

Details Of Information Redacted From Published Version Of Contract P2G/0439

All Documents

Security Classification Removed

Contract Terms And Conditions and Schedule Of Requirements

Page 5 – Prices removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

Page 6 – Limit of Liability values removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

Condition 13 – Performance Measurement and Key Performance Indicators: values of withhold removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

Condition 43 – Limitation Of Liability: Limit of Liability values removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

DEFFORM 111 – Personal Information removed under the Freedom Of Information Act 2000, Section 40, Personal Information

Annex A – Statement of Requirements

Page A-3 – operation names removed under the Freedom Of Information Act 2000, Section 26, Defence

Page A-4 – capability details removed under the Freedom Of Information Act 2000, Section 26, Defence

Page A-6 - capability details removed under the Freedom Of Information Act 2000, Section 26, Defence

Page A-6 - security classification of system removed under the Freedom Of Information Act 2000, Section 26, Defence

Page A-9 - security classification of system removed under the Freedom Of Information Act 2000, Section 26, Defence

Page A-12 – security classification of system removed under the Freedom Of Information Act 2000, Section 26, Defence

Page A-16 - capability details removed under the Freedom Of Information Act 2000, Section 26, Defence

Page A-17 - capability details removed under the Freedom Of Information Act 2000, Section 26, Defence

Page A-19 - capability details removed under the Freedom Of Information Act 2000, Section 26, Defence

Page A-25 - capability details removed under the Freedom Of Information Act 2000, Section 26, Defence

Appendix 1 to Annex A (Part 1) – User and System Requirements Documents

Page 1 - Personal Information removed under the Freedom Of Information Act 2000, Section 40, Personal Information

Page 2 - capability details removed under the Freedom Of Information Act 2000, Section 26, Defence

Appendix 1 to Annex A (Part 2) – User and System Requirements Documents

Capability details removed under the Freedom Of Information Act 2000, Section 26, Defence

Appendix 4 to Annex A – Interface Control Document For The Airscape Web Services

Document removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

Appendix 5 to Annex A – Airscape Web Services ICD – Annex A Secure Codes Of Connection For The ISTAR Mission Support Contract

Document removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

Appendix 6 to Annex A – Airscape Web Service ICD – Annex B Restricted Codes Of Connection For The ISTAR Mission Support Contract

Document removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

Appendix 7 to Annex A – Airscape Web Service ICD – Annex D XTAMS For The ISTAR Mission Support Contract

Document removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

Appendix 8 to Annex A – Airscape Web Service ICD – Annex E MET For The ISTAR Mission Support Contract

Document removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

Appendix 9 to Annex A – Airscape Web Service ICD – Annex F Military Signal For The ISTAR Mission Support Contract

Document removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

Appendix 10 to Annex A – Airscape Web Service ICD – Annex L Intelligence Services For The ISTAR Mission Support Contract

Document removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

Annex C – Initial Spares To Be Supplied Under Item 2 Of The Schedule Of Requirements

Prices removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

Quantities removed under Freedom of Information Act 2000, Section 26, Defence

Annex E – Stage Payment Plan In Respect Of Item 1 Of The Schedule Of Requirements

Prices removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

Annex F – Quarterly Payment Plan In Respect Of Items 3 And 4 Of The Schedule Of Requirements

Prices removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

Annex G – Firm Rates And Recoveries In Respect Of Hourly Labour, Travel And Subsistence And Additional Training Courses

Prices removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

Annex L – DEFFORM 701 - Head Agreement – Standard Form Of Licensing Schedule

Page L-13 - Prices removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

Page L-13 - Quantities removed under Freedom of Information Act 2000, Section 26, Defence

Page L-15 - Limit of Liability values removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

Annex M – Contractor's Commercially Sensitive Information Form

Personal Information removed under the Freedom Of Information Act 2000, Section 40, Personal Information

Annex Q – Assumptions, Dependencies And Exclusions

Document removed under the Freedom Of Information Act 2000, Section 43, Commercial Interests

P2G/0439

**PROVISION AND SUPPORT OF
PUMA HC2 MISSION SUPPORT SYSTEM**

TABLE OF CONTENTS

1	SCHEDULE OF REQUIREMENTS
2	DEFCONS
3	DURATION
4	SCOPE
5	PRECEDENCE
6	ENTIRE AGREEMENT
7	COMPLIANCE WITH THE ELECTRONIC TRANSACTIONS AGREEMENT
8	TERMINATION BY THE AUTHORITY
9	AUTHORITY TO PROCEED
10	PRICE
11	PAYMENT
12	VARIATION OF PRICE
13	PERFORMANCE MEASUREMENT AND KEY PERFORMANCE INDICATORS
14	PERFORMANCE MEASUREMENT REPORTS
15	CONTRACT CHANGES
16	QUALITY AND SAFETY STANDARDS
17	NATO QUALITY ASSURANCE REQUIREMENTS (DESIGN/DEVELOPMENT AND PRODUCTION)
18	DELIVERABLE QUALITY PLAN
19	DELIVERABLE SAFETY MANAGEMENT PLAN
20	DELIVERABLE SAFETY CASE
21	MILITARY AVIATION AUTHORITY (MAA) REGULATORY PUBLICATIONS
22	SAFETY MANAGEMENT
23	TRAINING
24	TECHNICAL PUBLICATIONS
25	SOFTWARE LICENCES
26	GOVERNMENT FURNISHED ASSETS
27	ACCEPTANCE
28	DELIVERY
29	PACKAGING
30	SELF-TO-SELF DELIVERY
31	TRANSFER OF TITLE
32	MEETINGS
33	MAINTENANCE OF PLANS
34	SUB-CONTRACTS
35	PROCEDURE FOR MAKING DIRECT AGREEMENTS WITH SUB-CONTRACTORS
36	REPORTABLE OFFICIAL AND OFFICIAL-SENSITIVE SECURITY REQUIREMENTS
37	SECURITY MEASURES
38	SECURITY MEASURES PROVISIONS TO BE INCLUDED IN RELEVANT SUB-CONTRACTS
39	SUSTAINABLE PROCUREMENT – LEGISLATIVE REQUIREMENTS
40	IMPORT AND EXPORT LICENSES
41	ROYALTIES AND LICENSES
42	PUBLIC AND MEDIA RELATIONS
43	LIMITATION OF LIABILITY

ANNEXES TO CONTRACT

A	STATEMENT OF REQUIREMENT
B	SCHEDULE OF DELIVERABLES
C	INITIAL SPARES – ITEM 2
D	GOVERNMENT FURNISHED ASSETS
E	STAGE PAYMENT SCHEME – ITEM 1
F	QUARTERLY PAYMENT SCHEME - ITEMS 3 AND 4

G	FIRM PRICES FOR ADDITIONAL TASKING UNDER ITEM 5
H	ADDITIONAL TASKING FORM
I	AD-HOC TASKS AUTHORISED UNDER ITEM 5
J	CDRLS
K	DEFFORM 177 – DESIGN RIGHTS AND PATENTS (SUB-CONTRACTORS) AGREEMENT
L	DEFFORM 701 – LICENCE
M	DEFFORM 539A - TENDERERS COMMERCIALY SENSITIVE INFORMATION FORM
N	MILITARY AVIATION AUTHORITY (MAA) REGULATORY ARTICLES (RA)
O	SECURITY ASPECTS LETTER
P	DEFFORM 522A
Q	ASSUMPTIONS, DEPENDENCIES & EXCLUSIONS

APPENDICIES TO CONTRACT

DEFFORM 111 (EDN 10/13) – APPENDIX – ADDRESSES AND OTHER INFORMATION

GLOSSARY OF ABBREVIATIONS

ADR	- Alternative Dispute Resolution
ADS	- Aircraft Document Set
AEDP	- Allied Engineering Documentation Publication
AH	- Attack Helicopter
AMC	- Acceptable Means Of Compliance
BH	- RAF Battlefield Helicopter
CCB	- Configuration Control Board
CCP	- Configuration Control Plan
CDR	- Critical Design Review
CDRL	- Contract Data Requirements List
CMP	- Configuration Management Plan
COMSEC	- Communication Security
CONUSE	- Concept Of Use
CPS	- Cardinal Point Specification
DAL	- Development Assurance Level
DAOS	- Design Approved Organisation Scheme
DO	- Design Organisation
DSAS	- Defence Security And Assurance Services
ETI	- Electronic Technical Information
FARP	- Forward Arming And Refuelling Point
FLC	- Front Line Command
GFA	- Government Furnished Assets
HMI	- Human Machine Interface
ICD	- Interface Control Document
ILS	- Integrated Logistic Support
ISD	- In Service Date
ITE	- Independent Technical Evaluation
JSP	- Joint Service Publications
KPI	- Key Performance Indicator
LTC	- Local Technical Committee
MAA	- Military Aviation Authority
MAP	- Military Aviation Publication
MFRI	- Mandatory Fault Reporting Instructions
MIGs	- Message Implementation Guidelines
MMS	- Mission Management System

MOB	- Main Operating Base
MOEs	- Measures Of Effectiveness
MRP	- MAA Regulatory Publications
MPS	- Mission Planning System
MSS	- Missions Support System
NIU	- Not In Use
NSN	- NATO Stock Number
OSD	- Out Of Service Date
PDR	- Preliminary Design Review
PDS	- Post Design Services
PMP	- Project Management Plan
PMR	- Performance Measurement Report
POC	- Point Of Contact
PRM	- Project Review Meeting
PT	- Project Team
PTL	- Project Team Leader
QAR	- Quality Assurance Representative
RA	- Regulatory Articles
RMADS	- Risk Management and Accreditation Document Set
RTS	- Release To Service
RWMPA	- MPS And Rotary Wing Advanced Mission Planning Aid
SA	- Situational Awareness
SFS	- Serious Fault Signal
SI	- Servicing Instruction
SII	- Service Issued Instruction
SI(T)	- Special Instruction Technical
SOR	- Schedule Of Requirements
SPF	- HMG Security Policy Framework
SQEP	- Suitably Qualified Empowered Personnel
SRD	- System Requirements Document
SSON	- Single Statement Of User Need
T&S	- Travel And Subsistence
TAA	- Type Airworthiness Authority
TAF	- Task Approval Form
TI	- Technical Information
TORs	- Terms Of Reference
URD	- User Requirements Document
VOP	- Variation Of Price

1. SCHEDULE OF REQUIREMENTS

Name and Address of Tenderer nzpire Limited, Landmark House West, Unit 1B, Alpha Court, Kingsley Road, Lincoln, Lincolnshire, LN6 3TA	MINISTRY OF DEFENCE Schedule of Requirements for Provision and Support of Puma HC2 Mission Support System	Contract No P2G/0439
Issued With DEFFORM 159	On 24 April 2015	Previous Contract No N/A

