



# Ministry of Defence

## PURCHASE ORDER

**Contract No:** 704042451

**Contract Name:** Burgess Yachts National Flagship Support

**Dated:** 12/04/2022

Supply the Deliverables described in the Schedule to this Purchase Order, subject to the attached MOD Terms and Conditions for Less Complex Requirements (up to £122,979).

Contractor	Quality Assurance Requirement (Clause 8)
<p>Name: Burgess Technical Services Limited</p> <p>Registered Address:</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	

Consignor (if different from Contractor's registered address)	Transport Instructions (Clause 10)
<p>Name: Not Applicable</p> <p>Address:</p>	<p>Select method of transport of Deliverables</p> <p>To be Delivered by the Contactor</p> <p>Each consignment of the Deliverables shall be accompanied by a delivery note.</p>
Progress Meetings (Clause 13)	Progress Reports (Clause 13)
<p>Progress Meetings are to be held in accordance with the Schedule of Requirements</p>	<p>The Contractor is required to submit the following Reports:</p> <p>Subject: Not Applicable</p> <p>Frequency:</p> <p>Method of Delivery:</p> <p>Delivery Address:</p>

Payment (Clause 14)
<p>Payment is to be enabled by CP&amp;F.</p>

Forms and Documentation	Supply of Hazardous Deliverables (Clause 9)
<p>Forms can be obtained from the following websites:</p> <p><a href="https://www.aof.mod.uk/aofcontent/tactical/toolkit">https://www.aof.mod.uk/aofcontent/tactical/toolkit</a> (Registration is required).</p> <p><a href="https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement#invoice-processing">https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement#invoice-processing</a></p> <p><a href="https://www.dstan.mod.uk/">https://www.dstan.mod.uk/</a> (Registration is required).</p> <p>The MOD Forms and Documentation referred to in the Conditions are available free of charge from:</p> <p>Ministry of Defence, Forms and Pubs Commodity Management PO Box 2, Building C16, C Site Lower Arncott Bicester, OX25 1LP (Tel. 01869 256197 Fax: 01869 256824)</p> <p>Applications via email: <a href="mailto:DESLCSLS-OpsFormsandPubs@mod.uk">DESLCSLS-OpsFormsandPubs@mod.uk</a></p> <p>If you require this document in a different format (i.e. in a larger font) please contact the Authority's Representative (Commercial Officer), detailed below.</p>	<p>A completed DEFFORM 68 and, if applicable, Safety Data Sheet(s) are to be provided by email with attachment(s) in Adobe PDF or MS WORD format to:</p> <p>a. The Commercial Officer detailed in the Purchase Order, and</p> <p>b. <a href="mailto:DSA-DLSR-MovTpt-DGHSIS@mod.uk">DSA-DLSR-MovTpt-DGHSIS@mod.uk</a></p> <p>by the following date:</p> <p>or if only hardcopy is available to the addresses below:</p> <p>Hazardous Stores Information System (HSIS) Defence Safety Authority (DSA) Movement Transport Safety Regulator (MTSR) Hazel Building Level 1, #H019 MOD Abbey Wood (North) Bristol BS34 8QW</p>

Appendix - Addresses and Other Information

1. Commercial Officer

Name: [REDACTED]

Address: [REDACTED]

Email: [REDACTED]



2. Project Manager, Equipment Support Manager or PT Leader (from whom technical information is available)

Name: [REDACTED]

Address: [REDACTED]

Email: [REDACTED]



3. Packaging Design Authority

Organisation & point of contact:

(Where no address is shown please contact the Project Team in Box 2)



4. (a) Supply / Support Management Branch or Order Manager:  
Branch/Name:



(b) U.I.N.

5. Drawings/Specifications are available from

6. Intentionally Blank

7. Quality Assurance Representative:

Name:

Commercial staff are reminded that all Quality Assurance requirements should be listed under the General Contract Conditions.

