

**Annex E**

**to DEFFORM 47**

**CONTRACT NUMBER – SHIPACQ138**

**INDEPENDENT COMMERCIAL**

**SHIP DESIGN AND SUPPORT**

**CUSTOMER FRIEND**

**CONTRACT NUMBER SHIPACQ138**

**TERMS AND CONDITIONS**

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**TERMS AND CONDITIONS**

**NOTE: REFERENCES NEED CHECKING AND UPDATING THROUGHOUT**

# PART 1 – DEFENCE CONDITIONS

1. **Defence Conditions (DEFCON)**
	1. The following DEFCONs shall apply to the Contract:

| **No** | **Edition** | **Title** |
| --- | --- | --- |
| 5J | (Edn.18/11/16) | Unique Identifiers |
| 14 | (Edn.11/05) | Inventions and Designs Crown Rights and Ownership of Patents and Registered Designs |
| 76 | (Edn.12/06) | Contractors Personnel at Government Establishments  |
| 90 | (Edn.11/06) | Copyright |
| 126 | (Edn 11/06) | International Collaboration |
| 127 | (Edn. 12/14) | Price Fixing Condition For Contracts Of Lesser Value |
| 129J | (Edn.18/11/16) | The Use Of The Electronic Business Delivery Form |
| 501 | (Edn.05/17) | Definitions and Interpretations |
| 502 | (Edn.05/17) | Specification Changes |
| 503 | (Edn.12/14) | Formal Amendments to Contract |
| 507 | (Edn.10/98) | Delivery |
| 513 | (Edn.11/16) | Value Added Tax |
| 514 | (Edn. 08/15) | Material Breach |
| 515 | (Edn.02/17) | Bankruptcy and Insolvency |
| 516 | (Edn.04/12) | Equality |
| 518 | (Edn.02/17) | Transfer |
| 520 | (Edn.02/17) | Corrupt Gifts and Payments of Commission |
| 522 | (Edn.18/11/16) | Payment and Recovery of Sums Due |
| 524 | (Edn.10/98) | Rejection – for the purposes of Clause 2, in this DEFCON, the period the Authority may reject after delivery is 15 working days. |
| 525 | (Edn.10/98) | Acceptance - for the purposes of Clause 32.2 the period shall be 20 working days |
| 526 | (Edn.08/02) | Notices |
| 527 | (Edn.09/97) | Waiver |
| 528 | (Edn.05/17) | Import and Export Licences |
| 529 | (Edn.09/97) | Law (English) |
| 530 | (Edn.12/14) | Dispute Resolution (English Law)  |
| 531 | (Edn.11/14) | Disclosure of Information |
| 532A | (Edn.06/10) | Protection Of Personal Data (Where Personal Data is not being processed on behalf of the Authority) |
| 534 | (Edn.06/17) | Prompt Payment (Sub-Contracts) |
| 537 | (Edn.06/02) | Rights of Third Parties |
| 538 | (Edn.06/02) | Severability |
| 539 | (Edn.08/13) | Transparency (Contractor Commercially Sensitive Information” shall mean the information listed in the Contractor Commercial Sensitive Information, Schedule 7 (Contractor Commercial Sensitive Information)) |
| 550 | (Edn.02/14) | Child Labour and Employment Law |
| 566 | (Edn.10/16) | Change of Control of Contractor |
| 604 | (Edn.06/14) | Progress Reports (for the purposes of the Contract, the frequency of reports shall be as detailed in Schedule 2. |
| 605 | (Edn.06/14) | Financial Reports |
| 606 | (Edn.06/14) | Change and Configuration Control Procedure |
| 608 | (Edn.10/14) | Access and Facilities to be made available to the Contractor |
| 609 | (Edn.06/14) | Contractor’s Records |
| 611 | (Edn.02/16) | Issued Property |
| 619A | (Edn.09/97) | Customs Duty Drawback |
| 620 | (Edn.06/14) | Contract Change Control Procedure |
| 625 | (Edn.10/98) | Co-operatiom On Expiry Of Contract |
| 627 | (Edn.12/10) | Quality Assurance – Requirement for a Certificate of Conformity |
| 632 | (Edn.08/12) | Third Party Intellectual Property – Rights and Restrictions |
| 642 | (Edn.06/14) | Progress Meetings |
| 643 | (Edn.12/14) | Price Fixing (Non-qualifying contracts) |
| 647 | (Edn.09/13) | Financial Management Information |
| 649 | (Edn.12/16) | Vesting |
| 656B | (Edn.08/16) | Break (for the purposes of this Contract condition 5 shall be amended as follows:Add the following words after “….Articles payable under the Contract” Add “or exceed the total amount stated as the limit of the Authority’s liability under a Task Authorisation Form.” |
| 659A | (Edn.02/17) | Security Measures  |
| 660 | (Edn.12/15) | Official-Sensitive Security Requirements |
| 670 | (Edn.02/17) | Tax Compliance |
| 694 | (Edn 03/16) | Accounting for Property of the Authority |
| 703 | (Edn.08/13) | Intellectual Property Rights – Vesting in the Authority |
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# PART 2 – SPECIAL CONDITIONS

1. **Duration**
	1. The provisions of this Condition are without prejudice to any other rights of early termination of the Contract by the Authority.
	2. The Contract shall commence on the date of signature by the Contractor of the DEFFORM 10 (Contract Start Date) and shall remain in force until the Contract End Date as advised by the Authority.
	3. The requirement is for a twelve (12) month contract with the option to extend for a further three (3) years in one (1) year iterations.
	4. The Authority reserves the right to exercise the Option to extend the Contract for three one year periods at its sole discretion.
	5. This Contract and the rights and obligations of the Parties to this Contract shall take effect on the Contract Start Date and shall terminate on the earlier of:
		1. the date the Contractor has discharged all of his obligations in respect of the Contractor Deliverables; or
		2. the Limit of Liability outlined in Condition 3 below is reached; or
		3. the Termination Date
	6. Other than the Work contracted for at the Contract Start Date, the Authority does not guarantee to place any additional work. Furthermore, the Authority shall not be bound to accept or pay for any Tasks not properly approved at Part C of the TAF.
2. **Contract Limitation of Liability**
	1. The total amount to be paid by the Authority to the Contractor under the Contract shall not, without the authority in writing of the Authority’s Commercial Manager, exceed REDACTED.
	2. If at any time the Contractor considers that the Contract cannot be completed for the sum mentioned above, he shall, without waiting for the next financial report due to be submitted in accordance with the Contract immediately inform the Authority and at the same time provide an explanation of the circumstances.
3. **Interpretation**
	1. In addition to the provisions of DEFCON 501 (Interpretation), the words and phrases set out in Schedule 3 (Definitions & Interpretations) shall have the meaning ascribed to them in those Schedules unless otherwise provided for in this Contract.
	2. In this Contract, except where the context otherwise requires:
		1. a reference to Contract in the above referenced DEFCONs shall mean for the purposes of this Contract.
		2. a reference in this Contract to any Clause, Paragraph, Schedule or Annex is, except where expressly stated to the contrary, a reference to such Clause, Paragraph, Schedule or Annex of this Contract;
		3. any reference in this Contract to a range of Clauses, Paragraphs, Schedules or Annexes shall, except where expressly stated to the contrary, be inclusive of those Clauses, Paragraphs, Schedules or Annexes used to define the range;
		4. any reference to this Contract or to any other document shall include any permitted variation, amendment or supplement to such document;
		5. references to any documents being "in the agreed form" means such documents have been initialled by or on behalf of each of the parties for the purpose of identification;
		6. reference to a person includes firms, partnerships and corporations and their successors and permitted assignees or transferees;
		7. all covenants, agreements, undertakings, indemnities, representations and warranties by more than one person are entered into, given or made by such persons jointly and severally;
		8. references to a public organisation (other than the Authority) shall be deemed to include a reference to any successor to such public organisation or any organisation or entity which has taken over either or both the functions and responsibilities of such public organisation. References to other persons (other than the Authority) shall include their successors and assignees;
		9. reference to the phrase "agreed or determined" means agreed between the parties or determined pursuant to the resolution of any dispute under DEFCON 530 (Disputes);
	3. The words and phrases “other”, “including” and “in particular” shall not limit the generality of any preceding words or be construed as being limited to the same class as any preceding words where a wider construction is possible.
4. **Precedence of Documents**
	1. The documents constituting this Contract are intended to be consistent. In the event of any ambiguity, conflict or inconsistency between the Contract and any document referred to or cross-referenced in the Contract, or between documents referred to or cross-referenced in the Contract, the conflict shall be resolved according to the following descending order of priority:
		1. Clauses 1 to 42 of this Contract and Schedule 3 (Definitions and Interpretations);
		2. Schedule 2 (Statement of Requirements) of this Contract;
		3. other Schedules;
		4. any other document of this Contract;
		5. any other document agreed between the Parties after the Commencement Date.
5. **Contractual Matters**
	1. All queries and correspondence relating to or affecting the Contract shall be addressed to the Authority’s Commercial Officer as specified in Box 1 to Schedule 8 (Addresses and Other Information).
	2. The Authority shall not be bound, or be under any obligation, to place any Tasks, or to accept or pay for any Tasks other than those properly approved by the Authority’s Project Manager and signed at Part C of the Tasking Order Form (TAF).
6. **Entire Agreement**
	1. This Contract constitutes the entire agreement between the Parties relating to the subject matter of this Contract. This Contract supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this Clause shall not exclude liability in respect of any fraudulent misrepresentation.
7. **Assignment**
	1. Neither Party to the Contract shall give, bargain, sell, assign, or otherwise dispose of the Contract or any part thereof, or the benefit or advantage of the Contract or any part thereof, without the previous consent in writing of the other Party.
8. **Contractor Warranties and Representations**

