



Ministry of Defence

FsAST Team

Contract No: 708365451

For:
Spatial Disorientation Trainers 3
(SDT3)

Between the Secretary of State for Defence
of the United Kingdom of Great Britain and
Northern Ireland:

Team Name and address:

FsAST, MOD Abbeywood, NH1 Atrium,
Bristol BS34 8JH

E-mail Address:

[REDACTED under FOI Section 40 – Personal
Information]

And

Contractor Name and address:

AMST-SYSTEMTECHNIK GMBH
LAMPRECHTSHAUSENER STRASSE 63
5282 RANSHOFEN

E-mail Address:

[REDACTED under FOI Section 40 – Personal
Information]

Offer and Acceptance

Offer Of Contract 708365451 for the Provision of maintenance and support to the Spatial Disorientation Trainers

This Contract shall come into effect on the date of signature by both parties.

For and on behalf of the Contractor:

Name and Title	[REDACTED under FOI Section 40 – Personal Information]
Signature	[REDACTED under FOI Section 40 – Personal Information]
Date	

For and on behalf of the Secretary of State for Defence:

Name and Title	[REDACTED under FOI Section 40 – Personal Information]
Signature	[REDACTED under FOI Section 40 – Personal Information]
Date	19/03/2024

Table of Contents

Offer and Acceptance	2
Standardised Contracting Terms	6
SC2 (Edn 12/22)	6
45 Project specific DEFCONs and DEFCON SC variants that apply to this contract.....	37
General Conditions	37
Intellectual Property Rights	37
Payment Terms	38
Special Indemnity Conditions.....	38
DEFCON 23 (SC2).....	38
DEFCON 76 (SC2).....	38
DEFCON 117 (SC2).....	38
DEFCON 532A.....	38
DEFCON 637	38
DEFCON 647 (SC2).....	38
DEFCON 649 (SC2).....	38
DEFCON 658 (SC2).....	38
Note: Further to DEFCON 658 the Cyber Risk Profile of the Contract is Very Low, as defined in Def Stan 05-138 with RAR-370024712	38
DEFCON 660	38
DEFCON 694 (SC2).....	38
Russian and Belarusian Exclusion Condition for Inclusion in Contracts	39
46 Special conditions that apply to this Contract	40
SC2 - ITT - Annex A - Limitation of Contractors Liability	40
Exercise of Options	44
Quality Assurance Conditions	45
Pricing	46
Variation of Price.....	46
47 The processes that apply to this Contract are	48
SC2 Schedules	48
Schedule 1 – Definitions of Contract.....	48

Additional Definitions of Contract iaw. Conditions 45 - 47 (Additional Conditions).....	57
Schedule 2 – Schedule of Requirements.....	58
Schedule 3 – Contract Data Sheet	60
Schedule 4 - Contract Change Control Procedure (i.a.w. Clause 6b)	66
Schedule 5 - Contractor's Commercial Sensitive Information Form (i.a.w. condition 12).....	69
Schedule 6 - Hazardous Contractor Deliverables, Materials or Substances Supplied under the Contract	70
Schedule 7 - Timber and Wood- Derived Products Supplied under the Contract	72
Schedule 8 - Acceptance Procedure (i.a.w. condition 29)	73
Schedule 9 - Publishable Performance Information - Key Performance Indicator Data Report.....	74
Schedule 10 – Notification of Intellectual Property Rights (IPR) Restrictions.....	75
Schedule 11 – Transfer Regulations.....	77
Schedule 12 – DEFFORM 815	88
Schedule 13 - Import and Export Control Information	89
DEFFORM 111	90
Annexes	92
Annex A – Statement of Work.....	93
Annex B – PDS Tasking Form	97
Schedule A to Annex B - PDS Tasking Record	101
Schedule B to Annex B - PDS Tasking Rates	102
Schedule C to Annex B – PDS Tasking Procedure	103
Annex C – Milestone Payment Plan	105
Annex D – DEFFORM 315 Contract Data Requirement	0
Annex E - GFA/Spares.....	3
Annex F – Key Performance Indicators (KPIs)	4
Annex G - Software Agreement - DEFFORM 701 (Edn 12/21)	7
HEAD AGREEMENT FOR LICENCE TERMS FOR COMMERCIAL SOFTWARE PURCHASED BY THE SECRETARY OF STATE FOR DEFENCE	7
ANNEX TO THE HEAD AGREEMENT FOR LICENCE TERMS FOR COMMERCIAL SOFTWARE BETWEEN THE SECRETARY OF STATE FOR DEFENCE AND AMST-SYSTEMTECHNIK GMBH DATED 26.02.2024	9
ATTACHMENT TO ANNEX TO HEAD AGREEMENT - STANDARD FORM OF LICENSING SCHEDULE	17
Annex H – Express Warranty for Upgraded SDTs - DISO 6 & 7	19
Annex I – Security Aspects Letter.....	23

Annex J – Spares Price List..... 35

Annex K - Personal Data Aspects Letter 36

Deliverables 37

 All Negotiation Deliverables 38

 Supplier Contractual Deliverables..... 38

 Buyer Contractual Deliverables 42

Standardised Contracting Terms

SC2 (Edn 12/22)

General Conditions

1..... **General**

- a. The defined terms in the Contract shall be as set out in Schedule 1.
- b. The Contractor shall comply with all applicable Legislation, whether specifically referenced in this Contract or not.
- c. The Contractor warrants and represents, that:
 - (1) they have the full capacity and authority to enter into, and to exercise their rights and perform their obligations under, the Contract;
 - (2) from the Effective Date of Contract and for so long as the Contract remains in force it shall give the Authority Notice of any litigation, arbitration (unless expressly prohibited from doing so in accordance with the terms of the arbitration), administrative or adjudication or mediation proceedings before any court, tribunal, arbitrator, administrator or adjudicator or mediator or relevant authority against themselves or a Subcontractor which would adversely affect the Contractor's ability to perform their obligations under the Contract;
 - (3) as at the Effective Date of Contract no proceedings or other steps have been taken and not discharged (nor, to the best of the knowledge of the Contractor, threatened) for the winding-up of the company or dissolution or for the appointment of a receiver, administrative receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues;
 - (4) for so long as the Contract remains in force they shall give the Authority Notice of any proceedings or other steps that have been taken but not discharged (nor to the best of the knowledge of the Contractor, threatened) for the winding-up of the company or dissolution or for the appointment of a receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues.
- d. Unless the context otherwise requires:
 - (1) The singular includes the plural and vice versa, and the masculine includes the feminine and vice versa.
 - (2) The words "include", "includes", "including" and "included" are to be construed as if they were immediately followed by the words "without limitation", except where explicitly stated otherwise.
 - (3) The expression "person" means any individual, firm, body corporate, unincorporated association or partnership, government, state or agency of a state or joint venture.
 - (4) References to any statute, enactment, order, regulation, or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation, or instrument as amended, supplemented, replaced or consolidated by any subsequent statute, enactment, order, regulation, or instrument.
 - (5) The heading to any Contract provision shall not affect the interpretation of that provision.
 - (6) Any decision, act or thing which the Authority is required or authorised to take or do under the Contract may be taken or done only by the person (or its nominated deputy) authorised in Schedule 3 (Contract Data Sheet) to take or do that decision, act, or thing on behalf of the Authority.
 - (7) Unless excluded within the Conditions of the Contract or required by law, references to submission of documents in writing shall include electronic submission.

2..... **Duration of Contract**

This Contract comes into effect on the Effective Date of Contract and will expire automatically on the date identified in Schedule 3 (Contract Data Sheet) unless it is otherwise terminated in accordance with the provisions of the Contract, or otherwise lawfully terminated.

3..... **Entire Agreement**

This Contract constitutes the entire agreement between the Parties relating to the subject matter of the Contract. The Contract supersedes, and neither Party has relied upon, any prior negotiations, representations and undertakings, whether written or oral, except that this Condition shall not exclude liability in respect of any fraudulent misrepresentation.

4..... Governing Law

a. Subject to clause 4.d, the Contract shall be considered as a contract made in England and subject to English Law.

b. Subject to clause 4.d and Condition 40 (Dispute Resolution) and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of England to resolve, and the laws of England to govern, any actions proceedings, controversy or claim of whatever nature arising out of or relating to the Contract or breach thereof.

c. Subject to clause 4.d any dispute arising out of or in connection with the Contract shall be determined within the English jurisdiction and to the exclusion of all other jurisdictions save that other jurisdictions may apply solely for the purpose of giving effect to this Condition 4 and for the enforcement of any judgment, order or award given under English jurisdiction.

d. If the Parties pursuant to the Contract agree that Scots Law should apply then the following amendments shall apply to the Contract:

(1) Clause 4.a, 4.b and 4.c shall be amended to read:

“a. The Contract shall be considered as a contract made in Scotland and subject to Scots Law.

b. Subject to Condition 40 (Dispute Resolution) and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of Scotland to resolve, and the laws of Scotland to govern, any actions, proceedings, controversy or claim of whatever nature arising out of or relating to the Contract or breach thereof.

c. Any dispute arising out of or in connection with the Contract shall be determined within the Scottish jurisdiction and to the exclusion of all other jurisdictions save that other jurisdictions may apply solely for the purpose of giving effect to this Condition 4 and for the enforcement of any judgment, order or award given under Scottish jurisdiction.”

(2) Clause 40.b shall be amended to read:

“In the event that the dispute or claim is not resolved pursuant to clause 40.a the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause 40.b shall be governed by the Arbitration (Scotland) Act 2010. The seat of the arbitration shall be Scotland. For the avoidance of doubt, for the purpose of arbitration the tribunal shall have the power to make provisional awards pursuant to Rule 53 of the Scottish Arbitration Rules, as set out in Schedule 1 to the Arbitration (Scotland) Act 2010.”

e. Each Party warrants to each other that entry into the Contract does not, and the performance of the Contract will not, in any way violate or conflict with any provision of law, statute, rule, regulation, judgement, writ, injunction, decree or order applicable to it. Each Party also warrants that the Contract does not conflict with or result in a breach or termination of any provision of, or constitute a default under, any mortgage, contract or other liability, charge or encumbrance upon any of its properties or other assets.

f. Each Party agrees with each other Party that the provisions of this Condition 4 shall survive any termination of the Contract for any reason whatsoever and shall remain fully enforceable as between the Parties notwithstanding such a termination.

g. Where the Contractor's place of business is not in England or Wales (or Scotland where the Parties agree pursuant to the Contract that Scots Law should apply), the Contractor irrevocably appoints the solicitors or other persons in England and Wales (or Scotland where the Parties agree pursuant to the Contract that Scots Law should apply) detailed in Schedule 3 (Contract Data Sheet) as their agents to accept on their behalf service of all process and other documents of whatever description to be served on the Contractor in connection with any litigation or arbitration within the English jurisdiction (or Scottish jurisdiction where the Parties agree pursuant to the Contract that Scots Law should apply) arising out of or relating to the Contract or any issue connected therewith.

5..... Precedence

a. If there is any inconsistency between the different provisions of the Contract the inconsistency shall be resolved according to the following descending order of precedence:

- (1) Conditions 1 - 44 (and 45 - 47, if included in the Contract) of the Conditions of the Contract shall be given equal precedence with Schedule 1 (Definitions of Contract) and Schedule 3 (Contract Data Sheet);
- (2) Schedule 2 (Schedule of Requirements) and Schedule 8 (Acceptance Procedure);
- (3) the remaining Schedules; and
- (4) any other documents expressly referred to in the Contract.

b. If either Party becomes aware of any inconsistency within or between the documents referred to in clause 5.a such Party shall notify the other Party forthwith and the Parties will seek to resolve that inconsistency on the basis of the order of precedence set out in clause 5.a. Where the Parties fail to reach agreement, and if either Party considers the inconsistency to be material to its rights and obligations under the Contract, then the matter will be referred to the dispute resolution procedure in accordance with Condition 40 (Dispute Resolution).

6..... Formal Amendments to the Contract

a. Except as provided in Condition 31 and subject to clause 6.c, the Contract may only be amended by the written agreement of the Parties (or their duly authorised representatives acting on their behalf). Such written agreement shall consist of:

- (1) the Authority Notice of Change under Schedule 4 (Contract Change Control Procedure) (where used) and;
- (2) the Contractor's unqualified acceptance of the contractual amendments as evidenced by the DEFFORM 10B duly signed by the Contractor.

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

c. Where the Authority wishes to amend the Contract to incorporate any work that is unpriced at the time of amendment:

- (1) if the Contract is not a Qualifying Defence Contract, the Authority shall have the right to settle with the Contractor a price for such work under the terms of DEFCON 643 (SC2) or DEFCON 127. Where DEFCON 643 (SC2) is used, the Contractor shall make all appropriate arrangements with all its Subcontractors affected by the Change or Changes in accordance with clause 5 of DEFCON 643 (SC2); or
- (2) if the Contract is a Qualifying Defence Contract, the Contract Price shall be redetermined on amendment in accordance with the Defence Reform Act 2014 and Single Source Contract Regulations 2014 (each as amended from time to time).

Changes to the Specification

d. The Specification forms part of the Contract and all Contract Deliverables to be supplied by the Contractor under the Contract shall conform in all respects with the Specification.

e. The Contractor shall use a configuration control system to control all changes to the Specification. The configuration control system shall be compatible with ISO 9001 (latest published version) or as specified in the Contract.

7..... Authority Representatives

a. Any reference to the Authority in respect of:

- (1) the giving of consent;
- (2) the delivering of any Notices; or
- (3) the doing of any other thing that may reasonably be undertaken by an individual acting on behalf of the Authority,

shall be deemed to be references to the Authority's Representatives in accordance with this Condition 7.

b. The Authority's Representatives detailed in Schedule 3 (Contract Data Sheet) (or their nominated deputy) shall have full authority to act on behalf of the Authority for all purposes of the Contract. Unless notified in writing before such act or instruction, the Contractor shall be entitled to treat any act of the Authority's Representatives which is authorised by the Contract as being expressly authorised by the Authority and the Contractor shall not be required to determine whether authority has in fact been given.

c. In the event of any change to the identity of the Authority's Representatives, the Authority shall provide written confirmation to the Contractor, and shall update Schedule 3 (Contract Data Sheet) in accordance with Condition 6 (Formal Amendments to the Contract).

8..... Severability

a. If any provision of the Contract is held to be invalid, illegal or unenforceable to any extent then:

(1) such provision shall (to the extent that it is invalid, illegal or unenforceable) be given no effect and shall be deemed not to be included in the Contract but without invalidating any of the remaining provisions of the Contract; and

(2) the Parties shall use all reasonable endeavours to replace the invalid, illegal or unenforceable provision by a valid, legal and enforceable substitute provision the effect of which is as close as possible to the intended effect of the invalid, illegal or unenforceable provision.

9..... Waiver

a. No act or omission of either Party shall by itself amount to a waiver of any right or remedy unless expressly stated by that Party in writing. In particular, no reasonable delay in exercising any right or remedy shall by itself constitute a waiver of that right or remedy.

b. No waiver in respect of any right or remedy shall operate as a waiver in respect of any other right or remedy.

10..... Assignment of Contract

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

11..... Third Party Rights

Notwithstanding anything to the contrary elsewhere in the Contract, no right is granted to any person who is not a Party to the Contract to enforce any term of the Contract in its own right and the Parties to the Contract declare that they have no intention to grant any such right.

12..... Transparency

a. Notwithstanding any other term of this Contract, including Condition 13 (Disclosure of Information), the Contractor understands that the Authority may publish the Transparency Information and Publishable Performance Information to the general public.

b. Subject to clause 12.c the Authority shall publish and maintain an up-to-date version of the Transparency Information and Publishable Performance Information in a format readily accessible and reusable by the general public under an open licence where applicable.

c. If, in the Authority's reasonable opinion, publication of any element of the Transparency Information and Publishable Performance Information would be contrary to the public interest, the Authority shall be entitled to exclude such Information from publication. The Authority acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information and Publishable Performance Information in its entirety. Accordingly, the Authority acknowledges that it shall only exclude Transparency Information and Publishable Performance Information from publication in exceptional circumstances and agrees that where it decides to exclude Information from publication on that basis, it will provide a clear statement to the general public explaining the categories of information that have been excluded from publication and reasons for withholding that information.

d. The Contractor shall assist and co-operate with the Authority as reasonably required to enable the Authority to publish the Transparency Information and Publishable Performance Information, in accordance with the principles set out above, including through compliance with the requirements relating to the preparation of Publishable Performance Information set out in clause 12.e to 12.i. Where the Authority publishes Transparency Information, it shall:

- (1) before publishing, redact any Information that would be exempt from disclosure if it was the subject of a request for information under the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004 (EIR), for the avoidance of doubt, including Sensitive information;
- (2) taking account the Sensitive Information set out in Schedule 5, consult with the Contractor where the Authority intends to publish Information which has been identified as Sensitive Information. For the avoidance of doubt the Authority, acting reasonably, shall have absolute discretion to decide what information shall be published or be exempt from disclosure in accordance with the FOIA and/or the EIR; and
- (3) present information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how this Contract is being performed.

Publishable Performance Information

e. Within three (3) months of the effective date of Contract the Contractor shall provide to the Authority for its approval (such approval shall not be unreasonably withheld or delayed) a draft Publishable Performance Information KPI Data Report consistent with the content requirements of Schedule 9.

f. If the Authority rejects any draft Publishable Performance Information the Contractor shall submit a revised version of the relevant KPI Data Report for further approval by the Authority with five (5) business days of receipt of any notice or rejection, taking account of any recommendations for revision and improvement to the report provided by the Authority. This process shall be repeated until the parties have an agreed version of the Publishable Performance Information.

g. The Contractor shall provide an accurate and up-to-date version of the KPI Data Report to the Authority for each quarter at the frequency referred to in the agreed Schedule 9.

h. Any dispute in connection with the preparation and/or approval of Publishable Performance Information, other than under clause 12.f, shall be resolved in accordance with the dispute resolution procedure provided for in this Contract.

i. The requirements of this Condition are in addition to any other reporting requirements in this Contract.

13. Disclosure of Information

a. Subject to clauses 13.d to 13.i and Condition 12 each Party:

- (1) shall treat in confidence all Information it receives from the other;
- (2) shall not disclose any of that Information to any third party without the prior written consent of the other Party, which consent shall not unreasonably be withheld, except that the Contractor may disclose Information in confidence, without prior consent, to such persons and to such extent as may be necessary for the performance of the Contract;
- (3) shall not use any of that Information otherwise than for the purpose of the Contract; and
- (4) shall not copy any of that Information except to the extent necessary for the purpose of exercising its rights of use and disclosure under the Contract.

b. The Contractor shall take all reasonable precautions necessary to ensure that all Information disclosed to the Contractor by or on behalf of the Authority under or in connection with the Contract:

- (1) is disclosed to their employees and Subcontractors, only to the extent necessary for the performance of the Contract; and
- (2) is treated in confidence by them and not disclosed except with the prior written consent of the Authority or used otherwise than for the purpose of performing work or having work performed for the Authority under the Contract or any subcontract.

c. The Contractor shall ensure that their employees are aware of the Contractor's arrangements for discharging the obligations at clauses 13.a and 13.b before receiving Information and shall take such steps as may be reasonably practical to enforce such arrangements.

d. A Party shall not be in breach of Clauses 13.a, 13.b, 13.f, 13.g and 13.h to the extent that either Party:

- (1) exercises rights of use or disclosure granted otherwise than in consequence of, or under, the Contract;
- (2) has the right to use or disclose the Information in accordance with other Conditions of the Contract; or
- (3) can show:
 - (a) that the Information was or has become published or publicly available for use otherwise than in breach of any provision of the Contract or any other agreement between the Parties;
 - (b) that the Information was already known to it (without restrictions on disclosure or use) prior to receiving the Information under or in connection with the Contract;
 - (c) that the Information was received without restriction on further disclosure from a third party which lawfully acquired the Information without any restriction on disclosure; or
 - (d) from its records that the same Information was derived independently of that received under or in connection with the Contract;

provided that the relationship to any other Information is not revealed.

e. Neither Party shall be in breach of this Condition where it can show that any disclosure of Information was made solely and to the extent necessary to comply with a statutory, judicial or parliamentary obligation. Where such a disclosure is made, the Party making the disclosure shall ensure that the recipient of the Information is made aware of and asked to respect its confidentiality. Such disclosure shall in no way diminish the obligations of the Parties under this Condition.

f. The Authority may disclose the Information:

- (1) to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body, which shall include: disclosure to the Cabinet Office and/or HM Treasury for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes. Where such a disclosure is made the Authority shall ensure that the recipient is made aware of its confidentiality;
- (2) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
- (3) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- (4) subject to clause 13.g below, on a confidential basis to a professional adviser, consultant or other person engaged by any of the entities defined in Schedule 1 (including benchmarking organisations) for any purpose relating to or connected with the Contract;
- (5) subject to clause 13.g below, on a confidential basis for the purpose of the exercise of its rights under the Contract; or
- (6) on a confidential basis to a proposed body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under the Contract;

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Authority under this Condition.

g. Where the Authority intends to disclose Information to a commercial entity which is not a Central Government Body in accordance with clauses 13.f.(4) or 13.f.(5) above, the Authority will endeavour to provide the Contractor with 3 Business Days' notice in advance of such disclosure. In relation to a disclosure of Information made under clause 13.f.(3) above, if reasonably requested by the Contractor within 2 Business Days of such notice being given, where the Authority has not already done so, it will endeavour to procure from the intended recipient of the Information an agreement containing confidentiality terms the same as, or substantially similar to, those placed on the Authority under this Condition.

h. Before sharing any Information in accordance with clause 13.f, the Authority may redact the Information. Any decision to redact Information made by the Authority shall be final.

i. The Authority shall not be in breach of the Contract where disclosure of Information is made solely and to the extent necessary to comply with the Freedom of Information Act 2000 (the "Act") or the Environmental Information Regulations 2004 (the "Regulations"). To the extent permitted by the time for compliance under the Act or the Regulations, the Authority shall consult the Contractor where the Authority is considering the disclosure of Information under the Act or the Regulations and, in any event, shall provide prior notification

to the Contractor of any decision to disclose the Information. The Contractor acknowledges and accepts that their representations on disclosure during consultation may not be determinative and that the decision whether to disclose Information in order to comply with the Act or the Regulations is a matter in which the Authority shall exercise its own discretion, subject always to the provisions of the Act or the Regulations.

j. Nothing in this Condition shall affect the Parties' obligations of confidentiality where Information is disclosed orally in confidence.

14. Publicity and Communications with the Media

The Contractor shall not and shall ensure that any employee or Subcontractor shall not communicate with representatives of the press, television, radio or other media on any matter concerning the Contract unless the Authority has given its prior written consent.

15. Change of Control of Contractor

a. The Contractor shall notify the Representative of the Authority at the address given in clause 15.b, as soon as practicable, in writing of any intended, planned or actual change in control of the Contractor, including any Subcontractors. The Contractor shall not be required to submit any notice which is unlawful or is in breach of either any pre-existing non-disclosure agreement or any regulations governing the conduct of the Contractor in the UK or other jurisdictions where the Contractor may be subject to legal sanction arising from issuing such a notice.

b. Each notice of change of control shall be taken to apply to all contracts with the Authority. Notices shall be submitted to:

Mergers & Acquisitions Section
Strategic Supplier Management Team
Spruce 3b # 1301
MOD Abbey Wood,
Bristol, BS34 8JH

and emailed to: DefComrcISSM-MergersandAcq@mod.gov.uk

c. The Representative of the Authority shall consider the notice of change of control and advise the Contractor in writing of any concerns the Authority may have. Such concerns may include but are not limited to potential threats to national security, the ability of the Authority to comply with its statutory obligations or matters covered by the declarations made by the Contractor prior to contract award.

d. The Authority may terminate the Contract by giving written notice to the Contractor within six months of the Authority being notified in accordance with clause 15.a. The Authority shall act reasonably in exercising its right of termination under this Condition.

e. If the Authority exercises its right to terminate in accordance with clause 15.d the Contractor shall be entitled to request the Authority to consider making a payment representing any commitments, liabilities or expenditure incurred by the Contractor in connection with the Contract up to the point of termination. Such commitments, liabilities or expenditure shall be reasonably and properly chargeable by the Contractor, and shall otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract. Any payment under this clause 15.e must be fully supported by documentary evidence. The decision whether to make such a payment shall be at the Authority's sole discretion.

f. Notification by the Contractor of any intended, planned or actual change of control shall not prejudice the existing rights of the Authority or the Contractor under the Contract nor create or imply any rights of either the Contractor or the Authority additional to the Authority's rights set out in this Condition.

16. Environmental Requirements

The Contractor shall in all their operations to perform the Contract, adopt a sound proactive environmental approach that identifies, considers, and where possible, mitigates the environmental impacts of their supply chain. The Contractor shall provide evidence of so doing to the Authority on demand.

17..... Contractor's Records

- a. The Contractor and their Subcontractors shall maintain all records specified in and connected with the Contract (expressly or otherwise) and make them available to the Authority when requested on reasonable notice.
- b. The Contractor and their Subcontractors shall also permit access to relevant records that relate to the contractual obligations to supply goods or services under the Contract, held by or controlled by them and reasonably required by the Comptroller and Auditor General, their staff and any appointed representative of the National Audit Office, and provide such explanations and information as reasonably necessary for the following purposes:
- (1) to enable the National Audit Office to carry out the Authority's statutory audits and to examine and/or certify the Authority's annual and interim report and accounts; and
 - (2) to enable the National Audit Office to carry out an examination pursuant to Part II of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources.
- c. With regard to the records made available to the Authority under clause 17.a of this Condition, and subject to the provisions of Condition 13 (Disclosure of Information), the Contractor shall permit records to be examined and if necessary copied, by the Authority, or Representative of the Authority, as the Authority may require.
- d. Unless the Contract specifies otherwise the records referred to in this Condition shall be retained for a period of at least 6 years from:
- (1) the end of the Contract term;
 - (2) the termination of the Contract; or
 - (3) the final payment,
- whichever occurs latest.

18..... Notices

- a. A Notice served under the Contract shall be:
- (1) in writing in the English language;
 - (2) authenticated by signature or such other method as may be agreed between the Parties;
 - (3) sent for the attention of the other Party's Representative, and to the address set out in Schedule 3 (Contract Data Sheet);
 - (4) marked with the number of the Contract; and
 - (5) delivered by hand, prepaid post (or airmail), facsimile transmission or, if agreed in Schedule 3 (Contract Data Sheet), by electronic mail.
- b. Notices shall be deemed to have been received:
- (1) if delivered by hand, on the day of delivery if it is the recipient's Business Day and otherwise on the first Business Day of the recipient immediately following the day of delivery;
 - (2) if sent by prepaid post, on the fourth Business Day (or the tenth Business Day in the case of airmail) after the day of posting;
 - (3) if sent by facsimile or electronic means:
 - (a) if transmitted between 09:00 and 17:00 hours on a Business Day (recipient's time) on completion of receipt by the sender of verification of the transmission from the receiving instrument; or
 - (b) if transmitted at any other time, at 09:00 on the first Business Day (recipient's time) following the completion of receipt by the sender of verification of transmission from the receiving instrument.

19..... Progress Monitoring, Meetings and Reports

- a. The Contractor shall attend progress meetings at the frequency or times (if any) specified in Schedule 3 (Contract Data Sheet) and shall ensure that their Contractor's representatives are suitably qualified to attend such meetings.

b. The Contractor shall submit progress reports to the Authority's Representatives at the times and in the format (if any) specified in Schedule 3 (Contract Data Sheet). The reports shall detail as a minimum:

- (1) performance/Delivery of the Contractor Deliverables;
- (2) risks and opportunities;
- (3) any other information specified in Schedule 3 (Contract Data Sheet); and
- (4) any other information reasonably requested by the Authority.

Supply of Contractor Deliverables

20. Supply of Contractor Deliverables and Quality Assurance

a. The Contractor shall provide the Contractor Deliverables to the Authority, in accordance with the Schedule of Requirements and the Specification, and shall allocate sufficient resource to the provision of the Contractor Deliverables to enable it to comply with this obligation.

b. The Contractor shall:

- (1) comply with any applicable quality assurance requirements specified in Schedule 3 (Contract Data Sheet) in providing the Contractor Deliverables; and
- (2) discharge their obligations under the Contract with all due skill, care, diligence and operating practice by appropriately experienced, qualified and trained personnel.

c. The provisions of clause 20.b. shall survive any performance, acceptance or payment pursuant to the Contract and shall extend to any remedial services provided by the Contractor.

d. The Contractor shall:

- (1) observe, and ensure that the Contractor's Team observe, all health and safety rules and regulations and any other security requirements that apply at any of the Authority's premises;
- (2) notify the Authority as soon as they become aware of any health and safety hazards or issues which arise in relation to the Contractor Deliverables; and
- (3) before the date on which the Contractor Deliverables are to start, obtain, and at all times maintain, all necessary licences and consents in relation to the Contractor Deliverables.

21. Marking of Contractor Deliverables

a. Each Contractor Deliverable shall be marked in accordance with the requirements specified in Schedule 3 (Contract Data Sheet), if no such requirement is specified, the Contractor shall mark each Contractor Deliverable clearly and indelibly in accordance with the requirements of the relevant DEF-STAN 05-132 as specified in the contract or specification. In the absence of such requirements, the Contractor Deliverables shall be marked with the MOD stock reference, NATO Stock Number (NSN) or alternative reference number specified in Schedule 2 (Schedule of Requirements).

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

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

d. Where because of its size or nature it is not possible to mark a Contractor Deliverable with the required particulars, the required information should be included on the package or carton in which the Contractor Deliverable is packed, in accordance with Condition 22 (Packaging and Labelling (excluding Contractor Deliverables containing Munitions)).

22. Packaging and Labelling (excluding Contractor Deliverables containing Munitions)

a. Packaging responsibilities are as follows:

- (1) The Contractor shall be responsible for providing Packaging which fully complies with the requirements of the Contract.
- (2) The Authority shall indicate in the Contract the standard or level of Packaging required for each Contractor Deliverable, including the PPQ. If a standard or level of Packaging (including the PPQ) is

not indicated in the Contract, the Contractor shall request such instructions from the Authority before proceeding further.

(3) The Contractor shall ensure all relevant information necessary for the effective performance of the Contract is made available to all Subcontractors.

(4) Where the Contractor or any of their Subcontractors have concerns relating to the appropriateness of the Packaging design and or MPL prior to manufacture or supply of the Contractor Deliverables they shall use DEFFORM 129B to feedback these concerns to the Contractor or Authority, as appropriate.

b. The Contractor shall supply Commercial Packaging meeting the standards and requirements of Def Stan 81-041 (Part 1). In addition, the following requirements apply:

(1) The Contractor shall provide Packaging which:

(a) will ensure that each Contractor Deliverable may be transported and delivered to the consignee named in the Contract in an undamaged and serviceable condition; and

(b) is labelled to enable the contents to be identified without need to breach the package; and

(c) is compliant with statutory requirements and this Condition.

(2) The Packaging used by the Contractor to supply identical or similar Contractor Deliverables to commercial customers or to the general public (i.e. point of sale packaging) will be acceptable, provided that it complies with the following criteria:

(a) reference in the Contract to a PPQ means the quantity of a Contractor Deliverable to be contained in an individual package, which has been selected as being the most suitable for issue(s) to the ultimate user;

(b) Robust Contractor Deliverables, which by their nature require minimal or no packaging for commercial deliveries, shall be regarded as "PPQ packages" and shall be marked in accordance with clauses 22.i to 22.l. References to "PPQ packages" in subsequent text shall be taken to include Robust Contractor Deliverables; and

(c) for ease of handling, transportation and delivery, packages which contain identical Contractor Deliverables may be bulked and overpacked, in accordance with clauses 22.i to 22.k.

c. The Contractor shall ascertain whether the Contractor Deliverables being supplied are, or contain, Dangerous Goods, and shall supply the Dangerous Goods in accordance with:

(1) The Health and Safety At Work Act 1974 (as amended);

(2) The Classification Hazard Information and Packaging for Supply Regulations (CHIP4) 2009 (as amended);

(3) The REACH Regulations 2007 (as amended); and

(4) The Classification, Labelling and Packaging Regulations (CLP) 2009 (as amended).

d. The Contractor shall package the Dangerous Goods as limited quantities, excepted quantities or similar derogations, for UK or worldwide shipment by all modes of transport in accordance with the regulations relating to the Dangerous Goods and:

(1) The Safety Of Lives At Sea Regulations (SOLAS) 1974 (as amended); and

(2) The Air Navigation (Amendment) Order 2019.

e. As soon as possible, and in any event no later than one month before delivery is due, the Contractor shall provide a Safety Data Sheet in respect of each Dangerous Good in accordance with the REACH Regulations 2007 (as amended) and the Health and Safety At Work Act 1974 (as amended) and in accordance with Condition 24 (Supply of Hazardous Materials or Substances in Contractor Deliverables).

f. The Contractor shall comply with the requirements for the design of MLP which include clauses 22.f and 22.g as follows:

(1) Where there is a requirement to design UK or NATO MLP, the work shall be undertaken by an MPAS registered organisation, or one that although non-registered is able to demonstrate to the Authority that their quality systems and military package design expertise are of an equivalent standard.

(a) The MPAS certification (for individual designers) and registration (for organisations) scheme details are available from:

DES LSOC SpSvcs--SptEng-Pkg1

MOD Abbey Wood

Bristol, BS34 8JH

Tel. +44(0)30679-35353

DESLSOC-SpSvcs-SptEng-Pkg1@mod.gov.uk

(b) The MPAS Documentation is also available on the DStan website.

(2) MLP shall be designed to comply with the relevant requirements of Def Stan 81-041, and be capable of meeting the appropriate test requirements of Def Stan 81-041 (Part 3). Packaging designs shall be prepared on a SPIS, in accordance with Def Stan 81-041 (Part 4).

(3) The Contractor shall ensure a search of the SPIS index (the 'SPIN') is carried out to establish the SPIS status of each requirement (using DEFFORM 129a 'Application for Packaging Designs or their Status').

(4) New designs shall not be made where there is an existing usable SPIS, or one that may be easily modified.

