**Terms and Conditions**

**for**

**CSS/0107 Provision and In-Service Support of Inflatable Craft for Navy Command Head Quarters (NCHQ) – Lot 1**

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**TERMS AND CONDITIONS**

**PART 1 – DEFENCE CONDITIONS**

1. **Defence Conditions (DEFCON)**
   1. The following DEFCONs shall apply to the Contract:

| **No** | **Edition** | **Title** |
| --- | --- | --- |
| 5J | (Edn.11/18/16) | Unique Identifiers |
| 14 | (Edn.11/05) | Inventions and Designs Crown Rights and Ownership of Patents and Registered Designs |
| 16 | (Edn.10/04) | Repair and Maintenance Information – See CDR No 1 attached at Schedule 3 (Contract Data Requirements List – DEFFORM 315) |
| 21 | (Edn.10/04) | Retention of Records - See CDR No 1 attached at Schedule 3 (Contract Data Requirements List – DEFFORM 315) |
| 23 | (Edn.08/09) | Special Jigs, Tooling and Test Equipment |
| 68 | (Edn.02/17) | Supply of Data for Hazardous Articles, Materials andSubstances |
| 76 | (Edn.12/06) | Contractor's Personnel at Government Establishments |
| 82 | (Edn. 11/16) | Special Procedures for Initial Spares |
| 113 | (Edn. 02/17) | Diversion Orders |
| 117 | (Edn.10/13) | Supply of Documentation for NATO Codification and Defence Inventory Introduction |
| 126 | (Edn.11/06) | International Collaboration |
| 127 | (Edn.12/14) | Price Fixing Condition for Contracts of Lesser Value (this shall apply to amendments to contract and Ad hoc Tasks valued at less than £250,000) |
| 129 | (Edn.18/11/16) | Packaging (For Articles other than munitions) |
| 129J | (Edn.18/11/16) | The Use Of The Electronic Business Delivery Form |
| 501 | (Edn.05/17) | Definitions and Interpretations |
| 502 | (Edn.05/17) | Specification Changes |
| 503 | (Edn.12/14) | Formal Amendments to Contract |
| 507 | (Edn.10/98) | Delivery |
| 513 | (Edn.11/16) | Value Added Tax |
| 514 | (Edn. 08/15) | Material Breach |
| 515 | (Edn.02/17) | Bankruptcy and Insolvency |
| 516 | (Edn.04/12) | Equality |
| 518 | (Edn.02/17) | Transfer |
| 520 | (Edn.02/17) | Corrupt Gifts and Payments of Commission |
| 522 | (Edn.18/11/16) | Payment and Recovery of Sums Due |
| 524 | (Edn.10/98) | Rejection |
| 525 | (Edn.10/98) | Acceptance |
| 526 | (Edn.08/02) | Notices |
| 527 | (Edn.09/97) | Waiver |
| 528 | (Edn. 07/17) | Import and Export Licences |
| 529 | (Edn.09/97) | Law (English) |
| 530 | (Edn.12/14) | Dispute Resolution (English Law) (Any dispute concerning the Ship’s compliance or non-compliance with the rules, regulations and requirements of the Classification Society or other Regulatory Authorities shall be referred to the appropriate Classification Society or Regulatory Authority for a decision which shall be final and binding upon the Parties. All other disputes shall be dealt with in accordance with DEFCON 530) |
| 531 | (Edn.11/14) | Disclosure of Information |
| 532A | (Edn.06/10) | Protection Of Personal Data (Where Personal Data is not being processed on behalf of the Authority) |
| 534 | (Edn.06/17) | Prompt Payment (Sub-Contracts) |
| 537 | (Edn.06/02) | Rights of Third Parties |
| 538 | (Edn.06/02) | Severability |
| 539 | (Edn.08/13) | Transparency (Contractor Commercially Sensitive Information” shall mean the information listed in the Contractor Commercial Sensitive Information, Schedule 4 (Contractor Commercial Sensitive Information)). |
| 550 | (Edn.02/14) | Child Labour and Employment Law |
| 566 | (Edn.10/16) | Change of Control of Contractor |
| 601 | (Edn.04/14) | Redundant Materiel (shall apply in respect of DEFCON 611 (Edn 07/10), Issued Property and to the extent that the redundant materiel derives from the property owned by the Authority and issued to the Contractor). |
| 602A | (Edn.12/06) | Deliverable Quality Plan |
| 604 | (Edn.06/14) | Progress Reports (for the purposes of the Contract, the frequency of reports shall be as detailed in the Section B to the Integrated Project Management Plan (Schedule 5) and Key Performance Indicators at Schedule 6. |
| 606 | (Edn.06/14) | Change and Configuration Control Procedure |
| 607 | (Edn.05/08) | Radio Transmissions |
| 608 | (Edn.10/14) | Access and Facilities to be Provided by the Contractor (for the purposes of this Contract the Contractor shall ensure that any Offices, Lay Apart Stores or facilities provided by the Contractor to the Authority are fitted with security locks on all doors and any windows that can be opened. The Contractor shall ensure access to keys is limited to authorised personnel only, in agreement with the Authority). |
| 609 | (Edn. 06/14) | Contractor's Records |
| 611 | (Edn.02/16) | Issued Property |
| 612 | (Edn.10/98) | Loss of or Damage to the Articles |
| 619A | (Edn.09/97) | Customs Duty Drawback |
| 621A | (Edn.06/97) | Transport (if Authority is responsible for transport). |
| 621B | (Edn.10/04) | Transport (if the Contractor is responsible for transport). |
| 624 | (Edn.11/13) | Use of Asbestos in Arms, Munitions or War Materials |
| 627 | (Edn.12/10) | Quality Assurance - Requirement for a Certificate of Conformity |
| 630 | (Edn.03/15) | Framework Agreements – (for the purposes of this Contract this shall only apply to the In Service Support requirement) |
| 632 | (Edn. 08/12) | Third Party Intellectual Property – Rights and Restrictions |
| 637 | (Edn.05/17) | Defect Investigation and Liability |
| 642 | (Edn.06/14) | Progress Meetings |
| 643 | (Edn. 12/14) | Price Fixing (Non-qualifying contracts) (this shall apply to amendments to contract and Ad hoc Tasks valued at more than £250,000). The period in Clause 4 of this DEFCON shall be 5 years. |
| 644 | (Edn. 05/17) | Marking of Articles |
| 646 | (Edn. 10/98) | Law and Jurisdiction (Foreign Suppliers) |
| 647 | (Edn. 09/13) | Financial Management Information |
| 649 | (Edn. 12/16) | Vesting |
| 656B | (Edn. 08/16) | Termination for Convenience – £5m and Over |
| 658 | (Edn. 04/17) | Cyber Security |
| 660 | (Edn. 12/15) | Reportable Official and Official-Sensitive Security Requirements |
| 670 | (Edn. 02/17) | Tax Compliance |
| 681 | (Edn. 06/02) | Decoupling Clause – Subcontracting with the Crown |
| 691 | (Edn. 03/15) | Timber and Wood-Containing Products Supplied under the Contract |
| 694 | (Edn. 03/16) | Accounting For Property of the Authority |
| 697 | (Edn 07/13) | Contractors On Deployed Operations. |
| 703 | (Edn 08/13)  [Amdt 1] | Intellectual Property Rights - Vesting in the Authority  (This condition will only apply to PDS tasks that are fully funded by the Authority. For the avoidance of doubt DEFCON 703 does not apply to any other tasks/materials/deliveries under the Contract.) |

