



DE&S

Tender Number :
C17CSAE/0027

Description:
Provision of Parachute Equipment Support

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SCHEDULE OF REQUIREMENTS

| | | |
|--|---|---|
| Name and Address of Tenderer TO BE COMPLETED | MINISTRY OF DEFENCE | Tender No C17CSAE/0027 |
| | Schedule of Requirements for Parachute Equipment Support | |
| Issued With DEFFORM 47 | On 15th December 2016 | Previous Contract No. S&ADC/5337 |

| Item Number | Description | Duration | Delivery Date | Price All £ (ex-VAT) |
|--|--|---|----------------------|--|
| The contractor shall provide maintenance and support to person- and cargo-carrying parachutes and associated equipment to ensure sufficient serviceable parachutes are available to Defence as stated below, and in accordance with the Statement of Requirement at Annex A1 to the contract and the Contractor's statement of work at Annex A2 to the contract. | | | | |
| 1 | Capability implementation of Parachute Support Facility (UK) | From commencement of contract to day 1 of PESC service. | | Firm |
| 2 | Operation of a Parachute Support Facility (UK) including Technical and Logistics support | Up to March 2023 | | Firm |
| 3 | Provision of core maintenance of parachute equipment | Up to March 2023 | | Firm, based on price per man-hour, variable by quantity |
| 4 | Provision of parachute equipment support attracting a premium payment to meet priority tasking | Up to March 2023 | | Firm, based on premium price per man-hour, variable by quantity |
| 5 | Provision of training to UK service personnel in parachute equipment support | Up to March 2023 | | Firm, based on day rate per person trained, variable by quantity |
| 6.a | Provision of a UK transportation service for parachute equipment – base costs | Up to March 2023 | | Firm price per leg per annum |
| 6.b | Provision of a US transportation service for parachute equipment – base costs | Up to March 2023 | | Firm price per leg per annum |
| 7.a | Provision of a UK transportation service for parachute equipment – variable costs | Up to March 2023 | | Firm, based on mileage rate multiplied by |

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| | | | | distance travelled |
| 7.b | Provision of a US transportation service for parachute equipment – variable costs | Up to March 2023 | | Firm, based on mileage rate multiplied by distance travelled |
| 8 | Provision of ad-hoc support to parachute equipment | Up to March 2023 | | Firm prices for individual tasks, based on rates as per Annex E2 |
| 9 | Capability implementation of West Coast USA Parachute Support Facility | 6 months from contract commencement | | Firm |
| 10 | Operation of a West Coast USA Parachute Support Facility | Up to March 2023 | | Firm |
| 11 | Provision of acceptance checks for new parachute systems | Up to March 2023 | | Firm, based on same price per man-hour as Item 3 |
| 12 | Provision of a packing and postage service for Automatic Activation Devices (AAD) Cypres to Design Organisation – base costs | Up to March 2023 | | Firm price per task |
| 13 | Provision of an enhanced capability in the USA to provide LPS systems | Up to March 2023 | | Firm price per occurrence |
| 14 | Provision of an enhanced capability in the USA to provide BT80/BT380 systems | | | Firm price per occurrence |

The maximum value of the total of the Items above, calculated with reference to the pricing information at Annexes E1 and E2, shall not exceed [REDACTED].

2.0 GENERAL CONDITIONS

2.1 DEFCONS

DEFCON 501 (Edn.08/16) – Definitions and Interpretations.
DEFCON 515 (Edn.10/04) – Bankruptcy and Insolvency
DEFCON 516 (Edn.04/12) – Equality
DEFCON 518 (Edn.11/12) – Transfer
DEFCON 520 (Edn.08/15) – Corrupt Gifts and Payments of Commission
DEFCON 526 (Edn.08/02) – Notices
DEFCON 527 (Edn.09/97) – Waiver
DEFCON 528 (Edn.05/12) – Overseas Expenditure, Import and Export Licences
DEFCON 529 (Edn.09/97) – Law (English)
DEFCON 530 (Edn.12/14) – Dispute Resolution (English Law)
DEFCON 531 (Edn.11/14) – Disclosure of Information
DEFCON 532A (Edn.06/10) – Protection of Personal Data (Where Personal Data is not being processed on behalf of the Authority)
DEFCON 537 (Edn.06/02) – Rights of Third Parties
DEFCON 538 (Edn.06/02) – Severability
DEFCON 539 (Edn.08/13) – Transparency
DEFCON 550 (Edn.02/14) – Child labour and Employment Law
DEFCON 566 (Edn.10/16) – Change of Control of Contractor
DEFCON 646 (Edn.10/98) – Law and Jurisdiction (Foreign Suppliers)
DEFCON 660 (Edn. 12/15) – Official-Sensitive Security

Requirements 2.2 REQUIREMENT

2.2.1 The Contractor shall provide maintenance and support to person- and cargo-carrying parachutes and associated equipment to ensure sufficient serviceable parachutes are available to Defence as stated in the Statement of Requirement at Annex A1 to the contract. The Contractor shall carry out all activities under the contract in accordance with the Contractor's Statement of Work at Annex A2.

2.3 DURATION

2.3.1 This Contract and the rights and obligations of the parties shall take effect on the date of Contract acceptance and shall expire on 31st March 2023.

2.3.2 The expiry or termination of this Contract shall not affect the continuance in force of any provision of this Contract which is expressly or by implication intended to continue in force on or after any such expiry or termination, including, but not exclusively, and indemnification provisions, limits of liability, confidentiality provisions, DEFCONS or Intellectual Property Rights (IPR).

2.4 CONTRACT EXTENSION OPTION

- 2.4.1 The Contractor hereby grants to the Authority the following irrevocable options to extend the duration of the Contract in accordance with the terms and conditions set out in this Contract or any such subsequent contract or contracts where such options are taken up, it being agreed that the Authority has no obligation to exercise such options;
- a) Option 1: Amend the expiry date to 31st March 2024, at the prices detailed at Column 8 of the completed Pricing Matrix at Annex E1 to the Contract provided that the Authority exercises such an option by no later than 31st December 2022.
 - b) Option 2: Amend the expiry date to 31st March 2025, at the prices detailed at Column 9 of the completed Pricing Matrix at Annex E1 to the Contract provided that the Authority exercises such an option by no later than 31st December 2023.
- 2.4.2 The Authority shall have the right to exercise the options by the specified dates or within such further period as corresponds to the aggregate of any period(s):
- a) of delay in the delivery of the Contract deliverables whether constituting any breach of the Contract or resulting from any force majeure event or
 - b) for the duration of which the Authority is prevented from exercising any such option be reason of any other breach of the Contract by the Contractor.

2.5 PRECEDENCE

- 2.5.1 In the event of a conflict arising between any of the Contract documentation including reference documentation, the conflict shall be resolved in accordance with DEFCON 501.
- 2.5.2 The Contractor shall immediately notify the Authority of any discrepancy, inconsistency or error in the documentation under this Contract which comes to its attention. In the event of any internal conflict in any document, or any conflict between any documents with the same order of precedence, the Authority shall be entitled to give directions as to which part of the relevant document or which document shall take precedence over which other part or which other document (as the case may be). The Parties agree to continue with their obligations under the contract in accordance with the Authority's direction. The Authority shall consider any representations made by the Contractor to agree a resolution to the conflict.

2.6 PUBLIC RELATIONS AND PUBLICITY

- 2.6.1 The Contractor shall not by itself, its employees or agents, and shall procure that its sub-contractors shall not:
- a) communicate with representatives of the press, television, radio or other communications media on any matter concerning this Contract or the services to be performed under it; or
 - b) photograph or film in or upon any Authority sites; or
 - c) erect or exhibit on any part of the Authority sites any signs or trade boards or notices or advertisements;

unless the Authority's Representative has given its prior written consent or as otherwise required to comply with legislation.

