



Ministry of Defence

Commodities Delivery Team (CDT)

Contract No: 709466451

For:

The Provision of Spares, Repair (Spares Inclusive), and Supplementary Tasking for Fire Suppression and Inflation Equipment

Between the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland	And
Team Name and address: Commodities Delivery Team (CDT) MOD Abbey Wood, NH1 Atrium, #1027 Bristol, BS34 8JH	Contractor Name and address: L'HOTELLIER S,A.S., a part of Collins Aerospace 4 RUE HENRI POINCARE 92167 ANTONY CEDEX FRANCE
E-mail Address: [REDACTED]	E-mail Address: [REDACTED]

Table of Contents

Contents

General Conditions..... 5

1. General 5

2. Duration of Contract 6

3. Entire Agreement..... 6

4. Governing Law 6

5. Precedence 7

6. Formal Amendments to the Contract..... 7

7. Authority Representatives 8

8. Severability 9

9. Waiver 9

10. Assignment of Contract..... 9

11. Third Party Rights 9

12. Transparency..... 9

13. Disclosure of Information 10

14. Publicity and Communications with the Media..... 12

15. Change of Control of Contractor..... 12

16. Environmental Requirements 13

17. Contractor’s Records 13

18. Notices 14

19. Progress Monitoring, Meetings and Reports 14

20. Supply of Contractor Deliverables and Quality Assurance 15

21. Marking of Contractor Deliverables 15

22. Packaging and Labelling (excluding Contractor Deliverables containing Munitions) 15

23. Plastic Packaging Tax 20

24. Supply of Data for Hazardous Materials or Substances, Mixtures and Articles in Contractor Deliverables 21

25. Timber and Wood-Derived Products 23

26. Certificate of Conformity 25

27. Access to Contractor's Premises	25
28. Delivery / Collection.....	26
29. Acceptance	26
30. Rejection and Counterfeit Materiel	27
31. Diversion Orders	28
32. Self-to-Self Delivery	28
33. Import and Export Licences	28
34. Third Party Intellectual Property – Rights and Restrictions	32
35. Contract Price	35
36. Payment and Recovery of Sums Due	36
37. Value Added Tax	36
38. Debt Factoring.....	37
39. Subcontracting and Prompt Payment	38
40. Dispute Resolution	38
41. Termination for Insolvency or Corrupt Gifts	39
42. Termination for Convenience.....	40
43. Material Breach.....	42
44. Consequences of Termination.....	42
45. Key Performance Indicators.....	42
46. Project specific DEFCONs and DEFCON SC variants that apply to this contract	42
47. Special conditions that apply to this Contract.....	59
47.1 Exercise of Options	59
47.2 Key Performance Indicators	59
47.3 Limitations on Liability	61
47.4 Pricing.....	65
47.5 Quality Assurance (refer to the Statement of Requirement at Annex A).....	66
47.6 Russian and Belarusian Exclusion Condition for Inclusion in Contracts	66
47.7 Additional Definitions of Contract iaw. Conditions 45 - 47 (Additional Conditions).....	66
47.8 Government Furnished Equipment.....	67
48. The processes that apply to this Contract are:.....	68
48.1 Authorisation and Performance of Work	68

Schedule 1 – Definitions of Contract	70
Schedule 2 - Schedule of Requirements	80
Schedule 3 - Contract Data Sheet	82
Annex A to Schedule 3 - DEFFORM 111	87
Schedule 4 – Contract Change Control Procedure (i.a.w. clause 6.d)	89
Schedule 5 - Contractor's Commercial Sensitive Information Form (i.a.w. condition 12)	93
Schedule 6 - Hazardous Substances, Mixtures and Articles in Contractor Deliverables Supplied	94
Schedule 7 - Timber and Wood- Derived Products Supplied under the Contract:	96
Schedule 8 – Acceptance Procedure (i.a.w. Condition 29) for Contract No: 709466451	97
Schedule 9 - Publishable Performance Information - Key Performance Indicator Data Report (i.a.w. Condition 12) for Contract No:[709466451]	98
Schedule 10 – Notification of Intellectual Property Rights (IPR) Restrictions for Contract No. 709466451	100
Schedule 11 – Performance	101
Schedule 12 – Warranty	102
For and on behalf of the Secretary of State for Defence	103

Standardised Contracting Terms

SC2 (Edn 09/23)

General Conditions**1. General**

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

- (7) Unless excluded within the Conditions of the Contract or required by law, references to submission of documents in writing shall include electronic submission.

2. Duration of Contract

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

3. Entire Agreement

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

4. Governing Law

- a. Subject to clause 4.d, the Contract shall be considered as a contract made in England and subject to English Law.
- b. Subject to clause 4.d and Condition 40 (Dispute Resolution) and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of England to resolve, and the laws of England to govern, any actions proceedings, controversy or claim of whatever nature arising out of or relating to the Contract or breach thereof.
- c. Subject to clause 4.d any dispute arising out of or in connection with the Contract shall be determined within the English jurisdiction and to the exclusion of all other jurisdictions save that other jurisdictions may apply solely for the purpose of giving effect to this Condition 4 and for the enforcement of any judgment, order or award given under English jurisdiction.
- d. If the Parties pursuant to the Contract agree that Scots Law should apply then the following amendments shall apply to the Contract:

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

- a. The Contract shall be considered as a contract made in Scotland and subject to Scots Law.
- b. Subject to Condition 40 (Dispute Resolution) and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of Scotland to resolve, and the laws of Scotland to govern, any actions, proceedings, controversy or claim of whatever nature arising out of or relating to the Contract or breach thereof.
- c. Any dispute arising out of or in connection with the Contract shall be determined within the Scottish jurisdiction and to the exclusion of all other jurisdictions save that other jurisdictions may apply solely for the purpose of giving effect to this Condition 4 and for the enforcement of any judgment, order or award given under Scottish jurisdiction.”

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

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

provisional awards pursuant to Rule 53 of the Scottish Arbitration Rules, as set out in Schedule 1 to the Arbitration (Scotland) Act 2010.

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

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

g. Where the Contractor's place of business is not in England or Wales (or Scotland where the Parties agree pursuant to the Contract that Scots Law should apply), the Contractor irrevocably appoints the solicitors or other persons in England and Wales (or Scotland where the Parties agree pursuant to the Contract that Scots Law should apply) detailed in Schedule 3 (Contract Data Sheet) as their agents to accept on their behalf service of all process and other documents of whatever description to be served on the Contractor in connection with any litigation or arbitration within the English jurisdiction (or Scottish jurisdiction where the Parties agree pursuant to the Contract that Scots Law should apply) arising out of or relating to the Contract or any issue connected therewith.¹

5. Precedence

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

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

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

6. Formal Amendments to the Contract

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

- (1) the Authority Notice of Change under Schedule 4 (Contract Change Control Procedure) (where used) and;

(2) the Contractor's unqualified acceptance of the contractual amendments as evidenced by the DEFFORM 10B duly signed by the Contractor.

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

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

(1) if the Contract is not a Qualifying Defence Contract, the Authority shall have the right to settle with the Contractor a price for such work under the terms of DEFCON 643 (SC2) or DEFCON 127. Where DEFCON 643 (SC2) is used, the Contractor shall make all appropriate arrangements with all its Subcontractors affected by the Change or Changes in accordance with clause 5 of DEFCON 643 (SC2); or

(2) if the Contract is a Qualifying Defence Contract, the Contract Price shall be redetermined on amendment in accordance with the Defence Reform Act 2014 and Single Source Contract Regulations 2014 (each as amended from time to time).

Changes to the Specification

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

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

7. Authority Representatives

a. Any reference to the Authority in respect of:

(1) the giving of consent;

(2) the delivering of any Notices; or

(3) the doing of any other thing that may reasonably be undertaken by an individual acting on behalf of the Authority, shall be deemed to be references to the Authority's Representatives in accordance with this Condition 7.

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

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

8. Severability

- a. If any provision of the Contract is held to be invalid, illegal or unenforceable to any extent then:
 - (1) such provision shall (to the extent that it is invalid, illegal or unenforceable) be given no effect and shall be deemed not to be included in the Contract but without invalidating any of the remaining provisions of the Contract; and
 - (2) the Parties shall use all reasonable endeavours to replace the invalid, illegal or unenforceable provision by a valid, legal and enforceable substitute provision the effect of which is as close as possible to the intended effect of the invalid, illegal or unenforceable provision.

9. Waiver

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

10. Assignment of Contract

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

11. Third Party Rights

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

12. Transparency

- a. Notwithstanding any other term of this Contract, including Condition 13 (Disclosure of Information), the Contractor understands that the Authority may publish the Transparency Information and Publishable Performance Information to the general public.
- b. Subject to clause 12.c the Authority shall publish and maintain an up-to-date version of the Transparency Information and Publishable Performance Information in a format readily accessible and reusable by the general public under an open licence where applicable.
- c. If, in the Authority's reasonable opinion, publication of any element of the Transparency Information and Publishable Performance Information would be contrary to the public interest, the Authority shall be entitled to exclude such Information from publication. The Authority acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information and Publishable Performance Information in its entirety. Accordingly, the Authority acknowledges that it shall only exclude Transparency Information and Publishable Performance Information from publication in exceptional circumstances and agrees that where it decides to exclude Information from publication on that basis, it will provide a clear statement to the general public explaining the categories of information that have been excluded from publication and reasons for withholding that information.
- d. The Contractor shall assist and co-operate with the Authority as reasonably required to enable the Authority to publish the Transparency Information and Publishable Performance Information, in accordance with the principles set out above, including through compliance with the requirements relating to the preparation of

Publishable Performance Information set out in clause 12.e to 12.i. Where the Authority publishes Transparency Information, it shall:

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

Publishable Performance Information

- e. Within three (3) months of the effective date of Contract the Contractor shall provide to the Authority for its approval (such approval shall not be unreasonably withheld or delayed) a draft Publishable Performance Information KPI Data Report consistent with the content requirements of Schedule 9.
- f. If the Authority rejects any draft Publishable Performance Information the Contractor shall submit a revised version of the relevant KPI Data Report for further approval by the Authority with five (5) business days of receipt of any notice or rejection, taking account of any recommendations for revision and improvement to the report provided by the Authority. This process shall be repeated until the parties have an agreed version of the Publishable Performance Information.
- g. The Contractor shall provide an accurate and up-to-date version of the KPI Data Report to the Authority for each quarter at the frequency referred to in the agreed Schedule 9.
- h. Any dispute in connection with the preparation and/or approval of Publishable Performance Information, other than under clause 12.f, shall be resolved in accordance with the dispute resolution procedure provided for in this Contract.
- i. The requirements of this Condition are in addition to any other reporting requirements in this Contract.

13. Disclosure of Information

- a. Subject to clauses 13.d to 13.i and Condition 12 each Party:
 - (1) shall treat in confidence all Information it receives from the other;
 - (2) shall not disclose any of that Information to any third party without the prior written consent of the other Party, which consent shall not unreasonably be withheld, except that the Contractor may disclose Information in confidence, without prior consent, to such persons and to such extent as may be necessary for the performance of the Contract;
 - (3) shall not use any of that Information otherwise than for the purpose of the Contract; and
 - (4) shall not copy any of that Information except to the extent necessary for the purpose of exercising its rights of use and disclosure under the Contract.

- b. The Contractor shall take all reasonable precautions necessary to ensure that all Information disclosed to the Contractor by or on behalf of the Authority under or in connection with the Contract:
- (1) is disclosed to their employees and Subcontractors, only to the extent necessary for the performance of the Contract; and
 - (2) is treated in confidence by them and not disclosed except with the prior written consent of the Authority or used otherwise than for the purpose of performing work or having work performed for the Authority under the Contract or any subcontract.
- c. The Contractor shall ensure that their employees are aware of the Contractor's arrangements for discharging the obligations at clauses 13.a and 13.b before receiving Information and shall take such steps as may be reasonably practical to enforce such arrangements.
- d. A Party shall not be in breach of Clauses 13.a, 13.b, 13.f, 13.g and 13.h to the extent that either Party:
- (1) exercises rights of use or disclosure granted otherwise than in consequence of, or under, the Contract;
 - (2) has the right to use or disclose the Information in accordance with other Conditions of the Contract; or
 - (3) can show:
 - (a) that the Information was or has become published or publicly available for use otherwise than in breach of any provision of the Contract or any other agreement between the Parties;
 - (b) that the Information was already known to it (without restrictions on disclosure or use) prior to receiving the Information under or in connection with the Contract;
 - (c) that the Information was received without restriction on further disclosure from a third party which lawfully acquired the Information without any restriction on disclosure; or
 - (d) from its records that the same Information was derived independently of that received under or in connection with the Contract; provided that the relationship to any other Information is not revealed.
- e. Neither Party shall be in breach of this Condition where it can show that any disclosure of Information was made solely and to the extent necessary to comply with a statutory, judicial or parliamentary obligation. Where such a disclosure is made, the Party making the disclosure shall ensure that the recipient of the Information is made aware of and asked to respect its confidentiality. Such disclosure shall in no way diminish the obligations of the Parties under this Condition.
- f. The Authority may disclose the Information:
- (1) to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body, which shall include: disclosure to the Cabinet Office and/or HM Treasury for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes. Where such a disclosure is made the Authority shall ensure that the recipient is made aware of its confidentiality;
 - (2) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
 - (3) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
 - (4) subject to clause 13.g below, on a confidential basis to a professional adviser, consultant or other person engaged by any of the entities defined in Schedule 1 (including benchmarking organisations) for any purpose relating to or connected with the Contract;

- (5) subject to clause 13.g below, on a confidential basis for the purpose of the exercise of its rights under the Contract; or
- (6) on a confidential basis to a proposed body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under the Contract;

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

- g. Where the Authority intends to disclose Information to a commercial entity which is not a Central Government Body in accordance with clauses 13.f.(4) or 13.f.(5) above, the Authority will endeavour to provide the Contractor with 3 Business Days' notice in advance of such disclosure. In relation to a disclosure of Information made under clause 13.f.(3) above, if reasonably requested by the Contractor within 2 Business Days of such notice being given, where the Authority has not already done so, it will endeavour to procure from the intended recipient of the Information an agreement containing confidentiality terms the same as, or substantially similar to, those placed on the Authority under this Condition.
- h. Before sharing any Information in accordance with clause 13.f, the Authority may redact the Information. Any decision to redact Information made by the Authority shall be final.
- i. The Authority shall not be in breach of the Contract where disclosure of Information is made solely and to the extent necessary to comply with the Freedom of Information Act 2000 (the "Act") or the Environmental Information Regulations 2004 (the "Regulations"). To the extent permitted by the time for compliance under the Act or the Regulations, the Authority shall consult the Contractor where the Authority is considering the disclosure of Information under the Act or the Regulations and, in any event, shall provide prior notification to the Contractor of any decision to disclose the Information. The Contractor acknowledges and accepts that their representations on disclosure during consultation may not be determinative and that the decision whether to disclose Information in order to comply with the Act or the Regulations is a matter in which the Authority shall exercise its own discretion, subject always to the provisions of the Act or the Regulations.
- j. Nothing in this Condition shall affect the Parties' obligations of confidentiality where Information is disclosed orally in confidence.

14. Publicity and Communications with the Media

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

15. Change of Control of Contractor

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

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

Mergers & Acquisitions Section

Strategic Supplier Management Team
Spruce 3b # 1301
MOD Abbey Wood,
Bristol, BS34 8JH
and emailed to: DefComrcISSM-MergersandAcq@mod.gov.uk

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

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

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

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

16. Environmental Requirements

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

17. Contractor's Records

a. The Contractor and their Subcontractors shall maintain all records specified in and connected with the Contract (expressly or otherwise) and make them available to the Authority when requested on reasonable notice.

b. The Contractor and their Subcontractors shall also permit access to relevant records that relate to the contractual obligations to supply goods or services under the Contract, held by or controlled by them and reasonably required by the Comptroller and Auditor General, their staff and any appointed representative of the National Audit Office, and provide such explanations and information as reasonably necessary for the following purposes:

- (1) to enable the National Audit Office to carry out the Authority's statutory audits and to examine and/or certify the Authority's annual and interim report and accounts; and
- (2) to enable the National Audit Office to carry out an examination pursuant to Part II of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources.

c. With regard to the records made available to the Authority under clause 17.a of this Condition, and subject to the provisions of Condition 13 (Disclosure of Information), the Contractor shall permit records to be examined and if necessary copied, by the Authority, or Representative of the Authority, as the Authority may require.

d. Unless the Contract specifies otherwise the records referred to in this Condition shall be retained for a period of at least 6 years from:

- (1) the end of the Contract term;
- (2) the termination of the Contract; or
- (3) the final payment, whichever occurs latest.

18. Notices

a. A Notice served under the Contract shall be:

- (1) in writing in the English language;
- (2) authenticated by signature or such other method as may be agreed between the Parties;
- (3) sent for the attention of the other Party's Representative, and to the address set out in Schedule 3 (Contract Data Sheet);
- (4) marked with the number of the Contract; and
- (5) delivered by hand, prepaid post (or airmail), facsimile transmission or, if agreed in Schedule 3 (Contract Data Sheet), by electronic mail.

b. Notices shall be deemed to have been received:

- (1) if delivered by hand, on the day of delivery if it is the recipient's Business Day and otherwise on the first Business Day of the recipient immediately following the day of delivery;
- (2) if sent by prepaid post, on the fourth Business Day (or the tenth Business Day in the case of airmail) after the day of posting;
- (3) if sent by facsimile or electronic means:
 - (a) if transmitted between 09:00 and 17:00 hours on a Business Day (recipient's time) on completion of receipt by the sender of verification of the transmission from the receiving instrument; or
 - (b) if transmitted at any other time, at 09:00 on the first Business Day (recipient's time) following the completion of receipt by the sender of verification of transmission from the receiving instrument.

19. Progress Monitoring, Meetings and Reports

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

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

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

Supply of Contractor Deliverables

20. Supply of Contractor Deliverables and Quality Assurance

- a. The Contractor shall provide the Contractor Deliverables to the Authority, in accordance with the Schedule of Requirements and the Specification, and shall allocate sufficient resource to the provision of the Contractor Deliverables to enable it to comply with this obligation.
- b. The Contractor shall:
 - (1) comply with any applicable quality assurance requirements specified in Schedule 3 (Contract Data Sheet) in providing the Contractor Deliverables; and
 - (2) discharge their obligations under the Contract with all due skill, care, diligence and operating practice by appropriately experienced, qualified and trained personnel.
- c. The provisions of clause 20.b. shall survive any performance, acceptance or payment pursuant to the Contract and shall extend to any remedial services provided by the Contractor.
- d. The Contractor shall:
 - (1) observe, and ensure that the Contractor's Team observe, all health and safety rules and regulations and any other security requirements that apply at any of the Authority's premises;
 - (2) notify the Authority as soon as they become aware of any health and safety hazards or issues which arise in relation to the Contractor Deliverables; and
 - (3) before the date on which the Contractor Deliverables are to start, obtain, and at all times maintain, all necessary licences and consents in relation to the Contractor Deliverables.

21. Marking of Contractor Deliverables

- a. Each Contractor Deliverable shall be marked in accordance with the requirements specified in Schedule 3 (Contract Data Sheet), if no such requirement is specified, the Contractor shall mark each Contractor Deliverable clearly and indelibly in accordance with the requirements of the relevant DEF-STAN 05-132 as specified in the contract or specification. In the absence of such requirements, the Contractor Deliverables shall be marked with the MOD stock reference, NATO Stock Number (NSN) or alternative reference number specified in Schedule 2 (Schedule of Requirements).
- b. Any marking method used shall not have a detrimental effect on the strength, serviceability or corrosion resistance of the Contractor Deliverables.
- c. The marking shall include any serial numbers allocated to the Contractor Deliverable.
- d. Where because of its size or nature it is not possible to mark a Contractor Deliverable with the required particulars, the required information should be included on the package or carton in which the Contractor Deliverable is packed, in accordance with Condition 22 (Packaging and Labelling (excluding Contractor Deliverables containing Munitions)).

