



Ministry of Defence

SPMAP Delivery Team

Contract Number:

SPMAP/0102

CP&F Reference Number:

701575443

Description:

Redacted, under FOIA Section 24, National Security:
Procurement of Aircraft

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

And

Team Name and address:

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1. SCHEDULE OF REQUIREMENTS

Name and Address of Contractor Airbus Helicopters UK Limited Langford Lane Kidlington Oxfordshire OX5 1QZ	MINISTRY OF DEFENCE Schedule of Requirements (SOR)	Redacted, under FOIA Section 24, National Security: Procurement of Aircraft Contract Number: SPMAP/0102
Issued With: Offer Letter (DEFFORM 10)	On: 27 Oct 2021	Previous Contract No: n/a

Requirements:

Line Item	Description	€ (ex-VAT)
1	Procurement of REDACTED, under FOIA Section 24 Aircraft in accordance with the Statement of Requirements at Schedule 1, Payment Plan at Schedule 7 and Key Performance Indicators at Schedule 9 to this Contract	Redacted under FOIA Section 43, Commercial Interests
2	Embodiment of REDACTED under FOIA Section 24 Aircraft with Modifications in accordance with the Statement of Requirements at Schedule 1, Payment Plan at Schedule 7 and Key Performance Indicators at Schedule 9 to this Contract	Redacted under FOIA Section 43, Commercial Interests
3	Procurement of two (2) sets of Ground Handling Wheels in accordance with the Statement of Requirements at Schedule 1, Payment Plan at Schedule 7 and Key Performance Indicators at Schedule 9 to this Contract	Redacted under FOIA Section 43, Commercial Interests
4	Contract Management, including Legal Fees: Contract Management Legal Fees	Redacted under FOIA Section 43, Commercial Interests Redacted under FOIA Section 43, Commercial Interests Redacted under FOIA Section 43, Commercial Interests

2. GENERAL CONDITIONS

The following DEFCONs shall apply:

DEFCON 501 (EDN 11/17) DEFINITIONS AND INTERPRETATIONS

NOTE: For the purpose of DEFCON 501, Clause 1.i) the Authority's Commercial Officer shall be as identified in box one Schedule 13 (DEFFORM 111) and the Authority's Project Manager at Clause 1.t) shall be as identified in box two.

DEFCON 515 (EDN 06/21) BANKRUPTCY AND INSOLVENCY

DEFCON 516 (EDN 04/12) EQUALITY

DEFCON 518 (EDN 02/17) TRANSFER

DEFCON 520 (EDN 05/18) CORRUPT GIFTS AND PAYMENTS OF COMMISSION

DEFCON 526 (EDN 08/02) NOTICES

DEFCON 527 (EDN 09/97) WAIVER

DEFCON 528 (EDN 07/17) IMPORT AND EXPORT LICENCES (SCHEDULE 12 REFERS)

NOTE: For the purpose of paragraph 16 of this DEFCON the notice period shall be ten (10) business days.

DEFCON 529 (EDN 09/97) LAW (ENGLISH)

DEFCON 530 (EDN 12/14) DISPUTE RESOLUTION (ENGLISH LAW)

DEFCON 531 (EDN 11/14) DISCLOSURE OF INFORMATION

DEFCON 532B (EDN 04/20) PROTECTION OF PERSONAL DATA

DEFCON 537 (EDN 06/02) RIGHTS OF THIRD PARTIES

DEFCON 538 (EDN 06/02) SEVERABILITY

DEFCON 539 (EDN 08/13) TRANSPARENCY

DEFCON 550 (EDN 02/14) CHILD LABOUR AND EMPLOYMENT LAW

DEFCON 566 (EDN 10/20) CHANGE OF CONTROL OF CONTRACTOR

DEFCON 621B (EDN 10/04) TRANSPORT (IF CONTRACTOR IS RESPONSIBLE FOR TRANSPORT)

DEFCON 656B (EDN 08/16) TERMINATION FOR CONVENIENCE – OVER £5M

NOTE: For the purpose of this DEFCON, the notice period shall be two calendar months.

DEFCON 658 (EDN 10/17) CYBER

NOTE: Further to DEFCON 658 the Cyber Risk Level of the Contract is Very Low, as defined in Def Stan 05-138. The reference is **Redacted under FOIA Section 24, National Security**

2.1 DURATION

- 2.1.1 The Contract shall be effective from Contract Award (Date 27 Oct 2021) and shall expire following completion of the Contract Closure Meeting (anticipated Date 28 Jul 2023), unless terminated earlier in accordance with the provisions of this Contract. In the event that the Contract Term exceeds twenty-one (21) months, the Authority will consider request for any additional reasonable costs that may have been incurred, supported by evidence. Contract Condition 9 shall apply under these circumstances.

2.2 PLACE OF WORK

- 2.2.1 Any changes to the Contractor's or major Sub-Contractor(s) place(s) of work during the Contract shall be promptly notified to the Authority's Commercial Officer.

2.3 CONTRACTOR'S RESPONSIBILITY

- 2.3.1 The Contractor shall be wholly responsible for the performance of the Contract. In pursuance of this obligation, the Contractor shall include in any sub-contract the same conditions as are included in the Contract modified so far as may be appropriate for application to a sub-contract.
- 2.3.2 The Contractor is responsible for the management of the Contract in the most efficient and cost-effective manner including, but not limited to, the control of resources, programming, supervision, preparation and control of documentation, monitoring output and liaison with the Authority.
- 2.3.3 The Contractor shall be wholly responsible for the efficient and proper functioning as required by the Contract of all Articles supplied under it and for ensuring that any design is wholly complete, accurate and meets the needs and specifications of the Contract, such that Articles manufactured to such Design shall similarly meet the Technical Specifications and other requirements of the Contract.

2.4 PUBLICITY AND PUBLIC RELATIONS

- 2.4.1 Neither the Contractor nor any appointed agent or sub-contractor shall, without prior written consent of the Authority, advertise or publicly announce that work is being undertaken for the Authority.
- 2.4.2 The responsibility for communicating with representatives of the general and technical press, radio, television and other communications media on all matters is borne by the Authority's Project Manager.
- 2.4.3 The Contractor and their staff and sub-contractors shall not communicate on these matters with any communications media representative unless specifically granted permission to do so, in writing, by the Authority's Project Manager. Information deriving from the Contract relating to the MOD may not be communicated to any third party without specific permission to do so in writing, from the Authority's Project Manager.

2.5 BUSINESS CONTINUITY & DISASTER RECOVERY (BCDR)

- 2.5.1 The Contractor shall maintain a corporate Business Continuity and Disaster Recovery (BCDR) Plan for the duration of this Contract.

- 2.5.2 The Contractor shall preserve the integrity of the data it requires to perform this Contract and prevent the corruption or loss of such data and shall perform secure back-ups of this data in accordance with their corporate BCDR Plan.
- 2.5.3 The BCDR Plan shall detail the processes and arrangements which the Contractor shall follow to ensure continuity and recovery of the business processes and operations following any failure or disruption in the Contractor's services in the event of a disaster.
- 2.5.4 Should a suitable BCDR plan not be provided or maintained, and there is an event where the plan should have been implemented, the Contractor shall not be entitled to an extension of time to perform their obligations in accordance with Condition 2.8 and shall be required to provide a Rectification Plan in accordance with Condition 8.9.

2.6 RISK

- 2.6.1 The Contractor acknowledges that any risk assessment which has been, or may be, undertaken in connection with this Contract has been, or will be, a project management function only. Such risk assessment does not affect the legal relationship between the parties. The issuing of any risk assessment questionnaire and the process of risk assessment generally, including, without limitation, the identification of (or failure to identify):
- i. particular risks and their impact; or
 - ii. risk reduction measures, contingency plans and remedial actions,
- shall not in any way limit or exclude the Contractor's obligations under this Contract and shall be entirely without prejudice to the Authority's rights, privileges and powers under this contract.
- 2.6.2 The risks identified as a result of any risk assessment questionnaire and risk assessment process generally, remain the risks of the Contractor and are not assumed by the Authority except to the extent that the Authority expressly and unequivocally accepts those risks under the Contract. Any risk assessment questionnaire that has been or will be issued by the Authority is or will be released solely on this basis.

