



**Description of Acquisition**

**NCB-ACT-JFCNF-22-118**

This NCB is issued by Allied Command Transformation (ACT) on behalf of Joint Force Command, Norfolk (JFC-NF). All questions and correspondence shall be addressed to the identified ACT Contracting points of contact.

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## PART 1 BIDDING INSTRUCTIONS

### 1. General

This is a Firm Fixed Price Deliverables contract in accordance the General Terms and Conditions; Contract Award is contingent upon funding availability; partial bidding is not allowed.

### 2. CLASSIFICATION

This NCB is a NATO UNCLASSIFIED document.

### 3. DEFINITIONS

- (a) The term “Bidder”, shall refer to the bidding entity that has completed a bid in response to this NCB.
- (b) The term Contractor shall refer to the bidding entity to whom the contract is awarded.
- (c) The term “Contracting Officer” designates the official who executes this NCB on behalf of HQ SACT/JFC-NF.
- (d) “Contracting Officer’s Technical Representative” or “COTR” is the official who is appointed for the purpose of determining compliance of the successful bid, per the technical specifications.
- (e) The term “HQ SACT” shall refer to Supreme Headquarters Allied Command Transformation.
- (f) The term “ACT” shall refer to Allied Commander Transformation.
- (g) The term “JFC-NF” shall refer to Joint Force Command Norfolk.
- (h) The term “NATO”, shall refer to the North Atlantic Treaty Organisation.
- (i) The term “days” as used in this NCB shall, unless otherwise stated, be interpreted as meaning calendar days.

### 4. ELIGIBILITY

This NCB is open to companies:

- (a) Established in a North Atlantic Treaty Organisation Alliance member nation.
- (b) Working in the required field of study and legally authorised to operate in the

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United States of America, at the time of bidding.

- (c) Which have demonstrated the desired past performance as described in this NCB.  
(d) **Offering key personnel who are citizens of NATO member nations.**

### 5. DURATION OF CONTRACT

- (a) The contract awarded shall be effective upon date of award.

#### Period of Performance:

**Base Period:** Contract award – 31 December 2022. Four 12-month option periods (1 January – 31 December 2023, 1 January – 31 December 2024, 1 January – 31 December 2025, 1 January – 31 December 2026) shall be exercised at the sole discretion of the HQ SACT Contracting Officer, based on satisfactory work performance, available funding, and on-going/evolving requirements.

The following table outlines delivery expectations for the base + options.

Base period – Award – 31 Dec 22	Delivery, installation and training of the CCTV system.
Options 1 - 4	<ul style="list-style-type: none"><li>• Annual Preventative Maintenance</li><li>• Software License as applicable</li><li>• Corrective maintenance as needed (separately funded)</li><li>• Emerging requirements as needed (separately funded)</li></ul> <p>Proposed corrective maintenance or emerging requirements shall be considered surge and require additional price proposal and purchase order or authorisation to proceed by Contracting Officer <i>prior</i> to being conducted.</p>

### 6. EXEMPTION OF TAXES

- (a) In accordance with the agreements, (Article VIII of the Paris Protocol dated, 25 August 1952) goods and services under this contract are exempt from taxes, duties and similar charges.

## 7. AMENDMENT OR CANCELLATION

- (a) HQ SACT reserves the right to amend or delete any one or more of the terms, conditions or provisions of the NCB prior to the date set for bid closing. A solicitation amendment or amendments shall announce such action.
- (b) HQ SACT reserves the right to cancel, at any time, this NCB either partially or in its entirety. No legal liability on the part of HQ SACT shall be considered for recovery of costs in connection to bid preparation. All efforts undertaken by any bidder shall be done considering and accepting, that no costs shall be recovered from HQ SACT.

## 8. BIDDER CLARIFICATIONS

- (a) Prospective Bidders should seek clarification at their earliest convenience. Any explanation regarding the meaning or interpretation of this NCB, terms, clause, provision or specifications, shall be requested in writing, from the Contracting Officer. The Contracting Officer must receive such requests for clarification no later than **10 days prior to closing**.
- (b) Information in response to all inquiries / requests for clarification to a prospective bidder shall be furnished to all prospective bidders at the following link: <http://www.act.nato.int/contracting> as a Question and Answer addendum. All such addendums and any necessary solicitation amendments shall be incorporated into this NCB. Oral Interpretations shall not be binding.

## 9. SITE VISIT

JFC-NF will convene a site visit for interested bidders to conduct a walkthrough of facilities. The site visit will be held on 20 Oct 2022 at 1000, or 03<sup>rd</sup> Nov 2022 at 1000 at JFC-NF, 1486 Blandy Road, Suite 156, Norfolk, VA 23551 (Buildings NH-19). Attendance at the site visit is highly encouraged. Installation access is requested using the Base Access Request Form (required 5 business days in advance) which is included at Annex C along with instructions for completion.

## 10. BID CLOSING DATE

Bids shall be received at HQ SACT, Purchasing and Contracting Office, no later than **10 Nov 2022, 0900 hours, Eastern Standard Time, Norfolk, Virginia, USA.**

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No bids shall be accepted after this time and date.

### 11. BID VALIDITY

Bids shall remain valid for a period of one hundred and twenty days (120) from the applicable closing date set forth within this NCB. HQ SACT reserves the right to request an extension of validity. Bidder shall be entitled to either grant or deny this extension of validity; HQ SACT shall automatically consider a denial to extend the validity as a withdrawal of the bid.

### 12. CONTENT OF PROPOSAL

The proposal shall consist of 2 separate single PDF documents (Technical / Price) sent via e-mail as per the instructions. **No hard copy proposals are required or will be accepted.** E-mailed PDF documents shall be received no later than **10 Nov 2022, 0900 hours, Eastern Standard Time, Norfolk, Virginia, USA.**

A table of contents for the entire proposal

- (a) The bidder's full name address, Point of Contacts, Telephone, Fax number and Internet site
- (b) Compliance statement
- (c) Provision of financial and technical volumes
- (d) Provision of separate proposed Preventative Maintenance Schedule (include in technical volume)
- (e) Provision of separate annual software license agreement (if applicable) (include in technical volume)
- (f) Completed Annex B
- (g) Past Performance

### 13. PROPOSAL SUBMISSION

- (a) Proposals shall be submitted in two separately e-mailed packages, one containing a **single PDF document** of the full Technical volume and one containing a **single PDF document** of the Price volume. **Multiple files that must be pieced together to form the technical proposal will be rejected.** The e-mail subject and PDF files shall be clearly marked with the NCB Solicitation reference number NCB-ACT-JFCNF-22-118 and indicate if it is the

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Technical or Price Volume.

- (b) **Price proposals shall be in U.S. Dollar currency.** Contractor may request payment post award in alternate currency based on NATO published conversion rate for applicable year. Prices shall be on a Firm Fixed Price Basis and include any relevant discount schedule.
- (c) It is the sole responsibility of the interested company to review any Q & A that may be issued in support of this solicitation, prior to bid submission at [www.act.nato.int/contracting](http://www.act.nato.int/contracting).
- (d) No oral bids or oral modifications or telephonic bids shall be considered.
- (e) It is the ultimate responsibility prior to submission that all proposal submissions are reviewed to ensure they meet the technical and administrative specifications and that offers meet the limitations and expressed conditions.
- (f) Any assumptions by the Contractor that could affect technical compliance or bid pricing should be addressed as a Q&A prior to the established deadline.