**PART 2 – SPECIAL CONDITIONS**

1. **Interpretation** 
   1. In addition to the provisions of DEFCON 501 (Interpretation), the words and phrases set out in Schedule 7 (Definitions & Interpretations) shall have the meaning ascribed to them in those Schedules unless otherwise provided for in this Contract.
   2. In this Contract, except where the context otherwise requires:
      1. a reference in this Contract to any Clause, Paragraph, Schedule or Annex is, except where expressly stated to the contrary, a reference to such Clause, Paragraph, Schedule or Annex of this Contract;
      2. any reference in this Contract to a range of Clauses, Paragraphs, Schedules or Annexes shall, except where expressly stated to the contrary, be inclusive of those Clauses, Paragraphs, Schedules or Annexes used to define the range;
      3. any reference to this Contract or to any other document shall include any permitted variation, amendment or supplement to such document;
      4. references to any documents being "in the agreed form" means such documents have been initialled by or on behalf of each of the parties for the purpose of identification;
      5. reference to a person includes firms, partnerships and corporations and their successors and permitted assignees or transferees;
      6. all covenants, agreements, undertakings, indemnities, representations and warranties by more than one person are entered into, given or made by such persons jointly and severally;
      7. 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. References to other persons (other than the Authority) shall include their successors and assignees;
      8. reference to the phrase "agreed or determined" means agreed between the parties or determined pursuant to the resolution of any dispute under DEFCON 530 (Disputes);
   3. The words and phrases “other”, “including” and “in particular” shall not limit the generality of any preceding words or be construed as being limited to the same class as any preceding words where a wider construction is possible.
   4. Unless otherwise stated, the provisions of this Contract shall be read and construed as if separate and independent contracts had been entered into, in respect of each Inflatable Craft and In Service Support for each Inflatable Craft and not as one contract for all Inflatable Crafts and In Service Support for all Inflatable Crafts.
2. **Precedence of Documents** 
   1. The documents constituting this Contract are intended to be consistent. In the event of any ambiguity, conflict or inconsistency between the Contract and any document referred to or cross-referenced in the Contract, or between documents referred to or cross-referenced in the Contract, the conflict shall be resolved according to the following descending order of priority:
      1. Clauses 1 to 41 of this Contract and Schedule 7 (Definitions and Interpretations);
      2. Schedule 2 (Statement of Technical Requirements) of this Contract;
      3. Other Schedules;
      4. any other document of this Contract;
      5. any other document agreed between the Parties after the Commencement Date.
3. **Contractual Matters**
   1. All queries and correspondence relating to or affecting the Contract shall be addressed to the Authority’s Commercial Officer as specified in Box 1 to Schedule 9 (DEFFORM 111 – Addresses and Other Information).
4. **Entire Agreement** 
   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 shall not exclude liability in respect of any fraudulent misrepresentation.
5. **Assignment** 
   1. Neither Party to the Contract shall give, bargain, sell, assign, or otherwise dispose of the Contract or any part thereof, or the benefit or advantage of the Contract or any part thereof, without the previous consent in writing of the other Party.
6. **Contractor Warranties and Representations**

Contractor Warranties

* 1. The Contractor warrants and represents to the Authority that:
     1. it is properly constituted and incorporated and has the corporate power to own its assets and to carry on its business as it is now being conducted;
     2. it has the power to enter into and to exercise its rights and perform its obligations under this Contract;
     3. all action necessary on the part of the Contractor to authorise the execution of and the performance of its obligations under this Contract has been taken or, in the case of any such document executed after the date of this Contract, shall be taken before such execution;
     4. the obligations expressed to be assumed by the Contractor under this Contract are, or in the case of any such document executed after the date of this Contract shall be, legal, valid, binding and enforceable to the extent permitted by law and this Contract is or shall be in the proper form for enforcement in England;
     5. the execution, delivery and performance by it of this Contract does not contravene any provision of:
        1. any existing Legislation binding on the Contractor, including Legislation which has been enacted but is not yet in force;
        2. the memorandum and articles of association of the Contractor;
        3. any order or decree of any court or arbitrator which is binding on the Contractor;
        4. any obligation which is binding upon the Contractor or upon any of its assets or revenues;
        5. no claim is presently being assessed and no litigation, arbitration or administrative proceedings are presently in progress or, to the best of the knowledge of the Contractor (having made all due enquiry), pending or threatened against it or any of its assets which shall or might have a material adverse effect on the ability of the Contractor to perform its obligations under this Contract;
        6. it is not the subject of any other obligation, compliance with which shall or is likely to have a material adverse effect on the ability of the Contractor to perform its obligations under this Contract;
        7. no proceedings or other steps have been taken and not discharged (nor, to the best of the knowledge of the Contractor, having made all due enquiry, threatened) for its winding-up or dissolution or for the appointment of a receiver, administrative receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues (or any equivalent procedure);
        8. it shall not, and in entering into this Contract it has not, committed any Prohibited Act; and
        9. there is not and nor has there been any infringement or alleged infringement of any third party's IPR in connection with this Contract (excluding any Government Furnished Information).

and the Authority relies upon such warranties and representations

1. **Contractor Undertakings** 
   1. The Contractor undertakes that for so long as this Contract remains in full force it shall:
      1. provide notice of any Dispute Proceedings to the Authority that are likely to affect the Contractor’s ability to perform its obligations under the Contract or has the potential to cause reputational damage to the Authority, unless such notice is precluded by the rules of the court, arbitrator, administrator, adjudicator, mediator or any other relevant authority with jurisdiction over the Dispute Proceedings:
         1. within 20 (twenty) Business Days of the Contractor becoming aware that Dispute Proceedings may be threatened or pending; and
         2. immediately after the commencement of Dispute Proceedings;
         3. not undertake the performance of its obligations under this Contract otherwise than:
            1. at the Contractor’s Premises; and
            2. through itself or a Sub-Contractor.

Status of Contractor Warranties and Undertakings

* 1. All warranties, representations, undertakings, indemnities and other obligations made, given or undertaken by the Contractor in this Contract are cumulative and none shall be given a limited construction by reference to any other

1. **Contractor’s Obligations**
   1. The Contractor shall provide the Contractor Deliverables to the Authority, all in accordance with the Contract, good Inflatable Craft building and marine engineering practice and shall, alia, offer the Inflatable Craft to the Authority fully in compliance with the Contract.
   2. Without prejudice to the overriding obligation contained in Clause 9.1, the Contractor's responsibilities shall, unless provided otherwise in the terms of this Contract, include:
      1. design, construction, launch , equipping, completing and delivering of the Inflatable Crafts to the Authority;
      2. providing In Service Support;
      3. satisfactory completion of all Tests, Trials and Inspections required to prove the quality of the Contractor Deliverables in accordance with the Integrated Test and Evaluation Plan at Section I of Schedule 5 (Integrated Project Management Plan);
      4. the provision and proper fitting in place of all material, equipment, fittings and deliverables necessary for the completion of the Inflatable Craft as required by the Contract unless otherwise specified;
      5. the provision of all labour, plant, machinery, freight and port services necessary for the proper performance of the Contract;
      6. the provision of all necessary services, facilities for and assistance to the Authority’s Representatives and the Authority’s Contractors in accordance with the Contract;
      7. the provision of all necessary access, facilities and drawings for any classification, certification, surveys or trials to the Classification Society or Regulatory Authorities in accordance with the Contract;
      8. if applicable, examination, testing, and if necessary retesting of Lifting Equipment; ensuring that, at Acceptance Off Contract of each Inflatable Craft, there remains at least 80% of the total period between tests or surveys being completed and the next test or survey falling due;
      9. compliance with local Statutory Duties And Obligations up to Acceptance and shall ensure that the Contractor Deliverables and any activities of the Contractor within the UK shall comply with UK Statutory Duties And Obligations;
      10. supply of documentation and data for NATO Codification purposes in accordance with DEFCON 117 (Supply of Information for NATO Codification and Defence Inventory Introduction);
      11. not, by any act or omission at any time, placing the Authority in breach of its obligations as an employer;
      12. the Inflatable Craft and its equipment being designed and built in metric units.
      13. meeting all the requirements set out in Schedule 2 (Statement of Technical Requirements)
   3. The Contractor shall not deviate from the Contract nor introduce any contrivance unusual in the kind of work covered by the Contract save as provided for in Clause 33 (Changes to the Contract)
   4. Save in respect of the Contractor’s Sea Trials or as expressly agreed in writing by the Authority, all work involved in providing the Contractor Deliverables shall be carried out at the Contractor’s Premises.
   5. The Contractor is responsible for producing a design of Inflatable Craft that is safe to operate and fit for purpose by demonstrating to the Authority that the design developed by the Contractor meets the requirements of the Contract.
   6. No advice, comment or information proffered, given or omitted by, or on behalf of, the Authority on or in relation to the Contractor's work in accordance with the Contract shall, in any way, extinguish, diminish or reduce the Contractor's obligations and responsibilities under the Contract to provide the Contractor Deliverables. Neither shall the activities of the Authority or its representatives including that of scrutiny of the design produced by the Contractor under the Contract derogate from the Contractor's obligations and responsibilities under the Contract.
   7. The Contractor acknowledges that any risk assessment, questionnaire or risk register which has, or may be undertaken or maintained in connection with this Contract is done so in a management capacity only. Such risk assessment activity does not affect the legal relationship between the Parties or in any way limit or exclude the Contractor’s obligations under this Contract.
2. **Contract Period**
   1. This Contract and the rights and obligations of the Parties to this Contract shall take effect on the date of this Contract and, except as set out in Clause G. (Continuing Obligations), shall terminate on the earlier of:
      1. the date on which the Contractor has discharged all of its obligations in respect of the Contractor Deliverables; or
      2. the Termination Date.
3. **Right to Extend Contract** 
   1. In consideration of the award of this Contract, the Contractor hereby grants to the Authority the following irrevocable options to extend the Contract by a further two years, in two (2) options of one (1) year each, in accordance with the terms and conditions of this Contract.
   2. The Authority will have the right to exercise the options by the specified dates:
      1. For option Year 6, 01 April 2023 to 31 March 2024, by no later than 01 February 2024;
      2. For option Year 7, 01 April 2024 to 31 March 2025, by no later than 01 February 2025;
   3. The Parties agree and acknowledge that the Authority has no obligation to exercise the rights conferred by this Clause 11 and the Authority’s right to extend this Contract shall lapse upon expiry of the periods specified in Clause 11.2 above.
4. **Price**
   1. Prices recorded in Schedule 1 (Schedule of Requirements) as Firm are not subject to variation in any respect (including on account of fluctuations in wages, and/or cost of materials, interest rates or currency exchange rates)) save as provided for in Clause 34 (Changes to the Contract).
5. **Payment** 
   1. Payments shall be in Pounds Sterling.