2.7 RESPONSIBILITIES OF THE CONTRACTOR

- 2.7.1 For the purposes of this Contract and the work to be performed thereunder the Contractor named in the Schedule of Requirements shall be responsible to the Authority, subject to the provisions of the Contract, for the timely, economic and proper execution of the Contract as described in the Schedule of Requirements, to meet the output requirements and for the technical and programme risks involved in the whole of the work required by the Contract.
- 2.7.2 The Contractor shall ensure that the terms and conditions of this Contract are reflected in all sub-contracts, at whatever level, to the extent necessary to enable the Contractor to fully meet his obligations to the Authority under the Contract.
- 2.7.3 The Contractor's responsibilities shall also include but not be limited to:
- a) the administration, control and management of all sub-contracts required to meet the requirement defined in the Statement of Work, regardless of the method by which the sub-contractor may be selected;
 - b) planning, programming and progressing of the work including provision of appropriate documentation;
 - c) financial management of the work including financial control and monitoring of all sub-contracts;
 - d) providing the Authority with the information reasonably required to satisfy himself throughout the life of the Contract that the work is proceeding to time and performance.
 - e) The Contractor shall be responsible to the Authority for his sub-contractor's work. The Contractor shall make such arrangements with his sub-contractor(s), and they with theirs, as will ensure that the sub-contracted materiel is fit for purpose and that the relevant procedures are followed.

2.8 SECURITY

- 2.8.1 The security conditions as at Annex C1 to this contract shall apply.

2.9 DISPUTE RESOLUTION

- 2.9.1 The Authority and the Contractor recognise the importance of a good long term working relationship which seeks to minimise the possibility of potential areas of dispute and the importance of fast, efficient and cost effective procedures to resolve disputes under this Contract should the need arise. Both Parties will endeavour to resolve disputes within an agreed time frame, which is to be agreed by the parties on a case by case basis, through timely and constructive negotiation at the point at which they first occur, if necessary, escalated within each Party's management structure.
- 2.9.2 In the event that the dispute is not resolved by negotiation by the agreed deadline, the Parties shall make a joint submission setting out the circumstances of the dispute to the Contractor's President and C17 CSAE Team Leader (TL) for resolution. If the

Contractor's President and the C17 CSAE TL fail to reach agreement on this issue, it shall be referred to the Contractor's President and Air Support Head of Commercial for resolution. Each party shall be liable for their own costs arising from this procedure.

- 2.9.3 Any remaining unresolved dispute or claim arising out of or relating to this Contract will be dealt with in accordance with the provisions of the Alternative Dispute Resolution (ADR) procedures set out in DEFCON 530 - Dispute Resolution (English Law). All cost associated with the use of ADR shall be borne equally between the parties in respect of the mediator/adjudicator and by each party in respect of their own costs.
- 3.0 OPEN BOOK ACCOUNTING
- 3.1 Without prejudice to DEFCON 606, DEFCON 620 and to Clauses 12.2- Amendments to Contract and 12.3- Change and Configuration Control Procedure the Contractor shall, at the request of the Authority which can be made at any time but no more than two (2) times in one (1) Contract Year, provide to the Authority a Certificate of Costs within fifteen (15) Normal Working Days of such request. The Certificate of Costs shall be prepared in accordance with generally accepted accounting principles and good industry practice. The Contractor shall arrange for the Certificate of Costs to be audited as soon as practicable after submission to the Authority and a copy of the audited version of the Certificate of Costs shall be provided to the Authority.
- 3.2 The Certificate of Costs shall set out the Contractor's actual costs, expenses, revenues and profits in providing the services over the preceeding Contract Year including the following details:
- 3.2.1 Actual capital expenditure, including capital replacement costs;
- 3.2.2 Actual operating expenditure relating to the provision of the services with an analysis showing the costs of staff consumables sub-contracted and bought in services;
- 3.2.3 All interest expenses and other third party financing costs incurred in relation to the services;
- 3.2.4 Details of the overhead recoveries that have been made in relation to the services;
- 3.2.5 Details of all income or revenues that the Contractor or its sub-contractors have received or are due in relation to the services; and
- 3.2.6 The profit which the Contractor or its sub-contractors have achieved in the provision of the services including any profit element forming any part of the overhead recoveries disclosed by reason of Clause 3.2.4 above or any part of sub-contracted or bought in services from sub-contractors or affiliates.
- 3.3 Following receipt of the Certificate of Costs the Contractor shall provide to the Authority such additional information as it may reasonably request so that the Authority can verify the accuracy of the Certificate of Costs. The Authority shall have the right to appoint an independent third party auditor ("Auditor") not being a direct competitor of the Contractor on confidentiality terms substantially the same as those set out in Clause 2.8 and being subject to DEFCON 531 and DEFCON 532A to verify the Certificate of Costs.
- 3.4 The Auditor shall be paid for by the Authority unless the Certificate of Costs prepared by the Contractor is found to be manifestly inaccurate, incomplete or misleading in which case the Contractor shall be solely responsible for paying the Auditor's costs.
- 3.5 The Contractor shall allow the Authority and/or the Auditor and its authorised agents the right of reasonable access to (and, the right to take copies of) the books of

account and other source data in whichever form held of the information identified in any financial model or other such information as may be necessary or reasonably desirable for the purpose of verifying the Certificate of Costs or for the purpose of monitoring and calculating the Contractor's profit margins and applying the provisions of Clauses 62 (Pricing) and 11.3 (Payment for Items on the Schedule of Requirements).

- 3.6 The Certificate of Costs may be used by the Authority for verification of cost expenditure or estimated expenditure in particular but without limitation for the purpose of calculating the effect of a change, or Qualifying Change in Law or compensation payable on termination.

4.0 CONTRACTOR'S RECORDS AND AUDIT

4.1 Records of Costs

The Contractor shall at all times:-

- 4.1.1 maintain a full record of particulars of the costs of performing the services, including those relating to implementation, transition, maintenance, management, operation and finance; and
- 4.1.2 when requested by the Authority, provide a written summary of any of the costs referred to in Clause 4.1.1, including details of any funds held by the Contractor specially to cover such costs, in such form and detail as the Authority may reasonably require to enable the Authority to monitor the performance by the Contractor of its obligations under this Contract; and
- 4.1.3 provide such facilities as the Authority may reasonably require for its representatives to visit any place where the records are held and examine the records maintained under this Clause.

4.2 Books of Account

Compliance with Clause 4.1 shall require the Contractor to keep (and where appropriate shall procure that the sub-contractors shall keep) books of account in accordance with best accountancy practice with respect to this Contract showing in detail:-

- 4.2.1 administrative overheads;
- 4.2.2 payments made to sub-contractors including for (but not limited to) plant, labour and materials;
- 4.2.3 capital and revenue expenditure;
- 4.2.4 such other items as the Authority may reasonably require to conduct cost audits for verification of cost expenditure or estimated expenditure, for the purposes of DEFCON 502- Specifications Changes and DEFCON 503- Formal Amendments to Contract.

The Contractor shall have (and procure that the sub-contractors shall have) the books of account evidencing the items in Clauses 4.2.1 to 4.2.4 available for inspection by the Authority (and any expert) upon reasonable notice, and shall present a written report of these to the Authority as and when requested.

4.3 Maintenance of Records

The Contractor shall maintain or procure that the following are maintained:-

- 4.3.1 a full record of all incidents relating to health, safety and security which occur during the term of this Contract; and
 - 4.3.2 full records of all maintenance procedures carried out during the Contract Period;
 - 4.3.3 reports and management information in relation to the performance and management of the services in accordance with the requirements detailed in the Statement of Requirement, including data required by the Authority for reporting to any relevant authority on relevant performance indicators and Government assessment,
- and the Contractor shall have the items referred to in Clauses 4.3.1 and 4.3.3 above available for inspection by the Authority upon reasonable notice, and shall present a report of them to the Authority as and when requested.