Contractor Warranties

* 1. The Contractor warrants and represents to the Authority that:
		1. it is properly constituted and incorporated and has the corporate power to own its assets and to carry on its business as it is now being conducted;
		2. it has the power to enter into and to exercise its rights and perform its obligations under this Contract;
		3. all action necessary on the part of the Contractor to authorise the execution of and the performance of its obligations under this Contract has been taken or, in the case of any such document executed after the date of this Contract, shall be taken before such execution;
		4. the obligations expressed to be assumed by the Contractor under this Contract are, or in the case of any such document executed after the date of this Contract shall be, legal, valid, binding and enforceable to the extent permitted by law and this Contract is or shall be in the proper form for enforcement in England;
		5. the execution, delivery and performance by it of this Contract does not contravene any provision of:
			1. any existing Legislation binding on the Contractor, including Legislation which has been enacted but is not yet in force;
			2. the memorandum and articles of association of the Contractor;
			3. any order or decree of any court or arbitrator which is binding on the Contractor;
			4. any obligation which is binding upon the Contractor or upon any of its assets or revenues;
			5. no claim is presently being assessed and no litigation, arbitration or administrative proceedings are presently in progress or, to the best of the knowledge of the Contractor (having made all due enquiry), pending or threatened against it or any of its assets which shall or might have a material adverse effect on the ability of the Contractor to perform its obligations under this Contract;
			6. it is not the subject of any other obligation, compliance with which shall or is likely to have a material adverse effect on the ability of the Contractor to perform its obligations under this Contract;
			7. no proceedings or other steps have been taken and not discharged (nor, to the best of the knowledge of the Contractor, having made all due enquiry, threatened) for its winding-up 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 (or any equivalent procedure);
			8. it shall not, and in entering into this Contract it has not, committed any Prohibited Act; and
			9. there is not and nor has there been any infringement or alleged infringement of any third party's IPR in connection with this Contract (excluding any Government Furnished Information).
			10. that the personnel employed to undertake the Contract and the Tasks have the appropriate qualifications and competencies to carry out the work to fully meet the requirements in the Statement of Requirement at Schedule 2.
1. **Contractor Undertakings**
	1. The Contractor undertakes that for so long as this Contract remains in full force it shall:
		1. provide notice of any Dispute Proceedings to the Authority that are likely to affect the Contractor’s ability to perform its obligations under the Contract or has the potential to cause reputational damage to the Authority, unless such notice is precluded by the rules of the court, arbitrator, administrator, adjudicator, mediator or any other relevant authority with jurisdiction over the Dispute Proceedings:
			1. within 20 (twenty) Business Days of the Contractor becoming aware that Dispute Proceedings may be threatened or pending; and
			2. immediately after the commencement of Dispute Proceedings;
			3. not undertake the performance of its obligations under this Contract otherwise than:
				1. at the Contractor’s Premises; and
				2. through itself or a Sub-Contractor.

