



NORWEGIAN DEFENCE MATERIEL AGENCY

PART II

CONTRACT PROVISIONS

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1 GENERAL PROVISIONS

1.1 Parties

This contract ('the Contract') is entered into by and between the Norwegian Defence Materiel Agency ('the Purchaser') org. no 916 075 855, on the one hand,

and

[CONTRACTOR NAME] ('the Contractor') org. no [TO BE INSERTED], on the other.

The Purchaser and the Contractor are jointly referred to as 'the Parties' and individually as 'the Party'.

The Purchaser enters into the Contract on behalf of the Norwegian Ministry of Defence and its subordinate agencies, which are given rights and obligations under this Contract equal to the Purchaser.

1.2 Purpose of the Procurement

The purpose of this procurement is to meet the Norwegian Armed Forces' need for Work Stands as specified in Annex A and E for different levels of maintenance of MH-60R Seahawk helicopters.

1.3 Performance Guarantee

In the event that the Contractor relies upon a third-party to fulfil the qualification requirement on satisfactory economic and financial capacity, the Contractor and the third-party have issued a joint guarantee for the fulfilment of the Contractor's performance of its obligations under the Contract, included as Annex H.

1.4 Document Overview

The Contract consists of the following documents:

- Signed Contract and Contract Provisions (this document)
- Annexes as described in 'List of annexes' above

1.5 Precedence of Documents

In the event of conflict between the provisions of the contract documents, the following order of precedence shall apply:

1. Signed Contract and Contract Provisions
2. Annex A Scope of Delivery
3. Annex B Price and Payment Conditions
4. Annex C Time and Terms of Delivery
5. Annex E Specifications
6. Annex F Statement of Work
7. Annex K Options
8. Annex M Standard Forms
9. Other Annexes

If the technical specifications contain both drawings and text or other illustrations and text, the text shall take precedence.

2 SCOPE OF DELIVERY

2.1 General

The Supplier shall deliver the Scope of Delivery and perform any related work in a professional and careful manner and in accordance with this Contract, particularly, without limitation:

- Annex A Scope of Delivery;
- Annex C Time and Terms of Delivery;
- Annex F Statement of Work; and
- Annex E Specifications.

The Scope of Delivery primarily comprises:

- delivery of Work Stands for MH-60R Seahawk
- other materiel and other services as specified in this Contract
- any options exercised in accordance with Annex K Options

The Scope of Delivery shall upon delivery be new, cleaned if relevant, equipped with all necessary certificates and fulfil the requirements of the Contract.

The Purchaser shall provide the consideration stated in Annex B Compensation, deliver such Deliverables and make such decisions as the Purchaser is obliged to under the Contract, within the times specified in the Contract and otherwise within a reasonable time.

The Contractor shall, within the framework established by Appendices A, C, E, F and G, cooperate with the Purchaser and any other contractors. The Contractor shall organise its operations to ensure that all activities related to the Scope of Delivery and any integration of the Scope of Delivery can be carried out efficiently without delay.

Approvals, comments, reviews, tests, inspections and the like from the Purchaser shall not release the Contractor from any contractual obligation, unless it is clearly stated in the Contract.

2.2 Test and Verification

In order to verify that the requirements of Annex E Specifications are met, the Contractor shall carry out verification in accordance with the verification procedures set out in Annex E Specifications and Annex F Statement of Work. Verification procedures, such as testing, analysis and inspection, are described in Annex E Specifications and Annex F Statement of Work.

The Contractor remains fully liable for the fulfilment of all its obligations under this Contract regardless of whether the Purchaser has provided support in connection with or participated in the Contractor's performance of the Contract. This means, among other things, that any support or participation on the part of the Purchaser in the form of approval, acceptance or similar confirmation during the design, manufacture, testing, verification and delivery does not relieve the Contractor of any of its obligations. Any progress payments made do not entail acceptance of the basis for the invoice or the size of the amount.

2.3 Future Availability

The Purchaser is entitled to buy spare parts, including spare parts for support equipment, from a true manufacturer. The Contractor shall provide the Purchaser with the name of the true manufacturer and logistics data for the Scope of Delivery.

The Contractor is obliged to maintain the ability to produce spare parts for 5 years after the last delivery.

If the Contractor receives information that the production of spare parts or support equipment will be discontinued, it shall immediately inform the Purchaser in writing. In such case, the Contractor shall deliver alternative materiel of equal or better performance, insofar as this is possible.

2.4 Changed Configuration of Scope of Delivery and Spare Parts

If the Contractor makes configuration changes that affect the functional or physical properties of the Scope of Delivery, the Purchaser is entitled to return the delivered materiel at no cost. Delivered materiel that is not compatible with the changed delivery shall be remedied at no additional cost for the Purchaser.

3 TERMS OF DELIVERY

The delivery shall meet all the requirements set out in the Contract at the time of delivery. All deliveries shall be new, and, where relevant, cleaned, and equipped with all necessary certificates.

All deliveries shall be free of encumbrances or claims of any kind at the time of delivery.

The Contractor shall deliver the Scope of the Delivery in accordance with the times and terms of delivery defined in Annex C Time and Terms of Delivery.

4 STORAGE BY THE CONTRACTOR

If the Purchaser understands or has reason to believe that it will be unable to receive the delivery at the agreed time and place in accordance with the Contract, it shall notify the Contractor in writing.

The Purchaser may decide that the Contractor shall store the materiel for the Purchaser's account and risk.

