

CUSTOMER CONTRACT REQUIREMENTS
Harrier TMk10
CUSTOMER CONTRACT 63589

CUSTOMER CONTRACT REQUIREMENTS

If Form GP1 is applicable to this procurement, this Attachment constitutes the Customer clauses contemplated by Article 29. If Form GP2 is applicable to this procurement, this Attachment constitutes the Customer clauses contemplated by Article 28. If Form GP3 is applicable to this procurement, this Attachment constitutes the Customer clauses contemplated by Article 41. If Form GP4 is applicable to this procurement, this Attachment constitutes the Customer clauses contemplated by Article 31.

1. The following prime contract special provisions apply to this purchase contract:

A. SCOPE OF WORK

In respect of Orders placed by M.D.A. with its suppliers for work or Articles which are common to the T/AV-8B or TMk. 10 aircraft, terms which shall be no less favourable to the U.K.G. with reasonable consideration for differences in quantities, delivery performance or contract requirements than those applying to orders for the same work or Articles supplied for the T/AV-8B for use by U.S.G. Armed Forces in respect of quality performance or price.

In respect of the application of this provision to design rights etc, any subcontract or order placed by M.D.A. or its U.K. sub-contractors with suppliers funded wholly or partly by the U.K.G., shall be accompanied by two copies of Defcon 177 and a letter informing M.D.A.'s sub-contractor or

supplier that the order is conditional upon his completing and signing both copies of the Agreement and returning them to BAe.

B. Security Requirement

ATTACHMENT 2SECURITY REQUIREMENT CLAUSE - IN LIEU OF SC 59FOR M.D.A. AND U.S. SUBCONTRACTORS

1. The provisions of this clause are based upon an Agreement between the U.K.G. and the U.S.G. and shall apply to the extent that the Orders involve access to or possession of information to which a security classification has been assigned by the U.K.G..
2. The U.K.G. shall assign a security classification to each of the aspects of classified information which is furnished, or which is to be developed, under the orders and shall advise the Defence Investigation Services, Attn: Deputy Director (Industrial Security) of such aspects and their security classification. If classified information is disclosed orally pursuant to a visit to M.D.A. by or on behalf of the U.K.G., M.D.A. shall be informed of such security classification. The Defence Investigative Service (DIS) shall ensure that appropriate classification guidance is obtained for each aspect of United Kingdom (U.K.) classified information which is furnished, or which is to be developed, under the order and that such information is assigned an equivalent United States (U.S.) security classification. The U.K.G. shall keep current all security classifications, and inform the Defence Investigative Service, Attn: Deputy Director (Industrial Security) of any changes thereto. Each classified information of an equivalent security classification category as set forth in the table of equivalent security classification categories of paragraph 2.g. of the Industrial Security Annex. Such information shall be subject to the provisions of the U.S. laws and regulations. Classified information produced or reproduced in the U.S. in connection with U.K. classified contracts shall be marked with the assigned classification markings of both countries as provided. The markings shall be applied in the manner prescribed in the regulations of the country in which the information is produced or reproduced.
3. M.D.A. shall make no use of any U.S. classified information in connection with the Orders, except with the express written authorisation of the U.S. agency responsible for the U.S. classified information.
4. U.K. classified information furnished or developed in the performance of the Orders shall not be used for any other purpose without the express written authorisation of the U.K. agency responsible for the U.K. classified information.
5. To the extent that aspects of the Orders have been or may be assigned a security classification as provided in the aforementioned table of equivalent security classification categories, M.D.A. shall safeguard all classified aspects of the Orders and shall provide and maintain a system of security controls within his own organisation in accordance with the requirements of:
 - a. The Department of Defence Security Agreement (DD Form 441) between M.D.A. and the Government of the United States, included the Department of Defence Industrial Security Manual for Safeguarding Classified Information as in effect on the date of each Order.
 - b. Any amendments to said Manual made after the date of the Order, notice of which has been furnished to M.D.A. by the Cognisant Security Office.
6. Representatives of the Cognisant Security Office shall be authorised to inspect at reasonable intervals the procedures, methods, and facilities utilised by the M.D.A. in complying within the U.S.. Should the U.S.G. determine that M.D.A. is not complying with the security requirements of the Orders M.D.A. shall be informed in writing through the Cognisant Security Office of the proper action to be taken in order

to effect compliance with such requirements. When U.K. classified material is, or is likely to be, at risk D M.o.d. SY will be advised accordingly.

7. If subsequent to the date of each Order, the security classifications or security requirements under the Order are changed by the U.K.G. or by the U.S.G. and the Security costs under the Order are increased or decreased, the price shall be subject to an equitable adjustment by reason of such increased or decreased costs.
8. M.D.A. agrees to insert security provisions which conform substantially to the language of this clause, including this paragraph in all subcontracts awarded to the U.S. contractors hereunder which involve access to classified information. In the event M.D.A. proposes to award a subcontract to other than a U.S. contractor, prior permission must be obtained from the U.K.G., which, if it approves of such a contract, will provide an appropriate security requirements clause.

