



DE&S

Contract Number:
ARTYSYS/00305

Description:
DEFENCE TARGETING TOOLSET (DTT) SOFTWARE UPKEEP/RELEASE & SUPPORT

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SCHEDULE OF REQUIREMENTS

CONTRACTOR: Raytheon Systems Ltd Kao One, Kao Park, Harlow, Essex, CM17 9NA	MINISTRY OF DEFENCE Defence Targeting Toolset (DTT) DTT Software Upkeep/Release & Support 2019	CONTRACT No: ArtySys/00305 Issue Date: TBC Effective Date: TBC
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ITEM No	DESCRIPTION	PRICE (EX VAT)
1	Supply of Software - DTT Upkeep & Software Releases in accordance with the Statement of Work at Annex A.	Provisional £ redacted
2	Supply of Services - DTT Software Support in accordance with the Statement of Work at Annex B	Provisional £
3	Supply of Services – DTT Out of Hours (OOH) Support in accordance with the Statement of Work at Annex B and Condition 4.2.3 and 4.2.4	LIMIT OF LIABILITY £
4	Undertake Ad Hoc Tasks in accordance with Condition 3.6 as and when requested by the Authority, as listed in Appendix A to the Schedule of Requirements.	LIMIT OF LIABILITY

2.0 GENERAL CONDITIONS

2.1 DEFCONS

DEFCON 501 (Edn 11/17) - Definitions and Interpretations.

NOTE: For the purposes of Sub-Clause 1.e of this DEFCON, the reference to 'Special Conditions of Contract' shall be taken to mean the narrative conditions of Contract. See also Condition 2.2.

DEFCON 503 (Edn12/14) – Formal Amendments to Contract.

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

DEFCON 515 (Edn 02/17) - Bankruptcy and Insolvency.

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DEFCON 518 (Edn 02/17) – Transfer.

DEFCON 520 (Edn 05/18) - Corrupt Gifts and Payments of Commission.

DEFCON 526 (Edn 08/02) – Notices.

NOTE: For the purposes of clause 2.e, electronic communication has been agreed by the parties.

DEFCON 527 (Edn 09/97) – Waiver.

DEFCON 528 (Edn 07/17) - Import and Export Licences.

NOTE: The Contractor's attention is drawn to clause 1 of DEFCON 528 requiring notification of overseas expenditure. In this connection, the Contractor shall, within one month of acceptance of the Contract, notify the Contracts Branch of details of any overseas sub-Contract or order he has placed, or intends to place, in aid of the Contract. Details to be provided are: Contract No; Country in which sub-Contract placed/to be placed; Name, Division and full postal address of sub-Contractor; Value of sub-Contract as applicable to main Contract; Date placed/to be placed. If no overseas orders are to be placed, the Contractor shall advise the Contracts Branch to this effect in the same timescale.

DEFCON 529 (Edn 09/97) - Law (English).

DEFCON 530 (Edn 12/14) - Dispute Resolution (English Law).

NOTE; If the dispute is not resolved in accordance with clause 1 of DEFCON 530 (Edn 12/144) the matter shall be escalated to Artillery Systems Programme Manager and Raytheon Programme Manager, and if still not resolved to Artillery Systems Team Leader and Raytheon Director, Cyber & Intelligence for resolution.

DEFCON 531 (Edn 11/14) - Disclosure of Information.

DEFCON 532B (Edn 05/18) - 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 (02/14) Child Labour & Employment

DEFCON 566 (Edn 03/18) - Change of Control of Contractor.

DEFCON 645 (Edn 07/99) – Export Potential.

DEFCON 656B (Edn 08/16) – Termination for Convenience

NOTE; Provided that this right is not exercised unless the main contract, or relevant part, has been terminated by the Secretary of State for Defence in accordance with the provisions of DEFCON 656B (Edn 08/16). For the purposes of clause 1, the notification period shall be 90 working days.

DEFCON 659A (Edn 02/17) – Security Measures. (see condition 2.8)

NOTE: A copy of the Security Aspects Letter is at Annex D.

DEFCON 670 (Edn 02/17) Tax Compliance

2.2 DEFINITIONS AND INTERPRETATIONS

2.2.1 Notwithstanding, and in addition to, the provisions contained in DEFCON 501 the following expressions shall, in the Contract, have the meanings hereby respectively assigned to them, except where the context requires otherwise:

2.2.1.1 'the Contractor' means Raytheon Systems Limited registered at Kao One, Kao Park, HARLOW, Essex, CM17 9NA.

2.2.1.2 'the Parties' means the Authority and Contractor.

2.2.1.3 'the Authority' shall be taken to mean the Secretary of State for Defence, which for the purposes of this Contract is represented by the Artillery Systems Project Team (ARTY-SYS PT) within the Defence Equipment & Support (DE&S) organisation;

2.2.1.4 'Item' means an Item of the Schedule of Requirements Reference to 'Item' followed by a number (for example 'Item 1') corresponds to the relevant line item of the SOR.

2.2.1.5 'Special Condition' means any narrative Condition of the Contract.

2.2.1.6 'Clause' means any narrative Clause within a DEFCON, DEFSTAN, DEFFORM or Policy/agreement Document referenced within the Contract which is not a narrative Condition.

