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## DRAFT TERMS & CONDITIONS

### SCOPE OF PURCHASE ORDER: **Provision of material required for the logistic support of NATO owned AWACS fleet.**

The Contractor represents that it operates as ☐ an individual ☐ a non-profit organization ☐ a corporation incorporated in .....

The Contractor agrees to deliver all the materiel set forth in the list of items attached to the Terms and Conditions for the consideration stated herein. The rights and obligations of the parties to this purchase order shall be subject to and governed by the Terms and Conditions and the General Provisions. To the extent of any inconsistency between the Terms and Conditions or the General Provisions and any specifications or other provisions which are made a part of this purchase order, by reference or otherwise, the Terms and Conditions and the General Provisions shall control. To the extent of any inconsistency between the Terms and Conditions and the General Provisions, the Terms and Conditions shall control.

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This purchase order consists of:

- Terms and Conditions containing 21 Parts
- NSPA General Provisions for Fixed Price Contracts (Materiel)
- Termination for Convenience of NSPA
- [NSPA Supplier Code of Conduct](#)
- NSPA Materiel Inspection and Shipping Report (MISR) NSPA Form 194
  - Shipping notification form
  - Request for exemption of value added tax
  - List of items

## TERMS AND CONDITIONS

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**Part 1 - Materiel to be furnished**

1. The Contractor will supply to the NATO Support and Procurement Agency in the quantity, condition, at the unit and total price indicated, and on the delivery dates specified, the items described in the attached "List of Items".
2. The delivery schedule is specified in the description of the items.
3. The condition of the material must be NEW of current production, (i.e. Item of latest production in accordance with applicable specifications / drawings in conformance with the appropriate airworthiness standards in production, quality, condition monitoring and documentation).
4. Parts manufactured should be traceable back to the Type Certification holder, the Production Approval Holder, the Original Equipment Manufacturer (OEM) or his authorized representative. For commercial parts, delivery from an authorized representative or distributor with Certificate of Conformance – COC - from the licensed/authorized manufacturer is acceptable unless certificates such as EASA Form One or FAA Form 8130-3 for aircraft flying under relevant airworthiness regulations are provided. Should the latter be mandatory for aircrafts flying under civilian airworthiness regulations, this will be documented against each order line below.
5. SURPLUS material (parts originally bought by a Government and sold as surplus), PMA parts, or otherwise alternate parts, will not be accepted except as otherwise approved on this Order.
6. Aircraft common hardware and fasteners: Contractor's delivery documentation must document the production lot and inspection/testing protocol.

**Part 2 - Prices**

The prices of this purchase order are firm fixed prices. The prices include all costs in respect of identification, preservation, packaging, packing, marking, quality assurance and inspection.

**Part 3 - Pricing Warrant**

The Contractor warrants that the prices included in this purchase order are for comparable quantities, terms and conditions equal to or less than those proposed or that would be proposed to the Contractor's most favored customer, including any other international organization or NATO member state government bodies.

**Part 4 - Point of Delivery and Passage of Title**

1. The Contractor will deliver the materiel: FCA Contractors' Facilities (Incoterms 2020).

2. Title to the materiel will pass to NSPA at the point of delivery. Claims based on latent defects, fraud, gross negligence, or such gross mistakes to amount to fraud, shall not be prejudiced thereby nor shall the guarantees applicable to the materiel or issuance of discrepancy reports be affected by the said passage of title or acceptance of the materiel.

#### **Part 5 - Contractor Notice Regarding Late Delivery**

In the event that the Contractor encounters difficulty in meeting the time limits specified for any materiel, it shall immediately notify NSPA in writing, giving pertinent details. However, this data shall be for information only and shall not be construed as a waiver by NSPA of any time limit or of any rights or remedies provided under this Purchase Order.

#### **Part 6 - Invoicing and Payment**

1. The materiel delivered against this purchase order shall be invoiced within 45 days after delivery.
2. One original invoice shall be submitted to the following address :

As PDF-document to:  
[CIMO@nspa.nato.int](mailto:CIMO@nspa.nato.int)

OR as Hardcopy to :

NSPA  
CIMO OFFICE  
11 rue de la Gare  
L-8302 CAPELLEN

accompanied by the NSPA MISR duly completed as contractually called for, an evidence of delivery, and a copy of the Certificate of Conformity (COC) of the aircraft type certification holder, original OEM or authorized manufacturer, or as applicable FAA Form 8130-3 / EASA Form One. The invoice submitted and the attached MISR shall bear the purchase order reference number, and shall refer to the line items delivered. Faxed invoices will not be accepted for payment.