AQAPS and DEF STANs are available from UK Defence Standardization, for access to the documents and details of the helpdesk visit

8. Public Accounting Authority

1. Returns under DEFCON 694 (or SC equivalent) should be sent to DBS Finance ADMT - Assets In Industry 1, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD  
☎ 44 (0) 161 233 5397

2. For all other enquiries contact DES Fin FA-AMET Policy, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD  
☎ 44 (0) 161 233 5394

9. Consignment Instructions

The items are to be consigned as follows:

10. Transport. The appropriate Ministry of Defence Transport Offices are:

A. DSCOM, DE&S, DSCOM, MoD Abbey Wood, Cedar 3c, Mail Point 3351, BRISTOL BS34 8JH

Air Freight Centre

IMPORTS ☎ 030 679 81113 / 81114 Fax 0117 913 8943

EXPORTS ☎ 030 679 81113 / 81114 Fax 0117 913 8943

Surface Freight Centre

IMPORTS ☎ 030 679 81129 / 81133 / 81138 Fax 0117 913 8946

EXPORTS ☎ 030 679 81129 / 81133 / 81138 Fax 0117 913 8946

B. JSCS

JSCS Helpdesk No. 01869 256052 (select option 2, then option 3)

JSCS Fax No. 01869 256837

Users requiring an account to use the MOD Freight Collection Service should contact [DESWATERGUARD-ICS-Support@mod.gov.uk](mailto:DESWATERGUARD-ICS-Support@mod.gov.uk) in the first instance.

11. The Invoice Paying Authority

Ministry of Defence ☎ 0151-242-2000

DBS Finance

Walker House, Exchange Flags Fax: 0151-242-2809

Liverpool, L2 3YL

Website is:

<https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement#invoice-processing>

12. Forms and Documentation are available through \*:

Ministry of Defence, Forms and Pubs Commodity Management

PO Box 2, Building C16, C Site

Lower Arncliffe

Bicester, OX25 1LP (Tel. 01869 256197 Fax: 01869 256824)

Applications via fax or email: [DESLCSLS-OpsFormsandPubs@mod.uk](mailto:DESLCSLS-OpsFormsandPubs@mod.uk)

\* NOTE

1. Many DEFCONs and DEFFORMs can be obtained from the MOD Internet Site: <https://www.aof.mod.uk/aofcontent/tactical/toolkit/index.htm>

2. If the required forms or documentation are not available on the MOD Internet site requests should be submitted through the Commercial Officer named in Section 1.

<http://dstan.gateway.isg-r.r.mil.uk/index.html> [intranet] or  
<https://www.dstan.mod.uk/> [extranet, registration needed].

**Contractor Commercially Sensitive Information (Clause 5). Not to be published.**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Offer and Acceptance**

A) The Purchase Order constitutes an offer by the Contractor to supply the Deliverables. This is open for acceptance by the Authority for 10 days from the date of signature. By signing the Purchase Order the Contractor agrees to be bound by the attached Terms and Conditions for Less Complex Requirements (Up to £122,979).

B) Acceptance

Name (Block Capitals):	Name (Block Capitals): [REDACTED]
Position:	Position: Senior Commercial Manager
For and on behalf of the Contractor	For and on behalf of the Authority
Authorised Signatory	Authorised Signatory
Date:	Date:
C) Effective Date of Contract: 22 April 2022	

## SCHEDULE OF REQUIREMENTS

### 1. Introduction

- 1.1. the National Flagship (NFS) project are currently preparing for a competitive procurement for the build contract and require assistance with the development of the documentation for the competition stage of the project.

### 2. Scope of work

#### 2.1. The Requirement

The NFS Delivery Team requires specialist advice and knowledge of the yacht/ sector to assist with the development of procurement documentation required for the Build competition stage of the project. The scope of work will be a short, focussed package that will include the review of the existing build tender approaches for MOD procurement and to propose amendments/tailoring that would be more consistent with the Yacht industry.