2.2.1.7 'Deliverable' means an Article or Service or other obligation which the Contractor is required to supply or carry out under the Contract, as part of an Item;

2.2.1.8 'Intellectual Property Rights' or 'IPR' means IPR including but not limited to patents, copyright, unregistered design right, registered design right, trademarks, service marks, rights of confidentiality, database right and rights of passing off and all similar property rights in any part of the world including, without limitation, those subsisting in inventions, designs, drawings, computer

programs, three dimensional articles, semiconductor topographies, data and information and applications and right to apply for all or any of the foregoing

2.2.1.9 'Day' means any day. For the avoidance of doubt reference to 'working day' means business day as defined in DEFCON 501 (Edn 11/17);

2.2.1.10 'Sub-Contractor' means any person, firm, or Company to whom the Contractor sub-lets any part of the work under the Contract to be carried out by the Contractor.

2.2.1.11 'The DTT Software' means all software necessary to meet the requirements set out in the SOR and the Statement of Work at Annexes A and B.

2.2.1.12 'Good Industry Practice' means the degree of skill, care, prudence and foresight and operating practice which would reasonably and ordinarily be expected from time to time of a skilled operator engaged in the same type of undertaking as that of the Contractor and/or any Sub-contractor under the same circumstances.

2.2.1.13 'Necessary Consents' means all permits, licences, permissions, consents, approvals, certificates and authorisations (whether statutory or otherwise) which are required for the performance of any of the Contractor's obligations under this Contract, whether required in order to comply with Legislation or as a result of the rights of any third party

2.2.1.14 'Legislation' means in relation to the United Kingdom

2.2.1.4.1 any Act of Parliament;

2.2.1.4.2 any subordinate legislation within the meaning of section 21 of the Interpretation Act 1978;

2.2.1.4.3 any exercise of the Royal Prerogative; or

2.2.1.4.4 any enforceable community right within the meaning of section 2 of the European Communities Act 1972, in each case in the United Kingdom;

2.3 DOCUMENTATION AND PRECEDENCE

2.3.1 In the event of any conflict in the Contract documentation, the precedence stated in DEFCON 501 (Edn 11/17) shall prevail.

2.3.2 In the event of any conflict in any document, or any conflict between documents with the same order of precedence, the Parties will agree the method of dealing with the conflict. Should the Parties be unable to agree a resolution to the conflict, the Authority shall be entitled to give directions as to which part of the relevant document or which document (as

the case may be) shall take precedence over which other part or which another document (as the case may be).

- 2.3.3 The Authority's decisions in the matter shall be final and conclusive and the Contractor agrees that the Contract shall be construed accordingly.

2.4 CONTRACTOR'S PERSONNEL

- 2.4.1 For the purpose of this Contract, the term "Contractor's Personnel" shall include all employees of the Contractor and Sub-Contractors to the Contractor who are assigned to the Contract. The Contractor shall bear full responsibility for the actions of his personnel throughout the duration of the Contract. The Contractor agrees that he will provide suitably qualified personnel, and all other resources necessary, to complete the Contract.

- 2.4.2 The Contractor's personnel employed under the Contract shall have appropriate qualifications and competence.

- 2.4.3 The Contractor shall take all reasonable steps to avoid changes of key personnel assigned to work under the Contract. Where changes are not at the behest of the Authority, e.g. caused by sickness etc., the provisions of Sub-condition 2.4.2. above shall apply to all replacement personnel.

2.5 RESPONSIBILITY OF CONTRACTOR

- 2.5.1 During the life of the Contract, the Contractor shall accept responsibility for all work performed under the Contract, whether by himself or by his Sub-Contractor(s).

- 2.5.2 The services rendered under this Contract shall be to the requirements of the Contract and accepted in accordance with the procedures defined under the contract, as approved by the Artillery Systems (Arty-Sys) Team Project Manager (identified at Box 2 of DEFFORM 111 Appendix to Contract), to whom all queries of a technical nature should be addressed.

- 2.5.3 The Contractor's responsibilities in relation to those defined elsewhere shall include but not be limited to: -

2.5.3.1. planning, programming and progressing of the work, including appropriate documentation as required by the Contract

2.5.3.2. financial management of the work, including the maintenance of financial records as required by Single Source Contract Regulations 2014.

2.5.3.3 providing the Authority with the information he reasonably requires to satisfy himself on a continuing basis that the work is proceeding to time, cost and performance.

2.5.3.4 the Contractor shall be the Design Authority (DA) for the work under this Contract.

2.6 SUB-CONTRACTS

- 2.6.1 The Contractor shall be entirely responsible for the management of all Sub-contractors under this Contract. This includes acceptance of responsibility for the delivery of their required outputs, and for ensuring that they are subject to the terms and conditions of this Contract. Sub-Contracting any part of the Contract does not relieve the Contractor of any duty or

obligation under the Contract. The Contractor is responsible for any acts/omissions of the Sub-Contractors as though such acts are its own.

- 2.6.2 The Contractor shall not place any sub-contract or order required under this Contract, in excess of £250,000 or with any critical Intellectual Property Rights (IPR) without the prior written approval of the Authority. (See also Condition 4.3 below).
- 2.6.3 The Contractor shall include in any sub-contract or order the same terms and conditions as are included in this Contract, modified, if necessary, so as to apply to the sub-contractor.
- 2.6.4 The Contractor will be required to report on the progress of all sub-contracts as part of his progress reports to the Authority.
- 2.6.5 The Contractor shall notify the Authority on a periodic basis with details of any warranty(s) obtained under Condition 2.7 below.
- 2.6.6 Should any defect be identified in any Sub-Contractor item or work, then the Contractor shall first call for rectification under the relevant terms of that Sub-Contract.

