

**CUSTOMER CONTRACT REQUIREMENTS
F-15 Singapore Simulators
CUSTOMER CONTRACT CN06010851**

CUSTOMER CONTRACT REQUIREMENTS

The following customer contract requirements apply to this contract to the extent indicated below.

1. INTELLECTUAL PROPERTY IN GENERAL

1.1. "Background IP" means Intellectual Property which is created prior to or independently of this contract.

1.2. "Foreground IP" means Intellectual Property which results from or is generated pursuant to or for the purposes of this contract or a subcontract placed under this contract as the case may be.

1.3 "Intellectual Property" (IP) means copyright, and all rights in relation to inventions, registered and unregistered trade marks (including service marks), registered and unregistered designs, circuit layouts, know how, other proprietary information and data and any other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields.

1.4. Except as otherwise expressly provided in this contract, Seller warrants that it has obtained or will in due time obtain all rights, relating to the use of any Intellectual Property, which may be required for the purpose of this Contract without requiring any assistance from Buyer. Buyer shall not be obliged to enter into any further agreement with Seller or any third party in respect of the use of such Intellectual Property as addressed in Clause 2 (Ownership of Intellectual Property).

1.5. All amounts payable for the use, whether use by Buyer, Buyer's Customer or Seller, for those Intellectual Property rights granted in Clause 2 shall be deemed to be included in the price of this contract.

2. OWNERSHIP OF INTELLECTUAL PROPERTY

2.1. All rights or title to, or interest in, all Foreground IP (except Foreground IP relating to the Visual Terrain Databases) shall be the sole or exclusive property of Seller or a Subcontractor as the case may be. The Foreground IP relating to the Visual Terrain Databases shall immediately upon delivery to Buyer vest in and become the property of Buyer's Customer and is, by force of Sub-Clause 2.1, assigned to Buyer's Customer.

With regard to the Foreground IP relating to Visual Terrain Databases owned by Buyer's Customer, Seller shall use such Foreground IP solely for the purpose of performing this contract.

Prior to the ownership of the Foreground IP relating to the Visual Terrain Databases by Buyer's Customer, Seller shall only use such Foreground IP, upon creation, for the purpose of this contract and Seller's internal purposes, subject to the confidentiality and security requirements set forth in this contract.

2.2. Seller grants to Buyer and Buyer's Customer a royalty free, irrevocable, worldwide, perpetual, non exclusive license to use, modify and reproduce within Buyer and Buyer's Customer all Foreground IP which vests in Seller and all Background IP which is or becomes vested in Seller and which, with respect to both Foreground IP and Background IP, is required to be delivered under this Contract so as to enable Buyer, Buyer's Customer or another person on behalf of Buyer's Customer to:

a. use, repair, maintain, refurbish, modify, adapt, integrate, develop and dispose of the goods, services and documentation to be delivered to Buyer's Customer under Buyer's prime contract, and to do anything necessary or incidental for those purposes and for Buyer's Customer's defense purposes; and

b. in the event of termination of this contract for default of Seller, to complete the supply of such goods and documentation.

2.3. Seller shall reasonably endeavour to make contractual arrangements with its subcontractors so that Buyer and Buyer's customer acquire a license for the right to use, modify or reproduce Seller Foreground IP not relating to Visual Terrain Databases, and Background IP to the same extent and for the purposes shown in Sub-Clause 2.2. Seller shall in any event provide the rights to use, modify or reproduce its subcontractors' IP for the purposes of operation and maintenance of the goods and services to be sold to Buyer's Customer under Buyer's prime contract, for Buyer's Customer's defense purposes.

2.4. For those rights or license not covered in Clauses 2.2 and 2.3, Seller shall use reasonable endeavours to obtain for Buyer and Buyer's Customer, without charge to Buyer or Buyer's Customer, a royalty free, irrevocable, worldwide, perpetual, non exclusive, license to use all such IP solely for, or in relation to the goods, services and documentation to be delivered to Buyer's Customer under Buyer's prime contract, and to use, modify, and reproduce the Foreground IP and Background IP which is not incorporated into commercial off the shelf equipment.

