member Nations may assign Orders at their discretion provided there is no further change to the terms of the Order, especially as regards payment. NFP Organisation reserves the right to approve any assignment.

5. PRICES

5.1 All Products prices shall be quoted as firm fixed prices in accordance with Exhibit A pricing practices as disclosed and agreed to by NCI Agency or any other Eligible Purchaser.

6. WARRANTY

6.1 Software Warranty. NFP Organisation warrants that each Software delivered will conform to all requirements specified in the Order. This will also include Software design specifications, including software configuration. 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 the Order. For each Software delivered the Contractor Warranties shall extend to all defects discovered within 12 months from the date of acceptance of the Software by the Purchaser.

6.2 People Warranty. NFP Organisation warrants to provide professional Temporary personnel, qualified as specified in the Order. Should the person(s) be unable or unwilling to perform the tasks specified in the Order, as determined by the Purchaser or his authorized representative within a reasonable timeframe, the NFP Organisation warrants to provide a suitable replacement within [*specify period*] days.

7. PAYMENTS

7.1 Valid invoices (properly supported and certified) may be submitted to the Purchaser upon acceptance and payment will be made within 45 days from receipt of such invoices, unless otherwise agreed between NFP Organisation and the Purchaser. The payment terms for Services shall be specified on each Order.

7.2 Payment of invoices shall be made to the address shown below:

NFP ORGANISATION
Attn.:
For Electronic Funds Transfer:
Account Name:
Bank Name
Account Number:
ABA/SWIFT Number/Sort Code: |

8. SUPPLEMENTAL AGREEMENTS

8.1 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 19 of the General Provisions.

8.2 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 Purchaser and the appropriate governmental authority can not 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.

9. MISCELLANEOUS

9.1 Failure by either Party to enforce any provision shall not be deemed a waiver of future enforcement of that or any other provision. In the event that any portion or provision of this Agreement shall be held unenforceable or one is declared void, the remaining portions and/or provisions of this Agreement shall remain in full force and effect.

9.2 NFP Organisation may only re-assign any Order under this Agreement to a third party with the prior written approval by Purchaser, which will not be unreasonably withheld. NFP Organisation or his legal successor shall always be responsible for his obligations under this Agreement and for actions of his assigned representatives.

9.3 All notice and communications between NFP Organization and the Purchaser shall be written and conducted in English.

9.4 Formal communications shall be personally delivered or sent by email, registered mail, email, courier or other delivery service to the following official point of contact (until change of notice shall be given):

NFP Organisation:

Name:

Title:

Department:

Address:

Tel:

e-mail: |

NCI Agency:

Name:

Title:

NCI Agency – Acquisition Directorate

NATO HQ

Boulevard Léopold III

B-1110 Brussels

Belgium

Tel: +32 2 707

E-Mail: NFPF@ncia.nato.int

PART II - GENERAL PROVISIONS (to be superseded by the online version that will be made available by the NCI Agency on its website and kept current)

10. NFP ORGANIZATION PERSONNEL WORKING AT PURCHASER'S FACILITIES

10.1 The term "Purchaser Facilities" as used in this clause shall be deemed to include sites, property, utilities, ships or vessels owned or controlled by NATO, NATO Bodies or NATO Member Nations or NATO Contractor and the term "Facility Representative" shall be deemed to refer to the authority designated by the Representative responsible for such site, property, utility, ship or vessel.

10.2 The Facility Representative shall provide such available administrative and technical facilities for NFP Organisation's personnel working at the Purchaser's Facilities for the purpose of the Agreement as in the opinion of the Facility Representative may be necessary for the effective and economical discharge of work under this Agreement. These facilities may be provided at no cost at the discretion of the Facility Representative. NFP Organisation shall be responsible for ascertaining what necessary facilities may be provided and whether they will be provided free of charge, or determining what charges are payable.

10.3 NFP Organisation shall, except as otherwise provided for in the Agreement, make good or, at the option of the Purchaser, pay compensation for all damage occurring to any Purchaser's Facilities occasioned by NFP Organisation or by his servants, agents or subcontractors, arising from his or their presence on Purchaser Facilities in connection with the Agreement; provided that this Condition shall not apply to the extent that NFP Organisation is able to show that any such damage was not caused by NFP Organisation's neglect or default, or the neglect or default of NFP Organisation's servants, agents or subcontractors.

10.4 All property of NFP Organisation while at a Purchaser Facility shall be at risk of NFP Organisation 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.

11. PURCHASER FURNISHED PROPERTY

11.1 The term "Purchaser Furnished Property" as used in this clause refers to any item of Hardware, material, document, technical data, information and Software or any other item of property furnished by the Purchaser to the NFP Organisation required or useful for the performance of the Task Order.

11.2 In the event that Purchaser Furnished Property is received by NFP Organisation in a condition not suitable for its intended use, NFP Organisation 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 by NFP Organisation, equitably adjust any affected provision of the Order pursuant to the procedures of the "Changes" clause hereof.

11.3 Title to Purchaser Furnished Property shall remain in the Purchaser. NFP Organisation shall maintain adequate property control records of Purchaser Furnished Property in accordance with sound industrial practice.

11.4 Unless otherwise provided in the Order, NFP Organisation, 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 such property is consumed in the performance of the Order.

11.5 Upon completion of the Order, or at such earlier dates as may be specified by the Purchaser, NFP Organisation shall submit, in a form acceptable to the Purchaser, inventory schedules covering all items of Purchaser Furnished Property not consumed in the performance of the Order or not theretofore returned to the Purchaser. NFP Organisation shall prepare for shipment, deliver FOB origin, 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 in such other manner as the Purchaser may direct.