Status of Contractor Warranties and Undertakings

* 1. All warranties, representations, undertakings, indemnities and other obligations made, given or undertaken by the Contractor in this Contract are cumulative and none shall be given a limited construction by reference to any other.
1. **Contractor’s Obligations**
	1. The Contractor shall provide the Contractor Deliverables (as per Schedule 2 or as required in any authorised TAF) to the Authority fully in compliance with the Contract on the Required Delivery Date.
	2. Without prejudice to the overriding obligation contained in Clause 11.1, the Contractor's responsibilities shall, unless provided otherwise in the terms of this Contract, include:
		1. Management and Co-ordination of all work contracted for;
		2. the provision of all necessary services and assistance to the Authority’s Representatives in accordance with the Contract;
		3. undertake the Tasks in Schedule 2 or in any authorised TAF and deliver the Deliverables meeting all the requirements set out in Schedule 2 (Statement of Requirement);
		4. not, by any act or omission at any time, placing the Authority in breach of its obligations as an employer;
	3. The Contractor shall not deviate from the Contract nor introduce any contrivance unusual in the kind of work covered by the Contract save as provided for in Clause 32 (Changes to the Contract).
	4. The Contractor acknowledges that any risk assessment, questionnaire or risk register which has, or may be undertaken or maintained in connection with this Contract is done so in a management capacity only. Such risk assessment activity does not affect the legal relationship between the Parties or in any way limit or exclude the Contractor’s obligations under this Contract.
	5. Work under the Contract shall be carried out to the entire satisfaction of the Authority’s Project Manager (Box 2 of the DEFFORM 111 Schedule 8 to the Contract) or his nominated representative.
	6. Undertaking only that work which has been formally authorised by the Authority through a fully approved TAF or a Contract Change in accordance with Clauses 17 and 32 together with Schedules 4 and 6.
2. **Price**
	1. The Contract pricing at Schedule 1 (Schedule of Requirements) contains Firm pricing for Tasks authorised during the initial period of the Contract. Firm pricing should be offered for Option 1 (first year extension), Option 2 (second year extension) and Option 3 (third year extension). Firm Day Rates, Travel and Subsistence are detailed in Tables 2 and 3 respectively of Appendix 3 to ANNEC C of DEFFORM 47. All prices quoted are exclusive of UK VAT in accordance with DEFCON 513 (Value Added Tax).
3. **Options**
	1. The Option prices detailed in Table 2 (Appendix 3 to ANNEX C of DEFFORM 47) are Firm for all Option Years and therefore not subject to variation,
	2. In addition to the initial Contract Period (Year 1) the Contractor hereby grants to the Authority the irrevocable option to extend the Contract by three 1 year Option periods, it being agreed that the Authority has no obligation to exercise such options.
	3. The Authority shall have the right to exercise any or all of the Options and will enter into discussions with the Contractor no less than three months prior to the end of any Contract period.
		1. For the avoidance of doubt, where the Authority exercises an Option the Firm Prices for Options 1, 2 and 3 as agreed with the Authority (and set out in Table 2 of Appendix 3 to ANNEX C of DEFFORM 47) shall apply.
4. **Payment and Recovery of Sums Due**
	1. Payment for Contractor Deliverables under the Contract shall be made via the Contracting, Purchasing & Finance (CP&F) electronic procurement tool.
	2. The Authority shall pay all valid and undisputed claims for payment submitted by the Contractor to DBS Finance on or before the day which is thirty (30) days after the later of:
		1. the day upon which a valid request for approval of payment is received by the Authority, and
		2. the date of completion of the part of the Contract to which the request for approval of payment relates.
	3. 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 this Contract.
	4. 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.
5. **Performance**
	1. The Contractor’s performance of the Tasks shall be assessed by the Authority’s Project Manager, Box 2 of the DEFFORM 111 (Schedule 8 to the Contract) or his nominated representative against the Acceptance Criteria set out in the TAF. If the Contractor’s performance is not deemed to be satisfactory, the Authority will not authorise further Tasks under this Contract and as such the Contract will deem to be terminated pursuant to DEFCON 514 (Material Breach) and the Authority relies upon such warranties and representations.
6. **Risk**
	1. The Contractor shall provide and maintain a Risk Management Plan which shall:
		1. describe the way in which risks shall be handled during the period of the Contract and shall include details of risk management, risk mitigation, review and reporting requirements and procedures.
		2. include a Risk Register with a project risk assessment.
		3. The risk management process shall be underpinned by the production and maintenance of a formal Joint Risk Register, incorporating both the Contractor’s and the Authority’s identified risks. The register shall be managed by the Contractor and presented to the Authority within three (3) months of Contract Award. Each risk in the register shall have a nominated risk owner who shall be responsible for the day-to-day management of the risk including the recording of mitigation actions, current risk parameters and status.
		4. The Contractor acknowledges that any risk assessment is a Project Management function only. It does not affect the legal relationship between the Parties. The issuing of a risk register template to the Contractor and the process of risk assessment generally, including without limitation, the identification of (or failure to identify):
			1. particular risks and their impact; or
			2. risk reduction measures, contingency plans and remedial actions shall not in any way limit or exclude the Contractor's obligations under this Contract and shall be entirely without prejudice to the Authority's rights, privileges and powers under this Contract. The risks identified as a result of any risk assessment questionnaire and risk assessment process generally remain the risks of the Contractor and are not assumed by the Authority except to the extent that the Authority expressly and unequivocally accepts those risks under the Contract. Any risk assessment template released will be issued by the Authority solely on this basis.
7. **Tasking Procedure/Authorisation of Work**
	1. The Authority will authorise additional work to that contracted for at Contract Award under the Statement of Requirement (Schedule 2 ) in accordance with Clauses 17.1 to 17.8 below by issuing;

A Task Authorisation Form (TAF) as detailed at Schedule 4, for all Tasks detailed at Schedule 2 (Statement of Requirement).

* 1. The Authority will issue TAFs to the Contractor with a unique TAF serial number and the Contractor shall respond to the Authority within five (5) working days of receipt of the TAF, or such other period that the Authority may specify in the TAF. Any specific security requirements will be detailed in the TAF. The Contractor shall provide a response to confirm full understanding of the Requirement, Deliverables and Acceptance criteria, to advise of any qualifications to the requirement and to provide a Firm Price for the Work together with an estimate of Man Days required to undertake the work. Pricing shall be in accordance with DEFCON 643 as appropriate using the Firm Rates detailed in Table 2 of Appendix 3 to ANNEX C of DEFFORM 47. The unique serial number shall be quoted in all subsequent communications with the Authority.
	2. The Contractor shall not undertake any work under a TAF without the prior written authorisation of the Authority’s Commercial Officer at Part C of the TAF. The Authority will not be responsible in any way whatsoever for any work undertaken or costs incurred prior to receipt by the Contractor of written authorisation in accordance with this Clause 17.
	3. The Contractor shall ensure that the personnel employed to undertake the Tasks have the appropriate qualifications and competences to carry out the work to fully meet the requirements detailed in the TAF.
	4. The Contractor shall maintain a list of all TAFs and their progress in the format detailed at Schedule 10 (Information and Reporting) and provide this electronically to the Authority’s Project Manager on a quarterly basis or as otherwise required. All TAFs are listed at Annex B to Schedule 4 and are attached as Appendices to Annex B of Schedule 4.
	5. In the event that any work authorised by the Authority under a TAF is not subsequently required and no work has been undertaken by the Contractor, the Contractor shall agree a cancellation of the Task with the Authority at no penalty. Where Work has commenced the Contractor shall immediately cease all work upon notification by the Authority’s Commercial Officer and shall as soon as possible thereafter provide a financial statement of the costs incurred to date. When agreed by the Authority, the sum agreed shall be deducted from the price of the TAF and the balance due to the Contractor shall become payable. The Authority will raise a formal amendment to the TAF and/or Contract as appropriate.
	6. The Authority will authorise each TAF to allow work to commence and will formally incorporate the TAFs into the Contract, from time to time raising a Contract Change Control Note (Schedule 6) amending Schedules 1 and 2 accordingly.
	7. The Authority’s Project Manager will formally accept that the Contractor has completed all work in accordance with the requirements detailed in the TAF, which will allow the Contractor to submit a claim for payment in accordance with Clause 14 (Payment) above.

Limit of Liability

* 1. Where a TAF authorised by the Authority includes a Limit of Liability (LoL) the Contractor shall immediately inform the Authority’s Project Manager detailed in Box 2 of DEFFORM 111 (Schedule 8), either in writing or by e-mail, in the event that:
	2. the Contractor believes the work cannot be completed within the LoL specified on the TAF. In such circumstances the Contractor shall provide the Authority’s Project Manager with the reasons for the potential overspend and an estimate for completing the outstanding work;
	3. spend has reached 75% of the LoL;
	4. The total amount to be paid by the Authority for work which is subject of the LoL shall not, without the approval in writing of the Authority, exceed the LoL. Where the Authority agrees to an increase in the LoL this will be authorised by the Authority’s Commercial Officer.
1. **Quality Assurance**
	1. The Contractor shall ensure that the quality of the Contractor Deliverables including those of Sub-Contractors conforms to the requirements of the Contract and the Specifications.
	2. The Authority may reject any Contractor Deliverable that does not conform to the requirements of the Contract.
	3. Non-Conformities shall be dealt with in accordance with Clause 32 (Changes to Contract).
2. **Quality - General Requirements**
	1. The Contractor shall be responsible for ensuring that the quality of the work performed, and of the articles and materials supplied by him and all his Sub-Contractors, conforms to the requirements of the Contract.
	2. The Contractor shall maintain a Quality Management System (QMS) and continually improve its effectiveness in accordance with the terms and conditions of this Contract and ISO 9001-2008.
3. **Quality Assurance Representative (QAR)**
	1. When called up in standards invoked by this Contract, Quality Assurance Representative (QAR) is to be read as Government Quality Assurance Representative (GQAR and/or Acquirer).
4. **Contract and Project Management**
	1. The Contractor shall ensure adequate attendance at all scheduled meetings as arranged in agreement with the Authority.
	2. Quarterly meeting dates shall be set up by the Authority giving a minimum of twenty (20) working days’ notice and may only be re-arranged by prior agreement of the Authority.
	3. The Contractor shall ensure attendance at a Contract Start Up Meeting to be held within ten (10) working days of the Contract Start Date. The purpose of the Start Up Meeting is detailed in Table 1 below. The Contractor shall provide secretarial services at this and all other meetings and produce formal Minutes for subsequent distribution.