(5) Where there is a usable SFS, it shall be used in place of a SPIS design unless otherwise stated by the Contract. When an SFS is used or replaces a SPIS design, the Contractor shall upload this information on to SPIN in Adobe PDF.

(6) All SPIS, new or modified (and associated documentation), shall, on completion, be uploaded by the Contractor on to SPIN. The format shall be Adobe PDF.

(7) Where it is necessary to use an existing SPIS design, the Contractor shall ensure the Packaging manufacturer is a registered organisation in accordance with clause 22.f.(1) above, or if un-registered, is compliant with MPAS ANNEX A Supplement (Code) M. The Contractor shall ensure, as far as possible, that the SPIS is up to date.

(8) The documents supplied under clause 22.f.(6) shall be considered as a contract data requirement and be subject to the terms of DEFCON 15 and DEFCON 21.

g. Unless otherwise stated in the Contract, one of the following procedures for the production of new or modified SPIS designs shall be applied:

(1) If the Contractor or their Subcontractor is the PDA they shall:

(a) On receipt of instructions received from the Authority's representative nominated in Box 2 Annex A to Schedule 3 (Contract Data Sheet), prepare the required package design in accordance with clause 22.f.

(b) Where the Contractor or their Subcontractor is registered, they shall, on completion of any design work, provide the Authority with the following documents electronically:

- i. a list of all SPIS which have been prepared or revised against the Contract; and
- ii. a copy of all new / revised SPIS, complete with all continuation sheets and associated drawings, where applicable, to be uploaded onto SPIN.

(c) Where the PDA is not a registered organisation, then they shall obtain approval for their design from a registered organisation before proceeding, then follow clause 22.g.(1)(b).

(2) Where the Contractor or their Subcontractor is not the PDA and is un-registered, they shall not produce, modify, or update SPIS designs. They shall obtain current SPIS design(s) from the Authority or a registered organisation before proceeding with manufacture of Packaging. To allow designs to be provided in ample time, they should apply for SPIS designs as soon as practicable.

(3) Where the Contractor or their Subcontractor is un-registered and has been given authority to produce, modify, and update SPIS designs by the Contract, they shall obtain approval for their design from a registered organisation using DEFFORM 129a before proceeding, then follow clause 22.g.(1)(b).

(4) Where the Contractor or their Subcontractor is not a PDA but is registered, they shall follow clauses 22.g.(1)(a) and 22.g.(1)(b).

h. If special jigs, tooling etc., are required for the production of MLP, the Contractor shall obtain written approval from the Commercial Officer before providing them. Any approval given will be subject to the terms of DEFCON 23 (SC2) or equivalent condition, as appropriate.

i. In addition to any marking required by international or national legislation or regulations, the following

package labelling and marking requirements apply:

- (1) If the Contract specifies UK or NATO MPL, labelling and marking of the packages shall be in accordance with Def Stan 81-041 (Part 6) and this Condition as follows:
 - (a) Labels giving the mass of the package, in kilograms, shall be placed such that they may be clearly seen when the items are stacked during storage.
 - (b) Each consignment package shall be marked with details as follows:
 - i. name and address of consignor;
 - ii. name and address of consignee (as stated in the Contract or order);
 - iii. destination where it differs from the consignee's address, normally either:
 - (i). delivery destination / address; or
 - (ii). transit destination, where delivery address is a point for aggregation / disaggregation and / or onward shipment elsewhere, e.g. railway station, where that mode of transport is used;
 - iv. the unique order identifiers and the CP&F Delivery Label / Form which shall be prepared in accordance with DEFFORM 129J.
 - (i). If aggregated packages are used, their consignment marking and identification requirements are stated at clause 22.I.
- (2) If the Contract specifies Commercial Packaging, an external surface of each PPQ package and each consignment package, if it contains identical PPQ packages, shall be marked, using details of the Contractor Deliverables as shown in the Contract schedule, to state the following:
 - (a) description of the Contractor Deliverable;
 - (b) the full thirteen digit NATO Stock Number (NSN);
 - (c) the PPQ;
 - (d) maker's part / catalogue, serial and / or batch number, as appropriate;
 - (e) the Contract and order number when applicable;
 - (f) the words "Trade Package" in bold lettering, marked in BLUE in respect of trade packages, and BLACK in respect of export trade packages;
 - (g) shelf life of item where applicable;
 - (h) for rubber items or items containing rubber, the quarter and year of vulcanisation or manufacture of the rubber product or component (marked in accordance with Def Stan 81-041);
 - (i) any statutory hazard markings and any handling markings, including the mass of any package which exceeds 3kg gross; and
 - (j) any additional markings specified in the Contract.
- j. Bar code marking shall be applied to the external surface of each consignment package and to each PPQ package contained therein. The default symbology shall be as specified in Def Stan 81-041 (Part 6). As a minimum the following information shall be marked on packages:
 - (1) the full 13-digit NSN;
 - (2) denomination of quantity (D of Q);
 - (3) actual quantity (quantity in package);
 - (4) manufacturer's serial number and / or batch number, if one has been allocated; and
 - (5) the CP&F-generated unique order identifier.
- k. Requirements for positioning bar codes in relation to related text, as well as positioning on package etc., are defined in Def Stan 81-041 (Part 6). If size of the bar code does not allow a label to be directly attached, then a tag may be used. Any difficulties over size or positioning of barcode markings shall initially be referred to the organisation nominated in Box 3 of Annex A to Schedule 3 (Contract Data Sheet).
- l. The requirements for the consignment of aggregated packages are as follows:
 - (1) With the exception of packages containing Dangerous Goods, over-packing for delivery to the consignee shown in the Contract may be used by the consignor to aggregate a number of packages to different Packaging levels, provided that the package contains Contractor Deliverables of only one NSN or class group. Over-packing shall be in the cheapest commercial form consistent with ease of

handling and protection of over-packed items.

(2) Two adjacent sides of the outer container shall be clearly marked to show the following:

- (a) class group number;
- (b) name and address of consignor;
- (c) name and address of consignee (as stated on the Contract or order);
- (d) destination if it differs from the consignee's address, normally either:
 - i. delivery destination / address; or
 - ii. transit destination, if the delivery address is a point of aggregation / disaggregation and / or onward shipment e.g. railway station, where that mode of transport is used;
- (e) where applicable, the reference number of the delivery note produced by CP&F relating to the contents. The consignee's copy of each delivery note shall be placed in the case / container. If the Contractor Deliverables listed in the delivery note are packed in several cases, the consignee's copy shall be placed in the first case and a separate list detailing the contents shall be prepared for each case after the first and placed in the case to which it relates. Each case is to be numbered to indicate both the number of the case and the total number of cases concerned e.g. 1/3, 2/3, 3/3;
- (f) the CP&F-generated shipping label; and
- (g) any statutory hazard markings and any handling markings.

m. Authorisation of the Contractor to undertake Packaging design, or to use a packaging design, that was not part of the original requirement under the Contract, shall be considered as an alteration to the specification in accordance with Condition 6 (Formal Amendments to the Contract).

n. The Contractor shall ensure that timber and wood-containing products supplied under the Contract comply with the provisions of Condition 25 (Timber and Wood-Derived Products) and Annex I and Annex II of the International Standards for Phytosanitary Measures, "Guidelines for Regulating Wood Packaging Material in International Trade", Publication No 15 (ISPM 15).

o. All Packaging shall meet the requirements of the Packaging (Essential Requirements) Regulations 2003 (as amended) where applicable.

p. In any design work the Contractor shall comply with the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (as amended) or equivalent legislation. Evidence of compliance shall be a contractor record in accordance with Condition 17 (Contractor's Records).

q. This Condition is concerned with the supply of Packaging suitable to protect and ease handling, transport and storage of specified items. Where there is a failure of suitable Packaging (a design failure), or Packaging fails and this is attributed to the Packaging supplier, then the supplier shall be liable for the cost of replacing the Packaging.

r. Liability for other losses resulting from Packaging failure or resulting from damage to Packaging, (such as damage to the packaged item etc.), shall be specified elsewhere in the Contract.

s. General requirements for service Packaging, including details of UK and NATO MLP and Commercial Packaging descriptions, are contained in Def Stan 81-041 (Part 1) "Packaging of Defence Materiel". Def Stans, NATO Standardisation Agreements (STANAGs), and further information are available from the DStan internet site at: <https://www.dstan.mod.uk/>

t. Unless specifically stated otherwise in the invitation to tender or the Contract, reference to any standard including Def Stans or STANAGs in any invitation to tender or Contract document means the edition and all amendments extant at the date of such tender or Contract.

u. In the event of conflict between the Contract and Def Stan 81-041, the Contract shall take precedence.

23. Plastic Packaging Tax

a. The Contractor shall ensure that any PPT due in relation to this Contract is paid in accordance with the PPT Legislation.

b. The Contract Price includes any PPT that may be payable by the Contractor in relation to the Contract.

c. On reasonable notice being provided by the Authority, the Contractor shall provide and make available to the Authority details of any PPT they have paid that relates to the Contract.

- d. The Contractor shall notify the Authority, in writing, in the event that there is any adjustment required to the Contract Price in accordance with section 70 of the Finance Act 2021 and, on reasonable notice being provided by the Authority, the Contractor shall provide any such information that the Authority requires in relation to any such adjustment.
- e. In accordance with Condition 17 the Contractor (and their sub-contractors) shall maintain all records relating to PPT and make them available to the Authority when requested on reasonable notice for reasons related to the Contract.
- f. Where the Contractor manufactures, purchases or imports into the UK any Plastic Packaging Component in relation to the Contract the Contractor shall, on reasonable notice being given, provide the Authority with such information and documentation that it requires to enable the Authority to carry out due diligence checks and satisfy itself that the Contractor has complied with the requirements of the PPT Legislation. This shall include, but is not limited to the Contractor providing:
- (1) confirmation of the tax status of any Plastic Packaging Component;
 - (2) documents to confirm that PPT has been properly accounted for;
 - (3) product specifications for the packaging components, including, but not limited to, the weight and composition of the products and any other product specifications that may be required; and
 - (4) copies of any certifications or audits that have been obtained or conducted in relation to the provision of Plastic Packaging Components.
- g. The Authority shall have the right, on providing reasonable notice, to physically inspect or conduct an audit on the Contractor, to ensure any information that has been provided in accordance with clause 23.f above is accurate.
- h. In the event the Contractor is not required to register for PPT they (and to the extent applicable, their sub-contractors) shall provide the Authority with a statement to this effect and, to the extent reasonably required by the Authority on reasonable notice, supporting evidence for that statement.
- i. The Contractor shall provide, on the Authority providing reasonable notice, any information that the Authority may require from the Contractor for the Authority to comply with any obligations it may have under the PPT Legislation.

24. Supply of Data for Hazardous Materials or Substances, Mixtures and Articles in Contractor Deliverables

- a. Nothing in this Condition shall reduce or limit any statutory duty or legal obligation of the Authority or the Contractor.
- b. The Contractor shall provide to the Authority:
- (1) for each Substance, Mixture or Article supplied in meeting the criteria of classification as hazardous in accordance with the GB Classification, Labelling and Packaging (GB CLP) a UK REACH compliant Safety Data Sheet (SDS);
 - (2) where Mixtures supplied do not meet the criteria for classification as hazardous according to GB CLP but contain a hazardous Substance an SDS is to be made available on request; and
 - (3) for each Article whether supplied on its own or part of an assembly that contains a Substance on the UK REACH Authorisation List, Restriction List and/or the Candidate List of Substances of Very High Concern (SVHC) in a proportion greater than 0.1% w/w of the Article, sufficient information, available to the Contractor, to allow safe use of the Article including, as a minimum, the name of that Substance.
- c. For Substances, Mixtures or Articles that meet the criteria list in clause 24.b above:
- (1) if the Contractor becomes aware of new information which may affect the risk management measures or new information on the hazard, the Contractor shall update the SDS/safety information and forward it to the Authority and to the address listed in clause 24.i below; and
 - (2) if the Authority becomes aware of new information that might call into question the appropriateness of the risk management measures identified in the safety information supplied, shall report this information in writing to the Contractor.
- d. The Contractor shall provide to the Authority a completed Schedule 6 (Hazardous Substances, Mixtures and Articles in Contractor Deliverables Supplied under the Contract: Data Requirements) in accordance with Schedule 3 (Contract Data Sheet).

e. If the Substances, Mixtures or Articles in Contractor Deliverables are Ordnance, Munitions or Explosives (OME), in addition to the requirements of the GB CLP and UK REACH the Contractor shall comply with hazard reporting requirements of DEF STAN 07-085 Design Requirements for Weapons and Associated Systems.

f. If the Substances, Mixtures or Articles in Contractor Deliverables, are or contain or embody a radioactive substance as defined in the Ionising Radiation Regulations SI 2017/1075, the Contractor shall additionally provide details in Schedule 6 of:

(1) activity; and

(2) the substance and form (including any isotope).

g. If the Substances, Mixtures or Articles in Contractor Deliverables have magnetic properties which emit a magnetic field, the Contractor shall additionally provide details in Schedule 6 of the magnetic flux density at a defined distance, for the condition in which it is packed.

h. Any SDS to be provided in accordance with this Condition, including any related information to be supplied in compliance with the Contractor's statutory duties under clause 24.b.(1) and 24.c.(1), any information arising from the provisions of clauses 24.f and 24.g and the completed Schedule 6, shall be sent directly to the Authority's Point of Contact as specified in the Schedule 3 as soon as practicable, and no later than one (1) month prior to the Contract delivery date, unless otherwise stated in Schedule 3 (Contract Data Sheet).

i. So that the safety information can reach users without delay, the Authority shall send a copy preferably as an email with attachment(s) in Adobe PDF or MS WORD format, or, if only hardcopy is available, to the addresses below:

(1) Hard copies to be sent to:

Hazardous Stores Information System (HSIS)

Spruce 2C, #1260,

MOD Abbey Wood (South)

Bristol BS34 8JH

(2) Emails to be sent to:

DESEngSfty-QSEPSEP-HSISMulti@mod.gov.uk

j. SDS which are classified above OFFICIAL including Explosive Hazard Data Sheets (EHDS) for OME are not to be sent to HSIS and must be held by the respective Authority Delivery Team.

k. Failure by the Contractor to comply with the requirements of this Condition shall be grounds for rejecting the affected Substances, Mixtures and Articles in Contractor Deliverables. Any withholding of information concerning hazardous Substances, Mixtures or Articles in Contractor Deliverables shall be regarded as a material breach of Contract under Condition 43 (Material Breach) for which the Authority reserves the right to require the Contractor to rectify the breach immediately at no additional cost to the Authority or to terminate the Contract in accordance with Condition 43.

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

25. Timber and Wood-Derived Products

a. All Timber and Wood-Derived Products supplied by the Contractor under the Contract:

(1) shall comply with the Contract Specification; and

(2) must originate either:

(a) from a Legal and Sustainable source; or

(b) from a FLEGT-licensed or equivalent source.

b. In addition to the requirements of clause 25.a, all Timber and Wood-Derived Products supplied by the Contractor under the Contract shall originate from a forest source where management of the forest has full regard for:

(1) identification, documentation and respect of legal, customary and traditional tenure and use rights related to the forest;

(2) mechanisms for resolving grievances and disputes including those relating to tenure and use

rights, to forest management practices and to work conditions; and

(3) safeguarding the basic labour rights and health and safety of forest workers.

c. If requested by the Authority, the Contractor shall provide to the Authority Evidence that the Timber and Wood-Derived Products supplied to the Authority under the Contract comply with the requirements of clause 25.a or 25.b or both.

d. The Authority reserves the right at any time during the execution of the Contract and for a period of five (5) years from final Delivery under the Contract to require the Contractor to produce the Evidence required for the Authority's inspection within fourteen (14) days of the Authority's request.

e. If the Contractor has already provided the Authority with the Evidence required under clause 25.c, the Contractor may satisfy these requirements by giving details of the previous notification and confirming the Evidence remains valid and satisfies the provisions of clauses 25.a or 25.b or both.

f. The Contractor shall maintain records of all Timber and Wood-Derived Products delivered to and accepted by the Authority, in accordance with Condition 17 (Contractor's Records).

g. Notwithstanding clause 25.c, if exceptional circumstances render it strictly impractical for the Contractor to record Evidence of proof of timber origin for previously used Recycled Timber, the Contractor shall support the use of this Recycled Timber with:

(1) a record tracing the Recycled Timber to its previous end use as a standalone object or as part of a structure; and

(2) an explanation of the circumstances that rendered it impractical to record Evidence of proof of timber origin.

h. The Authority reserves the right to decide, except where in the Authority's opinion the timber supplied is incidental to the requirement and from a low risk source, whether the Evidence submitted to it demonstrates compliance with clause 24.a or 24.b, or both. In the event that the Authority is not satisfied, the Contractor shall commission and meet the costs of an Independent Verification and resulting report that will:

(1) verify the forest source of the timber or wood; and

(2) assess whether the source meets the relevant criteria of clause 25.b.

i. The statistical reporting requirement at clause 25.j applies to all Timber and Wood-Derived Products delivered under the Contract. The Authority reserves the right to amend the requirement for statistical reporting, in the event that the UK Government changes the requirement for reporting compliance with the Government Timber Procurement Policy. Amendments to the statistical reporting requirement will be made in accordance with Condition 6 (Formal Amendments to the Contract).

j. The Contractor shall provide to the Authority, a completed Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements), the data or Information the Authority requires in respect of Timber and Wood-Derived Products delivered to the Authority under the Contract, or in respect of each order in the case of a Framework Agreement, or at such other frequency as stated in the Contract. The Contractor shall send all completed Schedule 7s (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements), including nil returns where appropriate, to the Authority's Representative (Commercial).

k. The Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements) may be amended by the Authority from time to time, in accordance with Condition 6 (Formal Amendments to the Contract).

l. The Contractor shall obtain any wood, other than processed wood, used in Packaging from:

(1) companies that have a full registered status under the Forestry Commission and Timber Packaging and Pallet Confederation's UK Wood Packaging Material Marking Programme (more detailed information can be accessed at www.forestry.gov.uk) and all such wood shall be treated for the elimination of raw wood pests and marked in accordance with that Programme; or

(2) sources supplying wood treated and marked so as to conform to Annex I and Annex II of the International Standard for Phytosanitary Measures, "Guidelines for Regulating Wood Packaging Material in International Trade", Publication No 15 published by the Food and Agricultural Organisation of the United Nations (ISPM15) (more detailed information can be accessed at www.fao.org).

- a. Where required in Schedule 3 (Contract Data Sheet) the Contractor shall provide a Certificate of Conformity (CofC) in accordance with Schedule 2 (Schedule of Requirements) and any applicable Quality Plan. One copy of the CofC shall be sent to the Authority's Representative (Commercial) upon Delivery, and one copy shall be provided to the Consignee upon Delivery.
- b. Each CofC should include the wording "Certificate of Conformity" in the title of the document to allow for easy identification. One CofC is to be used per NSN/part number; a CofC must not cover multiple line items.
- c. The Contractor shall consider the CofC to be a record in accordance with Condition 17 (Contractor's Records).
- d. The Information provided on the CofC shall include:
 - (1) Contractor's name and address;
 - (2) Contractor unique CofC number;
 - (3) Contract number and where applicable Contract amendment number;
 - (4) details of any approved concessions;
 - (5) acquirer name and organisation;
 - (6) Delivery address;
 - (7) Contract Item Number from Schedule 2 (Schedule of Requirements);
 - (8) description of Contractor Deliverable, including part number, specification and configuration status;
 - (9) NATO Stock Number (NSN) (where allocated);
 - (10) identification marks, batch and serial numbers in accordance with the Specification;
 - (11) quantities;
 - (12) a signed and dated statement by the Contractor that the Contractor Deliverables comply with the requirements of the Contract and approved concessions.

Exceptions or additions to the above are to be documented.

- e. Where Schedule 2 (Schedule of Requirements) and any applicable Quality Plan require demonstration of traceability and design provenance through the supply chain the Contractor shall include in any relevant subcontract the requirement for the Information called for at clause 26.d. The Contractor shall ensure that this Information is available to the Authority through the supply chain upon request in accordance with Condition 17 (Contractor Records).

27..... Access to Contractor's Premises

- a. The Contractor shall provide to the Authority's Representatives following reasonable Notice, relevant accommodation/facilities, at no direct cost to the Authority, and all reasonable access to their premises for the purpose of monitoring the Contractor's progress and quality standards in performing the Contract.
- b. As far as reasonably practical, the Contractor shall ensure that the provisions of clause 27.a are included in their subcontracts with those suppliers identified in the Contract. The Authority, through the Contractor, shall arrange access to such Subcontractors.

28..... Delivery / Collection

- a. Schedule 3 (Contract Data Sheet) shall specify whether the Contractor Deliverables are to be Delivered to the Consignee by the Contractor or Collected from the Consignor by the Authority.
- b. Where the Contractor Deliverables are to be Delivered by the Contractor (or a third party acting on behalf of the Contractor), the Contractor shall, unless otherwise stated in writing:
 - (1) contact the Authority's Representative as detailed in Schedule 3 (Contract Data Sheet) in advance of the Delivery Date in order to agree administrative arrangements for Delivery and provide any Information pertinent to Delivery requested;
 - (2) comply with any special instructions for arranging Delivery in Schedule 3 (Contract Data Sheet);
 - (3) ensure that each consignment of the Contractor Deliverables is accompanied by, (as specified in Schedule 3 (Contract Data Sheet)), a DEFFORM 129J in accordance with the instructions;

- (4) be responsible for all costs of Delivery; and
 - (5) Deliver the Contractor Deliverables to the Consignee at the address stated in Schedule 2 (Schedule of Requirements) by the Delivery Date between the hours agreed by the Parties.
- c. Where the Contractor Deliverables are to be Collected by the Authority (or a third party acting on behalf of the Authority), the Contractor shall, unless otherwise stated in writing:
- (1) contact the Authority's Representative (Transport) as detailed in box 10 of Annex A to Schedule 3 (Contract Data Sheet) in advance of the Delivery Date in order to agree specific arrangements for Collection and provide any Information pertinent to the Collection requested;
 - (2) comply with any special instructions for arranging Collection in Schedule 3 (Contract Data Sheet);
 - (3) ensure that each consignment of the Contractor Deliverables is accompanied by, (as specified in Schedule 3 (Contract Data Sheet)), a DEFFORM 129J in accordance with the instructions;
 - (4) ensure that the Contractor Deliverables are available for Collection by the Authority from the Consignor (as specified in Schedule 3 (Contract Data Sheet)) by the Delivery Date between the hours agreed by the Parties; and
 - (5) in the case of Overseas consignments, ensure that the Contractor Deliverables are accompanied by the necessary transit documentation. All Customs clearance shall be the responsibility of the Authority's Representative (Transport).
- d. Title and risk in the Contractor Deliverables shall only pass from the Contractor to the Authority:
- (1) on the Delivery of the Contractor Deliverables by the Contractor to the Consignee in accordance with clause 28.b; or
 - (2) on the Collection of the Contractor Deliverables from the Consignor by the Authority once they have been made available for Collection by the Contractor in accordance with clause 28.c.

29. Acceptance

- a. Acceptance of the Contractor Deliverables shall occur in accordance with any acceptance procedure specified in Schedule 8 (Acceptance Procedure). If no acceptance procedure is so specified acceptance shall occur when either:
- (1) the Authority does any act in relation to the Contractor Deliverable which is inconsistent with the Contractor's ownership; or
 - (2) the time limit in which to reject the Contractor Deliverables defined in clause 30.b has elapsed.

30. Rejection and Counterfeit Materiel

Rejection:

- a. If any of the Contractor Deliverables Delivered to the Authority do not conform to the Specification or any other terms of the Contract, then (without limiting any other right or remedy that the Authority may have) the Authority may reject the Contractor Deliverables (in whole or in part). The Authority shall return these Contractor Deliverables to the Contractor at the Contractor's risk and cost.
- b. Rejection of any of the Contractor Deliverables under clause 30.a shall take place by the time limit for rejection specified in Schedule 3 (Contract Data Sheet), or if no such period is specified, the Contractor Deliverables shall be deemed to be accepted within a reasonable period of time.

Counterfeit Materiel:

- c. Where the Authority suspects that any Contractor Deliverable or consignment of Contractor Deliverables contains Counterfeit Materiel, it shall:
- (1) notify the Contractor in writing of its suspicion and reasons therefore;
 - (2) where reasonably practicable, and if requested by the Contractor within 10 Business Days of such notification, (at the Contractor's own risk and expense and subject to any reasonable controls specified by the Authority) afford the Contractor the facility to (i) inspect the Contractor Deliverable or consignment and/or (ii) obtain a sample thereof for validation or testing purposes.
 - (3) at its discretion, provide the Contractor with a sample of the Contractor Deliverable or consignment for validation or testing purposes by the Contractor (at the Contractor's own risk and

expense);

(4) give the Contractor a further 20 Business Days or such other reasonable period agreed by the Authority, from the date of the inspection at 30.c.(2).(i) or the provision of a sample at 30.c.(2).(ii), to comment on whether the Contractor Deliverable or consignment meets the definition of Counterfeit Materiel; and

(5) determine, on the balance of probabilities and strictly on the evidence available to it at the time, whether the Contractor Deliverable or consignment meets the definition of Counterfeit Materiel.

d. Where the Authority has determined that the Contractor Deliverable, part or consignment of Contractor Deliverables contain Counterfeit Material then it may reject the Contractor Deliverable, part or consignment under 30.a and 30.b (Rejection), and provide written notification to the Contractor of the rejection.

e. In addition to its rights under 30.a and 30.b (Rejection), where the Authority has determined that any Contractor Deliverable or consignment of Contractor Deliverables contains Counterfeit Materiel, it shall be entitled to:

(1) retain any Counterfeit Materiel; and/or

(2) retain the whole or any part of such Contractor Deliverable or consignment where it is not possible to separate the Counterfeit Materiel from the rest of the Contractor Deliverable, or consignment;

and such retention shall not constitute acceptance under Condition 29 (Acceptance).

f. Where the Authority intends to exercise its rights under clause 30.e, the Contractor may, subject to the agreement of the Authority (and at the Contractor's own risk and expense and subject to any reasonable controls and timeframe agreed), arrange for:

(1) the separation of Counterfeit Materiel from any Contractor Deliverable or part of a Contractor Deliverable; and/or

(2) the removal of any Contractor Deliverable or part of a Contractor Deliverable that the Authority is reasonably satisfied does not contain Counterfeit Materiel.

g. In respect of any Contractor Deliverable, consignment or part thereof that is retained in accordance with clause 30.e, including where the Authority permits the Contractor to remove non-Counterfeit Materiel under clause 30.f but the Contractor fails to do so within the period agreed and subject to clause 30.k, the Authority shall be entitled to exercise any, all, or any combination of, the following rights:

(1) to dispose of it responsibly, and in a manner that does not permit its reintroduction into the supply chain or market;

(2) to pass it to a relevant investigatory or regulatory authority;

(3) to retain conduct or have conducted further testing including destructive testing, for further investigatory, regulatory or risk management purposes. Results from any such tests shall, at the discretion of the Authority, be shared with the Contractor; and/or

(4) to recover the appropriate, attributable, and reasonable costs incurred by the Authority in respect of testing, storage, access, and/or disposal of it from the Contractor;

and exercise of the rights granted at clauses 30.g.(1) to 30.g.(3) shall not constitute acceptance under Condition 29 (Acceptance).

h. Any scrap or other disposal payment received by the Authority shall be off set against any amount due to the Authority under clause 30.g.(4). If the value of the scrap or other disposal payment exceeds the amount due to the Authority under clause 30.g.(4) then the balance shall accrue to the Contractor.

i. The Authority shall not use a retained Contractor Deliverable or consignment other than as permitted in clauses 30.c – 30.k.

j. The Authority may report a discovery of Counterfeit Materiel and disclose information necessary for the identification of similar materiel and its possible sources.

k. The Contractor shall not be entitled to any payment or compensation from the Authority as a result of the Authority exercising the rights set out in clauses 30.c – 30.k except:

(1) in relation to the balance that may accrue to the Contractor in accordance with clause 30.h; or

(2) where it has been determined in accordance with Condition 40 (Dispute Resolution) that the Authority has made an incorrect determination in accordance with clause 30.c.(5). In such circumstances

the Authority shall reimburse the Contractors reasonable costs of complying with clause 30.c.

31..... Diversion Orders

- a. The Authority shall notify the Contractor at the earliest practicable opportunity if it becomes aware that a Contractor Deliverable is likely to be subject to a Diversion Order.
- b. The Authority may issue a Diversion Order for the urgent delivery of the Contractor Deliverables identified in it. These Contractor Deliverables are to be delivered by the Contractor using the quickest means available as agreed by the Authority.
- c. The Authority reserves the right to cancel the Diversion Order.
- d. If the terms of the Diversion Order are unclear, the Contractor shall immediately contact the Representative of the Authority who issued it for clarification and/or further instruction.
- e. If the Diversion Order increases the quantity of Contractor Deliverables beyond the scope of the Contract, it is to be returned immediately to the Authority's Commercial Officer with an appropriate explanation.
- f. The Contractor shall be entitled to reasonable additional delivery and packaging costs incurred in complying with the Diversion Order or cancellation. Claims are to be submitted by the Contractor to the Authority's Commercial Officer together with applicable receipts and agreed as an amendment to the Contract in accordance with Condition 6 (Formal Amendments to the Contract). The Contractor shall comply with the requirements of the Diversion Order upon receipt of the Diversion Order.

32..... Self-to-Self Delivery

Where it is stated in Schedule 3 (Contract Data Sheet) that any Contractor Deliverable is to be Delivered by the Contractor to their own premises, or to those of a Subcontractor ('self-to-self delivery'), the risk in such a Contractor Deliverable shall remain vested in the Contractor until such time as it is handed over to the Authority.