#### 2.2. Specialist Technical Support

The Contractor shall provide specialist technical support who can be directed by the Authority to perform the following tasks when required:

- 2.2.1. Assist with the development of the Manufacture contract strategy to ensure it follows commercial best practice utilised in the Large Yacht Industry (avoiding MoD added costs & ways of doing business where possible and as identified by the Contractor) so that the project is attractive to the market in line with the Consultants experience and knowledge.
- 2.2.2. Identifying from their experience what elements the NFS should be evaluated in the manufacture bidder's response and providing input on the NFS evaluation criteria and model;
- 2.2.3. Assist with development of the NFS governance approach, helping define the NFS client organisation(s) that will deliver and 'oversee' the manufacture phase of the programme.
- 2.2.4. Review and comment on the NFS approach to managing the design transition between NFS Project team, the designer and the builder;
- 2.2.5. Review the NFS manufacture contract deliverables and descriptions to ensure that this is based on commercial standard documentation / minimum change from supplier documentation (where possible); based on yacht construction contracts/best practice (See note B)
- 2.2.6. Input to the development of a most likely build schedule based on past experience of similar vessels;
- 2.2.7. Conduct a high-level review of the Authority's to support and operate the NFS, providing comment based on their experience of operating and maintaining vessels in the Yacht sector.

Notes:

- A. The Authority will endeavour to provide all the required information to ensure completion of the required tasks by the Contractor.
- B. The Authority will explain terms and Abbreviations as they are required by the Contractor.

**2.3. Contract Price**

[REDACTED]

**2.4. Contractor Assurance, Review and Reporting Requirements**

The Authority requires the Contractor to measure their own performance and the progress of the tasks. The Authority and the Contractor shall meet monthly (or another frequency to be agreed between the Parties) to review and agree the following:

- 2.4.1. Progress against tasks;
- 2.4.2. Task priorities;
- 2.4.3. The type of resource and resource levels for specified tasks required; and
- 2.4.4. Any risks, opportunity & issues management associated with the tasks

The Contractor shall ensure that the personnel employed to undertake the specialise technical support have the appropriate qualifications and competences to carry out the work to fully meet the requirements detailed in Clause 2.2 of the Schedule of Requirements.

**2.5. Document / Information Management**

The Contractor shall manage all information artefacts that the Contractor uses or produces to support the National Flagship project. This includes all information assets that will need to be provided to / received from other organisations that provide support to the Authority and it shall be handled in accordance the Authority's processes.

**2.6. Timescale**

The timescales for the specialist technical support is for a fixed duration of twelve (12) months from the date of the contract. The work must commence within the agreed task period.

**2.7. Reporting Arrangements**

The Contractor will report directly to the Authority Representative who will co-ordinate task requests, scheduling, and security checks.



Ministry  
of Defence

## **MOD Terms and Conditions for Less Complex Requirements**



## 1 Definitions - In the Contract:

**The Authority** means the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, (referred to in this document as "the Authority"), acting as part of the Crown;

**Business Day** means an 8 hour man day from 09:00 to 17:00 Monday to Friday, excluding public and statutory holidays;

**Contract** means the agreement concluded between the Authority and the Contractor, including all terms and conditions, associated purchase order, specifications, plans, drawings, schedules and other documentation, expressly made part of the agreement in accordance with Clause 2.c;

**Contractor** means the person, firm or company specified as such in the purchase order. Where the Contractor is an individual or a partnership, the expression shall include the personal representatives of the individual or of the partners, as the case may be;

### Contractor Commercially Sensitive Information

a. means the information listed as such in the purchase order, which is information notified by the Contractor to the Authority, which is acknowledged by the Authority as being commercially sensitive.

**Contractor Deliverables** means the goods and / or services including packaging (and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract in accordance with the schedule to the purchase order;

**Effective Date of Contract** means the date stated on the purchase order or, if there is no such date stated, the date upon which both Parties have signed the purchase order;

**Firm Price** means a price excluding Value Added Tax (VAT) which is not subject to variation;

**Hazardous Contractor Deliverable** means a Contractor Deliverable or a component of a Contractor Deliverable that is itself a hazardous material or substance or that may in the course of its use, maintenance, disposal, or in the event of an accident, release one or more hazardous materials or substances and each material or substance that may be so released;

**Legislation** means in relation to the United Kingdom any Act of Parliament, any subordinate legislation within the meaning of section 21 of the Interpretation Act 1978, any exercise of Royal Prerogative or any enforceable community right within the meaning of Section 2 of the European Communities Act 1972.

**Notices** means all notices, orders, or other forms of communication required to be given in writing under or in connection with the Contract;

**Parties** means the Contractor and the Authority, and Party shall be construed accordingly;

**Reasonable Time** means the 30-day duration or any other such time agreed between the Parties in which the Authority shall pay the Contractor any sums due under an invoice determined valid and undisputed.