2.7 WARRANTY

- 2.7.1 For the purposes of the Contract, no warranty provisions have been agreed, other than as stated within this Condition 2.7, between the Authority and the Contractor, however the Authority retains the right to request event based on warranty provisions for any item or Articles, or part(s) thereof provided under the Contract at a later date at a mutually agreed price.

2.8 SECURITY

- 2.8.1 For the purposes of DEFCON 659A (Edn 02/17), the "secret matter" of the Contract shall be as defined in the Security Aspects Letter (SAL) at Annex D to Contract. The Contractor shall confirm in writing to the Authority's Commercial Manager detailed in Box 1 of the Appendix to Contract (DEFFORM 111) that the definition of the "secret matter" has been brought to the attention of the person directly responsible for the security of the Contract, that the definition is understood, and that measures can and will be taken to safeguard the "secret matter" and he shall immediately refer any difficulties in these respects to the Authority.
- 2.8.2 The Contractor shall support the security accreditation of the DTT, which shall include the generation of the System Security Policy (SSP) and System Operating Procedures (SyOPS).
- 2.8.3 The Contractor shall nominate a representative who shall be responsible for all Security Matters and shall carry out duties in accordance with this Condition. The Authority shall be notified of the nominated representative.

2.9 EXIT STRATEGY

- 2.9.1 At the end of the period of performance of the Contract, the Authority's reasonable requirements for any hand-over by the Contractor to any successor Contractor or the Authority of all the data, as may exist in the Contractor's possession at the time of the

winding-up of the Contract (either due to termination, or due to the approach of the end of the Contract period of performance) shall be at no additional charge to the Authority.

3.0 SPECIFICATIONS, PLANS, ETC.

3.1 DEFCONS

DEFCON 68 (Edn 02/17) - Supply of Data for Hazardous Articles, Materials and Substances

Note: It is noted that the Contractor has confirmed that there will be no hazardous articles, materials or substances supplied under the contract.

DEFCON 502 (Edn 05/17) – Specification Changes.

DEFCON 601 (Edn 04/14) – Redundant Materiel

DEFCON 602B (Edn 12/06) – Quality Assurance (without a Deliverable Quality Plan)

DEFCON 606 (Edn 06/14) – Change and Configuration Control Procedure.

DEFCON 608 (Edn 10/14) – Access and Facilities to be provided by the Contractor.

NOTE; The Authority shall provide the Contractor with reasonable notice when such access and/or facilities are required. In addition, the Authority shall provide details of attendees to enable the appropriate security clearance to be obtained. Such access shall be carried out on a non-interruption basis wherever possible. Should the Authority use a third party then the Contractor shall be advised, as a non-disclosure agreement may be required.

DEFCON 624 (Edn 11/13) – Use of Asbestos in Arms, Munitions or War Materials

NOTE: The Contractor has confirmed that there will be no asbestos in the articles supplied under the contract

DEFCON 658 (Edn 10/17) – Cyber.

NOTE: For the purposes of this DEFCON, the Cyber Risk Level for the work under the Contract has been assessed by the Authority to be 'Very Low'

3.2 SPECIFICATION

- 3.2.1 The Contractor shall perform the work required under the Schedule of Requirements in accordance with the Statements of Work at Annexes A and B and in accordance with (as applicable) any Standards in Annex C. The work shall be carried out in accordance with Good Industry Practice, all Necessary Consents, Legislation and British Standards that are appropriate to the provision of the Works and all the responsibility of the Contractor in the Contract.
- 3.2.2 In performance of the Contract the Contractor shall also comply with its obligations in the Annexes to the Contract.
- 3.2.3 In the event that the Contractor is unable to continue with the agreed programme milestones due to unavailability of interface requirements or interdependencies, then in consultation with the Authority, the Contractor shall make all reasonable efforts to accommodate his mitigation strategy. Execution of mitigation work shall, where practical be at no, or mitigated to minimise, additional cost to the Authority, however where implementation cannot be accommodated within the core Contract price and/or schedule the parties agree to discuss, on a case by case basis, the most appropriate way forward that best serves the programme.
- 3.2.4 The Technical Assistance Agreement (TAA) for work originating from the USA for all activities under this Contract are performed under TAA No redacted which shall be current at any time,

including amendments to the original. A copy of the TAA, or any subsequent amendments, shall be provided to the Authority immediately it has been approved by the US State Department and signed by all the interested parties.

- 3.2.5 The Authority and the Contractor agree that in the unlikely event of rescission of existing licences/TAA No TA redacted by the US Government such rescission shall not constitute default or breach of this Contract, provided it is not as a result of any act or omission by the Contractor or his sub-contractors.

3.3 RISK

- 3.3.1 The Contractor acknowledges that any risk assessment that 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):-

3.3.1.1 particular risks and their impact;
or

3.3.1.2 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.

- 3.3.2 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.
- 3.3.3 Risk shall be managed in accordance with the provisions of the Contractor's Risk Management Plan, a copy of the latest available formal issue of which shall be furnished to the Authority by the Contractor on request.