Licences and Intellectual Property

33..... Import and Export Licences

- a. If, in the performance of the Contract, the Contractor needs to import into the UK or export out of the UK anything not supplied by or on behalf of the Authority and for which a UK import or export licence is required, the responsibility for applying for the licence shall rest with the Contractor. The Authority shall provide the Contractor with sufficient information, certification, documentation and other reasonable assistance in obtaining any necessary UK import or export licence.
- b. When an export licence or import licence or authorisation either singularly or in combination is required from a foreign government for the performance of the Contract, the Contractor shall as soon as reasonably practicable consult with the Authority on the licence requirements. Where the Contractor is the applicant for the licence or authorisation the Contractor shall:
 - (1) ensure that when end use or end user restrictions, or both, apply to all or part of any Contractor Deliverable (which for the purposes of this Condition shall also include information, technical data and software), the Contractor, unless otherwise agreed with the Authority, shall identify in the application:
 - (a) the end user as: Her Britannic Majesty's Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter "HM Government"); and
 - (b) the end use as: For the Purposes of HM Government; and
 - (2) include in the submission for the licence or authorisation a statement that "information on the status of processing this application may be shared with the Ministry of Defence of the United Kingdom".
- c. If the Contractor or any Subcontractor in the performance of the Contract needs to export materiel not previously supplied by or on behalf of the Authority for which an export licence or import licence or authorisation from a foreign government is required, the responsibility for instituting expeditious action to apply for and obtain the licence shall rest with the Contractor or that Subcontractor. For the purposes of this Condition materiel shall mean information, technical data and items, including Contractor Deliverables, components of Contractor Deliverables and software.

d. Where the Contract performance requires the export of materiel for which a foreign export licence or import licence or authorisation is required, the Contractor shall include the dependencies for the export licence or import licence or authorisation application, grant and maintenance in the Contract risk register and in the risk management plan for the Contract, with appropriate review points. Where there is no requirement under the Contract for a risk management plan the Contractor shall submit this information to the Authority's representative.

e. During the term of the Contract and for a period of up to 2 years from completion of the Contract, the Authority may make a written request to the Contractor to seek a variation to the conditions to a foreign export licence or import licence or authorisation to enable the Authority to re-export or re-transfer a licensed or authorised item or licensed or authorised information from the UK to a non-licensed or unauthorised third party. If the Authority makes such a request it will consult with the Contractor before making a determination of whether the Authority or the Contractor is best placed in all the circumstance to make the request. Where, subsequent to such consultation the Authority notifies the Contractor that the Contractor is best placed to make such request:

(1) the Contractor shall, or procure that the Contractor's Subcontractor shall, expeditiously consider whether or not there is any reason why it should object to making the request and, where it has no objection, file an application to seek a variation of the applicable export licence or import licence or authorisation in accordance with the procedures of the licensing authority. Where the Contractor has an objection, the Parties shall meet within five (5) working days to resolve the issue and should they fail the matter shall be escalated to an appropriate level within both Parties' organisations, to include their respective export licensing subject matter experts; and

(2) the Authority shall provide sufficient information, certification, documentation and other reasonable assistance as may be necessary to support the application for the requested variation.

f. Where the Authority determines that it is best placed to make such request the Contractor shall provide sufficient information, certification, documentation and other reasonable assistance as may be necessary to support the Authority to make the application for the requested variation.

g. Where the Authority invokes clause 33.e or 33.f the Authority will pay the Contractor a fair and reasonable charge for this service based on the cost of providing it.

h. Where the Contractor subcontracts work under the Contract, which is likely to be subject to foreign export control, import control or both the Contractor shall use reasonable endeavours to incorporate in each subcontract equivalent obligations to those set out in this Condition. Where it is not possible to include equivalent terms to those set out in this Condition, the Contractor shall report that fact and the circumstances to the Authority.

i. Without prejudice to HM Government's position on the validity of any claim by a foreign government to extra-territoriality, the Authority shall provide the Contractor with sufficient information, certification, documentation and other reasonable assistance to facilitate the granting of export licences or import licences or authorisations by a foreign Government in respect of the performance of the Contract.

j. The Authority shall provide such assistance as the Contractor may reasonably require in obtaining any UK export licences necessary for the performance of the Contract.

k. The Contractor shall use reasonable endeavours to identify whether any Contractor Deliverable is subject to:

(1) a non-UK export licence, authorisation or exemption; or

(2) any other related transfer or export control,

that imposes or will impose end use, end user or re-transfer or re-export restrictions, or restrictions on disclosure to individuals based upon their nationality. This does not include the Intellectual Property-specific restrictions of the type referred to in Condition 34 (Third Party Intellectual Property – Rights and Restrictions).

l. If at any time during the term of the Contract the Contractor becomes aware that all or any part of the Contractor Deliverables are subject to clause 33.k.(1) or 33.k.(2), they shall notify the Authority of this as soon as reasonably practicable by providing details in the DEFFORM 528 or other mutually agreed alternative format. Such notification shall be no later than thirty (30) days of knowledge of any affected Contractor Deliverable and in any event such notification shall be not less than thirty (30) days prior to delivery of the Contractor Deliverables.

m. If the information to be provided under clause 33.l has been provided previously to the Authority by

the Contractor under the Contract, the Contractor may satisfy these requirements by giving details of the previous notification and confirming they remain valid and satisfy the provisions of clause 33.l.

n. During the term of the Contract, the Contractor shall notify the Authority as soon as reasonably practicable of any changes in the information notified previously under clauses 33.l or 33.m of which they become or are aware that would affect the Authority's ability to use, disclose, re-transfer or re-export an item or part of it as is referred to in those clauses by issuing an updated DEFFORM 528 to the Authority.

o. For a period of up to 2 years from completion of the Contract and in response to a specific request by the Authority, the Contractor shall notify the Authority as soon as reasonably practicable of any changes in the information notified previously under clause 33.l or 33.m of which they become aware that would affect the Authority's ability to use, disclose, re-transfer or re-export an item or part of it as is referred to in those clauses by issuing an updated DEFFORM 528 to the Authority.

p. Where following receipt of materiel from a Subcontractor or any of their other suppliers restrictions are notified to the Contractor by that Subcontractor, supplier or other third party or are identified by the Contractor, the Contractor shall immediately inform the Authority by issuing an updated DEFFORM 528. Within [X] days of such notification, the Contractor shall propose to the Authority actions to mitigate the impact of such restrictions. Such proposals may include, where appropriate, mutually supported attempts to obtain removal or modification to the restrictions or to obtain appropriate authorisations from the relevant foreign government. The Authority shall notify the contractor within [X] days of receipt of a proposal whether it is acceptable and where appropriate the Contract shall be modified in accordance with its terms to implement the proposal.

q. If the restrictions prevent the Contractor from performing their obligations under the Contract and have not been removed, modified or otherwise satisfactorily managed within a reasonable time, the Authority may at its absolute discretion elect to amend the contract in accordance with Condition 6 or as otherwise may be provided by the Contract, or to terminate the Contract. Except as set out in clause 33.r, in the event of termination in these circumstances termination shall be on fair and reasonable terms having regard to all the circumstances including payments already made and that would otherwise be due under the Contract, costs incurred by the Contractor and benefits received by the Authority. The Parties, acting in good faith, will use all reasonable endeavours to agree such fair and reasonable terms failing which either Party may refer the matter to dispute resolution in accordance with the provisions in the Contract.

r. In the event that the restrictions notified to the Authority pursuant to clause 33.l were known or ought reasonably have been known by the Contractor (but were not disclosed) at contract award or if restrictions notified to the Authority pursuant to clauses 33.n or 33.p were known or ought reasonably to have been known by the Contractor at the date of submission of the most recent DEFFORM 528 submitted to the Authority in accordance with clause 33.l, termination under clause 33.q will be in accordance with Condition 43 (Material Breach) and the provisions of clause 33.v will not apply.

s. The Authority shall use reasonable endeavours to identify any export control restrictions applying to materiel to be provided to the Contractor as Government Furnished Assets (GFA). Where the Authority is to provide materiel necessary to enable the Contractor to perform the Contract or in respect of which the Services are to be provided, and that materiel is subject to a non-UK export licence, authorisation, exemption or other related transfer or export control as described in the provisions of clause 32.k, the Authority shall provide a completed DEFFORM 528 or will provide a new or updated DEFFORM 528 to the Contractor within thirty (30) days of the date of knowledge and in any case not later than thirty (30) days prior to the delivery of such materiel to the Contractor.

t. In the event that the Authority becomes aware that the DEFFORM 528 disclosure was incomplete or inaccurate or in the event additional such materiel is identified then the Authority shall provide, as soon as reasonably practicable a new or revised DEFFORM 528. In the event that the Authority becomes aware that a prior disclosure included in DEFFORM 528 submitted to the Contractor was incomplete or inaccurate less than thirty (30) days prior to the delivery to the Contractor of any material to which the updated or new disclosure relates, the Parties will meet as soon as reasonably practicable to discuss how to mitigate the impact of the incomplete or inaccurate disclosure.

u. Where:

- (1) restrictions are advised by the Authority to the Contractor in a DEFFORM 528 provided pursuant to clauses 33.s or 33.t or both; or
- (2) any of the information provided by the Authority in any DEFFORM 528 proves to be incorrect or inaccurate;

the Authority and the Contractor shall act promptly to mitigate the impact of such restrictions or incorrect or inaccurate information. Such mitigation shall include, where appropriate, mutually supported attempts to obtain removal or modification to the restrictions or to obtain appropriate authorisations from the relevant foreign government. If the restrictions or incorrect or inaccurate information adversely affect the ability of the Contractor to perform their obligations under the Contract, the matter shall be handled under the terms of Condition 6 (Formal Amendments to the Contract) or as may otherwise be provided by the Contract as appropriate and if no alternative solution satisfies the essential terms of the Contract and the restrictions have not been removed, modified or otherwise satisfactorily managed within a reasonable time the Authority may terminate the Contract. Termination under these circumstances will be under the terms of Condition 42 (Termination for Convenience) and as referenced in the Contract.

v. Pending agreement of any amendment of the Contract as set out in clause 33.q or 33.u, provided the Contractor takes such steps as are reasonable to mitigate the impact, the Contractor shall be relieved from their obligations to perform those elements of the Contract directly affected by the restrictions or provision of incorrect or incomplete information.

34. Third Party Intellectual Property – Rights and Restrictions

a. The Contractor and, where applicable any Subcontractor, shall promptly notify the Authority as soon as they become aware of:

- (1) any invention or design the subject of patent or registered Design Rights (or application thereof) owned by a third party which appears to be relevant to the performance of the Contract or to use by the Authority of anything required to be done or delivered under the Contract;
- (2) any restriction as to disclosure or use, or obligation to make payments in respect of any other intellectual property (including technical Information) required for the purposes of the Contract or subsequent use by the Authority of anything delivered under the Contract and, where appropriate, the notification shall include such Information as is required by Section 2 of the Defence Contracts Act 1958;
- (3) any allegation of infringement of intellectual property rights made against the Contractor and which pertains to the performance of the Contract or subsequent use by the Authority of anything required to be done or delivered under the Contract.

clause 34.a does not apply in respect of Contractor Deliverables normally available from the Contractor as a Commercial Off The Shelf (COTS) item or service.

b. If the Information required under clause 34.a has been notified previously, the Contractor may meet their obligations by giving details of the previous notification.

c. For COTS Contractor Deliverables patents and registered designs in the UK, in respect of any question arising (by way of an allegation made to the Authority or Contractor, or otherwise) that the manufacture or provision under the Contract of Contractor Deliverables normally available from the Contractor as a COTS item or service is an infringement of a UK patent or registered design not owned or controlled by the Contractor or the Authority, the Contractor shall, subject to the agreement of the third party owning such patent or registered design, be given exclusive conduct of any and all negotiations for the settlement of any claim or the conduct of any litigation arising out of such question. The Contractor shall indemnify the Authority, its officers, agents and employees against any liability and cost arising from such allegation. This Condition shall not apply if:

- (1) the Authority has made or makes an admission of any sort relevant to such question;
- (2) the Authority has entered or enters into any discussions on such question with any third party without the prior written agreement of the Contractor;
- (3) the Authority has entered or enters into negotiations in respect of any relevant claim for compensation in respect of Crown Use under Section 55 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949;
- (4) legal proceedings have been commenced against the Authority or the Contractor in respect of Crown Use, but only to the extent of such Crown Use that has been properly authorised.

d. The indemnity in clause 34.c does not extend to use by the Authority of anything supplied under the Contract where that use was not reasonably foreseeable at the time of the Contract.

e. In the event that the Authority has entered into negotiation in respect of a claim for compensation, or

legal proceedings in respect of the Crown Use have commenced, the Authority shall forthwith authorise the Contractor for the purposes of performing the Contract (but not otherwise) to utilise a relevant invention or design in accordance with Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949 and to use any model, document or information relating to any such invention or design which may be required for that purpose.

f. For all other Contractor Deliverables patents and registered designs in the UK, if a relevant invention or design has been notified to the Authority by the Contractor prior to the Effective Date of Contract, then unless it has been otherwise agreed, under the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949, the Contractor is hereby authorised to utilise that invention or design, notwithstanding the fact that it is the subject of a UK Patent or UK Registered Design, for the purpose of performing the Contract.

g. If, under clause 34.a, a relevant invention or design is notified to the Authority by the Contractor after the Effective Date of Contract, then:

(1) if the owner (or its exclusive licensee) takes or threatens in writing to take any relevant action against the Contractor, the Authority shall issue to the Contractor a written authorisation in accordance with the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949, and

(2) in any event, unless the Contractor and the Authority can agree an alternative course of action, the Authority shall not unreasonably delay the issue of a written authorisation in accordance with the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949.

h. The Authority shall assume all liability and shall indemnify the Contractor, their officers, agents and employees against liability, including the Contractor's costs, as a result of infringement by the Contractor or their suppliers of any patent, utility model, registered design or like protection outside the United Kingdom in the performance of the Contract when such infringement arises from or is incurred by reason of the Contractor following any specification, statement of work or instruction in the Contract or using, keeping or disposing of any item given by the Authority for the purpose of the Contract in accordance with the Contract.

i. The Contractor shall assume all liability and shall indemnify the Authority, its officers, agents and employees against liability, including the Authority's costs, as a result of infringement by the Contractor or their suppliers of any patent, utility model, registered design or like protection outside the UK in the performance of the Contract when such infringement arises from or is incurred otherwise than by reason of the Contractor following any specification, statement of work or instruction in the Contract or using, keeping or disposing of any item given by the Authority for the purpose of the Contract in accordance with the Contract.

j. The Contractor shall not be entitled to any reimbursement of any royalty, licence fee or similar expense incurred in respect of anything to be done under the Contract, where:

(1) a relevant discharge has been given under Section 2 of the Defence Contracts Act 1958, or relevant authorisation in accordance with Sections 55 or 57 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Section 240 of the Copyright, Designs and Patents Act 1988 in respect of any intellectual property; or

(2) any obligation to make payments for intellectual property has not been promptly notified to the Authority under clause 34.a.

k. Where authorisation is given by the Authority under clause 34.e, 34.f or 34.g, to the extent permitted by Section 57 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Section 240 of the Copyright, Designs and Patents Act 1988, the Contractor shall also be:

(1) released from payment whether by way of royalties, licence fees or similar expenses in respect of the Contractor's use of the relevant invention or design, or the use of any relevant model, document or information for the purpose of performing the Contract; and

(2) authorised to use any model, document or information relating to any such invention or design which may be required for that purpose.

l. The Contractor shall assume all liability and indemnify the Authority and its officers, agents and employees against liability, including costs as a result of:

(1) infringement or alleged infringement by the Contractor or their suppliers of any copyright, database right, Design Right or the like protection in any part of the world in respect of any item to be

supplied under the Contract or otherwise in the performance of the Contract;

(2) misuse of any confidential information, trade secret or the like by the Contractor in performing the Contract;

(3) provision to the Authority of any Information or material which the Contractor does not have the right to provide for the purpose of the Contract.

m. The Authority shall assume all liability and indemnify the Contractor, their officers, agents and employees against liability, including costs as a result of:

(1) infringement or alleged infringement by the Contractor or their suppliers of any copyright, database right, Design Right or the like protection in any part of the world in respect of any item provided by the Authority for the purpose of the Contract but only to the extent that the item is used for the purpose of the Contract;

(2) alleged misuse of any confidential Information, trade secret or the like by the Contractor as a result of use of Information provided by the Authority for the purposes of the Contract, but only to the extent that Contractor's use of that Information is for the purposes intended when it was disclosed by the Authority.

n. The general authorisation and indemnity is:

(1) clauses 34.a – 34.m represents the total liability of each Party to the other under the Contract in respect of any infringement or alleged infringement of patent or other Intellectual Property Right (IPR) owned by a third party;

(2) neither Party shall be liable, one to the other, for any consequential loss or damage arising as a result, directly or indirectly, of a claim for infringement or alleged infringement of any patent or other IPR owned by a third party;

(3) a Party against whom a claim is made or action brought, shall promptly notify the other Party in writing if such claim or action appears to relate to an infringement which is the subject of an indemnity or authorisation given under this Condition by such other Party. The notification shall include particulars of the demands, damages and liabilities claimed or made of which the notifying Party has notice;

(4) the Party benefiting from the indemnity or authorisation shall allow the other Party, at its own expense, to conduct any negotiations for the settlement of the same, and any litigation that may arise therefrom and shall provide such information as the other Party may reasonably require;

(5) following a notification under clause 34.n.(3), the Party notified shall advise the other Party in writing within thirty (30) Business Days whether or not it is assuming conduct of the negotiations or litigation. In that case the Party against whom a claim is made or action brought shall not make any statement which might be prejudicial to the settlement or defence of such a claim without the written consent of the other Party;

(6) the Party conducting negotiations for the settlement of a claim or any related litigation shall, if requested, keep the other Party fully informed of the conduct and progress of such negotiations.

o. If at any time a claim or allegation of infringement arises in respect of copyright, database right, Design Right or breach of confidence as a result of the provision of any Contractor Deliverable by the Contractor to the Authority, the Contractor may at their own expense replace the item with an item of equivalent functionality and performance so as to avoid infringement or breach. The Parties will co-operate with one another to mitigate any claim or damage which may arise from use of third party IPR.

p. Nothing in Condition 34 shall be taken as an authorisation or promise of an authorisation under Section 240 of the Copyright, Designs and Patents Act 1988.

q. Notwithstanding any other provisions of the Contract and for the avoidance of doubt, award of the Contract by the Authority and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Contractor acknowledges that any such authorisation by the Authority under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific intellectual property involved.

Notification of Intellectual Property Rights (IPR) Restrictions

r. Where any of the conditions listed below (1 to 3) have been added to the Conditions of the Contract as project specific DEFCONs at Clause 45, or where required by Clauses 34.a. - 34.q., the Contractor warrants and confirms that all Intellectual Property Rights restrictions and associated export restrictions

relating to the use or disclosure of the Contractor Deliverables that are notifiable under those Conditions, or of which the Contractor is or should reasonably be aware as at Effective Date of Contract, are disclosed in Schedule 10 (Notification of Intellectual Property Rights (IPR) Restrictions).

- (1) DEFCON 15 - including notification of any self-standing background Intellectual Property;
- (2) DEFCON 90 - including copyright material supplied under clause 5;
- (3) DEFCON 91 - limitations of Deliverable Software under clause 3b.

s. The Contractor shall promptly notify the Authority in writing if they become aware during the performance of the Contract of any required additions, inaccuracies or omissions in Schedule 10.

t. Any amendment to Schedule 10 shall be made in accordance with Condition 6.

Pricing and Payment

35..... Contract Price

a. The Contractor shall provide the Contractor Deliverables to the Authority at the Contract Price. The Contract Price shall be a Firm Price unless otherwise stated in Schedule 3 (Contract Data Sheet).

b. Subject to clause 35.a the Contract Price shall be inclusive of any UK custom and excise or other duty payable. The Contractor shall not make any claim for drawback of UK import duty on any part of the Contract Deliverables supplied which may be for shipment outside of the UK.

36..... Payment and Recovery of Sums Due

a. Payment for Contractor Deliverables will be made by electronic transfer and prior to submitting any claims for payment under clause 36.b the Contractor will be required to register their details (Supplier onboarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool.

b. Where the Contractor submits an invoice to the Authority in accordance with clause 36.a, the Authority will consider and verify that invoice in a timely fashion.

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

d. Where the Authority fails to comply with clause 36.a and there is undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purpose of clause 36.c after a reasonable time has passed.

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

f. Without prejudice to any other right or remedy, the Authority reserves the right to set off any amount owing at any time from the Contractor to the Authority against any amount payable by the Authority to the Contractor under the Contract or under any other contract with the Authority, or with any other Government Department.

37..... Value Added Tax

a. The Contract Price excludes any UK output Value Added Tax (VAT) and any similar EU (or non-EU) taxes chargeable on the supply of Contractor Deliverables by the Contractor to the Authority.

b. If the Contractor is required by UK VAT law to be registered for UK VAT (or has registered voluntarily) in respect of their business activities at the time of any supply, and the circumstances of any supply are such that the Contractor is liable to pay the tax due to HM Revenue and Customs (HMRC), the Authority shall pay to the Contractor in addition to the Contract Price (or any other sum due to the Contractor) a sum equal to the output VAT chargeable on the tax value of the supply of Contractor Deliverables, and all other payments under the Contract according to the law at the relevant tax point.

c. The Contractor is responsible for the determination of VAT liability. The Contractor shall consult their Client Relationship Manager or the HMRC Enquiries Desk (and not the Authority's Representative (Commercial)) in cases of doubt. The Contractor shall notify the Authority's Representative (Commercial) of the Authority's VAT liability under the Contract, and any changes to it, within twenty (20) Business Days of becoming aware the liability is other than at the standard rate of VAT. In the event of any doubt about

the applicability of the tax in such cases, the Authority may require the Contractor to obtain, and pass to the Authority, a formal ruling from HMRC. The Contractor shall comply promptly with any such requirement. Where the Contractor obtains a ruling from HMRC, they shall supply a copy to the Authority within three (3) Business Days of receiving that ruling unless they propose to challenge the ruling. Where the Contractor challenges the ruling they shall supply to the Authority a copy of any final decisions issued by HMRC on completion of the challenge within three (3) Business Days of receiving the decision.

d. Where supply of Contractor Deliverables comes within the scope of UK VAT, but the Contractor is not required by UK VAT law to be registered for UK VAT (and has not registered voluntarily), the Authority shall be responsible for assessing and paying over directly to HMRC any UK output VAT due in respect of the Contractor Deliverables. The Contractor shall be responsible for ensuring they take into account any changes in VAT law regarding registration.

e. Where Contractor Deliverables are deemed to be supplied to the Authority outside the UK, the Contractor may be required by the laws of the country where the supply takes place to register there for EU (or non-EU) turnover or similar tax. In that event, the Authority shall pay to the Contractor in addition to the Contract Price (and any other sum due to the Contractor under the Contract) a sum equal to the tax the Contractor is liable to pay to the tax authorities of the country in question in relation to the Contractor Deliverables within thirty (30) calendar days of a written request for payment of any such sum by the Contractor.

f. In relation to the Contractor Deliverables supplied under the Contract the Authority shall not be required to pay any sum in respect of the Contractor's input VAT (or similar EU or non-EU or both input taxes). However, these input taxes will be allowed where it is established that, despite the Contractor having taken all reasonable steps to recover them, it has not been possible to do so. Where there is any doubt that the Contractor has complied with this requirement the matter shall be resolved in accordance with Condition 40 (Dispute Resolution).

g. Should HMRC decide that the Contractor has incorrectly determined the VAT liability, in accordance with clause 37.b above, the Authority will pay the VAT assessed by HMRC. In the event that HMRC so determines, the Contractor shall pay any interest charged on any assessment or penalties or both directly to HMRC. Such interest or penalties or both shall not be recoverable from the Authority under the Contract or any other contract. The Contractor shall supply the Authority with a copy of all correspondence between HMRC and the Contractor's advisors regarding the VAT assessment within three (3) Business Days of a written request from the Authority for such correspondence.

38. Debt Factoring

a. Subject to the Contractor obtaining the prior written consent of the Authority in accordance with Condition 11 (Assignment of Contract), the Contractor may assign to a third Party ("the Assignee") the right to receive payment of the Contract Price or any part thereof due to the Contractor under the Contract (including interest which the Authority incurred through late payment under the Late Payment of Commercial Debts (Interest) Act 1998 ("the Act")). Any assignment of the right to receive payment of the Contract Price (or any part thereof) under this Condition 38 shall be subject to:

- (1) reduction of any sums in respect of which the Authority exercises its right of recovery under clause 36.f;
- (2) all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and
- (3) the Authority receiving notification under both clauses 38.b and 38.c.(2).

b. In the event that the Contractor obtains from the Authority the consent to assign the right to receive the Contract Price (or any part thereof) under clause 38.a, the Contractor shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.

c. The Contractor shall ensure that the Assignee:

- (1) is made aware of the Authority's continuing rights under clauses 38.a.(1) and 38.a.(2); and
- (2) notifies the Authority of the Assignee's contact information and bank account details to which the Authority shall make payment, subject to any reduction made by the Authority in accordance with clauses 38.a.(1) and 38.a.(2).

d. The provisions of Condition 36 (Payment and Recovery of Sums Due) shall continue to apply in all other respects after the assignment and shall not be amended without the prior approval of the Authority.

39..... Subcontracting and Prompt Payment

- a. Subcontracting any part of the Contract shall not relieve the Contractor of any of the Contractor's obligations, duties or liabilities under the Contract.
- b. Where the Contractor enters into a subcontract, they shall cause a term to be included in such subcontract:
- (1) providing that where the Subcontractor submits an invoice to the Contractor, the Contractor will consider and verify that invoice in a timely fashion;
 - (2) providing that the Contractor shall pay the Subcontractor any sums due under such an invoice no later than a period of thirty (30) days from the date on which the Contractor has determined that the invoice is valid and undisputed;
 - (3) providing that where the Contractor fails to comply with clause 39.b.(1) above, and there is an undue delay in considering and verifying the invoice, that the invoice shall be regarded as valid and undisputed for the purposes of clause 39.b.(2) after a reasonable time has passed; and
 - (4) requiring the counterparty to that subcontract to include in any subcontract which it awards, provisions having the same effect as clauses 39.b.(1) to 39.b.(4).

Termination

40..... Dispute Resolution

- a. The Parties will attempt in good faith to resolve any dispute or claim arising out of or relating to the Contract through negotiations between the respective representatives of the Parties having authority to settle the matter, which attempts may include the use of any alternative dispute resolution procedure on which the Parties may agree.
- b. In the event that the dispute or claim is not resolved pursuant to clause 40.a the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this clause 40.b shall be governed by the Arbitration Act 1996. For the purposes of the arbitration, the arbitrator shall have the power to make provisional awards pursuant to Section 39 of the Arbitration Act 1996.
- c. For the avoidance of doubt, anything said, done or produced in or in relation to the arbitration process (including any awards) shall be confidential between the Parties, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise.

41..... Termination for Insolvency or Corrupt Gifts

Insolvency:

- a. The Authority may terminate the Contract, without paying compensation to the Contractor, by giving written Notice of such termination to the Contractor at any time after any of the following events:

Where the Contractor is an individual or a firm:

- (1) the application by the individual or, in the case of a firm constituted under English law, any partner of the firm to the court for an interim order pursuant to Section 253 of the Insolvency Act 1986; or
- (2) the court making an interim order pursuant to Section 252 of the Insolvency Act 1986; or
- (3) the individual, the firm or, in the case of a firm constituted under English law, any partner of the firm making a composition or a scheme of arrangement with them or their creditors; or
- (4) the presentation of a petition for bankruptcy order against the individual or, in the case of a firm constituted under English law, any partner of the firm unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
- (5) the court making a bankruptcy order in respect of the individual or, in the case of a firm constituted under English law, any partner of the firm; or
- (6) where the Contractor is either unable to pay their debts as they fall due or has no reasonable

prospect of being able to pay debts which are not immediately payable. The Authority shall regard the Contractor as being unable to pay their debts if:

- (a) they have failed to comply with or to set aside a Statutory demand under Section 268 of the Insolvency Act 1986 within twenty-one (21) days of service of the Statutory Demand on them; or
 - (b) execution or other process to enforce a debt due under a judgement or order of the court has been returned unsatisfied in whole or in part.
- (7) the presentation of a petition for sequestration in relation to the Contractor's estates unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
- (8) the court making an award of sequestration in relation to the Contractor's estates.

Where the Contractor is a company registered in England:

- (9) the presentation of a petition for the appointment of an administrator; unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
- (10) the court making an administration order in relation to the company; or
- (11) the presentation of a petition for the winding-up of the company unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
- (12) the company passing a resolution that the company shall be wound-up; or
- (13) the court making an order that the company shall be wound-up; or
- (14) the appointment of a Receiver or manager or administrative Receiver.

Where the Contractor is a company registered other than in England, events occur or are carried out which, within the jurisdiction to which they are subject, are similar in nature or effect to those specified in clauses 41.a.(9) to 41.a.(14) inclusive above.

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

Corrupt Gifts:

c. The Contractor shall not do, and warrants that in entering the Contract they have not done any of the following (hereafter referred to as 'prohibited acts'):

- (1) offer, promise or give to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward;
 - (a) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or execution of this or any other Contract with the Crown; or
 - (b) for showing or not showing favour or disfavour to any person in relation to this or any other Contract with the Crown.

(2) enter into this or any other Contract with the Crown in connection with which commission has been paid or has been agreed to be paid by them or on their behalf, or to their knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.

d. If the Contractor, their employees, agents or any Subcontractor (or anyone acting on their behalf or any of their employees) does any of the prohibited acts or commits any offence under the Bribery Act 2010 with or without the knowledge or authority of the Contractor in relation to this Contract or any other contract with the Crown, the Authority shall be entitled:

- (1) to terminate the Contract and recover from the Contractor the amount of any loss resulting from the termination;
- (2) to recover from the Contractor the amount or value of any such gift, consideration or commission; and
- (3) to recover from the Contractor any other loss sustained in consequence of any breach of this Condition, where the Contract has not been terminated.

e. In exercising its rights or remedies under this Condition, the Authority shall:

- (1) act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person performing, the prohibited act;

- (2) give all due consideration, where appropriate, to action other than termination of the Contract, including (without being limited to):
- (a) requiring the Contractor to procure the termination of a subcontract where the prohibited act is that of a Subcontractor or anyone acting on their behalf;
 - (b) requiring the Contractor to procure the dismissal of an employee (whether their own or that of a Subcontractor or anyone acting on their behalf) where the prohibited act is that of such employee.
- f. Recovery action taken against any person in His Majesty's service shall be without prejudice to any recovery action taken against the Contractor pursuant to this Condition.

42. Termination for Convenience

- a. The Authority shall have the right to terminate the Contract in whole or in part at any time by giving the Contractor at least twenty (20) Business Days written notice (or such other period as may be stated in Schedule 3 (Contract Data Sheet)). Upon expiry of the notice period the Contract, or relevant part thereof, shall terminate without prejudice to the rights of the parties already accrued up to the date of termination. Where only part of the Contract is being terminated, the Authority and the Contractor shall owe each other no further obligations in respect of the part of the Contract being terminated, but will continue to fulfil their respective obligations on all other parts of the Contract not being terminated.
- b. Following the above notification the Authority shall be entitled to exercise any of the following rights in relation to the Contract (or part being terminated) to direct the Contractor to:
- (1) not start work on any element of the Contractor Deliverables not yet started;
 - (2) complete in accordance with the Contract the provision of any element of the Contractor Deliverables;
 - (3) as soon as may be reasonably practicable take such steps to ensure that the production rate of the Contractor Deliverables is reduced as quickly as possible;
 - (4) terminate on the best possible terms any subcontracts in support of the Contractor Deliverables that have not been completed, taking into account any direction given under clauses 42.b.(2) and 42.b.(3) of this Condition.
- c. Where this Condition applies (and subject always to the Contractor's compliance with any direction given by the Authority under clause 42.b):
- (1) The Authority shall take over from the Contractor at a fair and reasonable price all unused and undamaged materiel and any Contractor Deliverables in the course of manufacture that are:
 - (a) in the possession of the Contractor at the date of termination; and
 - (b) provided by or supplied to the Contractor for the performance of the Contract,except such materiel and Contractor Deliverables in the course of manufacture as the Contractor shall, with the agreement of the Authority, choose to retain;
 - (2) the Contractor shall deliver to the Authority within an agreed period, or in absence of such agreement within a period as the Authority may specify, a list of:
 - (a) all such unused and undamaged materiel; and
 - (b) Contractor Deliverables in the course of manufacture,that are liable to be taken over by, or previously belonging to the Authority, and shall deliver such materiel and Contractor Deliverables in accordance with the directions of the Authority;
 - (3) in respect of Services, the Authority shall pay the Contractor fair and reasonable prices for each Service performed, or partially performed, in accordance with the Contract.
- d. The Authority shall (subject to clause 42.e below and to the Contractor's compliance with any direction given by the Authority in clause 42.b above) indemnify the Contractor against any commitments, liabilities or expenditure which would otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract, subject to:
- (1) the Contractor taking all reasonable steps to mitigate such loss; and
 - (2) the Contractor submitting a fully itemised and costed list of such loss, with supporting evidence, reasonably and actually incurred by the Contractor as a result of the termination of the Contract or relevant part.

- e. The Authority's total liability under the provisions of this Condition shall be limited to the total price of the Contractor Deliverables payable under the contract (or relevant part), including any sums paid, due or becoming due to the Contractor at the date of termination.
- f. The Contractor shall include in any subcontract over £250,000 which it may enter into for the purpose of the Contract, the right to terminate the subcontract under the terms of clauses 42.a to 42.e except that:
- (1) the name of the Contractor shall be substituted for the Authority except in clause 42.c.(1);
 - (2) the notice period for termination shall be as specified in the subcontract, or if no period is specified twenty (20) Business Days; and
 - (3) the Contractor's right to terminate the subcontract shall not be exercised unless the main Contract, or relevant part, has been terminated by the Authority in accordance with the provisions of this Condition 42.
- g. Claims for payment under this Condition shall be submitted in accordance with the Authority's direction.

43. Material Breach

- a. In addition to any other rights and remedies, the Authority shall have the right to terminate the Contract (in whole or in part) with immediate effect by giving written Notice to the Contractor where the Contractor is in material breach of their obligations under the Contract.
- b. Where the Authority has terminated the Contract under clause 43.a the Authority shall have the right to claim such damages as may have been sustained as a result of the Contractor's material breach of the Contract, including but not limited to any costs and expenses incurred by the Authority in:
- (1) carrying out any work that may be required to make the Contractor Deliverables comply with the Contract; or
 - (2) obtaining the Contractor Deliverable in substitution from another supplier.

44. Consequences of Termination

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

45 Project specific DEFCONs and DEFCON SC variants that apply to this contract

General Conditions

AUTHORISATION BY THE CROWN FOR USE OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS

Notwithstanding any other provisions of the Contract and for the avoidance of doubt, award of the Contract by the Authority and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Contractor acknowledges that any such authorisation by the Authority under its statutory powers must be expressly provided in writing, with reference to the acts authorized and the specific intellectual property involved.

Intellectual Property Rights

DEFCON 14 (Edn 11/22) - Inventions and Designs Crown Rights and Ownership of Patents and Registered Designs

DEFCON 15 (Edn (08/74) - Design Rights

DEFCON 16 (Edn (06/21) - Repair and Maintenance Information

DEFCON 21 (Edn 06/21) - Retention of Records

DEFCON 90 (Edn 06/21) – Copyright

The countries specified at Clause 3E are any country with whom the Authority or the UK Government enjoys a reciprocal national defence agreement or arrangement

DEFCON 91 (Edn 06/21) - Intellectual Property Rights In Software

DEFCON 126 (Edn 06/21) – International Collaboration

DEFCON 632 (Edn 11/21) – Third Party Intellectual Property - Rights and Restrictions

Payment Terms

In accordance with Condition 36 and Annex C – Milestone Payment Plan, the Contractor shall only submit its Quarterly Invoice following receipt and acceptance by the Authority of the Quarterly Report detailed at Annex A – Statement of Work and acceptance by the Authority that the Contractor has carried out the requirements detailed in the Statement of Work for the period.

Special Indemnity Conditions

DEFCON 23 (SC2) (Edn. 12/19) - Special Jigs, Tooling And Test Equipment

DEFCON 68 (Edn 10/22) - Supply of Data for Hazardous Substances, Mixtures and Articles

DEFCON 76 (SC2) (Edn. 11/22) - Contractor's Personnel At Government Establishments

DEFCON 117 (SC2) (Edn. 07/21) - Supply Of Documentation For NATO Codification Purposes

DEFCON 532A (Edn. 05/22) -Protection Of Personal Data (Where Personal Data is not being processed on behalf of the Authority)

DEFCON 637 (Edn 05/17) - Defect Investigation and Liability

DEFCON 647 (SC2) (Edn. 05/21) - Financial Management Information

DEFCON 649 (SC2) (Edn. 12/21) - Vesting

DEFCON 658 (SC2) (Edn. 10/22) - Cyber

Note: Further to DEFCON 658 the Cyber Risk Profile of the Contract is Very Low, as defined in Def Stan 05-138 with RAR-370024712

DEFCON 660 (Edn 12/15) - Official-Sensitive Security Requirements

DEFCON 694 (SC2) (Edn. 07/21) - Accounting For Property Of The Authority

Russian and Belarusian Exclusion Condition for Inclusion in Contracts

1. The Contractor shall, and shall procure that their Sub-contractors shall, notify the Authority in writing as soon as they become aware that:
 - a. the Contract Deliverables and/or Services contain any Russian/Belarusian products and/or services; or
 - b. that the Contractor or any part of the Contractor's supply chain is linked to entities who are constituted or organised under the law of Russia or Belarus, or under the control (full or partial) of a Russian/Belarusian person or entity. Please note that this does not include companies:
 - (1) registered in the UK or in a country with which the UK has a relevant international agreement providing reciprocal rights of access in the relevant field of public procurement; and/or
 - (2) which have significant business operations in the UK or in a country with which the UK has a relevant international agreement providing reciprocal rights of access in the relevant field of public procurement.
2. The Contractor shall, and shall procure that their Sub-contractors shall, include in such notification (or as soon as reasonably practicable following the notification) full details of the Russian products, services and/or entities and shall provide all reasonable assistance to the Authority to understand the nature, scope and impact of any such products, services and/or entities on the provision of the Contract Deliverables and/or Services.
3. The Authority shall consider the notification and information provided by the Contractor and advise the Contractor in writing of any concerns the Authority may have and/or any action which the Authority will require the Contractor to take. The Contractor shall be required to submit a response to the concerns raised by the Authority, including any plans to mitigate those concerns, within 14 business days of receipt of the Authority's written concerns, for the Authority's consideration.
4. The Contractor shall include provisions equivalent to those set out in this clause in all relevant Sub-contracts.

