

CUSTOMER CONTRACT REQUIREMENTS
Advanced Harpoon Weapon Control Systems
CUSTOMER CONTRACT 3664/2009

CUSTOMER CONTRACT REQUIREMENTS

The following customer contract requirements apply to this contract to the extent indicated below. If this contract is for the procurement of commercial items under a Government prime contract, as defined in FAR Part 2.101, see Section 3 below.

1. Prime Contract Special Provisions The following prime contract special provisions apply to this purchase order

1. Cooperative Approach

In relation to the work under or in relation to this Contract:

- (a) the Seller must cooperate with:
 - (i) the Commonwealth;
 - (ii) the Participants;
 - (iii) Commonwealth Subcontractors;
 - (iv) Participants' Subcontractors;
 - (v) the United States Government, any of its Government Agencies, armed services and contractors involved in the Program;
 - (vi) other third parties that are not Participant or Commonwealth Subcontractors and are specified in writing by Raytheon;
- (b) the Supplier shall ensure that each Subcontractor, as directed by the Contractor, cooperates with Raytheon and with each of the persons mentioned in clause 2.1.1(a) in relation to its work under the Subcontract.

2. Standards and Authorizations

The Seller must ensure that:

- (a) all work of the Seller and Subcontractors under or in relation to this Contract is undertaken to a standard not less than the highest standards of professional skill, expertise and diligence relevant to the nature of the particular work;
- (b) it will at all times during the term of this Contract have, from its own resources, from the resources of its Related Bodies Corporate and from the resources of its Subcontractors, and will make available, a sufficient number of suitably qualified personnel with appropriate skills and experience (being personnel who hold and will hold all appropriate current certificates, Authorisations and accreditations) to undertake its work under and in accordance with the requirements of this Contract;
- (c) in carrying out its work under this Contract, it will take all reasonably practicable steps to use best endeavours to obtain, all Authorisations and Approvals necessary to enable their relevant obligations

and the relevant obligations of the Subcontractors to be performed.

- (d) If an Authorisation is received by the Seller or a Subcontractor subject to conditions, the Seller must ensure that the Buyer is provided with a notice of the conditions and is advised of the effect of the conditions on the Contractor's ability to perform its obligations under this Contract.
- (e) If the applicable authority refuses to grant an Authorisation to the Seller, being an Authorisation required for work under this Contract, the Seller must notify Buyer stating whether the refusal will have a material effect on the ability of the Seller to achieve a Milestone Date or on cost, design or quality of the Supplies. The Buyer will use its best endeavours to mitigate the effects of any such refusal.

3. Security

3.1 Having regard to the security classification of work to be performed under this Contract (which will be up to SECRET level), the Seller must comply with all Defence Security Requirements associated with:

- (a) its work under or in relation to this Contract;
- (b) the Supplies;
- (c) Commonwealth Facilities;
- (d) Raytheon Facilities.

This obligation extends to undertaking all required procedures and measures in relation to:

- (e) information (including accessing, handling, processing, storing and communicating information);
- (f) information and communications systems;
- (g) technology systems; and
- (h) facilities, land, equipment, Supplies, partially completed Supplies and materials intended to be used in or forming part of the Supplies.

3.2 The Seller must ensure that:

- (a) each of its Officers, employees and agents;
- (b) each of its Related Bodies Corporate; and
- (c) each of the Officers, employees and agents of each of its Related Bodies Corporate;

involved in work under or in relation to this Contract, or specified by the Raytheon Representative or the Defence Security Authority by notice to the Contractor, complies with all applicable Defence Security Requirements referred to in clause 26.1.1, including by ensuring that at all times those individuals requiring access to classified material possess and maintain an appropriate personnel security clearance at the necessary level and undertake any security checks or clearances as notified by the Raytheon Representative to the Contractor or Seller.

Notification

3.3 To avoid doubt, a reference to Defence Security Requirements in this clause 3.1 includes a reference to a Defence Security Requirements that have been or are implemented in response to a notification to the Seller or a Related Body Corporate of the Seller by the US Department of Defense, the Raytheon Representative or the Defence Security Authority.

3.4 The Seller must comply with the Defence Security Requirements and requirements imposed by the

government or defence industrial security authorities of a foreign country from which it receives or to which it communicates security classified information in connection with this Contract.

Note *Bilateral security arrangements between Australia and the foreign country as well as requirements mandated by the US Defense Security Service, may impose further requirements; these will be in Defence Security Requirements.*

4. License

4.1 Licence

- 4.1.1 The Seller grants, and will ensure that its Subcontractors will grant, to the Commonwealth a fully paid-up, royalty-free, irrevocable, world-wide, perpetual, nonexclusive licence in respect of all Background IP that is deliverable to the Commonwealth under this Contract, to use such IP to Operate, Maintain, Modify, Manufacture and Dispose of the Supplies delivered under this Contract.

For the purposes of this clause, the following definitions apply:

- (a) Operate means to operate, use or run the Supplies or part of the Supplies, including the carrying out of installation, integration, test or trials of the Supplies or part of the Supplies;
- (b) Maintain means to maintain or otherwise keep the Supplies or part of the supplies in an efficient working order and in a condition in which performance and functionality of the Supplies or part of the Supplies is retained, including to repair, refurbish, integrate or otherwise correct any defect in the Supplies or any part of the Supplies. Maintain includes the right to reproduce software and other copyright material in a material form;
- (c) **Modify means to modify, alter, including by extending, extrapolating, adapting, improving or redesigning, the form, quality, configuration, performance or functionality of the Supplies or part of the Supplies. The right to Modify includes the right to Maintain;**
- (d) Manufacture means to manufacture, create, construct or otherwise produce the Supplies, in order for the Commonwealth to complete the Supplies in the event that this Contract is terminated for Default.
- (e) Dispose means to dispose or carry out the final transfer of the Supplies or part of the Supplies.