### 14. LATE PROPOSALS

- (a) It is solely the bidder's responsibility to ensure that the proposal reaches HQ SACT prior to the established closing date and time. All late bids shall be disqualified. Only if it can be unequivocally demonstrated that the late arrival of the bid package was the result of NATO staff negligence (mishandling) shall the bid be considered. **Delays in receipt due to server processes either at the contractor's facility, HQ SACT or both do not constitute an acceptable delay to the deadline. Contractors should ensure there is sufficient time to transmit proposals and confirm receipt prior to the established deadline.**

### 15. BID WITHDRAWAL

A bidder may withdraw their bid up to the date and time specified for bid closing. Such a withdrawal must be completed in writing via e-mail to the HQ SACT Contracting Officer. As A bid withdraw will be annotated on the Contract Award Record.

### 16. BID EVALUATION

- (a) The evaluation of bids and determination as to the responsiveness and technical adequacy or technical compliance, of the products or services

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requested, shall be the responsibility of HQ SACT. Such determinations shall be consistent with the evaluation criteria specified in the NCB. HQ SACT is not responsible for any content that is not clearly identified in any proposal package.

(b) Proposals shall be evaluated and awarded based on a lowest priced technically compliant basis. The following factors are considerations:

- Successful administrative submission of bid packages and requested documents.
- Compliance with mandatory criteria identified in Annex B (Compliant / Non-Compliant)
- Acceptance of HQ SACT General Terms and Conditions.

### 17. PROPOSAL CLARIFICATIONS

During the entire evaluation process HQ SACT reserves the right to discuss any bid with the order to clarify what is offered and interpretation of language within the bid, to resolve any potential areas of non-compliance.

HQ SACT will collect information from references provided by the Offer or in regard to its past performance. Contractors must provide authorization to contact references.

HQ SACT reserves the right to negotiate minor deviations to the listed General Terms and Conditions to this NCB.

### 18. AWARD

HQ SACT intends to award a single firm-fixed price deliverables contract. Partial award will not be considered. Travel costs, if required, should be considered and included in the development of bid price.

### 19. COMMUNICATIONS

All communication related to this NCB, between a prospective bidder and HQ SACT shall only be through the nominated HQ SACT Contracting Officer. Designated contracting staff shall assist the HQ SACT Contracting Officer in the administrative process. There shall be no contact with other HQ SACT or JFC-NF personnel in regards to this NCB. Such adherence shall ensure Fair and Open Competition with equal consideration and competitive footing to all interested



parties.

**20. POINT OF CONTACT INFORMATION FOR QUESTIONS:**

Mihaela Neacsu, ACT Contract Specialist, 757-747-4197,  
[mihaela.neacsu@act.nato.int](mailto:mihaela.neacsu@act.nato.int)

Tonya Bonilla, ACT Contracting Officer 757-747-3575,  
[tonya.bonilla@act.nato.int](mailto:tonya.bonilla@act.nato.int)

**21. E-MAIL ADDRESS FOR PROPOSAL SUBMISSION:**

[techproposal@act.nato.int](mailto:techproposal@act.nato.int) – Technical proposal submission  
[priceproposal@act.nato.int](mailto:priceproposal@act.nato.int) – Price proposal submission

ENCLOSURE 1

*PROPOSAL CONTENT / CHECKLIST*

Table of Contents

- Bidder`s name, address, POC, Contact numbers, email address.
- Compliance Statement.
- Past performance.
- List of Key personnel.
- Technical proposal.
- Price Proposal.

ENCLOSURE 2

COMPLIANCE STATEMENT TO SEALED BID NCB-ACT-SACT-22-118

It is hereby stated that our company has read and understands all documentation issued as part of NCB-ACT-JFCNF-22-118. Our company proposal submitted in response to the referenced solicitation is fully compliant with the provisions of NCB-ACT-JFCNF-22-118 and the intended contract with the following exception(s); such exemptions are considered non-substantial to the HQ SACT solicitation provisions issued.

<u>Clause</u>	<u>Description of Minor Deviation.</u>
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If applicable, add another page)

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

Name & Title: \_\_\_\_\_ Date: \_\_\_\_\_

Company Bid Reference: \_\_\_\_\_

Bidder’s proposal must be based on full compliance with the terms, conditions and requirements of the NCB and all future clarifications and/or amendments. The bidder may offer variations in specific implementation and operational details provided that the functional and performance requirements are fully satisfied. In case of conflict between the compliance statement and the detailed evidence or explanation furnished, the detailed evidence/comments shall take precedence/priority for the actual determination of compliance. Minor or non-substantial deviations may be accepted. Substantial changes shall be considered non-responsive. **Any deviation with a potential impact on compliance should be addressed through the Q&A process prior to bid closing.**

ENCLOSURE 3

PAST PERFORMANCE INFORMATION FORM (you may submit Letter of Reference in lieu of past performance citation)

- (a) Contracting Agency:
- (b) Contract No:
- (c) Type of Contract (Firm Fixed Price, IDIQ, Requirements):
- (d) Title of Contract:
- (e) Description of Work Performance and Relevance to Current Acquisition (Type of facility, capacity, estimated patronage, summary of staff used):
- (f) Contract Dollar Amount:
- (g) Period of Performance:
- (h) Name, Address, Fax and Telephone No. of Reference:
- (i) Indicate Whether Reference Acted as Prime or Sub-contractor:
- (j) Comments regarding compliance with contract terms and conditions:
- (k) Complete Contact Information for client:
- (l) Permission to contact client for reference: Yes/ No

Name/Signature of Authorized Company Official

This Enclosure is designed to assist the respective company provide HQ SACT with all necessary documents/information required. For clarification, please refer to Bidding instructions in part 1 of subject solicitation.

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ENCLOSURE 4

**NCB-ACT-JFCNF-22-118 SEALED BID PRICE PROPOSAL**

COMPANY NAME: **ABC, Inc**  
ADDRESS: **Street,**  
CITY, POST CODE

**TO:** Chairman of Supreme Allied Commander Transformation, (HQ SACT)  
Contracts Award Committee.  
ATTN: Tonya Bonilla  
7857 Blandy Road, Suite 100  
Norfolk, VA 23551

Please verify and acknowledge propriety of above, by duly completing signatures below. Authorizing  
Company Official:

Printed \_\_\_\_\_ Name: \_\_\_\_\_  
Position: \_\_\_\_\_  
Title: \_\_\_\_\_

Authorizing Company (Signature): \_\_\_\_\_, Date: \_\_\_\_\_.

**Company name** Witness Official:

Printed \_\_\_\_\_ Name: \_\_\_\_\_  
Position: \_\_\_\_\_  
Title: \_\_\_\_\_

Witness Signature: \_\_\_\_\_, Date \_\_\_\_\_

**SUBJECT: NCB-ACT-JFCNF-22-118 Sealed Bid Price Proposal**

Please find on behalf of **Insert: Company Name** to provide HQ SACT with services (collectively referred as “ITEMS”), subject to the provisions, terms and conditions stated in NCB ACT-JFCNS-22-118 and the “**Insert : Company Name** Technical proposal”, submitted in accordance with solicitation provisions.

