

BAE SYSTEMS ES ROCHESTER SPECIAL CONDITIONS

Where these Special Conditions conflict with currently agreed terms the following Special Conditions take precedence.

DEFINITIONS

For the purpose of these Special Conditions;

The terms Goods and Supplies may be used interchangeably and shall mean any goods, including without limitation, materials, technical data, technology, software, hardware, system design documentation, prototypes, test results which are to be provided by the Supplier to the Purchaser pursuant to the Agreement and means any or all of them, as the context may require.

The terms Agreement and Order may be used interchangeably and shall mean the purchase order together with: (a) the BAE Systems Standard Conditions of Purchase; (b) the Special Conditions; (c) the Specification; and (d) any other relevant documents which are expressly referenced on the Order (or, in the absence of such express reference, are deemed to be referenced on the Order).

1. COUNTERFEIT GOODS

1.1 The definitions and rules of interpretation in this clause 1.1 apply to the Agreement:

“Suspect Counterfeit Goods” means any Goods that are suspected by testing, visual inspection or other information to be Counterfeit Goods.

“Counterfeit Goods” means (i) any material, component, part, assembly, sub-assembly, product and any other item forming part of the Goods (together referred to as “Items” and separately as “Item”) in which there is a confirmed indication by visual inspection, testing, or other information that it is a copy or substitute made without legal right or authority or one whose material, performance, Identity or characteristics have been misrepresented by the Supplier, manufacturer or a supplier in the Supplier’s supply chain and/or (ii) previously used parts provided as ‘new’.

“Identity” means any information which relates to the properties or characteristics of the Goods including but not limited to the original manufacturer or suppliers, trademarks or other intellectual property rights, part numbers, date codes, lot numbers, applied testing methods and results, inspections performed, documentation, warranties, origin, alterations, tampering, salvage, recycling, ownership history, packaging, physical condition, previous use and rejection.

“OCM” means the organisation that is the originating source for the production of legitimate components; and

“OEM” means the organisation that is the originating source for the production of legitimate equipment.

1.2 The Supplier warrants that Counterfeit Goods shall not be supplied to the Purchaser or installed in the Purchaser’s products by the Supplier.

1.3 The Supplier warrants that only new, unused, authentic, genuine and legitimate Items shall form part of the Goods supplied to the Purchaser.

1.4 The Supplier may only purchase or source Items directly from OCM/OEM, OCM/OEM authorised (e.g. franchised) distributors or aftermarket manufacturers. Use, purchase or the sourcing of Items from non OCM authorised independent distributors or brokers is not permitted unless first approved in writing by the Purchaser. The Supplier must present compelling support for its request to use such non OCM authorised suppliers for the Purchaser’s approval (including but not limited to OCM documentation that authenticates supply chain traceability of the parts to the OCM) and include in its request all necessary actions it shall take to ensure those Items thus procured are new, unused, authentic, genuine and legitimate Items.

- 1.5 The Supplier shall maintain a method of traceability that ensures tracking of the supply chain back to the manufacturer of all Items included in the Goods being supplied. This traceability method shall clearly identify the name and location of all supply chain intermediaries from the manufacturer to the direct source of each Item for the Supplier and shall include the manufacturer's batch identification for the Item such as but not limited to date codes, lot codes, serializations, or other batch identifications. Full supply chain traceability documentation includes but is not limited to OCM/OEM and authorised (e.g. franchised) Supplier certificates of conformity, Orders and test/inspection data and/or certificates. The Agreement shall specify any such additional documentation (other than as specified in this clause) required by the Purchaser.
- 1.6 If Counterfeit Goods or Suspect Counterfeit Goods are supplied or furnished under the Agreement such Goods shall be impounded. The Supplier shall promptly replace such Goods with Goods acceptable to the Purchaser and the Supplier shall be liable for all costs relating to impoundment, removal and replacement. The Purchaser may notify and turn Counterfeit Goods over to the relevant local or international Government authorities for investigation and the Purchaser reserves the right to withhold payment pending the results of such investigations.
- 1.7 The Supplier shall control Suspect Counterfeit Goods to prevent unintended reuse or re-entry into the market and ensure they are not returned to their supplier unless under controlled circumstances for validation or testing. The Supplier and those entities within its supply chain shall ensure that Counterfeit Goods do not re-enter the market and the Purchaser shall not be liable to the Supplier for the costs of any material that is not returned to the Supplier pursuant to this clause.
- 1.8 This clause 1 applies in addition to any quality provision, Specification, statement of work or other provision included in the Agreement addressing the authenticity of Goods. To the extent that such provisions conflict with this clause, this clause 1 shall prevail.
- 1.9 The Supplier shall flow down these requirements contained in this clause 1 to the Supplier's supply chain for any Items that are intended for supply to the Purchaser.
- 1.10 The Supplier shall inform its employees, contractors, workers and any other third parties (and shall procure that they shall inform their employees, contractors, workers and other third parties) engaged in the performance of work under the Agreement in writing prior to performance of work that there is a risk of criminal penalties associated with any falsification, concealment, fraud or misrepresentation in connection with work performed or Goods provided under the Agreement in the UK and other jurisdictions.
- 1.11 The Supplier shall notify the Purchaser as soon as it becomes aware of any Counterfeit Goods or Suspect Counterfeit Goods which arise in relation to any Goods. Suppliers eligible for utilisation of the Government-Industry Data Exchange Program ("GIDEP") shall utilise the GIDEP process to alert the industry to Counterfeit Goods or Suspect Counterfeit Goods.