**Table 1 Meeting Requirements**

|  |  |  |  |
| --- | --- | --- | --- |
| **Subject of Meeting**  | **Required Representation** | **Frequency** | **Location** |
| Project Start Up Meeting | Project Manager (Contractor)Project Manager (Authority)Commercial Manager (Contractor)Commercial Manager (Authority)Others as required. | One-off meeting at the start of the Contract (within 10 working days of Contract Start Date) | Bristol Abbeywood |
| Six-monthly Project Review Meeting (PRM)(Project and Commercial) | Project Manager (Contractor)Project Manager (Authority)Commercial Manager (Contractor)Commercial Manager (Authority)Others as required. | Six-monthly, first meeting 6 months following Contract Start Date and six-monthly thereafter. | Bristol (TBA) |
| Ad Hoc Meetings – as required for specific TAFs | In accordance with the requirements of the TAF | As required | TBA |

* 1. Commercial and Project Management of the Contract by the Authority shall require reports to be provided as detailed in Schedule 2 (Statement of Requirement) and Schedule 10 (Information and Reporting) and by attendance at Project Review Meetings. The Contractor shall attend the Project Review Meetings.

Commercial Meetings

* 1. There are no planned formal Commercial Meetings. The Contractor is required to attend six-monthly Project Review Meetings (PRM) where commercial progress will be placed on the agenda in order to monitor the Contractor’s performance. The Authority’s Commercial Officer shall provide an Agenda in advance of the PRM. The Contractor is to provide a report within 8 working days from the end of each six-month period from the Contract Start Date in a format required by the Authority’s Commercial Manager.
	2. The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract or by any pursuant TAF.
1. **Security**
	1. During the course of the contract, the Contractor may require access to equipment with a classification up to OFFICIAL – SECRET – UK Eyes Only. For this reason, the Contractor will be required to demonstrate the ability to handle, store and protect such documents. The Contractor will be required to have, or obtain, List X Status and maintain it for the duration of the Contract.
	2. In addition to the Security Aspects Letter (SAL) at Schedule 11, the Authority will advise the Contractor of any specific condition relating to security in the draft TAF in accordance with Clause 17. If a TAF involves the disclosure or generation of protectively marked information at OFFICIAL SENSITIVE or above, not already covered by the SAL at Schedule 11, the Authority will issue a Security Aspects Letter with the draft TAF which will identify the information which is classified.
	3. The Contractor must sign and return to the Authority any Security Aspects Letter issued with a draft TAF.
	4. The Authority reserves the right to amend the conditions relating to Security Measures, during the period of the Contract, in the event of the Government changing the security classification system.
2. **Cyber Essentials Accreditation**
	1. From January 2016 the MoD stipulates that in all new contracts for *MoD identifiable products and services* that ‘Cyber Essentials’ or ‘Cyber Essentials PLUS’ is a requirement upon commencement of the contract.
		1. Cyber Essentials is a government-backed, industry supported scheme to help organisations protect themselves against common cyber-attacks.
		2. Cyber Essentials Accreditation is stipulated by the Authority and any supplier of goods and services in the MoD Supply Chain (and bidding for contracts between January 2016 and April 2017) will be required by the Authority to have a Cyber Essentials Certificate by the Contract Start Date at the latest, and for it to be renewed annually.
		3. The Cyber Essentials scheme has been developed by Government and industry to fulfil two functions. It provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats, within the context of the Government’s 10 Steps to Cyber Security. And through the Assurance Framework it offers a mechanism for organisations to demonstrate to customers, investors, insurers and others that they have taken these essential precautions.
	2. Log on to http://[www.qgstandards.co.uk/cyber-essentials](http://www.qgstandards.co.uk/cyber-essentials)to obtainfurther information on the recommended process for gaining certification.
3. **Authority’s Authorised Officer**
	1. Notwithstanding Clause 11 (Contractor’s Obligations), the Authority will appoint the Project Manager identified in Box 2 of DEFFORM 111 (Schedule 8) as the ‘Authorised Officer’, to:
		1. undertake Acceptance of the work being done under the Contract and/or any part thereof;
		2. provide the Contractor with information and advice as required;
		3. monitor the progress of work on the Tasks;
		4. implement procedures for the authorisation of additional work or reductions (rebates) to a TAF;
		5. co-ordinate all visits by Authority staff in connection with this Contract to the Contractor's premises and meetings required with other third parties.
	2. To enable the Authority’s Project Manager to carry out his duties, the Contractor shall:
		1. permit full access at all times to the work in progress and to all drawings, models, samples and articles or things of any kind pertaining to the Contract; maintain full co-operation and provide all such drawings, information and assistance as may reasonably be required;
		2. submit additional work or reductions (rebates) to a TAF in accordance with the Contract.
	3. The Authority’s Project Manager will have the right to:
		1. reject any Deliverable, which does not conform to the requirements of the Contract;
	4. The Contractor shall make good or replace at his own expense and to the satisfaction of the Authority’s Project Manager, any workmanship, article or material rejected by the Authority. The Contractor shall also, if so required by the Authority, mark any rejected article or material, in a manner acceptable to the Authority’s Authorised Officer.
4. **Key Personnel**
	1. The Contractor shall appoint the Key Personnel named in the Contractor’s proposal and detailed at Schedule 9 (Key Personnel), to perform the work. The Contractor shall use reasonable endeavours to ensure that the Key Personnel are employed for the purposes of this Contract for the duration of the Contract. In the event that a change to named Key Personnel is necessary, the Contractor shall give a minimum of two (2) months’ notice to the Authority, whose agreement shall not be unreasonably withheld. Subject to agreement between the parties, personnel who are managing a specific Task, may be deemed to be Key Personnel, based on one or more of the following criteria: value, scope, contracted period. Where agreed, such personnel will be added to Schedule 9 for the duration of the particular Task.
	2. If in the reasonable opinion of the Authority any of the Contractor’s personnel is found to be at any time to be unable to perform, or unsuitable for the Work, the Authority shall give the Contractor written notice of this fact and may also request that such personnel be replaced by suitable personnel. On receipt of such notice the Contractor shall make all necessary arrangements for the personnel found to be unsuitable to be removed from the Work within a reasonable time, or where the Authority so requires, immediately, and shall replace that personnel with other personnel who shall be subject to approval by the Authority.
	3. In the event that the Contractor is required to replace existing personnel, the Contractor shall, unless the requirement was for immediate removal of such personnel, provide a 10 Working Day overlap period for the replacement personnel.
	4. The Contractor shall not charge the Authority for any Work performed by such replacement personnel for the first 10 Working Days of their employment or engagement, or for any other overlap period agreed under Clause 26.3, in connection with this Contract. During this 10 Working Day period, or any other overlap period, agreed under Clause 25.3, the Authority shall have the right to reject the replacement personnel offered by the Contractor if any such replacement personnel are deemed, by the Authority, at its discretion, to be unacceptable.
	5. The Contractor shall take all reasonable steps to avoid changes of personnel (including changes to role, seniority or day rate) assigned to and accepted by the Authority as suitable to perform the Work. Except where changes unavoidable or of a temporary nature caused by sickness etc., the Contractor shall give notice as detailed in clause 25.1 and clause 25.4 shall apply to the replacement personnel.
	6. The Authority will exercise its right under this clause in a reasonable manner.
5. **Government Furnished Assets**