11.6 NFP Organisation shall not modify any Purchaser Furnished Property unless specifically authorised by the Purchaser or directed by the terms of the Order.

12. INDEMNIFICATION

12.1 NFP Organisation shall indemnify and hold the Purchaser harmless against claims for injury to NFP Organisation employees, agents, or subcontractors, or damages to property of NFP Organisation or others arising from NFP Organisation's possession or use of Purchaser Furnished Property or Facilities in the performance of work as specified in an Order; except to the extent that NFP Organisation is able to show any such injury or damage was caused by Purchaser's wilful act or negligence.

13. INSPECTION, ACCEPTANCE AND REJECTION OF SERVICES

13.1 Unless otherwise specifically provided for in the Order, all Services covered by this Agreement, shall be provided in a professional manner consistent with industry standards and specific Key Performance Indicators in the Order, if any.

13.2 The Purchaser has the right to inspect and test all Services called for by the Order, to the extent practicable at all places and times during the term of the Order. The Purchaser shall perform inspections and tests in a manner that will not unduly delay the work.

13.3 If any of the Services performed do not conform with 8.1 above and/or any other Order requirements, the Purchaser may require the Contractor to perform the Services again in conformity with such requirements, for no additional fee. When the defects of Services in design, material, workmanship or manufacturing quality, or otherwise not in conformity with the requirements of the Order, cannot be corrected by reperformance, the Purchaser may—

13.3.1 Require the Contractor to take necessary action to ensure that future performance conforms to Order requirements; and

13.3.2 Reduce any fee payable under the Order to reflect the reduced value of the Services performed.

13.4 If the Contractor fails to promptly perform the Services again or take the action necessary to ensure future performance in conformity with Order requirements, the Purchaser may—

13.4.1 By Order or otherwise, perform the Services and reduce any fee payable by an amount that is equitable under the circumstances. Failure to agree to such reduction of price shall be a dispute within the meaning of the clause of this Agreement entitled “Disputes”; or

13.4.2 Terminate the contract for default as provided in the clause of this Agreement entitled “Termination for Default”.

13.5 Acceptance of Services shall take place when the Purchaser confirms their acceptance in accordance with the procedure specified in the Order, or if none is so specified then the Purchaser shall be deemed to have accepted the Services without prejudice to any other remedies, when the Purchaser has not exercised its right of rejection of the Services within any period

13.6 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 Order requires.

14. PRICE FIXING

14.1 Offers for sole source procurement, changes, modifications, and claims in excess of € 500,000 shall be priced in accordance with this provision and the Purchaser's Pricing Principles as set out in Appendix 1 to this provision, or the National Government Pricing Rules and Regulations for NFP Organisation's own country where in force.

14.1.1 For the purposes of verifying that cost or pricing data submitted in conjunction with paragraphs 14.1 above are accurate, complete and current, the Purchaser shall, until the expiration of 3 (three) years from the date of final payment of all sums due under the Agreement, have the right of access to Company's facilities to examine those books, records, documents and other supporting data which will permit adequate evaluation and verification of the cost or pricing data submitted along with the computations and projections used therein which were available to Company as of the date of Company's price proposal.

14.2 Price Reduction for Defective Cost or Pricing Data.

14.2.1 If any price, including profit or fee, negotiated in connection with this Agreement or any cost reimbursable under this Agreement was increased by any significant sums because:



14.2.1.1 NFP Organisation furnished cost or pricing data which was not complete, accurate and current as certified in NFP Organisation's Certificate of Current Cost or Pricing Data provided in accordance with paragraph 11.6 above.

14.2.2 Then the price or cost shall be reduced accordingly and the Order shall be modified in writing as may be necessary to reflect such reductions.

14.3 Certificate of Current Cost or Pricing Data.

14.3.1 At the time of negotiating any price, including profit or fee, NFP Organisation shall be required to submit a Certificate of Current Cost or Pricing Data as required by Exhibit A

14.3.2 Such Certificate will certify that, to the best of NFP Organisation'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.

14.3.3 All such certificates shall be in the format shown below and shall be dated and signed by a responsible officer of the NFP Organisation. It is the NFP Organisation's responsibility to ensure a responsible officer is designated.

[CERTIFICATE OF CURRENT COST OR PRICING DATA

This is to certify that, to the best of my knowledge and belief, cost or pricing data as submitted, either actually or by specific identification in writing to the Purchaser or his representative in support of _____ are accurate, complete and current as of _____
Day/ month/ year

Firm _____

Name _____

Title _____

Date of Execution

15. TAXES AND DUTIES

15.1 NATO, NATO Bodies and certain other Eligible Purchasers are exempt from all taxes and all customs duties on Products and Services imported or exported hereunder. Company therefore, certifies that the prices stipulated under this Agreement do not include amounts to cover such taxes or customs duties. Company shall be responsible for determining whether such exemptions apply for other Eligible Purchasers, as defined above.

15.2 In cases where taxes and duties are levied, NFP Organisation should seek reimbursement directly from the authorities concerned in compliance with the applicable procedures. The Purchaser shall provide reasonable assistance in claiming reimbursement.

15.3 In the event that reimbursement is not made by the authorities concerned, and providing that NFP Organisation has complied with applicable procedures, Purchaser shall reimburse the full amount of the payments upon receipt of NFP Organisation's invoice indicating such tax or duty as a separate item or cost and fully identified by reference to any governmental law, regulation and/or instruction pursuant to which such tax or duty is enforced.