2. DELIVERY OF NON-CONFORMING GOODS

- 2.1 If the Supplier wishes to deliver non-conforming Goods they must formally request to do so via a concession request. This should be sent to the buyer named on the face of the Order and must detail the Order, line item number and part number of the Goods as a minimum (plus serial number where applicable), details of the non-conformance, reason for non-conformance, thorough root cause statement and corrective action, together with action to prevent reoccurrence and its effectiveness. The Supplier can only ship the non-conforming Goods if this concession is signed by an approved Purchaser representative, and a Material Review Form (MRF) number is supplied which must be added to the delivery paperwork of the non-conforming Goods.
- 2.2 In the event that Supplier becomes aware of having delivered non-conforming Goods they shall contact Purchaser and take action appropriate to the effects, or potential effects of the

nonconformity. Supplier shall evaluate each non-conformance for its potential to exist in previously produced or delivered Goods, or Goods in transit to Purchaser. Where a non-conformance is identified, Supplier shall notify Purchaser in writing within 24 hours for issues impacting flight safety or for Goods in transit to Purchaser, and in writing within 5 working days for all other issues.

- 2.3 Prior to redelivery of a rejected item, the Supplier shall forward a Supplier Corrective Action Report (SCAR) to the Purchaser. If a SCAR is expected to take longer than this to prepare and submit to the Purchaser then Supplier should make Purchaser aware of the expected date of the report. The reports should be submitted to the buyer named on the face of the Order. In the event that Supplier provides a SCAR that is deemed unacceptable to the Purchaser, the Purchaser shall reject the SCAR and the Supplier shall return an amended SCAR addressing Purchaser's comments within 5 working days of such rejection.

3. PROVISIONAL ACCEPTANCE

- 3.1 The acceptance detailed herein is held under this Agreement to mean provisional acceptance, Supplier may invoice and be paid in accordance with the terms of the Agreement. Notwithstanding the former, the Purchaser reserves the right without liability to test and return faulty Goods at any time until incorporation by the Purchaser into Purchaser's end item.

4. SYSTEMATIC FAULTS

- 4.1 Supplier shall be responsible for, and shall remain liable for all its remedial costs in, at its option, repairing or replacing the Goods in the event that during the Purchaser's subsequent use of the Goods it is shown that the Goods contain faults of a systematic nature which were hidden from the Purchaser at the time of acceptance, and were in existence prior to the date of Delivery, and render the Goods unfit for their intended use or so diminish the Goods that the Purchaser would not have purchased them had it been aware of the faults, and as a result thereof the Purchaser can show that the requirements of the Agreement have not been met, and which:

- i) result from a common cause occurring more frequently than would be predicted from the agreed reliability data;
- ii) notified to the Supplier within one (1) month of discovery by the Purchaser;
- iii) do not arise from fair wear and tear or from failure by the Purchaser or the end-user to operate, maintain and store the Goods correctly; and,
- iv) do not arise from modification or repair damage to the Goods by a party other than the Supplier.

For the purposes of this clause "subsequent use" shall mean a period of five (5) years from acceptance of the Goods.

The term "systematic nature" shall mean the same recurring fault which occurs with sufficient regularity and is of a nature such as to justify the Purchaser in demanding analysis and or remedial action to be taken with respect to the Goods.

5. DEFECTIVE SUPPLIES

- 5.1 Upon becoming aware at any time that there is, or in its reasonable opinion there might be, any defect in the Supplies which might cause death, personal injury, damage to property or economic loss (**Defect**), the Supplier shall:

5.1.1 immediately take all such action as is required to avoid any such consequences;

5.1.2 as soon as reasonably practicable, notify the Purchaser of the Defect and provide information on how the Defect might affect the Purchaser (and/or the Purchaser's customer);

- 5.1.3 as soon as reasonably practicable, agree with the Purchaser in advance any action to be taken by the Supplier (or by the Purchaser) to remedy the Defect and/or any consequences of the Defect and the relevant timescales and then implement such action accordingly (which shall in all cases be at the Supplier's own expense and risk); and
- 5.1.4 provide the Purchaser with information relating to the Defect which the Purchaser (and/or the Purchaser's customer) may from time to time reasonably request.