Line Items 1 to 24 to Schedule 1 (Schedule of Requirements)

* 1. The Contractor shall submit their claim for payment on satisfactory completion of all work under each line item above, in accordance with DEFCON 522 (Payment).

Line Item 25 (In-Service Support), Line Item 26 (Through Life Spares), Line Item 27 (Post Design Services) and Line Item 28, 29, 30 (Reprovision of Craft) to Schedule 1 (Schedule of Requirements)

* 1. The Contractor shall submit their claim for payment on satisfactory completion of all work under this requirement as authorised under Clause 15 (Tasking Procedure/Authorisation of Work – Line Items 21-30), in accordance with DEFCON 522.

1. **Integrated Project Management Plan (IPMP)** 
   1. The Contractor shall demonstrate good project management practice in undertaking all activities under the Contract. The Authority and the Contractor shall adopt an open and honest approach at all times and ensure that potential risks to performance, cost and time are exposed at the earliest opportunity to enable them to be addressed to minimise any detrimental impact and maximise the benefit of any potential opportunities.
   2. The Integrated Project Management Plan (IPMP) (Schedule 5 to the Contract) shall define how the Contract activities shall be managed, outlining the processes, procedures and techniques to be used with details of how all activities, plans and programmes will be established, monitored, changed, controlled, integrated and communicated with the Authority.
   3. The IPMP shall adopt a consistent and coherent approach to project management and establish procedures and reporting mechanisms. Implementation of the IPMP will provide the Authority with confidence in the Contractor’s ability to deliver to time, cost and performance in accordance with the Contract and provide early visibility of potential issues so that mitigating action can be taken.
   4. No later than 3 (three) months from the date of this Contract, the Contractor shall update and finalise the draft Integrated Project Management Plan (IPMP) (Schedule 5 to the Contract) together with the associated sections and issue to the Authority to review. The updated IPMP shall address the scope of work as set out in the Contract.
   5. The Authority will review the updated IPMP and associated sections and provide proposed amendments to the Contractor within 10 (ten) working days of receipt. Any such proposals shall be subject to agreement of the Contractor who shall incorporate all reasonable proposals from the Authority in to the IPMP within 10 (ten) working days of any discussion held between the parties as a result of the Authority’s comments. Within 10 (ten) working days thereafter the Contractor shall submit the IPMP and associated sections at Revision 1 status to the Authority as Schedule 5 (Integrated Project Management Plan).
   6. The IPMP shall cross reference to the Contract Clauses, the Statement of Technical Requirements (Schedule 2) and all associated sections within the IPMP as applicable.
   7. The Contractor shall be responsible for the maintenance and updating of the IPMP throughout the life of the Contract.
   8. The IPMP shall comprise of the following sections:
      1. Section A – Project Monitoring and Control Plan
      2. Section B – Communication, Relationship Management and Reporting Plan
      3. Section C – Risk Management Plan
      4. Section D – Quality Management Plan
      5. Section E – Safety and Environmental Management Plan
      6. Section F – Exit Strategy Plan
      7. Section G – Security Plan
      8. Section H – Supply Chain Management Plan
      9. Section I – Integrated Test, Evaluation & Acceptance Plan
      10. Section J – Through Life Support Plan
2. **Risk** 
   1. The Contractor shall provide and maintain a Risk Management Plan which shall:
      1. describe the way in which risks shall be handled during the period of the Contract and shall include details of risk management, risk mitigation, review and reporting requirements and procedures.
      2. include a Risk Register with a project risk assessment using the field descriptions listed in section C of Schedule 5 (Integrated Project Management Plan). The Contractor shall identify any risks, in order of importance, associated with the Contract. The Risk Register shall use the likelihood/impact matrix section C of Schedule 5 (Integrated Project Management Plan).
   2. The risk management process shall be underpinned by the production and maintenance of a formal Joint Risk Register, incorporating both the Contractor’s and the Authority’s identified risks. The register shall be managed by the Contractor and presented to the Authority within three (3) months of the award of the Contract. Each risk in the register shall have a nominated risk owner who shall be responsible for the day-to-day management of the risk including the recording of mitigation actions, current risk parameters and status.
   3. The Contractor acknowledges that any risk assessment is a project management function only. It does not affect the legal relationship between the Parties. The issuing of a risk register template to the Contractor and the process of risk assessment generally, including without limitation, the identification of (or failure to identify):
      1. particular risks and their impact; or
      2. risk reduction measures, contingency plans and remedial actions shall not in any way limit or exclude the Contractor's obligations under this Contract and shall be entirely without prejudice to the Authority's rights, privileges and powers under this 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 template released will be issued by the Authority solely on this basis.
3. **Tasking Procedure/Authorisation of Work – In respect of Line Items 25 to 30**
   1. The Authority will authorise work under the Statement of Technical Requirements (Schedule 2 Section 10) - (Logistics and In Service Support) in accordance with Clauses 15.2 to 15.9 below by issuing either:
      1. a Task Authorisation Form (TAF) as detailed at Schedule 8 (Task Authorisation Form), for all requirements (excluding spares) detailed at Schedule 2 Section 10 - (Logistics and In Service Support) of the Statement of Technical Requirements: or
      2. a demand order through Contract Purchasing and Finance (CP&F), for spares detailed at Schedule 2 Section 10 - (Logistics and In Service Support) of the Statement of Technical Requirements.

General – Tasking Authorisation Forms

* 1. The Authority will issue TAFs to the Contractor who shall generate a unique TAF serial number and shall respond to the Authority within 5 (five) working days of receipt of the TAF, or such other period as agreed with the Authority. The unique serial number shall be quoted in all subsequent communications with the Authority.
  2. The Contractor shall not undertake any work under a TAF without the prior written authorisation of the Authority’s Commercial Officer at Part H of the TAF. The Authority will not be responsible in any way whatsoever for any work undertaken or costs incurred prior to receipt by the Contractor of written authorisation in accordance with this Clause 15.3.
  3. The Contractor shall maintain a list of all TAFs and their progress in the format detailed at Schedule 18 (Information and Reporting) and provide this electronically to the Authority’s Authorised Officer on a weekly basis. This information, together with the KPI data as detailed in Schedule 6 (Key Performance Indicators) will be agenda items at the project review meetings.
  4. In the event that any work authorised by the Authority under a TAF is not subsequently required and is not undertaken by the Contractor, the Contractor shall agree a rebate with the Authority. The agreed rebate shall be deducted from the price of the TAF.
  5. On satisfactory completion of a TAF or part thereof the Contractor shall complete Part I of the TAF and provide a full breakdown detailing:
     1. Scope of work;
     2. all Extra and Emergent Work, showing labour hours, materials etc for all aspects of the work in accordance with, and using the Firm Rates at Table 2 of Schedule 1 (Schedule of Requirements).
  6. Subject to the Authority agreeing the final price and acceptance of the work, the Authority’s Commercial Officer and Authorised Officer will sign Part J of the TAF and return to the Contractor for them to submit a claim for payment in accordance with Clause 12 (Payment) above.

Limit of Liability

* 1. Where a TAF authorised by the Authority includes a Limit of Liability (LoL) the Contractor shall immediately inform the Authority’s Authorised Officer detailed in Schedule 9 (DEFFORM 111 - Addresses and Other Information), either in writing or by e-mail, in the event that:
     1. the Contractor believes the work cannot be completed within the LoL specified on the TAF. In such circumstances the Contractor shall provide the Authority’s Authorised Officer with the reasons for the potential overspend and an estimate for completing the outstanding work;
     2. spend has reached 75% of the LoL;
     3. the cost of any single item of Extra and Emergent Work is likely to exceed £XXXXX (Five Thousand Pounds Sterling)
  2. The total amount to be paid by the Authority for work which is subject of the LoL shall not, without the approval in writing of the Authority, exceed the LoL. Where the Authority agrees to an increase in the LoL this will be authorised by the Authority’s Commercial Officer.