15.4 Following payment by the Purchaser of the taxes and/or duties pursuant to paragraph 15.3 above, should NFP Organisation receive a rebate of any amount paid by Purchaser, NFP Organisation shall immediately notify Purchaser, and the amount of such rebate shall be credited or reimbursed to the Purchaser, as directed. NFP Organisation shall be responsible for taking any and all action that could reasonably be required in order to obtain such rebate.

16. INVOICES

16.1 Invoices shall be prepared and submitted electronically by NFP Organisation to accountspayable@ncia.nato.int, or another mutually agreed manner, and shall contain: NFP Framework Agreement number, Order number (if any), description of Products and/or Services, sizes, quantities, unit prices, and extended totals (exclusive of taxes and duties for which relief is available). Details of Bills of Lading or Freight Warrant numbers and weight of shipment shall be identified on each invoice as appropriate.

16.2 In addition, where applicable and on request by Purchaser, documentary evidence of acceptance (as defined in the Agreement) shall be submitted together with each invoice.

16.3 All invoices shall be addressed to the designated authority specified by Purchaser.

17. CHANGES

17.1 The Purchaser may at any time, by written order designated or indicated to be a change order, and without notice to the sureties, if any, make changes within the scope of any Order, in any one or more of the following:

17.1.1 Specifications (including drawings and designs);

17.1.2 Method and manner of performance of the work;

17.1.3 Marking, method of shipment and packing;

17.1.4 Time and place of delivery; and

17.1.5 Purchaser Furnished Property and Facilities

17.2 Any other written or oral order (which, as used in this paragraph 17.2, 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 NFP Organisation gives the Purchaser written notice within thirty (30) days after receipt of such change order stating:

17.2.1 the date, circumstances, and source of the order and

17.2.2 that NFP Organisation regards the order as a change order, 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.

17.3 Except as provided in this clause, no order, statement, or conduct of the Purchaser shall be treated as a change order under this clause or entitle Company to an equitable adjustment.

17.4 If any such change order causes an increase or decrease in NFP Organisation's cost of, or the time required for the performance of any part of the work under the Order, whether or not changed by any such order, the Purchaser shall make an equitable adjustment and modify the Order in writing accordingly. However, except for a "proposal for adjustment" (hereafter referred to as "proposal") based on defective specifications, no proposal for any change under paragraph 17.2 above shall be allowed for any costs incurred more than 30 (thirty) days before NFP Organisation gives written notice as required. In the case of defective specifications for which the Purchaser is responsible, the equitable adjustment shall include any increased cost reasonably incurred by NFP Organisation in attempting to comply with the defective specifications. Where the cost of property made obsolete or excess as a result of a change is included in the NFP Organisation's claim for adjustment, the Purchaser shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute within the meaning of the clause of this Agreement entitled "Disputes." However, nothing in this clause shall excuse NFP Organisation from proceeding with the Order as changed.

17.5 NFP Organisation must submit any proposal under this clause within 30 (thirty) days after

17.5.1 receipt of a written change order under paragraph 17.1 above or

17.5.2 the furnishing of a written notice under paragraph 17.2, by submitting to the Purchaser a written statement describing the general nature and amount of the proposal, unless this period is extended by the Purchaser. The statement of proposal for adjustment may be included in the notice under paragraph 17.2 above.

17.6 No proposal by NFP Organisation for an equitable adjustment shall be allowed if asserted after final payment and acceptance under the Order.

18. PURCHASER DELAY OF WORK

18.1 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 the Order, which act is not expressly or implicitly authorised by the Order, or by his failure to act within the time specified in the Order (or within a reasonable time if not time is specified), an adjustment shall be made for any increase in the cost of performance of the Order caused by such a delay or interruption and the Order modified in writing accordingly. Adjustments 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:

18.1.1 to the extent that performance would have been delayed or interrupted by any other clause, including the fault or negligence of NFP Organisation; or

18.1.2 for which an adjustment is provided under any other provision of this Agreement.

18.2 No claim under this clause shall be allowed:

18.2.1 for any costs incurred more than 20 (twenty) days before NFP Organisation shall have notified the Purchaser in writing of the act or failure to act involved; and

18.2.2 unless the 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 Order.

19. STOP WORK ORDER

19.1 The Purchaser may, at any time, by written order to NFP Organisation, require NFP Organisation to stop all, or any part, of the work called for by the Order for a period of 90 (ninety) days after the order is delivered to NFP Organisation, and for any further period to which the Parties may agree. Any such order shall be specifically identified as a Stop Work Order issued pursuant to this clause. Upon receipt of such an order, NFP Organisationshall forthwith comply with its terms and take all reasonable steps to minimise costs incurred allocable to the work covered by the order during the period of work stoppage. Within a period of 90 (ninety) days after a stop work order is delivered to NFP Organisation, or within any extension of that period to which the Parties shall have agreed, the Purchaser shall either:

19.1.1 cancel the stop work order, or

19.1.2 terminate the work covered by such order in accordance with par. 20 Termination for Convenience of the Purchaser.

19.2 If a stop work order issued under this clause is cancelled or the period of the order or any extension thereof expires, NFP Organisation shall resume work. An equitable adjustment shall be made in the delivery schedule or Contract price, or both, and the Order shall be modified in writing accordingly, if:

19.2.1 the stop work order results in an increase in the time required for, or in NFP Organisation's cost properly allocable to, the performance of any part of the Order, and

19.2.2 NFP Organisation asserts a claim for such adjustment within 30 (thirty) 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 any time prior to final payment under any Order.

