



Ministry
of Defence



Contract Number:
CSA/1097

Description:
In-Service Support (ISS) for Internal Communications and Closed Circuit Television (CCTV)
Systems

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AMENDMENT RECORD

[illegible]

Schedule of Requirements (SoR)

Total Integrated Solutions Ltd Hamilton Way Oakham Business Park Mansfield Nottinghamshire NG18 5BU	MINISTRY OF DEFENCE Schedule of Requirements for In-Service Support to the Internal Comms and CCTV	Contract No.: CSA/1097 Dated: 05 October 2017
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- FIRM PRICES		
Item No.	Description	FIRM Price £ (ex VAT)
1	Provision of In-Service Support (ISS) Core Activities in accordance with the Statement of Work (SOW) at Annex A to the Contract, for the following platforms: i. [REDACTED] as listed at Annex A, from 5 October 2017 to 4 October 2020	[REDACTED]
2	Provision of Spares, as detailed in the Spares List at Annex B to the Contract, in accordance with the procedure detailed at Clause 41.1 of the Contract, for the following platforms: i. [REDACTED] as listed at Annex A from 5 October 2017 to 4 October 2020	Firm Menu Prices as detailed in Annex B
3	Provision of Repairs, as detailed in the Repairs List at Annex C to the Contract, in accordance with the procedure detailed at Clause 41.2 of the Contract, for the following platforms: i. [REDACTED] as listed at Annex A from 5 October 2017 to 4 October 2020	Firm Menu Prices as detailed in Annex C

- FIXED PRICES		
Item No.	Description	FIXED Price £ (ex VAT)
4	Provision of In-Service Support (ISS) Core Activities in accordance with the Statement of Work (SOW) at Annex A to the Contract, for the following platforms: i. [REDACTED] as listed at Annex A, from 5 October 2020 to 4 October 2022	[REDACTED] Firm price to be calculated in accordance with Clause 46
5	Provision of Spares, as detailed in the Spares List at Annex B to the Contract, in accordance with the procedure detailed at Clause 41.1 of the Contract, for the following platforms: i. [REDACTED] as listed at Annex A from 5 October 2020 to 4 October 2022	Fixed Menu Prices as detailed in Annex B
6	Provision of Repairs, as detailed in the Repairs List at Annex C to the Contract, in accordance with the procedure detailed at Clause 41.2 of the Contract, for the following platforms: i. [REDACTED] as listed at Annex A from 5 October 2020 to 4 October 2022	Fixed Menu Prices as detailed in Annex C

- FIRM PRICES		
Item No.	Description	FIRM Price £ (ex VAT)
7	Provision of In-Service Support (ISS) Core Activities in accordance with the Statement of Work (SOW) at Annex A to the Contract, for the following platform: i. [REDACTED] as listed at Annex A, from 1 December 2017 to 4 October 2020	[REDACTED]
8	Provision of Spares, as detailed in the Spares List at Annex B to the Contract, in accordance with the procedure detailed at Clause 41.1 of the Contract, for the following platforms: i. [REDACTED] as listed at Annex A, from 1 December 2017 to 4 October 2020	Firm Menu Prices as detailed in Annex B
9	Provision of Repairs, as detailed in the Repairs List at Annex C to the Contract, in accordance with the procedure detailed at Clause 41.2 of the Contract, for the following platforms: i. [REDACTED] as listed at Annex A, from 1 December 2017 to 4 October 2020	Firm Menu Prices as detailed in Annex C

████ - FIRM PRICES

Item No.	Description	FIRM Price £ (ex VAT)
10	Provision of In-Service Support (ISS) Core Activities in accordance with the Statement of Work (SOW) at Annex A to the Contract, for the following platform: i. █████ as listed at Annex A, from 5 October 2017 to 4 October 2020.	████
11	Provision of Spares, as detailed in the Spares List at Annex B to the Contract, in accordance with the procedure detailed at Clause 41.1 of the Contract, for the following platforms: i. █████ as listed at Annex A, from 5 October 2017 to 4 October 2020.	Firm Menu Prices as detailed in Annex B
12	Provision of Repairs, as detailed in the Repairs List at Annex C to the Contract, in accordance with the procedure detailed at Clause 41.2 of the Contract, for the following platforms: i. █████ as listed at Annex A, from 5 October 2017 to 4 October 2020.	Firm Menu Prices as detailed in Annex C

ADDITIONAL ITEMS – FIRM PRICES

Item No.	Description	FIRM Price £ (ex VAT)
13	Provision of Supplementary Tasks as required by the Authority in accordance with the procedure detailed at Clause 18 of the Contract from 5 October 2017 to 4 October 2020.	To be priced IAW Clause 18 and Annex D

ADDITIONAL ITEMS – FIXED PRICES

Item No.	Description	FIXED Price £ (ex VAT)
14	Provision of Supplementary Tasks as required by the Authority in accordance with the procedure detailed at Clause 18 of the Contract from 5 October 2020 to 4 October 2022.	To be priced IAW Clause 18, 46 and Annex D

Irrevocable Contract Options:**████ - FIXED PRICES**

Item No.	Description	FIXED Price £ (ex VAT)	Date Invoked
15	Provision of In-Service Support (ISS) Core Activities in accordance with the Statement of Work (SOW) at Annex A to the Contract, for the following platforms: i. █████ as listed at Annex A, from 5 October 2022 to 4 October 2024.	████ Firm price to be calculated in accordance with Clause 46	
16	Provision of Spares, as detailed in the Spares List at Annex B to the Contract, in accordance with the procedure detailed at Clause 41.1 of the Contract, for the following platforms: i. █████ as listed at Annex A from 5 October 2022 to 4 October 2024.	Fixed Menu Prices as detailed in Annex B	
17	Provision of Repairs, as detailed in the Repairs List at Annex C to the Contract, in accordance with the procedure detailed at Clause 41.2 of the Contract, for the following platforms: i. █████ as listed at Annex A from 5 October 2022 to 4 October 2024.	Fixed Menu Prices as detailed in Annex C	

■ - FIXED PRICES

Item No.	Description	FIXED Price £ (ex VAT)	Date Invoked
18	Provision of In-Service Support (ISS) Core Activities in accordance with the Statement of Work (SOW) at Annex A to the Contract, for the following platform: i. ■ as listed at Annex A, from 5 October 2020 to 4 October 2022.	■ Firm price to be calculated in accordance with Clause 46	
19	Provision of Spares, as detailed in the Spares List at Annex B to the Contract, in accordance with the procedure detailed at Clause 41.1 of the Contract, for the following platforms: i. ■ as listed at Annex A, from 5 October 2020 to 4 October 2022.	Fixed Menu Prices as detailed in Annex B	
20	Provision of Repairs, as detailed in the Repairs List at Annex C to the Contract, in accordance with the procedure detailed at Clause 41.2 of the Contract, for the following platforms: i. ■ as listed at Annex A, from 5 October 2020 to 4 October 2022.	Fixed Menu Prices as detailed in Annex C	
21	Provision of In-Service Support (ISS) Core Activities in accordance with the Statement of Work (SOW) at Annex A to the Contract, for the following platform: i. ■ as listed at Annex A, from 5 October 2022 to 4 October 2024.	■ Firm price to be calculated in accordance with Clause 46	
22	Provision of Spares, as detailed in the Spares List at Annex B to the Contract, in accordance with the procedure detailed at Clause 41.1 of the Contract, for the following platforms: i. ■ as listed at Annex A, from 5 October 2022 to 4 October 2024.	Fixed Menu Prices as detailed in Annex B	
23	Provision of Repairs, as detailed in the Repairs List at Annex C to the Contract, in accordance with the procedure detailed at Clause 41.2 of the Contract, for the following platforms: i. ■ as listed at Annex A, from 5 October 2022 to 4 October 2024.	Fixed Menu Prices as detailed in Annex C	

■ - FIXED PRICES

Item No.	Description	FIXED Price £ (ex VAT)	Date Invoked
24	Provision of In-Service Support (ISS) Core Activities in accordance with the Statement of Work (SOW) at Annex A to the Contract, for the following platform: i. ■ as listed at Annex A, from 5 October 2020 to 4 October 2022.	■ Firm price to be calculated in accordance with Clause 46	
25	Provision of Spares, as detailed in the Spares List at Annex B to the Contract, in accordance with the procedure detailed at Clause 41.1 of the Contract, for the following platforms: i. ■ as listed at Annex A, from 5 October 2020 to 4 October 2022.	Fixed Menu Prices as detailed in Annex B	
26	Provision of Repairs, as detailed in the Repairs List at Annex C to the Contract, in accordance with the procedure detailed at Clause 41.2 of the Contract, for the following platforms: i. ■ as listed at Annex A, from 5 October 2020 to 4 October 2022.	Fixed Menu Prices as detailed in Annex C	
27	Provision of In-Service Support (ISS) Core Activities in accordance with the Statement of Work (SOW) at Annex A to the Contract, for the following platform: i. ■ as listed at Annex A, from 5 October 2022 to 4 October 2024.	■ Firm price to be calculated in accordance with Clause 46	

████ - FIXED PRICES

Item No.	Description	FIXED Price £ (ex VAT)	Date Invoked
28	Provision of Spares, as detailed in the Spares List at Annex B to the Contract, in accordance with the procedure detailed at Clause 41.1 of the Contract, for the following platforms: i. █████ as listed at Annex A, from 5 October 2022 to 4 October 2024.	Fixed Menu Prices as detailed in Annex B	
29	Provision of Repairs, as detailed in the Repairs List at Annex C to the Contract, in accordance with the procedure detailed at Clause 41.2 of the Contract, for the following platforms: i. █████ as listed at Annex A, from 5 October 2022 to 4 October 2024.	Fixed Menu Prices as detailed in Annex C	

ADDITIONAL ITEMS – FIXED PRICES

Item No.	Description	FIXED Price £ (ex VAT)	Date Invoked
30	Provision of Supplementary Tasks as required by the Authority in accordance with the procedure detailed at Clause 18 of the Contract from 5 October 2022 to 4 October 2024.	To be priced IAW Clause 18, 46 and Annex D	

SECTION 1 - GENERAL CONDITIONS**1 DEFCONs**

1.1 The following General Conditions shall apply to the Contract:

DEFCON	Edition	Description
5J	11/16	Unique Identifiers Note: For the purposes of the Contract, Clause 2 of DEFCON 5J shall only apply to SoR Items 2 and 5, i.e. this Clause shall not apply where used in conjunction with contract for services.
23	08/09	Special Jigs, Tooling and Test Equipment
68	02/17	Supply of Data for Hazardous Articles, Materials and Substances Note: Where a Safety Data Sheet (SDS) has been produced in relation to a specific Article, a copy of the SDS shall also accompany each such Article delivered under the Contract.
76	12/06	Contractor's Personnel at Government Establishments
113	02/17	Diversion Orders
117	10/13	Supply of Information for NATO Codification and Defence Inventory Introduction
126	11/06	International Collaboration
127	12/14	Price Fixing Condition For Contracts Of Lesser Value
129	11/16	Packaging (for articles other than munitions)
129J	11/16	The use of Electronic Business Delivery Form
501	05/17	Definitions and Interpretations Note: For the purposes of the Contract further Definitions and Interpretations are provided at Clause 3 and Annex A (Statement of Work) to the Contract.
502	05/17	Specifications
503	12/14	Formal Amendments to Contract Note: For the purposes of Clause 1 of DEFCON 503 the Authority's duly authorised representative shall be the Commercial Branch named at Box 1 of DEFFORM 111 (Appendix 1).
507	10/98	Delivery
513	11/16	Value Added Tax
516	04/12	Equality
518	02/17	Transfer
522	07/99	Payment and Recovery of Sums Due
524	10/98	Rejection
525	10/98	Acceptance Note: For the purposes of Clause 1a of DEFCON 525, the period of notice shall be 60 (sixty) Working Days unless otherwise specified within the Contract.
526	08/02	Notices
527	09/97	Waiver
528	07/17	Import and Export Licenses
529	09/97	Law (English)
530	12/14	Dispute Resolution (English Law)
531	11/14	Disclosure of Information
532A	06/10	Protection of Personal Data (Where Personal Data is not being processed on behalf of the Authority)
534	06/17	Subcontracting and Prompt Payment
537	06/02	Rights of Third Parties
538	06/02	Severability
539	08/13	Transparency
550	02/14	Child Labour and Employment Law
566	10/16	Change of Control of Contractor
601	04/14	Redundant Materiel
602A	12/06	Deliverable Quality Plan
604	06/14	Progress Reports

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606	06/14	Change and Configuration Control Procedure
607	05/08	Radio Transmissions
608	10/14	Access and Facilities to be Provided by the Contractor
609	06/14	Contractor's Records
611	02/16	Issued Property Note: For the purposes of the Contract all Issued Property is specified at Annex H (Government Furnished Assets) to the Contract.
612	10/98	Loss of or Damage to the Articles
619A	09/97	Customs Duty Drawback
620	05/17	Contract Change Control Procedure
621A	06/97	Transport (If the Authority is responsible for Transport)
624	11/13	Use of Asbestos
627	12/10	Requirement for a Certificate of Conformity
630	03/15	Framework Agreements
637	05/17	Defect Investigation and Liability
642	06/14	Progress Meetings
643	12/14	Price Fixing (Non-qualifying contracts)
644	05/17	Marking of Articles
646	10/98	Law & Jurisdiction (Foreign Suppliers)
647	09/13	Financial Management Information Note: Financial Management Information reports to be provided quarterly
649	12/16	Vesting
658	04/17	Cyber Note (1): Further to DEFCON 658 the Cyber Risk Level of the Contract is Low, as defined in Def Stan 05-138. Note (2): The Contractor shall comply with the Cyber Security Implementation Plan at Annex X to the Contract to the point where the necessary Cyber certification is achieved.
660	12/15	Official-Sensitive Security Requirements
670	02/17	Tax Compliance
681	06/02	Decoupling Clause
694	03/16	Accounting for the Property of the Authority
697	07/13	Contractors on Deployed Operations Note: Where the Authority has a requirement for the Contractor, a subcontractor, or both, to Deploy to undertake a task at an Expected Work Location in a CONDO Applicable Area, the provisions of DEFCON 697 shall apply. DEFCON 697 shall become effective when such a task is included in the Contract.
697App	07/13	Appendix to DEFCON 697 – Condition to be included in relevant Subcontracts

Table 1 – DEFCONs (General Conditions)

2 IPR DEFCONs

2.1 The IPR DEFCONs detailed at table 2 shall apply to the following:

- 2.1.1 RICE 1;
- 2.1.2 RICE 2;
- 2.1.3 Analogue IR Communications;
- 2.1.4 Main Broadcast;
- 2.1.5 PABX; and
- 2.1.6 CCTV

DEFCON	Edition	Description
14	11/05	Inventions And Designs Crown Rights And Ownership Of Patents And Registered Designs Note (1): Where any invention or design, to which the provisions of this Condition apply, is made outside the UK and where local laws so require, any applications may, notwithstanding the provisions of Clause 2(c) of this Condition, be made under conditions of secrecy at the

		local Patent Office of the territory where the invention or the design was made. Where local laws so require, the supply of a copy of the application under Clause 4(a) of this Condition, shall be subject to any necessary approval of the local Patent Office but the application number and date of filing shall be notified to the Authority in all cases.
15	02/98	Design Rights and Rights to Use Design Information Note (1): For the avoidance of doubt, it is hereby recorded that DEFCON 15 shall apply to the complete design of the Articles and all parts thereof. Accordingly, the Contractor's attention is drawn to the need to identify all of its own self-standing background IP in which the Authority is not to be given full DEFCON 15 rights as soon as he becomes aware of the possibility of such self-standing IP being used in fulfilment of the Contract. Note (2): The DEFFORM 315 is at Annex J to the Contract.
16	10/04	Repair and Maintenance Information Note (1): The DEFFORM 315 is at Annex J to the Contract.
21	10/04	Retention of Records Note (1): The DEFFORM 315 is at Annex J to the Contract
90	11/06	Copyright Note (1): For the purposes of Clause 4c of DEFCON 90, the nations prescribed in the Contract shall be any NATO state or any other nation chosen at the discretion of the Authority or with whom the Authority has any form of reciprocal defence arrangement. The Authority undertakes to provide written notice to the Contractor before information is issued to any non-NATO country.
91	11/06	Intellectual Property Rights in Software Note (1): For the purposes of Clause 3e of DEFCON 91, the nations prescribed in the Contract shall be any NATO state or any other nation chosen at the discretion of the Authority or with whom the Authority has any form of reciprocal defence arrangement. The Authority undertakes to provide written notice to the Contractor before information is issued to any non-NATO country.
126	11/06	International Collaboration Note (1): For the purposes of Clauses 2 and 3 of DEFCON 126, the period prescribed shall be 15 (fifteen) years from the completion of the Contract.
632	08/12	Third Party Intellectual Property – Rights and Restrictions

Table 2 – DEFCONs (IPR) – RICE 1, RICE 2, ANALOGUE IR COMMUNICATIONS, MAIN BROADCAST, PABX AND CCTV

2.2 The IPR DEFCONs detailed at table 3 shall apply to Flight Deck Communications:

DEFCON	Edition	Description
14	11/05	Inventions And Designs Crown Rights And Ownership Of Patents And Registered Designs Note (1): Where any invention or design, to which the provisions of this Condition apply, is made outside the UK and where local laws so require, any applications may, notwithstanding the provisions of Clause 2(c) of this Condition, be made under conditions of secrecy at the local Patent Office of the territory where the invention or the design was made. Where local laws so require, the supply of a copy of the application under Clause 4(a) of this Condition, shall be subject to any necessary approval of the local Patent Office but the application number and date of filing shall be notified to the Authority in all cases.
15	08/74	Design Rights and Rights Note (1): For the avoidance of doubt, it is hereby recorded that DEFCON 15 shall apply to the complete design of the Articles and all parts thereof. Accordingly, the Contractor's attention is drawn to the need to identify all of its own self-standing background IP in which the Authority is not to be given full DEFCON 15 rights as soon as he becomes aware of the possibility of such self-standing IP being used in fulfilment of the Contract.