Requirements

Item Number	Description	Price £ (ex-VAT)
1	Supply of Puma HC2 Mission Support System as detailed at Annex A (Parts 2 and 5)	s.43 Firm Price
2	Provision of Initial Spares for Mission Management System (to support Managed Spares & Repairs Service as detailed at Annex A (Part 4))	s.43 Firm Price
3	Provision of Technical Support to Puma HC2 Mission Support System (from Contract Award to 31 Mar 2020) as detailed at Annex A (Parts 3 and 4)	s.43 Firm Price
4	Contract Option for Provision of Technical Support to Puma HC2 Mission Support System (from 01 Apr 2020 to 31 Mar 2025) as detailed at Annex A (Parts 3 and 4)	s.43 Fixed Price
5	Additional Tasking in accordance with clause 9.3	Firm Prices in accordance with clause 10.5 and Annex G

2. DEFCONS

2.1 General Conditions Of Contract:

- DEFCON 5J (Edn 03/15) - Unique Identifiers
Where used in conjunction with contracts for services, clause 2 of the DEFCON shall not apply
- DEFCON 16 (Edn 10/04) - Repair And Maintenance Information
- DEFCON 21 (Edn 10/04) - Retention Of Records
- DEFCON 68 (Edn 11/14) - Supply Of Data For Hazardous Articles, Materials and Substances
- DEFCON 76 (Edn 12/06) - Contractors Personnel At Government Establishments
For the purposes of this Contract, the Contractor's liability under Clause 3 of DEFCON 76 (Edn 12/06) shall be limited to s.43 per incident.
- DEFCON 90 (Edn 11/06) - Copyright
- DEFCON 113 (Edn 10/04) - Diversion Orders
- DEFCON 117 (Edn 10/13) - Supply Of Information For NATO Codification And Defence Inventory Introduction
- DEFCON 126 (Edn 11/06) - International Collaboration Clause
- DEFCON 127 (Edn 12/14) - Price Fixing Condition For Contracts Of Lesser Value
This DEFCON shall apply to all future ad-hoc tasking and amendments to the Contract no greater than a cumulative value of £1M, on the basis of forward estimates of cost
- DEFCON 129 (Edn 03/15) - Packaging For Articles Other Than Munitions
- DEFCON 129J (Edn 07/08) - The Use Of The Electronic Business Delivery Form
- DEFCON 501 (Edn 03/15) - Definitions And Interpretations
- DEFCON 502 (Edn 06/14) - Specifications Changes
- DEFCON 503 (Edn 12/14) - Formal Amendments To Contract
- DEFCON 507 (Edn 10/98) - Delivery
- DEFCON 509 (Edn 09/97) - Recovery Of Sums Due
- DEFCON 513 (Edn 06/10) - Value Added Tax
- DEFCON 515 (Edn 10/04) - Bankruptcy And Insolvency
- DEFCON 516 (Edn 04/12) - Equality

- DEFCON 518 (Edn 11/12) - Transfer
- DEFCON 520 (Edn 07/11) - Corrupt Gifts And Payments Of Commission
- DEFCON 521 (Edn 04/12) - Subcontracting To Supported Businesses
- DEFCON 522J (Edn 05/03) - Payment Under P2P
- DEFCON 523 (Edn 03/99) - Payment Of Bills Using The Bankers Automated Clearing Service (BACS) System
- DEFCON 524 (Edn 10/98) - Rejection
- DEFCON 525 (Edn 10/98) - Acceptance
- DEFCON 526 (Edn 08/02) - Notices
- DEFCON 527 (Edn 09/97) - Waiver
- DEFCON 528 (Edn 05/12) - Overseas Expenditure, Import And Export Licenses
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 air 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.
- Appendix to DEFCON 528 - Overseas Expenditure, Import And Export Licenses – Condition to be included in relevant sub-contracts
- DEFCON 529 (Edn 09/97) - Law (English)
- DEFCON 530 (Edn 12/14) - Dispute Resolution (English Law)
- DEFCON 531 (Edn 11/14) - Disclosure Of Information
- DEFCON 532A (Edn 06/10) - Protection Of Personal Data (Where Personal Data is not being processed on behalf of the Authority)
- DEFCON 534 (Edn 06/97) - Prompt Payment (Sub-Contracts)
- 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 04/15) - Change Of Control Of Contractor
- DEFCON 601 (Edn 04/14) - Redundant Material
Any disposal costs incurred by the Contractor under DEFCON 601 shall be included in the Contract Price
- DEFCON 602A (Edn 12/06) - Deliverable Quality Plan
- DEFCON 604 (Edn 06/14) - Progress Reports
For the purposes of the Contract, the frequency of reports shall be monthly until the design has been accepted and quarterly thereafter
- DEFCON 606 (Edn 06/14) - Changes And Configuration Control Procedure
- DEFCON 608 (Edn 10/14) - Access And Facilities To Be Provided By The Contractor
- DEFCON 609 (Edn 06/14) - Contractor's Records
This DEFCON shall apply only to those records NOT subject to DEFCON 21
- DEFCON 611 (Edn 07/10) - Issued Property
- DEFCON 612 (Edn 10/98) - Loss Of Or Damage To The Articles
- DEFCON 614 (Edn 09/03) - Default
- DEFCON 619A (Edn 09/97) - Customs Duty Drawback
- DEFCON 620 (Edn 06/14) - Contract Change Control Procedure
- DEFCON 621B (Edn 10/04) - Transport (If Contractor Is Responsible For Transport)
- DEFCON 624 (Edn 11/13) - Use Of Asbestos
- DEFCON 627 (Edn 12/10) - Requirement For A Certificate Of Conformity
- DEFCON 632 (Edn 08/12) - Third Party Intellectual Property – Rights And Restrictions
- DEFCON 637 (Edn 08/99) - Defect Investigation And Liability
- DEFCON 642 (Edn 06/14) - Progress Meetings
- DEFCON 643 (Edn 12/14) - Price Fixing
This DEFCON shall apply to all future ad-hoc tasking and amendments to the Contract no greater than a cumulative value of £250K, on the basis of forward estimates of cost
- DEFCON 644 (Edn 06/13) - Marking Of Articles
- DEFCON 647 (Edn 09/13) - Financial Management Information

- DEFCON 649 (Edn 07/99) - Vesting
- DEFCON 656 (Edn 03/06) - Break
- DEFCON 670 (Edn 07/14) - Tax Compliance
- DEFCON 684 (Edn 01/04) - Limitation Upon Claims In Respect Of Aviation Products
- DEFCON 694 (Edn 02/12) - Accounting For Property Of The Authority

Special Conditions Of Contract

3. DURATION

- 3.1 The Contract shall commence on the unqualified signature of the DEFFORM 159 by the Contractor and shall continue until 31st March 2020.
- 3.2 Contract Extension Option - the Authority retains the right to extend this Contract by exercising the option period at Item 4 of the Schedule of Requirements. The option period shall be 01st April 2020 to 31st March 2025.
- 3.3 The Authority shall provide the Contractor with 6 months' notice in writing of their intent to take up the option period.
- 3.4 The Contractor shall not withdraw their fixed price offer for the option period in respect of Item 4 of the Schedule of Requirements.

4. SCOPE

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 Contract, Statement of Requirement (at Annex A) and to the reasonable satisfaction of the Authority, at all times on and subject to the Assumptions, Dependencies and Exclusions set out within Annex Q of this contract.

5. PRECEDENCE

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. Annex A (Statement of Requirement), including Appendices to Annex A (SRD);
- iii. Other Annexes to this Contract;
- iv. Appendices to the Other Annexes of this Contract

6. ENTIRE AGREEMENT

- 6.1 This Contract sets out the entire agreement between the Authority and the Contractor and supersedes all prior arrangements and understandings relating to its subject matter.
- 6.2 Notwithstanding clause 6.1 above, nothing shall preclude either the Authority or the Contractor from bringing any claim or action against the other Party in the event of fraudulent misrepresentation.

7. COMPLIANCE WITH THE ELECTRONIC TRANSACTIONS AGREEMENT

The Authority and the Contractor shall comply with the Electronic Transactions Agreement comprised in the completed DEFFORM 30, reference HTPT/INZPIRE Limited/DEFFORM 30 Corporate Edn 01/07 dated April 2010. The meaning of Purchase Order and Order Acknowledgement messages shall be as defined in the Contract and the terms and conditions of the Contract shall take precedence in all circumstances.

8. TERMINATION BY THE AUTHORITY

The Authority may terminate this Contract at any time on or before the Expiry Date:

- 8.1 Voluntarily, pursuant to the provisions of DEFCON 656; or
- 8.2 Pursuant to such other DEFCONS contained in this Contract.

9. AUTHORITY TO PROCEED

9.1 Items 1, 2 and 3 of the Schedule of Requirements

The Contractor shall proceed with Items 1, 2 and 3 of the Schedule of Requirements on the acknowledgement of receipt of the DEFFORM 159 by the Contractor.

9.2 Item 4 of the Schedule of Requirements

The Contractor shall proceed with Item 4 of the Schedule of Requirements provided the Authority has exercised the option in accordance with Condition 3 of the Terms and Conditions.

9.3 Item 5 of the Schedule of Requirements

9.3.1 Any requirement for additional tasks under Item 5 of the Schedule of Requirements shall be defined by the Authority's Project Manager by completing Part I of the Task Approval Form (TAF) at Annex H to the Contract. Where the Task relates to any design work the TAF will have an associated DEFFORM 315 Contract Data Requirement. On completion of Part I, the TAF will be forwarded to the Contractor, by the Authority's Commercial Officer, for their consideration.

9.3.2 For the purposes of identifying individual tasks, the Authority will allocate a discrete sequential reference number, which is to be used by the Contractor. The first such reference number shall be 001. These reference numbers shall be

quoted in all associated correspondence and documentation, including claims for payment. The Contractor should note that no work should be undertaken on compiling a quotation, until the Contractor is in receipt of a TAF bearing a unique reference number and signed by the Authority's Project Manager and Commercial Officer.

