Dear Mr David Johnston

LETTER OF ENGAGEMENT: AUSTRALIAN DEFENCE EXPORT ADVOCATE

The Commonwealth of Australia (Commonwealth) wishes to engage the Hon. David AL Johnston (Consultant) to provide the services described below in accordance with the Terms and Conditions below and set out in Attachment A to this Letter.

1. DESCRIPTION OF SERVICES:

The Consultant is required to provide the services detailed in Annex A: Australian Defence Export Advocate Statement of Work.

2. PERIOD OF ENGAGEMENT:

a. The Commencement Date for the Services is 23 April 2018 or such time thereafter when the services of the Consultant are required by the Australian Defence Export Office, in accordance with the Australian Defence Export Advocate Statement of Work.

b. This engagement will continue to operate for a period of 24 months from the Commencement Date, or until the agreement is terminated in accordance with either clause 16 or 17 of Attachment A.

3. FEES AND PAYMENT:

a. \( \text{GST: in accordance with clause 7 of Attachment A.} \)

b. \( \text{Out of pocket expenses:} \)

   (i) The Daily Rate does not include travel, accommodation and incidental expenses incurred by the Consultant and, subject to paragraph 3(c)(ii), these expenses will be provided by the Commonwealth or may be separately recovered from the Commonwealth in Australian Dollars.

   (ii) The Consultant is entitled to seek reimbursement of Commonwealth approved travel and accommodation related expenses up to the Defence SES Travelling Allowance rates (as adjusted for GST). The Consultant must seek the Commonwealth’s prior approval for all other out of pocket expenses that it intends to recover from the Commonwealth.
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(iii) Alternatively, the Commonwealth may arrange travel and accommodation for the Consultant, as required for the purposes of the engagement.

e. **Manner of payment:** The Consultant must submit monthly invoices to the Commonwealth. Remittances are to be mailed to the following address:

The Hon. David AL Johnston

4 **INSURANCE:**

The Consultant must procure the following insurance before commencing work under the letter of engagement:

a. Public Liability Insurance of not less than **AUD$5,000,000** for each and every public liability occurrence, to be maintained until all work under the engagement is completed or terminated;

b. Professional Indemnity Insurance of not less than **AUD$5,000,000** for each claim and in the annual aggregate for all claims, to be maintained for 7 years after the engagement is completed or terminated; and

c. insurance as required by law, such as worker's compensation insurance.

5 **SECURITY CLEARANCES:**

The security classification of the Services is up to and including Baseline level. The Consultant must possess a personnel security clearance at Baseline level and must comply with the requirements and procedures of Part 2:20 of the Defence Security Manual, as amended from time to time.

6 **COMMONWEALTH CONTACT OFFICER AND ADDRESS FOR NOTICES (INCLUDING INVOICES):**

Assistant Secretary Defence Industry
Department of Defence
Brindabella Business Park
PO box 7938, Canberra BC, ACT 2610

7 **ACKNOWLEDGEMENT AND AGREEMENT:**

If the Consultant agrees to provide the Services in accordance with the Terms and Conditions set out above and in **Attachment A**, please sign the enclosed copy of the letter (refer below) and return to me at your earliest convenience.
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Expert Engagement Agreement

If you have any questions or require further information, please do not hesitate to contact me.

Yours sincerely

Mr Matt Ramage
Assistant Secretary Defence Industry

I, the Hon David AL Johnston agree to provide the Services on the terms and conditions set out above and attached to this letter in the presence of:

ATTACHMENTS:
Attachment A: Terms and Conditions
Attachment B: Confidentiality and Conflict of Interest Declaration
Attachment C: Code of Conduct

ANNEXES:
Annex A: Australian Defence Export Advocate Statement of Work

Full name of authorised signatory

5/4/18

Letter of Engagement (V3.0)

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Expert Engagement Agreement

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ATTACHMENT A

TERMS AND CONDITIONS

1. Agreement

1.1 The agreement comprises the particulars described in the Letter of Engagement and the Terms and Conditions set out in this Attachment A.

2. Provision of Services

2.1 The Consultant must provide the services described in paragraph 1 of the Letter of Engagement (Services) at the times, in the manner and at the location (if any) described in the agreement or as otherwise notified in writing by the Commonwealth. The Services must be provided with due care and skill in accordance with the highest professional standards to the satisfaction of the Commonwealth.