1. **Tasking Process – Line Items 14-17**

Survey, Repairs and Disposal

* 1. Prior to commencement of any work, the Authority will raise a TAF for one or more Inflatable Craft(s) which will define the package of work to be completed (Part A of the TAF) and detail the Firm Price, Required Delivery Date and, if appropriate, a LoL for Repairs, Extra and Emergent Work. On receipt of the TAF the Contractor shall either:
     1. confirm agreement by completing and signing Part B of the TAF or;
     2. verify and agree with the Authority any changes which are required to the package of work. The Contractor shall submit a revised Firm Price by completing Parts B and C of the TAF and shall:
        1. apply the Firm price(s) in as set out at Table 3a and Table 3b of Schedule 1 (Schedule of Requirements);
        2. for repair and modifications, submit a breakdown of price, in accordance with DEFCONs 127 (Price Fixing Condition for Contracts of Lesser Value) or 643 (Price Fixing) as appropriate using the Firm Rates at Table 2 of Schedule 1 (Schedule of Requirements);
        3. provide a revised Required Delivery Date for all work under the TAF.

Subject to the Contractor confirming agreement of the TAF in accordance with Clause 16.1.1 above or the Authority agreeing the revised Firm Price and Required Delivery Date in accordance with Clause 16.1.2 above the Authority’s Commercial Officer will authorise the Contractor to proceed with the TAF by completing and signing Part H. In respect of Clause 16.1.2 above, the Authority will review and if appropriate revise the LoL for Extra and Emergent Work prior to authorising the TAF.

Post Design Services, Additional Spares (not included on Table 4 of Schedule 1 (Schedule of Requirements), Ad Hoc Tasks, Transport, Cat B, C and D Operational Defect Rectification (OPDEF) and Configuration Control activities and Codification

* 1. The Authority will issue a TAF, setting out the scope of the task and detailing the Required Delivery Date (Part A of the TAF). On receipt of the TAF, the Contractor shall submit a Firm Price by completing Parts B, C and D of the TAF using the appropriate Firm Rates from Table 2 of Schedule 1 (Schedule of Requirements).
  2. Subject to the Firm Price being considered as fair and reasonable by the Authority and sufficient funds being available, the Authority’s Commercial Officer will authorise the Contractor to proceed by completing Part H of the TAF.

Extreme Urgency including Cat B2 OPDEFs and above

* 1. In cases of extreme urgency, including but not limited to Cat B2 OPDEFs and above, the Authority will authorise the Contractor by e-mail or telephone to undertake urgent tasks and will detail the scope of work and a LoL which will not exceed £5,000 (Five Thousand Pounds Sterling). To facilitate this requirement the Contractor shall provide the Authority with a name and contact number, such person to be available on call 24 hours 7 days a week. Upon receipt of the Authority’s authorisation the Contractor shall immediately proceed with the task. Within 5 (five) working days of the Authority’s authorisation the Contractor shall submit a TAF, by completing Parts A, B, C and D of the form and using the appropriate Firm Rates at Table 2 of Schedule 1, (to the Authority’s Authorised Officer, copied to the Authority’s Commercial Officer for the agreement of a Firm Price.

Storage

* 1. The Authority will issue the Contractor with a TAF setting out the requirement to store Inflatable Craft(s) and associated equipment by completing Parts A and H of the form. The pricing of the TAF shall be based on a LoL and the requirements of Clause 15.8.2 above shall apply. Upon receipt of the TAF the Contractor shall confirm acceptance of the TAF by signing Part B.
  2. The Contractor shall maintain a spreadsheet in the format at Schedule 18 (Information and Reporting) detailing the number and type of Inflatable Craft(s) and associated equipment stored by the Contractor. At the end of each calendar month the Contractor shall submit a claim for payment to the Authority’s Authorised Officer detailing the number and type of Inflatable Craft(s) and associated equipment stored. The amount claimed by the Contractor shall use the agreed Firm Rates at Table 2 of Schedule 1 (Schedule of Requirements) The Authority will review the Contractors claim and, if agreed, the Authority’s Authorised Officer and Commercial Officers’ will authorise payment of the claim accordingly.

Spares

* 1. The Authority will order spares, as detailed at Table 4 of Schedule 1 ((Schedule of Requirements).
  2. The Authority’s Authorised Demanders for ordering spares are:-

|  |  |
| --- | --- |
| ''''''' ''''''''''''''' '''''''''''''  '''''''''' '''''''''''' '''''''''''''''''''''''''''''''''''''  ''''''''' '''''' '''''''''''''  '''''''''''' ''''''''''''''' ''''''''''''''' '''''''''''''  ''''''''''''''''' '''''''''''' ''''''''''  ''''''''' '''''''''' ''''''''' ''''''''''''''  ''' ''''''''''''  **''''''''''''''''''''''''''''''''''''''''''''''''''''''''''** | ''''''' ''''''''''''''''' ''''''''''''''''''  '''''''''' ''''''''''''''' '''''''''''''''''''''''''''''''''''''''  '''''''''' '''''' ''''''''''''''''  ''''''''''' ''''''''''''''' ''''''''''''''' '''''''''''''''''''  ''''''''''''''' ''''''''''''' ''''''''''  ''''''''' '''''''''' '''''''' '''''''''''''''  ''' '''''''''''  **''''''''''''''''''''''''''''''''''''''''''''''''''''''''''''''** |

* 1. Delivery shall be Ex Works; the Contractor shall be responsible for arranging collection of the spares by the Authority’s Transport Branch as specified in Box 10 at Schedule 9 (DEFFORM 111 – Addresses and Other Information).
  2. The delivery address will be notified through CP&F and will include, but no be limited to:

|  |  |  |  |
| --- | --- | --- | --- |
| **Portsmouth (PO)** | **Devonport Distribution Facility** | **Donnington Stores** | **GPSS Store** |
| GOODS INWARDS  Circular Road  HMNB Portsmouth  Portsmouth  PO1 3LU | W024 Bldg  Devonport Royal Dockyard  Plymouth  Devon PL1 4SG | JSVS  Bldg B1  Donnington  Telford  Shropshire  TF2 8QT | HM Naval Base  Faslane  Helensburgh  Dunbartonshire  G84 8HL |

* 1. On some occasions, the Authority may request the Contractor to deliver spares direct to an Authority site. In such cases, the Authority will request the cost of transport and the demand order will be annotated accordingly.
  2. The Contractor shall be responsible for the packaging of spares in accordance with DEFCON 129 (Packaging (For Articles other than munitions)) to commercial packaging standard and marking of the packages with the consignment instructions as identified on the CP&F demand order.
  3. The Contractor shall maintain a list of the spares ordered and keep a running total. This information, together with the KPI data as detailed in paragraph 1.4 of Schedule 6 (Key Performance Indicators), will be an agenda item at the monthly project review meetings.

