
DRAFT CONTRACT

SCOPE OF CONTRACT: Provision of Viaturas Tacticas Ligeriras Blindadas (VTLB) and associated support as detailed in the Statement of Work dated 12th April 2017 (Version 3).

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

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

TABLE OF CONTENTS

This contract consists of:

- Terms and Conditions containing 28 Parts
- NSPA General Provisions for Fixed Price Contracts (Materiel)
- NSPA General Provisions for Fixed Price Contracts (Services)
- Termination for Convenience of NSPA
- NSPA Materiel Inspection and Shipping Report (MISR) NSPA Form 194
- List of items
- Security Aspects Letter and Security Requirements Check List
- Statement of Work dated 12th April 2017 (Version 3)

All of which are hereby made a part of the contract and incorporated herein by reference.

The following documents are available in the Internet under:

www.nspa.nato.int/en/organization/procurement/rules.htm

- **NSPA General Provisions for Fixed-Price Contracts (Materiel)**

www.nspa.nato.int/en/organization/procurement/rules.htm

- **NSPA General Provisions for Fixed-Price Contracts (Services)**

www.nspa.nato.int/en/organization/procurement/forms.htm

- **Termination for Convenience of NSPA**
- **NSPA Materiel Inspection and Shipping Report (MISR) NSPA Form 194 with relevant distribution instructions**

If you have no Internet access, please contact the undersigned and a printed copy of these documents will be forwarded to you

TERMS AND CONDITIONS

Part 1 - Materiel and Services to be furnished by the Contractor	4
Part 2 - Requirements forecast	5
Part 3 - Validity of Contract	5
Part 4 - Purchase Orders	5
Part 5 - Prices	5
Part 6 - Pricing Warrant	5
Part 7 - Taxes and Duties	6
Part 8 - Point of Delivery and Passage of Title	6
Part 9 - Contractor Notice Regarding Late Delivery	6
Part 10 - Invoicing and Payment	7
Part 11 - Liquidated Damages	8
Part 12 - Quality Assurance Requirements	9
Part 13 - Completion and Distribution of the NSPA Materiel Inspection Shipping Report (MISR)	9
Part 14 - Item Identification	10
Part 15 - Marking for Shipment	10
Part 16 - Preservation, Packaging and Packing, Destination and Shipping Instructions	11
Part 17 - Subcontracts	11
Part 18 - Intellectual Property Rights, Royalties and License Rights	12
Part 19 - Termination for Convenience of NSPA	12
Part 20 - Notification of Changes	13
Part 21 - Performance of the Contractor in Time of Alert or War	13
Part 22 - Contract Administration	13
Part 23 - Publicity and Public Relations	14
Part 24 - Integrity / No Bribe	14
Part 25 - Warranty	15
Part 26 - Assignment	15
Part 27 - Safety and Accident Prevention	15
Part 28 - NSPA Representatives and Verification	16

Annex A: VTLB List of Items

Annex B: VTLB Project Plan.

Part 1 - Materiel and Services to be furnished by the Contractor

1. The Contractor will supply to the NATO Support and Procurement Agency the materiel and services described and priced in the attached "List of Items" and Statement of Work dated 12th April 2017 (Version 3)
2. The prices include all costs in respect of identification, preservation, packaging, packing, marking, quality assurance and inspection incurred by the Contractor.
3. Condition of materiel must be new of current production.
4. This paragraph applies to Item 200 (Technical/Maintenance Support Service) within the List of Items. The fixed man-hour rate is payable for the actual working time performed by the Contractor's personnel on an 'ad-hoc' basis. The fixed man-hour rates covers the yearly rates for an Engineer, Technician and Field Services Engineer/Technician between 2017 and 2020. There shall be a separate fixed man-hour rate for each year.
5. The pricing arrangements set forth in the "List of Items" cover full and unconditional acceptance by the Contractor of all the requirements and conditions included in the contract. These pricing arrangements satisfy any and all expenses incurred by the Contractor for a satisfactory performance of the work required under the Contract
6. The Contractor warrants that he has suitable facilities available and that he has all necessary license rights and skilled personnel, technical orders, data, specifications, drawings, standard and special test equipment and tooling to enable him to comply with the requirements of this contract.