2.2 The Consultant must comply with all reasonable directions of the Commonwealth as may be given from time to time as to the nature and scope of the Services to be provided. This clause does not affect the Consultant's right to exercise its own judgment and to utilise its own skills as it considers most appropriate in order to comply with the Commonwealth's direction or its obligations under the agreement.

2.3 The Consultant must comply with the Code of Conduct set out at Attachment C.

3. Nature of engagement

3.1 The Commonwealth engages the Consultant to provide the Services as an independent contractor and not as the Commonwealth's agent or employee. The Consultant does not have any authority to bind the Commonwealth or act on the Commonwealth's behalf at any time. The Consultant is not entitled to any benefit from the Commonwealth usually attributable to an employee.

4. Payment

4.1 The Commonwealth agrees to pay the Consultant the fees and other amounts specified in paragraph 3 of the Letter of Engagement for Services provided by the Consultant in accordance with this agreement, within 30 days of the Commonwealth's receipt of a correctly rendered invoice.

4.2 The Commonwealth must pay the Consultant:

a. the Daily Rate if the Consultant undertakes 8 or more hours of work on the Services in a 24 hour period; and

b. a pro-rata proportion of the Daily Rate if the Consultant undertakes less than 8 hours of work on the Services in a 24 hour period.

4.3 The Commonwealth is not obligated to pay the Consultant more than the Daily Rate for work done within any one 24 hour period, including where the Consultant has been required to travel in the course of that period to undertake the Services.

4.4 If the Commonwealth fails to pay a correctly rendered invoice within 30 days after the date of receipt, the Commonwealth must pay interest on the unpaid amount at the general interest charge rate (determined under section 8AAD of the Taxation Administration Act 1953 (Cth) on the day payment is due) calculated in respect of each day that the payment was late.

4.5 The Commonwealth must pay interest whether or not the Consultant has submitted a separate invoice for the interest amount. Interest will only be payable in accordance with clause 4.4 if the interest amount exceeds A$10.

5. Invoice

5.1 An invoice is correctly rendered if the amount claimed for payment is correctly calculated in accordance with the agreement, contains details of the days (including any part days) worked during the relevant invoicing period, identifies the purchase order number and the Contact Officer specified in paragraph 6 of the Letter of Engagement and is in the form of a valid tax invoice in accordance with A New Tax System (Goods and Services Tax) Act 1999 (Cth).
5.2 If the agreement provides for reimbursement of out of pocket expenses, the invoice must separately itemise all expenses for which reimbursement is sought, and be accompanied by verifying documentation (including copies of invoices).

6. Price Basis

6.1 The fees and other amounts (if any) specified in paragraph 3 of the Letter of Engagement are inclusive of all taxes (excluding GST), duties and government charges imposed or levied in Australia or overseas, remuneration to the Consultant and costs in respect of procuring and maintaining any insurance required under paragraph 4 of the Letter of Engagement.

7. GST

7.1 In this clause, “GST” means a Commonwealth goods and services tax imposed by the A New Tax System (Goods and Services Tax) Act 1999 (Cth) and the expressions "adjustment event", "input tax credits", "taxable supply" and "tax invoice" have the same meaning as in that Act.

7.2 If a party to this agreement (the “Supplier”) makes a taxable supply under or in connection with this agreement or in connection with any matter or thing occurring under this agreement to another party to this agreement (the “Recipient”) and the consideration otherwise payable for the taxable supply does not include GST, the Supplier will be entitled, in addition to any other consideration recoverable in respect of the taxable supply, to recover from the Recipient the amount of any GST on the taxable supply.

7.3 If the amount paid by the Recipient to the Supplier in respect of GST differs from the GST on the taxable supply (taking into account any adjustment events that occur in relation to the taxable supply), an adjustment must be made. If the amount paid by the Recipient exceeds the GST on the taxable supply, the Supplier must refund the excess to the Recipient. If the amount paid by the Recipient is less than the GST on the taxable supply, the Recipient must pay the deficiency to the Supplier.

7.4 If a party to this agreement is entitled, under or in connection with this agreement or in connection with any matter or thing occurring under this agreement, to recover all or a proportion of its costs or is entitled to be compensated for all or a proportion of its costs, the amount of the recovery or compensation must be reduced by the amount of (or the same proportion of the amount of) any input tax credits available in respect of those costs.

