



Ministry of Defense of the Czech Republic
Armaments and Acquisition Division



”Acquisition of Laser Targeting Pod”

Contractual Terms and Conditions
for provision of the Litening Pods, related logistic support and verification of its
integration into JAS-39 Gripen C/D aircraft

náměstí Svobody 471, Prague 6, 160 01, Czech Republic



PURCHASE CONTRACT
“Acquisition of Laser Targeting Pod”
No. 145210141

The Parties:

Czech Republic – Ministry of Defence

Registered office: Tychonova 1, 160 01 Praha 6
Represented by: Pavel Beran, Acting Deputy Minister for Armaments and Acquisition Division
Registered office: nám. Svobody 471, 160 01 Praha 6
Reg. No.: 60162694
VAT reg. No.: CZ60162694
Bank connection: ČNB, Branch 701, Na Příkopě 28, 110 03 Praha 1
Bank account No.: [REDACTED]

Authorized representative in the contractual matters:

Petra Nováčková, tel.: [REDACTED]

Authorized representative in the organisational and technical matters:

Col. Jan Ondryška, tel.: [REDACTED]

Postal address:

Sekce vyzbrojování a akvizic MO
odbor vyzbrojování vzdušných sil
náměstí Svobody 471/4
160 01 Praha 6

(hereinafter the “**Buyer**“) on one side

and

Rafael Advanced Defence Systems Ltd.

Registered office: P.O. Box 2250 (3K), Haifa 3102102 Israel
Represented by: Yaakov Lehrer, marketing director
Reg. No.: 520042185

Bank connection: Bank LEUMI

Bank account No.: [REDACTED]

Postal address: Branch 19, Herzl st., Tel-Aviv, Israel

SWIFT: [REDACTED]

IBAN Number: [REDACTED]

Authorized representative in the contractual matters:

Almog Shahar, tel.: [REDACTED]

Authorized representative in the organisational and technical matters:

Aharon Dourban, tel.: [REDACTED]

(hereinafter the “**Seller**“) on the other

in accordance with the provisions under Section § 2079 and subsequent of the Act No. 89/2012 Coll., the Civil Code (hereinafter the "Civil Code"), concluded the following Purchase Contract No. 145210141 "Acquisition of Laser Targeting Pod" (hereinafter the "Contract").

Article I Purpose of the Contract

The purpose of this Contract is to enhance the capability of identification of aerial targets by JAS-39 Gripen aircraft during the performance of missions in the NATO Integrated Air and Missile Defence System and the performance of close air support missions, to acquire a tactical aerial capability (detection, discrimination and identification of ground targets) in all weather conditions, day and night, and to provide the Czech Air Force with higher general readiness for the performance of missions in the Czech Republic and on foreign deployed operations.

Article II Subject of the Contract

1. The subject of this Contract is the acquisition of 4 units of airborne day/night navigation and laser targeting pods of the type Litening 4i. for JAS-39 C/D Gripen aircraft (hereinafter the "Litening Pods") produced in accordance with the Seller's technical documentation No. TILDOCS#41141127v2 including the provision of associated logistic support, verification of the Litening Pods integration and associated services (hereinafter the "Goods"). A detailed specification of the Litening Pods is stated in Annex No. 1 "Pod Description" of this Contract.
2. The Seller is obliged to deliver the Goods in 5 partial deliveries in accordance with Annex No. 2 "Statement of Work" of this Contract (hereinafter the "Partial Delivery").

Article III Purchase Price

1. The price for the performance of this Contract was determined through agreement in accordance with the provision under Section § 2 of the Act No. 526/1990 Sb., on Prices (hereinafter the "Purchase Price").
2. The Purchase Price without VAT is in amount of 12,085,000 USD
(in words: twelve million eighty five thousand U.S. Dollars).
3. All taxes which are to be paid in Israel shall be borne by the Seller. All taxes which are to be paid out of Israel shall be borne by the Buyer.
4. The Purchase Price as per this Article is the highest permissible price and may not be exceeded. The Purchase Price as per this Article includes all costs of the Seller associated with the performance of the Seller's obligations which follow from this Contract, i.e. particularly all qualification tests, transportation in Israel, cooperation with the Buyer and other associated costs.
5. The prices stated in Annex No. 3 "Prices and Payment Plan" of this Contract were agreed between the Buyer and the Seller as part of negotiated procedure without publication within the meaning of the provisions under Section § 63 of the Act No. 134/2016 Coll., on Public Procurement. In the course of negotiations, the Seller declared that all prices have been determined in accordance with the provisions under Section § 2 Paragraph 2 of the Act No. 526/1990 Coll., on Prices, as prices estimated on the basis of the calculation of economically eligible costs and a reasonable profit.
6. A detailed calculation of the Purchase Price is stated in Annex No. 3 "Prices and Payment Plan" of this Contract.