Provided that the Contractor could have made the delivery at the agreed time, the Purchaser shall pay the Contractor as if delivery had taken place in accordance with the Contract. If the Parties have agreed that materiel is to be stored pursuant to this provision and the Contractor is delayed, the Purchaser shall pay when the Contractor could have made the delivery.

At the time of payment, the delivery is deemed to have taken place and the title is transferred to the Purchaser. The Contractor shall then mark the materiel 'Property of the Norwegian Armed Forces'. The materiel shall be stored separately from other deliveries, equipment and materiel.

5 SYSTEM RESPONSIBILITY

The Contractor shall have system responsibility for the Scope of Delivery. This entails overall responsibility for the planning, design, development and integration of the Scope of Delivery in order to ensure that it is fully functional and meets the requirements of the Contract.

Where the Scope of Delivery is part of a system or one or more subsystems, the Contractor is responsible for ensuring that the Scope of Delivery does not have a negative impact on the systems so that they do not work as intended or are not fully functional.

Subsystems include, but are not limited to, Provided Items, spare parts, special tools and test equipment.

6 SYSTEM EXPERTISE

The Contractor shall have at its disposal and maintain sufficiently high system expertise for all parts of the Scope of Delivery to be able to offer this expertise to the Purchaser should the Purchaser wish to make use of this expertise at a later date. This obligation shall exist for a period of 5 years from the actual date of delivery.

If the Purchaser wishes to make use of this system expertise, this shall be regulated in a separate agreement. The Contractor is obliged to offer the system expertise at competitive market prices and with reasonable lead and ramp-up times.

7 TRANSFER OF RISK

The risk associated with the Scope of Delivery will be transferred to the Purchaser upon delivery in accordance with Incoterms as agreed in Annex C Time and Terms of Delivery.

8 TITLE TO THE SCOPE OF DELIVERY

The Scope of Delivery becomes the property of the Purchaser at the time it is delivered as agreed. The transfer of title means that the Purchaser acquires full actual and legal rights to the Scope of Delivery.

Any part of the Scope of Delivery that is still in the Contractor's possession when transfer of title takes place shall be clearly marked 'Property of the Norwegian Armed Forces' and be kept separate in a satisfactory manner that prevents it from being seized by creditors.

9 INTELLECTUAL PROPERTY RIGHTS

9.1 The Purchaser's General Right of Use

The Purchaser is granted a worldwide, non-exclusive, perpetual, unrestricted and free right to any form of use of all technology, software, other intellectual property rights, information and documentation (hereinafter collectively referred to as 'the Technology') delivered in accordance with the Contract. The Technology includes, but is not limited to, user manuals, maintenance documentation, drawings, codification data and lists of spare parts.

The Purchaser shall receive, in a format suitable for the Purchaser, all relevant information and documentation to enable the Purchaser to make full use of the Technology.

Where relevant, the Contractor shall also deliver interface documentation that describes:

- General form, fit and function
- Information needed for installation, operation, maintenance and training
- Changes to and corrections of technical documentation delivered by the Purchaser to the Contractor

The Purchaser may, at its own expense, freely use, copy, transfer, modify or further develop the Technology for internal use in all parts of the Norwegian Armed Forces in any manner it deems expedient.

9.2 Communication of Information and Documentation to Third Parties

Information and documentation delivered under the Contract that are specified as or deemed to be confidential information shall not be disclosed to third parties without the Contractor's written consent.

Subject to written consent, the Purchaser may disclose confidential information and documentation received under the Contract to third parties assisting the Purchaser, including in connection with procurements etc.

If the Purchaser so requests, the Contractor shall assist the Purchaser with this. The Purchaser shall cover any direct costs incurred by the Contractor as a result of such assistance. If the information or documentation is deemed to be trade secrets and the Contractor so requests, the recipient shall sign the Purchaser's declaration of confidentiality.

During military operations or exercises, the Purchaser is free to transfer all information and documentation to the Norwegian Armed Forces' coalition countries without such a declaration of confidentiality, if such transfer is deemed necessary for the performance of the military operation or exercise.

9.3 The Contractor's Responsibility for Third Party Rights

The Contractor guarantees and shall ensure that:

- The Contractor is entitled to grant the Purchaser the agreed rights to the Technology and everything else covered by the Contract;
- Neither the Technology nor anything else covered by the Contract, or the Purchaser's use of this, violates third-party intellectual property rights, other rights or legally protected interests.

The Contractor shall indemnify the Purchaser for all and any claims from third parties, including covering the Purchaser's losses, costs and damage arising from the Contractor's breach or non-fulfilment of the above-mentioned guarantee.

A defect in title is deemed to exist if the Technology violates third-party rights.

9.4 Third Party Claims

If a third party claims that the Technology or anything else covered by the Contract and/or the Scope of Delivery violates third-party rights, the Parties shall notify each other without undue delay. The Contractor shall deal with third-party claims for its own account in cases where the Contractor has violated the third-party rights.

The Contractor shall initiate and conduct the work on remedying the situation without undue delay by:

- Ensuring that the Purchaser can use the delivery as before without violating third-party rights, or
- Making a corresponding and, to the Purchaser, equivalent delivery that does not violate third-party rights.

10 SUBCONTRACTORS

10.1 The Contractor's Right to Use Subcontractors

The Contractor may not assign material parts of the work relating to the Scope of Delivery to subcontractors without the Purchaser's prior written consent. Subcontractors listed in Annex J Subcontractors have already been approved by the Purchaser.