8. Intellectual Property

8.1 Title in and ownership of all intellectual property (IP) associated with any deliverable or material created by the Consultant in connection with the agreement (“Foreground IP”) vests on creation in the Commonwealth. The Consultant agrees to execute all documents and do all acts and things required by the Commonwealth to give effect to this clause. The Commonwealth acknowledges that the vesting in the Commonwealth of all Foreground IP does not affect IP in any pre-existing material which is incorporated in any deliverable or material (“Background IP”). In such circumstances, the Consultant must grant (or ensure the grant) to the Commonwealth of a royalty free, irrevocable, non-exclusive, perpetual, world-wide licence (including the right to sub licence) of the Background IP to use (including copy, adapt, expand, develop, publish or otherwise change) the pre-existing material.

9. Moral rights

9.1 In relation to any material in which the Consultant or an individual involved in the creation of the material has a moral right as defined under the Copyright Act 1968 (Cth), the Consultant consents to the Commonwealth doing or omitting to do, anything that, but for the consent, would constitute an infringement of those moral rights.

10. Moral rights and IP Warranty

10.1 The Consultant warrants that the provision of the Services (and the Commonwealth’s use of any deliverable developed or supplied under the agreement) will not infringe the
11. Privacy

11.1 Words defined in the Privacy Act 1988 (Cth) have the same meaning in this clause.

11.2 If the Consultant obtains personal information in the course of performing the Services, the Consultant must use and disclose that information only for the purposes of this agreement. The Consultant must comply with the obligations contained in the Australian Privacy Principles as if they were an agency under the Privacy Act.

11.3 The Consultant must notify the Commonwealth as soon as reasonably practicable if it becomes aware of a breach or possible breach of any of the obligations contained, or referred to, in this clause 11, whether by the Consultant to whom the Personal Information has been disclosed for the purposes of the Contract.

12. Confidentiality and Conflict of Interest

12.1 The Consultant must not disclose to a third party any information that it knows, or ought reasonably to know, is confidential, without the prior written consent of the Commonwealth.

12.2 The Consultant warrants that to the best of their knowledge no conflict of interest exists or is likely to arise in the performance of this agreement. The Consultant must ensure that it does not engage in any activity that is likely to compromise the ability of the Consultant to perform their obligations fairly and independently. The Consultant must immediately disclose to the Commonwealth any activity which constitutes or may constitute a conflict of interest.

12.3 The Consultant must execute the Confidentiality and Conflict of Interest Declaration at Attachment B.

13. Commonwealth Disclosure

13.1 The Consultant acknowledges and agrees that the Commonwealth may disclose any and all information relevant to the Services and the Consultant’s engagement to perform the Services to third parties without the need to obtain the Consultant’s prior consent.

14. Commonwealth Items

14.1 The Consultant must not use any Commonwealth supplied documentation, materials or other items (Commonwealth Items) for any purposes other than:

   a. a purpose for which that Commonwealth Item was designed, manufactured or constructed; and

   b. for the provision of the Services.

15. Security and safety

15.1 The Consultant must comply with any security and safety requirements notified to it by the Commonwealth or of which the Consultant is aware and comply with such security and safety requirements.

15.2 Throughout the provision of the Services, the Consultant and the Commonwealth must proactively identify and cooperate to manage any workplace health and safety issues that may arise.

16. Termination for default

16.1 The Commonwealth may terminate the agreement immediately by written notice:

   a. if either the Consultant is in breach of any term or warranty contained in the agreement and, where the breach is capable of remedy, the breach is not remedied with 30 days of written notice by the Commonwealth;

   b. if the Consultant is not available to provide the Services; or

   c. the Consultant becomes bankrupt or insolvent.
Expert Engagement Agreement

17. Termination for convenience

17.1 In addition to clause 16, the Commonwealth may at any time and without cause or reason, terminate the agreement (in whole or in part) by written notice to the Consultant. If the agreement is terminated under this clause, the Commonwealth must pay the Consultant for Services rendered before the effective date of termination.

18. Notices

18.1 Any notice or communication under the agreement will be effective if it is in writing, signed and delivered to the Contact Officer or the Consultant (as the case may be) shown in the Letter of Engagement.

19. Assignment

19.1 The Consultant must not assign any of its rights under the agreement without the written consent of the Commonwealth.