General – Government Furnished Information

* 1. All Government Furnished Information and Documentation disclosed by the Authority pursuant to this Contract is set out in Schedule 5 (Government Furnished Assets) which may vary from time to time and will be maintained as a live document post contract award. All drawings, documents, design information and details of arrangements, models, mock-ups and samples provided by the Authority in connection with the Contract shall remain the property of the Authority.
	2. Subject to Clause 27.1 the Contractor shall not in any way be relieved from any obligation under this Contract nor shall it be entitled to claim against the Authority on grounds that the Government Furnished Information or Documentation is insufficient, and shall make its own enquiries as to the adequacy of that information.
	3. In the event the Contractor discovers that the Government Furnished Information or Documentation supplied by the Authority is inaccurate, the Contractor shall immediately notify the Authority of such inaccuracy and any impact on the Contract including any requirement for a change in the Contract under Clause 32 (Changes to the Contract). Where an extension of time is requested the Authority will agree a reasonable delay.
	4. Nothing in this Clause 27 shall exclude any liability which the Authority or any of its agents or employees would otherwise have to the Contractor in respect of any statements made fraudulently or fraudulent omissions to statements prior to the date of this Contract.

Drawings, documents and information

* 1. Where the Contract states that the Authority will supply any drawings, documents or information to the Contractor they will be provided free of charge.
	2. On completion of the Contract, the Authority’s Commercial Officer will advise the Contractor of the method of disposal of all drawings, documents and other information supplied to him in accordance with Clause 26.1 above, which may include returning them to the Authority.

Review of Documents provided by the Contractor

* 1. During the course of the Contract where documents are delivered to the Authority for review, unless specified otherwise, the Contractor shall allow no less than 20 (twenty) working days for the Authority to respond and this can be up to 2 occasions. Where a second review is reasonably decided on by the Authority, the Contractor is expected to subsequently Deliver a final document capable of Acceptance. The Authority’s comments on the documents will be supplied in writing. In cases where the Authority’s comments are extensive, a separate review meeting will be held with the Contractor to discuss the changes required to the document.

General – Authority Documents Provided to Contractor

* 1. In order that the Contractor can undertake and deliver the work and tasks detailed in Schedule 1, the Authority will provide certain documents in specific format. The Contractor shall use these, develop, update and deliver updated versions as detailed in Schedule 2 and in any authorised TAF. These documents are not considered to be ‘Government Furnished Information’, however to maintain a track of what has been provided they are listed at Appendix 1 to Annex B to Schedule 5.

Govermnet Furnished Assest (Electronics)

* 1. The Government Furnished Assets (GFA) listed in Schedule 5 shall be issued free of charge to the Contractor to allow the requirements detailed in Schedule 2 to be undertaken on the Authority’s behalf.
	2. Where any GFA is software the Authority shall allow the Contractor to utilise the software only for its intended purpose and the Contractor acknowledges that it does not have a full user rights to use the software and ownership of the IPR in the software remains with the party identified in the licence agreement between the Authority and the Licensor.
	3. The Contractor shall:
		1. Ensure that their staff is aware of the restricted use of any software.
	4. The Authority will provide the GFA by the date stated in Schedule 5 or as agreed between the parties in writing if no date is stated.
	5. The delivery dates of Government Furnished Assets shall be agreed between the Authority and the Contractor and shall be recorded in Schedule 5 (Government Furnished Assets) after the Commencement Date.
	6. The Required Delivery Date of each Deliverable is based on the assumption that all items of Government Furnished Assets shall be delivered on the dates stated in Schedule 5 (Government Furnished Assets). In the event that any delivery date is revised, the Parties may agree to amend the delivery dates in Schedule 5 (Government Furnished Assets) to accord with the changed Required Delivery Date.
	7. The Authority shall be liable for the costs of:
		1. removing and/or replacing defective Government Furnished Assets;
		2. any delay to the Required Delivery Date of the related Deliverable caused by late delivery of the Government Furnished Assets and where the Authority has agreed an extension of time in accordance.
	8. All Government Furnished Assets 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.
	9. Neither the Contractor, nor any Sub-Contractor, nor any other person, shall have a lien on Government Furnished Assets, for any sum due to the Contractor, Sub-Contractor 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 Sub-Contractors and other persons dealing with any Government Furnished Assets.
	10. The equipment will be serviced by the OEM(s) and delivered to the Contractors premises in accordance with the dates stated in Schedule 5 (Government Furnished Assets);
	11. The Contractor shall be responsible for the installation of any GFA.
	12. Final payment for each Task will not be made until such time as all the GFA issued under the TAF has been returned to the Authority.

Receipt of Government Furnished Assets

* 1. Subject to Clauses 26.21 below, the Contractor shall promptly and no later than 10 (ten) days from receipt of Government Furnished Assets:
		1. check that the Government Furnished Assets corresponds with the Government Furnished Assets specified in the Contract;
		2. conduct a reasonable visual inspection; and
		3. notify the Authority’s Project Manager of any defects, deficiencies or discrepancies discovered.
	2. Where Government Furnished Assets is packaged it shall not be unpacked earlier than is necessary.
	3. The Authority shall within a reasonable time after receipt of any notice under Clause 26.21.3, replace, re-issue or arrange for the repair of the defective or deficient Government Furnished Assets. If appropriate, it shall also issue written instructions for the return or disposal of the defective or deficient Government Furnished Assets.
	4. In the event that the Authority fails to provide, replace, or arrange for the repair of the defective or deficient Government Furnished Assets within a reasonable time of receipt of a notice in accordance with Clause 26.21.3, the Parties shall agree appropriate changes to the Contract in accordance with Clause 31 (Changes to the Contract) provided that the Contractor has taken all reasonable measures to mitigate the consequences of any such delay.

Custody of Government Furnished Assets

* 1. The Contractor shall be responsible for:
		1. safe custody and return to the Authority of;
		2. calibration and maintenance of;
		3. loss or damage to;

the Government Furnished Assets as set out in Schedule 5 (Government Furnished Assets) and re-delivery of the Government Furnished Assets to the Authority in accordance with the Authority's instructions.