3. If the Contractor ships the materiel to the final destination, the only acceptable evidence of delivery shall be a document bearing proof of the transportation charges paid by the Contractor. If not shipped by the Contractor, the only acceptable evidence of delivery shall be a receipt document signed by the authorized Shipping Agent or its duly designated representative. The receipt document must clearly indicate the authorized Shipping Agent's name and address, the printed name of the Shipping Agent's Representative and his signature for the receipt of the materiel. In the event the Contractor incurs any transportation charges from the point of delivery to the place indicated by the NSPA Shipping Agent, the charges are to be billed directly to NSPA, duly supported by a price voucher covering the amount paid.

4. The following certificate shall be affixed to each invoice submitted:

*"I certify that this invoice is correct and just, that payment has not been received and that the price is exclusive of all taxes and duties from which NSPA is exempted."*

5. Payment

- a. Payment will be made within thirty (30) days following receipt by NSPA of the Contractor's original invoice drawn for payment in the currency in which the contract is established, and containing the following information: contract number and item number, purchase order number and item number, description of the item, unit of issue, quantity, unit price and total price.
- b. NSPA will pay the net invoice amount and support the charges of its bank. All other charges will be for the Contractor
- c. The payments will be made to the account identified by the Contractor at time of registration to the NSPA Source file.

<b>Part 7 - Liquidated Damages</b>
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3. If the Contractor fails to deliver within the time specified in the purchase order, he shall pay NSPA liquidated damages at the rate of 1 % for each full week of such delay but not more than a total of 10 % of the total price of the materiel not delivered on time.
4. Without prejudice to the final decision regarding the liquidated damages, NSPA shall be entitled to deduct imposed liquidated damages when paying invoices, even in the event that claims deriving from submitted invoices have been assigned or otherwise transferred to third parties. The total of the deductions made by NSPA pursuant to this clause will be considered as full and final satisfaction of all claims received out of late delivery of any item.
5. During a period of one year after delivery and acceptance of the items, NSPA shall have the right to claim liquidated damages even if such right is not reserved at the time when delivery is accepted.
6. The liquidated damages will not apply if the Contractor's failure to perform is due to causes beyond its control and without his fault or negligence.
7. Such causes may include but are not limited to: Acts of God or of the public enemy, acts of Government in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and failure of subcontractors to perform due to such causes. If the Contractor is responsible for obtaining necessary export licenses / permits / DSP forms, it has to ensure that such requests are made in a timely manner so as to not delay shipment. Failure to do so will NOT be considered Force Majeure.

8. The foregoing provisions of this part apply only to delinquencies in deliveries and do not prejudice NSPA's rights under the provisions of the clause entitled "Default" of the General Provisions for Fixed Price Purchase Orders (Materiel).

#### **Part 8 - Quality Assurance Requirements**

The Contractor is responsible for maintaining effective control of the quality of materiel. If the Contractor himself is not the manufacturer of the contracted materiel, he shall impose these quality requirements upon his subcontractor.

In case where an AQAP is specified, the Contractor shall meet its requirements. The Contractor must provide a CoC. In case he is not the manufacturer, he shall provide a copy of the CoC received from the original manufacturer.

The MISR shall not be used in lieu of a CoC.

#### **Part 9 - Completion and Distribution of the NSPA Materiel Inspection Shipping Report (MISR)**

1. Completion.
  - a. The MISR is printed on Form 194. The MISR is available in the Internet. United States Contractors may use DD Form 250, or a modification thereof in lieu of the MISR.
  - b. The Contractor shall complete all blocks, except blocks 22 and 27, which are reserved for use by NSPA. Block 19 of form 194 must also be completed with the relevant Document Number(s).
2. Distribution.
  - a. Four copies inside the exterior container in which materiel is packed for shipment and four copies inserted in a waterproof envelope attached to the outside of the exterior container. If the shipment consists of more than one exterior container, the copies should accompany container n° 1.
  - b. One (1) copy to be attached to the Contractor's invoice.
3. If the Contractor is requested to use the services of a NSPA Shipping Agent, he shall provide the NSPA Shipping Agent with three (3) copies of the MISR.