2.7 PLACING OF SUB-CONTRACTS

- 2.7.1 The Contractor shall bear full responsibility for the proper performance of all sub-contractors. The appointment by the Contractor of sub-contractors shall not derogate in any way from the Contractor's responsibilities as Prime Contractor.
- 2.7.2 The Contractor shall ensure that the terms and conditions of the Contract are reflected in all sub-contracts, at whatever level, to the extent necessary to enable the Contractor to fully meet their obligations to the Authority under the Contract.
- 2.7.3 The Contractor shall furnish the Authority's Commercial Officer and the Authority's Project Manager with copies of, or relevant extracts from, sub-contracts and tenders, if so required by the Authority.

2.8 FORCE MAJEURE

- 2.8.1 The Contractor shall not be in breach of this Contract, nor liable for late or non-performance of any of its obligations under this Contract, if such delay or failure result from a Force Majeure Event. For the purposes of this Contract a Force Majeure Event is defined as one of the following:

- a. Acts of Nature;
- b. War;
- c. Hostilities; or
- d. Fire at any of the Contractor's premises, those of its suppliers except to the extent that the fire was caused by their own negligence.

- 2.8.1 The Contractor shall immediately notify the Authority in writing on the occurrence of a Force Majeure Event, including details of the Force Majeure Event, its effect on the Contractor's obligations under this Contract and the actions proposed to mitigate its effect.
- 2.8.2 Subject to Condition 2.8.3, the Contractor shall be entitled to an appropriate extension of time for performing such obligations provided always that the Contractor has used, to the satisfaction of the Authority, all reasonable endeavours, both to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of its obligations under this Contract.
- 2.8.3 The maximum extension of time granted under this Condition 2.8 shall be four (4) months, after which time the Authority may, on giving written notice to the Contractor, terminate this Contract, without seeking compensation from the Contractor, with immediate effect.

2.9. CONFLICT OF INTEREST

- 2.9.1. The Contractor shall take appropriate steps to ensure that neither the Contractor nor any Staff are placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Authority under the provisions of this Contract. The Contractor will disclose to the Authority full particulars of any such conflict of interest which may arise.
- 2.9.2. The Authority reserves the right to terminate this Contract immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Authority under the provisions of this Contract. The actions of the Authority pursuant to this Condition 2.9 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.
- 2.9.3. Any notice to terminate this Contract, as a result of a breach of this Condition 2.9, shall be issued in accordance with DEFCON 514 (Material Breach) and the Authority shall be entitled to claim such damages as specified therein.

2.10. PRECEDENCE

- 2.10.1. In the event of any discrepancy, inconsistency, divergence or anomaly arising between the provisions of this Contract, the order of priority shall be as follows (save where expressly provided to the contrary):
- i. Terms and Conditions of this Contract;
 - ii. Schedule 1: Statement of Requirement (Technical); then
 - iii. Other Schedules to this Contract.

3. SPECIFICATIONS, PLANS, ETC

The following DEFCONs shall apply:

DEFCON 68 (EDN 05/21)	SUPPLY OF DATA FOR HAZARDOUS ARTICLES, MATERIALS & SUBSTANCES
DEFCON 502 (EDN 05/17)	SPECIFICATION CHANGES
DEFCON 602A (EDN 12/17)	QUALITY ASSURANCE (WITH QUALITY DELIVERABLE PLAN)
DEFCON 603 (EDN 10/04)	AIRCRAFT INTEGRATION AND CLEARANCE PROCEDURE
DEFCON 608 (EDN 10/14)	ACCESS AND FACILITIES TO BE PROVIDED BY THE CONTRACTOR
DEFCON 624 (EDN 11/13)	USE OF ASBESTOS
DEFCON 627 (EDN 12/10)	QUALITY ASSURANCE - REQUIREMENT FOR CERTIFICATE OF CONFORMITY
DEFCON 638 (EDN 06/21)	FLIGHTS LIABILITY AND INDEMNITY
DEFCON 684 (EDN 01/04)	LIMITATION UPON CLAIMS IN RESPECT OF AVIATION PRODUCTS

3.1 SCOPE

- 3.1.1 The Contract covers the activities detailed in the Schedule of Requirements. All work shall be undertaken and completed in accordance with the Terms and Conditions of this Contract, the Statement of Requirement (Technical) at Schedule 1 and to the reasonable satisfaction of the Authority, at all times on and subject to the Dependencies, Assumptions and Exclusions set out within Schedule 3 of this Contract.

3.2 QUALITY ASSURANCE & CONTROL

- 3.2.1 The Quality Assurance Representative identified in Schedule 13 (DEFFORM 111) shall be the point of contact for all matters affecting quality. Unless otherwise directed by the Authority, the Contractor shall interpret all references to QAA or QAR in Defence Standards, DEFCONs, etc., as reference to this point of contact.
- 3.2.2 The Contractor shall comply with the Quality Standards below to the extent that they are applicable to the activities to be undertaken by the Contractor under the Schedule of Requirements.
- a) AQAP 2310, Edn B Version 1 Dec 2017 – NATO Quality Management System Requirements for Aviation, Space and Defence Suppliers.
 - b) AQAP 2210, Edn A 01 Nov 18 – NATO Supplementary Software Quality Requirements.
 - c) AQAP 2105, Edn C Version 1 – NATO Requirements for Deliverable Quality Plans
 - d) Def Stan 05-135, Issue 2 – Avoidance of Counterfeit Materiel.

3.3 NATO QUALITY MANAGEMENT SYSTEM REQUIREMENTS FOR AVIATION, SPACE AND DEFENCE SUPPLIERS

- 3.3.1 For the purposes of the Contract, AQAP 2310 Edition A Version 1 entitled "NATO Quality Management System Requirements for Aviation, Space and Defence Suppliers" shall apply. Certificates of Conformity shall be provided in accordance with DEFCON 627.

3.4 SAFETY

- 3.4.1 All safety activities undertaken on the Project shall be conducted in accordance with the principles outlined in of DEFSTAN 00-56 (Safety Management Requirements for Defence Systems), Issue 7, dated 2017-02-28.

- a) The Contractor shall ensure that the Equipment/System is safe to operate and maintain, and that all relevant statutory requirements, and the requirements stipulated in the Contract for the safety of the Equipment/System, are met in full.
- b) In performing the Contract, the Contractor shall comply with all their statutory duties and obligations relating to safety and shall be responsible for ensuring that none of the Specifications or other Contract requirements causes them to be in breach of any statutory duty or obligation relating to safety.
- c) If, after the Contract is made, it appears that any specification or other contract condition agreed between the Contractor and the Authority may render the Contractor in breach of any statutory duty or obligation relating to safety, they shall immediately draw that fact to the attention of the Authority.
- d) The Authority may, without prejudice to any of its rights which may have arisen under Clause 3.4.3 require the Contractor to vary each such specification or condition in a manner acceptable to the Authority and which will not render the Contractor in breach of any statutory duty or obligation relating to safety.

- 3.4.2 Nothing in the Contract, or in any other document created or signed on behalf of the Authority in connection with it, shall constitute a written undertaking for the purposes of Section 6(8) of the Health and Safety at Work Act 1974 relieving the Contractor of any of their duties under Section 6 of that Act.

- 3.4.3 The Authority shall be entitled to reject the Equipment if any relevant statutory safety requirements, or any of the safety requirements set out in the Contract, are not met in full.

- 3.4.4 For the purposes of this Contract, the Contractor shall confirm to the Authority, in accordance with DEFCON 68, any changes, during the life of this Contract, to the statement made at Schedule 6 regarding hazardous materials of substances supplied.

3.5 INTERCHANGEABILITY

- 3.5.1 The Contractor shall ensure that all substitute Articles supplied under the Contract are completely mechanically and electronically interchangeable with the part they are designed to replace. The Contractor, at no cost to the Authority, shall replace any Article supplied that is not so interchangeable.