4.4 Auditor

- 4.4.1 The Authority may at any time in any Contract Year, conduct audits for the following purposes:-
 - a) to verify the accuracy of the Monthly Payment (and proposed or actual variations to the Monthly Payment in accordance with this Contract) and/or the costs of all suppliers (including sub-contractors) of the services;
 - b) to review the integrity, confidentiality and security of Authority Data;
 - c) to review the Contractor's and / or a Contractor related party's (compliance with the Data Protection Act, the Freedom Of Information Act in accordance with DEFCON 531- Disclosure of Information, DEFCON 532A- Protection of Personal Data (Where Personal Data is not being processed on behalf of the Authority)
 -) and any other legislation applicable to the services;
 - d) to review the Contractor's compliance with its obligations under Clauses 2.7 (Responsibilities of the Contractor) and 12.7 (Performance Management);
 - e) to review any records created during the design and development of the services;
 - f) to review any books of account kept by the Contractor and / or a Contractor related party in connection with the provision of the services;
 - g) to carry out the audit and certification of the Authority's accounts;
 - h) to carry out an examination of the economy, efficiency and effectiveness with which the Authority has used its resources;
 - i) to verify the accuracy and completeness of any management information delivered or required by this Contract;
 - j) to inspect any Authority assets, including the Authority's equipment, facilities

and maintenance and assets, for the purposes of ensuring that the Authority's assets are secure and that the Public Stock Accounts are up to date;

l) to ensure that the Contractor and / or a Contractor related party is complying with the Authority policies and any British or equivalent European standards; and

m) any other audit that may be required by any relevant authority.

4.4.2 The Authority shall endeavor to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the provision of the services.

4.4.3 Subject to the Authority's obligations of confidentiality, the Contractor and / or a Contractor related party shall on demand provide the Authority (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit including:-

a) all information requested by the Authority within the permitted scope of the audit;

b) reasonable access to any premises and any equipment in each case used (whether exclusively or non-exclusively) in the performance of the services;

c) access to the Contractor's and / or a Contractor related party's systems; and

d) access to Contractor Staff.

4.4.4 The Contractor shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Contractor's (including for the avoidance of doubt a Contractor related party's) performance of the services against the applicable performance levels at a level of detail sufficient to verify compliance with the performance levels.

4.4.5 The Authority shall endeavour to (but is not obliged to) provide at least fifteen (15) Normal Working Days' notice of its intention to conduct an audit.

5.0 SPECIFICATIONS AND PLANS

5.1 DEFCONS

DEFCON 129 (Edn.18/11/16) – Packaging (For Articles Other Than Munitions)

DEFCON 502 (Edn.06/14) – Specifications Changes

DEFCON 602A (Edn.12/06) – Deliverable Quality Plan

DEFCON 608 (Edn.10/14) – Access And Facilities To Be Provided By The Contractor

DEFCON 627 (Edn. 12/10) – Quality Assurance – Requirement for a Certificate of Conformity

5.2 QUALITY ASSURANCE

For guidance on the application and interpretation of AQAPs use AQAP 2009 Edition 3.

- 5.2.1 The Contractor shall manage Quality in accordance with AQAP 2110 Edition 3 NATO Quality Assurance Requirements for Design, Development and Production. Certificates of Conformity shall be provided in accordance with DEFCON 627.
- 5.2.2 The Contractor shall deliver a Quality Plan in accordance with the provisions set out in DEFCON 602A 12/06 and AQAP 2105 NATO Requirements For Deliverable Quality Plans Edition 2. The Quality Assurance point of contact shall be the Authority's Project Manager named in Box 2 of the Appendix to Contract (DEFFORM 111). Any reference to the Quality Assurance Representative (QAR) in any document forming part of the Contract shall be read as referring to the Authority's Project Manager named in Box 2 of the Appendix to Contract (DEFFORM 111).
- 5.2.3 The Contractor shall comply with the Quality Assurance Requirements at references 3.1 to 3.4 of the Statement of Requirement at Annex A1 of the Contract. Safety Critical Items shall be subject to independent inspection in accordance with Def Stan. 05-061 Part 9 Issue 5 – Quality Assurance Procedural Requirements – Independent Inspection Requirements for Safety Critical Items.
- 5.2.4 Quality Assurance (QA) surveillance may be conducted directly by the Authority at Contractor's or sub-contractor's premises. Where GQA is performed against this contract it will be in accordance with AQAP 2070 Edition B Version 3.
- 5.2.5 The Contractor and/or sub-contractors shall provide the QAR shown in DEFFORM 111 (the Appendix to Contract) with the accommodation and facilities required for the proper accomplishment of QAR activity and provide any assistance required for evaluation, verification, documentation or release of product. The QAR shall have the right of access to any area of the Contractors or sub-contractors facilities where any part of the work is being performed.
- 5.2.6 Quality Assurance records are to be retained and be available for inspection by the Authority's Project Manager or his authorised representative for a period of 2 (two) years from the date of completion of the Contract. The records are to be maintained at a state whereby the Authority's Project Manager or his authorised representative may inspect them in accordance with DEFCON 608. For the purposes of Clause 1 of DEFCON 608, "reasonable notice" shall mean a period not exceeding one calendar month.
- 5.2.7 The Contractor shall maintain his ISO 9001 certification as specified at reference 3.2 of the SoR at Annex A1 of the Contract throughout the duration of the Contract. In the event that his certification is reduced in any way, he shall immediately notify the Commercial Branch in writing. If the Contractor is unable to regain the previous level of certification within three months, this shall be considered as grounds for Material Breach and the Authority shall reserve the right at its absolute discretion to terminate this Contract.
- 5.2.8 The Contractor shall comply with the requirements of AQAP 2110 Edition 3 where their QMS meets the requirements of ISO 9001:2008. Upon the transition of the contractor's QMS to ISO 9001:2015, AQAP 2110 Edition 3 shall be superseded by AQAP 2110 Edition D for the purpose of this Contract. The Contractor shall inform the Authority upon achievement of QMS transition to ISO 9001:2015.

5.3 RISK

- 5.3.1 Risk assessment is a project management function only. It does not affect the legal relationship between the parties. The process of risk assessment in general, including without limitation, the identification of (or failure to identify):
- a) Particular risks and their impacts; or

- b) Risk reduction measures, contingency plans and remedial actions;

shall not in any way limit or exclude the Contractor's obligations under the Contract and shall be entirely without prejudice to the Authority's rights, privileges and powers under the Contract.

- 5.3.2 Technical or logistical risk assessed by the Contractor shall be notified to the Authority.

5.4 SAFETY

- 5.4.1 The Contractor shall carry out safety activities under the Contract in accordance with the Authority's Safety requirements as detailed in the Statement of Requirement at Annex A1.

- 5.4.2 The Contractor shall:

- a) in performing the services under the Contract, comply with all his statutory duties and obligations relating to safety, including, but not limited to, DEFSTAN 00-056;
- b) be responsible for ensuring that none of the specifications in the Contract causes the Contractor to be in breach of any statutory duty or obligation relating to safety.

- 5.4.3 If after the Contract is made it appears that any specification agreed between the Contractor and the Authority may render the Contractor in breach of any statutory duty or obligation relating to safety the Contractor shall immediately draw that fact to the Authority's attention.

- 5.4.4 Nothing in the Contract or in any other document created or signed on behalf of the Authority shall constitute a written undertaking for the purposes of Section 6(8) of the Health and Safety Act 1974 relieving the Contractor of any of his duties under Section 6 of that Act.

5.5 MAA REGULATORY PUBLICATIONS

- 5.5.1 The Contractor shall comply with the following MAA Regulatory Publications ("MRP") issued by the Military Aviation Authority ("the Regulator"):

- a) Overarching documents:
MAA1: MAA Regulatory Policy
MAA2: MAA Master Glossary

- b) Those Regulatory Articles (RA) listed at reference 2.3 of the Statement of Requirement;

- c) MAA Manuals:
MAP-01: Manual of Maintenance & Airworthiness Process (Chapter 5.3.1.8)

- 5.5.2 The Contractor shall comply with the Regulations set out in the above RA by following:

- a) The acceptable means of compliance ("AMC") prescribed therein;
- b) Other alternative means as may be agreed by the Contractor with the Authority.

- 5.5.3 Complying with the MRP does not reduce or limit any statutory or legal obligation of the Contractor.

5.6 INDEPENDENT SAFETY AUDITORS, ADVISORS, AND ASSESSORS

- 5.6.1 The Contractor shall provide access to records, including sub-contractor records, for contract purposes; to enable the Authority-appointed Independent Safety Auditor to carry out safety audits and other assessment activities to meet MOD safety requirements.