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16	10/04	Repair and Maintenance Information Note (1): The DEFFORM 315 is at Annex J to the Contract.
21	01/58	Drawings Specifications and Manufacturing Data Note (1): For the purposes of the Contract, DEFCON 21 (Edn. 01/58) shall apply to DEFCON 15 (Edn. 08/74).
21	10/04	Retention of Records Note (1): The DEFFORM 315 is at Annex J to the Contract. Note (2): For the purposes of the Contract, DEFCON 21 (Edn. 10/04) shall apply to DEFCON 16 (10/04).
90	11/06	Copyright Note (1): For the purposes of Clause 4c of DEFCON 90, the nations prescribed in the Contract shall be any NATO state or any other nation chosen at the discretion of the Authority or with whom the Authority has any form of reciprocal defence arrangement. The Authority undertakes to provide written notice to the Contractor before information is issued to any non-NATO country.
91	11/06	Intellectual Property Rights in Software Note (1): For the purposes of Clause 3e of DEFCON 91, the nations prescribed in the Contract shall be any NATO state or any other nation chosen at the discretion of the Authority or with whom the Authority has any form of reciprocal defence arrangement. The Authority undertakes to provide written notice to the Contractor before information is issued to any non-NATO country.
126	11/06	International Collaboration Note (1): For the purposes of Clauses 2 and 3 of DEFCON 126, the period prescribed shall be 15 (fifteen) years from the completion of the Contract.
632	08/12	Third Party Intellectual Property – Rights and Restrictions

Table 3– DEFCONs (IPR) – FLIGHT DECK COMMUNICATIONS

2.3 The IPR DEFCONs detailed at table 4 shall apply to the Digital IR Communications:

DEFCON	Edition	Description
14	11/05	Inventions And Designs Crown Rights And Ownership Of Patents And Registered Designs Note (1): Where any invention or design, to which the provisions of this Condition apply, is made outside the UK and where local laws so require, any applications may, notwithstanding the provisions of Clause 2(c) of this Condition, be made under conditions of secrecy at the local Patent Office of the territory where the invention or the design was made. Where local laws so require, the supply of a copy of the application under Clause 4(a) of this Condition, shall be subject to any necessary approval of the local Patent Office but the application number and date of filing shall be notified to the Authority in all cases.
16	10/04	Repair and Maintenance Information Note (1): The DEFFORM 315 is at Annex J to the Contract.
21	10/04	Retention of Records Note (1): The DEFFORM 315 is at Annex J to the Contract.
90	11/06	Copyright Note (1): For the purposes of Clause 4c of DEFCON 90, the nations prescribed in the Contract shall be any NATO state or any other nation chosen at the discretion of the Authority or with whom the Authority has any form of reciprocal defence arrangement. The Authority undertakes to provide written notice to the Contractor before information is issued to any non-NATO country.
91	11/06	Intellectual Property Rights in Software Note (1): For the purposes of Clause 3e of DEFCON 91, the nations prescribed in the Contract shall be any NATO state or any other nation chosen at the discretion of the Authority

		or with whom the Authority has any form of reciprocal defence arrangement. The Authority undertakes to provide written notice to the Contractor before information is issued to any non-NATO country.
632	08/12	Third Party Intellectual Property – Rights and Restrictions

Table 4 – DEFCONs (IPR) – DIGITAL IR COMMUNICATIONS

3 Definitions

3.1 In addition to the provisions of DEFCON 501 (Definitions and Interpretations), the following words and expressions shall apply to this Contract unless the context requires otherwise:

Amendment	Means a change or amendment to the Contract in accordance with DEFCON 503
Assets	Means a resource that has a financial value.
Assignee or transferee	Means a person to whom responsibility is transferred.
Authorised Demander	The person detailed at Box 4 of the DEFFORM 111 at Appendix 1 to the Contract.
Authority's Commercial Officer	Means the person specified within Box 1 of DEFFORM 111 or its authorised representative.
Authority's Operating Centre Commercial Head	Means [REDACTED].
Authority's Project Manager (APM)	Means the person specified within Box 2 of DEFFORM 111 or its authorised representative.
Authorisation to Proceed	Means approval given by the Authority for the Contractor to commence work.
Beyond Economical Repair (BER)	Where a repair would be impracticable or uneconomical. For the purposes of this Contract an item is considered BER when the cost of repair is >75% of the price of a replacement.
CSA	Communications and Situational Awareness
Contract Term	Means the period between the Contract Effective Date and the Expiry Date or Termination Date.
Contractor Default	Means any one or more of the following: a) A breach by the Contractor of any of its obligations under this Contract which materially affects the performance of the Services and/or the Contractor's other obligations under this Contract (other than any other breaches listed in this definition); b) The occurrence of a Persistent Breach; c) The occurrence of the circumstances referred to in Clause 25 (Bankruptcy and Insolvency) d) Subject to Clause 26.3 of Clause 26 (Corrupt Gifts and Payment of Commission), the occurrence of the circumstances referred to in Clause 26.2 of Clause 26 (Corrupt Gifts and Payment of Commission) e) a breach by the Contractor of Clause 16 (Security Aspects); f) a breach by the Contractor of Clause 61 (Sub-Contracts) g) a breach by the Contractor of DEFCON 566 (Change of Control of Contractor) h) the Contractor commits a breach of this Contract which results in the criminal investigation, prosecution and conviction of the Contractor or any subcontractor under the health and safety Legislation; i) the occurrence of the circumstances referred to in Unsatisfactory Performance within Key Performance Indicator Clause 22
Contracting, Purchasing & Finance (CP&F)	Means the electronic procurement tool used by the Authority.
Contractor's works	Means the Contractor's place of business which it will use to complete the appropriate work required by the Authority.
Effective Date	Means the date of the Acceptance of Offer of Contract as detailed on the DEFFORM 10.

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Exit Plan	Means the plan to be provided by the Contractor pursuant to Clause 57.3
Expiry Date	Means the Contract end date as defined under Clause 5.1
Ex-Works	Means the Contractor is responsible for: a) making goods available at its premises for collection by MOD Transport; and b) packaging and loading onto MOD Transport.
Force Majeure Event	Means the occurrence after the Contract Effective Date of any event or occurrence which is outside the reasonable control of the Affected Party and which is not attributable to any act of or failure to take reasonable preventative action by the Party concerned, including without limitation: c) war, civil war, armed conflict or terrorism; or d) Nuclear, chemical or biological contamination unless the source or cause of the contamination is the result of a breach of this Contract by the Contractor or its subcontractors; or e) Pressure waves caused by devices travelling at supersonic speeds; which directly causes the Affected Party to be unable to comply with its obligations under this Contract or any Core or Supplementary Task.
General Conditions	Means SECTION 1 - GENERAL CONDITIONS
Good Industry Practice	Means the exercise of such degree of skill, diligence, prudence and foresight as would reasonably and ordinarily be expected from a skilled and experienced person seeking to comply with its contractual obligations and seeking to avoid liability arising under any duty of care that might reasonably apply to or to be expected from that person, complying with all applicable laws and engaged in the same type of undertaking and under the same or similar circumstances and conditions as the Contractor or any sub-contractor.
Government Furnished Assets (GFA)	Means equipment and other MOD assets that are provided to industry in support of contracts, consisting of the following as defined within DEFCON 501(Definitions and Interpretations): Issued Property Government Furnished Resource (GFR) Government Furnished Information (GFI) Government Furnished Facilities (GFF)
Information	Means any information scientific, technical or otherwise irrespective of the manner in which it is presented including in the form of software and whether or not it is protected or capable of protection as Intellectual Property.
Intellectual Property or IP	Means patents, utility models, rights (registered and unregistered) in any designs; applications for any of the foregoing; copyright; database and topography rights, confidential information and trade secrets; and all rights and forms of protection of a similar nature to these or having equivalent effect anywhere in the world.
Persistent Breach	Means 3 (three) or more breaches (the Subsequent Breaches) by the Contractor of the same one of its obligations under this Contract, provided: f) that the Authority has previously served on the Contractor a notice in writing (Warning Notice) correctly stating that the Contractor has, in the 6 (six) month period prior to the service of such Warning Notice, breached such obligation under this Contract on 3 (three) or more occasions; and g) That the Contractor's Subsequent Breaches on such obligation take place during the 6 (six) month period following the service of such Warning Notice;
Minor Repair	The Article(s) have been found to be repairable and are in a good material condition. The threshold for a Minor Repair is considered to be no more than 25% of the new manufacture price.
Medium Repair	The Article(s) have been found to be repairable but requires in-depth

	Maintenance including partial re-conditioning and modification. The threshold for a Medium Repair is considered to be no more than 50% of the new manufacture price.
Major Repair	The Article(s) have been found to be repairable but requires greater in-depth Maintenance including full reconditioning, major conversions or in-depth refurbishments. The threshold for a Major Repair is considered to be no more than 75% of the new manufacture price.
Necessary Consents	Means all permits, licences, permissions, consents, approvals, certificates and authorisations (whether statutory or otherwise) which are required for the purposes of the Contractor's obligations under this Contract, whether required in order to comply with Legislation or as a result of the rights of any third party.
Obsolescence Concern	As a result of a proactive approach, a future obsolescence issue has been identified. A resolution needs to be developed and implemented to minimise the impact on future availability, and cost to, the project.
Obsolescence Issue	An item within a project has been declared obsolescent. A resolution needs to be identified and implemented to minimise the impact on availability, and cost to, a project.
Obsolescence Resolution	A resolution type that, as a result of an obsolescence concern or obsolescence issue, is required to be implemented to provide a through life solution.
Operational Equipment	Means assets used in-service
Parties	Means the Authority and Contractor collectively and excluding any other third party.
Performance Levels	Means the performance criteria, parameters and requirements standards to which the Contractor shall complete the work, as set out at Annex A (Statement of Work) and Annex L (KPIs)
Purchase Order	Means form raised by the Authority to request items from the SoR in accordance with the Contract.
Quality Assurance	Means the systematic activities implemented in a quality system so that quality requirements for a product or service will be fulfilled.
Replacement Contractor	Means any third party contractor providing Replacement Work appointed by, or which may be appointed by, the Authority from time to time and/or, where Replacement Work is to be provided by the Authority.
Risk Register	Means a list of all associated project risks
Special Conditions	Means SECTION 2 – OBLIGATIONS to SECTION 11 – GENERAL CONTRACT PROVISIONS
Strip and Survey	Upon receipt of an item, the Contractor shall strip and provide an assessment of the level of the repair required.
Sub-Contractor	Means those persons who may enter into a Sub-Contract with the Contractor.
Termination Date	Means a date prior to the Expiry Date on which the Contract is terminated in accordance with the terms of this Contract, or otherwise lawfully terminated.
Working Day	Shall have the same meaning as that defined for “business day” in DEFCON 501.

Table 5 – Definitions

- 3.2 Notwithstanding the provisions of DEFCON 501 (Definitions and Interpretations), for the purposes of the Contract, except where the context otherwise requires:
- 3.2.1 a reference in this Contract to any Condition, Clause, Paragraph, Schedule, Part, Appendix or Attachment is, except where it is expressly stated to the contrary, a reference to such Condition, Clause, Paragraph, Schedule, Part, Appendix or Attachment of this Contract
 - 3.2.2 references to any documents being “in the agreed form” shall mean such documents have been accepted by the Authority pursuant to Clause 10 (Deliverable Documentation);
 - 3.2.3 a reference to a person includes firms, partnerships and corporations and their successors and permitted assignees or transferees and references to a public organisation (other than the Authority) shall be deemed to include a reference to any successor to such public organisation

or any organisation or entity which has taken over either or both the functions and responsibilities of such public organisation;

- 3.2.4 headings are for convenience only;
- 3.2.5 words preceding "include", "includes", "including" and "included" shall be construed without limitation by the words which follow those words;
- 3.2.6 the word "shall" is used exclusively to indicate that the associated requirement is mandatory;
- 3.2.7 the word "will" is used to indicate that the associated statement is explanatory material provided in support of the specified provisions or actions, or an assumption, or desirable or indicates a philosophy to be adopted the fulfilment of which is outside the scope of the Contract;
- 3.2.8 the General Conditions, Special Conditions, and Schedules, Parts, Appendices and Attachments to this Contract form part of this Contract and shall be taken into account in the interpretation of this Contract;
- 3.2.9 any decision, act, or thing which the Authority is required or authorised to take or do under the Contract may be taken or done only by any person authorised, either generally or specifically, by the Authority to take or do that decision, act, or thing on behalf of the Authority; and
- 3.2.10 unless otherwise excluded within the terms of this Contract or where required by law;
- 3.2.11 references to submission of documents in writing shall include electronic submission;
- 3.2.12 any requirement for a document to be signed or references to signatures shall be construed to include electronic signature. The formal method of authentication in relation to electronic signature as agreed between the Parties and to be employed under the Contract shall be email correspondence between the Authority's representatives as defined at DEFFORM 111 or as otherwise explicitly nominated under any provision of the Contract or such authorised representative as is mutually agreed between the Parties.

4 Order of Precedence

- 4.1 In the event of any inconsistency between the provisions of the Contract and/or between this Contract and any other document referred to in the Contract, then the inconsistency shall be resolved according to the following descending order of precedence:
 - 4.1.1 Special Conditions
 - 4.1.2 General Conditions
 - 4.1.3 Annex A (Statement of Work)
 - 4.1.4 All other Annexes (including all Appendices and Attachments)

4.1.5 Contractor Proposals/Agreements

- 4.1.5.1 TIS Tender Submission for CSA/1097 dated 28 November 2016
- 4.1.5.2 TIS Negotiated Tender documents for CSA/1097 provided on 15 March 2017
- 4.1.5.3 TIS Post Negotiations Tender Submission for CSA/1097 dated 6 April 2017
- 4.1.5.4 TIS Final Tender Submission for CSA/1097 dated 27 July 2017
- 4.1.5.5 TIS Revised Final Tender Submission for CSA/1097 dated 2 August 2017
- 4.1.5.6 [REDACTED] email 'RE: CSA/1097 - Internal Comms & CCTV - CSA/1097 - Contract Changes' dated 28 September 2017 10:58

4.2 Where there is a conflict or inconsistency between any of the Standards included in the Contract the order of precedence shall be:

- 4.2.1 Allied Publications and NATO Standards
- 4.2.2 Defence Standards
- 4.2.3 British Standards and International Standards
- 4.2.4 All remaining reference standards

4.3 If a Party becomes aware of any inconsistency within or between the documents referred to in Clauses 4.1 or 4.2 such Party's Representative shall notify the other Party's Representative forthwith and the Parties will seek to resolve such inconsistency, and if either Party considers the inconsistency material, then the matter shall be determined in accordance with Clause 55 (Dispute Resolution).