3.4 SAFETY

- 3.4.1 The Contractor shall:

3.4.1.1 comply with all his statutory duties and obligations relating to safety extant at Contract placement;

3.4.1.2 immediately draw to the Authority's attention any requirements of the Contract that may cause the Contractor to be in breach of any statutory duty or obligation relating to safety;

3.4.1.3 ensure that where the Authority has been granted exemption from specific regulations, health and safety standards and arrangements will be, so far as reasonably practicable, at least as good as those required by statute.

3.4.1.4. The Contractor is to notify the Authority where any change in safety statutory duty or regulations change after contract placement. Any changes will be dealt with in accordance with DEFCON 502 (Edn 05/17).

3.4.1.5 Nothing in the Contract or in any other document created or signed on behalf of the Authority shall constitute a written undertaking for the purposes of Section 6 (8)

of the Health and Safety at Work Act 1974 relieving the Contractor of any of his duties under Section 6 of that Act.

- 3.4.2 Safety shall be managed in accordance with the provisions of the Contractor's Safety Management Plan; a copy of the latest available formal issue of which shall be furnished to the Authority by the Contractor on request.

3.5 QUALITY REQUIREMENTS

- 3.5.1 All Work undertaken by the Contractor shall conform to the Quality Requirements in the List of Contract Standards at Annex C.

3.6 AD-HOC TASKING PROCEDURE

- 3.6.1 Each task under Item 4 of the Schedule of Requirements shall be initiated and defined by the use of a Task Authorisation Form (TAF) as detailed at Annex J to Contract and shall following agreement be added to the list at Appendix A to the Schedule of Requirements by the next suitable Contract Amendment.
- 3.6.2 Tasks may be proposed by either the Authority or the Contractor by completion of Part 1 of the TAF, which shall be subject to authorisation by the Authority. Tasks shall be identified by the TAF sequential serial number allocated by the Authority. The Contractor shall use this reference number, where known, in all communications with the Authority, including any associated claims for payment. The Contractor may allocate additional reference numbers for the convenience of their own internal systems. In the case of an urgent task the TAF shall be prefixed with "URGENT" denoting the urgency.
- 3.6.3 The Contractor shall, upon receipt of a duly completed and authorised Part 1 of the TAF, submit at Part 2 a Firm Price quotation, valid for acceptance by the Authority ideally for 60 days, but for at least 30 days. This quotation shall be signed and submitted in a hard copy and/or PDF document, supplemented with MS Office files formatted to be capable of being easily printed. This shall contain:
- 3.6.3.1 A full price breakdown by both calendar year and the Authority's financial year of direct labour hours, materials, expenses, bought-out and sub-contract elements, identifying the applicable labour, overhead and profit rates in accordance with any promulgated rates in force or utilising the Firm rates as detailed at Annex K of the Contract
 - 3.6.3.2 An overall timescale/completion date, detailing dates of all deliverables required/proposed to be supplied which shall remain achievable during the validity of the quotations. Tasks are to be supported by a project schedule where appropriate; and
 - 3.6.3.3 a compliance matrix showing the extent of the Contractor's compliance with the requirements detailed at Part 1 or a suitable statement confirming full compliance; and
 - 3.6.3.4 details of any assumptions or exclusions; and
 - 3.6.3.5 details of any requirements for GFX detailing description of item, quantity required, start and finish dates required to be provided, location required, type of

loan required, and any other information necessary to fully define the required dependency; and

3.6.3.6 a statement on whether Earned Value Management shall apply; and

3.6.3.7 a statement about any IPR restrictions applying to any deliverables; and

3.6.3.8 a statement confirming compliance with the terms and conditions of the contract or identifying any proposed changes for the Authority's consideration.

3.6.3.9 Milestone Payments - Exceptionally, where a task is of a high value and/or long duration the Authority may consider the inclusion of a Milestone Payment Plan against a specific task. Milestone Payment(s) shall only be made against clearly defined milestones. The Contractor shall submit any proposed Milestone Payment Plan with the Firm Price quotation on the TAF Part 2 for the Authority's agreement, providing a description, success criteria, value in percentage terms and dates of each proposed milestone.

3.6.3.10 No work shall be undertaken on the proposed task until the order has been both authorised by the Authority at Parts 3, 4 and 5 of the TAF and accepted in writing by the Contractor.

3.6.4 On completion of the Task, the Contractor shall complete and return the TAF Part 6 to the Authority.

3.7 OBSOLESCENCE MANAGEMENT

3.7.1 The Contractor is responsible for managing obsolescence of DTT and all software elements contained within it, in accordance with the requirements for Obsolescence Management set out in the Statement of Work at Annex B. Notwithstanding any obsolescence issues or problems, the Contractor remains responsible for meeting all performance and other requirements relating to the supply of DTT under this contract. The Contractor is responsible for all costs associated with:

3.7.1.1 The ongoing identification and review of obsolescence concerns

3.7.1.2 Identification of mitigation action of obsolescence concerns.

3.7.1.3 Resolution of obsolescence issues, except as detailed in Clause 3.7.8 below.

3.7.2 The costs for which the Contractor is responsible include, but are not limited to, the costs of investigating alternative software components, vendor interface, engineering and redesign efforts, testing and qualification requirements, documentation changes, etc. The Contractor shall prevent any additional costs from being incurred by the Authority due to obsolescence.