	<b>Price</b>
Base period – Award – 31 December  Design, Installation and Training of CCTV System (Price should be fully loaded and include all labour, equipment, and travel costs required to provide the proposed solution).	<b>(provide breakdown of major cost categories (labor / equipment / travel).</b>  \$
Option Period One – 1 January 2023 – 31 December <b>2023 Annual preventative maintenance</b>	<b>(include breakdown by proposed scheduled service visits)</b>  \$
Option Period One – 1 January 2023 – 31 December <b>2023 Annual software license (if applicable)</b>	<b>(Indicate if license fee is single or ‘by user’)</b>  \$
Option Period Two – 1 January 2024 – 31 December <b>2024 Annual preventative maintenance</b>	<b>(include breakdown by proposed scheduled service visits)</b>  \$
Option Period Two – 1 January 2024 – 31 December <b>2024 Annual software license (if applicable)</b>	<b>(Indicate if license fee is single or ‘by user’)</b>  \$
Option Period Three – 1 January 2025 – 31 December <b>2025 Annual preventative maintenance</b>	<b>(include breakdown by proposed scheduled service visits)</b>

	\$
Option Period Three – 1 January 2025 – 31 December 2025 <b>Annual software license (if applicable)</b>	<b>(Indicate if license fee is single or ‘by user’)</b>
	\$
Option Period Four – 1 January 2026 – 31 December 2026 <b>Annual preventative maintenance</b>	<b>(include breakdown by proposed scheduled service visits)</b>
	\$
Option Period Four – 1 January 2026 – 31 December 2026 <b>Annual software license (if applicable)</b>	<b>(Indicate if license fee is single or ‘by user’)</b>
	\$

Total Proposal Cost \$ \_\_\_\_\_

Please verify and acknowledge propriety of above, by duly completing signatures below.

Authorizing Company Official:

Printed \_\_\_\_\_ Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Position: \_\_\_\_\_

Authorizing Company (Signature): \_\_\_\_\_, Date:\_\_\_\_\_.

**Company name** Witness Official:

Printed \_\_\_\_\_ Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Position: \_\_\_\_\_

Witness Signature: Date



## PART 2 STATEMENT OF WORK

### Statement of Work INTEGRATED ELECTRONIC SECURITY SYSTEM in support of JFCNF Security Office

1. **Introduction.** The Joint Force Command Norfolk (JFCNF) was established in 2019 and achieved full operational capability in July 2021. JFCNF aims to enhance its security posture and better comply with NATO security policies and directives. JFCNF is located on Naval Support Activity Hampton Roads and occupies a portion of building NH-19.
2. **Scope of Services.** JFCNF requires closed circuit television (CCTV) to monitor locations internal and external to the command. JFCNF requires a capability to record CCTV video for a period of at least 28 days. Following the delivery of a CCTV solution, JFCNF requires preventative and corrective maintenance to sustain the functionality of CCTV system.
3. **Type of Contract.** Firm Fixed Price, Deliverables contract in accordance with the General Terms and Conditions; as such all employer responsibilities for the contractor performing under this contract shall lie with the contractor company.
4. **Period of Performance.** Award – though 31 Dec 2022, for Four 12 month option periods 1 Jan 2023 – 31 December 2023, 1 Jan 2024 – 31 December 2024, 1 January 2025 – 31 December 2025, 1 January 2026 – 31 December 2026.
5. **Surge.** A surge capability requirement is included to have a contract vehicle in place should emerging circumstances require additional equipment/labour requirements such as in the case of corrective maintenance or expansion/upgrade of the installed system. The Contractor Company shall be prepared to evaluate requirements and submit a price proposal for any new requirement for consideration. Surge proposals will be evaluated by the Contracting Officer for fair and reasonable pricing and should be developed based upon the same pricing structure as the original contract proposal. Surge efforts will be incorporated by formal contract modification. Requests for pricing do not constitute any commitment to contract for additional work; contractor will not be reimbursed costs for preparing price proposals for consideration.
6. **Contractor Requirements.** The contractor shall design and install a CCTV solution to include labor, management, equipment, and inspection. The contractor shall:
  - a. Design a CCTV solution to monitor the access points identified in Annex A and verified during site visit. Design is subject to JFCNF review/approval.

- b. Install cameras, monitor(s), recording equipment, and related items to meet the below minimum attributes:
  - i. Cameras: minimum 4 megapixel resolution to enable identification of personnel.
  - ii. Monitor: minimum 55 inch 4K to enable real-time verification and identification of personnel.
  - iii. Recording equipment: minimum 28-day digital archive of recorded video.
  
- c. Deliver an initial set of as-built drawings.
  
- d. Include minimum of a 12-month warranty period of the delivered equipment and installation.
  
- e. Provide initial user training to an audience of three security personnel on the use and operation of the CCTV system.
  
- f. Provide any applicable equipment or system manuals or training materials.
  
- g. Provide preventative maintenance and calibration of the CCTV system in accordance with original equipment manufacturer's recommendations and industry best practices. Proposed annual PM schedule beginning January 2023 shall be included in the contractor's proposal and all workmanship shall include a minimum 90-day warranty period.
  
- h. Perform preventative or routine corrective maintenance during normal JFCNF working hours. PM or routine maintenance shall be coordinated with the COTR to ensure availability of on-site escort.
  
- i. Provide a minimum of one expert CCTV technician available to accomplish work described in this SOW.
  
- j. Contractor must propose at least one expert CCTV technician to accomplish work described.
  
- k. Contractor (company) shall be able to provide 24/7 - 365 day emergency assessment or repairs within 48 hours of notification.

7. **Experience.** The contractor (company) shall have a minimum of 5 years of experience in successfully providing CCTV installation and maintenance services.
8. **Implementation Plan.** The contractor shall submit a detailed plan for work, proposed location of cameras and equipment based on site visit and Annex A, schedule of work activities, and estimated timeframe for installation of proposed system. Deviations or proposed changes to the implementation plan due to unforeseen circumstances at the time of bidding shall be reviewed and approved by the COTR GS 13 Heather Rosario and GS11 Robert Rice.
9. **Contractor Performance Reporting.**
- a. **Supervision.** The contractor shall report directly to the Contracting Officer's Technical Representative (COTR). The COTR can recommend to the Contracting Officer, who has final authority that the contract/SOW to be amended, extended or cancelled for evolving requirements, new tasking and/or technical non-performance. The COTR (or designated representative) shall provide direction, guidance, and support information, as needed, for all technical and content areas of the SOW, especially the tasking and deliverables. The COTR shall:
- (1) On behalf of the Contracting Officer, attempt to resolve outstanding disputes, problems, deficiencies, and/or questions on the technical aspects of the SOW.
  - (2) Review (and approve) all contractor tasking and deliverables for completeness and accuracy.
  - (3) The COTR shall review the contractor's work at a minimum of monthly, or more often if needed. The COTR's written approval of work performed is mandatory for contractor invoices to be successfully processed.
- b. **Work Standards.** The contractor agrees that all work shall be performed in accordance with industry standards to include any necessary safety or quality assurance checks. All work shall comply with:
- (1) Manufacturer or Vendor Technical Manuals.
  - (2) Installation Design Plans for the CCTV system.
  - (3) NATO security directive requirements:

(a) Penetrations into the perimeter of the building and into security areas shall be sealed with spray foam or similar materials.

