

SCHEDULE 5 - CHANGE AND CHANGE MANAGEMENT

1. Definitions

1.1. Without prejudice to Schedule 1 (Definitions and Interpretations) for the purposes of this Schedule 5, the following terms shall have the following meanings:

Term	Definition
Originator	Means the individual who identifies a new or revised requirement requiring a change to this Contract to be managed by this Schedule 5;
Task Termination Date	Means the date specified in the Task Termination Notice issued by the Authority to the Contractor;
UOR Change Register	Means the centrally held record maintained by the Contractor of all UOR Change Requests, the status of such requests and the number of UOR occurrences; and
UOR Change Request	Means the change request issued by the Authority to the Contractor requesting an UOR in accordance with paragraph 7.2 of this Schedule 5.

2. Introduction

2.1. This Schedule sets out the process to be followed by the Parties in proposing and agreeing changes to the Services, which may give rise to an amendment to this Contract in accordance with DEFCON 503 (Formal Amendments to Contract). This Schedule identifies the categories of change and the mechanisms for agreeing any applicable changes to this Contract and the Contract Price, as appropriate, in relation to such changes.

2.2. Decisions on whether activities which may be proposed as changes to this Contract fall in or out of the scope of the original advert (Reference OJ/S EU reference) shall be at the sole discretion of the Authority.

2.3. Should requirements be identified which are outside the scope of the original advert (Reference OJ/S S insert Reference), the Authority shall decide on how to procure the requirement and shall not accept unsolicited bids by the Contractor exclusively.

2.4. In the event that the Contractor and the Authority cannot agree a change other than a Break of Task, the Parties shall escalate the matter in accordance with Schedule 4 (Governance and Contract Management).

3. UOR

3.1. A UOR is a change requested by the Authority in accordance with paragraph 7, which requires immediate implementation as a matter of priority.

3.2. A UOR shall fulfil each of the following criteria:

- a. the requirement is operationally urgent and the Service must be delivered in a timely manner to meet an unforeseen and/or specific threat or one that has recently escalated for unforeseen reasons;
- b. the Service cannot be met by the existing provision;
- c. the UOR cannot be met through the redeployment of existing provisions;
- d. the capability required is theatre or operation specific and the UOR must be specific to a particular requirement and not a broad capability gap;
- e. the quantity is sufficient only to support the specific UOR identified and the quantity of capability procured should only be that required for the specific UOR identified; and
- f. the quantity is limited to that required to fill the gap until a longer term solution is implemented. In the majority of cases this shall limit the provision to the use of the Contractor resources that are readily available, additional Contractor resources or revised use of Military Manpower.

3.3. UORs are not intended to be an enduring requirement and the provisions of resources for the design, planning, management and delivery of the UOR shall be limited in scope to the minimum necessary to enable the UOR to proceed until cessation of the requirement.

4 Break of Task

4.1. A Break of Task is a change notified by the Authority in accordance with paragraph 8 requiring the permanent cessation of a Task or Tasks and for which there is no replacement or continuing requirement to be performed by the Contractor under this Contract for the remainder of the Contract Period. For the avoidance of doubt, this Break of Task does not constitute a break of the contract as a whole as described in DEFCON 659 (Break).

5. Continuous Improvement Change

5.1. A Continuous Improvement Change is a change arising from Authority Approved CI identified in accordance with Schedule 14 (Continuous Improvement Plan), which requires the Parties to agree an amendment to this Contract in accordance with paragraph 9.

6. Routine Change

6.1. A Routine Change is a change requested by the Authority in accordance with paragraph 8 which cannot be effected by any other change mechanism provided for within this Contract.

7. UOR Change Management Process

7.1. The decision on the declaration of a UOR based on the criteria set out at paragraph 3.2 shall rest with the Level 2 Chairman.

7.2. The Level 2 Chairman shall then submit to the Contractor a UOR Change Request containing:

- a. the UOR identification number;
- b. a statement of requirements in respect of such UOR; and
- c. the required timescales for delivery.