3.7.3 Obsolescence shall be managed in accordance with the provisions of the Contractor's Obsolescence Management Plan to deliver the obsolescence management requirements of

the SOW at Annex B. A copy of the latest available formal issue of the Obsolescence Management Plan shall be furnished to the Authority by the Contractor on request.

- 3.7.4 The Contractor shall ensure and be able to demonstrate that any mitigation of obsolescence concerns, or resolution of obsolescence issues, are implemented for the most cost effective through life solution, regardless of contract duration.
- 3.7.5 Any configuration changes due to obsolescence shall be approved in accordance with the Configuration Management process of this requirement.
- 3.7.6 The Contractor shall provide the Authority with a list of all software components, as part of its Functional Baseline and Version Description Document:

- 3.7.6.1 Version.

- 3.7.6.2 Original manufacturer/Vendor.

- 3.7.6.3 Description.

- 3.7.7 The Contractor shall ensure all known obsolescence issues and forecasted concerns have been identified and have mitigation plans. No less than 12 months before contract end, the Contractor shall transfer this data to the Authority which shall fall within the negotiated contract price. The Contractor is to ensure that the Authority shall have the right to use this data.
- 3.7.8 For the avoidance of doubt, resolution of obsolescence issues associated with the infrastructure upon which DTT is deployed, including the server and client operating environments, software and Office automation products or related to interoperability with other systems and applications, are the Authority's responsibility, unless otherwise agreed under the Ad-Hoc Tasking Procedure in Clause 3.6.

4.0 PRICE

4.1 DEFCONS

DEFCON 800 (Edn 12/14) – Qualifying Defence Contract.

DEFCON 801 (Edn 12/14) – Amendments to Qualifying Defence Contracts Consolidated Versions.

DEFCON 802 (Edn 12/14) - QDC: Open Book on sub-contracts that are not Qualifying Sub-contracts.

DEFCON 804 (Edn 3/15) - QDC: Confidentiality of Single Source Contract Regulations Information.

4.2 PRICES OF ARTICLES & SERVICES

- 4.2.1 The Provisional Price for Items 1 and 2 of the Schedule of Requirements (see Condition 4.3) shall be the prices of the Articles and Services described in the Schedule of Requirements inclusive of all royalties, licence fees and taxes with the exception of Value Added Tax (see DEFCON 513 (Edn 11/16) and Import Duty. The price shall include the cost of packaging and transportation (where applicable) and also handling and cost of compliance with all Terms and Conditions of Contract.
- 4.2.2 In the event of changes to the contractual requirement of SOR items 1 or 2 the Contractor shall, in respect of each such change, provide the Authority's Commercial Officer with a

quotation in the form of a firm price proposal supported by a full price breakdown. The quotation shall include such details as the Authority may require, enabling a fair and reasonable adjustment to be negotiated.

4.2.3 The price of Item 3 of the Schedule of Requirements shall be a Limit of Liability. Charges made by the Contractor for agreed Out of Hours Support services completed against this SOR item shall be based on actual costs incurred using the agreed Rates at Annex K, plus any applicable premiums (see clause 4.2.4). The Contractor shall not exceed the stated L of L without the prior written approval of the Authority. The Contractor shall note that the Authority has not allocated specific funds to any particular Exercises.

4.2.4 The Contractor shall be entitled to apply applicable premiums to his actual costs claimed in accordance with clause 4.2.3. The Parties will aim to agree, if practical, the applicable premium charge prior to commencement of each period of Out of Hours provision.

4.2.4.1 A minimum standing / retainer charge for being on call

4.2.4.2 Corporate management, set up and disturbance costs

4.2.4.3 A minimum charge of 3 hours per OOH Service request at the applicable rate. Further charges only continue to apply into the fourth hour.

4.2.4.4. OOH Service request on weekdays shall attract time & half

4.2.4.5 OOH Service request at weekends shall attract double time

4.2.4.6 Travel & Subsistence shall be charged i.a.w Contractor expenses policy

4.2.5 The overall price of SOR Item 4 shall be a limit of liability for the combined total price(s) of any TAF(s) agreed under the Contract.

4.3 PROVISIONAL PRICE FOR ITEMS 1 AND 2

4.3.1 The Parties acknowledge that the Contractor's Pricing Rates (includes labour, overheads and G&A) and the Capital Serving adjustment (CSA) used for the determination of the Contract Price(s) are not yet agreed between the Authority and the Contractor.

4.3.2 Until such time as the Authority has formally written to the Contractor to record the agreement between the Parties of the Contractor's 2018 Pricing Rates and CSA Rate for use in single source pricing; the Parties agree that the Contract Price is a Provisional Price that the Parties intend to amend. Both parties agree that the Estimated Pricing Rates can be used for the Firm Price.

4.3.3 The Contract Price shall be made Firm and where necessary adjusted, within one month of the date that the MOD formally notifies the Contractor of agreement between the parties of the Contractor's 2018 Pricing and CSA Rates. If at the end of the Contract Period the Contractor's 2018 Estimated Pricing and CSA Rates have not been agreed, the parties will discuss whether the matter should be referred by one party or the other, or jointly, to the Single Source Regulations Office, under the provisions of the Defence Reform Act 2014, Section 20(5).

4.3.4 Where the price is adjusted as a result of this clause, any adjustments shall be applied only to the values of payments in the Payment Plan at Contract Annex E, which are not yet invoiced by the Contractor at the time of the amendment.