6. LIABILITIES AND THIRD PARTY INDEMNITIES

- 6.1 The Supplier shall indemnify the Purchaser against any and all liability, loss, claims, costs, expenses or damages of any kind whatsoever suffered or incurred by the Purchaser arising out of or in connection with any claim made by a third party:
 - 6.1.1 arising out of or in connection with the provision of the Supplies, to the extent that such claim arises out of the breach or negligent performance by Supplier, its employees, agents or sub-contractors; and
 - 6.1.2 for death, personal injury or damage to property arising out of or in connection with a defect in the Supplies, to the extent that such defect is attributable to the acts or omissions of the Supplier, its employees, agents or sub-contractors.
- 6.2 Any indemnity provided by the Supplier under the Agreement shall not cover the Purchaser to the extent that a claim under it results solely and directly from the negligence or wilful misconduct of the Purchaser.
- 6.3 Nothing shall restrict or limit a Parties general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under any indemnity provided by the other Party under the Agreement.
- 6.4 Neither Party shall be liable to the other Party for any indirect and consequential losses.
- 6.5 The provisions of this clause 6 shall survive termination of the Agreement, howsoever arising.

7. STANDARDS

- 7.1 As a minimum, the Supplier will ensure that the Order is carried out in conformity with the requirements of its ISO 9001 registration.
- 7.2 The Supplier shall maintain a documented calibration system for the calibration and maintenance of tools, jigs, inspection and test equipment that is compliant to a prevailing industry requirement, such as ISO 10012-1.
- 7.3 A Certificate of Conformity (C of C) is required.
- 7.4 If the Goods have a shelf life, the Supplier shall ensure the expiry date is written on the Certificate of Conformance and the Goods shall have more than two thirds of the shelf life remaining when accepted by the Purchaser.
- 7.5 To the extent the Goods are to be used in a civil application they will need to comply with EASA/FAA legal and regulatory requirements as follows:
 - i) if Supplier holds a design or manufacturing approval issued by the CAA/EASA/FAA, the Goods shall be certified with the appropriate release documentation, e.g. EASA Form 1;
 - ii) if Supplier does not hold an appropriate approval as defined in i) above, Supplier's ability to comply with any applicable legal and regulatory requirements will be determined by the Purchaser, and all Goods shall be released on a certificate of conformance in accordance with your respective ISO 9001 accreditation;

- iii) if the Goods contain metallic piece parts which are considered to affect airworthiness, then all raw materials used in their manufacture MUST be traceable to a CAA approved source unless otherwise agreed in advance with the Purchaser.

7.6 The Purchaser operates a risk based approach to Supplier Quality Assurance and requires access to Quality audit information for audits undertaken by 3rd Party Certification Bodies. Audit information shall be provided as detailed below:

7.6.1 For Suppliers holding AS/EN/JISQ 9100 series approvals, the Purchaser shall be granted Level 2 member company access via OASIS.

7.6.2 For Suppliers not holding AS/EN/JISQ 9100 series approvals, the provision of electronic copies detailing any audit findings will be provided to the Purchaser.

The Purchaser reserves the right to provide OASIS feedback to 3rd party certification bodies in relation to supplier quality, performance and non-conforming product(s).

8. FOREIGN OBJECT DEBRIS (FOD)

8.1 If there is any risk of FOD entrapment in the Goods then the Supplier shall maintain an approved FOD prevention programme. Unless otherwise specified in the Agreement, the programme shall use as a guideline NAS-412 National Aerospace Standard, Foreign Object Damage/FOD Prevention. The programme shall as a minimum embody the precautions listed below. By delivering Goods to the Purchaser, Supplier shall be deemed to have certified to Purchaser that such Goods are free from FOD.

8.2 Definitions;

FOD: A substance, debris or article alien to a vehicle or system which would potentially cause damage.

Foreign Object Damage: Any damage attributed to a foreign object that can be expressed in physical or economic terms which may or may not degrade the Goods safety or performance characteristics.

8.3 Design - where design activity is performed to meet requirements of the Agreement the Supplier shall take appropriate care to prevent the generation of FOD in the use of the delivered Goods. Opportunities for the detachment of any materials from the external faces of an item must be eliminated as far as it is possible and detachment of materials from internal cavities of an item must be minimalised.

Measures to achieve FOD prevention by design include, but are not limited to:

- i) thread locking compounds for internal and external threaded fastenings,
- ii) wire locking for external headed screws and locking nuts, especially where the end use is in a high vibration environment,
- iii) particle capture (e.g. Getter) materials within cavities to arrest conductive, fibrous and other lightweight FOD (especially in optical or electronic cavities),
- iv) mechanical locking washers or similar devices,
- v) appropriate torque figures for threaded fastenings.

Provisions for FOD avoidance by design must be reviewed during design reviews.

8.4 Manufacture - Supplier shall instigate and maintain a process for avoiding the ingress of FOD into deliverable Goods during the manufacturing cycle.

Methods to achieve FOD prevention in manufacture include, but are not limited to:

- i) good housekeeping – minimalising the presence of extraneous materials in the manufacturing areas,.
- ii) careful methods planning – ensuring that FOD is not generated in the course of manufacturing, or, if this is unavoidable, e.g. during wire cropping, that there is a positive method of capturing the waste materials,

- iii) visual inspections scheduled at appropriate times in the manufacturing lifecycle, especially prior to the fitting of covers to an enclosed item.

FOD prevention measures in manufacturing will be reviewed during audits or at other times deemed necessary by the Purchaser.

- 8.5 Packaging - Supplier shall instigate and maintain a process for avoiding the ingress of FOD into deliverable Goods during the packaging and delivery cycle.