19.3 If a stop order is not cancelled and the work covered by such 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.

20. ORDER OF PRECEDENCE

20.1 In the case of any inconsistencies herein, the order of precedence of the contractual documents is as follows:

20.1.1 the Task Order (TO)

20.1.2 the Special Provisions

20.1.3 the General Provisions

20.1.4 Exhibits and Appendices,

20.2 Except where inconsistency between the terms of this Agreement and those contained in any Order have been expressly agreed between the Purchaser and NFP Organisation, the terms of this Agreement shall take precedence.

21. APPLICABLE LAW

21.1 This Agreement and each subsequent Order under this Agreement between NCI Agency and Company shall be governed by and construed in accordance with the private contract law of the Kingdom of Belgium. Orders signed between NFP Organisation and any other Purchaser under this Agreement shall be governed by the laws applicable to the country of the Purchaser, unless otherwise agreed between the Purchaser and NFP Organisation.

22. DISPUTES AND ARBITRATION

22.1 In the event of a dispute under this Agreement or any Order issued hereunder, the Parties shall attempt to settle their difference in an amicable manner. However, in the event that a settlement cannot be made under this Agreement within a reasonable period of time, the Parties agree to institute arbitration proceedings in the manner provided in the following Arbitration provision and such disputes shall finally be settled thereby, unless otherwise agreed between the Purchaser and NFP Organisation.

22.1.1 NFP Organisation agrees to submit to the Arbitration Tribunal only such issues, facts, evidence and proof which NFP Organisation had beforehand identified and submitted to the Purchaser for decision. 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 Purchaser.

22.1.2 The party instituting the arbitration proceedings shall advise the other party by registered letter, with official notice of delivery, of his desire to have recourse to arbitration. Within a period of 30 (thirty) days from the date of receipt of this letter, the parties shall jointly appoint an arbitrator. In the event of failure to appoint an arbitrator the dispute or disputes shall be submitted to an Arbitration Tribunal consisting of three arbitrators, one being appointed by the Purchaser, another by NFP Organisation 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 15 (fifteen) days following the expiration of the first period of 30 (thirty) days, or should the two arbitrators be unable to agree on the choice of the third member of the Arbitration Tribunal within 30 (thirty) days following the expiration of the said first period, the appointment shall be made, within 21 (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.

22.1.3 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.

22.1.4 Any arbitrator must be of the nationality of any one of the NATO Member Nations and shall be bound by the rules of security in force within NATO.

22.1.5 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 NATO Member Nations, 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.

22.1.6 An arbitrator who, for any reason whatsoever, ceases to act as an arbitrator, shall be replaced under the procedure laid down in paragraph 22.1.2 above.

22.1.7 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 Agreement.

22.1.8 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.

22.2 The place of arbitration shall be Brussels, Belgium, in the case of dispute under this Agreement or under any subsequent Order between NFP Organisation and NCI Agency, and shall be the country of the Purchaser in the case of a dispute between NFP Organisation and any other Purchaser, unless otherwise agreed between the Purchaser and NFP Organisation.

23. DELAYS IN DELIVERY

23.1 NFP Organisation agrees to notify Purchaser in the event that it anticipates difficulty in meeting delivery schedule. Receipt of such notice shall not be deemed to be a waiver by Purchaser of rights or remedies which it may have for failure to meet an agreed delivery date. Notwithstanding the above NFP Organisation shall be deemed to be in delay without notice from the Purchaser and only by simple expiry of the due delivery date.

24. TERMINATION FOR DEFAULT

24.1 The Purchaser may, subject to the provisions of paragraph 24.3 below, by written notice of default to NFP Organisation, terminate the whole or any part of an Order in any one of the following circumstances:

24.1.1 if NFP Organisation fails to make delivery of the Products or to perform the Services within the time specified herein or any extension thereof; or

24.1.2 if NFP Organisation fails to perform any of the other provisions of this Agreement, or so fails to make progress as to endanger performance of an Order in accordance with

its terms, and in either of these two circumstances does not cure such failure 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.

24.2 In the event the Purchaser terminates an Order in whole or in part, as provided in paragraph 24.1 of this clause, the Purchaser may procure, upon such terms and in such manner as the Purchaser may deem appropriate, Products or Services similar to those so terminated, and NFP Organisation shall be liable to the Purchaser for any excess costs for such similar Products or Services. However, NFP Organisation shall continue the performance of an Order to the extent not terminated under the provisions of this clause.

24.3 NFP Organisation shall not be liable for any excess costs if the failure to perform the Order arises out of causes beyond the control and without the fault or negligence of NFP Organisation. Such causes may include, but are not restricted to, acts of God, or of the public enemy, acts of the Purchaser in its contractual capacity, 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 NFP Organisation. If an Order is terminated as provided in paragraph 24.1 of this clause, the Purchaser, in addition to any other rights provided in this clause, may require NFP Organisation to transfer title and deliver to the Purchaser, in the manner and to the extent directed by the Purchaser:

24.3.1 any completed Products, and

24.3.2 such partially completed Products and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing materials") as NFP Organisation has specifically produced or specifically acquired for the performance of such part of an Order as has been terminated;

24.3.3 and NFP Organisation shall, upon direction of the Purchaser, protect and preserve property in the possession of NFP Organisation in which the Purchaser has an interest. Payment for completed Products delivered to and accepted by the Purchaser shall be at the contract price. 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 NFP Organisation and Purchaser. Failure to agree to such amount shall be a dispute within the meaning of the clause of this agreement entitled "Disputes and Arbitration". The Purchaser may withhold from amounts otherwise due to NFP Organisation for such completed Products 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.