46 Special conditions that apply to this Contract

SC2 - ITT - Annex A - Limitation of Contractors Liability

1. LIMITATIONS ON LIABILITY

Definitions

1.1 In this Condition 1 the following words and expressions shall have the meanings given to them, except where the context requires a different meaning:

“Charges” means any of the charges for the provision of the Services, Contractor Deliverables and the performance of any of the Contractor’s other obligations under this Contract, as determined in accordance with this Contract;

“Data Protection Legislation” means all applicable Law in force from time to time in the UK relating to the processing of personal data and privacy, including but not limited to:

(1) UK GDPR;

(2) DPA 2018; and

(3) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) as amended, each to the extent that it relates to the processing of personal data and privacy;

“Default” means any breach of the obligations of the relevant Party (including fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party, its employees, servants, agents or sub-contractors in connection with or in relation to the subject matter of this Contract and in respect of which such Party is liable to the other. In no event shall a failure or delay in the delivery of an Authority responsibility or an activity to be carried out by the Authority or its representatives in accordance with the Contract be considered a Default;

‘DPA 2018’ means the Data Protection Act 2018;

“Law” means any applicable law, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, regulation, order, regulatory policy, mandatory guidance or code of practice judgment of a relevant court of law, or directives or requirements of any regulatory body, delegated or subordinate legislation or notice of any regulatory body.

“Service Credits” means the amount that the Contractor shall credit or pay to the Authority in the event of a failure by the Contractor to meet the agreed Service Levels as set out/referred to in Annex G.

“Term” means the period commencing on the date on which this Contract takes effect and ending on the expiry date or on earlier termination of this Contract.

‘UK GDPR’ means the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in UK law by the EU (Withdrawal) Act 2018 and the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019;

Unlimited liabilities

1.2 Neither Party limits its liability for:

1.2.1 death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable);

1.2.2 fraud or fraudulent misrepresentation by it or its employees;

1.2.3 breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or

1.2.4 any liability to the extent it cannot be limited or excluded by law.

1.3 The financial caps on liability set out in Clauses 1.4 and 1.5 below shall not apply to the following:

1.3.1 for any indemnity given by the Contractor to the Authority under this Contract, including but not limited to:

1.3.1.1 the Contractor's indemnity in relation to DEFCON 91 (Intellectual Property in Software) and Condition 34 (Third Party IP – Rights and Restrictions);

1.3.1.2 the Contractor's indemnity in relation to TUPE at Schedule 11;

1.3.2 for any indemnity given by the Authority to the Contractor under this Contract, including but not limited to:

1.3.2.1 the Authority's indemnity under DEFCON 514A (Failure of Performance under Research and Development Contracts);

1.3.2.2 the Authority's indemnity in relation to TUPE under Schedule 11;

1.3.3 breach by the Contractor of DEFCON 532A (SC2) and Data Protection Legislation; and

1.3.4 to the extent it arises as a result of a Default by either Party, any fine or penalty incurred by the other Party pursuant to Law and any costs incurred by such other Party in defending any proceedings which result in such fine or penalty.

1.3.5 For the avoidance of doubt any payments due from either of the Parties to the other in accordance with DEFCON 811 (SC2) or the Defence Reform Act 2014 and/or the Single Source Contract Regulations 2014, as amended from time to time, shall not be excluded or limited under the provisions of Clauses 1.4 and/or 1.5 below.

Financial limits

1.4 Subject to Clauses 1.2 and 1.3 and to the maximum extent permitted by Law:

1.4.1 throughout the Term the Contractor's total liability in respect of losses that are caused by Defaults of the Contractor shall in no event exceed:

1.4.1.1 in respect of DEFCON 76 (SC2) [Redacted under FOI Section 43 - Commercial Interests Exemption];

1.4.1.2 in respect of Condition 43b [Redacted under FOI Section 43 - Commercial Interests Exemption]; and

1.4.2 without limiting Clause 1.4.1 and subject always to Clauses 1.2, 1.3 and 1.4.3, the Contractor's total liability throughout the Term in respect of all other liabilities (but excluding any Service Credits paid or payable in accordance with Annex G, whether in contract, in tort (including negligence), arising under warranty, under statute or otherwise under or in connection with this Contract shall be [Redacted under FOI Section 43 - Commercial Interests Exemption].

1.4.3 on the exercise of any and, where more than one, each option period or agreed extension to the Term, the limitation of the Contractor's total liability (in aggregate) set out in Clauses 1.4.1 and 1.4.2 above shall be fully replenished such that on and from each such exercise or extension of the Term, the Authority shall be able to claim up to the full value of the limitation set out in Clauses 1.4.1 and 1.4.2 of this Contract.

1.5 Subject to Clauses 1.2, 1.3 and 1.6, and to the maximum extent permitted by Law the Authority's total liability (in aggregate) whether in contract, in tort (including negligence), under warranty, under statute or otherwise under or in connection with this Contract shall in respect of all liabilities (taken together) be

limited to the Charges paid by the Authority in the relevant Contract Year in respect of any and all claims in that Contract Year.

1.6 Clause 1.5 shall not exclude or limit the Contractor's right under this Contract to claim for the Charges.

Consequential loss

1.7 Subject to Clauses 1.2, 1.3 and 1.8, neither Party shall be liable to the other Party or to any third party, whether in contract (including under any warranty), in tort (including negligence), under statute or otherwise for or in respect of:

- 1.7.1 indirect loss or damage;
- 1.7.2 special loss or damage;
- 1.7.3 consequential loss or damage;
- 1.7.4 loss of profits (whether direct or indirect);
- 1.7.5 loss of turnover (whether direct or indirect);
- 1.7.6 loss of business opportunities (whether direct or indirect); or
- 1.7.7 damage to goodwill (whether direct or indirect),

even if that Party was aware of the possibility of such loss or damage to the other Party.

1.8 The provisions of Clause 1.7 shall not restrict the Authority's ability to recover any of the following losses incurred by the Authority to the extent that they arise as a result of a Default by the Contractor:

1.8.1 any additional operational and administrative costs and expenses arising from the Contractor's Default, including any costs paid or payable by the Authority:

1.8.1.1 to any third party;

1.8.1.2 for putting in place workarounds for the Contractor Deliverables and other deliverables that are reliant on the Contractor Deliverables; and

1.8.1.3 relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;

1.8.2 any or all wasted expenditure and losses incurred by the Authority arising from the Contractor's Default, including wasted management time;

1.8.3 the additional cost of procuring and maintaining in place transitional assistance and replacement deliverables for the remainder of the Term and any option period or agreed extension to the Term (including legal and other consultants' fees, re-procurement project costs, other expenses associated with such exercise and any increase in the fees for the replacement services over and above the Contract Price that would have been payable for the relevant Contractor Deliverables);

1.8.4 any losses arising in connection with the loss, destruction, corruption, inaccuracy or degradation of Authority data, or other data or software, including, to the extent the Authority data, other data or software can be recovered or reconstituted, the fees, costs and expenses of reconstituting such Authority data, data or software;

1.8.5 damage to the Authority's physical property and tangible assets, including damage under DEFCONs 76 (SC2) and 611 (SC2);

1.8.6 costs, expenses and charges arising from, or any damages, account of profits or other award

made for, infringement of any third-party Intellectual Property Rights or breach of any obligations of confidence;

1.8.7 any additional costs incurred by the Authority in relation to the Authority's contracts with a third party (including any compensation or interest paid to a third party by the Authority) as a result of the Default (including the extension or replacement of such contracts);

1.8.8 any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty; or

1.8.9 any savings, discounts or price reductions during the Term and any option period or agreed extension to the Term committed to by the Contractor pursuant to this Contract.

Invalidity

1.9 If any limitation or provision contained or expressly referred to in this Condition 1 is held to be invalid under any Law, it will be deemed to be omitted to that extent, and if any Party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this Condition 1.

Third party claims or losses

1.10 Without prejudice to any other rights or remedies the Authority may have under this Contract (including but not limited to any indemnity claim under DEFCONs 91 and Condition 34 or at Law), the Authority shall be entitled to make a claim under this Contract against the Contractor in respect of any losses incurred by the Authority which arise out of a claim made against the Authority by a third party under any contract with that third party provided that such third party claim:

1.10.1 arises naturally and ordinarily as a result of the Contractor's failure to provide the Contractor Deliverables or failure to perform any of its obligations under this Contract; and

1.10.2 is a type of claim or loss that would have been recoverable under this Contract if the third party were a party to this Contract (whether as the Authority or the Contractor), such claim to be construed as direct losses for the purpose of this Contract.

No double recovery

1.11 Neither Party shall be entitled to employ such rights and remedies available to it so as to seek to recover more than once in respect of the same loss, but the Authority shall be entitled to use (singly or together) such rights and remedies available to the Authority so as to recover the full extent of any recoverable losses suffered or incurred, including any remedies the Authority may have against any guarantor.

Exercise of Options

1. The option prices for Options 1 and 3 as detailed below are firm prices not subject to variation.
2. In addition to the services detailed at Item 1a-e, 2 and 5 of the Schedule of Requirements, the Contractor hereby grants to the Authority the following irrevocable options for support and maintenance 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: Line Item 3a of Schedule 2, at a firm price per year to be agreed with the Authority in accordance with the delivery schedule at the Statement of Work and the Contract Data Sheet at Schedule 3. The Authority shall provide 6 months to the Contractor to enact the Option.
 - c. Option 2: Line Item 4 of Schedule 2, at a firm price provided to the Authority and implemented in accordance to the delivery schedule at the Statement of Work and the Contract Data Sheet. The Authority shall provide 3 months to the Contractor to enact the Option.
3. 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 programme 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 due to any other breach of the Contract by the Contractor.
4. The Authority shall not be obliged to exercise the options.

Quality Assurance Conditions

1. The Primary Quality Assurance Standard Requirements:

AQAP 2110 Edition D Version 1 NATO Quality Assurance Requirements for Design, Development and Production. CoC shall be provided in accordance with DEFCON 627

2. Developmental Software

AQAP 2210 Edition A Version 2 – NATO Supplementary Software Quality Assurance Requirements to AQAP 2110 or AQAP 2310 shall apply.

3. Quality Plans

A Deliverable Quality Plan is required in accordance with DEFCON 602A and AQAP 2105 Edition C Version 1 NATO Requirements For Quality Plans.

Unless otherwise notified, the quality plan shall be delivered to the Quality Assurance Representative within 3 months of contract award.

A draft quality plan is required within the tender

A Software Project Quality Plan is required in accordance with AQAP 2105 Chapter 5, for Authority acceptance?

3. Concessions

Concessions shall be managed in accordance with Def Stan. 05-061 Part 1, Issue 7 - Quality Assurance Procedural Requirements - Concessions.

4. Contractor Working Parties

Any contractor working parties shall be provided in accordance with Def Stan. 05-061 Part 4, Issue 4 - Quality Assurance Procedural Requirements - Contractor Working Parties.

5. Avoidance of Counterfeit Materiel

Processes and controls for the avoidance of counterfeit materiel shall be established and applied in accordance with Def Stan. 05-135, Issue 2 – Avoidance of Counterfeit Materiel.

6. Informative Quality Assurance Standards

For guidance on the application and interpretation of AQAPs refer to the appropriate AQAP Standards Related Document (SRD).

Where GQA is performed against this contract it will be in accordance with AQAP 2070 Edition B Version 4.

Pricing

Variation of Price

1. The prices stated in the Schedule of Requirements at Line Item 1b-1e are FIXED at 1 April 2023 – 31 March 2024 and Line Item 3b-3e are FIXED at 1 April 2028 – 30 March 2029 price levels. The prices do not include provision beyond this date for increases or decreases in the market price of the Articles being purchased. Any such variation shall be calculated in accordance with the following formula:

2. For all costs excluding profit and T&S detailed at Annex L – Cost Breakdown.

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

Where:

V represents the variation of price

P represents the FIXED price as stated in the Schedule of Requirements

O represents the index (**Consumer Price Index (CPI)** from www.statistik.at)

O₀ represents the 12-month average OUTPUT Price Index figure for the base period 1 April 2023 to 30 March 2024 for Line Item 1b-1e and 1 April 2028 – 30 March 2029 for Line Item 3b-3e (as above)

O_i represents the 12-month average OUTPUT Price Index figure for the period before April each Year

a represents the Non-Variable Element (NVE) (**0**)

b represents the Variable Element (**1.0**)

$$a+b=1$$

3. The Index referred to in Clause 1 above shall be taken from the following Tables:

OUTPUT Price Index – Consumer Price Index – CPI 2020

<https://www.statistik.at/en/statistics/national-economy-and-public-finance/prices-and-price-indices/consumer-price-index-cpi/-hicp>

AND

4. For T&S costs only detailed at Annex L – Cost Breakdown.

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

Where:

V represents the variation of price

P represents the FIXED price as stated in the Schedule of Requirements

O represents the index (D7BT CPI - **Consumer Price Index**)

O0 represents the 12-month average OUTPUT Price Index figure for the base period 1 April 2023 to 30 March 2024 for Line Item 1b-1e and 1 April 2028 – 30 March 2029 for Line Item 3b-3e (as above)

O_i represents the 12-month average OUTPUT Price Index figure for the period [...] to [...]

a represents the Non-Variable Element (NVE) **(0)**

b represents the Variable Element **(1.0)**

a+b=1

5. The Index referred to in Clause 1 above shall be taken from the following Tables:

OUTPUT Price Index - CPI INDEX 00: ALL ITEMS 2015=100 [CPI INDEX 00: ALL ITEMS 2015=100 - Office for National Statistics \(ons.gov.uk\)](#)

6. Indices published with a 'B' or 'F' marker, or a suppressed value, in the last 3 years are not valid for Variation of Price clauses and shall not be used. Where the price index has an 'F' marker or suppression applied to it during the term of the Contract, the Authority and the Contractor shall agree an appropriate replacement index or indices. The replacement index or indices shall cover, to the maximum extent possible, the same economic activities as the original index or indices.

7. In the event that any material changes are made to the indices (e.g. a revised statistical base date) during the period of the contract and before final adjustment of the final contract price, then the re-basing methodology outlined by the Office for National Statistics (ONS, the series providers) to match the original index to the new series shall be applied.

8. In the event the agreed index or indices cease to be published (e.g. because of a change in the Standard Industrial Classification) the Authority and the Contractor shall agree an appropriate replacement index or indices, which shall cover to the maximum extent possible the same economic activities as the original index or indices. The methodology outlined by the Office for National Statistics used for rebasing indices (as in Clause 4 above) shall then be applied.

9. Notwithstanding the above, any extant index / indices agreed in the Contract shall continue to be used as long as it is / they are available and subject to ONS revisions policy. Payments calculated using the extant index / indices during its / their currency shall not be amended retrospectively as a result of any change to the index or indices.

10. The Contractor shall notify the Authority of any significant changes in the purchasing / manufacturing plan on the basis of which these provisions were drawn up and agreed, or of any other factor having a material bearing on the operation of these provisions such as to cause a significant divergence from their intended purpose, in order that both parties may consider whether any change in this provision would be appropriate.

11. Prices shall be adjusted taking into account the effect of the above formula as soon as possible after publication of the relevant indices or at a later date if so agreed between the Authority and the Contractor. Where an index value is subsequently amended, the Authority and the Contractor shall agree a fair and reasonable adjustment to the price, as necessary.

12. Claims under this Condition shall be submitted to the Bill Paying Branch, certified to the effect that the "requirements of this Clause have been met.

47 The processes that apply to this Contract are

SC2 Schedules

Schedule 1 – Definitions of Contract

Article	means, in relation to clause 24 and Schedule 6 only, an object which during production is given a special shape, surface or design which determines its function to a greater degree than does its chemical composition;
Articles	means (except in relation to Schedule 10) the Contractor Deliverables (goods and/or the services), including Packaging (and Certificate(s) of Conformity and supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract in accordance with Schedule 2 (Schedule of Requirements), but excluding incidentals outside Schedule 2 (Schedule of Requirements) such as progress reports. (This definition only applies when DEFCONs are added to these Conditions);
Authority	means the Secretary of State for Defence acting on behalf of the Crown;
Authority's Representative(s)	shall be those person(s) defined in Schedule 3 (Contract Data Sheet) who will act as the Authority's Representative(s) in connection with the Contract. Where the term "Authority's Representative(s)" in the Conditions is immediately followed by a functional description in brackets, the appropriate Authority's Representative(s) shall be the designated person(s) for the purposes of Condition 7;
Business Day	means 09:00 to 17:00 Monday to Friday, excluding public and statutory holidays;
Central Government Body	a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: <ul style="list-style-type: none">a. Government Department;b. Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);

- c. Non-Ministerial Department; or
- d. Executive Agency;

Collect	means pick up the Contractor Deliverables from the Consignor. This shall include loading, and any other specific arrangements, agreed in accordance with Clause 28.c and Collected and Collection shall be construed accordingly;
Commercial Packaging	means commercial Packaging for military use as described in Def Stan 81-041 (Part 1)
Conditions	means the terms and conditions set out in this document;
Consignee	means that part of the Authority identified in Schedule 3 (Contract Data Sheet) to whom the Contractor Deliverables are to be Delivered or on whose behalf they are to be Collected at the address specified in Schedule 3 (Contract Data Sheet) or such other part of the Authority as may be instructed by the Authority by means of a Diversion Order;
Consignor	means the name and address specified in Schedule 3 (Contract Data Sheet) from whom the Contractor Deliverables will be dispatched or Collected;
Contract	means the Contract including its Schedules and any amendments agreed by the Parties in accordance with condition 6 (Formal Amendments to the Contract);
Contract Price	means the amount set out in Schedule 2 (Schedule of Requirements) to be paid (inclusive of Packaging and exclusive of any applicable VAT) by the Authority to the Contractor, for the full and proper performance by the Contractor of its obligations under the Contract.
Contractor	means the person who, by the Contract, undertakes to supply the Contractor Deliverables, for the Authority as is provided by the Contract. Where the Contractor is an individual or a partnership, the expression shall include the personal representatives of the individual or of the partners, as the case may be, and the expression shall also include any person to whom the benefit of the Contract may be assigned by the Contractor with the consent of the Authority;
Contractor Deliverables	means the goods and/or the services, including Packaging (and Certificate(s) of Conformity and

supplied in accordance with any QA requirements if specified) which the Contractor is required to provide under the Contract;

Control

means the power of a person to secure that the affairs of the Contractor are conducted in accordance with the wishes of that person:

a. by means of the holding of shares, or the possession of voting powers in, or in relation to, the Contractor; or

b. by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating the Contractor;

and a change of Control occurs if a person who Controls the Contractor ceases to do so or if another person acquires Control of the Contractor;

CPET

means the UK Government's Central Point of Expertise on Timber, which provides a free telephone helpline and website to support implementation of the UK Government timber procurement policy;

Crown Use

in relation to a patent means the doing of anything by virtue of Sections 55 to 57 of the Patents Act 1977 which otherwise would be an infringement of the patent and in relation to a Registered Design has the meaning given in paragraph 2A(6) of the First Schedule to the Registered Designs Act 1949;

Dangerous Goods

means those substances, preparations and articles that are capable of posing a risk to health, safety, property or the environment which are prohibited by regulation, or classified and authorised only under the conditions prescribed by the:

a. Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (CDG) (as amended 2011);

b. European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR);

c. Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID);

d. International Maritime Dangerous Goods (IMDG) Code;

e. International Civil Aviation Organisation (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air;

f. International Air Transport Association (IATA) Dangerous Goods Regulations.

DBS Finance

means Defence Business Services Finance, at the address stated in Schedule 3 (Contract Data

Sheet);

DEFFORM

means the MOD DEFFORM series which can be found at <https://www.kid.mod.uk>;

DEF STAN

means Defence Standards which can be accessed at <https://www.dstan.mod.uk>;

Deliver

means hand over the Contractor Deliverables to the Consignee. This shall include unloading, and any other specific arrangements, agreed in accordance with Condition 28 and Delivered and Delivery shall be construed accordingly;

Delivery Date

means the date as specified in Schedule 2 (Schedule of Requirements) on which the Contractor Deliverables or the relevant portion of them are to be Delivered or made available for Collection;

Denomination of Quantity (D of Q)

means the quantity or measure by which an item of material is managed;

Design Right(s)

has the meaning ascribed to it by Section 213 of the Copyright, Designs and Patents Act 1988;

Diversion Order

means the Authority's written instruction (typically given by MOD Form 199) for urgent Delivery of specified quantities of Contractor Deliverables to a Consignee other than the Consignee stated in Schedule 3 (Contract Data Sheet);

Effective Date of Contract

means the date upon which both Parties have signed the Contract;

Evidence

means either:

- a. an invoice or delivery note from the timber supplier or Subcontractor to the Contractor specifying that the product supplied to the Authority is FSC or PEFC certified; or
- b. other robust Evidence of sustainability or FLEGT licensed origin, as advised by CPET;

Firm Price

means a price (excluding VAT) which is not subject to variation;

FLEGT

means the Forest Law Enforcement, Governance and Trade initiative by the European Union to use the power of timber-consuming countries to reduce

the extent of illegal logging;

Government Furnished Assets (GFA)

is a generic term for any MOD asset such as equipment, information or resources issued or made available to the Contractor in connection with the Contract by or on behalf of the Authority;

Hazardous Contractor Deliverable

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

Independent Verification

means that an evaluation is undertaken and reported by an individual or body whose organisation, systems and procedures conform to "ISO Guide 65:1996 (EN 45011:1998) General requirements for bodies operating product certification systems or equivalent", and who is accredited to audit against forest management standards by a body whose organisation, systems and procedures conform to "ISO 17011: 2004 General Requirements for Providing Assessment and Accreditation of Conformity Assessment Bodies or equivalent";

Information

means any Information in any written or other tangible form disclosed to one Party by or on behalf of the other Party under or in connection with the Contract;

Issued Property

means any item of Government Furnished Assets (GFA), including any materiel issued or otherwise furnished to the Contractor in connection with the Contract by or on behalf of the Authority;

Legal and Sustainable

means production and process methods, also referred to as timber production standards, as defined by the document titled "UK Government Timber Production Policy: Definition of legal and sustainable for timber procurement". The edition current on the day the Contract documents are issued by the Authority shall apply;

Legislation

means in relation to the United Kingdom any Act of Parliament, any subordinate legislation within the meaning of section 21 of the Interpretation Act 1978, or any exercise of Royal Prerogative;

Military Level Packaging (MLP)

means Packaging that provides enhanced protection in accordance with Def Stan 81-041 (Part 1), beyond that which Commercial Packaging

	normally provides for the military supply chain;
Military Packager Approval Scheme (MPAS)	is a MOD sponsored scheme to certify military Packaging designers and register organisations, as capable of producing acceptable Services Packaging Instruction Sheet (SPIS) designs in accordance with Defence Standard (Def Stan) 81-041 (Part 4);
Military Packaging Level (MPL)	shall have the meaning described in Def Stan 81-041 (Part 1);
Mixture	means a mixture or solution composed of two or more substances;
MPAS Registered Organisation	is a packaging organisation having one or more MPAS Certificated Designers capable of Military Level designs. A company capable of both Military Level and commercial Packaging designs including MOD labelling requirements;
MPAS Certificated Designer	shall mean an experienced Packaging designer trained and certified to MPAS requirements;
NATO	means the North Atlantic Treaty Organisation which is an inter-governmental military alliance based on the North Atlantic Treaty which was signed on 4 April 1949;
Notices	shall mean all Notices, orders, or other forms of communication required to be given in writing under or in connection with the Contract;
Overseas	shall mean non UK or foreign;
Packaging	Verb. The operations involved in the preparation of materiel for; transportation, handling, storage and Delivery to the user; Noun. The materials and components used for the preparation of the Contractor Deliverables for transportation and storage in accordance with the Contract;
Packaging Design Authority (PDA)	shall mean the organisation that is responsible for the original design of the Packaging except where transferred by agreement. The PDA shall be identified in the Contract, see Annex A to Schedule 3 (Appendix – Addresses and Other Information), Box 3;
Parties	means the Contractor and the Authority, and Party

shall be construed accordingly;

Plastic Packaging Components

shall have the same meaning as set out in Part 2 of the Finance Act 2021 together with any associated secondary legislation;

PPT

means a tax called “plastic packaging tax” charged in accordance with Part 2 of the Finance Act 2021;

PPT Legislation

means the legislative provisions set out in Part 2 and Schedule 9-15 of the Finance Act 2021 together with any secondary legislation made under powers contained in Part 2 of the Finance Act 2021. This includes, but is not limited to, The Plastic Packaging Tax (Descriptions of Products) Regulations 2021 and The Plastic Packaging Tax (General) Regulations 2022;

Primary Packaging Quantity(PPQ)

means the quantity of an item of material to be contained in an individual package, which has been selected as being the most suitable for issue(s) to the ultimate user, as described in Def Stan 81-041 (Part 1);

Publishable Performance Information

means any of the Information in Schedule 9 (KPI Data Report) as it relates to Key Performance Indicator where it is expressed as publishable in the table in Schedule 9 which shall not contain any Information which is exempt from disclosure which shall be determined by the Authority; and which shall not constitute Sensitive Information;

Recycled Timber	<p>means recovered wood that prior to being supplied to the Authority had an end use as a standalone object or as part of a structure. Recycled Timber covers:</p> <ul style="list-style-type: none">a. pre-consumer reclaimed wood and wood fibre and industrial by-products;b. post-consumer reclaimed wood and wood fibre, and driftwood;c. reclaimed timber abandoned or confiscated at least ten years previously; <p>it excludes sawmill co-products;</p>
Robust Contractor Deliverables	<p>shall mean Robust items as described in Def Stan 81-041 (Part 2)</p>
Safety Data Sheet	<p>has the meaning as defined in the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulations 2007 (as amended);</p>
Schedule of Requirements	<p>means Schedule 2 (Schedule of Requirements), which identifies, either directly or by reference, Contractor Deliverables to be provided, the quantities and dates involved and the price or pricing terms in relation to each Contractor Deliverable;</p>
Sensitive Information	<p>means the Information listed in the completed Schedule 5 (Contractor's Sensitive Information), which is Information notified by the Contractor to the Authority, which is acknowledged by the Authority as being sensitive, at the point at which the Contract is entered into or amended (as relevant) and remains sensitive information at the time of publication;</p>
Short-Rotation Coppice	<p>means a specific management regime whereby the poles of trees are cut every one to two years and which is aimed at producing biomass for energy. It is exempt from the UK Government timber procurement policy. For avoidance of doubt, Short-Rotation Coppice is not conventional coppice, which is subject to the timber policy;</p>
Specification	<p>means the description of the Contractor Deliverables, including any specifications, drawings, samples and / or patterns, and shall include any document or item which, individually or collectively is referred to in Schedule 2 (Schedule of Requirements). The Specification forms part of the Contract and all Contractor Deliverables to be supplied by the Contractor under the Contract shall conform in all respects with the Specification;</p>

STANAG4329

means the publication NATO Standard Bar Code Symbolologies which can be sourced at <https://www.dstan.mod.uk/fags.html>;

Subcontractor

means any subcontractor engaged by the Contractor or by any other subcontractor of the Contractor at any level of subcontracting to provide Contractor Deliverables wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract and 'Subcontract' shall be interpreted accordingly;

Substance

means a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition;

Timber and Wood-Derived Products

means timber (including Recycled Timber and Virgin Timber but excluding Short-Rotation Coppice) and any products that contain wood or wood fibre derived from those timbers. Such products range from solid wood to those where the manufacturing processes obscure the wood element;

Transparency Information

means the content of this Contract in its entirety, including from time to time agreed changes to the Contract, except for (i) any Information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004 (EIR), which shall be determined by the Authority, and (ii) any Sensitive Information;

Virgin Timber

means Timber and Wood-Derived Products that do not include Recycled Timber.

Where project specific DEFCONs are included under Condition 45 definitions shall be in accordance with DEFCON 501.

Additional Definitions of Contract iaw. Conditions 45 - 47 (Additional Conditions)

Schedule 2 – Schedule of Requirements

Item No.	Item Details	Price (£) Ex VAT	
		Option Year Enacted Y/N	Price Ex VAT
1a	Maintenance and Support in accordance with Annex A - SOW from 01 April 2024- 31st March 2025	N/A	[Redacted under FOI Section 43 - Commercial Interests Exemption] Firm Price
1b	Maintenance and Support in accordance with Annex A - SOW from 01 April 2025- 31st March 2026	N/A	[Redacted under FOI Section 43 - Commercial Interests Exemption] Fixed Price
1c	Maintenance and Support in accordance with Annex A - SOW from 01 April 2026- 31st March 2027	N/A	[Redacted under FOI Section 43 - Commercial Interests Exemption] Fixed Price
1d	Maintenance and Support in accordance with Annex A - SOW from 01 April 2027- 31st March 2028	N/A	[Redacted under FOI Section 43 - Commercial Interests Exemption] Fixed Price
1e	Maintenance and Support in accordance with Annex A - SOW from 01 April 2028- 31st March 2029	N/A	[Redacted under FOI Section 43 - Commercial Interests Exemption] Fixed Price
2	PDS Tasking (see Annex B)	N/A	See Annex B
3a	OPTION – Maintenance and Support in accordance with Annex A - SOW from: 01 April 2029- 31st March 2030		Firm Price (to be negotiated)
3b	OPTION – Maintenance and Support in accordance with Annex A - SOW from: 01 April 2030- 31st March 2031		Fixed Price
3c	OPTION – Maintenance and Support in accordance with Annex A - SOW from: 01 April 2031- 31st March 2032		Fixed Price
3d	OPTION – Maintenance and Support in accordance with Annex A - SOW from:		Fixed Price

Item No.	Item Details	Price (£) Ex VAT	
	01 April 2032- 31st March 2033		
3e	OPTION – Maintenance and Support in accordance with Annex A - SOW from: 01 April 2033- 31st March 2034		Fixed Price
	<u>Option Accepted Date (3a-e)</u>		
4	OPTION –DISO Equipment move from RAF Henlow to RAF Cranwell in accordance with Annex A – Statement of Work		[Redacted under FOI Section 43 - Commercial Interests Exemption] Provisional Price (to be negotiated)
	<u>Option Accepted Date (4):</u>		
5	Minimum Spares List Purchase in accordance with Annex J - Spares Price List (Delivery scheduled for 8 weeks after Contract Award)	N/A	[Redacted under FOI Section 43 - Commercial Interests Exemption]
Total Price excluding unused options			£363,804.38

Schedule 3 – Contract Data Sheet

General Conditions
Condition 2 – Duration of Contract: The Contract Start date shall be: 1 April 2024 The Contract expiry date shall be: 31 March 2029
Condition 4 – Governing Law: Contract to be governed and construed in accordance with: English Law Solicitors or other persons based in England and Wales (or Scotland if Scots Law applies) irrevocably appointed for Contractors without a place of business in England (or Scotland, if Scots Law applies) in accordance with clause 4.g (if applicable) are as follows:
Condition 7 – Authority’s Representatives: The Authority’s Representatives for the Contract are as follows: Commercial: [REDACTED under FOI Section 40 – Personal Information] (as per Annex A to Schedule 3 (DEFFORM 111)) Project Manager: [REDACTED under FOI Section 40 – Personal Information] (as per Annex A to Schedule 3) (DEFFORM 111))
Condition 18 – Notices: Notices served under the Contract shall be sent to the following address: Authority: FsAST Abbeywood, NH1, Bristol, BS34 8JH (as per Annex A to Schedule 3 (DEFFORM 111)) Contractor: AMST Systemtechnik GmbH, Lamprechtshausener Strasse 63, 5282 Ranshofen, Austria Notices can be sent by electronic mail? Yes
Condition 19.a – Progress Meetings: The Contractor shall be required to attend the following meetings: As at Annex A to this Contract: The Contractor and Authority shall meet twice a year to formally discuss performance/issues
Condition 19.b – Progress Reports: The Contractor is required to submit the following Reports: As at Annex A to this Contract: Quarterly report to include: <ul style="list-style-type: none">· A summary of Preventative Maintenance activity undertaken in the quarter.· A summary of Corrective Maintenance activity undertaken in the quarter· A summary of the status of any tasks under consideration or in progress.· Any outstanding faults and suggested remedial action. Reports shall be Delivered to the following address: FsAST PT

Supply of Contractor Deliverables

Condition 20 – Quality Assurance:

Is a Deliverable Quality Plan required for this Contract? **Yes**

1. The Primary Quality Assurance Standard Requirements:

AQAP 2110 Edition D Version 1 NATO Quality Assurance Requirements for Design, Development and Production. CoC shall be provided in accordance with DEFCON 627

2. Developmental Software

AQAP 2210 Edition A Version 2 – NATO Supplementary Software Quality Assurance Requirements to AQAP 2110 or AQAP 2310 shall apply.

3. Quality Plans

A Deliverable Quality Plan is required in accordance with DEFCON 602A and AQAP 2105 Edition C Version 1 NATO Requirements For Quality Plans.

Unless otherwise notified, the quality plan and the Additional QA Information shall be delivered to the Quality Assurance Representative within 3 months of contract award.

A draft quality plan is required within the tender

A Software Project Quality Plan is required in accordance with AQAP 2105 Chapter 5, for Authority acceptance?

3. Concessions

Concessions shall be managed in accordance with Def Stan. 05-061 Part 1, Issue 7 - Quality Assurance Procedural Requirements - Concessions.

4. Contractor Working Parties

Any contractor working parties shall be provided in accordance with Def Stan. 05-061 Part 4, Issue 4 - Quality Assurance Procedural Requirements - Contractor Working Parties.