Preferred packaging material types are;

- i) paper sheets,
- ii) bubble wrap,

Discouraged packaging material types are;

- iii) polystyrene chips (environmentally unfriendly, small pieces increase risk of FOD, and Polystyrene is extremely static which can cause issues during production),
- iv) shredded paper.

9. FIRST ARTICLE INSPECTION (FAI)

- 9.1 The Supplier shall perform an FAI and submit the FAI report prior to the first shipment of Goods provided against Purchaser's drawing in the Agreement. The Supplier shall only release the FAI against the formally issued drawings and approved change notes.

An FAI is not required IF Goods have been previously supplied or IF a previous FAI has been performed. Standard catalogue parts are therefore excluded from this requirement.

A repeat FAI shall be performed if any of the following applies:

- i) one or more significant changes have been made to the Goods. 'Significant' here means where there is any effect on the form, fit or function of the Goods, thus causing a part number, or part number/issue increment. A change of material would count as a 'form' change,
- ii) there has been a significant change to the Supplier's manufacturing process. 'Significant' here means a change of key manufacturing equipment (incl. programming of test stations / measuring equipment), and/or personnel, or the introduction of, or removal of, process stages which could affect final product quality,
- iii) there has been a change of manufacturing location,
- iv) there has been a change of a sub-tier supplier of a critical sub-part or outsourced process,
- v) there has been a break in supply of the ordered Goods of greater than twenty-four (24) calendar months (e.g. non-contiguous follow-on orders).

- 9.2 Repeat FAIs may be full or partial, the scope being determined by Purchaser on notification by the Supplier of the nature of the change. Supplier shall notify Purchaser a minimum of 5 days prior to creating or starting any changes that affect the Goods, however if attachment "Control of Equipment Baseline" is referenced in the Agreement the terms in this attachment shall take precedence.

- 9.3 The FAI is to be performed by the Supplier in accordance with AS9102 at latest revision, including, but not limited to, the recording of actual dimensions / test data results / process control / build traceability, thus ensuring that the Goods are fully compliant with the approved design data.

- 9.4 The FAI report is to be completed by the Supplier in accordance with AS9102 at latest revision, and shall, in addition, include separate FAI reports completed against all drawn items, all items where a design requirement is captured, and all items within the Supplier and or Purchaser bill of materials.

- 9.5 It is the Purchaser's preference for advanced copies of the FAI report to be e-mailed to reduce processing delays of Goods received at Purchaser's inwards goods. Goods requiring FAI will not be booked in (i.e. accepted and processed for payment) until an FAI report has been received and deemed acceptable by the Purchaser's quality assurance.

FAI reports containing US Controlled data (ITAR/EAR) data should not be sent in with the goods but emailed to Rochester.compliance@baesystems.com along with details of the appropriate US Export License (TAA/MLA/DSP-5 License reference number) and copied to the buyer named on the face of the purchase order using a secure method.

FAI reports NOT containing US Controlled data (ITAR/EAR) copies should be emailed to fai-rep.rochester@baesystems.com or posted to the FAI coordinator, Quality Assurance, BAE Systems Electronic Systems, Marconi Way, Rochester, Kent ME1 2XX UK.

10. CHANGE CONTROL

- 10.1 "Equipment Baseline" shall mean the item configuration referenced in the Agreement. All changes to the Equipment Baseline shall be submitted to the Purchaser, as set out in 10.2 and 10.3 below, for classification concurrence and, where required approval via a change proposal.

- 10.2 Class 1 Changes are defined as any change to the Goods (including in process or place of manufacture) required to either correct deficiencies within the Goods, change resident software or firmware, add or modify interface requirements, or modify effectiveness or performance. A Class 1 Change may be a change which impacts upon life cycle, cost, schedule, safety, manufacturing bill of materials, or that can affect form, fit or function. Supplier approved Class 1 Changes shall not be embodied in the Goods prior to the Purchaser's approval of the change. In order to facilitate Purchaser approval the Supplier shall provide a formal change proposal for each Class 1 Change which shall include any safety impact and proposed embodiment point.

- 10.3 Class 2 Changes are defined as all other changes to the Goods that are not considered by the Supplier and/or categorised by the Purchaser as Class 1 changes. Supplier approved Class 2 changes may be embodied into the Goods at the Supplier's risk prior to delivery to the Purchaser but must be submitted to the Purchaser for its records and for Purchaser concurrence at least sixty (60) days prior to the shipment of the affected Goods or as otherwise stated within an agreed configuration management plan. In the event that the Purchaser upon review reclassifies a Class 2 Change submitted by the Supplier to a Class 1 Change, the Supplier shall rescind the change and revert to the approved Equipment Baseline until such time as the Class 1 change is approved by the Purchaser in accordance with the process outlined in paragraph 10.2 above. In this event any changes embodied prior to and during the Class 1 change approval cycle shall be re-worked to reflect the Equipment Baseline at no liability to the Purchaser.

- 10.4 The Supplier shall flow down the requirements contained in this clause to its supply chain.