**Timely Fashion** means the 30-day duration or any other such time agreed between the Parties in which the Authority shall pay the Contractor any sums due under an invoice determined valid and undisputed.

**Transparency Information** means the content of this Contract in its entirety, including from time-to-time agreed changes to the Contract, and details of any payments made by the Authority to the Contractor under the Contract.

## 2 General

a. The Contractor shall comply with all applicable Legislation, whether specifically referenced in this Contract or not.

b. Any variation to the Contract shall have no effect unless expressly agreed in writing and signed by both Parties.

c. If there is any inconsistency between these terms and conditions and the purchase order or the documents expressly referred to therein, the conflict shall be resolved according to the following descending order of priority:

(1) the terms and conditions;

(2) the purchase order; and

(3) the documents expressly referred to in the purchase order.

d. Neither Party shall be entitled to assign the Contract (or any part thereof) without the prior written consent of the other Party.

e. Failure or delay by either Party in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of its rights or remedies. No waiver in respect of any right or remedy shall operate as a waiver in respect of any other right or remedy.

f. The Parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a Party to it.

g. The Contract and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English Law, and subject to Clause 15 and without prejudice to the dispute resolution procedure set out therein, the Parties submit to the exclusive jurisdiction of the English courts. Other jurisdictions may apply solely for the purpose of giving effect to this Clause 2.g and for enforcement of any judgement, order or award given under English jurisdiction.

## 3 Application of Conditions

a. The purchase order, these terms and conditions and the specification govern the Contract to the entire exclusion of all other terms and conditions. No other terms or conditions are implied.

b. The Contract constitutes the entire agreement and understanding and supersedes any previous agreement between the Parties relating to the subject matter of the Contract.

## 4 Disclosure of Information

Disclosure of information under the Contract shall be managed in accordance with DEFCON 531 (SC1). It is acknowledged that Burgess as a group is included.

## 5 Transparency

a. Subject to Clause 5.b, but notwithstanding Clause 4, the Contractor understands that the Authority may publish the Transparency Information to the general public. The Contractor shall assist and cooperate with the Authority to enable the Authority to publish the Transparency Information.

b. Before publishing the Transparency Information to the general public in accordance with Clause 5.a, the Authority shall redact any information that would be exempt from disclosure if it was the subject of a request for information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, including the Contractor Commercially Sensitive Information.. The Authority may consult with the Contractor before redacting any information from the Transparency Information in accordance with Clause 5.b. The Contractor acknowledges and accepts that its representations on redactions during consultation may not be determinative and that the decision whether to redact information is a matter in which the Authority shall exercise its own discretion, subject always to the provisions of the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

e. For the avoidance of doubt, nothing in this Clause 5 shall affect the Contractor's rights at law.

## 6 Notices

a. A Notice served under the Contract shall be:

(1) in writing in the English language.

(2) authenticated by signature or such other method as may be agreed between the Parties.

(3) sent for the attention of the other Party's representative, and to the address set out in the purchase order;

(4) marked with the number of the Contract; and

(5) delivered by hand, prepaid post (or airmail), facsimile transmission or, if agreed in the purchase order, by electronic mail.

b. Notices shall be deemed to have been received:

(1) if delivered by hand, on the day of delivery if it is the recipient's Business Day and otherwise on the first

Business of the recipient immediately following the day of delivery;

(2) if sent by prepaid post, on the fourth Business Day (or the tenth Business Day in the case of airmail) after the day of posting;

(3) if sent by facsimile or electronic means:

(a) if transmitted between 09:00 and 17:00 hours on a Business Day (recipient's time) on completion of receipt by the sender of verification of the transmission from the receiving instrument; or

(b) if transmitted at any other time, at 09:00 on the first Business Day (recipient's time) following the completion of receipt by the sender of verification of transmission from the receiving instrument.

## 7 Intellectual Property

### a. Authority's Intellectual Property

The Contractor recognises and acknowledges that the Authority, either alone or under arrangements made with third parties, owns or has the right to use all copyright, patents, design rights and other industrial and intellectual property rights in designs, models, drawings, documents, reports, specifications, calculations and like information and materials produced or contributed by or at the direction of any of them in connection with the Project (hereinafter called "the Authority's Intellectual Property").