5. Avoidance of Counterfeit Materiel

Processes and controls for the avoidance of counterfeit materiel shall be established and applied in accordance with Def Stan. 05-135, Issue 2 – Avoidance of Counterfeit Materiel.

6. Informative Quality Assurance Standards

For guidance on the application and interpretation of AQAPs refer to the appropriate AQAP Standards Related Document (SRD).

Where GQA is performed against this contract it will be in accordance with AQAP 2070 Edition B Version 4.

Condition 21 – Marking of Contractor Deliverables:

Special Marking requirements: **N/A**

Condition 24 - Supply of Data for Hazardous Substances, Mixtures and Articles in Contractor Deliverables:

A completed Schedule 6 (Hazardous and Non-Hazardous Substances, Mixture or Articles Statement), and if applicable, UK REACH compliant Safety Data Sheet(s) are to be provided by e-mail with attachments in Adobe PDF or MS WORD format to:

- a) The Authority's Representative (Commercial)
- b) Defence Safety Authority – DESTECH-QSEPEnv-HSISMulti@mod.gov.uk

to be Delivered no later than one (1) month prior to the Delivery Date for the Contract Deliverable or by the following date: 15/12/23 00:00:00

Condition 25 – Timber and Wood-Derived Products:

A completed Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements) is to be provided by e-mail with attachments in Adobe PDF or MS WORD format to the Authority's Representative (Commercial)

to be Delivered by the following date: 15/12/23 00:00:00

Condition 26 – Certificate of Conformity:

Is a Certificate of Conformity required for this Contract? Yes, AMST will provide a Certificate of Conformity when they attend site following any work carried out

Applicable to Line Items: 1, 2, 3 and 4

If required, does the Contractor Deliverables require traceability throughout the supply chain?

No

Condition 28.b – Delivery by the Contractor:

The following Line Items are to be Delivered by the Contractor:
Line Items 1, 2 and 3. Should the options be taken, then Line Items 4, 5 and 6 also.

Special Delivery Instructions:

Each consignment is to be accompanied by a DEFFORM 129J.

Condition 28.c - Collection by the Authority:

The following Line Items are to be Collected by the Authority: N/A

Special Delivery Instructions: N/A

Each consignment is to be accompanied by a DEFFORM 129J.

Consignor details (in accordance with Condition 28.c.(4)):

Line Items: N/A Address: N/A

Line Items: N/A Address: N/A

Consignee details (in accordance with condition 22):

Line Items: N/A Address: N/A

Line Items: N/A Address: N/A

Condition 30 – Rejection:

The default time limit for rejection of the Contractor Deliverables is thirty (30) days unless otherwise specified here:

Condition 32 – Self-to-Self Delivery:

Self-to-Self Delivery required? No

If required, Delivery address applicable:

Pricing and Payment

Condition 35 – Contract Price:

Schedule of Requirements Line Item 1a shall be FIRM Price. The exchange rate shall be 1.16 Euros = £1.

Schedule of Requirements Line Item 1b-e shall be FIXED Price and shall be calculated in accordance with Variation of Price Condition. The exchange rate will be subject to renegotiation whilst the FIXED price is being calculated and agreed between the Authority and the Contractor.

The Option at Schedule of Requirements Line Item 3a shall be subject to negotiation. Negotiation shall be restricted to the Labour, Escalation Rates and exchange rate. No other items are subject to negotiation. The Options at Schedule of Requirements Line Item 3b-e shall be FIXED and calculated in accordance with the Variation of Price Condition.

In the event that the Parties are unable to agree a price, please refer to Condition 40 Dispute Resolution

The Option at Schedule of Requirements Line Item 4 is provisionally priced and shall be subject to renegotiation.

Re-negotiation for Schedule of Requirements (SoR) Line Item 4 shall take place no later than 6 months to the start date of the Line Item.

Re-negotiation for Schedule of Requirements (SoR) Line item 4 shall take place no later than 3 months prior to the requested start date of the Line Item.

PDS Tasking Rates at Schedule B to Annex B shall be FIRM price for Years 1, Fixed for Years 2-5 in conjunction with SoR Line Items 1b-1e, and re-negotiated in conjunction with SoR Line Item 3a for Year 6 and Fixed for Years 7-10 in accordance with SoR Line Item 3b-e and the Variation of Price Condition.

Termination

Condition 42 – Termination for Convenience:

The Notice period for terminating the Contract shall be twenty (20) days unless otherwise specified here:

The Notice period for termination shall be 20 Business Days

Other Addresses and Other Information (*forms and publications addresses and official use information*)

See Annex A to Schedule 3 (DEFFORM 111)

Schedule 4 - Contract Change Control Procedure (i.a.w. Clause 6b)

Contract No: 708365451

Authority Changes

1. The Authority shall be entitled to propose any change to the Contract (a "Change") or (subject to Clause 2) Changes in accordance with this Schedule 4.
2. Nothing in this Schedule shall operate to prevent the Authority from specifying more than one Change in any single proposal, provided that such changes are related to the same or similar matter or matters.

Notice of Change

3. If the Authority wishes to propose a Change or Changes, it shall serve a written notice (an "Authority Notice of Change") on the Contractor.
4. The Authority Notice of Change shall set out the Change(s) proposed by the Authority in sufficient detail to enable the Contractor to provide a written proposal (a "Contractor Change Proposal") in accordance with clauses 7 to 9 (inclusive).
5. The Contractor may only refuse to implement a Change or Changes proposed by the Authority, if such change(s):
 - a. would, if implemented, require the Contractor to deliver any Contractor Deliverables under the Contract in a manner that infringes any applicable law relevant to such delivery; and/or
 - b. would, if implemented, cause any existing consent obtained by or on behalf of the Contractor in connection with their obligations under the Contract to be revoked (or would require a new necessary consent to be obtained to implement the Change(s) which, after using reasonable efforts, the Contractor has been unable to obtain or procure and reasonably believes it will be unable to obtain or procure using reasonable efforts); and/or
 - c. would, if implemented, materially change the nature and scope of the requirement (including its risk profile) under the Contract;
and:
- d. the Contractor notifies the Authority within 10 (ten) Business Days (or such longer period as shall have been agreed in writing by the parties) after the date of the Authority Notice of Change that the relevant proposed Change or Changes is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c providing written evidence for the Contractor's reasoning on the matter; and
- e. further to such notification:
 - (1) either the Authority notifies the Contractor in writing that the Authority agrees, or (where the Authority (acting reasonably) notifies the Contractor that the Authority disputes the Contractor's notice under Clause 5.d) it is determined in accordance with Condition 40 (Dispute Resolution), that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c; and
 - (2) (where the Authority either agrees or it is so determined that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c) the Authority fails to make sufficient adjustments to the relevant Authority Notice of Change (and issue a revised Authority Notice of Change) to remove the Contractor's grounds for refusing to implement the relevant Change under Clauses 5.a, 5.b and/or 5.c within 10 (ten) Business Days (or such longer period as shall have been agreed in writing by the parties) after:
 - i) the date on which the Authority notifies in writing the Contractor that the Authority

agrees that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c); or

ii) the date of such determination.

6. The Contractor shall at all times act reasonably, and shall not seek to raise unreasonable objections, in respect of any such adjustment.

Contractor Change Proposal

7. As soon as practicable, and in any event within:

- a. (where the Contractor has not notified the Authority that the relevant Change or Changes is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c in accordance with Clause 5) fifteen (15) Business Days (or such other period as the Parties agree (acting reasonably) having regard to the nature of the Change(s)) after the date on which the Contract shall have received the Authority Notice of Change; or
- b. (where the Contractor has notified the Authority that the relevant Change or Changes is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c in accordance with Clause 5 and:

(1) the Authority has agreed with the Contractor's conclusion so notified or it is determined under Condition 40 (Dispute Resolution) that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c and the Authority has made sufficient adjustments to the relevant Authority Notice of Change (and issued a revised Authority Notice of Change(s)) to remove the Contractor's grounds for refusing to implement the relevant Change(s) under Clauses 5.a, 5.b and/or 5.c) fifteen (15) Business Days (or such other period as the parties shall have agreed (both parties acting reasonably) having regard to the nature of the Change(s)) after the date on which the Contractor shall have received such revised Authority Notice of Change; or

(2) the Authority has disputed such conclusion and it has been determined in accordance with Condition 40 (Dispute Resolution) that the relevant Change(s) is/are not a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c) fifteen (15) Business Days (or such other period as the parties shall have agreed (both parties acting reasonably) having regard to the nature of the Change(s)) after the date of such determination,

the Contractor shall deliver to the Authority a Contractor Change Proposal. For the avoidance of doubt, the Contractor shall not be obliged to deliver to the Authority a Contractor Change Proposal where the Contractor notifies the Authority, and the Authority agrees or it is determined further to such notification in accordance with Clause 5, that the relevant Change or Changes is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c.

8. The Contractor Change Proposal shall comprise in respect of each and all Change(s) proposed:

- a. the effect of the Change(s) on the Contractor's obligations under the Contract;
- b. a detailed breakdown of any costs which result from the Change(s);
- c. the programme for implementing the Change(s);
- d. any amendment required to this Contract as a result of the Change(s), including, where appropriate, to the Contract Price; and
- e. such other information as the Authority may reasonably require.

9. The price for any Change(s) shall be based on the prices (including rates) already agreed for the Contract and shall include, without double recovery, only such charges that are fairly and properly attributable to the Change(s).

Contractor Change Proposal – Process and Implementation

10. As soon as practicable after the Authority receives a Contractor Change Proposal, the Authority shall:
 - a. evaluate the Contractor Change Proposal; and
 - b. where necessary, discuss with the Contractor any issues arising (and (in relation to a Change(s) proposed by the Authority) following such discussions the Authority may modify the Authority Notice of Change) and the Contractor shall as soon as practicable, and in any event not more than ten (10) Business Days (or such other period as the Parties shall have agreed in writing) after receipt of such modification, submit an amended Contractor Change Proposal.
11. As soon as practicable after the Authority has evaluated the Contractor Change Proposal (amended as necessary) the Authority shall:
 - a. either indicate its acceptance of the Change Proposal by issuing a DEFFORM10B in accordance with Condition 6 (Formal Amendments to the Contract), whereupon the Contractor shall promptly sign and return to the Authority the Contractor's DEFFORM 10B indicating their unqualified acceptance of such amendment in accordance with, and otherwise discharge their obligations under, such Condition and implement the relevant Change(s) in accordance with such proposal; or
 - b. serve Notice on the Contractor rejecting the Contractor Change Proposal and withdrawing (where issued in relation to a Change or Changes proposed by the Authority) the Authority Notice of Change (in which case such notice of change shall have no further effect).
12. If the Authority rejects the Contractor Change Proposal, it shall not be obliged to give its reasons for such rejection.
13. The Authority shall not be liable to the Contractor for any additional work undertaken or expense incurred in connection with the implementation of any Change(s), unless a Contractor Change Proposal has been accepted by the Authority in accordance with Clause 11a. and then subject only to the terms of the Contractor Change proposal so accepted.

Contractor Changes

14. If the Contractor wishes to propose a Change or Change(s), they shall serve a Contractor Change Proposal on the Authority. Such proposal shall be prepared and reviewed in accordance with and otherwise be subject to the provisions of Clauses 8 to 13 (inclusive).

Schedule 5 - Contractor's Commercial Sensitive Information Form (i.a.w. condition 12)

Contract No: 708365451

[Redacted in its entirety under FOI Section 43 - Commercial Interests Exemption]

Schedule 6 - Hazardous Contractor Deliverables, Materials or Substances Supplied under the Contract

**Hazardous and Non-Hazardous Substances, Mixtures or
Articles Statement by the Contractor**

Contract No: 708365451

Contract Title: Spatial Disorientation Trainers Repair and Maintenance Contract

Contractor: AMST Systemtechnik GmbH

Date of Contract: 01.04.2024

* To the best of our knowledge there are no hazardous Substances, Mixtures or Articles to be supplied.☐; or

* To the best of our knowledge the hazards associated with Substances, Mixtures or Articles to be supplied under the Contract are identified in the Safety Data Sheets or UK REACH Article 33 Communication attached in accordance with either:

DEFCON 68 ☒; or

Condition 9 of Standardised Contract 1A/B Conditions ☐ .

Contractor's Signature: [Redacted under FOI Section 40 – Personal Information]

Name: [Redacted under FOI Section 40 – Personal Information]

Job Title: [Redacted under FOI Section 40 – Personal Information]

Date: 29.01.2024

* check box (☒) as appropriate

To be completed by the Authority

Domestic Management Code (DMC):

NATO Stock Number:

Contact Name:

Contact Phone Number:

Contact Address:

Copy to be forwarded to:

Hazardous Stores Information System (HSIS)

Spruce 2C, #1260

MOD Abbey Wood (South)

Bristol BS34 8JH

Email: DESEngSfty-QSEPSEP-HSISMulti@mod.gov.uk

Schedule 7 - Timber and Wood- Derived Products Supplied under the Contract

Data Requirements for Contract No: 708365451

The following information is provided in respect of condition 25 (Timber and Wood-Derived Products):

Schedule of Requirements item and timber product type	Volume of timber Delivered to the Authority with FSC, PEFC or equivalent evidence	Volume of timber Delivered to the Authority with other evidence	Volume (as Delivered to the Authority) of timber without evidence of compliance with Government Timber Procurement Policy	Total volume of timber Delivered to the Authority under the Contract
Not applicable	Not applicable	Not applicable	Not applicable	Not applicable

Schedule 8 - Acceptance Procedure (i.a.w. condition 29)

Contract No: 708365451

a. Acceptance procedure for PDS tasks and deliverables;

i. Authority acceptance of PDS deliverables requires Authority confirmation of task completion by the signing and returning of the completed tasking form to the Contractor. The Contractor must notify the Authority of task completion by returning the signed tasking form. All PDS tasks/deliverables will be reviewed and approved by the Authority Engineers, counter approved by a member of RAF CAM and Authority Operations Manager and Commercial.

ii. For items purchased under PDS tasking (SOR item 3) It is the responsibility of the Contractor to provide delivery notes as evidence of equipment delivery.

iii. Payment shall not be made until Authority acceptance has been received.

Schedule 9 - Publishable Performance Information - Key Performance Indicator Data Report

(i.a.w. Condition 12)

Contract No: 708365451

KPI Description*	Rating Thresholds	Frequency of Measurement	Quarter and Year*	Average for Reporting Period	Rating*	Comment*
	Good*:					
	Approaching Target:					
	Requires Improvement:					
	Inadequate:					
	Good*:					
	Approaching Target:					
	Inadequate:					
	Good*:					
	Approaching Target:					
	Requires Improvement:					
	Inadequate:					
Social Value KPI (if applicable)	Good*:					
	Approaching Target:					
	Requires Improvement:					
	Inadequate:					

*Publishable fields. Please note, of the four Rating Thresholds, only the 'Good' threshold is published. Please see the [DEFFORM 539B Explanatory Notes](#) for guidance on completing the KPI Data Report.

Schedule 10 – Notification of Intellectual Property Rights (IPR) Restrictions

Contract No. 708365451

PART A – Notification of IPR Restrictions

1. <u>ITT / Contract Number</u>		708365451		
2. <u>ID #</u>	3. <u>Unique Technical Data Reference Number / Label</u>	4. <u>Unique Article(s)* Identification Number / Label</u>	5. <u>Statement Describing IPR Restriction</u>	6. <u>Ownership of the Intellectual Property Rights</u>
1	User Manual A-DIS-25070 - DIS-06	DIS-06	User Manual of Disorientation Trainer DISO 6	AMST Systemtechnik
2	User Manual A-DIS-25070 - DIS-07	DIS-07	User Manual of Disorientation Trainer DISO 7	AMST Systemtechnik
3	Technical and Maintenance Manual A-DIS-25070 - DIS-06	DIS-06	Technical and Maintenance Manual of Disorientation Trainer DISO 6	AMST Systemtechnik
4	Technical and Maintenance Manual A-DIS-25070 - DIS-07	DIS-07	Technical and Maintenance Manual of Disorientation Trainer DISO 7	AMST Systemtechnik
5	Wiring Diagrams A-DIS-25070 - DIS-06	DIS-06	Wiring Diagram of Disorientation Trainer DISO 6	AMST Systemtechnik
6	Wiring Diagrams A-DIS-25070 - DIS-07	DIS-07	Wiring Diagram of Disorientation Trainer DISO 7	AMST Systemtechnik
7				
8				
9				
10				

Please continue on additional sheets where necessary.

* Article(s), for the purpose of this form only, means part or the whole of any item, component or process which the Contractor is required under the Contract to supply or in connection with which it is required under the Contract to carry out any service and any other article or part thereof to the same design as that article.

PART B – System / Product Breakdown Structure (PBS)

The Contractor should insert their PBS here. For Software, please provide a Modular Breakdown Structure.

(Please see the [DEFFORM 711 Completion Notes](#) for guidance on completing the Notification of Intellectual Property Rights (IPR) Restrictions form)

Schedule 11 – Transfer Regulations

EMPLOYEE TRANSFER ARRANGEMENTS ON EXIT

1. Definitions

1.1 In this Schedule 11, save where otherwise provided, words and terms defined in Schedule 1 (Definitions) of the Contract shall have the meaning ascribed to them in Schedule 1 (Definitions) of the Contract.

1.2 Without prejudice to Schedule 1 (Definitions) of the Contract unless the context otherwise requires:

"Data protection legislation" means all applicable data protection and privacy legislation in force from time to time in the UK, including but not limited to:

(i) the General Data Protection Regulation ((EU) 2016/679) as retained in UK law by the EU (Withdrawal) Act 2018 and the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (the "UK General Data Protection Regulation" or "UK GDPR");

(ii) the Data Protection Act 2018;

(iii) the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; and

(iv) all applicable legislation and regulatory requirements in force from time to time which apply to a party relating to the processing of personal data and privacy and the guidance and codes of practice issued by the Information Commissioner's Office which apply to a party;

"Employee Liability Information" has the same meaning as in Regulation 11(2) of the Transfer Regulations;

"Employing Sub-Contractor" means any sub-contractor of the Contractor providing all or any part of the Services who employs or engages any person in providing the Services;

"New Provider" means any replacement service provider or providers engaged to provide the Services (or part thereof) or substantially similar services or the Authority itself where the Services or substantially similar services or part thereof continue to be provided by the Authority after partial termination, termination or expiry of this Contract;

"Relevant Transfer" means a transfer of the employment of Transferring Employees from the Contractor or any Employing Sub-Contractor to a New Provider or the Authority under the Transfer Regulations;

"Transfer Date" means the date on which the transfer of a Transferring Employee takes place under the Transfer Regulations;

"Transferring Employee" means an employee wholly or mainly employed or otherwise assigned to the Services (or in respect of partial termination, the relevant part of the Services) whose employment transfers under the Transfer Regulations from the Contractor or any Employing Sub-Contractor to a New Provider;

"Transfer Regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended from time to time and/or the Service Provision Change (Protection of

Employment) Regulations (Northern Ireland) 2006 (as amended from time to time), as appropriate.

2. EMPLOYMENT

2.1 **Information on Re-tender, Partial Termination, Termination or Expiry**

2.1.1

No earlier than [two years] preceding the termination, partial termination or Expiry of this Contract or a potential Transfer Date or at any time after the service of a notice to terminate this Contract or the provision of any of the Services (whether in whole or part) or on receipt of a written request by the Authority, the Contractor shall (and shall procure that any Employing Sub-Contractor shall):

- (a) supply to the Authority such information as the Authority may reasonably require in order to consider the application of the Transfer Regulations on the termination, partial termination or expiry of this Contract;
- (b) supply to the Authority such full and accurate and up-to-date information as may be requested by the Authority including the information listed in Appendix 1 to this Schedule 11 relating to the employees who are wholly or mainly employed, assigned or engaged in providing the Services or part of the Services under this Contract who may be subject to a Relevant Transfer;
- (c) provide the information promptly and in any event not later than three months from the date when a request for such information is made and at no cost to the Authority;
- (d) acknowledge that the Authority will use the information for informing any prospective New Provider for any services which are substantially the same as the Services or part of the Services provided pursuant to this Contract;
- (e) inform the Authority of any changes to the information provided under paragraph 2.1.1(a) or 2.1.1(b) up to the Transfer Date as soon as reasonably practicable.

2.1.2

Three months preceding the termination, partial termination or expiry of this Contract or on receipt of a written request from the Authority the Contractor shall:

- (a) ensure that Employee Liability Information and such information listed in Part A of Appendix 2 of this Schedule 11 (Personnel Information) relating to the Transferring Employees is provided to the Authority and/or any New Provider;
- (b) inform the Authority and/or any New Provider of any changes to the information provided under this Paragraph 2.1.2 up to any Transfer Date as soon as reasonably practicable;
- (c) enable and assist the Authority and/or any New Provider or any sub-contractor of a New Provider to communicate with and meet those employees and their trade union or other employee representatives.

2.1.3

No later than 28 days prior to the Transfer Date the Contractor shall provide the Authority and/or any New Provider with a final list of the Transferring Employees together with the information listed in Part B of Appendix 2 of this Schedule 11 (Personnel Information) relating to the Transferring Employees. The Contractor shall inform the Authority and/or New Provider of any changes to this list or information up to the Transfer Date.

- 2.1.4 Within 14 days following the relevant Transfer Date the Contractor shall provide to the Authority and/or any New Provider the information set out in Part C of Appendix 2 of this Schedule 11 in respect of Transferring Employees.

2.1.5

Paragraphs 2.1.1 and 2.1.2 of this Schedule are subject to the Contractor's obligations

in respect of the Data Protection Legislation and the Contractor shall use its best endeavours to obtain the consent of its employees (and shall procure that its Sub-Contractors use their best endeavours to obtain the consent of their employees) to the extent necessary under the Data Protection Legislation or provide the data in an anonymous form in order to enable disclosure of the information required under paragraphs 2.1.1 and 2.1.2. Notwithstanding this paragraph 2.1.5, the Contractor acknowledges (and shall procure that its Sub-Contractors acknowledge) that they are required to provide sufficient information to the Authority to enable the Authority to determine the nature of the activities being undertaken by employees engaged in providing the Services, to assess whether there is an organised grouping for the purposes of the Transfer Regulations and to assess who is assigned to such organised grouping. To the extent that anonymous data has been provided by the Contractor pursuant to its obligations under Paragraph 2.1.1 or 2.1.2 above, the Contractor shall provide full data to the Authority no later than 28 days prior to the Transfer Date.

2.1.6

On notification to the Contractor by the Authority of a New Provider or within the period of six months prior to the Termination Date or after service of a notice to terminate this Contract (whether in whole or in part), whichever is earlier and in any event on receipt of a written request by the Authority, the Contractor shall not and shall procure that an Employing Sub-Contractor shall not:

- (a) materially amend or promise to amend the rates of remuneration or other terms and conditions of employment of any person wholly or mainly employed or engaged in providing the Services under this Contract; or
- (b) replace or re-deploy from the Services any person wholly or mainly employed or engaged in providing the Services, or materially increase or decrease the number of persons performing the Services under this Contract or the working time spent on the Services (or any part thereof); or
- (c) reorganise any working methods or assign to any person wholly or mainly employed or engaged in providing the Services (or any part thereof) any duties unconnected with the Services (or any part thereof) under this Contract; or
- (d) terminate or give notice to terminate the employment of any person wholly or mainly employed or engaged in providing the Services (or any part thereof) under this Contract other than in the case of serious misconduct or for poor performance,

save in the ordinary course of business and with the prior written consent of the Authority (not to be unreasonably withheld or delayed) and the Contractor shall indemnify and keep indemnified the Authority in respect of any reasonable costs (including reasonable legal costs), losses and expenses and all damages, compensation, fines and liabilities arising out of or in connection with any breach of paragraphs 2.1.1, 2.1.2, 2.1.3, 2.1.4 or 2.1.6 of this Schedule 11.

- 2.1.7 The Authority may at any time prior to the period set out in paragraph 2.1.5 of this Schedule 11 request from the Contractor any of the information in sections 1(a) to (d) of Appendix 1 and the Contractor shall and shall procure any Sub-Contractor will provide the information requested within 28 days of receipt of that request.

2.2

Obligations in Respect of Transferring Employees

- 2.2.1 To the extent that the Transfer Regulations apply on expiry, termination or partial termination of this contract, the Contractor shall and shall procure any Employing Sub-Contractor shall and the Authority shall and shall procure that a New Provider shall in such circumstances:

- (a) before and in relation to the Transfer Date liaise with each other and shall co-operate with each other in order to implement effectively the smooth transfer of the Transferring Employees to the Authority and/or a New Provider; and
- (b) comply with their respective obligations under the Transfer Regulations including their obligations to inform and consult under Regulation 13 of the Transfer Regulations.

2.3

Unexpected Transferring Employees

- 2.3.1 If a claim or allegation is made by an employee or former employee of the Contractor or any Employing Sub-Contractor who is not named on the list of Transferring Employees provided under paragraph 2.1.3 (an "**Unexpected Transferring Employee**") that he has or should have transferred to the Authority and/or New Provider by virtue of the Transfer Regulations, the Party receiving the claim or allegation shall notify the other Party (or the Contractor shall notify the Authority on the Sub-Contractor's behalf and the Authority shall notify the Contractor on the New Provider's behalf) in writing as soon as reasonably practicable and no later than ten Business Days after receiving notification of the Unexpected Transferring Employee's claim or allegation, whereupon:
- (a) the Contractor shall (or shall procure that the Employing Sub-Contractor shall), as soon as reasonably practicable, offer and/or confirm continued employment to the Unexpected Transferring Employee or take such other steps so as to effect a written withdrawal of the claim or allegation; and
 - (b) if the Unexpected Transferring Employee's claim or allegation is not withdrawn or resolved the Contractor shall notify the Authority (who will notify any New Provider who is a party to such claim or allegation), and the Authority (insofar as it is permitted) and/or New Provider (as appropriate) shall employ the Unexpected Transferring Employee or as soon as reasonably practicable, (subject to compliance with its obligations at paragraph 2.3.1(c)(iii)), serve notice to terminate the Unexpected Transferring Employee's employment in accordance with his contract of employment; and
 - (c) the Contractor shall indemnify the Authority against all reasonable costs (including reasonable legal costs) losses and expenses and all damages, compensation, fines and liabilities arising out of or in connection with any of the following liabilities incurred by the Authority or New Provider in dealing with or disposing of the Unexpected Transferring Employee's claim or allegation:
 - (i) any additional costs of employing the Unexpected Transferring Employee up to the date of dismissal where the Unexpected Transferring Employee has been dismissed in accordance with paragraph 2.3.1(b);
 - (ii) any liabilities acquired by virtue of the Transfer Regulations in relation to the Unexpected Transferring Employee;
 - (iii) any liabilities relating to the termination of the Unexpected Transferring Employee's employment but excluding such proportion or amount of any liability for unfair dismissal, breach of contract or discrimination attributable:
 - (A) to a failure by the Authority or a New Provider to act reasonably to mitigate the costs of dismissing such person);
 - (B) directly or indirectly to the procedure followed by the Authority or a New Provider in dismissing the Unexpected Transferee; or
 - (C) to the acts/omissions of the Authority or a New Provider not wholly connected to the dismissal of that person;
 - (iv) any liabilities incurred under a settlement of the Unexpected Transferring Employee's claim which was reached with the express permission of the Contractor (not to be unreasonably withheld or delayed);
 - (v) reasonable administrative costs incurred by the Authority or New Provider in dealing with the Unexpected Transferring Employee's claim or allegation, subject to a cap per Unexpected Transferring Employee of £5,000; and
 - (vi) legal and other professional costs reasonably incurred;
- 2.3.2 the Authority shall be deemed to have waived its right to an indemnity under paragraph 2.3.1(c) if it fails without reasonable cause to take, or fails to procure any New Provider

takes, any action in accordance with any of the timescales referred to in this paragraph 2.3.

2.4

Indemnities on transfer under the Transfer Regulations on Partial Termination, Termination or Expiry of the Contract

2.4.1 If on the expiry, termination or partial termination of the Contract there is a Relevant Transfer, the Contractor shall indemnify the Authority and any New Provider against all reasonable costs (including reasonable legal costs) losses and expenses and all damages, compensation, fines and liabilities arising out of or in connection with any claim by any employee or trade union representative or employee representative arising whether before or after the Transfer Date out of any failure by the Contractor or any Sub-Contractor to comply with their obligations under Regulation 13 of the Transfer Regulations in relation to any Transferring Employee or any other employee of the Contractor or any Sub-Contractor affected by the Relevant Transfer (as defined by Regulation 13 of the Transfer Regulations), save to the extent that all reasonable costs (including reasonable legal costs), losses and expenses and all damages, compensation, fines and liabilities are a result of the act or omission of the Authority or the New Provider.

2.4.2

If there is a Relevant Transfer, the Authority shall indemnify the Contractor against all reasonable costs (including reasonable legal costs) losses and expenses and all damages, compensation, fines and liabilities arising out of, or in connection with:

- (a) any claim or claims by a Transferring Employee at any time on or after the Transfer Date which arise as a result of an act or omission of the Authority or a New Provider or a sub-contractor of a New Provider during the period from and including the Transfer Date;
- (b) subject to paragraph 2.4.1 any claim by any employee or trade union representative or employee representative arising whether before or after the Transfer Date out of any failure by the Authority or a New Provider or a sub-contractor of a New Provider to comply with their obligations under Regulation 13 of the Transfer Regulations in relation to any Transferring Employee or any other employee engaged wholly or mainly in connection with the Services by the New Provider or any other employee of the Authority or any New Provider affected by the Relevant Transfer effected by this Contract (as defined by Regulation 13 of the Transfer Regulations),

save to the extent that all reasonable costs (including reasonable legal costs), losses and expenses and all damages, compensation, fines and liabilities are a result of the act or omission of the Contractor or any Employing Sub-Contractor.

2.4.3

In the event of a Relevant Transfer, the Authority shall indemnify the Contractor in respect of all reasonable costs (including reasonable legal costs), losses and expenses and all damages, compensation, fines and other liabilities arising out of or in connection with or as a result of a substantial change by the Authority [or a New Provider or any sub-contractor of a New Provider] on or after the Transfer Date to the working conditions of any Transferring Employee to the material detriment of any such Transferring Employee. For the purposes of this paragraph 2.4.3, the expressions "substantial change" and "material detriment" shall have the meanings as are ascribed to them for the purposes of Regulation 4(9) of the Transfer Regulations.

2.5

Contracts (Rights of Third Parties) Act 1999

2.5.1 A New Provider may enforce the terms of paragraph 2.3 and 2.4 against the Contractor in accordance with the Contracts (Rights of Third Parties) Act 1999.

2.5.2 The consent of a New Provider (save where the New Provider is the Authority) is not required to rescind, vary or terminate this Contract.

2.5.3 Nothing in this paragraph 2.5 shall affect the accrued rights of the New Provider prior to the rescission, variation, expiry or termination of this Contract.

2.6

General

2.6.1 The Contractor shall not recover any Costs and/or other losses under this Schedule 11

where such Costs and/or losses are recoverable by the Contractor elsewhere in this Contract and/or are recoverable under the Transfer Regulations or otherwise.

Appendix 1

**CONTRACTOR PERSONNEL-RELATED INFORMATION TO BE RELEASED UPON RE-TENDERING
WHERE THE TRANSFER REGULATIONS APPLIES**

1..... Pursuant to paragraph 2.1.1(b) of this Schedule 11, the following information will be provided:

a) The total number of individual employees (including any employees of Sub-Contractors) that are currently engaged, assigned or employed in providing the Services and who may therefore be transferred. Alternatively the Contractor should provide information why any of their employees or those of their Sub-Contractors will not transfer;

b) The total number of posts or proportion of posts expressed as a full-time equivalent value that currently undertakes the work that is to transfer;

c) The preceding 12 months total pay costs – (Pay, benefits employee/employer national insurance contributions and overtime);

d) Total redundancy liability including any enhanced contractual payments;

2..... In respect of those employees included in the total at 1(a), the following information:

a) Age (not date of Birth);

b) Employment Status (i.e. Fixed Term, Casual, Permanent);

c) Length of current period of continuous employment (in years, months) and notice entitlement;

d) Weekly conditioned hours of attendance (gross);

e) Standard Annual Holiday Entitlement (not "in year" holiday entitlement that may contain carry over or deficit from previous leave years);

f) Pension Scheme Membership:

g) Pension and redundancy liability information;

h) Annual Salary;

i) Details of any regular overtime commitments (these may be weekly, monthly or annual commitments for which staff may receive an overtime payment);

j) Details of attendance patterns that attract enhanced rates of pay or allowances;

- k) Regular/recurring allowances;
- l) Outstanding financial claims arising from employment (i.e. season ticket loans, transfer grants);
3. The information to be provided under this Appendix 1 should not identify an individual employee by name or other unique personal identifier unless such information is being provided 28 days prior to the Transfer Date.
4. The Contractor will provide (and will procure that the Sub-Contractors provide) the Authority/tenderers with access to the Contractor's and Sub-Contractor's general employment terms and conditions applicable to those employees identified at paragraph 1(a) of this Appendix 1.

Appendix 2

PERSONNEL INFORMATION TO BE RELEASED PURSUANT TO THIS CONTRACT

Part A

1. Pursuant to paragraph 2.1.2 of this Schedule 11, the written statement of employment particulars as required by section 1 of the Employment Rights Act 1996 together with the following information (save where that information is included within that statement) which will be provided to the extent it is not included within the written statement of employment particulars:
- 1.1 **Personal, Employment and Career**
- a) Age;
- b) Security Vetting Clearance;
- c) Job title;
- d) Work location;
- e) Conditioned hours of work;
- f) Employment Status;
- g) Details of training and operating licensing required for Statutory and Health and Safety reasons;
- h) Details of training or sponsorship commitments;
- i) Standard Annual leave entitlement and current leave year entitlement and record;
- j) Annual leave reckonable service date;
- k) Details of disciplinary or grievance proceedings taken by or against transferring employees in the last two years;
- l) Information of any legal proceedings

between employees and their employer within the previous two years or such proceedings that the transferor has reasonable grounds to believe that an employee may bring against the transferee arising out of their employment with the transferor;

m) Issue of Uniform/Protective Clothing;

n) Working Time Directive opt-out forms;
and

o) Date from which the latest period of continuous employment began.