The Contractor remains fully responsible for the fulfilment of all its obligations under the Contract, regardless of whether the Contractor has subcontracted any parts of the work.

The Purchaser is entitled to participate as an observer during all negotiations and progress meetings between the Contractor and any subcontractors.

The Contractor may not make any material amendments to contracts between the Contractor and a subcontractor that have been approved by the Purchaser, without the Purchaser's prior written consent. Such consent may not be refused without reasonable grounds.

10.2 Transfer of Terms and Conditions to Subcontractors

The Contractor shall convey all necessary terms and conditions under this Contract to subcontractors to ensure that the Purchaser has the same rights under subcontracts as under this Contract. In addition to technical requirements and specifications, the Contractor shall place particular emphasis on conveying terms and conditions regarding:

- Codification
- Quality assurance
- Access in connection with quality assurance, progress control, cost control and contractor assessment
- Changes (the right to demand changes, pricing of changes / cost control / right of access etc.)
- Health, safety and the environment
- The Norwegian Defence Materiel Agency's Ethical Requirements
- Classified information
- Cancellation for convenience
- Confidentiality
- Claims against the Contractor's subcontractors and other contract assistants

The Contractor may not select a subcontractor that refuses to accept these requirements and terms and conditions, without the Purchaser's written approval.

On request, the Contractor shall provide the Purchaser with the technical information included in all subcontracts.

10.3 Assignment of Subcontracts

All subcontracts shall include provisions whereby the Purchaser is entitled to demand that the subcontract be assigned to the Purchaser should a situation arise in which the Contractor is unable to fulfil its obligations under this Contract.

10.4 Security Clearance

The security clearance of each subcontractor is the responsibility of the Contractor and shall, if the Purchaser so requests, be performed by the National Security Authority (NSM) or the subcontractor's national security authority.

11 CHANGES TO THE CONTRACT

11.1 General Information

The terms and conditions of the Contract can only be changed if both Parties sign a Supplemental Agreement or the Purchaser issues a Change Order.

Neither the Contractor nor the Purchaser may invoke any statements, omissions or acts, including minutes of meetings or correspondence, as constituting valid changes to the Contract.

The terms and conditions of the Contract shall also apply to any changes, unless otherwise explicitly stated in the Supplemental Agreement or Change Order.

A change to the Contract caused by circumstances for which the Contractor is responsible shall not result in any changes to the price or progress schedule in the Contractor's favour.

The Contractor shall inform the Purchaser of changes to the Contract that will clearly entail reduced costs for both Parties, earlier delivery and/or technical improvements.

11.2 Change of the Contract by Use of a Supplemental Agreement

The Purchaser initiates a change procedure by issuing a written request, Annex M-3 Request for Change, describing the desired change to the Contract. Within 14 calendar days from receipt of a written request from the Purchaser, the Contractor shall describe all consequences of the change to the Parties' obligations under the Contract. If the change will have a bearing on the contract price, the Contractor shall specify its claim.

The Contractor initiates a change procedure by issuing a written request to the Purchaser; see Annex M-3 Request for Change. The request shall describe all consequences of the change. If the change will have a bearing on the contract price, the Contractor shall specify its claim.

The changes enter into force from the time the Parties have signed a Supplemental Agreement, Annex M-6 Supplemental Agreement.

The Supplemental Agreement shall include all changes to the Parties' obligations. The Parties may not invoke any consequences of the change that are not included in the Supplemental Agreement.

11.3 Change of the Contract by Use of a Change Order

11.3.1 Change Order

The Purchaser may at all times make changes to the Contract using Annex M-4 Change Order, insofar as such changes fall within the scope of what the Parties could reasonably have expected when the Contract was entered into.

When the Purchaser has issued a Change Order, the Contractor shall immediately start work in accordance with the Change Order, even if the consequences of the Change Order have not yet been determined.

When a Change Order is issued, the Contractor may be entitled to a deadline extension and/or a price adjustment, cf. Clauses 11.3.2 and 11.3.3.

The Contractor shall use reasonable means to limit any negative consequences of a Change Order.

11.3.2 Deadline Extension in Connection with a Change Order

The Contractor may demand an extension of the deadline if the delivery progress is hindered as a consequence of the changes to the Contract, and the changes were made in accordance with Clause 11.3.1.

If the Contractor wishes to request an extension of the deadline, the Purchaser shall be notified within 14 calendar days of receipt of the Change Order. The right to an extension lapses if notification is not given by the deadline.

When there is a basis for calculating the scope of the extension, the Contractor shall, within 14 calendar days of notifying the Purchaser, send the Purchaser a specified, substantiated claim. If the Contractor fails to specify and give grounds for the claim within the deadline, it is only entitled to such extension of the deadline as the Purchaser had to understand that the circumstances would entail.

The Purchaser shall respond within a reasonable time after receiving a specified, substantiated claim from the Contractor.

The deadline extension shall reflect the change's actual effect on the progress. The Contractor shall document the effect in writing and keep the Purchaser continuously up to date.

The Contractor is obliged to prevent and limit the detrimental effects of a deadline extension and cooperate with the Purchaser on the measures that can be implemented.

11.3.3 Price Adjustment in Connection with a Change Order

The Contractor may claim a price adjustment on the basis of changes made in accordance with the provisions of Clause 11.3.1.

If the Contractor wishes to request a price adjustment on the basis of a received Change Order, the Purchaser shall be notified within 14 calendar days of receipt of the Change Order. The right to a price adjustment lapses if notification is not given by the deadline.