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

- a. Packaging responsibilities are as follows:
 - (1) The Contractor shall be responsible for providing Packaging which fully complies with the requirements of the Contract.

- (2) The Authority shall indicate in the Contract the standard or level of Packaging required for each Contractor Deliverable, including the PPQ. If a standard or level of Packaging (including the PPQ) is not indicated in the Contract, the Contractor shall request such instructions from the Authority before proceeding further.
 - (3) The Contractor shall ensure all relevant information necessary for the effective performance of the Contract is made available to all Subcontractors.
 - (4) Where the Contractor or any of their Subcontractors have concerns relating to the appropriateness of the Packaging design and or MPL prior to manufacture or supply of the Contractor Deliverables they shall use DEFFORM 129B to feedback these concerns to the Contractor or Authority, as appropriate.
- b. The Contractor shall supply Commercial Packaging meeting the standards and requirements of Def Stan 81-041 (Part 1). In addition, the following requirements apply:
- (1) The Contractor shall provide Packaging which:
 - (a) will ensure that each Contractor Deliverable may be transported and delivered to the consignee named in the Contract in an undamaged and serviceable condition; and
 - (b) is labelled to enable the contents to be identified without need to breach the package; and (c) is compliant with statutory requirements and this Condition.
 - (2) The Packaging used by the Contractor to supply identical or similar Contractor Deliverables to commercial customers or to the general public (i.e. point of sale packaging) will be acceptable, provided that it complies with the following criteria:
 - (a) reference in the Contract to a PPQ means the quantity of a Contractor Deliverable to be contained in an individual package, which has been selected as being the most suitable for issue(s) to the ultimate user;
 - (b) Robust Contractor Deliverables, which by their nature require minimal or no packaging for commercial deliveries, shall be regarded as "PPQ packages" and shall be marked in accordance with clauses 22.i to 22.l. References to "PPQ packages" in subsequent text shall be taken to include Robust Contractor Deliverables; and
 - (c) for ease of handling, transportation and delivery, packages which contain identical Contractor Deliverables may be bulked and overpacked, in accordance with clauses 22.i to 22.k.
- c. The Contractor shall ascertain whether the Contractor Deliverables being supplied are, or contain, Dangerous Goods, and shall supply the Dangerous Goods in accordance with:
- (1) The Health and Safety At Work Act 1974 (as amended);
 - (2) The Classification Hazard Information and Packaging for Supply Regulations (CHIP4) 2009 (as amended);
 - (3) The REACH Regulations 2007 (as amended); and
 - (4) The Classification, Labelling and Packaging Regulations (CLP) 2009 (as amended).
- d. The Contractor shall package the Dangerous Goods as limited quantities, excepted quantities or similar derogations, for UK or worldwide shipment by all modes of transport in accordance with the regulations relating to the Dangerous Goods and:
- (1) The Safety Of Lives At Sea Regulations (SOLAS) 1974 (as amended); and
 - (2) The Air Navigation (Amendment) Order 2019.

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

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

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

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

DES LSOC SpSvcs--SptEng-Pkg1
MOD Abbey Wood
Bristol, BS34 8JH
Tel. +44(0)30679-35353
DELSOC-SpSvcs-SptEng-Pkg1@mod.gov.uk

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

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

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

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

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

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

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

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

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

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

(a) On receipt of instructions received from the Authority's representative nominated in Box 2 Annex

A to Schedule 3 (Contract Data Sheet), prepare the required package design in accordance with clause 22.f.

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

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

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

- (2) Where the Contractor or their Subcontractor is not the PDA and is un-registered, they shall not produce, modify, or update SPIS designs. They shall obtain current SPIS design(s) from the Authority or a registered organisation before proceeding with manufacture of Packaging. To allow designs to be provided in ample time, they should apply for SPIS designs as soon as practicable.
- (3) Where the Contractor or their Subcontractor is un-registered and has been given authority to produce, modify, and update SPIS designs by the Contract, they shall obtain approval for their design from a registered organisation using DEFFORM 129a before proceeding, then follow clause 22.g.(1)(b).
- (4) Where the Contractor or their Subcontractor is not a PDA but is registered, they shall follow clauses 22.g.(1)(a) and 22.g.(1)(b).

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

i. In addition to any marking required by international or national legislation or regulations, the following package labelling and marking requirements apply:

(1) If the Contract specifies UK or NATO MPL, labelling and marking of the packages shall be in accordance with Def Stan 81-041 (Part 6) and this Condition as follows:

- (a) Labels giving the mass of the package, in kilograms, shall be placed such that they may be clearly seen when the items are stacked during storage.
- (b) Each consignment package shall be marked with details as follows:
 - i. name and address of consignor; ii. name and address of consignee (as stated in the Contract or order); iii. destination where it differs from the consignee's address, normally either:
 - (i). delivery destination / address; or
 - (ii). transit destination, where delivery address is a point for aggregation / disaggregation and / or onward shipment elsewhere, e.g. railway station, where that mode of transport is used;
 - iv. the unique order identifiers and the CP&F Delivery Label / Form which shall be prepared in accordance with DEFFORM 129J.
 - (i). If aggregated packages are used, their consignment marking and identification requirements are stated at clause 22.l.

(2) If the Contract specifies Commercial Packaging, an external surface of each PPQ package and each consignment package, if it contains identical PPQ packages, shall be marked, using details of the Contractor Deliverables as shown in the Contract schedule, to state the following:

- (a) description of the Contractor Deliverable;
- (b) the full thirteen digit NATO Stock Number (NSN);

- (c) the PPQ;
 - (d) maker's part / catalogue, serial and / or batch number, as appropriate;
 - (e) the Contract and order number when applicable;
 - (f) the words "Trade Package" in bold lettering, marked in BLUE in respect of trade packages, and BLACK in respect of export trade packages;
 - (g) shelf life of item where applicable;
 - (h) for rubber items or items containing rubber, the quarter and year of vulcanisation or manufacture of the rubber product or component (marked in accordance with Def Stan 81-041);
 - (i) any statutory hazard markings and any handling markings, including the mass of any package which exceeds 3kg gross; and
 - (j) any additional markings specified in the Contract.
- j. Bar code marking shall be applied to the external surface of each consignment package and to each PPQ package contained therein. The default symbology shall be as specified in Def Stan 81-041 (Part 6). As a minimum the following information shall be marked on packages:
- (1) the full 13-digit NSN;
 - (2) denomination of quantity (D of Q);
 - (3) actual quantity (quantity in package);
 - (4) manufacturer's serial number and / or batch number, if one has been allocated; and
 - (5) the CP&F-generated unique order identifier.
- k. Requirements for positioning bar codes in relation to related text, as well as positioning on package etc., are defined in Def Stan 81-041 (Part 6). If size of the bar code does not allow a label to be directly attached, then a tag may be used. Any difficulties over size or positioning of barcode markings shall initially be referred to the organisation nominated in Box 3 of Annex A to Schedule 3 (Contract Data Sheet).
- l. The requirements for the consignment of aggregated packages are as follows:
- (1) With the exception of packages containing Dangerous Goods, over-packing for delivery to the consignee shown in the Contract may be used by the consignor to aggregate a number of packages to different Packaging levels, provided that the package contains Contractor Deliverables of only one NSN or class group. Overpacking shall be in the cheapest commercial form consistent with ease of handling and protection of over-packed items.
 - (2) Two adjacent sides of the outer container shall be clearly marked to show the following:
 - (a) class group number;
 - (b) name and address of consignor;
 - (c) name and address of consignee (as stated on the Contract or order); (d) destination if it differs from the consignee's address, normally either:
 - i. delivery destination / address; or
 - ii. transit destination, if the delivery address is a point of aggregation / disaggregation and / or onward shipment e.g. railway station, where that mode of transport is used;
 - (e) where applicable, the reference number of the delivery note produced by CP&F relating to the contents. The consignee's copy of each delivery note shall be placed in the case / container. If the Contractor Deliverables listed in the delivery note are packed in several cases, the consignee's copy shall be placed in the first case and a separate list detailing the contents shall be prepared for each case after

the first and placed in the case to which it relates. Each case is to be numbered to indicate both the number of the case and the total number of cases concerned e.g. 1/3, 2/3, 3/3;

- (f) the CP&F-generated shipping label; and
- (g) any statutory hazard markings and any handling markings.

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

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

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

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

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

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

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

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

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

23. Plastic Packaging Tax

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

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

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

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

- a. Nothing in this Condition shall reduce or limit any statutory duty or legal obligation of the Authority or the Contractor.
- b. The Contractor shall provide to the Authority:
 - (1) for each Substance, Mixture or Article supplied in meeting the criteria of classification as hazardous in accordance with the GB Classification, Labelling and Packaging (GB CLP) a UK REACH compliant Safety Data Sheet (SDS);
 - (2) where Mixtures supplied do not meet the criteria for classification as hazardous according to GB CLP but contain a hazardous Substance an SDS is to be made available on request; and

- (3) for each Article whether supplied on its own or part of an assembly that contains a Substance on the UK REACH Authorisation List, Restriction List and/or the Candidate List of Substances of Very High Concern (SVHC) in a proportion greater than 0.1% w/w of the Article, sufficient information, available to the Contractor, to allow safe use of the Article including, as a minimum, the name of that Substance.
- c. For Substances, Mixtures or Articles that meet the criteria list in clause 24.b above:
- (1) if the Contractor becomes aware of new information which may affect the risk management measures or new information on the hazard, the Contractor shall update the SDS/safety information and forward it to the Authority and to the address listed in clause 24.i below; and
 - (2) if the Authority becomes aware of new information that might call into question the appropriateness of the risk management measures identified in the safety information supplied, shall report this information in writing to the Contractor.
- d. The Contractor shall provide to the Authority a completed Schedule 6 (Hazardous Substances, Mixtures and Articles in Contractor Deliverables Supplied under the Contract: Data Requirements) in accordance with Schedule 3 (Contract Data Sheet).
- e. If the Substances, Mixtures or Articles in Contractor Deliverables are Ordnance, Munitions or Explosives (OME), in addition to the requirements of the GB CLP and UK REACH the Contractor shall comply with hazard reporting requirements of DEF STAN 07-085 Design Requirements for Weapons and Associated Systems.
- f. If the Substances, Mixtures or Articles in Contractor Deliverables, are or contain or embody a radioactive substance as defined in the Ionising Radiation Regulations SI 2017/1075, the Contractor shall additionally provide details in Schedule 6 of: (1) activity; and
- (2) the substance and form (including any isotope).
- g. If the Substances, Mixtures or Articles in Contractor Deliverables have magnetic properties which emit a magnetic field, the Contractor shall additionally provide details in Schedule 6 of the magnetic flux density at a defined distance, for the condition in which it is packed.
- h. Any SDS to be provided in accordance with this Condition, including any related information to be supplied in compliance with the Contractor's statutory duties under clause 24.b.(1) and 24.c.(1), any information arising from the provisions of clauses 24.f and 24.g and the completed Schedule 6, shall be sent directly to the Authority's Point of Contact as specified in the Schedule 3 as soon as practicable, and no later than one (1) month prior to the Contract delivery date, unless otherwise stated in Schedule 3 (Contract Data Sheet).
- i. So that the safety information can reach users without delay, the Authority shall send a copy preferably as an email with attachment(s) in Adobe PDF or MS WORD format, or, if only hardcopy is available, to the addresses below:
- (1) Hard copies to be sent to:
Hazardous Stores Information System (HSIS)
Spruce 2C, #1260,
MOD Abbey Wood (South)
Bristol BS34 8JH

(2) Emails to be sent to:

DESEngSfty-QSEPSEP-HSISMulti@mod.gov.uk

- j. SDS which are classified above OFFICIAL including Explosive Hazard Data Sheets (EHDS) for OME are not to be sent to HSIS and must be held by the respective Authority Delivery Team.
- k. Failure by the Contractor to comply with the requirements of this Condition shall be grounds for rejecting the affected Substances, Mixtures and Articles in Contractor Deliverables. Any withholding of information concerning hazardous Substances, Mixtures or Articles in Contractor Deliverables shall be regarded as a material breach of Contract under Condition 43 (Material Breach) for which the Authority reserves the right to require the Contractor to rectify the breach immediately at no additional cost to the Authority or to terminate the Contract in accordance with Condition 43.
- l. Where delivery is made to the Defence Fulfilment Centre (DFC) and / or other Team Leidos location / building, the Contractor must comply with the Logistic Commodities and Services Transformation (LCST) Supplier Manual.

25. Timber and Wood-Derived Products

- a. All Timber and Wood-Derived Products supplied by the Contractor under the Contract:
 - (1) shall comply with the Contract Specification; and
 - (2) must originate either:
 - (a) from a Legal and Sustainable source; or
 - (b) from a FLEGT-licensed or equivalent source.
- b. In addition to the requirements of clause 25.a, all Timber and Wood-Derived Products supplied by the Contractor under the Contract shall originate from a forest source where management of the forest has full regard for:
 - (1) identification, documentation and respect of legal, customary and traditional tenure and use rights related to the forest;
 - (2) mechanisms for resolving grievances and disputes including those relating to tenure and use rights, to forest management practices and to work conditions; and
 - (3) safeguarding the basic labour rights and health and safety of forest workers.
- c. If requested by the Authority, the Contractor shall provide to the Authority Evidence that the Timber and Wood-Derived Products supplied to the Authority under the Contract comply with the requirements of clause 25.a or 25.b or both.
- d. The Authority reserves the right at any time during the execution of the Contract and for a period of five (5) years from final Delivery under the Contract to require the Contractor to produce the Evidence required for the Authority's inspection within fourteen (14) days of the Authority's request.
- e. If the Contractor has already provided the Authority with the Evidence required under clause 25.c, the Contractor may satisfy these requirements by giving details of the previous notification and confirming the Evidence remains valid and satisfies the provisions of clauses 25.a or 25.b or both.

- f. The Contractor shall maintain records of all Timber and Wood-Derived Products delivered to and accepted by the Authority, in accordance with Condition 17 (Contractor's Records).
- g. Notwithstanding clause 25.c, if exceptional circumstances render it strictly impractical for the Contractor to record Evidence of proof of timber origin for previously used Recycled Timber, the Contractor shall support the use of this Recycled Timber with:
 - (1) a record tracing the Recycled Timber to its previous end use as a standalone object or as part of a structure; and
 - (2) an explanation of the circumstances that rendered it impractical to record Evidence of proof of timber origin.
- h. The Authority reserves the right to decide, except where in the Authority's opinion the timber supplied is incidental to the requirement and from a low risk source, whether the Evidence submitted to it demonstrates compliance with clause 24.a or 24.b, or both. In the event that the Authority is not satisfied, the Contractor shall commission and meet the costs of an Independent Verification and resulting report that will:
 - (1) verify the forest source of the timber or wood; and
 - (2) assess whether the source meets the relevant criteria of clause 25.b.
- i. The statistical reporting requirement at clause 25.j applies to all Timber and Wood-Derived Products delivered under the Contract. The Authority reserves the right to amend the requirement for statistical reporting, in the event that the UK Government changes the requirement for reporting compliance with the Government Timber Procurement Policy. Amendments to the statistical reporting requirement will be made in accordance with Condition 6 (Formal Amendments to the Contract).
- j. The Contractor shall provide to the Authority, a completed Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements), the data or Information the Authority requires in respect of Timber and Wood-Derived Products delivered to the Authority under the Contract, or in respect of each order in the case of a Framework Agreement, or at such other frequency as stated in the Contract. The Contractor shall send all completed Schedule 7s (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements), including nil returns where appropriate, to the Authority's Representative (Commercial).
- k. The Schedule 7 (Timber and Wood-Derived Products Supplied under the Contract: Data Requirements) may be amended by the Authority from time to time, in accordance with Condition 6 (Formal Amendments to the Contract).
- l. The Contractor shall obtain any wood, other than processed wood, used in Packaging from:
 - (1) companies that have a full registered status under the Forestry Commission and Timber Packaging and Pallet Confederation's UK Wood Packaging Material Marking Programme (more detailed information can be accessed at www.forestry.gov.uk) and all such wood shall be treated for the elimination of raw wood pests and marked in accordance with that Programme; or
 - (2) sources supplying wood treated and marked so as to conform to Annex I and Annex II of the International Standard for Phytosanitary Measures, "Guidelines for Regulating Wood Packaging Material in International Trade", Publication No 15 published by the Food and Agricultural Organisation of the United Nations (ISPM15) (more detailed information can be accessed at www.fao.org).

26. Certificate of Conformity

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

Exceptions or additions to the above are to be documented.

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

27. Access to Contractor's Premises

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

28. Delivery / Collection

- a. Schedule 3 (Contract Data Sheet) shall specify whether the Contractor Deliverables are to be Delivered to the Consignee by the Contractor or Collected from the Consignor by the Authority.

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

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

- d. Title and risk in the Contractor Deliverables shall only pass from the Contractor to the Authority:
 - (1) on the Delivery of the Contractor Deliverables by the Contractor to the Consignee in accordance with clause 28.b; or
 - (2) on the Collection of the Contractor Deliverables from the Consignor by the Authority once they have been made available for Collection by the Contractor in accordance with clause 28.c.

29. Acceptance

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

30. Rejection and Counterfeit Materiel**Rejection:**

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

Counterfeit Materiel:

- c. For purposes of this clause, Goods consists of those parts delivered under this Contract that are the lowest level of separately identifiable items (e.g., articles, components, goods, and assemblies). "Counterfeit Goods" means Goods that are or contain items misrepresented as having been designed and/or produced under an appropriate approved system or other acceptable method. The term also includes approved Goods that have reached a design life limit or have been damaged beyond possible repair, but is altered and misrepresented as acceptable.
- d. Seller agrees and shall ensure that Counterfeit Goods are not delivered to Buyer. Seller should actively work to avoid any stock contamination through counterfeit goods.
- e. Seller will implement an appropriate strategy to ensure that items furnished to Buyer under this Contract do not contain Counterfeit Goods. Seller's strategy will include, the direct procurement of items from OEMs or their authorized suppliers, conducting approved testing or inspection to ensure the authenticity of items, and, when items are to be procured from non-authorized suppliers, obtaining from such non-authorized suppliers appropriate certificates of conformance that provide one or more of the following: (i) the OEM's original certificate of conformance for the item; (ii) sufficient records providing unbroken supply chain traceability to the OEM; or (iii) test and inspection records demonstrating the item's authenticity where appropriate prior to obtaining Authority permission to procure from that source.
- f. Seller shall promptly notify Buyer with the pertinent facts if Seller becomes aware or suspects that it has furnished Counterfeit Goods. They will quarantine stock and instigate an immediate investigation as to origins in order to prevent further distribution or usage. When requested by Buyer, Seller shall provide documentation that authenticates traceability of the affected items. Seller is only required to collect and provide to Buyer documentation that is normally delivered with and/or requested by Seller's Purchase Order requirements to be provided in support of the sub-tier
- g. In the event that Goods delivered under this Contract constitute or include Counterfeit Goods, Seller shall, at its expense, promptly replace such Counterfeit Goods with genuine Goods conforming to the requirements of this Contract. Notwithstanding any other provision in this Contract, Seller shall be liable for all of its costs relating to the repair and replacement of Counterfeit Goods.
- h. Seller bears responsibility for procuring authentic parts or items from its subcontractors and will flow down terms that all such subcontractors comply with the requirements of this clause. Seller will utilize existing Seller procurement and quality flowdown to prevent the inadvertent use of Counterfeit Goods.
- i. Subject to the Limitation of Liability Clause, clause 47.3.