#### **Part 10 - Item Identification**

1. Whenever circumstances require the substitution of an item or part thereof ordered under this purchase order, the Contractor must refer the proposed substitute to NSPA for approval, together with the NATO Stock Number (if available), Part Number of the proposed substitute, and if applicable, drawing built standard for the part number, including revision details and all major and minor waivers and deviations incorporated.

2. When both NATO Stock Number and Part Number identify an item, the NATO Stock Number will govern except where the Request for Proposal and Order have identified Authorized Part Numbers/references. In the latter case, only such indicated Part Numbers as identified per line item are authorized for delivery

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**Part 11 - Marking for Shipment**

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1. The shipping documentation and all items or tags attached thereto will bear the following information: purchase order number, purchase order line number, NATO Stock number/Part number and quantity.
2. All containers (interior and exterior) will show the vendor's shipment notification number.

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**Part 12 - Preservation, Packaging and Packing, Destination and Shipping Instructions**

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1. Unless otherwise indicated in the Military Specifications of an item (if applicable) or other national/official methods, preservation, packaging and packing shall be performed in accordance with the best commercial practice in line with ATA-300 or equivalent, and shall be such as to assure safe arrival at the final destination, and shall be capable to withstanding extended storage for at least one year under normal, unheated, inside storage conditions. Depending on the weight, volume and nature, the items should normally be delivered on euro pallet(s) at no cost to NSPA. The exterior container will show the number of this purchase order and be provided with a shipping label bearing the full shipping address as indicated in this purchase order. It is imperative that the production serial numbers, when assigned, be clearly marked not only on the item itself, but also on accompanying shipping documentation and the MISR.
2. If a delivery involves age sensitive parts that have aerospace applications and would require supplier compliance with the provisions of MIL-STD 1523A, Age Controls of Age-Sensitive/Elastomeric Material (for Aerospace Application) or national equivalent, then these parts cannot be more than two (2) quarters old from cure date at time of delivery to NSPA. Also, parts must be level "A" packaged and marked per MIL-P-4861B (or National equivalent). This requirement is applicable to the same degree to any item of assembly containing similar parts. Cure date must be clearly labeled on each item.
3. If materiel to be supplied under this purchase order constitutes hazardous or potentially hazardous cargo, the materiel and related shipping and commercial documentation must be processed (this includes but is not necessarily limited to packaging, packing, marking, notices of availability, documentation, emergency response information, etc. etc.), in accordance with applicable national and international transportation rules and regulations pertaining to hazardous or potentially hazardous cargo. A Safety Data Sheet (SDS) must accompany each exterior container (one copy attached outside and one copy inside). One copy of the SDS must also be enclosed with the Dangerous Goods declaration. The Contractor shall be liable for any loss or damage that might occur arising from an incident or accident due to the absence of a correctly completed SDS.

Depending on the type of materiel and mode of transport to be engaged the following are some examples of documentary requirements: Shippers Declaration for Dangerous Goods; Dangerous Goods Transport Document; Safety Data Sheet; Dangerous Goods Declaration; Transport Emergency Card (TREM Card) - European Road Transport, etc.

The following are examples of the various regulations in force: International Air Transport Association (IATA) Regulations; International Maritime Dangerous Goods Code (IMDG); International Regulations concerning rail transport (Europe); Accord Européen relatif au transport international des marchandises dangereuses par route (Europe); Transportation of Dangerous Goods Regulations (Canada).

If electronic parts have been designated as "ELECTROSTATIC DISCHARGE SENSITIVE (ESDS)", there must be protected, packaged, and identified in accordance with DOD-STD-1686 (or National equivalent) requirements. ESDS parts must be individually packaged. The Contractor shall communicate in writing to NSPA the part numbers of ESDS items with the invoice and with each shipment of such items

#### 4. Shipping notification

When the materiel is ready for shipment, the Contractor shall use the form attached for this purpose to this purchase order to submit a shipping notification to NSPA, indicating the following information:

- per shipment: contractor's shipment notification number, expected date of delivery of shipment at destination;
- per materiel of the shipment: purchase order number, purchase order line item number, delivered quantity and, in case of partial delivery, the text "partial delivery".