Part 2 - Requirements forecast

There is no firm commitment from NSPA to order any of the materiel or services included in the contract except for the issuance of a Purchase Order to cover the requirement in 2017.

Part 3 - Validity of Contract

1. The contract shall be effective for the period commencing with the effective date indicated on page one of the contract and shall be valid for a period of five (5) years.

Part 4 - Purchase Orders

- 1 All material to be delivered and services to be rendered by the Contractor under the contract shall be ordered by NSPA by Purchase Orders.
- 2 Purchase Orders shall be in writing, dated and numbered, and shall set forth:
 - The materiel and/or services to be delivered
 - The quantities
 - The unit prices and total prices
 - The delivery dates.
 - Transport requirements, if different from the ones specified in **Part 10** hereof.
- 3 The terms and conditions, as well as the fixed prices set forth herein shall govern all Purchase Orders issued against this contract. Amendments to Purchase Orders may be issued subject to the same conditions as the original Purchase Order. The Contractor will acknowledge receipt of the Purchase Order or amendment by signing the contractual document provided to this effect.
- 4 No Purchase Orders will be issued by NSPA beyond the period of the contract. In case of Purchase Orders which have been issued but are not completed prior to the expiration of the contract, their processing will continue until completion, at the terms and conditions specified herein or in the relevant Purchase Order(s), unless otherwise notified by NSPA.

Part 5 - Prices

The prices of this contract are firm fixed prices.

Part 6 - Pricing Warrant

Not Applicable.

Part 7 - Taxes and Duties

Clause 6. "Taxes and Duties" of the NSPA General Provisions for Fixed- Price Contracts (Materiel) is amended as follows:

If not located in Luxembourg, the Contractor is specifically responsible for obtaining any documentation required to permit NSPA and its Customers to benefit from the fiscal regime applicable to exports.

NSPA is specifically exempt from all duties and taxes (and this includes Value Added Tax within the European Union). For the purchase of materiel in countries within the European Union, NSPA will, upon the request of the Contractor, provide a copy of the form "VAT AND/OR EXCISE DUTY EXEMPTION CERTIFICATE (*)/(Directive 2006/112/EC - Article 151 and Directive 2008/118/EC - Article 13)". This form will be signed and stamped by a NSPA official for completion and processing by the Contractor as may be required by the national authorities concerned.

Contractors should note that NSPA has **no** VAT number and **no** VAT identification number

Luxembourg contractors are invited to note the special provisions for Luxembourg contained in the footnote to Taxes and Duties and Duties Clause of the NSPA General Provisions.

Part 8 - Point of Delivery and Passage of Title

- 1 The Contractor will deliver the materiel: Delivered Duty Paid (DDP) Incoterms 2010.
- 2 The final delivery point for vehicles shall be DDP (Incoterm 2010) to Depósito Geral de Material do Exército (DGME), Estrada do Infantado, 2890 - 403 Benavente/ Portugal.
- 3 Title to the materiel will pass to NSPA at the point of delivery. Claims based on latent defects, fraud, gross negligence, or such gross mistakes to amount to fraud, shall not be prejudiced thereby nor shall the guarantees applicable to the materiel or issuance of discrepancy reports be affected by the said passage of title or acceptance of the materiel.

Part 9 - Contractor Notice Regarding Late Delivery

1. In the event that the Contractor encounters difficulty in meeting the time limits specified for any delivery, he shall immediately notify NSPA in writing, giving pertinent details. However, this data shall be for information only and shall not be construed as a waiver by NSPA of any time limit or of any rights or remedies provided for under this contract and/or any purchase order released against this contract.

Part 10 - Invoicing and Payment

1. The materiel and/or services delivered against under the terms of this contract shall be invoiced within 45 days after delivery and acceptance.