5.7 EXPORT LICENSES

- 5.7.1 If, in the execution of the Contract, the Contractor needs to import material for which a foreign export licence or equivalent agreement is required, it shall be the Contractor's responsibility to apply for and obtain in a timely manner such a licence.

5.8 LEGISLATION AND AIRWORTHINESS REGULATIONS

- 5.8.1 The Parties acknowledge that Changes in Law including Airworthiness regulations may arise during the period of the Contract. In the event that such changes arise, the Parties shall consider the impact of the change on the Contract and if necessary a contract change shall be raised.
- 5.8.2 All expenditure incurred by the Contractor (including, for the avoidance of doubt its sub-contractors) in relation to a Change in Law shall be for the Contractor's sole account and borne entirely by the Contractor and no amendment shall be made to the Monthly Payment nor shall any payment be made by the Authority to the Contractor in respect of such Change in Law.

5.9 SUSTAINABLE PROCUREMENT - BEST PRACTICE

- 5.9.1 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.

5.10 SUSTAINABLE PROCUREMENT - LEGISLATIVE REQUIREMENTS

- 5.10.1 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 subcontractors engaged in the performance of the Contract.
- 5.10.2 If the Contractor becomes aware of any prosecution or proceedings, for criminal breaches of extant 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 subcontractors engaged in performance of the Contract, the Contractor shall immediately notify the Authority at the address specified in the Contract.
- 5.10.3 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.

5.11 VARIATION OF OUTPUT

5.11.1 The guaranteed demand level requirement for parachute maintenance shall be as per reference 1.1.6 of the SOR at Annex A1 to the Contract. These output requirements may be varied by +10/-5% upon instruction by the Authority, this instruction to be given not later than six months prior to the date at which the varied output level is to take effect, and at no more frequent intervals than every six months.

5.11.2 Any variation of guaranteed demand level shall be made subject to the limitations at clause 5.11.1 above and this varied level shall become the revised baseline.

5.12 PRIORITY PROVISION

5.12.1 The Contractor shall provide a Priority capability in accordance with SOR reference 1.1.7. Authority to invoke Priority provisions shall rest with the Authority's nominated Commercial Manager or their nominated representative. The Contractor shall not accept any communication from other individuals as instruction to provide Priority capability. The serviceable parachutes required under Priority conditions shall be delivered to the nominated location within two (2) days of valid instruction to proceed being provided. This period shall be deemed to commence the same day as the instruction is given provided this occurs before 1100hrs. The Priority period shall be deemed to commence at 0800hrs the day following the instruction is given where this occurs at or after 1100hrs.

5.13 TRAINING TASKING

5.13.1 The Contractor shall deliver the training requirements in accordance with SOR reference 8.1 to 8.2. The Authority shall give 6 weeks' notice of the training need. The Contractor shall confirm ability to deliver the requested training no later than 10 business days following receipt of notification.

5.13.2 If the Contractor is unable to provide the requested training during the dates specified the Contractor shall liaise with the Authority to arrange suitable alternative training dates noting that the Authority will not be obliged to accommodate the Contractor's proposed alternate training dates.

5.13.3 If the Contractor confirms ability to but is subsequently unable to provide the requested training during the agreed dates the Authority will reserve the right to negate the cost of any loss of productivity incurred as a result of the Contractor's non-performance against the next monthly invoice.

5.14 AUTHORISATION OF AD-HOC TASKS

5.14.1 Item 8 on Schedule of Requirement. The Contractor is to raise a Work Authorisation Form (WAF), as at Annex F to the Contract. No work is to be carried out until the Contractor is in receipt of an Authority-authorised WAF.

5.15 ENHANCED USA CAPABILITY

- 5.15.1 The Contractor shall provide an enhanced capability to support parachute exercises in the USA in accordance with SOR reference 1.2.4. Authority to invoke these enhanced capability occurrences shall rest with the Authority's nominated Commercial Manager or their nominated representative. The Contractor shall not accept any communication from other individuals as instruction to provide enhanced capability.
- 5.15.2 If an enhanced capability occurrence invoked as per 5.15.1 above is subsequently delayed or cancelled by the Authority's nominated Commercial Manager or their nominated representative, the Contractor shall be entitled to recover reasonable costs wholly incurred as a result of this delay or cancellation. Any such cancellations shall be subject to DEFCON 656B noting that for the purposes of this 5.15.2 there shall be no minimum notice period for cancellation or delay.

6.0 PRICE

6.1 DEFCONS

DEFCON 127 (Edn.12/14) – Price Fixing Condition for Contracts of Lesser Value

Note: this DEFCON will apply to any non-competitive contract amendments

DEFCON 643 (Edn.12/14) – Price Fixing (non-qualifying contracts)

Note: this DEFCON will apply to any non-competitive contract amendments

6.2 PRICING

- 6.2.1 Payment for all Items on the Schedule of Requirements with the exception of Items 7.a and 7.b are subject to calculation based on firm prices as applicable to each Item in accordance with the completed pricing matrix at Annex E1 for the relevant year(s) and are not subject to variation.
- 6.2.2 For Items 7.a and 7.b on the Schedule of Requirements, payment shall be calculated based on firm prices as applicable in accordance with the completed pricing matrix at Annex E1 for contract years 2-4. Firm prices for contract years 5 onwards shall be agreed prior to the start of each relevant contract year, and shall not exceed the stated maximum price stated in the completed pricing matrix at Annex E1.
- 6.2.3 All rates including, but not limited to Man-Hour and daily rates used to calculate the firm price for Item 8 on the Schedule of Requirements are those contained in Annex E2.

7.0 INTELLECTUAL PROPERTY RIGHTS

7.1 DEFCONS

DEFCON 632 (Edn.08/12) – Third Party Intellectual Property – Rights and Restrictions

DEFCON 703 (Edn.08/13) – Intellectual Property Rights - Vesting In The Authority

8.0 LOANS

8.1 DEFCONS

DEFCON 23 (Edn.08/09) – Special Jigs, Tooling And Test Equipment
DEFCON 76 (Edn.12/06) – Contractor's Personnel at Government Establishments
DEFCON 601 (Edn.04/14) – Redundant Materiel
DEFCON 611 (Edn.02/16) – Issued Property
DEFCON 694 (Edn.03/16) – Accounting for Property of the Authority

8.2 GOVERNMENT FURNISHED ITEMS (GFA) - INCLUDING ASSETS, FACILITIES, PERSONNEL, INFORMATION

- 8.2.1 Any Government Furnished Items (GFA) will be issued to the Contractor free of charge at the location and for the purpose specified in the Contract. Any such GFA will be made available for collection in the UK and the Authority shall not be responsible for the transportation of these items to the Contractor's premises nor for their return transportation.
- 8.2.2 GFA to be made available to the Contractor for the purposes of carrying out the requirements of the Contract are detailed in Annex H, the costs of this GFA to be included within the overall contract price. While subject to the requirements of 8.2.5 below, Parachute Equipment on the in-scope list at Annex A1.A to the SoR are to be classified as Assets in Industry for materiel accounting purposes.
- 8.2.3 Any GFA whatsoever of a technical nature that have been provided by the Authority to the Contractor under this Contract are provided without liability.
- 8.2.4 Any Government Furnished Information (GFI) provided by the Authority shall be subject to any relevant confidentiality and control provisions elsewhere in the Contract.
- 8.2.5 The Contractor shall comply with the requirements of DEFSTAN 05-099 (Managing Government Furnishes Assets in Industry) and the loan terms defined in that document. For the purposes of this contract, the point of transfer shall be defined as the point at which the Contractor's representative or the Authority's representative signs any document acknowledging delivery or collection of articles which are the subject of this contract.
- 8.2.6 In event of non-availability of the MJDI system, the contractor shall employ the procedures laid down in "Management of the Joint Deployed Inventory (MJDI), Chapter 11 - Local Application Fallback Procedures" PBS Reference 0404-11 dated 30 July 2014.
- 8.2.7 The Contractor shall observe the instructions of the Public Accounting Authority (see Box 8 of the Appendix – DEFFORM 111) concerning any GFA.
- 8.2.8 The Authority shall endeavour to provide the items listed at Annex H, in a timely manner. In the absence of the Authority being available to provide the requested GFA, the Authority shall bear no responsibility.
- 8.2.9 The Authority shall endeavour to notify the Contractor at the earliest opportunity of the known non-availability of anything listed at Annex H. On receipt of any such notification, the Contractor shall notify the Authority within 10 business days of the schedule, cost and any other implications of this non-availability to the Service.