31. Diversion Orders

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

32. Self-to-Self Delivery

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

Licences and Intellectual Property

33. Import and Export Licences

- a. If, in the performance of the Contract, the Contractor needs to import into the UK or export out of the UK anything not supplied by or on behalf of the Authority and for which a UK import or export licence is required, the responsibility for applying for the licence shall rest with the Contractor. The Authority shall provide the Contractor with sufficient information, certification, documentation and other reasonable assistance in obtaining any necessary UK import or export licence.
- b. When an export licence or import licence or authorisation either singularly or in combination is required from a foreign government for the performance of the Contract, the Contractor shall as soon as reasonably practicable consult with the Authority on the licence requirements. Where the Contractor is the applicant for the licence or authorisation the Contractor shall:
 - (1) ensure that when end use or end user restrictions, or both, apply to all or part of any Contractor Deliverable (which for the purposes of this Condition shall also include information, technical data and software), the Contractor, unless otherwise agreed with the Authority, shall identify in the application:
 - (a) the end user as: His Britannic Majesty's Government of the United Kingdom of Great Britain and

Northern Ireland (hereinafter "HM Government"); and

- (b) the end use as: For the Purposes of HM Government; and
- (2) include in the submission for the licence or authorisation a statement that "information on the status of processing this application may be shared with the Ministry of Defence of the United Kingdom".
- c. If the Contractor or any Subcontractor in the performance of the Contract needs to export materiel not previously supplied by or on behalf of the Authority for which an export licence or import licence or authorisation from a foreign government is required, the responsibility for instituting expeditious action to apply for and obtain the licence shall rest with the Contractor or that Subcontractor. For the purposes of this Condition materiel shall mean information, technical data and items, including Contractor Deliverables, components of Contractor Deliverables and software.
- d. Where the Contract performance requires the export of materiel for which a foreign export licence or import licence or authorisation is required, the Contractor shall include the dependencies for the export licence or import licence or authorisation application, grant and maintenance in the Contract risk register and in the risk management plan for the Contract, with appropriate review points. Where there is no requirement under the Contract for a risk management plan the Contractor shall submit this information to the Authority's representative.
- e. During the term of the Contract and for a period of up to 2 years from completion of the Contract, the Authority may make a written request to the Contractor to seek a variation to the conditions to a foreign export licence or import licence or authorisation to enable the Authority to re-export or re-transfer a licensed or authorised item or licensed or authorised information from the UK to a non-licensed or unauthorised third party. If the Authority makes such a request it will consult with the Contractor before making a determination of whether the Authority or the Contractor is best placed in all the circumstance to make the request. Where, subsequent to such consultation the Authority notifies the Contractor that the Contractor is best placed to make such request:
- (1) the Contractor shall, or procure that the Contractor's Subcontractor shall, expeditiously consider whether or not there is any reason why it should object to making the request and, where it has no objection, file an application to seek a variation of the applicable export licence or import licence or authorisation in accordance with the procedures of the licensing authority. Where the Contractor has an objection, the Parties shall meet within five (5) working days to resolve the issue and should they fail the matter shall be escalated to an appropriate level within both Parties' organisations, to include their respective export licensing subject matter experts; and
 - (2) the Authority shall provide sufficient information, certification, documentation and other reasonable assistance as may be necessary to support the application for the requested variation.
- f. Where the Authority determines that it is best placed to make such request the Contractor shall provide sufficient information, certification, documentation and other reasonable assistance as may be necessary to support the Authority to make the application for the requested variation.
- g. Where the Authority invokes clause 33.e or 33.f the Authority will pay the Contractor a fair and reasonable charge for this service based on the cost of providing it.
- h. Where the Contractor subcontracts work under the Contract, which is likely to be subject to foreign export control, import control or both the Contractor shall use reasonable endeavours to incorporate in each subcontract equivalent obligations to those set out in this Condition. Where it is not possible to include equivalent terms to those set out in this Condition, the Contractor shall report that fact and the circumstances to the Authority.

- i. Without prejudice to HM Government's position on the validity of any claim by a foreign government to extra-territoriality, the Authority shall provide the Contractor with sufficient information, certification, documentation and other reasonable assistance to facilitate the granting of export licences or import licences or authorisations by a foreign Government in respect of the performance of the Contract.
- j. The Authority shall provide such assistance as the Contractor may reasonably require in obtaining any UK export licences necessary for the performance of the Contract.
- k. The Contractor shall use reasonable endeavours to identify whether any Contractor Deliverable is subject to:
 - (1) a non-UK export licence, authorisation or exemption; or
 - (2) any other related transfer or export control, that imposes or will impose end use, end user or re-transfer or re-export restrictions, or restrictions on disclosure to individuals based upon their nationality. This does not include the Intellectual Property-specific restrictions of the type referred to in Condition 34 (Third Party Intellectual Property – Rights and Restrictions).
- l. If at any time during the term of the Contract the Contractor becomes aware that all or any part of the Contractor Deliverables are subject to clause 33.k.(1) or 33.k.(2), they shall notify the Authority of this as soon as reasonably practicable by providing details in the DEFFORM 528 or other mutually agreed alternative format. Such notification shall be no later than thirty (30) days of knowledge of any affected Contractor Deliverable and in any event such notification shall be not less than thirty (30) days prior to delivery of the Contractor Deliverables.
- m. If the information to be provided under clause 33.l has been provided previously to the Authority by the Contractor under the Contract, the Contractor may satisfy these requirements by giving details of the previous notification and confirming they remain valid and satisfy the provisions of clause 33.l.
- n. During the term of the Contract, the Contractor shall notify the Authority as soon as reasonably practicable of any changes in the information notified previously under clauses 33.l or 33.m of which they become or are aware that would affect the Authority's ability to use, disclose, re-transfer or re-export an item or part of it as is referred to in those clauses by issuing an updated DEFFORM 528 to the Authority.
- o. For a period of up to 2 years from completion of the Contract and in response to a specific request by the Authority, the Contractor shall notify the Authority as soon as reasonably practicable of any changes in the information notified previously under clause 33.l or 33.m of which they become aware that would affect the Authority's ability to use, disclose, re-transfer or re-export an item or part of it as is referred to in those clauses by issuing an updated DEFFORM 528 to the Authority.
- p. Where following receipt of materiel from a Subcontractor or any of their other suppliers restrictions are notified to the Contractor by that Subcontractor, supplier or other third party or are identified by the Contractor, the Contractor shall immediately inform the Authority by issuing an updated DEFFORM 528. Within 30 days of such notification, the Contractor shall propose to the Authority actions to mitigate the impact of such restrictions. Such proposals may include, where appropriate, mutually supported attempts to obtain removal or modification to the restrictions or to obtain appropriate authorisations from the relevant foreign government. The Authority shall notify the contractor within 30 days of receipt of a proposal whether it is acceptable and where appropriate the Contract shall be modified in accordance with its terms to implement the proposal.

- q. If the restrictions prevent the Contractor from performing their obligations under the Contract and have not been removed, modified or otherwise satisfactorily managed within a reasonable time, the Authority may at its absolute discretion elect to amend the contract in accordance with Condition 6 or as otherwise may be provided by the Contract, or to terminate the Contract. Except as set out in clause 33.r, in the event of termination in these circumstances termination shall be on fair and reasonable terms having regard to all the circumstances including payments already made and that would otherwise be due under the Contract, costs incurred by the Contractor and benefits received by the Authority. The Parties, acting in good faith, will use all reasonable endeavours to agree such fair and reasonable terms failing which either Party may refer the matter to dispute resolution in accordance with the provisions in the Contract.
- r. In the event that the restrictions notified to the Authority pursuant to clause 33.l were known or ought reasonably have been known by the Contractor (but were not disclosed) at contract award or if restrictions notified to the Authority pursuant to clauses 33.n or 33.p were known or ought reasonably to have been known by the Contractor at the date of submission of the most recent DEFFORM 528 submitted to the Authority in accordance with clause 33.l, termination under clause 33.q will be in accordance with Condition 43 (Material Breach) and the provisions of clause 33.v will not apply.
- s. The Authority shall use reasonable endeavours to identify any export control restrictions applying to materiel to be provided to the Contractor as Government Furnished Assets (GFA). Where the Authority is to provide materiel necessary to enable the Contractor to perform the Contract or in respect of which the Services are to be provided, and that materiel is subject to a non-UK export licence, authorisation, exemption or other related transfer or export control as described in the provisions of clause 32.k, the Authority shall provide a completed DEFFORM 528 or will provide a new or updated DEFFORM 528 to the Contractor within thirty (30) days of the date of knowledge and in any case not later than thirty (30) days prior to the delivery of such materiel to the Contractor.
- t. In the event that the Authority becomes aware that the DEFFORM 528 disclosure was incomplete or inaccurate or in the event additional such materiel is identified then the Authority shall provide, as soon as reasonably practicable a new or revised DEFFORM 528. In the event that the Authority becomes aware that a prior disclosure included in DEFFORM 528 submitted to the Contractor was incomplete or inaccurate less than thirty (30) days prior to the delivery to the Contractor of any material to which the updated or new disclosure relates, the Parties will meet as soon as reasonably practicable to discuss how to mitigate the impact of the incomplete or inaccurate disclosure.
- u. Where:
- (1) restrictions are advised by the Authority to the Contractor in a DEFFORM 528 provided pursuant to clauses 33.s or 33.t or both; or
 - (2) any of the information provided by the Authority in any DEFFORM 528 proves to be incorrect or inaccurate; the Authority and the Contractor shall act promptly to mitigate the impact of such restrictions or incorrect or inaccurate information. Such mitigation shall include, where appropriate, mutually supported attempts to obtain removal or modification to the restrictions or to obtain appropriate authorisations from the relevant foreign government. If the restrictions or incorrect or inaccurate information adversely affect the ability of the Contractor to perform their obligations under the Contract, the matter shall be handled under the terms of Condition 6 (Formal Amendments to the Contract) or as may otherwise be provided by the Contract as appropriate and if no alternative solution satisfies the essential terms of the Contract and the restrictions have not been removed, modified or otherwise satisfactorily managed within a reasonable time the

Authority may terminate the Contract. Termination under these circumstances will be under the terms of Condition 42 (Termination for Convenience) and as referenced in the Contract.

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

34. Third Party Intellectual Property – Rights and Restrictions¹¹¹²

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

- (1) any invention or design the subject of patent or registered Design Rights (or application thereof) owned by a third party which appears to be relevant to the performance of the Contract or to use by the Authority of anything required to be done or delivered under the Contract;
- (2) any restriction as to disclosure or use, or obligation to make payments in respect of any other intellectual property (including technical Information) required for the purposes of the Contract or subsequent use by the Authority of anything delivered under the Contract and, where appropriate, the notification shall include such Information as is required by Section 2 of the Defence Contracts Act 1958;
- (3) any allegation of infringement of intellectual property rights made against the Contractor and which pertains to the performance of the Contract or subsequent use by the Authority of anything required to be done or delivered under the Contract. clause 34.a does not apply in respect of Contractor Deliverables normally available from the Contractor as a Commercial Off The Shelf (COTS) item or service.

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

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

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

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

- e. In the event that the Authority has entered into negotiation in respect of a claim for compensation, or legal proceedings in respect of the Crown Use have commenced, the Authority shall forthwith authorise the Contractor for the purposes of performing the Contract (but not otherwise) to utilise a relevant invention or design in accordance with Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949 and to use any model, document or information relating to any such invention or design which may be required for that purpose.
- f. For all other Contractor Deliverables patents and registered designs in the UK, if a relevant invention or design has been notified to the Authority by the Contractor prior to the Effective Date of Contract, then unless it has been otherwise agreed, under the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949, the Contractor is hereby authorised to utilise that invention or design, notwithstanding the fact that it is the subject of a UK Patent or UK Registered Design, for the purpose of performing the Contract.
- g. If, under clause 34.a, a relevant invention or design is notified to the Authority by the Contractor after the Effective Date of Contract, then:
- (1) if the owner (or its exclusive licensee) takes or threatens in writing to take any relevant action against the Contractor, the Authority shall issue to the Contractor a written authorisation in accordance with the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949, and
 - (2) in any event, unless the Contractor and the Authority can agree an alternative course of action, the Authority shall not unreasonably delay the issue of a written authorisation in accordance with the provisions of Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949.
- h. The Authority shall assume all liability and shall indemnify the Contractor, their officers, agents and employees against liability, including the Contractor's costs, as a result of infringement by the Contractor or their suppliers of any patent, utility model, registered design or like protection outside the United Kingdom in the performance of the Contract when such infringement arises from or is incurred by reason of the Contractor following any specification, statement of work or instruction in the Contract or using, keeping or disposing of any item given by the Authority for the purpose of the Contract in accordance with the Contract.
- i. The Contractor shall assume all liability and shall indemnify the Authority, its officers, agents and employees against liability, including the Authority's costs, as a result of infringement by the Contractor or their suppliers of any patent, utility model, registered design or like protection outside the UK in the performance of the Contract when such infringement arises from or is incurred otherwise than by reason of the Contractor following any specification, statement of work or instruction in the Contract or using, keeping or disposing of any item given by the Authority for the purpose of the Contract in accordance with the Contract.
- j. The Contractor shall not be entitled to any reimbursement of any royalty, licence fee or similar expense incurred in respect of anything to be done under the Contract, where:
- (1) a relevant discharge has been given under Section 2 of the Defence Contracts Act 1958, or relevant authorisation in accordance with Sections 55 or 57 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Section 240 of the Copyright, Designs and Patents Act 1988 in respect of any intellectual property; or
 - (2) any obligation to make payments for intellectual property has not been promptly notified to the Authority under clause 34.a.

- k. Where authorisation is given by the Authority under clause 34.e, 34.f or 34.g, to the extent permitted by Section 57 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Section 240 of the Copyright, Designs and Patents Act 1988, the Contractor shall also be:
- (1) released from payment whether by way of royalties, licence fees or similar expenses in respect of the Contractor's use of the relevant invention or design, or the use of any relevant model, document or information for the purpose of performing the Contract; and
 - (2) authorised to use any model, document or information relating to any such invention or design which may be required for that purpose.
- l. The Contractor shall assume all liability and indemnify the Authority and its officers, agents and employees against liability, including costs as a result of:
- (1) infringement or alleged infringement by the Contractor or their suppliers of any copyright, database right, Design Right or the like protection in any part of the world in respect of any item to be supplied under the Contract or otherwise in the performance of the Contract;
 - (2) misuse of any confidential information, trade secret or the like by the Contractor in performing the Contract;
 - (3) provision to the Authority of any Information or material which the Contractor does not have the right to provide for the purpose of the Contract.
- m. The Authority shall assume all liability and indemnify the Contractor, their officers, agents and employees against liability, including costs as a result of:
- (1) infringement or alleged infringement by the Contractor or their suppliers of any copyright, database right, Design Right or the like protection in any part of the world in respect of any item provided by the Authority for the purpose of the Contract but only to the extent that the item is used for the purpose of the Contract;
 - (2) alleged misuse of any confidential Information, trade secret or the like by the Contractor as a result of use of Information provided by the Authority for the purposes of the Contract, but only to the extent that Contractor's use of that Information is for the purposes intended when it was disclosed by the Authority.
- n. The general authorisation and indemnity is:
- (1) clauses 34.a – 34.m represents the total liability of each Party to the other under the Contract in respect of any infringement or alleged infringement of patent or other Intellectual Property Right (IPR) owned by a third party;
 - (2) neither Party shall be liable, one to the other, for any consequential loss or damage arising as a result, directly or indirectly, of a claim for infringement or alleged infringement of any patent or other IPR owned by a third party;
 - (3) a Party against whom a claim is made or action brought, shall promptly notify the other Party in writing if such claim or action appears to relate to an infringement which is the subject of an indemnity or authorisation given under this Condition by such other Party. The notification shall include particulars of the demands, damages and liabilities claimed or made of which the notifying Party has notice;
 - (4) the Party benefiting from the indemnity or authorisation shall allow the other Party, at its own expense, to conduct any negotiations for the settlement of the same, and any litigation that may arise therefrom and shall provide such information as the other Party may reasonably require;

- (5) following a notification under clause 34.n.(3), the Party notified shall advise the other Party in writing within thirty (30) Business Days whether or not it is assuming conduct of the negotiations or litigation. In that case the Party against whom a claim is made or action brought shall not make any statement which might be prejudicial to the settlement or defence of such a claim without the written consent of the other Party;
 - (6) the Party conducting negotiations for the settlement of a claim or any related litigation shall, if requested, keep the other Party fully informed of the conduct and progress of such negotiations.
- o. If at any time a claim or allegation of infringement arises in respect of copyright, database right, Design Right or breach of confidence as a result of the provision of any Contractor Deliverable by the Contractor to the Authority, the Contractor may at their own expense replace the item with an item of equivalent functionality and performance so as to avoid infringement or breach. The Parties will co-operate with one another to mitigate any claim or damage which may arise from use of third party IPR.
 - p. Nothing in Condition 34 shall be taken as an authorisation or promise of an authorisation under Section 240 of the Copyright, Designs and Patents Act 1988.
 - q. Notwithstanding any other provisions of the Contract and for the avoidance of doubt, award of the Contract by the Authority and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Contractor acknowledges that any such authorisation by the Authority under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific intellectual property involved.

Notification of Intellectual Property Rights (IPR) Restrictions.

- r. Where any of the conditions listed below (1 to 3) have been added to the Conditions of the Contract as project specific DEFCONs at Clause 45, or where required by Clauses 34.a. - 34.q., the Contractor warrants and confirms that all Intellectual Property Rights restrictions and associated export restrictions relating to the use or disclosure of the Contractor Deliverables that are notifiable under those Conditions, or of which the Contractor is or should reasonably be aware as at Effective Date of Contract, are disclosed in Schedule 10 (Notification of Intellectual Property Rights (IPR) Restrictions).
 - (1) DEFCON 15 - including notification of any self-standing background Intellectual Property;
 - (2) DEFCON 90 - including copyright material supplied under clause 5;
 - (3) DEFCON 91 - limitations of Deliverable Software under clause 3b.
- s. The Contractor shall promptly notify the Authority in writing if they become aware during the performance of the Contract of any required additions, inaccuracies or omissions in Schedule 10.
- t. Any amendment to Schedule 10 shall be made in accordance with Condition 6.

Pricing and Payment

35. Contract Price

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

b. The Contractor shall not make any claim for drawback of UK import duty on any part of the Contract Deliverables supplied which may be for shipment outside of the UK.

36. Payment and Recovery of Sums Due

- a. Payment for Contractor Deliverables will be made by electronic transfer and prior to submitting any claims for payment under clause 36.b the Contractor will be required to register their details (Supplier on-boarding) on the Contracting, Purchasing and Finance (CP&F) electronic procurement tool.
- b. Where the Contractor submits an invoice to the Authority in accordance with clause 36.a, the Authority will consider and verify that invoice in a timely fashion.
- c. The Authority shall pay the Contractor any sums due to be paid under the invoice before the end of the period of 30 days beginning with the day on which a valid and undisputed invoice is received by the Authority in respect of the sum or, if later, the day on which the payment falls due in accordance with the invoice.
- d. Where the Authority fails to comply with clause 36.b and there is undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purpose of clause 36.c after a reasonable time has passed.
- e. The approval for payment of a valid and undisputed invoice by the Authority shall not be construed as acceptance by the Authority of the performance of the Contractor's obligations nor as a waiver of its rights and remedies under the Contract.
- f. Without prejudice to any other right or remedy, the Authority reserves the right to set off any amount owing at any time from the Contractor to the Authority against any amount payable by the Authority to the Contractor under the Contract or under any other contract with the Authority, or with any other Government Department.