#### 5. Export License

Unless a NSPA freight forwarder is used, the Contractor will obtain the export license at their own expense and risk and carry out all customs formalities necessary for the exportation of the goods.

#### 6. Storage Conditions

Prior to delivery, the Contractor shall provide NSPA the storage conditions for each item being shipped, in Item Type Storage Code (ITSC) format as defined in NATO Allied Publication ACodP-1. Any change of ITSC after delivery shall be notified to NSPA without delay. The provision of ITSC does not relieve the Contractor to provide detailed information on storage and preservation, such as technical manuals or Safety Data Sheets (SDS) for hazardous material.

### **Part 13 - Warranty**

1. The Warranty provisions as per NSPA General Provisions for Fixed-Price Contracts (Materiel) is supplemented to include the following:



- “The Contractor grants a warranty of five hundred (500) flight hours for aircraft peculiar parts, or two (2) years after delivery, whichever is shortest, or twelve (12) months after delivery of the materiel for other parts.”
  - In case a defective item is accepted by the Contractor for return and replacement / repair under the warranty conditions of this contract, the transportation costs for the defective item from NSPA’s customer to the place where replacement and correction will be made and back to NSPA’s customer, will be borne by the Contractor.
2. The Contractor will comply with the applicable national and / or international regulations with respect to product liability.

#### **Part 14 - Intellectual Property Rights, Royalties and License Rights**

1. The Contractor guarantees that it is in possession of all the necessary intellectual property rights in force in the countries where the items will be manufactured and / or services will be performed, under this contract and in other countries where the intellectual property rights are in force. The contractor possesses any licenses necessary for the performance of this contract and made any other arrangements required to protect NSPA from any liability for intellectual property rights infringement in said countries. The Contractor will at its expense hold NSPA harmless and fully indemnify NSPA against all damages, costs, charges, expenses and the like arising from or incurred by any reason of any infringement or alleged infringement of intellectual property rights in consequence of the provision of the service and / or materiel.
2. The Contractor agrees to assure itself that the Original Equipment Manufacturer(s) (OEM) or any entitled third party have not retained any intellectual property rights, before it provides services and / or manufactures items under the contract. NSPA shall not be liable for intellectual property rights infringements as may be caused by the Contractor.
3. The Contractor confirms that no payments of royalties or fees for intellectual property rights will be claimed by the OEM or any entitled third party for the services performed and / or materiel provided under this contract. In the event that such fees are claimed, the Contractor will bear any and all responsibility.

#### **Part 15 - Termination for Convenience of NSPA**

The provisions applicable to “Termination for Convenience of NSPA” are available in the Internet.

#### **Part 16 - Notification of Changes**

1. If at any time during the performance of this purchase order, the Contractor considers that it has been directed to change or deviate from, in any way, the terms and conditions and/or the scope of this purchase order, it shall notify the contracting officer immediately. This notification shall as a minimum contain a cost breakdown of the

additional costs to be incurred by the Contractor if it would implement the change/deviation and the related impacts on the terms and conditions. This information must be provided to such level of detail to allow the Contracting Officer to provide a comprehensive response within 14 days after receipt of the notification from the Contractor.

2. Following the submission of this notification, the Contractor shall diligently continue performance of this purchase order to the maximum extent possible in accordance with its terms and conditions as originally agreed.
3. NSPA shall not bear any responsibility for work performed by the Contractor outside the purchase order scope and NSPA shall not compensate the Contractor in either time or money for such work not specifically authorized or requested by the Contracting Officer in writing and subsequently included in the purchase order through a Supplemental Agreement.
4. Consequently, the Contractor cannot claim additional money and/or time for work performed during the performance of the purchase order, which has not been identified as part of the scope of this purchase order.

#### **Part 17 - Performance of the Contractor in Time of Alert or War**

The Contractor warrants that on the basis of information available to it that it is not aware of any national law or regulation, or any circumstances that might prevent him from fulfilling its obligations under this purchase order in time of alert or war.