- 8.2.10 On completion of the Contract, or earlier if appropriate and requested by the Authority, the Contractor shall submit a list of all GFA to the Authority in accordance with para 14 of DEFCON 611 (Issued Property).

9.0 DELIVERY

9.1 DEFCONS

DEFCON 507 (Edn.10/98) – Delivery

DEFCON 514 (Edn.08/15) – Material Breach

DEFCON 524 (Edn.10/98) – Rejection

DEFCON 525 (Edn. 10/98) – Acceptance

DEFCON 621B (Edn.10/04) - Transport (if the Contractor is responsible for transport).

This Condition shall apply to Transport where the Contractor is responsible in accordance with the SOW at Annex A2.

DEFCON 656B (Edn.08/16) – Termination for Convenience – Over £5M

9.2 ACCEPTANCE

- 9.2.1 For the purposes of DEFCON 525 (Acceptance), acceptance of the Contractor Deliverables delivered under this Contract shall take place as follows:

- a) For Items 1 and 9 on the Schedule of Requirements, following written acknowledgement by the Authority that the relevant Capability Implementation Plans specified in the Contractor's Statement of Work have been successfully delivered;
- b) For Items 2-7.b, 10-11 and 13-14 on the Schedule of Requirements, following written acknowledgement by the Authority that the relevant reports specified under clauses 11.3.1 to 11.3.5 are accurate;
- c) For Item 8 on the Schedule of Requirements, following written confirmation by the Authority that the relevant tasks have been satisfactorily completed;
- d) For Item 12 on the Schedule of Requirement, following acknowledgement by the Authority of the Contractor's confirmation that Cypres units have been despatched as required.

- 9.2.2 Acceptance by the Authority shall take place within 30 (Thirty) Normal Working Days of delivery (or such other period as may be agreed between the Parties) to consider any data, report or any other detail required to provide satisfaction that those requirements have been met.

- 9.2.3 In the event the Authority rejects any data, report or any other detail the matter or matters in question shall be determined through a review meeting to be held within 30 days but ultimately the Authority reserves the right to use DEFCON 530 (Dispute Resolution (English Law)).

10.0 LOGISTICS

10.1 Collection

10.1.1 The Contractor shall collect unserviceable parachutes in accordance with SOR reference 5.3.1. Notification of collection location and time shall be provided by the Authority in writing (email will be sufficient), giving a minimum of 48 hours' notice. This notice period shall be deemed to commence immediately upon verbal instruction or one (1) hour after issue of any electronic message provided this occurs within the normal working hours detailed in SOR reference 5.1. Where any instruction is given outside these times the 48 hour notice period shall be deemed to commence at 0800 hours on the next working weekday.

10.1.2 Collection instructions shall include a location comprising either a grid reference accessible by a road vehicle, a named MOD site, a UK address or US exercise location along with a date and time. The Authority shall make efforts to facilitate Contractor access to the collection location and shall ensure that sufficient loading space is available and that adequate provision is made for a tail lift or fork lift. An Authority representative shall be present to supervise collection of parachutes for a period up to 1.5 hours from the nominated collection time. If parachutes are not collected within this time period the Contractor shall liaise with the Authority to arrange a suitable alternative collection location and time noting that:

- a) the Authority will not be obliged to accommodate the Contractor's proposed alternate collection location and time
- b) in the event that the Authority cannot accommodate the Contractor's proposed alternate collection location and time the Authority will reserve the right to recover from the Contractor the costs of alternative transportation.

10.2 Distribution

10.2.1 The Contractor shall issue and deliver serviced (A1) parachutes in accordance with SOR reference 5.3.2. Notification of delivery location and latest delivery time shall be provided by the Authority giving a minimum of 24 hours' notice for the first 1000 parachutes. This notice period shall be deemed to commence immediately upon issue of a demand signal provided this occurs within the normal working hours detailed in SOR reference 5.1. Where any instruction is given outside these times the 24 hour notice period shall be deemed to commence at 0800 hours on the next working weekday. Where demanded volume exceeds 1000 parachutes, any parachutes within the volume exceeding 1000 parachutes not delivered within the initial 24 hours shall be delivered within a further 24 hours.

10.2.2 Delivery instructions shall include a location comprising either a grid reference accessible by a road vehicle, a named MOD site, a UK address or US exercise location along with a date and time. The Authority shall make efforts to facilitate Contractor access to the collection location. The Contractor shall give the Authority a minimum of 4 hours' notice of its intended delivery time where this occurs within normal working hours. Deliveries earlier than the instructed time shall only be permitted with the express prior agreement of the Authority.

10.2.3 If parachutes are not delivered within the time periods above the Contractor shall liaise with the Authority to arrange a suitable alternative delivery location and time noting that:

- a) the Authority will not be obliged to accommodate the Contractor's proposed alternate delivery location and time
- b) in the event that the Authority cannot accommodate the Contractor's proposed alternate collection location and time the Contractor shall be responsible for returning the parachutes to the main Contractor facility

- c) the Authority will reserve the right to negate the cost of any loss of productivity incurred as a result of the Contractor's non-performance against the next monthly invoice.

11.0 PAYMENTS & RECEIPTS

11.1 DEFCONS

DEFCON 5J (Edn.18/11/16) – Unique Identifiers
 DEFCON 129J (Edn.18/11/16) – The Use Of Electronic Business Delivery Form
 DEFCON 513 (Edn.11/16) – Value Added Tax
 DEFCON 522 (Edn 18/11/16) – Payment and Recovery of Sums Due
 DEFCON 534 (Edn.18/11/16) – Subcontracting and Prompt Payment
 DEFCON 619A (Edn.09/97) – Customs Duty Drawback
 DEFCON 670 (Edn.07/14) – Tax Compliance

11.2 PAYMENT ON CP&F

- 11.2.1 The Contracting, Purchasing and Finance (CP&F) electronic procurement tool shall be used for all Items of the Schedule of Requirements.

11.3 PAYMENT FOR ITEMS ON THE SCHEDULE OF REQUIREMENTS

- 11.3.1 The Contractor shall provide a report monthly in arrears detailing the payment it believes is due for the month immediately preceding for all items except item 8 – Provision of ad-hoc support. This report shall break down the total cost into the constituent deliverables as per the Contract Schedule of Requirements calculated as follows (all calculations applying to activities in the relevant month and calculated against prices/rates quoted for the relevant year):

| Item Number | Description | Means of calculation |
|--------------------|--|--|
| 1 | Capability implementation of Parachute Support Facility (UK) | Firm price quoted in Tender return, payable on successful delivery of Capability Implementation Plan |
| 2 | Operation of a Parachute Support Facility (UK) including Technical and Logistics support | Firm price quoted in Tender return, divided into equal months |
| 3 | Provision of core maintenance of parachute equipment | Price per man-hour, multiplied by man-hours' credit delivered (see clause 11.3.2) |
| 4 | Provision of parachute equipment support attracting a premium payment to meet priority tasking | Premium price per man-hour, multiplied by man-hours' credit delivered (see clause 11.3.2) |
| 5 | Provision of training to UK service personnel in parachute equipment support | Day rate quoted in Tender return, multiplied by the number of man-days' training received |
| 6.a | Provision of a UK transportation service for parachute equipment – | Flat rate quoted per leg multiplied by the number of legs |