* 1. If requested, the Authority shall, within a reasonable time and where practicable before delivery of the Government Furnished Assets, notify the Contractor of the value of the Government Furnished Assets.
	2. The Contractor shall not be liable to the Authority in respect of:
		1. defects or deficiencies notified to the Authority in accordance with Clause 26.21.3 above or latent defects which the Contractor can show could not reasonably have been discovered by means of the activities described at Clause 26.21.2;
		2. fair wear and tear of Government Furnished Assets resulting from its normal and proper use in the execution of the Contract save where the deterioration is contributed to by any misuse, lack of care or maintenance by the Contractor;
	3. At Acceptance ‘Off Contract’ of each Firm or Generic Task the Contractor shall forward a list of Government Furnished Assets still held by the Contractor to the Authority's Commercial Officer named in Schedule 8 (Appendix - Addressees and Other Information) and shall return or dispose of the Government Furnished Assets in accordance with the Authority’s instructions.
1. **Sub-Contracts**
	1. No Sub-Contracting by the Contractor shall in any way extinguish, diminish or reduce the Contractor’s obligations under the Contract and the Contractor shall be fully responsible for acts, errors, defaults, breaches, omissions or negligence of any Sub-Contractor.
	2. The Contractor shall perform its obligations under and observe all the terms of any Sub-Contracts.
	3. Nothing in this Contract shall prohibit or prevent any Sub-Contractor employed by the Contractor from being employed by the Authority at any establishments of the Authority.
	4. Where the Contractor enters into a Sub-Contract with a supplier or contractor for the purpose of performing the Contract, he shall cause a term to be included in such Sub-Contract which requires payment to be made by the Contractor to the supplier or contractor within a specified period not exceeding 30 (thirty) Days from receipt of a valid invoice and the requirements for a valid invoice shall be defined by the Sub-Contract.
	5. The Contractor shall retain, for a period of at least 5 (five) years after Acceptance of each Deliverable under the Contract or Termination Date, a copy of the Sub-Contracts (or the relevant parts thereof) sufficient to demonstrate the Authority’s rights with respect to Intellectual Property Rights and shall provide certified copies of such records to the Authority upon request.
	6. The Authority shall have a right of direct access to any Sub Contractor for the purpose of monitoring the progress of work under the Sub-contract, technical liaison and discussion with the Sub-Contractor provided that his presence at the site shall not hinder progress of the work. The Authority shall give prior notification to the Contractor of any proposed visits and the Contractor shall have a right to be present at any site visit by the Authority to a Sub Contractor. This right of direct access under this Clause shall also include the Authority's right to discuss, at any time, with Lloyd's Register or any relevant maritime and coastguard agency, or agency having similar jurisdiction, any aspects relating to the Contract.

Change of Sub-Contractors

* 1. The Contractor shall ensure that it has the right to assign to the Authority any guarantees or warranties provided by its Sub-Contractors.
	2. The Contractor shall employ the Sub-Contractors as set out in Schedule 13 and shall not, in respect of any services:
		1. terminate the employment of any Sub-Contractor; and/or
		2. employ any other Sub-Contractor;

without the Authority’s approval which shall not be unreasonably withheld.

* 1. The Contractor shall ensure that all Sub-Contracts shall at all times include:
		1. provisions such that the Sub-Contract shall not be rescinded, or varied in such a way as to alter or extinguish any rights granted to the Authority without the prior written consent of the Authority;
		2. provisions that the Authority's rights referred to in this Clause 27, which are otherwise enforceable under the Contracts (Rights of Third Parties) Act 1999, are not rendered unenforceable; and
		3. a requirement that either party to the Sub-Contract may release to the Authority any of those parts of the Sub-Contract as are necessary to be sufficient to demonstrate compliance with the provisions of this clause and that any such release shall not amount to a breach of any provision of confidentiality contained within the Sub-Contract.
		4. provisions enabling the Contractor to terminate the Sub-Contract (on similar terms to those which apply to any termination by the Authority of this Contract under the Terms and Conditions of the Contract), so as to enable implementation of any Authority requirement of the Contractor to secure such termination.
		5. provisions enabling the Contractor to secure the dismissal of an employee of the Sub-Contractor, so as to enable implementation of any Authority requirement of the Contractor to secure such dismissal, due to a breach of DEFCON 520 (Corrupt Gifts and Payments of Omission) by that employee, include a provision enabling the Contractor to determine such Sub-Contracts in the event that the Authority exercises its rights under DEFCON 656 (Break) to terminate this Contract upon written notice;
		6. include the power to determine the Sub-Contract on substantially the same terms as those which apply to any termination of this Contract pursuant to DEFCON 656 (Break), provided that references in the provisions DEFCON 656 (Break) to "Authority", "Contractor" and "Contract" shall be construed (as appropriate) as references to "Contractor, "Sub-Contractor" and "Sub-Contract" (respectively) for the purposes of the corresponding Sub-Contract provisions.
		7. a requirement for any further Sub-Contracts of lower tiers to contain provisions capable of giving effect to all of the provisions of Clauses 27 (Sub-Contracts), to the extent reasonably required by the Authority.
	2. When placing subcontracts, the Contractor is asked to give consideration, as far as possible, to placing work on a competitive basis with Subcontractors that are Supported Businesses. The Contractor can find details of Supported Businesses in the United Kingdom on the Supported Business Directory that is British Association for Supported Employment at Unit 4, 200 Bury Road, Tottington, Lancashire BL8 3DX (Telephone : 01204 880733) or http://business.base-uk.org/procurement.
1. **Indemnities**
	1. The Contractor shall be responsible for, and shall release and indemnify the Authority, its employees, agents and contractors on demand from and against, all liability for:
		1. death or personal injury;
		2. loss of or damage to property (including property belonging to the Authority or for which it is responsible ("Authority Property");
		3. breach of statutory duty; and
		4. actions, claims, demands, costs, charges and expenses (including legal expenses on an indemnity basis);

which may arise out of, or in consequence of the performance or non-performance by the Contractor, its Sub-Contractors, their employees or agents.

* 1. The Contractor shall not be responsible or be obliged to indemnify the Authority for:
		1. any of the matters referred to in Clauses 28.1 above which arises as a direct result of the Contractor acting on the instruction of the Authority;
		2. any injury, loss, damage, cost and expense caused by the negligence or wilful misconduct of the Authority, its employees, agents or contractors or by the breach by the Authority of its obligations under this Contract; or
		3. an indemnity by either the Authority or the Contractor under any provision of this Contract shall be without limitation to any indemnity by the Authority or the Contractor under any other provision of this Contract.
1. **Continuing Obligations**
	1. Save as otherwise expressly provided in this Contract or as already taken into account in the calculation of any payment on termination pursuant to this Contract:
		1. termination of this Contract shall be without prejudice to any accrued rights or obligations under this Contract prior to termination; and
		2. termination of this Contract shall not affect the continuing rights and obligations of the Contractor and the Authority under:
		3. Clause 5 (Precedence of Documents), Clause 11 (Contractor’s Obligations), DEFCON 527 (Waiver), DEFCON 529 (Law (English)), DEFCON 530 (Disputes Resolution), DEFCON 531 (Disclosure of Information), DEFCON 538 (Severability), and 509 (Recovery of Sums Due); or:
		4. any other Clause or any provision of this Contract which is expressed or implied to survive termination or which is required to give effect to such termination or the consequences of such termination.
2. **Health and Safety**
	1. Notwithstanding and without prejudice to the provisions detailed elsewhere in the Contract, the Contractor shall be entirely responsible for the safety, whilst on his premises, of all personnel in connection with the Contract, whether or not in his employ.
	2. Save as may otherwise be specifically defined in the Contract, the Contractor shall be in charge of, and entirely responsible for, the care, protection and security of all Authority GFA whilst in their possession.
	3. Where the Authority engages an Independent Safety Advisor/Auditor/Assessor the Contractor shall provide access to records, including Sub-Contractor records to enable the Authority to carry out safety audits and other assessment activities. This shall include the provision of access to the Contractor and Sub-Contractors premises if required.
3. **Changes to the Contract**
	1. Changes to the Contract will be governed by DEFCONs 503 and 620 – Contract Change Control Procedure. A Change Control Request and Notice are at Schedule 6 and will be issued to request a proposal for a change and to contract for a contract change respectively.
	2. All amendments to this Contract shall be serially numbered, in writing, issued only by the Authority’s Commercial Officer, and agreed by both Parties in the form at Annex B to Schedule 6.
	3. Where the Authority or the Contractor wishes to introduce a change which is not Minor or which is likely to involve a change to the Contract Price(s), the provisions of Schedule 4 (Contract Change Process) shall apply. The Contractor shall not carry out any work, with the exception of fully approved TAFs, until any necessary change to the Contract Price, terms and scope have been agreed and a written amendment in accordance with clause 31.1 above has been issued.