Article IV
Time of the Performance

1. The Seller is obliged to perform the subject of this Contract not later than 30 November 2018.

Article V
Acceptance, Delivery and Validation of the Goods

1. The Seller is obliged to perform the factory acceptance tests on the Goods in the scope according to Accepted Test Procedure (hereinafter "ATP"), if applicable (hereinafter the "Acceptance Tests"). The Seller is obliged to send a written notification to the Buyer, stating the date of the Acceptance Tests not later than 40 calendar days prior to the commencement of the Acceptance Tests. The Buyer is obliged, on the basis of the written notification, to appoint the committee to participate in the performance of the Acceptance Tests, or to approve the performance of the Acceptance Tests by the Seller without the participation of the Buyer's committee. The Buyer shall notify the Seller about his decision not later than 20 calendar days prior to the commencement of the Acceptance Tests. After the successfully performed Acceptance Tests, the Record of the Acceptance Tests will be signed by the Seller's and Buyer's authorized representatives, if acceptable. The Buyer receives 1 copy of the Record of the Acceptance Tests.
2. After the successfully performed Acceptance Tests, the Seller shall perform the Partial Deliveries in the amount and manner stated in Annex No. 2 "Statement of Work" of the Contract. Except for the delivery of Initial ILS (Integrated Logistic Support) Documentation and training, the place of delivery is in accordance with FCA Incoterms 2010 Tel-Aviv Ben Gurion International Airport in Israel, unless otherwise mutually agreed by the Parties not later than 40 calendar days prior to the specific Partial Delivery. In case the Acceptance Tests are performed without the Buyer's participation, the Acceptance Tests shall be approved by Seller in accordance with the Seller's internal regulations and shall be deemed approved. The Buyer will receive 1 copy of the Record of the Acceptance Tests according to Article V Paragraph 1 of this Contract.
3. The authorized representative of the Buyer for the acceptance of the Goods is commander of VÚ 7214 Čáslav - 21st Air Force Base (hereinafter "VÚ 7214 Čáslav"), tel.: + 420 973 375 001, or a person authorized by him/her in writing to act on his behalf (hereinafter the "Authorized Representative"). The Seller undertakes to deliver the Goods to the Authorized Representative according to Article V Paragraph 2 of this Contract.
4. The Authorized Representative is not authorized to accept the faulty and incomplete Partial Delivery. In the case of the improper Partial Delivery, the Parties prepare the Record of the Failed Partial Delivery, stating the reason for rejection of the Partial Delivery together with indication of defects or inconsistencies, time and date of refusal to accept the Partial Delivery and signatures of the Authorized Representative and the Seller.
5. The transportation of the accepted Partial Delivery from Tel Aviv to the Czech Republic will be provided by the Buyer's aircraft at the Buyer's expenses. The Initial ILS Documentation will be delivered via mail.
6. The Seller is obliged to make 3 copies of a Delivery Note for each Partial Delivery. The Delivery Note certifies the successful performance of the Partial Delivery by the Seller. Once the Partial Delivery is accepted by the Authorized Representative, the Authorized Representative signs the Delivery Note and simultaneously fills the IDED (identifier of the delivery) number on the Delivery Note. The Seller is obliged to quote the Contract number in the heading of the Delivery Note. The Authorized Representative receives 1 copy of the Delivery Note and the Seller receives 2 copies of the Delivery Note. The Seller shall attach 1 copy of the Delivery Note to the Invoice according to Article IX of this Contract.

7. Once the first Partial Delivery containing the Litening Pods is transported to the Czech Republic, the Litening Pods will be validated by the Buyer after the successful performance of the Evaluation Test (hereinafter the "Evaluation Test"). The Evaluation Test will be performed at VÚ 7214 Čáslav in accordance with Article X of this Contract. The Seller is obliged to provide the necessary cooperation during the performance of the Evaluation Test.