- 9.3.3 Within 10 working days of receipt of a TAF or as otherwise agreed by both parties, the Contractor shall complete Part II and return it to the Authority's Commercial Officer with a Firm Price Quotation. The Firm Priced Quotation shall utilise the rates agreed at Annex G and include a full breakdown of costs including subcontract and material costs. It shall contain sufficient detail to enable a full assessment of the price to be undertaken by the Authority.
- 9.3.4 Where it is not possible to provide the Authority with a Firm Price Quotation within 10 working days then the Contractor shall at the earliest opportunity within the 10 day period advise the Authority's Commercial Officer of the reason for the delay and provide a firm date for when a quotation will be supplied.
- 9.3.5 If the Authority is content with the Firm Price Quotation and wishes to proceed with the task then the Authority will provide authority to proceed with the Task by completing Part III of the TAF. Upon authorisation of Part III by the Authority a contract shall be created as per the details of the TAF and the Contractor shall undertake the work as defined in the TAF and in accordance with the specifications/technical requirements referred to in the Contract. The Contractor shall acknowledge receipt of the Part III within 5 working days of receipt. The Contractor shall not undertake any work relating to the task until Part III has been signed by both the Authority's Project Manager and the Authority's Commercial Officer.
- 9.3.6 Authorised Tasks will be formally added to Annex I of the Contract when the next amendment to Contract is raised, or on completion of the Task, whichever occurs first.
- 9.3.7 Tasks shall be completed within the period specified in each task issued under Item 5. If no period is specified the Contractor shall contact the Authority to confirm the required timescale. If it becomes obvious that delivery will not be achieved within the specified timescale, the Contractor shall notify the Authority's Project Manager and Commercial Officer of the cause of the delay together with a forecast completion date. Such information shall be supplied without prejudice to the Authority's rights under the Contract. In the event that the Authority agrees to the revised delivery date it shall forthwith issue an amendment to the task.
- 9.3.8 In addition to the Authority's rights of termination under other Conditions, any individual Task placed under this Contract may be terminated by the Authority at any time subject to notice in writing to the Contractor. Where appropriate, the Authority may require the Contractor to furnish a report covering work done to the date of termination with such recommendations as may be possible at that stage. The Authority's liability shall be confined to payment as if the Task has been terminated under DEFCON 656 – Break.
- 9.3.9 Any additional tasks raised by completion of Part I of the TAF, up to and including the expiry of the Contract, shall be delivered by the Contractor in accordance with this clause.

10. PRICE

10.1 Item 1 of the Schedule of Requirements

10.1.1 The price quoted in respect of Item 1 shall be firm in accordance with the Schedule of Requirements.

10.1.2 The firm price for Item 1 shall include all costs necessary to complete the contracted work under Item 1, including but not limited to procurement and delivery of hardware and software, Non-Recurring Expenditure, clearances; and all travel and subsistence costs associated with the completion of the work.

10.2 Item 2 of the Schedule of Requirements

10.2.1 The price quoted in respect of Item 2 shall be firm in accordance with the Schedule of Requirements.

10.2.2 The firm price for Item 2 shall include the purchase and self-to-self delivery of all the items identified at Annex C to support the Contractor's provision of a managed Spares & Repairs Service under Item 3 of the Schedule of Requirements.

10.3 Item 3 of the Schedule of Requirements

10.3.1 The price quoted in respect of Item 3 shall be firm in accordance with the Schedule of Requirements.

10.3.2 The firm price for Item 3 shall include software licence fees to 31 March 2020 and all costs associated with the provision of the Technical Support service as specified at Annex A, Part 3 and costs associated with setting up and carrying out the Managed Spares & Repairs Service as specified at Annex A, Part 4, to 31 March 2020.

10.4 Item 4 of the Schedule of Requirements

10.4.1 The price quoted in respect of item 4 shall be fixed in accordance with the Schedule of Requirements.

10.4.2 The fixed price shall be subject to Variation of Price in accordance with the formula detailed at Condition 12.

10.4.3 The price quoted in respect of Item 4 of the Schedule of Requirements shall include software licence fees from 01 April 2020 to 31 March 2025 and all costs associated with the provision of the Technical Support service as specified at Annex A, Part 3 from 01 April 2020 to 31 March 2025.

For the avoidance of doubt, the price quoted at Item 4 of the Schedule of Requirements currently excludes the costs associated with the provision of a Managed Spares & Repairs Service under Item 4 from 01 April 2020 to 31 March 2025, in respect of which firm price costs will be agreed in writing immediately prior to exercise of the option in accordance with condition 3 of this Contract.

10.5 Item 5 of the Schedule of Requirements

- 10.5.1 Firm prices shall be agreed for each additional task raised under Item 5 of the Schedule of Requirements for the period from contract award up to and including 31 March 2020 using the rates detailed at Annex G.
- 10.5.2 In consideration for the placement of this Contract the Contractor shall, for the period from contract award up to and including 31 March 2020, hold to the rates as specified at Annex G.
- 10.5.3 The Contractor shall not withdraw from or amend in any way the standing orders contained in the Contract except by agreement in accordance with DEFCON 503.
- 10.5.4 Should the Authority exercise its option to extend this Contract under condition 3 of this Contract, the rates payable during the option period in respect of the work authorised under Item 5 of the Schedule of Requirements shall be agreed prior to the commencement of the option period, Annex G shall be updated accordingly and firm prices shall be agreed for each additional task based on these agreed rates.

11. PAYMENT

11.1 Item 1 of the Schedule of Requirements

- 11.1.1 The Authority shall, subject to the following provisions of this Condition, make to the Contractor advances against the price(s) payable for Item 1 ("interim payments") in accordance with the Stage Payment Scheme set out in Annex E to the Contract.
- 11.1.2 The Contractor shall be entitled to interim payments, to be claimed in accordance with this Condition for each stage under the Stage Payment Scheme, when, in all material respects:
 - 11.1.2.1 the Contractor has completed all work comprised in the stage for which the interim payment is sought in accordance with Annex E to the Contract; and
 - 11.1.2.2 subject to the provisions of condition 11.5, all previous stages have been completed; and
 - 11.1.2.3 the Contractor shall have complied with all its contractual obligations which enable the Authority to monitor the Contractor's contractual performance, including but not limited to those obligations related to the provision of information to the Authority.
- 11.1.3 Notwithstanding condition 11.1.2 above and subject to condition 11.5, the Authority shall not be obliged to make an interim payment to the Contractor if it has reasonable cause to believe that the Contractor will be unlikely to render complete performance in all material respects of its obligations in respect of that stage of the Contract.

11.1.4 Where the Authority intends to rely on condition 11.1.3 above as the basis for rejecting any claim for an interim payment which the Contractor may make, the Authority shall promptly give to the Contractor notice in writing of its intention together with the Authority's reasons for the rejection.

11.1.5 The Authority shall without prejudice to any other right / remedy of either party be entitled to recover in full all interim payments made under the Contract where:

11.1.5.1 the Contract, or the part of the Contract under which Item 1 is to be provided, is terminated otherwise than in accordance with DEFCON 656, or expires by reason of passing of time; and

11.1.5.2 the Contractor has failed to complete performance of Item 1 in all material respects.

11.1.6 Payment of an interim payment by the Authority under this condition shall not, unless expressly stated to do so, constitute:

11.1.6.1 acceptance by the Authority of any contractual deliverable;

11.1.6.2 a representation by the Authority that the Contractor has complied with any contractual obligations; or

11.1.6.3 a waiver of the Authority's right to subsequently claim that the conditions for payment of that interim payment were not satisfied.

11.2 Item 2 of the Schedule of Requirements

Payment in respect of Item 2 of the Schedule of Requirements shall be made upon satisfactory completion of all work under Item

11.3 Items 3 and 4 of the Schedule of Requirements

11.3.1 Payment in respect of Items 3 and 4 of the Schedule of Requirements shall be claimed quarterly in arrears in accordance with the quarterly payment profile at Annex F, upon completion of the work to the satisfaction of the Authority's Project Manager as detailed at Box 2 of the DEFFORM 111.

11.3.2 Claims for payment in respect of Items 3 and 4 shall be adjusted in accordance with the formula at condition 13.

11.4 Item 5 of the Schedule of Requirements

11.4.1 Payment in respect of Item 5 of the Schedule of Requirements shall be made upon completion of the additional task to the satisfaction of the Authority's Project Manager as detailed at Box 2 of the DEFFORM 111.

11.4.2 The task value shall be loaded to P2P upon acceptance of the Contract amendment to add the task. Upon completion of the task, the Contractor shall submit the 129J to the Authority's Project Manager, who will receipt the task in P2P if satisfied.

11.4.3 Claims for payment in respect of Item 5 shall be adjusted in accordance with the formula at condition 13.

11.5 If the Contractor is unable to meet a Contract deliverable by reason of any delay, act or omission on the part of the Authority and/or on the part of any third party engaged by the Authority in relation to performance of the Puma MSS Project, the Authority shall act reasonably in considering any request made by the Contractor to submit a claim for payment or partial payment on the associated Contract deliverable payment date. For the avoidance of doubt, a claim for payment or partial payment in respect of a particular Contract deliverable shall not be refused on the basis that a previous Contract deliverable has not yet been met as a result of any delay, act or omission on the part of the Authority and/or on the part of any other third party engaged by the Authority in relation to performance of the Puma MSS Project. The parties thereby acknowledge that payments in respect of Contract deliverables may be made in a different order to that set out in the Stage Payment Scheme set out in Annex E to this Contract.

12. VARIATION OF PRICE

- 12.1 Variation of Price (VOP) calculations shall apply in respect of the fixed price element of Item 4 of the Schedule of Requirements. VOP calculations shall be carried out quarterly, in arrears.
- 12.2 The Contractor shall submit a their claim in respect of VOP as soon as possible at the end of each quarter, and no later than 10 working days after the publication of the relevant indices. Where an index value is subsequently amended, the Authority and the Contractor shall agree a fair and reasonable adjustment to the price, as necessary.
- 12.3 Upon agreement of the VOP calculation, any amount due to the contractor, or refund due to the Authority, shall be loaded to P2P by the Authority's Commercial Officer at Box 1 of the DEFFORM111 to enable payment to be claimed.
- 12.4 Should the VOP calculation result in a refund due to the Authority, the Contractor shall submit form AG173 for the value to the Authority's Project Manager at Box 2 of the DEFFORM111.
- 12.5 The price stated at Item 4 of the Schedule of Requirements is Fixed at 2014 price levels. The price does not include provision beyond this date for increases or decreases in the market price of the Service being purchased. Any such variation shall be calculated in accordance with the following formula:

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

Where:

- V represents the variation of price
- P represents the Fixed Price (at base date conditions) as stated in the Schedule of Requirements
- O Represents the Services Producer Price Index K8ZU
- O0 represents the average Services Producer Price Index (ref K8ZU) figure for the base period 2014 which is 104.5
- O_i represents the average Services Producer Price Index (ref K8ZU) figure for the period to be the subject of the VOP calculation
- a represents the percentage Non Variable Element which is 10%