Contract Change Proposal Procedure

* 1. The procedure set out in the following Table shall be followed by the Authority and the Contractor for all Changes to this Contract except as otherwise provided for under this Contract.

|  |  |  |
| --- | --- | --- |
|  | **Changes Initiated by the Authority** | **Changes Initiated by the Contractor** |
| **Step 1** | A Change Number shall be allocated by the Authority’s Commercial Officer using Contract Change Control Request form (ACCR). Change category will be assigned by the Authority’s Authorised Officer. Written request for a formal proposal shall be issued to the Contractor by the Authority. | The Contractor shall gain internal Contractor approval to submit a Contract Change Proposal (AGP). |
| **Step 2** | The Contractor shall respond to the Authority within ten Business Days (five Business Days for priority changes) of receiving the written request advising the date by which the ACCR shall be submitted. | Initially an outline AGP shall be tabled by the Contractor with a Rough Order of Magnitude price to cover the change and advising the date by which the AGP shall be submitted. The proposal shall be given a Change Proposal Number (obtained from the Authority)and registered on the Index of Contract Change Proposals by the Authority’s Authorised Officer who shall advise the Contractor whether to proceed with the following steps or that the change proposal is rejected.  |
| **Step 3**  | The Contractor shall determine, in conjunction with the Authority, whether sub-Contract competition is required |
| **Step 4** | The Contractor shall provide formal completed ACCR including proposed Firm prices (including a price breakdown) in accordance with Schedule 1 (Schedule of Requirement)) to this Contract. The ACCR shall be submitted in accordance with Step 2. |
| **Step 5** | If required, the Authority and the Contractor will meet five business days from Authority’s receipt of Contractor’s ACCR response to agree the Change. The Authority’s Authorised Officer shall make the necessary arrangements to convene the meetings. |
| **Step 6** | Subject to agreement of a Firm Price, any other changes to the Contract and approval of funding the Authority’s Commercial Officer shall issue a serially numbered Agreement Change Control Note (ACCN) in writing to the Contractor’s nominated Commercial Officer within ten Business Days of agreement of the change proposal. The provisions of DEFCON 503 shall apply. |
| **Step 7** | The Contract Amendment shall be signed by the Contractor’s nominated Commercial Officer and such confirmation of acceptance returned to the Authority |

* 1. The Authority shall maintain configuration control of ACCR and ACCN forms and shall issue copies to the Contractor’s nominated Project Manager and Commercial Officers as requested.
	2. Once the ACCR response has been agreed by the Authority the signed original ACCR and all its attachments, including the Contractor’s quotation shall be retained by the Authority’s Commercial Officer. An ACCN in accordance with Step 7 of the procedure set out at Clause 31.5 above indicating formal approval for the Contractor to implement the change. A copy of the ACCR signed response shall be retained by the Contractor.
	3. No additional charges are admissible for supporting and responding to an ACCR leading to an approved ACCN.

Pricing Of Contract Change Proposals

* 1. Contract amendment(s) resulting from an ACCR submission shall not be issued until Firm prices have been agreed by the Authority’s Commercial Officer. Such prices shall be based upon the Contract Rates set out in Appendix 3 to Annex C of DEFFORM 47 to the Contract.
	2. In exceptional circumstances, where the Authority requires urgent action to be taken provisional prices for change may be set in accordance with either DEFCON 127 (Price Fixing Condition for Contracts of Lesser Value) or DEFCON 643 (Price Fixing) . Such provisional prices shall be based upon the Contract rates set out to Schedule 1 (Schedule of Requirement) to this Contract.
	3. Where the change has a Sub-Contract element the Firm price proposed for that element on the ACCR shall be equal to the sum of the quotation from the sub-Contractor plus the agreed Contractor’s uplift percentage and rates detailed at Appendix 3 to Annex C of DEFFORM 47 to the Contract.

General

* 1. For the avoidance of doubt the Contractor shall commence work receipt of a fully approved TAF, which will be incorporated by contract change in due course.
	2. The Authority shall not accept liability for any costs or charges incurred other than in accordance with this Contract including tasks properly raised and authorised in accordance with the procedures herein. This Contract may only be changed by the Contractor’s acceptance of a written amendment issued after a change has been proposed and evaluated by following the procedures of the Contract Change Control Request (ACCR) form, Annex B to Schedule 6 to the Contract.

1. [Acceptance](#Acceptance)
	1. Acceptance of the Deliverables (as defined in Schedule 2) shall be in accordance with the provisions set out in Schedule 2 (Statement of Requirement).
	2. Unless stated otherwise the Authority requires a review period of up to twenty (20) working days from the date of receipt of a deliverable item in order to provide feedback for revision or approval.
		1. Any required corrections, changes or additions identified by the Authority shall be incorporated in to the deliverable and resubmitted to the Authority by the Contractor within five (5) working days of receipt.
		2. This shall be followed by a second review period by the Authority of up to ten (10) working days.
		3. Upon the satisfactory incorporation of any correction, changes or additions by the Contractor, the formal acceptance of the deliverable shall be made by the Authority, after which invoicing by the Contractor may be progressed.
2. **Compatibility With Authority Systems**
	1. The Contractor shall ensure that all documents required for this Contract including but not limited to plans, drawings, report, forms and logs are supplied in the English Language (UK) using both the Oxford English Dictionary and the principles of the Simplified Technical English (STE) Dictionary.
	2. The Contractor shall ensure that all Notices and Deliverable Drawings and Documents are provided in, or shall be fully compatible with, the following applications:
		1. MS Office 2010 applications (MS Word, MS Excel, MS PowerPoint, MS Outlook, MS Project)
		2. Microsoft Office SharePoint portal Server 2007
		3. Adobe Acrobat Reader vXI
		4. Drawings (both formats to be provided for all drawings)
		5. PDF format that permits a word-based search function.
		6. Active Risk Manager 8 by Strategic Thought Ltd
		7. Telelogic DOORS® 9.5 (or an alternative agreed with the Authority)
		8. In transferring information to the Authority, the Contractor shall:
			1. ensure that all information is marked/classified in accordance with the Contractor terms and conditions for data security and the security aspects letter.
			2. ensure that all electronic information is free from viruses and malware.
			3. ensure that e-mails do not exceed 8Mb in size (electronic files larger than 8Mb or MS Access files shall be sent to the Authority on CD or DVD).
			4. not use memory sticks.