Article VI Obligations of the Parties

1. The Seller is obliged to:
- a) start the execution of the Contract after obtaining the 1st advance payment according to Annex No. 3 "Prices and Payment Plan" of this Contract;
 - b) deliver the Goods in agreed quantity properly and in time;
 - c) deliver the Goods corresponding to the Seller applicable technical standards (see Annex No. 1 "Pod Description" of this Contract), the laws and regulations of the manufacturer, in the performance and quality according to this Contract;
 - d) deliver the Goods including complete technical and training documentation in the English language, for each component of the Litening Pod and also related ground equipment;
 - e) deliver all corresponding certificates including Certificate of Conformity, lists of items, data sheets for the tools, spare parts and consumable materials in accordance with Annex No. 1 "Pod Description" of this Contract in English;
 - f) deliver the Goods which are (i.e. made no earlier than 12 months before the date of the specific Partial Delivery) unused and free from any defects. In the case of removing the defect according to Article XIII of this Contract, the Seller may use a reused component if mutually agreed by the Parties;
 - g) deliver the Goods in shipping packages suitable for the type of transportation, allowing long term storage (at least for the time of preservation of parts provided by the manufacturer of the relevant part). The Seller is obliged to pack each part separately, clearly mark it and attach the certificate to the pack (record book, kit list, a form of release to service etc.);
 - h) deliver the Goods with maximum valid preservation period under the terms of the manufacturer; consumable material with a limited storage life is required to have at the date of delivery at least 70% of the remaining storage period;
 - i) submit the documents (i. e. technical documentation, Certificate of Conformity) to the Military Aviation Authority not later than 30 working days prior to the commencement of the Evaluation Test, so the Military Aviation Authority may issue the Military Aviation Authority Approval permitting the Litening Pod to be used in military aviation, for the Litening Pod including all its parts;
 - j) provide the basic training of the Buyer's personnel designated to perform the Evaluation Test not later than 20 calendar days prior to the commencement of the Evaluation Test;
 - k) provide to the Buyer with the necessary cooperation by the means of teleconference technical support of the Seller's experts during the process of rendering the Litening Pods operational during the warranty period according to Article XIII Paragraph 1 of this Contract.
2. The Buyer is obliged to:
- a) ensure the receipt of the Partial Delivery by the Authorized Representative no later than 15 calendar days from the actual Partial Delivery, in accordance with Article V Paragraph 2 of this Contract, performed by the Buyer;

- b) pay the Seller the Purchase Price of the Goods at the agreed due date by this Contract;
- c) ensure the performance of the Evaluation Test;
- d) notify the Seller about the date for the performance of the Evaluation Test not later than 40 calendar days prior to the commencement of the Evaluation Test.

**Article VII
Quality Assurance**

1. The Seller is not NATO member, however the Seller is certified to AS9100 quality management system. The Litening Pod is NDI supplied to the manufacturer of the Gripen Aircraft and meets the QA requirements for NATO.
2. This Contract will be subjected to the Government Quality Assurance (hereinafter the "GQA"). The Seller will be notified by the Buyer of any GQA activity to be performed.
3. The Defence Standardization, Codification and Government Quality Assurance Authority of the Czech Republic will delegate the performance of the GQA to the SIBAT – Ministry of Defence of the State of Israel.
4. The Seller will enable the Government Quality Assurance Representative (hereinafter the "GQAR") to perform the GQA according to AQAP 2130 *NATO Quality Assurance Requirements for Inspection and Test*.
5. The specific Certificate of Conformity signed by the GQAR will be submitted to the Authorized Representative during the performance of each Partial Delivery.
6. The GQA does not relieve the Seller's liability for the quality of the Goods or documentation during the warranty period in accordance to Article XIII of this Contract, nor any damages incurred to the Buyer.

**Article VIII
Codification Clause**

In order to assure codification process of the products which are subjects of the contract and which are subject of codification according to NATO Codification System („NCS”) the Seller guaranties to support the codification process as follows:

1. Where available and already defined, the Seller shall provide known or assign NSN for those items already codified. In this case no additional managerial data or technical data shall be delivered.
2. Where deliverable item is not codified the Seller shall support provision of codification process IAW Tier 2 Country standards up to the following 9 characteristics subject to official request submission by the end user government authority through the NATO codification System (NG CORE) to the Israeli National Codification Bureau (NCB).