2.5. Where, pursuant to Sub-Clause 2.2 or 2.3, Buyer or Buyer's Customer makes available to another person any IP [whether Foreground IP or Background IP] owned by Seller or a subcontractor, Buyer or Buyer's Customer, as the case may be, shall:

a. impose on such person an obligation to use such IP solely for the purposes provided for in Sub-Clause 2.2 and to observe appropriate confidentiality requirements; and

b. obtain a written acknowledgement from such person that:

i. such IP belongs to, and at all times remains the property of the rightful owner; and

ii. misuse of such IP will cause harm to the owner of such IP.

3. INDEMNITY FOR INTELLECTUAL PROPERTY INFRINGEMENT [use in place of GP "Patent, Trademark and Copyright Intemtnity" clause]

3.1. Seller shall indemnify Buyer and Buyer's Customer (including for this purpose, every officer and department thereof) against all loss, damage or expense arising in respect of any action or claim for actual or alleged infringement of any Intellectual Property rights by the use or possession of the goods and services purchased under this contract, but such indemnity shall not cover alleged infringement arising from alteration or modification of such goods and services without the prior written consent of Seller, nor does such indemnity cover alleged infringement arising from claims pertaining to goods, services or documentation furnished to Seller by Buyer or Buyer's Customer.

3.2. In the event of any claims being made against Buyer or Buyer's Customer in respect of matters to which the indemnity in Sub-Clause 3.1 applies, Buyer shall not make any admissions without the prior written consent of Seller but notify Seller within thirty (30) days in writing of the receipt by Buyer of such claims, and Seller shall, and in the following order of priority:

- a. provide reasonable efforts to conduct any litigation or negotiate any settlement arising therefrom in such a way that the Buyer is able to continue using the goods, services and documentation sold under this contract and any part or unit thereof without infringement or interference; or
- b. provide reasonable efforts to procure for Buyer and Buyer's Customer the right to continue accepting, possessing, purchasing, distributing or using the goods, services and documentation sold under this contract or any part or unit thereof; or
- c. provide reasonable efforts to modify or amend the goods, services and documentation sold under this contract or infringing part thereof so that the same becomes non-infringing without affecting the capability and performance of the goods, services and documentation sold under this contract or interoperability of the major components or subassemblies; or
- d. provide reasonable efforts to replace the goods, services and documentation sold under this contract or infringing part thereof by other goods, services and documentation or part thereof of identical capability and performance; or
- e. defend such claims.

4 EXPORT

4.1 The Contractor shall comply with all governmental regulations and obtain and maintain all necessary export licences or other approvals or defence priority ratings from the relevant authorities in the country of origin for those Articles and Documentation to be exported to Singapore for the timely performance of the Contract. In particular, the Contractor shall obtain the necessary export licences before the contracted delivery date of the Articles and Documentation and use reasonable efforts to minimise the provisos or limitations on the export licences. All related fees incurred shall be deemed to be included in the Contract Price.

4.2 Where a failure of the Contractor to comply with his obligations under this clause is due to governmental acts or omissions (including changes in governmental policy) beyond the control and reasonable expectation of the Contractor, the consequences of which the Contractor could not be reasonably expected to avoid or overcome, the failure will constitute a Force Majeure will apply. Any other failure of the Contractor to comply with his obligations under this clause will constitute a Default.

5 DELAY BY THE CONTRACTOR

5.1 For the purpose of this clause:

- a. "meeting a delivery milestone" means fulfilling all the conditions which the Contractor is required to fulfill (other than the issuing of an invoice) in order to give rise to the Buyer's obligation to pay against the delivery milestone; and
- b. the "notional value" of a delivery milestone is the value attributed to that delivery milestone

5.2 The parties acknowledge that if the Contractor fails to meet a delivery milestone by the dates specified in this Contract as delineated in Schedule:

- a. the Buyer will suffer loss and damage; and

- b. all such loss and damage will, having regard to the governmental and non-commercial nature of the Articles, Documentation and Services and their significance to the defense of Singapore, be impossible, complex or expensive to quantify accurately in financial terms and the loss and damage arising from such delay may not be able to be precisely calculated or proved,
 - c. and therefore the parties agree that the amount of liquidated damages referred to in Sub-Clause 5.3 is a genuine pre-estimate of the damage which would be suffered by the Buyer in such event. For the purpose of computing liquidated damages, the notional value shall be the value of the goods or services as contemplated for the delivery milestones in question
- 5.3 If the Contractor fails to deliver a delivery milestone by greater than forty-five (45) days (“grace period”) from the dates specified in this Contract as delineated in the Schedule or by any extension thereof granted pursuant to an express provision of this Contract, the Contractor shall pay to the Buyer, as liquidated damages:
- a. sum calculated at the rate of one-tenth percent (0.1%) of the notional value of the delivery milestone so delayed or if a partial delivery (only applicable to CONUS and OCONUS spares and consumables) is authorized then one-tenth percent (0.1%) of only the notional value of the late portion of the said delivery milestone, for each day of delay until the delivery milestone is met; or
 - b. an amount equal to ten percent (10%) of the notional value of the delivery milestone so delayed,
 - c. whichever is the lower.