Invoices shall be accompanied by an Acceptance Certificate signed by the NSPA Technical Authority (or his nominated representative) referred to in Part 22 hereof.

The invoice shall be accompanied by the NSPA MISR duly completed as contractually called for and an evidence of delivery. Each invoice submitted and the attached MISR shall bear the contract and/or purchase order reference number, shall refer to the line items delivered.

Invoices shall be sent as PDF-document to

CIMO@nspa.nato.int

ALTERNATIVELY as Hardcopy to

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

Only invoices and credit notes are treated under this email address. Hardcopies must not be sent in parallel! Faxed invoices will not be accepted for payment. Any other issue is to be addressed to the undersigned.

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

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

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

4. Payment

- a. Payment will be made within (...) days with .. % prompt payment discount or (...) days net **will be completed at the time of contract award** following receipt by NSPA of the Contractor's original invoice drawn for payment in the currency in which the contract is established, and containing the following information: contract number and item number,

purchase order number and item number, description of the item, unit of issue, quantity, unit price and total price.

- b. NSPA will pay the net invoice amount and support the charges of its bank. All other charges will be for the Contractor.

(To be inserted on Contract Award)

- c. The payments will be made to the account identified by the Contractor at time of registration to the NSPA Source file.

OR

The payment will be made by NSPA as follows:

- i. Full name and address of banker(s)
 - ii. Detailed bank account information as follows:
 - For EU countries: IBAN code plus BIC
 - For USA: bank account number(s) + ABA code (or SWIFT code)
 - For Canada: bank account number(s) + bank code (5 digits) and branch code (3 digits)
- For any other country: bank account number(s) plus any country-specific codes, if applicable.

Part 11 - Liquidated Damages

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

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

Part 12 - Quality Assurance Requirements

1. The Contractor is responsible for maintaining effective control of the quality of materiel. If the Contractor himself is not the manufacturer of the contracted materiel, he shall impose these quality requirements upon his subcontractor.
2. In case where an AQAP is specified: The Contractor shall meet its requirements. The Contractor must provide a COC. In case he is not the manufacturer, he shall provide a copy of the COC received from the original manufacturer.
3. The Contractor shall prepare and implement a Quality Plan. The Quality Plan is a single document providing a complete plan of how the Contractor's quality system, usually described in a Quality Manual, is to be applied to the services specified in this Contract. The Plan shall provide a narrative description of the main elements of the services to be provided and their related functions, together with references to procedures, instructions and practices that will be implemented in order to assure satisfactory performance of these services. The Quality Plan shall be made available to NSPA upon request.
4. Factory Acceptance and Final Acceptance shall be conducted in accordance with the Statement of Work attached hereto.
5. If any of the tests are not accepted, the Contractor, upon NSPA's request, shall repeat any or all tests. After each request for additional tests, the Contractor shall make any necessary changes, modifications, or repairs to the delivered deliverables. All costs related to these tests are to be borne by the Contractor, including any and all costs for additional tests following non-acceptance.
6. If the Contractor fails to deliver any report on time, or the Contracting Officer disapproves any test result as provided under paragraph 4 above, the Contractor shall be deemed to have failed to make delivery within the meaning of the Default clause of this contract

Part 13 - Completion and Distribution of the NSPA Materiel Inspection Shipping Report (MISR)

- 1 Completion.
 - a. The MISR is printed on Form 194. The MISR is available in the Internet. United States Contractors may use DD Form 250, or a modification thereof in lieu of the MISR.

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- b. The Contractor shall complete all blocks, except blocks 22, 25, 26 and 29, which are reserved for use by NSPA.
 - 2 Distribution.
 - a. Four copies inside the exterior container in which materiel is packed for shipment and four copies inserted in a waterproof envelope attached to the outside of the exterior container. If the shipment consists of more than one exterior container, the copies should accompany container n° 1.
 - b. One (1) copy to be attached to the Contractor's invoice.
 - 3 If the Contractor is requested to use the services of a NSPA Shipping Agent, he shall provide the NSPA Shipping Agent with three (3) copies of the MISR.
 - 4 When GQAR services are used, copies of the MISR will be issued to the competent Government Quality Assurance Services as and when required for their internal use.