# Public Relations and Publicity

## The Contractor shall not by itself, its employees or agents, and shall procure that its Sub-Contractors shall not:

* + 1. communicate with representatives of the press, television, radio or other communications media or members of the public on any matter concerning this Contract;
		2. photograph or film in or upon any Authority Sites;
		3. erect or exhibit on any part of the Authority Sites any signs or trade boards; or exhibit or attach to any part of the Authority Sites any notice or advertisement, unless the Authority has given its prior written consent or as otherwise required to comply with Legislation.
1. **Travel and Subsistence**
	1. Travel and Subsistence priced within an authorised Firm Task shall be in accordance with the agreed limits listed at Table 3 of ANNEX C to DEFFORM 47, unless the Authority agrees otherwise at the time of placing a Task. The limits detailed at Table 3 of ANNEX C to DEFFORM 47 are exclusive of VAT and are qualified as follows:
		1. Inclusion of Travel and Subsistence shall be subject to scrutiny and approval in advance by the Authority.
		2. Any price in excess of the limits will require justification and the approval of the Commercial Officer placing the TAF;
		3. Claims including vehicle insurance are inadmissible.
	2. The limits for Travel and Subsistence as detailed in Table 3 of Appendix 3 to Annex C of DEFFORM 47 shall remain unchanged throughout the duration of the Contract.
	3. In exceptional circumstances and with the prior authorisation of the Authority, where it is deemed to be in the public interest, the Contractor may request reimbursement for short-term car hire specifically to meet the performance of the Task.
	4. For Air, Sea and Rail travel, if possible The Contractor shall use any benefits obtained as a direct consequence of The Contractor’s performance under the Contract (e.g. Air Miles) to offset the costs of further travel required in performance of TAF(s) placed under this Contract.
	5. For the avoidance of doubt, any claims under this Clause 36 shall not include any handling charge, Contractor’s profit or VAT previously accounted for.
2. **Accommodation**
	1. Where Services are carried out in permanent buildings on Authority Sites, the Authority shall provide, to those permanent buildings, at no cost to the Contractor, and solely for the purposes of undertaking the Work detailed in Schedule 2, electrical power, heating, lighting and water.
	2. Where Services are carried out on Authority Sites, the Authority may, on an ad hoc basis, at no cost to the Contractor and solely for the purposes of this Contract and the work detailed in Schedule 2 and in any approved TAF, provide access to a printer, facsimile services, photocopying facilities and furniture.
	3. Any specialist tools of trade, e.g. hardware and software required by the Contractor to perform the work detailed in Schedule 2 or in an approved TAF, shall be provided by the Contractor at no cost to the Authority.
	4. For avoidance of doubt no charges associated with Clause 37.1 shall be included in the Pricing at Schedule 1 for the Work detailed in Schedule 2 and in any approved TAF.
3. **Contractor’s Use of The Authority’s Information Technology**
	1. The Contractor’s employees, officers, agents and subcontractors may only use Authority-owned computer hardware and/or software, including connections to Internet and/or Intranet Services, with the express permission of the Authority, where they possess an appropriate Security Clearance, and only for the performance of the work detailed herein... For the avoidance of doubt, where access is granted to Authority shared data areas i.e. MOSS or other shared areas, the Contractor, its employees, officers, agents and subcontractors shall only access documents required for the performance of the Services as defined in Schedule 2 or an approved TAF.
	2. The Contractor’s employees, officers, agents and subcontractors may only use their own or a third party’s computer equipment and/or software, including any connections to Internet or Intranet Services, on an Authority Site, with the prior approval of the Authority and the said third party.
	3. The Contractor shall ensure that its employees, officers, agents and subcontractors comply with the Authority’s policy, procedures, and instructions in respect of computer hardware, software, and any connections to Internet and/or Intranet services, which are available from the Authority.
	4. The Contractor shall take all practicable and reasonable precautions to ensure its employees, officers, agents and subcontractors do not use computer hardware and/or software, including any connections to Internet and/or Intranet services unlawfully or for unlawful purposes and shall indemnify the Authority against any **claim** made by a third party in this connection.
	5. The Contractor shall not in so far as it is reasonably possible cause or allow its employees, officers, agents and subcontractors to bring the reputation of the Authority into disrepute by any action, activity or behaviour in connection with computer hardware on an Authority Site.
	6. The Contractor shall not acquire any right, title or interest in Authority-owned computer hardware and/or software as a result of the Services delivered under the TAF.
	7. Failure by the Contractor to comply with this Clause 38 shall constitute a material breach of the Contract and including an authorised TAF entitling the Authority to exercise its rights of termination set out in Clause 31.
4. **Intellectual Property Rights**
	1. The Contractor 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.
		4. Clause 39.1 does not apply in respect of Contractor Deliverables normally available from the Contractor as a commercial off the shelf (COTS) item or service. If the Information required under clause 39.1 has been notified previously, the Contractor may meet its obligations by giving details of the previous notification.
	2. DEFCON 703 (Edn 08/13) shall apply to Intellectual Property Rights for the work detailed at Schedule 2 whether Firm or Generic Tasks, unless alternative DEFCONS are selected in the TAF which will take precedence for that Task only and replace DEFCON 703 (Edn 08/13) in the resulting contract.
5. **Debt Factoring**
	1. Any assignment of the right to receive payment of the Contract Price (or any part thereof) under DEFCON 518 (Transfer) shall be subject to:
		1. reduction of any sums in respect of which the Authority exercises its right of recovery under DEFCON 522 (Payment & Recovery of Sums Due), or any narrative clause concerning recovery of sums due;
		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 Clause 40.2 and sub-Clause 40.3.2 below.
	2. 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 8 above, the Contractor shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.
	3. The Contractor shall ensure that the Assignee:
		1. is made aware of the Authority’s continuing rights under sub-Clauses 40.1.1 and 40.1.2 of this Clause 40; 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 sub-Clauses 40.1.1 and 40.1.2 above.
		3. The provisions of the Contract, including any clauses concerning payment, shall continue to apply in all other respects after the assignment and shall not be amended without the prior approval of the Authority.
6. **Exit Strategy**
	1. In the event that the Authority terminates the Contract using any of its rights under the Contract, the Authority shall have the right to require the Contractor to continue to deliver its obligations under this Contract for a period of six (6) months at no additional cost to the Authority above that cost which would have been borne by the Authority.
	2. To provide for the possibility of a hand-over to another Contractor or the transfer back of responsibility for the work to the Authority, throughout the duration of the Contract, the Contractor shall maintain a data pack throughout the Contract Term, containing the following:
		1. a list of all Sub-Contractors and existing Sub-Contracts (if applicable);
		2. reports produced for, and minutes of meetings with, the Authority during the Contract Term (including supporting information referenced therein);
		3. up to date risk registers, issues logs and opportunities registers;
		4. records of all GFA in the Contractor’s possession;
		5. any archived information;
	3. In the event that the Contract is terminated by the Authority the ‘data pack’ maintained throughout the duration of the Contract shall become the "**Termination and Expiry Data Pack**"). The Termination and Expiry Data Pack shall be maintained by the Contractor in the manner that he would expect it to have been maintained were he to have been in the position of a third party unfamiliar with the requirements.
	4. The Contractor shall provide the Termination and Expiry Data Pack to the Authority, at no cost to the Authority, within twenty (20) Business Days of a request from the Authority, in the event that:
		1. any one of the events listed in Clauses 2.5.1 to 2.5.3 (inclusive) occurs; or
		2. the Authority terminates the Contract.
	5. In the event that any information contained within the “**Termination and Expiry Data Pack**” is to be passed to a third party, the Contractor may request that the third party agree to and to sign a confidentiality agreement in the form set out in DEFFORM 94 (Edn. 11/06) – Confidentiality Agreement. To facilitate the hand-over, the Contractor shall make its relevant personnel available to the Authority and/or a third party, for a period up to three months from the date of termination of this Contract, and (if relevant) in the run-up to termination, to enable the Authority and/or the third parties' representative(s) to be directly briefed, including face to face at the premises of the Authority, in all matters they may raise relevant to the past and future performance of this Contract, this shall include reviews and presentations by the Contractor of the records and data to be handed over to ensure its proper interpretation and use. In the event that the Authority requires additional support from the Contractor to ensure a smooth transition to other arrangements, and such support is deemed by the Authority to be over and above the requirements described in Schedule 2 (Schedule of Requirements).