Description
Rafael Part No.
Name/Description
Cage Code
Quantity per Assembly
Weight

Soluce vyřizuje úřad akvizic MO
 Odbor vojenských sil
 právní: [redacted]
 datum: [redacted]
 podpis: [redacted]

Dimensions
Shelf life
Codification Data (View image or Illustration)
Indicative price

**Article IX
Payment and Invoicing Terms and Conditions**

1. The Seller is entitled to issue and submit an invoice to the Buyer (hereinafter the "Invoice") in 2 copies (original and copy) after signing of the Delivery Note by the Authorized Representative and the Seller.
2. The Buyer will provide the Seller with 2 advance payments according to Annex No. 3 "Prices and Payment Plan" of this Contract to purchase materials and other resources necessary to start the production of the Litening Pods (hereinafter the "Advance Payment/s").
3. The Seller undertakes to bill/invoice the Advance Payment no later than 21 calendar days after the performance of the Partial Delivery the Advance Payment covers via e-mail (simultaneously the Seller will send the bill/invoice via mail).
4. An additional payment of the Purchase Price will be paid in accordance with Annex No. 3 "Prices and Payment Plan" of this Contract.
5. The Invoice shall feature the following address of the Buyer:

Česká republika - Ministerstvo obrany
Tychonova 1
160 01 Praha 6
IČO: 60162694, DIČ: CZ60162694

Represented by:
Sekce vyzbrojování a akvizic MO
odbor vyzbrojování vzdušných sil,
náměstí Svobody 471/4
16001 Praha 6

6. The Invoice is required to include all the following information and particulars:
 - identification of the Seller and the Buyer including Reg. No;
 - designation of the document as Invoice and its registration number;
 - number of this Contract stated by the Buyer in the heading of this Contract;
 - date of the Partial Delivery;
 - date of issue and due date of the Invoice;
 - price without VAT;
 - number of Annexes and stamp of the Seller with the Seller's signature;
 - bank account number of the Seller;
 - in the annex to the Invoice the Seller shall provide original copy of the Delivery Note with IDED number, Certificate of Conformity and the Record of the Training Provided (see Article XI Paragraph 5 of this Contract).

7. The Invoice shall be paid within 30 calendar days from the date of its issuance or from the date of delivery to the Buyer whichever comes later. The Invoice is considered paid on the day when the billed amount will be debited from the Buyer's account and transmitted to the Seller's account. In case of the Advance Payments, each Advance Payment shall be paid within 30 calendar days from the date stated in Annex No. 3 "Prices and Payment Plan" of this Contract.
8. The Buyer is entitled to return the Invoice before the expiry of 30 calendar days, if the Invoice does not contain the required particulars, is not substantiated by requested documents, contains incomplete or incorrect data, or has other shortcomings. In the case of a legitimate invoice return, the Seller shall issue a new Invoice. A legitimate invoice return discontinues the original maturity period and the new maturity period starts running on the date of delivery of the reviewed Invoice to the Buyer. The Seller is obliged to deliver the new invoice to the Buyer on the mailing address stated in the heading of this Contract within 5 working days from the date of receipt of a legitimately returned Invoice.
9. All payments remitted between the Seller and the Buyer on the basis of this Contract shall be free of any bank charges or other costs associated with remittance to their accounts.

Article X

Evaluation Test

1. The subject of the Evaluation Test is to verify the correct operational capabilities of the Litening Pod, including its associated ground equipment. The aim of the Evaluation Test is to verify whether the Litening Pods meet the Buyer's criteria, particularly in the following domains:
 - tactical and technical parameters of the Litening Pod including its associated ground equipment declared by the manufacturer;
 - full functionality of the above mentioned parameters when integrated in JAS-39 C/D Gripen aircraft operated by the Czech Air Forces;
 - technical and tactical use of the Litening Pods in envisaged organisational embedding and near real-world (combat) deployment;
 - requirements for servicing and manageability of the Litening Pods by the crews with required qualifications and trained in the relevant way;
 - submission of accompanying, maintenance and training documentations;
 - compatibility with the ground equipment recommended by the manufacturer.
2. The Evaluation Test will be performed in accordance with the Regulation of the Chief of the General Staff of Armed Forces of the Czech Republic. The scope of the Evaluation Test is described in Annex No. 4 "Evaluation Test Plan for Litening Pod with the Czech GRIPEN C/D" of this Contract.
3. The Buyer undertakes to perform the Evaluation Test in an unclassified mode at VÚ 7214 Čáslav. The time required for the performance of the Evaluation Test shall be approximately within the range of 30 calendar days from the Partial Delivery according to Article V Paragraph 7 of this Contract.
4. The main coordinator of the Evaluation Test will be Czech Air Force Command and Department of Air Force Development of the General Staff in cooperation with Logistics Agency of the General Staff and VÚ 7214 Čáslav. Flights will be performed as part of training flights performed by VÚ 7214 Čáslav.
5. The Seller is obliged to provide the Buyer with necessary cooperation during the performance of the Evaluation Test (particularly to provide the training for operators and other Evaluation Test

participants and inform them about the tested Goods' capabilities with respect to the Goods' design, technology, use, maintenance, occupational safety, fire prevention, hygiene and the like).