The Contractor will be entitled to use, handle and communicate (save that this shall not include communicating Intellectual Property with other third parties unless the Authority expressly agrees in writing in accordance with DEFCON 531) the Authority's Intellectual Property where provided by the Authority for all purposes reasonably connected with the performance of this Contract and the services to be provided in accordance with the Schedule of Requirements. Save as aforesaid, the Contractor will not claim or assert any proprietary interest in the Authority's Intellectual Property or purport to use or exploit the same for any purpose, and shall take reasonable measures to protect the Authority's interest in the Authority's Intellectual Property (and any costs due to be reasonably incurred in connection with such measures shall be borne by the Contractor).

The Authority represents and warrants to the Contractor, their officers, agents and employees that none of the Authority's Intellectual Property infringes the Intellectual Property Rights of any other person. This represents the total liability of each party to the other under the Contract in respect of any infringement or alleged infringement of Patent or other Intellectual Property Right owned by a third party. Neither party shall be liable, one to the other, for any consequential loss or damage arising as a result, directly or indirectly, of a claim for infringement or alleged infringement of any Patent or other Intellectual Property Right owned by a third party.

### b. Contractor's Intellectual Property

The Contractor, either alone or in its capacity as licensee from others, owns or has the right to use all copyright, patents, design rights and other industrial and intellectual property rights in designs, models, drawings, documents, reports, specifications, calculations and like information and materials produced or supplied to the Authority in the performance of this Contract (hereinafter called "the Contractor's Intellectual Property")

On condition that:

1. the Authority has paid all the charges due and owing under this Agreement;
2. this Contract has not been terminated under Clause 21 (Termination For Convenience);
3. the Contractor's authorship and property are at all times acknowledged; and
4. no attempt is made to confer any sub-licence or other interest on any other person;

the Authority will have a licence to use the Contractor's Intellectual Property for purposes reasonably connected with the completion or execution of the Project. Subject to the Authority having complied with its obligations under paragraphs (a), (c) and (d) of this Clause 2, if this Agreement is terminated otherwise than on account of the Authority's breach, the Authority will be entitled to retain the aforesaid licence and to use of such Contractor's Intellectual Property as generated up to the date of termination. Save as aforesaid the Authority will not claim or assert any proprietary interest in the Contractor's Intellectual Property or purport to use or exploit the same for any purpose, and shall take reasonable measures to protect the Contractor's interest in the Contractor's Intellectual Property.

The Contractor represents and warrants to the Authority and its officers, agents and employees that none of the Contractor's Intellectual Property infringes the Intellectual Property Rights of any other person. This represents the total liability of each party to the other under the Contract in respect of any infringement or alleged infringement of Patent or other Intellectual Property Right owned by a third party. Neither party shall be liable, one to the other, for any consequential loss or damage arising as a result, directly or indirectly, of a claim for infringement or alleged infringement of any Patent or other Intellectual Property Right owned by a third party.

## 8 Supply of Contractor Deliverables and Quality Assurance

a. This Contract comes into effect on the Effective Date of Contract.

b. The Contractor shall supply the Contractor Deliverables to the Authority at the Firm Price stated in the Schedule to the purchase order.

c. The Contractor shall ensure that the Contractor Deliverables:

- (1) correspond with the specification;
- (2) are of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) except that fitness for purpose shall be limited to the goods being fit for the particular purpose held out expressly by or made known expressly to the Contractor and in this respect the Authority relies on the Contractor's skill and judgement; and
- (3) comply with any applicable Quality Assurance Requirements specified in the purchase order.

d. The Contractor shall apply for and obtain any licences required to import any material required for the performance of the Contract in the UK. The Authority shall provide to the Contractor reasonable assistance with regard to any relevant defence or security matter arising in the application for any such licence.