- b represents the percentage Variable Element which is 90%
- $a + b = 100\%$

12.6 The Index referred to in condition 12.5 above shall be taken from the following Tables:

ONS Service Producer Price Index 9907010000: Table 1: Aggregate – All Services Gross Sector, Index Reference K8ZU

- 12.7 Indices published with a B or F marker, or a suppressed value, in the last 3 years are not valid for Variation of Price clauses and shall not be used. Where the price index has an 'F' marker or suppression applied to it during the term of the Contract, the Authority and the Contractor shall agree an appropriate replacement index or indices. The replacement index or indices shall cover, to the maximum extent possible, the same economic activities as the original index or indices.
- 12.8 In the event that any material changes are made to the indices (e.g. a revised statistical base date) during the period of the contract and before final adjustment of the final contract price, then the re-basing methodology outlined by the Office for National Statistics (ONS, the series providers) to match the original index to the new series shall be applied.
- 12.9 In the event the agreed index or indices cease to be published (e.g. because of a change in the Standard Industrial Classification) the Authority and the Contractor shall agree an appropriate replacement index or indices, which shall cover to the maximum extent possible the same economic activities as the original index or indices. The methodology outlined by the Office for National Statistics used for rebasing indices (as in condition 12.8 above) shall then be applied.
- 12.10 Notwithstanding the above, any extant index / indices agreed in the Contract shall continue to be used as long as it is / they are available and subject to ONS revisions policy. Payments calculated using the extant index / indices during its / their currency shall not be amended retrospectively as a result of any change to the index or indices.
- 12.11 The Contractor shall notify the Authority of any significant changes in the purchasing / manufacturing plan on the basis of which these provisions were drawn up and agreed, or of any other factor having a material bearing on the operation of these provisions such as to cause a significant divergence from their intended purpose, in order that both parties may consider whether any change in this provision would be appropriate.

13. PERFORMANCE MEASUREMENT AND KEY PERFORMANCE INDICATORS

- 13.1 The Key Performance Indicators (KPIs) detailed below shall be used to measure the Contractor's performance against Items 3, 4 and 5 of the Schedule of Requirements on a quarterly basis (as applicable), commencing upon Contract acceptance.
- 13.2 Within 10 working days of the end of each quarter the Contractor shall provide the Authority with detail of the level of performance achieved against KPIs. This shall include details of any performance credits due to the Authority from the Contractor.
- 13.3 Subject to the Assumptions, Dependencies and Exclusions set out within the Annex Q of this Contract and the provisions of this condition and of conditions 43.1 and 43.2, in the event of the Contractor failing to achieve the performance levels set out below, and

provided that such failure is not attributable to the Authority, the Contractor shall be liable to pay the Authority the performance credits detailed below. For the avoidance of doubt, a performance credit agreed to be payable under a KPI in connection with a performance level failure shall (without prejudice to the provisions of condition 13.6) represent an exclusive financial remedy for the Authority in respect of the matter which gave rise to that failure and the Authority shall not be entitled to payment of a further performance credit under another KPI in connection with that same matter. At any time prior to payment of a performance credit under a particular KPI, the Authority and the Contractor shall, however, be entitled to migrate that KPI assessment to another KPI if, in the given circumstances, it is reasonable and appropriate to do so taking into account the nature of the matter giving rise to the failure.

- 13.4 A sum equal to any agreed performance credits shall be deducted from the next quarterly payment due against Item 3 or 4 of the Schedule of Requirements (as applicable). The value of the relevant P2P entry shall be updated by the Authority's Commercial Officer as detailed at Box 1 of the DEFFORM111 to deduct the amount of any agreed performance credit.
- 13.5 The Authority and Contractor shall meet on an annual basis to review the performance measurement regime as detailed in this condition and negotiate any changes.
- 13.6 The provisions of this condition are without prejudice to any other rights of the Authority under the Contract and, in particular, those under DEFCON 614.
- 13.7 No payment or concession to the Contractor by the Authority, or other act or omission of the Authority, shall in any way affect the rights of the Authority to recover the Performance Credits or be deemed to be a waiver of the right of the Authority to recover any such Performance Credits unless a waiver has been expressly stated in writing by the Authority.
- 13.8 The Parties accept that if the Contractor fails to achieve the stated performance for the Contract as set out in this Condition, the purpose of Performance Credits are to compensate the Authority for loss or damage. The Parties further agree that while such loss or damage may occur and Performance Credits ought therefore to be recovered, the nature of the loss or damage is such that its proof is either impossible to quantify comprehensively in financial terms or that it will be extremely complex, difficult, and expensive to do so and does not admit precise proof or calculation. The Performance Credits therefore represent reasonable estimates.
- 13.9 Where the Contractor reasonably believes that a failure of the Contractor to meet the KPI performance criteria is wholly or partially attributable to the Authority or to any other stakeholder engaged by or on behalf of the Authority, then the Contractor shall give written notice to the Authority of this together with its proposals. The parties shall then meet to agree any change to the time and payment of Performance Credits by the Contractor to the Authority, and any such agreed change and waiver of the rights of the Authority shall be confirmed in writing. Failing agreement, the matter will be determined in accordance with the dispute resolution procedure as set out in DEFCON 530.
- 13.10 The following KPIs shall be used to assess Contractor performance under Items 3, 4 and 5 of the Schedule of Requirements:
- 13.10.1 KPI 1 – Technical Advice and On Site Technical Support (including Mission Planning System Hardware Support)

13.10.1.1 KPI 1 shall apply to Items 3 and 4 of the Schedule of Requirements, except that it shall exclude the Contractor's provision of a Managed Spares and Repairs Service which shall be dealt with under KPI 5.

13.10.1.2 The measure is the number of queries satisfactorily resolved in the contractual timescales (as per paragraph 52b of the SOR at Annex A, Part 3). The following calculation shall be used for KPI 1:

$$\text{Technical Advice and On Site Technical Support \%} = \frac{\text{Number of IT Technical Advice and On Site Technical Support Queries per quarter satisfactorily resolved within the agreed response time}}{\text{Total number of IT Technical Advice and On Site Technical Support Queries raised per quarter}} \times 100$$

13.10.1.3 Performance level is 95%

13.10.1.4 For each query below the performance level a performance payment of s.43 per unresolved query, per quarter shall apply.

13.10.1.5 For the purposes of KPI 1 assessment, the definition of "satisfactory resolution" shall be when the Contractor has provided technical advice or on-site technical support to the Authority (as more particularly specified in the SOR at Annex A) within the contractual timescales in order to identify and, where technically feasible, correct faults / defects and "satisfactorily resolved" shall be construed accordingly.

13.10.1.6 Without prejudice to the provisions of condition 4 of this Contract, the following provisos shall apply specifically in connection with any assessment of Contractor performance under this KPI:

13.10.1.6.1 The contractual resolution / response times set out within paragraph 52b of the SOR at Annex A shall not commence until the Authority has provided such information and / or completed such other actions as the Contractor may reasonably require to enable it to sufficiently define the reported fault / defect and consider what remedial steps may need to be taken.

13.10.1.6.2 The Contractor's performance shall not be assessed under this KPI in circumstances where Technical Advice / On-Site Technical Support has been required in connection with any fault / defect arising in whole or in part as a result of the Authority's use of the Puma HC2 Mission Support System in a reckless or negligent manner and / or otherwise than in accordance with the Contractor's specification or user documentation.

13.10.2 KPI 2 – Technical Advice and Investigation

13.10.2.1 KPI 2 shall apply to Items 3 and 4 of the Schedule of Requirements.

13.10.2.2 The measure is the number of Satisfactory Technical Responses to MoD F760/765 with regard to Technical Advice and Investigation queries (as per paragraph 61 of the SOR at Annex A) provided within the contractual response times. The following calculation shall be used for KPI 2:

$$\text{Technical Advice and Investigation \%} = \frac{\text{Number of Satisfactory Technical Responses per quarter provided within the agreed response time}}{\text{Total number of Technical Responses raised per quarter}} \times 100$$

13.10.2.3 The performance levels are as follows:

Urgent and Operational Tasks – within 5 working days – performance level 95%.

Routine Tasks – within 20 working days – performance level 90%

13.10.2.4 The definition of a 'Satisfactory Technical response' shall be - An authorised representative from the Contractor with the appropriate technical experience has considered the question and provided advice / information to the Authority which shall enable the Authority to determine (in its discretion, acting reasonably) an appropriate way ahead.

13.10.2.5 The determination of the priority classification of all Technical Questions is at the sole discretion of the Authority (acting reasonably). For each F760/765 query below the required performance level, the following performance level payments per quarter shall apply:

Tasks Not Answered Within Agreed Timescales	Performance Credit (per query beneath the performance level, per quarter)
Urgent /Operational Tasks	s.43
Routine Tasks	s.43

13.10.2.6 Without prejudice to the provisions of condition 4 of this Contract, the following provisos shall apply specifically in connection with any assessment of Contractor performance under this KPI:

13.10.2.6.1 The contractual response times set out above shall not commence until the date and time the MoD F760/765 is delivered to the Contractor and / or until the Authority has provided such other information, and / or completed such other actions as the Contractor may reasonably require to enable it to sufficiently define the query in connection with which a Technical Response has been requested.

13.10.2.6.2 Where relevant in connection with investigation under MoD F760/765, the contractual response times set out above shall not commence until any defective / faulty

equipment has been received at Inzpire's nominated office and until the Authority has provided such information as the Contractor may reasonably require to enable it to investigate the reported fault / defect.

13.10.2.6.3 The Contractor's performance shall not be assessed under this KPI in circumstances where Technical Advice and Investigation has been required in connection with any issue arising in whole or in part as a result of the Authority's use of the Puma HC2 Mission Support System in a reckless or negligent manner and / or otherwise than in accordance with the Contractor's specification or user documentation.

13.10.3 KPI 3 – Routine Software Updates and Amendment/Update to Technical Publications

13.10.3.1 KPI 3 shall apply to Items 3 and 4 of the Schedule of Requirements. For the avoidance of doubt, KPI 3 shall not apply to serious operational software faults / defects (requiring urgent/operational tasks) which shall be measured under KPI 4 and shall not apply to System / software enhancements which shall fall under Item 5 of the Schedule of Requirements and shall be measured under KPI6.