| | | |
|-----|--|---|
| | base costs | |
| 6.b | Provision of a US transportation service for parachute equipment – base costs | Flat rate quoted per leg, multiplied by the number of legs |
| 7.a | Provision of a UK transportation service for parachute equipment – variable costs | Mileage rate quoted multiplied by distance travelled (shortest practicable route) |
| 7.b | Provision of a US transportation service for parachute equipment – variable costs | Mileage rate quoted multiplied by distance travelled (shortest practicable route) |
| 8 | Provision of ad-hoc support to parachute equipment | Firm price for individual tasks as agreed in relevant Tasking Form, based on rates quoted in pricing matrix |
| 9 | Set up of West Coast USA Parachute Support Facility | Firm price quoted in Tender return, divided into equal months over first six months |
| 10 | Operation of a West Coast USA Parachute Support Facility | Firm price quoted in Tender return, payable on successful delivery of Capability Implementation Plan |
| 11 | Provision of acceptance checks for new parachute systems | Price per man-hour, multiplied by man-hours' credit delivered (see clause 11.3.2) for those systems submitted for acceptance checks |
| 12 | Provision of a packing and postage service for Automatic Activation Devices (AAD) Cypres to Design Organisation – base costs | Flat rate quoted per task multiplied by the number of tasks |
| 13 | Provision of an enhanced capability in the USA to provide LPS systems | Firm price for each occurrence quoted in Tender return, multiplied by the number of occurrences authorised |
| 14 | Provision of an enhanced capability in the USA to provide BT80/BT380 systems | Firm price for each occurrence quoted in Tender return, multiplied by the number of occurrences authorised |

11.3.2 Man-hours' credit shall be calculated by multiplying the number of A1 systems delivered to the Authority as demanded by the weighted average number of hours to maintain the relevant parachute type as per SOR reference 1.1.3.

11.3.3 Payment due for guaranteed demand levels will be calculated according to the price per man-hour for the relevant year detailed in the completed pricing matrix.

11.3.4 Should the number of systems demanded as per the process at SOR reference 1.1.5 result in the maximum possible man-hours' credit being lower than the guaranteed demand level specified in SOR reference 1.1.3 the payment due shall be as if the guaranteed demand level had been demanded.

- 11.3.5 Following receipt of written acknowledgment from the Authority that the monthly reports specified at 11.3.1 above are correct the Contractor shall raise an invoice for the agreed amount.
- 11.3.6 For Item 8 – Provision of ad-hoc support, the Contractor shall provide an invoice on receipt of written confirmation that the Authority has accepted the tasks as completed. The sums the Contractor believes due for these tasks should be as per the relevant agreed Task Authorisation Form, following the process at Clause 5.14.1 above.

12.0 CONTRACT ADMINISTRATION

12.1 DEFCONS

DEFCON 503 (Edn.12/14) – Formal Amendments to Contract
DEFCON 604 (Edn.06/14) – Progress Reports
DEFCON 606 (Edn.06/14) – Change and Configuration Control Procedure
DEFCON 609 (Edn.06/14) – Contractor's Records
DEFCON 620 (Edn.06/14) – Contract Change Control Procedure
DEFCON 642 (Edn.06/14) – Progress Meetings
DEFCON 647 (Edn.09/13) – Financial Management Information

12.2 AMENDMENTS TO CONTRACT

- 12.2.1 Only the Commercial Officer detailed in the Appendix (DEFFORM 111), or his nominated representative, is authorised to vary the terms and conditions of the Contract. Such variations shall only have effect if agreed in writing.
- 12.2.2 The Contractor or the Authority may originate proposals for changes to specification, requirement and/or Contract provisions, however only the Authority's Project Manager or his authorised representative shall be permitted to raise a Works Authorisation Form (Annex F to the Contract), which will then be subjected to the formal procedure of approval specified in DEFCON 503.
- 12.2.3 Notwithstanding DEFCON 503, nothing said, done or written by any person nor anything omitted to be said, done or written by any person including, but without limitation, any servant or agent of the Authority shall in any way affect the rights of the Authority, modify, affect, reduce or extinguish the obligations and liabilities of the Contractor under the Contract, or be deemed to be a waiver of rights of the Authority, unless stated in writing and signed by the Commercial Branch named in the Appendix (DEFFORM 111) to this Contract.
- 12.2.4 Should any Amendment to this Contract exceed the thresholds as set out in the Single Source Procurement Regulations (2014) ("the Regulations"), the Contractor agrees that at the Authority's request such an amended Contract shall be considered a Qualifying Defence Contract for the purposes of the Regulations.

12.3 WORKS AUTHORISATION FORM LIST

- 12.3.1 All activities authorised under the WAF process at 12.2.2 above are listed at Annex G to this Contract.

12.4 REPORTING REQUIREMENTS

12.4.1 Management Information reports shall be submitted in accordance with SOR reference 10.2. Such reports shall be submitted within 10 business days of month end to enable Authority validation and subsequent invoicing by the Contractor.

12.5 MEETINGS

12.5.1 The Contractor shall manage and attend all meetings required in accordance with the requirements set out in SOR reference 10.1. Any additional meetings required by the Authority in connection with the performance of the Contract shall be at no additional cost to the Authority.

12.5.2 Meetings shall be held at the premises as dictated by the Authority.

12.5.3 All costs incurred by the Contractor in connection with any meetings held at the Authority's premises shall be deemed to be included in the Contract price.

12.6 GAINSHARE

12.6.1 The Authority and the Contractor shall during the period of Contract identify all possible areas for gainshare. Such gainshare opportunities are to be listed within the report submitted at the six monthly Contract review meetings.

12.6.2 Any Gainshare proposal shall be raised using the Gainshare Change Proposal form at Annex J2. The proposal shall include an impact statement outlining the effects the change will have on the service delivery and any other aspects of the Contract,

12.6.3 Opportunities notified to the Authority do not constitute a commitment by the parties to implement the opportunity, but to give it due consideration.

12.6.4 The Contractor shall maintain a register of all opportunities for improvement generated by either Party to the Contract irrespective of whether or not the opportunity is ultimately implemented.

12.6.5 No proposed gainshare shall be considered to have been agreed without both parties receiving written confirmation from the other party that they are in agreement with the proposal.

12.6.6 All savings achieved as a result of a gainshare agreement shall be shared, in a ratio to be specified by the Authority, subject to the following:

a) any non-recurring costs necessarily incurred during investigation and subsequent implementation of any agreed gainshare arrangement shall be offset against the agreed savings,

b) where a gainshare has been approved by the Authority, but it is later decided by the Authority not to proceed, the same ratio of non-recurring costs necessarily incurred by the Contractor during investigation as were agreed for the anticipated savings, shall be allowed as a genuine charge to the Contract.

12.6.7 The Authority may at its discretion, request the Contractor to provide a quotation for non-recurring costs incurred. The Contractor shall not claim any profit when recovering non-recurring costs under a gainshare proposal.

12.6.8 Unless otherwise agreed, this Contract shall be amended to include all agreed gainshare opportunities for the Contract raised by either Party.

12.7 PERFORMANCE MANAGEMENT

12.7.1 Performance shall be measured against the agreed process and Contract KPIs at Annex I to the Contract. In the event of unacceptable performance the Authority shall at its discretion retain payment, or in extreme circumstances terminate the Contract in accordance with DEFCON 514 (Material Breach).

12.7.2 The Authority shall have the right to terminate the Contract in accordance with DEFCON 514 where:

- a) The Authority believed that there is an irreconcilable breakdown of the Safety Management System and/or the Quality Assurance System;
- b) The Contractor does not meet a minimum of four (4) of the 6 performance levels applicable to KPIs 1-4 (including subdivisions of KPI 3) in a single month, or a single performance level for 6 months in any 12 month period.

12.8 STEP-IN

12.8.1 Right to Step-In

Without prejudice to any other rights or remedies which the Authority may have under this Contract, if the Authority reasonably believes that it needs to take action in connection with the provision of the services:

- a) because a serious risk exists to the health or safety of persons or property or to the environment;
- b) to discharge a statutory duty;
- c) as may be required by the outcome of a statutory inspection;
- d) because a Material Breach of the Contract occurs;
- e) then the Authority shall be entitled to take action in accordance with Clause 12.8.2 below either through itself or through (with the assistance of) third party contractors.