6. Given the way the Buyer uses JAS-39 C/D Gripen aircraft (long-term lease), the Seller is obliged to provide the necessary cooperation during the performance of the Evaluation Test to the representatives of the JAS-39 C/D Gripen aircraft lessor – FMV (Försvarets Materielverk, Swedish Government Agency), who will be directly and actively involved in the performance of the Evaluation Test.
7. The Chairman of the Buyer's Committee is obliged to evaluate the Evaluation Test and process the Final Report of the Results of the Evaluation Test (hereinafter the "Report") within 15 working days from the performance of the Evaluation Test and submit the Report without undue delay to the Chief of the General Staff of Armed Forces of the Czech Republic for approval.
8. In case any defects on the Goods are identified during the performance of the Evaluation Test, the Seller is obliged to remove those defects according to Article XIII of this Contract.

Article XI Training

1. The Seller undertakes to provide training for up to 10 ground technical personnel and up to 4 flight personnel in the scope as per Annex No. 5 "Definition of Training" of this Contract. The training will be provided in the English language in accordance with Annex No. 2 "Statement of Work" of this Contract and the Teaching Plan submitted by the Seller not later than 90 calendar days prior to the commencement of the training.
2. The Buyer will provide appropriate premises for the training at VÚ 7214 Čáslav.
3. The training will be provided using the supplied technical documentation, material, test equipment sets and tools on the Buyer's premises. The detailed program of the training shall be approved by the Buyer at least 60 calendar days before the commencement of the training.
4. Upon successful completion of the training, the Buyer's personnel will obtain certificates issued by the Seller. In case the training is attended by the personnel qualified as instructors, they will obtain instructor certificates issued by the Seller with the right to train other flight and technical personnel.
5. Upon duly and properly provided training, the Seller will issue 3 copies of the Record of the Training. In case of duly and properly performed training, the Parties will sign the Record of the Training and 1 copy will be given to the Buyer, the Seller will keep 1 copy and enclose 1 copy with the Invoice as its attachment.

Article XII Ownership Transfer and Risk of Damage

1. The right of ownership to the Goods passes from the Seller to the Buyer upon full payment of the Goods. The risk of damage to the Goods passes from the Seller to the Buyer upon actual (confirmed) delivery of the Goods to the Buyer.

Article XIII Warranty Terms and Conditions

1. The Seller accepts liability of warranty for the quality of the Goods for the time period lasting 12 months from the moment of signature of the Delivery Note relating to each individual Partial Delivery.

2. Upon identification of the defect on the Goods, the Buyer shall contact the Seller by the means of e-mail: shaharal@rafael.co.il and/or aharondo@rafael.co.il. In case the Parties are not able to solve the defect by the below mentioned means, the Buyer shall send the faulty item immediately to the Seller.
3. Upon the receiving of the faulty item, the Seller is obliged to remove the defect within the period stated in Annex No. 2 "Statement of Work" to this Contract, running from the moment of receipt of the faulty item by the Seller. The warranty to the faulty LRU period extends by the period during which the Seller removes the defect of the faulty LRU.
4. The warranty is the sole remedy in the event of provision of defective Goods by the Seller and is in lieu of any other warranty or warranty related liability expressed or implied. Seller's sole responsibility in respect to this Article in the event of such defect shall be repair or replace the Goods.

The warranty shall be void in the event the Goods fails, malfunctions or is damaged as a result of (i) a Force Majeure cause, or (ii) improper modification thereto by anyone other than the Seller or the Seller's authorized representative, or (iii) operate, use, maintenance or storage non-compliant with the Seller's instructions, or (iv) accidental damage of the Goods (v) or the Goods being subjected to abuse or improper use; (vi) defect arising from fair wear and tear; (vii) use of the Goods with interface platform, products, systems or equipment not approved by the Seller.

Article XIV Rights Arising from Defective Performance

1. The Good is defective if it does not have the properties specified in Annex No. 1 "Pod Description" of this Contract. Defects in the documents required for the use of the Goods are also considered to constitute a defect.

Article XV Contractual Penalties

1. In the event that the Seller is in delay with the proper delivery of the Goods and/or repair of the defect, the Seller is obliged to pay to the Buyer a contractual penalty amounting to 0.05 % of the specific Goods in delay for each week of delay.
2. In no event the total penalties for delay shall exceed 12 % of the value of the specific Goods in delay.
3. In the event that the Buyer is in delay with proper payment of the Invoice by the Buyer, the Buyer is obliged to pay to the Seller an interest at the statutory rate in the Czech Republic.
4. In the event that the Seller violates the obligation according to Article IX Section 3 of this Contract, the Seller is obliged to pay to the Buyer a contractual penalty amounting to CZK 750.00 for each commenced day of delay.
5. The right to enforce and bill contractual penalties and interests arises with the entitled Party will be after a grace period of 45 working days in case of delivery of the Goods and 60 working days in case of repair of the defect. The contractual penalties are due within 30 calendar days from the receipt of invoice they are billed with by the liable Party.
6. The liable Party is obliged to pay the contractual penalty which will be the sole and exclusive remedy for such delay.