(b) CCTV components and wiring shall not be placed within one (1) meter of equipment and wires that are used to process classified information. This spatial separation does not apply to fiber optic cables.

(c) CCTV cameras in security areas shall be positioned so that viewing of computer monitors and other displays is not possible.

(d) All microphones shall be physically disabled.

(e) All WiFi, Bluetooth and similar wireless capabilities shall be physically disabled on all CCTV components. If physically disabling wireless capabilities is not practical, the contractor shall implement logical or procedural safeguards and inform the COTR in writing.

10. **Place of Performance.** On-site work, JFCNF 1486 Blandy Road, Suite 156, Norfolk, VA 23551 (Buildings NH-19).

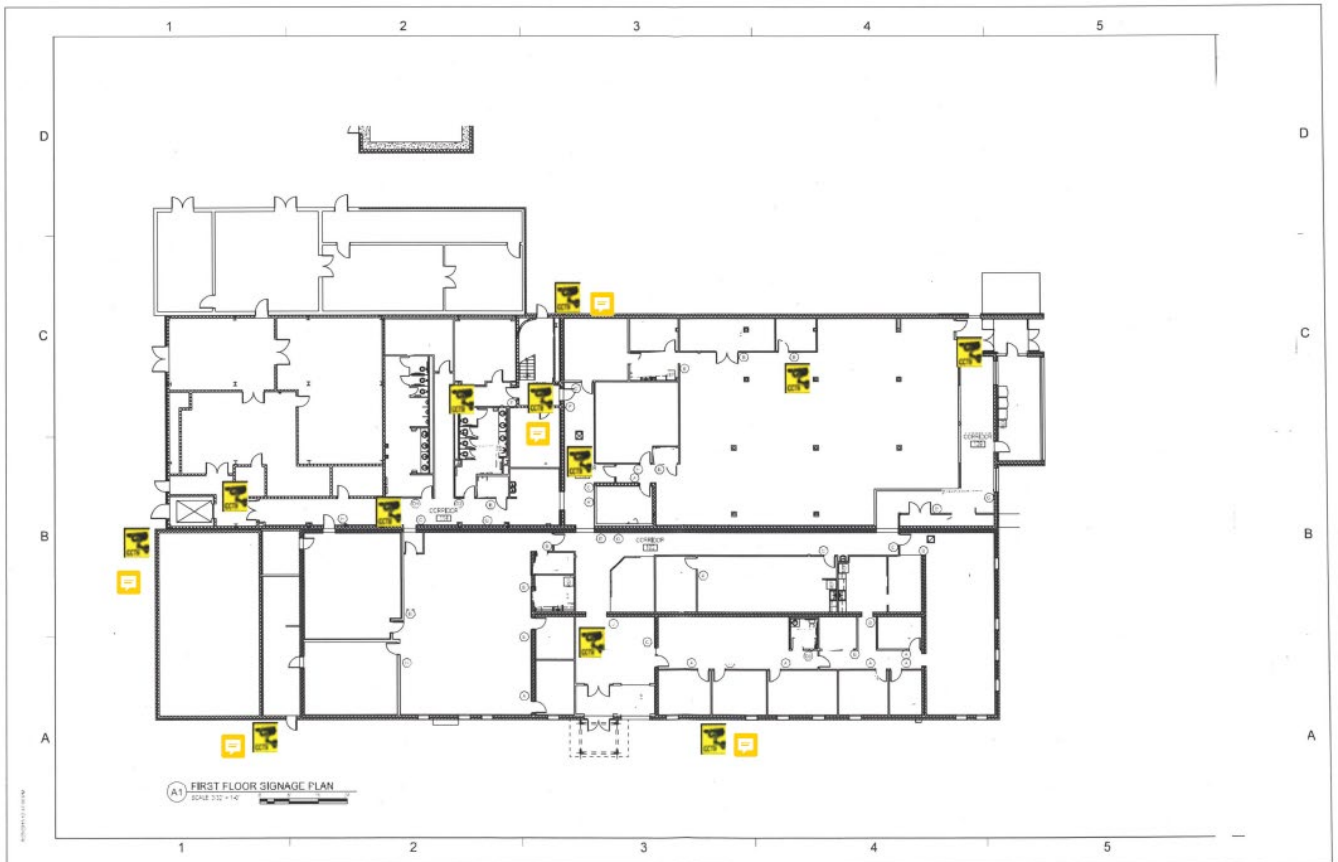
11. **Security.** The work will be performed on a government installation. Contractor personnel involved in the performance of this contract will require a NATO or National SECRET security clearance in order to work without escort. Contractor personnel who do not hold an active NATO or National SECRET security clearance shall be escorted by JFC-NF personnel while on site work is conducted.