1. **Quality - General Requirements** 
   1. The Contractor shall be responsible for ensuring that the quality of the work performed, and of the articles and materials supplied or repaired by him and all his Sub-Contractors, conforms to the requirements of the Contract.
   2. The Contractor shall maintain a quality management system and continually improve its effectiveness in accordance with the terms and conditions of this Contract, ISO 9001-2008, the AQAP 2100 series and Defence Standards, as detailed below:-
      1. AQAP 2105 – NATO QA Requirements for Deliverable Quality Plans (Edition 2)
      2. AQAP 2110 Edition 3 (NATO Quality Assurance Requirements for Design, Development & Production)
      3. DEFSTAN 05-57 Issue 6 (Configuration Management of Defence Materiel)
      4. DEFSTAN 05-61 Part 1 Issue 5 (Concessions)
      5. DEFSTAN 05-61 Part 4 Issue 3 and Amendment 1 28/01/11 (Contractor Working Parties)
      6. DEFSTAN 05-135 Issue 1 Avoidance of Counterfeit Material.
   3. For the AQAP series, the following interpretations apply:
      1. Where the Contract refers to the “Authority”, the AQAP series refers to the “Acquirer”
      2. Where the Contract refers to the “Contractor”, the AQAP series refers to the “Supplier”
      3. Where the Contract refers to the “Sub-Contractor”, the AQAP series refers to the “Sub-supplier”
2. **Quality Plan** 
   1. The Contractor shall maintain the Contractor’s Quality Plan throughout the duration of the contract; any changes shall be agreed with the Authority.
   2. The Quality Plan shall set out the quality strategy, quality practices, available resources and sequence of activities relevant to the Contract and shall provide assurance to the Authority that:
      1. The Contract requirements and conditions have been reviewed;
      2. Effective quality planning has taken place;
      3. Identified risk areas are being addressed;
      4. The Contractor has indicated how the quality of products and/or processes, including critical ones (as stated in the contract) shall be assured; and
      5. Those specific elements of the Contractor's quality system that are to be applied to the Contract are appropriate.
   3. To satisfy the above requirements, the Quality Plan shall meet the requirements as detailed in AQAP 2105, and shall include:
      1. Strategy for Quality Assurance defining the Contractors commitment to complying with the quality system requirements as relating to this Contract
      2. Procedures that detail how the Quality Management System shall be used to deliver the ship and which supplement the requirements for acceptance
      3. Arrangements for Quality Management review meetings to be held every 3 months
      4. Procedures for achieving ISO 9001 Certification.
      5. Company organisation, competencies and resources
      6. Supply base codes of practice, interfaces and standards policy
      7. Configuration control (as detailed in Clause 19 (configuration control)
3. **Configuration Control**
   1. The Quality Plan shall include procedures for ensuring configuration control requirements are clearly defined, achievable and compliant with the Contract.
   2. The Contractor shall ensure that its strategy for configuration control is adequately developed, implemented and documented and clearly understood by all members of the Contractor’s design and production team and including relevant areas of the supply chain.
   3. Configuration control shall be the means by which the Contractor administers control of the product for form, fit and function and shall include the following interrelated processes to achieve that objective:
      1. Management and planning
      2. Identification and documentation
      3. Change management
      4. Status record accounting
      5. Audits
   4. For configuration control, the Quality Plan shall include procedures and processes for, but not be limited to:
      1. Standardisation
      2. Quality
      3. Reliability and Maintainability
      4. Traceability
      5. Testability
      6. Interchangeability
      7. Interoperability
      8. Supportability
4. **Certificates of Conformity (CoC)**
   1. A Certificate of Conformity (CoC) meeting the requirements of DEFCON 627 (Quality Assurance - Requirement for a Certificate of Conformity), and as detailed in section D to Schedule 5 (Integrated Project Management Plan), is to be provided on Acceptance of each Inflatable Craft.
5. **Quality Assurance Representative (QAR)** 
   1. When called up in standards invoked by this Contract, Quality Assurance Representative (QAR) is to be read as Government Quality Assurance Representative (GQAR and/or Acquirer)

1. **Key Performance Indicators** 
   1. The Authority will monitor the Contractor’s performance in accordance with Schedule 6 (Key Performance Indicators) to this Contract.
2. **Continuous Improvement**

* 1. As part of the Contractor’s programme of continuous improvement the Contractor shall work with the Authority to identify process improvement which will result in increased craft availability and/or reduced costs. In recognition of the partnering principles, any benefits derived will be equally shared between the Parties.

1. **Authority’s Authorised Officer** 
   1. Notwithstanding Clause 9 (Contractor’s Obligations), the Authority will appoint an Authority’s Authorised Officer as identified in Schedule 9 (DEFFORM 111 – Addresses and Other Information) to:
      1. inspect the work being done under the Contract and/or any part thereof, including materials and articles used or to be used therein;
      2. provide the Contractor with information and advice as required;
      3. monitor the progress of work on the Inflatable Craft(s);
      4. implement procedures for the authorisation of Extra and/or Emergent work or reductions (rebates) to a TAF;
      5. co-ordinate all visits by Authority staff in connection with this Contract to the Contractor's premises;
      6. arrange for the attendance of Authority inspection, tests and teams as required.
   2. The Authority’s Authorised Officer will have the right to inspect all work being carried out under the Contract including at sub-contractors premises and to conduct product surveillance audits at any reasonable time. Any deficiencies or defects found during these inspections or audits shall be rectified by the Contractor at no additional cost to the Authority.
   3. To enable the Authority’s Authorised Officer to carry out his duties, the Contractor shall:
      1. permit full access at all times to the work in progress and to all drawings, models, samples and articles or things of any kind pertaining to the Contract;maintain full co-operation and provide all such drawings, information and assistance as may reasonably be required;
      2. provide shore side office and equipment including but not limited to desk, chair, telephone, internet facilities; mains power, facsimilie and access to a photocopier;
      3. provide access to basic catering facilities (kitchen sink, running hot and cold water, water boiler, refrigerator and microwave);
      4. submit all condition survey reports, dimension reports and readings from machinery in a timely manner;
      5. submit Extra and Emergent work or reductions (rebates) to a TAF in accordance with the Contract.
   4. The Authority’s Authorised Officer will have the right to:
      1. reject any workmanship, article or material, which does not conform with the requirements of the Contract;
      2. stop any test or trial or any other activity being carried out by the Contractor on the Inflatable Craft(s) at any time if, in his opinion, the safety of the Inflatable Craft(s), its equipment or personnel on board is compromised.

In respect of Clauses 24.4.1 and 24.4.2 above, the Contractor shall have a right of appeal to the Authority whose decision will be final and conclusive.

* 1. In the event of appeal by the Contractor against an Authority rejection of any workmanship, article or material;
     1. notice of appeal shall be given to the Authority within 7 (seven) working days of receipt by the Contractor of notification of rejection;
     2. workmanship shall not be made good nor the article or material removed until directed by the Authority.
  2. Successful Appeal - Should an appeal by the Contractor prove successful then the Contractor will be entitled to claim an extension of time, in relation to KPI no. 1, Schedule 6 (Key Performance Indicators) which is directly attributable to the successful claim. Any such extension of time shall be agreed between the Parties.
  3. The Contractor shall make good or replace at his own expense and to the satisfaction of Authority’s Authorised Officer, any workmanship, article or material rejected by the Authority. The Contractor shall also, if so required by the Authority, mark any rejected article or material, in a manner acceptable to the Authority’s Authorised Officer.
  4. The Contractor shall not use surplus or used stores without the Authority's prior written approval. Where the Contractor proposes to use surplus or used stores, they shall submit their detailed proposals, including the effects on agreed prices or programme, to the Authority’s Authorised Officer for consideration and, if appropriate, approval.
  5. The Contractor shall be liable for all costs and expenses incurred in the provision and proper use of the accommodation and facilities provided in accordance with Clause 24.3 above.
  6. The Authority shall indemnify the Contractor in respect of:
     1. damage occurring at the Contractor’s Premises; and
     2. any third party claims; and
     3. Injury or death to the Contractor’s employees caused by the acts or omissions of the Authority’s Representatives.
  7. The Contractor shall indemnify the Authority in respect of injury or death to Authority Representatives caused by the acts or omissions of the Contractor’s Representatives.
  8. Clause 24.10 and Clause 24.11 do not apply to the extent that a Party is able to show that any such damage, injury or death was caused or contributed to by circumstances beyond the reasonable control of the Authority’s Representatives or Contractor’s Representatives as appropriate

1. **Attendance by Makers', Representatives and Certification Authorities** 
   1. The Contractor shall be responsible for co-ordinating and arranging all attendance to execute or oversee work in connection with delivery, installation on board, setting to work, acceptance, maintenance, trials and repair or examination of machinery, systems and equipments, under the Contract.
   2. The Contractor shall make all arrangements for, and provide all necessary drawings, access and facilities for any work in connection with registration, classification, certification, surveys or trials.
   3. The Contractor shall be responsible for co-ordinating and arranging attendance by all surveyors necessary for any certification required by the Contract.
   4. The Contractor is encouraged to bring to the attention of the Authority any measures which might promote sustainable procurement from a social, economic and environmental point of view.
   5. The Contractor shall take all reasonable steps to ensure that all activities under this Contract shall comply with certified environmental management standards based on ISO14001 or equivalent.
2. **Government Furnished Information**

General

* 1. All Government Furnished Information disclosed by the Authority pursuant to this Contact is set out in Schedule 11 (Government Furnished Information). All drawings, documents, design information and details of arrangements, models, mock-ups and samples provided by the Authority in connection with the Contract shall remain the property of the Authority.
  2. Subject to Clause 26.1 the Contractor shall not in any way be relieved from any obligation under this Contract nor shall it be entitled to claim against the Authority on grounds that the Government Furnished Information is insufficient, and shall make its own enquiries as to the adequacy of that information.
  3. In the event the Contractor discovers that the Government Furnished Information supplied by the Authority is inaccurate, the Contractor shall immediately notify the Authority of such inaccuracy and any impact on the Contract including any requirement for a change in the Contract under Clause 33 (Changes to the Contract).
  4. Nothing in this Clause 25 shall exclude any liability which the Authority or any of its agents or employees would otherwise have to the Contractor in respect of any statements made fraudulently or fraudulent omissions to make statements prior to the date of this Contract.

Drawings, documents and information

* 1. Where the Contract states that the Authority will supply any drawings, documents or information to the Contractor they will be provided free of charge.
  2. On completion of the Contract, the Authority’s Authorised Officer will advise the Contractor of the method of disposal of all drawings, documents and other information supplied to him in accordance with Clause 25 above.