3.6 INSURANCE

- 3.6.1 Without prejudice to its liability to indemnify or otherwise be liable to the Authority under this Contract, the Contractor shall for the periods specified in Schedule 11 (Insurance Annex) take out and maintain or procure the taking out and maintenance of the insurances as set out under this Condition 3.6 (Insurance) and Schedule 11 (Insurance Annex) and any other

insurances as may be required by law (together the Required Insurances). The Contractor shall ensure that each of these Required Insurances are effective in each case not later than the date on which the relevant risk commences.

- 3.6.2 The Required Insurances shall be taken out and maintained with insurers who are of good financial standing and of good repute in the international insurance market.
- 3.6.3 Where specified in Schedule 11 (Insurance Annex), the Contractor shall ensure that the relevant policy of insurance shall contain an indemnity to principals Condition or additional insured equivalent, under which the Authority shall be indemnified in respect of claims made against the Authority arising from death or bodily injury or third party property damage, and for which the Contractor is legally liable in respect of this Contract;
- 3.6.4 Where the minimum limit of indemnity required in relation to any of the Required Insurances is specified as being "in the aggregate" and a claim or claims which do not relate to this Contract are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party(ies), is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the Contractor shall ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to this Contract.
- 3.6.5 The Contractor shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Required Insurances.
- 3.6.6 The Authority may elect (but shall not be obliged), where notice has been provided to the Contractor, to purchase any insurance which the Contractor is required to maintain pursuant to this Contract, but has failed to maintain in full force and effect, and the Authority shall be entitled to recover the premium and other reasonable costs incurred in connection therewith as a debt due from the Contractor.
- 3.6.7 The Contractor shall, upon the date of this Contract and within fifteen (15) days after the renewal of any of the Required Insurances, provide evidence, in a form satisfactory to the Authority, that the Required Insurances are in force and effect and meet the requirements of this Condition 3.6 and Schedule 11 (Insurance Annex). The supply to the Authority of any evidence of insurance cover in compliance with the requirements of this Clause 3.6.7 shall not imply acceptance by the Authority that the extent of insurance cover is sufficient or that the terms and conditions thereof are satisfactory, in either case, for the purposes of this Contract nor be a waiver of the Contractor's liability under this Contract.
- 3.6.8 The Contractor shall notify the Authority at least ten (10) days prior to the cancellation, suspension, termination or non-renewal of any of the Required Insurances. This Clause 3.6.8 shall not apply where the termination of any Required Insurances occurs purely as a result of a change of insurer in respect of any of the Required Insurances required to be taken out and maintained in accordance with this Condition 3.6 (Insurance).
- 3.6.9 Except where the Authority is the claimant party, the Contractor shall give the Authority notice within twenty Business days after any insurance claim **Redacted under FOIA Section 43, Commercial Interests** relating to this Contract on any of the Required Insurances or which, but for the application of the applicable policy excess, would be made on any of the Required Insurances and (if required by the Authority) full details of the incident giving rise to the claim. The Contractor shall co-operate with the Authority and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.
- 3.6.10 Where any Required Insurance referred to in this Condition 3.6 (Insurance) and Schedule 11 (Insurance Annex) is subject to an excess or deductible below which the indemnity from

insurers is excluded, the Contractor shall be liable for such excess or deductible which would otherwise be insured but for the excess or deductible. The Contractor shall not be entitled to recover from the Authority any sum paid by way of excess or deductible under the Required Insurances whether under the terms of this Contract or otherwise.

3.7. OBSOLESCENCE MANAGEMENT

- 3.7.1. The Contractor shall alert the Authority to the obsolescence of any component which has been incorporated into an Article as soon as they become aware of its obsolescence and provide details of such in a written report.
- 3.7.2. If a component to be incorporated into an Article or Articles becomes obsolete within the first three (3) years following acceptance of each aircraft in accordance with Condition 7.3 the Contractor shall, at their own cost, supply an alternative component together with instructions for its incorporation into the Article.
- 3.7.3. In any event, should it become apparent to the Contractor, under Clauses 3.7.1 or 3.7.2 above, that any particular item will cease to be available during the duration of the Contract, they shall advise the Authority immediately.

4 PRICE

The following DEFCONs shall apply:

DEFCON 513 (EDN 11/16)	VALUE ADDED TAX (VAT)
DEFCON 670 (EDN 02/17)	TAX COMPLIANCE
DEFCON 815 (EDN 04/15)	CONTRACT PRICING STATEMENT – SINGLE SOURCE NON-QUALIFYING CONTRACTS – APPLICABLE TO LINE ITEMS 2 & 4 OF THE CONTRACT ONLY.

4.1 PRICING OF LINE ITEMS 1,2, 3 and 4 – PROVISION OF AIRCRAFT, MODIFICATIONS, GROUND HANDLING WHEELS AND CONTRACT MANAGEMENT

4.1.1 All prices under Line Items 1, 2, 3 and 4 of the Schedule Of Requirements to this Contract shall be FIRM priced and non-revisable in € Euros. Prices shall be net, after allowing for all cash and trade discounts. The price shall include the cost of packing and shall be inclusive of all appropriate taxes (but excluding Value Added Tax). The price shall include the cost of compliance with all other terms and conditions of the Contract, including all pre-agreed delivery charges.

5 PAYMENTS/RECEIPTS

The following DEFCONs shall apply:

DEFCON 5J (EDN 18/11/16)	UNIQUE IDENTIFIERS
DEFCON 129J (EDN 18/11/16)	THE USE OF THE ELECTRONIC BUSINESS DELIVERY FORM
DEFCON 522 (EDN 11/17)	PAYMENT AND RECOVERY OF SUMS DUE
DEFCON 534 (EDN 06/21)	SUB-CONTRACTING AND PROMPT PAYMENT

5.1. PAYMENT

5.1.1. In order to obtain payment, the Contractor shall, upon completion or performance of the Contract (or any part of the Contract for which the Contractor is entitled to payment) submit a claim for payment on CP&F.

5.2. PAYMENT OF LINE ITEM 1,2,3 and 4 – PROVISION OF AIRCRAFT, MODIFICATIONS, GROUND HANDLING WHEELS AND CONTRACT MANAGEMENT

5.2.1. Claims for payment of Line Items 1,2,3 and 4 of the SOR shall be made in accordance with the Acceptance Criteria at Condition 7.3, the Test and Acceptance Criteria at Schedule 2, Payment Plan set out in Schedule 7 to the Contract, Key Performance Indicators set out in Schedule 9 and Condition 7.8 below.

5.3. AGREEMENT OF PAYMENTS MADE TO THE CONTRACTOR IN THE EVENT OF TERMINATION

5.3.1 In the event of this Contract being terminates in accordance with DEFCON 514 (Material Breach), the Authority and Contractor shall agree the total value of all work completed under the Contract at the date of termination. Any difference between the payments already made to the Contractor and the value of work completed shall either be paid to the Contractor through CP&F or refunded to the Authority directly by the Contractor.

6 INTELLECTUAL PROPERTY RIGHTS

The following DEFCONs shall apply:

DEFCON 14 (EDN 06/21)	INVENTIONS AND DESIGNS CROWN RIGHTS AND OWNERSHIP OF PATENTS AND REGISTERED DESIGNS
DEFCON 16 (EDN 06/21)	REPAIR AND MAINTENANCE INFORMATION
DEFCON 21 (EDN 06/21)	RETENTION OF RECORDS
DEFCON 90 (EDN 06/21)	COPYRIGHT
DEFCON 632 (EDN 06/21)	THIRD PARTY INTELLECTUAL PROPERTY–RIGHTS & RESTRICTIONS

6.1. TECHNICAL PUBLICATIONS

6.1.1. The Contractor shall ensure that the Authority has the right to a free licence to copy, amend, extend or have copied amended or extended any technical publications called for under the Contract, or any part thereof including any such part when incorporated in any amend or extended version of such technical publication, and to circulate, use or have used the said technical publication including any amended or extended version and any copies thereof for any United Kingdom Government purpose.

6.1.2. The Contractor shall maintain configuration control of the technical publication and allow for updates to capture errors and omissions and in accordance with Schedule 1 (Statement of Requirement (Technical)).