C. DEFCON 177 – Supplier must fill out the form below.

DEFFORM 177
(Edn 3/80)

Ministry of Defence

Design Rights and Patents (Sub-Contractor's Agreement)

Notes for Guidance

1. This note has been devised as an aid to the completion of DEFFORM 177.
2. This top sheet is to be detached before inclusion of the Agreement in a Contract or before submission to a sub-contractor.
3. In a draft for typing it will normally only be necessary to give instructions as follows: (although, if the Typing Pool is not one which is dedicated to Contracts work under the "Glasgow System" it will be necessary to attach a copy of DEFFORM 177).

Use a DEFFORM 177 and insert:

- a.* the date of the Agreement;
 - b.* the sub-contractor's full name;
 - c.* the sub-contractor's registered address;
 - d. paragraph 1 - the full name of the main Contractor;
 - e. paragraph 1 - the Contract number of the main contract;
 - f. paragraph 1 - the description of the equipment being designed and developed under the main contract as shown on the Schedule of the Contract;
 - g.* First Schedule - List of items appropriate to the sub-contract in question (the sub-contractor may insert these himself if necessary);
 - h. Second Schedule - List of the relevant Intellectual Property Rights conditions applicable to the Contract (i.e. DEFCONs 14, 15, 15A, 90, 91 and 126 etc.).
4. It will also be necessary to amend the references to "design and development" should the subject Contract be a Feasibility Study, Project Definition etc.
 5. Similarly, as DEFFORM 177 is a drafting form, no references to the DEFFORM should appear in the Contract. This will require:

- a. the deletion of the legend “DEFFORM 177 (Edn /)”;
 - b. that any references required in the Contract should refer to “the Agreement in the form set out in Annex to the Contract”.
6. Two copies of the DEFFORM should be signed by a responsible officer on behalf of the sub-contractor and both of these should be returned for signature by the MOD representative. One copy is for the sub-contractor to retain, and the other is for retention by the Contracts Branch.

*N.B. This information will not necessarily be available at the drafting stage.

Ministry of Defence

**Design Rights and Patents
(Sub-Contractor's Agreement)**

THIS AGREEMENT is made the _____ day of _____ 19____

BETWEEN

whose registered office is at

(hereinafter called "the Sub-Contractor") of the one part and THE SECRETARY OF STATE FOR DEFENCE (hereinafter called "the Secretary of State") of the other part

WHEREAS:-

1. The Secretary of State has placed with (hereinafter called "the main contractor") a contract bearing the reference number _____ (hereinafter called "the main contract") for the design and development of _____ the effect of which is that the costs of such design and development (including the cost referable to any sub-contracts hereinafter referred to) will be substantially borne by the Secretary of State.
2. The main contractor contemplates that the design development and supply of certain components needed for performance of the main contract will be undertaken by various third parties in pursuance of sub-contracts made between them and the main contractor.
3. With a view to securing to the Secretary of State rights as regards inventions designs and other related matters in respect of any sub-contract the main contract provides that the main contractor shall not enter into any sub-contract for any component aforesaid without obtaining the prior approval of the Secretary of State.
4. The main contractor has now informed the Secretary of State that for the purpose of performing the main contract he wishes to place with the Sub-Contractor a sub-contract for the design and development of the items described in the First Schedule (hereinafter called "the sub-contracted items") and has requested the Secretary of State's approval of the sub-contract accordingly.

5. The Secretary of State has signified his willingness to approve the sub-contract on condition that in consideration of his giving approval the Sub-Contractor enters into a direct Agreement with the Secretary of State concerning the matters hereinafter appearing and the Sub-Contractor has signified his willingness to enter into such an agreement.

NOW THIS AGREEMENT made in consideration of the premises and of the rights and liabilities hereunder mutually granted and undertaken WITNESSETH AND IT IS HEREBY AGREED AND DECLARED as follows:-

1. The Sub-Contractor and the Secretary of State hereby agree to be bound to each other by the provisions of the Conditions as set out in the Second Schedule hereto.

DEFFORM 177 (Edn 3/80)

2. No extension alteration or variation in the terms of the sub-contract between the main contractor and the sub-contractor and no other agreement between the main contractor and the sub-contractor relating to the work to be done under the sub-contract or any modification now or hereafter made thereto shall prejudice the operation of this Agreement which shall in all respects apply to the sub-contract as so extended altered varied supplemented or modified as if such extension alteration variation supplementation or modification had been originally provided for in the sub-contract and the expression "the sub-contract items" shall have effect accordingly.

IN WITNESS whereof the parties hereto have set their hands the day and years first before written

Signed on behalf of
the Sub-Contractor

(in capacity of)

Signed on behalf of
The Secretary of
State for Defence

DEFFORM 177 (Edn 3/80)

THE FIRST SCHEDULE

The Sub-Contract Items are:-

THE SECOND SCHEDULE

The Clauses which apply to this Agreement are:-

To be inserted as appropriate except that:

- (i) Where "the Contractor" is stated "the Sub-Contractor" shall be substituted.
- (ii) Where "the Authority" is stated "the Secretary of State" shall be substituted.
- (iii) Where "Contract" is stated "sub-contract" shall be substituted.
- (iv) Where "sub-contractor" is stated "further sub-contractor" shall be substituted.
- (v) Where "sub-contract" is stated "further sub-contract" shall be substituted.