For the avoidance of doubt, in the event that the Contractor had failed to rectify the delay within the grace period, any liquidated damages imposed pursuant to the provisions of this Clause shall be computed from the date specified in this Contract, or from the date of any extension pursuant to an express provision of this Contract.

For further avoidance of doubt, any delay in the delivery of the Operational Flight Program (OFP) supplied under the F-15SG Contract CN05013278 shall be constituted as a delay on the part of the Contractor and in no event shall such delay entitle the Contractor to any extension of time under this Contract, unless it is shown by the Contractor that the foregoing is caused solely by delay on the part of the Buyer.

- 5.4 If any Articles, Documentation or Services is delayed for reasons other than force majeure for more than 100 days, the Buyer may
- a. terminate the Contract in accordance with the Termination for Convenience clause; or
 - b. cancel any of the Articles, Documentation and/or Services delayed by giving the Contractor a notice of cancellation and, unless the said Articles, Documentation and/or Services are supplied within thirty (30) days after the issue of the notice of cancellation, the cancellation shall be effective at the end of the said thirty (30) days and the Contractor’s liability for liquidated damages under Sub-Clause 5.3 in respect of the cancelled Articles, Documentation and/or Services shall only be calculated until the effective date of cancellation. The Buyer may obtain replacements for the cancelled Articles, Documentation and/or Services from other sources and recover all increased costs reasonably incurred thereby from the Contractor.
- 5.5 For the purpose of computing liquidated damages under this clause:
- a. each incidence of delay in supply or performance shall be treated as separate liquidated damages claim subject to its own daily minimum value;

- b in the case of installment deliveries of the Articles or Documentation or installment performance of Services, each actual installment made shall be attributed, in strict order, to the earliest unfulfilled contractual installment; and
- c. where any Articles, Documentation or Services is properly rejected by the Buyer including rejection for the failure of any Acceptance Tests, the Contractor shall be deemed to have failed to deliver the Articles, Documentation or Services so rejected.

5.6 The delivery of Articles or Documentation with Noncompliant or Nonconformant (NC) items which is authorized by the Buyer pursuant the Acceptance clause shall not be subject to liquidated damages if the said Articles or Documentation is tendered for delivery on or ahead of schedule.

5.7 The remedies under this clause are without prejudice to any other remedies available to the Buyer under this Contract PROVIDED always that the Buyer shall in no event be entitled to double recovery for any failure of the Contractor.

6 GIFTS, INDUCEMENTS AND REWARDS

6.1 The Buyer may terminate this Contract if the Contractor or any person employed by him or acting on his behalf (whether with or without the Contractor's knowledge) has done any act or omission which contravenes any law for the suppression of corrupt practices. The Contractor shall be liable for any costs, expenses or damage incurred by the Buyer as a result of the aforesaid actions and/or termination of the Contract under this clause.

6.2 For the purpose of this clause, the offering or payment of monetary remuneration as agency fees to the Contractor's officially appointed agents in the Republic of Singapore shall not be construed as being a contravention of this clause.

7. SUBCONTRACT

7.1 The Contractor shall not subcontract the whole of the work under the Contract.

7.2 The Contractor, by subcontracting any part of the work under the Contract, shall not be relieved of its liabilities or obligations under the Contract, and shall be responsible for all Subcontractors including but not limited to ensuring that the Subcontractors comply all articles of this Contract.

7.3 For any F-15 unique configuration items and based on the concurrence of the subcontractor, the Contractor, if requested by the Buyer, shall provide a copy of any subcontract, which copy need not contain prices or other information the Contractor or its subcontractor may feel to be proprietary.

8 LANGUAGE

8.1 All information delivered under the Contract shall be written in English. Where such documentation is a translation into the English language, such translation shall be accurate and faithful to the original. All oral communications shall be in English.