13.10.3.2 The measure is the provision of evidence by the Contractor to demonstrate to the Authority that:

- a complete list of Technical Publications has been reviewed and implemented every six months in accordance with paragraph 68b of the SOR at Annex A to align with the routine software updates provided in accordance with paragraph 59c.
- Routine MSS software update requests have been implemented every six months in accordance with paragraph 59c of the SOR at Annex A

13.10.3.3 For performance measurement purposes, when the Authority has not received evidence that the Technical Publications have been reviewed, amended and issued to the Authority every 6 months, and/or when the Authority has not received evidence that the routine MSS software updates have been implemented every 6 months, the following performance payment will apply:

Technical Publications Reviewed / Amended Per 6 Month Period Of Each Contract Year	Performance Credit (per 6 month period)
Yes	s.43
No	s.43
Routine Software Update Requests Implemented Per 6 Month Period Of Each Contract Year	Performance Credit (per 6 month period)
Yes	s.43
No	s.43

13.10.3.4 Without prejudice to the provisions of condition 4 of this Contract, the following provisos shall apply specifically in connection with any assessment of Contractor performance under this KPI:

13.10.3.4.1 Routine software update requests will be carried out at the next 6 monthly update point provided that the Authority gives written notice of such requests (and provides all relevant associated information as reasonably requested by the Contractor) within 2 months following the previous 6 monthly update.

13.10.4 KPI 4 – Resolution of Software Defects / Faults – Urgent / Operational Tasks

13.10.4.1 KPI 4 shall apply to Items 3 and 4 of the Schedule of Requirements. KPI 4 applies only to resolution of serious operational faults / defects which become apparent in the software (contrary to contracted System specification / capabilities) and which materially affect user capability and which are essential and urgently required before the next applicable 6 monthly routine software update. For the avoidance of doubt, KPI 4 shall not apply to routine MSS software update requests which shall be measured under KPI 3 and shall not apply to System / software enhancements which shall fall under Item 5 of the Schedule of Requirements and shall be measured under KPI 6.

13.10.4.2 The measure is the number of defects/faults satisfactorily resolved within the contractual response times.

Urgent and Operational Tasks – within 5 working days (or such extended period as may be agreed by the Authority under condition 13.10.4.6.2) – performance level 95%.

13.10.4.3 The following calculation shall be used for KPI 4:

$$\text{Software Amendment/Update \%} = \frac{\text{Number of Software faults/defects reported per quarter satisfactorily resolved within the agreed time}}{\text{Total number of Software faults/defects reported per quarter}} \times 100$$

13.10.4.4 For performance measurement purposes, where the above has not been met the following performance payments shall apply per task, per quarter below the required performance level:

Software Faults/Defects Satisfactorily Resolved In Accordance With The Parameters Set Out Above	Performance Credit (per task below the required performance level, per quarter)
Yes	s.43
No	s.43

13.10.4.5 For the purposes of KPI 4 assessment, the definition of “satisfactory resolution” shall be when the Contractor has implemented a software fix or workaround solution within the contractual timescales

in order to identify and correct serious operational faults / defects and "satisfactorily resolved" shall be construed accordingly.

13.10.4.6 Without prejudice to the provisions of condition 4 of this Contract, the following provisos shall apply specifically in connection with any assessment of Contractor performance under this KPI:

13.10.4.6.1 The contractual resolution timeframe set out above shall not commence until the Authority has provided such information and / or completed such other actions as the Contractor may reasonably require to enable it to sufficiently define reported faults / defects and decide what remedial action may need to be taken.

13.10.4.6.2 The Contractor's ability to meet the resolution timeframe set out above will be dependent upon associated safety and certification process requirements. The delivery time-frame for any change to the software (along with any risks associated with delivery of software which has not been subject to full testing and safety / certification processes) will be discussed and agreed with the Authority (including use of interim workaround procedures pending implementation of a fully tested solution), it being understood and agreed that the Authority will bear all risks and liabilities associated with accepting any urgent / operational software amendments / updates which have not (with the agreement of the Authority) undergone full testing, safety and certification processes).

13.10.5 KPI 5 – Spares and Repairs Support (Mission Support System)

13.10.5.4 KPI 5 shall apply to the Managed Spares and Repairs Service provided under Items 3 and 4 of the Schedule of Requirements.

13.10.5.5 The measure is the number of items repaired and / or replaced in the contractual timescales (as per paragraph 52e of the SOR at Annex A). The following calculation shall be used for KPI 5:

$$\begin{array}{lcl} \text{Percentage of items} & & \text{Number of items repaired and / or replaced within} \\ \text{repaired and / or} & & \text{the contractual response time} \\ \text{replaced within the} & = & \text{Total number of defective items reported per} \\ \text{agreed response period} & & \text{quarter} \\ \% & & \end{array} \times 100$$

13.10.5.6 Performance level is 95%

13.10.5.7 For each item below the performance level a performance payment of s.43 per uncompleted order, per quarter shall apply.

13.10.5.8 Without prejudice to the provisions of condition 4 of this Contract, the following provisos shall apply specifically in connection with any assessment of Contractor performance under this KPI:

13.10.5.8.1 The contractual resolution / response times set out within paragraph 52e of the SOR at Annex A shall not commence until defective / faulty equipment has been received at Inzpire's nominated office and until the Authority has provided such information as the Contractor may reasonably require to enable it to investigate the reported fault / defect.

13.10.5.8.2 The Contractor's performance shall not be assessed under this KPI in circumstances where the Contractor is unable to meet the contractual resolution / response times for repair or replacement of defective hardware as set out within paragraph 52e of the SOR at Annex A due to lack of availability of Spares if the Contractor's holding of Spares has been depleted as a result of the Authority failing to comply with its obligations regarding the return of items to the Contractor for repair / reconditioning under the Managed Spares and Repairs Service.

13.10.5.8.3 The Contractor's performance shall not be assessed under this KPI in circumstances where defective items are reported for repair / replacement in connection with any fault / defect arising in whole or in part as a result of the Authority's use of the Puma HC2 Mission Support System in a reckless or negligent manner and / or otherwise than in accordance with the Contractor's specification or user documentation.

13.10.6 KPI 6 – Performance of Additional Tasks within Agreed Timescales

13.10.6.4 KPI 6 shall apply to Item 5 of the Schedule of Requirements.

13.10.6.5 The agreed completion date shall be as detailed on each Additional Task.

13.10.6.6 The performance credit will be related to the performance per task, and will vary according to the Contractor's performance in achieving the required completion date. Due to the variability in the values of the tasks, a percentage scale will be used to measure performance.

The following performance payments shall apply per task not completed in accordance with the agreed timescales (completion date as specified on the approved TAF form or as otherwise agreed with the Authority):

For each week, or part thereof, of delay commencing 28 calendar days after the agreed completion date stated in the TAF, a performance credit of s.43 of the value of the task per week up to a total of s.43 of the value of the task if the task is not complete, shall apply.

14. PERFORMANCE MEASUREMENT REPORTS

The Contractor shall issue a Performance Measurement Report to the Authority ten working days (10) days prior to each Project Review Meeting. In addition to the information detailed in Appendix 2 to the SOR at Annex A, the Contractor shall provide the information required to allow the calculation of the KPIs at Condition 13 above, together with evidence to support the Measures of Effectiveness (MOEs) detailed below.

14.1 Measures of Effectiveness (MOEs) are not intended to be contractually binding but rather to monitor and understand both how a service is being delivered and to ensure that the Contractor and Authority are able to exploit fully potential opportunities and efficiencies delivered throughout the duration of the MSS through life support service.

14.2 MOEs are to be reviewed quarterly.

14.3 The following MOEs shall apply:

Requirement Description	Measurement Category	Detailed Requirement - Contractor	Performance Measure	Performance Level
Configuration Management	MOE 1	The Contractor shall maintain configuration control on all MSS equipment through life.	Maintenance of configuration control.	To the reasonable satisfaction of the Authority
Obsolescence Management	MOE 2	The Contractor shall advise the Authority of any item that is obsolete or could potentially be at risk of obsolescence with a two (2) year period and their plan to address these items.	Number of items per contract year identified by the Contractor that are or are at risk of being obsolescent within 2 years.	4 or less
MSS element of the Platform Safety Case	MOE 3	The Contractor shall assist the Authority in maintaining the MSS element of the Platform Safety Case in accordance with DEF Stan 00-56.	Delivery of timely updates to the MSS element of the platform safety case.	To the reasonable satisfaction of the Authority
MSS element of Platform Hazard Log	MOE 4	The Contractor shall assist the Authority in maintaining the MSS element of a Platform Hazard Log in accordance with DEF Stan 00-56.	Delivery of timely updates to the MSS element of the platform hazard log	To the reasonable satisfaction of the Authority
MSS Number of IT failures resulting in a site visit by the Contractor	MOE 5	The Contractor shall advise the Authority of the number of failures of the Mission Planning System that require site visit by the MSS Contractor to resolve the fault.	Performance level to be achieved is 9 or less MSS Contractor site visits to rectify faults per quarter.	9 or less

15. CONTRACT CHANGES

15.1 Only a Commercial Officer of the Authority shall be authorised to amend the Contract. Such amendment shall only have effect if agreed in writing with the Authorised Representative of the Contractor. The Contractor warrants that he will not accept, or purport or claim to have accepted, any Contract amendment except those which have been authorised in writing by the a Commercial Officer of the Authority.

- 15.2 The written agreement of the Contractor and the Authority shall be obtained only by a serially numbered Contract amendment being issued to the Contractor by the Authority (and such amendment shall come into force only when the Contractor has despatched to the Authority, on a DEFFORM 159, an acknowledgement of receipt of the Authority's proposed amendment).

16. QUALITY AND SAFETY STANDARDS

- 16.1 The Contractor shall comply with the following Quality and Safety Standards to the extent that they are applicable to the activities to be undertaken by the contractor under the Schedule of Requirements:
- 16.1.1 AQAP 2009 Edition 3
 - 16.1.2 AQAP 2105 Edition 2 NATO Requirements for Deliverable Quality Plans.
 - 16.1.3 AQAP 2110 Edition 3 NATO Quality Assurance Requirements for Design, Development and Production.
 - 16.1.4 AQAP 2210 Edition 1 – NATO Supplementary Software Quality Assurance Requirements to AQAP 2110.
 - 16.1.5 DEFSTAN 00-56 Part 1, Issue 5 – Safety Management
 - 16.1.6 DEFSTAN 00-970 Part 7, Issue 3 – Design and Airworthiness Requirements for Service Aircraft
 - 16.1.7 DEFSTAN 05-57, Issue 6 – Configuration Management of Defence Materiel
 - 16.1.8 DEFSTAN 05-61 Part 1, Issue 5 - Quality Assurance Procedural Requirements – Part 1 Concessions (to the extent that Concessions are required).
 - 16.1.9 DEFSTAN 05-61 Part 4, Issue 3 - Quality Assurance Procedural Regulations - Contractor Working Parties.
 - 16.1.10 DEFSTAN 05-61 Part 9, Issue 4 - Quality Assurance Procedural Requirements - Independent Inspection Requirements for Safety Critical Items.
 - 16.1.11 JSP 457 (The Defence Manual of Interoperable Core Network Technologies).
 - 16.1.12 JSP 465 (Geospatial Information Policy for Defence).
 - 16.1.13 JSP 480 (Defence Co-ordinating Installation Design Authority Manual of Regulations for Installation of Communication & Information Systems).
 - 16.1.14 JSP 604 (Network Rules).
 - 16.1.15 JSP 606 (Defence Network Technical Authority Technical Architecture).