## 9 Supply of Data for Hazardous Contractor Deliverables

a. The Contractor shall establish if the Contractor Deliverables are, or contain, Dangerous Goods as defined in the Regulations set out in this Clause 9. Any that do shall be packaged for UK or worldwide shipment by all modes of transport in accordance with the following unless otherwise specified in the Schedule to the purchase order:

- (1) the Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO), IATA Dangerous Goods Regulations;
- (2) the International Maritime Dangerous Goods (IMDG) Code;
- (3) the Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID); and
- (4) the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR).

b. Certification markings, incorporating the UN logo, the package code and other prescribed information indicating that the package corresponds to the successfully designed type shall be marked on the packaging in accordance with the relevant regulation.

c. As soon as possible and in any event within the period specified in the purchase order (or if no such period is specified no later than one month prior to the delivery date), the Contractor shall provide to the Authority's representatives in the manner and format prescribed in the purchase order:

(1) confirmation as to whether or not to the best of its knowledge any of the Contractor Deliverables are Hazardous Contractor Deliverables; and

(2) for each Hazardous Contractor Deliverable, a Safety Data Sheet containing the data set out at Clause 9.d, which shall be updated by the Contractor during the period of the Contract if it becomes aware of any new relevant data.

d. Safety Data Sheets if required under Clause 9.c shall be provided in accordance with the extant UK REACH Regulation and any additional information required by the Health and Safety at Work etc. Act 1974 and shall contain:

(1) information required by the Classification, Labelling and Packaging (GB CLP) Regulation or any replacement thereof; and

(2) where the Hazardous Contractor Deliverable is, contains or embodies a radioactive substance as defined in the extant Ionising Radiation Regulations, details of the activity, substance and form (including any isotope); and

(3) where the Hazardous Contractor Deliverable has magnetic properties, details of the magnetic flux density at a defined distance, for the condition in which it is packed.

e. The Contractor shall retain its own copies of the Safety Data Sheets provided to the Authority in accordance with Clause 9.d for 4 years after the end of the Contract and shall make them available to the Authority's representatives on request.

f. Nothing in this Clause 9 reduces or limits any statutory or legal obligation of the Authority or the Contractor.

g. Where delivery is made to the Defence Fulfilment Centre (DFC) and / or other Team Leidos location / building, the Contractor must comply with the Logistic Commodities and Services Transformation (LCST) Supplier Manual.

#### 10 Delivery / Collection

a. The purchase order shall specify whether the Contractor Deliverables are to be delivered to the consignee by the Contractor or collected from the consignor by the Authority.

b. Title and risk in the Contractor Deliverables shall pass from the Contractor to the Authority on delivery or on collection in accordance with Clause 10.a.

c. The Authority shall be deemed to have accepted the Contractor Deliverables within a reasonable time after title and risk has passed to the Authority unless it has rejected the Contractor Deliverables within the same period.

#### 11. Marking of Contractor Deliverables

a. Each Contractor Deliverable shall be marked in accordance with the requirements specified in the purchase order or if no such requirement is specified, the Contractor shall mark each Contractor Deliverable clearly and indelibly in accordance with the requirements of the relevant DEF-STAN 05-132 as specified in the contract or specification. In the absence of such requirements, the Contractor Deliverables shall be marked with the MOD stock reference, NATO Stock Number (NSN) or alternative reference number shown in the Contract.

b. Any marking method used shall not have a detrimental effect on the strength, serviceability or corrosion resistance of the Contractor Deliverables.

c. The marking shall include any serial numbers allocated to the Contractor Deliverable.

d. Where because of its size or nature it is not possible to mark a Contractor Deliverable with the required particulars, the required information should be included on the package or carton in which the Contractor Deliverable is packed, in accordance with condition 12 (Packaging and Labelling (excluding Contractor Deliverables containing Ammunition or Explosives)).

#### 12 Packaging and Labelling of Contractor Deliverables (Excluding Contractor Deliverables Containing Ammunition or Explosives)

The Contractor shall pack or have packed the Contractor Deliverables in accordance with any requirements specified in the purchase order and Def Stan 81-041 (Part 1 and Part 6).

#### 13 Progress Monitoring, Meetings and Reports

The Contractor shall attend progress meetings and deliver reports at the frequency or times (if any) specified in the purchase order and shall ensure that its Contractor's representatives are suitably qualified to attend such meetings. Any additional meetings reasonably required shall be at no cost to the Authority. Any Travel and Subsistence are to be discussed between the Parties prior progress meetings.