5 Duration

5.1 This Contract shall take effect on the Effective Date of Contract and will expire on the later of:

- 5.1.1 the final delivery; or
- 5.1.2 4 October 2022 unless any of the Options are exercised in which case the foregoing date will automatically be substituted with the scheduled completion date of the Option(s) exercised where this is later; or
- 5.1.3 the Contract is otherwise terminated in accordance with the provisions of the Contract, or otherwise lawfully terminated.

5.2 Any Supplementary Task authorised prior to the Contract end date in accordance with Clause 18 (Supplementary Tasks) shall commence on the date of approval of the Supplementary Task and remain valid for completion under the terms and conditions of the Contract for the duration specified in the Supplementary Task.

5.3 Any work authorised during the Contract Term shall be completed under the terms and conditions of this Contract, even where completion takes place beyond the end of the Contract. The Contractor is required to notify the Authority's Commercial Branch of any and all work outstanding at the end of the Contract Term.

SECTION 2 – OBLIGATIONS

6 General Obligations

6.1 The Contractor shall perform all work and provide the Contract Deliverables from the Effective Date in

accordance with all the obligations of the Contractor in the Contract, including those requirements contained within:

- 6.1.1 Annex A (Statement of Work), including the performance levels stipulated therein;
- 6.1.2 Annex M (Contract Deliverables);
- 6.2 The Contractor undertakes to the Authority that he shall perform all work and provide the Contract Deliverables:
 - 6.2.1 in accordance with the terms and conditions of this Contract;
 - 6.2.2 in accordance with Good Industry Practice;
 - 6.2.3 in accordance with all relevant Legislation;
 - 6.2.4 in accordance with all Necessary Consents; and
 - 6.2.5 to the Authority or the Authority's Nominated Representative.
- 6.3 The Contractor shall at all times act in good faith towards and co-operate fully with the Authority, its agents, representatives, and contractors.
- 6.4 The Contractor shall in consultation with the Authority and where appropriate develop such policies and procedures which are likely to improve performance of its obligations under this Contract and shall comply with such policies and procedures once they have been agreed with the Authority through a formal contract amendment.
- 6.5 If the Contractor fails to perform the work or otherwise comply with its obligations in accordance with the Contract the Authority may, in addition to its other rights and remedies, require the Contractor to re-perform the relevant work or obligations.

7 Continuing Obligations

- 7.1 The expiry or termination of the Contract, however arising, shall be without prejudice to the rights and duties of either Party accrued prior to expiry or termination. The Conditions that expressly or by implication have effect after expiry or termination shall continue to be enforceable even after expiry or termination.

8 Contractor Warranties and Undertakings

Contractor Warranties

- 8.1 The Contractor warrants to the Authority that as at the Contract Effective Date:
 - 8.1.1 it has the corporate power to enter into and to exercise its rights and perform its obligations under this Contract and any Sub-Contracts;
 - 8.1.2 it is not subject to any claim, litigation, arbitration, proceedings or any other obligation which shall or is likely to have a material adverse effect on the ability of the Contractor to perform its obligations under this Contract;
 - 8.1.3 in entering into this Contract it has not committed any Prohibited Act and for this purpose only the words "or any of its employees, agents or Sub-Contractors (or anyone acting on behalf of such persons), with or without the knowledge or authority of the Contractor" in the introduction of the definition of Prohibited Act shall be deleted; and
 - 8.1.4 so far as it is aware, there is not, not has there been, any infringement or alleged infringement of any third party's IPR in connection with this Contract

and the Authority relies upon such warranties.

Contractor Undertakings

8.2 The Contractor undertakes that for so long as this Contract remains in full force:

- 8.2.1 it shall give the Authority notice of any litigation, arbitration, administrative or adjudication or mediation proceedings before or of any court, arbitrator, administrator or adjudicator or mediator or Relevant Authority ("Dispute Forum") against itself or a Sub-Contractor which would adversely affect, to an extent which is material in the context of this Contract, the Contractor's ability to perform its obligations under this Contract, unless such notice is precluded by the rules of the Dispute Forum, provided that notice shall be given within 20 (twenty) Working Days of the Contractor becoming aware such proceedings may be threatened or pending, and immediately after the commencement thereof;
- 8.2.2 it shall not undertake the performance of its obligations under this Contract otherwise than through itself or a Sub-Contractor; and
- 8.2.3 it shall not commit any Prohibited Act and for this purpose only the words "or any of its employees, agents or Sub-Contractors (or anyone acting on behalf of such persons), with or without the knowledge or authority of the Contractor" in the introduction of the definition of Prohibited Act shall be deleted.

Status of Contractor Warranties and Undertakings

8.3 None of the warranties, undertakings, indemnities and other obligations made, given or undertaken by the Contractor in this Contract shall be given limited constructions by reference to another.

9 Standards

- 9.1 In performing its obligations under the Contract, the Contractor shall ensure that the work is delivered in accordance with the Codes, Standards and Specifications contained within the Contract.
- 9.2 During the Contract Term, the Contractor shall review all Standards which are re-issued, updated or amended in order to report to the Authority any potential changes to delivering the Contract..
- 9.3 Any update to or amendment to the Standards after the Effective Date shall be agreed by both parties through a formal contract amendment in accordance with Clause 60 (Authorisation of Contract Amendments).

10 Deliverable Documentation

10.1 All Deliverable Documentation is detailed at Annex M (Contract Deliverables).

10.2 The following provisions for Acceptance or Rejection of all Deliverable Documentation shall apply:

- 10.2.1 Deliverable Documentation shall be submitted to the Authority to the timescales detailed at Annex A (Statement of Work) and Annex M (Contract Deliverables).
- 10.2.2 If a period is not otherwise specified at Annex A (Statement of Work) and Annex M (Contract Deliverables), the Authority shall respond within 20 (twenty) Working Days of receipt of Deliverable Documentation, or an alternative timescale agreed between the Parties, either;
 - 10.2.2.1 accepting the Deliverable Documentation in accordance with the criteria detailed at Annex A (Statement of Work) and Annex M (Contract Deliverables),; or
 - 10.2.2.2 rejecting the Deliverable Documentation giving details in writing for the rejection.

10.3 Where the Authority rejects any Deliverable Documentation the Contractor shall resubmit the

Deliverable Documentation within 20 (twenty) Working Days of the date of rejection, or such an alternative timescale as is specified at Annex A (Statement of Work) or is otherwise agreed between the Parties, and the Acceptance/Rejection process shall restart from the beginning.

- 10.4 Where the Authority rejects any Deliverable Documentation resubmitted under Clause 10.3 Resolution of the Deliverable Documentation shall be in accordance with Clause 55 (Dispute Resolution).

11 Export Licences

- 11.1 It shall be the sole responsibility of the Contractor to obtain in a timely manner any import licence(s), export licence(s) and/or customs clearance(s) into the UK, or elsewhere, required in order to perform any of its obligations under the Contract. The Contractor shall be responsible for all duties, taxes, levies and imposts charged in connection with any import and/or export.
- 11.2 The Contractor shall be responsible for issuing in a timely manner any End User Certificate(s) required in order to perform any of its obligations under the Contract.
- 11.3 In the event that the Contractor fails to deliver any of the requirements under the Contract by reason of a failure to obtain or maintain the necessary import licence(s), export licence(s), customs clearance(s) and/or End User Certificate(s), then without prejudice to any other Terms and Conditions of the Contract, the Authority shall be entitled to deem this as a Material Breach.
- 11.4 The Contractor shall inform the Authority at the earliest opportunity of the route by which he intends to obtain export licence approval in order to satisfy delivery requirements under the Contract. In particular, where the Contractor chooses to use a Technical Assistance Agreement (TAA) or Manufacturing Licence Agreement (MLA), the Contractor shall promptly notify the Authority and shall not seek approval for the TAA or MLA from the Government concerned without first negotiating its contents with the Authority.

12 Not Used

13 Contractor's Responsibility

- 13.1 Notwithstanding any official approval of, or expression of satisfaction with, any Drawings, Specifications, Schedules, or any other relevant technical, administrative documents or data by the Authority, the Contractor shall be wholly responsible for the efficient and proper functioning as required by the Contract of all Articles supplied under it and for ensuring that any Design is wholly complete, accurate and meets the specifications of the Contract, such that Articles manufactured to such Design shall similarly meet the Technical Specifications and other requirements of the Contract.
- 13.2 The Contractor shall ensure that all Deliverable Items which shall, as a result of work under the Contract, be incorporated into the operational equipment are fully interchangeable with those in the operational equipment. Any item that is later found not to be interchangeable shall be repaired or replaced by the Contractor at no cost to the Authority, including any further redesign work deemed necessary.

14 Contractor's Key Personnel

- 14.1 The Contractor's key personnel shall be identified in the Contractor's Project Management Plan (PMP), and shall be Suitably Qualified and Experienced Personnel (SQEP) who have appropriate qualifications and competence to perform the requirements of the Contract. The Contractor shall be responsible for ensuring that the required SQEP is maintained throughout the duration of the Contract and shall notify the Authority immediately they become aware of any shortcomings and planned changes to SQEP. The Contractor shall provide evidence to the Authority that the necessary steps are being taken to mitigate any risk to their performance of the Contract.
- 14.2 The Contractor shall take all reasonable steps to avoid changes of key personnel assigned to work under the Contract.
- 14.3 The Contractor shall:
- 14.3.1 Advise the Authority prior to the removal from the performance of the Contractor Deliverables

or replacement of any of the Key Personnel;

14.3.2 In the event of resignation or redeployment of any of the Key Personnel, inform the Authority of the proposed replacement of such Key Personnel, and supply the curriculum vitae of such replacement who shall have the status, skills and experience at least equivalent to the individual they are employed to replace;

14.3.3 Allow the Authority the right to be present at the interview of any Key Personnel;

14.3.4 Allow the Authority to make representations to the Contractor where the Authority is not in agreement with the replacement of Key Personnel or with the replacement proposed by the Contractor. The Contractor shall give reasonable consideration to such representation but the decision of the Contractor shall be final.

14.4 In the event of any redeployment or resignation of any of the Key Personnel, the Contractor shall reasonably enforce the contractual requirement of the Key Personnel to work their designated notice period(s), to ensure appropriate knowledge transfer to his or her replacement(s) and shall demonstrate to the Authority that an appropriate knowledge transfer plan has been implemented.

14.5 The Contractor shall issue a revised PMP to the Authority within 20 (twenty) working days of any and all proposed change(s) of key personnel reflecting such change(s).

15 Employment of Private Security Companies

15.1 The Contractor's attention is drawn to the Official Secrets Act 1911 to 1989. The Contractor shall take all reasonable steps necessary to ensure that all persons employed on any work in connection with the Contract have notice:

15.1.1 that the said Acts and Regulations apply to them and will continue so to apply after the execution of the Contract,

15.1.2 of the following provisions of this Condition.

15.2 Any information obtained in the course of the execution of the Contract by the Contractor, its servants or agents, or any person so employed, as to any matter whatsoever which would, or might be directly or indirectly useful to an enemy, must be treated as secret and shall not at any time be communicated except to such persons and to such extent as may be necessary for the execution of the Contract.

16 Security Aspects

16.1 For the Purposes of DEFCON 660 (Official-Sensitive Security Requirements) the classification of the Contract is defined in the Department's Security Aspects letter at Annex W. Changes in these classifications will be notified by the Authority's Project Manager as per Box 2 of DEFFORM 111, to whom enquiries about the Security Aspects Letter should be addressed.

17 Continuous Improvement

17.1 Throughout the duration of the Contract the Contractor shall continuously look to improve the equipment and performance of the Contract. The Contractor shall therefore propose improvements throughout the duration of the Contract as part of the Quarterly Progress Report. Such improvements may constitute utilising innovative solutions, to include but not limited to use of COTS equipment, by taking advantage of new technology, or by improving sustainability. The Authority is under no obligation to pursue such proposals. If the Authority considers a proposal offers Value for Money, the task shall be contracted through the Supplementary Tasking procedure

18 Supplementary Tasks

18.1 A Task Authorisation Form (TAF) shall be used to authorise work under SoR Items 13 and 14. The instructions to raise a TAF are as follows:

18.1.1 Part 1 of the TAF shall be raised by the Authority for specific tasks and shall be completed to

show the Task Number, Task Title and details of the task.

- 18.1.2 Part 2 of the TAF shall be completed and signed on behalf of the Contractor by an authorised representative. It shall include a Firm Price offer, unless otherwise agreed, supported by a detailed price breakdown using the charging rates as detailed at Annex D to the Contract and inclusive of such particulars of cost as the Authority may reasonably require in addition to those specified at Clause 18.3. It shall also give details of, inter alia, the scope of work, the applicable IP conditions in accordance with Clause 48 (Governing Provisions (IPR)), the applicable acceptance and rejection criteria, the applicable standards, the delivery schedule, and any Government Furnished Assets (GFA) that may be required to complete the task with the dates, location, timescales and duration period required in addition to the likely impact of any non-provision of the identified GFA. Any request for Government Furnished Information (GFI) shall be submitted using DEFFORM 316. The Authority shall be under no obligation to meet all or any of such GFA requirements but, should it choose to do so, the associated costs shall be taken into account in the Price. The TAF together with the price breakdown shall be returned to the Authority for consideration.
- 18.1.3 Once Part 3 of the TAF is completed by the Authority's Commercial Officer, and the Contractor and Authority have agreed a price, work on the task may commence subject to Clause 40.7. No work may commence prior to receipt of such agreement in writing.
- 18.1.4 Part 4 of the TAF is to be completed by the Contractor to notify the Authority of task completion.
- 18.1.5 Part 5 of the TAF is to be completed by the Authority once the task has been completed to the satisfaction of the Authority.
- 18.2 A copy of the TAF is at Annex H to the Contract, and the List of Approved Tasks is at Annex G to the Contract, which the Contractor shall be responsible for maintaining throughout the Contract term.
- 18.3 When including travel and subsistence (T&S) the Contractor must include details of the assumptions made about travel and the rates used and such other information as the Authority may reasonably require. Claims for T&S shall be in line with the Civil Service Code which states civil servants must ensure "public money and other resources are used efficiently", for example travel should be the most economic option available.
- 18.4 The Authority is under no obligation to raise or approve any tasks and this is a matter in which the Authority shall exercise its sole discretion.
- 18.5 The Contractor acknowledges and accepts that any and all costs which may be incurred by the Contractor in generation of a TAF in accordance with Clauses 18.1.1, 18.1.2 and 18.1.3 are covered by the Core Activities Payment Plan at Annex E to the Contract and no such costs shall be attributed to any individual TAF or series of TAFs nor will the Authority be liable for any additional costs where the Authority does not authorise a TAF and the commencement of work in accordance with Clause 18.1.3, including where any action may have been taken by the Contractor in accordance with Clause 18.1.2 or otherwise.
- 18.6 The foregoing provisions of this Clause 18 (Supplementary Tasks) shall also apply in their entirety to work authorised under apply to SoR Option Item: 30 subject to exercise of the Contract Option in accordance with Clause 45 (Options).

19 Assumptions, Dependencies and Exclusions

- 19.1 The Contractor has identified the assumptions, exclusions and dependencies upon which this Contract is based as listed at Annex U to their tender (Assumptions, Dependencies and Exclusions).
- 19.2 If and to the extent that as a direct result of the occurrence of a Dependency Failure the Contractor is unable to comply with its obligations under this Contract then the Contractor shall be entitled to apply for relief from those of its obligations as are affected by such Dependency Failure in accordance with this Clause 19 (Assumptions, Dependencies and Exclusions). Clause 19 (Assumptions, Dependencies

and Exclusions) shall not relieve the Contractor of its obligations under Clause 37 (Risk).

19.3 To obtain relief the Contractor must:

19.3.1 as soon as reasonably practicable and in any event within 10 (ten) Working Days after the Contractor becomes aware that a Dependency Failure has affected or is likely to affect the ability of the Contractor to perform its obligations under this Contract, give the Authority a Dependency Failure Notice which shall contain:

19.3.1.1 full details of the nature of the Dependency Failure;

19.3.1.2 the date of occurrence of the Dependency Failure;

19.3.1.3 the likely duration of the Dependency Failure;

19.3.1.4 identification of the cause or likely cause of the Dependency Failure;

19.3.1.5 full details of its claim for relief from its obligations under this Contract; and

19.3.1.6 its proposals either for remedying or mitigating the effects of the Dependency Failure, which shall include:

19.3.1.6.1 a full description of any additional works of services;

19.3.1.6.2 a timetable for such works and services;

19.3.1.6.3 information on who will carry out such works and services; and

19.3.1.6.4 full details of the cost of such works or services.