When there is a basis for calculating the scope of the price adjustment, the Contractor shall, within 14 calendar days of notifying the Purchaser, send the Purchaser a specified, substantiated proposal for a price adjustment. If the Contractor fails to specify and give grounds for the claim within the deadline, it is only entitled to such adjustment of the price as the Purchaser had to understand that the circumstances would entail.

The Purchaser shall respond within 14 calendar days of receiving a specified, substantiated claim. The right to object to a claim lapses if no objection is filed within the deadline.

If the claim concerns a price adjustment under circumstances where the Contract's unit prices apply, they shall be used. If no applicable unit prices exist, the price adjustment shall be based on the Contractor's documented costs and the standard market price.

A price adjustment in accordance with this clause shall always take into account any savings and/or deductions that the Change entails for the Contractor.

11.4 Disputes Concerning Obligations

If the Purchaser claims that the Contractor has an obligation under the Contract, and the Contractor disputes this, a dispute concerning the obligations under the Contract is deemed to exist. A dispute also exists if the Contractor issues a Request for Change, cf. Annex M-3, and the

Purchaser is of the opinion that the scope of the request is already covered by the obligations under the Contract.

After receiving notification from the Purchaser that it deems the obligation to be covered by the Contract, the Contractor shall, within 14 calendar days, substantiate its position on the matter.

The Purchaser shall, within a reasonable time after receiving the Contractor's position, present its own view on the matter, and may issue a Change Order in Dispute by using Annex M-5 Change Order in Dispute.

The Change Order in Dispute shall describe what the Purchaser believes to be the Contractor's obligations.

The Contractor shall immediately execute the Change Order in Dispute, even if the Parties disagree on whether the obligation is part of the Contract. A dispute concerning the possible consequences of the Change Order in Dispute will not relieve the Contractor of its obligation to execute the Change Order in Dispute.

The Contractor shall, without undue delay, present to the Purchaser its opinion about the price of the Change Order in Dispute. The price is subject to cost control, cf. Clause 13.

12 RIGHT TO DEMAND ACCESS AND INSPECTION

The Purchaser may demand access to the Contractor's documents or to conduct inspections of the Contractor's premises. Such access or inspection may be necessary in order to perform or verify quality assurance, cost control, contractor assessment, requirements regarding production and working conditions, security clearance, or progress under the Contract.

The Contractor shall, at the Purchaser's request, grant personnel appointed by the Purchaser access to all information and documents that the Purchaser considers necessary. Furthermore, the Contractor shall grant access to relevant personnel, production equipment and premises when it is necessary for the Purchaser to be able to perform its assignment. The Purchaser may also demand access to the Contractor's accounts in case of suspicion of financial irregularities or similar.

13 COST CONTROL

The Contractor shall grant the Purchaser's regulatory agency, cf. Annex D Points of Contact, access to cost control in the following cases:

- Any changes to the Scope of Delivery, such as reductions, expansions, extensions or additional deliveries not already priced in the Contract,
- Exercise of options not priced in the Contract,
- Termination and/or cancellation for convenience of the Contract in whole or in part.

14 QUALITY MANAGEMENT

14.1 Quality Management

The Contractor shall implement and maintain a quality assurance system for the Contract in accordance with Annex F Statement of Work.

The Contractor shall require any subcontractors to implement and maintain a quality assurance system for the Contract in accordance with Annex F Statement of Work.

The Contractor's quality management system shall fulfil the requirements in AQAP 2131 Edition C Version 1, "NATO Quality Assurance Requirements for Final Inspection and Test", enclosed as Annex N.

The Purchaser's authorized quality assurance authority is specified in Annex D.

The quality assurance authority may delegate the government quality assurance according to STANAG 4107.

14.2 Procedure for Handling Deviations

If the Contractor wishes to deliver a limited number of units that deviate from the requirements in the Contract or from the agreed baseline, the Contractor shall apply for a deviation permit, cf. Annex M-9 Deviation Permit/Concession. The application shall be sent to the Purchaser's quality assurance agency, with a copy to the Purchaser's point of contact.

Use of the application is described in Annex F Statement of Work. Deviations shall be handled in accordance with Annex F Statement of Work.

15 CONFIDENTIALITY

Any information that the Parties become aware of in connection with the Contract and the performance thereof shall be treated as confidential between the Parties and shall not be disclosed to any third parties without the consent of the other Party, including applications for exclusive rights to the solution.

The Purchaser's duty of confidentiality under this provision is not more extensive than what follows from the Act of 10 February 1967 relating to procedure in cases concerning the public administration (the Public Administration Act) or the Act of 19 May 2006 relating to the right of access to documents held by public authorities and public undertakings (the Freedom of Information Act). The Contractor shall be notified before such information is disclosed.

The duty of confidentiality is not an obstacle to the information being used when no legitimate interest indicates that it should be kept secret, for example if it is in the public domain or publicly available elsewhere.

The Parties shall take all necessary precautions to prevent unauthorised persons from gaining access to or knowledge of confidential information.

The duty of confidentiality shall apply to the Parties' employees and subcontractors and to third parties acting on behalf of the Parties in connection with the performance of the Contract. The Parties may only disclose confidential information to subcontractors and third parties to the extent necessary for the performance of the Contract, and provided that they are subject to a duty of confidentiality corresponding to this provision.