37. Value Added Tax

- a. The Contract Price excludes any UK output Value Added Tax (VAT) and any similar EU (or non-EU) taxes chargeable on the supply of Contractor Deliverables by the Contractor to the Authority.
- b. If the Contractor is required by UK VAT law to be registered for UK VAT (or has registered voluntarily) in respect of their business activities at the time of any supply, and the circumstances of any supply are such that the Contractor is liable to pay the tax due to HM Revenue and Customs (HMRC), the Authority shall pay to the Contractor in addition to the Contract Price (or any other sum due to the Contractor) a sum equal to the output VAT chargeable on the tax value of the supply of Contractor Deliverables, and all other payments under the Contract according to the law at the relevant tax point.
- c. The Contractor is responsible for the determination of VAT liability. The Contractor shall consult their Client Relationship Manager or the HMRC Enquiries Desk (and not the Authority's Representative (Commercial)) in cases of doubt. The Contractor shall notify the Authority's Representative (Commercial) of the Authority's VAT liability under the Contract, and any changes to it, within twenty (20) Business Days of becoming aware the liability is other than at the standard rate of VAT. In the event of any doubt about the applicability of the tax in such cases, the Authority may require the Contractor to obtain, and pass to the Authority, a formal ruling from HMRC. The Contractor shall comply promptly with any such requirement. Where the Contractor obtains a ruling

from HMRC, they shall supply a copy to the Authority within three (3) Business Days of receiving that ruling unless they propose to challenge the ruling. Where the Contractor challenges the ruling, they shall supply to the Authority a copy of any final decisions issued by HMRC on completion of the challenge within three (3) Business Days of receiving the decision.

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

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

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

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

38. Debt Factoring

- a. Subject to the Contractor obtaining the prior written consent of the Authority in accordance with Condition 10 (Assignment of Contract), the Contractor may assign to a third Party ("the Assignee") the right to receive payment of the Contract Price or any part thereof due to the Contractor under the Contract (including interest which the Authority incurred through late payment under the Late Payment of Commercial Debts (Interest) Act 1998 ("the Act")). Any assignment of the right to receive payment of the Contract Price (or any part thereof) under this Condition 38 shall be subject to:
- (1) reduction of any sums in respect of which the Authority exercises its right of recovery under clause 36.f;
 - (2) all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and
 - (3) the Authority receiving notification under both clauses 38.b and 38.c.(2).

- b. In the event that the Contractor obtains from the Authority the consent to assign the right to receive the Contract Price (or any part thereof) under clause 38.a, the Contractor shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.
- c. The Contractor shall ensure that the Assignee:
 - (1) is made aware of the Authority's continuing rights under clauses 38.a.(1) and 38.a.(2); and
 - (2) notifies the Authority of the Assignee's contact information and bank account details to which the Authority shall make payment, subject to any reduction made by the Authority in accordance with clauses 38.a.(1) and 38.a.(2).
- d. The provisions of Condition 36 (Payment and Recovery of Sums Due) shall continue to apply in all other respects after the assignment and shall not be amended without the prior approval of the Authority.

39. Subcontracting and Prompt Payment

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

Termination

40. Dispute Resolution

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

41. Termination for Insolvency or Corrupt Gifts

Insolvency:

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

Where the Contractor is an individual or a firm:

- (1) the application by the individual or, in the case of a firm constituted under English law, any partner of the firm to the court for an interim order pursuant to Section 253 of the Insolvency Act 1986; or
- (2) the court making an interim order pursuant to Section 252 of the Insolvency Act 1986; or
- (3) the individual, the firm or, in the case of a firm constituted under English law, any partner of the firm making a composition or a scheme of arrangement with them or their creditors; or
- (4) the presentation of a petition for bankruptcy order against the individual or, in the case of a firm constituted under English law, any partner of the firm unless it is withdrawn within three (3) Business

Days from the date on which the Contractor is notified of the presentation; or

- (5) the court making a bankruptcy order in respect of the individual or, in the case of a firm constituted under English law, any partner of the firm; or
- (6) where the Contractor is either unable to pay their debts as they fall due or has no reasonable prospect of being able to pay debts which are not immediately payable. The Authority shall regard the Contractor as being unable to pay their debts if:
 - (a) they have failed to comply with or to set aside a Statutory demand under Section 268 of the Insolvency Act 1986 within twenty-one (21) days of service of the Statutory Demand on them; or
 - (b) execution or other process to enforce a debt due under a judgement or order of the court has been returned unsatisfied in whole or in part.
- (7) the presentation of a petition for sequestration in relation to the Contractor's estates unless it is withdrawn within three (3) Business Days from the date on which the Contractor is notified of the presentation; or
- (8) the court making an award of sequestration in relation to the Contractor's estates.

Where the Contractor is a company registered in England:

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

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

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

Corrupt Gifts:

- c. The Contractor shall not do, and warrants that in entering the Contract they have not done any of the following (hereafter referred to as 'prohibited acts'):
- (1) offer, promise or give to any Crown servant any gift or financial or other advantage of any kind as an inducement or reward;
 - (a) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or execution of this or any other Contract with the Crown; or
 - (b) for showing or not showing favour or disfavour to any person in relation to this or any other Contract with the Crown.
 - (2) enter into this or any other Contract with the Crown in connection with which commission has been paid or has been agreed to be paid by them or on their behalf, or to their knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Authority.
- d. If the Contractor, their employees, agents or any Subcontractor (or anyone acting on their behalf or any of their employees) does any of the prohibited acts or commits any offence under the Bribery Act 2010 with or without the knowledge or authority of the Contractor in relation to this Contract or any other contract with the Crown, the Authority shall be entitled:
- (1) to terminate the Contract and recover from the Contractor the amount of any loss resulting from the termination;
 - (2) to recover from the Contractor the amount or value of any such gift, consideration or commission; and
 - (3) to recover from the Contractor any other loss sustained in consequence of any breach of this Condition, where the Contract has not been terminated.
- e. In exercising its rights or remedies under this Condition, the Authority shall:
- (1) act in a reasonable and proportionate manner having regard to such matters as the gravity of, and the identity of the person performing, the prohibited act;
 - (2) give all due consideration, where appropriate, to action other than termination of the Contract, including (without being limited to):
 - (a) requiring the Contractor to procure the termination of a subcontract where the prohibited act is that of a Subcontractor or anyone acting on their behalf;
 - (b) requiring the Contractor to procure the dismissal of an employee (whether their own or that of a Subcontractor or anyone acting on their behalf) where the prohibited act is that of such employee.
- f. Recovery action taken against any person in His Majesty's service shall be without prejudice to any recovery action taken against the Contractor pursuant to this Condition.

42. Termination for Convenience

- a. The Authority shall have the right to terminate the Contract in whole or in part at any time by giving the Contractor at least twenty (20) Business Days written notice (or such other period as may be stated in Schedule 3 (Contract Data Sheet)). Upon expiry of the notice period the Contract, or relevant part thereof, shall terminate without prejudice to the rights of the parties already accrued up to the date of termination. Where only part of the Contract is being terminated, the Authority and the Contractor shall owe each other no further obligations in respect of the part of the Contract being terminated, but will continue to fulfil their respective obligations on all other parts of the Contract not being terminated.

- b. Following the above notification the Authority shall be entitled to exercise any of the following rights in relation to the Contract (or part being terminated) to direct the Contractor to:
- (1) not start work on any element of the Contractor Deliverables not yet started;
 - (2) complete in accordance with the Contract the provision of any element of the Contractor Deliverables;
 - (3) as soon as may be reasonably practicable take such steps to ensure that the production rate of the Contractor Deliverables is reduced as quickly as possible;
 - (4) terminate on the best possible terms any subcontracts in support of the Contractor Deliverables that have not been completed, taking into account any direction given under clauses 42.b.(2) and 42.b.(3) of this Condition.
- c. Where this Condition applies (and subject always to the Contractor's compliance with any direction given by the Authority under clause 42.b):
- (1) The Authority shall take over from the Contractor at a fair and reasonable price all unused and undamaged materiel and any Contractor Deliverables in the course of manufacture that are:
 - (a) in the possession of the Contractor at the date of termination; and
 - (b) provided by or supplied to the Contractor for the performance of the Contract, except such materiel and Contractor Deliverables in the course of manufacture as the Contractor shall, with the agreement of the Authority, choose to retain;
 - (2) the Contractor shall deliver to the Authority within an agreed period, or in absence of such agreement within a period as the Authority may specify, a list of:
 - (a) all such unused and undamaged materiel; and (b) Contractor Deliverables in the course of manufacture, that are liable to be taken over by, or previously belonging to the Authority, and shall deliver such materiel and Contractor Deliverables in accordance with the directions of the Authority;
 - (3) in respect of Services, the Authority shall pay the Contractor fair and reasonable prices for each Service performed, or partially performed, in accordance with the Contract.
- d. The Authority shall (subject to clause 42.e below and to the Contractor's compliance with any direction given by the Authority in clause 42.b above) indemnify the Contractor against any commitments, liabilities or expenditure which would otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract, subject to:
- (1) the Contractor taking all reasonable steps to mitigate such loss; and
 - (2) the Contractor submitting a fully itemised and costed list of such loss, with supporting evidence, reasonably and actually incurred by the Contractor as a result of the termination of the Contract or relevant part.
- e. The Authority's total liability under the provisions of this Condition shall be limited to the total price of the Contractor Deliverables payable under the contract (or relevant part), including any sums paid, due or becoming due to the Contractor at the date of termination.
- f. The Contractor shall include in any subcontract over £250,000 which it may enter into for the purpose of the Contract, the right to terminate the subcontract under the terms of clauses 42.a to 42.e except that:
- (1) the name of the Contractor shall be substituted for the Authority except in clause 42.c.(1);

- (2) the notice period for termination shall be as specified in the subcontract, or if no period is specified twenty (20) Business Days; and
- (3) the Contractor's right to terminate the subcontract shall not be exercised unless the main Contract, or relevant part, has been terminated by the Authority in accordance with the provisions of this Condition 42.

g. Claims for payment under this Condition shall be submitted in accordance with the Authority's direction.

43. Material Breach

a. In addition to any other rights and remedies, the Authority shall have the right to terminate the Contract (in whole or in part) with immediate effect by giving written Notice to the Contractor where the Contractor is in material breach of their obligations under the Contract.

b. Where the Authority has terminated the Contract under clause 43.a the Authority shall have the right to claim such damages as may have been sustained as a result of the Contractor's material breach of the Contract, including but not limited to any costs and expenses incurred by the Authority in:

- (1) carrying out any work that may be required to make the Contractor Deliverables comply with the Contract; or
- (2) obtaining the Contractor Deliverable in substitution from another supplier.

44. Consequences of Termination

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

45. Key Performance Indicators

The Key Performance Indicator applicable to Line Items 3 of this Contract is outlined at Clause 47.2 and Schedule 11 to the Contract.

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

DEFCON 117 (SC2) (Edn. 09/24) Supply Of Documentation For NATO Codification Purposes

1. The purpose of Codification is to catalogue Items of Supply, using the minimum information required to distinguish them from similar items available. The cataloguing information is not normally a full technical specification and definition that could be used for manufacture of alternative items.
2. In this Condition:
 - a. "Codification" means the application of unique identification and classification information to Items of Supply, using a common supply language (detailed at Annex) which is recorded in sufficient detail to distinguish uniquely Items of Supply from other items, using NATO Stock Numbers (NSN).
 - b. "Codification Purposes" means use to enable maximum effectiveness in national and international logistic support, data management in the area of materiel, supply and inventory introduction and management, throughout the life of an equipment, by the UK MOD and its NATO partners.
 - c. "Codification Authority" means the United Kingdom National Codification Bureau (UKNCB), except as provided in Clause 11.
 - d. "Authority's Agent" means the Government Departments or Contractors authorised by the Codification Authority to undertake NATO codification.

e. "Form, Fit and Function," means, in respect of each of its elements:

(1) Form: The shape, size, dimensions, and other physically measurable parameters that uniquely characterise an article. For software, form denotes the language and media.

(2) Fit: The characteristics of an article to enable it to interface or interconnect with a part of another article, including the dimensional relationship between mating parts and the limits of tolerances.

(3) Function: The actions that a product is designed to perform in normal use or operation. f. "Item" means the part or the whole of any Article as defined in DEFCON 501 or any other article to the same design or any modification of it.

g. "Item of Supply" means an Item, or where two or more Items are attached or assembled together, the minimum assembly of Items listed in the Design Control Authority's Master Parts List or required to be delivered to the Authority under the Contract. "Item Identification" means the minimum information required to uniquely identify the Item of Supply derived from information supplied in response to the requirements specified in the Annex to this Condition.

h. "Technical Data" means the cataloguing information identified in the Annex to this Condition to be supplied to enable the creation of Item Identification.

i. "Design Control Authority" (DCA) means the individual, company, firm, corporation, designing authority or government department, which controls the design, characteristics and production of an Item by means of its engineering drawings, specifications and inspection requirements.

j. "NATO Commercial & Government Entity code" (NCAGE) means the unique code allocated to a supplier by the UKNCB.

3. In the case of an Item of Supply for which the Contractor is the DCA, the Contractor shall:

a. provide Technical Data to the Codification Authority, or the Authority's Agent specified by the Codification Authority, where:

(1) the Item of Supply is not already codified in the NATO Codification System (NCS); or

(2) the Contractor has not previously supplied that information either in the recommended spare parts list supplied by the Contractor in the initial provisioning phase or under another contract.

b. where the Item of Supply has already been NATO codified, supply the NSN(s) to the Codification Authority, or the Authority's Agent.

c. inform the Codification Authority, or its Agent, when and to whom the data was supplied if the information has previously been supplied by the Contractor.

4. In the case of an Item of Supply for which the Contractor is not the DCA, the Contractor shall ensure that the Technical Data is supplied, either by the subcontract DCA or by the Contractor. The Contractor shall, where appropriate, consider including the terms of this Condition, or equivalent text, in any subcontract(s), to ensure delivery of the cataloguing information.

5. Unless otherwise provided by the Contract, the cost of supplying the information under Clauses 3 and 4 above, and any other information specifically called for under the Contract, shall be deemed to have been included in the Contract Price.

6. The Contractor may from time to time be requested to supply additional information necessary for Codification. To the extent that they have the right to do so, the Contractor shall supply that additional data. The extent of additional information shall be governed by the requirements of the Codification system at that time. Full details of the Codification system can be obtained from the Codification Authority. a. At any time during the life of the contract the Contractor shall notify the Codification Authority of all modifications or design changes made to an Item of Supply, which affect the Item Identification, including reference number changes, Form, Fit or Function. b. Fair and reasonable payment, based upon the actual work involved, will be made to the Contractor for the supply of additional information under Clause 6 above and, in respect of modifications and design changes approved by the Authority; the supply of updated information under subClause 6a above.

7. Subject to the restrictions resulting from Clause 9, the Authority shall have the right, free of charge, to use and copy or have used and copied for Codification Purposes information supplied under the provisions of

this Condition, use and copying being limited to that necessary for Codification Purposes. The Authority may convert or have converted any Technical Data provided in whatever format to an alternative format, including digital formats.

8. Subject to the restrictions resulting from Clause 9, the information constituting the Item Identification may be included in the databases of codification data which are produced by the Authority or any international organisation of which the Authority is a member and may be made available to other Governments, contractors, organisations or individuals who are authorised to have access to those databases by the Authority or the organisation(s) of which the Authority is a member.

9. The Contractor shall endeavour to ensure that all information supplied under this Condition can be used for Codification Purposes; however, where any of the information supplied is marked to indicate it is proprietary in nature the Contractor shall indicate the restrictions which apply to its use.

10. The Codification Authority shall not retain or use the Technical Data supplied under this Condition for any purpose other than for Codification.

11. If the DCA is located in a NATO country other than the UK, the equivalent organisation in that NATO country shall be substituted for the UKNCB. All contact between the Contractor and those equivalent organisations will be via the UKNCB.

12. If the DCA is located in a country which is not a member of the NATO Alliance or a NATO sponsored (NCS participating) country, the Codification Authority will be deemed to be the UKNCB, which may nominate an agent to act on its behalf. 13. The Contractor, Subcontractor or supplier may contact the Codification Authority for any information concerning the NCS.

14. The requirements set out in the Annex A to this DEFCON shall apply in relation to Item Identification.

ANNEX A TO DEFCON 117

Codification Requirements For Item Identification

1. Information to be supplied and used for the purposes of Codification is governed by the requirements of the NCS Item Identification Guide (IIG) and the approved item name shall be used for Codification. The exact requirements are item specific and will vary on an item by item basis.
2. Information may be provided in the form of engineering drawings, international / national or commercial standards and specifications, commercial literature such as catalogues, brochures or similar documentation, in hard or soft copy. Alternatively arrangement may be made to allow the data to be retrieved via URL or similar.
3. This Condition covers all Items of Supply, and the following information must be supplied:
 - a. The NCAGE or name, address and contact details of the Design Control Authority (DCA).
 - b. The name of the Item of Supply, as recognised by the DCA.
 - c. Identifying References:
 - (1) the DCA's drawing or part number(s), and National or International Standard or Specification Reference, or both (indicating definitive or non-definitive). The references will be assumed to be fully definitive unless stated otherwise;
 - (2) where the Contractor's own identifying reference differs from the DCA's reference, this shall also be provided;
 - (3) any associated bar code or product identification numbers, assigned by companies compliant with EAN International or the Uniform Code Council (UCC);
 - (4) for medical items, the ATC Code (World Health Organisation (WHO) Anatomical Therapeutic Codes), BNF code (British National Formulary) or the ECRI Universal Medical Device Nomenclature code shall be supplied where relevant.
 - d. The following Volumetric Data. Definitions equate to those in ASD S2000M and the data is to be supplied in the format specified therein:
 - (1) length, width and height / depth of packaged unit (SPU), used with an associated unit of issue code;

- (2) length, width and height / depth of unpackaged unit (SUU), used with an associated unit of issue code;
- (3) gross weight of packaged unit (WPU), used with an associated unit of issue code;
- (4) gross weight of unpackaged unit (WUU), used with an associated unit of issue code.
- 4. The following additional information shall be supplied where it is necessary for the information to be used to fully distinguish Items of Supply, as determined by the applicable approved item name and NCS Item Identification Guide (IIG). The DCA is not required to disclose particulars of proprietary processes, manufacturing techniques or proprietary material specifications.
 - a. Basic material (the base material from which the item is fabricated) surface treatment (the finish by which the item is plated, dipped and / or coated, including any special cleanliness conditions).
 - b. All key dimensions shall be supplied for common mechanical parts, such as nuts, bolts, screws, washers etc.
 - c. Where items are threaded, include the size, type, length, class and direction of the thread.
 - d. Electrical Characteristics, such as nominal voltage, current or rated power, or both, of the item, rated resistance, capacitance or inductance, and operating frequencies.
 - e. For any pressure system components and equipment details of the pressure ratings.
 - f. Temperature ratings.
 - g. Information on distinguishing features, e.g. colour, shape, style, holes, cut-outs, keyways or slots, etc.
 - h. Radioactive Components - radioactive materials.
 - i. Software - the software identification number.
 - j. Markings - markings that indicate the primary purpose, function or application of the Item of Supply.
- 5. For assemblies only, the Contractor shall supply the final assembly drawing or parts list, or both, including known NSNs and part numbers of constituent parts.
- 6. Where the Item of Supply is designed for a specific application, the source data shall identify the end item application.
- 7. Where the Item of Supply contains items of a hazardous nature, the information shall identify the existence of any hazard and the Contractor shall provide a safety data sheet in accordance with DEFCON 68.