24.4 If, after notice of termination of an Order under the provisions of this clause, it is determined for any reason that NFP Organisation 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 a clause providing for Termination for Convenience of the Purchaser. If after such notice of termination of an Order under the provisions of this clause, it is determined for any reason that NFP Organisation was not in default under the provisions of this clause and if the Order does not contain a clause providing for termination for convenience of the Purchaser the Order shall be equitably adjusted to compensate for such termination and the Order modified accordingly. Failure to agree to

any such adjustment shall be a dispute within the meaning of the clause of this Agreement entitled "Disputes".

24.5 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 Agreement or any Order issued under the present Agreement.

25. TERMINATION FOR CONVENIENCE OF THE PURCHASER

25.1 The performance of work under an Order 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. Any such termination shall be effected by delivery to NFP Organisation of a Notice of Termination specifying the extent to which performance of work under an Order is terminated, and the date upon which such termination becomes effective.

25.2 After receipt of a Notice of Termination and except as otherwise directed by the Purchaser, NFP Organisation shall:

- (i) stop work under the Order on the date and to the extent specified in the Notice of Termination;
- (ii) place no further orders or sub-contracts for Products or Services except as may be necessary for completion of such portion of the work under the Order as is not terminated;
- (iii) terminate all orders and sub-contracts to the extent that they relate to the performance of work terminated by the Notice of Termination;
- (iv) 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 NFP Organisation 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;
- (v) 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;
- (vi) transfer title and deliver to the Purchaser in the manner at the times, and to the extent, if any, directed by the Purchaser:
 - a. the fabricated or unfabricated parts, work in process, completed work, supplies, 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
 - b. the completed or partially completed plans, drawings, information, and other property which, if the Order had been completed, would have been required to be furnished to the Purchaser;

- (vii) 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 Purchaser, any property of the types referred to in (vi) above. However, NFP Organisation:
 - a. shall not be required to extend credit to any Buyer; and,
 - b. 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 NFP Organisation under an Order or shall otherwise be credited to the price or cost of the work covered by an Order or paid in such manner as the Purchaser may direct;
- (viii) complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and
- (ix) take such action as may be necessary, or as the Purchaser may direct, for the protection and preservation of the property related to an Order which is in the possession of NFP Organisation and in which the Purchaser has or may acquire an interest.

25.3 After receipt of a Notice of Termination, NFP Organisation shall submit to the Purchaser his termination claim, in the form and with certification prescribed by the Purchaser. Such claim shall be submitted promptly but in no event later than six months from the effective date of termination, unless one or more extensions in writing are granted by the Purchaser, upon request of NFP Organisation made in writing within such six-month period or authorised extension thereof. However, if the Purchaser determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such six-month period or any extension thereof. Upon failure of NFP Organisation 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 NFP Organisation by reason of the termination and shall thereupon pay to Company the amount so determined.

25.4 Subject to the provisions of paragraph 25.2 NFP Organisation and the Purchaser may agree upon the whole or any part of the amount or amounts to be paid to NFP Organisation 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 Order shall be amended accordingly and NFP Organisation shall be paid the amount agreed. Nothing in paragraph 25.6 of this clause, prescribing the amount to be paid to NFP Organisation in the event of failure of NFP Organisation and the Purchaser to agree upon the whole amount to be paid to NFP Organisation by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to NFP Organisation pursuant to this paragraph 25.4.

25.5 In the event of the failure of NFP Organisation and the Purchaser to agree as provided in paragraph 25.5 upon the whole amount to be paid to NFP Organisation by reason of the termination of work pursuant to this clause, the Purchaser shall pay to NFP Organisation the amounts determined by the Purchaser as follows, but without duplication of any amounts agreed upon in accordance with paragraph 25.5:

- (i) for completed Products or Services accepted by the Purchaser (or sold or acquired as provided in paragraph 25.2 (vii) above) and not therefore paid for, a sum equivalent to the aggregate price for such Products computed in accordance with the price or prices specified in the Order, appropriately adjusted for any saving of freight or other charges;
- (ii) the total of:
 - a. the costs incurred in the performance of the work terminated including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to Products or Services paid or to be paid for under paragraph 25.6 (i) hereof;
 - b. the cost of settling and paying claims arising out of the termination of work under sub-contracts or orders, as provided in paragraph 25.2 (v) above, which are properly chargeable to the terminated portion of the Order, exclusive of amounts paid or payable on account of Products 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 a. above; and
 - c. a sum, as profit on a. above, determined by the Purchaser to be fair and reasonable; provided, however, that if it appears NFP Organisation would have sustained a loss on the entire Order, 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
- (iii) 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 Order and for the termination and settlement of sub-contracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection, or disposition of property allocable to the Order.

25.6 The total sum to be paid to NFP Organisation under (i) and (ii) of paragraph 25.5 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. 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 NFP Organisation, as provided in paragraph 25.5 (i) and (ii)(a) 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 paragraph 25.2 (vii) above.