The duty of confidentiality shall not prevent the Parties from utilising the experience and expertise acquired in connection with the performance of the Contract.

The duty of confidentiality also applies after the Contract has expired. Employees or others who leave their position with either of the Parties shall continue to be bound by a duty of confidentiality in the above-mentioned matters also after they have left. The duty of confidentiality ceases to apply five years after the day of the last delivery, unless otherwise follows from laws or regulations.

The Parties shall obtain prior approval if information about the Contract is to be made known to the public for promotion or other purposes.

16 WARRANTY

16.1 Scope of the Warranty

The Contractor guarantees that all deliveries will be in accordance with all requirements in the Contract throughout the applicable warranty period specified in Clause 16.2 Warranty Period. This means, among other things, that if a fault or defect in functionality or quality arises during the warranty period, it shall be rectified by the Contractor for the Contractor's account.

Faults and defects caused by normal wear and tear are not covered by the warranty. The same applies to faults or defects caused by incorrect use, storage or maintenance on the part of the Purchaser. These limitations do not apply if the Purchaser complies with the maintenance and operating instructions provided by the Contractor. The burden of proof is on the Contractor if the Contractor wishes to claim that non-fulfilment of the Contract is caused by the Purchaser.

16.2 Warranty Period

The warranty is valid for two (2) years from the date of each delivery. The warranty period for software is one (1) year from the date of delivery.

By delivery is meant the time of transfer of title pursuant to Clause 8 Title to the Scope of Delivery, and the relevant Incoterms, cf. Annex C Time and Terms of Delivery.

The warranty period is suspended for all parts that cannot be used for their purpose due to a fault or defect covered by the warranty. The suspension applies until the matter has been rectified.

A warranty period of at least 12 months after rectification has been completed shall apply to the replaced or repaired parts or systems and the performance of the rectification work.

The Purchaser shall submit any complaints to the Contractor in writing within a reasonable time after becoming aware of the defect.

The above-mentioned deadlines do not apply if the Contractor has acted with gross negligence or contrary to honesty and good faith.

16.3 Rectification

If a fault or defect exists that is covered by the warranty, the Contractor shall rectify the fault or defect, including all parts damaged due to the fault or defect. The Contractor shall cover all costs relating to the rectification and initiate rectification without undue delay.

The Purchaser may demand changed or new acceptance tests and/or procedures to qualify or re-qualify the rectified Scope of Delivery for the Contractor's account in order to ensure fulfilment of the Contract. The Purchaser is entitled to participate as an observer during any rectification work.

If the Contractor, without reasonable grounds, fails or refuses to initiate rectification as described above, or if it is essential that rectification takes place sooner than is possible for the Contractor to perform it, the Purchaser can carry out the work itself or assign it to someone else. In any case, the Purchaser shall not initiate such work until 14 calendar days have passed since

the Contractor was notified in writing. The Contractor shall cover all costs in connection with rectification carried out by the Purchaser or its assignee, unless the Purchaser or its assignee has failed to rectify the defect in a satisfactory manner.

The Contractor is obliged to immediately hand over all necessary information and the right to use such information to the Purchaser, including to a third party acting on behalf of the Purchaser, in order to enable the Purchaser to exercise its rights pursuant to this clause.

16.4 Systemic Defect

If a fault or defect relating to the Scope of Delivery becomes evident before the expiry of the warranty period, and there is reason to believe that the fault or defect affects several parts or systems delivered, a systemic defect is deemed to exist. In such case, the Purchaser shall present to the Contractor all information that forms the basis for the Purchaser's conclusion.

Unless the Contractor can substantiate that the fault or defect is not a systemic defect, the Contractor shall rectify all delivered parts or systems, including parts or systems for which the warranty period has expired, regardless of whether the faults or defects have manifested themselves.

17 BREACH OF CONTRACT ON THE PART OF THE CONTRACTOR

17.1 Breach of Contract

Breach of contract is deemed to exist if the Contractor fails to fulfil its obligations under the Contract and this is not due to circumstances caused by the Purchaser. The burden of proof is on the Contractor if the Contractor wishes to claim that non-fulfilment of the Contract was caused by the Purchaser.

17.2 Duty of Notification of Defect

If the Contractor or its subcontractors become aware of a fault or defect after a delivery has taken place, the Purchaser shall be notified without undue delay.

17.3 Duty to Provide Information in the Event of Delays

If the Contractor has reason to believe that it will be unable to meet milestones or other provisions set out in Annex C Time and Terms of Delivery, the Contractor shall inform the Purchaser of this in writing without undue delay.

The Contractor shall, without undue delay, also inform the Purchaser of the cause of and duration of the delay, any effects it will have on other milestones and what measures the Contractor plans to implement to avoid, recover or limit the delay.

If the Purchaser has comments on the proposed measures, the Purchaser shall inform the Contractor of this within a reasonable time. The Purchaser may instruct the Contractor to implement further measures if the Purchaser deems the proposed measures to be inadequate or otherwise inexpedient.

If the notified delay is not caused by the Purchaser, the Contractor is responsible for the delay and shall take any action necessary to avoid, recover or limit the delay.

If the notified delay is caused by the Purchaser, and the delay or the measures implemented cause additional costs for the Contractor or affect the delivery times, the Contractor may demand adjustment of the contract price or the delivery times in accordance with Clause 11 Changes to the Contract.

If the Contractor fails to comply with these change provisions, it is not entitled to adjustment of the contract price or the delivery times. Nor is the Contractor entitled to any such adjustment if the delay or its consequences could have been avoided, recovered or limited had the Contractor fulfilled all its obligations under the Contract.