Article XVI
Termination of the Contract

1. Unless the Parties mutually agree otherwise, the Contract is terminated by:
 - a) written agreement of the Parties, coupled with mutual settlement of effectively and demonstrably incurred costs according to Article XVI Section 2 of the Contract;
 - b) unilateral withdrawal from the Contract in case of its substantial breach by the Seller in case the Seller fails to remedy the breach within 30 calendar days after receiving notice in writing specifying the breach. Substantial breach is defined as any event similar to the following:
 - not submitting the documents according to Article VI Paragraph 1 i) of this Contract;
 - failure of the Seller to perform obligations as per Article VII and VIII of this Contract;
 - failure to acknowledge the warranty terms and conditions as per Article XIII of this Contract.
 - c) unilateral withdrawal from the Contract by the Buyer for the case of insolvency procedure on the Seller's assets, in which a ruling was made on bankruptcy or in case the insolvency petition on the Seller was rejected for insufficient assets to cover the insolvency procedure;
 - d) unilateral withdrawal from the Contract by the Buyer in case the Seller stated in the bid information or documents that are not corresponding to reality which would or might have affected the outcome of the contract award procedure;
 - e) unilateral withdrawal from the Contract by either party due to force majeure as per Article XVII of this Contract.
2. In the event of unilateral withdrawal from the Contract according to Article XVI Paragraph 1 a) and e) of this Contract, the Seller is entitled to reimbursement for the Goods completely manufactured at the time of termination and delivered to the Buyer. For delivered Goods the Buyer shall pay the Seller the corresponding part of the contract price. For undelivered Goods including work in process, the Buyer shall pay an amount corresponding to the Seller's demonstrable costs (including direct demonstrable cost relating to subcontractor of the Seller) plus a reasonable profit that will be mutually agreed by the Parties.
3. Without prejudice to any other rights and remedies under the Contract and/ or law, the Seller may terminate this Contract or part thereof with immediate effect by notice in writing to the Buyer in case the Buyer is in any substantial breach of its obligations under this Contract and fails to remedy the breach within thirty (30) calendar days after receiving notice in writing specifying the breach. Substantial breach is defined as any event similar to the following:
 - the Buyer fails to pay for the Invoice according to Article IX of this Contract;
 - the Buyer fails to provide GFE according to Annex No. 2 „Statement of Work” of the Contract;
 - the Buyer fails to sign the specific End User Certificate/Declaration according to Article XIX Paragraph 4 of this Contract;
 - the Buyer fails to perform the Evaluation Test after the delivery on time in accordance to Annex No. 4 “Evaluation Test Plan for Litening Pod with the Czech GRIPEN C/D” of this Contract.

In such a case, the Seller is entitled to reimbursement for the Goods completely manufactured at the time of termination and delivered to the Buyer. For delivered Goods the Buyer shall pay the Seller the corresponding part of the contract price. For undelivered Goods including work in process, the Buyer shall pay an amount corresponding to the Seller's demonstrable costs

(including direct demonstrable cost relating to subcontractor of the Seller) plus a reasonable profit that will be mutually agreed by the Parties.

Article XVII Force Majeure

1. Each party shall not be held responsible for delays in performing their obligations hereunder if such delays are due to an event of force majeure preventing such party from performing its obligations (hereinafter the „Force Majeure“). The Force Majeure event may include, but is not limited to wars, war-like conflicts, riots, general strike, epidemics, quarantine restrictions, acts of governments, requisition, fires, floods, natural disasters or other acts, that are unanticipated or unforeseeable, or which, if anticipated or foreseeable, could not be avoided or provided for, and which has caused the non-performance or delay in performance of this Contract.
2. The victim of an event of the Force Majeure (hereinafter the “Prevented Party”) shall provide the other Party (hereinafter the “Non-Prevented Party”) with a written notice within 30 calendar days of its occurrence, which notice shall indicate the nature, extent and anticipated consequences on the performance of its obligations.
3. The applicable periods or dates provided in the Contract shall be postponed by as many days as the event of the Force Majeure shall last plus reasonable cure period.
4. However, if the event of the Force Majeure lasts, more than 180 calendar days, the Non-Prevented Party shall be allowed by a written notification to terminate the Contract in accordance with Article XVI Section 1 e) of the Contract.
5. The victim of the event of the Force Majeure shall take all steps necessary to remove its effects and shall in no manner discontinue or delay the performance of any of its obligations which are not affected by the Force Majeure event, if any.