19.3.2 demonstrate to the reasonable satisfaction of the Authority that:

19.3.2.1 the Contractor could not have avoided such occurrence or consequences by steps which they might reasonably be expected to have taken, without incurring material cost;

19.3.2.2 the Dependency Failure directly caused the need for relief from its obligations under this Contract;

19.3.2.3 the relief could not reasonably be expected to be mitigated or recovered by the Contractor acting in accordance with Good Industry Practice, without incurring material cost;

19.3.2.4 the Contractor is using reasonable endeavours to perform the Contractor's obligations under this Contract notwithstanding the occurrence of the Dependency Failure; and

19.3.2.5 notify the Authority's Representative if at any time the Contractor receives or becomes aware of any further information relating to the Dependency Failure, giving details of that information to the extent that such information is new or renders information previously submitted materially inaccurate or misleading.

19.4 The Authority shall confirm whether or not it agrees the information received from the Contractor, in accordance with Clause 19.3, and the relief claimed. If the Parties cannot agree such information and/or the relief, the Parties shall resolve the matter in accordance with Clause 55 (Dispute Resolution Procedure).

19.5 If a Dependency Failure Notice is not provided within the timeframe referred to in Clause 19.3, the Contractor shall not be entitled to any relief in respect of the Dependency Failure concerned until such time as a Dependency Failure Notice complying in all respects with Clause 19.3 has been served on the Authority. In any event, the Contractor shall not be entitled to any relief in respect of a Dependency Failure if it fails to make notification to the Authority within 3 (three) months following the Dependency

Failure having an impact on the ability of the Contractor to perform its obligations under this Contract.

- 19.6 Subject to Clause 19.7, the Contractor shall be entitled to relief from its obligations under this Contract only in respect of performance of the Contractor's obligations under this Contract arising after the date on which the Dependency Failure occurred.
- 19.7 The Contractor acknowledges and agrees that any relief and agreed by the Parties in accordance with this Clause 19 (Assumptions, Dependencies and Exclusions) shall be in full and final settlement of any claim for relief from its obligations it has in respect of the Dependency Failure. The occurrence of a Dependency Failure shall not entitle the Contractor to any additional compensation save in the case where the Contractor has not been reasonably able to avoid additional costs, expenses or losses as a consequence of the Dependency Failure in which case it shall be entitled to recovery of the same from the Authority (subject to reasonable supporting information being provided).
- 19.8 The Contractor shall not be entitled to any common law or equitable rights including rights to damages or to any other rights under contract, tort or otherwise in relation to any Dependency Failure other than as set out in this Clause 19 (Assumptions, Dependencies and Exclusions).
- 19.9 Where the Authority, in its absolute discretion, notifies the Contractor that the Authority wishes the Contractor to implement some or all of the proposals identified in the Dependency Failure Notice as set out in Clause 19.3.1.6, the Contractor shall implement them to the extent required by the Authority.

SECTION 3 – PERFORMANCE AND REMEDIES

20 Performance Levels

- 20.1 The Contractor shall carry out all work so as to meet the Performance Levels in accordance with Clause 20 and Annex L (Key Performance Indicators)
- 20.2 Without limiting any other obligation under this Contract, the Contractor shall implement and use appropriate measurement, monitoring and management tools and procedures to enable it to:
- 20.2.1 detect all Performance Failures as soon as reasonably practicable and, to the extent reasonably practicable, detect any potential Performance Failures;
 - 20.2.2 minimise the impact of Performance Failures on the continued performance of its obligations under the Contract; and
 - 20.2.3 report all Performance Failures and potential Performance Failures to the Authority as soon as they are identified.

21 Force Majeure

- 21.1 On the occurrence of a Force Majeure Event, the Affected Party shall notify the other Party within twenty-four (24) hours. The notification shall include details of the Force Majeure Event, including evidence of its effect on the obligations of the Affected Party.
- 21.2 The Contractor shall, within 10 (ten) Working Days following such notification provide the Authority, in writing, with details of any action proposed to mitigate the effect of the Force Majeure Event.
- 21.3 As soon as practicable following notification under Clause 21.2, the Parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and facilitate the continued performance of this Contract.
- 21.4 The Parties shall at all times following the occurrence of a Force Majeure Event use all reasonable endeavours to prevent and mitigate the effects of any delay and the Contractor shall at all times during which a Force Majeure Event is subsisting take all reasonable steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.
- 21.5 Subject to Clause 21.6 below, the Contractor shall be entitled to an appropriate extension of time for

performing such obligations provided always that the Contractor has used, to the satisfaction of the Authority, all reasonable endeavours, both to mitigate the effects of the Force Majeure Event, and to facilitate the continued performance of its obligations under the Contract.

- 21.6 If any delay continues for an unbroken period exceeding 3 (three) consecutive months then the Contractor shall inform the Authority who will call an extraordinary meeting to discuss the way forward.
- 21.7 The Authority shall have sole discretion to extend the time limit granted in Clause 27 (Termination for Force Majeure) by a further 3 (three) months after which time, if that delay continues, the Authority may terminate in whole or, if only a lesser part is so affected, that part of the Contract that is affected by the Force Majeure Event in accordance with Clause 27 (Termination for Force Majeure).
- 21.8 Neither Party shall be entitled to bring a claim for a breach of obligations under this Contract by the Affected Party or incur any liability to the Affected Party for any Loss incurred by the Affected Party to the extent that a Force Majeure Event occurs and the Affected Party is prevented from carrying out obligations by that Force Majeure Event. The Authority shall not be entitled to terminate this Contract for Contractor Default to the extent that such Contractor Default arises as a result of a Force Majeure Event but without prejudice to Clause 21.9.
- 21.9 Nothing in this Clause 21.9 shall affect the Authority's entitlement to make KPI retentions in the period during which the Force Majeure Event is subsisting, provided that any KPI Performance Failure occurring during such period and arising in respect of the occurrence of such Force Majeure shall be disregarded for the purposes of the Authority's right to terminate this Contract for a Contractor Default.
- 21.10 If the Affected Party is the Contractor, the Contractor shall only be entitled to receive payment for the Services that continue to be performed in accordance with the terms of this Contract.
- 21.11 The Affected Party shall notify the other Party as soon as reasonably practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Contract. Following such notification, this Contract shall continue to be performed on the terms existing immediately prior to the occurrence of the Force Majeure Event.
- 21.12 Relief from liability for the Affected Party under this Clause 21 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Contract and shall not be dependent on the serving of notice under Clause 21.11.

22 Key Performance Indicators

Performance Measurement and Monitoring

- 22.1 Actual performance for each KPI will be assessed quarterly using data submitted by the Contractor on the Monthly Progress Reports and in accordance with the KPIs at Annex L to the Contract. This score shall determine the relevant KPI Performance Band.
- 22.2 If the KPI Performance Band indicates an AMBER or RED level of performance for the Contract quarter that the KPI applies then the performance payment value for each AMBER or RED indication shall not be claimed by the Contractor.
- 22.3 Where a KPI shows a GREEN level of performance and the previous Contract quarter's KPI was AMBER then the Contractor may claim payment of the amount not claimed in the previous quarter.
- 22.4 Where a KPI Performance Band shows an AMBER level of performance and the previous Contract quarter's KPI Performance Band was AMBER the value of the performance payment not claimed in the previous quarter shall cease to be available for payment and shall be permanently deducted from the total Contract Price.
- 22.5 Where a KPI Performance Band shows a RED level of performance in the Contract quarter for which the KPI applies, the value of the performance payment shall cease to be available for payment and shall be permanently deducted from the total Contract Price.
- 22.6 The Authority and the Contractor agree that any deduction in any quarterly payment calculated in

accordance with this Clause 22 has been calculated as, and is, a genuine pre-estimate of the loss likely to be suffered by the Authority in relation to each or any breach by the Contractor of any KPI.

- 22.7 The abatement value held for an AMBER performance is 5% of the quarterly core payment value and the abatement value deducted for a RED performance is 5% of the quarterly core value, in accordance with the Core Payment Plan at Annex E to the Contract.

Unsatisfactory Performance

- 22.8 The Contractor's performance shall be judged unsatisfactory where any or all KPI(s) are RED for a period of 3 (three) or more consecutive quarters, and/or where 2 (two) or more of the KPIs represented on the Performance Report in any 1 (one) quarter are either AMBER and/or RED. This shall constitute a breach of the Contract.
- 22.9 Where unsatisfactory performance occurs, the Contractor shall deliver a report to the Authority within 3 (three) Working Days of the event causing the breach detailing the circumstances and any mitigating factors, together with a plan for improvement. The Authority reserves the right to call a meeting, at no cost to the Authority, within 5 (five) Working Days following the report to discuss the failure and agree a programme for resolution with the Contractor.
- 22.10 The Authority may exercise its further rights of remedy under the Contract if the Contractor remains in breach, and for the purposes of Clause 23 (Contractor Default), in the event of persistent unsatisfactory performance, as described in Clause 22.8, this shall constitute a Contractor Default.
- 22.11 Performance payments in any quarter will be dependent on the latest quarter's performance and comparison with the previous quarter as follows:

Indicator for latest reported quarter	Effect on Performance Payment for latest reported quarter	Indicator for previous quarter	Effect of this quarter's performance on previous quarters withheld performance payment.
GREEN	Full payment of Performance payment element for the KPI	G	Performance payment was paid in full last quarter
		A	Abatement for Amber performance held last quarter is now released and claimed by Contractor
		R	Abatement for Red performance is deducted from Contract Price.
AMBER	MOD retains abatement for "Amber" performance pending assessment of next quarter's performance.	G	Performance payment was paid in full last quarter
		A	Abatement for Amber performance held last quarter is now deducted from Contract Price.
		R	Abatement for Red performance is deducted from Contract Price.
RED	MOD retains abatement for "Red" performance and is deducted from Contract Price	G	Performance payment was paid in full last quarter
		A	Abatement for Amber performance held last quarter is now deducted from Contract Price

		R	Abatement for Red performance is deducted from Contract Price
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23 Termination for Contractor Default

Right to terminate

- 23.1 If a Contractor Default has occurred, the Authority shall be entitled to terminate the whole or, subject to Clause 23.8 (Partial Termination) any part of this Contract in accordance with the provisions of Clause 23.2 and subject to the provisions of Clauses 23.3 to 23.6 (Rectification) (inclusive).
- 23.2 If a Contractor Default has occurred and the Authority wishes to terminate this Contract pursuant to Clause 23.1, it must serve a notice (the "Termination Notice") on the Contractor stating:
- 23.2.1 that the Authority is terminating this Contract or part thereof for Contractor Default;
- 23.2.2 where relevant, the part of this Contract that the Authority is terminating;
- 23.2.3 the type and nature of Contractor Default that has occurred, giving reasonable details; and
- 23.2.4 that this Contract or part thereof shall (subject to Clauses 23.3 to 23.6 (Rectification) (inclusive)) terminate on the day (the "Contractor Default Termination Date") falling 20 (twenty) Working Days after the date the Contractor receives the Termination Notice.

Rectification

- 23.3 Where a Termination Notice cites a Contractor Default of the type and nature falling under limb (a) of the definition of "Contractor Default", the Contractor shall, in consultation with the Authority, have the opportunity to set out within 10 (ten) Working Days how it intends to remedy such Contractor Default.
- 23.4 Where the Authority agrees with such proposed remedy, and the remedy is implemented as agreed, the Termination Notice in question shall be deemed to be revoked.
- 23.5 Where the Authority agrees with such proposed remedy, and the remedy is not implemented as agreed, the Contractor Default Termination Date shall be the day falling 20 (twenty) Working Days after the date by which the remedy was agreed to be implemented.
- 23.6 If by the day falling 20 (twenty) Working Days after the date the Contractor receives the Termination Notice (or such later date as the Authority, acting reasonably, may agree) the Authority reasonably considers that such proposed remedy will not restore the provision of the Services or any portion thereof in accordance with the terms of this Contract, and/or that such proposed remedy will not rectify the Contractor Default, the Authority may terminate the whole or the relevant part of this Contract forthwith (and the Contractor Default Termination Date shall be the day falling 20 (twenty) Working Days after the date the Contractor receives the Termination Notice (or such later date as the Authority, acting reasonably) has agreed in accordance with this Clause 23.6).

Termination Date for Contractor Default

- 23.7 Following the issue of a Termination Notice pursuant to Clause 23.2 and where the Authority is terminating the whole of this Contract, this Contract shall (subject to Clauses 23.3 to 23.6 (inclusive)) terminate on the Contractor Default Termination Date.

Partial Termination

- 23.8 Where the Authority is terminating part of this Contract, the Parties shall, subject to Clause 7 (Continuing Obligations), owe each other no further obligations in respect of such part of this Contract as is specified

in the Termination Notice from the Contractor Default Termination Date.

- 23.9 For the avoidance of doubt, where Clause 23.8 applies, the Parties shall continue to fulfil their respective obligations in respect of those parts of this Contract that are not identified in the Termination Notice as being terminated.

Financial Consequences of Termination for Contractor Default

- 23.10 Where the Authority has determined this Contract in whole or in part under Clause 23 (Termination for Contractor Default) and without prejudice to the aforesaid the Authority may appoint an alternative contractor to perform, or itself perform all or any of the Services as respects which this Contract is so determined.
- 23.11 Where Clause 23.10 applies, the Authority shall be entitled to recover from the Contractor the amount by which the aggregate of the cost of performing the Services in this way and of any value of any undelivered Contractor Deliverables exceeds the amount which would have been payable to the Contractor in respect of all the Services or Contractor Deliverables so replaced if they had been delivered or performed in accordance with the Contract.
- 23.12 Where this Contract is terminated pursuant to this Clause 23 (Termination for Contractor Default), the provisions of Clauses 23.13 to 23.15 shall apply, except where such termination arises as a result of the circumstances referred to in paragraph (c) of the definition of Contractor Default, in which case the Contractor shall not be entitled to any further payment from the Authority.
- 23.13 Where Clause 23.12 applies, the Contractor shall not be entitled to payment of any amount by way of compensation or otherwise in respect of such termination, or in respect of any part of the Contractor Deliverables which has not been performed, or which had been performed prior to such termination which is contrary to any direction in writing by the Authority's Representative or to any specific provision of this Contract.
- 23.14 Subject to the provisions of Clause 23.13, where Clause 23.12 applies, the Contractor shall be entitled to be paid (subject to any other provision of this Contract affecting the level of such payment) for the Services and the Contract Deliverables provided to the Authority up to the date of termination as set out in Clause 47 (Payments) and in accordance with Clause 22 (Key Performance Indicators).
- 23.15 During the relevant exit period for Termination, the Parties shall comply with their respective obligations pursuant to Clause 57 (Exit Strategy).

24 Break

- 24.1 The Authority shall, in addition to its power under any other of the Clauses of this Contract, have the power to determine this Contract at any time by giving to the Contractor at least 3 (three) months' written notice and upon the date of expiration of such notice (the "Termination Date"), this Contract shall be determined without prejudice to the rights of the Parties accrued to the date of determination but subject to the operation of the following provisions of this Clause 24.
- 24.2 In the event of such notice being given, the Authority shall, at any time before the expiration of the notice, be entitled to exercise and shall, as soon as may be reasonably practicable within that period, exercise such of the following powers as it considers expedient:
- 24.2.1 to direct the Contractor, where performance of any Service has not been commenced, to refrain from commencing performance of that Service;
- 24.2.2 to direct the Contractor to complete in accordance with this Contract all or any of the Services;
- 24.2.3 to direct that the Contractor shall, as soon as may be reasonably practicable after the receipt of

such notice:

- 24.2.3.1 take such steps as will ensure that the performance rate of the Services and parts thereof is reduced as rapidly as possible;
- 24.2.3.2 as far as possible, consistent with Clause 24.2.3.1, concentrate work on the completion of parts of the Services already in a partly completed state;
- 24.2.3.3 determine on the best possible terms any subcontracts observing in this connection any direction given under Clauses 24.2.2, 24.2.3.1 and 24.2.3.2 as far as may be possible.