4.4 LIMITATION OF LIABILITY

4.4.1 The total amount to be paid by the Authority under Items 3 and 4 shall not, without the written approval of the Authority's Commercial Branch, exceed the said Limit of Liability. If at any time the Contractor considers that the work in question cannot be completed within this limit, he shall immediately inform the Authority's Commercial Branch and at the same time provide details of what work is remaining for completion against the Contract. Notification by the Contractor in accordance with the foregoing does not constitute approval to exceed the limit stated in this Condition. Any change in this limit shall be authorised only by formal amendment to the Contract.

5.0 INTELLECTUAL PROPERTY RIGHTS (IPR)

5.1 DEFCONS

DEFCON 14 (Edn 11/05) – Inventions & Designs – Crown Rights & Ownership of Registered Patents and Registered Designs

DEFCON 90 (Edn.11/06) - Copyright.

DEFCON 91 (Edn 11/06) - Intellectual Property Rights in Software.

NOTE

- i. Applies to deliverable software and software documentation and other software generated under the contract, as defined in DEFCON 91. This includes the delivery of the source codes.
- ii. In accordance with Clause 3.b) of DEFCON 91, background software held by the Contractor is listed at Annex E of the Contract. In each case, the terms and conditions of the Authority's use of the Software in accordance with Clause 3.a) of DEFCON 91 shall be noted, considering the provisions of Clause 3.c) of DEFCON 91.
- iii. All software outputs of this Contract are foreground IPR unless agreed otherwise by the Authority.

DEFCON 126 (Edn 11/06) - International Collaboration Clause.

NOTE; The period referred to in Clauses (2) and (3) shall be 10 years. The Authority may require to be free to disclose information arising from the Contract to member nations of NATO and to any other country with whom there exists treaty or similar obligations for mutual defence and DEFCON 126 is to be so construed.

DEFCON 632 (Edn 08/12) - Third Party Intellectual Property Rights- Commercial and Non-Commercial Articles and Services.

5.2 CONFIDENTIALITY

5.2.1 Upon termination of the Contract for whatever reason or upon completion thereof, the Contractor shall return to the Authority any documentation including any copies or reproductions thereof whether in the possession of the Contractor or any of his employees or persons employed under the Contract, including any sub-contractors and sub-contractors' employees.

5.3 DISCLOSURE OF INFORMATION

5.3.1 No information regarding the services being provided under the Contract or facilities to photograph or film shall be given or permitted by the Contractor except with the prior written

permission of the Authority, to whom any press or other enquiry on any such matter should be referred.

- 5.3.2 It shall be the responsibility of the Contractor to ensure that the highest standards of privacy and confidentiality are maintained by his personnel in relation to documents which bear privacy markings, whether classified or not, with which they are entrusted. The same standards of privacy and confidentiality shall be applied to information acquired orally.

5.4 PROPRIETARY ITEMS

- 5.4.1 Annex G to the Contract details those items which the Authority has accepted, for the purposes of this Contract, are proprietary either to the Contractor or a third party and these are referred to in this Condition 5.4 as the "proprietary items". The Contractor shall inform the Authority of any additions or amendments which it proposes to the contents of the Annex G as they arise. Further items shall be eligible for inclusion in the Annex only if the Contractor can demonstrate to the Authority's satisfaction that:

5.4.1.1 The item was developed without any United Kingdom Government funds;

5.4.1.2 IPR relating to that item are owned by the Contractor or a third party (other than the United Kingdom Government) and;

5.4.1.3 The items will be used without significant alteration or development

- 5.4.2 If the Contractor and the Authority are unable to agree the inclusion of the item, the Contractor may seek to resolve the matter under the provisions of DEFCON 530).

- 5.4.3 Where the Contractor obtains Proprietary software, this shall be licensed to the Authority under either:

5.4.3.1 DEFFORM 701 agreed between the Authority and the Sub-Contractor concerned;

5.4.3.2 Any standard inward proprietary software licence agreed between the Authority and the Contractor or Sub-Contractor concerned; or

5.4.3.3 Such other licence (express or implied) as the Authority may agree in writing.

6.0 LOANS

6.1 DEFCONS

DEFCON 76 (Edn 12/06) – Contractor's Personnel at Government Establishments.

NOTE: For the purposes of Clause 4 of DEFCON 76, the Contractor's liability for loss or damage to Government Property is limited to £ redacted per incident.

DEFCON 611 (Edn 02/16) – Issued Property.

DEFCON 694 (Edn 07/18) – Accounting for Property of the Authority.