#### **Part 18 - Correspondence**

1. The Contractor will return a signed copy of the purchase order without delay to the address indicated below.
2. All **correspondence** except invoices should be addressed to:

NSPA  
Attn: LW-PP  
L - 8302 CAPELLEN  
GR. D. Luxembourg

Contact point : Gianni RANCITELLI  
Tel : +352 3063 Ext : 7167  
Fax: +352 3063 4300  
email: [gianni.rancitelli@nspa.nato.int](mailto:gianni.rancitelli@nspa.nato.int)

3. Deliveries of materiel to NSPA installations on Friday afternoon, weekends and national holidays cannot be accepted without prior agreement.

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**Part 19 - Publicity and Public Relations**

1. The Contractor shall not make any press release or public statement concerning this contract without the prior written approval of NSPA.
2. The Contractor agrees that, upon request NSPA may provide copies of the signed contract to officials of NSPA's customer nation who are or were directly involved in the procurement of the goods and / or services ordered hereunder.
3. The Contractor shall not use the name, emblem or official seal of NSPA / NSPO or any abbreviation of the name of NSPA / NSPO in connection with its business or otherwise, unless prior authorized in writing by NSPA.

**Part 20 - NSPA Supplier Code of Conduct**

1. The Contractor, its employees, subsidiary or affiliate entities and subcontractors, shall adhere to the minimum standards set forth in the NSPA Supplier Code of Conduct.
2. If the Agency establishes that any of the provisions of the NSPA Supplier Code of Conduct are not complied with, NSPA may terminate this purchase order at no cost to NSPA and your firm may be removed from the Agency's source file after the Agency has informed the relevant national authorities.

**Part 21 - Information Technology- Cyber Security**

1. The Contractor shall adhere to NSPA's information security practices as detailed in this Contract and to IT-/cyber security best practices as detailed in the latest version of the SANS's CIS Controls or alternate framework accepted by NSPA (ISO 27001 series, UK NCSC Cyber Essentials, US DOD Cybersecurity Maturity Model Certification - CMMC, NIST Cybersecurity Framework, AICPA Trust Services Criteria Certification - SOC 2 Framework) or alternate framework approved by NSPA under this Contract. The Contractor shall immediately notify NSPA of any situation when this adherence becomes no longer achievable.
2. The NATO policy on The Management of Non-Classified NATO Information (C-M(2002)60) sets forth the basic principles and minimum standards the Contractor must comply with when handling non-classified NATO information. Any breach of this policy must be reported as an incident in accordance with Part 19.2 above.
3. The Contractor shall use its best endeavour to furnish deliverables under this Contract free of defects and vulnerabilities to IT-/cyber security. To that end, the Contractor shall employ adequate means such as penetration testing, code review, unit testing and other methods as appropriate, and shall provide the results of such means upon NSPA request at no additional cost.
4. The Contractor shall inform the NSPA of any IT-/cyber security incident or suspicion of, occurring in its area of responsibility that may adversely impact its obligations under this Contract, or adversely effect NSPA or its Customer Country with regard to their activities, their property, the integrity of their IT-systems, the integrity of data provided

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by them to the Contractor or by the Contractor to them, their reputation or to any of their readily recognizable interests.

5. This Contractor notification shall occur immediately after discovery of the suspicion as a warning notification to the points of contact identified at Part 17 and the NSPA Cyber Team via email at [security-notifications@nspa.nato.int](mailto:security-notifications@nspa.nato.int) and shall include at a minimum: type of incident, affected data, incident timeline/summary, projected impact, mitigation measures and current status. As soon as possible after the IT-/cyber security incident is averred and under no circumstances later than 48 hours after the warning notification was issued to NSPA, the Contractor shall provide NSPA with a comprehensive update notification. The Contractor shall at any time provide further details regarding the suspected or averred incident upon NSPA request and duly take into account any advice provided by NSPA to the Contractor with a view to adequately manage the incident in all involved parties' best interest.
6. NSPA will endeavour to notify the Contractor when NATO security policy permits, if it becomes aware of any possible IT-/cyber security incident that may adversely impact the Contractor or its supply chain with regard to their activities, their property, the integrity of their IT-systems, the integrity of data provided by NSPA to the Contractor or by the Contractor to NSPA, their reputation or to any of their readily recognizable interests.