24.3 In the event of such notice being given:

- 24.3.1 the Authority shall pay the Contractor fair and reasonable prices for each Service performed or partially performed in accordance with this Contract;
- 24.3.2 the Authority shall indemnify the Contractor against any commitments, liabilities or expenditure which are reasonable and properly chargeable by the Contractor in connection with this Contract to the extent to which the said commitments, liabilities or expenditure would otherwise represent an unavoidable loss by the Contractor by reason of the determination of this Contract. Such payments shall not include any allowance for profit.

24.4 Provided that in the event of the Contractor not having observed any direction given to him under Clause 24.2, the Authority shall not under this Clause 24 pay any sums in excess of those which the Authority would have paid had the Contractor observed that direction.

24.5 If in any particular case hardship to the Contractor should arise from the operation of this Clause it shall be open to the Contractor to refer the circumstances to the Authority who, on being satisfied that such hardship exists shall make such allowance, if any, as in its opinion is reasonable and the decision of the Authority on any matter or thing arising out of this clause shall be final and conclusive.

24.6 The Authority shall not in any case be liable to pay under the provisions of this Clause 24 any sum which, when taken together with any sums paid or due or becoming due to the Contractor under this Contract, shall exceed the total price of the Services which may otherwise have become payable to the Contractor.

24.7 The Contractor shall in any subcontract or order, the value of which is £50,000 (fifty thousand pounds (GBP)) or over made or placed by it with any one subcontractor or supplier in connection with or for the purpose of this Contract, take power to determine such subcontract or order under this Clause 24 upon the terms of Clauses 24.1 to 24.3 (inclusive) save only that:

24.7.1 the name of the Contractor shall be substituted for the Authority and the name of the subcontractor or supplier shall be substituted for the Contractor throughout, except in Clause 24.3.1 where it last occurs; and

24.7.2 the period of the notice of determination shall not exceed 2 (two) months; and

24.7.3 the Contractor shall not exercise the power taken in those subcontracts until the Authority has exercised its power under Clause 24 (Break); each of those subcontracts shall restrict the Contractor's right to exercise that power in the manner described in this Clause 24.7.3 by including in the power "Provided that this power is not exercised unless the main contract has been determined by the Secretary of State pursuant to the provisions of Clause 24 (Break) of that Contract".

25 Bankruptcy and Insolvency

25.1 The Authority may summarily determine this Contract, without compensation to the Contractor, by giving

written notice of such determination to the Contractor at any time after any of the following events:

25.1.1 Where the Contractor is an individual or a firm:

- 25.1.1.1 the application by the individual or, in the case of a firm constituted under English Law, any partner of the firm to the court for an interim order pursuant to Section 254 of the Insolvency Act 1986; or
- 25.1.1.2 the court making an interim order pursuant to Section 252 of the Insolvency Act 1986; or
- 25.1.1.3 the individual, the firm or, in the case of a firm constituted under English Law, any partner of the firm making a composition or a scheme of arrangement with his or its creditors; or
- 25.1.1.4 the presentation of a petition for bankruptcy order against the individual or, in the case of a firm constituted under English Law, any partner of the firm unless it is withdrawn within 3 (three) Working Days from the date on which the Contractor is notified of the presentation; or
- 25.1.1.5 the court making a bankruptcy order in respect of the individual or, in the case a firm constituted under English Law, any partner of the firm; or
- 25.1.1.6 where the Contractor is either unable to pay his debts as they fall due or has no reasonable prospect of being able to pay debts which are not immediately payable. The Authority shall regard the Contractor as being unable to pay his debts if:
 - 25.1.1.6.1 he has failed to comply with or to set aside a Statutory demand under Section 268 of the Insolvency Act 1986 within 21 days of service of the Statutory Demand on him; or
 - 25.1.1.6.2 execution or other process to enforce a debt due under a judgement or order of the court has been returned unsatisfied in whole or in part; or
 - 25.1.1.6.3 the presentation of a petition for sequestration in relation to the Contractor's estates unless it is withdrawn within 3 (three) Working Days from the date on which the Contractor is notified of the presentation; or
 - 25.1.1.6.4 the court making an award of sequestration in relation to the Contractor's estates.

25.1.2 Where the Contractor is a company registered in England:

- 25.1.2.1 the presentation of a petition for the appointment of an administrator; unless it is withdrawn within 3 (three) Working Days from the date on which the Contractor is notified of the presentation; or
- 25.1.2.2 the court making an administration order in relation to the company; or
- 25.1.2.3 the presentation of a petition for the winding-up of the company unless it is withdrawn within 3 (three) Working Days from the date on which the Contractor is notified of the presentation; or
- 25.1.2.4 the company passing a resolution that the company shall be wound-up; or
- 25.1.2.5 the court making an order that the company shall be wound-up; or
- 25.1.2.6 the appointment of a Receiver or manager or administrative Receiver.

25.1.3 Where the Contractor is a company registered other than in England, events occur or are carried out which, within the jurisdiction to which it is subject, are similar in nature or effect to those

specified in Clauses 25.1.2 above.

- 25.2 Such determination shall be without prejudice to and shall not affect any right of action or remedy which shall have accrued or shall accrue thereafter to the Authority and the Contractor.

26 Corrupt Gifts and Payments of Commission

- 26.1 The Contractor shall not do, and warrants that in entering this Contract he has not done any of the following ("Prohibited Acts"):
- 26.1.1 offer, promise or give to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward:
 - 26.1.1.1 for doing or not doing (or for having done or not having done) any act in relation to the obtaining or execution of this or any other contract with the Crown; or
 - 26.1.1.2 for showing or not showing favour or disfavour to any person in relation to this or any other contract with the Crown;
 - 26.1.2 enter into this or any other contract with the Crown in connection with which commission has been paid or has been agreed to be paid by it or on its behalf, or to its knowledge, unless before this Contract is made particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.
- 26.2 If the Contractor, its employees, agents or any subcontractor (or anyone acting on its behalf or any of its or their employees) does any of the Prohibited Acts or commits any offence under the Prevention of Corruption Acts 1889-1916 or under subsections 108-109 of the Anti-Terrorism, Crime and Security Act 2001 before those Acts and subsections are revoked, or any offence under the Bribery Act 2010 with or without the knowledge or authority of the Contractor in relation to this Contract or any other contract with the Crown, the Authority shall be entitled:
- 26.2.1 to terminate this Contract and recover from the Contractor the amount of any loss resulting from the termination;
 - 26.2.2 to recover from the Contractor the amount or value of any such gift, consideration or commission; and
 - 26.2.3 to recover from the Contractor any other loss sustained in consequence of any breach of this Clause 26, where this Contract has not been terminated.
- 26.3 In exercising its rights and remedies under this Clause 26, the Authority shall:
- 26.3.1 act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person performing, the Prohibited Act;
 - 26.3.2 give all due consideration, where appropriate, to action other than termination of this Contract, including (without being limited to):
 - 26.3.2.1 requiring the Contractor to procure the termination of a subcontract where the Prohibited Act is that of a subcontractor or anyone acting on its or their behalf;
 - 26.3.2.2 requiring the Contractor to procure the dismissal of an employee (whether its own or that of a subcontractor or anyone acting on its behalf) where the Prohibited Act is that of such employee.
- 26.4 Where this Contract has been terminated under Clause 26.2, the provisions of Clause 23 shall apply.
- 26.5 Recovery action taken against any person in Her Majesty's service shall be without prejudice to any

recovery action taken against the Contractor pursuant to this Clause 26.

27 Termination for Force Majeure

- 27.1 If a Force Majeure Event occurs and is continuing or its consequence remain such that the Affected Party is unable to comply with its obligations under this Contract for a period of more than 3 (three) months (or such longer period as may be granted in Clause 21.7), then subject to Clause 27.2 either Party may terminate this Contract by giving 30 (thirty) Working Days' notice to the other Party's Representative.
- 27.2 If either Party gives notice under Clause 27.1 that it wishes to terminate this Contract, then the Authority shall pay the Contractor (subject to any other provision of the Contract affecting the level of such payment) for the Services and Contractor Deliverables which would (but for the occurrence of the Force Majeure Event) have been entitled to receive in respect of the period during which the Force Majeure Event in question subsists. The Contractor shall not be entitled to claim any amount pursuant to this Clause 27.2 to the extent it has already received payment in respect of such amount pursuant to any other terms of this Contract.
- 27.3 This Contract shall not terminate until expiry of the written notice (of at least 30 (thirty) Working Days) from either Party that it wishes this Contract to terminate.

28 Authority Step-In

Interpretation

- 28.1 In this Clause 28, references to the Authority taking action shall be deemed to include references to the Authority procuring the taking of action by others on behalf of the Authority.

Grounds for Step-In

- 28.2 If the Authority reasonably believes that it needs to take action in connection with the Services:
- 28.2.1 because a serious risk exists to the health or safety of persons or property or to the environment; and/or
 - 28.2.2 to discharge a statutory duty; and/or
 - 28.2.3 on the occurrence of an urgent operational requirement,
- then the Authority shall be entitled to take action in accordance with this Clause 28 (*Authority Step-In*).

Procedure for Authority Step-In

- 28.3 If Clause 28.2 applies and the Authority wishes to take action, the Authority's Representative shall notify (the "Step-In Notice") the Contractor's Representative of the following:
- 28.3.1 the action it wishes to take;
 - 28.3.2 the reason for such action;
 - 28.3.3 the date it wishes to commence such action;
 - 28.3.4 the time period which it believes shall be necessary for such action; and
 - 28.3.5 to the extent practicable, the effect on the Contractor and its obligation to provide the Services during the period such action is being taken.
- 28.4 Following service of the Step-In Notice, the Authority shall take such action as notified under Clause 28.3 (the "Required Action") and the Contractor shall give all reasonable assistance to the Authority

while it is taking the Required Action.

Effects of Step-In without Contractor Breach

- 28.5 If the Contractor is not in breach of its obligations under this Contract and the Authority exercises its right to take action in connection with the Services pursuant to Clause 28.2:
- 28.5.1 then for so long as and to the extent that the Required Action is taken, and this prevents the Contractor from providing all or any part of the Services, the Contractor shall be relieved from its obligations to provide such part of the Services; and
 - 28.5.2 in respect of the period in which the Authority is taking the Required Action and provided that the Contractor provides the Authority with reasonable assistance (such assistance to be at the expense of the Authority to the extent incremental costs are incurred), the amount due from the Authority to the Contractor shall equal the amount the Contractor would receive if it were satisfying all its obligations and providing the Services affected by the Required Action in full over that period.

Effects of Step-In following Contractor Breach

- 28.6 If the Contractor is in breach of its obligations under this Contract and in consequence the Authority exercises its right to take action in connection with the Services pursuant to this Clause 28:
- 28.6.1 then for so long as and to the extent that the Required Action is taken, and this prevents the Contractor from providing the Services, the Contractor shall be relieved from its obligations to provide such part of the Services; and
 - 28.6.2 in respect of the period in which the Authority is taking the Required Action, the amount due from the Authority to the Contractor shall equal the amount the Contractor would receive if it were satisfying all its obligations and providing the Services affected by the Required Action in full over that period, less an amount equal to all the Authority's costs in taking the Required Action.

Authority Step-Out

- 28.7 The Authority's Representative shall provide the Contractor's Representative with reasonable notice of the Authority's intention to cease performance of the Required Action ("Step-Out") and the date on which it intends to do so.
- 28.8 On receipt of the notice referred to in Clause 28.7, the Parties shall consult with each other as to the method by which the Authority shall Step-Out and a step out plan (a "Step-Out Plan") which shall include the actual date that the Authority shall step out and the Contractor shall resume performance of the Services.
- 28.9 On the date on which the obligations contained in the Step-Out Plan have been achieved:
- 28.9.1 the Authority will be released from all of its obligations and liabilities in relation to the Required Action and the Step-Out Plan other than its obligations to pay the Contractor as required in this Clause 28; and
 - 28.9.2 the Contractor shall resume all or any part of the Services which were the subject of the Required Action.

SECTION 4 – SPECIFICATIONS AND PLANS

29 Plans

- 29.1 The Contractor shall produce a Project Management Plan (PMP) in accordance with clauses and standards set out at Annex A (Statement of Work) and Annex M (Deliverables List).

- 29.2 The Contractor shall produce a Risk Register and Strategy in accordance with clauses and standards set out at Annex A.
- 29.3 The Contractor shall produce an Obsolescence Management Plan (OMP) in accordance with clauses and standards set out at Annex A.
- 29.4 The Contractor shall produce a Combined Quality and Configuration Management Plan in accordance with DEFCON 602A (Deliverable Quality Plan) and the clauses and standards set out at Annex A.
- 29.5 The Contractor shall produce a combined Health, Safety and Environmental Management Plan in a in accordance with the clauses and standards set out at Annex A

30 Concessions

- 30.1 Failure to satisfy the specified technical requirements will result in rejection of the Articles by the Authority. Exceptionally, if the Contractor believes that the granting of a concession is of benefit to the Authority, applications should be completed and presented to the Authority's Representative in accordance with the requirements of DEF STAN 05-61 (Part 1).
- 30.2 If the Contractor proposes to deliver, or embody, a non-conforming product, no such delivery or embodiment is to take place until such time as the Authority's Representative has received and agreed a Concession in accordance with the requirements of DEF STAN 05-61 (Part 1).
- 30.3 Any concession applications raised under the Contract shall be routed through the Authority's Commercial Officer.
- 30.4 The Authority is under no obligation to approve a concession and will not accept liability for any work done in anticipation of the approval of a concession.

31 Quality Assurance

- 31.1 The following Quality Assurance Standards shall apply to the Contract:
- 31.1.1 AQAP-2110 (Edition 3) - NATO Quality Assurance Requirements for Design, Development and Production, dated 3 December 2009;
 - 31.1.2 AQAP-2210 (Edition A Version 2) - NATO Supplementary Software Quality Assurance Requirements to AQAP-2110, dated 4 September 2015;
 - 31.1.3 AQAP-2105 (Edition 2) - NATO Requirements for Deliverable Quality Plans dated 3 December 2009;
 - 31.1.4 BS EN 61340-5-1:2007 - "Electrostatics. Protection of electronic devices from electrostatic phenomena. General Requirements", dated May 2008
 - 31.1.5 Def Stan 00-056 - "Safety Management Requirements for Defence Systems", Part No: 1 - "Requirements and Guidance", Issue No: 6 dated 2 April 2015
 - 31.1.6 Def Stan 02-041 - "Requirements for Configuration Management of Surface Ships", Issue No: 4 dated 31 July 2015
 - 31.1.7 Def Stan 05-057 - "Configuration Management of Defence Materiel", Issue No: 6 dated 7 March 2014;
 - 31.1.8 Def Stan 05-061 - "Quality Assurance Procedural Requirements", Part No: 1 - "Concessions", Issue No: 6 dated 31 March 2016;
 - 31.1.9 Def Stan 05-061 - "Quality Assurance Procedural Requirements", Part No: 4 - "Contractor Working Parties", Issue No: 3 dated 25 October 2002 Amendment No: 1 dated 28 January 2011;
 - 31.1.10 Def Stan 05-061 - "Quality Assurance Procedural Requirements" Part No: 09 - "Independent

Inspection Requirements for Safety Critical Items”, Issue No: 05 dated 4 February 2016;