6.2. SUB-CONTRACTOR IPR

6.2.1. The Contractor shall not place any subcontract or order involving the design or development of equipment required under this contract without the prior written consent of the Authority.

6.2.2. Unless otherwise agreed, such consent will be conditional on the proposed sub-contractor concluding a direct agreement with the Authority in the form set out in Schedule 5 (DEFFORM 177). Wherever possible, the request for approval should be accompanied by two copies of the agreement signed by the subcontractor. If, in any case, the Contractor is unable to comply with this condition, they shall report the matter to the Authority's Commercial Officer and await further instructions before placing the subcontract or order.

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

6.3.1. 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.

7 DELIVERY

The following DEFCONs shall apply:

DEFCON 129 (EDN 06/21)	PACKAGING (FOR ARTICLES OTHER THAN MUNITIONS)
DEFCON 507 (EDN 10/18)	DELIVERY
DEFCON 514 (EDN 08/15)	MATERIAL BREACH
DEFCON 524 (EDN 02/20)	REJECTION
DEFCON 524A (EDN 02/20)	COUNTERFEIT MATIERIEL
DEFCON 525 (EDN 10/98)	ACCEPTANCE
DEFCON 612 (EDN 06/21)	LOSS OR DAMAGE TO THE ARTICLES
DEFCON 637 (EDN 05/17)	DEFECT INVESTIGATION AND LIABILITY
DEFCON 644 (EDN 07/18)	MARKING OF ARTICLES

7.1. DELIVERY

7.1.1. For Line Items 1, 2 and 3, the delivery shall occur in accordance with the Test and Acceptance Criteria in Schedule 2.

7.2 SELF-TO-SELF DELIVERY

7.2.1 Where any Article to be supplied under the Contract is to be delivered otherwise than being handed over by the Contractor to the Authority, as where an Article is to be delivered by the Contractor to their own premises or to those of a sub-contractor (self-to-self delivery), the risk in such Article shall (notwithstanding the provisions of DEFCON 612 (Loss or Damage to the Articles)) remain vested in the Contractor until such time as the Article is handed over to the Authority.

7.3. ACCEPTANCE AND REJECTION FOR LINE ITEMS 1, 2 AND 3 – PROVISION OF AIRCRAFT, MODIFICATIONS AND GROUND HANDLING WHEELS

7.3.1. Within thirty (30) business days following completion of the Exit Criteria for each Milestone detailed in Schedule 2 (Test and Acceptance Criteria), the Authority will inspect all Articles and review all documentation received.

7.3.2. The Authority shall confirm acceptance in writing, provided the Articles and documentation conform with the requirements of the Contract.

7.3.3. Title and Ownership for each Article will transfer to the Authority following completion of the relevant Milestone detailed in Schedule 2 (Test and Acceptance Criteria) and communication of acceptance by the Authority in accordance with Clause 7.3.2.

7.3.4. Prior to Acceptance by the Authority, the Authority may reject any Article which does not conform with the requirements of the Contract. If an article or document is rejected the Authority shall detail in writing why and agree a reasonable timeframe with the Contractor for rectification.

7.3.5. The Contractor shall at their own expense and within fourteen (14) business days of being notified of the rejection, remove any Article or consignment which the Authority has rejected. If the Contractor fails to remove the rejected Article or consignment, the Authority may return it to the Contractor at the Contractor's risk and expense.

7.3.6. The Contractor may object to a notification or rejection by the Authority within the period specified at Clause 7.3.5.

7.3.7. Where, after delivery, an Article is rejected by the Authority, the Article shall, for the purposes of the Contract, be considered as not having been delivered under the Contract and the property in the Article shall return to the Contractor unless a notice of objection has been issued to and accepted by the Authority.

7.3.8. In the event that an Article is found to be defective, then the Authority shall return the Article to the Contractor and shall place a demand for a replacement.

7.4. WARRANTY FOR ALL ARTICLES SUPPLIED UNDER THE CONTRACT

7.4.1. Any Article provided under the Contract deemed unserviceable by the Authority shall be returned to the Contractor for inspection. Any Articles still under Warranty which are found to be defective as a result of faulty manufacture, workmanship or faulty design, furnished or specified by the Contractor or their sub-contractor, the Contractor shall repair or replace all defective articles at no cost to the Authority and within thirty (30) business days of the receipt of the Article.

7.4.2. In the case of defective Articles that require longer lead times, the Contractor shall, on a case by case basis, present the Authority, at the earliest opportunity, with its request for alleviation to repair and replace all defective Articles within 30 business days of the receipt of the Article

7.5. WARRANTY FOR LINE ITEMS 1 AND 2 - PROVISION OF AIRCRAFT AND MODIFICATIONS

7.5.1. The Contractor's Standard Warranty terms at Schedule 14 of this contract shall apply to each delivered and accepted Aircraft under Line Item 1 of the Contract that has been modified in accordance with Line Item 2; the Standard Warranty **Redacted under FOIA Section 43, Commercial Interests.** The Standard Warranty terms are contained in Schedule 14 (Warranty). The Contractor's Standard Warranty shall be effective from the date of acceptance of each respective Aircraft in accordance with Schedule 2 (Test and Acceptance Criteria) and this Condition 7. The Contractor warrants that for the Warranty Period of each accepted and modified Aircraft, all parts or components incorporated within such accepted Aircraft and modified will be free from Defect. In the event of a breach of this express warranty, the Authority may, at no increase in contract price, require the Contractor to repair or replace, at the Contractor's election, defective Aircraft parts or components within thirty (30) business days of the receipt of the part or component.

7.5.2. Prior to expiry of the Standard Warranty for each Aircraft, the Authority shall notify the Contractor as soon as reasonably practicable after becoming aware of a breach of the warranty in Clause 7.5.1.

7.5.3. The Contractor shall liaise and co-operate with the Authority to arrange the necessary access to the Aircraft at the Main Operating Base (MOB) in order for the Contractor to remove the defective part (or the smallest removable part containing the defective part) of the Aircraft from the site for repair or replacement. In the event the Aircraft is not located at the MOB when the defect is discovered, the Authority will remove the defective part and the Contractor will retrieve the defective part upon the return of the Aircraft to the MOB.

7.5.4. In an Aircraft On Ground (AOG) circumstance where the Aircraft is not located at the MOB, the Contractor shall either ship a replacement part to the Aircraft location through the most expeditious means available or send a Contractor's working party to the Aircraft location in order to remove and repair or replace a defective part, at no change in Contract Price. The Contractor shall use best endeavours to ensure the recovery of the Aircraft in an AOG situation.

7.5.5. The Contractor shall repair or replace any defective part or component as soon as reasonably practicable (or within such other time period as may be agreed by the Parties) after being notified pursuant to Clause 7.5.2 of any breach of the express warranty in Clause 7.5.1

having regard to the nature and complexity of the repair or replacement. The Contractor shall conduct any inspection or testing it deems necessary to ensure the repaired or replacement part or component is free from Defect.

7.5.6. The Contractor shall provide all labour, materials and facilities required to repair or replace any defective part or component. The Contractor shall bear the costs incurred in its removal of the defective part or component from the MOB including shipment (if any) of such defective part or component from the MOB and the return to and installation of the repaired/replacement part into the Aircraft at the MOB.

7.5.7. The Contractor shall not be liable under Clause 7.5.1 for:

- a) normal Aircraft maintenance services, adjustments and the replacement of service items; or
- b) replacement or repairs to remedy fair wear and tear to any Aircraft part or component.

7.5.8. The Contractor shall not be liable under Clause 7.5.1 for damage caused by:

- a) any use of the Aircraft by the Authority, including storage, operation or maintenance that is not undertaken in accordance with the instructions set out in the technical manuals or training courseware provided by the Contractor under this Contract;
- b) operation outside the prescribed operating envelope of the Aircraft;
- c) any alteration, modification or attachments made to the Aircraft by the Authority without the Contractor's approval;
- d) accidental damage, misuse or neglect by the Authority;
- e) battle damage; or
- f) foreign object damage at an Authority airfield.