12.8.2 If Clause 12.8.1 applies and the Authority wishes to take action, the Authority shall serve a notice on the Contractor stating the following:

- a) the action it wishes to take and in particular the services it wishes to control;
- b) the reason(s) for such action;
- c) the date it wishes to commence such action;
- d) the time period which it believes will be necessary for such action; and
- e) to the extent practicable, the effect on the Contractor and its obligation to provide the services during the period such action is being taken.

12.8.3 Following service of such a notice, the Authority shall take such action as notified under Clause 12.8.2 above and any consequential additional action as it reasonably believes is necessary (together, the "Required Action") and the Contractor shall give all reasonable assistance to the Authority while it is taking such Required Action, including without limitation granting or obtaining licences or permissions for systems and data required to deliver the services and providing access allowing the Authority to speak to the Contractor's employees and those of any sub-contractor.

12.8.4 For the avoidance of doubt, Required Action may include any measures to address any aspect of the performance of the services including the introduction of management intervention into a discrete part or whole of the services where in the reasonable opinion of the Authority, such intervention is required, and the right to enter upon any premises occupied by the Contractor and to use any assets.

12.9 Step-In without Contractor Breach

12.9.1 If the Contractor is not in breach of its obligations under this Contract, then for so long as and to the extent that the Required Action is taken, and this prevents the Contractor from providing any part of the services:

- a) the Contractor shall be relieved from its obligations to provide such part of the services; and
- b) in respect of the period in which the Authority is taking Required Action, and provided the Contractor provides the Authority with reasonable assistance (such assistance to be at the expense of the Authority to the extent incremental costs are incurred) the Monthly Price due from the Authority to the Contractor shall equal the amount the Contractor would receive if it were satisfying all its obligations and providing the services affected by the Required Action in full over that period.

12.10 Step-In on Contractor Breach

12.10.1 If the Required Action is taken as a result of a breach of the obligations of the Contractor under this Contract, then for so long as and to the extent that the Required Action is taken, and this prevents the Contractor from providing any part of the services:

- a) the Contractor shall be relieved of its obligations to provide such part of the services; and
- b) in respect of the period in which the Authority is taking the Required Action the amount the Contractor would receive if it were satisfying all its obligations and providing the services affected by the Required Action in full over that period, less an amount equal to all the Authority's costs of operation in taking the Required Action. In the event that the Authority's proper costs of operation in taking the Required Action exceed the amount of the Monthly Price the Authority shall be entitled to be reimbursed by the Contractor for such costs.

12.10.2 If the Authority intends to engage or employ an external contractor or organisation to undertake the Required Action (or any part thereof) it shall first procure from such contractor or organisation a confidentiality agreement in the form provided to it by the Authority.

12.11 Step-Out

12.11.1 Before ceasing to exercise its step-in rights under this Clause the Authority shall deliver a written notice to the Contractor ("Step-Out Notice"), specifying:-

- a) The Required Action it has actually taken; and
- b) The date on which the Authority plans to end the Required Action ("Step-Out Date") subject (where the Contractor is in breach) to the Authority being satisfied with the Contractor's ability to resume the provisions of the services and the Contractor's plan developed in accordance with Clause 12.11.2.

12.11.2 The Contractor shall, following receipt of a Step-Out Notice and not less than 15 Normal Working Days prior to the Step-Out Date, develop for the Authority's approval a draft plan ("Step-Out Plan") relating to the resumption by the Contractor of the services, including any action the Contractor proposes to take to ensure that the affected services satisfy the requirements of this Contract.

12.11.3 If the Authority does not approve the draft Step-Out Plan, the Authority shall inform the Contractor of its reasons for not approving it. The Contractor shall revise the Step-Out Plan taking those reasons into account and shall re-submit the revised plan to the Authority for the Authority's approval. The Authority shall not withhold or delay its approval of the draft Step-Out Plan unnecessarily.

13.0 PRACTICAL REMEDIES

13.1 The following is without prejudice to any other right or remedy in equity, common law, under statute or pursuant to this Contract.

13.2 Remedy Notice

In the event that the Contractor:-

13.2.1 Commits a Material Breach which is capable of remedy; or

13.2.2 Is in material breach of any of its other obligations under this Contract which do not constitute or amount to a Contractor Breach Incapable of Remedy (such breaches shall be dealt with in accordance with Clause 14);

The Authority shall be entitled to serve a notice (a "Remedy Notice") specifying:-

13.2.3 the type and nature of the Contractor Breach (including details of any underlying strategic issues) or breach that has occurred giving reasonable details;

13.2.4 that the Contractor puts forward a rectification programme reasonably acceptable to the Authority within 5 Normal Working Days;

13.2.5 that the Contractor rectify the Contractor Breach or breach within 20 Normal Working Days of receipt of the Remedy Notice or (where later) within the period specified in the Remedy Notice.

If:-

13.2.6 the Contractor fails to:

a) put forward a rectification programme reasonably acceptable to the Authority within 5 Normal Working Days; or

b) rectify the Contractor Breach or breach within 20 Normal Working Days of receipt of the Remedy Notice or (where later) within the period specified in the Remedy Notice; or

c) implement a rectification programme within 20 Normal Working Days of receipt of the Remedy Notice or (where later) within the period specified in the Remedy Notice; or

the same Contractor Breach as stated in the Remedy Notice (including where the Remedy Notice detailed one or more Contractor Breach, any one or more of those Contractor Breaches) or breach having been rectified occurs again at any time within a six month period of receipt of the Remedy Notice;

then the Authority shall be entitled to:-

13.2.7 take Required Action in accordance with Clause 12.8 (the Authority Step-In) including making the deduction from the Monthly Payment of its costs of operation in taking the Required Action in accordance with Clause 12.8.3 and/or

13.2.8 serve a Final Warning Notice in accordance with Clause 13.3.

13.3 Final Warning Notice

A Final Warning Notice served on the Contractor shall:-

13.3.1 specify that it is a Final Warning Notice;

13.3.2 state that the Contractor Breach specified has been the subject of a Remedy Notice served pursuant to Clause 13.2; and

13.3.3 state that if the same Contractor Breach continues for or recurs within six (6) months of the date of service of the Final Warning Notice, such Contractor Breach shall constitute a Persistent Breach of this Contract which shall entitle the Authority to immediately terminate the Contract in whole or in part at the sole discretion of the Authority.

13.4 In the event that the Contractor fails to comply with the Final Warning Notice, the Authority may then terminate this Contract forthwith in whole or in part at its sole discretion by giving written notice of termination.

13.5 The Contractor shall co-operate with the Authority in respect of any the Authority action pursuant to this Clause 13 including providing information and giving access to the Contractor Staff or and access to the premises from which the services are being performed

13.6 Any Disputes arising as out of this Clause 13 shall be referred to the Dispute Resolution process specified in Clause 2.9 above.

13.7 The Authority's entitlement to terminate this Contract in part as detailed in Clause 14.5 shall include the right to terminate one or more ad-hoc tasks (Item 8 on the Schedule of Requirements).

13.8 In the event of any termination, the Exit Arrangements set out in Clause 17 (Exit Arrangements) shall apply.

14.0 TERMINATION ON CONTRACTOR BREACH INCAPABLE OF REMEDY

14.1 The Authority shall be entitled to terminate this Contract in whole or in part or any or all of the services provided under it forthwith by giving written notice of termination to the Contractor if;

14.1.1 An Insolvency Event affecting the Contractor occurs; or

14.1.2 Any other Contractor Breach has occurred which has been agreed or determined as being incapable of remedy.

14.2 For the avoidance of doubt if the Contractor Breach is capable of remedy, the provisions of Clause 13 shall apply.

14.3 The Authority's entitlement to terminate this Contract in part as detailed in Clause 14.1 shall include the right to terminate one or more ad-hoc tasks.

- 14.4 Any dispute as to whether a Contractor Breach is capable of remedy may be referred by either Party to the Dispute Resolution process specified in Clause 2.9 above.
- 14.5 In relation to termination in part the notice served under Clause 14.1 shall state by reference to the Schedule of Requirements the part of the services to which the notice relates.
- 14.6 In the event of any termination, the Exit Arrangement set out in Clause 17 (Exit Arrangements) shall apply.