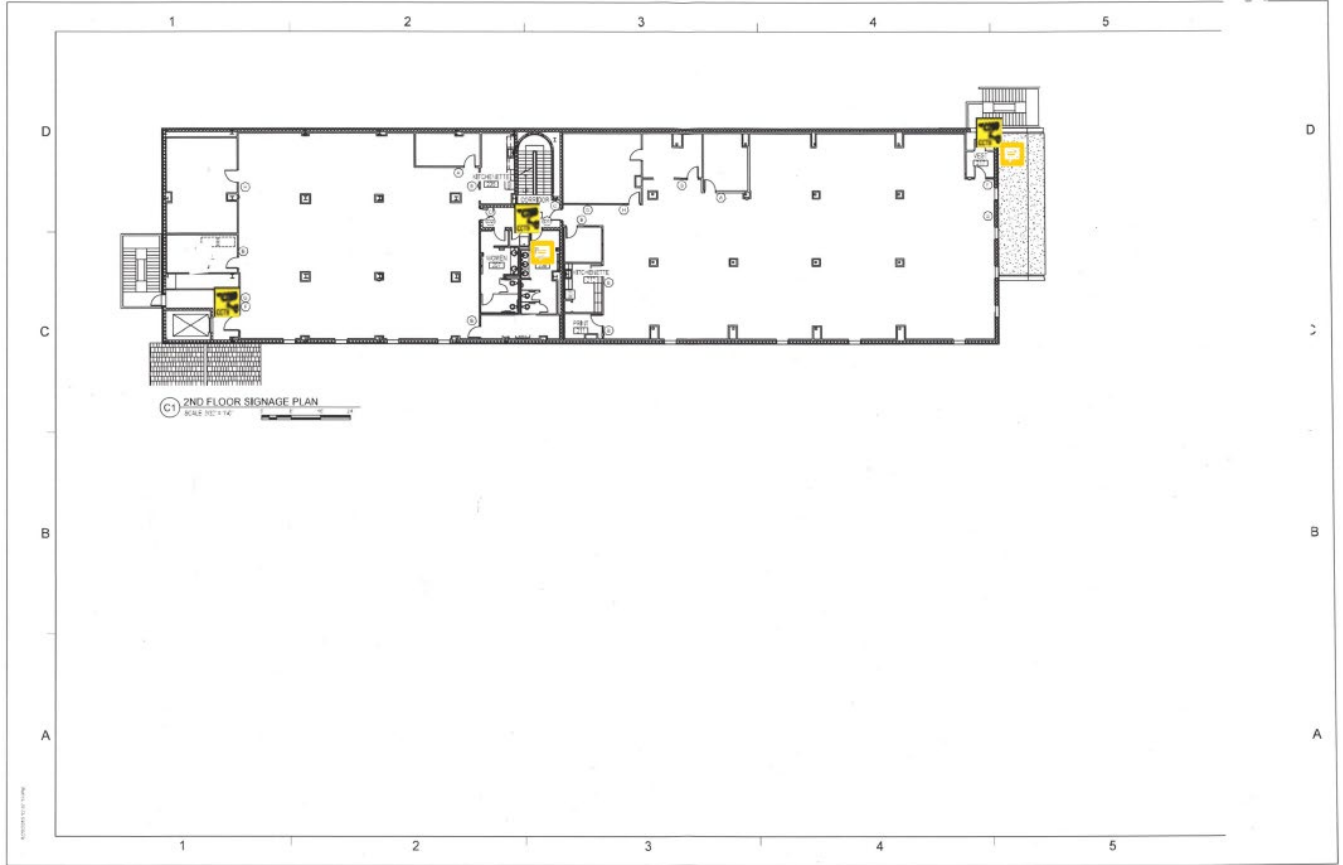
- a. **Security Conditions.** The contractor must adhere to the current security directives and conditions at JFCNF. Contractor personnel shall comply with all local host nations, NATO security provisions and other policies and procedures, as required.
- b. **Building/Installation Access.** The Contractor shall be fully responsible for ensuring that he/she has all needed vehicle passes and decals, and individual access badges and documents for appropriate access to the JFCNF facility.
- c. **Electronic Devices.** All contractor personnel shall abide by the security restrictions regarding carrying and using electronic devices (e.g. laptops, cell phones, smart watches) in JFCNF. The contractor will be responsible for obtaining authorization from the JFCNF Security Officer before bringing any such device into the work environment.

ANNEX:  
A: CCTV Plan  
B: Compliance Matrix

ART 3 ANNEX A-C

ANNEX A  
CCTV Plan





**ANNEX B**  
**Lowest Priced Technically Compliance criteria**

Company Name:

**COMPLIANCE MATRIX**

<b>REQUIREMENTS/QUALIFICATIONS</b>	<b>COMPLIANCE (Y/N)</b>
1. Contractor has proposed at least one expert CCTV technician to accomplish work described.	
2. Contractor (company) shall be able to provide 24/7 - 365 day emergency repairs.	
3. CCTV solution designed to monitor access points identified in Annex A.	
4. Proposed equipment meets minimum technical attributes as identified in para 5b.	
5. Proposal includes delivery of As-Built drawings.	
6. Minimum 12-month warranty of equipment and installation is included.	
7. Proposal includes initial user training that covers the use and operation of the CCTV system for a minimum of 3 personnel.	
8. Proposal includes a separate annual maintenance schedule in accordance with OEM recommendations and industry best practices.	
9. Proposal identifies and includes separate annual software licensure requirements if applicable.	
10. Company has minimum 5 years' experience providing CCTV installation and maintenance services	

Annex C



Joint Force Command Norfolk  
Base Access Request Form



In accordance with Commander Navy Region Mid-Atlantic installation access policy, unescorted visitors must submit personal information prior to gaining access. Visitors will be placed on an access list and contractors must register for a Rapid Gate NCAC card or obtain a temporary, one (1) day pass from the Pass & ID office located off of Hampton Blvd across from Naval Station Norfolk, Gate 5. **Important: Please read the information on the second page.**

Please complete this form and return it to the JFCNF Security Office.

Date:

Visitor Information

Full Name (Last, First, Middle)\*:

Date of Birth (Year/Mon/Day)\*:

SSN (US

Citizens)\*: Civilian Military (Rank):

Contractor (Company):

Passport Information (Foreign Nationals)

Country\*:

Passport Number\*:

Date(s) of Visit: (            ) To (            )

Installation (choose all that apply)

Naval Support Activity Hampton Roads

Other:

Sponsor Information

Name:  
Phone:

Rank:  
Billet Code:

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**To Be Completed By JFCNF Security Personnel**

Date Received: \_\_\_\_\_

Name/Sign: \_\_\_\_\_

**Official Stamp**



Important Information & Instructions

Contractor access will only be granted via a Rapid Gate NCACs card or temporary, one (1) day pass issued from Pass & ID on Hampton Blvd.

Unescorted visitors who do not possess a valid, Department of Defence ID card must submit their personal information including name, date of birth, SSN, or passport number.

Requests for US visitors must be submitted at least five (5) working days prior to the scheduled visit. Requests for International visitors must be submitted at least two (2) weeks prior to the scheduled visit.

Sponsors: Please complete a separate form for each visitor. If there are multiple visitors (i.e., 10 or more) who will be attending on the same date(s), you may complete one form and attach a list that contains the information marked with an (\*).

Please insure you include the date(s) of visit, installation(s) requiring access, and the sponsor information on the Base Access Request Form.

Sponsors: You may e-mail this form to your guests and have them complete the sections and return it to you.

If you have any questions, please contact the JFCNF Security Officer at 757-974-6027.

**PART 4 TERMS AND CONDITIONS**

**JFC-NF General Contract Terms and  
Conditions**

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- 37. Enforcement**
- 38. Order of Precedence**
- 39. Entire Agreement**

**1. Definitions.** As used throughout this contract, the following terms shall have meanings as set forth below:

a. "JFC-NF" means the Joint Force Command – Norfolk (JFC-NF), NSA Hampton Roads, Building NH-19, 1468 Blandy Road, Suite 158, Norfolk, VA 23551-2490

b. Contracting Officer means the person executing and managing this contract on behalf of JFC-NF.

c. Inspector means a person appointed by the Contracting Officer for the purpose of determining compliance with the technical requirements of the contract.

d. The North Atlantic Treaty Organization is hereafter referred to as "NATO".

e. The term "days" shall be interpreted as meaning calendar days

**2. Applicable law.** Except as otherwise provided in this contract, this contract shall be governed, interpreted and construed with the laws of the commonwealth of Virginia of the United States of America.

**3. Assignment.** This agreement is not assignable by the Contractor either in whole or in part unless agreed in writing by JFC-NF Contracting Officer in accordance with;

a. Any modifications, including changes, additions or deletions and instructions under this contract shall not be binding unless issued in writing by the Contracting Officer

b. Sub-contractors shall be limited to citizens or legal entities of member nations of NATO, unless specifically authorized by the Contracting Officer.

c. The Contractor shall determine that any sub-contractor proposed by him for the furnishing of supplies or services which shall involve access to classified information in the Contractor's custody has been granted an appropriate facility security clearance by the sub-contractor's national authorities, which is still in effect, prior to being given access to such classified information.