7.3. Within five (5) Business Days of receipt of the UOR Change Request or such longer period as may be agreed by the Parties, the Contractor shall submit an Outline Proposal to the Level 2 Chairman, with a copy to the Authority's Nominated Commercial Officer. The Outline Proposal shall include:

- a. a statement of the impact of the UOR Change on the provision of the Services;
- b. estimated timescales for implementation of the UOR Change;
- c. whether relief from compliance with obligations of this Contract is required, including obligations to meet the Key Performance Indicators set out in Schedule 10 (Performance Mechanism);
- d. estimated SME support required (Contractor or Authority) in respect of the UOR Change;
- e. any estimated change in costs that result from the UOR Change and any adjustment required to the Contract Price calculated in accordance with paragraph 3.1. of Schedule 6 (Pricing of Change);
- f. the responsibilities of the Authority, or its representatives, including the requirement for GFA in respect of, or as a result of, the UOR Change;
- g. any regulatory approvals which are required; and
- h. what resources are required for implementation and delivery of the UOR Change and in particular, where the Contractor considers that additional resources are required, the Contractor shall demonstrate to the Authority that the UOR Change Request cannot be implemented by using the resources that the Contractor is expressly or impliedly required to provide in order to carry out the Services.

7.4. As soon as reasonably practicable, and normally within ten (10) working days following receipt of the Contractor's proposals made pursuant to paragraph 7.2, the Level 2 Chairman shall confirm to the Contractor which delivery option it wishes to pursue or the Authority may choose to utilise additional military resources in order to deliver the UOR.

7.5. The Level 2 Chairman shall inform the Authority's Nominated Commercial Officer of the preferred UOR solution, as soon as reasonably practicable, and normally within Ten (10) working days the Authority's Nominated Commercial Officer shall instruct, in writing, the Contractor to proceed.

7.6. Upon receipt of the Authority instruction to proceed, the Contractor shall implement the UOR.

7.7. For the avoidance of doubt, the Contractor shall not commence delivery of the UOR until written instruction is received from the Authority's Nominated Commercial Officer.

Pricing for a UOR

7.8. The price in respect of any UOR shall be calculated in accordance with process detailed at Schedule 6 (Pricing of Change). An amendment to this Contract shall be made by the Authority's Nominated Commercial Officer in accordance with DEFCON 503 (Contract Amendments) to reflect the necessary adjustment to the Contract Price.

8. Break of Task Management Process

8.1. The Authority shall, in addition to its rights under any other provisions of this Contract, have the right to determine any Task or Tasks, from the Statement of Requirements where the relevant Task or Tasks are no longer required by the Authority by giving to the Contractor not less than thirty (30) Business Days' notice in accordance with this paragraph 8.1 (the "**Task Termination Notice**").

8.2. The Contractor shall notify the Authority within ten (10) Business Days of receipt of the Task Termination Notice if it believes that the notice period referred to in paragraph 8.1 is insufficient to allow it to comply with the Law in conducting employee consultations, and shall provide evidence of this to the Authority's reasonable satisfaction. Upon receipt of the Contractor's request and satisfactory evidence, the Authority shall extend the notice period by a reasonable period of time to enable the Contractor to conduct employee consultations in accordance with Law.

8.3. Upon the expiration of the notice period set out in the Task Termination Notice, the relevant Task, or Tasks, shall be determined without prejudice to the rights of the Parties already accrued as at the Task Termination Date, but subject to the operation of the provisions of paragraphs 8.3. to 8.11.

8.4. In the event of a Task Termination Notice being given, the Authority shall at any time before the expiration of the Task Termination Notice, be entitled to exercise and shall, as soon as may be reasonably practicable within that period, exercise such of the following powers as it considers expedient:

- a. to direct the Contractor, where the Task has not commenced, to refrain from commencing the Task;
- b. to direct the Contractor to complete in accordance with this Contract all of the Task, or any part or component thereof in the course of development or delivery at the expiration of the Task Termination Notice and to deliver the same at such time, or times, as may be mutually agreed on, or in absence of agreement, at any time or times specified for that Task in this Contract. All Tasks delivered by the Contractor in accordance with such directions shall be paid for at a fair and reasonable price; and
- c. to direct the Contractor shall, as soon as may be reasonably practicable after receipt of such Task Termination Notice:
 - (i) take such steps as shall ensure that the delivery of the Task, including any elements or parts thereof, is reduced as rapidly as possible; and
 - (ii) determine on the best possible terms such Sub-Contracts and orders for materials or services sub-contracted as have not been completed, observing in connection with this any direction given under this paragraph 8.4 as far as may be possible.