Review of Documents provided by the Contractor

* 1. During the course of the Contract where documents are delivered to the Authority for review, unless specified otherwise, the Contractor shall allow no less than 10 (ten) working days for the Authority to respond. The Authority’s comments on the documents will be supplied in writing. In cases where the Authority’s comments are extensive, a separate review meeting will be held with the Contractor to discuss the changes required to the document.

Supply of Support Documentation by the Contractor

* 1. The Contractor shall provide the Authority with technical handbooks, maintenance schedules, operating instructions, spare parts lists and/or any other documentation in accordance with Schedule 2 (Statement of Technical Requirements) or a Task Authorisation Form.

1. **Guarantee** 
   1. The Contractor shall guarantee all work undertaken under the Contract, including fitness for purpose and compliance with all current Health and Safety Legislation, and shall be responsible for the rectification of defects discovered within the guarantee periods stated below.

| **Type of Work** | **Guarantee Period from the Inflatable Craft Acceptance Date** |
| --- | --- |
| New build | 2 (two) years |
| In Service Support (including but not limited to Repair / Upgrade / Modifications) | 6 (Six) months |
| Post Design Services | 1 (one) year from acceptance of the deliverable |
| Spares | 1 (one) year from delivery |

* 1. The Authority will notify the Contractor in writing of any guarantee issues as soon as practicable, specifying the nature and extent of the guarantee issue, the date of its discovery and the location where the Authority requires the Contractor to undertake corrective action.
  2. If during the guarantee period specified in Clause 27.1 above, any item or material or part thereof is found to be defective or show signs of weakness due to faulty materials or workmanship the Authority will have the right to either:
     1. require the Contractor at his own expense to remove, repair and/or replace such defective materials and/or parts;
     2. take such corrective action itself and to recover from the Contractor its expenses in so doing.
  3. The Contractor shall be liable for all costs, expenses and liabilities incurred or suffered by the Authority as a consequence of the defects.
  4. Notwithstanding anything contained in this Clause 27, the Contractor shall not be required to remedy or pay the cost of remedying any deficiency arising:
     1. from fair wear and tear, or;
     2. from negligence on the part of any person in the service of the Authority.
  5. The Contractor shall assign to the Authority all guarantees or warranties given by Sub-Contractors or suppliers of any of the materials or equipment supplied under this Contract which exceed the guarantee periods specified in Clause 27.1 above.
  6. In the event of any rectification work being required during the guarantee period(s) specified at Clause 26.1 above, the guarantee period for the remedial work shall be the later of:
     1. 3 (three) months from the date of completion of the remedial work; or
     2. the end of the guarantee period.
  7. The Contractor shall proceed with due diligence in all corrective action under this Clause 27.
  8. The Contractor shall be responsible for all aspects of Guarantee management including but not limited to:
     1. progressing the rectification of all Defects,
     2. the management of Sub-Contract guarantees including the transfer of any rights in Sub-Contract guarantees to the Authority in accordance with Clause 27.6;
     3. the production and distribution of Defect status reports; and
     4. attendance at meetings with the Authority and/or Sub-Contractors to review Defects.
  9. Save as provided for in Clause 27.5, the Contractor shall make any necessary repairs or replacements to rectify any Defects or damage to the Inflatable Craft caused as a direct consequence of such Defects. Such repairs and replacements shall be made at the Contractor’s Premises (or at the sub-contractors premises where Inflatable Craft build has been sub-contracted) at the Contractor’s cost and expense.
  10. The Authority shall have the right to arrange for the rectification of any Defect, or damage to the Inflatable Craft caused as a direct consequence of a Defect, to be undertaken at a location of the Authority’s choice and obtain any necessary replacement parts and materials where:
      1. it is impractical to bring the Inflatable Craft to the Contractor’s Premises or at the sub-contractors premises where Inflatable Craft build has been sub-contracted ; or
      2. the Contractor cannot supply necessary replacement parts and materials without impairing or delaying the operation or working of the Inflatable Craft ; or
      3. the Contractor is in default of Clause 27.10.
  11. In the event that the Authority proposes to rectify Defects at any premises other than the Contractor’s Premises or at the sub-contractors premises where Inflatable Craft build has been sub-contracted in accordance with Clause 27.11, the Authority shall notify the Contractor of the time and place proposed to rectify the Defect. The Contractor shall be given a reasonable opportunity to inspect the nature and extent of the Defect and promptly advise the Authority whether or not he accepts that the Defect is covered by the Guarantee but such advice to the Authority shall not be conclusive.
  12. The Contractor shall pay the Authority the reasonable cost and expenses of rectifying a Defect in accordance with Clause 27.12 above which shall be:
      1. set off against a payment; or
      2. paid within 30 (thirty) Days of receipt of a written demand for payment from the Authority where:
         1. all payments in accordance with the Contract have been made by the Authority; or
         2. the amount payable by the Contractor exceeds those sums which have been set off by the Authority in accordance with Clause 27.13.2.1 above.
  13. At any time prior to rectification in accordance with Clause 27.11 above the Contractor shall be entitled to request that the Authority return any parts replaced to the Contractor. The Authority shall make reasonable endeavours to comply with the Contractors request and any parts returned shall be at the Contractor’s cost.
  14. In the event that any replaced parts returned to the Contractor in accordance with Clause 26.15 are the subject of a dispute under DEFCON 530 (Disputes), the Contractor shall make available the replaced parts for inspection by the Authority.

Post Design Services Deliverables

* 1. Where in the opinion of the Authority the deliverables associated with PDS tasks are found to be inaccurate so as to be unfit for purpose, the Contractor shall rectify, at his own expense, any incorrect information or deliverables and the Authority will also have the right to recover from the Contractor any costs incurred by the Authority in implementing any corrective action associated with the incorrect information provided by the Contractor.

1. **Sub-Contracts** 
   1. No Sub-Contracting by the Contractor shall in any way extinguish, diminish or reduce the Contractor’s obligations under the Contract and the Contractor shall be fully responsible for acts, errors, defaults, breaches, omissions or negligence of any Sub-Contractor.
   2. The Contractor shall perform its obligations under and observe all the terms of any Sub-Contracts.
   3. Nothing in this Contract shall prohibit or prevent any Sub-Contractor employed by the Contractor from being employed by the Authority at any establishments of the Authority.
   4. Where the Contractor enters into a Sub-Contract with a supplier or contractor for the purpose of performing the Contract, he shall cause a term to be included in such Sub-Contract which requires payment to be made by the Contractor to the supplier or contractor within a specified period not exceeding 30 (thirty) Days from receipt of a valid invoice and the requirements for a valid invoice shall be defined by the Sub-Contract.
   5. The Contractor shall not place any Sub-Contract or order involving the design or development of Articles required under this Contract without the prior approval of the Authority.
   6. The Contractor shall not enter into any commitment in relation to the design or development of equipment until such time as the Contractor has entered into an agreement with the Authority in the form set out at Schedule 12 (DEFFORM 177). Wherever possible the request for approval should be accompanied by two copies of the agreement signed by the Sub-Contractor. If, in any case the Contractor is unable to comply with this Clause he shall report the matter to the Authoriy’s Commercial Officer and await further instructions before placing the Sub-Contractor or order.
   7. The Contractor shall retain, for a period of at least 10 (ten) years after delivery of the final Inflatable Craft under the Contract or Termination Date, a copy of the Sub-Contracts (or the relevant parts thereof) sufficient to demonstrate the Authority’s rights with respect to Intellectual Property Rights and shall provide certified copies of such records to the Authority upon request.
   8. The Authority shall have a right of direct access to any Sub Contractor for the purpose of monitoring the progress of work under the Contract, technical liaison and discussion with the Sub-Contractor provided that his presence at the site shall not hinder progress of the work. The Authority shall give prior notification to the Contractor of any proposed visits and the Contractor shall have a right to be present at any site visit by the Authority to a Sub Contractor. This right of direct access under this Clause shall also include the Authority's right to discuss, at any time, with Lloyd's Register or any relevant maritime and coastguard agency, or agency having similar jurisdiction, any aspects relating to the Contract.

Change of Sub-Contractors

* 1. The Contractor shall ensure that it has the right to assign any guarantees or warranties provided by its Sub-Contractors to the Authority which exceed the Guarantee Period.