16.1.16 The Contractor shall ensure that the MSS is compatible with Internet Protocol Version 6.

16.2 No second hand or previously used material not owned by the Authority shall be supplied in furtherance of this Contract without the express written permission of the Procurement Management Branch (PMB) designated in Box 2 of the DEFFORM 111. The PMB will require the full history of any such material.

16.3 The Authority may delegate Government Quality Assurance to an overseas Government Quality Assurance Representative in accordance with STANAG 4107.

16.4 All reference to the QAR in documents which form part of this Contract shall be read as referring to the Authority specified in Box 7 of DEFFORM 111.

17. NATO QUALITY ASSURANCE REQUIREMENTS (DESIGN/DEVELOPMENT AND PRODUCTION)

For the purposes of the Contract AQAP2110 Edition 3 entitled "NATO Quality Assurance Requirement for Design/Development and Production" and Defence Standard 05-61 Part 1 (Concessions) Issue 4 shall apply. Certificates of Conformity shall be provided in accordance with DEFCON 627.

18. DELIVERABLE QUALITY PLAN

18.1 The Contractor shall deliver a draft Quality Plan in sufficient time to allow delivery of the final version in accordance with the timescale specified at Annex B. The Quality plan shall be in accordance with DEFCON 602A and AQAP 2105 NATO requirements for deliverable quality plans Ed 2.

18.2 The Quality plan shall include the Quality Assurance Requirements for Developmental Software in accordance with AQAP 2210 edition 1 - NATO Supplementary Software Quality Assurance Requirements to AQAP 2110.

18.3 The Authority shall have 20 working days in which to provide comments on the draft Quality Plan. All Authority comments shall be incorporated into the final version of the Quality Plan unless mutually agreed otherwise. The Contractor shall submit a final version of the Quality Plan within 10 working days of receipt of Authority comments. If no Authority comments are provided within 20 working days then the draft Quality Plan shall be considered the final version.

18.4 Once the Deliverable Quality Plan has been agreed by the Authority it shall be incorporated into the Contract. The Contractor shall be solely responsible for the accuracy, suitability and applicability of the Deliverable Quality Plan.

19. DELIVERABLE SAFETY MANAGEMENT PLAN

19.1 The Contractor shall deliver a draft Safety Management Plan in accordance with DEFSTAN 00-56, in sufficient time to allow delivery of the final version in accordance with the timescale specified at Annex B.

- 19.2 The Safety Management Plan shall describe the Contractors Safety Management System and how it will be integrated into the P2G Safety Management System.
- 19.3 The Safety Management Plan shall describe the deliverables that will be made to the Authority and arrangements for their acceptance. Provision must be made for incremental development and progressive agreement by the Authority. The Contractor must be aware of the Authority's need for data to inform the Authority's hazard log, Loss Model and Safety Argument Structure.
- 19.4 The Authority shall have 20 working days in which to provide comments on the draft Safety Management Plan. All Authority comments shall be incorporated into the final version of the Safety Management Plan unless mutually agreed otherwise. The Contractor shall submit a final version of the Safety Management Plan within 10 working days of receipt of Authority comments. If no Authority comments are provided within 20 working days then the Contractor shall contact the Authority for instruction without delay.
- 19.5 Once the Deliverable Safety Management Plan has been agreed by the Authority it shall be incorporated into the Contract. The Contractor shall be solely responsible for the accuracy, suitability and applicability of the Deliverable Safety Management Plan.

20. DELIVERABLE SAFETY CASE

The Contractor shall deliver a Safety Case (produced in accordance with Def-Stan 00-56 and the Regulatory Articles) and a Declaration of Design and Performance (DDP) / Certificate of Design (COD). These will be delivered to the Authority in accordance with the Annex B Schedule of Deliverables.

21. MILITARY AVIATION AUTHORITY (MAA) REGULATORY PUBLICATIONS

- 21.1 The Contractor shall comply with the following MAA Regulatory Publications ("MRP") issued by the Military Aviation Authority ("the Regulator") to the extent that they are applicable to the activities to be undertaken by the Contractor under the Schedule of Requirements:

21.1.1 Overarching documents:

21.1.1.1 MAA01: MAA Regulatory Policy

21.1.1.2 MAA02: MAA Master Glossary

21.1.2 Regulatory Articles (RA):

21.1.2.1 RA4350 Through Life Management of Technical Information

21.1.2.2 RA 5001(1) DAOS Approval Procedures: Scheme Inclusion and Approval Award

21.1.2.3 RA5101(3) DAOS Approval Procedures: Design Organization Responsibilities

21.1.2.4 RA5102(1) Design and Development Responsibilities: Responsibilities of a Contractor

21.1.2.5 RA5105 Requalification and Production Testing

21.1.2.6 RA5203 Requirement Specifications

21.1.2.7 RA5301 Control of Designs

21.1.2.8 RA5302 Design Records

21.1.2.9 RA5404 Fault Reporting and Investigation

21.1.3 MAA Manuals:

21.1.3.1 Manual of Maintenance and Airworthiness Processes (MAP-01)

21.1.3.2 Manual of Maintenance and Airworthiness Processes – MOD Form 700 Series of Forms (MAP-02)

21.2 The Contractor shall comply with the Regulations set out in the above RA and at Annex N by following:

21.2.1 the acceptable means of compliance ("AMC") prescribed therein;

21.2.2 where there is more than one AMC, an AMC or AMCs agreed by the Contractor with the Regulator; or

21.2.3 other alternative means as may be agreed by the Contractor with the Regulator.

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

22. SAFETY MANAGEMENT

22.1 The Contractor shall appoint a Safety Manager in accordance with the requirements of DEFSTAN 00-56 and notify the Authority accordingly within one month of contract award.

22.2 The Contractor shall agree the MSS Safety Targets as at Appendix 1 to Annex A with the Authority and provide a document summarising the agreed Targets within one month of contract award. This document shall demonstrate to the Authority how the MSS Safety Targets are decomposed into safety targets within the system.

22.3 The Contractor shall agree with the Type Airworthiness Authority (TAA) on what standards are to be applied and what evidence of integrity is to be supplied to the Authority for software and complex electronic hardware within one month of contract award.

23. TRAINING

- 23.1 Initial training which has been identified at Part 3 of the SOR (at Annex A to Contract) is included within the price at Item 3 of the Schedule of Requirements.
- 23.2 The Authority is likely to require additional training above and beyond that identified above. This additional training is outside of the price at Item 3 of the Schedule of Requirements and instead shall be tasked under Item 5 of the Schedule of Requirements at the prices detailed at Annex G to Contract.
- 23.3 The Contractor shall provide any additional training which the Authority tasks under Item 5 of the Schedule of Requirements within the timescales agreed in each additional task. Both parties shall act reasonably when agreeing the timescales.

24. TECHNICAL PUBLICATIONS

- 24.1 For the purposes of this Contract, the term Technical Publication shall include all equipment support publications, handbooks, user guides, user manuals, repair and maintenance manuals and the like. The terms of clause 24.2 below are not applicable to technical reports or manufacturing documentation or drawings to which DEFCON 90 may apply.
- 24.2 The Contractor shall ensure that the Authority has the right to copy, amend, extend or have copied, amended or extended any technical publication in the manner provided for within the DEFFORM 315.

25. SOFTWARE LICENCES

- 25.1 The Puma HC2 Mission Support System software shall be subject to an End User Licence Agreement (to run up to and including 31 March 2020) under DEFFORM 701 in the form set out at Annex L of this Contract. Should the Authority exercise its option to extend this Contract under Condition 3 of this Contract, the DEFFORM 701 Licence Agreement shall be updated to extend the licence period from 01 April 2020 to 31 March 2025.
- 25.2 Where items delivered to the Authority include proprietary third-party software (including third-party software) which requires a licence or licences to enable the Authority to use the item, the Contractor shall ensure that sufficient licence(s) are in place to enable the Authority to use the item.

26. GOVERNMENT FURNISHED ASSETS

- 26.1 The Authority shall make available on loan terms the items detailed at Annex D.
- 26.2 Should any further GFA be identified after the commencement of the Contract, the Authority shall make every effort to supply it. It cannot be guaranteed that further GFA will be made available and the Contractor must not rely upon this to fulfil their obligations under the Contract.

27. ACCEPTANCE

Acceptance criteria shall be as set out in Annex A of the Statement of Requirements.

28. DELIVERY

28.1 A schedule of deliverables is included at Annex B. The Contractor shall be responsible for ensuring delivery takes place at the time and location specified in the schedule of deliverables.

28.2 Save in respect of document deliverables required within 1 month of contract award (which shall be delivered in initial draft form for Authority review and comment), the dates identified at Annex B refer to submission of final versions.. Subject as above, the Contractor shall provide draft versions of these documents in advance of final versions in order to give the Authority 20 working days to provide comments and sufficient time for the Contractor to incorporate such comments into the final version. All comments received by the Contractor shall be incorporated into the final version, unless the Authority agrees otherwise or they are received outside of the comments window.

29. PACKAGING

All items shall be packaged to military standard N in accordance with DEFSTAN 81-41, Part 1, Issue 7 – Packaging of Defence Material and DEFCON 129, unless agreed with the Authority.

30. SELF-TO-SELF DELIVERY

When an 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 his own premises or those of a Sub Contractor ('Self-to-Self Delivery') the risk in such Article shall, notwithstanding the provisions of DEFCON 612, remain vested in the Contractor until such time as the Article is handed over to the Authority.

31. TRANSFER OF TITLE

31.1 Notwithstanding the provisions of Condition 30 (Self-to-Self Delivery) and DEFCON 649, title shall transfer as follows:

31.1.1 Title in respect of all Articles visible on the Authority's accounting system shall remain with the Authority

31.1.2 The title in respect of all new Articles procured or supplied by the Contractor in support of the delivery of the MSS through life support service shall pass from the Contractor to the Authority upon the Articles being successfully delivered to the Authority.

31.1.3 Title in respect of Articles issued to the Contractor on loan terms by the Authority shall remain with the Authority in accordance with DEFCON 611.