Sublicence of rights licensed

- 4.1.2 Each licence shall include the right to sublicense to a third party any of the rights granted under the licence (including the right to grant a further sublicense) but not to any extent more extensive than the rights granted to the Commonwealth.

Registered and unregistered trade marks and service marks

- 4.1.3 A licence granted to the Commonwealth does not include registered and unregistered trade marks and service marks, except to the extent such marks are embedded in or attached to the Supplies (in which case, the marks must not be used independently of the Supplies).

4.2 Seller to licence, or procure licence of Background IP for the Participants

Licence

- 4.2.1 The Seller grants, and will ensure that its Subcontractors will grant, to each Participant a fully paid-up, royalty-free, irrevocable, world-wide, perpetual, nonexclusive licence in respect of all Background IP that is deliverable to the Participants under this Contract, to use such IP to Operate, Maintain, Modify, Manufacture and Dispose of the Supplies delivered under this Contract for the purposes of the Program.

Sublicence of rights licensed

- 4.2.2 Each licence shall include the right to sublicense to a third party any of the rights granted under the licence

but not to any extent more extensive than the rights granted to the Participant.

Registered and unregistered trade marks and service marks

- 4.2.3 A licence granted does not include registered and unregistered trade marks and service marks, except to the extent such marks are embedded in or attached to the Supplies (in which case, the marks must not be used independently of the Supplies).

4.3 Seller to licence, or procure licence of, Background IP

Licence

- 4.3.1 The Seller must use reasonable endeavours to ensure that its Subcontractors will, to the extent necessary for a Licensee to perform its Relevant Obligations, grant, and must ensure there is granted, to the Licensee a fully paid-up, royalty-free, non-exclusive, irrevocable, nontransferable, worldwide licence to exercise the Background IP that is deliverable under this Contract solely for the purpose of the Licensee performing its Relevant Obligations.

Sublicence of rights

- 4.3.2 Each licence referred to in clause 37.3.1 does not include the right to sublicense any of the rights granted under the licence without the prior written approval of the Seller.

Registered and unregistered trade marks and service marks

- 4.3.3 The licences referred to in clause 37.3.1 will not include registered and unregistered trade marks and service marks, except to the extent such marks are embedded in or attached to the Supplies (in which case, the marks must not be used independently of the Supplies, as relevant).

Licensee to execute Confidentiality Deed

- 4.3.4 The Seller's obligations under clause 37.3.1 do not apply in relation to a Licensee until the Licensee executes a deed of confidentiality substantially in the form of the Confidentiality Deed in Attachment H [AGREED DEEDS AND FORMS].

37.4 Seller to procure licences of Third Party IP

Seller to procure licence of Third Party IP to Participants

- 37.4.1 The Seller must (and must ensure that its SubSellers) use reasonable endeavours to ensure that the Commonwealth and each Participant is granted a licence to exercise all Third Party IP on the same terms as are referred to in clause 37.1.1 and clause 37.2.1. If the Seller cannot obtain a licence on the terms specified in this clause 37.4.1, the Seller must ensure that the Commonwealth and each Participant is granted a licence to exercise all Third Party IP on reasonable commercial terms.

Registered and unregistered trade marks and service marks

- 37.4.2 The obligation to procure a licence to exercise Third Party IP under clause 37.4.1 does not extend to registered and unregistered trade marks and service marks of the relevant third party.

Seller to procure licences of Third Party IP to Licensees

- 37.4.3 The Seller must (and must ensure that its SubSellers), to the extent necessary for a Licensee to perform its Relevant Obligations, use its reasonable endeavours to ensure there is granted to the Licensee licences to exercise Third Party IP for the purpose of the Licensee performing its Relevant Obligations. If the Seller cannot obtain licences on the terms specified in this clause, the Seller must ensure that the Licensee is granted licences to exercise all Third Party IP on reasonable commercial terms.

Registered and unregistered trade marks and service marks

- 37.4.4 The obligation to procure a licence to exercise Third Party IP under clause 37.4.3 does not extend to registered and unregistered trade marks and service marks of the relevant third party.

3.5 Reporting security breaches

- 3.5.1 If the Seller knows or has grounds to suspect that security classified information that it has received or otherwise has in relation to this Contract or another Project Document may have been lost or disclosed to a person not authorised to have it must promptly report the matter to the and Buyer Representative.

3.6 Application to Subcontractors

- 3.6.1 The Seller must ensure that, except to the extent that the Defence Security Requirements require otherwise, that the Officers, employees and agents of Seller who are involved in work under or in relation to this Contract, or are specified by the Buyer Representative or the Defence Security Authority by notice to the Buyers Authorized Procurement Agent

complies with the following obligations:

- (a) to be aware of applicable Defence Security Requirements and other relevant security requirements notified to the Buyer;
- (b) to comply with all applicable Defence Security Requirements referred to including by ensuring that at all times those individuals requiring access to classified material possess and maintain an appropriate personnel security clearance at the necessary level or as required by the Buyer;
- (c) if the Seller requires, for the purposes of carrying out work under the Agreement, access to a Commonwealth Facility under the control or responsibility of the Australian Department of Defence or to a Raytheon Facility—to comply with all security requirements notified to the Buyer in relation thereto;
- (d) to cooperate and provide information as described in this clause ;