#### 4. Acceptance

a. Acceptance or rejection of the supplies shall be made as promptly as practicable after delivery, except as otherwise provided in this contract.

b. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or otherwise stated in the Contract. It is the action by which JFC-NF acknowledges that the Contractor has fully demonstrated that the deliveries are complete and operational. The formal acceptance will take place when the following requirements have been met:

- Availability at final destination of all deliverables.
- Successful completion of acceptance testing.
- Verification of the inventory.
- Satisfactory completion of all training or other services, if any, required by that date.
- Agreement between the Contracting Officer and the Contractor on a discrepancy list (if necessary) and corresponding clearance dates.

c. When discrepancies exist and if these do not prevent satisfactory use or operation of the supplies, the Contracting Officer may declare the acceptance provisional. In this case he will withhold from payment an amount commensurate with the importance of the discrepancies but in any case not less than ten (10) percent of the total contract value and this until all discrepancies have been cleared; at that time the acceptance becomes final.

**5. Service and Parts Availability.** Unless as specified otherwise in the Technical Specifications, the Contractor and his subcontractors will maintain and furnish a source of an adequate supply of services, components, spare parts and sub-assemblies to properly maintain the supplies for a period of minimum five (5) years from Contract Effective Date.

#### 6. Preferred Customer

a. The Contractor warrants that the prices set forth in this contract are as favorable as those extended to any Government, Agency, Company, Organization or individual purchasing like quantities covered by the contract under similar conditions. In the event that prior to complete delivery under this contract the Contractor offers any of such items in substantially similar quantities to any customer at prices lower than those set forth herein, the Contractor shall so notify JFC-NF and the prices of such items shall be correspondingly reduced by a supplement to this contract.

b. Prices in this sense means "Base Price" prior to applying any bonuses.

## 7. Notice of Shipment

a. At the time of delivery of any supplies to a carrier for transportation, the Contractor shall give notice of shipment to the Contracting Officer and to such other persons or installations as are designated by the Contracting Officer. If such instructions have not been received by the Contractor at least one working day prior to such delivery to a carrier, the Contractor shall request instructions from the Contracting Officer concerning notice of shipment to be given.

b. The following information shall be included in such notification:

(1) Contract Number

(2) Shipping address

From: (Name and complete address of consignor) To:

(Name and complete address of consignee)

(3) Listing of supplies by Contract Items(s)

(4) Number of and marking on packages(s)

(5) Weight and dimensions of packages(s)

(6) Name and address of Carrier, mode and date of shipment with waybill number,

(7) Customs documents required by Contractor (if applicable).

## 8. Security

a. The Contractor shall comply with all security requirements prescribed by JFC-NF and the National Security Authority or designated security agency of each NATO country in which the contract is performed.

b. The Contractor shall be responsible for the safeguarding of NATO classified information, material and equipment entrusted to him or generated by him in connection with the performance of the contract.

c. Any known or suspected breaches of security or other matters of security significance shall be reported by the Contractor to the Contracting Officer and to the National Security Authority or designated security agency.

d. The Contractor shall apply to the Contracting Officer for approval before sub-contracting any part of the work, if the sub-contract would involve the sub-contractor in access to classified information. The Contractor shall place the sub-contractor under security obligations no less stringent than those applied to his own contract

## 9. Inspection

a. Unless otherwise specifically provided for in the specifications, all equipment, materials and articles incorporated in the work covered by this contract are to be new and of the most suitable grade of their respective kinds for the purposes intended. All workmanship shall be first class.

b. All supplies (which terms throughout this clause includes without limitation raw materials, components, intermediate assemblies, and end products) shall be subject to inspection and test by JFC-NF, to the extent practicable at all times and places including the period of manufacture, and in any event prior to acceptance.

c. In case any supplies are defective in material or workmanship or otherwise not in conformity with the requirements of this contract, JFC-NF shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction or to accept them against reduction in price which is equitable under the circumstances.

d. If any inspection or test is made by JFC-NF on the premises of the Contractor or sub-contractor, the Contractor without additional charge shall provide all reasonable facilities and assistance to inspectors in the performance of their duties. If HQ SACT inspection or test is made at a point other than the premises of the Contractor or a sub-contractor, it shall be at the expense of JFC-NF except as otherwise provided in this contract. In case of rejection JFC-NF shall not be liable for any reduction in value of samples used in connection with such inspection or test. JFC-NF reserves the right to charge to the Contractor any additional cost of JFC-NF inspection and test when supplies are not ready at the time such inspection, when test is requested by Contractor or when reinspection or retest is necessitated by prior rejection. Failure to inspect supplies shall neither relieve the Contractor from responsibility for such supplies as are not in accordance with the contract requirements nor impose liability on JFC-NF therefore.

e. The inspection and test by JFC-NF of any supplies does not relieve the Contractor from any responsibility regarding defects or other failures to meet the contract requirements which may be discovered prior to acceptance. Except as otherwise provided in the contract, acceptance shall be conclusive except as regards latent defects, hidden deficiencies, fraud, or such gross mistakes as amount to fraud.

**10. Title.** Unless specified elsewhere in this contract, title to supplies furnished under this contract shall pass to JFC-NF upon acceptance, regardless of when or where JFC-NF takes physical possession.

**11. Supply Warranty**

a. Notwithstanding inspection and acceptance by JFC-NF of supplies furnished under the contract or any provision of this contract concerning the conclusiveness thereof, the Contractor warrants that for a period of twelve (12) months following the date of acceptance:

- (1) All supplies furnished under this contract will be free from defects in material or workmanship and will conform with the specifications and all other requirements of this contract; and
- (2) The preservation, packaging, packing and marking and the preparation for and method of shipment of such supplies will conform with the requirements of this contract.

b. The Contracting Officer shall give written notice to the Contractor of any breach of the warranties in paragraph a. of this clause within thirty (30) days after discovery of any defect.

c. Within a reasonable time after such notice, the Contracting Officer may either:

- (1) By written notice require the prompt correction or replacement of any supplies or part thereof (including preservation, packaging, packing and marking) that do not conform with requirements of this contract within the meaning of Paragraph a. of this clause; or
- (2) Retain such supplies, whereupon the contract price thereof shall be reduced by an amount equitable under the circumstances and the Contractor shall promptly make appropriate payment.

d. When return, correction or replacement is required, the Contracting Officer shall return the supplies and transportation charges and responsibility for such supplies while in transit shall be borne by the Contractor. However, the Contractor's liability for such transportation charges shall not exceed an amount equal to the cost of transportation by the usual commercial method of shipment between the designated destination point under this contract and the Contractor's plant and return.

e. If the Contractor does not agree as to his responsibility to correct or replace the supplies delivered, he shall nevertheless proceed in accordance with the written request issued by the Contracting Officer per paragraph c to correct or replace the defective or nonconforming supplies. In the event it is later determined that such supplies were not defective or nonconforming within the provisions of this clause, the contract price will be equitably adjusted. Failure to agree to such an equitable adjustment of price shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Dispute".

f. Any supplies or parts thereof furnished in replacement pursuant to this clause shall also be subject to all the provisions of this clause to the same extent as supplies initially delivered. Corrected parts will be warranted for a period not less than six (6) months starting at the time the part is received back at the user's location.

g. In case of a provisional acceptance the warranty period starts at the date of provisional acceptance and ends twelve (12) months after the date of provisional acceptance.

h. Failure to agree upon any determination to be made under this clause shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

i. The word "supplies" as used herein includes related services.

j. The rights and remedies of JFC-NF provided in this clause are in addition to and do not limit any rights afforded to JFC-NF by any other clause of the contract.