7.5.9. If the Contractor fails to remedy a defect within the period set out in Clause 7.5.1 the Authority shall be entitled to an equitable reduction in the Contract Price. In such a circumstance, the Contractor shall provide reasonable documentation regarding the value of the defective part or component and an equitable reduction in the Contract Price shall promptly be negotiated by the Parties. Any failure to agree on an equitable adjustment shall be subject to the Dispute Resolution Procedure.

7.5.10. The Contractor's Standard Warranty Terms and Condition 7.5 shall apply to **Redacted under FOIA Section 24, National Security** in the Aircraft and Ground Handling Wheels (Line Item 3 of the Contract).

7.6. LATENT DEFECTS

7.6.1. A 'Latent Defect' is defined as a fault that could not have reasonably been discovered through inspection before acceptance. If a Party discovers a defect in a part or component installed in the Aircraft and is able to document to the Contractor's reasonable satisfaction that the defect meets the definition of a Latent Defect in accordance with the Warranty provided under this Contract, the Contractor shall repair or replace the defective Aircraft part or component at no increase in Contract Price. The Contractor shall have the sole discretion in the choice of either a repair or replacement remedy for the defective part or component.

7.7. UNSATISFACTORY PERFORMANCE

7.7.1. In accordance with the Condition 7.8 and all the other Conditions of the Contract, Schedule 1 (Statement of Requirement (Technical)), Schedule 2 (Test and Acceptance) and Schedule 9 (Key Performance Indicators), the Authority may issue a Notice of Unsatisfactory Performance under the following circumstances:

- a) Where the Contractor has reported a delay of five (5) business days against the scheduled delivery of an Article under Line Item 1, 2, 3 and 4 of the Contract (in accordance with Schedule 2 (Test and Acceptance Criteria) and Schedule 7 (Payment Plan));
- b) Where, under any Line Item of the Contract, the Contractor informs the Authority of non-performance; or
- c) Where the Contractor fails to maintain the key requirements stated in Schedule 1 (Statement of Requirements (Technical)).

7.7.2. Within two (2) weeks of issue of a Notice of Unsatisfactory Performance, the Contractor must provide the Authority with a plan setting out its proposed corrective actions to remedy the situation and timescales for carrying out these actions (a Rectification Plan). The Authority shall then, within two (2) weeks of receipt of the Rectification Plan, approve, reject or suggest amendments to the Rectification Plan. Once approved by the Authority, the Contractor must, at its own expense, use all reasonable endeavours to carry out the Rectification Plan in the form approved. Should the Parties fail to agree the Rectification Plan, the provisions of DEFCON 530 (Dispute Resolution) shall apply.

7.7.3. Where the Contractor has a Rectification Plan implemented, this shall include a date for the resumption of satisfactory performance. The Contractor shall include weekly updates of the progress made against the Rectification Plan until satisfactory performance is declared by the Authority. Satisfactory performance shall be declared by the Authority upon demonstration by the Contractor that the performance shortfalls highlighted within the Notice of Unsatisfactory Performance issued have been restored to the required level. The Authority reserves the right, should the Contractor's actions in implementing the Rectification Plan not restore satisfactory performance by the agreed date, to either issue a second formal notification of unsatisfactory performance and/or terminate the Contract in accordance with DEFCON 514 (Material Breach). The decision to issue a notice of termination under DEFCON 514 (Material Breach) is at the sole discretion of the Authority.

7.8. KEY PERFORMANCE INDICATORS

7.8.1. The Key Performance Indicators (KPIs) detailed at Schedule 9 to this Contract shall be used to measure the Contractor's performance against Line Items 1, 2,3 and 4.

7.8.2. The Parties acknowledge that, without prejudice to any other amounts payable to the Contractor under this Contract:

- a) The last Part of the Milestone Payment (Part D) for each Aircraft in the Payment Plan at Schedule 7 relates to the Provision of the Aircraft following completion of the Exit Criteria outlined in the Test and Acceptance Criteria at Schedule 2.
- b) The Agreed Date for provision of each Aircraft is the date shown against the last Part of the Milestone Payment for each Aircraft (Part D).
- c) The provisions of this Condition 7.8 and Schedule 9 (Key Performance Indicators) are intended to encourage timely delivery in accordance with the agreed schedule.

7.8.3. If an Aircraft is provided after the Agreed Date (i.e. late) a Negative Score and deduction may be applied in accordance with Schedule 9. The total deduction for each Aircraft will be limited to a maximum value of **Redacted under FOIA Section 43, Commercial Interests** as shown in Table 1 of Schedule 9 (Key Performance Indicators).

8 CONTRACT ADMINISTRATION

The following DEFCONs shall apply:

DEFCON 604 (EDN 06/14) PROGRESS REPORTS

NOTE: Provided in accordance with Schedule 1 (Statement of Requirement (Technical)).

DEFCON 609 (EDN 08/18) CONTRACTOR'S RECORDS

DEFCON 642 (EDN 06/14) PROGRESS MEETINGS

NOTE: Provided in accordance with Schedule 1 (Statement of Requirement (Technical)).

DEFCON 678 (EDN 09/19) SME SPEND DATA COLLECTION

DEFCON 812 (EDN 01/15) SINGLE SOURCE OPEN BOOK – APPLICABLE TO LINE ITEMS 2 & 4
OF THE CONTRACT ONLY.

8.1. PROGRESS MEETINGS

8.1.1. Progress Meetings shall be held Quarterly between the Authority and the Contractor in accordance with Schedule 1 (Statement of Requirement (Technical)).

8.3.2. The chairperson of the meetings shall be the Authority's Project Manager, and they will be accompanied by such other officers as they may deem appropriate.

8.1.3. In addition to the Progress Meetings, the Authority's Project Manager shall convene other meetings on an as required basis, subject to agreement with the Contractor, at the Contractor's premises or the Authority's premises, to enable the Authority to monitor progress under the Contract.

8.1.4 The Contractor shall issue minutes to the Authority for approval no later than ten (10) business days following each scheduled meeting. The Authority will review and either request amendment or agree the minutes within a further ten (10) business days.

8.1.5. The Contractor shall issue and distribute the final agreed minutes no later than five (5) business days later than agreement being reached with the Authority.

8.2. PROGRESS REPORTS

8.2.1 In addition to DEFCON 604 (Progress Reports), all other reports required for this Contract are identified in the Statement of Requirement (Technical) at Schedule 1 and the Key Performance Indicators set out in Schedule 9 to the Contract. The Contractor shall deliver the reports in line with the dates identified in the Statement of Requirement (Technical) at Schedule 1 and to the acceptance of the Authority's Project Manager. If the Authority requires any report to be amended, the Contractor shall incorporate the comments and resubmit the report to the Authority within five (5) business days of request for the Authority's approval.

9 REQUEST FOR CHANGE PROCEDURE

The following DEFCONs shall apply:

DEFCON 503 (EDN 12/14) FORMAL AMENDMENTS TO CONTRACT

NOTE: The Authority's nominated representative shall be the Authority's Commercial Officer detailed in Schedule 13 (DEFFORM 111).

DEFCON 606 (EDN 06/14) CHANGE AND CONFIGURATION CONTROL PROCEDURE

DEFCON 620 (EDN 05/17) CONTRACT CHANGE CONTROL PROCEDURE

9.1 AMENDMENTS TO CONTRACT

9.1.1 For the purposes of DEFCON 503 (Formal Amendments to Contract), amendments to the Contract shall be serial numbered and issued only by the Authority's Commercial Officer specified in Box 1 of Schedule 13 (DEFFORM 111).

9.1.2 Only the Authority's Commercial Officer detailed in Box 1 of Schedule 13 (DEFFORM 111), or their authorised representative, is authorised to vary the Terms & Conditions of the Contract. Such variations shall only take effect if agreed in writing by both Parties.

9.1.3. Any technical or other proposal from the Contractor requiring an amendment to the Contract is to be submitted in writing to the Authority for consideration, together with cost and time-scale implications. Any such changes accepted by the Authority shall be notified to the Contractor by written amendment to the Contract and shall not be effective until accepted in writing by the Contractor.