17.4 Purchaser's Sanctions in the Event of Breach of Contract

17.4.1 Withholding Payment

In the event of breach of contract, the Purchaser may withhold payment to secure the Purchaser's claims arising from the breach of contract. The amount withheld must be proportionate to the breach of contract.

17.4.2 The Purchaser's Right to Reject Defective Deliveries

In the event of a defect, the Purchaser may reject the defective part of the delivery and any parts of the delivery that cannot be used as intended. Rejection must be given in writing. Rejected deliveries are deemed not to have been delivered.

17.4.3 Liquidated Damages in the Event of Delays

If the deadlines stipulated in Annex C Time and Terms of Delivery are not met, a delay is deemed to exist on the part of the Contractor that entitles the Purchaser to liquidated damages.

Liquidated damages accrue automatically. Liquidated damages shall amount to 0.1% of the value of the delayed delivery and all other parts of the Scope of Delivery that cannot be used as intended due to the delay, for each calendar day the delivery is delayed.

Liquidated damages are limited to 100 calendar days for each delayed part. The amount falls due for payment when the liquidated damages period expires and will be deducted from the first payable invoice after the expiration of the liquidated damages period. The Purchaser shall send a statement of liquidated damages to the Contractor.

Liquidated damages are regarded as final compensation for the delay, unless the delays exceed 100 calendar days or the Contractor has acted with gross negligence. After 100 calendar days, the Purchaser can claim compensation for its financial loss, cf. Clause 17.4.5.

17.4.4 Price Reduction

If the Contractor fails to remedy a breach of contract without undue delay, or is unable to remedy the breach, the Purchaser may demand a price reduction.

The price reduction shall compensate for the reduced value of the delivery and shall be independent of any compensation paid. The price reduction shall not be less than the Contractor's savings resulting from the work not being in compliance with the Contract.

17.4.5 Compensation

The Purchaser may claim compensation for any direct loss, including losses incurred due to additional work, price differences and additional costs due to cover purchases and other direct costs incurred in connection with delays, defects or other breach of contract arising from breach on the part of the other Party, unless the Contractor proves that the breach or the cause of the breach is due to the Purchaser or force majeure

Liquidated damages shall be deducted from any compensation for the same delay or event.

Compensation may not be claimed for indirect losses. Indirect losses include but are not limited to lost earnings of any kind, lost savings and claims from third parties, with the exception of any imposed liability for compensation relating to breach of third-party intellectual property rights. Loss of data shall be considered indirect loss, with the exception of additional costs incurred in connection with the reconstruction of data and other direct costs incurred by the Purchaser as a result of data loss.

The above-stated limitations on compensation shall not apply if the Contractor or anyone for which it is responsible, has acted with gross negligence or wilful intent. The limitations shall also not apply should the Purchaser have been sentenced to pay compensation for legal defects for which the Contractor is liable.

17.4.6 Termination

17.4.6.1 Termination due to breach of contract

If the Contractor is in material breach of the Contract, the Purchaser may, after giving the Contractor written notice and a reasonable deadline to remedy the matter, terminate the Contract with immediate effect. The Contract can be terminated in whole or in part.

The following shall always be deemed to constitute material breach of contract:

- Liquidated damages accrue to their maximum limit, or upon the expiry of an extended deadline if this expires later, or
- The Contractor has been convicted of participation in or trading with a criminal organisation, corruption, fraud, money laundering, or a criminal offence relating to its professional conduct, and the judgment is final and enforceable, or
- The Contractor's enterprise goes into debt settlement or compulsory liquidation proceedings, or
- The Contractor is in breach of the security agreement between the Parties, or
- The Contractor's enterprise is wound up, suspended or is undergoing a corresponding process under applicable law, or
- The Contractor is in breach of the sanction laws in the Contract.

Repeated non-material breaches on the part of the Contractor can also collectively be deemed to constitute material breach of contract.

If the Purchaser terminates the Contract for an individual delivery, it may at the same time terminate the Contract for deliveries already made or future deliveries if, because the deliveries are interdependent, they cannot be used for the purpose intended by the Parties at the time when the Contract was entered into.

17.4.6.2 Termination due to defect in title

A defect in title that is not remedied in a satisfactory manner within a reasonable time, and that is material to the Purchaser, entitles the Purchaser to terminate the Contract.

Alternatively, the Purchaser can choose to terminate only the part of the Contract that is affected by the defect in title.

17.4.6.3 Consequences of termination

Upon receiving notice of termination, both Parties shall immediately suspend their performance of the Contract and instruct all their subcontractors to do the same. However, the Parties and their subcontractors shall complete or secure work as necessary in order to avoid damage to property or injury to personnel.

The Purchaser is entitled to terminate the Contract in whole or in part with future or retroactive effect.

17.5 Anticipatory Breach of Contract

The Purchaser may suspend the performance of its obligations if it is clear that the Contractor does not fulfil or will not fulfil its contractual obligations.

If it is clear before the delivery date that the Contractor will be in such breach of the Contract that it would entitle the Purchaser to terminate the Contract, the Purchaser may terminate the Contract with immediate effect before the delivery date.

The Purchaser shall notify the Contractor immediately in the event of such suspension or termination. The Contractor can avoid termination by providing adequate security for the fulfilment of its obligations.