11. MATERIAL TRACEABILITY FOR NON-ELECTRONIC ITEMS

- 11.1 The following definitions are used in this clause;

Electronic Item means an integrated circuit, a discrete electronic component (including, but not limited to, a transistor, capacitor, resistor, or diode), or a circuit assembly.

Non-electronic Item means any item that is not an Electronic item.

Proprietary Item means a Non-electronic Item where the manufacturer of the item is specified in the Specification or any associated parts lists.

Non-Proprietary Item means a Non-electronic Item made to a widely available specification where the manufacture of that item can be from multiple sources.

Items means both Proprietary and Non-Proprietary Items.

- 11.2 This clause covers Non-electronic items and takes precedence for these, for Electronic Items refer to clause 1 of these Special Conditions.
- 11.3 The Supplier shall only purchase or source Non-Proprietary items where traceability back to the original material can be maintained The Supplier shall ensure that the method of traceability clearly identifies the name and location of all supply chain intermediaries from the original manufacturer to the direct source of each Item and shall include the manufacturer's batch identification such as but not limited to date codes, batch codes, serializations, or other batch identifications.
- 11.4 Traceability documentation shall include but not be limited to;

Proprietary Items – As a minimum Distributer certificates of conformity with confirmation of manufacturers name with product in original manufacturer packaging and test/inspection data where applicable

Non-Proprietary Items - material certificates, original manufacturer certificates of conformity, plating and secondary operation certificates, orders and test/inspection data where applicable. For hardware purchased to a commercial standard such as BS, ISO and DIN that are not typically accompanied by evidence of full traceability, a distributor certificate of conformance accompanied by evidence of testing is acceptable.

Testing shall be completed as follows:

Hardware Type	Commercial Standard	Test type	Pass/Fail Criteria	Sample
Fastener	BS, ISO, DIN	Tensile strength testing to BSI BS EN ISO 3506-1	Section 7 Tables 1-8	1%, min 5 off
Washer	BS, ISO, DIN	Hardness testing to Hardness Vickers BSI BS EN ISO 6507-1	As per material specification or Drawing	1%, min 5 off

- 11.5 If non-traceable Items are found to be within the Goods supplied or furnished under the Agreement such Goods shall be quarantined. The Supplier shall promptly replace such Goods with Goods acceptable to the Purchaser and the Supplier shall be liable for all costs relating to removal and replacement.
- 11.6 This clause 11 applies in addition to any quality provision, Specification, statement of work or other provision included in the Agreement addressing the traceability of Goods. To the extent that such provisions conflict with this clause, this clause 11 shall prevail.
- 11.7 The Supplier shall flow down these requirements contained in this clause 11 to the Supplier's supply chain for any Items that are intended for supply to the Purchaser.
- 11.8 The Supplier shall notify the Purchaser as soon as it becomes aware of any non-traceable Items which arise in relation to any Goods.

12. DATA RETENTION AND TRACEABILITY

- 12.1 "Traceable Data" means data as follows, for Goods (other than components and raw materials):
- i) data needed to design, develop, manufacture, assemble, test, support and/or dispose of the Goods and which is directly traceable to the Goods (specific item type or item serial number). Traceability should be maintained from individual components (e.g. raw metal billet or electronic components) through to the finished Goods. Goods include simple

processing (i.e. cutting only, no finishing) or fabrication (i.e. culmination of raw material and component parts including finishes),

- ii) data relating to product safety,
- iii) records relating to measuring and test equipment that are directly traceable to the Goods.

- 12.2 The Supplier shall retain Traceable Data for a minimum period of 12 (twelve) years from completion of the Warranty period. Traceable data shall not be destroyed (either within or without the data retention period) without the prior written agreement of the Purchaser.
- 12.3 Where the Agreement is for components or raw material then the Supplier shall provide Purchaser with copies of the certificate of conformance trail as specified in the configuration or traceability attachments referenced in the Agreement unless already provided with the original delivery.

13. LAST TIME BUY

- 13.1 Prior to any action to discontinue the provision of the Goods, the Supplier shall provide the Purchaser with a "Last Time Buy Notice" at least twelve (12) months prior to any such action.
- 13.2 Prior to any action to discontinue using a component of the Goods, by reason of, including but not limited to, obsolescence of the component, the Supplier shall provide the Purchaser with a "Last Time Buy Notice" at least twelve (12) months prior to any such action.
- 13.3 All such "Last Time Buy Notices" as detailed above should be sent to the central email address Roch.Componenteng@baesystems.com as well as to the relevant buyer named on the face of the Order.
- 13.4 The provisions of this clause survive the delivery of the Goods and apply irrespective of whether the Supplier already has adequate stock of these Goods.