Requests For NATO Codification

- 8. Where the Contractor is required to apply for NATO Codification on behalf of the Authority:
 - a. all requests for codification action must be submitted using the Authority’s mandated system
 - b. Access to the Authority’s mandated system is via a user account allocated by UK NCB (subject to conditions).
 - c. The Contractor shall supply the following additional information to the Codification Authority to enable automated item introduction on the Authority’s relevant base inventory system. Where this information is not known, the Authority’s Representative shall be contacted for guidance:

DATA Field	SS3	BWIMS	ASTRID
Domestic Management Code - DMC	Y	Y	
Inventory Management Code - IMC			
Supply Management Branch SMBi		Y	

Requirement for Provenance and Traceability (items fitted to aircraft requiring Certificate of Conformity)	Y	Y	Y
Used on next higher assembly – End item information	Y	Y	Y
Unit of Issue Code	Y	Y	Y
Hazardous Indicator	Y	Y	Y
Material Accounting Classification Code	Y	Y	Y
Shelf Life Code	Y	Y	
Estimated Price			
Procurement Reference Code	Y		
Special to Contents Container Indicator		Y	
Periodic Maintenance Interval Code			
Pre Issue Inspection Code			
Quality Assurance Documentation Code			
Inventory Classification Code	Y		
Capital Indicator	Y		

DEFCON 532A (SC2) (Edn. 05/22)

Protection of Personal Data (Where Personal Data is not being processed on behalf of the Authority) 1.

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

- a. “Controller”, “Data Subject”, “Personal Data”, “Personal Data Breach” and “Processor” shall have the same meanings as in Article 4 of the UK GDPR;
- b. “Data Protection Legislation” means all applicable Law in force from time to time in the UK relating to the processing of personal data and privacy, including but not limited to:
 - (1) UK GDPR;
 - (2) the Data Protection Act 2018; and
 - (3) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) as amended; each to the extent that it relates to the processing of personal data and privacy.
- c. “Law” means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant

court of law, or directives or requirements with which a party to this Contract is bound to comply; d. "UK GDPR" means the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in UK law by the EU (Withdrawal) Act 2018 and the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019.

2. Both Parties acknowledge that there is no processing of Personal Data associated with or intrinsic to the performance of the Contract. The incidental exchange of Personal Data for the purpose of communication to give effect to the Contract or the business relationship is not considered to be processing of Personal Data by either Party on behalf of the other.

3. The Contractor shall notify the Authority promptly if it considers that any of the Authority's instructions obligate the Contractor to take on the role of Processor under the Data Protection Legislation beyond that which is contemplated in clause 2. The Authority agrees that the Contractor shall not be required to provide legal advice to the Authority and that such notification (or absence of notification) by the Contractor will not be construed as legal advice or representation by the Contractor.

4. Should the Contract be amended to require the Contractor to process Personal Data as a Processor on behalf of the Authority as a result of clause 3 or otherwise the Contract will be amended to include DEFCON 532B and DEFFORM 532 in accordance with the provisions of DEFCON 503. Where the Contract is amended to include processing of Personal Data as a Joint Controller, the Parties agree that they shall amend the Contract to include appropriate contractual clauses, including but not limited to clauses dealing with notification in the event of a Personal Data Breach and requests from Data Subjects for access to their Personal Data.

5. Notwithstanding clause 2, each Party undertakes to comply with its obligations as Controller under the Data Protection Legislation.

DEFCON 565 (Edn 12/24) AS THE CONTRACT VALUE IS A LIMIT OF LIABILITY DEFCON 565 WILL BE APPLICABLE WHEN THE VALUE OF ORDERS UNDER ITEM 3 OF SCHEDULE 2 (SCHEDULE OF REQUIREMENTS) ADDED TO THE TOTAL VALUE OF ITEMS 1,2 AND 4 OF SCHEDULE 2 (SCHEDULE OF REQUIREMENTS) REACHES £5 MILLION OR ABOVE.

Supply Chain Resilience and Risk Awareness

Definitions

1.

For the purposes of this Condition, the following words and expressions shall have the meaning set out below:

a. 'First-Tier Subcontractor' means any subcontractor which has a subcontract with the Contractor in connection with the Contract to provide Contractor Deliverables wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract and 'First-Tier Subcontract' shall be interpreted accordingly.

b. 'Second-Tier Subcontractor' means any subcontractor which has a subcontract with a First-Tier Subcontractor in connection with the Contract to provide Contractor Deliverables wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract and 'Second-Tier Subcontract' shall be interpreted accordingly.

Contractor Obligations

2. The Contractor shall complete the Supply Chain Resilience and Risk Awareness Mapping Template – DEFFORM 565 so as to provide:

a. a list of each First-Tier Subcontractor; and

b. to the extent they have the right to do so, a list of Second-Tier Subcontractors which they are aware of or ought reasonably to be aware of.

3. The information listed in Clause 2 shall be provided to the Authority:

- a. in relation to First-Tier Subcontractors within 90 days of the Contract start date;
- b. in relation to the Second-Tier Subcontractors, within 90 days of the Contract start date or a timeframe to be agreed by the Authority and the Contractor.

This information is provided to the Authority for the purpose of undertaking supply chain risk and resilience management activities by the Authority only.

4. During the term of the Contract, the Contractor shall notify the Authority as soon as reasonably practicable of changes to the accuracy of the information by providing an updated DEFFORM 565. If the supply chain changes frequently or is likely to change frequently, a twice-yearly update will be deemed sufficient.

5. The Contractor shall include provisions equivalent to those set out in Clauses 1 to 5 of this Condition in all First-Tier Subcontracts

DEFCON 601 (SC) (Edn. 04/14)

Redundant Material

1. Redundant Materiel shall mean Materiel as defined in DEFCON 50 Definitions) that is identified as surplus to the requirement of the Contract for whatever reason.

2. All redundant Materiel resulting from work carried out under, or procured for the purposes of the Contract, the costs of which have been paid by the Authority under the Contract, or which is otherwise owned by the Authority, shall be disposed of as follows:

a. On completion of the Contract or earlier if appropriate, the Contractor shall prepare:

(1) a list of those items of the Materiel referred to above which are considered to be serviceable or repairable. The list shall record the condition of each item, its actual cost or estimated value and, in the case of repairable items, the estimated price of repair; and

(2) a list of those items of the Materiel which are considered to be unserviceable and which cannot be economically repaired or are otherwise considered to be scrap.

b. The Contractor shall send the lists referred to in sub-sub-Clause

2.a.(1) and 2.a.(2) above to the Commercial Officer named in the Contract.

c. Within three months of the date of receipt of the lists, the Authority shall issue disposal instructions to the Contractor. Such disposal instructions shall require that the items of materiel are either:

(1) transferred to other subsisting contracts; or

(2) subject to contract, retained by the Contractor for use in the performance of future contracts placed with the Contractor; or

(3) subject to contract, repaired by the Contractor; or

- (4) at the direction of the Authority, sold by the Contractor, acting on behalf of the Authority, for the best price reasonably obtainable. Materiel designated in accordance with sub-sub-clause 2.a.(2) above shall be dismantled and disposed of in such a manner as to preclude the possibility of resale in its existing form.
3. The proceeds of the sale of items of Materiel sold pursuant to sub-sub Clause 2.c.(4) above shall be credited to the Authority in accordance with arrangements made between the Contractor and the Authority.
4. A list of the items sold by the Contractor shall be sent to the Commercial Officer specified in the Contract together with a statement of the proceeds of sale.

DEFCON 611 (Edn 12/22) - Issued Property General

1. All Issued Property shall remain the property of the Authority. It shall be used in the execution of the Contract and for no other purpose, without the prior approval in writing of the Authority.
2. Neither the Contractor, nor any subcontractor, nor any other person, shall have a lien on Issued Property, for any sum due to the Contractor, subcontractor or other person, and the Contractor shall take all such steps as may be necessary to ensure that the title of the Authority, and the exclusion of any such lien, are brought to the notice of all subcontractors and other persons dealing with any Issued Property.

Receipt

3. Subject to Clauses 4 and 7 below, within 14 days of receipt of Issued Property, or such other longer period as may be specified in the Contract, the Contractor shall:
- a. check the Issued Property to verify that it corresponds with the Issued Property specified in the Contract; b. conduct a reasonable visual inspection; and
- c. conduct any additional inspection and testing as may be necessary and practicable to check that the Issued Property is not defective or deficient for the purpose for which it has been provided; b. and notify the Authority of any defects, deficiencies or discrepancies discovered.
4. Where Issued Property is packaged it shall not be unpacked earlier than is necessary. The period identified at Clause 3 above shall count from the date on which packages are opened.
5. The Authority shall within a reasonable time after receipt of any notice under clause 3 of this Condition replace, re-issue or authorise repair of Issued Property agreed to be defective or deficient and, if appropriate, the Authority shall revise the Contract Price, delivery schedule or both. If appropriate, it shall also issue written instructions for the return or disposal of the defective or deficient Issued Property.
6. In the event that the Authority fails to provide, replace, or authorise repair of defective or deficient Issued Property within a reasonable time of receipt of a notice in accordance with Clause 3, fair and reasonable revisions of the Contract Price, delivery schedule or both shall be made as may be appropriate provided that the Contractor has taken all reasonable measures to mitigate the consequences of any such delay.
7. Clauses 3 - 6 do not apply in the following circumstances:
- a. where Issued Property is issued for the purpose of repair, overhaul, conversion or other work to be performed on the Issued Property, inspection of such property shall be as specified in the Contract;
- b. where the Contractor can show that the Issued Property cannot be fully tested until it has been integrated with other items, inspection of such property shall be as specified in the Contract;
- c. where Special Jigs and Tools etc. become Issued Property under DEFCON 23.

Custody

8. Subject to Clause 11 below and any limitation or exclusion of liability as may be specified in the Contract, the Contractor shall be responsible for the safe custody and due return of Issued Property, whether or not incorporated into the Articles, and shall be responsible for all loss or damage thereto, until re-delivered in accordance with the Authority's instructions or until the expiry of the period specified in Clause 14.

9. The Contractor shall be responsible for such calibration and maintenance of the Issued Property as is specified in the Contract.
10. If requested, the Authority, within a reasonable time, and where practicable before delivery of the Issued Property, shall notify the Contractor of the value of the Issued Property.
11. The Contractor shall not be liable in respect of:
 - a. defects or deficiencies notified to the Authority in accordance with Clause 3 of this Condition or latent defects which the Contractor can show could not reasonably have been discovered by means of the activities described at Clause 3 of this Condition;
 - b. fair wear and tear in Issued Property resulting from its normal and proper use in the execution of the Contract (except insofar as the deterioration is contributed to by any misuse, lack of care or want of maintenance by the Contractor);
 - c. Issued Property rendered unserviceable as a direct result of ordinary performance of the Contract;
 - d. any loss or damage to Issued Property arising from:
 - (1) aircraft or other aerial devices or objects dropped from them, including pressure waves caused by aircraft or such devices whether travelling at sonic or supersonic speeds;
 - (2) ionising radiation or contamination by radioactivity from any nuclear fuel or from nuclear waste from the combustion of nuclear fuel;
 - (3) the radioactive, toxic, explosive or other hazardous properties of any nuclear assembly or nuclear component thereof;
 - (4) riot, civil commotion, civil war, rebellion, revolution, insurrection, military or usurped power or acts of the King's enemies.

Accounting and Return of Issued Property

12. The Contractor shall:
 - a. open and maintain a Public Store Account (PSA) in accordance with DEF STAN 05-099;
 - b. ensure that all property of the Authority recorded in the PSA, including but not limited to Issued Property, is available for inspection by the Authority at any reasonable time;
 - c. on being given two months notice or such other period as has been stated in the Contract permit, and cooperate with, the Authority to conduct audits of the property of the Authority recorded in the PSA in a manner to be determined by the Authority; where the Authority has reasonable grounds to believe that the property of the Authority has not been used in accordance with the terms of issue then these audits may be conducted without notice.
13. Once title in Special Jigs, Tools etc has passed to the Authority in accordance with Clause 6 of DEFCON 23 the Contractor shall record that equipment in the PSA in accordance with DEF STAN 05-099.
14. At Contract completion the Contractor shall forward a list of Issued Property still held to the Authority's Commercial Officer named in the Contract. Return or disposal of such Issued Property will be as specified in the Contract, or as instructed by the Authority at Contract completion. If no disposal instructions are specified in the Contract the Authority shall provide such instructions within two months of the Contractor's written request to do so

DEFCON 612 (06/21) – Loss or Damage to the Articles

1. Until delivery, the risk of loss of or damage to the Articles remains with the Contractor. Without prejudice to any other rights or remedies of the Authority, the Contractor shall make good any such loss or damage however caused or occasioned which occurs before delivery.

2. Clause 1 shall apply notwithstanding:

a. that the Articles may have been inspected by the Authority; or

b. that the property therein may have passed earlier than upon delivery.

3. Unless otherwise agreed and save for the provisions of Clause 4 of this Condition, the Contractor shall not after delivery be at risk in respect of the Articles, except where the Authority rejects any Article under DEFCON 524, in which case the risk in the rejected Article shall revert to the Contractor on the earlier of: a. the removal of the Article by the Contractor in accordance with Clause 4 of DEFCON 524; or

b. the close of business on the last day of the period in which the Contractor is required to remove the rejected Article in accordance with Clause 4 of DEFCON 524; or

c. the return of the Article by the Authority in accordance with Clause 5 of DEFCON 524.

4. Notwithstanding the provisions of Clause 3 of this Condition, if the Contractor has given notice of objection under Clause 7 of DEFCON 524 they shall not be at risk in respect of the rejected Article where a dispute between the parties relating to the rejection remains unresolved and the Article remains in the possession of the Authority.

5. This Condition shall not apply to any Articles issued to the Contractor by or on behalf of the Authority in connection with which the Contractor is required to carry out any Service. Such Articles shall be subject to DEFCON 611.

DEFCON 624 (SC2) (Edn. 08/22)

Use Of Asbestos Definitions

1. "Asbestos" shall have the same meaning as "asbestos" defined in Regulation 2 of the Control of Asbestos Regulations 2012 (CAR).

Prohibition of Asbestos

2. Subject to Clauses 4 and 5 below, no asbestos of any type shall be added intentionally into any Articles (as defined in DEFCON 501) or other material to be supplied under the Contract.

Notification

3. The Contractor shall notify the Authority in writing as soon as they become aware that Asbestos may be incorporated in Articles or other materials to be supplied or processed during performance of the Contract.

Exemption

4. The Secretary of State may issue a Defence Exemption Certificate under the UK REACH Regulation (the Regulations) exempting the Contractor from parts of the Regulations. The Contractor may incorporate Asbestos into Articles and / or material supplied, or use or process it in the performance of services under the Contract in accordance with the conditions set out in the Certificate.

5. If at any stage during the lifetime of the Contract, an alternative substance becomes available, the Contractor shall bring this to the attention of the Authority immediately, by notice in writing. The Authority shall then determine, in consultation with the Contractor and the Health and Safety Executive where appropriate, whether the substance would be suitable for incorporation into any Articles or material which have yet to be supplied under the Contract. The Authority may require the Contractor to suspend any further production of such Articles or material or delivery of services, pending such determination, thereby relieving the Contractor (for the time being) of any contractual obligations to provide such Articles, material or services. In the event that the Authority determines that the alternative substance would be suitable for incorporation into such Articles or material or in the performance of services in lieu of Asbestos, the Authority may vary its requirements in the light of any such determination.

6. If, at any stage during the lifetime of the Contract, the Secretary of State issues a further certificate which varies or revokes any Defence Exemption Certificate granted in accordance with the Regulations, the effect of which is that any further supply of the Articles or delivery of services under the Contract would be prohibited by the Regulations, the Contractor shall, on becoming aware of the further certificate, immediately refrain from incorporating Asbestos into any such Articles or performing the service and shall provide the Authority with

written confirmation of this within forty-eight hours. The Authority reserves the right to vary its requirements in the light of any such decision.

7. Where the Contract is for the provision of a service, the Contractor shall obtain from the Health and Safety Executive or the Secretary of State for Defence as appropriate, an exemption from the requirements of the CAR under Regulation 29 or 30 where an exemption is necessary for performance of the contract.

DEFCON 637 (Edn 05/17) -

Defect Investigation and Liability

1. The procedure for the reporting, investigation and rectification of all defects whether or not they relate to design, software or manufacturing shall be as agreed between the Contractor and the Authority.
2. Where it is established that, pursuant to the Contract or any other contract relating to the Contractor Deliverables, the Contractor bears the liability for any of the costs of investigating, repairing or rectifying a defect, the costs of any such work undertaken by the Contractor shall be borne by the Contractor.
3. If liability for the defect is in dispute, the Contractor shall separately identify and record all related costs.
4. Any Contractor Deliverable, and work thereon, which after examination is required to be rectified/repared at the Authority's or Contractor's expense, (or if liability is in dispute), is to be notified to the Integrated Project Team (IPT) Project Manager or Equipment Support Manager, prior to any work being put in hand, or transfer to any other contract placed by the Authority, e.g. for repair, overhaul and/or modification.
5. The Contractor shall submit to the Commercial Staff a tasks list, in duplicate, countersigned by the Project Manager/Equipment Support Manager, of the Contractor Deliverables or work which have been investigated/rectified. The list shall be submitted in accordance with the timescales laid down in the Contract and if none is specified within four weeks of completion of all work. The list shall include:
 - a. the description, including, where appropriate, the Stores Reference Number and Serial Number of all Contractor Deliverables or work investigated;
 - b. the description of all other tasks (e.g. design of modification, amendments of drawings);
 - c. against each Item, whether liability has been accepted by the Authority or the Contractor, or is still to be determined, quoting dates and references of relevant correspondence;
 - d. against each Item, the Contract Number and Item Number against which repair, overhaul and/or modification of the Contractor Deliverables has been or will be carried out;
 - e. where liability rests with the Contractor or where overhaul, repair or modification has already been completed for any item, the Unique Order Identifier generated by the Contracting, Purchasing and Finance (CP&F) electronic procurement tool

DEFCON 660 (Edn 12/15)

Official-Sensitive Security Requirements

1. In this condition "Information" means information recorded in any form disclosed or created in connection with the Contract.
2. The Contractor shall protect all Information relating to the aspects designated OFFICIAL-SENSITIVE as identified in the security aspects letter annexed to the Contract, in accordance with the official security conditions contained in the Contract or annexed to the Security Aspects Letter.
3. The Contractor shall include the requirements and obligations set out in clause 2 in any sub-contract placed in connection with or for the purposes of the Contract which requires disclosure of OFFICIAL-SENSITIVE Information to the subcontractor or under which any Information relating to aspects designated as OFFICIAL-SENSITIVE is created by the subcontractor. The Contractor shall also include in the sub-contract a requirement for the subcontractor to flow the requirements of this clause to its subcontractors and through all levels of the supply chain to the lowest level where any OFFICIAL-SENSITIVE Information is handled

DEFCON 684 (Edn 01/04)

Limitation Upon Claims In Respect Of Aviation Products

1. The Contractor shall not be liable to the Authority for loss or damage to the Crown, including loss of use of property, arising from or in connection with the Crown's ownership, possession, handling or use of Aviation Products, where such loss or damage is caused by an Occurrence or a Grounding.
2. Clause 1 of this Condition shall apply notwithstanding negligence on the part of the Contractor or of any Subcontractor but shall be subject to Clauses 3 and 4 of this Condition.
3. Clause 1 of this Condition shall not apply to loss or damage caused:
 - a. Otherwise than by an Occurrence or a Grounding; or
 - b. By fraud on the part of the Contractor or Subcontractor; or
 - c. By wilful misconduct or deliberate concealment by the Contractor or any Subcontractor except for those acts of wilful misconduct or deliberate concealment which, in the opinion of a reputable independent insurance adviser were insurable under a policy of insurance generally available in the insurance market.
4. Clause 1 of this Condition shall:
 - a. Not prevent the Authority from claiming indemnity from the Contractor or any Subcontractor in respect of any claim by third parties (including employees of the Authority);
 - b. Not operate to require the Authority to indemnify the Contractor or any Subcontractor in respect of any claim made by third parties (including employees of the Authority);
 - c. Not affect any right or remedy of the Authority express or implied relating in any way to the repair or replacement, cost of repair or cost of replacement or inspection or transportation in connection therewith of any Aviation Product lost or damaged otherwise than by reason of an Occurrence.
5. A Subcontractor engaged to provide goods, services or works in or towards fulfilment of any obligation on the part of the Contractor under the Contract shall be entitled in its own right to enforce the terms of Clause 1 of this Condition against the Authority but as if in Clause 3, references to the Contractor were references to such Subcontractor and references therein to any Subcontractor were references to any subcontractor of such Subcontractor at any level of subcontracting.