25.7 NFP Organisation shall have the right of appeal, under the clause of this Agreement entitled "Disputes", from any determination made by the Purchaser under paragraphs 25.4 or 25.6 above, except that if NFP Organisation has failed to submit his claim within the time provided in paragraph 25.4 above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Purchaser has made a determination of the amount due under paragraphs 25.4 or 25.6 above, the Purchaser shall pay NFP Organisation the following:

- (i) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Purchaser, or
- (ii) if an appeal has been taken, the amount finally determined on such appeal.

25.8 In arriving at the amount due to NFP Organisation under this clause there shall be deducted:

- (i) all unliquidated advance or other payments on account theretofore made to NFP Organisation, applicable to the termination portion of the Order;
- (ii) any claim which the Purchaser may have against NFP Organisation in connection with the Order, and
- (iii) the agreed price for, or the proceeds of the sale of, any materials, supplies, or other things acquired by NFP Organisation or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited to the Purchaser.

25.9 If the termination hereunder is partial, prior to the settlement of the terminated portion of the Order, NFP Organisation may file with the Purchaser a request in writing for an equitable adjustment of the price or prices specified in the Order relating to the continued portion of the Order (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.

25.10 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 NFP Organisation in connection with the terminated portion of an Order whenever in the opinion of the Purchaser the aggregate of such payments shall be within the amount to which NFP Organisation 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 NFP Organisation to the Purchaser upon demand, together with interest calculated using the average of the official base rate(s) per annum as notified by the Banque Nationale de Belgique or such other official source as may be determined by the Purchaser, for the period from the date the excess is received by NFP Organisation 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 NFP Organisation'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.

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

26. SUB-CONTRACTS

26.1 Unless specified otherwise in the corresponding Task Order, the NFP Organisation is not allowed to sub-contract the work contracted under the NFPF TO in whole or in part.

27. INTELLECTUAL PROPERTY

27.1 Purchaser background IPR

27.1.1 NFP Organization 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 and until completion of the Work.

27.1.2 NFP Organization 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.

27.1.3 The Purchaser gives no warranty as to the validity of any Purchaser Background IPR. NFP Organization 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.

27.2 NFP Organization background IPR

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

27.2.2 Any use of NFP Organization 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 NFP Organization Background IPR for any number of users and number of licenses as required, at no additional cost to the Purchaser.

27.3 Foreground IPR

27.3.1 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.

27.3.2 NFP Organization shall ensure that suitable arrangements are in place between its employees, agents, consultants and itself regarding Foreground IPR generated by said

employees, agents, consultants to allow NFP Organization to fulfil its obligations under Clause 27.3.1 above.

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

27.3.4 NFP Organization 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.

27.3.5 NFP Organization 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.

27.3.6 NFP Organization shall:

27.3.6.1 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

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

27.3.7 NFP Organization undertakes:

27.3.7.1 to notify the Purchaser promptly of any invention or improvement to an invention or any design conceived or made by NFP Organization; and

27.3.7.2 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.

27.3.8 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. NFP Organization 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).

27.4 Third Party IPR

27.4.1 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. NFP Organization 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.

27.4.2 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. 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.

27.4.3 Where Third Party IPR is the subject of a licence or other agreement between the third party and the Purchaser or NFP Organization, the NFP Organization shall not use any Third Party IPR for the purposes of carrying out work pursuant to the Contract without the prior written approval of the Purchaser. NFP Organization shall inform Purchaser in advance of any restrictions on the Purchaser's use.

27.4.4 If, after the award of the Contract, NFP Organization becomes aware of the existence of any Third Party IPR which NFP Organization is using or believes is needed for the performance of the Contract, NFP Organization 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.

27.4.5 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. NFP Organization 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).

28. CLAIMS

28.1 NFP Organisation shall assert claims in writing and by registered mail, and in accordance with the terms set out below:

28.2 Claims shall be submitted within:

28.2.1 the time specified in the Clause or Article under which NFP Organisation alleges to have a claim. If no time is specified in the clause or Article under which NFP Organisation intends to base its claim, the time limit shall be 45 (forty-five) days from the date NFP Organisation has knowledge or should have had knowledge of the facts on which it bases its claim;

28.2.2 3 (three) months after final payment, release of guarantees or performance bond provided under the Order, whichever occurs last. This shall only apply to those claims for which NFP Organisation could not have had earlier knowledge and were not foreseeable.

28.3 NFP Organisation shall be foreclosed unless it presents complete documentary evidence, justification and cost for each of its claims within three months 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 NFP Organisation's books and records). Opinions, conclusions or judgmental assertions not supported by such evidence shall be rejected.

28.3.1 An individual breakdown of cost is required for each element of NFP Organisation's claims at the time of claim submission or for any material revision of the claim.

28.4 NFP Organisation 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

28.5 Failure to comply with any of the above requirements shall result in automatic forfeiture 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 precontractual stage.

28.6 No claim arising under this Agreement may be assigned by NFP Organisation without prior approval of the Purchaser.

29. RELEASE OF CLAIMS

29.1 Prior to final payment under this Agreement, NFP Organisation and each assignee under this Agreement 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 Agreement subject only to the following exceptions:

29.1.1 Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible to exact statement by NFP Organisation;

29.1.2 Claims for reimbursement of costs (other than expenses of NFP Organisation by reason of its indemnification of the Purchaser against patent liability) including reasonable expenses incidental thereto, incurred by NFP Organisation under the provisions of this Agreement relating to patents.

29.1.3 An infringement resulting from specific written instructions from the Purchaser under the Order.

29.1.4 An infringement resulting from changes or additions to the Products and Services subsequent to final delivery and acceptance under the Order.