14. ARTIFICIAL INTELLIGENCE

- 14.1 Artificial Intelligence: The Supplier undertakes, warrants and represents not to (and shall procure any third party, whether appointed by it directly or indirectly, shall not):-
- (i) use, disclose, permit or otherwise facilitate use, input, enter, copy, summarise (including development and/or use of prompts and/or enquires or similar) any Purchaser Information or other information belonging to the BAE Systems Group and/or any of its third party suppliers and/or customers (whether in whole or in part and/or directly or indirectly) in or connection with any AI System in any way whatsoever; and/or
 - (ii) (ii) use, access, permit or otherwise facilitate use (whether in whole or in part and/or directly or indirectly) any form of Artificial Intelligence and/or any AI Systems in any way in the provision of the Deliverables and/or Supplies under this Agreement unless the Purchaser, in its sole discretion, has: (a) given its prior written consent; and (b) appropriate terms have been entered into by the Parties by way of a Special Condition, and provided further that such Special Condition shall be incorporated into the Supplier's contractual arrangements with any third party (including any subcontractor approved by the Purchaser) used in respect of the Deliverables and/or Supplies under this Agreement.

15. REACH

To the extent that The REACH etc. (Amendment etc.) (EU Exit) Regulations 2019 (SI 2019/758 and subsequent amending SIs) ("UK REACH") or the EU Registration Evaluation Authorisation

and Restriction of Chemicals Regulation (1907/2006) (“EU REACH”) (UK REACH and EU REACH, together “REACH”) apply to any Supplies, the Supplier shall:

- 15.1 Comply with REACH and other chemical legislation as applicable;
- 15.2 Where required, ensure that the substances present in the Supplies have been registered in accordance with REACH by the Supplier (where the Supplier is registered in the UK) or by the Supplier’s appointed ‘Only Representative’ registered in the UK (where the Supplier is registered outside the UK);
- 15.3 Provide to the Purchaser all necessary information in order for the Purchaser to comply with and/or be satisfied that the Supplier has complied with REACH (including without limitation, safety data sheets, information required under Article 33 of REACH (Communications on Substance of Very High Concern (SVHC) where the SVHC content of an article is greater than 0.1% w/w) for each relevant article in an assembly, chemical composition data, test data, hazard information and exposure scenarios) and permit the Purchaser to disclose such information to a third party where the Purchaser deems it necessary or is required by REACH;
- 15.4 Where a substance present in the Supplies is listed in Annex XIV of REACH, ensure and confirm to the Purchaser that such chemical substance is authorised for the Purchaser’s particular use, sale or disposal of the Supplies;
- 15.5 Promptly notify the Purchaser of any applicable restriction on the use of substances present in the Supplies as set out in the list of restrictions under UK REACH or Annex XVII under EU REACH or communicated by an authority implementing REACH which impacts, or is likely to impact, the Purchaser’s use, sale or disposal of the Supplies;
- 15.6 Promptly notify the Purchaser of any changes to such chemical substance status under REACH (for example, the move of an SVHC from the candidate list to Annex XIV of REACH); and
- 15.7 Promptly notify the Purchaser of the Supplier’s obsolescence mitigation strategy in respect of the Supplies (e.g. reformulation or discontinuation of Supplies).

16. INFORMATION SECURITY

- 16.1 The Supplier shall at all times implement and maintain appropriate levels of security to protect all Purchaser Information which shall:

- 16.1.1 Comply with the relevant BAE Systems Information Security Requirements;
- 16.1.2 Reflect Good Industry Practice; and
- 16.1.3 Comply with all applicable laws and regulations.

In this clause 16, “BAE Systems Information Security Requirements” mean: (i) the BAE Systems information security requirements identified as “Information Security Requirements Level 1”; and (ii) any additional information security requirements that have been incorporated by way of a Special Condition, in each case as at the date of the Agreement and made available at <https://www.baesystems.com/en/what-we-do/suppliers/united-kingdom/supplier-it-security-requirements>.

- 16.2 In the event that the Supplier is unable to comply with the relevant BAE Systems Information Security Requirements, the Supplier shall immediately notify the Purchaser and put forward an implementation plan (the “Implementation Plan”) for the Purchaser’s approval. The Implementation Plan shall identify (i) the contracts with the Purchaser that are affected; (ii) a unique identifier for the Implementation Plan; (iii) the specific controls and/or measures that are unmet, the steps to be taken and the time period required by the Supplier to achieve full compliance with the relevant BAE Systems Information Security Requirements; (iv) the Supplier’s current level of compliance against the applicable BAE Systems Information Security

Requirements (as a whole) and the expected level of compliance once the Implementation Plan has been fully implemented; and (v) any compensatory or equivalent measures that the Supplier has in place which appropriately mitigate the risks arising from any of the relevant BAE Systems Information Security Requirements not being met. The Purchaser shall consider the Implementation Plan and: either (a) approve it; or (b) where, in the Purchaser's sole opinion, the Implementation Plan is not acceptable to the Purchaser, the Parties shall agree any amendments, acting reasonably and in good faith, that are required in order for the Implementation Plan to be approved by the Purchaser and, in either case following any such approval, the Supplier shall work towards, and achieve, compliance by the date stated in the Implementation Plan.