Definitions

6. In this Condition, the following terms shall have the following meanings: a.

Aircraft

'Aircraft' shall include Missiles, air cushion vehicles, hovercraft, lighter than-air aircraft, helicopters and UAVs.

b. Aviation Product

'Aviation Product' means a completed Aircraft or Space Vehicle or Satellite and any article, including software, forming part thereof supplied, serviced, repaired or modified by the Contractor under the Contract, or any article supplied, serviced, repaired or modified by the Contractor under the Contract for installation in, or for use in connection with, or for spare parts for, an Aircraft or Space Vehicle or Satellite including ground handling tools and equipment, and also means training aids, instructions, manuals, blueprints, engineering or other data or any article in respect of which engineering or other advice and services and labour have been given or supplied by the Contractor under the Contract in connection with an Aircraft or Space Vehicle or Satellite. c. Grounding

'Grounding' means the complete and continuous withdrawal from all flight operations at or about the same time of one or more Aircraft due to a mandatory order of the Federal Aviation Administration of the United States of America (FAA), or the Civil Aviation Authority of the United Kingdom (CAA), or any other applicable airworthiness authority (including any military authority), because of an existing, alleged or suspected like defect, fault or condition affecting the safe operation of two or more like Aircraft and which results from an Occurrence. d.

Missile

'Missile' means any non-manned, self-propelled device capable of free flight, whether self controlled or not and includes any ground support or control equipment. e. Occurrence

'Occurrence' means an accident or incident (other than a Grounding) which arises out of the provision, possession, handling or use of an Aviation Product and causes personal injury including bodily injury, sickness

or disease, including death, at any time resulting therefrom, or damage to or destruction of property, including the loss of use of such property. A series of accidents following as a consequence of one Occurrence shall be deemed to be one Occurrence. f. Space Vehicle or Satellite

'Space Vehicle or Satellite' means a spacecraft or satellite including parts detached on route designed to travel to and/or in space or to orbit or to remain in geosynchronous orbit. g. Subcontractor 'Subcontractor' means, except where stated otherwise, any subcontractor engaged by the Contractor or by any other subcontractor of the Contractor at any level of subcontracting. h. UAV

'UAV' means an aircraft which does not carry personnel, is capable of sustained flight by aerodynamic means, is remotely piloted or automatically flies a pre-programmed flight profile, is reusable and not classified as a guided weapon or similar one shot device designed for the delivery of munitions

DEFCON 694 (SC2) (Edn. 07/21)

Accounting For Property Of The Authority The

Contractor shall:

- a. maintain a Public Store Account (PSA), as defined in DEFSTAN 05-099, which shall include a complete list of all property of the Authority, as defined in Clause 2, and record for that property all transactions or other accounting information specified at Annex A to this Condition;
- b. supply to the Authority quarterly reports on the current PSA holdings. At least one report in any twelve-month accounting period or part thereof shall be a reconciled report. This shall be submitted with the Annual Certificate Form AAC 32 as required in DEFSTAN 05-099. The other three reports submitted in the period may be unreconciled advisory reports. The submission by the Contractor and receipt by the Authority of these reports shall not prejudice any rights or obligations of the Authority or the Contractor under the Contract; c. ensure that the PSA is available for inspection by the Authority at any reasonable time;
- d. on being given two months' notice or any other period as has been stated in the Contract permit, and co-operate with, the Authority to conduct audits of the PSA in a manner to be determined by the Authority; where the Authority has reasonable grounds to doubt the integrity of the PSA to the extent that the Authority is not satisfied of the proper use of property of the Authority, an audit may be conducted without notice;
- e. retain the PSA for a period of three years after disposal of the last item of the property of the Authority, or for any other period as may be specified in the Contract;
- f. if the Authority agrees that a subcontractor at whatever level of subcontracting shall have responsibility in the subcontractor's PSA for property of the Authority issued in aid of the Contract, the Contractor shall include in any subcontract with those subcontractors only the provisions corresponding to those set out in this Condition that apply to property of the Authority issued in aid of the subcontract, in particular Clauses 1, 2, 4 and 7; and
- g. manage the Government Furnished Assets (GFA) component of the PSA in accordance with the provisions of DEFSTAN 05-099; and implement any new edition of or amendment to DEFSTAN 05-099 subject to DEFCON 503 within three months of the publication date of the new edition. These amendments shall not have retrospective effect.

2. For the purposes of this Condition 'property of the Authority' means GFA and fixed assets, including property issued under DEFCON 611 and property of the Authority issued to the Contractor under any other authorising document except for property vested in the Authority under Clause 1 of DEFCON 649. 3. For the avoidance of doubt, it is a condition of this Contract that this Condition shall apply to all property issued to the Contractor from the date of this Contract, whether in aid of the Contract, any other contract or other agreement with the Authority. Property of the Authority issued prior to the date of this Contract may be subject to separate contractual arrangements.

4. The obligations of the Contractor arising under this Condition in respect of property of the Authority issued in aid of the Contract shall survive completion of the Contract and shall not be completed until all such obligations are fulfilled including the provisions of sub-Clause 1.e.

5. The obligations of the Contractor arising, under this Condition, in respect of property of the Authority unconnected with the Contract, shall survive completion of the Contract and shall not be completed until all those obligations are fulfilled. Including the provisions of sub-Clause 1.e unless and until a subsequent contract containing DEFCON 694 is placed with the Contractor, at which time obligations, in respect of any remaining property of the Authority, unconnected with the Contract, shall be subsumed in the subsequent contract.

6. If, after completion of the Contract, no subsequent contract is placed containing DEFCON 694 within the period detailed at sub-Clause 1.e, then the obligations of the Contractor arising under this Condition in respect of property of the Authority unconnected with the Contract shall cease on expiry of the period detailed at subclause 1.e.

7. The Authority reserves the right to amend Annex A without further consultation where the amendments arise from the Authority's proper and reasonable accounting requirements. For the purposes of this Clause, Annex A shall be regarded as a Specification and subject to the terms of DEFCON 503. If the Authority exercises this right:

a. the Contractor shall implement the amendment to Annex A at the commencement of the Authority's next accounting year provided that a notice of six months or such other period as may expressly be agreed between the Authority and Contractor is given to the Contractor. These amendments shall not have retrospective effect; and

b. the Contractor shall inform the Authority as soon as practicable, but in any event within three months of notice having been given, if the Contractor cannot comply with the amendment to Annex A.

ANNEX A TO DEFCON 694 Accounting for Property of the Authority – Data & Format Requirements for PSA Records Format

The Contractor is not obliged to maintain and report on their PSA records in a format that is different from their original records. Electronic formats are the preferred format for reporting under Clause 1.b. of this Condition. If electronic formats are used for reporting, the following formats are acceptable:

Single MS Access Table

Unformatted MS Excel Spreadsheet

Other electronic formats may be suitable, subject to agreement with DBS Finance ADMT - see Box 8 of DEFFORM 111 for points of contact. Reports required under Clause 1.b. of this Condition are to be submitted to DBS Finance ADMT - see Box 8 of DEFFORM 111.

Item Record Information

A record is required for each item of GFA held by the Contractor from information available to the Contractor provided by the Authority and from the Contractor's own inventory management systems.

Serial	Name	Description	Comment
KEY DATA FIELDS			

1a 1b 1c	NATO Stock Number	The NSN is to be provided in 3 separate fields i.e. NSN (4 digits) NC (2 digits) IIN (7 digits)	The NSN is a 13 digit number assigned to an Item of Supply. It consists of the 4 digit NATO Supply Classification (NSC) and the 9 digit National Item Identification Number (NIIN) i.e. Nation Code (NC) + IIN. "Dummy" reference numbers should not be used.
2	Contract Number or identification of authorising document or responsible MOD official's details if there is no contract.	Contract Number under which the contractor holds GFA.	If an item is issued against or transferred to a new Contract or other authorising document, Serial 2 details should be updated. The preceding Contract No field is to be completed at Serial 8.
3	Terms of Issue/ Loan Type	Contract Work Item (CWI); Contract Work Arising (CWA);	This is the loan category indicating why

		Contract Support Item (CSI); Contract Embodiment Item (CEI).	industry is holding the asset.
4	Part Number	The Original Equipment Manufacturer's part number for the item	Essential if Serial 1 information is not available. A serial number or unique sequence number should be identified for high value stock items. For JTTE insert Tool No.
Serial	Name	Description	Comment
General Data Fields			
5	Domestic Management Code/Inventory Management Code (DMC/IMC)	Unique Identifier used to further identify the main equipment to which an item belongs.	Domestic Management Code examples are; IMC (Sea): 0613 DMC (Land): 1VSM DMC (Air): 10S Note - No DMC/IMC starts with a 0 (zero).

6	Description	A description of the Asset	The description on the issuing paperwork should be used.
7	Unit of Measure	Each, Pack, etc. For each line	Otherwise known as Denomination of Quantity
8	Preceding Contract No		To be completed if an item is transferred to a new-succeeding contract.
9	JTTE Indicator	"Yes" indicator to reflect that JTTE has passed from DEFCON 23 to DEFCON 611	This indicator is to be flagged when the contractor moves an item off the DEFCON 23 Register and lists the item in the PSA.
10	Prime Contractor	The Prime Contractor AAC Code should be detailed where the item is being reported by a selfaccounting subcontractor	
11	Disposal Indicator	Highlights an item which requires disposal: 1 – Obsolete 2 – Surplus 3 – Disposal instructions requested 4	May relate to an item identified as obsolete or surplus to requirements, or for which disposal instructions have been received.
		– Disposal instructions received	
12	Asset Location	The name of the Site where the contractor holds the item. This description only needs to detail the name of the site and should not exceed 30 characters.	
Serial	Name	Description	Comment
13	Remarks		Any remarks pertinent to the item or that will better identify ownership

Transactional Information

Transactional information enables Resource Accounting and Budgeting compliant accounting and informs decisions on future requirements and any assessment for disposal, either to scrap or return to a MOD Depot or

Unit. A transactional information record is required for each item held by the Contractor, comprising Serial Nos 1, 2, 3 and 4 identified as the **Key Data Fields**, which will form the unique record identifier that will be used by the Assets in Industry Data Centre. No aggregation of individual line entries is required to be undertaken by the Contractor for transactional returns.

Serial	Name	Description	Comment
KEY DATA FIELDS			
14	Opening Balance Data	Reporting period start date.	
15	Quantity Embodied		Only to be recorded when the item has been embodied in the product, i.e. at the point in time when the item loses its own identity.
16	Quantity Returned to MOD		This is to include quantity of items returned to MOD under cover of MOD Form 640 or MOD Form 650
17	Quantity Disposed		This is to include quantity of items scrapped on site or lost in shops (MOD Form 650A), and items authorised for disposal through DSA or otherwise.
18	Quantity Issued - Other		Any other issue of items not covered by serial 14, 15 or 16. The reason for the issue / transfer is to be
			recorded in the remarks field
19	Quantity Received		
20	Stocktaking Adjustments	Stock Adjustments (Qty) as a result of stocktaking losses or gains.	
21	Closing Balance	The total quantity in stock at the close of the reporting period	
22	Closing Balance date	Reporting period end date.	

47. Special conditions that apply to this Contract

47.1 Exercise of Options

47.1.1 The Authority reserves the right to exercise any of the irrevocable Contract Options as specified in the Schedule of Requirements.

47.1.1.1 Provision of In-Service Support (detailed at SoR item 5 under the Contract) are set out at Annex A to the Contract, provided that the Authority exercises such an option by giving 3 months' notice in writing at any time prior to the date the Contract Option is specified to commence.

47.1.1.2. Provision of In-Service Support (detailed at SoR item 6 under the Contract) are set out at Annex A to the Contract, provided that the Authority exercises such an option by giving 3 months' notice in writing at any time prior to the date the Contract Option is specified to commence.

47.1.2. The Authority shall not be obliged to exercise the options.

47.2 Key Performance Indicators

Performance Measurement and Monitoring

47.2.1 Actual performance for each KPI will be assessed quarterly using data submitted by the Contractor on the Progress Reports and in accordance with the KPIs at Schedule 11 to the Contract. This score shall determine the relevant KPI performance band.

47.2.2 If the KPI Performance Band indicates an AMBER or RED level of performance for the Contract period that the KPI applies, then the performance payment value for each AMBER or RED indication shall not be claimed by the Contractor.

47.2.3 Where a KPI shows a GREEN level of performance and the previous Contract period KPI was GREEN then the Contractor may claim full payment.

47.2.4 Where a KPI shows a GREEN level of performance and the previous Contract quarter KPI was AMBER then the Contractor may claim payment of the amount not claimed in the previous period. In the event the Authority places no orders in the following Contract quarter then the ability for the Contractor to claim payment will rollover to the next quarter where an order is placed.

47.2.5 Where a KPI Performance Band shows an AMBER level of performance and the previous Contract period KPI Performance Band was AMBER the value of the performance payment not claimed in the previous period shall cease to be available for payment and shall be permanently deducted from the total Contract Price.

47.2.6 Where a KPI Performance Band shows a RED level of performance in the Contract period for which the KPI applies, the value of the performance payment shall cease to be available for payment and shall be permanently deducted from the total Contract Price.

47.2.7 The Authority and the Contractor agree that any deduction in any quarterly payment calculated in accordance with this Clause (Key Performance Indicators) has been calculated as, and is, a genuine pre-

estimate of the loss likely to be suffered by the Authority in relation to each or any breach by the Contractor of any KPI.

47.2.8 The abatement value held for an AMBER performance is 5% of the quarterly core payment value (deducted from In Service Support (ISS) value set out in Item 1 of Schedule 2 (Statement of Requirement)) and the abatement value deducted for a RED performance is 5% of the quarterly core payment value (deducted from In Service Support (ISS) value set out in Item 1 of Schedule 2 (Statement of Requirements)), in accordance with the Core Payment Plan at Annex F to the Contract.

Unsatisfactory Performance

47.2.9 The Contractor’s performance shall be judged unsatisfactory where any or all KPI(s) are RED for a period of 2 (two) or more consecutive periods. This shall constitute a Material Breach of the Contract.

47.2.10 Where unsatisfactory performance occurs, the Contractor shall deliver a report to the Authority within 3 (three) Working Days of the event causing the breach detailing the circumstances and any mitigating factors, together with a plan for improvement. The Authority reserves the right to call a meeting, at no cost to the Authority, within 5 (five) Working Days following the report to discuss the failure and agree a programme for resolution with the Contractor.

47.2.11 The Authority may exercise its further rights of remedy under the Contract if the Contractor remains in breach, and for the purposes of Condition 42 – Material Breach in the event of persistent unsatisfactory performance, this shall constitute a Material Breach.

47.2.12 Performance payments in any quarter will be dependent on the latest quarter’s performance and comparison with the previous quarter as follows:

Indicator for latest reported quarter	Effect on Performance Payment for latest reported quarter	Indicator for previous quarter	Effect of this quarter’s performance on previous quarterly withheld performance payment.
GREEN	Full payment of Performance payment element for the KPI	G	Performance payment was paid in full last quarter
		A	Abatement for Amber performance held last quarter is now released and claimed by Contractor
		R	Abatement for Red performance is deducted from Contract Price.
AMBER	MoD retains abatement for “Amber” performance pending assessment of next quarterly performance.	G	Performance payment was paid in full last quarter
		A	Abatement for Amber performance held last quarter is now deducted from Contract Price.
		R	Abatement for Red performance is deducted from Contract Price.

RED	MoD retains abatement for “Red” performance and is deducted from Contract Price	G	Performance payment was paid in full last quarter
		A	Abatement for Amber performance held last quarter is now deducted from Contract Price
		R	Abatement for Red performance is deducted from Contract Price

47.3 Limitations on Liability

Definitions

47.3.1 In this Condition [47.3] the following words and expressions shall have the meanings given to them, except where the context requires a different meaning:

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

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

- (1) UK GDPR;
- (2) DPA 2018; and
- (3) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) as amended, each to the extent that it relates to the processing of personal data and privacy;

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

‘DPA 2018’ means the Data Protection Act 2018;

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

“Service Credits” means the amount that the Contractor shall credit or pay to the Authority in the event of a failure by the Contractor to meet the agreed Service Levels as set out/referred to in [cross refer to service credit regime in the contract];

“Term” means the period commencing on [the commencement date / the date on which this Contract is signed / the date on which this Contract takes effect] and ending on the expiry of 3 years or on earlier termination of this Contract.

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

Unlimited liabilities

47.3.2 Neither Party limits its liability for:

47.3.2.1 death or personal injury caused by its negligence, or that of its employees, agents or subcontractors (as applicable);

47.3.2.2 fraud or fraudulent misrepresentation by it or its employees;

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

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

47.3.3 The financial caps on liability set out in Clauses 47.3.4 and 47.3.5 below shall not apply to the following:

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

47.3.3.1.1 the Contractor's indemnity in relation to DEFCON 91 (Intellectual Property in Software) and Condition 34 (Third Party IP – Rights and Restrictions) (Not Applicable);

47.3.3.1.2 the Contractor's indemnity in relation to TUPE (Not Applicable);

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

47.3.3.2.1 the Authority's indemnity under DEFCON 514A (Failure of Performance under Research and Development Contracts) (Not Applicable);

47.3.3.2.2 the Authority's indemnity in relation to TUPE;

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

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

47.3.3.5 For the avoidance of doubt any payments due from either of the Parties to the other in accordance with DEFCON 811 (SC2) or the Defence Reform Act 2014 and/or the Single Source Contract Regulations 2014, as amended from time to time, shall not be excluded or limited under the provisions of Clauses 47.3.4 and/or 47.3.5 below (Not Applicable).