6.2 GOVERNMENT FURNISHED ASSETS

- 6.2.1 The Authority shall make available for the Contractor to collect or have collected, free of charge, the GFA listed in Annex I, in aid of the work to be carried out under this Contract.
- 6.2.2 The use of GFA shall not relieve the Contractor of his responsibility for the proper performance of the Contract.
- 6.2.3 Where agreed dates for the provision of GFA are subsequently revised due to programme changes, the Authority will use its reasonable endeavours to supply GFA to meet those revised dates. In the event that these revised dates cannot be achieved, the Contractor and the Authority will assess possible alternatives.
- 6.2.4 In the event that any GFA are recalled or withdrawn by the Authority for use, or planned for use on other Ministry of Defence programmes or any other reason, the Authority and the Contractor shall agree a programme for the return of that GFA or withdrawal arrangement. If this cannot be accommodated without impact on key milestones, e.g. Anchor Milestones or Acceptance dates, the Contractor shall inform the Authority in writing. The Contractor and the Authority will also discuss and agree the most appropriate mitigation action and the impact for any consequential time, cost and performance impacts. In the event that the two Parties cannot agree a date for return of the GFA, the Authority reserves the right to withdraw it from the Annex I.
- 6.2.5 When, during the course of the Contract, the Contractor identifies new requirements for GFA, these shall be subject to negotiations with the Authority. The Authority shall have no liability to the Contractor if, when the GFA is made available on the agreed dates, the Contractor fails to make use of it. The Authority shall use reasonable endeavours to meet the Contractor's requirements.
- 6.2.6 If the Contractor no longer has a requirement to hold any GFA or otherwise on completion of all work under the Contract he shall seek instructions from the Authority's Commercial Officer.

7.0 DELIVERY

7.1 DEFCONS

DEFCON 507 (Edn 10/18) – Delivery

DEFCON 524 (Edn 10/98) – Rejection

NOTE; For the purposes of DEFCON 524 the period shall be 30 days.

DEFCON 525 (Edn 10/98) – Acceptance

NOTE; For the purposes of DEFCON 525 the period shall be 30 days.

DEFCON 612 (Edn 10/98) – Loss of or Damage to Article

7.2 DELIVERY REQUIREMENTS

- 7.2.1 All work required under the Contract shall be completed when it is delivered to and accepted by the Authority in accordance with the provisions of Annex A/B SOWs
- 7.2.2 Data supplied in connection with the Contract shall be delivered electronically to the Authority together with a complete set of self to self data to be held by the Contractor. Prior to the delivery, the Contractor shall notify the Authority that the stated data has been finalised and

ready for issue so that it may be inspected or audited by the Authority, or his nominated representative.

7.3 ACCEPTANCE

- 7.3.1 The Authority intends to complete all reviews of documentation and other deliverables under the Contract within 10 working days of receipt; however, an extension in time for exceptions such as size, quantity or complexity will be agreed with the Contractor.
- 7.3.2 Acceptance by the Authority of any deliverable hardware, software or firmware shall be in accordance with the acceptance criteria stated in the Statement of Work at Annex A.

8.0 PAYMENTS/RECEIPTS

8.1 DEFCONS

DEFCON 5J (Edn 18/11/16) – Unique Identifiers.

DEFCON 129J (Edn 18/11/16) Use of the Electronic Business Delivery Form

DEFCON 513 (Edn 11/16) - Value Added Tax.

DEFCON 522 (Edn 11/17) – Payment & Recovery of Sums Due.

DEFCON 534 (Edn 06/17) – Subcontracting and Prompt Payments.

DEFCON 649 (Edn 12/16) – Vesting.

8.2 PAYMENT

- 8.2.1 All claims for payment in respect of Item 3 of the Schedule of Requirements shall be made in accordance with the SOW at Annex B for Out of Hours work.
- 8.2.2 All claims for payments for Item 4 TAFs shall be made on completion of the work specified unless a milestone payment has been agreed

8.3 MILESTONE PAYMENTS

- 8.3.1 The Authority will, subject to the provisions of this Condition, make to the Contractor advances against Items 1 and 2 of the SOR in accordance with the Milestone Payment Plan against deliverables identified in the Statement of Work and Delivery Plan as set out in Annexes A, B and F to the Contract.
- 8.3.2 The Contractor shall be entitled to advances against the Contract Price, to be claimed in accordance with Condition 8.3.1 in respect of the satisfactory completion or performance of

each Milestone under the Milestone Payment Plan. The Contractor shall have satisfactorily completed or performed each milestone under the Milestone Payment Scheme:

8.3.2.1 the Contractor shall have completed all work comprised in the milestone for which the advance against the Contract Price is sought and the Authority has accepted that stage in accordance with the contract:

8.3.2.2 the milestones shall have been completed sequentially unless otherwise agreed between the parties: and

8.3.2.3 the Contractor shall have complied with all its contractual obligations that impinge on progress of work covered by the Milestone Payment Plan including, where required under the Contract, the provision of information required by the Authority for the purposes of assessing contractual performance; and

8.3.2.4 provided that the Authority shall not be obliged to make a milestone payment to the Contractor in respect of a completed milestone if the Authority shall have reasonable cause to believe that the Contractor will be unlikely to render complete performance of his obligations in respect of deliverables of the contract.

8.3.3 Where the Authority intends to rely on Condition 8.3.4 as the basis for rejecting any claim for an advance against the Contract Price which the Contractor may make, the Authority shall give to the Contractor notice in writing of his intention together with the Authority's reasons for the rejection.

8.3.4 Save as hereby provided the entitlement of the Contractor to retain all advances against the Contract Price for deliverables identified in the Schedule of Work is conditional on complete performance of deliverables identified of the Schedule of Requirements. Where the Authority terminates the contract otherwise than in accordance with DEFCON 656B (Edn 08/16), the Authority shall without prejudice to any other right/remedy of either party be entitled to recover in full all milestone payments made before termination.

8.3.5 In the event of repayment to the Authority under the provisions of Condition 8.3.4 above then all that which vested in the Authority under the provisions of DEFCON 649 shall re-vest in and become the absolute property of the Contractor.