## **12. Invoices**

a. The contractor shall submit an electronic invoice to the address designated in the contract to received invoices. All invoices shall be submitted no later than 30 days upon completion of work or services performed. Standard Payment Terms are NET 30 days. An invoice must include: 1) Name and address of the Contractor; 2) Invoice date; 3) Purchase Order number and Purchase Order or Contract line item number; 4) Description, quantity, unit of measure, unit price and extended price of the items delivered; 5) Shipping number and date of shipment including the bill of lading number and weight of shipment if shipped on a bill of lading; 6) Terms of any prompt payment discount offered; 7) Name and address of official to whom payment is to be sent: and 8) Name, title, and phone number of person to be notified in event of defective invoice. All invoices shall be certified by the signature of a duly authorized company representative.



b. Electronic Fund Transfer is the prescribed method of payment for JFC-NF. Contractors are requested to submit copies of banking information available at (<http://www.act.nato.int/organization/contracting/forms-contractor-travel>). Such information shall be submitted to JFC-NF 14 days prior to any contract award.

**13. Payment.** Payment shall be made for items accepted by JFC-NF that have been delivered to the delivery destinations set forth in this contract. Payments under this contract may be made by JFC-NF by electronic funds transfer payments or (check in exceptional cases) and shall submit this designation to the contracting officer as directed. In the event the Contractor, during the performance of this contract, elects to designate a different financial institution for receipt of any payment made using electronic funds transfer procedures, notification of such change and the required information must be obtained by JFC-NF thirty (30) days prior to the date such change is to become effective. The documents furnishing the information required in this clause must be dated and contain the signature, title, and telephone number of the Contractor official authorized to provide it, as well as the Contractor's name and Purchase Order number. Contractor failure to properly designate a financial institution or to provide appropriate payee bank account information may delay payments of amounts otherwise properly due. Discount time will be computed from date of delivery at place of acceptance or from receipt of correct invoice at the office specified by JFC-NF, whichever is later. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

**14. Taxes.** The contract excludes all applicable Federal, State, and local taxes and duties. JFC-NF is a tax-exempt organization.

**15. Excusable Delays.** The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of JFC-NF in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the contracting Officer in writing as soon as is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

**16. Indemnity.** The contractor shall indemnify JFC-NF and its officers, employees and agents against liability, including costs for actual or alleged direct or contributory infringement of or inducement to infringe, any United States or foreign patent, trademark, copyright, or other intellectual property right, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

**17. Disputes.** Except as otherwise provided, during the period of performance, any dispute between the parties arising out of the performance of this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of JFC-NF shall be final and conclusive unless, within thirty (30) days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to JFC-NF a written appeal. In connection with any appeal of JFC-NF decision under this paragraph, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. A decision shall be rendered within thirty (30) days of receipt of appeal. The decision of the ACT Head of Contracts, acting on behalf of the JFC-NF FC, is final.

**18. Termination for Convenience.** JFC-NF reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of JFC-NF using its standard record keeping system have resulted from the termination. In the event of the failure of the Contractor and the Contracting Officer to agree as provided in paragraph d. upon the whole amount to be paid to Contractor by reason of the termination of work pursuant to this clause, the Contracting Officer shall pay to the Contractor the amounts determined by the Contracting Officer. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give SACT any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

**19. Termination for Default**

a. JFC-NF may, subject to the provisions or paragraph c. below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:

- (1) If the Contractor fails to make delivery of the supplies or to perform the Services within the time specified herein or any extension thereof; or
- (2) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms and in either of these two circumstances does not cure such failure within a period of ten days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.

b. In the event JFC-NF terminates this contract in whole or in part as provided in paragraph a. of this clause, JFC-NF may procure supplies or services similar to those so terminated and the Contractor shall be liable to JFC-NF for any excess costs for such similar supplies or services. The Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

c. Except with respect to defaults of sub-contractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the contractor. If the failure to perform is caused by the default of a sub-contractor, and if such default arises out of causes beyond the control of both the Contractor and sub-contractor, without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform unless the supplies or services to be furnished by the sub-contractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.

d. If this contract is terminated as provided in paragraph a. of this clause, JFC-NF, in addition to any other rights provided in the clause, may require the Contractor to transfer title and deliver to JFC-NF in the manner and to the extent directed by the Contracting Officer:

(1) Any completed supplies and

(2) Such partially completed supplies and materials, parts, tools, die, jigs, Fixtures, plans, drawings, information and contract rights (hereinafter called "Manufacturing materials") as the Contractor has specifically produced or Specifically acquired for the performance of such part of this contract as has been terminated; and the Contractor shall, upon direction of the Contracting Officer, protect and preserve property in the possession of the Contractor in which JFC-NF has an interest. Payment for completed supplies delivered to and accepted by JFC-NF shall be at the contract price. Payment for manufacturing materials delivered to and accepted by JFC-NF and for the protection and preservation of property shall be in an amount agreed upon by the Contractor and Contracting Officer; failure to agree such amount shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Dispute". JFC-NF may withhold from amounts otherwise due the Contractor for such completed supplies or manufacturing materials such sum as the Contracting Officer determines to be necessary to protect JFC-NF against loss because of outstanding liens or claims of former lien holders.

e. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of JFC-NF, be the same as if the notice of termination had been issued pursuant to such clause. If, after such notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, and if this contract does not contain a clause providing for termination for convenience of JFC-NF the contract shall be equitably adjusted to compensate for such termination and the contract modified accordingly; failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes".

f. Both parties are under duty of good faith. The contract includes not only the specific terms, but also law and customary practice applicable in the place where the contract is to be carried out and to the Type of Trade to which the contract relates.

**20. Limitation of Liability.** Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to JFC-NF for consequential damages resulting from any defects or deficiencies in accepted items

**21. Export Control.** Contractor warrants that, if applicable all necessary technical assistance agreements (TAA), export control or other associated arrangements shall be valid prior to contract award. Should a Contractor require export pre-approval JFC-NF legal staff will be provided a preview of said companies request PRIOR to the companies submission to a Government entity. Upon validation of request by JFC-NF Legal staff, subject agreement or request may be submitted to appropriate authority. (Please note: There are no specified time delays regarding TAA, aor export control request being processed. However, experience has shown request can take anywhere from 30 days to 90 days depending on complexity of request, and administrative preparedness).

**22. Risk of Loss.** Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to JFC-NF upon: 1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or 2) Delivery of the supplies to JFC-NF at the destination specified in the contract, if transportation is f.o.b. destination.