Financial limits

47.3.4 Subject to Clauses 47.3.2 and 47.3.3 and to the maximum extent permitted by Law:

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

47.3.4.1.1 in respect of DEFCON 76 (SC2) [£ pounds] (£ Not Applicable) in aggregate;

47.3.4.1.2 in respect of Condition 43b [REDACTED] (REDACTED) in aggregate;

47.3.4.1.3 in respect of DEFCON 611 (SC2) [REDACTED] (REDACTED) in aggregate; and

47.3.4.1.4 in respect of DEFCON 612 [REDACTED] (REDACTED) in aggregate;

47.3.4.2 without limiting Clause 47.3.4.1 and subject always to Clauses 47.3.2, 47.3.3 and 47.3.4.3, the Contractor's total liability throughout the Term in respect of all other liabilities (but excluding any Service Credits paid or payable whether in contract, in tort (including negligence), arising under warranty, under statute or otherwise under or in connection with this Contract shall be £0 in aggregate.

47.3.4.3 on the exercise of any and, where more than one, each option period or agreed extension to the Term, the limitation of the Contractor's total liability (in aggregate) set out in Clauses 47.3.4.1 and 47.3.4.2 above shall be fully replenished such that on and from each such exercise or extension of the Term, the Authority shall be able to claim up to the full value of the limitation set out in Clauses 47.3.4.1 and 47.3.4.2 of this Contract.

47.3.5 Subject to Clauses 47.3.2, 47.3.3 and 47.3.6, and to the maximum extent permitted by Law the Authority's total liability (in aggregate) whether in contract, in tort (including negligence), under warranty, under statute or otherwise under or in connection with this Contract shall in respect of all liabilities (taken together) be limited to the Charges paid by the Authority in the relevant Contract Year in respect of any and all claims in that Contract Year.

47.3.6 Clause 47.3.5 shall not exclude or limit the Contractor's right under this Contract to claim for the Charges.

Consequential loss

47.3.7 Subject to Clauses 47.3.2, 47.3.3 and 47.3.8, neither Party shall be liable to the other Party or to any third party, whether in contract (including under any warranty), in tort (including negligence), under statute or otherwise for or in respect of:

47.3.7.1 indirect loss or damage;

47.3.7.2 special loss or damage;

47.3.7.3 consequential loss or damage;

47.3.7.4 loss of profits (whether direct or indirect);

47.3.7.5 loss of turnover (whether direct or indirect);

47.3.7.6 loss of business opportunities (whether direct or indirect); or

47.3.7.7 damage to goodwill (whether direct or indirect), even if that Party was

aware of the possibility of such loss or damage to the other Party.

47.3.8 The provisions of Clause 47.3.7 shall not restrict the Authority's ability to recover any of the following losses incurred by the Authority to the extent that they arise as a result of a Default by the Contractor:

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

47.3.8.1.1 to any third party;

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

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

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

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

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

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

47.3.8.6 costs, expenses and charges arising from, or any damages, account of profits or other award made for, infringement of any third-party Intellectual Property Rights or breach of any obligations of confidence;

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

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

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

Invalidity

47.3.9 If any limitation or provision contained or expressly referred to in this Condition [47.3] is held to be invalid under any Law, it will be deemed to be omitted to that extent, and if any Party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this Condition [47.3].

Third party claims or losses

47.3.10 Without prejudice to any other rights or remedies the Authority may have under this Contract (including but not limited to any indemnity claim under DEFCONs 91 and Condition 34 or at Law), the Authority shall be

entitled to make a claim under this Contract against the Contractor in respect of any losses incurred by the Authority which arise out of a claim made against the Authority by a third party under any contract with that third party provided that such third party claim:

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

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

No double recovery

47.3.11 Neither Party shall be entitled to employ such rights and remedies available to it so as to seek to recover more than once in respect of the same loss.

47.4 Pricing

47.4.1 All Pricing shall be firm and be in accordance with Annex B, Annex F and Supplementary tasking on a case-by-case basis, in accordance with the agreed tasking form.

47.4.2 The Contract shall have a Cost Plus Limit for Work Packages 2, 3 & 4.

47.4.2.1 Cost-Plus elements shall be priced using a Task Authorisation Form (TAF) in accordance with Condition 48.1, where the Contractor shall provide a Firm Price in Pounds Sterling (£) for each task. For the purposes of agreeing the price of any TAF, the rates shall be utilised to calculate the Contractor's proposed costs for the relevant TAF request for consideration by the Authority. Purchase of spares shall also be subject to a Cost Plus limit which shall be priced utilising the Firm prices at Annex B orders shall be raised via CP&F.

47.4.2.2 For the avoidance of doubt, no expenditure shall be made by the Contractor without prior approval by the Authority in accordance with Condition 48.1.

47.4.2.3 The Contractor shall not exceed these lines and will work with the Authority throughout the term. These lines are as follows;

47.4.2.3.1 Work Package 2, Repair of Articles, shall have an accumulative Cost Plus Limit **[REDACT]**.

47.4.2.3.2 Work Package 3, Provision of Spares, shall have an accumulative Cost Plus Limit **[REDACT]**.

47.4.2.3.3 Work Package 4, Ad-Hoc tasking, shall have an accumulative Cost Plus Limit **[REDACT]**.

47.4.3 Where the Cost Plus Limit identified above reach 80% of the total, the Contractor shall notify the Authority's Commercial Manager and the Operations Manager, respectively named at Box 1 and Box 2 of DEFFORM 111.

47.5 Quality Assurance (refer to the Statement of Requirement at Annex A)

NATO Quality Requirements for Final Inspection.
Edition C Version 1

Quality Assurance Procedural Requirements - Concessions
Issue 6

Quality Assurance Procedural Requirements - Independent Inspection Requirements for Safety Critical Items
Issue

Avoidance of Counterfeit materiel

47.6 Russian and Belarusian Exclusion Condition for Inclusion in Contracts

1. The Contractor shall, and shall procure that their Sub-contractors shall, notify the Authority in writing as soon as they become aware that:

a. the Contract Deliverables and/or Services contain any Russian/Belarusian products and/or services; or

b. that the Contractor or any part of the Contractor's supply chain is linked to entities who are constituted or organised under the law of Russia or Belarus, or under the control (full or partial) of a Russian/Belarusian person or entity. Please note that this does not include companies:

(1) registered in the UK or in a country with which the UK has a relevant international agreement providing reciprocal rights of access in the relevant field of public procurement; and/or

(2) which have significant business operations in the UK or in a country with which the UK has a relevant international agreement providing reciprocal rights of access in the relevant field of public procurement.

2. The Contractor shall, and shall procure that their Sub-contractors shall, include in such notification (or as soon as reasonably practicable following the notification) full details of the Russian products, services and/or entities and shall provide all reasonable assistance to the Authority to understand the nature, scope and impact of any such products, services and/or entities on the provision of the Contract Deliverables and/or Services.

3. The Authority shall consider the notification and information provided by the Contractor and advise the Contractor in writing of any concerns the Authority may have and/or any action which the Authority will require the Contractor to take. The Contractor shall be required to submit a response to the concerns raised by the Authority, including any plans to mitigate those concerns, within 14 business days of receipt of the Authority's written concerns, for the Authority's consideration.

4. The Contractor shall include provisions equivalent to those set out in this clause in all relevant Subcontracts.

47.7 Additional Definitions of Contract law. Conditions 45 - 47 (Additional Conditions)

Not applicable

47.8 Government Furnished Equipment

47.8.1 Any Government Furnished Equipment (GFE), Services, Facilities and Information (together referred to as GFE supplied or to be supplied by the Authority to the Contractor under this Contract shall be recorded at Annex F to the Contract.

47.8.2 The GFE detailed at Annex D to the Contract shall be made available to the Contractor under the terms of DEF STAN 05-99 Issue 4 as Contract Support Items for the purposes of the Contract only and shall be returned to the Authority on completion of the Contract.

47.8.3 The GFE List at Annex D to the Contract represents the identified GFE items as agreed between the Authority and Contractor at Contract signature. If the Contractor wishes the Authority to provide any further GFE which is not referred to in Annex D, he must give the Authority reasonable notice as is practicable in the circumstances and give details of his requirement. New requirements for GFE shall be subject to negotiation with the Authority. The Authority will endeavour to meet such requirements but there will be no obligation to do so. The GFE list will subsequently be revised to reflect the change via the Contract Amendment procedure.

47.8.4 the requirement can be satisfied from within the Authority's existing resources, the appropriate terms shall be negotiated. The Contractor shall not request items of equipment on loan from Government Sources, except for those listed in Annex D, without first obtaining the written agreement of the Authority to do so.

47.8.5 The Authority shall have no liability to the Contractor if, when the equipment or services are made available or offered to be made available on the agreed date the Contractor fails to make use of them. In such circumstances the liability of the Authority shall cease with effect from the time the facility is made available or offered on the agreed dates.

47.8.6 The Contractor shall observe the instructions of the Authority regarding any Government owned equipment issued to him for the purpose of the Contract and shall be responsible for the safe custody of issued GFE throughout the duration of the Contract. The Contractor shall observe any accounting instructions issued by the Authority (clause 12 of DEFCON 611 refers).

47.8.7 The Contractor shall not modify any GFE without the agreement of the Authority except for those items so identified in Annex D hereto. If he has any doubt about the suitability of any item, or has proposals for design changes, he shall advise the Authority accordingly at the earliest opportunity, preferably at the time of the agreement of the Specification for the main item of materiel. The Contractor shall ensure that the design of the installation using Government Furnished Assets is in accordance with the specific requirements of such equipment.

47.8.8 The Contractor shall take all steps that are necessary to ensure that it has brought to the notice of all sub-contractors and any other persons dealing with any GFE that the Authority or the supplying agency is the owner of the equipment. The Contractor shall notify the Authority immediately of any attempts by a third party to secure a lien or rights of a similar kind on any GFE. At the same time he shall notify the third party that the Authority or the supplying agency is the owner of the GFE. This shall not relieve the Contractor of his obligations under DEFCON 611.

47.8.9 The Contractor shall provide reasonable access to all GFE issued under the Contract for the Authority to inspect and undertake necessary servicing/maintenance work. The Contractor shall ensure a similar provision is included in any Sub-Contract under which GFE is issued.

47.8.10 As and when the Contractor no longer has a requirement under the Contract to hold GFE or otherwise on completion of all work under the Contract he shall seek disposal instructions from the Authority's Commercial Officer and confirm when the GFE has been returned / disposed of.

47.8.11 The Authority reserves the right to withhold Milestone Payment(s) under the Contract until such time as all GFE items due to be returned prior to completion of such milestones are returned.

47.8.12 The Authority reserves the right to withhold final payment under the Contract until the Contractor has returned all GFE, under the obligations of clause 8 of DEFCON 611, issued to him for the purpose of the Contract.

48. The processes that apply to this Contract are:

48.1 Authorisation and Performance of Work

48.1.1 Schedule of Requirements Item 1 – In-Service Support

- (1) Authorisation to proceed with the provision of Core Activities under Item 1 of the Schedule of Requirements, in accordance with Annex A to the Contract, shall be concurrent with Contract placement.
- (2) Payment will be quarterly, in arrears, in accordance with Annex F to the Contract.

48.1.2 Schedule of Requirements Item 2 – Repairs

- (1) Any articles for repair or modification will be forwarded to the Contractor's works in accordance with arrangements to be made with the Contractor by the APM.
- (2) A CP&F purchase order will be the authority to proceed, utilising the agreed rates in Schedule 14 to the Contract.
- (3) The contractor will acknowledge receipt of the order within 3 working days. If the Contractor is unable to accept the CP&F Purchase Order, either wholly or in part, he shall notify the APM giving reasons for nonacceptance and, where appropriate, a recommendation for amendment. If an amendment cannot be agreed Clause 39 (Dispute Resolution) shall apply.

48.1.3 Schedule of Requirements Item 3 - Provision of Spares

- (1) A CP&F Purchase Order, raised by the Authority, shall be the authorisation to proceed with the provision of Spares under Item 2 of the Schedule of Requirements; The contractor will acknowledge receipt of the order within 3 working days.
- (2) If a requirement under Item 2 is reduced, increased or cancelled by the Authority, which will be via the CP&F purchase order, the Contractor shall notify the Authority if the reduction or cancellation cannot be accepted within 2 working days of receipt.
- (3) All items, under Item 2, must be codified, in accordance with DEFCON 117, prior to acceptance by the Authority and claim for payment.
- (4) Prices under Schedule 2 item 3 are Firm Price for the duration of the Contract.

48.1.4 Schedule of Requirements Item 4 - Specific Tasks

A Task Authorisation Form ("TAF") shall be used to authorise non-core work under Schedule 2 – Item No. 4. The instructions to raise a TAF are as follows:

- (1) Part 1 of the TAF shall be raised by the Authority for specific tasks and shall be completed to show the Task Number, Task Title and details of the task.
- (2) Part 2 of the TAF shall be completed and signed on behalf of the Contractor by an authorised representative. It shall include a Firm Price offer, unless otherwise agreed, supported by a detailed price breakdown using the charging rates as detailed at Annex B to the Contract and inclusive of such particulars of cost as the Authority may reasonably require in addition to those specified at clause 47.1 d.. The TAF together with the price breakdown shall be returned to the Authority for consideration.
- (3) Once Part 3 of the TAF is completed by the Authority's Commercial Officer, and the Contractor and Authority have agreed a price, work on the task may commence. No work may commence prior to receipt of such agreement in writing.
- (4) Part 4 of the TAF is to be completed is to be completed by the Authority once the task has been completed to the satisfaction of the Authority.
- (5) The Authority's template for the TAF is included at Annex C of the Contract. The TAF is mandatory for use in all circumstances, unless explicitly instructed otherwise, in writing, by the Authority.
- (6) The record of approved non-core tasks is at Annex E to the Contract.
- (7) The record of approved non-core tasks at Annex E to the Contract shall be updated at each contract amendment.

SC2 Schedules

Schedule 1 – Definitions of Contract

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

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

Control	<p>means the power of a person to secure that the affairs of the Contractor are conducted in accordance with the wishes of that person:</p> <ul style="list-style-type: none"> a. by means of the holding of shares, or the possession of voting powers in, or in relation to, the Contractor; or b. by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating the Contractor; <p>and a change of Control occurs if a person who Controls the Contractor ceases to do so or if another person acquires Control of the Contractor;</p>
CPET	<p>means the UK Government's Central Point of Expertise on Timber, which provides a free telephone helpline and website to support implementation of the UK Government timber procurement policy;</p>
Crown Use	<p>in relation to a patent means the doing of anything by virtue of Sections 55 to 57 of the Patents Act 1977 which otherwise would be an infringement of the patent and in relation to a Registered Design has the meaning given in paragraph 2A(6) of the First Schedule to the Registered Designs Act 1949;</p>
Dangerous Goods	<p>means those substances, preparations and articles that are capable of posing a risk to health, safety, property or the environment which are prohibited by regulation, or classified and authorised only under the conditions prescribed by the:</p> <ul style="list-style-type: none"> a. Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 (CDG) (as amended 2011); b. European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR); c. Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID); d. International Maritime Dangerous Goods (IMDG) Code; e. International Civil Aviation Organisation (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air; f. International Air Transport Association (IATA) Dangerous Goods Regulations.
DBS Finance	<p>means Defence Business Services Finance, at the address stated in Schedule 3 (Contract Data Sheet);</p>
DEFFORM	<p>means the MOD DEFFORM series which can be found at https://www.kid.mod.uk;</p>
DEF STAN	<p>means Defence Standards which can be accessed at https://www.dstan.mod.uk;</p>
Deliver	<p>means hand over the Contractor Deliverables to the Consignee.</p>

This shall include unloading, and any other specific arrangements, agreed in accordance with Condition 28 and Delivered and Delivery shall be construed accordingly;

Delivery Date	means the date as specified in Schedule 2 (Schedule of Requirements) on which the Contractor Deliverables or the relevant portion of them are to be Delivered or made available for Collection;
Denomination of Quantity (D of Q)	means the quantity or measure by which an item of material is managed;
Design Right(s)	has the meaning ascribed to it by Section 213 of the Copyright, Designs and Patents Act 1988;
Diversion Order	means the Authority's written instruction (typically given by MOD Form 199) for urgent Delivery of specified quantities of Contractor Deliverables to a Consignee other than the Consignee stated in Schedule 3 (Contract Data Sheet);
Effective Date of Contract	means the date upon which both Parties have signed the Contract;
Evidence	means either: a. an invoice or delivery note from the timber supplier or Subcontractor to the Contractor specifying that the product supplied to the Authority is FSC or PEFC certified; or b. other robust Evidence of sustainability or FLEGT licensed origin, as advised by CPET;
Firm Price	means a price (excluding VAT) which is not subject to variation;
FLEGT	means the Forest Law Enforcement, Governance and Trade initiative by the European Union to use the power of timber-consuming countries to reduce the extent of illegal logging;
Government Furnished Assets (GFA)	is a generic term for any MOD asset such as equipment, information or resources issued or made available to the Contractor in connection with the Contract by or on behalf of the Authority;
Hazardous Contractor Deliverable	means a Contractor Deliverable or a component of a Contractor Deliverable that is itself a hazardous material or substance or that may in the course of its use, maintenance, disposal, or in the event of an accident, release one or more hazardous materials or substances and each material or substance that may be so released;

Independent Verification	means that an evaluation is undertaken and reported by an individual or body whose organisation, systems and procedures conform to “ISO Guide 65:1996 (EN 45011:1998) General requirements for bodies operating product certification systems or equivalent”, and who is accredited to audit against forest management standards by a body whose organisation, systems and procedures conform to “ISO 17011: 2004 General Requirements for Providing Assessment and Accreditation of Conformity Assessment Bodies or equivalent”;
Information	means any Information in any written or other tangible form disclosed to one Party by or on behalf of the other Party under or in connection with the Contract;
Issued Property	means any item of Government Furnished Assets (GFA), including any materiel issued or otherwise furnished to the Contractor in connection with the Contract by or on behalf of the Authority;
Legal and Sustainable	means production and process methods, also referred to as timber production standards, as defined by the document titled “UK Government Timber Production Policy: Definition of legal and sustainable for timber procurement”. The edition current on the day the Contract documents are issued by the Authority shall apply;
Legislation	means in relation to the United Kingdom any Act of Parliament, any subordinate legislation within the meaning of section 21 of the Interpretation Act 1978, or any exercise of Royal Prerogative;
Military Level Packaging (MLP)	means Packaging that provides enhanced protection in accordance with Def Stan 81-041 (Part 1), beyond that which Commercial Packaging normally provides for the military supply chain;
Military Packager Approval Scheme (MPAS)	is a MOD sponsored scheme to certify military Packaging designers and register organisations, as capable of producing acceptable Services Packaging Instruction Sheet (SPIS) designs in accordance with Defence Standard (Def Stan) 81-041 (Part 4);
Military Packaging Level (MPL)	shall have the meaning described in Def Stan 81-041 (Part 1);
Mixture	means a mixture or solution composed of two or more substances;
MPAS Registered Organisation	is a packaging organisation having one or more MPAS Certificated Designers capable of Military Level designs. A company capable of both Military Level and commercial Packaging designs including MOD labelling requirements;