15.0 CONSEQUENCES OF TERMINATION AND EXPIRY

15.1 Accrued Rights

- 15.1.1 The termination of this Contract howsoever arising is without prejudice to the rights, duties and liabilities of either Party accrued prior to termination. The Clauses in this Contract which expressly or impliedly have effect after termination or expiry will continue to be enforceable notwithstanding termination in accordance with Clause 16 (Continuing Obligations).
- 15.1.2 On or before the expiry date or termination date, the Contractor shall ensure that all documents or computer records in its possession, custody or control which contain information relating to the services including any documents in the possession, custody or control of a sub-contractor are delivered up to the Authority.

16.0 CONTINUING OBLIGATIONS

16.1 Save as otherwise expressly provided in this Contract:-

- 16.1.1 The termination or expiry of this Contract shall be without prejudice to any accrued rights and obligations under this Contract as at the expiry date or the termination date; and
- 16.1.2 The termination or expiry of this Contract shall not affect the continuing rights or obligations of the Authority and the Contractor under any provision of this Contract which is expressed to survive expiry or termination or which is required to give effect to such expiry or termination or the consequences of such expiry or termination.

17.0 EXIT ARRANGEMENTS

17.1 DEFCONS

DEFCON 625 (Edn. 10/98) – Co-operation on Expiry of Contract

17.2 GENERAL

- 17.2.1 References to “Replacement Contractor” in this Clause 17 shall mean a contractor selected by the Authority to perform the follow on service after the expiry of this Contract, other than the Contractor.

17.3 EXIT MANAGEMENT PLAN AND RECOMPETITION DATA

- 17.3.1 The Contractor, shall produce and maintain an Exit Management Plan setting out the actions that need to be implemented prior to the Contract expiry date or termination date to ensure an efficient transition of service to a Replacement Contractor or the Authority. This Plan shall incorporate the provision of the Recompensation Data as defined at Annex K.
- 17.3.2 The Exit Management Plan and the Recompensation Data shall be produced, reviewed, maintained and updated by the Contractor throughout the Contract Term as necessary, and in any event no less frequently than at annual intervals. The Contractor shall provide an updated version of the Exit Management Plan and the Recompensation Data to the Authority on each anniversary of the relevant date of Contract Acceptance (or more frequently as may be requested by the Authority). Revised versions of the Exit Management Plan and Recompensation Data shall, without limitation, take into account changes to the Authority parachute inventory either planned or in place.
- 17.3.3 The Authority shall review any Exit Management Plan submitted to it within ten (10) Normal Working Days of receipt and shall notify the Contractor of any required revisions. Revisions shall be discussed with the Authority and incorporated by the Contractor into the Exit Management Plan within ten (10) Normal Working Days of receipt of such required revisions. If the parties cannot agree on any such revision to the Exit Management Plan, the matter shall be escalated through the dispute resolution procedure set out in Clause 2.9 (Dispute Resolution).
- 17.3.4 At least three (3) months before the Expiry Date or if the Contractor receives notice of termination, within ten (10) Normal Working Days of receiving such notice, the Contractor shall provide to the Authority an up to date Exit Management Plan to enable the Contractor to comply with its obligations under this Clause 17. The provisions of Clause 17.3.2 shall apply to any such revisions.
- 17.3.5 The Contractor acknowledges and agrees that it may be required to co-operate with the Authority to ensure an efficient transition following the Contract expiry date in accordance with the provisions of DEFCON 625. If the Authority so requires the Contractor shall continue to provide the services to the Authority in accordance with this Contract beyond the Expiry or Termination Date on the terms of this Contract until such dates as a Replacement Contractor or the Authority, as the case may be, takes over the provision of the services or such other date as the Authority may specify.
- 17.3.6 The Contractor shall:
- a) On request provide the latest version of the Exit Management Plan to the Authority or such other person as the Authority may specify;
 - b) At any time which is less than three (3) years prior to the Expiry Date or otherwise upon three (3) months' notice from the Authority prepare and keep complete and up to date:
 - i) any information in the Contractor's possession or under its control which the Authority requires to produce at the time of a recompensation; and
 - ii) copies of all relevant documentation, in hard and electronic copy, relevant to the services for the purposes of recompensation;
 - c) Whenever reasonably requested by the Authority, supply the Recompensation Data and all such information referred to in this Clause 17.3 to the Authority both in hard and electronic copy within fifteen (15) Normal Working Days (or such other period as the parties acting reasonably may agree) of being requested to do so by the Authority. By entering into this Contract the Contractor acknowledges and agrees that the Recompensation Data and such other information will be transferred to potential

participants in any recompetition and undertakes not to take any steps to prevent or hinder such transfer;

d) Upon expiry or early termination, assign, transfer or novate in favour of the Authority or a Replacement Contractor any necessary contracts as required by the Authority

e) Cooperate in any arrangements notified to him by the Authority, including but not limited to site visits by representatives of companies tendering for a replacement Contract, condition surveys, and performance checks on all facilities used for the purposes of this Contract or to be used in relation to a Replacement Contract;

f) Comply with all legislation and good industry practice relating to staff employed in connection with this Contract whether by the Contractor or someone else, and subject to obtaining appropriate consents in particular in accordance with the Data Protection Act 1998, fully and accurately disclose to the Authority all information relating to staff and other relevant employees as may be reasonably requested by the Authority. The Contractor warrants that information supplied pursuant to this Clause 17.3 shall be complete and accurate in all respects and agrees to indemnify and keep indemnified the Authority in respect of any claims, costs, demands and liabilities arising out of any breach of this warranty;

g) As requested by the Authority and in strict compliance with instructions from the Authority, liaise with any bidders involved in a Recompetition.

17.3.7 The Contractor warrants and represents to the Authority that the Recompetition Data, is in all material respects true, accurate, complete and not misleading.

17.3.8 Without prejudice to the provisions of Clause 17.3.6.f above, on the expiry or termination of this Contract for any reason, both before and after any such expiry or termination, the Contractor shall have the following duties:

a) to carry out any reasonable instructions of the Authority required to give effect to and comply with this Clause 17.3;

b) to provide any information to the Authority in relation to Intellectual Property Rights for the purposes of exercising its rights under Condition 14 (Intellectual Property Rights);

c) to comply with the Exit Management Plan agreed by the Authority in accordance with this Condition 25.3; and

d) as required provide the Authority with the documents and records set out in accordance with RA4953 – Record Keeping.

17.4 The Authority shall confirm its receipt, in writing to the Contractor within thirty (30) Normal Working Days of such receipt, of any assets returned or transferred by the Contractor to the Authority. If any Authority owned assets issued to the Contractor are not returned or transferred the Authority reserves the right to net the price of these assets from the Contract value or pursue the Contractor for the net book value.

18.0 TUPE

18.1 The Contractor shall comply with the terms and conditions listed at Annex L.

Appendix - Addresses and Other Information

1. Commercial Officer

Email: nick.graham759@mod.gov.uk

2. Project Manager, Equipment Support Manager or PT Leader

(from whom technical information is available)

Neil Terrill
Airborne Forces Equipment Manager

Email: neil.terrill100@mod.gov.uk

0. Packaging Design Authority

N/A

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

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

Tel No:

(b) U.I.N.

4. Drawings/Specifications are available from

5. Intentionally Blank

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:

As specified at tasking meetings

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

www.freightcollection.com

11. The Invoice Paying Authority (see Note 1)

Ministry of Defence ☐ 0151-242-DBS

Finance

Walker House, Exchange Flags
2809

Fax: 0151-242-

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 Arncott

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

Applications via fax or email: DESLCSLS-

OpsFormsandPubs@mod.uk

7. Quality Assurance Representative:

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 <http://dstan.uwh.diiif.r.mil.uk/> [intranet] or <https://www.dstan.mod.uk/> [extranet, registration needed].

NOTE

1. Many **DEFCONs** and **DEFFORMs** can be obtained from the MOD Internet Site:

<https://www.aof.mod.uk/aofcontent/tactical/toolkit/index.htm>

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