- 16.3 Upon becoming aware of, or reasonably suspecting, an Information Security Incident, the Supplier shall notify the Purchaser of the same in accordance with the relevant BAE Systems Information Security Requirements.
- 16.4 At the request of the Purchaser, the Supplier shall (at no additional cost to the Purchaser) appoint an independent auditor to verify the Supplier's compliance with its obligations under this clause 16 **provided that** the Purchaser shall not be permitted to make more than 1 (one) request to the Supplier during any twelve (12) calendar month period unless the Supplier suffers an Information Security Incident. The independent auditor must possess the appropriate experience and qualifications, be selected in accordance with Good Industry Practice and be acceptable to the Purchaser. At the request of the Purchaser, the Supplier shall, within 10 (ten) Business Days of such request, provide the Purchaser with an audit certificate from such auditor and an annual SSAE 18 (SOC 2 Type 2) report along with all other material required under the relevant BAE Systems Information Security Requirements. Where any such audit report or material discloses any material findings of non-compliance by the auditor, the Supplier shall promptly remediate the issues raised to the satisfaction of the auditor.
- 16.5 The Supplier shall insert the substance of this Clause 16, including the BAE Systems Information Security Requirements in its agreements with any persons that the Supplier engages to deliver the Supplies.

17. EXPORT CONTROL

- 17.1 The Supplier shall notify the Purchaser in writing at the time the Order is accepted if the Supplies (or any part thereof) are Controlled Material.
- 17.2 If the Supplies (or any part thereof) are Controlled Material:
- 17.2.1 the Supplier will provide a fully completed and signed Declaration Form when requested by the Purchaser and in any event no later than 30 (thirty) calendar days before delivery of any Controlled Material to the Purchaser; and
- 17.2.2 the provisions of Schedule 1 shall apply to and be incorporated into the Agreement (or shall be deemed to apply to and be incorporated into the Agreement from the date of the Agreement).
- 17.3 The Supplier shall:
- 17.3.1 immediately notify the Purchaser in writing in the event it become aware or there is reason to believe that any of the information provided in accordance with clauses 17.1 or 17.2.1 is inaccurate or has changed; and
- 17.3.2 respond promptly to any written request by the Purchaser to confirm or update any information provided in accordance with clauses 17.1 or 17.2.
- 17.4 Where the Supplier requires access to Purchaser Information that is Controlled Material and that requires export licences or other authorisations to enable such access by the Supplier, the

Purchaser shall ensure that the Controlled Material is identified as such and that the required licences and/or other authorisations are in place. Unless otherwise agreed, all Supplies will be delivered to and performed in the UK and all Purchaser Information will be held by the Supplier in the UK.

SCHEDULE 1: EXPORT CONTROL

1. EXPORT CONTROL

- 1.1 The following definitions shall apply to this Schedule 1:
- 1.1.1 "EAR" means the US Department of Commerce's Export Administration Regulations;
 - 1.1.2 "EAR Technology" has the meaning given to it in the EAR;
 - 1.1.3 "ITAR" means the US Department of State's International Traffic in Arms Regulations;
 - 1.1.4 "ITAR Defense Article" has the meaning given to it in the ITAR;
 - 1.1.5 "ITAR Technical Data" has the meaning given to it in the ITAR;
 - 1.1.6 "FMS" means the US Government's Foreign Military Sales programme authorised by the Arms Export Control Act; and
 - 1.1.7 "FMS Technology" means the equivalent of ITAR Technical Data but provided under FMS.
- 1.2 Each Party shall comply with all applicable import and export control laws and regulations in fulfilling the Agreement.
- 1.3 The Supplier shall provide all information and copies of any documents relating to the Supplies (or any part thereof) which the Purchaser reasonably requires to comply with all applicable import and export control laws and regulations.
- 1.4 The Supplier shall:
- 1.4.1 obtain all required export licences, agreements and other authorisations and comply with all associated registration and reporting obligations necessary to ensure delivery of the Supplies to the Purchaser, its end-user(s) and any foreign consignees, intermediate consignees, sub-licensees or freight forwarders in accordance with the delivery or performance dates required under the Agreement; and
 - 1.4.2 comply with all conditions relating to the export, re-export, transfer (including re-transfer) or use of Controlled Material contained within export licences, agreements and other authorisations.
- 1.5 If any of the Supplies (or any part thereof) are Controlled Material and are regulated under FMS or the ITAR or EAR (unless such are classified by the US exporter/manufacturer as EAR99 in which case the Supplier shall notify the Purchaser of this status in writing), the Supplier shall:
- 1.5.1 immediately after the Order is accepted, consult with the Purchaser about the relevant authorisations required from the appropriate US authorities and request information from the Purchaser which is necessary to make the Supplier's authorisation request to the US authorities complete and accurate, including without limitation, full details of end use, end user(s), foreign consignees, intermediate consignees, sub-licensees and any other requirements such as

information on dual or third country national employees, contract employees, location, or pre-existing company organisation authorisations which may be applicable; and

1.5.2 provide to the Purchaser the following further information and documentation in writing at the time the Order is accepted or no later than 30 (thirty) calendar days prior to the first agreed scheduled delivery or performance date: (a) details of the relevant US export licence, agreement or other authorisation (including details of any exemptions or exceptions), such details to include the reference numbers and dates, authorised parties and end use as specified in clause 1.5.1, and any limitations/provisos; or (b) full copies of such US export licences, agreements or other authorisations, including any correspondence with the US Department of State or the US Department of Commerce consenting to or giving guidance on the use of exemptions or exceptions or listing limitations/provisos that are necessary for the Purchaser's compliance.