1.2 Superannuation and Pay

a) Maternity leave or other long-term leave of absence (meaning more than 4 weeks) planned or taken during the last two years;

b) Annual salary and rates of pay band/grade;

c) Shifts, unsociable hours or other premium rates of pay;

d) Overtime history for the preceding twelve-month period;

e) Allowances and bonuses for the preceding twelve-month period;

f) Details of outstanding loan, advances on salary or debts;

g) Pension Scheme Membership;

h) For pension purposes, the notional reckonable service date;

i) Pensionable pay history for three years to date of transfer;

j) Percentage of any pay currently contributed under additional voluntary contribution arrangements; and

k) Percentage of pay currently contributed under any added years arrangements.

1.3 Medical

a) Details of any period of sickness absence of 3 months or more in the preceding period of 12 months; and

b) Details of any active restoring efficiency case for health purposes.

1.4 Disciplinary

a) Details of any active restoring efficiency case for reasons of performance; and

b) Details of any active disciplinary cases where corrective action is on going.

1.5 **Further information**

- a) Information about specific adjustments that have been made for an individual under the Equality Act 2010;
- b) Short term variations to attendance hours to accommodate a domestic situation;
- c) Individuals that are members of the Reserves, or staff that may have been granted special leave for public duties such as a School Governor; and;
- d) Information about any current or expected maternity or other statutory leave or other absence from work.

Part B

1.6 **Information to be provided 28 days prior to the Transfer Date:**

- a) Employee's full name;
- b) Date of Birth
- c) Home address;
- d) Bank/building society account details for payroll purposes Tax Code.

PART C

1.7 Information to be provided within 14 days following a Transfer Date:

1.7.1 Performance Appraisal

The current year's Performance Appraisal;

Current year's training plan (if it exists); and

Performance Pay Recommendations (PPR) forms completed in the current reporting year, or where relevant, any bonus entitlements;

Superannuation and Pay

Cumulative pay for tax and pension purposes;

Cumulative tax paid;

National Insurance Number;

National Insurance contribution rate;

Other payments or deductions being made for statutory reasons;

Any other voluntary deductions from pay;

Schedule 12 – DEFFORM 815

Please see external document: Schedule 12 - DEFFORM 815

[Redacted in its entirety under FOI Section 43 – Commercial Interests Exemption]

Schedule 13 - Import and Export Control Information

Please see external document: Schedule 13 - Import and Export Control

[Redacted in its entirety under FOI Section 43 – Commercial Interests Exemption]

DEFFORM 111

Appendix - Addresses and Other Information

1. Commercial Officer

Name: [REDACTED under FOI Section 40 – Personal Information]

Address: FsAST PT, Abbey Wood, NH1 Walnut 2b, BS34 8JH

Email: [REDACTED under FOI Section 40 – Personal Information]
[REDACTED under FOI Section 40 – Personal Information]



[REDACTED under FOI Section 40 – Personal Information]

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

Name: [REDACTED under FOI Section 40 – Personal Information]

Address: FsAST PT, Abbey Wood, NH1 Walnut 2b, BS34 8JH

Email: [REDACTED under FOI Section 40 – Personal Information]
[REDACTED under FOI Section 40 – Personal Information]



[REDACTED under FOI Section 40 – Personal Information]

3. Packaging Design Authority Organisation & point of contact:

FsAST PT

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



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

Branch/Name: [REDACTED under FOI Section 40 – Personal Information]



(b) U.I.N. [REDACTED under FOI Section 40 – Personal Information]

5. Drawings/Specifications are available from FsAST PT

6. Intentionally Blank

7. Quality Assurance Representative: N/A

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

8. **AQAPS** and **DEF STANs** are available from UK Defence Standardization, for access to the documents and details of the helpdesk visit <http://dstan.uwh.diif.r.mil.uk/> [intranet] or <https://www.dstan.mod.uk/> [extranet, registration needed].

9. **Consignment Instructions** The items are to be consigned as follows: N/A

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

Ministry of Defence, DBS Finance, Walker House, Exchange Flags Liverpool, L2 3YL

☎☎ 0151-242-2000 Fax: 0151-242-2809

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: Leidos-FormsPublications@teamleidos.mod.uk

*** NOTE**

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

<https://www.kid.mod.uk/maincontent/business/commercial/index.htm>

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

Annexes

Annex A – Statement of Work

Customer Reference Number 708365451	Issue Number & Date	Supplier Reference Number
1. Task Title: Spatial Disorientation Trainer		
Brief Description of Task: 2. To undertake spares replenishment, corrective/preventative maintenance, servicing and both Maintainer and Instructor training on the Spatial Disorientation Trainers (DISO 6 and 7).		
3. Background/Justification: 3.1. The Aviation Medicine Training Wing (AMTW) is the training wing of the Royal Air Force Centre of Aviation Medicine (RAF CAM) and is based at RAF Henlow. 3.2. Spatial Disorientation Training (SDT) is taught at RAF CAM and includes instruction in the limitations of the human orientation system in flight, and in recognising and correcting the resultant Spatial Disorientation (SDO) in order to potentially reduce the current accident rate in aviation due to spatial disorientation. As an essential part of this training, AMTW provides practical experience of many of the illusions that may result in SDO, using two disorientation trainers (DISO's). Statement of Work / Activities to be Undertaken 4. Telephone Support & Administration 4.1. The Contractor shall provide online and/or telephone support for all questions regarding the operational use and maintenance aspects of the DISO's (Disorientation Trainers). Support shall be active during normal working hours (08:00 – 17:00 GMT) Monday to Friday, excluding UK Public Holidays. 4.2. The Contractor shall respond to a request for support within 1 Business Day in accordance with KPI 1. If a resolution cannot be provided within that response to the request for support, then a Rectification Plan shall be agreed with the Authority. 4.3. The Contractor shall submit a Rectification Plan within 5 Business Days of the request for support. The Rectification Plan should detail how the Contractor proposes to correct the fault/s and an estimate completion date. 4.4. The Rectification Plan for corrective action should be raised together with a Tasking Form in accordance with the Tasking Process as detailed at Schedule C to Annex B. 4.5. Faults shall be corrected by the Contractor in-line with the agreed Contractor's Rectification Plan and estimated completion date which shall be measured in accordance with KPI 2. 5. Documentation Support 5.1. If not otherwise agreed, changes to the manuals shall be provided on an interval not exceeding 12 months, if necessary. Safety-related issues are promulgated as soon as practicable.		

6. Scheduled Maintenance

- 6.1. The Contractor shall be required to attend site at least two times a year in negotiation with the Authority for carrying out the respective scheduled maintenance tasks of the DISO's as described in the at Schedule A to Annex A - Recommended Maintenance Plan **I**. During each visit, any modifications/updates required by the Contractor shall be performed, subject to agreement by the Authority. Maintenance dates must be mutually agreed between the Contractor and the Authority 12 months in advance to the maintenance date to deconflict with planned training dates.
- 6.2. The Contractor shall provide all consumables required for each maintenance visit.
- 6.3. Upon completion of each maintenance or repair action, a Certificate of Conformity (COC) will be filled out and jointly signed by the Authority and the Contractor, confirming and accepting the services rendered.
- 6.4. In case of a situation where the scheduled maintenance to be carried out by the Contractor cannot be performed within the planned timeframe, the Contractor is obliged to inform the Authority at least 10 Business Days in advance before carrying out the scheduled maintenance. The Contractor and the Authority shall agree a revised maintenance visit within 5 Business Days of the notice being received from the Contractor.

7. Remote Management System

- 7.1. A remote management system shall be provided by the Contractor which shall be linked via a secure internet connection between the Contractor and the Authority. The Contractor shall manage and maintain the remote management system and shall support the Authority's local maintenance personnel via internet or telephone in case a failure of the remote management system which cannot be repaired by the Authority's local staff. All reparations required to the remote management system shall be at the Contractor's own expense.
- 7.2. The Contactor shall provide access for the Authority maintenance personnel to an online failure reporting system where all events will be logged. The hardware installed at the Authority's end of the secure link shall be maintained and owned by AMST.

8. Obsolete Parts Programme

- 8.1. The Contractor shall conduct an obsolete parts programme. The Contractor shall determine which components are and shall become obsolete during the contract period and cannot be supported any longer. The Contractor shall propose solutions to the Authority.

9. Annual Software Maintenance

- 9.1. The Contractor will be responsible to carry out software maintenance and updates. The annual software release, if any, will include a service pack of existing software and also include any updated features and other benefits, for example performance improvements. The Contractor will present all new features that are part of the service pack 2 months before the software release will be issued. The Authority will choose which of those new features are beneficial and to be installed and will inform the Contractor 4 weeks prior to the service pack installation.
- 9.2. Any unscheduled software updates that may affect DISO operation outside of the software maintenance schedule are to be released on the advice of the Contractor. Such release should be agreed between the Authority and the Contractor.

10. Spare Parts, Training equipment, tools & consumables

- 10.1. The Contractor shall replenish spares and consumables when utilised by the Authority or on an ad hoc / as requested basis. The Contractor shall not replenish or provide spares/consumables unless authorised by the Authority Operations Manager detailed at DEFFORM 111.
- 10.2. The Authority will reimburse the Contractor for the cost of the spares/consumables only. The Contractor shall submit a quarterly invoice for the spares procured in that quarter together with an itemised list of the spares and the respective price. The price of spares shall be in accordance with Annex J – Spares Price List.
- 10.3. The Contractor shall supply a report in accordance with DEFCON 694.

11. Training for Operation & Maintenance (O&M)

- 11.1. Refresher practical O&M training for the Authority RAF staff shall be provided by the Contractor. This includes occasional instructor training on how best to deliver aircrew training. This is to ensure improved safety and standardised work practices, while reducing maintenance costs over the lifetime of the equipment. This training is to be conducted at the same time as the scheduled maintenance visits at no additional cost, if so required.

12. Reporting

- 12.1. The Contractor shall deliver Quarterly reports within 10 Business Days of the new Reporting Quarter, which shall include, as a minimum:
- A summary of Preventative Maintenance activity undertaken in the quarter.
 - A summary of Corrective Maintenance activity undertaken in the quarter.
 - A summary of the status of any tasks under consideration or in progress.
 - Obsolete Part Programme in accordance with Condition 8 of the Statement of Work
 - Any outstanding faults and suggested remedial action.
 - In accordance with DEFCON 694, report on current Public Stores Account (PSA) holdings
- 12.2. The Contractor and Authority shall meet twice a year to formally discuss contract performance/issues. The Contractor will also provide support to PESC meetings which will be limited to a max of 2 per year. These meeting can take place virtually due to the locations of those who will be involved. An agenda will be agreed in advance of both meetings.

13. PDS or Ad Hoc Tasking (Post Design Services)

- 13.1. The Contractor shall provide a PDS and/or ad hoc Tasking provision at the request of the Authority and warrants that it has the capability and relevant accreditation to undertake such services. The Contractor shall define how PDS and ad-hoc tasks shall be performed over the duration of the Contract and shall describe the mechanisms, resources, processes, instructions and responsibilities for maintaining and/or changing the design/functionality of equipment. PDS or ad hoc Tasking process will be initiated in accordance with Schedule C to Annex B.

14. Safety Management

- 14.1. The DISO Systems shall remain fully compliant to DEF-Stan 00-056 (Safety

Management)

15. DISO room dimensions

- 15.1. The Contractor shall provide accurate room dimensions to house both DISO 6 and 7 (DISOs) together with all other relevant equipment to enable full operational functionality of the DISOs. The room dimensions will be relied upon for the construction of the new facility housing the DISOs at RAF Cranwell. If requested, and in accordance with the Tasking Process at Schedule C to Annex B, the Contractor shall provide support to RAFCAM Relocation. The room dimensions shall be provided at Contract Award.

16. DISO relocation Option

- 16.1. If the Option at Schedule of Requirements Line Item 4 is enacted, the Contractor shall relocate DISO 6 and 7 from RAF Henlow to RAF Cranwell together with all relevant equipment in order to enable full operational functionality. This shall include delivery, deinstallation, reinstallation and all other activities to ensure the DISO's are fully operationally functional at the new location at RAF Cranwell. The Contractor shall provide a statement of work, schedule of activities and a timeline for completion when the Option is enacted.

Schedule A to Annex A – Recommended Maintenance Plan

See document reference: 009-10_Supplier_Maintenance_Checklists_20231220

Annex B – PDS Tasking Form

The following proforma shall be used by the contractor to document work to be undertaken under the contract. The Authority reserves the right to amend the form structure and content if required.

TASKING FORM - PART I
TASK DETAILS, COST INFORMATION AND CONTRACTOR APPROVAL SHEET

Contractor:	Contract No: 708365451	Issue No:
	Task No:	Date:
Main Equipment & Serial Number:		
Origin (eg.Statement Of Requirement (SOR) Number from End User)		
Task Description:		
Additional Terms and Conditions / DEFCONS:		
Intellectual Property Rights <i>select as appropriate</i>		
<p>DEFCON 14- Inventions And Designs - Crown Rights And Ownership Of Patents And Registered Designs [Insert Edition]</p> <p>DEFCON 15 - Design Rights and Rights to use Design Information[Insert Edition]</p> <p>[Must complete DEFFORM 315]</p> <p>DEFCON 16 - Repair And Maintenance Information[Insert Edition]</p> <p>[Must complete DEFFORM 315]</p> <p>DEFCON 21 (Edn 10/04) - Retention Of Records [must be selected where DEFCON 15/16 is used]</p> <p>DEFCON 90 - Copyright[Insert Edition]</p> <p>DEFCON 91 - Intellectual Property Rights In Software[Insert Edition]</p> <p>DEFCON 126 - International Collaboration [Insert Edition]</p> <p>DEFCON 703 - Intellectual Property Rights - Vesting In The Authority[Insert Edition]</p> <p>DEFCON 705 - Intellectual Property Rights - Research And Technology[Insert Edition]</p>		

DEFCON 707 – Rights in Technical Data <i>[Insert Edition]</i>			
[Must be accompanied by a DEFFORM 711]			
Other:			
Quality Management / Assurance:			
<i>To be completed</i>			
Any other Terms and Conditions / DEFCONs to be added:			
<i>To be completed where applicable</i>			
Supporting Narrative/Statement of Work (SOW) Attached			YES/NO*
Supporting Narrative/Statement of Work (SOW) Endorsed By End User/Requester			YES/NO*
Contractors Proposal for Work:			
<p>Task Price Offer (VAT exclusive) -The above task is hereby offered to the Authority in accordance with the Terms and Conditions of the above mentioned Contract at the following Firm/Maximum* Price. A detailed breakdown must be attached.</p>			
Overseas Expenditure		YES/NO	
If 'YES'		£	
Description	Price (ex VAT)	VAT	Total
Labour			
Materials			
Sub-contracts			
Travel & Subsistence			
Profit			
Total Price			
Validity of the Quotation:			
MOD Dependencies (see DEFSTAN 05-57, Issue 6, Annex D1):			YES/NO*
Completion/Installation Schedule (weeks from approval):			YES/NO*
The above Firm price includes the update to, and incorporation of, the Technical & Design documentation (to be all documentation affected):			YES/NO*
The Task detailed above shall be completed upon the submission of a Certificate of Design and Performance:			YES/NO*
Name	Contractor Signature	Appointment	Date
<i>Authorisation –The Contractor is authorised to carry out the work detailed above in accordance with the terms and conditions of the Contract only when this form has been authorised by a FsAST Commercial Officer</i>			

Name	Authority Signature	Appointment	Date
<i>Task Completion - This is to certify the above task has been completed in accordance with the Terms and Conditions of the Contract and the claim for payment (DEFFORM129J) for the task completion is submitted for authorisation.</i>			
Name	Contractor Signature	Appointment	Date
<i>Task Completion - This is to confirm that the above task has been completed in accordance with the Terms and Conditions of the Contract and the attached claim for payment has been authorised and may now be submitted for payment under the P2P procedures.</i> <i>Please advise Authority on submission of Invoice (INVOICE NUMBER REQUIRED).</i>			
Name	Authority Signature	Appointment	Date

* Delete as appropriate

Schedule A to Annex B - PDS Tasking Record

<u>Amdt No.</u>	<u>Task No.</u>	<u>Description</u>	<u>PO Number</u>	<u>Quote Received</u>	<u>PO Sent</u>	<u>FIRM Price (£) ex-VAT</u>	<u>Due Date</u>	<u>Task Completed</u>	<u>Comments</u>

Schedule B to Annex B - PDS Tasking Rates

1. Tasks raised under Schedule C to Annex B shall be priced in accordance with this Schedule B to Annex B.
2. The Rates and T&S within this Schedule B to Annex B are firm priced for the period 1 April 2024 to 31 March 2025.
3. The Rates for the period 1 April 2025 to 31 March 2029 will be subject to a Variation of Price in accordance with the Variation of Price Condition.
4. Profit is not subject to the Variation of Price Condition and will be firm priced for the period 1 April 2024 to 30 March 2029
5. The Rates and T&S within this Schedule B to Annex B shall have a firm price exchange rate of 1.16 Euros = £1 for the period 1 April 2024 to 31 March 2027.
6. The exchange rate for the period 1 April 2027 to 31 March 2029 shall be subject to renegotiation during the Variation of Price FIXED price calculation for Line Items 1d-1e.
7. Re-calculation of the Rates for the period 1 April 2029 to 31 March 2034 shall form part of the re-negotiation detailed in the Contract Data Sheet at Condition 35 for Schedule of Requirements Line Item 3a-3e.
8. Please refer to Annex J for detailed pricing and conditions relating to the purchase of spares under Schedule C to Annex B and Condition 10 of Annex A – Statement of Work.

Annex B PDS Tasking Rates - Labour Costs

[Redacted in its entirety under FOI Section 43 – Commercial Interests Exemption]

Annex B PDS Tasking Rates - Travel Costs

[Redacted in its entirety under FOI Section 43 – Commercial Interests Exemption]

Schedule C to Annex B – PDS Tasking Procedure

1. Tasking authorised against Schedule of Requirement Item No. 2 shall be carried out in accordance with the following procedure and the agreed Statement of Work for each task, supported by a Contractor report where appropriate.
2. The authorisation for all Tasks under Item 2 shall be by the proper completion of the Tasking Form at Annex B and approval to proceed shall be given following signature of the Tasking Form by the Authority Commercial Officer.
3. The Authority will raise a Tasking Form utilising the Tasking Form at Annex B to request a quote from the Contractor including the Authority's statement of requirement.
4. The Contractor shall quote for each task by completing the Tasking Form and submitting 1 copy to the Authority Service Delivery Manager for agreement and authorisation by the Authority. The Contractor's shall include their Statement of Work and a quotation within the Tasking Form which shall be constructed by reference to the agreed rates at Schedule B to Annex B. The Contractor shall also provide evidence of any sub-contracts or materials to support the price quoted and assurance the Contractor has completed its due diligence and believes it is value for money.
5. The Contractor shall respond to the Authority's Tasking Form and request for quote within 20 Business Days of the request. If the Contractor cannot respond within this timescale, the Contractor shall raise at the earliest opportunity, and no later than 10 Business Days after receipt of the Tasking Form that it will not be able to respond within 20 Business Days and propose an alternative timescale. The Authority and the Contractor shall agree a mutually agreeable revised timescale. If an agreement cannot be reached, the matter shall refer to Condition 40 Dispute Resolution Procedure.

Make or Buy Plan

6. With the submission of each Task where the sub-Contractor or materials element of the work is likely to exceed £25,000 (excluding VAT), the Contractor shall submit to the Authority's Commercial Manager a Make or Buy Plan defining the criteria and rationale used for the apportionment of work within the proposed supply network. The plan must identify each sub-system, package of work, service or purchase of components and raw materials etc. whether or not you intend to seek competitive tenders. You must indicate your reasons for not seeking competition (i.e. competition not practicable or not reasonable for other reasons which must be stated) and should provide the following information:
 - a. The name and address of the proposed sub-Contractor, subsidiary, etc. concerned
 - b. The approximate value of the sub-contract or order with evidence;
 - c. The means by which prices are to be determined as fair and reasonable,
 - d. The delivery programme; and

- e. Other relevant factor
7. Within 4 weeks of receipt of this element of the plan, or as otherwise agreed, the Authority's Commercial Manager will advise whether the Contractor's proposals are accepted. Where the proposals are not accepted, further consultation will take place so as to enable the Contractor to elaborate further but in the event of continued disagreement, the Authority's decision shall be final.
 8. The Authority's Commercial Manager will also notify the Contractor whether and in what manner it wishes to be associated with the pricing of the sub-contract or order.
 9. Significant changes proposed to purchasing/manufacturing plans previously approved under conditions above must be referred back to the Authority's Commercial Manager for re-approval with full explanations for the proposed change.
 10. Timescale – proposed completion or duration shall be entered on the Tasking Form prior to submission for approval.
 11. All Tasking forms raised are to contain a unique Serial Number as agreed with the Authority Project Officer. The Contractor is required to monitor and report all tasks at the quarterly progress meetings.
 12. The Contractor must hold the appropriate authorisation before commencing any work against the Contract. If the Contractor requires doing any work or providing any services which has not been authorised, they shall seek the necessary authorisation.
 13. On completion of the Task, the Contractor shall complete and return the Tasking Form to the Authority and claim payment via invoice on CP&F. The Contractor shall at this stage provide proof of expenditure against T&S and the Authority will scrutinise and pay on an actuals basis which shall exclude overheads and profit.
 14. The Authority will, from time to time, amend the Contract to show all authorised Tasks at Schedule A to Annex B of the Contract.

Annex C – Milestone Payment Plan

Milestone	Description	Deliverable Type	Due Date	Value £ (ex VAT)	PO Number	Comments
1	Quarterly Payment - Q1 FY23/24	Maintenance and Support	Jun-23	[Redacted under FOI Section 43 - Commercial Interests Exemption]		
2	Minimum Spares Purchase in accordance to Annex J	Spares Purchase and Delivery	T0+8 weeks	[Redacted under FOI Section 43 - Commercial Interests Exemption]		On acceptance and receipt of the spares to RAF Henlow
3	Quarterly Payment - Q2 FY23/24	Maintenance and Support	Sep-23	[Redacted under FOI Section 43 - Commercial Interests Exemption]		
4	Quarterly Payment - Q3 FY23/24	Maintenance and Support	Dec-23	[Redacted under FOI Section 43 - Commercial Interests Exemption]		
5	Quarterly Payment - Q4 FY 23/24	Maintenance and Support	Mar-24	[Redacted under FOI Section 43 - Commercial Interests Exemption]		
6	Quarterly Payment - Q1 FY 24/25	Maintenance and Support	Jun-24	[Redacted under FOI Section 43 - Commercial Interests Exemption]		+VOP
7	Quarterly Payment - Q2 FY 24/25	Maintenance and Support	Sep-24	[Redacted under FOI Section 43 -		+VOP

				Commercial Interests Exemption]		
8	Quarterly Payment - Q3 FY 24/25	Maintenance and Support	Dec-24	[Redacted under FOI Section 43 - Commercial Interests Exemption]		+VOP
9	Quarterly Payment - Q4 FY 24/25	Maintenance and Support	Mar-25	[Redacted under FOI Section 43 - Commercial Interests Exemption]		+VOP
10	Quarterly Payment - Q1 FY25/26	Maintenance and Support	Jun-25	[Redacted under FOI Section 43 - Commercial Interests Exemption]		+VOP
11	Quarterly Payment - Q2 FY25/26	Maintenance and Support	Sep-25	[Redacted under FOI Section 43 - Commercial Interests Exemption]		+VOP
12	Quarterly Payment - Q3 FY25/26	Maintenance and Support	Dec-25	[Redacted under FOI Section 43 - Commercial Interests Exemption]		+VOP
13	Quarterly Payment - Q4 FY 25/26	Maintenance and Support	Mar-26	[Redacted under FOI Section 43 - Commercial Interests Exemption]		+VOP
14	Quarterly Payment - Q1 FY 26/27	Maintenance and Support	Jun-26	[Redacted under FOI Section 43 - Commercial Interests		+VOP

				Exemption]		
15	Quarterly Payment - Q2 FY 26/27	Maintenance and Support	Sep-26	[Redacted under FOI Section 43 - Commercial Interests Exemption]		+VOP
16	Quarterly Payment - Q3 FY 26/27	Maintenance and Support	Dec-26	[Redacted under FOI Section 43 - Commercial Interests Exemption]		+VOP
17	Quarterly Payment - Q4 FY 26/27	Maintenance and Support	Mar-27	[Redacted under FOI Section 43 - Commercial Interests Exemption]		+VOP
18	Quarterly Payment - Q1 FY27/28	Maintenance and Support	Jun-27	[Redacted under FOI Section 43 - Commercial Interests Exemption]		+VOP
19	Quarterly Payment - Q2 FY27/28	Maintenance and Support	Sep-27	[Redacted under FOI Section 43 - Commercial Interests Exemption]		+VOP
20	Quarterly Payment - Q3 FY27/28	Maintenance and Support	Dec-27	[Redacted under FOI Section 43 - Commercial Interests Exemption]		+VOP
21	Quarterly Payment - Q4 FY 27/28	Maintenance and Support	Mar-28	[Redacted under FOI Section 43 - Commercial Interests Exemption]		+VOP
TOTAL				£363,804.38		

Mile stone	Description	Deliverable Type	Due Date	Value £ (ex VAT)	PO Number	Comments
OPTION YEARS						
22	OPTION Equipment move in accordance with Annex A - SOW	Equipment Delivery	N/A	[Redacted under FOI Section 43 - Commercial Interests Exemption]		Provisional Price 3 Months' notice required
23	OPTION Quarterly Payment - Q1 FY28/29	Maintenance and Support	Jun-28			
24	OPTION Quarterly Payment - Q2 FY28/29	Maintenance and Support	Sep-28			
25	OPTION Quarterly Payment - Q3 FY28/29	Maintenance and Support	Dec-28			
26	OPTION Quarterly Payment - Q4 FY28/29	Maintenance and Support	Mar-29			
27	OPTION Quarterly Payment - Q1 FY29/30	Maintenance and Support	Jun-29			
28	OPTION Quarterly Payment - Q2 FY29/30	Maintenance and Support	Sep-29			
29	OPTION Quarterly Payment - Q3 FY29/30	Maintenance and Support	Dec-29			
30	OPTION Quarterly Payment - Q4 FY29/30	Maintenance and Support	Mar-30			
31	OPTION Quarterly Payment - Q1 FY30/31	Maintenance and Support	Jun-30			
32	OPTION Quarterly Payment - Q2 FY30/31	Maintenance and Support	Sep-30			
33	OPTION Quarterly Payment - Q3 FY30/31	Maintenance and Support	Dec-30			
34	OPTION Quarterly Payment - Q4 FY30/31	Maintenance and Support	Mar-31			
35	OPTION Quarterly Payment - Q1 FY31/32	Maintenance and Support	Jun-31			
36	OPTION Quarterly Payment - Q1 FY31/32	Maintenance and Support	Sep-31			
37	OPTION Quarterly Payment - Q1 FY31/32	Maintenance and Support	Dec-31			
38	OPTION Quarterly Payment - Q1 FY31/32	Maintenance and Support	Mar-32			
39	OPTION Quarterly Payment - Q1 FY32/33	Maintenance and Support	Jun-32			
40	OPTION Quarterly Payment - Q1 FY32/33	Maintenance and Support	Sep-32			
41	OPTION Quarterly Payment - Q1 FY32/33	Maintenance and Support	Dec-32			
42	OPTION Quarterly Payment - Q1 FY32/33	Maintenance and Support	Mar-33			
TOTAL						

Ministry of Defence

CONTRACT DATA REQUIREMENT

1. <u>ITT/Contract Number</u> 708365451	2. <u>CDR Number</u> 001	3. <u>Data Category</u> Operating	4. <u>Contract Delivery Date</u> At Contract Award and if any updates to DISOs
5. <u>Equipment/Equipment Subsystem Description</u> Spatial Disorientation Trainer (SDT)		6. <u>General Description of Data Deliverable</u> 1. Operating procedure sufficient to provide complete operating instructions 2. Operating Procedure to comply with Defstan 0600 3. Operating instruction updates covering upgrades	
7. <u>Purpose for which data is required</u> Operation of the equipment by or for the services.		8. <u>Intellectual Property Rights</u> a. <u>Applicable DEFCONs</u> DEFCON 16 Edition 10/04 - Repair and Maintenance Information DEFCON 21 Edition 10/04 - Retention of Records b. <u>Special IP Conditions</u> None	
9. <u>Update/Further Submission Requirements</u> Following equipment modification or documentation amendment			
10. <u>Medium of Delivery</u> CD ROM or Paper Manual		11. <u>Number of Copies</u> Copies supplied as and when requested by the Authority	

Ministry of Defence

CONTRACT DATA REQUIREMENT

1. <u>ITT/Contract Number</u> 708365451	2. <u>CDR Number</u> 002	3. <u>Data Category</u> Maintenance/Repair/Reconditioning	4. <u>Contract Delivery Date</u> At Contract Award and if any updates to DISOs
5. <u>Equipment/Equipment Subsystem Description</u> Spatial Disorientation Trainer (SDT) Maintenance Manual to enable the Authority's trained maintenance personnel to complete all user maintenance required under the agreed Maintenance schedule and to complete any necessary corrective and preventative maintenance.		6. <u>General Description of Data Deliverable</u> Maintenance Manual, including parts catalogue, maintenance course handouts and material for post modified obsolescent upgraded SDT.	
7. <u>Purpose for which data is required</u> 1st, 2nd and 3rd level line maintenance and repair of the equipment by or for the services following tender.		8. <u>Intellectual Property Rights</u> a. <u>Applicable DEFCONs</u> DEFCON 16 Edition 10/04 - Repair and Maintenance Information DEFCON 21 Edition 10/04 - Retention of Records b. <u>Special IP Conditions</u> None	
9. <u>Update/Further Submission Requirements</u> Following equipment modification or documentation amendment.			
10. <u>Medium of Delivery</u> Electronic (Word Document) and or PDF.		11. <u>Number of Copies</u> Minimum Two Copies when modified/upgraded. Copies supplied as and when requested by the Authority.	

Ministry of Defence

CONTRACT DATA REQUIREMENT

1. <u>ITT/Contract Number</u> 708365451	2. <u>CDR Number</u> 003	3. <u>Data Category</u> Manufacture	4. <u>Contract Delivery Date</u> At Contract Award and if any updates to DISOs
5. <u>Equipment/Equipment Subsystem Description</u> Spatial Disorientation Trainer (SDT) Manufacturing Data Pack to be provided including Test & Acceptance schedules, Product Drawings as detailed in DID MDP (Edn 2/98)		6. <u>General Description of Data Deliverable</u> Manufacture. UK DID MDP (Edn 2/98). Comply with Def Stan 00-0600	
7. <u>Purpose for which data is required</u> 1st, 2nd and 3rd level line maintenance, repair and acceptance of the equipment by or for the services following tender.		8. <u>Intellectual Property Rights</u> a. <u>Applicable DEFCONs</u> DEFCON 16 Edition 10/04 - Repair and Maintenance Information DEFCON 21 Edition 10/04 - Retention of Records b. <u>Special IP Conditions</u> None	
9. <u>Update/Further Submission Requirements</u> Following equipment modification or documentation amendment.			
10. <u>Medium of Delivery</u> Electronic (Word Document) and or PDF.		11. <u>Number of Copies</u> Minimum Two Copies when modified/upgraded. Copies supplied as and when requested by the Authority.	

Annex E - GFA/Spares.

Please see external document: Annex E - GFA/Spares – to be populated when spares are purchased during the Contract Period by the Authority.

[Redacted in its entirety under FOI Section 43 – Commercial Interests Exemption]

Annex F – Key Performance Indicators (KPIs)

Monthly Service Payments detailed at Annex C will be subject to the KPIs below

KPI NUMBER	1		
Start of KPI	Contract Effective/Start Date		
Performance Measure	Call out contractual time target met		
Monitoring Frequency	Quarterly		
PERFORMANCE MEASUREMENT			
Performance Measurement		Source of Measurement	
The Contractor shall provide online and/or telephone support for all questions regarding the operational use and maintenance aspects of the DISO's (Disorientation Trainers) within 1 Business Day		Report signed off by the Authority	
PERFORMANCE LEVELS			
Level	Rate of Performance		
Good (Contractual Target)	98% of call outs are responded to within ≤1 Business Day (Less than or equal to 1 Business Day)		
Requires Improvement	80-97% of call outs are responded to within ≤1 Business Day (Less than or equal to 1 Business Day)		
Inadequate	Less than 80% of call outs are responded to within ≤1 Business Day (Less than or equal to 1 Business Day)		
SOW Reference (not limited to)	Condition 4.2		
SERVICE CREDITS			
<u>Good:</u> No retention.			
<u>Requires Improvement:</u> Permanent retention for 2% of the Quarterly Maintenance Fee.			
<u>Inadequate:</u> For any single month of inadequate performance, the Authority will permanently retain 5% of the Quarterly Maintenance Fee.			