Article XVIII Limitation of Liability

1. Notwithstanding anything implicitly or explicitly stated on the contrary in this Contract or by the applicable laws, statutes, decrees or regulations, the total and aggregate liability of the Seller under the Contract shall not exceed 100 % of the price of the Contract.
2. In no case shall the Seller be liable for indirect and/or incident and/or consequential damages and/or losses of profit, loss of use, loss of production, loss of contracts or for any other indirect loss or damages that may be suffered by the other Party.
3. The Seller's liability to pay any compensation under this Article is limited to final non-applicable court ruling.

Article XIX Export Control

1. All deliveries of the Goods will be contingent upon receiving the appropriate approvals from the Seller's government for the export license.
2. The Parties acknowledge that the operation and performance of the Contract is subject to the obtaining of any and all necessary governmental authorizations.
3. The Parties agree to comply with all applicable regulations regarding the import, export or re-export of the Goods or part of the Goods.

4. The Buyer shall issue, after contract signed, the necessary End User Certificates/Declarations and/or any other document required for the export licenses in accordance with the instructions given by the Seller. The Buyer shall take all necessary steps in order to obtain, in a timely manner and with no resulting cost to the Seller, all relevant official Czech authorizations required to import or export the Goods.
5. Each Party shall provide reasonable assistance to the other Party responsible for obtaining necessary authorization from any government under this Article.
6. The Buyer shall not transfer the Goods and/or any intellectual property to any third party without the prior written consent of the Seller.

Article XX Buyer's Delay

1. If the Buyer is delayed or anticipates a delay to supply the Buyer's Furnished Equipment and/or services in a functional operation mode, the Buyer shall promptly notify the Seller in writing of the anticipated duration and causes of the delay.
2. In case of such delay, the Seller shall be entitled to an equivalent extension of time of its own schedule so as to accommodate the impact of the Buyer's delay.
3. No liquidated damages will be imposed on the Seller's milestones related to the BFE and/or services, unless the Buyer's delay is caused by the Seller.
4. In the event that the Buyer delay to deliver the BFE and/or services, and/or delay to execute a planned performance materially affecting the Seller's costs for the planned execution, beyond a period of 90 days (hereinafter "Grace Period"), the Seller may recover from the Buyer its costs for such delay. The maximum compensation to the Seller for the Buyer's delays shall not exceed a maximum of 10 % of the value of the Contract.

Article XXI Anticorruption

1. Each Party declares and agrees that in connection with activities under this Contract any Party has not performed and/or will not perform any act which would constitute a violation of applicable anticorruption laws and/or regulations (hereinafter the "Relevant Anticorruption Laws") or which would cause any Party hereto to be in violation of the Relevant Anticorruption Laws.

Article XXII Final Provisions

1. This Contract is drawn up in 2 copies comprising 15 pages each and 6 Annexes comprising of 79 pages. Both copies have the same legal force. Each Party shall receive 1 copy. This Contract is concluded in the English and Czech language versions save for Annexes, which are executed in English only, each version being equally authentic. In the event, however, of one language version being inconsistent with the other, the English version shall prevail. The language, both oral and written, to be used in the execution and implementation of the Contract is English.
2. This Contract enters into force and becomes effective on its signature by both Parties.
3. The legal relationship between the Parties shall be governed and construed in accordance with the laws of the Czech Republic, especially the Act No. 89/2012 Coll., the Civil Code and related regulations. Any disputes arising out of/or in connection with this Contract, which cannot be amicably solved between the Parties, including any question regarding its existence, validity or termination, shall be solved by negotiations. If no agreement is reached, the Parties agree that any

dispute or difference as aforesaid that is not resolved within 60 calendar days after service by one Party or the other of a notice requiring the same shall, if not otherwise agreed, be finally settled by arbitration in London (The London Court of International Arbitration/ LCIA) under the LCIA Arbitration Rules, which will be in force at the time of the emergence of the dispute, by three arbitrators appointed in accordance with the said rules. The arbitration proceedings shall be conducted and all decisions and the award of the arbitrators shall be given in the English language. Neither Party shall refer any such dispute to the courts of any country until an award shall have been made in respect thereof by the arbitrators appointed as aforesaid.