Part 14 - Item Identification

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

Part 15 - Marking for Shipment, Permits and Clearance Formalities

1. The shipping documentation and all items or tags attached thereto will bear the following information: contract number and item number, purchase order number and item number, NATO stock number/part number and quantity.
2. All containers (interior and exterior) will show the contractor' shipment notification number.
3. The Contractor warrants that he has or will obtain at no cost to NSPA all necessary licenses and permits required in connection with the Contract; also that he will fully comply with all laws, decrees and regulations of the country or countries concerned during the performance of the contract, including the observance of all applicable rules and regulations governing the site on which work is to be performed.
4. All customs clearance formalities shall be performed by the Contractor at his cost. NSPA shall in no case be responsible for charges of any nature incurred by the Contractor in effecting such clearance or for any customs infraction committed by

the Contractor in connection therewith. The Contractor shall be responsible for compliance with all applicable national import and export customs regulations and formalities, including payment of fees incident thereto and the posting of a customs bond, if required, and further, including all required licenses, customs declarations and other documentation, concerning the entry to and the exit from the Contractor's facility, of all items or materiel pertinent to the Contractor's performance under this Contract.

Part 16 - Preservation, Packaging and Packing, Destination and Shipping Instructions

1. Unless otherwise indicated in the Military Specifications of an item (if applicable) or by special request, preservation, packaging and packing shall be performed in accordance with the best commercial practice, and be such to assure safe arrival at the final destination, and shall be capable to withstanding extended storage for at least one year under normal, unheated, inside storage conditions. Depending on the weight, volume and nature, the items should normally be delivered on euro pallet(s) at no cost to NSPA. The exterior container will show the number of the contract and the purchase order and be provided with a shipping label bearing the full shipping address as indicated in this purchase order. It is imperative that the production serial numbers, when assigned, be clearly marked not only on the item itself, but also on accompanying shipping documentation and the MISR.
2. Not Used.
3. Shipping notification

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

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

4. Shipping instructions

(To be inserted on Contract Award)

Part 17 - Subcontracts

1. For the purpose of this clause, sub-contracts means orders to sub-contractors for the services required in the performance of a Purchase Order. Material and supplies acquired by the contractor to perform a Purchase Order is governed by the Special Areas Clause of a Purchase Order.

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2. The Contractor is solely responsible for the performance of the contract. No consent or approval by NSPA of any sub-contract or any provisions thereof shall be construed to be a determination of the acceptability of any sub-contract price or of any amount paid under any sub-contract or to relieve the Contractor of any responsibility for performing the contract in accordance with its terms and conditions, unless such approval or consent specifically provides otherwise.
 3. The Contractor shall not enter into any sub-contract with firms located outside NATO countries or having their legal residence outside NATO countries without the written approval of NSPA - Contracting Officer. Only in exceptional cases would NSPA consider such approval.
 4. In order to ensure NSPA's rights under this contract the Contractor shall flow down the relevant requirements. i.e. those for which the Contractor has an obligation towards NSPA to any subcontract he will conclude.
 5. Paragraphs 2 and 3 above are critical elements in the performance under this contract.

Part 18 - Intellectual Property Rights, Royalties and License Rights

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

Part 19 - Termination for Convenience of NSPA

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

Part 20 - Notification of Changes

1. If at any time during the performance of the contract, the Contractor considers that he has been directed to change or deviate from, in any way, the terms and conditions and/or the scope of this contract, he shall notify the contracting officer immediately. This notification shall as a minimum contain a cost breakdown of the additional costs to be incurred by the Contractor if he would implement the change/deviation and the related impacts on the terms and conditions. This information must be provided to such level of detail to allow the contracting officer to provide a comprehensive response within 14 days after receipt of the notification from the Contractor.
2. Following the submission of this notification, the Contractor shall diligently continue performance of the contract to the maximum extent possible in accordance with its terms and conditions as originally agreed.
3. NSPA shall not bear any responsibility for work performed by the Contractor outside the contract scope and NSPA shall not compensate the Contractor in either time or money for such work not specifically authorized or requested by the contracting officer in writing and subsequently included in the contract through a Supplemental Agreement.
4. Consequently, the Contractor cannot claim additional money and/or time for work performed during the performance of the purchase order, which has not been identified as part of the scope of this contract.