KPI NUMBER	2
Start of KPI	Contract Effective/Start Date
Performance Measure	Rectification Plan minimum time target met
Monitoring Frequency	On receipt of Actions on Report or notification
PERFORMANCE MEASUREMENT	
Performance Measurement	Source of Measurement
Faults are corrected in-line with the agreed Contractors rectification plan and Estimated Delivery Date	Tasking Form signed off by the Authority
PERFORMANCE LEVELS	
Level	Rate of Performance
Good (Contractual Target)	Faults are corrected in-line with the agreed Contractors rectification plan and Estimated Delivery Date
Requires Improvement	Faults are corrected within 5 Business Days of the agreed Contractor's rectification plan and Estimated Delivery Date
Inadequate	Faults are corrected in more than 5 Business Days of the agreed Contractor's rectification plan and Estimated Delivery Date
SOW Reference (not limited to)	Condition 4.5
SERVICE CREDITS	
<p><u>Good</u>: No retention.</p> <p><u>Requires Improvement</u>: Permanent retention for 2% of the Quarterly Maintenance Fee.</p> <p><u>Inadequate</u>: For any single month of inadequate performance, the Authority will permanently retain 5% of the Quarterly Maintenance Fee.</p>	

KPI NUMBER	3	
Start of KPI	Contract Effective/Start Date	
Performance Measure	Responsiveness to outputs	
Monitoring Frequency	When an output is required	
PERFORMANCE MEASUREMENT		
Performance Measurement	Source of Measurement	
The Contractor shall provide the Quarterly Report within 10 Business Days of the new Reporting Quarter	Report signed off by the Customer	
PERFORMANCE LEVELS		
Level	Rate of Performance	
Good (Contractual Target)	≤10 Business Days of the new reporting quarter.	
Requires Improvement	10≥15 Business Days of the new reporting quarter.	
Inadequate	15≥20 Business Days of the new reporting quarter.	
SOW Reference (not limited to)	Condition 12.1	

Annex G - Software Agreement - DEFFORM 701 (Edn 12/21)

HEAD AGREEMENT FOR LICENCE TERMS FOR COMMERCIAL SOFTWARE PURCHASED BY THE SECRETARY OF STATE FOR DEFENCE

This Agreement is made this 26 day of February in the year 2024.

BETWEEN

The Secretary of State for Defence, a corporation sole, (afterwards referred to as the AUTHORITY) as represented by the Directorate of Intellectual Property Rights, Poplar 2a #2218, MOD Abbey Wood, Bristol BS34 8JH

AND

AMST-Systemtechnik GmbH, Lamprechtshausener Strasse 63, 5282 Ranshofen, Austria (afterwards referred to as the COMPANY);

each being referred to as a "Party" and collectively as the "Parties".

BACKGROUND

I. The AUTHORITY wishes to agree standard terms of licence with the COMPANY which will apply to "Commercial Software" products it procures from the COMPANY in order to avoid the need to negotiate individual terms each time those products are purchased; and

II. The COMPANY is prepared to agree standard terms of licence with the AUTHORITY in order to facilitate sales of Commercial Software to the AUTHORITY.

For the purpose of this Agreement "Commercial Software" means software available commercially including that software modified on sale to suit the requirements of a customer.

THE HEAD AGREEMENT

1. The Parties agree that they will adopt the terms of licence set out in the Annex to this Head Agreement (the "Annex"), as the standard terms of licence for the procurement of Commercial Software by the AUTHORITY from the COMPANY and from any of their wholly owned subsidiaries for which the COMPANY is entitled to make this Head Agreement. This shall not imply that either Party may not propose other conditions for any particular licence or that either Party shall be bound to accept any particular licence in the terms set out in the Annex.

2. Each software licence which is to be procured subject to the standard terms of licence set out in the Annex, shall be established by a schedule (the "Schedule") which incorporates those terms by making reference to this Head Agreement and the Annex. Each licence so concluded shall be legally separate from this Head Agreement.

3. Each Schedule will take the format provided in the Attachment to the Annex. Individual Schedules may include special conditions adding to, varying, or setting aside any condition set out in the Annex and in the event of any conflict between the terms of the Annex and the special conditions of a Schedule the latter shall prevail.

4. Either Party shall be entitled to terminate this Head Agreement at any time on written notice to the other Party but the termination shall not vary the conditions of or terminate any extant Licences.

5. This Head Agreement shall be subject to and construed and interpreted in accordance with the Laws of England and shall be subject to the jurisdiction of the Courts of England. Other jurisdictions may apply solely for the purpose of giving effect to this Agreement and for the enforcement of any judgement, order or award given under English jurisdiction.

[Redacted under FOI Section 40 – Personal Information]

**ANNEX TO THE HEAD AGREEMENT FOR LICENCE TERMS FOR COMMERCIAL SOFTWARE
BETWEEN THE SECRETARY OF STATE FOR DEFENCE AND AMST-SYSTEMTECHNIK GMBH DATED
26.02.2024**

Agreed Standard Conditions

1 Definitions

1.1 "AUTHORITY" shall mean the Secretary of State for Defence.

1.2 "LICENSOR" shall mean the Company identified in the Head Agreement or the wholly owned subsidiary of the Company identified in the Schedule as being the Party granting the Licence to the AUTHORITY.

1.3 "Licensed Software" means the computer programs listed in Part I of the Schedule together with any user documentation, update programs and anything else furnished to the AUTHORITY by the LICENSOR under the Licence in connection with those listed programs, and any portion and copy of any of them.

1.4 "Use" (or "to Use") in relation to the Licensed Software means copying the software from a store unit or medium into equipment, customising it within its existing functionality and consistent with the user documentation, running or processing it, operating upon it, all of these acts either alone or with other programs, and producing copies including, where appropriate, in eye-readable form.

1.3 "Designated Equipment" means that equipment in respect of which Use of the Licensed Software is licensed. It shall be the equipment specified in Part II of the Schedule unless changed to alternative equipment in accordance with the provisions of Clauses 2.3 or 2.4.

1.4 "Designated Site" means that site for which the Licensed Software is licensed. It shall be the site specified at Part III of the Schedule unless changed to an alternative site in accordance with the provisions of Clause 2.3.

1.5 "Licence" means the rights granted by the LICENSOR to the AUTHORITY in respect of the Licensed Software and all the conditions associated with it, as set out in the Standard Conditions in combination with a relevant Schedule.

1.6 "Schedule" means a schedule to the Head Agreement (in the format provided in the Attachment to this Annex) established by signature of the AUTHORITY and the LICENSOR, under which the LICENSOR undertakes to supply the Licensed Software for Use by the AUTHORITY under the conditions of the Licence. Each Schedule, in combination with these Standard Conditions, constitutes a distinct Licence independent of any other Licence existing by operation of the Head Agreement.

1.7 "Standard Conditions" means the conditions set out in this Annex to the Head Agreement, comprising Clauses 1 to 15.

1.8 "Special Conditions" means those conditions (if any) specified in Part VIII of the Schedule.

2 Licence Grant

2.1 The AUTHORITY may Use the Licensed Software on the Designated Equipment at the Designated Site in accordance with the Licence from the date of receipt of the Licensed Software by the AUTHORITY.

2.2 The AUTHORITY may allow contractors of the AUTHORITY and their sub-contractors to Use the Licensed Software on the Designated Equipment at the Designated Site on AUTHORITY contracts only, provided that the AUTHORITY ensures or procures that those contractors and sub-contractors are bound by the conditions of the Licence and that, unless prevented by security considerations, the AUTHORITY shall notify the LICENSOR of the identity of those contractors or sub-contractors as soon as is reasonably practical. The AUTHORITY shall not charge for that Use.

2.3 The AUTHORITY may specify alternative Designated Equipment or an alternative Designated Site by notification to the LICENSOR, in which case Clause 2.1 shall apply only to the alternative Designated Equipment or Designated Site as notified. However, in the event that the alternative Designated Equipment shall be equipment of a greater processing capacity or capability or a different operating system outside the parameters of the original Designated Equipment the LICENSOR may require the AUTHORITY to pay a fair and reasonable additional fee which will not exceed the difference between the corresponding fees shown in respect of Use of the Licensed Software on the existing and alternative Designated Equipment respectively in the LICENSOR's price list current at the time when the AUTHORITY has specified the alternative Designated Equipment.

2.4 The AUTHORITY may Use the Licensed Software on alternative equipment if the Designated Equipment is temporarily inoperative until the Designated Equipment is again operative without notification or additional payment to the LICENSOR.

2.5 Notwithstanding the above, the AUTHORITY may copy the Licensed Software in machine-readable form for back-up purposes for Use of the Licensed Software. The AUTHORITY may also create eye readable copies of documentation solely for utilisation by operating personnel of the Licensed Software. All copyright in such copies shall remain the property of the LICENSOR.

3 Delivery And Acceptance

3.1 The LICENSOR shall deliver the Licensed Software at a time and to a place agreed with the AUTHORITY.

3.2 The LICENSOR or the AUTHORITY as mutually agreed shall install each program of the Licensed Software on the Designated Equipment and test it against acceptance tests if agreed between the LICENSOR and the AUTHORITY.

3.3 The AUTHORITY may reject the Licensed Software within the acceptance period specified in Part IV of the Schedule only (which period starts on receipt of the Licensed Software by the AUTHORITY) if it fails an agreed acceptance test or if it does not perform on the Designated Equipment in accordance with the functionality set out in an agreed statement or user document provided by the LICENSOR. The AUTHORITY shall be understood to have accepted the Licensed Software if it has not been validly rejected before the expiry of the acceptance period.

3.4 If the AUTHORITY rejects the Licensed Software in accordance with Clause 3.3 the Licence for it shall terminate and the AUTHORITY shall be entitled to reimbursement of any fees paid in respect of the Licensed Software.

3.5 The AUTHORITY and the LICENSOR may mutually agree to extend the acceptance period, or to amend the Schedule appropriately, for any Licensed Software that would otherwise have been rejected under Clause 3.3.

4 Payment

4.1 The LICENSOR will invoice the AUTHORITY for the agreed licence fees in the amount and in accordance with the invoice arrangements set out respectively in Parts V and VI of the Schedule on or after receipt by the AUTHORITY of the Licensed Software.

4.2 The AUTHORITY shall pay the invoice value within 30 days from the later of delivery of the Licensed Software or the date of receipt of a valid invoice related to that Licensed Software. Payment does not constitute acceptance of the Licensed Software.

5 Confidentiality

5.1 Subject to Clause 5.2 and except as otherwise agreed in writing, the AUTHORITY and the LICENSOR shall each hold in confidence and shall not use, disclose or otherwise make available, except in accordance with the Licence, all the following information received from the other under or in connection with the Licence:

- a. the Licensed Software;
- b. details of the AUTHORITY's use and application of the Licensed Software;
- c. any other information which is identified as being disclosed in confidence at the time of disclosure

provided that:

the obligation for b. and c. relates only to information received in writing or other material form; and

if such information is disclosed orally, the obligation shall apply for 30 days unless the discloser confirms such information in writing or other material form within 30 days when the obligation of confidence shall apply thereafter.

5.2 The obligations under Clause 5.1 shall not require the receiving Party to maintain confidence in, or refrain from using, any part of the information to the extent that the receiving Party can show that such part of the information:

- a. was already known to that Party, without restraint on use or disclosure, prior to the date of receipt or acquisition under or in connection with the Licence; or
- b. has been received by that Party, without restraint on use or disclosure, from a third party having the right to disclose it; or
- c. has entered the public domain otherwise than in breach of the Licence or any other agreement between the Parties; or
- d. was generated by that Party independently of the information which is subject to Clause 5.1;

provided that the relationship of such part of the information to the remainder of the information which is subject to Clause 5.1 is not revealed.

5.3 The obligations under Clause 5.1 shall be perpetual.

5.4 The AUTHORITY shall ensure or procure that any individual to whom the Licensed Software is made available is made aware of, and complies with, the obligations as to confidentiality and other relevant conditions of the Licence.

5.5 The AUTHORITY shall reproduce and maintain any copyright notices and trade marks on or in any of the copies of the Licensed Software made in accordance

with the Licence, including partial copies, and on any software changed under the terms of the Licence.

6 IPR Actions And Liabilities For IPR Infringement

6.1 The LICENSOR declares that they are entitled as either owner or licensee to provide the Licensed Software to the AUTHORITY on the terms and conditions of the Licence.

6.2 Subject to the limitations imposed in Clauses 6.3 and 6.4, the LICENSOR shall assume all liability and indemnify the AUTHORITY against all costs or liabilities arising under any valid claim or action brought by a third party against either Party, or against any of its contractors (which expression shall include any sub-contractor) engaged in tasks relevant to the provision of the Licensed Software or to the AUTHORITY's exercise of the Licence, in respect of any third party intellectual property right, including a patent, registered or unregistered design right, trade mark, copyright, trade secret or confidential information, which relates to the supply of the Licensed Software or the Use of the Licensed Software in accordance with the Licence by the AUTHORITY or its contractor, then:

- (a) If the claim or action is brought against the LICENSOR they shall take full responsibility for dealing with settling or defending the claim or action;
- (b) If any claim is made against the AUTHORITY or its contractors the LICENSOR shall be given full responsibility for dealing with settling or defending the claim as appropriate in their judgement;
- (c) If legal action is taken against the AUTHORITY or its contractor that Party shall be entitled to join the LICENSOR in the action.

6.3 Clause 6.2 shall not apply, and the AUTHORITY shall assume all liability for and indemnify the LICENSOR and its contractors, against all costs and liabilities under the claim or action in the event that it arises as a consequence of any of :

- a.** Use of the Licensed Software by the AUTHORITY, or by a contractor permitted to use the Licensed Software pursuant to Clause 2.2, outside the LICENSOR's specification or user documentation on the Designated Equipment or in a manner outside the reasonable knowledge or expectation of the LICENSOR or in circumstances particular to the AUTHORITY as distinct from other customers for the equivalent Licensed Software;
- b.** Use of modifications to the Licensed Software not provided or not approved in writing by the LICENSOR;
- c.** infringement by the LICENSOR of any third party intellectual property right by reason only of use of any material provided by the AUTHORITY for the purposes of the Licence, but only to the extent that this material is held and used within the terms under which it was provided and used solely for the purposes of the Licence.

6.4 Clause 6.2 shall not apply in the event that, without the consent of the LICENSOR (which shall not be unreasonably withheld) the AUTHORITY:

- a. has made or makes an admission of any sort to the third party relevant to the claim or action;
- b. the AUTHORITY has entered or enters into negotiations with the third party relevant to the claim or action;
- c. the AUTHORITY has made or makes an offer to the third party for settlement of the claim or action.

6.5 Each Party undertakes to notify and consult the other promptly in the event of any enquiry, claim or action brought or likely to be brought against them or their contractor or the Parties jointly, which relates to infringement of any third party intellectual property right in connection with the supply or Use of the Licensed Software under the Licence. By joint agreement, the AUTHORITY may take the lead in dealing with settling and defending any such enquiry claim or action made against it directly in consultation with the LICENSOR and, subject to the LICENSOR's agreement as to the terms of any settlement, this shall not displace any liability of the LICENSOR arising under Clause 6.2. If any claim is made against the AUTHORITY under Section 55 of the Patents Act 1977 as a result of the AUTHORITY's use of the Software, and if the AUTHORITY offers a settlement of the claim, otherwise than as a result of a Court order and without the agreement of the LICENSOR, the LICENSOR shall be relieved of any liability which might otherwise arise under Clause 6.2.

6.6 In the event that any claim or action is made which is subject to Clause 6.2 or if in the LICENSOR's reasonable opinion such claim or action is likely to be made, the LICENSOR shall promptly utilise all reasonable endeavours to:

- a. establish or secure the AUTHORITY's right to continue to Use the Licensed Software or, failing to do so,
- b. avoid that claim or action by, and after consultation with the AUTHORITY as to how to minimise the AUTHORITY's loss of Use of the Licensed Software, replacing or modifying the Licensed Software without significant change to

the specification of the Licensed Software all at the LICENSOR's expense, including installation and testing.

6.7 In the event of the LICENSOR being unable to satisfy the requirements of sub-Clauses 6.6a. or 6.6b. the LICENSOR may terminate the Licence relating to the Licensed Software upon not less than three months written notice unless a lesser period is determined by any court order, and the LICENSOR shall make a refund of the licence fee to the AUTHORITY, either in full or with the agreement of the AUTHORITY (which shall not be unreasonably withheld) of a portion of the licence fee representing the lost portion of the Licence.

6.8 The conditions set forth in clauses 6.2 to 6.7 represent the total liability and responsibility of each Party to the other under a Licence in respect of any actual or alleged infringement of any intellectual property right owned by a third party and take precedence over any other liability condition in the Licence.

7 Warranty

7.1 LICENSOR warrants that discrepancies between Licensed Software and the LICENSOR's specification or user documentation current at the time of delivery reported and demonstrated by the AUTHORITY during the warranty period stated in Part VII of the Schedule will be remedied by LICENSOR without unreasonable delay in a manner commensurate with good software industry practice and without payment by the AUTHORITY. During the warranty period the LICENSOR undertakes to provide to the AUTHORITY free of charge corrections to material errors known to the LICENSOR.

7.2 All warranties in the Licensed Software and its user documentation other than that given under Clause 7.1 are hereby excluded including, without limitation,

the implied warranty and conditions of satisfactory quality and fitness for a particular purpose, but this shall not prejudice the right of the AUTHORITY to reject the Licensed Software in accordance with Clause 3.3.

7.3 No oral or written information or advice given by the LICENSOR, their agents or employees shall create a warranty or extend the scope of the warranty given under Clause 7.1.

7.4 The LICENSOR shall utilise all reasonable endeavours to ensure that any Licensed Software supplied, irrespective of the mode of delivery, is free from any published computer virus. In the event that it can be shown that, at the time of delivery, the Licensed Software incorporated such a virus then the AUTHORITY may require the LICENSOR to remove the virus and within the limits of backup data provided by the AUTHORITY to restore any computer system incorporating the Designated Equipment to its pre-infected state or bear the cost of the necessary restoration work.

8 General Liability Conditions

8.1 The LICENSOR shall have no liability to the AUTHORITY for any indirect or consequential damages or losses which might arise by reason of Use of the Licensed Software by or for the AUTHORITY including, without limitation, loss of profit, loss of revenue, loss of use, loss of business information produced by Use of the Licensed Software.

8.2 The exclusion provided under Clause 8.1 shall not apply where the AUTHORITY suffers loss because of a defect within the Licensed Software which defect is known to the LICENSOR at the time the Licensed Software is furnished to the AUTHORITY unless the AUTHORITY has previously been made aware of and accepted the presence of the defect and its relevance to the AUTHORITY's application of the Licensed Software.

8.3 The total of the LICENSOR's liability under or in connection with this Agreement (whether arising from contract, negligence or any other basis) is limited in respect of each event or series of connected events to the value given in Part IX of the Schedule, provided that no limitation shall apply in respect of liability for death of or injury to persons arising from the LICENSOR's negligence, as provided by the Unfair Contracts Act 1977, and, except in relation to sub-Clause 13.2.2, no limitation shall apply in respect of any liability arising under the provisions of Clause 6.2.

9 Term And Termination of the Licence

9.1 Each Licence shall continue until the AUTHORITY terminates it by written notification to the LICENSOR, or it is terminated pursuant to Clauses 3.4 or 6.7.

9.2 The AUTHORITY shall within thirty days of termination of a Licence, through all reasonable endeavours and to the best of its knowledge, return or destroy, at the LICENSOR's option, all originals and destroy all copies of the Licensed Software including partial copies and modifications except that the AUTHORITY may on prior written authorisation from the LICENSOR retain one copy for archival purposes only. The AUTHORITY shall promptly certify in writing once it has so done.

9.3 In the event of the LICENSOR drawing the attention of the AUTHORITY to a breach of any condition of a Licence then:

- a. where the breach is of a nature that cannot be remedied, the AUTHORITY undertakes to settle with the LICENSOR on fair and reasonable terms and to utilise all reasonable endeavours to ensure that a further breach does not occur,
- b. where the breach is capable of being remedied, the AUTHORITY shall promptly remedy the breach and where appropriate put in place measures to ensure that a further breach does not occur. The AUTHORITY shall indemnify the LICENSOR for all loss and damage incurred by it as a result of the breach.

9.4 The termination of any Licence shall be without prejudice to the continuation of the Head Agreement or any other Licence under it.

10 Combination of Software

10.1 The AUTHORITY may combine all or part of the Licensed Software with other materials to form a new work. Any portion of the Licensed Software included in a new work shall be Used only on Designated Equipment and shall be subject to the conditions of the Licence. The LICENSOR shall be absolved from any obligation or liability under the Licence to the extent that this arises as a result of the creation or use of any new work not approved in writing by the LICENSOR.

11 Output

11.1 The AUTHORITY may freely copy and utilise any output resulting from Use in accordance with LICENSOR - supplied documentation of the Licensed Software.

12 Disputes

12.1 Other than for any claim arising from non payment of a valid invoice should any question, dispute or difference whatsoever arise between the AUTHORITY and LICENSOR in relation to or in connection with this Agreement or the

Schedule of any Licence granted under it, the AUTHORITY or the LICENSOR may give notice to the other in writing of the existence of that question, dispute or difference and both Parties will attempt to reach a solution. If no mutually acceptable solution is found the AUTHORITY or the LICENSOR may give notice to the other in writing (the ADR notice) that the matter is to be referred to Alternative Dispute Resolution (ADR).

12.2 Upon receipt of the ADR notice and subject to sub-Clause 12.3, the Parties shall define the type of ADR to be adopted and the rules for its implementation. Failing agreement to adopt, or to achieve, resolution by one such type, the Parties may decide to adopt a second type of ADR. The Parties agree that after a period of two (2) months from the date of receipt of the ADR notice, or such other date as may be agreed by the Parties, and provided that the dispute remains unresolved, it shall finally be settled by arbitration by a sole arbitrator at the request in writing by either party to the other. Failing agreement on the appointment of the arbitrator within 14 days of receipt of such request, the arbitrator shall be appointed by the President for the time being of the Law Society, in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment of it. The costs of any ADR shall be shared equally by the AUTHORITY and the LICENSOR, however, the costs of arbitration shall be settled by the arbitrator.

12.3 Where a Party rejects the referral of the matter to ADR they shall promptly notify the other Party in writing of that rejection and the reasons for it.

13 Transfer

13.1 The LICENSOR shall not assign their interest in any Licence or the intellectual property licensed thereunder without providing for the continuance of the AUTHORITY'S rights under the Licence and without notifying the AUTHORITY in writing of the identity of the assignee.

13.2 Unless prevented by law or national regulation the AUTHORITY shall have the right to novate any Licence to a separate legal entity, without charge to itself or the legal entity, upon two months written notice to the LICENSOR, as provided below:

13.2.1 following a transfer from the AUTHORITY to the legal entity of any function of the AUTHORITY for which the Licensed Software has been obtained; or

13.2.2 on disposal to the legal entity of surplus Designated Equipment where the Licensed Software is essential to the running of that equipment, whether or not it is embedded in the equipment, provided that all warranties (whether express or implied) and all indemnities shall be void, the Licensed Software shall be supplied "as is", and the liability referred to in Clause 8.3 shall be ten pounds sterling only.

PROVIDED THAT the Licensed Software novated in accordance with this sub-Clause may only be used for the same purposes for which the Authority was licensed in accordance with Clause 2 and wider use shall require the written approval of, and the grant of a further licence by, the LICENSOR.

14 Discontinuance of Business

14.1 The AUTHORITY shall have the right to secure from the LICENSOR, or from the authorised trustees or receivers acting on behalf of the LICENSOR, in the event of the LICENSOR permanently ceasing to maintain the Licensed Software or the LICENSOR permanently discontinuing in business because of bankruptcy, receivership, dissolution, or other form of permanent business disruption and that business is not continued by a successor in interest to the LICENSOR to whom the benefits and obligations of this Agreement and any licence granted under it have been assigned, Licensed Software documentation including program source code in the possession and control of the LICENSOR, but no more than the LICENSOR uses themselves, as the AUTHORITY shall consider necessary for it to maintain and continue its normal Use of the Licensed Software for the duration of the Licence but for no other purpose.

14.2 If so required by a Special Condition, the LICENSOR shall compile and maintain, at a price or in accordance with a price formula identified in the Special Condition, an up to date copy of the Licensed Software documentation to which the AUTHORITY is entitled under Clause 14.1 which copy shall be held by the LICENSOR as a bailee without lien for the AUTHORITY and be made available to the AUTHORITY without additional charge. In the absence of such a Special Condition, the copy shall be prepared on the AUTHORITY's demand and it shall be made available to the AUTHORITY at a fair and reasonable price based on the cost of compilation, reproduction and dispatch.

14.3 The AUTHORITY shall have the right to utilise the Licensed Software documentation to which it is entitled under Clause 14.1 for the purpose of maintaining its Use of the Licensed Software for the duration of the Licence but for no other purpose. The AUTHORITY shall hold in confidence all information in the documentation.

15 General

15.1 If any provision of this Agreement is held to be invalid, illegal or unenforceable to any extent then:

- a. that provision shall (to the extent it is invalid, illegal or unenforceable) be given no effect and shall be understood not to be included in the Agreement but without invalidating any of the remaining provisions of the Agreement; and
- b. the Parties shall use all reasonable endeavours to replace the invalid, illegal or unenforceable provision by a valid, legal and enforceable provision the effect of which is as close as possible to the effect of the invalid, illegal or unenforceable provision.

15.2 No act or omission of either Party shall by itself amount to a waiver of any right or remedy unless expressly stated by that Party in writing. In particular, no reasonable delay in exercising any right or remedy, shall by itself constitute a waiver of that right or remedy.

15.3 No waiver of any right or remedy shall operate as a waiver in respect of any other right or remedy.

15.4 Neither the LICENSOR nor the AUTHORITY shall be liable for failure to perform any of their obligations under the Licence if that failure results from circumstances beyond their reasonable control.

15.5 Headings have been included for convenience only and shall not be used in construing any condition of the Licence.

15.6 The Licence shall be subject to and construed and interpreted in accordance with the Laws of England and shall be subject to the non-exclusive jurisdiction of the Courts of England for the enforcement of any arbitral decision.

15.7 The Licence shall constitute the entire agreement between the Parties relating to the Licensed Software and supersedes any previous agreement.

15.8 No right is granted to any person who is not a Party to the Licence to enforce any term of the Licence in their own right and the Parties declare that they have no intention to grant any such right.

ATTACHMENT TO ANNEX TO HEAD AGREEMENT - STANDARD FORM OF LICENSING SCHEDULE

SCHEDULE TO THE HEAD AGREEMENT BETWEEN THE AUTHORITY AND AMST-Systemtechnik GmbH

DATED: 26.02.2024 Version Number: 1.0

CONTRACT REFERENCE NUMBER: 708365451

By their respective signatures of this Schedule the Secretary of State For Defence (the "AUTHORITY") undertakes to purchase and AMST-Systemtechnik GmbH (the "LICENSOR") undertakes to supply the Licensed Software for Use on the Designated Equipment at the Designated Site (all as identified below) under the Standard Conditions set down in the Annex to the Head Agreement and any Special Conditions set down in Part VIII below which may vary or add to those Standard Conditions.

PART I - LICENSED SOFTWARE PROGRAMS

The details of each program sufficient for unambiguous identification of nature and release standard will be provided during the project of the upgrade of the SDTs.

The subject matter of the programs supplied by the LICENSOR as owner is the non-exclusive provision of the software developed by the LICENSOR for use in accordance with the technical specifications stated in "Attachment D — Statement of Work (SOW)".

The LICENSOR grants the LICENSEE (the "AUTHORITY") the right, subject to the provisions contained in this Agreement, to use against payment the software as well as the software programs associated therewith exclusively for the purposes specified in this Agreement.

It is expressly stated that the source code of the Software is not part of the subject matter of this Agreement.

The LICENSEE (the "AUTHORITY") is entitled for backup purposes to make backup copies of the software.

The software remains the property of the LICENSOR. The LICENSEE (the "AUTHORITY") is not permitted to make any changes to the source code.

The following programs are supplied by the LICENSOR as owner.

No	Software/Application	Licensor
01	Visual System IG (VISIM)	AMST-Systemtechnik GmbH
02	AMST Simulation Software	AMST-Systemtechnik GmbH

The following programs are supplied by the LICENSOR as a licensee of the owner.

No	Software/Application	Licensor
01	Microsoft Windows 10	Microsoft
02	Microsoft Windows Server	Microsoft
03	Microsoft Windows SQL Server	Microsoft
04	Control Load System	Wittenstein

PART II - DESIGNATED EQUIPMENT

AIRFOX DISO 6 and AIRFOX DISO 7

PART III - DESIGNATED SITE

Not restricted

PART IV — ACCEPTANCE PERIOD & TEST

The period of the final acceptance test of the upgrade of the SDTs is specified in the master time schedule in the statement of work (SOW).

PART V - LICENCE FEES

All licence fees were included in the total price of the upgrade of the SDTs under Contract No. 700010081

PART VI - INVOICE ARRANGEMENTS

All payments have been made under Contract No. 700010081

PART VII - WARRANTY PERIOD

24 months after final acceptance of the upgrade of the SDTs on 16.02.2024.

PART VIII - SPECIAL CONDITIONS

N/A

PART IX - LIMITS OF LICENSOR'S LIABILITY

In the event that no separate limit of liability is inserted in connection with the Licence, the LICENSOR's liability under this PART IX shall not exceed [Redacted under FOI Section 43 - Commercial Interests Exemption]

[Redacted under FOI Section 40 – Personal Information]

Annex H – Express Warranty for Upgraded SDTs - DISO 6 & 7

General

1. The Parts and Labour Warranty shall guarantee DISO 6 and 7 against failure under the terms stated below.
2. The period of Warranty shall commence on Final Acceptance of the upgraded DISOs dated 16 February 2024.
3. The Warranty Period for the 're-use' parts shall be from Final Acceptance of the upgraded DISOs for period of 6 months. The 're-use' parts include the following:

AIRFOX DISO 6	
No.	Description
1	Projection Screen
2	Pilot Seat
3	Control Load System
4	Mounting Frame of Visitor Monitor
5	Visitor Monitor
6	Air-Conditioning Unit

AIRFOX DISO 7	
No.	Description
1	Projection Screen
2	Pilot Seat
3	Control Load System
4	Mounting Frame of Visitor Monitor
5	Visitor Monitor
6	Audio Processor BLU-100
7	Air-Conditioning Unit

4. The Warranty Period for the upgraded equipment shall be from Final Acceptance of the upgraded DISOs for period of 24 months. The upgrade equipment includes the following:

AIRFOX DISO 6	
No.	Description
1	Motion Platform
2	Motion Control Cabinet
3	Uninterruptible Power Supply (UPS)
4	Cabin
5	Instructor Operator Station
6	Visitor Monitor and Mounting Frame
7	Low Voltage Distribution Cabinet
8	Air-Conditioning Unit
9	Network Cabinet

AIRFOX DISO 7	
No.	Description
1	Motion Platform
2	Motion Control Cabinet
3	Cabin
4	Instructor Operator Station
5	Visitor Monitor and Mounting Frame
6	Low Voltage Distribution Cabinet
7	Air-Conditioning Unit
8	Network Cabinet

5. This Warranty is given to the Authority or its authorised representative, hereinafter referred to as the Authority.
6. The Warranty provides full parts and labour coverage for design, workmanship or material failure of any part of the Article supplied as part of the SDT Upgrades.
7. The Contractor shall provide corrective maintenance for the Articles which includes provision of spares, as required during the Warranty Period.
8. Preventative Maintenance is not included in this Warranty.

9. The Contractor undertakes that the Articles supplied against the Contract including all components supplied thereon by the Contractor will be free from defect in design, materials and workmanship under normal use and service.
10. The Contractor's obligations under this Warranty being limited to repairing or replacing any component or assembly, which proves to be defective. The Warranty provides full parts and labour cover against failure of any part of the Articles.

Exclusions

11. This Warranty shall not apply in respect of damage caused by:
 - a. Any use or maintenance of the Article not in accordance with the instructions described in the Technical Manuals provided by the Contractor;
 - b. Any use or maintenance of the Article performed by non-authorised
 - c. Misuse or neglect; and
 - d. Any alterations, modifications or attachments made to the Article without the Contractor's approval.

Applicable Countries

12. The Parts and Labour Warranty applies worldwide

Warranty Repairs

13. Articles for repair are to be submitted to the Contractor once the repair has been verified as an acceptable warranty claim. The dismantling and/or refitting of parts to return the Article to a serviceable condition shall be carried out by the Contractor at no charge to the Authority. This is to include any necessary cleaning, degassing, testing and certification required by the repair.
14. The Contractor shall complete warranty work within 10 (ten) working days of receipt of the Article or part.

Replaced Part and Spares Warranty

15. Should any component fail within the warranty period, the Contractor shall undertake, at no cost to the Authority, to repair or replace the component free of charge.
16. Any part replaced by the Contractor free of charge to the Authority under this Warranty, or any approved repairs, shall be guaranteed for the remaining warranty time, or 12 (twelve) months, whichever is the greater from the date that the replacement part is fitted in the Article.
17. All spares shall be provided free of charge to the Authority during the Warranty Period.
18. Where the Authority carries out routine maintenance or servicing, this will not invalidate the Warranty provided that maintenance procedures comply with the Technical Manuals provided by the Contractor.

General Provisions

19. Any dispute hereunder shall be dealt with in accordance with DEFCON 530 (Dispute Resolution).
20. This Warranty shall be governed by and construed in accordance with the laws of England.
21. This Warranty shall be entirely without prejudice to the Authority's rights and remedies under the Contract or otherwise including (without limitation) rights and remedies relating to terms and conditions implied by law
22. Articles returned to the Contractor under the terms of this Warranty shall be transported at the Contractor's expense

Annex I – Security Aspects Letter



**Ministry
of Defence**



AMST-Systemtechnik GmbH
Lamprechtshausener

[Redacted under FOI Section 40 – Personal
Information]

Austria

[Redacted under FOI Section 40 –
Personal Information]

[Redacted under FOI Section 40 –
Personal Information]

[Redacted under FOI Section 40 –
Personal Information]



Defence Equipment & Support
Walnut 2b, #1317
MOD Abbey Wood
Bristol BS34 8JH



Our Reference: 708365451

Date of Issue: 15/11/2023

For the attention of: [Redacted under FOI Section 40 – Personal Information]

708365451- SDT Support: Security Aspects Letter

1. On behalf of the Secretary of State for Defence, I hereby give you notice of the information or assets connected with, or arising from, the referenced Contract that constitute classified material.
2. Aspects that constitute classified material, including UK OFFICIAL-SENSITIVE for the purpose of DEFCON 660, are specified below. These aspects must be fully safeguarded. The enclosed "Security Conditions" outlines the minimum measures required to safeguard UK OFFICIAL SENSITIVE assets and information.