4. The Seller is liable for any infringement of the industrial and intellectual property of third parties. Either party commits to indemnify and save the other party, its subsidiaries and end-customers harmless from all claims, suits, actions, awards, liabilities, damages, costs and reasonable attorneys' fees, related to any action or claim from a third party for actual or alleged infringement of such third party intellectual property rights and arising out of sale or use by Buyer and/ or the end-customer of the Goods delivered under the Contract. However, Seller's liability to pay any compensation under this is limited to final non-appealable court ruling, and subject to the following:
 5. The Buyer shall promptly notify Seller of any such claim, suit or action in writing and give him all evidence in the Buyer's possession or control. Seller shall, at its own expense, conduct the defense against any such claim, suit or action and all negotiations for its settlement or compromise. The Buyer shall give Seller reasonable assistance in any such claim. The Buyer shall not make any settlement without Seller's prior written approval.
 6. The Seller shall have no obligation under this section with regard to any infringement arising from:
 - (i) Seller compliance with design requirements issued by the Buyer where infringement could not be avoided in complying with such requirements, or
 - (ii) use or sale of the Goods in combination with other items, or
 - (iii) the use in a manner for which the Goods were not designed, or
 - (iv) the modification of the Goods by the Buyer and/or by Buyer's Customer without Seller's prior written consent.
 7. Neither in the course of performance of the Seller's obligation under this Contract nor after its completion, the Seller is entitled to provide to third parties (except for the Seller's subcontractors) any information disclosed to the Seller in relation with the performance of the Seller's obligation and support documents in hard or soft copy the Seller was provided in connection with performance of the obligation under this Contract without a written approval of the Buyer. The provided information is confidential in the sense of Section § 1730 of the Civil Code.
 8. Except for information stated in Article XXII Section 10 of this Contract, the Seller agrees that the text of this Contract will be published, as well as the total amount of the actually paid price according to effective law, especially the Act No. 134/2016 Coll., on Public Procurement.
 9. In compliance with the Act No. 101/2000 Coll., on Protection of Personal Data, the Seller grants through the signature of this Contract to the Buyer, as a keeper of the data, an approval with processing of the Seller's personal and other data stated in this Contract for the purpose of fulfilling the rights and obligations arising from this Contract throughout the period of the Contract's validity and mandatory period of time for archiving.
10. The Parties agreed that the information comprising business secret according to the provisions under Section § 504 of the Civil Code is regarded the information stated in all Annexes of this Contract and also the individual items prices stated on invoices, either Invoices of the Seller, and the Seller's subcontractors, and possibly in other documents such as calls, requests for proposals, bids, orders, outcomes by the Evaluation Commission relating to third parties, annexes to this Contract and its amendments including possible annexes to those amendments. For the sake of clarity, the Parties herewith declare that the above classified data is not information on the scope

and recipient of public funding in the sense of provisions under Section § 9 Paragraph 2 of the Act No. 106/1999 Coll., on Free Access to Information. The owner of that business sensitive, determinable, valuable and not usually available information is the Seller. The Parties herewith declare that the provision above reflects the Seller's will to ensure adequate security of the subject-matter information. The above mentioned information shall not be provided to third parties with prior express written approval by the Seller.

The Seller is entitled to transfer neither in part nor in whole any of the Seller's rights nor obligations under this Contract, neither the Contract as a whole.

The Seller declares that the Seller holds all necessary certificates and the like necessary for the performance of the subject of this Contract, including the rights to use them.

The Parties declare that they are not aware of any facts that would preclude execution of this Contract, and note that they will bear in full all legal consequences of the information and data stated by them conscientiously that are not fact.

The Contract may only be amended through written upwardly numbered amendments signed by both Parties, which become an integral part of the Contract. The Parties are not obliged to make a written amendment as per this Article concerning the changes in persons of identification data of those persons. The Parties note and agree that notification of such changes only requires written note to the other Party, which however must be made without undue delay after the occurrence of the decisive fact.

The Seller shall retain Intellectual Property Rights for all Goods and technical documentation as described under clause 10 of Annex No. 2 "Statement of Work" of this Contract.

The annexes listed below form an integral part of this Contract:

Annex No. 1 - Pod Description

Annex No. 2 - Statement of Work

Annex No. 3 - Prices and Payment Plan

Annex No. 4 - Evaluation Test Plan for Litening Pod with the Czech GRIPEN D

Annex No. 5 - Definition of Training

Annex No. 6 - Forms

Brno, on 31.5.2017

31, on 5 2017

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Seller

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