30. EXTRAS

30.1 Except as otherwise provided in an Order, no payment for extras shall be made unless such extras and the price therefore have been authorised in writing by the Purchaser.

31. LANGUAGE

31.1 In the event of any inconsistency between the original English text of this Agreement and any translation into another language, the original English text will govern.

31.2 All written correspondence and reports provided by and to NFP Organisation shall be, as a minimum, in English.

32. SECURITY

32.1 NFP Organisation 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 Member Nations in which the Agreement is being performed. NFP Organisation shall be responsible for the safeguarding of classified information, documentation, material and other Products entrusted to him or generated by him in connection with the performance of an Order.

32.2 In particular NFP Organisation undertakes to:

32.2.1 appoint an official responsible for supervising and directing security measures in relation to the Order and communicating details of such measures to the Purchaser on request;

32.2.2 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 or National classified information involved in the Order is properly safeguarded;

32.2.3 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 NFP Organisation;

32.2.4 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 or National classified information;

32.2.5 maintain at the work site a current record of its employees at the site who have been cleared for access to NATO or National classified information. The record should show the date and level of clearance;

32.2.6 deny access to NATO or National classified information to any person other than those persons authorised to have such access by the National Security Authority or designated Security Agency;

32.2.7 limit the dissemination of NATO or National classified information to the smallest number of persons as is consistent with the proper execution of the Order;

32.2.8 comply with any request from the National Security Authority or designated Security Agency that persons entrusted with NATO or National 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 Member Nations in which they may have access to classified information;

32.2.9 report to the National Security Authority or designated Security Agency any breaches or 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 or National classified information;

32.2.10 apply to the Purchaser for approval before subcontracting any part of the work, if the subcontract would involve the subcontractor in access to NATO or National classified information, and to place the subcontractor under appropriate security obligations no less stringent than those applied to its own contract;

32.2.11 undertake not to utilise, other than for the specific purpose of the Order, without the prior written permission of the Purchaser or its authorised representative, any NATO or National classified information furnished to him, including all reproductions thereof in connection with the Order, and to return all NATO or National classified information referred to above as well as that developed in connection with the Order, unless such information has been destroyed, or its retention has been duly authorised with the approval of the Purchaser. Such NATO or National classified information will be returned at such time as the Purchaser or its authorised representative may direct;

32.2.12 classify any produced document with the highest classification of the NATO or national classified information disclosed in that document.

33. HEALTH, SAFETY AND ACCIDENT PREVENTION

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

34. RELEASE OF INFORMATION

34.1 Except as otherwise specified elsewhere in the Order, and to the extent that it is demonstratively unavoidable and without prejudice to the "Security" Clause, NFP Organisation or its employees shall not, without prior authorisation from the Purchaser, release any information pertaining to the Order, its subject matter, performance thereunder or any other aspect thereof.

35. FORCE MAJEURE

35.1 If the performance of this Agreement, or any obligation hereunder is prevented, restricted or interfered with by reason of fire, flood, earthquake, explosion or other casualty or accident, strikes or labour disputes, war or other violence, including acts of terrorism,

any law, order, proclamation, regulation, ordinance, demand or requirement of any governmental agency, or any other act, event or condition whatsoever beyond the reasonable control of the affected Party, the Party so affected, upon giving prompt notice to the other Party, shall be excused from such performance to the extent of such prevention, restriction or interference, provided, however, that the Party so affected shall take all reasonable steps to avoid or remove such cause of non-performance and shall resume performance hereunder with dispatch whenever such causes are removed.

36. RIGHTS IN TECHNICAL DATA

36.1 Subject to the rights of third parties and to existing rights of NFP Organisation arising otherwise than by virtue of the Order, and with due regard to national security regulations, all rights in the results of work undertaken by or on behalf of the Purchaser for the purposes of the Order, including any technical data specifications, report, drawings, computer software data, computer programmes, computer databases, computer software, documentation including software documentation, design data, specifications, instructions, test procedures, training material produced or acquired in the course of such work and, in particular, all rights, including copyright therein, shall vest in and shall be the sole and exclusive property of the Purchaser.

37. NFP ORGANIZATION'S RESPONSIBILITY ON ACCURACY OF THE COMPANY'S DATA

37.1 In case of change of any nature in NFP Organisation's data including, but not limited to change(s) in name, ownership, address, and other changes of similar nature, NFP Organisation is obliged to inform NCI Agency about the change(s) at the earliest possible moment that NFP Organisation becomes aware of the change(s).

37.2 Information about all changes shall be presented in the form of official registered letter, addressed to NCI Agency Point Of Contact (POC), indicated in Clause 9 - Miscellaneous of the Part I - Special Provisions of the Framework Agreement.

37.3 If NCI Agency becomes aware of the change(s) described in para 1 above from any other source than official registered letter received from the Organization, NCI Agency reserves the right to suspend NFP Organisation's Framework Agreement immediately after NCI Agency becomes aware of the change(s) and until the issue is fully clarified.

37.4 In case of change(s) NCIA reserves the right to re-assess the eligibility of the Organization to the NFPF.

APPENDIX 1 TO PART II - PURCHASER'S PRICING PRINCIPLES

The following principles shall apply to all contracts not awarded on the basis of an adequate price competition as well as to all contract modifications.

NFP Organisation shall also incorporate provisions corresponding to those mentioned herein in all subcontracts, and shall require price and cost analysis provisions be included therein.