17.6 Claims Against the Contractor's Subcontractors

The Purchaser is entitled to invoke claims for breach of contract that the Contractor may have against its subcontractors in earlier links of the sales chain, developers or other contract assistants, directly against such parties. The Purchaser may only invoke such claims to the extent that the claim has not been covered by the Contractor or this would be extremely difficult due to compulsory liquidation or other obvious insolvency.

The Contractor must include provisions corresponding to the above paragraphs in its contracts with subcontractors.

18 BREACH OF CONTRACT ON THE PART OF THE PURCHASER

18.1 Breach of Contract

Breach of contract is deemed to exist if the Purchaser does not fulfil all its obligations under the Contract and this is not due to circumstances caused by the Contractor. The burden of proof is on the Purchaser if the Purchaser wishes to claim that non-fulfilment of the Contract was caused by the Contractor.

18.2 Duty of Notification

The Contractor shall give the Purchaser written notification within a reasonable time after a breach of contract was or should have been discovered. If notification is not given within a reasonable time, the Contractor will forfeit its right to make a claim in connection with the breach of contract.

If the Purchaser has reason to believe that it will be unable to fulfil an obligation under the Contract within the agreed deadline, it must notify the Contractor without undue delay of the event causing the delay and its potential effects on the Purchaser's ability to fulfil its obligations.

18.3 The Contractor's Sanctions in the Event of Breach of Contract

18.3.1 Suspension of Performance

The Contractor may not suspend its performance as a result of breach of contract on the part of the Purchaser, unless the breach is material.

18.3.2 Termination

In the event of material breach of contract, the Contractor can send written notification to the Purchaser that the Contract will be terminated unless the breach is remedied within 60 calendar days of receipt of the notification.

18.3.3 Compensation

The Contractor may claim compensation for all direct losses that can reasonably be attributed to the Purchaser's breach of contract.

Compensation may not be claimed for indirect losses. Loss of data is considered an indirect loss, unless the loss was caused by data processing for which the Purchaser is responsible under the Contract.

The above-mentioned limitations of liability do not apply in cases where the Purchaser or a party for whom the Purchaser is responsible has acted with gross negligence or intent.

19 THE CONTRACTOR'S CORPORATE SOCIAL RESPONSIBILITY

The Contractor shall meet requirements for corporate social responsibility as defined in Annex L The Norwegian Defence Materiel Agency's Ethical Requirements. In the event of breach of these requirements, the Purchaser may invoke sanctions set out in Annex L The Norwegian Defence Materiel Agency's Ethical Requirements.

20 SANCTION LAWS

20.1 Definitions

"Sanction Laws" means any law, regulation, resolution, decision, embargo and/or restrictive measures, which is, or may be, implemented, adopted, imposed and/or enforced by any competent authority, including but not limited to Norwegian authorities, the United Nations (UN), the European Union (EU), the United States of America (USA), which prohibits or limits the right to interact with certain countries, territories, authorities or specified persons or entities.

"Affiliate" means a company that can be identified with the Party in accordance with the rules on exclusion of suppliers in the public procurement legislation.

20.2 Contractor's obligation to ensure compliance with Sanction Laws

Contractor warrants and represents that it, its Affiliates, and its contractors and sub-contractors, including directors, chairman of the board and other leading employees within the above-mentioned entities:

- a) are not, and will not be listed on any list of entities, persons or bodies subject to sanctions under any Sanctions Laws;
- b) are not and will not be owned, controlled by, or act on behalf of any person, body or entity listed on any list of entities, persons and bodies subject to sanctions under any Sanctions Laws; and
- c) do, and will, not conduct any activity in violation of any Sanctions Laws.

Contractor shall at all times keep Purchaser informed and updated in relation to any matter concerning the above warranty.

If Contractor becomes aware of a breach of the above warranty, it shall without undue delay notify Purchaser. Such notice shall include an account of the relevant breach and the measures Contractor considers appropriate to implement to rectify the breach.

Contractor shall further implement necessary measures to ensure compliance with the above warranty and shall, upon request, document its routines in this regard. To the extent Purchaser considers it necessary, Purchaser may request Contractor to submit additional documentation substantiating that Contractor, or anyone it answers for, are not in breach of any Sanction Laws.

Breach of the warranty, representation and obligations in this provision shall be considered a material breach of contract.

21 INDEMNIFICATION

21.1 Contractor's Indemnity

The Contractor shall indemnify the Purchaser and all those for whom the Purchaser is responsible from and against any claim concerning:

- personal injury or loss of life of any employee of the Contractor or the Contractor's subcontractors, and
- loss of or damage to any property of the Contractor or the Contractor's subcontractors, and
- loss of or damage to the Provided Items after they have been delivered to the Contractor or to those for whom the Contractor is responsible, and
- any form of pollution or environmental damage,

and which might arise in connection with the connection with the performance of the Contract. This applies regardless of any form of liability, whether strict or by negligence, in whatever form, on the part of the Purchaser or such other parties that the Purchaser is responsible for.

21.2 Purchaser's Indemnity

The Purchaser shall indemnify the Contractor and all those for whom the Contractor is responsible from and against any claim concerning:

- personal injury or loss of life of any employee of the Purchaser or of those for whom the Purchaser is responsible, and
- loss of or damage to any property of the Purchaser or of those for whom the Purchaser is responsible, other than for Provided Items which shall be subject to sub article 21.1, third bullet point above,

and which might arise in connection with the connection with the performance of the Contract until the Scope of Delivery has been delivered. This applies regardless of any form of liability, whether strict or by negligence, in whatever form, on the part of the Contractor or such other parties that the Contractor is responsible for.