- 31.1.11 Def Stan 05-99 - “Managing Government Furnished Equipment in Industry”, Issue No: 4 dated 23 December 2010 Amendment No: 2 dated 31 October 2011.
 - 31.1.12 Def Stan 05-135 - “Avoidance of Counterfeit Materiel”, Issue No: 1 dated 10 July 2014;
 - 31.1.13 Def Stan 08-107 - “General Requirements for the Design of Electrotechnical and Naval Weapon Equipment”, Issue No: 3, dated 5 November 2013;
 - 31.1.14 Def Stan 81-130 - “The Transportation, Handling, Storage and Packaging of Magnetically Sensitive Equipment”, Issue No: 4 dated 26 February 2010; and
 - 31.1.15 Def Stan 05-138 – “Cyber Security for Defence Suppliers”, Issue No: 1 dated 21 August 2015
- 31.2 The Contractor shall operate a Quality Management System (QMS) which has been assessed and certificated by a United Kingdom Accreditation Service (UKAS) accredited Third Party certification body as conforming to the requirements of International Organization for Standardization (ISO) 9001:2008.
- 31.3 A deliverable Quality Plan (QP) specific to the requirements of the Contract, as detailed in the SOW at Annex A to the Contract, shall be produced in accordance with AQAP-2105 and DEFCON 602A. The QP shall be forwarded to the APM, for acceptance in accordance with Clause 10 by the Government Quality Assurance Representative (GQAR), within 3 (three) months of Contract placement.
- 31.4 Unless otherwise directed in the Contract, the Contractor shall retain the Quality Control/Inspection Records or such of those records as may be agreed by the GQAR for a period of 5 (five) years from completion of all work under the Contract and shall make them accessible to the Authority on request. Exceptionally, when requested by the Contractor, earlier disposal may be authorised in writing by the GQAR. At the end of the retention period the Contractor shall seek advice from the GQAR regarding the disposal/continued retention of the Quality Control/Inspection Records, and the Contractor shall not dispose of such records without the written authority of the GQAR.
- 31.5 Where work is to be undertaken outside of the UK, as the result of Sub-Contract/Purchase Order, QA surveillance may be conducted directly by the Authority or requested from the National Quality Assurance Authority (QAA) in the relevant Country, in accordance with either STANAG 4107 or applicable Memorandum of Understanding (MOU), agreed between the Governments concerned, or other agreed arrangements. The Ministry of Defence (MOD) of the relevant Country or the National Quality Assurance Representative (QAR) shall be entitled to undertake QA Surveillance on behalf of the Authority at the Contractor’s or Sub-Contractor’s premises.
- 31.6 In all cases where the Sub-Contractor is not based in the UK, the Contractor shall include in any relevant Sub-Contract(s) or Purchase Order(s) the following Clauses,
- 31.6.1 For Sub-Contracts: “This Contract may be subjected to Government Quality Assurance Surveillance at your facility on behalf of the UK Government. You shall provide any assistance needed by the QAR in the execution of his responsibilities in respect of this Contract.”
 - 31.6.2 For Purchase Orders: “This Order may be subjected to Government Quality Assurance Surveillance at your facility on behalf of the UK Government. You shall provide any assistance needed by the QAR in the execution of his responsibilities in respect of this Order.”
- 31.7 The decision to request QA Surveillance rests with the Authority and it is the Authority who will make the request. The Contractor can discuss any QA Surveillance requirements with the Authority however it is at the Authority’s sole discretion.
- 31.8 Where work is to be undertaken at MOD owned sites then work is to be carried out by the Contractor in accordance with Def Stan 05-061 Part 4.
- 31.9 The Contractor shall take appropriate measures to avoid the introduction of counterfeit material into the supplied items as mandated in Def Stan 05-135.
- 31.10 The Contractor shall facilitate independent inspection for any safety critical items should the Authority

consider this necessary in accordance with Def Stan 05-061 Part 9.

32 Quality Assurance Representative (QAR)

- 32.1 For the purposes of the Contract the Quality Assurance Representative (QAR) shall be the Authority's Quality Assurance Officer as detailed in Box 7 of DEFFORM 111 at Appendix 1 to the Contract, or his nominated representative.

33 Configuration Control

- 33.1 The Contractor shall conduct Configuration Management in accordance with the SOW at Annex A to the Contract.
- 33.2 A deliverable Configuration Management Plan specific to the requirements of the Contract shall be produced and maintained in accordance with Def Stan 05-057 and Def Stan 02-041. The Configuration Management Plan shall be forwarded to the APM for acceptance in accordance with Clause 10, within 3 (three) months of Contract placement and shall be added to the Contract at Annex Q through an amendment to the Contract.

34 Not Used

35 Protection of Equipment from Electronic Discharge

- 35.1 The Contractor shall ensure that in the provision of the Support Services all electronic equipment shall be protected from electrostatic discharge damage in accordance with Def Stan 08-107 and BS EN 61340-5-1. All PECs, modules, sub-assemblies and assemblies containing or comprising electronic components and individual components are defined as Electrostatic Sensitive Devices (ESSD).
- 35.2 The Contractor shall ensure that handbooks, setting-to-work instructions and other equipment-related documents include a "Warning Page" notifying the presence of ESSDs. This page shall appear, at least, in the introduction and maintenance sections.

36 Magnetic Ranging

- 36.1 The Authority shall notify the Contractor via the CP&F process in accordance with Clause 40 (Authorisation and Performance of Work) or otherwise in writing (including e-mail) of any Article for the [REDACTED] and [REDACTED] which requires magnetic testing. Testing shall be in accordance with DEFSTAN 02-617.
- 36.2 **Magnetic Testing:** As part of the acceptance process, all Article(s) denoted with a Magnetic Assessment Group (MAG) code shall be magnetically tested for achievement of the magnetic levels required in the Test Specification(s). Such testing shall be carried out, on behalf of the Authority at no cost to the Contractor, by:

[REDACTED]

Contact: [REDACTED] Tel: [REDACTED]

- 36.3 In respect of the Article(s) where the requirements for magnetic assessment has been waived by [REDACTED], the normal procedure for notification of acceptance on receipt into store at the consignment point shall apply unless the Contractor is notified otherwise in the Contract.
- 36.4 **Completion of Magnetic Assessment:** With regards to the rectification of any Article(s) found magnetically unsuitable and where the Contractor is responsible for such failure, the same principles shall apply as if the Article(s) had been despatched to MOD stores and subsequently found defective.

An investigation shall be carried out by the Authority's QA representative (or nominated individual) and the Contractor's QA representative to establish what course of action is required. The investigation shall be undertaken within two weeks of notification of defect.

37 Risk

37.1 The Contractor acknowledges that any risk assessment which has been, or may be, undertaken in connection with the Contract has been, or will be, a project management function only. Such risk assessment does not affect rights and remedies of the Parties under this Contract. The issuing of any risk assessment questionnaire and the process of risk assessment generally, including without limitation, the identification of (or failure to identify):

37.1.1 particular risks to the delivery of the Service and their impact; and/or

37.1.2 risk reduction measures, contingency plans and remedial actions

shall not in any way limit or exclude the Contractor's obligations under the Contract and shall be entirely without prejudice to the Authority's rights, privileges and powers under the Contract. The risks identified as a result of any risk assessment questionnaire and risk assessment process generally remain the risks of the Contractor and are not assumed by the Authority except to the extent that the Authority expressly and unequivocally accepts those risks under the Contract. Any risk assessment questionnaire released was or shall be issued by the Authority solely on this basis.

37.2 Clause 37 shall also apply to appropriate Sub-Contracts let by the Contractor under the Contract.

37.3 Risk Management shall be conducted in accordance with the SOW at Annex A to the Contract.

38 Obsolescence Management

38.1 The Contractor shall conduct Obsolescence Management and produce and maintain an Obsolescence Management Plan (OMP) in accordance with the SOW at Annex A to the Contract and this Condition 37 (Obsolescence Management).

38.2 The OMP shall detail all of the activities that the Contractor undertakes to identify and notify to the Authority any Obsolescence Concerns and Issues.

38.3 The activities detailed within the OMP shall cover all of the equipment within the scope of the Contract, as detailed in the SOW at Annex A to the Contract.

38.4 The Contractor shall operate Obsolescence Management as defined below:

38.4.1 Upon becoming aware of any Obsolescence Concern or Issue:

(a) the Contractor shall formally notify (e-mail) the APM of the Obsolescence Concern or Issue and undertake an investigation into the impact of the Obsolescence Concern or Issue, including:

- (i) the completion of a Component Standard Index (CSI);
- (ii) a search for life-time buy stocks;
- (iii) a search for Fit/Form/Function replacement; and

(b) the Contractor shall submit to the Authority an Obsolescence Notification Report (ONR) containing the results of the investigation, together with one or more recommended courses of action which will alleviate the Obsolescence Concern or Issue. All recommended courses of action shall include appropriate supporting evidence and rationale to inform a determination by the Authority which shall typically include:

- (i) an estimate of any costs for the proposed Obsolescence Resolution and implementation;

- (ii) the schedule for implementation for the proposed Obsolescence Resolution, subject always to Clause 38.5;
- (iii) demonstrated value for money;
- (iv) Risk, Issues and Opportunities; and
- (v) such other information as the Authority may reasonably require.

Where more than one recommended course of action is supplied they shall be ranked and prioritised with due regard to; the nature of the subject Obsolescence Concern or Issue, cost effectiveness, Risk, Issues and Opportunities, timely and safe implementation, and minimising any negative impact upon required standards of performance, quality, reliability, strength or interchangeability.

38.4.2 The Contractor shall ensure and be able to demonstrate that any proposed mitigation or recommended course of action of Obsolescence Concerns or Issues, presents the most appropriate and cost effective Obsolescence Resolution.

38.4.3 The Contractor shall ensure all known Obsolescence Issues and forecasted Obsolescence Concerns have been identified and have mitigation plans. Not less than 12 (twelve) months before contract end, the Contractor shall supply this data to the Authority at no additional cost. The Contractor shall ensure that the Authority shall have the right to use or have used this data without any limitation nor subject to special conditions, which shall include the ability of the Authority to issue the data or any part of the data or any copy of the data or any part thereof to potential tenderers as part of a competitive tendering process.

38.5 For the avoidance of doubt, the decision whether to implement any Obsolescence Resolution is a matter in which the Authority shall exercise its sole discretion and on a case by case basis. Where the Authority determines to implement any Obsolescence Resolution this shall be implemented by way of a supplementary task in accordance with Clause 18 or such other arrangement as may be mutually agreed by the Parties.

39 Safety and Environmental Management

39.1 The Contractor shall conduct Safety and Environmental Management in accordance with the SOW at Annex A to the Contract.

39.2 The Contractor shall produce and maintain a Safety Management Plan (SMP) in accordance with Def Stan 00-056.

39.3 The Contractor shall inform the Authority of any risk arising from an equipment modification, which will require an update to the overall safety case. The Contractor shall record these risks in the joint risk register.

SECTION 5 – DELIVERY AND ACCEPTANCE

40 Authorisation and Performance of Work

40.1 Authorisation to Proceed (ATP) with the Provision of ISS Core Activities under SoR Items 1, 4, 7 and 10, in accordance with the SOW at Annex A to the Contract, shall be concurrent with Contract placement.

40.2 ATP with the Provision of ISS Core Activities under SoR Option Items: 15, 18, 21, 24 and 27 in accordance with the SOW at Annex A to the Contract, shall be concurrent with exercise of the relevant Contract Option(s) in accordance with Clause 45 (Options).

40.3 A CP&F Purchase Order raised by the Authority shall be the ATP with the Provision of Spares under SoR Items 2, 5, 8 and 11 in accordance with the SOW at Annex A to the Contract. The foregoing shall also apply to SoR Option Items: 16, 19, 22, 25 and 28 subject to exercise of the relevant Contract Option(s) in accordance with Clause 45 (Options).

40.4 If a requirement under SoR Items 2, 5, 8 and 11 is reduced or cancelled the Contractor shall notify the

Authorised Demander if the reduction or cancellation cannot be accepted. If the amendment / cancellation cannot be accepted Clause 55 (Dispute Resolution) shall apply. The foregoing shall also apply to SoR Option Items: 16, 19, 22, 25 and 28 subject to exercise of the relevant Contract Option(s) in accordance with Clause 45 (Options).

- 40.5 A CP&F Purchase Order raised by the Authority shall be the ATP with the Provision of Repairs under SoR Items 3, 6, 9 and 12 in accordance with the SOW at Annex A to the Contract. The foregoing shall also apply to SoR Option Items: 17, 20, 23, 26 and 29 subject to exercise of the relevant Contract Option(s) in accordance with Clause 45 (Options).
- 40.6 If a requirement under SoR Items 3, 6, 9 and 12 is reduced or cancelled the Contractor shall notify the Authorised Demander if the reduction or cancellation cannot be accepted. If the amendment / cancellation cannot be accepted Clause 55 (Dispute Resolution) shall apply. The foregoing shall also apply to SoR Option Items: 17, 20, 23, 26 and 29 subject to exercise of the relevant Contract Option(s) in accordance with Clause 45 (Options).
- 40.7 A properly certified and approved TAF, signed by the APM, Authority's Finance Officer (AFO) and ACO, shall be the ATP with the Provision of Supplementary Tasks under SoR Items 13 and 14, in accordance with the SOW at Annex A to the Contract. The foregoing shall also apply to SoR Option Items: 30 subject to exercise of the relevant Contract Option(s) in accordance with Clause 45 (Options).

41 Spares and Repairs

41.1 In respect of SoR Items 2, 5, 8 and 11:

- 41.1.1 A CP&F Purchase Order shall be issued to the Contractor by the Authorised Demander;
- 41.1.2 The Contractor shall acknowledge receipt of the CP&F Purchase Order raised under the Contract within 3 (three) Working Days. If the Contractor is unable to accept the CP&F Purchase Order, either wholly or in part, he shall notify the APM giving reasons for non-acceptance and, where appropriate, a recommendation for amendment (If an amendment cannot be agreed Clause 55 shall apply (Dispute Resolution)); and
- 41.1.3 A revised CP&F Purchase Order shall be used to notify reductions, cancellations and changes, and these shall constitute amendments to the Contract provided they comply with Clause 41.1.1.

This Clause 41.1 shall also apply to SoR Option Items: 16, 19, 22, 25 and 28 subject to exercise of the relevant Contract Option(s) in accordance with Clause 45 (Options).

41.2 In respect of SoR Items 3, 6, 9 and 12:

- 41.2.1 Equipments shall be forwarded to the Contractor's works in accordance with arrangements to be made with the Contractor by the APM;
- 41.2.2 A CP&F Purchase Order shall be issued to the Contractor by the Authorised Demander;
- 41.2.3 The Contractor shall acknowledge receipt of the CP&F Purchase Order raised under the Contract within 3 (three) Working Days. If the Contractor is unable to accept the CP&F Purchase Order, either wholly or in part, he shall notify the APM giving reasons for non-acceptance and, where appropriate, a recommendation for amendment (If an amendment cannot be agreed Clause 55 shall apply (Dispute Resolution)); and
- 41.2.4 A revised CP&F Purchase Order shall be used to notify reductions, cancellations, and changes, and these shall constitute amendments to the Contract provided they comply with Clause 41.2.1.

This Clause 41.2 shall also apply to SoR Option Items: 17, 20, 23, 26 and 29 subject to exercise of the relevant Contract Option(s) in accordance with Clause 45 (Options).

Additional Spares and Repairs

- 41.3 Throughout the term of the Contract the Authority may identify additional spares and repairs which are not covered by the prices under Annexes B & C of the Contract. In these circumstances the Authority shall at its sole discretion instruct the Contractor to provide a Firm or Fixed price quotation and scope of work inclusive of a detailed price breakdown. If acceptable, the additional spare(s)/repair(s) shall be added to the Contract through a contract amendment. Thereafter the authorisation procedure shall continue in accordance with the spares and repairs processes detailed under Clause 41

Non-Arrival of Equipment at the Contractor's Premises

- 41.4 The Contractor is required to ensure that:

- 41.4.1 non-receipt of Article(s) sent for repair;
- 41.4.2 incomplete Article(s) received;
- 41.4.3 wrong Article(s) received; and/or
- 41.4.4 wrong quantity of Article(s) received

are recognised and reported to the Authority's Authorised Demander, as detailed in Box 4 of DEFFORM 111 at Appendix 1 to the Contract within 5 (five) Working Days of the Issue Transaction Summary in the form of a Discrepancy Report. Discrepancy Reports shall be raised no later than 20 (twenty) Working Days from receipt of consignment.

- 41.5 The AOM shall record the Discrepancy Report and forward it to the issuing base for investigation. The Service required by Authority which has the Non-Arrival of Equipment issue shall not commence until resolved by the Authority.

Articles Considered Beyond Economical Repair (BER).

- 41.6 Notwithstanding the provisions of DEFCON 601, items found to be beyond economical repair shall be the subject of MOD Form 650/650A action.