9.1.4. Notwithstanding DEFCON 503 (Formal Amendments to Contract), nothing said, done or written by any person, nor anything omitted to be said, done or written by any person, including, but without limitation, any servant or agent of the Authority, shall in any way affect the rights of the Authority to modify, affect, reduce or extinguish the obligations and liabilities of the Contractor under the Contract, or be deemed to be a waiver of rights of the Authority, unless stated in writing and signed by the Authority's Commercial Officer.

9.2 ABILITY TO RENEGOTIATE

9.2.1 **Redacted under FOIA Section 24, National Security**

10 LIMITATIONS ON LIABILITY

10.1. UNLIMITED LIABILITIES

10.1.1. Neither Party limits its liability for:

- a) death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable);
- b) fraud or fraudulent misrepresentation by it or its employees;
- c) 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
- d) any liability to the extent it cannot be limited or excluded by law.

10.1.2. The financial caps on the Contractor's liability set out in Clause 10.2.1 below shall not apply to the following:

- a) for any indemnity given by the Contractor to the Authority under this Contact, including but not limited to;

Not used
- b) the Contractor's indemnity in relation to DEFCON 632 (Third Party IP - Rights and Restrictions)
- c) breach by the Contractor of DEFCON 532B and Data Protection Legislation;

10.1.3. The financial caps on the Authority's liability set out in Clause 10.2.1 below shall not apply to the following:

- a) for any indemnity given by the Authority to the Contractor under this Contract, including but not limited to;

DEFCON 656B - Termination for Convenience - Over 5M
DEFCON 638 - Flights Liability And Indemnity
DEFCON 684 - Limitation Upon Claims In Respect of Aviation Products

10.2. FINANCIAL LIMITS

10.2.1. Subject to Clauses 10.1.1 and 10.1.2 and to the maximum extent permitted by Law:

- a) throughout the period of the Contract, the Contractor's total liability in respect of losses that are caused by Defaults of the Contractor shall in no event exceed:
 - i. in respect of DEFCON 514: Redacted under FOIA Section 43, Commercial Interests;
 - ii. in respect of DEFCON 612: Redacted under FOIA Section 43, Commercial Interests;
- b) without limiting Clause 10.2.1a) and subject always to Clauses 10.1.1, 10.1.2,) and 10.2.1.c), the Contractor's total liability throughout the period of the Contract in respect of all other liabilities (but excluding any remedy that may have been applied

in accordance with Schedule 9 (Key Performance Indicators), in tort (including negligence), arising under warranty, under statute or otherwise under or in connection with this Contract shall be **Redacted under FOIA Section 43, Commercial Interests** in aggregate.

- c) on the exercise of any and, where more than one, each option period or agreed extension to the period of the Contract, the limitation of the Contractor's total liability (in aggregate) set out in Clauses 10.2.1.a) and 10.2.1.b) above shall be fully replenished such that on and from each such exercise or extension of the period of the Contract, the Authority shall be able to claim up to the full value of the limitation set out in Clauses 10.2.1.a) and 10.2.1.b) of this Contract.

10.2.2. Subject to Clauses 10.1.1, 10.1.3, and 10.2.3, 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.

10.2.3. Clause 10.2.2 shall not exclude or limit the Contractor's right under this Contract to claim for the Charges.

10.3. CONSEQUENTIAL LOSS

10.3.1. Subject to Clauses 10.1.1, 10.1.2, and 10.2.3, 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:

- a) indirect loss or damage;
- b) special loss or damage;
- c) consequential loss or damage;
- d) loss of profits (whether direct or indirect);
- e) loss of turnover (whether direct or indirect);
- f) loss of business opportunities (whether direct or indirect); or
- g) 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.

10.3.2. The provisions of Clause 10.3.1 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:

- a) any additional operational and administrative costs and expenses arising from the Contractor's Default, including any costs paid or payable by the Authority:
 - i. to any third party;
 - ii. for putting in place workarounds for the Contractor Deliverables and other deliverables that are reliant on the Contractor Deliverables; and
 - iii. relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;

- b) any or all wasted expenditure and losses incurred by the Authority arising from the Contractor's Default, including wasted management time;
- c) the additional cost of procuring and maintaining in place transitional assistance and replacement deliverables for the remaining period of the Contract and any option period or agreed extension to the Contract (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);
- d) 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;
- e) damage to the Authority's physical property and tangible assets;
- f) 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;
- g) 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);
- h) 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
- i) any savings, discounts or price reductions during the period of the Contract and any option period or agreed extension to the Contract committed to by the Contractor pursuant to this Contract.

10.4. INVALIDITY

10.4.1. If any limitation or provision contained or expressly referred to in this Condition 10 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 10.

10.5. THIRD PARTY CLAIMS OR LOSSES

10.5.1. Without prejudice to any other rights or remedies the Authority may have under this Contract (including but not limited to any indemnity claim under DEFCON 632 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:

- a) 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
- b) 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.

10.6. NO DOUBLE RECOVERY

10.6.1. 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.

Schedule 3 – Dependencies, Assumptions and Exclusions

ID	A E or D	Rationale
A-001	Assumption	The contract shall be effective from Contract Award (Offer of Contract 27 Oct 21) and shall expire following completion of the Contract Closure Meeting (anticipated Date 28 Jul 2023), unless terminated earlier in accordance with the provisions of this Contract. In the event that the Contract Term exceeds twenty one (21) months, the Authority will consider request for any additional reasonable costs that may have been incurred, supported by evidence. Contract Condition 9 shall apply under these circumstances.
A-002	Assumption	The offer is provided in a single currency (€EUR), £Sterling has been converted at a foreign exchange rate of Redacted under FOIA Section 43, Commercial Interests
E-001	Exclusion	Earned Value Management is outside of the scope of contract
D-001	Dependency	Export approval for the aircraft is dependent on timely return of a completed End User Certificate by the Authority

Schedule 5 – DEFFORM 177

DEFFORM 177 Design Rights and Patents (Sub-Contractor's Agreement) is not applicable to Contract SPMAP/0102.

**Hazardous Contractor Deliverables, Materials or Substances Supplied under
the Contract: Data Requirements for Contract No: SPMAP/0102 (701575443)
Statement by the Contractor**

Contract Number: SPMAP/0102 (701575443)

Contract Title: **Redacted under FOIA Section 24**: Procurement of Aircraft

Contractor: Airbus Helicopters UK Limited

Date of Contract: 27th October 2021

* To the best of our knowledge there are no hazardous Articles, Deliverables, materials or substances to be supplied. ☐

* To the best of our knowledge the hazards associated with Articles, Deliverables, materials or substances to be supplied under the Contract are identified in the Safety Data Sheets (Qty:1) attached in accordance with either:

DEFCON 68 ☒ ; or

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

Contractor's Signature: [Signed on 28 July 2021]

Name: **Redacted under FOIA Section 40, Personal Information**

Job Title: **Redacted under FOIA Section 40, Personal Information**

Date: 28 July 2021

* check box (☒) as appropriate

To be completed by the Authority

DMC:

NATO Stock Number:

Contact Name:

Contact Address:

Copy to be forwarded to:

Hazardous Stores Information System (HSIS)
Defence Safety Authority (DSA)
Movement Transport Safety Regulator (MTSR)
Hazel Building Level 1, #H019
MOD Abbey Wood (North)
Bristol, BS34 8QW

CONTRACT DATA REQUIREMENTS LIST (CDRL)

The table below lists the CDRLs (DEFFORM 315s) applicable to the Line Items to this Contract listed in the Schedule of Requirements.