1. **Matters To Be Included In Sub-Contracts** 
   1. The Contractor shall ensure that all Sub-Contracts shall at all times include:
      * 1. provisions such that the Sub-Contract shall not be rescinded, or varied in such a way as to alter or extinguish any rights granted to the Authority without the prior written consent of the Authority;
        2. provisions that the Authority's rights referred to in this Clause 29, which are otherwise enforceable under the Contracts (Rights of Third Parties) Act 1999, are not rendered unenforceable; and
        3. a requirement that either party to the Sub-Contract may release to the Authority any of those parts of the Sub-Contract as are necessary to be sufficient to demonstrate compliance with the provisions of this clause and that any such release shall not amount to a breach of any provision of confidentiality contained within the Sub-Contract.
        4. provisions enabling the Contractor to terminate the Sub-Contract (on similar terms to those which apply to any termination by the Authority of this Contract under the Terms and Conditions of the Contract), so as to enable implementation of any Authority requirement of the Contractor to secure such termination.
        5. provisions enabling the Contractor to secure the dismissal of an employee of the Sub-Contractor, so as to enable implementation of any Authority requirement of the Contractor to secure such dismissal, due to a breach of DEFCON 520 (Corrupt Gifts and Payments of Omission) by that employee, include a provision enabling the Contractor to determine such Sub-Contracts in the event that the Authority exercises its rights under DEFCON 656 (Break) to terminate this Contract upon written notice;
        6. include the power to determine the Sub-Contract on substantially the same terms as those which apply to any termination of this Contract pursuant to DEFCON 656 (Break), provided that references in the provisions DEFCON 656 (Break) to "Authority", "Contractor" and "Contract" shall be construed (as appropriate) as references to "Contractor, "Sub-Contractor" and "Sub-Contract" (respectively) for the purposes of the corresponding Sub-Contract provisions.
        7. a requirement for any further Sub-Contracts of lower tiers to contain provisions capable of giving effect to all of the provisions of Clauses 27 (Sub-Contracts) and 28 (Matters to be Included in Sub-Contracts), to the extent reasonably required by the Authority.
   2. When placing subcontracts, the Contractor is asked to give consideration, as far as possible, to placing work on a competitive basis with Subcontractors that are Supported Businesses. The Contractor can find details of Supported Businesses in the United Kingdom on the Supported Business Directory that is British Association for Supported Employment at '''''''''' ''''' '''''''''' ''''''''''' '''''''''''''' ''''''''''''''''''''''''' '''''''''''''''''''''''''''' ''''''''' '''''''''' '''''''''''''''''''''''''''''' '' ''''''''''''' ''''''''''''''''''''' or http://business.base-uk.org/procurement.
2. **Care and Protection of the Inflatable Craft(s)**

General

* 1. The Contractor shall be responsible for the care, protection, physical security, loss and damage of the Authority’s Inflatable Craft’s, their equipment and other equipment and materials whilst in their custody from the point of either:
     1. collection by the Contractor in accordance with DEFCON 621B (Transport (if the Contractor is responsible for Transport)): or
     2. delivery by the Authority to the Contractor’s premises in accordance with DEFCON 621A (Transport (if the Authority is responsible for Transport)):

to the point of either:

* + 1. delivery by the Contractor in accordance with DEFCON 621B (Transport (if the Contractor is responsible for Transport)): or
    2. collection by the Authority from the Contractor’s premises in accordance with DEFCON 621A (Transport (if the Authority is responsible for Transport))
  1. The Authority when handing over custody of an Inflatable Craft will present the Contractor with a signed Care and Custody Certificate form at Schedule 13 (Care and Custody Certificate). The Contractor shall sign the certificate accepting custody of a Inflatable Craft. When returning custody of an Inflatable Craft the Contractor shall sign and return the completed certificate to the Authority.

Clean Inflatable Craft and Protection of Equipments

* 1. The Contractor shall maintain high standards of cleanliness to decks, Inflatable Craft compartments and passageways, Inflatable Craft structure, dock bottom and steps (where applicable) and dock side.
  2. The Contractor shall ensure there is no contamination of equipment or installation by any means including dirt, condensation, paint, shipyard arisings, corrosive products of grit blasting, lagging and kindred operations. Arisings shall be removed on a daily basis, whenever the nature of the work permits and debris shall not be allowed to accumulate. In places where equipment may be subject to heavy wear or knocks from passing traffic it must be boxed in. All deck coverings shall be protected from dirt and damage.
  3. The Contractor shall be responsible for making good damage to paint-work and fittings arising from Work in Way.
  4. The Contractor shall remain responsible for the condition and cleanliness until acceptance of the Inflatable Craft by the Authority.

1. **Continuing Obligations** 
   1. Save as otherwise expressly provided in this Contract or as already taken into account in the calculation of any payment on termination pursuant to this Contract:
      1. termination of this Contract shall be without prejudice to any accrued rights or obligations under this Contract prior to termination; and
      2. termination of this Contract shall not affect the continuing rights and obligations of the Contractor and the Authority under:
         1. Clauses 3 (Precedence of Documents), 9 (Contractor’s Obligations), DEFCON 527 (Waiver), DEFCON 529 (Law (English)), DEFCON 530 (Disputes), DEFCON 531 (Disclosure of Information), DEFCON 538 (Severability), and 509 (Recovery of Sums Due); or:
         2. any other Clause or any provision of this Contract which is expressed or implied to survive termination or which is required to give effect to such termination or the consequences of such termination.
2. **Debt Factoring** 
   1. Subject to the Contractor obtaining the prior written consent of the Authority in accordance with DEFCON 518 (Transfer) the Contractor may assign to a third party (“the Assignee”) the right to receive payment of the Contract Price or any part thereof due to the Contractor under this Contract (including any interest incurred by the Authority under any Contract clause concerning the late payment of debts).
   2. Any assignment of the right to receive payment of the Contract Price (or any part thereof) under DEFCON 518 (Transfer) shall be subject to:
      1. reduction of any sums in respect of which the Authority exercises its right of recovery under DEFCON 509 (Recovery of Sums Due), or any narrative clause concerning recovery of sums due;
      2. all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and
      3. the Authority receiving notification under both Clause 32.3 and sub-Clause 32.4.2 below.
   3. In the event that the Contractor obtains from the Authority the consent to assign the right to receive the Contract Price (or any part thereof) under Clause 32.1 above, the Contractor shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.
   4. The Contractor shall ensure that the Assignee:
      1. is made aware of the Authority’s continuing rights under sub-Clauses 32.2.1 and 32.2.2 of this Clause 32; and
      2. Notifies the Authority of the Assignee’s contact information and bank account details, to which the Authority shall make payment, subject to any reduction made by the Authority in accordance with sub-Clauses 32.2.1 and 32.2.2 above.
   5. The provisions of the Contract, including any clauses concerning payment, shall continue to apply in all other respects after the assignment and shall not be amended without the prior approval of the Authority.
3. **Health and Safety**
   1. Notwithstanding and without prejudice to the provisions detailed elsewhere in the Contract, the Contractor shall be entirely responsible for the safety, whilst on his premises, of all personnel in connection with the Contract, whether or not in his employ.
   2. Save as may otherwise be specifically defined in the Contract, the Contractor shall be in charge of, and entirely responsible for, the care, protection and security of the Inflatable Craft(s) and all Authority property whilst in their possession.
   3. Where the Authority engages an Independent Safety Advisor/Auditor/Assessor the Contractor shall provide access to records, including Sub-Contractor records to enable the Authority to carry out safety audits and other assessment activities. This shall include the provision Fof access to the Contractor and Sub-Contractors premises if required.
4. **Changes to the Contract**

Categorisation of Changes

* 1. Each proposal for a change to the Contract shall be categorised as follows:
     1. Priority changes.
     2. Routine changes.
  2. The category shall be determined by the Authority’s Authorised Officer following the procedure set out at Clause 34.3 below.