8.5. In the event of such Task Termination Notice being given;

a. for Task Services, the Authority shall pay the Contractor fair and reasonable prices for each Task Service performed or partially performed in accordance with this Contract;

b. for Task Deliverables and Authority Property;

(i) subject to Part 11 (Intellectual Property) of this Contract, the Authority shall take over from the Contractor, at a fair and reasonable price, all Task Deliverables in the course of production and in possession of the Contractor at the expiration of the Task Termination Notice, and properly provided by, or supplied to, the Contractor for the performance of this Contract except such items as the Contractor shall, with the concurrence of the Authority, elect to retain; and

(ii) the Contractor shall prepare and deliver to the Authority within an agreed period, or in default of agreement within such reasonable period as the Authority may specify, a list of all Authority Property or other loaned items liable to be taken over by, or previously belonging to, the Authority, and shall deliver such Authority Property and loaned items in accordance with the directions of the Authority who shall pay to the Contractor fair and reasonable handling and delivery charges incurred in complying with such directions; and

c. the Authority shall indemnify the Contractor against any commitments, liabilities or expenditure which are reasonably and properly chargeable by the Contractor in connection with this Contract to the extent to which these commitments would otherwise represent an unavoidable loss by the determination of the Task, subject to the Contractor taking reasonable steps to mitigate such loss. Provided that, in the event of the Contractor not having observed any direction given to it under paragraph 8.4, the Authority shall not, under this paragraph, pay any sums in excess of those which the Authority would have paid, had the Contractor observed that direction.

8.6. If any particular case of hardship to the Contractor should arise from the operation of this paragraph 8, it shall be open to the Contractor to refer the circumstances to the Authority who, on being satisfied that such hardship exists, shall make such allowances, if any, as in its opinion is reasonable, and the discretion of the Authority on any matter or thing arising out of this paragraph 8.6 shall be final and conclusive.

8.7. The Authority shall not, in any case, be liable to pay under the provisions of this clause any sum which, when taken together with any sums paid or due or becoming due to the Contractor under this Contract, shall exceed the total price for the Task payable under this Contract.

8.8. The Contractor shall, in any Sub-Contract or order, the value of which is £50,000 or over made or placed by it with any one Sub-Contractor or supplier, in connection with, or for the purpose of this Contract, have the right to determine such Sub-Contract or order upon the terms of paragraphs 8.1 to 8.7, save only that:

a. the name of the Contractor shall be substituted for the Authority throughout in paragraphs 8.5 and 8.6;

b. the period of notice of determination shall be not less than twenty (20) Business Days.

c. the Contractor shall not exercise its right to determine those Sub-Contracts until the Authority has exercised its rights under paragraph 8.1; and

d. each of those Sub-Contracts shall restrict the Contractor's right to exercise the right to determine a Sub-Contract pursuant to this paragraph 8 by including in the Sub-Contract the following provision "Provided that this right is not exercised unless the main contract has been determined by the Secretary of State pursuant to the provisions of paragraph 8 to Schedule 5 (Change and Change Management) to the Contract."

8.9. Claims for payment under this paragraph 8 shall be made in accordance with the procedure set out in DEFFORM 43 (Memorandum To Contractor On Disposal Of Materials Etc. Made Surplus By The Termination, Amendment Or Reduction of Ministry of Defence Contracts).

8.10. Where the Authority wishes to exercise its right to determine a Task or Tasks in accordance with paragraph 8.1 but in such circumstances where any affected employee or Sub-Contractor employee's employment contract contains a notice period greater than the notice period set out in the Task Termination Notice, the Authority may, as it sole discretion, elect to make payment in lieu of the additional notice period for any affected employee or Sub-Contractor employee.

8.11. The Authority shall not be liable under this paragraph 8 to pay any sum which:

a. would be claimable under any insurance held (or required to be held) by the Contractor, but for the fact that the Contractor has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy, or has failed to take out or maintain any insurance that it is required to take out and/or maintain; or

b. relates to, or arises from, the existence or termination of any Sub-Contract where the Contractor has not included the provisions at paragraph 8.8 in the Sub-Contract.

8.12. The Contractor shall, following receipt of a Task Termination Notice, produce an amendment to this Contract to reflect the Break of Task for agreement by the Authority, which amendment shall be made in accordance with DEFCON 503 (Formal Amendments to Contract).

9. Continuous Improvement Change Management Process

9.1. In accordance with Schedule 14 (Continuous Improvement Plan), either Party may propose an Authority Approved CI opportunity at the Level 3 Meeting for inclusion in the Continuous Improvement Programme.