20. Subcontracting

20.1 The Consultant must not subcontract the whole or part of its obligations under the agreement without the written consent of the Commonwealth. If the Consultant subcontracts any or all of its obligations in accordance with this clause, the Consultant is not relieved of any of its liabilities or obligations under the agreement.

21. Variation

21.1 This agreement may only be varied by written agreement of the parties.

22. Applicable law

22.1 The law of the Australian Capital Territory applies to this agreement.

23. Entire agreement:

23.1 The agreement represents the parties' entire agreement in relation to the subject matter and supersedes all tendered offers and prior representations, communications, agreements, statements and understandings, whether oral or in writing.

24. Severability

24.1 If any part if the agreement is or becomes illegal, invalid or unenforceable, the legality, validity or enforceability of the remainder of the agreement will not be affected and will be read as if that part had been severed.
ATTACHMENT B

CONFIDENTIALITY DECLARATION

1. The Letter of Engagement signed by Mr Ramage and the Hon. David AL Johnston, the Privacy Act 1988 (Cth) and regulations under that Act, and the Crimes Act 1914 (Cth) and regulations under that Act define the obligations the Hon. David AL Johnston with respect to information the Hon. David AL Johnston will have access to by virtue of their role. To clarify these obligations, information received by the Hon. David AL Johnston in connection with the Australian Defence Export Advocate position is to be:
   a. kept confidential,
   b. used only for the purpose of performing the Services in accordance their Letter of Engagement, and
   c. only disclosed to persons who are authorised to receive such information.

2. Section 70(1) of the Crimes Act 1914 (Cth) also provides that it is an offence for a Commonwealth officer (which includes a person who performs services for or on behalf of the Commonwealth, i.e. contracted personnel) to disclose any fact or document obtained by virtue of being a Commonwealth officer except to a person who is authorised to receive such fact or document.

Declaration:

I, the Hon. David AL Johnston

acknowledge my obligations to keep information provided to me in relation to Australian Defence Export Advocate position confidential and to only disclose any such information to persons who are authorised to receive that information.

Date: 5/4/18
CONFLICT OF INTEREST DECLARATION

As Australian Defence Export Advocate I have been asked to disclose any interest that I may have which could preclude me from properly undertaking my duties in respect of my role.

I acknowledge that it is my responsibility to declare any actual, perceived or potential conflicts of interest and that in doing so I will have regard to any entity that I believe, or Defence has identified, as being relevant to Australian Defence Export Advocate (regardless of whether that entity is listed at Table 1 below).

I set out below any actual, perceived or potential conflicts of interest of which I am aware:

<table>
<thead>
<tr>
<th>Shareholdings and other business interests:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you have shareholdings, investments or other business interests in, interaction or dealings with any tenderer or potential tenderer? This includes holding nominee shareholdings on behalf of others.</td>
</tr>
<tr>
<td>If they could conflict with Australian Defence Export Advocate give the name and nature of the operations of the tenderer or potential tenderer, and the nature of the interest.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Personal Interests:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you have any personal association with any tenderer or potential tenderer? If so, provide details.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other interests:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are you aware of any other substantial financial or other interest held or accruing to you or a member of your immediate family which could reasonably raise an expectation of a conflict of interest with Australian Defence Export Advocate? If so, provide details.</td>
</tr>
</tbody>
</table>

This information is true and correct to the best of my knowledge and belief. If a further actual, perceived or potential conflict of interest arises in the future I will immediately provide an updated declaration to the First Assistant Secretary Defence Industry Policy detailing that conflict of interest.

Date: 5/14/18

Printed Name: [Signature]

Position: [Position]
TABLE 1: LIST OF POTENTIAL INTERESTED ENTITIES

This list is indicative only and may be updated from time to time. It is intended as a guide and you should consider whether you may have a personal, professional and/or financial interest in an entity which may be involved in the Defence industry regardless of whether that entity is listed here. You should consider whether the declaration you have provided needs to be updated when any changes are made to the list of potentially interested entities below.