CDRL Ref No	Description
01	Hazardous Materials List
02	Configuration Status Record
03	Design Documentation

Ministry of Defence

CONTRACT DATA REQUIREMENT

1. <u>ITN/Contract Number</u> SPMAP/0102 (701575443)	2. <u>CDR Number</u> 01	3. <u>Data Category</u> Repair and Maintenance Information	4. <u>Contract Delivery Date</u> With delivery of first aircraft
5. <u>Equipment/Equipment Subsystem Description</u> Redacted under FOIA Section 24, National Security		6. <u>General Description of Data Deliverable</u> Hazardous Materials List	
7. <u>Purpose for which data is required</u> Redacted under FOIA Section 24, National Security		8. <u>Intellectual Property Rights</u> a. <u>Applicable DEFCONs</u> DEFCON 16 (Edn 06/21) DEFCON 21 (Edn 06/21) b. <u>Special IP Conditions</u>	
9. <u>Update/Further Submission Requirements</u> Updated as necessary			
10. <u>Medium of Delivery</u> Contractor Authorised Soft Copy		11. <u>Number of Copies</u> One (1) copy in each medium	

Ministry of Defence

CONTRACT DATA REQUIREMENT

1. <u>ITN/Contract Number</u> SPMAP/0102 (701575443)	2. <u>CDR Number</u> 02	3. <u>Data Category</u> Design and Modifications	4. <u>Contract Delivery Date</u> To be provided upon the completion of each modified aircraft.
5. <u>Equipment/Equipment Subsystem Description</u> Redacted under FOIA Section 24		6. <u>General Description of Data Deliverable</u> Configuration Status Report	
7. <u>Purpose for which data is required</u> Redacted under FOIA Section 24, National Security		8. <u>Intellectual Property Rights</u> a. <u>Applicable DEFCONs</u> DEFCON 16 (Edn 06/21) DEFCON 21 (Edn 06/21) b. <u>Special IP Conditions</u>	
9. <u>Update/Further Submission Requirements</u> CSP Authorised report to be provided on the completion of each modified aircraft.			
10. <u>Medium of Delivery</u> CSP Authorised Soft Copy		11. <u>Number of Copies</u> One (1) copy in each medium	

Ministry of Defence

CONTRACT DATA REQUIREMENT

1. <u>ITN/Contract Number</u> SPMAP/0102 (701575443)	2. <u>CDR Number</u> 03	3. <u>Data Category</u> Design and Modifications	4. <u>Contract Delivery Date</u> To be provided upon transfer of each aircraft.
5. <u>Equipment/Equipment Subsystem Description</u> Redacted under FOIA Section 24		6. <u>General Description of Data Deliverable</u> Aircraft Transfer Documentation	
7. <u>Purpose for which data is required</u> Redacted under FOIA Section 24, National Security		8. <u>Intellectual Property Rights</u> a. <u>Applicable DEFCONs</u> DEFCON 16 (Edn 06/21) DEFCON 21 (Edn 06/21) b. <u>Special IP Conditions</u>	
9. <u>Update/Further Submission Requirements</u> CSP Authorised version to be provided on the transfer of each aircraft.			
10. <u>Medium of Delivery</u> CSP Authorised Soft Copy		11. <u>Number of Copies</u> One (1) copy in each medium	



Ministry
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SPMAP/0102

Schedule 9 – Key Performance Indicators Aircraft Procurement

Introduction

1. This Schedule 9 should be read in conjunction with the Schedule of Requirements, Condition 5.2, 7.3 and 7.7 of the Contract, Schedule 1 (Statement of Requirement (Technical)), Schedule 2 (Test and Acceptance Criteria) and Schedule 7 (Payment Plan).
2. This Schedule 9 defines and establishes the performance management framework, along with the supporting processes that will be used to assess the Contractor's performance against the Key Performance Indicators (KPIs). The assessment of performance will be used to determine any applicable deduction to be applied to the sum payable by the Authority. The purpose of the KPIs is to ensure that the Agreed Date¹ for each Aircraft is met.
3. Any deduction will be applied to the last Part of the Milestone Payment for the applicable Aircraft, and limited to a maximum of **Redacted under FOIA Section 43, Commercial Interests** (Line Items 1, 2, 3 and 4), as shown in Table 1 below.

Performance Management: Aircraft Delivery

4. The Aircraft KPI refers to the provision of each of **Redacted under Section 24, National Security** with modifications to the specification required by Schedule 1: Statement of Requirements.² The intention is to encourage the Contractor to provide all Aircraft to the Authority in accordance with the agreed schedule.
5. Each Aircraft has a Milestone Payment Plan associated to it as shown in Schedule 7 (Payment Plan) with Agreed Dates³. The last Part of the Milestone for each Aircraft relates to provision of the Aircraft following completion of the Exit Criteria outlined in Schedule 2 (Test and Acceptance Criteria). If the Exit Criteria for an Aircraft is not completed by the Agreed Date, and therefore an Aircraft is provided late, a Negative KPI Score may be applied and a deduction up to a maximum of **Redacted under FOIA Section 43, Commercial Interests**, shall be deducted from the last Part of the Milestone Payment, Schedule 7 (payment Plan). Any deduction made will be permanent and the Contractor will not have the opportunity to recover any deduction applied.
6. All **redacted under FOIA Section 24, National Security** aircraft will have the below KPI regime applied to it for each aircraft delivery. To calculate the Contractor's KPI score, and any applicable deduction, the following four step process shall be followed:
 - a) **Step 1** – The date of provision of the relevant Aircraft will be determined as the date when all the Exit Criteria [in Schedule 2: Test and Acceptance Criteria] relating to the relevant Aircraft Serial have been fulfilled and presented to the Authority.
 - b) **Step 2** – In accordance with Contract Condition 7.3 the Authority will inspect all Articles, review all documentation received and either communicate Acceptance or Rejection. The time taken by the Authority to inspect all Articles, review all documentation received and either communicate Acceptance or Rejection will not be taken into consideration when assessing Contractor performance and will not negatively impact the KPI score. Should the Contractor be notified of a rejection, the date of provision of the relevant Aircraft will be redetermined as the date when all required rectification work has been completed and the Articles and documentation are re-presented to the Authority.⁴
 - c) **Step 3** – The date of provision of Aircraft will be compared against the Agreed Date for that Aircraft (the date shown against the last Part of the Milestone Payment for the relative

¹ Date in last part of the Milestone Payment referenced at Schedule 7 (Payment Plan) is completed.

² Aircrafts 1 and 2 also include provision of Ground Handling Wheels (Line Item 3).

³ Date Milestone is to be completed, in accordance with Schedule 7 (Payment Plan).

⁴ Consequently, any time for rectification may be considered 'late' as part of the KPI assessment.

Aircraft in Schedule 7 (Payment Plan)). Following consideration of the time taken for the Authority to complete the review, plus any alleviations which may have been applied for, if it is deemed that the Aircraft is provided after the Agreed Date (i.e. late) a Negative KPI Score may be applied.

- d) **Step 4** – If the Aircraft is late, and a Negative KPI Score is applied, the number of Calendar days that the Aircraft is late will be multiplied by one of the daily rates in accordance with the applicable duration of Table 1 of this document to calculate the deduction from the last part of the Milestone Payment for each Aircraft. (A day is defined as 00:00 to 23:59). The last Part of the Milestone Payment for the relevant Aircraft will be reduced by the amount of the deduction calculated in Step 3. If the Aircraft is provided on or before the Agreed Date no deduction will be made.

Calendar Days	Daily Rate (€)	Total Delay (In Calendar Days) for Period	Total for Period	Total Cumulative for period
Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43
Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43
Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43
Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43
Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43
Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43	Redacted under FOIA Section 43

Table 1: Daily rates for each aircraft

7. Worked examples: Redacted in its entirety under FOIA Section 43, Commercial Interests

Schedule 11

Insurance Annex

**Redacted under FOIA Section 24, National
Security: Aircraft Procurement**

1. Schedule 11 Insurance Annex

1. Third Party (Non-Aviation) Public Liability Insurance

1.1 Insured

Contractor

1.2 Interest

To indemnify the Insured in respect of all sums which the insured (as set out in paragraph 1.1) shall become legally liable to pay as damages, including claimant's costs and expenses, in respect of accidental:

1.2.1 death or bodily injury to or sickness, illness or disease contracted by any person;

1.2.2 loss of or damage to property;

1.1 happening during the period of insurance (as set out in paragraph 1.4) and arising out of or in connection with this Contract.

1.3 Limit of indemnity

Not less than **Redacted under FOIA Section 43, Commercial Interests** in respect of any one occurrence, the number of occurrences being unlimited, but **Redacted under FOIA Section 43, Commercial Interests** any one occurrence and in the aggregate per annum in respect of products and pollution liability (to the extent insured by the policy). Where the limit of indemnity is provided in the annual aggregate, Condition 3.6.5 will apply

1.4 Period of insurance

From the date of this Contract for the duration of this Contract and renewable on an annual basis unless agreed otherwise.