**23. Authorization to Perform.** The Contractor warrants that he and his sub-contractors have been duly authorized to operate and do business in the country or countries in which this contract is to be performed; that he and his sub-contractors have obtained all necessary licenses and permits required in connection with the contract; that he and the sub-contractors will fully comply with all the laws, decrees, labor standards and regulations of such country or countries during the performance of this contract; and that no claim for additional moneys with respect to any authorizations to perform will be made upon JFC-NF.

**24. Performance.** Candidates/contractors who accept JFC-NF issued contracts, shall, at a minimum, serve in a designated capacity for no less than 180 calendar days from commencement of contract period of performance. Contracts' with performance periods having less than 180 days in totality shall require contractors to serve a minimum of 50% of estimated performance period. Should a candidate vacate the contract in less time than described, JFC-NF reserves the right to cancel the contract in whole or part. Replacement candidates, if acceptable to JFC-NF, shall be reviewed by JFC-NF for compliance, and, or technical acceptance per the original Statement of Work and final acceptance by JFC-NF Contracting Officer.

**25. Travel.** In accordance with established JFC-NF Travel Directives, travel by contractors in support of the JFC-NF mission will only be performed when a member of the approved International JFC-NF Peacetime Establishment is unable to perform the mission.

Once contractor travel has been established under a contract and a contractor is tasked to travel, the JFC-NF Contractor Travel Request form must be filled out and approved prior to any travel being conducted. This form may be found at: <http://www.act.nato.int/organization/contracting/forms-contractor-travel>. The in-house Travel Agency will set the Transport Ceiling Cost and at that time the contractor may elect to book their transportation with the in-house travel agency. (Please refer to Clause Number 7 above).

Transport tickets purchased through the in-house travel agency will be reimbursed by HQ SACT, on behalf of JFC-NF, directly to the in-house travel agency, and the applicable travel line of the contract will be charged. These costs will not be invoiced by, or paid to, the contractor company. When transport tickets are purchased through another source only the ceiling cost allocated by the in-house travel agency will be reimbursed to the contractor company.

Per Diem is based on the NATO Group One subsistence allowance, which covers meals, lodging, incidental expenses and any applicable overhead and/or fees. Per Diem Reimbursement will only be made at these rate amounts. NATO Group III daily subsistence allowances are posted on HQ SACT website at <http://www.act.nato.int/organization/contracting/forms-contractor-travel>.

**26. Proposed Candidates.** No proposals shall be accepted or considered for candidates already assigned to an existing contract with JFC-NF, without the prior permission of the Contracting Officer. .

**27. Partial awards** will be allowed when determined in the best interests of NATO. The Contracting Awards Board and the Contracting Officer, when deemed prudent and necessary have the authority to make this determination. Partial bidding shall be consistent with released solicitation.

**28. Competition.** JFC-NF reserves the right to engage in Full and Open Competition after exclusion of sources.

**29. Contractor Notice Regarding Delay.** In the event the Contractor encounters difficulty in meeting performance requirements, or when he anticipates difficulty in complying with the contract delivery schedule or date, he shall immediately notify the Contracting Officer in writing, giving pertinent details; provided, however, that this data shall be informational only in character and that this provision shall not be construed as a waiver by JFC-NF of any delivery schedule or date, or of any rights or remedies provided by law or under this contract.

**30. Notice and Assistance regarding Patent and Copyright Infringement**

a. The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

b. In the event of any claim or suit against JFC-NF on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to JFC-NF, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of JFC-NF except where the Contractor has agreed to indemnify JFC-NF.

c. This clause shall be included in all sub-contracts.

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

**32. Patent Indemnity.** If the amount of this contract is in excess of \$1,000,000 , the Contractor shall indemnify JFC-NF and its officers, agents and employees against liability, including costs, for infringement of any letters patent (except letters patent issued upon an application which is now or may hereafter be kept secret or otherwise withheld from issue by order of the government which issued the letters patent) arising out of the manufacture or delivery of supplies under this contract, or out of the use or disposal by or for the account of JFC-NF of such supplies. The foregoing indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by JFC-NF of the suit or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof; and further, such indemnity shall not apply to:

a. An infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used or directing a manner of performance of the Contract not normally used by the Contractor;

b. An infringement resulting from an addition to, or change in, such supplies or components furnished which addition or change was made subsequent to delivery or performance by the Contractor; or

c. A claimed infringement which is settled without the consent of the Contractor, unless required by a court of competent jurisdiction.

### **33. Rights in Technical Data and Computer Software**

a. Ownership of Work Product. JFC-NF is and shall be the sole and exclusive owner of all right, title, and interest throughout the world in and to all the results and proceeds of the Research performed under this Agreement, including but not limited to inventions, derivative works, documents, reports, summaries, raw data, algorithms, charts, graphs, research results, methods, models, maps or drawings, tools, software (including source code), and other works which are created due to or as part of the Research by the Foundation, and including all patents, copyrights, trademarks, trade secrets and other Work Product (all of the above-described results and proceeds of the Research are herein referred to as "Work Product") and shall be deemed to be work made for hire. Accordingly, Sponsor may modify, protect, publish, incorporate into other documents, share with others, or otherwise use without restriction all aspects of the Work Product as JFC-NF deems fit in its sole discretion. The Foundation will not in any way use, license, or allow third parties to use the Work Product or any portion thereof without the express prior written consent of Sponsor.

b. Technical data and software delivered under this contract shall be marked with the number of this contract, name of Contractor and the rights transferred to JFC-NF.

**34. Software Releases and Updates.**

a. All software implemented on or delivered with the supplies shall be at the start of acceptance, the most recent versions or releases as available.

b. The Contractor shall for a duration of minimum five (5) years after acceptance, and upon their availability, offer to JFC-NF all software changes, fixes and new releases. These shall be offered at no cost when they are offered free of charge on the commercial market.

**35. Inconsistency between English Version and Translation of Contract.** In the event of inconsistency between any terms of this contract and any translation thereof into another language, the English language meaning shall control

**36. Contract Effective Date (CED).** The effective date of the contract is the date of last signature by the contracting parties, or a specific date set forth in the Contract.

**37. Enforcement.** Failure by either party to enforce any provision of this contract will not be deemed a waiver of future enforcement of that or any other provision. The invalidity or unenforceability of any provision of this contract shall not affect the other provisions hereof, and this contract shall be construed in all respects if such invalid or unenforceable provisions were omitted

**38. Order of Precedence.** Any inconsistencies in the solicitation or contract shall be resolved by giving precedence in the following order: (1) Special Terms and Conditions; (2) General Terms and Conditions and Purchase Order terms; (3) solicitation provisions if this is a solicitation; (4) the specification/statement of work; (5) other JFC-NF documents, exhibits and attachments; (6) addenda to this solicitation or contract, including any license agreements for computer software, or other Contract agreements.

**39. Entire Agreement.** This contract sets for the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior agreements or representations, oral or written, regarding such subject matter. JFC-NF shall not be bound by, and specifically objects to any term, condition, or other provision inconsistent with or in addition to any provision of this contract that is submitted by Contractor in any correspondence or any document unless JFC-NF specifically agrees to such provision in a written instrument signed by an authorized representative of JFC-NF.