21.3 Notification of Claim

A party shall promptly notify the other party if it receives a claim that the other party is obliged to indemnify. The other party shall, if possible, assume the handling of the claim.

The parties shall provide each other with necessary information and assistance in handling the claim. A party shall not, without the other's consent, accept any claim that the other party is to cover, in whole or in part.

22 THE PURCHASER'S RIGHT OF CANCELLATION FOR CONVENIENCE

The Purchaser is entitled to cancel the Contract in whole or in part by notifying the Contractor in writing if reasonable grounds exist. The notice must give grounds for the cancellation, information about the further procedure, and state the date when the cancellation will take effect.

The Purchaser shall cover documented costs incurred in connection with the work performed, materials and administration. The Purchaser shall also cover any loss of profit relating to the Contract that the Contractor has suffered as a result of the cancellation. Cost control shall be carried out in accordance with Clause 13 Cost Control.

If the Contractor fails to take reasonable steps to limit the costs resulting from the cancellation, the final settlement amount shall be reduced correspondingly.

The amount to be paid shall not under any circumstances exceed the contract price.

The Purchaser is entitled to receive the results of the work already carried out.

23 FORCE MAJEURE

23.1 General Information

If an extraordinary situation that is beyond the Parties' control arises and prevents the Parties from fulfilling their obligations under the Contract, and that under Norwegian law must be considered a force majeure situation, the other Party shall give notice in writing as soon as possible.

If one Party fails to inform the other Party of the force majeure situation without undue delay, that Party shall forfeit its right to claim that fulfilment of the obligation was prevented by a force majeure situation.

The Parties' obligations are suspended for the duration of the extraordinary situation.

Neither Party shall be deemed to be in breach of any obligation under the Contract if and to the extent that the Party can substantiate that fulfilment of the obligation was prevented by force majeure.

23.2 Impact on Costs and Schedule

Each Party shall cover its own costs resulting from the force majeure situation, and force majeure shall not affect the contract price.

After the force majeure situation has ended, the Contractor shall submit any claims for adjustment of the delivery time without undue delay. Such notification shall include an estimate of the changes to the delivery time. If the Contractor fails to comply with this, it shall not be entitled to an adjustment of the delivery time.

23.3 Cancellation for Convenience

If a force majeure situation persists for more than 90 calendar days, or if the Party invoking force majeure can substantiate that it will persist for a longer period, either Party may cancel the Contract as regards the parts affected by the force majeure situation.

24 MISCELLANEOUS PROVISIONS

24.1 Communication

Communication relating to this Contract shall be in writing and take place in English or Norwegian.

All correspondence shall state the contract number and the Purchaser's archive number 20XX/0000000, and shall be sent to the persons specified in Appendix D Points of Contact.

24.2 Duty to Provide Information

The Contractor shall notify the Purchaser in writing of matters that must be assumed to be of importance to the relationship between the Parties or the performance of the Contract, such as material changes in ownership structure, management, accounting principles and auditing firm, financial matters, damage/injuries and accidents, health, safety and the environment, and any unlawful matters.

If the Parties have signed a security agreement, the duty to provide information stipulated therein shall also be fulfilled.

24.3 Visiting Procedures

The Contractor is obliged to comply with the Purchaser's applicable visiting procedures in connection with visits to the Norwegian Armed Forces' facilities. Foreign citizens must submit a request for visit through their respective embassies in accordance with the procedures as described here: www.forsvaret.no/en/contact/request-for-visit.

24.4 Insurance

The Supplier shall provide and maintain the following insurances:

- Full value insurance, or equivalent insurance, covering materiel and documentation under the Contract against loss or damage, in accordance with the insurance conditions.
- Liability insurance covering the Supplier's liability under Clause 22 Indemnity for claims arising from an accident.

Such insurance cover shall be effective from the start of the work and shall not expire until the Scope of Delivery has been delivered in accordance with the Contract.

The policies shall state that the insurers waive all rights of subrogation against the Purchaser.

The Contractor shall notify the Purchaser in appropriate time before the insurance is cancelled, or lapses for any other reason. If the Contractor fails to provide insurance, then the Purchaser is entitled to take out such insurance and claim a refund of the costs incurred from the Contractor in default.

The Contractor shall, at the request of the Purchaser, produce certified copies of the policies or insurance certificates. Such documents shall contain the information necessary to confirm that the Contractor's obligations to insure in accordance with the Contract have been fulfilled.

24.5 Transfer of Claims

The Contactor may not assign any outstanding claims under the Contract to a third party without the Purchaser's prior written consent.

The Contractor shall remain liable for all its obligations under the Contract even if the Purchaser has given such consent.

25 DISPUTES AND GOVERNING LAW

The Contract shall be governed by Norwegian law.

Endeavours shall be made to resolve any disputes arising in connection with the Contract through negotiations between the Parties.

If such negotiations fail to resolve the dispute, either Party may bring the case before the courts with Oslo District Court as the legal venue, unless the Parties agree on arbitration. If the Parties agree on arbitration, it shall take place in Norway and be subject to the provisions of Act No 25 of 14 May 2004 relating to Arbitration.

The fact that a dispute has been brought before the courts or referred to arbitration does not in itself relieve the Parties of their obligations under the Contract.

26 ENTRY INTO FORCE

The Contract enters into force on the day when both Parties have signed the Contract.