42 Delivery of Articles

- 42.1 Spares or repaired Articles shall be delivered Ex-Works. The consignee delivery address shall be detailed on the CP&F Purchase Order including Self-to-Self Delivery. All Articles shall be despatched in appropriate packaging, clearly marked with the correct NATO Stock Number (NSN).
- 42.2 All Articles shall be handled, stored, packaged and labelled in accordance with DEFCON 129, DEFCON 129J, DEFCON 644 and Def Stan 81-130 where appropriate, unless otherwise specified by the Authority, including but not limited to Service Packaging Instruction Sheet (SPIS) Packaging in accordance with DEFSTAN 81-041. Goods shall be packaged in accordance with Retail Trade Pack 'A'.
- 42.3 In the event of the Contractor becoming aware that a delivery date is unachievable, the Contractor shall notify the APM with immediate effect. For the avoidance of doubt, the notification by the Contractor of an unachievable delivery date shall not obviate it from its contractual obligations for on-time delivery.
- 42.4 In the event that the Contractor fails to deliver any of the requirements as detailed in the SOW at Annex A to the Contract, including any and all Order(s) and Supplementary Task(s), then without prejudice to any other Terms and Conditions of the Contract, the Authority shall be entitled to deem this to be a Contractor Default.

Diversion Orders

- 42.5 Where urgent delivery is required to satisfy an operational defect, the APM will invite the Contractor to supply the required item on a Diversion Order.
- 42.6 Requests for Diversion Order action will be accompanied by a CP&F Purchase Order. The addresses for delivery by Diversion Order will be as stated on the CP&F Purchase Order. When goods are shipped

against a CP&F Purchase Order.

43 Acceptance

- 43.1 Unless otherwise agreed, delivery of an Article shall occur upon acceptance of that Article in accordance with the provisions of DEFCON 525 (Acceptance) and DEFCON 649 (Vesting).
- 43.2 Where any Article(s) to be supplied under the Contract is to be delivered otherwise than being handed over by the Contractor to the Authority or to the Representative of the Authority, as where an Article is to be delivered by the Contractor to its own premises or to those of a Sub-Contractor ('self-to-self delivery'), the risk in such Article(s) shall (notwithstanding the provision of DEFCON 612 (Loss of or Damage to the Articles)) be vested in the Contractor until such time as the Article is handed over to the Authority.
- 43.3 Where, after delivery, an Article is rejected by the Authority in accordance with DEFCON 524 that Article shall, for the purposes of the Contract, be considered as not having been delivered under the Contract and the property in that Article shall remain with the Contractor unless a notice of objection to the Authority's rejection has been issued to the Authority in accordance with Clause 7 of that Condition.
- 43.4 The Contractor shall undertake testing in accordance with datapacks to demonstrate that all repaired items delivered under SoR Items 3, 6, 9 and 12 meet the quality requirements of the Contract and are fit for purpose. The foregoing provisions of this Clause 43.4 shall also apply in their entirety to work authorised under SoR Option Items: 17, 20, 23, 26 and 29 subject to exercise of the relevant Contract Option(s) in accordance with Clause 45 (Options).
- 43.5 Acceptance of Documentation shall be in accordance with Clause 10.

SECTION 6 – PRICE AND PAYMENT

44 Pricing

- 44.1 The prices payable under the Contract shall be as detailed on the SoR and at Annex B, Annex C and Annex D subject to this Clause 44 (Pricing).
- 44.2 The Firm Prices as stated in the SoR and SoR Options shall not be subject to the Variation of Price Clause 46 and shall be fully inclusive of all royalties, licences, labour, material, packaging, delivery and expenses required to carry out all work under the Contract in accordance with the terms and conditions but exclusive of VAT.
- 44.3 The Fixed Prices as stated in the SoR and SoR Options shall be subject to the Variation of Price Clause 46 and shall be fully inclusive of all royalties, licences, labour, material, packaging, delivery and expenses required to carry out all work under the Contract in accordance with the terms and conditions but exclusive of VAT.
- 44.4 All prices are pounds sterling (£).

45 Options

- 45.1 The Authority reserves the right to exercise any of the irrevocable Contract Options as specified in the Schedule of Requirements.
- 45.2 The irrevocable Contract options for the Provision of ISS Core Activities detailed at SoR Items: 15, 18, 21, 24 and 27 shall remain valid for exercising, and the Authority shall have the right to exercise any of the irrevocable Contract option(s) at any time from the Effective Date until 3 (three) months before the Contract Option is specified to commence, unless a shorter period is mutually agreed by the parties.
- 45.3 The irrevocable Contract options for the Provision of Spares and Repairs are detailed at SoR Items: 16, 17, 19, 20, 22, 23, 25, 26, 28 and 29 shall remain valid for exercising, and the Authority shall have the right to exercise any of the irrevocable Contract option(s) at any time from the Effective Date until 3

(three) months before the Contract Option is specified to commence, unless a shorter period is mutually agreed by the parties.

- 45.4 The irrevocable Contract option for the Provision of Tasking is detailed at SoR Items 30 shall remain valid for exercising, and the Authority shall have the right to exercise any of the irrevocable Contract option(s) at any time from the Effective Date until 3 (three) months before the Contract Option is specified to commence, unless a shorter period is mutually agreed by the parties.

46 Variation of Price

- 46.1 The prices for FIRM PRICE SoR Items shall be Firm Priced for Years 1 to 3 of the Contract. The prices stated in the Schedule of Requirements prices for FIXED PRICE SOR Items are FIXED at Year 1 price levels (base period). The prices do not include provision beyond this date for increases or decreases in the market price of the Articles and/or Services being purchased. Any such variation shall be calculated in accordance with the following formula:

$$V = P (a+b(O_i/O_0)) - P$$

SoR Items: 4, 14, 15, 18, 21, 24, 27 and 30

Where:

- 46.1.1 V represents the variation of price
- 46.1.2 P represents the FIXED price as stated in the Schedule of Requirements of the Contract Schedule.
- 46.1.3 O represents the index. For the purposes of this Contract the following indices shall be utilised:
 - 46.1.3.1 K8ZU – Top-Level SSPI – All Services GSO (SIC2007)
- 46.1.4 O₀ represents the average OUTPUT Price Index figure for Year 1 (base period)
- 46.1.5 O_i represents the average OUTPUT Price Index figure for the FIXED priced Year of the Contract
- 46.1.6 a represents the Non Variable Element (NVE) – 0.15
- 46.1.7 b represents the Variable Element – 0.85

SoR Items: 5, 6, 16, 17, 19, 20, 22, 23, 25, 26, 28 and 29

Where:

- 46.1.8 V represents the variation of price
- 46.1.9 P represents the FIXED price as stated in the Schedule of Requirements of the Contract Schedule.
- 46.1.10 O represents the index. For the purposes of this Contract the following indices shall be utilised:
 - 46.1.10.1 K38E – Repair and Installation Services of Machinery and Equipment
- 46.1.11 O₀ represents the average OUTPUT Price Index figure for Year 1 (base period)
- 46.1.12 O_i represents the average OUTPUT Price Index figure for the FIXED priced Year of the Contract
- 46.1.13 a represents the Non Variable Element (NVE) – 0.15
- 46.1.14 b represents the Variable Element – 0.85

- 46.2 The Index referred to in Clause 46.1.3.1 and 46.1.10.1 above shall be taken from the following Tables: OUTPUT Price Index - ONS Publication MM22 Table 2 'Price Indices of UK OUTPUT: All Manufacturing and Selected Industries' and ONS Publication Services Producer Price Index (SPPI)
- 46.3 Indices published with a B or F marker or a suppressed value, in the last 3 years are not valid for Variation of Price Clauses and shall not be used. Where the price index has an 'F' marker or suppression applied to it during the term of the Contract, the Authority and the Contractor shall agree an appropriate replacement index or indices. The replacement index or indices shall cover, to the maximum extent possible, the same economic activities as the original index or indices.
- 46.4 In the event that any material changes are made to the indices (e.g. a revised statistical base date) during the period of the contract and before final adjustment of the final contract price, then the re-basing

methodology outlined by the Office for National Statistics (ONS, the series providers) to match the original index to the new series shall be applied.

- 46.5 In the event the agreed index or indices cease to be published (e.g. because of a change in the Standard Industrial Classification) the Authority and the Contractor shall agree an appropriate replacement index or indices, which shall cover to the maximum extent possible the same economic activities as the original index or indices. The methodology outlined by the Office for National Statistics used for rebasing indices (as in Clause 46.4 above) shall then be applied.
- 46.6 Notwithstanding the above, any extant index / indices agreed in the Contract shall continue to be used as long as it is / they are available and subject to ONS revisions policy. Payments calculated using the extant index / indices during its / their currency shall not be amended retrospectively as a result of any change to the index or indices.
- 46.7 The Contractor shall notify the Authority of any significant changes in the purchasing / manufacturing plan on the basis of which these provisions were drawn up and agreed, or of any other factor having a material bearing on the operation of these provisions such as to cause a significant divergence from their intended purpose, in order that both parties may consider whether any change in this provision would be appropriate.
- 46.8 Prices shall be adjusted taking into account the effect of the above formula as soon as possible after publication of the relevant indices or at a later date if so agreed between the Authority and the Contractor. Where an index value is subsequently amended, the Authority and the Contractor shall agree a fair and reasonable adjustment to the price, as necessary.
- 46.9 Claims under this Clause shall be submitted to the Bill Paying Branch, certified to the effect that the "requirements of this Clause 46 (Variation of Price)" have been met.

47 Payment

- 47.1 For SoR Items 1, 4, 7 and 10 and any options exercised in Clause 45.2 (SoR Items 15, 18, 21, 24 and 27) claims for payment for the period covered shall be made quarterly in arrears, in accordance with the Core Activities Payment Plan at Annex E to the Contract. Quarterly payments shall be raised by the ACO, via a CP&F Purchase Order.
- 47.2 The quarterly claim for payment shall comprise two elements:
 - Element 1
 - 47.2.1 The sum not subject to performance payment; and
- 47.3 Element 2
 - 47.3.1 The sum subject to performance payment on the basis of the performance achieved against the KPIs at Annex B to the Contract, and the payments therefore due.
- 47.4 Payment for the Element 2 of the quarterly contract payments against the KPIs at Annex L to the Contract shall be claimed quarterly in arrears to allow for reporting and assessment by the Authority. The implementation date for the KPIs at Annex L to the Contract shall be concurrent with Contract Award or on invoking of options as appropriate.
- 47.5 The KPIs are measured quarterly using data submitted by the Contractor in the Quarterly Progress Report. The proportion of the Contract price for SoR Items 1, 4, 7 and 10 and any irrevocable Contract options exercised in Clause 45.2 subject to performance payment each quarter is set out in the ISS Core Activities Payment Plan at Annex E to the Contract.
- 47.6 The withholding of any performance payment under Condition 22 constitutes a remedy for performance that is measured below the required target as detailed in the KPIs at Annex L to the Contract.
- 47.7 For SoR Items 2, 3, 5, 6, 8, 9, 11 and 12 and any irrevocable Contract options exercised in Clause 45.3, claims for payment shall be made on satisfactory completion of the order by a CP&F receipt message

in accordance with DEFCON 5J.

- 47.8 For SoR Items 13 and 14 and the irrevocable Contract option exercised in Clause 45.4, claims for payment shall be made on satisfactory completion of the TAF in accordance with TAF Procedure at Condition 18 of the Contract. Claims for payment shall be made on CP&F.

SECTION 7 – INTELLECTUAL PROPERTY RIGHTS

48 Governing Provisions (IPR)

- 48.1 The Intellectual Property Rights (IPR) provisions applicable to the Contract are at Clause 2 (IPR DEFCONS) of the General Conditions and this SECTION 7 – INTELLECTUAL PROPERTY RIGHTS. Notwithstanding Clause 4 (Order of Precedence), in the event of any inconsistency between Clause 2 (IPR DEFCONS) and this SECTION 7 – INTELLECTUAL PROPERTY RIGHTS, then Clause 2 (IPR DEFCONS) shall take precedence save to the extent that any provisions within this SECTION 7 – INTELLECTUAL PROPERTY RIGHTS are expressly identified as being in addition to Clause 2 (IPR DEFCONS).

49 Retention of Records

- 49.1 Notwithstanding the provisions of DEFCON 21 (Retention of Records), during the currency of the Contract and thereafter for not less than 10 (ten) years, the Contractor shall maintain a copy of all information supplied under the Contract. The copy of the information shall be maintained in media and formats agreed to by the Authority and the Contractor and shall be deemed to be the property of the Authority, and the Authority may take possession of it notwithstanding any administration, receivership, winding-up or liquidation of the Contractor or any transfer of their assets to any third party, and copies of such information so maintained shall be supplied as required from time to time to the Authority. The Contractor shall be entitled to the reasonable costs of compilation and delivery for information supplied beyond any Contract deliverables.

50 Intellectual Property Register

- 50.1 The Contractor shall maintain a register of all relevant IPR licences including licences enjoyed by the Contractor and the Authority as well as the identity of all third party IPR owners with respect to any equipment including software used in relation to the delivery of the service and equipment. The IPR register shall be sufficiently detailed to enable the Authority (or third party providing future support to the equipment), after termination of the Contract, to renew any such licence if required for the continued provision of the service (if acceptable). The IPR register shall be maintained by the Contractor and a copy of the register shall be delivered to the Authority annually as part of a Progress Report or otherwise upon request of the Authority.

50.1.1 18 months prior to contract expiry; and

50.1.2 At Contract expiry if there have been any changes.

51 Procedure for Making Direct Agreements with Sub-Contractors

- 51.1 The Contractor shall not place any subcontract or order involving the design or development of equipment required under this contract or for the delivery of any repair, maintenance, operation or obsolescence information under this Contract without the prior written consent of the Authority. Unless otherwise agreed, such consent will be conditional on the proposed subcontractor concluding a direct agreement with the Authority. Wherever possible the request for approval should be accompanied by two copies of the agreement signed by the subcontractor. If, in any case the Contractor is unable to comply with this condition he shall report the matter to the Authority's commercial officer and await

further instructions before placing the subcontract or order.

52 Not used

SECTION 8 – LOANS

53 Government Furnished Assets

- 53.1 The Authority shall be responsible for providing the Government Furnished Assets (GFA) to be supplied under the Contract as detailed at Annex H (Government Furnished Assets).
- 53.2 The GFA shall at all times remain the property of the Authority; it shall be used in the execution of the Contract and for no other purpose, without the prior approval in writing of the Authority.
- 53.3 The Contractor shall be responsible for the management of all GFA in accordance with DEFCON 611 (Issued Property), DEFCON 694 (Accounting for Property of the Authority) and DEFSTAN 05-099 (Managing Government Furnished Equipment).
- 53.4 At expiry or earlier termination of the Contract, in accordance with DEFCON 611 (Issued Property), the Contractor shall provide to the Authority a list of all GFA holdings under the Contract. The Authority's Commercial Officer shall issue directions for the transfer, disposal or return to stores of all listed items detailed at Annex H (Government Furnished Assets).
- 53.5 The Contractor shall immediately notify the Authority's Commercial Officer in writing of any additional request(s) for GFA required to perform the obligations of the Contract that he does not already hold or that has not been made available to him. In respect of Government Furnished Information (GFI), the Contractor shall submit any such requests in the form of a DEFFORM 316. The Authority is under no obligation to agree to any such request(s).
- 53.6 In addition to the requirements of DEFCON 611 (Issued Property) and DEFCON 612 (Loss of or Damage to Articles), the following shall apply:
 - 53.6.1 the right of the Authority to reject Article(s) under the Contract shall in no way be prejudiced by or through the fact that the Article(s) in question may have been made from or include materiel supplied by the Authority;
 - 53.6.2 Material which is normally available from commercial sources will not be issued from Government stocks unless the circumstances are exceptional. There will be a charge for the use of such Government Articles;
 - 53.6.3 Material which is only available from Government sources, and which is necessary for the performance of this Contract, should be requested from the Authority's Project Manager; and
 - 53.6.4 Any Authority owned documentation issued to the Contractor will also be covered by Contract Loan terms.
- 53.7 Failure by the Authority to supply the GFA at Annex H (Government Furnished Assets) shall not be used by the Contractor as a reason for not fulfilling its obligations under the Contract. However, if it is accepted by both Parties that in the event that the Authority has failed to supply any of the GFA requirements by the date(s) specified at Annex H (Government Furnished Supplies) for the provision thereof, the Authority shall only be responsible for those additional costs that have been properly incurred by the Contractor and for any appropriate extension of time for completion of the Contract, provided that:
- 53.8 the Authority is satisfied such additional costs and/or effect on execution of the Contract are directly and solely the result of the failure of the Authority to make available the GFA on the date(s) stipulated and for the duration specified;
 - 53.8.1 the Contractor has taken all reasonable steps to minimise the effect of such failure on execution

of the Contract; and

53.8.2 the Contractor has taken all reasonable steps to minimise the inclusion of additional costs

53.9 The Authority shall not be responsible for any additional costs and/or effect on the execution of the Contract for late provision of GFA, if it is demonstrated that such late provision is solely due to the Contractor's late delivery of items or information against the Contract which are subsequently issued by the Authority to the Contractor as GFA or which are needed by the Authority to supply the GFA. Any late delivery of such items or information may require the re-negotiation of the date(s) specified at Annex H (Government Furnished Assets) and both Parties will assess the consequences to the Contract and shall negotiate a solution in good faith, which shall not preclude schedule amendment and price adjustment as necessary.