32. MEETINGS

- 32.1 The Contractor shall meet with the Authority as set out in the Statement of Requirement at Annex A. The Contractor shall attend (with personnel suitably qualified to respond to the relevant subject matter).
- 32.2 Discussions and decisions taken at meetings shall have no contractual authority unless agreed by both parties and incorporated via a Contract amendment in accordance with DEFCON 503. The Contractor shall not take actions arising from any meeting, the nature of which requires a formal Contract amendment to be issued by the Authority's Commercial department in accordance with the provisions of DEFCON 503, without authorisation from the a Commercial Officer of the Authority. The Authority shall not be held liable for such actions by the Contractor in anticipation of any authorisation and any related cost, however incurred, in the event that formal authorisation is not provided.
- 32.3 Ad-hoc meetings, in addition to those detailed in the Statement of Requirement at Annex A, may be called where urgently required in connection with any issue which is impacted adversely to any material extent upon the Contractor's performance of the Contract, by either the Authority or the Contractor giving as much notice as is reasonably practicable in the circumstances during the life of the Contract. Agreement to attend such meetings shall not be unreasonably withheld by either party and, save as may otherwise be agreed each party shall meet their own costs of attending.

33. MAINTENANCE OF PLANS

- 33.1 The Contractor shall periodically review, update and deliver the following documents in accordance with the associated Contract Data Requirements specified in Annex J.

CDR number	General Description
001	Project Schedule & Transition Plan
002	Configuration Management Plan
003	Obsolescence Management Plan
004	Software Management Plan
005	Safety Management Plan
006	Quality Management Plan
007	Risk Management Plan
008	Security Management Plan
009	MSS Support Plan
010	Training Syllabus
011	Meeting Minutes
012	Progress Report
013	User and Administrator Manuals
014	Spares and Repairs Report

015	Interface Control Document (if required)
016	Information Exchange Document (if required)
017	MSS Modification Leaflet (if required)
018	Project Management Plan
019	Data to Enable Update of the Puma HC Mk2 Simulator
020	Performance Measurement Reports

33.2 With the exception of the Safety Management Plan, the Authority shall have 20 working days to review updated plans and provide comment. If this timescale is not met by the Authority then the amendment will be considered accepted. Acceptance of Amendments to the Safety Management Plan shall be confirmed by formal signature by the appropriate Project Team Duty Holder.

34. SUB-CONTRACTS

- 34.1 The Contractor shall be entirely responsible for the management and supervision of its sub-Contractors to meet the requirements of this Contract. The sub-contracting of any obligation under this Contract shall not relieve or excuse the Contractor from its obligations to the Authority in respect of the due performance of such obligations. The Contractor shall be responsible to the Authority for the acts or omissions of any sub-Contractor in relation to such Sub-Contractor's performance of this Contract and, to this end, any act or omission of that Sub-Contractor in relation to such Sub-Contractor's performance of this Contract shall be regarded as an act or omission of the Contractor.
- 34.2 All sub-contracts shall ensure that the terms and conditions of this Contract are flowed down and reflected in all sub-contracts, at whatever level, the extent necessary to enable the Contractor to fully meet its obligations to the Authority under this Contract.
- 34.3 The Contractor shall agree to include in all sub-contracts a 'right of access' clause in accordance with DEFCON 608 to allow the Authority or his authorised Representative, entry to any location where work is undertaken in relation to this Contract.
- 34.4 The Contractor shall furnish to the Authority's Commercial Officer, copies of relevant extracts from sub-contracts, if so required, to show compliance with condition 34.2 above.

35. PROCEDURE FOR MAKING DIRECT AGREEMENTS WITH SUB-CONTRACTORS

- 35.1 The Contractor shall not place any sub-contract or order involving design or development work that may generate intellectual property under this Contract without the prior approval of the Authority. In cases where new intellectual property is likely to be created under a relevant sub-contract or order, such approval shall be conditional on the sub-contractor having first entered into a direct agreement with the Authority (in the form of Annex K to this contract) as to the disposition of Intellectual Property, unless the sub-contract provides that the Contractor shall own the intellectual property arising from the performance of work under the sub-contract or order.
- 35.2 The Contractor shall give as much written notice as possible to the Authority concerning any proposals to place such work referred to in condition 35.1 (above) with

specific sub-contractors. Wherever possible, and where relevant, the request for approval should be accompanied by two copies of the direct agreement signed by the sub-contractor. If, in any case the Contractor is unable to comply with this condition he shall report the matter to the Authority's Commercial Manager and await further instructions before placing the sub-contract or order.

36. REPORTABLE OFFICIAL AND OFFICIAL-SENSITIVE SECURITY REQUIREMENTS

- 36.1 'Information' means information recorded in any form disclosed or created in connection with the Contract.
- 36.2 The Contractor shall protect all Information relating to the aspects designated as Reportable OFFICIAL and OFFICIAL-SENSITIVE as identified in the security aspects letter annexed to the Contract, in accordance with the official security conditions annexed to the security aspects letter.
- 36.3 The Contractor shall ensure that the requirements and obligations set out under paragraph 1 above are flowed down to their sub-contractors.

37. SECURITY MEASURES

Definition

37.1 In this Condition:

- 37.1.1 'Secret Matter' means any matter connected with the Contract, or its performance which is designated by the Authority in the security aspects letter annexed to the Contract or otherwise in writing as "Top Secret" or "Secret", and shall include any information concerning the content of such matter and anything which contains or may reveal that matter;
- 37.1.2 'Employee' shall include any person who is an employee or director of the Contractor or who occupies the position of a director of the Contractor, by whatever title given.

The Official Secrets Acts

37.2 The Contractor shall:

- 37.2.1 take all reasonable steps to ensure that all Employees engaged on any work in connection with the Contract have notice that the Official Secrets Acts 1911-1989 apply to them and will continue so to apply after the completion or termination of the Contract; and
- 37.2.2 if directed by the Authority, ensure that any Employee shall sign a statement acknowledging that, both during the term of the Contract and after its completion or termination, they are bound by the Official Secrets Acts 1911-1989 (and where applicable any other legislation).

Security Measures

37.3 Unless they have the written authorisation of the Authority to do otherwise, neither the Contractor nor any of their Employees shall, either before or after the completion or termination of the Contract, do or permit to be done anything which they know or ought reasonably to know may result in Secret Matter being disclosed to or acquired by a person in any of the following categories:

37.3.1 who is not a British citizen;

37.3.2 who does not hold the appropriate authority for access to the protected matter;

37.3.3 in respect of whom the Authority has notified the Contractor in writing that the Secret Matter shall not be disclosed to or acquired by that person;

37.3.4 who is not an Employee of the Contractor;

37.3.5 who is an Employee of the Contractor and has no need to know the information for the proper performance of the Contract.

37.4 Unless they have the written authorisation of the Authority to do otherwise, the Contractor and their Employees shall, both before and after the completion or termination of the Contract, take all reasonable steps to ensure that:

37.4.1 no photograph of, or pertaining to, any Secret Matter shall be taken and no copy of or extract from any Secret Matter shall be made except to the extent necessary for the proper performance of the Contract;

37.4.2 any Secret Matter is at all times strictly safeguarded in accordance with the Security Policy Framework (as amended from time to time) and upon request is delivered up to the Authority who shall be entitled to retain it.

A decision of the Authority on the question of whether the Contractor has taken or is taking reasonable steps as required by this clause, shall be final and conclusive.

37.5 The Contractor shall:

37.5.1 provide to the Authority:

37.5.1.1 upon request, such records giving particulars of those Employees who have had at any time, access to any Secret Matter that is required to be kept in accordance with sub-clause 37.4.2;

37.5.1.2 upon request, such information as the Authority may from time to time require so as to be satisfied that the Contractor and their Employees are complying with their obligations under this Condition, including the measures taken or proposed by the Contractor so as to comply with their obligations and to prevent any breach of them;

37.5.1.3 full particulars of any failure by the Contractor and their Employees to comply with any obligations relating to Secret Matter arising under this Condition immediately upon such failure becoming apparent;

- 37.5.2 ensure that, for the purpose of checking the Contractor's compliance with the obligation in sub-clause 37.4.2, a representative of the Authority shall be entitled at any time to enter and inspect any premises used by the Contractor which are in any way connected with the Contract and inspect any document or thing in any such premises, which is being used or made for the purposes of the Contract. Such representative shall be entitled to all such information as they may reasonably require.
- 37.6 If at any time either before or after the completion or termination of the Contract, the Contractor or any of their Employees discovers or suspects that an unauthorised person is seeking or has sought to obtain information directly or indirectly concerning any Secret Matter, the Contractor shall forthwith inform the Authority of the matter with full particulars thereof.

Subcontracts

- 37.7 If the Contractor proposes to make a sub-contract which will involve the disclosure of Secret Matter to the sub-contractor, the Contractor shall:
- 37.7.1 submit for approval of the Authority the name of the proposed sub-contractor, a statement of the work to be carried out and any other details known to the Contractor which the Authority shall reasonably require;
- 37.7.2 incorporate into the sub-contract the terms of the Appendix to this condition and such secrecy and security obligations as the Authority shall direct. In the appendix "Agreement" shall mean the "Sub-Contract", "First Party" shall mean the "Contractor" and "Second Party" shall mean the "Sub-Contractor";
- 37.7.3 inform the Authority immediately they become aware of any breach by the sub-contractor of any secrecy or security obligation and, if requested to do so by the Authority, terminate the sub-contract.

Termination

- 37.8 The Authority shall be entitled to terminate the Contract immediately if:
- 37.8.1 the Contractor is in breach of any obligation under this Condition; or
- 37.8.2 the Contractor is in breach of any secrecy or security obligation imposed by any other contract with the Crown;
- where the Authority considers the circumstances of the breach jeopardise the secrecy or security of the Secret Matter.

38. SECURITY MEASURES PROVISIONS TO BE INCLUDED IN RELEVANT SUB-CONTRACTS

Definition

- 38.1 In this Condition:

38.1.1 'Secret Matter' means any matter connected with the Agreement, or its performance which the First Party informs the Second Party in writing has been designated by the Authority as "TOP SECRET" or "SECRET" and shall include any information concerning the content of such matter and anything which contains or may reveal that matter;

38.1.2 'Employee' shall include any person who is an employee or director of the Second Party or who occupies the position of a director of the Second Party, by whatever title given.

38.1.3 The 'Authority' means the Secretary of State for Defence.

The Official Secrets Acts

38.2 The Second Party shall:

38.2.1 Take all reasonable steps to ensure that all Employees engaged on any work in connection with the Agreement have notice that the Official Secrets Acts 1911-1989 apply to them and will continue so to apply after the completion or termination of the Agreement; and

38.2.2 If directed by the First Party or the Authority, ensure that any Employee shall sign a statement acknowledging that, both during the term of the Agreement and after its completion or termination, they are bound by the Official Secrets Acts 1911-1989 (and where applicable any other legislation).