Contract Change Proposal Procedure

* 1. The procedure set out in the following Table shall be followed by the Authority and the Contractor for all Changes to this Contract except as otherwise provided for under this Contract.

|  |  |  |
| --- | --- | --- |
|  | **Changes Initiated by the Authority** | **Changes Initiated by the Contractor** |
| **Step 1** | A Change Number shall be allocated by the Authority’s Authorised Office using Contract Change Proposal Form (CCPF) 2. Change category assigned by the Authority’s Authorised Officer.  Written request for a formal proposal shall be issued to the Contractor by the Authority. | The Contractor shall gain internal Contractor approval to submit a Contract Change Proposal. |
| **Step 2** | The Contractor shall respond to the Authority within ten Business Days (five Business Days for priority changes) of receiving the written request advising the date by which the Contract Change Proposal Form (CCPF1) shall be submitted. | Initially an outline CCPF 1 shall be tabled by the Contractor with a Rough Order of Magnitude price to cover the change and advising the date by which the Contract Change Proposal Form (CCPF1) shall be submitted. The proposal shall be given a Change Proposal Number and registered on the Index of Contract Change Proposals (Form CCPF 2) by the Authority’s Authorised Officer who shall advise the Contractor whether to proceed with the following steps or that the change proposal is rejected. |
| **Step 3** | Within fifteen Business Days (ten Business Days for priority changes) of receiving the written request the Contractor shall provide an outline CCPF 1 with an indication of the price to cover the change. The Authority’s Authorised Officer will advise the Contractor whether to proceed with the following steps or that the change proposal is rejected. | NOT USED |
| **Step 4** | The Contractor shall determine, in conjunction with the Authority, whether sub-Contract competition is required | |
| **Step 5** | The Contractor shall provide formal completed CCPF1 including proposed Firm prices (including a price breakdown) in accordance with Schedule 1 (Schedule of Requirements) to this Contract. The CCPF 1 shall be submitted in accordance with Step 2. | |
| **Step 6** | If required, the Authority and the Contractor shall meet will meet five business days from receipt of CCPF1 to agree and approve the Change. The Authority’s Authorised Officer shall make the necessary arrangements to convene the meetings. | |
| **Step 7** | Subject to agreement of a Firm Price, any other changes to the Contract and approval of funding the Authority’s nominated Commercial Officer shall issue a serially numbered Contract Amendment in writing to the Contractor’s nominated Commercial Manager within ten Business Days of agreement of the change proposal. The provisions of DEFCON 503 shall apply. | |
| **Step 8** | The Contract Amendment shall be signed by the Contractor’s nominated Commercial Manager and such confirmation of acceptance returned to the Authority | |

* 1. The Authority shall maintain configuration control of CCPF 1 forms and the CCPF 2 and shall issue copies to the Contractor’s nominated Project and Commercial Managers as requested.
  2. Once the CCPF 1 has been agreed and authorised by the Authority the signed original CCPF 1 and all its attachments, including the Contractor’s quotation, shall be retained by the Authority’s nominated Commercial Officer who shall raise a Contract Amendment in accordance with Step 7 of the procedure set out at Clause 34.3 above indicating formal approval for the Contractor to implement the change. A copy of the CCPF1 shall be retained by the Contractor.
  3. The Contractor’s cost for supporting in the Contract Change Proposal Procedures specified at Clause 33.5 above are included in the Contract Price detailed at Schedule 1 (Schedule of Requirements).

Pricing Of Contract Change Proposals

* 1. Contract amendment(s) resulting from a CCPF 1 submission shall not be issued until Firm prices have been agreed by the Authority’s nominated Commercial Officer. Such prices shall be based upon the Contract Rates set out to Schedule 1 (Schedule of Requirements) to this Contract.
  2. In exceptional circumstances, where the Authority requires urgent action to be taken provisional prices for change may be set in accordance with either DEFCON 127 (Price Fixing Condition for Contracts of Lesser Value) or DEFCON 643 (Price Fixing) Such provisional prices shall be based upon the Contract rates set out to Schedule 1 (Schedule of Requirements) to this Contract.
  3. Where the change has a sub-Contract element the Firm price proposed for that element on the CCPF 1 shall be equal to the sum of the quotation from the sub-Contractor plus the agreed Contractor’s rates detailed at Schedule 1 (Schedule of Requirements) to this Contract.

Gainshare Proposals

* 1. Should either the Authority or the Contractor propose a Change to the Contract which shall result in a benefit to the Authority, the CCPF1 shall be completed with full details of the proposed benefit that would accrue to the Authority in approving the implementation of such a change. The CCPF 1 shall also include the Contractor’s proposal for sharing of any resultant financial benefit or increase in Contract price based on the net effect of such a change.
  2. In such cases the Contract Change Procedure detailed at Clause 34.3 shall be followed and the Parties shall consider whether the proposed change should be implemented. If approved, the sharing arrangements and method of payment shall be agreed on a case by case basis.

General

* 1. The Authority shall not accept liability for any costs or charges incurred other than in accordance with this Contract including tasks properly raised and authorised in accordance with the procedures herein. This Contract may only be changed by the Contractor’s acceptance of a written amendment issued after a change has been proposed and evaluated by following the procedures of the Contract Change Proposal (CCP) Form, Schedule 19 to the Contract.

1. **Replacement of Obsolescent Parts and Equipment** 
   1. The Contractor shall be responsible for correctly specifying all material to be incorporated into the Inflatable Craft, including the replacement of obsolescent parts and equipment and maintaining up-to-date records of equipment variants fitted in each Inflatable Craft. The Contractor shall be required to provide assurance to the Authority that replacement parts and equipment where different from those originally fitted will not affect the Inflatable Crafts fitness for purpose in its intended role. The Contractor shall also obtain Lloyds Register certification for replacement parts or equipment where required
2. **Import and Export of Inflatable Craft and/or any Associated Equipment or Spares** 
   1. In the event the Contractor, with the agreement of the Authority, takes the decision to transport an Inflatable Craft, and/or any associated equipment or spares into or out of the UK the Contractor shall be responsible for all the relevant custom formalities. In these circumstances the Contractor shall be liable for all costs.
3. **Sustainable Procurement** 
   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.
   2. If the Contractor becomes aware of any potential or actual prosecution or proceedings, for criminal breaches of the economic, social and environmental legislation related to the subject matter or the execution of the Contract, against the Contractor, any servants, employees or agents of the Contractor and any Sub-Contractors engaged in performance of the Contract, the Contractor shall immediately notify the Authority at the address specified in the Contract.
   3. Any convictions during the period of the Contract for criminal breaches of the economic, social and environmental legislation related to the subject matter or the execution of the Contract by the Contractor or any of the Contractor’s directors/partners or senior management who have powers of representation, decision or control, shall be regarded as a material breach of this Contract.
   4. A sustainable procurement plan is not required for the purposes of this Contract.
4. **Compatibility With Authority Systems** 
   1. The Contractor shall ensure that all documents required for this Contract including but not limited to plans, drawings, report, forms and logs are supplied in the English Language (UK) using both the Oxford English Dictionary and the principles of the Simplified Technical English (STE) Dictionary.
   2. The Contractor shall ensure that all Notices and Deliverable Drawings and Documents are provided in, or shall be fully compatible with, the following applications:
      1. MS Office 2013 applications (MS Word, MS Excel, MS PowerPoint, MS Outlook, MS Project)
      2. Adobe Acrobat Reader vXI
      3. Drawings (both formats to be provided for all drawings)
      4. Autodesk AutoCAD Drawing (\*dwg), DWF (available on AutoCAD v2004+);
      5. PDF format that permits a word-based search function.
      6. Active Risk Manager 5.1 by Strategic Thought Ltd, Release 5.1.1606 update 07 (or an alternative agreed with the Authority)
      7. Telelogic DOORS® 9.5 (or an alternative agreed with the Authority)
   3. In transferring information to the Authority, the Contractor shall:
      1. ensure that all information is marked/classified in accordance with the Contract terms and conditions for data security.
      2. ensure that all electronic information is free from viruses and malware.
      3. ensure that e-mails do not exceed 8Mb in size (electronic files larger than 8Mb or MS Access files shall be sent to the Authority on CD or DVD).
      4. not use memory sticks.
5. **Transfer Regulations – (Transfer of Undertakings (Protection of Employment) Regulations)** 
   1. Transfer Regulations will be in accordance with Schedule 14.
6. **Public Relations and Publicity** 
   1. The Contractor shall not by itself, its employees or agents, and shall procure that its Sub-Contractors shall not:
      1. communicate with representatives of the press, television, radio or other communications media or members of the public on any matter concerning this Contract;
      2. photograph or film in or upon any Authority Sites;
      3. erect or exhibit on any part of the Authority Sites any signs or trade boards; or exhibit or attach to any part of the Authority Sites any notice or advertisement, unless the Authority has given its prior written consent or as otherwise required to comply with Legislation.
7. **Exit**
   1. On termination of the Contract or a TAF, and at any time and for whatever reason, the Authority shall not be liable for any additional costs, other than where the Authority is liable under the Contract, for the hand-over by the Contractor to any successor Contractor or to the Authority of all data as may exist in the Contractor’s possession at the time of termination of the Contract or TAF, and as relevant to the performance of the work by that successor Contractor or the Authority.
   2. To provide for the possible hand-over to another Contractor on termination of the Contract, or transfer back of responsibility for the work to the Authority, throughout the duration of the Contract, the Contractor shall maintain records, including an IPR register, in a manner suitable to facilitate such a hand-over.
   3. The Authority’s minimum requirement is that, subject to the ownership of the hardware and Intellectual Property Rights/Free User Rights vesting with the Authority, the records required by the Authority are as set out in section F to the Integrated Project Management Plan (Schedule 5). The records shall be maintained by the Contractor in a manner that the Contractor would expect them to be maintained in were the Contractor to be a successor Contractor unfamiliar with the requirements.