9.2. If the opportunity is subsequently agreed by the Parties, the following Continuous Improvement management process shall apply;

a. the Contractor shall, with the input and support as appropriate, of a nominated Authority sponsor develop an Outline Proposal;

b. any Outline Proposal developed pursuant to paragraph 9.2a shall be tabled for endorsement by the Level 3 Chairman at the Level 3 Meetings;

c. the endorsed Outline Proposal shall then be submitted to the Level 2 Chairman at the next Level 2 Meeting for approval to proceed with development and submission of a Final Proposal pursuant to paragraph 9.2d; and

d. the Contractor shall then within ten (10) Business Days, or such other period as may be agreed between the Parties, of the Level 2 Meeting at which the relevant Outline Proposal was approved by the Level 2 Chairman, produce a Final Proposal and submit that Final Proposal to the Level 2 Chairman for final approval.

9.3. if at any point in the process described in paragraph 9.2 endorsement or approval is not given, the decision shall be recorded and no further action shall be taken.

9.4. The Parties shall work together in good faith to agree and implement an amendment to this Contract to reflect the Final Proposal.

9.5. Upon receipt of the amendment to this Contract, the Contractor shall issue to the Authority's Nominated Commercial Officer in accordance with DEFCON 503 (Formal Amendments to Contract) a completed and signed DEFFORM 10B (Acceptance of Offer of Contract) and implement the Authority Approved CI.

9.6. The amendment to this Contract is to be made no later than three months following acceptance of the Final Proposal

9.7. The Contractor shall not, unless otherwise agreed in writing by the Authority's Nominated Commercial Officer, commence implementation of the Authority Approved CI until the Authority's amendment to this Contract is received.

9.8. In the event that the Level 2 Chairman identifies an Authority Approved CI opportunity that impacts on more than one Establishment then the Level 2 Chairman shall nominate a Level 3 Chairman to lead on the initiative.

10. Routine Change Management Process

10.1. In the event of a Routine Change, the Level 2 Chairman may seek reasonable assistance from the Contractor in scoping such requirement in order to properly prepare the Routine Change Request.

10.2. The Level 2 Chairman shall then issue a Routine Change Request to the Contractor which shall include sufficient information for the Contractor to develop an Outline Proposal.

10.3. Within ten (10) Business Days of receipt of the Routine Change Request or such longer period as may be agreed by the Parties, the Contractor shall submit an Outline Proposal to the Level 2 Chairman, with a copy to the Authority's Nominated Commercial Officer. The Outline Proposal shall include:

- a. a statement of the impact of the Routine Change on the provision of the Services;
- b. estimated timescales for implementation of the Routine Change;
- c. whether relief from compliance with obligations of this Contract is required, including obligations to meet the Key Performance Indicators set out in Schedule 10 (Performance Mechanism);
- d. estimated SME support required (Contractor or Authority) in respect of the Routine Change;

- e. any estimated change in costs that results from the Routine Change and any adjustment required to the Contract Price calculated in accordance with paragraph 3.1. of Schedule 6 (Pricing of Changes);
- f. the responsibilities of the Authority, or its representatives, including the requirement for GFA in respect of, or as a result of, the Routine Change;
- g. any regulatory approvals which are required; and
- h. what resources are required for implementation and delivery of the Routine Change and in particular, where the Contractor considers that additional resources are required, the Contractor shall demonstrate to the Authority that the Routine Change Request cannot be implemented by using the resources that the Contractor is expressly or impliedly required to provide in order to carry out the Services.

10.4. As soon as practicable after the Level 2 Chairman has received the Outline Proposal, the Contractor shall discuss and agree the Outline Proposal with the Level 2 Chairman and the Authority's Nominated Commercial Officer, if necessary through a series of iterations. Where Outline Proposal is submitted by the Contractor, any such change is subject to the agreement of the Authority.

10.5. As soon as practicable after the Outline Proposal has been agreed, the Contractor shall submit a Final Proposal to the Authority's Nominated Commercial Officer who shall then confirm in writing to the Contractor that the Final Proposal has been approved by the Level 2 Chairman. The Parties shall work together in good faith to agree and implement an amendment to this Contract to reflect the Final Proposal.

10.6. Upon receipt of the amendment to this Contract, the Contractor shall issue to the Authority's Nominated Commercial Officer in accordance with DEFCON 503 (Formal Amendments to Contract) a completed and signed DEFFORM 10B (Acceptance of Offer of Amendment) and implement the Routine Change.

10.7. The Contractor shall not commence implementation of the Routine Change until the Authority's amendment to this Contract is received.

10.8. In the event of the Contractor identifying a Routine Change, the Contractor shall be entitled to submit an Outline Proposal and the Parties shall then follow the Routine Change Process accordingly.