Security Measures

38.3 Unless they have the written authorisation of the Authority to do otherwise, neither the Second Party nor any of their Employees shall, either before or after the completion or termination of the Agreement, do or permit to be done anything which they know or ought reasonably to know may result in Secret Matter being disclosed to or acquired by a person in any of the following categories:

38.3.1 who is not a British citizen;

38.3.2 who does not hold the appropriate authority for access to the protected matter;

38.3.3 in respect of whom the Authority has notified the Second Party in writing that the Secret Matter shall not be disclosed to or acquired by that person;

38.3.4 who is not an Employee of the Second Party;

38.3.5 who is an Employee of the Second Party and has no need to know the information for the proper performance of the Agreement.

38.4 Unless they have the written permission of the Authority to do otherwise, the Second Party and their Employees shall, both before and after the completion or termination of the Agreement, take all reasonable steps to ensure that:

38.4.1 no photograph of, or pertaining to, any Secret Matter shall be taken and no copy of or extract from any Secret Matter shall be made except to the extent necessary for the proper performance of the Agreement;

38.4.2 any Secret Matter is at all times strictly safeguarded in accordance with the Security Policy Framework (as amended from time to time) and upon request is delivered up to the Authority who shall be entitled to retain it.

A decision of the Authority on the question of whether the Second Party has taken or is taking reasonable steps as required by this clause, shall be final and conclusive.

38.5 The Second Party shall:

38.5.1 provide to the Authority:

38.5.1.1 upon request, such records giving particulars of those Employees who have had at any time, access to any Secret Matter that is required to be kept in accordance with sub-clause 38.4.2.;

38.5.1.2 upon request, such information as the Authority may from time to time require so as to be satisfied that the Second Party and their Employees are complying with their obligations under this Condition, including the measures taken or proposed by the Second Party so as to comply with their obligations and to prevent any breach of them;

38.5.1.3 full particulars of any failure by the Second Party and their Employees to comply with any obligations relating to Secret Matter arising under this Condition immediately upon such failure becoming apparent;

38.5.2 ensure that, for the purpose of checking the Second Party's compliance with the obligation in sub-clause 38.4.2, a representative of the First Party or the Authority shall be entitled at any time to enter and inspect any premises used by the Second Party which are in any way connected with the Agreement and inspect any document or thing in any such premises, which is being used or made for the purposes of the Agreement. Such representative shall be entitled to all such information as they may reasonably require.

38.6 If at any time either before or after the completion or termination of the Contract, the Second Party or any of their Employees discovers or suspects that an unauthorised person is seeking or has sought to obtain information directly or indirectly concerning any Secret Matter, the Second Party shall forthwith inform the Authority of the matter with full particulars thereof.

Sub-Contracts

38.7 If the Second Party proposes to make a sub-contract which will involve the disclosure of Secret Matter to the sub-contractor, the Second Party shall:

38.7.1 submit for approval of the Authority the name of the proposed sub-contractor, a statement of the work to be carried out and any other details known to the Second Party which the Authority shall reasonably require;

38.7.2 incorporate into the sub-contract the terms of this Condition and such secrecy and security obligations as the Authority shall direct.

38.7.3 inform the Authority immediately they become aware of any breach by the sub-contractor of any secrecy or security obligation and, if requested to do so by the Authority, terminate the Agreement.

Termination

38.8 The First Party shall be entitled to terminate the Agreement immediately if:

38.8.1 the Second Party is in breach of any obligation under this Condition; or

38.8.2 the Second Party is in breach of any secrecy or security obligation imposed by any other contract with the Crown;

where the Authority considers the circumstances of the breach jeopardise the secrecy or security of the Secret Matter and notifies its contractor accordingly.

39. SUSTAINABLE PROCUREMENT – LEGISLATIVE REQUIREMENTS

39.1 The Contractor shall take all reasonable steps to procure the observance of the economic, social and environmental legislation related to the subject matter or the execution of the contract by any servants, employees or agents of the Contractor and any subcontractors engaged in the performance of the Contract.

39.2 If the Contractor becomes aware of any prosecution or proceedings, for criminal breaches of the economic, social and environmental legislation related to the subject matter or the execution of the Contract, against the Contractor, any servants, employees or agents of the Contractor and any subcontractors engaged in performance of the Contract, the Contractor shall immediately notify the Authority at the address specified in the Contract.

39.3 Any convictions during the period of the Contract for criminal breaches of the economic, social and environmental legislation related to the subject matter or the execution of the Contract by the Contractor or any of the Contractor's directors/partners or senior management who have powers of representation, decision or control, shall be regarded as a material breach of this Contract.

40. IMPORT AND EXPORT LICENSES

The Contractor shall be responsible for securing any such licences or security clearances necessary under any jurisdiction to enable him to meet his obligations under the terms of the Contract and shall confirm to the Authority, with supporting evidence on request from the Authority, that such licences and clearances have been secured.

41. ROYALTIES AND LICENSES

In the event that royalty payments or licenses are required to enable performance of the Contract, the Contractor shall be responsible for making whatever arrangements are necessary to obtain such agreements and pay any fees. The cost of any such fees or agreements shall be included in the Contractor's price. The Authority will not become involved in any dispute or negotiation over the settling of royalty payments or licenses.

42. PUBLIC AND MEDIA RELATIONS

- 42.1 The responsibility for communicating with representatives of the general and technical press, radio, television and other communication media on all matters concerning the Contract or subject matter of the Contract shall lie solely with the Authority.
- 42.2 The Contractor and its staff shall not communicate on any part of the Contract or any of the subject matter of the Contract via any communication media unless specifically granted permission to do so, in writing, by the Authority. Information deriving from the Contract relating to the Authority may not be communicated to a third party without specific permission from the Authority.
- 42.3 The Contractor shall ensure that this requirement is placed on all sub-contractors engaged by the Contractor in support of any aspects of the Contract.

43. LIMITATION OF LIABILITY

- 43.1 Subject to the provisions of condition 34.1, the Contractor shall not be liable to the Authority for any failure or delay in performance under this Contract and / or for any loss or damage of whatever nature incurred by the Authority arising from such failure or delay, where any such failure or delay in performance is attributable in whole, or in part, to any delay, act or omission on the part of the Authority or other stakeholders engaged by or on behalf of the Authority.
- 43.2 Without prejudice to the operation of DEFCON 684, the Contractor shall not have any liability to the Authority for any loss or damage of whatever nature suffered or incurred by the Authority as a result of any use or reliance on the GECO Puma MSS System outside the Contractor's specification or user documentation, beyond the contemplated use of the System as defined within this Contract or in any other manner outside the reasonable knowledge or contemplation of the Contractor.
- 43.3 Subject to the provisions of conditions 42.1 and 42.2, and without prejudice to the provisions of DEFCON 684, the Contractor's total liability to the Authority (or any person claiming under or through the Authority), whether in contract, tort (including negligence), for breach of statutory duty, misrepresentation, or otherwise arising under or in connection with the Contract and any collateral contract (including, but not limited to, the DEFFORM 701 Licence Agreement):
 - 43.3.1 In respect of any loss or damage resulting from defective goods or services (which for the purposes of this condition shall include software) shall be limited to s.43 in any one occurrence;
 - 43.3.2 In respect of clause 3 of DEFCON 76 (Edn 12/06) shall be limited to s.43 in any one occurrence;
 - 43.3.3 In respect of any other cause of action shall be limited to s.43 in any one occurrence.
- 43.4 The limitations and exclusions set out above shall apply to the fullest extent permitted at law provided always that, subject to the provisions of DEFCON 684, nothing shall limit or exclude the Contractor's liability for death or personal injury caused by its negligence, fraud or fraudulent misrepresentation or for breach of the terms implied by

Enclosure 5 to ITN P2G/0439

section 2 of the Supply of System and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

Appendix - Addresses and Other Information

1. Commercial Officer

DES P2G-Commercial4

Email: DESP2G-Comrc14@mod.uk

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

DES P2G-FutSptVFM

Email: DESP2G-FutSptVFM@mod.uk

3. Packaging Design Authority

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

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

DES-P2GSCMgr

Tel No: s.40

(b) U.I.N. TBA

5. Drawings/Specifications are available from

See Box 2

6. For contracts containing DEFCON 5, mauve Copies of MOD Form 640 are to be sent to

(where no address is shown the mauve copy should be destroyed)

7. Quality Assurance Representative:

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

AQAPS and DEF STANs are available from Stan 1, Kentigern House, 65 Brown St, Glasgow, G2 8EX. A self addressed label should be sent with each application. Website is: www.dstan.mod.uk

For Official Use Only Recoverable YES

☐ NO ☒

Issue of Government Property YES

☐ NO ☒

VAT Contractor - Country of Origin (delete those not applicable)

UK
X

Overseas (non-EC Country)

Overseas (EC Country)

If EC specify country:

2

Outside the scope

☐

Item Nos

Exempt

☐

Item Nos

Taxable Zero Rate

☐

Item Nos

Taxable - Standard Rate

☒

Item Nos

ALL

(where a contract is with an overseas contractor JSP 916 should be consulted)

8. Public Accounting Authority

1. Returns under DEFCON 694 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:
See Schedule of Requirement

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

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

Air Freight Centre

IMPORTS ☎ 030 679 81113 / 81114 Fax 0117 913 8943

EXPORTS ☎ 030 679 81113 / 81114 Fax 0117 913 8943

Surface Freight Centre

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

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

B. **JSCS**

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

JSCS Fax No. 01869 256837

www.freightcollection.com

11 The Invoice Paying Authority (see Note 1)

Ministry of Defence

☎ 0151-242-2000

DBS Finance

Walker House, Exchange Flags

Fax: 0151-242-2809

Liverpool, L2 3YL

Website is: www.mod.uk/DBSFinance

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: DESLSLS-OpsFormsandPubs@mod.uk

NOTES

1. **Forms.** Hard copies, including MOD Form 640 are available from address in Box 12. All other invoicing forms e.g. AG Forms 169 and 173, are available from the website address shown at Box 11.

2.* Many DEFCONs and DEFFORMs can also be obtained from the MOD Internet Website;

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

Finance Branch

DES P2G-FinCtrl

RAC/LPC/Project No

S900536000, S900545700

Requisition No

78493

Project Management/
Production branch
reference

P2G

Place of manufacture

Lincoln

Place of packaging

Lincoln

Contractor's Tel No

s.40