#### 14 Payment

a. Payment for Contractor Deliverables will be made by electronic transfer and prior to submitting any claims for payment under clause 14b the Contractor will be required to register their details (Supplier on-boarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool.

b. Where the Contractor submits an invoice to the Authority in accordance with clause 14a, the Authority will consider and verify that invoice in a timely fashion.

c. The Authority shall pay the Contractor any sums due under such an invoice no later than a period of 30 days from the date on which the Authority has determined that the invoice is valid and undisputed.

d. Where the Authority fails to comply with clause 14b and there is undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purpose of clause 14c after a reasonable time has passed.

e. The approval for payment of a valid and undisputed invoice by the Authority shall not be construed as acceptance by the Authority of the performance of the Contractor's obligations nor as a waiver of its rights and remedies under this Contract.

f. Without prejudice to any other right or remedy, the Authority reserves the right to set off any amount owing at any time from the Contractor to the Authority against any amount payable by the Authority to the Contractor under the Contract or under any other contract with the Authority, or with any other Government Department. It is noted between the Parties that the Contractor currently has no other Contract with the Authority, or any other Government department.

#### 15 Dispute Resolution

a. The Parties will attempt in good faith to resolve any dispute or claim arising out of or relating to the Contract through negotiations between the respective representatives of the Parties having authority to settle the matter, which attempts may include the use of any alternative dispute resolution procedure on which the Parties may agree.

b. In the event that the dispute or claim is not resolved pursuant to Clause 15.a the dispute shall be referred to arbitration and shall be governed by the Arbitration Act 1996. For the purposes of the arbitration, the arbitrator shall have the power to make provisional awards pursuant to Section 39 of the Arbitration Act 1996.

c. For the avoidance of doubt it is agreed between the Parties that the arbitration process and anything said, done or produced in or in relation to the arbitration process (including any awards) shall be confidential as between the Parties, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise. No report relating to anything said, done or produced in or in relation to the arbitration process may be made beyond the tribunal, the Parties, their legal representatives and any person necessary to the conduct of the proceedings, without the concurrence of all the Parties to the arbitration.

#### 16 Termination for Corrupt Gifts

The Authority may terminate the Contract with immediate effect, without compensation, by giving written notice to the Contractor at any time after any of the following events:

a. where the Authority becomes aware that the Contractor, its employees, agents or any sub-contractor (or anyone acting on its behalf or any of its or their employees):

- (1) has offered, promised or given to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward;
- (2) commits or has committed any prohibited act 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;
- (3) has entered 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 the 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.

b. In exercising its rights or remedies to terminate the Contract under Clause 16.a. the Authority shall:

- (1) act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person committing the prohibited act;
- (2) give due consideration, where appropriate, to action other than termination of the Contract, including (without being limited to):
  - (a) 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;
  - (b) 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.

c. Where the Contract has been terminated under Clause 16.a. the Authority shall be entitled to purchase substitute Contractor Deliverables from elsewhere and recover from the Contractor any costs and expenses incurred by the Authority in obtaining the Contractor Deliverables in substitution from another supplier.

#### 17 Material Breach

In addition to any other rights and remedies, the Authority shall have the right to terminate the Contract (in whole or in part) with immediate effect by giving written notice to the Contractor where the Contractor is in material breach of its obligations under the Contract. Where the Authority has terminated the Contract under Clause 17 the Authority shall have the right to claim such damages as may have been sustained as a result of the Contractor's material breach of the Contract.

Where all or part of this Contract has been terminated on the basis of Clause 17, such damages being claimed by the Authority are limited to the Contract Price and can only be claimed where sums are paid or due at the date of termination.

#### 18 Insolvency

The Authority shall have the right to terminate the contract if the Contractor is declared bankrupt or goes into liquidation or administration. This is without prejudice to any other rights or remedies under this Contract.