1.5 Territorial limits

Worldwide

1.6 Cover features and extensions

1.6.1 Indemnity to principal's clause

1.6.2 Legal defence costs in addition to limit

1.6.3 Contingent motor liability

1.7 Principal exclusions

1.7.1 War and related perils.

1.7.2 Nuclear and radioactive risks.

1.7.3 Liability for death, illness, disease or bodily injury sustained by employees of the insured (as set out in paragraph 1.1) arising out of the course of their employment.

1.7.4 Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable law in respect of such vehicles.

- 1.7.5 Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the insured (as set out in paragraph 1.1).
- 1.7.6 Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.
- 1.7.7 Liability arising from the ownership, possession or use of any aircraft or marine vessel.
- 1.7.8 Liability arising from seepage and pollution unless caused by a sudden, unintended and unexpected occurrence.

1.8 Maximum deductible threshold

Not to exceed **Redacted under FOIA Section 43, Commercial Interests** for any one event for each and every third party property damage claim (personal injury claims to be paid in full).

2. Aviation maNUFACTURING HULL THIRD PARTY PUBLIC AND PRODUCTS Liability Insurance

2.1 Insured

Contractor

2.2 Interest

Excluding any indemnity or limitation upon claims as set out in DEFCON 684 (Limitation Upon Claims In Respect of Aviation Products) and DEFCON 638 (Flights Liability and Indemnity), to indemnify the insured (as set out in paragraph 2.1) in respect of all sums that the insured (as set out in paragraph 2.1) may become legally liable to pay as damages in respect of:

2.2.1 death or bodily injury contracted by any person; and

2.2.2 loss of or damage to property;

happening during the period of insurance and arising out of or in connection with this Contract excluding legal liability in respect of non-aviation liability coverage specified in paragraph 1, Third Party (Non-Aviation) Public Liability Insurance of this Schedule 11 (Insurance Annex).

2.3 Limit of indemnity

Not less than a combined single limit for bodily injury and property damage, **Redacted under FOIA Section 43, Commercial Interests** any one occurrence the number of occurrences being unlimited in any annual policy period but in the annual aggregate in respect of aviation product liability. Where the limit of indemnity is provided in the annual aggregate, Condition 3.6.5 will apply.

2.4 Period of insurance

From the date of this Contract for the duration of this Contract and renewable on an annual basis unless agreed otherwise by the parties.

2.5 Territorial limits

Worldwide

2.6 Cover features and extensions

2.6.1 Extended coverage endorsement (aviation liability) AVN52E (or equivalent).

2.7 Principal exclusions

2.7.1 Nuclear risks exclusion clause (AVN38B or equivalent)

- 2.7.2 War, hijacking and other perils exclusion clause (AVN48B or equivalent)
- 2.7.3 Noise and pollution and other perils exclusion clause (AVN46B or equivalent)
- 2.7.4 Date recognition exclusion (AVN2000A subject to AVN2001A or equivalent)
- 2.7.5 Asbestos (AGM248800003) or equivalent)
- 2.7.6 Contracts (Rights of Third Parties) Act 1999 (AVN72 or equivalent)

2.8 Maximum deductible threshold

In accordance with the Contractor's Insurance Response table at Annex A to this Schedule, no deductible is applicable in respect of Aviation Products Liability.

3. Compulsory insurances (Employers liability insurance and third party motor liability insurance)

3.1 The Contractor is required to meet its United Kingdom and all other statutory or insurances required by law worldwide in full. Insurances are required to comply with all statutory requirements including, but not limited to, United Kingdom employers' liability insurance and motor third party liability insurance.

Insurance Response Table 1

Class of insurance	Insurer(s) identity (including any excess layer insurers)	Contractor's maximum deductible threshold	Agreement to the requirements of Condition 3.6 (Insurance) Please confirm agreement or areas of variance.	Agreement to the requirements of Schedule 11 (Insurance Annex) Please confirm agreement or areas of variance.
Non Aviation Third Party Public & Products Liability Insurance	Redacted under FOIA Section 43, Commercial Interests	Redacted under FOIA Section 43, Commercial Interests for any one event.	Airbus agrees to the requirements of Condition 3.6 (Insurance)	Airbus agrees to the requirements of Schedule 11 (Insurance Annex). Not less than Redacted under FOIA Section 43, Commercial Interests per occurrence Not less than Redacted under FOIA Section 43, Commercial Interests for all occurrences in the policy year

Aviation Manufacturing Hull Third Party Public & Products Liability Insurance	Redacted under FOIA Section 43, Commercial Interests	No deductible applicable in respect of Aviation Products Liability	Airbus agrees to the requirements of Condition 3.6 (Insurance)	Airbus agrees to the requirements of Schedule 11 (Insurance Annex). Not less than Redacted under FOIA Section 43, Commercial Interests for any one occurrence in the annual aggregate for Aviation products Liability.
Statutory insurances (Employers Liability Insurance and Third Party Motor Liability Insurance)	Redacted under FOIA Section 43, Commercial Interests	Redacted under FOIA Section 43, Commercial Interests	Airbus agrees to the requirements of Condition 3.6 (Insurance)	Airbus agrees to the requirements of Schedule 11 (Insurance Annex). Not less than Redacted under FOIA Section 43, Commercial Interests Third Party Injury – Unlimited Third Party Property Damage – Private Car - Redacted under FOIA Section 43, Commercial Interests any one occurrence Third Party Property Damage – Vehicle other than Private Car – Redacted under FOIA Section 43, Commercial Interests any one occurrence Third Party Property Damage Carriage of Hazardous Goods – Redacted under FOIA Section 43, Commercial Interests any one occurrence

Appendix - Addresses and Other Information

1. Commercial Officer

Name: [Redacted]

Redacted under FOIA Section 40, Personal Information

Address: SPMAP Delivery Team

Spruce 0B #1013 MOD Abbeywood Bristol BS34 8JH

Email: Redacted under FOIA Section 40, Personal Information

☎ Redacted under FOIA Section 40, Personal Information

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

Name: Redacted under FOIA Section 40, Personal Information

Address: SPMAP Delivery Team

Spruce 0B #1013 MOD Abbeywood Bristol BS34 8JH

Email: Redacted under FOIA Section 40, Personal Information

☎ Redacted under FOIA Section 40, Personal Information

3. Packaging Design Authority

Organisation & point of contact:

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

☎ [Redacted]

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

Branch/Name: Redacted under FOIA Section 40, Personal Information

☎ [Redacted]

(b) U.I.N. [Redacted]

5. Drawings/Specifications are available from

N/A

6. Intentionally Blank

7. Quality Assurance Representative:

Redacted under FOIA Section 40, Personal Information

Spruce 0B #1013 MOD Abbeywood Bristol BS34 8JH

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

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

8. Public Accounting Authority

1. Returns under DEFCON 684 (or SC equivalent) should be sent to DBS Finance ADMT – Assets In Industry 1, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD
☎ 44 (0) 161 233 5397

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

9. Consignment Instructions

The items are to be consigned as follows:

In accordance with Condition 7 to the addresses agreed with the Authority in accordance with Schedule 1 (Statement of Requirement (Technical)).

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

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

Air Freight Centre

IMPORTS ☎ 030 679 81113 / 81114 Fax 0117 913 8943

EXPORTS ☎ 030 679 81113 / 81114 Fax 0117 913 8943

Surface Freight Centre

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

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

B. JSCS

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

JSCS Fax No. 01869 256837

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

11. The Invoice Paying Authority

Ministry of Defence ☎ 0151-242-2000

DBS Finance

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

Liverpool, L2 3YL

Website is:

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

12. Forms and Documentation are available through *:

Ministry of Defence, Forms and Pubs Commodity Management

PO Box 2, Building C16, C Site

Lower Arncliffe

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

Applications via fax or email:

Leidos-FormsPublications@teamleidos.mod.uk

* NOTE

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

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

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