A. Allowability of Costs

(1) Allowable Cost

A cost is allowable if the following conditions are fulfilled:

- (a) it is incurred specifically for the Agreement or benefits both the Agreement 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;
- (b) 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;
- (c) it is not liable to any limitations or exclusion as to types or amounts of cost items as set forth herein.

(2) Partially allowable cost

The following cost items are examples of costs which are normally partially allowable only as indirect costs within the limitations described below provided that such costs are reasonable in nature and amount and are allocated as indirect costs to all work of NFP Organisation.

- (a) Advertising costs.
- (b) Contributions.
- (c) Bonuses paid pursuant to an agreement entered into before the Order was made or pursuant to a plan established and consistently followed before the Order was concluded.
- (d) Depreciation of plant equipment or other capital assets.
- (e) Costs of normal maintenance and repair of plant, equipment and other capital assets.

- (f) The costs of general research and development work which are not chargeable directly to an Order and which are not aimed at the preparation or development of a specific Product.
- (g) Travel costs, except those which, according to the terms of the Order, are to be charged directly to it.
- (h) Pre-contract cost (cost prior to the effective date stated in the Order) in anticipation of the award of the Order or pursuant to its negotiation.

(3) Unallowable costs

In general all costs which cannot be shown by NFP Organisation to be directly or indirectly of benefit to the Order under this Agreement are totally unallowable. Examples of such costs are:

- (a) Costs of a particular advertising campaign without prior agreement of the Purchaser or which has no connection with the Order under this Agreement.
- (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.
- (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) Profits.
- (k) Taxes on profits.
- (l) Contractual penalties incurred.
- (m) Commissions and gratuities.
- (n) Interest on borrowings.

B. Cost Groupings

- (1) In estimating or calculating the costs of the supplies to be furnished and the Services to be performed under the Order, NFP Organisation shall distinguish the following cost groupings:

- (a) 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.

- (b) Indirect Costs

An indirect cost is one which is not readily subject to treatment as a direct cost.

- (2) NFP Organisation 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 Order.

C. Overhead Rates

- (1) Indirect costs, which as a rule are to be allocated to all work of NFP Organisation, shall be accumulated by logical cost groupings in accordance with sound accounting principles and NFP Organisation's established practices. Such costs shall be presented as overhead rates and be applied to each related direct cost grouping.
- (2) NFP Organisation shall inform the Purchaser of its overhead rates and the basis upon which they were computed.
- (3) The term "provisional overhead rate" means a tentative overhead rate established for interim billing purposes pending negotiation and agreement to the final overhead rate.
- (4) An overhead rate 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 overhead rate is post-determined if it is fixed after a certain period and based on costs actually incurred during this period.

Pre-determined overhead rates shall be agreed upon as final rates whenever possible; otherwise the provisions of paragraph (3) above shall apply pending agreement to post-determined rates.

- (5) Such rates shall be determined on the basis of NFP Organisation's properly supported actual cost experience.

- (6) If the overhead rates of NFP Organisation for similar contracts placed by national or international public Services have been established or approved by a government agency or an agency accepted by NFP Organisation's Government and NFP Organisation proposes the application of these rates, NFP Organisation 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 NFP Organisation proposes rates which vary from the rates mentioned above, NFP Organisation shall furthermore provide a justification for the difference.
- (7) If the overhead rates of NFP Organisation for similar contracts placed by national or international public Services have not been established or approved by a government agency or an agency accepted by NFP Organisation's Government, NFP Organisation shall provide the necessary data to support the proposed rates.



EXHIBIT A – PREFERRED CUSTOMER CERTIFICATE

[NFP OrganisationName] warrants that the prices set forth in this Agreement, and appendices thereto, are as favourable as those extended to any Government, Agency, Company, Organisation or individual purchasing or handling like quantities of equipment and/or parts covered by the Agreement under similar conditions.

In the event that prior to complete delivery under this Agreement NFP Organisation offers any of such items in substantially similar quantities under similar conditions to any customer at prices lower than those set forth herein, NFP Organisation shall so notify the Purchaser and the prices of such items shall be correspondingly reduced by a supplement to this Agreement. 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.

[NFP Organisation Name]

[Title:]

Date:

EXHIBIT B –TASK ORDER (Template)

Task Order No 20[XX:XX]

For

Reference: NFP [XXX]

<p>Title</p>	<p>.....</p>
<p>Points of Contact:</p>	<p>NFP Entity PM: Name: Position: Organisation: Address: Phone: Email:</p> <hr/> <p>NCI Agency PM: Name: Position: Organisation: Address: Phone: Email:</p>
<p>Objective</p>	<p>The scope of this Task Order is to</p> <hr/> <p>Security Classification</p> <p>This project can include the exchange of information up to NATO Unclassified.</p> <hr/> <p>Schedule:</p>
<p>Description</p>	<p><u>Statement of Work</u>: As described in Appendix A to this Task Order.</p> <p><u>Intellectual Property Rights</u>:</p>

<p style="text-align: center;">Finance</p>	<p>The total costs associated with the work to be carried out as part of this Task Order amounts to a firm fixed price amount of EUR</p> <p>[insert payment terms]</p> <p>The invoices will be sent to:</p> <p>NCI Agency will pay the invoice within 30 days from receipt of the invoices.</p>
<p style="text-align: center;">Signatures:</p>	<p>For the NFP Entity:</p> <p>Date</p> <p>For NCI Agency:</p> <p>Date:</p>



NCIA/NFP/....

APPENDIX A TO
TO 2020:XXXX

Statement of Work