<table>
<thead>
<tr>
<th>Entities in the Defence industry and associated service providers, which may include (but not limited to) companies such as those listed below:</th>
<th>Nil</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consideration should also be given to related bodies corporate of the companies listed, such as parent companies, Australian and overseas subsidiary companies and affiliated companies of those entities listed in Table1.</td>
<td></td>
</tr>
</tbody>
</table>
ATTACHMENT C

CODE OF CONDUCT

1. As a service provider to the Commonwealth, the Company and the Consultant are expected to comply with the following:
   a. act honestly, in good faith and in the best interests of Defence as a whole;
   b. use due care and diligence in performing the Services;
   c. accept that in carrying out the Services, your primary responsibility is to Defence;
   d. not make improper use of information acquired during the performance of the Services;
   e. not take improper advantage of your position;
   f. assert your independence in judgment and actions and take all reasonable steps to be satisfied with the soundness of your advice;
   g. not engage in conduct likely to bring discredit to Defence; and
   h. comply with the spirit, as well the letter of the law and with the principles of this Code.
Australian Defence Export Advocate(s) – Statement of Work

A. BACKGROUND

1. The Defence Export Strategy is part of the Government’s defence industry policy to deliver the Defence capability necessary to achieve the strategy set out in the 2016 Defence White Paper. The 2016 Defence Industry Policy Statement laid out the Government’s plan to reset the Defence-industry relationship and establish Australian defence industry as a Fundamental Input to Capability.

2. The 2016 Defence Industry Policy Statement recognised that enabling better access to global markets for Australian defence industry not only makes economic sense – it makes strategic sense in building the capability, skills, and resilience of industry to fulfil its role of supporting Defence capability. The Defence Export Strategy builds on the 2016 Defence Industry Policy Statement by setting out a comprehensive system to plan, guide, and measure defence export outcomes.

3. The Defence Export Strategy sets the Strategic Goal over the next decade to 2028 to: achieve greater export success to build a stronger, more sustainable and more globally competitive Australian defence industry to support Australia’s Defence capability needs.

4. At the centre of the new defence export system, the Government is establishing the Australian Defence Export Office within the Department of Defence. The Office will provide an enduring advocacy, market intelligence, and Government-to-Government sales capability. The Office will also provide a focal point for Australian defence exports and will coordinate international engagement. The Office will be supported by the Australian Defence Export Advocate(s) who will undertake senior-level advocacy and stakeholder engagement to support defence exports.

B. SERVICES

The officer is required to:

1. Act as an Australian Defence Export Advocate under the Defence Export Strategy in support of the Australian Defence Export Office, and the Strategic Goal set by the Defence Export Strategy, including the following:

   a. Provide international advocacy on behalf of Australian defence industry. This is specifically aimed at, but not restricted to helping Australian defence industry secure export sales and contracts.

   I. This includes international travel in support of Australian Government defence export objectives, including support to Australian Government Ministers, as well as with Department of Defence officials and officials from other Commonwealth agencies, as required. This travel will be to
Australian Defence Export Advocate(s) – Statement of Work

b. Support the development and delivery of strategic export campaigns. This includes working with the States and Territories, including the various State and Territory appointed ‘defence advocates’, so that efforts are coordinated.

c. Chair the Defence Export Forum, a part of the Defence-State and Territory Industry Advisory and Engagement Forum. In this role, the Advocate will help to enhance coordination of a national approach to defence export efforts between the Commonwealth and States and Territories, increasing awareness of activities, such as by the Australian Defence Export Office.

d. In support of the Defence Export Office, provide input on options for engagement with senior Australian industry representatives and peak bodies to develop market and export opportunities and awareness of the strategic export campaigns.

e. Regularly report to the Minister for Defence Industry and Minister for Defence, through the Defence Export Office, on activities to inform the implementation of the Defence Export Strategy.

f. Provide advice to the Assistant Secretary Defence Industry and Executive Director Australian Defence Export Office on the effective operation of the Office, including prioritisation of effort.

g. Sit as a member of the Centre for Defence Industry Capability (CDIC) Advisory Board. Specifically, in their role on the Board, the Advocate will focus on export opportunities for Australian defence industry and help to ensure the activities of the CDIC and the Australian Defence Export Office are coordinated.

2. The Australian Defence Export Advocate will be under the direction of the Assistant Secretary Defence Industry for the planning and implementation of the roles outlined in this Statement of Work, but will provide advice to the Minister for Defence Industry and other Ministers and senior Defence officers as appropriate.

3. The Australian Defence Export Advocate will be supported by the Defence Industry Branch through the Australian Defence Export Office. Defence Industry Branch will provide administrative support for the Advocate as required.

4. The Advocate will demonstrate satisfactory performance of the agreement by providing to the Commonwealth regular updates on the performance of the Services, both in writing and at such meetings as the Commonwealth requires, before payments are released to the officer.