#### 19 Limitation of Contractor's Liability

- a. Subject to Clause 19.b the Contractor's liability to the Authority in connection with this Contract shall be limited to the contract price.
- b. Nothing in this Contract shall operate to limit or exclude the Contractor's liability:
  - (1) For:

- a. any liquidated damages (to the extent expressly provided for under this Contract);
- b. any amount(s) which the Authority is entitled to claim, retain or withhold in relation to the Contractor's failure to perform or under-perform its obligations under this Contract, including service

credits or other deductions (to the extent expressly provided for under this Contract);

c. any interest payable in relation to the late payment of any sum due and payable by the Contractor to the Authority under this Contract;

d. any amount payable by the Contractor to the Authority in relation to TUPE or pensions to the extent expressly provided for under this Contract;

(2) under Condition 7 of the Contract (Intellectual Property);

(3) for death or personal injury caused by the Contractor's negligence or the negligence of any of its personnel, agents, consultants or sub-contractors;

(4) for fraud, fraudulent misrepresentation, wilful misconduct or negligence;

(5) in relation to the termination of this Contract on the basis of abandonment by the Contractor

(6) for breach of the terms implied by Section 2 of the Supply of Goods and Services Act 1982; or

(7) for any other liability which cannot be limited or excluded under general (including statute and common) law.

c. The rights of the Authority under this Contract are in addition to, and not exclusive of, any rights or remedies provided by general (including statute and common) law

**20 The project specific DEFCONs and DEFCON SC variants that apply to this Contract are:**

DEFCON 76 (SC1)  
DEFCON 531 (SC1)  
DEFCON 534  
DEFCON 538  
DEFCON 609 (SC1)  
DEFCON 632

DEFCON 658 (SC1) - the Cyber Risk Profile of the Contract is Very Low, as defined in Def Stan 05-138.

**21 The special conditions that apply to this Contract are:**

### Formal Amendments to the Contract.

1. Subject to clause 3, the Contract may only be amended by the written agreement of the parties (or their duly authorised representatives acting on their behalf). Such written agreement shall consist of:

a. Authority Notice of Change under DEFCON 620 (where used);

b. the Authority's offer set out in a serially numbered amendment letter issued by the Authority to the Contractor; and

c. the Contractor's unqualified acceptance of such offer as evidenced by the Contractor's duly signed DEFFORM 10B.

2. Where required by the Authority in connection with any such amendment, the Contractor shall (as so required) confirm that any existing Parent Company Guarantee is sufficiently comprehensive so as to cover and support all of the Contractor's liabilities and obligations under and in connection with the Contract (as amended by such amendment) or provide a revised Parent Company Guarantee with such DEFFORM 10B to achieve the same purposes.

#### Changes to the Specification

3. For the purposes of the Contract "the Specification" shall include any document or item which, individually or collectively, is referenced in the Schedule of Requirements. The Specification forms part of the Contract and all Contractor Deliverables to be

supplied by the Contractor under the Contract shall conform in all respects with the Specification.

4. The Contractor shall use a configuration control system to control all changes to the Specification.

## Termination For Convenience

a. The Parties shall have the right to terminate the Contract in whole or in part at any time by giving the other Party at least twenty (20) Business Days written notice. Upon expiry of the notice period the Contract, or relevant part thereof, shall terminate without prejudice to the rights of the parties already accrued up to the date of termination. Where only part of the Contract is being terminated, the Authority and the Contractor shall owe each other no further obligations in respect of the part of the Contract being terminated, but will continue to fulfil their respective obligations on all other parts of the Contract not being terminated.

b. Following the above notification the Authority shall be entitled to exercise any of the following rights in relation to the Contract (or part being terminated) to direct the Contractor to:

(1) not start work on any element of the Contractor Deliverables not yet started;

(2) complete in accordance with the Contract the provision of any element of the Contractor Deliverables;

c. Where this Condition applies (and subject always to the Contractor's compliance with any direction given by the Authority under clause 41.b), in respect of the Services provided, the Authority shall pay the Contractor fair and reasonable prices for each Service performed, or partially performed, in accordance with the Contract.

d. The Authority's total liability under the provisions of this Condition shall be limited to the total price of the Contractor Deliverables payable under the contract (or relevant part), including any sums paid, due or becoming due to the Contractor at the date of termination.

e. Claims for payment under this Condition shall be submitted in accordance with the Authority's direction.

Name (Block Capitals): [REDACTED]

Position: HEAD OF DEPARTMENT

For and on behalf of the Contractor

Authorised Signatory

Date: 22 APRIL 2022

Name (Block Capitals): [REDACTED]

Position: Senior Commercial Manager

For and on behalf of the Authority

Authorised Signatory

Date: 22 April 2022

C) Effective Date of Contract: 22 April 2022