- 1.6 FMS Delivery. Unless the applicable regulations have been revised to require otherwise, for each item of FMS Controlled Material being delivered by the Supplier, the Supplier shall include as an integral part of the invoice and, in the case of FMS Technology, on the document itself: (a) the country of ultimate destination; (b) the end user; (c) the FMS case number or other approval number.

1.6.1 In respect of FMS Technology the following additional marking must be included on the cover sheet or document itself: "FMS Technology: US FOREIGN MILITARY SALES CONTROLLED DATA" This data is controlled for export, re-export and retransfer pursuant to 22 CFR 126.6(a). This information is authorized to the (i) country of ultimate destination: [insert]; (ii) end user(s): [insert]; (iii) under FMS case [insert case identifier]. The U.S. Government point of contact is [insert government point of contact], telephone [insert telephone number]."

- 1.7 ITAR Delivery. Unless the applicable regulations have been revised to require otherwise, for each ITAR Defense Article being delivered by the Supplier, the Supplier shall include as an integral part of the invoice and, in the case of ITAR Technical Data, on the document itself: (a) the country of ultimate destination; (b) the end user; (c) the license or other approval number or exemption citation; and (d) the Destination Control Statement required under the ITAR (i.e. 22 C.F.R. 123.9).

1.7.1 In respect of ITAR Technical Data the following additional marking must be included on the cover sheet or document itself: "EXPORT CONTROLLED DATA: This document contains technical information and the export, re-export and re-transfer is governed by the U.S. International Traffic in Arms Regulations (ITAR)".

1.7.2 When also exporting or re-exporting items subject to the EAR pursuant to a Department of State license or other authorisation or approval, the Supplier must also provide the Purchaser with the appropriate EAR classification information for each item. This includes the Export Control Classification Number (ECCN) or EAR99 designation.

- 1.8 EAR Delivery. Unless the applicable regulations have been revised to require otherwise, for each item of EAR Controlled Material being delivered by the Supplier, the Supplier shall include as an integral part of the invoice that accompanies the shipment, and, in the case of EAR Technology, on the EAR Technology itself: (a) the country of ultimate destination; (b) the end user; (c) the license or other approval number or exemption citation; and (d) the Destination Control Statement required under the EAR (i.e. 15 C.F.R. 758.6).

1.8.1 In respect of EAR Technology the following additional marking must be included on the cover sheet or document itself: "EXPORT CONTROLLED DATA: This document contains technical information and the export, re-export and transfer (in-country) is governed by the U.S. Export Administration Regulations (EAR)".

- 1.9 Where practical, the Supplier shall segregate deliveries of FMS, ITAR and EAR Controlled Material from other deliveries, and shall not mix FMS Controlled Material, ITAR Controlled

Material or EAR Controlled Material on the same licences, agreements or authorisations unless permitted by US laws and regulations.

- 1.10 If engaged in the business of either exporting or manufacturing (whether exporting or not) ITAR Defence Articles or Defence Services (as defined in the ITAR 22 C.F.R 120.31 and 120.32 respectively), the Supplier shall maintain an effective export/import compliance program in accordance with the ITAR and, if located in the US, shall register with the US Department of State as required by the ITAR.
- 1.11 If engaged in brokering activities within the meaning of the ITAR (22 C.F.R. 129), the Supplier shall obtain and maintain registration with the US Department of State as required by the ITAR and shall obtain and maintain any necessary approval with respect to the Supplies.
- 1.12 If, in the performance of the Agreement, either Party is, or envisages being, engaged in trafficking and brokering activities under any jurisdiction, for example where Controlled Material is to be moved between two third countries, they shall inform the other Party insofar as those activities impose any legal obligations on the other Party. The Parties shall, in addition to any US brokering requirements, obtain and maintain the registrations and authorisations that are required under all applicable legislation.
- 1.13 The Supplier recognises and accepts that the Supplier and the Purchaser have disclosure requirements when making applications for the export, re-export, or retransfer of US defense articles or defense services subject to the ITAR Part 130. In this context, when requested to do so by the Purchaser, the Supplier shall make a written certification to the Purchaser in a timely manner and not later than 20 (twenty) calendar days after receipt of such request, stating all necessary information required to comply with Part 130 of the ITAR.
- 1.14 The Supplier shall provide immediate written notification to the Purchaser in the event of any changes to information provided to the Purchaser under this Schedule 1 or any changes in circumstances affecting any licence or agreement, and shall respond promptly to any written inquiry made by the Purchaser seeking to confirm or update information in relation to the Supplier.
- 1.15 At the Purchaser's direction, the Supplier shall return or destroy all of the FMS Technology, ITAR Technical Data and/or EAR Technology or other Controlled Material exported to the Supplier pursuant to the Order upon fulfilment of its terms, send written confirmation of the destruction to the Purchaser within 5 (five) Business Days of the destruction, and create and maintain the records required under FMS, the ITAR and/or EAR.