8.4 DURATION

8.4.1 The duration of the Contract for SOR Items 1, 2 and 3 shall be during the period from 1st January 2019 until the 31st December 2019.

8.4.2 The duration of individual tasks under Item 4 to the Schedule of Requirements shall be as stated on the individual executed Task order.

8.5 INCENTIVE

8.5.1 The Authority intends to incentivise the Contractor to produce software of good quality and to minimise defects. At the end of the Contract Period of Performance; the Authority will award an incentive payment to the Contractor of £ redacted if the Contractor demonstrates the achievement of the specified targets under the three incentive objectives identified in the table below.

8.5.2 The Contractor must achieve the targets of all three objectives to be eligible to earn the incentive payment. Award of any partial value of the payment for partial achievement of the objectives shall be at the sole discretion of the Authority.

Table – Incentive Objectives & Targets

#	Objective	End 2018 Baseline	2019 Target
1	Number of Sentenced Corrective observations raised in 2018 which are still Open	TBD	TBD
2	Number of Sentenced Corrective Observations raised in the calendar year	TBD	TBD
3	Number of Sentenced Corrective Observations that are <u>not</u> attached to a User Story in JIRA	TBD	0

Notes to table:

1. All years are calendar years unless otherwise stated
2. Observations must be sentenced to be recognised for the purposes of the incentive. Observations which are not sentenced are not included in the figures.
3. All incentive objectives concern observations sentenced as Corrective only. Non-Corrective Observations are not included in the figures.

Establishing the 2018 Baseline

8.5.3 No later than 11th January 2019, the Contractor shall present to the Authority the data, taken from the observation recording tool (JIRA) representing the end of 2018 baseline for each of the incentive objectives, for review and mutual agreement by the parties. Within 30 calendar days of the Contractor's submission, the Authority will issue a Contract Amendment to amend the table above to include the agreed 'End of 2018 Baseline' figures and '2019 Target' figures, calculated in accordance with the regime identified below.

Calculation of 2019 Targets

For Objective 1, the 2019 Target figure shall be a value which represents 80% of the value of the End 2018 Baseline figure for the same.

For Objective 2, the 2019 Target figure shall be a value which represents 80% of the value of the End 2018 Baseline figure for the same.

9.0 CONTRACT ADMINISTRATION**9.1 DEFCONS**

DEFCON 604 (Edn 06/14) – Progress Reports.

Note: For the purposes of Clause 1 of this DECON, the frequency of reports shall be quarterly.

DEFCON 609 (Edn 08/18) - Contractor's Records.

DEFCON 642 (Edn 06/14) - Progress Meetings.

NOTE; The frequency of these meetings shall be quarterly

DEFCON 647 (09/13) - Financial Management Information

The frequency of Financial Management Information reports referenced in DEFCON 647 shall be quarterly.

9.2 PROGRESS REPORTS

- 9.2.1 For the purpose of Clause 1 of DEFCON 604 and Clause 2c of DEFCON 647, the frequency of the reports shall be quarterly in accordance with the Contractors standard reporting format, combining progress and financial information where practical into a single report to include the following information:
- 9.2.1.1 Costs accrued under the Contract to inform the Authority's financial accrual process
 - 9.2.1.2 Review of risks on the joint risk register, and any agreed mitigation actions
 - 9.2.1.3 Performance of and progress against deliverables
 - 9.2.1.4 Status of GFA
 - 9.2.1.5 Commercial / contractual issues
 - 9.2.1.6 For SOR item 2 only, achievement against performance indicators per period including progress towards such achievement, and per annum to facilitate the annual review of performance, including any proposals for performance indicator adjustment
 - 9.2.1.7 Reporting for Earned Value Management Systems (EVMS)
 - 9.2.1.8 Status of any payments made, in progress and upcoming
 - 9.2.1.9 Update on previously recorded actions, as per an action tracker, and
 - 9.2.1.10 Status against the Incentivisation Scheme
- 9.2.2 The Contractor will deliver annual Interim Contract Reports (ICR) as defined in Section 27 of the Single Source Contract Regulation 2014

9.3 MEETINGS

- 9.3.1 The Contractor shall attend formal Project Meetings in the form of a Joint Steering Group, which will be held at quarterly intervals between the Authority and the Contractor, which will include both Programme Managers. These meetings shall be concerned with progress in relation to the overall performance of the Contract.
- 9.3.2 Meetings shall be held at the DTT Battle Laboratory in Warminster unless requested otherwise by the Authority.
- 9.3.3 The Contractor shall produce and submit the minutes of the meeting to the Authority for agreement and return to the Contractor for issue within two weeks of the Meeting

9.4 PROJECT MANAGEMENT & ACCESS

- 9.4.1 The Authority must be kept informed of, and have the facilities for its representatives to assess, the progress of the work under the Contract. Accordingly, and notwithstanding the requirements for particular information detailed elsewhere in the Contract, the Contractor shall keep the Authority informed and, whenever the need arises, inform him as appropriate, and without delay, of any matter which has, or may have, an effect on the planned execution of the Contract or individual task.

9.5 EARNED VALUE MANAGEMENT

9.5.1 The Contractor shall develop, deliver and update as needed over the term of the contract, an Earned Value Management Plan (EVMP) Level 4 in accordance with the requirements stated in Annex H for SOR Line Items 1 and, 2 and any further Line Items deemed necessary within the Schedule of Requirement to the Contract.