ASPECTS	CLASSIFICATION
Detailed financial and costing information	UK OFFICIAL-SENSITIVE COMMERCIAL
Contact details of MOD and industry personnel involved in the project. Including forenames, surnames, company/organisation, role/tally, email, telephone numbers and location addresses	UK OFFICIAL-SENSITIVE PERSONAL
Audio-Visual Recordings. (The Pre-PIA process has identified that the system will 'inadvertently' be collecting, albeit transitory, Personally Identifiable Information data as part of the video capture for AAR	UK OFFICIAL-SENSITIVE PERSONAL

3. Measures must be taken to safeguard classified information and assets in accordance with applicable national laws and regulations. Your attention is drawn to the requirements of the Security Conditions. You should take all reasonable steps to make sure that all individuals employed on any work in connection with the Contract that have access to classified information and assets are aware of the protective requirements and that such requirements will continue to apply after the completion or earlier termination of the contract.

4. Will you please confirm that:

a. This definition of the classified aspects of the referenced Contract has been brought to the attention of the person directly responsible for security of classified material.

b. The definition is fully understood.

c. Measures can, and will, be taken to safeguard the classified aspects identified herein in accordance with applicable national laws and regulations. [The requirement and obligations set out above and in any contractual document can and will be met and that the classified information shall be protected in accordance with applicable national laws and regulations.]

5. If you have any difficulty either in interpreting this definition of the classified aspects or in safeguarding them, will you please let me know immediately.

6. Classified Information associated with this Contract must not be published or communicated to anyone without the approval of the MOD Contracting Authority.

7. Any access to classified information or assets on MOD premises that may be needed will be subject to MOD security regulations under the direction of the MOD Project Officer in accordance with DEFCON 76.

Yours faithfully

[Redacted under FOI Section 40 – Personal Information]

Copy via email to:

[ISAC-Group \(MULTIUSER\)](#)

[COO-DSR-IIPCSy \(MULTIUSER\)](#)

[UKStratComDD-CyDR-CySAAS-021](#)

UK OFFICIAL AND UK OFFICIAL-SENSITIVE CONTRACTUAL SECURITY CONDITIONS

Purpose

1. This document provides guidance for Contractors where classified material provided to or generated by the Contractor is graded UK OFFICIAL or UK OFFICIAL-SENSITIVE. Where the measures requested below cannot be achieved or are not fully understood, further advice should be sought from the UK Designated Security Authority (Email: COO-DSR-IIPCSy@mod.gov.uk).

Definitions

2. The term "*Authority*" for the purposes of this Annex means the HMG Contracting Authority.
3. The term "*Classified Material*" for the purposes of this Annex means classified information and assets.

Security Grading

4. The SENSITIVE marking is used to denote UK OFFICIAL material that is of a particular sensitivity and where there is a need to reinforce the 'need to know'. The Security Aspects Letter, issued by the Authority shall define the UK OFFICIAL-SENSITIVE material that is provided to the Contractor, or which is to be developed by it, under this Contract. The Contractor shall mark all UK OFFICIAL-SENSITIVE documents which it originates or copies during the Contract with the applicable security grading. The Contractor is not required to mark documents graded UK OFFICIAL unless they are transmitted overseas or generated by a Contractor based outside the UK in a third-party country.

Security Conditions

5. The Contractor shall take all reasonable steps to adhere to the provisions specified in the Contract or listed in this Annex. The Contractor shall make sure that all individuals employed on any work in connection with the Contract have notice that these provisions apply to them and shall continue so to apply after the completion or earlier termination of the Contract. The Authority must state the data retention periods to allow the Contractor to produce a data management policy. If you are a Contractor located in the UK your attention is also drawn to the provisions of the Official Secrets Acts 1911 to 1989 in general, and to the provisions of Section 2 of the Official Secrets Act 1911 (as amended by the Act of 1989) in particular.

Protection of UK OFFICIAL and UK OFFICIAL-SENSITIVE Classified Material

6. The Contractor shall protect UK OFFICIAL and UK OFFICIAL-SENSITIVE material provided to or generated by it in accordance with the requirements detailed in this Security Condition and any other conditions that may be specified by the Authority. The Contractor shall take all reasonable steps to prevent the loss or compromise of classified material whether accidentally or from deliberate or opportunist attack.

7. Once the Contract has been awarded, where Contractors are required to store or process UK MOD classified information electronically, they are required to comply with the requirements specified in ISNs, Defence Condition 658 and Defence Standard 05-138. Details can be found at the links below:

<https://www.gov.uk/government/publications/industry-security-notices-isns>.

<https://www.dstan.mod.uk/toolset/05/138/000003000.pdf>

<https://www.gov.uk/government/publications/defence-condition-658-cyber-flow-down>

8. All UK classified material including documents, media and other assets must be physically secured to prevent unauthorised access. When not in use UK classified material shall be handled with care to prevent loss or inappropriate access. As a minimum UK OFFICIAL-SENSITIVE material shall be stored under lock and key and shall be placed in a lockable room, cabinets, drawers or safe and the keys/combinations shall be controlled.

9. Disclosure of UK classified material must be strictly controlled in accordance with the "need to know" principle. Except with the written consent of the Authority, the Contractor shall not disclose the Contract or any provision thereof to any person other than to a person directly employed by the Contractor or sub-Contractor.

10. Except with the consent in writing of the Authority the Contractor shall not make use of the Contract or any classified material issued or provided by or on behalf of the Authority otherwise than for the purpose of the Contract, and, same as provided for in paragraph 8 above, the Contractor shall not make use of any article or part thereof similar to the articles for any other purpose.

11. Subject to any intellectual property rights of third parties, nothing in this Security Condition shall restrict the Contractor from using any specifications, plans, drawings and other documents generated outside of this Contract.

12. Any samples, patterns, specifications, plans, drawings or any other documents issued by or on behalf of the Authority for the purposes of the Contract remain the property of the Authority and must be returned on completion of the Contract or, if directed by the Authority, destroyed in accordance with paragraph 34.

Access

13. Access to UK classified material shall be confined to those individuals who have a *"need-to-know"*, have been made aware of the requirement to protect the material and whose access is essential for the purpose of their duties.

14. The Contractor shall ensure that all individuals requiring access to UK OFFICIAL-SENSITIVE material have undergone basic recruitment checks. This should include establishing proof of identity; confirming that they satisfy all legal requirements for employment by the Contractor; and verification of their employment record. Criminal record checks should also be undertaken where permissible under national/local laws and regulations. This is in keeping with the core principles set out in the UK Government (HMG) Baseline Personnel Security Standard (BPSS) which can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/714002/HMG_Baseline_Personnel_Security_Standard_-_May_2018.pdf

Hard Copy Distribution

15. UK OFFICIAL and UK OFFICIAL-SENSITIVE documents may be distributed internally and externally of Contractor premises. To maintain confidentiality, integrity and availability, distribution is to be controlled such that access to documents is only by authorised personnel. They may be sent by ordinary post in a single envelope. The words UK OFFICIAL or UK OFFICIAL-SENSITIVE must not appear on the envelope. The envelope must bear a stamp or marking that clearly indicates the full address of the office from which it was sent. Commercial Couriers may be used.

16. Advice on the distribution of UK OFFICIAL-SENSITIVE documents abroad or any other general advice including the distribution of UK OFFICIAL-SENSITIVE shall be sought from the Authority.

Electronic Communication and Telephony and Facsimile Services

17. UK OFFICIAL information may be emailed unencrypted over the internet. UK OFFICIAL-SENSITIVE information shall normally only be transmitted over the internet encrypted using either a National Cyber Security Centre (NCSC) Commercial Product Assurance (CPA) cryptographic product or a UK MOD approved cryptographic technique such as Transmission Layer Security (TLS). In the case of TLS both the sender and recipient organisations must have TLS enabled. Details of the required TLS implementation are available at:

<https://www.ncsc.gov.uk/guidance/tls-external-facing-services>

Details of the CPA scheme are available at:

<https://www.ncsc.gov.uk/scheme/commercial-product-assurance-cpa>

18. Exceptionally, in urgent cases UK OFFICIAL-SENSITIVE information may be emailed unencrypted over the internet where there is a strong business need to do so, but only

with the prior approval of the Authority. However, it shall only be sent when it is known that the recipient has been made aware of and can comply with the requirements of these Security Conditions and subject to any explicit limitations that the Authority require. Such limitations including any regarding publication, further circulation or other handling instructions shall be clearly identified in the email sent with the information.

19. UK OFFICIAL information may be discussed on fixed and mobile telephones with persons located both within the country of the Contractor and overseas. UK OFFICIAL-SENSITIVE information may be discussed on fixed and mobile telephones only where there is a strong business need to do so.

20. UK OFFICIAL information may be faxed to recipients located both within the country of the Contractor and overseas, however UK OFFICIAL-SENSITIVE information may be transmitted only where there is a strong business case to do so and only with the prior approval of the Authority.

Use of Information Systems

21. The detailed functions that must be provided by an IT system to satisfy the minimum requirements cannot all be described here in specific detail; it is for the implementers to identify possible means of attack and ensure proportionate security mitigations are applied to prevent a successful attack.

22. The Contractor should ensure **10 Steps to Cyber Security** (Link below) is applied in a proportionate manner for each IT and communications system storing, processing or generating UK OFFICIAL or UK OFFICIAL-SENSITIVE information. The Contractor should ensure competent personnel apply 10 Steps to Cyber Security.

<https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>.

23. As a general rule, any communication path between an unauthorised user and the data can be used to carry out an attack on the system or be used to compromise or ex-filtrate data.

24. Within the framework of the 10 Steps to Cyber Security, the following describes the minimum security requirements for processing and accessing UK OFFICIAL-SENSITIVE information on IT systems.

a. Access. Physical access to all hardware elements of the IT system is to be strictly controlled. The principle of "*least privilege*" will be applied to System Administrators. Users of the IT System (Administrators) should not conduct 'standard' User functions using their privileged accounts.

b. Identification and Authentication (ID&A). All systems are to have the following functionality:

- (1). Up-to-date lists of authorised users.
- (2). Positive identification of all users at the start of each processing session.

c. Passwords. Passwords are part of most ID&A security measures. Passwords are to be “*strong*” using an appropriate method to achieve this, e.g. including numeric and “*special*” characters (if permitted by the system) as well as alphabetic characters.

d. Internal Access Control. All systems are to have internal Access Controls to prevent unauthorised users from accessing or modifying the data.

e. Data Transmission. Unless the Authority authorises otherwise, UK OFFICIAL-SENSITIVE information may only be transmitted or accessed electronically (e.g. point to point computer links) via a public network like the Internet, using a CPA product or equivalent as described in paragraph 17 above.

f. Security Accounting and Audit. Security relevant events fall into two categories, namely legitimate events and violations.

- (1). The following events shall always be recorded:

- (a) All log on attempts whether successful or failed,
- (b) Log off (including time out where applicable),
- (c) The creation, deletion or alteration of access rights and privileges,
- (d) The creation, deletion or alteration of passwords.

- (2). For each of the events listed above, the following information is to be recorded:

- (a) Type of event,
- (b) User ID,
- (c) Date & Time,
- (d) Device ID.

The accounting records are to have a facility to provide the System Manager with a hard copy of all or selected activity. There also must be a facility for the records to be printed in an easily readable form. All security records are to be inaccessible to users without a need to know. If the operating system is unable to provide this then the equipment must be protected by physical means when not in use i.e. locked away or the hard drive removed and locked away.

g. Integrity & Availability. The following supporting measures are to be implemented:

- (1). Provide general protection against normally foreseeable accidents/mishaps and known recurrent problems (e.g. viruses and power supply variations),

- (2). Defined Business Contingency Plan,
- (3). Data backup with local storage,
- (4). Anti-Virus Software (Implementation, with updates, of an acceptable industry standard Anti-virus software),
- (5). Operating systems, applications and firmware should be supported,
- (6). Patching of Operating Systems and Applications used are to be in line with the manufacturers recommended schedule. If patches cannot be applied an understanding of the resulting risk will be documented.

h. Logon Banners. Wherever possible, a “*Logon Banner*” will be provided to summarise the requirements for access to a system which may be needed to institute legal action in case of any breach occurring. A suggested format for the text (depending on national legal requirements) could be:

“Unauthorised access to this computer system may constitute a criminal offence”

i. Unattended Terminals. Users are to be automatically logged off the system if their terminals have been inactive for some predetermined period of time, or systems must activate a password protected screen saver after 15 minutes of inactivity, to prevent an attacker making use of an unattended terminal.

j. Internet Connections. Computer systems must not be connected direct to the Internet or “*un-trusted*” systems unless protected by a firewall (a software based personal firewall is the minimum but risk assessment and management must be used to identify whether this is sufficient).

k. Disposal. Before IT storage media (e.g. disks) are disposed of, an erasure product must be used to overwrite the data. This is a more thorough process than deletion of files, which does not remove the data.

Laptops

25. Laptops holding any UK OFFICIAL-SENSITIVE information shall be encrypted using a CPA product or equivalent as described in paragraph 17 above.

26. Unencrypted laptops and drives containing personal data are not to be taken outside of secure sites¹. For the avoidance of doubt the term “*drives*” includes all removable, recordable media e.g. memory sticks, compact flash, recordable optical media (CDs and DVDs), floppy discs and external hard drives.

27. Any token, touch memory device or password(s) associated with the encryption package is to be kept separate from the machine whenever the machine is not in use, left unattended or in transit.

¹ Secure Sites are defined as either Government premises or a secured office on the contractor premises.

28. Portable CIS devices holding the Authorities' data are not to be left unattended in any public location. They are not to be left unattended in any motor vehicles either in view or in the boot or luggage compartment at any time. When the vehicle is being driven the CIS is to be secured out of sight in the glove compartment, boot or luggage compartment as appropriate to deter opportunist theft.

Loss and Incident Reporting

29. The Contractor shall immediately report any loss or otherwise compromise of any Defence Related Classified Material to the Authority. The term Defence Related Classified Material includes MOD Identifiable Information (MODDII) (as defined in ISN2016/05) and any information or asset that has been given a security classification by the UK MOD. The term also includes classified information and assets held by UK Defence Contractors which are owned by a third party e.g. NATO or a another country for which the UK MOD is responsible.

30. In addition any loss or otherwise compromise of Defence Related Classified Material is to be immediately reported to the UK MOD Defence Industry Warning, Advice and Reporting Point (WARP). This will assist the UK MOD in formulating a formal information security reporting process and the management of any associated risks, impact analysis and upward reporting to the UK MOD's Chief Information Officer (CIO) and, as appropriate, the Contractor concerned. The UK MOD Defence Industry WARP will also advise the Contractor what further action is required to be undertaken.

UK MOD Defence Industry WARP Contact Details

Email: DefenceWARP@mod.gov.uk (OFFICIAL with no NTK restrictions)

RLI Email: defencewarp@modnet.r.mil.uk (MULTIUSER)

Telephone (Office hours): +44 (0) 3001 583 640

Mail: Defence Industry WARP, DE&S PSyA Office

MOD Abbey Wood, NH2 Poplar-1 #2004, Bristol, BS34 8JH

31. Reporting instructions for any security incidents involving Defence Related Classified Material can be found in the Incident Reporting Industry Security Notice at:

<https://www.gov.uk/government/publications/industry-security-notices-isns>

Sub-Contracts

32. Where the Contractor wishes to sub-contract any elements of a Contract to sub-Contractors within its own country or to Contractors located in the UK such sub-contracts will be notified to the Contracting Authority. The Contractor shall ensure that these Security Conditions are incorporated within the sub-contract document.

33. The prior approval of the Authority shall be obtained should the Contractor wish to sub-contract any UK OFFICIAL-SENSITIVE elements of the Contract to a sub-Contractor facility located in another (third party) country. The first page of Annex A (MOD Form 1686

(F1686) of ISN 2023/06 is to be used for seeking such approval. The MOD Form 1686 can be found at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1162250/ISN_2023-06_Subcontracting_or_Collaborating_on_Classified_MOD_Programmes.pdf

If the sub-contract is approved, the Contractor shall flow down the Security Conditions in line with paragraph 32 above to the sub-Contractor. Contractors located overseas may seek further advice and/or assistance from the Authority with regards the completion of F1686.

Physical Destruction

34. As soon as no longer required, UK OFFICIAL and UK OFFICIAL-SENSITIVE material shall be destroyed in such a way as to make reconstitution very difficult or impossible, for example, by burning, shredding or tearing into small pieces. Advice shall be sought from the Authority when the classified material cannot be destroyed or, unless already authorised by the Authority, when its retention is considered by the Contractor to be necessary or desirable. Unwanted UK OFFICIAL-SENSITIVE classified material which cannot be destroyed in such a way shall be returned to the Authority.

Private Venture Activities

35. Private Venture (PV) funded (i.e., non-MOD funded) defence related projects and technology fall within one of the following three categories:

- Variants. Variants of standard defence equipment under research, development or in production, e.g., aircraft, military vehicles or ships, etc. with non-standard equipment or fitments, offered to meet special customer requirements or to avoid security or commercial difficulties associated with the sale of an item in-Service with UK Armed Forces;
- Derivatives. Equipment for military or civil use that is not based on standard Service designs but is dependent upon expertise or technology acquired in the course of defence contracts;
- Freelance. Equipment of defence importance that is in no way based on information gained from defence contracts;

36. UK Contractors shall ensure that any PV activity that falls into one of the above categories has been formally security graded by the MOD Directorate of Security and Resilience. Please see PV guidance on the following website further information:

<https://www.gov.uk/government/publications/private-venture-pv-grading-and-exhibition-clearance-information-sheets>

Publicity Material

37. Contractors wishing to release any publicity material or display assets that arises from a Contract to which these Security Conditions apply must seek the prior approval of the Authority. Publicity material includes open publication in the Contractor's publicity literature or website or through the media; displays at exhibitions in any country; lectures or symposia; scientific or technical papers, or any other occasion where members of the general public may have access to the information even if organised or sponsored by the UK Government.

38. For UK Contractors where the exhibition assets relate to multiple Delivery Teams or for Private Venture defence related material where there is no defined Delivery Team, the Contractor shall request clearance for exhibition from the Directorate of Security and Resilience when it concerns Defence Related Material. See the MOD Exhibition Guidance on the following website for further information:

<https://www.gov.uk/government/publications/private-venture-pv-grading-and-exhibition-clearance-information-sheets>

Export sales/promotion

39. The MOD Form 680 (F680) security procedure enables HMG to control when, how, and if defence related classified material is released by UK Contractors to foreign entities for the purposes of promotion or sales of equipment or services. Before undertaking any targeted promotion or demonstration or entering into any contractual commitments involving the sale or release of defence equipment, information or technology classified UK OFFICIAL-SENSITIVE or above to a foreign entity, a UK Contractor shall obtain F680 approval from the Export Control Joint Unit (ECJU) MOD Team. This includes assets classified UK OFFICIAL-SENSITIVE or above either developed to meet a UK MOD requirement or Private Venture (PV) equipment, as formally advised in a Security Aspects Letter (SAL) issued by the relevant Contracting Authority, or PV Security Grading issued by the MOD Directorate of Security and Resilience. Guidance regarding the F680 procedure issued by ECJU can be found at:

<https://www.gov.uk/government/publications/ministry-of-defence-form-680-procedure-guidance>

40. If a Contractor has received an approval to sub-contract, under an MOD Form 1686 (F1686), for development/production of parts of an equipment, that approval also permits the production of additional quantities for supply to an export customer, when the Contractor has MOD Form 680 approval for supply of the complete equipment, as long as:

- a) they are identical, except for component obsolescence, to items produced under the UK programme that the approval to subcontract relates to; and

- b) no additional OFFICIAL-SENSITIVE or above material is required to be released to the overseas subcontractor.

Interpretation/Guidance

41. Advice regarding the interpretation of the above requirements should be sought from the Authority.

42. Further requirements, advice and guidance for the protection of UK classified material at the level of UK OFFICIAL and UK OFFICIAL-SENSITIVE may be found in Industry Security Notices at:

<https://www.gov.uk/government/publications/industry-security-notices-isns>

Audit

43. Where considered necessary by the Authority the Contractor shall provide evidence of compliance with this Security Condition and/or permit the inspection of the Contractor's processes and facilities by representatives of the Contractor's National/Designated Security Authorities or the Authority to ensure compliance with these requirements.

Annex J – Spares Price List

Please see external document: Annex J - Spares Price List

[Redacted in its entirety under FOI Section 43 – Commercial Interests Exemption]

1. The price listed in Annex J - Spares Price List is valid for the period 1 April 2024 to 31 March 2025. After this time, the price will need to be revalidated by the Contractor, if the Authority requests a spare in accordance with the Statement of Work. This will include a proposal for a new exchange rate which shall be mutually agreed by the Authority and the Contractor.
2. The spares price listed in Annex J is inclusive of delivery, profit and overheads. No further costs shall be borne by the Authority.
3. Where the Authority requests a number of spares from Annex J - Spares Price List, it shall be able to request a new price from the Contractor for the bulk purchase of spares to reflect the potential savings in delivery and other associated costs.
4. Where a spare is purchased outside of the price validity period of 1 April 2024 to 31 March 2025, the Contractor shall provide the Authority with evidence to demonstrate the new price of the spare such as providing the actual invoice for the spare requested and delivery costs. This price shall be subject to the agreement made regarding the exchange rate at Condition 1 of this Annex J.

Annex K - Personal Data Aspects Letter



Ministry
of Defence



AMST-Systemtechnik GmbH
Lamprechtshausener

[Redacted under FOI Section 40 – Personal
Information]

Austria

[Redacted under FOI Section 40 –
Personal Information]

[Redacted under FOI Section 40 –
Personal Information]

[Redacted under FOI Section 40 –
Personal Information]



Defence Equipment & Support
Walnut 2B, #1317
MOD Abbey Wood
Bristol BS34 8JH



Our Reference: 708365451

For the personal attention of: [Redacted under FOI Section 40 – Personal Information]

708365451- SDT Support: Personal Data Aspects Letter

1. On behalf of the Secretary of State for Defence, I hereby give you notice that the Privacy Impact Assessment conducted has identified that this contract involves the requirement to handle UK MOD personal data. This data is subject to the provisions of the Data Protection Act 2018,² the Data Handling Review,³ and the GovS 007 Security.⁴ Your attention is also drawn to the specific aspects of personal data handling set out in Industry Security Notices which must be fully implemented.

2. Will you please confirm that:

- a. This definition of the personal data aspects of the above contract has been brought to the attention of the person directly responsible for the protection of data in this contract.
- b. The definition is fully understood.
- c. Measures can, and will, be taken to protect the personal data.
- d. Any problems in meeting these requirements will be notified to MOD immediately.

Yours faithfully

[Redacted under FOI Section 40 – Personal Information]

Copy to:

CIO-Advisor

² <https://www.gov.uk/data-protection>

³ <https://www.gov.uk/government/publications/data-handling-procedures-in-government>

Annex L - Cost Breakdown

[Redacted in its entirety under FOI Section 43 - Commercial Interests Exemption]

Deliverables

This matrix is intended to provide an overview of the parties' contractual obligations to assist with contract management. It does not form part of the contract and should not be relied upon to aid interpretation of the contract. In the event of any conflict, inconsistency or discrepancy between this matrix and the contract, the terms of the contract shall take precedence.

All Negotiation Deliverables

Supplier Contractual Deliverables

Name	Description	Due	Responsible Party
Contract Planning and Administration - Completion of Contract Statistics (reminder)	To update and complete Contract Statistics Form paying particular attention to SIC code, Location of Work and Subcontractors information (discussing with Contractor as necessary to complete)	Due 1 day after Contract Agreement Start Date	Supplier Organization
Obligation DEFCON 21 (Edn 06/21) Clause - 3a - Maintenance of Deliverables (reminder)	To maintain at least one copy of all deliverable information to which DEFCON 21 applies during the period of the Contract and for at least two years after the Contract, or period as may be specified in the contract.	Due 1 month before Contract Agreement End Date	Supplier Organization
Obligation DEFCON 91 (Edn 06/21) Clause - 5b - Software as required	A copy of the Software as is required for performance of obligations to be retained.	Due 3 months before Contract Agreement Start Date	Supplier Organization
Obligation DEFCON 127 (Edn 12/14) Clause - 3a - Supply of Estimates of Costs	Supply estimates of the costs of production or performance of the Contractor Deliverables.	Due 3 months before Contract Agreement Start Date	Supplier Organization
Obligation DEFCON 130 (Edn 11/21) Clause - 10 - Safety Data Sheet Provision	A Safety Data Sheet in respect of each Dangerous Good in accordance with the REACH Regulations 2007 and the Health and Safety at Work Act 1974 to be provided no later than one month before delivery is due.	Due 4 weeks before Contract Agreement Start Date	Supplier Organization
Obligation DEFCON 653 (Edn 12/14) Clause - 2 - Submission of costs.	Submission of costs.	Due 0 day after Contract Agreement Start Date	Supplier Organization
Obligation DEFCON 653 (Edn 12/14) Clause - 3 - Maintain details of costs.	Maintain details of costs.	Due 0 day after Contract Agreement Start Date	Supplier Organization
Obligation DEFCON 653 (Edn 12/14) Clause - 4 - Submission of Deform 812 (Contract Costs	Submission of Deform 812 (Contract Costs statement).	Due 8 months after Contract Agreement End Date	Supplier Organization

OFFICIAL SENSITIVE -
COMMERCIAL

Contract No. 708365451

statement).			
Obligation DEFCON 697 (Edn 11/22) Clause - 6f - Confirmation that employees have appropriate security clearance.	Confirmation that employees have appropriate security clearance.	Due 1 month before Contract Agreement Start Date	Supplier Organization
Obligation DEFCON 697 (Edn 11/22) Clause - 6h - Confirm that appropriate risk assessments have been undertaken.	Confirmation that appropriate risk assessments have been undertaken.	Due 1 month before Contract Agreement Start Date	Supplier Organization
Obligation Condition 1.c.(2) - Notification of litigation	Notification of; Litigation, arbitration, administrative, adjudication or mediation proceedings against itself or a Subcontractor		Supplier Organization
Obligation Condition 1.c.(4) - Notification of Winding-up	Notice of any proceedings or steps taken for its winding-up or dissolution or for the appointment of a receiver, administrator, liquidator,		Supplier Organization
Obligation Condition 5.b - Notice of inconsistency between contract documents	If either Party becomes aware of any inconsistency within or between Contractual documents they shall notify the other Party forthwith		Supplier Organization
Obligation Condition 16.a - Change of Control of Contractor	Written Notification of any intended, planned or actual change in control of the Contractor, including any Sub-contractors.		Supplier Organization
Obligation Condition 16.b - Notification of Concern due to Change of Control	advise the Contractor in writing of any concerns due to Change of Control		Supplier Organization
Obligation Condition 18.a - Contractors Records (reminder)	maintain all records in connection with the Contract for a period of at least six (6) years	Due 3 months before Contract Agreement End Date	Supplier Organization
Obligation Condition 20.a - Attendance at Progress Meetings	attend progress meetings at the frequency or times specified in the contract	Repeats every 3 months on the First Day of the Month starting 1 month after Contract Agreement Start Date until 0 day after Contract Agreement End Date	Supplier Organization
Obligation Condition 20.b - Progress Reports	submit progress reports at the times and in the format specified in the contract	Repeats every 3 months on the First Day of the Month starting 1 month after Contract Agreement Start Date until 0 day after Contract Agreement End Date	Supplier Organization
Obligation Condition 23.e, 24.a, and 24.c - Safety Data Sheet	provide a Safety Data Sheet in respect of each Dangerous/Hazardous Material or substance supplied or deliverable		Supplier Organization

OFFICIAL SENSITIVE -
COMMERCIAL

Contract No. 708365451

	containing such.		
Obligation Condition 23.f.(6) And Condition 23.g.(1).(b) - Documents relating to design of new MLP Packaging	"All SPIS, new or modified, shall be uploaded by the on to SPIN. where the Supplier is the PDA and registered a list of all SPIS which have been prepared or revised against the Contract; and a copy of all new / revised SPIS, complete with all continuation sheets and associated drawings shall be provided for upload"		Supplier Organization
Obligation Condition 24.d - Schedule 6 hazardous Contractor Deliverables, Materials or Substances Supplied under the Contract: Data Requirements	a completed Schedule 6 (Hazardous Contractor Deliverables, Materials or Substances Supplied under the Contract: Data Requirements)	Due 0 day after Contract Agreement Start Date	Supplier Organization
Obligation Condition - Compliance with hazard reporting requirements for materials or substances are ordnance, munitions or explosives	in addition to the requirements of UK REACH CLP the Contractor shall comply with hazard reporting requirements of DEF STAN 07-085 Design Requirements for Weapons and Associated Systems.		Supplier Organization
Obligation Condition 25.c - Source of Timber and Wood	If requested Evidence that the Timber and Wood-Derived Products supplied to the Authority comply with the requirements of clause 25.a or 25.b or both.		Supplier Organization
Obligation Condition 26.a - Certificate of Conformity	sufficient information, certification, documentation and other reasonable assistance to obtain necessary UK import/export licence or to facilitate the granting of export/import licences or authorisations by a foreign Government		Supplier Organization
Obligation Condition 36.a - Provide Registration Details for CP&F	provide details for registration on CP&F		Supplier Organization
Obligation Condition 37.c - Notification of applicable VAT	Notification of VAT liability or changes to it		Supplier Organization
Obligation Condition 42.c.(2) - Post notification of Termination	List of Unused and undamaged materiel; contractor deliverables in the course of manufacture.		Supplier Organization
Obligation Clause Condition 42.f - Subcontract Termination	inclusion of Termination clause in subcontracts over £250,000	Due 0 day after Contract Agreement Start Date	Supplier Organization
Obligation SSCR Reporting to SSRO - - Contract Reporting Plan (CRP)	Must be provided by the contractor within one month of the initial reporting date.	Due 20 days after Contract Agreement Start Date	Supplier Organization

OFFICIAL SENSITIVE -
COMMERCIAL

Contract No. 708365451

Obligation SSCR Reporting to SSRO - - Contract Notification Report (CNR)	Must be provided by the contractor within one month of the initial reporting date.	Due 20 days after Contract Agreement Start Date	Supplier Organization
Obligation SSCR Reporting to SSRO - - Quarterly Contract Report (QCR)	>£50M must be provided by the contractor within one month of the end of each calendar quarter, and every calendar quarter thereafter throughout the life of the QDC. No report is required for the calendar quarter in which the initial reporting date falls or the final quarter where contract completion takes place.	Repeats every 3 months on the First Day of the Month starting 3 months after Contract Agreement Start Date until 0 day after Contract Agreement End Date	Supplier Organization
Obligation SSCR Reporting to SSRO - - Interim Contract Report (ICR) <£50M	"<50M must be provided by the contractor within 2 months after each reporting date. You can agree with your contractor a date for an ICR no more than three years ⁵ from the time of contract placement, with subsequent reports before the expected contract completion date but no more than at the end of each three year period following the date of the first report. If you don't agree a date your contractor must provide an ICR on the date three years after the last day of the calendar quarter during which the initial reporting date fell, with subsequent reports on the date at the end of each three year period following the date of the first report."	Repeats every 36 months on the First Day of the Month starting 36 months after Contract Agreement Start Date until 0 day after Contract Agreement End Date	Supplier Organization
Obligation SSCR Reporting to SSRO - - Interim Contract Report (ICR) >£50M	">£50M if pre-agreed an initial report must be provided by the contractor on a date no more than 3 years from entering into a QDC, and at no more than 3 year intervals after that. If no date agreed the date will be 12 months after the last day of the calendar quarter during which the initial reporting date fell, and at 12 month intervals."	Repeats every 12 months on the First Day of the Month starting 12 months before Contract Agreement Start Date until 0 day after Contract Agreement End Date	Supplier Organization
Obligation SSCR Reporting to SSRO - - Contract Pricing Statement (CPS)	it is MOD policy to agree a CPS before agreeing a contract price. Only in exceptional circumstances should you allow your contractor to provide a CPS within a month of the initial reporting date	Due 0 day after Contract Agreement Start Date	Supplier Organization
Obligation SSCR Reporting to SSRO - - Contract Completion Report (CCR)	The contractor must complete a CCR within six months of the contract completion date ¹ . It provides a post contract view of the baseline information provided at the start of the contract in the Contract Notification Report (CNR)	Due 6 months after Contract Agreement Closed	Supplier Organization
Obligation SSCR Reporting to SSRO - - Contract Costs	The contractor must submit a CCS within 12 months of the contract completion date. The CCS contains	Due 12 months after Contract Agreement Closed	Supplier Organization

Statement (CCS)	a detailed analysis of delivering the QDC and is required in slower time than the CCR.		
Mandatory Standstill Period Ending	The 10 day mandatory Standstill Period is closing		Supplier Organization
Commercial Exploitation Levy - Reminder that Statements of Sales and Auditor Certificate are required annually	Applicable to contracts with Commercial Exploitation Agreements. A reminder to Suppliers that Statements of Sales along with Auditor Certificate are required annually.	Repeats every 12 months on the First Day of the Month starting on 01-JAN-2020 until 12 months after Contract Agreement End Date	Supplier Organization

Buyer Contractual Deliverables

Name	Description	Due	Responsible Party
Obligation DEFCON 697 (Edn 11/22) Clause - 17 - Provision of operational specific medical warning notices.	Provision of operational specific medical warning notices.	Due 1 month before Contract Agreement Start Date	Buyer Organization
Obligation Condition 5.b - Notice of inconsistency between contract documents	If either Party becomes aware of any inconsistency within or between Contractual documents they shall notify the other Party forthwith		Buyer Organization
Obligation Condition 8.c - Change in Authority Representatives	Written confirmation of any change to the Authorities Representatives		Buyer Organization
Obligation Condition 14.f.(6) - Use of confidentiality agreement	Disclosure of Information on a confidential basis shall be subject to a confidentiality agreement containing terms no less stringent than those placed on the Authority		Buyer Organization
Obligation Condition 33.l - Notification of restrictions in use due to non-UK licence	If all or any part of the Contractor Deliverables are subject to Clause 33.k(1) or 33.k(2), it shall notify the Authority of this as soon as reasonably practicable	Due 1 week after Contract Agreement Start Date	Buyer Organization
Obligation Condition 36.c - Payment	Payment of sums due		Buyer Organization
Obligation Condition 42.a - Termination	Written notice of Termination of part or whole of contract		Buyer Organization