Part 21 - Performance of the Contractor in Time of Alert or War

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

Part 22 - Contract Administration

By the Contractor: (To be inserted on Contract Award)

The names of the officials designated by the Contractor to administer this contract are:

Contractual matters

Company name: -----
Address: -----

Attn: -----
Phone: -----
Fax: -----
email: -----

By NSPA: (To be inserted on Contract Award)

All correspondence and communications pertaining to contract administration shall be sent to the following:

NATO SUPPORT AND PROCUREMENT AGENCY (NSPA)
L-8302 CAPELLEN, LUXEMBOURG
Attn: ..-MMC (.....)
Phone: (+352) 3063
Fax: (+352)
email:

For all matters, the responsible technical authority is:

NATO SUPPORT AND PROCUREMENT AGENCY (NSPA)
L-8302 CAPELLEN, LUXEMBOURG
Attn: ..-MMC (.....)
Phone: (+352) 3063
Fax: (+352)
email:

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

Part 23 - Publicity and Public Relations

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

Part 24 - Integrity / No Bribe

1. NSPA draws the contractors' attention to the fact that it is strictly forbidden to offer gifts or other advantages to Agency staff members. This also includes any so-called end-of-year gifts, which cannot be considered to be advertising presents.
2. If the Agency establishes that this ban has been disregarded, NSPA may terminate this contract at no cost to NSPA and your firm may be removed from the Agency's source file after the Agency has informed the relevant national authorities.

Part 25 - Warranty

- 1 The Warranty provisions as per NSPA General Provisions for Fixed-Price Contracts (Supply) and NSPA General Provisions for Fixed-Price Contracts (Services) are supplemented to include the following:
 - a. The Contractor grants a warranty of three (3) years starting from the date of passage of title of the materiel to NSPA.
 - b. In case a defective item is accepted by the Contractor for return and replacement / repair under the warranty conditions of this contract, the transportation costs for the defective item from NSPA's customer to the place where replacement and correction will be made and back to NSPA's customer, will be borne by the Contractor.
 - c. The Contractor will comply with the applicable national and/or international regulations with respect to product liability.
2. The Contractor will comply with the applicable national and / or international regulations with respect to product liability.

Part 26 - Assignment

NSPA shall have the right to assign in part or in full to another NATO Subsidiary Body, NATO Agency or any other entity acting on behalf of NATO the rights, obligations, title and interest in and to this Contract. Such assignment will not entitle the contractor to any additional payments or any other consideration. NSPA will notify such assignment in writing to the Contractor.

Part 27 - Safety and Accident Prevention

1. In performing any work or services under this contract on premises which are under the direct control of NSPA's customers, the Contractor shall conform to all safety rules and requirements, and take such additional precautions as may be prescribed on such premises for safety and accident prevention purposes. The Contractor agrees to take all reasonable steps and precautions to prevent accidents and preserve the life and health of Contractor's personnel, NSPA's personnel and/or any third party, performing or in any way involved in the performance of this contract on such premises.
2. The Contractor is responsible for and must strictly comply with the safety and environmental provisions of the attached SOW, if any.

Part 28 - NSPA Representatives and Verification

1. Subject to prior notification, NSPA representatives will have reasonable access to the premises where the work required by the contract is being undertaken and to observe or inspect any work or test performed. Accordingly, the Contractor undertakes to permit such access to his own premises and to ensure that similar rights are included in the terms and conditions of all sub-contracts.
2. Upon NSPA request, the Contractor shall make available all relevant drawings, specifications, procedures, tools, measuring instruments, test equipment and records.