MPAS Certificated Designer	shall mean an experienced Packaging designer trained and certified to MPAS requirements;
NATO	means the North Atlantic Treaty Organisation which is an intergovernmental military alliance based on the North Atlantic Treaty which was signed on 4 April 1949;
Notices	shall mean all Notices, orders, or other forms of communication required to be given in writing under or in connection with the Contract;
Overseas	shall mean non UK or foreign;
Packaging	Verb. The operations involved in the preparation of materiel for; transportation, handling, storage and Delivery to the user; Noun. The materials and components used for the preparation of the Contractor Deliverables for transportation and storage in accordance with the Contract;
Packaging Design Authority (PDA)	shall mean the organisation that is responsible for the original design of the Packaging except where transferred by agreement. The PDA shall be identified in the Contract, see Annex A to Schedule 3 (Appendix – Addresses and Other Information), Box 3;
Parties	means the Contractor and the Authority, and Party shall be construed accordingly;
Plastic Packaging Components	shall have the same meaning as set out in Part 2 of the Finance Act 2021 together with any associated secondary legislation;
PPT	means a tax called “plastic packaging tax” charged in accordance with Part 2 of the Finance Act 2021;
PPT Legislation	means the legislative provisions set out in Part 2 and Schedule 9-15 of the Finance Act 2021 together with any secondary legislation made under powers contained in Part 2 of the Finance Act 2021. This includes, but is not limited to, The Plastic Packaging Tax (Descriptions of Products) Regulations 2021 and The Plastic Packaging Tax (General) Regulations 2022;
Primary Packaging Quantity(PPQ)	means the quantity of an item of material to be contained in an individual package, which has been selected as being the most suitable for issue(s) to the ultimate user, as described in Def Stan 81041 (Part 1);
Publishable Performance Information	means any of the Information in Schedule 9 (KPI Data Report) as it relates to Key Performance Indicator where it is expressed as

publishable in the table in Schedule 9 which shall not contain any Information which is exempt from disclosure which shall be determined by the Authority; and which shall not constitute Sensitive Information;

Recycled Timber	means recovered wood that prior to being supplied to the Authority had an end use as a standalone object or as part of a structure. Recycled Timber covers: <ul style="list-style-type: none">a. pre-consumer reclaimed wood and wood fibre and industrial byproducts;b. post-consumer reclaimed wood and wood fibre, and driftwood;c. reclaimed timber abandoned or confiscated at least ten years previously; it excludes sawmill co-products;
Robust Contractor Deliverables	shall mean Robust items as described in Def Stan 81-041 (Part 2)
Safety Data Sheet	has the meaning as defined in the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulations 2007 (as amended);
Schedule of Requirements	means Schedule 2 (Schedule of Requirements), which identifies, either directly or by reference, Contractor Deliverables to be provided, the quantities and dates involved and the price or pricing terms in relation to each Contractor Deliverable;

Sensitive Information	means the Information listed in the completed Schedule 5 (Contractor's Sensitive Information), which is Information notified by the Contractor to the Authority, which is acknowledged by the Authority as being sensitive, at the point at which the Contract is entered into or amended (as relevant) and remains sensitive information at the time of publication;
Short-Rotation Coppice	means a specific management regime whereby the poles of trees are cut every one to two years and which is aimed at producing biomass for energy. It is exempt from the UK Government timber procurement policy. For avoidance of doubt, Short-Rotation Coppice is not conventional coppice, which is subject to the timber policy;
Specification	means the description of the Contractor Deliverables, including any specifications, drawings, samples and / or patterns, and shall include any document or item which, individually or collectively is referred to in Schedule 2 (Schedule of Requirements). The Specification forms part of the Contract and all Contractor Deliverables to be supplied by the Contractor under the Contract shall conform in all respects with the Specification;
STANAG4329	means the publication NATO Standard Bar Code Symbologies which can be sourced at https://www.dstan.mod.uk/faqs.html ;

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

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

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

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

Virgin Timber

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

Schedule 2 - Schedule of Requirements

Schedule of Requirements

<p>Name & Address of Contractor:</p> <p>L'HOTELLIER S.A.S., a part of Collins Aerospace</p>	<p>MINISTRY OF DEFENCE</p> <p>Schedule of Requirements</p> <p>For The Provision of Spares, Repair (Spares Inclusive), and Supplementary Tasking for Fire Suppression and Inflation Equipment</p>	<p>Contract -- No:</p> <p>709466451 Issued on:</p> <p>26/11/2025</p>
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Table I Articles Required

Item	Description	Firm Price Each (ex-VAT)
1	<p><u>In-Service Support (ISS)</u></p> <p>Provision of ISS Core Activities in accordance with the Statement of Requirement (SOR) at Annex A to the Contract for the period of 27/11/2025 to 26/11/2028</p> <p>*note this will be an initial 3 year period</p>	<p>[REDACTED]. In accordance with the agreed firm prices at Annex F to the Contract.</p>
2	<p><u>Repair</u></p> <p>Provision of Survey and Repair Articles in accordance with the SOR at Annex A to the Contract and in accordance with Repair/Demand Order (CP&F Order) raised by the Commodity manager for the period of 27/11/2025 to 26/11/2028.</p>	<p>[REDACTED] (Cost Plus Limit) In accordance with the agreed prices Annex B to the Contract.</p>
3	<p><u>Supply of Spares</u></p> <p>Provision of Spares, in accordance with the SOR at Annex A to the Contract for the period of 27/11/2025 to 26/11/2028</p>	<p>[REDACTED] (Cost Plus Limit) In accordance with the agreed firm prices at Annex B to the Contract.</p>

4	<p><u>Ad-Hoc Tasking</u></p> <p>Provision of Ad-Hoc Tasks as and when required by the Authority's Operations Manager (AOM) in accordance with the procedure detailed at clause 47.1 to the contract for the period of 27/11/2025 to 26/11/2028</p>	<p>[REDACTED] ((Cost Plus Limit)) In accordance with the agreed prices at Annex B to the Contract.</p>
5	<p><u>Option 1</u></p> <p><u>In-Service Support (ISS)</u></p> <p>Provision of ISS Core Activities in accordance with the Statement of Requirement (SOR) at Schedule A SoR to the Contract for the period of 27/11/2028 to 26/11/2029.</p>	<p>N.A. - Pricing to be agreed prior to acceptance of Option 1</p>
6	<p><u>Option 2</u></p> <p><u>In-Service Support (ISS)</u></p> <p>Provision of ISS Core Activities in accordance with the Statement of Requirement (SOR) at Annex A to the Contract for the period of 27/11/2029 to 26/11/2030.</p>	<p>N.A. - Pricing to be agreed prior to acceptance of Option 1</p>
<p>Contract Total Value: [REDACTED]</p>		

Schedule 3 - Contract Data Sheet

<p>General Conditions</p> <p>Condition 2 – Duration of Contract: The contract shall be for a duration of 3 years with 2 option years to be taken in 1 year increments at the Authorities discretion in accordance with Condition 47.</p> <p>The Contract expiry date shall be: 26/11/2028</p>
<p>Condition 4 – Governing Law:</p> <p>Contract to be governed and construed in accordance with:</p> <p>English Law</p> <p>Solicitors or other persons based in England and Wales (or Scotland if Scots Law applies) irrevocably appointed for Contractors without a place of business in England (or Scotland, if Scots Law applies) in accordance with clause 4.g (if applicable) are as follows:</p> <p>Solicitors Appointed: Crown Legal Services</p>
<p>Condition 7 – Authority’s Representatives:</p> <p>The Authority’s Representatives for the Contract are as follows:</p> <p>Commercial: [REDACTED] (as per Annex A to Schedule 3 (DEFFORM 111))</p> <p>Project Manager: [REDACTED] (as per Annex A to Schedule 3) (DEFFORM 111))</p>
<p>Condition 18 – Notices:</p> <p>Notices served under the Contract shall be sent to the following address:</p> <p>Authority: NH1, Walnut 3C, MOD Abbey Wood South, Bristol BS34 8JH (as per Annex A to Schedule 3 (DEFFORM 111))</p> <p>Contractor: L’Hotellier S.A.S., a part of Collins Aerospace 4 Rue Henri Poincare, 92167, Anthony Cedex, France</p> <p>Notices can be sent by electronic mail?</p>

Yes
Condition 19.a – Progress Meetings: The Contractor shall be required to attend the following meetings: Progress Meetings Details: Quarterly Progress Meetings - To be run in accordance with Annex A SoR
Condition 19.b – Progress Reports: The Contractor is required to submit the following Reports: Progress Reports: Quarterly Progress Reports - To be prepared in accordance with Annex A SoR. Reports shall be Delivered to the following address: NH1, Walnut 3C, MOD Abbeywood South, Bristol BS34 8JH

Supply of Contractor Deliverables
Condition 20 – Quality Assurance: Is a Deliverable Quality Plan required for this Contract? No
Condition 21 – Marking of Contractor Deliverables: Special Marking requirements: All Markings of deliverables must be completed in accordance with packaging guidelines within the LCST Supplier Manual

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

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

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

to be Delivered no later than one (1) month prior to the Delivery Date for the Contract Deliverable

Condition 25 – Timber and Wood-Derived Products:

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

to be Delivered by the following date: [1 Month from contract award]

Condition 26 – Certificate of Conformity:

Is a Certificate of Conformity required for this Contract? (delete as appropriate)

Yes

Applicable to Line Items: 2,3 & 4 and in accordance with the Statement of Requirement

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

Yes

Applicable to Line Items: 2,3 & 4 and in accordance with the Statement of Requirement

Condition 28.b – Delivery by the Contractor:

N.A Unless a Warranty return where the Contractor may collect the item at the Contractors cost.

<p>Condition 28.c - Collection by the Authority:</p> <p>The following Line Items are to be Collected by the Authority:</p> <p>Items 2,3 & 4</p> <p>Special Delivery Instructions: Delivery to be in accordance with the Statement of Requirements.</p> <p>Each consignment is to be accompanied by a DEFFORM 129J.</p> <p><u>Air Freight Centre</u> EXPORTS ((030 679 81113 / 81114 Fax 0117 913 8943</p> <p><u>Surface Freight Centre</u> EXPORTS ((030 679 81129 / 81133 / 81138 Fax 0117 913 8946</p>
<p>Condition 30 – Rejection:</p> <p>The default time limit for rejection of the Contractor Deliverables is thirty (30) days</p>
<p>Condition 32 – Self-to-Self Delivery:</p> <p>Self-to-Self Delivery required? No</p>
<p>Pricing and Payment</p>
<p>Condition 35 – Contract Price:</p> <p>All Schedule 2 line items shall be FIRM Price other than those stated below:</p> <p>Line Items 2,3 &4 shall be subject to Firm prices paid against a cost plus limit as defined in Condition 47.4 & the Schedule of Requirement</p>
<p>Termination</p>
<p>Condition 42 – Termination for Convenience:</p> <p>The Notice period for terminating the Contract shall be twenty (20) days.</p>

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

See Annex A to Schedule 3 (DEFFORM 111)

Annex A to Schedule 3 - DEFFORM 111

Appendix - Addresses and Other Information

1. Commercial Officer

Name: [REDACTED]

Address: NH1, Walnut 3C, MOD Abbeywood South, Bristol BS34 8JH

Email: [REDACTED]

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

Name: [REDACTED]

Address NH1, Walnut 3C, MOD Abbeywood South, Bristol BS34 8JH

Email: [REDACTED]

3. Packaging Design Authority Organisation & point of contact:

Packaging design Authority

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

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

Branch/Name: [REDACTED]

(b) U.I.N. D6470D

5. Drawings/Specifications are available from: The Contractor

6. Intentionally Blank

7. Quality Assurance Representative: [REDACTED]

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

9. Consignment Instructions The items are to be consigned as follows: _____

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

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

Air Freight Centre

IMPORTS ((030 679 81113 / 81114 Fax 0117 913 8943

EXPORTS ((030 679 81113 / 81114 Fax 0117 913 8943

Surface Freight Centre

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

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

B. JSCS

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

JSCS Fax No. 01869 256837 www.freightcollection.com

11. The Invoice Paying Authority

Ministry of Defence, DBS Finance, Walker House, Exchange Flags Liverpool, L2 3YL
(0151-242-2000 Fax: 0151-242-2809)

Website is: <https://www.gov.uk/government/organisations/ministry-of-defence/about/procurement#invoiceprocessing>

12. Forms and Documentation are available through *:

Ministry of Defence, Forms and Pubs Commodity Management PO Box 2, Building C16, C Site, Lower Arcott, Bicester, OX25 1LP (Tel. 01869 256197 Fax: 01869 256824)

Applications via fax or email: Leidos-FormsPublications@teamleidos.mod.uk

*** NOTE**

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

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

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

Schedule 4 – Contract Change Control Procedure (i.a.w. clause 6.d)

Authority Changes

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

Notice of Change

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

(2) (where the Authority either agrees or it is so determined that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c) the Authority fails to make sufficient adjustments to the relevant Authority Notice of Change (and issue a revised Authority Notice of Change) to remove the Contractor's grounds for refusing to implement the relevant Change under Clauses 5.a, 5.b and/or 5.c within 10 (ten) Business Days (or such longer period as shall have been agreed in writing by the parties) after:

- i) the date on which the Authority notifies in writing the Contractor that the Authority agrees that the relevant Change(s) is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c); or
- ii) the date of such

determination.

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

Contractor Change Proposal

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

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

b. (where the Contractor has notified the Authority that the relevant Change or Changes is/are a Change(s) falling within the scope of Clauses 5.a, 5.b and/or 5.c in accordance with Clause 5 and:

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

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

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

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

- a. the effect of the Change(s) on the Contractor's obligations under the Contract;
 - b. a detailed breakdown of any costs which result from the Change(s);
 - c. the programme for implementing the Change(s);
 - d. any amendment required to this Contract as a result of the Change(s), including, where appropriate, to the Contract Price; and
 - e. such other information as the Authority may reasonably require.
9. The price for any Change(s) shall be based on the prices (including rates) already agreed for the Contract and shall include, without double recovery, only such charges that are fairly and properly attributable to the Change(s).

Contractor Change Proposal – Process and Implementation

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

Contractor Changes

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

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

Contract No: 709466451

Contract No: 709466451
Description of Contractor's Sensitive Information: [REDACTED]
Cross Reference(s) to location of Sensitive Information: [REDACTED]
Explanation of Sensitivity: [REDACTED]
Details of potential harm resulting from disclosure: [REDACTED]
Period of Confidence (if applicable): [REDACTED]
Contact Details for Transparency / Freedom of Information matters: Name: [REDACTED] Position: [REDACTED] Address: [REDACTED] Telephone Number: [REDACTED] Email Address: [REDACTED]

NATO Stock Number: []

Contact Name: []

Contact Phone Number: []

Contact Address: []

Copy to be forwarded to:

Hazardous Stores Information System (HSIS)
Spruce 2C, #1260
MOD Abbey Wood (South) Bristol
BS34 8JH

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

Data Requirements for Contract No: 709466451

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

Schedule of Requirements item and timber product type	Volume of timber Delivered to the Authority with FSC, PEFC or equivalent evidence	Volume of timber Delivered to the Authority with other evidence	Volume (as Delivered to the Authority) of timber without evidence of compliance with Government Timber Procurement Policy	Total volume of timber Delivered to the Authority under the Contract
[]	[]	[]	[]	[]
[]	[]	[]	[]	[]
[]	[]	[]	[]	[]
[]	[]	[]	[]	[]
[]	[]	[]	[]	[]
[]	[]	[]	[]	[]

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

Schedule 8 – Acceptance Procedure (i.a.w. Condition 29) for Contract No: 709466451

a. The Acceptance Procedure shall be in accordance with Condition 29 unless explicitly stated otherwise within a Tasking Authorisation Form.

Schedule 9 - Publishable Performance Information - Key Performance Indicator Data Report (i.a.w. Condition 12) for Contract No:[709466451]

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

*Publishable fields. Please note, of the four Rating Thresholds, only the 'Good' threshold is published.

Please see the [DEFFORM 539B Explanatory Notes](#) for guidance on completing the KPI Data Report.

Schedule 10 – Notification of Intellectual Property Rights (IPR) Restrictions for Contract No. 709466451

Products delivered under this Contract are based on technology developed solely by Seller, and Seller retains ownership of all intellectual property rights therein. No rights or licenses are granted to the Authority.

Schedule 11 – Performance

Key Performance Indicators

Key Performance Indicator 1	
KPI Number	1
Service Area	Supply
PI Descriptor	On time delivery of all orders
Incidence Measure	On time delivery of Spares and New Equipment.
Start	Contract Award
Stop	Contract Expiry
Who Reports?	The Contractor to APM in the Quarterly Progress Report
Monitoring Frequency	Continuous monitoring during course of contract
Reporting Frequency	Quarterly
Retention Attribution	5% of the Quarterly Core Payment in accordance with Condition 47.2 of the Terms and Conditions of the Contract.
Retention Period	Quarterly
Performance Criteria	
Performance Bands	Performance Target
GREEN	≥95% On time delivery
AMBER	90-94.9% On time delivery
RED	<89.% On time delivery

Schedule 12 – Warranty

The following provision covers warranty for NEW PRODUCTS

New Products supplied by Seller under this contract are warranted to be, at the time of delivery of the product, free from defects in material and workmanship. The warranty period shall be twelve (12) months from the date of delivery by Seller. If, at the time of delivery of the product, any such product is found to be defective in material or workmanship, Seller shall, if it confirms existence of the defect, repair or, at its option, replace such defective product at its expense and with reasonable promptness. Buyer shall provide Seller with written notice of a claimed defect within three (3) months after the defect becomes apparent to Buyer. Said notice will contain reasonable proof that the claimed defect is covered by Seller's warranty. This warranty is specifically conditioned upon the proper handling, use, and maintenance of the products by the Buyer and/or any ultimate user.

The only warranties made by Seller are those expressly provided herein. Any other statements expressed in the contract, including but not limited to proposals, specifications, drawings, or manuals shall not be deemed to constitute a warranty of the products. THE WARRANTIES SET FORTH HEREIN ARE EXCLUSIVE AND NO OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE SHALL APPLY.

The following provision covers warranty for REPAIR

Seller warrants to Buyer that all work (material and labour) performed under this contract will be free from defects in workmanship and material at the time of delivery. If, within twelve (12) months from time of delivery from Seller, any product repaired hereunder is found to be defective in workmanship or material to the extent of work performed hereunder, Seller, at its option, shall repair or replace such product(s) at its expense and with reasonable promptness. This warranty is valid only to Buyer and is not transferable without prior written consent of Seller.

The twelve (12) month period shall not serve to limit or circumvent any pre-existing warranty in effect as it relates to these products. Within the warranty period, Buyer shall provide Seller with written notice of a claimed defect within sixty (60) days after the defect becomes apparent to Buyer and return the product to Seller or the warranty claim will not be valid. Said notice will contain reasonable proof that the claimed defect is covered by Seller's warranty and is subject to confirmation and verification by Seller.

THE WARRANTIES SET FORTH HEREIN ARE EXCLUSIVE AND ACCEPTED IN LIEU OF (i) ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

ADDITIONALLY, THE BUYER AGREES THAT THE USE OR INCORPORATION OF ANY PARTS OR REPAIRS INTO A SELLER PRODUCT WHICH ARE NOT SELLER APPROVED WILL RESULT IN A DISCLAIMER BY SELLER OF RELATED WARRANTY OBLIGATIONS AND AN INDEMNIFICATION OF SELLER FOR ANY AND ALL DAMAGES AND LIABILITY RESULTING FROM THE USE OR INCORPORATION OF SUCH PARTS OR REPAIRS.

Contract 709466451 for the of Spares, Repair (Spares Inclusive), and Supplementary Tasking for Fire Suppression and Inflation Equipment

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

For and on behalf of the Company Name L'hotellier S.A.S., a part of Collins Aerospace:

Name, Title and Company Position	
Signature	
Date	

For and on behalf of the Secretary of State for Defence

Name and Title	
Signature	
Date	