53.10 Should the Contractor fail to notify the Authority, in a timely manner, of any changes to the GFA dates(s) required and the duration specified and the Authority furnishes the required GFA by the original due date, then the following shall apply:

53.10.1 the Authority shall not be liable for any additional costs incurred by the Contractor, if the GFA cannot be provided to the Contractor within its revised timescales; and

53.10.2 the Contractor shall be responsible for any consequential cost incurred by the Authority resulting from any failure by the Contractor to notify the Authority in a timely manner, provided that:

53.10.2.1 the Authority has taken reasonable steps to minimise the inclusion of consequential costs;

53.10.2.2 the Authority has taken reasonable steps to provide the GFS within the revised timescales; and

53.10.2.3 the Contractor is satisfied that such additional liabilities and/or the effect on execution of the Contract are directly and solely the result of the failure of the Contractor to advise the Authority in a timely manner of the revised GFS timescales.

53.11 Where any Government Furnished Information (GFI) supplied by the Authority contains latent errors, omissions or inaccuracies which could not reasonably have been identified by the Contractor at the time such GFI had been supplied by the Authority, both Parties will assess the consequences under the Contract and shall negotiate a solution in good faith.

SECTION 9 – CONTRACT ADMINISTRATION

54 Contract Reference

54.1 To avoid delays the Contract Number shall be quoted on all correspondence, claims etc. relating to this Contract.

55 Dispute Resolution

55.1 The Parties shall attempt in good faith to resolve any dispute or claim arising out of or relating to this Contract through negotiations between the respective representatives of the Parties having authority to settle the matter, which attempts may include the use of the escalation procedure set out in the following clauses, before referring the matter, if necessary, to Arbitration through the procedures specified in DEFCON 530 (Dispute Resolution (English Law)).

55.2 Should a dispute arise, either Party may inform the other Party in writing of the nature of dispute and the matter in dispute. The Parties agree to try and resolve any dispute arising under this Contract by discussion during the next available Quarterly Progress Meeting. In the event that a meeting is not due within 10 (ten) Working Days of written notification of a dispute arising, a meeting shall be convened for the purpose of attempting to resolve the dispute. Any such meeting shall be held at a UK location

decided by the Authority. Any cost to the Contractor relating to such ad hoc meetings shall be subsumed by the Contractor.

- 55.3 In the event that the dispute remains unresolved both Parties shall within 10 (ten_ Working Days of the meeting, summarise their positions in writing and refer the matter to the Authority's Commercial Officer and the Authority's Project Manager for consideration. A meeting between the Authority's Commercial Officer, the Authority's Project Manager and their counterparts in the Contractor's organisation may be held for further clarification on the dispute. Any such subsequent meeting(s) shall be held at a UK location decided by the Authority and any cost to the Contractor relating to attendance at such meeting(s) shall be subsumed by the Contractor.
- 55.4 If after referral to the Authority's Commercial Officer and the Authority's Project Manager and any subsequent meeting with the Contractor as detailed at Clause 55.2, the dispute remains unresolved after a further 5 (five) Working Days, the dispute shall be referred through the functional management chain to the Authority's Operating Centre Commercial Head and the Contractor's counterpart for consideration and possible agreement.
- 55.5 If the foregoing actions do not resolve the dispute, then the dispute shall, unless the Parties agree to the use of any Alternative Dispute Resolution process in accordance with Clause 1 of DEFCON 530 (Dispute Resolution (English Law)), be referred to arbitration in accordance with Clauses 2 to 6 inclusive of DEFCON 530 (Dispute Resolution (English Law)).

56 Business Continuity Management

- 56.1 In the event of a Force Majeure Event which impacts on the Contractor's processes used in the support provided under this Contract, the Contractor shall maintain continuity of the support in accordance with its Business Continuity Plan (BCP). The Contractor shall maintain the BCP for the duration of the Contract and shall deliver a copy of the BCP in accordance with Annex M (Deliverable Documentatration).
- 56.2 The Contractor's BCP shall set out the arrangements that are to be invoked to ensure that the business processes and operations, required by the Contractor to provide the services covered under this Contract remain supported, including but not limited to:
- 56.2.1 the alternative processes, (including business processes), options and responsibilities that may be adopted in the event of a failure in or disruption to the business processes and operations; and
 - 56.2.2 the steps to be taken by the Contractor upon resumption of the business processes and operations in order to address any prevailing effect of the failure or disruption including a root cause analysis of the failure or disruption.
- 56.3 The Disaster Recovery Plan shall only be invoked upon the occurrence of a disaster. In the event of a complete loss of service or in the event of a disaster, the Contractor shall immediately invoke the BCP (and shall inform the Authority promptly of such invocation).
- 56.4 The Contractor shall review part or all of the BCP (and the risk analysis on which it is based):
- 56.4.1 on a regular basis and as a minimum once every 6 (six) calendar months; or
 - 56.4.2 within 3 (three) calendar months of the BCP (or any part) having been invoked.

57 Exit Strategy

- 57.1 In the event of expiry or earlier termination of this Contract for any reason, the Contractor shall ensure:
- 57.1.1 an efficient and effective transition of the work to the Authority or a replacement Contractor, whilst maintaining required Contract outputs; or
 - 57.1.2 an efficient and effective rundown of the work and closure of the Contract whilst maintaining any required Contract outputs during the Exit Period

- 57.2 This Clause sets out the principles of the exit arrangements that are intended to facilitate such transition or rundown.

Exit Plan

- 57.3 Within 3 (three) months from the Effective Date of the Contract the Parties shall agree an Exit Plan, this document shall include the Contractor's proposed methodology:

57.3.1 for an efficient and effective transition of the work to the Authority or an alternative contractor; and

57.3.2 for the arrangements for the transfer, disposal or retention arrangements for all GFA held in connection with the Contract. All such GFA shall be reconciled with requirements set out in DEFCON 694 (Accounting of Government Property) and associated timescales for action. These arrangements shall include the identification and transfer of any remaining unused spares back to the Authority at no cost to the Authority; and

for the arrangement for the transfer of all Information required solely for the purpose of performing that part of the Contract remaining unperformed. Subject to the pre-existing rights of the Authority, where this includes proprietary IP belonging to the Contractor or a third party to the Contract, the Authority and the Contractor shall agree (as necessary) a royalty free licensing agreement between the Parties. Where the Authority intends to place a contract with an alternative contractor to complete the work remaining to be performed, then the Authority shall disclose the Information provided in confidence and place the recipient contractor under an obligation which restricts copying, disclosure and use of the information to the said purpose;

57.3.3 Details of the major sub-contracts related to the execution of the Contract and any exclusive suppliers or necessary licences and arrangements for the provision of any necessary Information related to the supply chain;

57.3.4 Arrangements for the provision of any training to be provided to the Authority or any Replacement Contractor to enable the efficient transition and operation of the work under Contract and any Management Information.

57.3.5 Details of those assets which would be required to support the operation of an alternative solution to meet the requirement as set out at Annex A (Statement of Work) or continuation of the extant solution, together with the timing and arrangements for their transfer. Such assets shall be categorised as Deliverable Assets or Non Deliverable Assets as below:

57.3.5.1 Deliverable Assets shall, unless otherwise agreed, be subject to the provisions of the Contract.

57.3.5.2 Non Deliverable Assets are those items identified as being used by the Contractor solely for the purpose of administering and managing this Contract and not used for any other contract, services activity or work performed by the Contractor. Such items would be provided to the Authority by the Contractor at book value and sold as seen (i.e. no warranty or implied fitness for purpose).

- 57.4 The Parties shall review and if appropriate update the Exit Plan on an annual basis

- 57.5 The Parties shall appoint appropriately qualified and empowered representatives to manage the Exit Plan.

Exit Notice

- 57.6 No later than 18 (eighteen) months prior to expiry of this Contract or in the case of termination, as soon as reasonably practicable after service of notice of termination pursuant to Clause 23 (Termination for Contractor Default) or Clause 24 (Break) or Clause 25 (Bankruptcy and Insolvency) or Clause 27 (Termination for Force Majeure) the Authority shall serve a written notice ("the Exit Notice") on the

Contractor.

57.7 The Exit Notice shall specify:

57.7.1 the basis on which the Authority wishes to exit the Contract; and

57.7.2 the Exit Period, being the date from which any Exit Services are required to the date of contract expiry or termination; and

57.7.3 the Exit Services required from the Contractor during the Exit Period.

Exit Services

57.8 During the Exit Period the Contractor shall:

57.8.1 continue to perform the work (unless otherwise directed by the Authority) and comply with its obligations under the Contract ;and

57.8.2 provide any Exit Services as set out in the Exit Notice; and

57.8.3 use reasonable endeavours to ensure continuity of its management team with responsibility for execution of the Contract.

57.9 During the Exit Period, the Authority will be deemed to have overall responsibility for managing implementation of the Exit Plan and the Exit Services.

58 Continuity during Transition

58.1 In the event that the Authority transfers performance of the work to the Authority or a Replacement Contractor, the Contractor may be required to support an implementation handover period after the date of contract expiry or termination to enable the smooth transition of business to the Authority or Replacement Contractor. The extent of support required of the Contractor will be agreed between the Contractor, the Authority and, where applicable, the Replacement Contractor and will be subject to negotiation of a fair and reasonable price and payment provision.

58.2 Unless otherwise agreed with the Authority, the Contractor shall use reasonable endeavours to ensure that they keep the same team performing the work throughout the transition period.

59 Transfer of Undertaking (Protection of Employment) (TUPE)

59.1 Should TUPE apply at the commencement, expiry or termination (in whole or in part) of this Contract, the provisions at Annex U shall apply.

60 Authorisation of Contract Amendments

60.1 Notwithstanding the provisions of DEFCON 503 (Amendments to Contract), DEFCON (Contract Change Control Procedure), nothing said, done or written by any person, nor anything omitted to be said, done or written by any person, including, but without limitation, any servant or agent of the Authority, shall in any way affect the rights of the Authority, or modify, affect, reduce or extinguish the obligations and liabilities of the Contractor under the Contract, or be deemed to be a waiver of the rights of the Authority, unless stated in writing and signed by the Authority's Commercial Officer. Only the Authority's Commercial Officer is authorised to vary the terms and conditions of the Contract and such variation shall only have effect when agreed in writing.

60.2 Any formal notice required to be given by one Party to the other Party shall be in writing in the English language. Such notices shall be sent to or delivered to the persons holding the nominated position, addresses, and/or facsimile numbers notified to the other Party to the Contract from time to time for this purpose and until so notified, and for the purposes of Clause 4 of DEFCON 526 (Notices), all notices hereunder shall be sent or delivered to the persons set out in Appendix 1 below.

60.3 It is agreed between the Parties that, without prejudice to any other provisions of the Contract, for the

purposes of Clause 2 of DEFCON 526 (Notices) the electronic submission of notices is permitted.

SECTION 10 – SUBCONTRACTING

61 Sub-Contracts

- 61.1 The Contractor shall be responsible for the management and supervision of its sub-contractors. The sub-contracting of any obligation under the Contract shall not relieve or excuse the Contractor from its obligations to the Authority in respect of the due performance of such obligations. The Contractor shall be responsible to the Authority for the acts or omissions of any sub-contractor in relation to such sub-contractor's performance of the Contract and, to this end, any act or omission of that sub-contractor in relation to such sub-contractor's performance of the Contract shall be regarded as an act or omission of the Contractor.

SECTION 11 – GENERAL CONTRACT PROVISIONS

62 Public Relations and Publicity

- 62.1 Unless the Authority has given its prior written consent or as otherwise required to comply with Legislation, the Contractor (and its Sub-Contractors) shall not by itself:
- 62.1.1 communicate with representatives of the press, television, radio or other communications media on any matter concerning the Contract;
 - 62.1.2 use the Authority's name or brand in any promotion or marketing or announcement of orders.

63 Confidentiality

- 63.1 The provisions of DEFCON 531 (Disclosure of Information) and DEFCON 660 (Reportable Official and Official-Sensitive Security Requirements) shall apply to the Contract.

64 Legislative Risk

- 64.1 The Contractor shall comply with all relevant Legislation from time to time in force and shall pay all fees, charges and costs required to be paid under any Legislation pertaining to the provision of any of the Contractor Deliverables. The Contractor's costs incurred in and in connection with such compliance shall be included in the Contract Price.
- 64.2 If the Contractor believes that a Discriminatory Legislative Change has occurred or is likely to occur it shall notify the Authority in writing as soon as practicable and such notice shall stipulate:
- 64.2.1 the nature of such Discriminatory Legislative Change;
 - 64.2.2 the date such Discriminatory Legislative Change shall come into force;
 - 64.2.3 any necessary change to the Contractor Deliverables;
 - 64.2.4 any fees, charges or costs payable and any adjustment to the Contract Price required as a result of such Discriminatory Legislative Change.
- 64.3 In the event of a Discriminatory Legislative Change this Contract shall be amended in accordance with the Contract Amendment procedure at Clause 60 (Authorisation of Contract Amendments) in respect of any changes arising as a result of the Discriminatory Legislative Change provided that the Contractor:
- 64.3.1 provides evidence that the Contractor has used reasonable endeavours (including (where practicable) the use of competitive quotes) to minimise any increase in costs and maximise any

reduction in costs; and

64.3.2 demonstrates that any expenditure that has been avoided, which was anticipated to be incurred, has been taken into account in the amount which in its opinion has resulted or is required under Clause 64.2.4.

64.4 In the event of any dispute as to whether a Discriminatory Legislative Change has occurred, the Parties shall submit to the Dispute Resolution Procedure set out in Clause 55 (Dispute Resolution).

64.5 Neither Party shall be entitled to reject any Change proposed by the other Party which is required in order to give effect to any change in Legislation, provided that the Contractor shall not be entitled to any adjustment to the Contract Price arising out of or in connection with such Change, save to the extent that such change in Legislation is a Discriminatory Legislative Change to which the provisions of Clauses 64.2 to 64.4 apply.

65 Contractor's Status

65.1 Nothing in this Contract shall be construed as creating a partnership or as a contract of employment between the Authority and Contractor.

65.2 Save as expressly provided otherwise in this Contract, the Contractor shall not be nor be deemed to be, an agent of the Authority and the Contractor shall not hold itself out as having authority or power to bind the Authority in any way.

65.3 Neither Party shall place or cause to be placed any order with suppliers or otherwise incur liabilities in the name of the other Party or any representative of the other Party.

66 Place of Manufacture

66.1 The Contractor shall not change the place of manufacture (including that of any major Sub-Contracts) of the Articles manufactured in execution of the Contract without providing prior notification (not to be unreasonably delayed) to the Authority.

67 Sustainable Procurement

67.1 The Contractor shall take all reasonable steps to procure the observance of the economic, social and environmental legislation related to the subject matter or the execution of the Contract by any servants, employees or agents of the Contractor and any Sub-Contractors engaged in the performance of the Contract.

67.2 The Contractor shall take all reasonable steps to ensure that all activities under this Contract shall comply with certified environmental management standards based on ISO 14001:2004 or equivalent.

67.3 The Contractor is encouraged to bring to the attention of the Authority any measures which might promote sustainability from a social, economic and environmental point of view.

68 Entire Agreement

68.1 This Contract constitutes the entire agreement between the Parties relating to the subject matter of this Contract. This Contract supersedes all prior negotiations, representations, and undertakings, whether written or oral, except that this Clause 68.1 shall not exclude liability in respect of any fraudulent misrepresentation.